

**PLANNING COMMITTEE held at COUNCIL CHAMBER - COUNCIL OFFICES,
LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on WEDNESDAY, 28
SEPTEMBER 2022 at 10.00 am**

- Present: Councillor S Merifield (Chair)
Councillors G Bagnall, J Emanuel, P Fairhurst, R Freeman,
G LeCount, M Lemon, J Loughlin, R Pavitt and M Sutton
- Officers in attendance: N Brown (Development Manager), A Lindsell (Democratic Services Officer), N Makwana (Planning Officer), F Nwanze (Interim Team Leader), M Shoesmith (Development Management Team Leader), E Smith (Solicitor - Litigation), L Trevillian (Principal Planning Officer) and A Vlachos (Planning Officer)
- Public speakers: Councillor Alan Dean, Richard Haynes, Councillor Jo Kavanagh (Stansted PC), Councillor Victoria Knight (Thaxted PC), Trina Mawer, David McPherson, Beverley Rodbard-Hedderwick, Kathryn Siddle, Richard Siddle, Adrian Temple, Jonathon White, Maureen White, Tom Wilson, Mike Young
- Virtual attendance: C Edwards (Democratic Services Officer)

PC204 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillor Foley.

Councillor Freeman declared a non-pecuniary interest in agenda item 16 as a ward member.

Councillor Fairhurst declared a non-pecuniary interest as a Member of Saffron Walden Town Council.

Councillor Emanuel declared a non-pecuniary interest in agenda item 13 as she knew the applicant.

PC205 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 31 August 2022 were approved as an accurate record.

PC206 SPEED AND QUALITY REPORT

The Development Manager introduced the Speed and Quality Report.

The report was noted.

In response to a question from Councillor Freeman the Development Manager confirmed that the green text on the report indicated that the Council's performance was above the threshold and was a positive indication.

PC207 QUALITY OF MAJOR APPLICATIONS REPORT

The Development Manager introduced the Quality of Major Applications report.

The report was noted.

PC208 S62A APPLICATIONS

The Development Manager introduced the S62A Applications report that detailed six applications which had been submitted direct to the Planning Inspectorate.

The report was noted.

PC209 S62A/22/0000007 (UTT/22/2174/PINS) - LAND TO THE SOUTH OF HENHAM ROAD, ELSENHAM

The Interim Team Leader presented an application for the residential development comprising 130 dwellings, together with a new vehicular access from Henham Road, public open space, landscaping and associated highways, drainage and other infrastructure works (all matters reserved for subsequent approval apart from the primary means of access, on land to the south of Henham Road, Elsenham)

The report was in relation to a major planning application submitted to the Planning Inspectorate (PINS) for determination, with the Council having the status of consultee.

The report recommended that the Director of Planning and Building Control be authorised to advise the Planning Inspectorate that Uttlesford District Council make the following observations on this application:

- No objection to the grant of outline planning permission subject to appropriate conditions/matters being addressed:
- Provision of 40% affordable housing
- 5% of the scheme to be delivered as fully wheelchair accessible units
- £310,000.00 towards community hall in Elsenham
- Securing appropriate education, health and transport contributions

In response to questions from Members the Interim Team Leader said:

- There was not evidence of any pre-application discussions with Essex Highways
- There were at least seven listed buildings impacted by the proposed development

- The criteria for the Environmental Statement were set out in the Environmental Impact Regulations 2017 and were based on the size of the site. The determining authority considered amongst other things traffic and air pollution
- Land was being provided for the community hall elsewhere
- There was only one access being provided to the site

The Development Manager said that the screening opinion was shared with Members and was the decision of the Secretary of State and would have taken into consideration the cumulative effect of the development.

Councillor Fairhurst said that Members were supposed to reflect residents' views and that the absence of sight of these views as part of the S62a process distorted democracy, and rendered the Committee's response an incomplete submission.

The Solicitor – Litigation said that members of the public were able to make their own representation to the Planning Inspectorate.

The Chair said that all Members shared the frustration of the designation but were required to respond to the Planning Inspectorate.

Members discussed:

- Thirteen listed buildings would be impacted by this application for 130 dwellings and whether the application should therefore be recommended for refusal on heritage grounds
- The S62a regulations stated that Members could make a recommendation, not that they must
- Concerns were raised about the single access point and the location of it
- The need for an assessment of the cumulative impact of neighbouring developments, including in relation to highways
- The importance of the timing of the Inspector's site visit ie peak school traffic times, to demonstrate existing highways issues
- The need to raise concerns to the Planning Inspectorate despite the absence of Parish Council or resident views

The Development Manager said that Officers were adjusting and adapting to this new way of working as a statutory consultee to the Planning Inspectorate. He said that future S62a items would not include a recommendation, but would raise concerns, although he acknowledged that this was not what the Planning Inspectorate had requested.

The Development Manager summarised the list of Members concerns:

- Members did not agree with the Officers' recommendation of no objection
- Serious concerns were raised relating to the impact of the proposed development on the listed assets in the area
- Concerns were raised regarding the single point of access and the location of the access
- The need for the Inspector's site visit to be undertaken at 3:30pm on a school day to be able to demonstrate existing highways issues

- The lack of information available to Members to enable them to make an informed decision

Councillor Fairhurst proposed that a letter to the Planning Inspectorate be drafted by the case officer detailing the list of members concerns as outlined by the Development Manager and Legal Services. The letter would be reviewed by the Chair prior to despatch to the Planning Inspectorate.

This was seconded by Councillor Bagnall.

RESOLVED to submit a letter to the Planning Inspectorate detailing the list of Members concerns as outlined by the Development Manager.

The meeting was adjourned for a comfort break at 11:00 and reconvened at 11:05.

PC210 **UTT/21/1833/FUL - CUTLERS GREEN LANE, LAND WEST OF THAXTED**

The Principal Planning Officer presented a planning application for the construction and operation of a solar farm comprising ground mounted solar photovoltaic (PV) arrays and battery storage together with associated development, including inverter cabins, DNO substation, customer switchgear, access, fencing, CCTV cameras and landscaping.

He recommended that the Director of Planning be authorised to GRANT permission for the development subject to those items set out in section 17 of the report subject to:

- Completion of a s106 Obligation Agreement in accordance with the Heads of Terms as set out
- Conditions

If the freehold owner should fail to enter into such an agreement, the Director of Planning shall be authorised to REFUSE permission following the expiration of a 6 month period from the date of Planning Committee.

In response to questions from Members the Development Manager said:

- That there were currently four solar farms in and around Thaxted and that approval had recently been granted for two additional solar farms within the district
- The decommissioning work was being progressed and scenarios reviewed, which included recommissioning and ongoing disposal matters
- There were appeal decisions that stated that twenty five years was not considered temporary in regard to best and versatile agricultural land, so forty years would definitely not be considered temporary
- The Rochdale Principles were historically applied to outline applications. Residents' concerns were not limited to the scale of the development, there were also concerns that the layout could change, although this could be reserved by conditioning, which was within Member's gift to consult residents on if they saw fit. It was acceptable to finalise details in reserved matters

Members discussed:

- The legal advice received on the Rochdale Principles and how it applied to a full application
- The relevance of the Rochdale Principles and the related flexibility required
- Uttlesford was becoming known as a test bed for solar farms and was already providing more solar farms than they were required to.
- The irreparable harm that would result for residents if the application was approved
- The need to achieve consistency in response to solar farm applications
- The need to retain agricultural land to grow food as we currently import 48% of our food
- The development would provide electricity for 8,000 homes but one wind turbine in the North Sea would provide electricity for 16,000 homes
- Concerns raised included flammable and toxic safety, degradation of land, noise, protection of the rural character and heritage of the area, biodiversity and repurposing of the land.
- The need to fully understand the decommissioning process. It was noted that the decommissioning plan was progressing well.

Councillor Pavitt proposed that the application was refused with reference to policies S7, GEN2, GEN7, ENV4, ENV5, ENV8, ENV9 and ENV15

The Development Manager recommended that ENV5 was given as the headline refusal reason, alongside ENV2, S7 and GEN 7.

Councillor Emanuel said that the National Planning Policy Framework (NPPF) paras 155 and 174 should also be referenced.

Councillor Bagnall said that the Neighbourhood Plan policies HC1, LSC1 and LSC2 could also be referenced.

The Development Manager said that the Neighbourhood Plan policies carried less weight due to their age but could be linked to S7.

The proposal was seconded by Councillor Fairhurst.

RESOLVED that the Director of Planning be authorised to refuse permission of the application with reference to policies ENV5, ENV2, S7, GEN7, NPPF paras 155 and 174

The Democratic Services Officer read out Councillor Foley's statement against the application.

Mike Young, Adrian Temple, Maureen White, Kathryn Siddle, Richard Siddle, Jonathon White, Trina Mawer, Tom Wilson, Richard Haynes and Councillor Victoria Knight (Thaxted Parish Council) spoke against the application.

Beverley Rodbard-Hedderwick spoke on behalf of the applicant.

The Solicitor – Litigation read out David MacPherson's statement against the application.

The meeting adjourned at 12:54 and reconvened at 14:05.

PC211 UTT/21/3272/OP - LAND SOUTH OF STORTFORD ROAD, LITTLE CANFIELD

The application was withdrawn from the list.

PC212 UTT/21/2461/DFO - LAND TO THE WEST OF ISABEL DRIVE AND OFF STANSTED ROAD, ELSENHAM

The application was withdrawn from the list.

PC213 UTT/22/1528/FUL - LAND SOUTH EAST OF GREAT HALLINGBURY MANOR, TILEKILN GREEN, GREAT HALLINGBURY

The Senior Planning Officer presented an application to vary condition (approved plans) of planning application UTT/20/0336/DFO (added under UTT/22/1567/NMA).

He recommended that the Director of Planning be authorised to GRANT permission for the development subject to those items set out in section 17 of the report subject to:

- The transfer of the S106 Agreement attached to UTT/16/3669/OP with any variations
- Conditions

If the freehold owner should fail to enter into such an agreement, the Director of Planning shall be authorised to REFUSE permission following the expiration of a 6-month period from the date of Planning Committee

Members discussed:

- The location of the garages
- The application was before members due to the size of the development

Councillor Emanuel proposed approval of the recommendation.

This was seconded by Councillor Pavitt.

RESOLVED that the Director of Planning be authorised to grant permission for the development subject to those items set out in section 17 of the report subject to:

- The transfer of the S106 Agreement attached to UTT/16/3669/OP with any variations
- Conditions

If the freehold owner should fail to enter into such an agreement, the Director of Planning shall be authorised to REFUSE permission following the expiration of a 6-month period from the date of Planning Committee.

PC214 **UTT/22/1260/FUL - LAND NORTH OF BARTHOLOMEW CLOSE, GREAT CHESTERFORD**

The Development Manager Team Leader presented an application seeking variation of condition 2 (Biodiversity, Surface Water Drainage, Hard and Soft Landscaping and Tree Protection) of UTT/21/2113/FUL to allow removal of trees behind plots 12 and 13.

She recommended that the Director of Planning be authorised to grant permission for the development subject to those items set out in section 17 of the report subject to conditions.

In response to questions from Members the Development Manager Team Leader said:

- The trees would be removed due to their excessive size and scale and visual amenity impact on the future occupiers of the properties
- The trees were in the gardens of the new houses being built
- There were no Tree Preservation Orders on the trees
- The size of the trees would result in a loss of light impacting the properties

Members discussed:

- The value that mature trees offered versus young saplings which take thirty years to achieve the same value
- The trees acted as a buffer and noise reducer for existing neighbouring properties
- Members had wanted to retain the trees at the time the application was approved
- The need for a good reason to remove healthy established trees

The Development Manager suggested that Members visit the site and in the interim further justification could be requested from the Housing Board.

The Chair proposed that the decision on the application was deferred.

This was seconded by Councillor LeCount. The proposal was defeated.

Councillor Fairhurst proposed that the application was refused.

This was seconded by Councillor Freeman.

RESOLVED that the Director of Planning be authorised to refuse permission of the application with reference to policies GEN2 and GEN7

The Development Manager left the meeting and was replaced by the Development Management Team Leader.

PC215 **UTT/21/2376/FUL - LAND TO THE WEST OF HIGH LANE, STANSTED**

The Development Manager Team Leader presented an application seeking variation of condition 18 (footpaths) of planning permission UTT/18/1993/FUL - condition 18 to read "The pedestrian links, as indicated on drawing no. BRD/19/045/052 as Footpath 1 and Footpath 4, shall be constructed to a minimum width of 2 metres". The omission of footpaths 2 and 3 approved under planning application UTT/18/1993/FUL.

She recommended that the Director of Planning be authorised to grant permission for the development subject to those items set out in section 17 of the report subject to conditions.

In response to questions from Members she said that:

- No enforcement action had been taken on the site, as normally it would not be undertaken while an application was under consideration
- Issues raised within the report claiming to prevent delivery of the footpaths included access, health and safety implications and public safety issues

Members discussed:

- The previous deferral had been agreed to enable the developer to consult with the Parish Council and the Housing Association
- The developer's responsibility to deliver the conditioned footpaths
- As no landscaping had yet been undertaken by the developer, only the developer would benefit from the proposal
- The absence of real impediments that prevented the installation of the footpaths
- The absence of effort by the developer to speak with the Parish Council, deliver the footpaths or mitigate against the failure to deliver

Councillor Fairhurst proposed refusal of the application.

This was seconded by Councillor Pavitt.

RESOLVED that the Director of Planning be authorised to refuse permission for the development with reference to policies GEN1 and GEN2.

Councillor Alan Dean spoke against the application.

Councillor Jo Kavanagh (Stansted Parish Council) spoke against the application.

PC216 **UTT/22/1639/FUL - RONEY HOUSE, THAXTED ROAD, DEBDEN**

The Planning Officer presented an application for 2 no. dwellings (revised scheme to those approved under UTT/18/1206/FUL and UTT/19/1442/FUL).

He recommended that the Director of Planning be authorised to grant permission for the development subject to those items set out in section 17 of the report.

Officers responded to questions from Members in respect of:

- The planning reasons for the call in for this application included access, privacy, traffic congestion and over-development of the site
- A land ownership potential dispute between Essex Highways and the applicant or neighbouring occupiers and the applicant, was not a planning issue.
- The Highways response had referenced the TPO tree at the front of the site, and thus took this matter into account when preparing their consultation response.

The Solicitor - Litigation said that land ownership was not a planning issue.

The Development Manager said that the fact that the site had previously had planning permission granted was a material consideration.

Councillor Fairhurst proposed approval of the application.

This was seconded by Councillor LeCount.

RESOLVED that the Director of Planning be authorised to grant planning permission for the development, as per the recommendation.

PC217 **EXCLUSION OF PUBLIC AND PRESS**

Councillor Bagnall proposed to move into part 2.

This was seconded by Councillor Fairhurst.

RESOLVED that under section 1001 of the Local Government Act 1972, the public be excluded for the following items of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 part 1 of Schedule 12A of the Act.

PC218 **COMPLAINT UPHELD BY THE LOCAL GOVERNMENT OMBUDSMAN**

The Solicitor – Litigation presented the report on the complaint upheld by the Local Government Social Care Ombudsman (LGSCO).

She recommended that Members noted the actions taken by Officers in response to the findings of the LGSCO, both directly related to the complainant, but also to the neighbouring homes.

Members said that the complaint raised a serious issue regarding the management of conditions. They asked what was being done to ensure conditions were met, managed properly and recurrences prevented.

In response to questions from Members the Development Manager said that the issue had resulted from a procedural failure. It had come about following the discharge of a condition as a result of a non-response to a consultation from Environmental Health. Officers no longer considered a non-response as

contentment with the position, and non-responses to consultation were now actively pursued by Officers to ensure positions were correctly understood.

The Solicitor – Litigation reiterated that no blame had been attached to any individual Officer either past or present.

Councillor Freeman as Ward Councillor provided background information to the report as he was familiar with the individual case.

The report was noted.

The meeting ended at 15:44.