

ALTERATIONS AND ADDITIONS TO PLANNING COMMITTEE

4th May 2021

Item 6 - 20/01813/FUL

Land North Of Chelmer Village Way Chelmer Village Way Springfield Chelmsford Essex

Emails of support

5 emails expressing support for the proposal have been sent to Councillors since the report was published. Two of the emails were from people who had already expressed their support of the proposal during the life of the application. The remaining three did not provide their address. The emails support the proposal for the following reasons:

- Commercial and employment opportunities.
- Lid has a choice of products at better prices.
- Second Lidl in Chelmsford.
- Reduction in journeys across town.
- There is a need as the existing 3 Aldi stores are always busy.
- Existing Lidl is not big enough.
- Environment benefits.
- Grounds for refusal have already been answered or can be dealt with.
- site serves the community a lack of purpose as it is empty overgrown land.
- Positives outweigh the negatives.

Great Crested Newts (GCN)

Since the report was published the developer has submitted a corrected Impact Assessment and Conservation Payment Certificate (IACPC) countersigned with Natural England.

- Paragraph 6.35 of the report is amended to:

“6.35. A corrected countersigned IACPC has now been provided. This requires the developer to make a financial contribution towards Natural England’s District Level Licensing which provides more, bigger, better and more joined up habitats for Great Crested Newt which would be strategic improvements within the Essex district. This provides sufficient information to show that impacts to Great Crested Newt has been accounted for. The IACPC provides adequate mitigation and compensation against any likely adverse impacts on Great Crested Newt and

complies with Policy DM16(D) and the objectives of the National Planning Policy Framework (NPPF; paragraph 175(a).”

- Paragraph 6.72 of the report is amended to remove reference to GCN and now reads:

“6.72. The application fails to demonstrate that reptiles would not likely be harmed by the development and also fails to properly assess and demonstrate that there would be a biodiversity net gain as a result of the development. This is contrary to Policy DM16.”

- Reason for refusal number 4 on pages 15 and 16 of the report is amended to remove two paragraphs relating to GCN. It now reads:

“Reason 4

Policy DM16 (part D) of the adopted Chelmsford Local Plan states that All development proposals should: i. Conserve and enhance the network of habitats, species and sites (both statutory and non-statutory, including priority habitats and species) of international, national and local importance commensurate with their status and give appropriate weight to their importance; and ii. Avoid negative impacts on biodiversity and geodiversity, mitigate unavoidable impacts and as a last resort compensate for residual impacts; and iii. Deliver a net gain in biodiversity where possible, by creating, restoring and enhancing habitats, and enhancing them for the benefit of species.

The submitted ecological report recommends further surveys for reptiles. No detailed surveys accompany the application and therefore the presence of reptiles is unknown. It has not been demonstrated that likely harm would not be caused to protected species as a result of the proposed development.

The proposed development would result in the loss of species-poor semi improved grassland, trees and scrub. The ecological report recognises biodiversity net gain, however no further detail has been provided to understand net loss or gain. A baseline assessment of linear and area habitats has not been provided. In the absence of this it has not been demonstrated that the development would deliver a biodiversity net gain.

The development would be contrary to Policy DM16(D) of the Local Plan which seeks to avoid negative impacts on biodiversity or, as a last resort, compensate for those residual impact, as well as the objectives of the National Planning Policy Framework.”

Traffic & Parking

Since the report was published a consultation response from Essex County Council (ECC) as the Highway Authority has been received.

The consultation response raises an objection to the proposal based on an unacceptable access arrangement, absence of a Stage 1 Road Safety Audit and an unacceptable car park layout.

- The following paragraphs are added to the report:

“6.51.1. The site is located on a main route through Chelmer Village. It is close to a roundabout junction with New Dukes Way, Cuton Hall Lane and Richmond Road. Bus stops are located on both sides of Chelmer Village Way, close to the location of the proposed new access.

6.51.2. A Transport Assessment has been submitted and assessed by the Highway Authority. The inputs used to inform the transport assessment are considered an acceptable representation of the current situation (i.e. background flows) and future situation (i.e. likely trip rates in connection with the development). The assessment demonstrates that with the likely trips associated with the proposed development added onto existing flows and factored up to account for future growth, the nearest junction of the Cuton Hall Lane/Chelmer Village Way/Richmond Road/New Dukes Way roundabout would operate within capacity. A high proportion of trips to food shopping stores would already be on the local highway network visiting other local stores and therefore the actual traffic impact is unlikely to be significant.

6.51.2. A new access to the site is proposed. The access radii on either side of the access are not of equal dimension (one being 6m and the other being 7m) or of sufficient dimension to accommodate HGV delivery vehicles, requiring HGV's to utilise both entry and exit lanes. This is likely to cause congestion and delay to traffic on Chelmer Village Way. It has not been demonstrated that all HGV movements can be safely accommodated at the site access. HGV tracking for a right turn in and a left turn out of the site has not been provided. The proposed access give way markings are not adjacent to the carriageway of Chelmer Village Way and consequently the required visibility splays cannot be achieved from the give way position.

6.51.3. The applicant has not demonstrated that the proposed access is safe. A Stage 1 Road Safety Audit has not been submitted to accompany the Planning Application. This is required with the application as the access would materially alter the existing highway configuration. In the absence of an Audit, and Designers Response to mitigate any identified risks, there are outstanding highway safety concerns.

6.51.4. The westbound bus stop on Chelmer Village Way is immediately opposite the proposed access which would be detrimental to highway safety. Although the proposal includes provision of a bus layby for eastbound services, the shelter has been relocated within the footway. With the expected additional passengers utilising the bus stop and increased use of the adjacent footway/cycle route this would create conflict which would be detrimental to highway safety.

6.51.5. The proposed site layout does not accord with the current parking standards in terms of size of parking spaces and the number of disabled spaces. As submitted some bays are shorter than 5m which could lead to encroachment into the aisles which would affect manoeuvrability by customer vehicles and HGV delivery access. There is a shortfall in disabled parking provision by 2 spaces.

6.51.6. The proposed HGV tracking within the site is extremely tight, especially when taking into account the proposed substandard parking bay lengths adjacent to the HGV route through the car park. This is likely to result in congestion and delay within the site, backing onto Chelmer Village Way to the detriment of highway safety.

6.51.7. Overall the application does not demonstrate that the proposal could be delivered in such a way that would not be detrimental to highway safety. Paragraph 109 of the National

Planning Policy Framework (NPPF) says that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The proposal would, in the absence of information and a safety audit to demonstrate otherwise, have an unacceptable impact on highway safety.”

- An additional reason for refusal is added as follows:

“Reason 5

Paragraph 109 of the National Planning Policy Framework (NPPF) says that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposed access would not be sufficient to accommodate HGV movements safely. This is likely to cause congestion and delay to traffic on Chelmer Village Way. The proposed access give way markings are not adjacent to the carriageway of Chelmer Village Way and consequently the required visibility splays cannot be achieved from the give way position. The applicant has not demonstrated that the proposed access is safe.

The westbound bus stop on Chelmer Village Way is immediately opposite the proposed access which would be detrimental to highway safety. Although the proposal includes provision of a bus layby for eastbound services, the shelter has been relocated within the footway. This would create conflict with footway and cycleway users which would be detrimental to highway safety.

The proposed site layout does not accord with the current parking standards in terms of size of parking spaces and the number of disabled spaces. Some bays are shorter than 5m which could lead to encroachment into the aisles which would affect maneuverability by customer vehicles and HGV delivery access. This is likely to result in congestion and delay within the site, backing onto Chelmer Village Way to the detriment of highway safety. There is a shortfall in disabled parking provision by 2 spaces.

The proposal would, in the absence of information and a safety audit to demonstrate otherwise, have an unacceptable impact on highway safety contrary to the objectives of the National Planning Policy Framework.”

Member Briefing Note on behalf of Lidl

Members have been sent a briefing note prepared by Fieldsend Associates on behalf of Lidl. This sets out the proposal, changes that have been made during the life of the application, and the consultation and engagement that took place. The note also addresses the reasons for refusal as set out on the committee report.

The matters raised within the note have already been comprehensively set out in the committee report. Members are reminded that the starting point for decision making is the Local Plan and that the proposed reasons for refusal are based on conflict with policies within the Local Plan so are entirely justified.

Letter from Clarke Willmott LLP

Officers have received a letter from Clarke Willmott LLP on behalf of the applicant asking for consideration of the application to be deferred to address refusal reasons 2 to 4. The letter says that these matters could be dealt with prior to a decision being made in order to avoid those reasons for refusal. The letter also says that officer's have not worked positively and proactively with the applicant which, they feel, is unfair. Reasons for refusal 2 to 4 relate to conflict with Policy DM23 (character and high-quality design); Policy DM13 (heritage) and Policy DM16 (ecology and biodiversity).

In June 2020 pre-application advice was given in respect of the proposed development of the site. The pre-application advice drew to the applicant's attention potential policy conflicts and that the site is an important visual break within the surrounding built environment. Within the letter, officers also noted concerns relating to ecology, the need for further surveys for protected species, and the need to fully consider biodiversity net gain to establish any gains or losses. The pre-application advice given says that the development would cause heritage harm and also encouraged the applicant to undertake pre-application advice with Essex County Council (ECC) in respect of highway advice as ECC had already expressed concerns. Overall the pre-application advice response was comprehensive and covered all of the issues that now form the recommended reasons for refusal.

In late October 2020 a further pre-application enquiry was submitted as a follow-up to the June advice. When the applicant was advised that pre-application timescales are 20 working days the applicant withdrew their request for subsequent advice as the application would have been submitted before the advice would be received and that there was no point in proceeding with further feedback. The current application was subsequently submitted in mid-November 2020.

The matters raised in reasons for refusal 2 to 4 (and 5 on the Green Sheet relating to highway matters) were previously brought to the applicant's attention during the pre-application advice stage but were not fully addressed. The Council has a duty to determine applications in a timely manner and therefore officers advise against the deferral of the application for future consideration. It is important to note that, should planning permission be refused and an appeal submitted, Officers would be open to overcoming reasons for refusal where there is scope. Reasons for refusal 1 and 2 (insofar as it relates to the loss of the important green buffer) are however considered insurmountable and cannot be overcome.