



Wivenhoe Town Council Closing Statement PINS 2022

Our closing comments follow the enquiry timetable as directed by the Inspector.

Landscape

As well as Elmstead Road, the views of other areas are valued by us. We would like to confirm for the inspector that the land for the football clubhouse, stadium and sports fields are all owned by Colchester City Council. Except for one privately owned sports pitch, that is owned by Tempest Football Club (part of the Wivenhoe Sports Trust). This therefore must be considered as a public area owned by a public body. This area is used for training and games for the clubs but is also used by residents for casual sport activities, regularly holds staged events and enables walkers to exercise and enjoy the views.

We believe the LoWS area has had unrestricted public access for over 30 years and so therefore has acquired legal public access rights. The LoWS is accessible from several public footpaths and has official Essex County Council (ECC) footpaths leading to and around it which enhance the case for the footpaths to be protected. Wivenhoe Town Council have determined to follow the PROWS process with ECC to protect these footpaths.

We should not be unfairly punished for not specifying in the neighbourhood plan every view in the town that is valued by us. On the contrary the assumption should be made that all views of the landscape are valued by residents and that's why they chose to live here and love where they live. If you would excuse the cynicism, we suspect that any policy will yield cracks under the intense scrutiny of enquiry, and we prefer to direct attention to how robust our plan is.

When the neighbourhood plan was being drafted all of the allocation was classified in Colchester City Council's local plan as open space and therefore it did not seem relevant to list individual views as valued because it was safe to assume open space would not be granted planning permission for built development, therefore destroying those views without explicit demarcation within the neighbourhood plan.

We draw attention to the technical guidance note assessing landscape value outside national designations ref CD4.4 page 11 'It is recommended that the factors used to assess landscape value in a particular assessment are, where appropriate, discussed with the relevant planning authority or statutory consultees.' We can confirm no direct dialogue has taken place with WTC who are a statutory consultee.

We also note that the views of the hundreds of children that use the sports ground have not been represented. Clearly, they were not able to vote on the WNP either. Equally those that use the LoWS, the open field, or the sports clubs for general recreation and dog walking have not been consulted.

The track record of management company's and landscape maintenance, in our experience, as a Town Council is very poor. There is currently no SDP adopted locally that would ensure these landscape proposals would provide safeguarding without extensive conditions. Therefore, any mitigation put forward in terms of screening should not be considered as guaranteed despite the developers' best intentions at this stage of the proposal.

The pylons are a useful feature to use as a boundary on the appeal site because of the physical no build zone on the ground they dictate. However, the site lines from Elmstead Road must be added to this decision process because any development south of the pylons would be hidden from view from this location. This in our view is an entirely logical (and well considered) line to set the northern extent of the settlement boundary.

We disagree with the notion that pylons give the impression of urbanisation. Given that pylons protrude from the countryside on a national scale with the sole purpose of conveying electricity from one distant place to another and the aesthetic views that they criss-cross globally we find this impression out of keeping with the core description of this valued landscape.

Given the pressure on us to release land for development, the condition on releasing the WNP allocation was that the rest of the site would remain classified as open space so to preserve the view of open countryside at the end of the town.

Planning

The developable area has been described by the appellant as 2.89ha. Although we acknowledge there are constraints on the site, that affect where built form can be sited, we do not accept density is calculable by excluding incidental open spaces which these constraints can be considered within the scheme. Furthermore, it is wrong for anyone to summarise that constraints were not considered and considered when assessing the site for the Wivenhoe Neighbourhood Plan which the appellant has claimed. It is impossible not to be cognisant of the presence of trees and pylons following a site visit. Conditions surrounding easements for these were acknowledged and factored into decision-making around site selection.

The dedication on the land to the south is surmountable by discussion with FIT and the current landowner. We do not believe this area can be put forward as a constraint. The appellant has provided no evidence they have approached Fields in Trust to explore setting aside the deed of dedication, but argue that this still imposes a constraint on the site. The landowner who promoted this land when the WNP was being prepared has clearly always

had the intention for all the land to be developed. Given the FIT site is included in the development plan and the site overall has a minimum number of homes and not a maximum, it is highly likely he will act to remove the covenant. He is after all comfortable with legal process having used adverse possession to acquire that land from CCC. A further number of homes on the site will create an unnecessary pressure on infrastructure.

The attenuation feature is only now necessary because of built form as there has been no historic flooding on the site and flood risk is calculated to be very low. Other methods of drainage are available as well as the option to locate this feature off site. Furthermore, it can be considered as a characteristic of open space so could be located on the FIT land where negotiations, that can be secured with the landowner, are clearly available. As an example, the consent for underground drainage, and an over ground footpath to link with FP14 have already been secured. The conditions of the FIT dedication would not prevent the location of the attenuation basin on this land.

There is no onsite evidence of the western "ditch" which TW have described necessary for easement. We believe this constraint has been deliberately exaggerated. Within TW's evidence this is described in one place as a surface sewer and in another a drainage ditch. However, we contend that if a ditch was once there it has been filled in many years ago and not detectable when the site was examined by us at the time of plan making. We do not believe a reasonable explanation has been received to date as to why this would prohibit certain elements of the scheme being built here (for instance a cycle path or parking). We maintain that there is no visual evidence of anything that is on the surface of the site. At the public inquiry it has been described as a ditch. Evidence of what this constraint is in the physical form would be necessary to justify the removal of 0.18ha of developable land. On JCN appraisal document contained within JF's appendices the description of this feature is a drainage ditch so there is considerable contradiction with the notion of some underground system or indeed what can be evidenced on site.

Even when removing the FIT site, there is still over 4 ha available for development. And when calculating density 120 homes divided by more than 4ha gets to 30dph, which is the minimum density for this allocation.

The appeal scheme offers **no** additional benefits a policy compliant scheme would. But it would deliver the least most needed housing type to market in preference to small properties which are identified as our most acute need. It would be more environmentally destructive via additional land take, and obliterate the boundaries of the settlement boundary. It would also damage the settlement setting with the impact of additional urban sprawl.

The ransom strip (FIT site) is owned by the same individual that sold the rest of the site to the appellant. Additionally, the covenant on it can be removed by offering the open space to the north of the site or the lows in return. Both are owned by TW currently. Should the not plan compliant scheme be approved the owner of the FIT site will not be able to offer these areas as compensation because they are not in his ownership anymore. TW have allowed for a road spur that goes nowhere but indicates that pre negotiations with the landowner

will lead to more development on the FIT section at some point, serviced from this spur. We do not see any reason why both sites cannot come forward at the same time.

The appellant suggests the FIT site is large enough for a minimum of 8 dwellings but, takes land north of the pylons large enough for 35 in compensation. There is no justification for this and it is demonstrably disproportionate. The no build zone north of the pylons is at least double that to the south which there is no rationale for.

We remain convinced that all constraints should have been factored into Taylor Wimpey's assessment of the site prior to purchase, and if they were not capable of delivering a policy compliant scheme they should have not preceded with the purchase.

We have been told that our housing stock is seriously lacking in small dwellings, and if the allocated 250 homes included in the WNP were all 1 and 2 bedroom dwellings, then we would still be below the percentages of this housing stock for the rest of Colchester. This is not only our need but is a fundamental aspect of our adopted, examined, and sound neighbourhood plan.

The appellant state that DM15 has been a guiding policy that has informed their layouts. However, we note it also prescribes mixed density development and to ensure developers optimise effective land use. Additionally, it does not set a maximum or minimum density for development. In contrast to the Wivenhoe Neighbourhood Plan which does set a minimum density of 30dph.

We do not believe that sufficient analysis has taken place of the surrounding townscape to inform this development. Therefore, the mixed densities the surrounding area provides has not been replicated within this scheme. Viewable from the site are three blocks of 6 studio flats and there are around a dozen 'cluster' houses of 1 bed each on Broadfields. The WNP relied heavily on this local knowledge.

A study of the adjacent townscape should have been provided by TW to evidence their density argument. For instance, Barley court (0.4km from the appeal site, with an element of three-stories) contains 24 flats; and the density of 80dph. (See diagram 1)

Flats within the nearby area are:-

10 small blocks of 4, 1 bed flats = 40 flats total (these are dotted across the estate).

3 large blocks of 6 studio/bedsit flats. 18 flats total - Henrietta Close.

1 large development (in part 3 story) of 24 flats - Barley Court.

2 blocks of flats = 8 flats total - in Pylon court.

This gives a total across the estate of 90 flats.



Diagram 1 - plan view of Barley Court

There is general agreement that the FIT site can yield a minimum of eight homes, yet no justification has been provided as to why the land grab, north of the pylons, that is large enough to allocate 35 homes is effective land use. Furthermore, the easement south of the pylons we assume is the minimum 6 metre gap however the gap north of the pylons is at least twice this distance.

We note that the cost to build a one-bedroom flat is in the region of 60k - 70K, and could be sold for 180k -210k locally. Whereas the cost to build a detached four-bedroom home is around 350k but could sell anywhere between 600k and 800k locally. We suggest this has been the driving factor behind this land grab and not the everyday on-site constraints.

Round Table discussion.

The hedgerow parallel to Elmstead road obstructs delivery of an important element of the WNP. Which is a safe walking and cycling route from the junction of Broadfield's and Elmstead Road to the football ground. In fact, the proposed hedge makes the current pedestrian and cycle access to the site even more dangerous than it currently is.

We must satisfy the need for safe and sustainable access to the football club and sports fields. The landscape scheme must be revised to provide a gap in, or complete removal, of the proposed hedgerow.

Further to this we believe that should this scheme be allowed, (which it should not be as it offers no benefits to the compliant scheme). Or if a policy compliant one came forward in the future the wording on the condition for the footpath to the south must allow it to exit the site to the southwestern corner.

Summary

We are concerned that previous appeal decisions have been used to inform this one given the case histories submitted by the appellant. A decision to allow this appeal will have a detrimental effect on the effectiveness of our neighbourhood plan, and of every other

neighbourhood plan in the country. Effectively this case could set a very dangerous precedent if a fully adopted and up to date local and neighbourhood plan is not given the weight they deserve.

There was much talk of weightings during the proceedings, but we feel that the statutory status of our neighbourhood plan should attract significant weight in its own right. This Town Council, in compliance with planning law and in association with every resident who voted in the referendum and in tandem with Colchester Council did the 'right thing'. There is no evidence from any party to suggest that this is disputed, and we should not be punished for following government guidance and accepting development that otherwise we would have strongly resisted. The policy within our plan passed examination, is adopted, fulfils its intent and is demonstrably sound. This inquiry should be decided on this basis and ask that the appeal is dismissed.