

# Stour Valley Action Group

## ***Note on Nathaniel Litchfield and Partners report, March 2010***

The long-awaited Nathaniel Litchfield and Partners report has now been made available from Colchester Borough Council. The Report is dated March 2010 but has only just been released to the public.

In our view, the report is highly damaging to Buntings cause and is a significant step forward for us. *We strongly encourage you to read the Report in full which can be downloaded from the CBC website on [www.colchester.gov.uk](http://www.colchester.gov.uk) and search under current Planning Applications and the Horkesley Park (HP) number 090231.*

We should also advise that Buntings have sent in a detailed riposte which is also on the CBC web site and you may wish to read this. This is in the form of a 406 page document and we are in the process of evaluating this. As you might expect, it seeks to undermine the conclusions of the Nathaniel Litchfield Report.

The following comments are a brief summary of some of the issues raised in the Report but they must be considered in the context of the full Report.

### **Background:**

Nathaniel Litchfield and Partners Ltd (NLP) is a respected Company with expertise in the field of Planning. They were commissioned by Colchester Borough Council (CBC) in December 2009 to give an independent review of the HP Application specifically in relation to:

- The retail/town centre uses policy implications;
- The socio-economic benefits of the proposal;
- The tourism feasibility case.

(They were not asked to look at issues such as the impact on the AONB in terms of traffic, noise, visual impact etc. They were not asked to look at roads and traffic issues in general).

### **1 Findings:**

#### **1.1 The Planning Context:**

The first section of the Report deals with the planning context within which the HP application must be considered and looks at the policies that apply at National, Regional and Local level. It does not reach a conclusion on its conformance or otherwise with these policies but sets out the decision-tree that the CBC should consider. It makes it clear that, based on national, regional and local policies there is a general presumption

**against** development at Horkesley Park. However there can be exceptional circumstance where development of this scale may be acceptable.

It then reviews the conditions under which such a proposal might be acceptable in exceptional circumstances and, although it doesn't specifically say so, it is clear that they do not think that the HP proposal meets these criteria. One criterion is that it should be 'small scale' and they say that the Applicant's own supporting evidence confirm the development is **not** small scale, and therefore justification for the open countryside location is not provided in the relevant planning policies.

## **1.2 Enabling Development:**

The report defines the concept of 'enabling development' which is essentially that element of the proposal which financially supports the development of the beneficial uses (in this case, tourism).

It looks in some detail at the relevant case law and says that there are circumstances where significant enabling development can be acceptable, but only where the financial case is proven and where the benefits of the development in terms of public interests out-weigh the disbenefit of enabling development that would normally be refused.

The Report deals with English Heritage's view of 'enabling development' in detail and makes a number of observations. In particular it says in para 3.18 that:

“...the applicant (*Buntings*) appears to argue that the enabling development is required to secure the long term financial viability of the tourist attraction/country park. At Horkesley Park this relates to the viability of a proposed attraction, rather than an existing attraction, and in our view this consideration does not apply because there is no existing asset that needs to be secured.”

Whilst the Report does not actually say so, the indications are that the proposal includes enabling development that is excessive and also says that the Council must take into account the risk of the tourist attraction failing financially, regardless of the enabling development taken into account.

In our view, none of this is helpful to Buntings.

## **1.3 Retail Planning issues and PPS4:**

This section looks in detail at the retail element of the proposal and concentrates on the 'Food Experience' and the 'Garden Centre'. A number of points are interesting. To quote:

- “The application submission suggests the garden centre will be a specialist facility, but in our view it would be impossible to control this by condition and we must assume it would function as a traditional garden centre.”

- “RPS’s (*One of Buntings’ Consultants*) approach does not provide clear evidence there is a need for the proposed Food Experience in terms of expenditure capacity. In locational terms no need has been demonstrated for the proposal in terms of meeting local needs.”
- “RPS’s approach does not provide clear evidence there is a need for the proposed garden centre in terms of the local area of deficiency.”
- “There is a policy presumption against large scale development in the open countryside, unless strict criteria are met. In our view, the potential to accommodate the development within urban areas and more accessible/appropriate rural locations need to be considered.”
- “Not withstanding the enabling argument, we believe a stand-alone garden centre would be viable, particularly if there is no entrance fee.”

The section of the report is quite complex but the overall implication are that the Council should consider the need for all the elements of the scheme, including retail, on a sequential basis. The report also says that disaggregation (*i.e. the splitting up of*) the different elements of the proposal should be considered if they consider that the retail elements of the scheme fail to meet the tests for enabling development (see above).

#### **1.4 Socio Economic benefits:**

This section looks at the claimed job creation numbers. It says that a visitor attraction with 485,000 visitors, generating ticket, retail, food and beverages sales of over £13million could support 155 FTE (Full Time Equivalent) jobs (*on-site*). If visitor numbers and or revenue are lower than this then they indicate that the jobs generated will be lower as employment cost are such a key variable operating cost.

#### **1.5 The Tourism Feasibility Assessment:**

This section looks at the case for Horkesley Park as an attraction of Regional (East of England) significance. It points out that there are over 220 listed tourist attractions by the EET (East of England Tourism) in the region including at least 13 Country Parks, six open farms, 14 wildlife attractions not including Colchester Zoo, 70 museums and galleries, 12 gardens open to the public, 45 historic properties open to visitors, three leisure/theme parks, six visitor/heritage centres and 85 garden centres in Essex alone including 8 existing centres in and around Colchester.

(With regard to the historic properties classification it points out that “there are no significant buildings of this kind at (*sic*) Horkesley Park proposals”).

The summary to this section is in para 6.41:

“Based on the analysis of existing tourist attractions above, we believe none of the proposed elements at Horkesley, in isolation or combined as a whole, have sufficient draw to suggest it will be a tourist attraction of regional significance. The tourist offer is very narrow and there is no guarantee it will be delivered or maintained over a long period. The Council could not control the maintenance of the facility in the long term.”

## 1.6 Financial Viability and the Enabling Development:

The opening paragraph (para 6.44) of this section says:

“Concerns have been raised that the scheme is retail rather than a tourism led proposal. The amount of floor-space devoted to retail use is significant and supports these concerns. **The Stour Valley Action Group** suggests the scheme is a thinly disguised retail scheme. These concerns need to be carefully considered, and this issue is related to the criteria for enabling development.”

Reference to SVAG is most encouraging and we are the only lobby group referred to in the Report.

In looking at the scale of enabling development Para 6.48 reaches the conclusion that the scale of retail and restaurant/café proposed will act as major attractions in their own right.

The strong implication is that the scale of enabling development is excessive and that Food Experience, Garden centre, other merchandising and food and beverage sales will account for 75.5% of sales with only 24.5% coming from ‘tourism’ admission fees and ticket sales.

The Report looks in some detail at the financial viability of the scheme. It demonstrates that the tourist elements of the scheme would make a loss of over £2million per annum and are dependent on subsidy from income derived from sales of at least £9million of retail sales to make a modest profit. They are concerned that even this modest profit would be wiped out by a mere 13% reduction in visitor numbers to 422,000 visitors – each of whom would have to spend £21 per visit, and their analysis of other visitor attractions in the region suggest that these visitor numbers would probably not be obtained. They refer to the obvious link between financial viability and job numbers and the strong probability that it would not deliver the 155 FTE jobs promised. These conclusions are entirely consistent with those put forward to CBC by SVAG in our letter of April 2009.

In para 6.70 NLP say:

“The worst case scenario would be the tourist attractions close and over 12000sq m of new buildings would be located in the open countryside, and there would be pressure to find alternative use for these buildings e.g. retail outlets, hotel and general conference facilities.”

*(How right they are; this has always been one of our greatest concerns!!)*

They go on to say that a legal (*Section 106*) Agreement to ensure the primary tourism purpose of the Proposal, if planning consent were to be given, would probably be unenforceable and that it would be impossible to mitigate against the unacceptable consequences of a retail led scheme in the open countryside. There would be no guarantee that the tourist elements would be delivered or maintained. The implication is

that this risk should be a very serious consideration prior to granting planning permission.

## **2 Conclusions:**

The final three paragraphs of the Report are as follows:

“7.17 Our analysis of the Horkesley Park proposals suggest the attraction is not of regional significance, does not meet the exceptional circumstances where major development would be permitted in the open countryside.

7.18 In our view the amount of retail and other enabling development proposed is excessive and dominates the proposals. The scheme will be a retail led scheme. There is no guarantee the tourist attractions will be delivered or maintained.

7.19 The benefits of the tourist elements of the scheme in our view do not outweigh the disbenefits of major development in the open countryside.”

The conclusion the Stour Valley Action Group must be that the Report strongly supports many of the contentions made by us, other lobby groups and individuals against the Horkesley Park proposals and it must be highly damaging to Buntings’ application. It does not even deal with the question of adverse impact on the peace and tranquillity of the Dedham Vale AONB.

It is very difficult to see how Colchester Borough Council Planning department can possibly recommend approval of the Application with this report on the file and we must now hope that Buntings will accept the verdict of independent experts and withdraw their Application. They will however have to consider the implications of the Buntings riposte referred to above.

W L Pavry

Chairman: Stour Valley Action Group

July 19<sup>th</sup> 2010