

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 14TH MAY, 2024 AT 5.00 PM
HELD IN THE COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors Fowler (Chairman), White (Vice-Chairman), Alexander, Bray, Goldman, Smith and Wiggins
Also Present:	Councillors Everett and Turner (both items 1 – 5 only)
In Attendance:	Gary Guiver (Director (Planning)), John Pateman-Gee (Head of Planning & Building Control), Ian Ford (Committee Services Manager), Joanne Fisher (Planning Solicitor), Jacob Jaarsma (Planning Team Leader), Michael Pingram (Senior Planning Officer)(except item 6 - 8) and Bethany Jones (Committee Services Officer)
Also in Attendance:	Sue Hooton (Essex County Council Place Services (Ecology)) (except items 6 – 8)

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillors Everett (with Councillor Bray substituting), McWilliams (with no substitution) and Sudra (with no substitution).

2. MINUTES OF THE LAST MEETING

It was moved by Councillor Wiggins, seconded by Councillor Alexander and:-

RESOLVED that the minutes of the meeting of the Committee, held on Tuesday 16 April 2024, be approved as a correct record and be signed by the Chairman.

3. DECLARATIONS OF INTEREST

There were no declarations of interest made by Members on this occasion.

4. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were no such Questions on Notice submitted by Councillors on this occasion.

5. REPORT OF THE DIRECTOR (PLANNING) - A.1 - 23/01191/FUL - TENDRING TECHNOLOGY COLLEGE, ROCHFORD WAY, FRINTON-ON-SEA, CO13 0AZ

The Committee was informed that the proposal now before it was for the erection of an Artificial Grass Pitch (AGP) on land that formed part of the existing playing pitch within the grounds of Tendring Technology College. This application was before the Planning Committee following a call-in request by Councillor Turner, who had raised his concerns that the development would result in a negative impact on the street scene, was of a poor layout and would result in a negative impact to neighbours.

Officers felt that the proposal would generate a high level of public benefits, notably through the inclusion of modern fit for purpose facilities that could be utilised all year round. Sport England offered strong support despite the part loss of an existing playing

pitch, and Officers were not aware of an alternative location better suited for the proposed development, whilst equally noting that the Playing Pitch Strategy highlighted that there was both a current and future shortfall of youth 11v11 and 9v9 football pitches. A strong level of weight in the overall balance had therefore been given by Officers to the public benefits the scheme would provide.

Furthermore, the proposed development was not considered by Officers to result in significant harm to the character and appearance of the wider area; there was sufficient parking provision and ECC Highways had offered no objections subject to conditions. Similarly, ECC Ecology had not objected to the proposal subject to conditions, and whilst ECC SuDS had initially objected, this had been on more technical matters which had since been addressed.

Members were made aware that, the above notwithstanding, in terms of the impact to neighbouring amenities, whilst from a purely technical perspective the change in noise level was considered to be acceptable due to the absolute noise levels being within the WHO guidelines and the suggested mitigation measures proposed, Officers had equally acknowledged that there would be, inevitably, a degree of noise disturbance given the relatively close proximity of the development to neighbouring properties. Amendments to reduce the operating hours and re-locate the AGP away from neighbouring properties had helped reduce the level of harm, but Officers had still afforded weight to this harm in the overall planning balance.

Similarly, with regard to the impact of the proposed floodlights on neighbouring properties, the lighting plan provided demonstrated that the glare created would not be to an unacceptable level, with all lighting facing inwards towards the pitch. However, given the close proximity of the development to neighbours there would be a degree of visual impact to neighbours, if not from the glare of the floodlights but from the light spillage generated. Officers had afforded this level of harm a low level of weight in the overall planning balance.

The Committee was advised that, taking all of the detailed considerations above into consideration, Officers had concluded that, on this occasion, there were strong wider public benefits of the proposed development that outweighed the identified harm and with careful assessment the planning application had therefore been 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 Senior Planning Officer (MP) in respect of the application.

Prior to the commencement of the meeting, an update sheet had been circulated to Members with details of one additional letter of objection that had been received. The letter stated that the impact and close proximity to local residents of this application must be considered.

Robert Rouse, representing the applicant, spoke in favour of the application.

Ainsley Davidson, a member of the public, spoke in favour of the application.

Steve Smith, a member of the public, spoke against the application.

Councillor Richard Everett, a Ward Member, spoke against the application.

Councillor Nick Turner spoke against the application in his capacities of a Ward Member, the caller-in of the application and a Frinton and Walton Town Councillor.

Sue Hooton, ECC Place Services (Ecology) responded to points made by Councillor Everett in his speech.

Matters raised by Members of the Committee:-	Officer's response thereto:-
<i>With reference to Natural England's guidance entitled "Bats: advice for making planning decisions" and "Protected species and development: advice for local planning authorities", other than the ecology assessment referred to in the Officers' report, have any other surveys relating to ecology in any way been done?</i>	<i>No, there have been no further surveys undertaken.</i>
<i>Why would we not follow the advice of Natural England here when normally we would strive to do so?</i>	<i>Reference was made to the Government's National Planning Policy Practice Guide, which stated that you "should". It did not say that you "had to". You should ask for a survey if the proposed development is likely to negatively affect Bats on their roost habitats, foraging habitats or commuting habits. It did also go on to say a survey is required if one, or more, of the following applies: (1) Historical records [not the case here]; (2) the development site includes buildings or other built structures, underground structures or trees that provide roosting opportunities for bats [not aware that this is the case here]; (3) the proposal includes floodlighting of buildings [this was where there was a conflict here as this proposal had floodlighting that was isolated but was not floodlighting buildings or habitats that the bats tended to use. That was where judgement was involved.]; (4) close to water bodies [not applicable here]; (5) close to cliff faces or quarries [again not applicable here]; (6) windfarm proposal [not applicable here]. Ultimately the technical position was correct that had been put forward to Members by the Officers though it was acknowledged that some Members would disagree with that but ultimately it was a judgement issue that was best left to Members' debate.</i>

<p><i>Does not the guidance also refer to the floodlighting of 'green spaces' and therefore as this an application involving a 'green space' then no judgement was required here?</i></p>	<p><i>The entirety of that was "green space close to habitats that bats tend to use". Again the judgement made by Officers was to consider just "how close".</i></p>
<p><i>With reference to the independent acoustic survey organised by the local residents in no place in the report can I find that which is strange given that it did come up with different answers to the survey done by the applicant. That is a concern. Why have we not analysed one against the other given that they are both fully independent surveys and they should both carry significant weight against each other? Why have we assumed one is right and one is wrong?</i></p>	<p><i>The Officer referred the Member to paragraph 8.32 of the Officer written report.</i></p>
<p><i>Can you confirm whether the running track is hard-based, or grassed? If hardstanding what is made from?</i></p>	<p><i>Understanding is that it was hardstanding. Not known what the substance was.</i></p>
<p><i>Will there be provision for spectators and where will they be?</i></p>	<p><i>Potentially there could be room at the sides for spectators. This would be standing only i.e. no seating would be provided. The potential noise from spectators was factored into the noise impact assessment.</i></p>
<p><i>So you confirm that there could be spectators present?</i></p>	<p><i>Yes, there was potential for spectators but there would be no official spectating area provided?</i></p>
<p><i>Where will the changing rooms be? Believe that this is important to this application so what will be the arrangements?</i></p>	<p><i>That did not form part of this proposal. It was assumed that many would turn up already to play/participate. Otherwise, arrangements would need to be made to use the facilities within the college buildings.</i></p>
<p><i>How high are the floodlights compared to the trees present?</i></p>	<p><i>Officer showed images on screen that compared the floodlight height to the nearest local properties. The floodlights would be higher than the average height of a two-storey building.</i></p>
<p><i>Is there potential for those floodlights to shine into residents' back gardens and their properties?</i></p>	<p><i>The floodlights would face inwards so there would be no glare effect on local residents but there would undoubtedly, be some light spillage.</i></p>
<p><i>This is a big block of light that will be able to be seen from quite a distance way. Is this fair?</i></p>	<p><i>The distance to the nearest properties is 23 to 29m. It was accepted that there would be an impact but overall on balance this application had been deemed by Officers to be acceptable.</i></p>
<p><i>Concerned that this floodlighting would lead to a</i></p>	<p><i>Officers are confident that based on the information provided within the application</i></p>

<i>negative impact on local bats, which are a protected species. Some species of bats can be affected by lux levels of less than one. So why are we not doing more?</i>	<i>documents there would be no impact on bats.</i>
<i>What planting will be included on the bund and how long will it take to have an effect?</i>	<i>The Council's Tree Officer was content with the landscaping scheme proposed. The trees would be 3m to 5.5m in height at the time of planting and would be planted on top of the 1.1m high bund so there would be a good level of screening provided.</i>
<i>Concerned about the position of the bund. Any spectators using it would be able to look into residents' back gardens. Is there a condition putting the bund out of bounds.</i>	<i>No proposed condition at present. As part of the application documents, a fence was proposed to be installed in order prevent access onto the bund.</i>
<i>With reference to the possible links between rubber crumb based artificial pitches and cancer, why have we not taken more account of this?</i>	<i>This was not currently covered within the planning legislation. It was not a banned substance within the UK and it was not covered in the Council's local plan policies.</i>
<i>Was the Officers' recommendation of approval finely balanced and therefore could it have been quite easy for Officers to have gone the opposite way?</i>	<i>Yes, this was a finely balanced judgement. Officers do not deny that there will be some harm caused by this application but felt that this was just outweighed by the overall benefits to the public. It was a close call.</i>

The Chairman then adjourned the meeting for a short period of time, at the request of the Head of Planning & Building Control, in order to enable that Officer to seek advice from the Planning Solicitor and colleagues including the Director (Planning).

Following the resumption of the meeting, the Head of Planning & Building Control addressed the Committee as follows:-

"I appreciate the debate that is about to go ahead is likely to be discussing bats quite considerably. We have obviously taken the time out to consider all of the comments and views raised on this particular issue and ultimately while there are questions about the legality of any decision making, which we are very comfortable with, there is a judgement in respect of the options available. That judgement is a judgement, which you as the decision maker can make. So you perhaps would be minded to consider if you were minded to approve the application that a deferment in respect of seeking a bat survey and ultimately then the application coming back with those results would be a cautious approach that would be recommended. I would add just in addition to that consideration of page 56 and condition number 16 that does reflect the need for a floodlighting design scheme for biodiversity in accordance with the Circular [GN:08/23 Bats and Artificial External Lighting (ILP)] and ultimately that condition would not be discharged without it being clearly demonstrated that bats would not be harmed as a consequence of that lighting scheme. However, setting that condition aside, it is a cautious approach that you may wish to consider appropriately if you were to look at

approval as recommended to seek a survey of bats, which ultimately come back to this Committee on that basis. That's the position we are comfortable with and would seek to recommend to you as part of your debate."

Following the debate, it was moved by Councillor White, seconded by Councillor Bray and, unanimously,:-

RESOLVED that consideration of this application be deferred to enable the following to be carried out/investigated:-

- Bat survey;
- Details on construction approach being mindful of school children's presence on site;
- Residents' noise survey review;
- Any possible change to layout/orientation of the 3G AGP.

6. REPORT OF THE DIRECTOR (PLANNING) - A.2 - 23/01594/FUL, BATHSIDE BAY, STOUR ROAD, HARWICH, CO12 3HF

The Committee was made aware that the proposal now before it sought permission for the temporary use of the Bathside Bay Container Terminal (BBCT) platform, established under the BBCT permission, as a "Green Energy Hub" (GEH). The GEH was designed and clearly intended to increase, for a temporary period of 15 years, port capabilities to accommodate the rapidly growing offshore energy sector, aligning with the Government's ambitions of installing 50 Giga Watt of offshore wind generating capacity by 2030. Moreover, the proposed GEH would facilitate activities such as wind turbine storage, assembly, and servicing for a temporary period of up to 15 years.

Officers felt that this temporary repurposing allowed for the beneficial use of the BBCT development before the full capacity of the BBCT was required, which was projected to be between 2034 and 2042. Additionally, the proposal would contribute extensively to the advancement of Freeport East, playing a key role in establishing Bathside Bay as a key component of Freeport East's development, in accordance with relevant local and central government objectives for the region.

Insofar as the principle of development was concerned, for the most part, the Local Plan was silent on offshore proposals for storage and distribution facilities for the off shore renewable energy sector, however this proposal was for a temporary change of use to take place on already approved infrastructure (the container terminal platform for the BBCT development). Having regard to the above, the NPPF, in paragraphs 157, 160 and 163 offered very strong support for proposals involving renewable and low carbon energy and associated infrastructure. Local Plan policy PPL10 stated that proposals for renewable energy schemes would be considered having regard to their scale, impact (including cumulative impact) and the amount of energy, which was to be generated.

Members were informed that the development had been purposefully designed to ensure its compatibility with the ongoing use of the platform for BBCT, without slowing or impacting its progression. The activities associated with this GEH had been designed to be entirely reversible and the Applicant had demonstrated that carrying out the works required for the platform to operate as a temporary GEH would not prohibit the BBCT development from being fully completed after the GEH use ceased operation. In the event that planning permission was granted and upon cessation of the use, the site would be restored to its original state and details around those requirements could be

secured by condition stipulating the removal and reinstatement of the site in accordance with an approved decommissioning strategy, overseen by the local planning authority.

It was reported that Officers and Essex County Council’s ecology department considered that the proposal would not result in significant adverse effects on the Stour and Orwell Estuaries Special Protection Area and Ramsar Site.

The Committee was advised that all other material planning considerations, including statutory and third-party concerns had been adequately addressed through the submission of further information, and where relevant, would be covered in the forthcoming submission of further information as required under necessary, reasonable and relevant planning conditions (as set out in section 9 of the Officer report (A.2)), or where not exclusively relevant to planning, or indeed where matters straddled planning and marine law, a separate application for a Marine Licence would cover those matters.

Accordingly, Officers felt that the proposal was acceptable in principle and it had therefore been 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 Planning Team Leader (JJ) in respect of the application.

There were no updates circulated to Members in respect of this application.

John Bowles, agent acting on behalf of the applicant, spoke in support of the application.

Steve Beel, Chief Executive of Freeport East and member of the public, spoke in support of the application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
<i>Is it correct that after this temporary permission the site will revert back to the BBCT permission?</i>	<i>Yes, that was correct.</i>
<i>How will the components be brought to the site?</i>	<i>Most and especially the larger components would arrive by sea, Some smaller components would likely come by road.</i>
<i>How large will the boats be that will be docking at this site?</i>	<i>That would be decided by the Marine Management Organisation who would determine, in due course, the Marine Licence application.</i>

It was moved by Councillor Bray, seconded by Councillor Alexander and unanimously:-

RESOLVED that –

- (a) the Head of Planning and Building Control be authorised to grant planning permission, subject to the conditions as stated at paragraph 8.2 of the Officer report (A.2), or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and
- (b) informative notes, as may be deemed necessary, be sent to the applicant.

7. REPORT OF THE DIRECTOR (PLANNING) - A.3 - PLANNING ENFORCEMENT UPDATE

The Committee had before it the latest planning enforcement update based on live information taken on 17th April 2024.

Members were aware that the enforcement policy sought to report the following areas:-

- number of complaints received/registered in the quarter;
- number of cases closed in the quarter;
- number of acknowledgements within 3 working days
- number of harm assessment completions within 20 days of complaint receipt.
- number of site visits within the 20 day complaint receipt period.
- number of update letters provided on/by day 21
- number of live cases presented by category, electoral ward and time period since receipt;
- enforcement-related appeal decisions.

Members noted that some areas continued not to be available given the resource to export information from the available system, or as addressed directly in the report. Replacement of Microsoft Access as the main reporting tool was being explored, but transfer of the entire database across to a cloud based server this year and an upgrade of the Uniform system had delayed such efforts.

RESOLVED that the contents of this report (A.3) be noted.

8. REPORT OF THE DIRECTOR (PLANNING) - A.4 - PLANNING APPEAL ANNUAL UPDATE

The Committee had before it the annual update on planning appeals based on live information taken on 17th April 2024 for the period 1st April 2023 to 1st April 2024.

This report for planning appeals focused on appeal decisions against planning permission decisions, tree decisions and planning enforcement notice appeals. In total, for the period covered there had been 68 planning appeals with details as follows:-

Development Management Appeals (Total 65)

Allowed: 14

Dismissed: 46

Split: 1

Turned away by PINNS without decision: 2

Withdrawn by applicant: 2

Enforcement Appeals (Total 3)

Dismissed: 1

Split: 1

Withdrawn: 1

Notes:-

Allowed: The applicant won the appeal against the Council

Dismissed: The applicant did not win the appeal against the Council

Split: Part of the appeal proposal was successful and part was not.

Withdrawn / Turned away: Not determined as appeals.

RESOLVED that the contents of this report (A.4) be noted.

The meeting was declared closed at 7.20 pm

Chairman