

Minutes of the Meeting of the Planning Committee held on 8 June 2020 at 6.00 pm

Present: Councillors Tom Kelly (Chair), Mike Fletcher (Vice-Chair), Gary Byrne, Colin Churchman, Angela Lawrence, David Potter, Gerard Rice, Sue Sammons and Sue Shinnick

Steve Taylor, Campaign to Protect Rural England Representative

In attendance:

Leigh Nicholson, Interim Assistant Director of Planning, Transport and Public Protection
Jonathan Keen, Interim Strategic Lead of Development Services
Matthew Gallagher, Major Applications Manager
Chris Purvis, Major Applications Manager
Matthew Ford, Chief Engineer
Julian Howes, Senior Highway Engineer
Steven Lines, Senior Highway Engineer
Caroline Robins, Locum Solicitor
Christopher Smith, Adults Social Care
Wendy Le, Democratic Services Officer

Before the start of the Meeting, all present were advised that the meeting may be filmed and was being recorded, with the audio recording to be made available on the Council's website.

1. Minutes

Councillor Rice said that in previous Planning Committee meetings, he had asked for details on the number of solicitors available in Thurrock Council that signed off section 106 Agreements. He was aware that one solicitor was available on a weekly basis for this task and was concerned on the delay to section 106 Agreements. Leigh Nicholson, Interim Assistant Director of Planning, Transport and Public Protection advised that there were in-house solicitors to deal with section 106 Agreements. However, he would raise the Committee's concerns with the Assistant Director of Law and Governance.

The minutes of the Planning Committee held on 19 March 2020 was approved as a true and correct record.

2. Item of Urgent Business

There were no items of urgent business.

The Chair stated that the running order of the Agenda would be changed so that item 8 would be considered first due to the number of interested parties listening online.

3. Declaration of Interests

The Chair declared a pecuniary interest for himself and other Conservative Members sitting on the Committee, on 19/01058/OUT, Land part of Little Thurrock Marshes. He went on to say that the resident speaker, Tony Coughlin, who had spoken on this item at the initial hearing on 19 March, was also the Chair of the Thurrock Conservative party. As the Conservative members on the Committee were a part of the Thurrock Conservative Party, the Chair declared this.

Councillor Byrne raised concerns on the correspondences between Councillor Rice and the Chief Executive of Thurrock Council regarding a date for the reconvened planning committee meeting to discuss the Langdon Hills Golf and Country Club application and felt that this should be a declared interest from Councillor Rice.

Councillor Rice answered that there was no interest to declare as it was within his Councillor rights to email questions about the site.

4. Declarations of receipt of correspondence and/or any meetings/discussions held relevant to determination of any planning application or enforcement action to be resolved at this meeting

The Chair declared for himself and on behalf of the Committee that there had been correspondences from Peter Harvey (resident) and Hilary Goodban (consultant) in relation to 19/01058/OUT Little Thurrock Marshes.

The Chair declared for himself and on behalf of the Committee that there had been correspondences from Gina Murgatoyd (consultant), a resident and Jason Rischo (Applicant) regarding 19/01662/FUL Langdon Hills Golf and Country Club.

Steve Taylor declared that he had received an email from Margaret Nash (resident) in regards to 19/01662/FUL Langdon Hills Golf and Country Club.

Councillor Lawrence declared that Ward Councillor Allen Mayes, who was also a member of the Conservative Party, had been advising people to vote against 19/01058/OUT Little Thurrock Marshes. As Councillor Lawrence was also a member of the Conservative Party, she declared this interest.

5. 19.01058.OUT - Land part of Little Thurrock Marshes, Thurrock Park Way, Tilbury (Deferred)

Before the presentation began, Councillor Lawrence requested that a site visit be undertaken before hearing the application and debating it again. The Chair suggested that the Committee hear the officer's presentation first before

deciding on a site visit. Councillor Rice agreed that a site visit should be undertaken and added that a virtual site visit could be undertaken.

Matthew Gallagher, Major Applications Manager, presented the report. In addition to the factual updates on page 131 of the Agenda, there had been additional updates received since the publication of the Agenda:

- An additional 7 letters from local residents that expressed disappointment at the resolution that Committee Members had made on the application's first hearing and at the idea of a virtual meeting.
- The Local Planning Authority had received a letter on 4 June 2020 from a solicitor representing the adjoining land owner to the west of the site regarding matters of land ownership and access. Officers had concluded that the matter referred only to matters of land ownership and the need for future negotiations regarding linkages across adjoining land for connectivity improvements.
- A letter had been received on 5 June from the Agent which Members had also been included in and the content related to a legal opinion from the Applicant's legal adviser.

Matthew Gallagher continued on with the presentation and went over the report in the Agenda on pages 129 – 186. He drew attention to the five factors raised by Members on 19 March 2020 as reasons for approving the application contrary to officer's recommendation. An analysis of the five factors was provided within the report. Officers considered that these matters did not affect the planning considerations and the recommendation to refuse planning permission remained unchanged.

The Committee discussed the option of a site visit and felt that the site visit should be physical as opposed to a virtual site visit. This would enable them to see the site with their own eyes. The Vice-Chair wondered whether a site visit would help the Committee come to a decision with material planning considerations in mind to support their final decision. The Committee felt that seeing the site would help to answer some information regarding ecology that had been in the email from Peter Harvey which had been declared earlier in the meeting.

Councillor Lawrence proposed the site visit and Councillor Rice seconded this.

(Following Chapter 5, Part 3, para. 13.5 of the Constitution, Councillor Churchman could not participate or vote on this item).

For: (6) Councillors Tom Kelly, Mike Fletcher, Sue Sammons, David Potter, Angela Lawrence and Gerard Rice.

Against: (2) Councillors Gary Byrne and Sue Shinnick.

Abstained: (0)

Planning application 19/01058/OUT was deferred until a physical site visit could take place whilst adhering to national government guidelines on social distancing guidance.

Steve Taylor commented on the Local Plan policies map that had been shown on the presentation and suggested that colour key be added to give clarity on the different shaded colours of the map. Matthew Gallagher agreed that this would be done for future presentations.

Noting that the housing mass within the proposal had been reduced, Steve Taylor asked for more detail on the commercial development proposed for the site as he felt there was a lack of detail for this in the report. Matthew Gallagher explained that the commercial floor space for the site had been increased but that the application was for outline planning permission so the layout and scale of the site was indicative and the main matter for discussion was in regards to the principle of the development in a Green Belt location.

(Councillor Sammons left the meeting at 7.18pm).

(Chris Smith, Adults Social Care Manager, joins the meeting via MST at 7.20pm).

(The meeting adjourned at 7.18pm and recommenced at 7.23pm).

6. 19.01662.FUL - Langdon Hills Golf And Country Club, Lower Dunton Road, Bulphan, Essex, RM14 3TY (Deferred)

The report was presented by Chris Purvis, Major Applications Manager. The report was accompanied by a slide show presentation on screen that explained the proposal. Chris Purvis explained the update report and drew attention to the Committee's five reasons to approve the application when the application was considered at the Planning Committee on 13 February 2020. He stated that at the Planning Committee on 13 February 2020 the Officer's recommendation was to refuse planning permission for 8 reasons of refusal. Since then, additional information had been provided by the applicant's planning agent and had been subject to a further consultation process which had revised the reasons of refusal and taken into account the legal advice.

Members were taken through the 5 reasons of approval put forward by Members themselves to approve the application at Planning Committee on 13 February 2020. Chris Purvis explained that these 5 reasons had not addressed the recommended reasons of refusal:

- did not form factors for Very Special Circumstances to address the recommended refusal reason 1 on the principle of development in the Green Belt and impact of the development upon the Green Belt,
- did not address reason 2 on the site's unsustainable location
- did not address reason 3, which had been revised in light of consultation advice from the Council's Programme Manager for Health and Social Care to demonstrate that the proposals do not

meet the need for housing for the elderly nor the Boroughs identified housing needs for the elderly

- did not address reason 4 as no affordable housing is proposed by the applicant that meets the affordable housing definition as set out in the NPPF
- did not address reason 5 on design grounds and the impact upon the area
- did not address reason 6 on landscape impact
- did not address reason 7 on highway safety matters

The recommended reasons of refusal had been revised and were now reduced from 8 to 7 recommended reasons of refusal that remained the same as the first hearing which were outlined on pages 41 and 42 of the Agenda.

Adding to the presentation, Caroline Robins, Locum Solicitor, said that:

- A Members' decision must be lawful and explained the requirements for making a lawful decision.
- In making their decision, Members were required to comply with the general law, national and local policies and Thurrock Council's Constitution.
- The application proposed inappropriate development in the Green Belt, and should not be approved except in very special circumstances.
- Members attention was drawn particularly to:
 - the legal implications report, which had been endorsed as accurate by Paul Brown QC and which described the decision-making process for Green Belt applications advised what Members could, could not or what had to be taken into account and which planning tests to apply, as well as indicating that some of the reasons for refusal in this case could entail straying into technical territory or questions of law and Thurrock's Constitution, Chapter 5, Part 3, paragraph 7.5;
 - A quote from a QC in that, 'Members are not bound to accept the recommendations of planning officers and may differ on the weight ascribed to the relevant matters including the posited benefits of this scheme'.
 - Members were reminded that this right to differ was not absolute. It was conditional on Members following the rules of decision making and included a proviso: 'provided that Members do not act irrationally in doing so, do not take irrelevant matters into account and apply the relevant statutory and policy tests'.
- If Members were still minded to approve the application, then reasons and evidence for departure from officer's recommendation had to be given against each of the 7 reasons of refusal, and then the overall balance of the benefits must clearly and decisively outweigh the substantial harm of each of the reasons for refusal.
- Only material considerations could be taken into account and reasons given had to be cogent, clear and convincing.

- Some examples were given of matters that were not material considerations, and could not be taken into account:
 - Referring to the ability of the Secretary of State to call-in the application as a buffer or in some positive way: this was confirmed by Paul Brown QC as not being a material consideration;
 - Using negatives/positives such as no objection from Sport England;
 - Personal likes/dislikes about the proposal that were not related to planning matters;
 - Opinions not supported by cogent and convincing evidence such as, 'the development would be good for the elderly in the Borough' – such a statement would only be relevant if it effectively and clearly refuted refusal reason 3 and the findings of the Health and Social Care Service in Thurrock Council;
 - That Thurrock should be taking a leadership role in allowing a development of this nature - this type of development should be identified through Thurrock's Local Plan, not a planning application;
 - 'Green Belt release' because this would be speculative and not evidence based. There was no evidence this site would be released from the Green Belt, instead it was identified as the least sustainable site put forward for release from the Green Belt;
- The risks and the difference between an unlawful and an unwise decision was explained, and that an unlawful decision was not a valid decision because it was a decision made outside the rules of decision making.
- A resolution to approve passed by Members did not guarantee the issue of a planning permission particularly where there were issues;
- Because of the way the planning system works, a refusal would not be an unlawful decision. An unlawful decision was serious and as the Council did not have the power to progress that decision. The decision could be removed in 2 ways:
 1. The Monitoring Officer would be required to report the unlawful decision (as a section 5 under the Local Government Act 1989) to a Full Council meeting to recommend that the Council takes the appropriate actions to ensure they continued to comply with statutory obligations; or
 2. Through a court of law;
- Making an 'unwise' decision could expose the Council to risk of either a call-in from the Secretary of State or a judicial review. This could arise because planning judgement was not an exact science and what appeared to be a lawful and reasonable decision at the time it was made could be called into question by others. Casebooks were full of decisions which appeared to be good at the time but later proved to be flawed;

- Going against officer's recommendation, it would not be easy to spot the point where an approval could be recognised as a lawful decision given that all the harms must be shown to be clearly outweighed by the benefits to result in very special circumstances as part of the NPPF tests;
- If a decision was called-in, Members could be called to represent Thurrock Council as was the case in 2014 when Thurrock Council had a called-in public enquiry. Thurrock's planning officers would not be able to defend Members' decision at a public called-in enquiry as planning officers had to adhere to a professional code. If approving the application, Members should therefore satisfy themselves that their decision complied with their Constitution and statutory, policy and evidential requirements and to ensure their decision would stand up to scrutiny if they were called to justify;
- A letter had been received which indicated the contemplation of a judicial review if a decision to approve was passed by Members for this application;
- A call-in or judicial review would be the worst-case scenario for the Applicant and the Council as it would result in delay. Further, Members' decision of approval could be overridden in a call-in, or in the case of a Judicial Review be quashed, resulting in no decision. The Council would incur huge costs in a judicial review.
- An approval decision against officer recommendation could trigger speculative applications which could:
 - result in a potential rise in appeals, resulting in further avoidable, unnecessary costs to the Council.
 - Damage the reputation of Thurrock's Planning Committee,
 - Compromise the planning process in Thurrock,
 - Risk a Member's ability to control inappropriate development within their own wards, and
 - Compromise Members' ability to represent their constituents and so compromise the emerging Local Plan.
- It was for the Planning Committee to decide how comfortable they were with these avoidable risks.

Caroline Robins reiterated her statement about the Monitoring Officer's duty under section 5 of the Local Government Act 1989 to Members and pointed out that this was rarely used and when used, it was disruptive and undermined the powers of the Planning Committee as well the reputation of Thurrock Council as it would be reported widely outside the Council. She summarised with a list of the risks and reminded Members of the planning position. The tests and the important requirements to make a lawful decision were repeated with a reminder of the material planning considerations needed against the 7 reasons of refusal if Members were still minded to approve the application. She concluded by indicating to Members it was important Members decided their willingness to accept all the stated the risks before voting.

In response, Councillor Rice highlighted a statement from Paul Shadarevian, QC, who had represented Thurrock Council on various appeals and at various stages of the Local Plan:

‘As stated above, Members are not bound to accept the recommendations of planning officers and provided they start a premise, the substantial weight must be given to the harm caused to the Green Belt, they may, when applying the paragraph 144 (of the NPPF) test, differ on the weight to be prescribed to other relevant material matters including benefits of the scheme, provided that they do not act irrationally in doing so. Do not take irrelevant matters into account and abide relevant statutory and policies.’

Leigh Nicholson confirmed the same quote had also been used by Caroline Robins.

The Chair stated he was aware of the risks in the going against officer’s recommendation on this application. Referring to the call-in of Aveley Sports and Social Club in 2014 outlined on page 24 of the Agenda, he was aware that it had been approved against officer’s recommendation and asked for more details and the issues surrounding the call-in. Councillor Rice added that the result had been a ‘monstrosity of an industrial site’ that interfered with homes in the surrounding area and at the time, the Planning Committee had not outlined the benefits of the scheme to the residents in the area at the time in that the Grays Football Club had moved onto that site and acted as the social infrastructure for young children. He felt it was a shame that the decision had been lost on that call-in.

Referring to one of the maps on the presentation, the Chair questioned if the area to the right of the site was the development of Little Malgraves Farm which included a hospice. Chris Purvis confirmed that this was the Little Malgraves Farm site that permitted a hospice but also included residential development. The Chair sought clarification on the officer’s recommendation for the Little Malgraves Farm development. Chris Purvis advised that the site was recommended for approval. The Chair noted that the Little Malgraves Farm development was quite large for the area and that there was only one access road into the development. He went on to say that the Committee was aware of the risks to the proposal (19/01662/FUL) that was before them but that there were also other large developments in the surrounding area.

Noting that there had been an objection from the Council’s Programme Manager for Health and Social Care, the Chair asked where the evidence was to support the statement that the proposed homes in the scheme ‘would not be affordable to the people of Thurrock’. Christopher Smith, Programme Manager, explained that the Council followed an accepted practice of paying a ‘declared rate’ for residential care homes (currently in the region of £600 per place, per week) and not the ‘market rate’. The social care service had assessed that the charges for one of the proposed homes on the application would be in excess of the £600 so would not be accessible to the people of Thurrock and it was not possible to comment directly on the affordability of the services in the development because the developer had not provided

information on the level of charges it intended to make for adult social care services.

The Chair commented that there was a care home crisis in Thurrock and that residents in these were charged. However, he was of the understanding that the rates varied across care homes and that care homes probably operated on the charged rates coming from residents. He thought that it was an opinion in that the proposed homes in the application was not affordable to the people of Thurrock. He felt that there were some people who would be able to afford the homes.

The Vice-Chair was aware of the risks of approving the application and that evidence based material planning considerations were needed against each of the 7 reasons for refusal in order to pass a resolution of approval. He noted that a lack of weight had been given on employability but felt that the Committee could prove that more weight could be given to this objection. For the other reasons for refusal, he was not so certain that a material planning consideration could be given to each one.

The Chair took into account the Vice-Chair's comment and said that if the Committee was minded to approve the application, they would attempt to give the material planning considerations against the 7 reasons for refusal. Then the Committee would hear the advice from planning and legal officers on the next steps to proceed on.

Councillor Rice noted that the Summary of Green Belt Harm and Very Special Circumstances on page 97 of the Agenda and thought that the summary was down to opinion. He went on to highlight the current COVID-19 situation and felt that there would be a big increase in unemployment so significant weight should be given to the employment proposed by the development, not limited weight as highlighted in the summary.

Councillor Lawrence did not feel that the application site could be fully classed as Green Belt as there was already a golf course built and running on the site. There were also no wildlife on site; mowed grass lawns and buildings on site with people living there and paying council tax. She went on to comment that she had researched into the factors surrounding the application and found that the Council's Public Health officers had stated that there were links between good housing and health; that Thurrock had an ageing population who wanted to continue independent living; and that evidence showed that retirement villages worked well with many being built around the UK. She stated that she had spoken with the retirement villages in the UK who had confirmed success of the villages and felt that with the research she had compiled, this should be considered as 'very special circumstances'.

The Chair sought clarification on whether there were people living on the site. Steve Taylor confirmed that there were people living on the site. These were people who managed the site and lived in one of the buildings which was a residential hotel.

Councillor Byrne agreed with Councillor Lawrence's points but he still felt the proposed homes on the site would still be unaffordable to the majority of the people of Thurrock. Therefore, there would be out of borough residents living in those care homes so would not attract those in Thurrock.

(Suspending orders were agreed at 8.33pm to allow the Committee to continue until the end of the Agenda).

Councillor Byrne sought clarification on the ownership, monthly fees and leasehold of the proposed care homes. Chris Purvis explained that the draft s106 planning obligations gave details that a property would be leased for 125 years so a leasehold would have to be bought. In addition, it was anticipated that there would be servicing costs and general care package costs depending on the level of care. Chris Purvis stated that the financial figures on those costs for servicing and care packages had not been provided by the applicant's agent but said that there was also concern that those costs would be unaffordable to the people of Thurrock as the consultation advice from the Council's Programme Manager for Health and Social Care had confirmed, and that the Council could not afford to pay those costs should an owner fall into financial difficulties.

On affordability, Councillor Lawrence thought the price of the proposed homes would be on average with a 2 bedroom house in Thurrock which was around £299,000. She felt this was affordable for many people and thought it would also allow people to sell current homes and move in together into one of the proposed homes.

Referring to the seventh reason for refusal, the Chair sought clarification on the access into the site and whether it could be widened to meet the perceived traffic use of the access. Steve Lines, Senior Highway Engineer, explained that there had been differing views on calculations of the traffic flow into the site previously which was now resolved. He was of the understanding that the Applicant was looking to widen the access entrance onto a class 1 rural road which was less than 6 metres wide in the vicinity of the entrance but turning movements showed that people turning left into or out of the site would overrun onto the opposite side of the carriageway. This caused concern due to the narrow road and the high speed limit on that road but could be resolved with an engineering solution with a right turn. However, negotiations with the Applicant on this was currently at a standstill and there were no proposals for providing the widening required to address the highway safety concerns.

Following on, the Chair questioned what the speed limit was and thought that a second access road would have been a better idea. Steve Lines replied that the current speed limit was 40mph but it was found that speeds were nearer to 50mph. The Applicant had agreed to seek to legally lower the speed limit in the area which would be down to 30mph. However, it was uncertain whether this could be maintained given the class of the road and the regular usage of the road. Another solution would be needed rather than lowering the speed limit which rarely worked. Regarding a second access road, Steve Lines

explained that the road was busy particularly if another adjoining road was closed. He went on to say that with every right turn into the site, it would cause traffic to be held up and that every right turn could potentially lead to an accident. It was preferred that one fully designed functioning junction with the right turning lanes be in place which was what highways had proposed to the Applicant.

Adding to this, Matthew Ford, Transport Development Manager, said that highways followed government guidelines closely within their design guidelines regarding access arrangements. As stated, one fully functioning access was preferred over two access points and although the Applicant had shown a revised single point of access, highways still considered this to be substandard in relation to the potential amount of traffic flow into the site considering the proposed number of uses on the site. Therefore, the revised access would not comply with the service's PMD9 road policy. He went on to say that Little Malgraves Farm had a higher standard of access in comparison considering that Lower Malgraves Farm had a lower number of residential properties and hospice on their site.

In response, the Chair thought if the Applicant applied the highway's requested access design into the site, then the access issue would be resolved. Matthew Ford answered that there were engineering solutions to these types of access problems with potential to widen the road thus enabling right turn lanes. The Applicant would only be able to widen sides of the road that they owned but was within the gift of the Applicant to arrange a junction with the other landowner. However, no other action had been taken by the Applicant to do so yet other than what was in the proposal before the Committee.

With regards to the C2/C3 class uses of the site, the Chair noted that Tom Cosgrove, QC, had highlighted many issues on C2/C3 uses and had given examples where Councils had lost appeals due to their conceptions of C2 uses. He noted that the Applicant was going 'above and beyond' in this application and sought officer's opinion on whether the use of the site would be C2 or C3 as he felt it was more of a C2 class use. Chris Purvis said that each of the referenced appeal examples had been looked at in detail and found that each of those cases, proposals were very different. None of these proposed the same number of dwellings or were unique as a development within the grounds of the golf course, and each case had been taken on its merits. However, officers were no longer looking at the C2/C3 class uses but instead focussed on the issue of need, which was more of an important issue than the C2/C3 use class. C2/C3 had been looked at previously with the element of the C2 being the care home and potentially the close care units are there were a number of these on simpler sites. Extra care units had been considered C3 class use due to the number of factors that accompanied these units.

Adding to this, Caroline Robins, mentioned that another similar appeal at Oak Farm in Solihull, had recently had an appeal dismissed on Green Belt grounds but she went on to explain that the C2/C3 uses were complicated and the

revised focus, of the recommended reason of refusal 3 was on the lack of evidence the development would address identified need in the Borough.

The Chair noted that there had been no mention of the dementia facilities that was offered within the proposal and he felt that dementia care was important so along with the C2 use, he was minded to support the application.

Councillor Lawrence queried whether the Council had shared its legal opinion with the Applicant. Chris Purvis explained that the legal implications within the report detailed the legal aspects of the application.

Councillor Byrne stated that the dementia facilities would only be available privately to residents on the site so the issue of affordability remained. The Chair agreed this would be the case and said that there were people who would be able to afford the facilities particularly for those who had savings throughout their lifetime.

Referring to the Summary of Green Belt Harm and Very Special Circumstances table on page 97 of the Agenda, Councillor Rice went through the weight given to each of the factors and felt that significant weight should be given to those that had no or limited weight. He explained that unemployment would rise due to the COVID-19 pandemic; there were no other areas in Thurrock that a retirement village could be placed; 2.5% of the 29 million homes in the UK were defined as care homes; that in his research, he read an article by Professor Mayhew that stated that more care homes had to be built for elderly people; and that Thurrock was considered to be at the bottom of the table for care home facilities.

He felt that the scheme was an opportunity for Thurrock; that the C2 units would be restricted for over 55's only; that there was a public bus service in the proposal; and that there was St Luke's Hospice nearby. He thought the Applicant had demonstrated enough need for the scheme. The Chair agreed with Councillor Rice but felt an 'air of caution' had to be taken when considering the current COVID-19 pandemic and that future developments could be inappropriate.

Councillor Byrne reminded the Committee that the proposal also included plans for a golf course on site which had to be considered alongside the care facilities. The Chair said that the application requested outline planning permission but was of the understanding that the s106 agreement ensured the C2 use of the site. Councillor Lawrence reminded the Committee that the site would be more than just a golf course as it would include care facilities and other leisure activities on site.

Councillor Potter said that the 1960s saw the 'baby boomers' generation and that they were now the 'pensioners boom' which now required the equivalent number of care homes for them. He thought the development would meet their needs and would be supporting the application.

On brown field and Green Belt sites, Steve Taylor said that a building on a Green Belt site that was used for maintenance of the site did not mean it became a brown field site. He went on to say that there were 16 other golf courses within a 10 mile radius of the site and some of these seemed more appropriate for the development as these were not along a country lane so had better access arrangements. He mentioned that the Langdon Hills proposal would only have a bus service arrangement in place for 5 years; that access to the site was poor; that the road was regularly used a cut through road by many vehicles; and that the road was dangerous with poor visibility. He pointed out that the application site was considered to be a strategic corridor of Green Belt that bordered Thurrock and its neighbours.

Noting earlier comments from Councillor Rice regarding seizing the opportunity of this application before it was lost, Steve Taylor pointed out that by approving this application would mean losing this part of the Green Belt permanently. He went on to remind the Committee of the legal advice in that relevant evidence had to support the decision that the Committee would make on the application.

Steve Taylor reminded the Committee of his earlier declaration of interest where had received a letter from a resident. Referring to this letter, he said that the resident had given statistics on the number of letters in support of the application and found that many of these were from outside of Thurrock. He highlighted that the support for this application were not from Thurrock residents. The Chair took these points into consideration and answered that the Committee were aware the letters of support mostly came from out of Thurrock.

The Vice-Chair felt there were good reasons to argue that significant weight could be given to matters in the table on p97 and he had been supportive of the application in its first hearing on 13 February 2020. However, he now felt there were many reasons that the application could not be supported.

Regarding the seventh reason for refusal due to access arrangements, the Chair queried whether a condition could be included or details within the s106 agreement to ensure the access entrance was widened if the Committee was minded to approve the application. Chris Purvis explained that it would be through a s106 agreement with costs that the developer would need to pay for the access widening. Regarding the developer's draft terms that had been put forward, he said that there were references to highways improvements but these did not include widening the access which would meet the Council's highways requirements. In planning terms, this could work for planning obligations but would be subject to the amount that the developer would pay and to the planning conditions included.

Adding to this, Matthew Ford said that adding a condition would be appropriate that would include the changes being approved and implemented before the first occupation of the site. He went on to say the Committee could also include in the s106 that they would want to see how the access would operate. The Chair queried whether a s106 contribution would be needed for

the access. Matthew Ford answered that the access works could be undertaken under a highways agreement so it would be the developer's responsibility for the access works which was usually the case. There would not be a need for a s106 contribution unless there were situations that were outside of the developer's control such as a traffic regulation order.

The Committee moved onto the officer's recommendations on pages 41 and 42 of the Agenda. On Recommendation A (Habitat Regulations), the Vice-Chair proposed this and with Councillor Byrne seconding this, the Committee went to the vote.

For: (8) Councillors Tom Kelly, Mike Fletcher, Colin Churchman, David Potter, Angela Lawrence, Gerard Rice, Gary Byrne and Sue Shinnick..

Against: (0)

Abstained: (0)

Continuing on to Recommendation B, Councillor Byrne proposed this and with the Vice-Chair seconding this, the Committee went to the vote.

For: (2) Councillors Mike Fletcher and Gary Byrne.

Against: (6) Councillors Tom Kelly, Colin Churchman, David Potter, Angela Lawrence, Gerard Rice, and Sue Shinnick.

Abstained: (0)

Recommendation B, to refuse planning permission for 19/01662/FUL was rejected.

With this result, Leigh Nicholson referred the Committee to Chapter 5, Part 3, Paragraph 7.4 of the Council's Constitution and stated that it was important for the Committee to justify their reasons for approval. The Committee would now need to go through each of the 7 reasons for refusal and give their rational against each one for approving the application.

Referring to an earlier point made by Councillor Rice regarding the QC's advice and of Caroline Robins' legal advice, Leigh Nicholson said that the 7 reasons for refusal given within the report were consistent with what had been applied by Planning Inspectors. Therefore, as the Committee was moving away from refusal, their reasons to be given against these 7 reasons had to be 'cogent, clear, convincing and substantiated with evidence'. Chris Purvis reminded the Committee that the future procedure would be a referral to the Secretary of State so the Committee's 7 reasons had to be justified.

Turning to the first reason for refusal, Leigh Nicholson referred the Committee to the table, Summary of Green Belt Harm and Very Special Circumstances, on page 40 of the Agenda. He advised the Committee could go through the weight given to the mentioned harm to the Green Belt. Councillor Rice put

forward the following revised weightings (which also supported the Committee's first reason against officer's reason 1 for refusal):

- The role of the application site in the Green Belt – some weight;
- Use of previously developed land – there should be weight as the site was a golf club;
- The suitability of the site and lack of alternative sites – significant weight;
- Positively responding to an ageing population in Thurrock – considerable weight;
- Meeting specific housing needs – considerable weight in regards to providing housing to the over 55's population in Thurrock;
- Delivery of healthcare and wellbeing improvements – considerable weight;
- Ability to positively contribute towards housing land supply – agreed with officers on significant weight being place on this;
- Improving the sport and leisure offer for Thurrock – significant weight as extra avenues would become available to residents;
- Increasing participation levels in Sport – significant weight as there would be sports activities on site to help to keep over 55's physically healthy;
- The provision of new employment opportunities – significant weight as there would be 500 new jobs in construction and 300 permanent jobs which was much needed due to the potential increase in unemployment during the COVID-19 pandemic;
- Maintaining momentum and delivery of regeneration with the Thames Gateway – significant weight as this would help to create a whole new infrastructure for over 55's in Thurrock;
- Sustainability and socio-economic benefits – significant weight as facilities were being provided to residents who had the assets to obtain these and the site would also unlock those homes for the future generations to come.

The Committee gave the following reasons for approval against the 7 reasons for refusal (on pages 41 and 42 of the Agenda):

1. Based on the Summary of Green Belt Harm and Very Special Circumstances and including the points that Councillor Rice made on this, there was need for a provision of housing needed to meet the ageing population that was set against a very substantial undersupply of housing in the area and was based on Thurrock's undersupply of five year housing targets which was a requirement of central government. In addition, there would be a few developers that would deliver this aspect of house building as this was quite a unique opportunity and thereby on the basis of its uniqueness, it's of vital importance that specialist accommodation should carry significant weight. The provision of the upgraded sports and country club would bring investment to the area and this was going to bring more jobs to the area which would strike a good balance between houses and jobs

and secure the future of the site whilst also providing the outstanding sporting facility in Thurrock which of course would be sustainable and have social economic benefits.

2. There would be major upgrades to the facilities and the golf club which was already in use so was self-sustainable. Whilst the site was remote, it gave the ageing population more choice in terms of where they could retire to, something that was not offered in Thurrock. There was also a provision of a bus service for the site's residents and the Applicant would be entering into a s106 agreement that would look to provide a continuous transport facility which was clear in the notes received from the Applicant. It would also provide a significant contribution toward health, to retirement and was closer to the hospital. It was pointed out that there was already a similar type of facility joining onto the proposed scheme so already had the infrastructure there.
3. The site was not considered to be for residential use as it was restricted to at least 55 year olds in need of a basic level of care. It was a golf club but C2 use would be added to the site.
4. The site was considered to be C2 use and by providing that facility, it took away that need for affordable housing. There would also be dementia care facilities and as Tom Cosgrove, QC had said, this went beyond the form of C2 classification and his interpretation complied with these precedents.
5. The design was considered as high quality in order to attract the population that would be living on the site. The golf and country club was already well established and the upgrade would be welcomed. The use of the golf club would remain unchanged but C2 accommodation would be added on site. So, the location was already used as a golf course and there was already large scale residential developments in the area.
6. The golf and country club was already in use similar to the size of Little Malgraves Farm. Historic England had removed any concerns they previously had, had their own heritage assets within the area and none of these inflicted upon the view of the local area so there would be no adverse effect on the countryside. It was already partially developed with the hotel and the golf course. The development was quite a distance from nearby homes and although some homes faced the development, it would not block any of its neighbours' views. However, it could be added in the s106 for suitable landscaping such as planting trees to soften the effects from the site.
7. Developers had already removed one access point at the request of highways. Access arrangements could be made within a s106 agreement to overcome the issues that arose from the proposed access.

The Chair reiterated that conditions be included and a s106 agreement to provide parameters regarding the access and for trees to be planted as part of landscaping on the site.

Leigh Nicholson reminded the Committee of the procedure that would take place following a resolution to approve – the decision would need to be considered by the Council’s Monitoring Officer (which was an internal process), so subject to the decision being lawful, it would then move onto the Secretary of State, subject to the decision not being called in by a public inquiry and then the conditions would need to be drafted in the s106 agreement which would be in conjunction with the Chair. He went on to remind the Committee to consider an unwise and unlawful decision as Caroline Robins had highlighted earlier. Officers asked for a short adjournment to summarise the reasons the Committee had given for approval.

(The meeting adjourned at 9.58pm and recommenced at 10.07pm).

(The Vice-Chair left the meeting at 10.07pm).

Referring back to the Committee’s given reasons to approve against the 7 reasons of refusal from officers, Leigh Nicholson summarised the debate and said that:

1. The reasons given were quite clear and the weightings that were given to those;
2. The direction that Members were moving to was a concept of co-location which was that the development would provide a range of facilities on site and would be located in close proximity to the existing hospice and hospital nearby. That there was a provision of public transport service to be agreed which could be picked up by a s106 agreement;
3. The reasons given had been weak, Members’ reasons for addressing reason 2 had bled over to reason 3 slightly in terms of co-location, but the Committee would need to come back to this reason;
4. Committee’s view was that the development was essentially C2 use class and because of that, it was not right or appropriate to request affordable housing as it would be an over 55’s housing development;
- 5 & 6. Both reasons 5 and 6 were subjective reasons – Committee had said that they are content and satisfied with the design and the quality of the architecture, the scale and the massing of the development. With the landscaping, the Committee did not believe there would be a noticeable impact on the landscape. However, through conditions drafted into the s106 agreement, appropriate landscaping conditions would be included to address some of that harm; and
7. Via conditions on the s106, the Committee felt that the highway refusal reason could be addressed.

Going back to reason number 3, Leigh Nicholson asked that the Committee provide more detail on their reason for approval. Councillor Rice referred back to the legal advice from Tom Cosgrove, QC, who had stated that the site was for C2 use and that the Committee was accepting his opinion. The Chair added that there was a large degree of planning judgement involved in the

opinion of C2 use and based on the advice from Tom Cosgrove, QC and the appeal decisions that he had approved and that he had said that this Applicant was going above and beyond what those appeal decisions had done, the Committee believed the site was for C2 use.

Leigh Nicholson said that Members had put forward an argument that because the site would have a range of facilities and be close to the hospice and hospital the site would be suitable location for the elderly, the suggestion being that Members felt the development was sustainable and would meet the needs of the elderly. He sought the Committee's confirmation on this which the Chair confirmed was correct.

Caroline Robins stated that the refusal reason given was based on need and not around C2/C3 uses which the Committee had discussed. The issue of need had to be addressed and not the C2/C3 use.

Councillor Rice pointed out that the Secretary of State had recently said, 'only 2.5% of the 29 million dwellings in Britain are defined as retirement housing and the number being built has slumped since 1990. About 7,000 new retirement homes are being built each year but the number of over 65 households increases by 180,000 every 12 months.' With this statement, Councillor Rice felt this clearly demonstrate that there was a need. The Chair agreed and felt that it was quite clear that there was a requirement for retirement homes given the generation of the baby boomers and that people were living longer. There was also the need for dementia care which was much needed and was being addressed in this type of facility. Caroline Robins asked the Committee to consider need in the Borough. Councillor Rice said that there was an ageing population in Thurrock which was proven in the Council's statistics so the over 55's facility was much needed.

Leigh Nicholson reminded the Committee of the unwise versus unlawful aspect in the decision making process which would be for the Monitoring Officer to consider as an internal process. If not unlawful, approval would then be subject to referral to the Secretary of State, subject to completion of s106 agreement and subject to conditions in conjunction with the Chair and officers.

Regarding reason 3, Steve Taylor commented that local health services could potentially provide a guide on the number of people needing support within the facilities offered in the application's proposal.

With the Chair proposing the alternative motion and Councillor Rice seconding this, the Committee moved onto the vote.

For: (6) Councillors Tom Kelly, Colin Churchman, David Potter, Angela Lawrence, Gerard Rice, and Sue Shinnick.

Against: (1) Councillor Gary Byrne.

Abstained: (0)

19/01662/FUL was approved subject to referral to the Secretary of State and to conditions.

The meeting finished at 10.20 pm

Approved as a true and correct record

CHAIR

DATE

**Any queries regarding these Minutes, please contact
Democratic Services at Direct.Democracy@thurrock.gov.uk**