

BERNARD JENKIN MP



HOUSE OF COMMONS

LONDON SW1A 0AA

26th February 2013

Councillor Theresa Higgins
Colchester Borough Council
Town Hall
Colchester
Essex CO1 1FR

Our ref: BJ/TF/BF1

Dear Cllr Higgins

**RE: Planning Application No 120695: Horkesley Park
FOR CIRCULATION TO THE PLANNING COMMITTEE PRIOR TO DECISION**

As I indicated to Sue Jackson, Chief Planning Officer of Colchester Borough Council (CBC), I was waiting to see her report to your Committee before giving my view about the above application which will be before you on Thursday (28th February). This letter is intended to be seen by members of your committee before they make a decision. I have therefore copied this to the Chief Planning Officer and to Adrian Pritchard.

I wrote prior to consideration of the previous Horkesley Park application making it clear that I would call for a public inquiry into that application, if it had been approved. Since then, the applicants have given me a presentation on their new proposals. The revised application would have less visual impact than the previous application, and other measures have been adopted designed to ameliorate the effects of the proposed development on the AONB and the surrounding area. My Colchester colleague, Sir Bob Russell MP, indicated to me that he supports the application. I have also received many representations from those opposed to the new application, including from local councillors; Tim Yeo MP; the Stour Valley Action Group; the Dedham Vale Society; and from many others. However, given that it had become clear that CBC Planning Officers were minded to recommend approval of the new application, I determined to remain open-minded until I had seen the quality of their recommendation in their report.

The CBC Planning Officers' report to your Committee does not represent an unqualified endorsement of the merits of this application. On the contrary, I am surprised that such a report can be used as evidence in favour of the recommendation at all. (I have found this long and complex document difficult to read, which reinforces the requirement for a synopsis, but this is given as a reason for there being no synopsis.)

WORKING FOR HARWICH & NORTH ESSEX

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The Conclusions of the paper attached to the main report, dated 11.1.13, headed "Planning Policy Comments" (from James Firth - Planning Policy, to Sue Jackson - Development Management) do not support the thrust of the main report. Apart from the first paragraph of the Conclusions (5.1), the remaining conclusions condemn this application again and again:

- Para 5.2: dismisses the significance of "regional status" of the proposal;
- Para 5.3: the scheme "would be unviable" on the basis of the Britton McGrath Associates forecasts for visitor numbers;
- Para 5.4: "there remains conflict with adopted policy" in a number of areas;
- Para 5.5: the development "would not appear to be sustainable";
- Para 5.6: "The proposal for a large scale tourist attraction in a rural unsustainable location would therefore not comply with these policy requirements";
- Para 5.7: "high levels of unsustainable travel";
- Para 5.8: "is considered to have an unacceptable impact on a sensitive rural area".
- Para 5.9: "conflict with numerous policies"... "not considered viable" ... [this paragraph merits being read in its entirety].

The main report seeks to address these fundamental objections. It does not succeed. It attempts to defeat these objections on the basis of assertions which are frequently unsupported by any hard evidence.

I shall not rehearse all the grounds upon which this application could reasonably be rejected, but I am most struck by the following points arising from the Planning Officers' report:

1. **Planning:** The application does not conform to national planning policy, or to the Local Development Plan.
2. **AONB:** The application does not conform to national or local policy on the AONB.
3. **Wrong in Law:** In respect of the advice being given to the Planning Committee, it is exceptional for Leading Counsel to state the following: "The approach to the issues that those officers have indicated that they intend to adopt is wrong in law and that advised by the Council's own policy team" [ie. whose conclusions I have referred to above] "and their independent planning consultants is correct." While planning officers have included a rebuttal of this Opinion in their report, they do not address the point that they are "wrong in law" in their whole approach. This raises the risk of judicial review in the event of approval.

4. **Visitor numbers:** The visitor numbers upon which the viability of the proposal is based are not achievable, according to Britton McGrath Associates (BMA) initial reports, which were commissioned by CBC for assessing that issue. (Why did CBC keep commissioning more reports? BMA's February report is no more independent than if it had been commissioned by the applicant, since CBC's planning officers had already declared their report would recommend approval of the application. In any case, its conclusions are highly conditional.) This undermines the credibility of the claimed benefits of the application, as well as representing substantial risk to the viability of the whole project. The Planning Committee is not in a position to second guess these assessments, because neither members of the Committee nor the public have been allowed to see the sensitivity analysis provided in confidence by the applicants, which nevertheless constitutes key information upon which their recommendation for conditional approval appears to be based.
5. **Jobs:** There is no overriding economic need for such a development which would justify the detriment to which approval of this application will lead. There is nothing to support the applicants' claim it could create 170 jobs. BMA suggests only 60 at most. Colchester is already an area of high employment (at 87,900, or 70.5 per cent in 2011-12) (Source: ONS Annual Population Survey via Nomis data base), so 60 new jobs, which are merely speculative, is a relatively insignificant contribution to the overall growth of employment in Colchester (up 8,300 since 2006/7).
6. **Danger of further planning applications:** I have no doubt of the applicants' good intent, but in the event of failure of the scheme, perhaps under alternative ownership, the possibility of less attractive schemes, or further applications for change of use, or for increased retail space, or for more new buildings, will become difficult to resist, once this application is approved.
7. **Sustainability:** The proposal does not meet the requirement of sustainability.
8. **Conditions:** The sheer number and significance of the caveats and conditions which would be attached to any approval of this application suggests, at the very least, that approval should be withheld until it is clear that such conditions will be met. I am surprised that such a significant application should be recommended for approval on such a range of wide and ill-defined conditions, such as "a revised Business Plan", acquisition of original Constable artworks, and "approval of the Art Strategy" (whatever that means). The Planning Committee has little or no information about the six pre-conditions and is therefore in no position to give approval.

There are other factors to which I have not alluded, which also militate against approval. I am always loath to interfere in local decision-making so it is therefore with some reluctance that I have to write again as before to express my doubts about development on this critical site. I would feel compelled to press the Secretary of State to "call in" the application for a full public inquiry if you give it your approval, but it would not be acceptable for this application to be approved without such a full public inquiry.

Yours sincerely



Bernard Jenkin MP

cc. Adrian Pritchard, Chief Executive, Colchester Borough Council
Sue Jackson, Principal Planning Officer, Colchester Borough Council
Cllr Anne Brown, Essex County Council
Cllr Nigel Chapman, Colchester Borough Council
Mr Frank Reddy, Clerk, Great Horkelesley Parish Council
Mr R Drury, Clerk, Little Horkelesley Parish Council
Sir Bob Russell MP
Tim Yeo MP
Stephen Bunting Esq, Bunting & Sons
Robert Erith, President, Dedham Vale Society
Will Pavry, Chairman, Stour Valley Action Group