

**PLANNING COMMITTEE held at COUNCIL CHAMBER - COUNCIL OFFICES,
LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on WEDNESDAY, 23
NOVEMBER 2022 at 10.00 am**

Present: Councillor S Merifield (Chair)
Councillors G Bagnall, M Caton, J Emanuel, R Freeman,
G LeCount, M Lemon (Vice-Chair), B Light, R Pavitt and
M Sutton

Officers in attendance: L Ackrill (Principal Planning Officer), C Edwards (Democratic Services Officer), C Gibson (Democratic Services Officer), D Hermitage (Director of Planning), A Lindsell (Democratic Services Officer), N Makwana (Senior Planning Officer), F Nwanze (Interim Development Management Team Leader), M Shoosmith (Development Management Team Leader), E Smith (Solicitor), L Trevillian (Principal Planning Officer) and C Tyler (Senior Planning Officer)

Public Speakers: A Rout and Councillor G Smith.

PC228 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors Fairhurst and Loughlin. Councillor Caton substituted for Councillor Loughlin and Councillor Light for Councillor Fairhurst.

Councillor LeCount declared that he was the Ward Member for Henham (item 6).

Councillor Merifield declared that she would recuse herself for item 7 as she was a personal friend of the applicant.

Councillor Pavitt declared that he was the Ward Member (item 11).

Councillor Emanuel said that she would be representing Newport Parish Council (item 12) and would recuse herself from the debate.

Councillor Caton declared that his wife was Chair of Stansted Parish Council (item 13).

PC229 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 26 October 2022 were approved as an accurate record.

PC230 **SPEED AND QUALITY REPORT**

The Director of Planning presented the Speed and Quality Report and said that the Quality of major Development threshold was still above 10% but was improving.

The report was noted.

PC231 **QUALITY OF MAJOR APPLICATIONS REPORT**

The Director of Planning presented the Quality of Major Applications report.

The report was noted.

PC232 **S62A APPLICATIONS**

The Director of Planning introduced the S62A Applications report that detailed eight applications which had been submitted direct to the Planning Inspectorate.

The report was noted.

PC233 **S62A/22/0012. UTT/22/2760/PINS - LAND EAST OF STATION ROAD, ELSENHAM**

The Interim Development Management Team Leader presented a report in relation to a major (outline) planning application submitted to PINS for determination. The application sought outline planning permission for a residential development of up to 200 dwellings, together with landscaping, public open space and associated infrastructure works. Consent was being sought for access only at this stage.

The report recommended that observations be submitted to the Planning Inspectorate.

The Interim Development Management Team Leader highlighted a number of issues that had been raised and said that:

- Initially the Planning Inspectorate had only undertaken consultation with Elsenham Parish Council. This error had been brought to the attention of the Planning Inspectorate and Henham Parish Council had now been consulted and given an extension until 24 November 2022 to submit their comments.
- The attenuation pond was larger than the one on the adjoining site, and that it had been suggested that it would be a good idea to merge the two ponds. Unfortunately this would require a new application to be submitted.
- The Urban Design Officer had indicated that there was insufficient play space on the site, a requirement for a multi-use games area and that the western area of the site required additional amenity space.

- The developer had said that the site included 2.7 hectares of open space, which included the attenuation pond and the pumping station and so the actual open space available would therefore be significantly less.

In response to various questions from Members, officers said that:

- They could request that the Inspector visit the site at school collection time, around 3.00 pm to appreciate traffic issues.
- There was not a Site of Special Scientific Interest (SSSI) in close vicinity to the site.
- The pedestrian and cycle access from the site to the London bound side of the train station was an existing walkway along the side of the station and would require those wishing to access the north bound side to use the footbridge. There was not access suitable for wheelchair users, cyclists or those with a pram.
- The size of development would create the demand for additional services, which would be of benefit.
- The Planning Inspectorate would be aware that the five-year housing supply was now still below 5, at 4.89; the tilted balance would still apply, although 4.89 was an improvement on the previous figure of 3.52.

Members discussed:

- The idea that the impacts table should be put to the front of any submission to PINS.
- The fact that provision of the primary school should be considered as neutral rather than a benefit as it was part of the development to the south.
- Concerns over the cumulative effect of the additional traffic accessing Grove Hill in Stansted at a time where Essex Highways were looking to stop lorries and heavy goods vehicles from using it.
- Traffic concerns relating to the possible merge of Elsenham and Stansted doctors' surgeries.
- The possible cumulative adverse impact from the 600 approved but currently unbuilt houses in the area.
- The site had been put forward as a new community and had been rejected previously by the Inspector due to the unnecessary strain it would put on the highways network.
- Concerns that the three storey and two and a half storey houses would dominate the landscape, particularly in view of the rise of the land.
- The insufficient amenity space.
- The absence of a master plan.
- The lack of benefits to the scheme.

Members were in general agreement that the site was inappropriate and not suitable for further development due to the:

- Sporadic nature of the development in the area which lacked a master plan as a whole.
- Cumulative impact on highways.
- Concerns regarding the three storey and two and a half storey height of the homes.
- Insufficient pedestrian access. Lack of amenity space.

- The lack of mitigation of the harms associated to the scheme.

Councillor LeCount proposed that the Planning Inspectorate be notified by the Director of Planning of Members' concerns as detailed above.

This was seconded by Councillor Emanuel.

RESOLVED to submit a letter to the Planning Inspectorate detailing the list of Members' concerns.

Councillor Merifield recused herself and left the room at 11.05 am. Councillor Lemon took the chair.

PC234 **UTT/22/1802/FUL - WOOD FIELD (LAND ADJOINING 'LAND WEST OF WOODSIDE WAY'), GREAT DUNMOW**

The Principal Planning Officer presented a planning application for the construction of 120 dwellings (Class C3), car parking, landscaping, play area and associated infrastructure.

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.

In response to questions from Members, officers clarified:

- There was one main entrance in and out of the site.
- There was a school in the neighbouring development.
- There was no provision in this scheme to add a crossing on the main road; this would be provided through the neighbouring development
- There were two exits from the wider development.
- The 15-metre woodland buffer was the Forestry Commission minimum recommended buffer. The Woodland Trust had sought a 50-metre woodland buffer.
- Condition 21 included the requirement for a Landscape and Ecological Management Plan. An informative could be added to a permission which could include a recommendation that the applicant worked with the Woodland Trust to improve their landscape mitigations.
- There were 33.3 dwellings per hectare.
- The adjacent strip of land was owned by Uttlesford District Council which incorporated a number of stringent conditions.
- Condition 11 required provision of a controlled crossing point.

Members discussed:

- The lack of amenity space.
- The reliance on the use of cars to access facilities and schools.
- The inadequacy of the buffer.
- The inadequacy of the size of the play area.
- The proximity to the ancient woodland.
- The lack of protection of the ancient woodland.

Councillor Bagnall said that he would be happy to propose refusal of the application. Councillor Sutton said that she would second the proposal.

Councillor Emanuel raised concerns that the buffer was within the legal requirement and would not therefore be a legal reason for refusal. It was suggested that possible deferral of this item might be a way forward.

At this point Councillor Bagnall withdrew his previous proposal.

Councillor Sutton consented to the withdrawal of the proposal.

Councillor Emanuel proposed that the application be deferred to allow the applicant to review:

- The buffer zone.
- Consideration of how to prevent footpath access over UDC land.
- The overall amenity space, which should not include the buffer zone.
- Permeability and pedestrian access.

This proposal was seconded by Councillor Bagnall.

RESOLVED that the item be deferred in line with the proposal.

The meeting was adjourned for a comfort break between 12.05pm and 12.18pm.

Councillor Merifield re-joined the meeting and retook the chair.

PC235 UTT/22/1508/DOV - SECTOR IV, WOODLANDS PARK, GREAT DUNMOW

The Principal Planning Officer presented a Deed of Variation (DoV) application seeking permission to make revisions/amendments to the Section 106 Legal Agreement that was attached to the outline permission reference UTT/2507/11/OP.

He recommended that the Director of Planning be authorised to grant the variation.

In response to questions from Members, officers said:

- The variation sought to reduce the affordable housing to 23.7% and to make a contribution of £46k to the Council, taking it to 24%. This figure was considered by Essex County Council to be about right.
- The Council's policy required 40% affordable housing on all schemes over 0.5 hectares or on 15 or more units.
- The planning permission for 125 properties, including provision of 50 affordable homes had been approved in 2012 and 2013
- The applicant now said that the configuration was not viable.
- Essex County Council had previously undertaken a Financial Viability Assessment (FVA) which concluded that 40% affordable housing could be achieved.

- Officers had undertaken a third FVA which had concluded that the scheme could viably provide a contribution towards affordable housing comprising of 30 homes based on 18 homes for affordable rent and 12 homes for shared ownership equating to a 24% provision on site plus a £46,000 financial contribution to affordable housing.
- There were 45 dwellings per hectare on the plan provided.
- There was a further planning application that had been received that would consider changes to the density of the affordable housing.
- Because the wider development had been implemented the previous permission had not expired.
- The physicality of the layout had been approved back in 2011.

Members discussed:

- Whether the developer should be able to avoid delivery of their agreed affordable housing allocation by selling the land for £1 to a Housing Association for them to provide the affordable housing.
- The fact that selling the land to a Housing Association did not necessarily guarantee that the affordable housing would be delivered.
- The Housing Enabling Officer had been unhappy regarding the dwellings per hectare figure within the affordable housing area which had been agreed as part of the previous permissions.
- The possible need to revise the design and distribute the affordable housing throughout the site.
- The high number of applicants currently looking for housing in the Dunmow area.
- That if the S106 was rewritten it would need to ensure that a very low number of houses be built before the affordable housing was built.
- Whether there were grounds to refuse legally given the three viability assessments that had been undertaken.

The Director of Planning said that it was common within a S106 agreement to have a trigger point of how much development could be built before the affordable housing was built. This could be delegated to officers to write a deed of variation to include such a trigger.

The Solicitor said a S106 agreement was a contract and was enforced by civil action. A breach of condition was liable for enforcement by criminal prosecution. The S106 agreement was agreed, not imposed, so there was a substantial difference in enforceability capacity.

Councillor Light proposed refusal of the application, to uphold the principle of 40% affordable housing. She said that the build style of a ghetto was unacceptable, and the density was too high. This was seconded by Councillor Lemon.

This proposal was defeated.

Councillor Pavitt proposed deferral of the application to explore the specifics of the delivery of the affordable housing and to allow the S106 to be revisited. This was seconded by Councillor Bagnall.

RESOLVED that the item be deferred in line with the proposal.

The meeting was adjourned for lunch at 1.17pm and reconvened at 2.05pm.

Councillor Lemon left the meeting.

PC236 UTT/22/1404/OP - LAND SOUTH OF BRAINTREE ROAD, GREAT DUNMOW

The Senior Planning Officer presented an application that sought outline planning consent (all matters reserved except for access) for the construction of 20 dwellings alongside associated parking, access and landscape works.

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.

In response to questions from Members, officers said:

- The site was outside the town development area but fell within the Great Dunmow Neighbourhood Plan(GDNP) area.
- The Highways Authority had reviewed the application and visited the site. Data would be available from the Police and the Highways Authority of accidents.
- The scheme should result in no greater flooding risk than green field run off and there were conditions in place for mitigation.

Members discussed:

- The GDNP was more than two years out of date, which resulted in the policies still applying, but the weight attached being reduced.
- The inadequate capacity of the waste water treatment, as acknowledged by Anglian Water who had said that there was an unacceptable risk of flooding down stream.
- The absence of a noise impact assessment associated with the development.
- The significant impact on the listed building and the absence of clear and convincing justification to justify the harm, as required by the National Planning Policy Framework (NPPF).
- Whether the risk of flooding had been fully assessed.
- The pattern and scale of development being considered as urbanising and contrary to the goals of the GDNP.
- Achieving the visibility sight lines at the junction might require the canopy of the two oak trees to be raised.

The Director of Planning said that Members were required to balance the benefits against the harms.

Further discussion took place around the possible reasons for refusal including GEN2, GEN3, GEN7, ENV2, ENV7, ENV10, S7 and policies in the Neighbourhood Plan.

Following these discussions, Councillor Bagnall proposed refusal on the following grounds:

- Urbanisation of the gateway into Dunmow.
- Impact on heritage assets.
- Outside development limits.
- Policy S7- impact on the countryside.

This proposal was seconded by Councillor Freeman.

RESOLVED that the Director of Planning be authorised to refuse permission for the development as proposed.

At 3.05pm the meeting adjourned for a comfort break and reconvened at 3.15pm.

Councillor Caton left the meeting.

PC237 **UTT/22/0618/OP - LAND AT SPARE PENNY LANE SOUTH, GREAT SAMPFORD**

The Principal Planning Officer presented a report seeking outline planning permission for the erection of up to 18 dwellings, a community building and allotments alongside associated works, with all matters reserved apart from access and layout.

He recommended that the Director of Planning be authorised to refuse permission for the reasons set out in section 17 of the report.

In response to questions from Members, officers said:

- There had been no significant changes in facilities since previous decisions had been made
- The layout was more linear than previous applications.
- A noise assessment had been submitted addressing previous noise concerns.
- The provision of a Community Building and allotments had not been offered within the previous refused applications.

Members discussed:

- The need for use of a car at the site.
- The existing operational and flourishing village hall.

Councillor Emanuel proposed refusal of the application as outlined in the recommendation. This was seconded by Councillor Pavitt.

RESOLVED that the Director of Planning be authorised to refuse permission for the reasons set out in section 17 of the report.

Councillor George Smith spoke against the application and in support of the officer's recommendation.

Councillor Gary Swain`s brief statement on behalf of the Sampfords Parish Council in support of the officer`s recommendation was read out.

The meeting was adjourned for a five minute comfort break at 3.35pm.

PC238 UTT/22/1248/FUL - PLOT 800, CHESTERFORD PARK. LITTLE CHESTERFORD

The Senior Planning Officer presented an application that proposed the construction of Research and Development Building works to improve estate road, car parking, landscaping and associated works.

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.

In response to questions from Members, officers said:

- The three storey building was consistent with the scale of other buildings on the site.
- That a detailed Landscape and Planting scheme would be conditioned.

Councillor LeCount proposed approval of the development, subject to those items set out in section 17 of the report. The Chair said that this was a very good scheme. This proposal 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.

A statement from Little Chesterford Parish Council was read out in support of the application.

PC239 UTT/22/1848/FUL - LAND WEST OF LONDON ROAD, NEWPORT

The Senior Planning Officer presented an application for the variation of Condition 2 from planning permission UTT/20/2632/FUL. The proposal sought minor material amendments to the previously approved scheme.

He recommended that the Director of Planning be authorised to grant permission for the variation of Condition 2 subject to the re-imposition of all other conditions as set out in section 17 of the report.

In response to questions from Members, officers said:

- The carports were 2.9 metres wide.
- The plot 18 garden was 110 square metres and conformed with the Essex Design Guide.
- The plot 27 garden was 113 square metres and conformed with the Essex Design Guide.
- The minimum requirement for a garden for a three bedroom house was 100 square metres.

- Additional roof space would be utilised to accommodate the ground source heat pump components.

Members discussed:

- The change in style of the passive houses.
- To give weight to the fact that the Parish Council were supportive of the proposal

Councillor Merifield proposed approval of the variation, subject to those items set out in section 17 of the report. This was seconded by Councillor Sutton.

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

Councillor Emanuel spoke on behalf of Newport Parish Council and said that they were broadly content with the application. She recused herself from the meeting at 3.53pm whilst the application was debated by Members and re-joined the meeting at 4.02pm once the decision had been made.

PC240 UTT/22/2568/FUL - LAND NORTH OF WATER LANE, STANSTED

The Senior Planning Officer presented an application for the removal of Conditions 5 and 6 from the planning permission under UTT/16/2865/OP.

He recommended that the Director of Planning be authorised to grant permission for the removal of Conditions 5 and 6 subject to the re-imposition of all other conditions as set out in section 17 of the report.

In response to questions from Members, officers said:

- There were no further large developments proposed near the site.
- The conditions had been imposed six years previously in response to the highways authority objection. It had been considered acceptable at that time.
- Conditions were governed by the National Planning Policy Framework.
- Section 133 of the Highways Act allowed the highways authority to claim money back from those who damage the highway.
- Essex Highways can enforce but could choose not to, as they would prefer that the District Council took that action.

Members discussed:

- Whether the District Council should have to manage and finance highways work when Essex Highways were the responsible authority and had the power to enforce.
- The designated classification of Water Lane, Stansted
- Not wanting the condition discharged without ascertaining that there was another method in place to reclaim costs.
- Previous applications specifically relating to Whiteditch Lane, Newport.
- The need for the Council to be consistent in their acknowledgement of Essex Highways objections.
- The need for the Council to uphold conditions that they applied.

- The need for Essex Highways to demonstrate where this condition had delivered in the way it was intended.
- There would be value in inviting an Essex Highways officer to come and advise on their position.

The Solicitor said that enforcement options available to the District Council were prosecution which required proof of the offence beyond reasonable doubt. The penalty would be a fine. There could be a contribution from the developer towards the costs associated with the prosecution. The alternative would be that the Council executed default works which would involve carrying out any necessary works to the highway and pursuing the developer for the cost, but they would have the opportunity of raising a defence and may raise the culpability of Essex Highways. Further, Essex Highways might not agree to the Council carrying out works on Highways' land.

Councillor Pavitt proposed deferral of the item to enable an Essex Highways officer to be invited to address the Council. This was seconded by Councillor Bagnall.

RESOLVED that the item be deferred as proposed.

PC241 **UTT/22/1910/HHF & UTT/22/1911/LB - MUDWALL FARM, BISHOPS GREEN, HIGH EASTER ROAD, BARNSTON**

The Interim Development Management Team Leader presented two applications; one sought planning permission and the other sought listed building consent for the erection of one and a half side extension following the removal of the existing structure.

She drew Members attention to the Late List addendum which included comments from the Ecology Officer, who was unhappy with the level of investigation undertaken to assess the impact of the proposal on protected species and did suggest that the application was refused on these grounds. She said that the applicant's ecologist had issued a rebuttal stating that the investigations that they had undertaken was sufficient.

She recommended that the Director of Planning be authorised to refuse planning permission and refuse Listed Building Consent for the proposal for the reasons as set out in section 17 of the report.

In response to questions from Members, officers said:

- The report enabled Members to assess the application on its merits, not to compare it with the 2007 permission, that had lapsed. The applications for consideration were at least three metres larger than the existing site extension.
- Fallback positions had been previously discussed. If there was not an established fallback position then Members should make comparisons against what currently existed.

- Place Services had both ecology and conservation departments. The view of Place Services (Conservation) was that the proposed development was too big and impacted the listed building.

Members discussed:

- The need to look after the listed heritage.
- The need for extensions to be subservient to the existing building.
- The size of the roof and gable.
- The fact that pre-application advice had not been sought by the applicant.

Councillor Bagnall proposed refusal of the planning permission on the grounds detailed in the report recommendation, in that the proposed extension was too large, and negatively impacted the heritage asset. This was seconded by Councillor Emanuel.

Councillor Bagnall proposed refusal of the listed building consent on the grounds detailed in the report recommendation, in that the proposed extension was too large, and negatively impacted the heritage asset. This was seconded by Councillor Emanuel.

RESOLVED that the Director of Planning be authorised to refuse planning permission and refuse Listed Building Consent for the proposal for the reasons as set out in section 17 of the report.

A statement was read out from Councillor Susan Barker in support of the application.

A Rout (Applicant) spoke in support of the application.

The meeting ended at 4:51 pm.