

NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

**MEETING HELD AS A VIRTUAL MEETING
ON THURSDAY, 18TH MARCH, 2021 AT 7.30 PM**

MINUTES

Present: *Councillors: Ruth Brown (Chair), Daniel Allen (Vice-Chair), Val Bryant, Mike Hughson, Tony Hunter, David Levett, Ian Moody, Sue Ngwala, Sean Prendergast, Mike Rice, Tom Tyson and Michael Muir (In place of Morgan Derbyshire)*

In Attendance: *Simon Ellis (Development and Conservation Manager), Nurainatta Katevu (Legal Regulatory Team Manager and Deputy Monitoring Officer), Tom Allington (Principal Planning Officer – Strategic Sites), Nigel Smith (Strategic Planning Manager), Matthew Hepburn (Committee, Member and Scrutiny Officer) and William Edwards (Committee, Member and Scrutiny Officer)*

Hertfordshire County Council Officers: Roger Taylor (Principal Engineer, Development Management), Russell Monck (Team Leader (West) Growth and Infrastructure Unit) Kate Ma (Senior Planning Officer - School Planning Team – Children’s Services).

Also Present: *At the commencement of the meeting approximately 22 members of the public. Councillor Richard Thake was in attendance as Member Advocate.*

109 WELCOME AND REMOTE/PARTLY REMOTE MEETINGS PROTOCOL SUMMARY

Audio Recording – 24 Seconds

The Chair welcomed everyone to this virtual Planning Control Committee meeting that was being conducted with Members and Officers at various locations, communicating via audio/video and online.

There was also the opportunity for the public and press to listen to and view proceedings.

The Chair invited the Committee, Member and Scrutiny Officer to explain how proceedings would work and to confirm that Members and Officers were in attendance.

The Committee, Member and Scrutiny Officer undertook a roll call to ensure that all Members, Officers and registered speakers could hear and be heard and gave advice regarding the following:

The meeting was being streamed live onto YouTube and recorded via Zoom.

Extracts from the Remote/Partly Remote Meetings Protocol were included with the agenda and the full version was available on the Council's website which included information regarding:

- Live Streaming;
- Noise Interference;
- Rules of Debate;
- Part 2 Items.

Members were requested to ensure that they were familiar with the Protocol.

The Chair of the Planning Control Committee, Councillor Ruth Brown, started the meeting proper.

110 APOLOGIES FOR ABSENCE

Audio Recording – 3 Minutes 45 Seconds

Apologies for absence were received from Councillor Morgan Derbyshire.

Having given due notice, Councillor Michael Muir advised that he would be substituting for Councillor Morgan Derbyshire.

111 MINUTES - 10 FEBRUARY 2021 - 24 FEBRUARY 2021

Audio Recording – 3 Minutes 54 Seconds

RESOLVED:

- (1) That the Minutes of the Meeting of the Committee held on 10 February 2021 and 24 February 2021 be approved as a true record of the proceedings and be signed by the Chair; and
- (2) That, with the authorisation of the Chair, their electronic signature and initials be attached to the Minutes approved in (1) above.

112 NOTIFICATION OF OTHER BUSINESS

Audio Recording – 4 Minutes 54 Seconds

There was no other business notified.

113 CHAIR'S ANNOUNCEMENTS

Audio Recording – 5 Minutes

- (1) The Chair welcomed those present at the meeting, especially those who had attended to give a presentation;
- (2) The Chair advised that, in accordance with Council Policy, the meeting would be audio recorded;

- (3) The Chair drew attention to the item on the agenda front pages regarding Declarations of Interest and reminded Members that, in line with the Code of Conduct, any Declarations of Interest needed to be declared immediately prior to the item in question;
- (4) To clarify matters for the registered speakers the Chair advised that members of the public had 10 minutes for each group of speakers i.e. 10 minutes for objectors and 10 minutes for supporters. This 10 minute time limit also applied to Member Advocates.

114 PUBLIC PARTICIPATION

Audio Recording – 8 Minutes 17 Seconds

The Chair confirmed that the registered speakers were present.

115 18/02722/FP LAND SOUTH OF HEATH LANE, CODICOTE, HERTFORDSHIRE, SG4 8YL

Audio Recording – 8 Minutes 25 Seconds

Residential development of 167 dwellings (Use Class C3) and associated works including formal open space, internal road network, landscape enhancement and creation of accesses from Heath Lane and St Albans Road; and the demolition of 66 St Albans Road (as amended by drawings received 1st and 6th November 2018, 17th and 18th December 2018 and 3rd April 2019).

Councillor Ian Moody declared that he was acting as Member Advocate on the item and would therefore not take part in the debate and vote.

Councillor Michael Muir sought legal advice from the Legal Regulatory Team Manager and Deputy Monitoring Officer in regards to this item. He explained that he was the Vice-Chair of the Development Committee at Hertfordshire County Council and he had voted at that Committee on the school expanding from 1 to 2 form entry.

The Legal Regulatory Team Manager and Deputy Monitoring Officer advised that the school expansion was not a matter for the Planning Control Committee and therefore, Councillor Muir was able to debate and vote on the item as there was no declarable interest.

The Principal Planning Officer – Strategic Sites introduced some additional Officers who were in attendance at the Committee to assist in answering questions. These were:

- Nigel Smith - Strategic Planning Manager;
- Roger Taylor – Principal Engineer, Development Management (HCC Highways);
- Russell Monck – Team Leader (West) Growth and Infrastructure Unit;
- Kate Ma – Senior Planning Officer (School Planning Team – Children’s Services).

The Principal Planning Officer – Strategic Sites provided some updates to the report as follows:

- Paragraph 4.3.150 of the report - the Inspector’s schedule of Further Main Modifications had been received on 10 March and these were put on the Council’s website on 11 March;
- Consultation Responses – since the Committee Report was published, approximately 59 further public objections had been received, which included a further response from Codicote Parish Council, from Save Rural Codicote, together with a letter from Richard Buxton Solicitors on their behalf and second letter was received about three hours ago. In addition, a further letter of objection had been received from Stephen McPartland MP.

The matters raised in these additional objections were summarised in paragraphs 3.20 to 3.32 of the report;

- There was discrepancy within the report regarding the s106 contribution towards the upgrade and improvement of existing bus stops on the High Street. At paragraph 4.3.81 of the report it referred to the figure of £56,000, whereas the correct figure agreed was £76,000;
- With regards to an email Members received from the Herts and Middlesex Wildlife trust, the Officer had spoken with Herts Ecology. Herts Ecology recommended a further condition, to establish the presence, or not, of protected species before works commence on site. The Condition read as follows:

‘Prior to commencement of development, an ecological walkover survey shall be conducted to assess the potential for protected species such as reptiles, amphibians or badgers which may have moved onto the site, depending on its condition. Any necessary further surveys or works that may be needed to ensure such species are not harmed will be undertaken accordingly.

Reason: To ensure the development complies with the legal protection afforded to protected species, consistent with Policy NE6 of the emerging Local Plan.’

Once the updated had concluded, the Principal Planning Officer – Strategic Sites presented the report in respect of application 18/02722/FP supported by a visual presentation consisting of plans and photographs.

The following Members asked questions of the Principal Planning Officer:

- Councillor Sue Ngwala;
- Councillor Tom Tyson; and
- Councillor David Levett.

In response to questions raised, the Principal Planning Officer advised that:

- The proposed site plan illustrated the location of the 2 blocks of flats. These flats would be 2 storey and located towards the eastern end of the site;
- There was a large landscape buffer between the school and the flats; and
- Each application would be determined on its own merit and each site would need to be approved.

The Senior Planning Officer (School Planning Team – Children’s Services) responded to questions by advising that Hertfordshire County Council had taken the statutory duty to enlarge Codicote School and the County Council had underwritten funding the school expansion.

The Principal Engineer, Development Management (HCC Highways) responded to questions raised by advising that a approach speed and visibility display check had been carried out on Heath Lane and these were satisfactory.

The Senior Planning Officer (School Planning Team – Children’s Services) responded to a question raised by advising that at present, Codicote School was 1 form entry and there were mobile classrooms on the site. There was no more space for buildings to be put on the site. Planning permission would permit additional teaching buildings and as the playing field was being built on, a new one would need to be created.

Mr Steve Woodward, Save Rural Codicote, thanked the Chair for the opportunity to address the Committee in objection to the application, including:

- 98% of consultees disliked the North Herts Local Plan;
- The Heath Lane application had received nearly 300 objections from a village of 3400 people;
- The site had not been allocated in the local plan yet;
- As Green Belt land the 'very special circumstances' test needed to be applied before deciding to grant planning permission;
- This application remained premature;
- The correct tests could not yet be applied;
- There were no plans to expand the school unless the four development sites in Codicote were approved;
- The true number of houses being built was likely to be at least 470;
- Providing school places for 364 houses and then building 470 was not going to resolve the oversubscribed school problem; and
- The Council needed to abide by the Climate Emergency commitments;
- Allowing this application to proceed would set in train not just this site, but three other Green Belt sites in Codicote.

The Chair thanked Mr Woodward for his presentation.

Mr Chris Watts, Codicote Parish Council, was invited to address the Committee in objection to the application, including:

- It was morally unacceptable for the officers to put the application forward now ahead of the publication of the report of the Local Plan Examination;
- By approving the resolutions, it would allow for a large area of the Green Belt and open countryside around Codicote to be lost to a major built development of at least 167 dwellings;
- One of the offered 'very special circumstances' related to the ability of this site to provide for additional playing fields and school facilities to meet existing and future demands for education facilities;
- What would happen if the Inspector decided that site allocation CD5 did not meet the 'Exceptional circumstances' test, but which had been resolved to be approved under the 'very special circumstances' test by this Committee; and
- There would significant harm to Green Belt openness and loss of rural character here.

The following Members asked questions:

- Councillor David Levett.

In response to the question raised, Mr Watts advised that the email he referred to in his presentation was dated 19 February 2019.

Councillor Ian Moody, Member Advocate, thanked the Chair for the opportunity to address the Committee in objection to the application, including:

- The village strongly objected to the Council addressing this application in advance of the Inspector's ruling on whether Green Belt developments, as proposed in the emerging Local Plan, do in fact constitute an Exceptional Circumstance;
- The purpose of the Green Belt was to act as a buffer between settlements and prevent urban sprawl. Development on Green Belt was only permissible as a last resort in an Exceptional Circumstance;

- The Council may be proposing to use legal slight of hand to side-step the 'demonstration of Exceptional Circumstances' condition by using the alternative 'very special circumstances', without presenting supporting evidence;
- No Exceptional Circumstances existed to justify release of this site for such a large green belt housing development;
- The school had confirmed that it was not pushing for expansion, but was content to continue to function successfully whatever the outcome; and
- Councillors voted to commit to doing everything in their power to reduce carbon emissions in the District. To approve an enormous Green Belt development such as CD5 (most likely followed by three others, CD1, CD2 and CD3) before the Local Plan had been ratified, would be an abdication of those promised 'green' commitments.

Councillor Richard Thake, Member Advocate, thanked the Chair for the opportunity to attend the Committee in objection to the application. He advised that he supported what Councillor Ian Mood had said.

The following Members asked questions:

- Councillor Sue Ngwala;
- Councillor Tom Tyson; and
- Councillor Michael Muir.

In response to questions raised, Councillor Richard Thake advised:

- The playground was for the school;
- It was not in the County Council's capacity to second guess the local plan;
- Hertfordshire County Council and NHDC could not demand s106 contributions from developers that were not on the table;
- The Committee needed to wait for the Inspector's report;
- The application had to be dealt with otherwise the applicant could appeal on grounds of non-determination;
- The County Council were a commissioner of school places. The County was obliged to provide school places. However if there were to be no capacity locally, children would have travel out of the area to go to school.

The Principal Planning Officer responded to points raised:

- There were 2 different tests. Paragraph 144 of the NPPF applied to this site; and
- The 'very special circumstances' were met on this site owing to the cumulation of several key aspects.

In order to assist further with questions surrounding 'exceptional circumstances' and 'very special circumstances', the Strategic Planning Manager advised as follows:

- 'Very special circumstances' was a stricter test than the 'exceptional circumstances' test;
- 'Very special circumstances' allowed for development in the green belt; and
- 'Exceptional circumstances' removed land from the green belt.

In response to questions raised regarding the oversubscription of the school, the Team Leader (West) Growth and Infrastructure Unit advised as follows:

- For strategic planning reasons, 1 form of entry is used per 500 units;
- One of the measures used to estimate child yield was using a demographic model;
- From the report, it was estimated that there would be around 0.7 – 0.8 forms of entry from the developments proposed;
- 370 units were modelled; and
- Around 0.8 forms of entry would be generated from 370 units. This estimation was a best guess.

Councillor Ian Moody responded that the school was already oversubscribed by 0.4. Ms Sophie Stocker, CBRE Ltd, and Ms Tracy Puttock, Planning Manager at Ashill, thanked the Chair for the opportunity to address the Committee in support of the application.

Ms Puttock addressed the Committee first:

- They had been working with North Herts and County Council for over 7 years to bring this site forward;
- The submission of their application back in 2018 was as a result of the closing of the Local Plan Examination and a need from the County Council for the land required to support the expansion of Codicote Primary School which had been oversubscribed for a number of years;
- Each site was individually designed to suit the characteristics of the area;
- They wish to create bespoke, high quality developments;
- They spent an afternoon with the Parish Council walking around the village and discussing the local vernacular;
- Local concerns about development in the Green Belt was understood;
- There was an ever pressing need from the County Council to have the land for the school to ensure that existing children from the village could attend;
- They listened to the concerns raised by locals and withdrew the application in November to allow the further hearing sessions to conclude and for the Inspector to report back on key issues;
- The school land was needed to address an existing capacity issue;
- Providing the school with land enabled a permanent solution to the existing problem for school places, and was an important part of the Very Special Circumstances; and
- Alongside donating the land to the County council, they were making a significant financial contribution towards the schools physical expansion, as well as providing contributions to local infrastructure.

Ms Stocker then addressed the Committee:

- They had submitted a planning application on behalf of Ashill who were seeking to deliver housing and, also, donate a portion of the site to the County Council to enable a long held ambition for Codicote Primary School to expand from a 1 form to a 2 form entry school;
- There had been exceptional delays to the Local Plan process, which had unfortunately resulted in a shortage of housing in the district and a critical capacity issue for the school;
- The very special circumstance was that the development of this site enabled land to be donated to facilitate the permanent expansion of the Primary School, to resolve existing and future supply issues;

- The second point contributing to the site's very special circumstances was that, the council could currently only demonstrate 2.2 years of housing supply as outlined in the Council's statement from April 2020; and
- The proposals delivered 67 units of affordable housing for Codicote. This was of particular importance in the village, where no affordable housing had been built since 2007.

The following Members asked questions:

- Councillor Ruth Brown;
- Councillor David Levett; and
- Councillor Sue Ngwala.

In response to questions raised, Ms Puttock advised:

- There was social rent housings on the site;
- When the application was withdrawn in November, an extension of time was agreed to February;
- The timings were also influenced by the school for the land to be transferred over;
- Ashill specialised in brownfield sites. However, planning had changed over the years;
- There was a need for housing in the District.

In response to questions, the Principal Planning Officer advised that there were long lead out times for a school expansion and it was already tight to get the school ready for September 2022. This was the reason behind the application being brought before the Committee this evening.

The Senior Planning Officer (School Planning Team – Children's Services) added that in relation to the timings, the programme for expanding the school was tight as it needed to be ready for the start of the academic year which would be September 2022.

The Principal Planning Officer responded to the point made relating to the main modifications by stating that the 9 modifications affecting Codicote were minor and they would not be changed if the application were to be granted.

The Principal Planning Officer responded to the point made relating to the very special circumstances by advising that the school expansion made up one aspect of the circumstance.

NB: The Chair called for a comfort break at 21:24 prior to the commencement of the debate. Councillors Moody and Thake left the meeting.

NB: The Committee resumed at 21:31.

Councillor Daniel Allen sought advice from the Officers regarding what would happen if the application were to be deferred.

In response, Councillor Daniel Allen was informed that the applicant could apply again once the local plan had been adopted and a new report would be completed by the case officer to take into account the new plan.

The Principal Planning Officer added to this by advising that if the item were to be deferred, the applicant could wait for the local plan to be adopted or they could appeal under grounds of non-determination.

The Principal Planning Officer informed Members that having discussed it with the applicant, they had already made him aware that they would appeal under grounds of non-determination if Members were minded to defer the application this evening.

The following Members took part in the debate:

- Councillor David Levett;
- Councillor Tony Hunter;
- Councillor Sue Ngwala;
- Councillor Ruth Brown;
- Councillor Daniel Allen; and
- Councillor Tom Tyson.

Points raised in the debate were as follows:

- Prematurity;
- Lack of a very special circumstance;
- Development in Green Belt;
- Impact on countryside; and
- School expansion.

Councillor David Levett proposed to refuse planning permission on the grounds of prematurity. This proposal was seconded by Councillor Michael Muir.

Once the debate had concluded, the Chair requested that the item be voted on.

Councillor Mike Rice sought advice before the vote as he had lost connection to the meeting during the debate and asked whether he was still entitled to vote.

The Legal Regulatory Team Manager and Deputy Monitoring Officer confirmed that in line with the Constitution, Standing Order 4.8.23(a), Councillor Mike Rice was not able to take part in the vote as he had not been present for the entirety of the debate.

NB: Councillor Mike Rice left the meeting at 22:01.

Councillor David Levett proposed to refuse planning permission. This proposal was seconded by Councillor Michael Muir.

It was voted upon and:

RESOLVED: That application 18/02722/FP be **REFUSED** planning permission for the following reasons:

- (1) The application site is within an area designated in the North Hertfordshire District Local Plan no.2 with Alterations as Green Belt, within which there is a presumption against inappropriate development, such as that proposed, unless very special circumstances can be demonstrated. In the view of the Local Planning Authority the proposal is not supported by such very special circumstances. Moreover, it would harm the fundamental aim of Green Belt policy which seeks to maintain the openness of the area. As such, the proposal would not accord with the provisions of Policy 2 of the District Local Plan no.2 with Alterations 1996 or with the provisions of Section 13 of the National Planning Policy Framework (NPPF).

- (2) In the opinion of the Local Planning Authority, the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area. The proposed development and the cumulative effect of other proposed land allocations in this locality, would be so significant, that to grant planning permission would undermine the plan making process by predetermining decisions about the scale, location or phasing of new development that are central to the emerging Plan as demonstrated by the extent of unresolved objections to the proposed land allocation, Policy CD5 of the Emerging North Hertfordshire District Local Plan (2011-2031) (Incorporating Modifications) which mean only limited weight can be applied to this policy. The proposal is therefore premature under the provisions of Paragraph 49 (a) and guidance on weight to be applied to emerging policies under paragraph 48 (b) of the National Planning Policy Framework (NPPF).
- (3) At the time of determination the planning application, the subject of this decision notice, has not been accompanied by a valid legal undertaking (in the form of a completed S106 Obligation) securing the provision of the requisite infrastructure and financial contributions towards off site infrastructure or on site affordable housing. The secure delivery of these obligations is required to mitigate the impact of the development on the identified services in accordance with the adopted Planning Obligations SPD, Saved Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations or proposed Local Plan Policy HS2 of the Submission Local Plan (2011-2031). Without this mechanism to secure these provisions the development scheme cannot be considered as a sustainable form of development contrary to the requirements of the National Planning Policy Framework (NPPF).

Proactive Statement:

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted proactively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

116 PLANNING APPEALS

Audio Recording – 2 Hours 36 Minutes 21 Seconds

The Development and Conservation Manager presented the report entitled Planning Appeals.

It was:

RESOLVED: That the report entitled Planning Appeals be noted.

REASON FOR DECISION: To keep the Planning Committee apprised of planning appeals lodged and planning appeal decisions.

The meeting closed at 10.08 pm

Chair