

Planning Committee

Thursday, 15 February 2018

Attendees: Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford

Substitutes: Councillor Dave Harris (for Councillor Chris Pearson)

Also Present:

552 Site Visit

Councillors Barton, Chuah, Hazell, Higgins, Jarvis, Liddy, Loveland and J. Maclean attended the site visit.

553 Minutes of 18 January 2018

The minutes of the meeting held on 30 November 2017 were confirmed as a correct record.

554 171279 BP Eastwood, Eastwood Service Station, Ipswich Road, Colchester

The Committee considered a planning application for the variation of condition 9 (illumination) following the grant of planning permission 160608 at BP Eastwood, Eastwood Service Station, Ipswich Road, Colchester. A decision had been taken by officers to refer the application to the Planning Committee because of the detailed planning and enforcement history attached to the site and in the interests of complete transparency in the planning process. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee members had been invited to visit the site in their own time to coincide with either the opening up or closing of the site in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

James Ryan, Principal Planning Officer, presented the report and, together with Andrew Tyrrell, Planning Manager, assisted the Committee in its deliberations.

Douglas Fleming addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that the presentation by the case officer demonstrated the situation in November 2017 which was not up to date. He was of the view that the permission which had been granted by

the Committee in 2016 for the operation was intended to protect the residents but the failure to correctly word the relevant planning condition had meant that the intended hours of operation were not being complied with. The applicants had been operating the site, ignoring the 7am to 11pm hours permitted for a period of 10 months before a Breach of Condition Notice (BCN) had been issued. The additional lighting had the effect of making the staff more visible to motorists and, as such were attracting vehicles when the station was not open to customers. This had led to ongoing disturbance to residents' sleep with the level of lighting currently being used being worse than when the first BCN was issued. From 5:30 am staff arrivals were leading to more vehicle noise, people talking and doors slamming. BP seemed to take the view that the conditions were optional whilst the residents view was that, to comply with the planning permission granted, all shutters should be closed and all lighting should be turned off between the hours of 7am and 11pm. He asked the Committee to look after the health and well-being of the residents and requested the application be refused.

Jason Lowes addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the application sought to reduce the level of illumination on the site to comply with the Council's view that unlimited and excessive use of lighting could be detrimental. The application would therefore regularise the situation on site to allow some low level illumination outside the hours of 7am to 11pm every day. The proposals were for external down lighters on 10 minute timers allowing staff to safely access their cars when the site was closing and limited lighting to the ATM (cash machine) which was covered by an existing shutter together with limited lighting on the petrol pumps which were both requirements due the electronic configuration of the machines and which would not be discernible outside the site. In addition, there would be some limited lighting within the forecourt shop which would be considerably less than would be usual in a shop and not to the extent that anyone could reasonably expect the shop to be open. He considered the lighting needed to be considered in the context of Ipswich Road which was a designated A road and a major route in and out of Colchester. He was of the view that the proposed lighting would not have any discernible impact on the surroundings or the amenity of neighbouring residents. The lighting would be neither unlimited nor excessive, rather it would be limited and restrained, no objections had been received from the Highway Authority or from Environmental Protection and, as such, he asked the Committee to support the recommendation of officers as set out in the report.

Councillor Smith attended and, with the consent of the Chairman, read a statement on behalf of Councillor G. Oxford. The application site was located in a densely populated residential area and the nearest dwelling was a metre from the boundary. Trees had been removed during previous development of the site, meaning residents were more vulnerable. Breaches of planning conditions had been reported by residents which had led to Breach of Condition Notices to be issued however disruption to residents' ability to sleep was ongoing which potentially constituted a breach of the Human Rights Act.

Residents had been disturbed with noise from vehicles and lighting from as early as 5:30am and were of the view that the condition permitting the operation should have stipulated that no-one would be on site between 7am and 11pm. Residents considered that their concerns were not being addressed sufficiently and that their right to a peaceful night's sleep was being ignored. Councillor Smith added his own view that the application had caused a great deal of concern for residents who had thought the situation would improve following the site's acquisition by BP. He also questioned the need for further applications to be submitted, amending the permission originally granted by the Committee.

A number of Committee members confirmed that they had visited the site either prior to opening or closing of the site, all of whom confirmed that the site gave the appearance of being in darkness. Observations were also made about the busy nature of Ipswich Road at these times

Some members of the Committee considered that the original permission for the operation of the site should have ensured that the site was in darkness when it wasn't open to customers and were concerned at reports that the sight of staff in the forecourt shop was attracting customers outside the opening hours. Reference was made to the need for staff to be present as early as 5:30am and for subsequent applications to vary the original planning permission. It was further considered that the proposal had potential to breach the Human Rights Act, on the grounds that the residents' rights were being infringed whilst the need for the low level lighting was questioned in terms of the material operation of the premises.

Other members of the Committee, whilst acknowledging residents' concerns, accepted the need for low level light for staff leaving the site after closure, that this would generally only be a requirement in winter months and there were insufficient grounds to warrant a refusal of the application. Reference was also made to the busy nature of Ipswich Road at all times of the day and night, the positive improvement made to the appearance of the site by the current operators as well as their sympathetic approach to residents' concerns in order to make the business work. Clarification was sought regarding the part night street lighting in the vicinity.

The Principal Planning Officer confirmed that the application no longer included arrangements for newspaper deliveries to be permitted before 7am as an agreement had now been reached which negated the need for this amendment. The street lighting at the nearby Rovers Tye roundabout was on all night, whilst the streets lights at the application site were illuminated from dusk to 1am and then from 5am to dawn. The nearest dwelling to the site was situated to the west, from where the bulkhead light for staff to safely access their cars would be visible, however, its impact was not considered to be unreasonable. He also explained that the low level lighting to the ATM and the petrol pumps were not considered to be materially harmful. He further confirmed that two legal opinions had agreed that the planning permission granted in 2016 did not prevent

the use of the forecourt shop by staff prior to opening and the Council did not have any measures to control what time staff arrived on site. He also indicated that he had witnessed the use of the shutters at the premises and confirmed these were virtually silent.

The Planning Manager explained that, in relation to the Human Rights Act and the impact on residents rights to a peaceful night's sleep, officers had already stated in the Committee report that it was their view that no significant harm was being caused to the residents. As such, any consideration to refuse the application would lack sufficient grounds and would be very difficult to defend at an appeal

RESOLVED (SIX voted FOR, FOUR voted AGAINST) that the application be approved subject to the conditions set out in the report.

555 172057 Former M & F Watts site, Parsons Heath, Colchester

The Committee considered a retrospective planning application to erection of eight houses and two chalet bungalows at the former M & F Watts site, Parsons Heath, Colchester. The application had been referred to the Committee because it was a major application and material objections had been received. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Ishita Sheth, Planning Officer, presented the report and, together with Andrew Tyrrell, Planning Manager, assisted the Committee in its deliberations. She confirmed that UK Power Networks had responded to the consultation and were of the view that the proposal included a land ownership discrepancy as well as a request for a two metre buffer to be maintained between the building plots and the electricity sub-station. She explained that land ownership was not a planning material consideration for the Committee whilst the request for a buffer could be addressed by means of an additional condition. She also explained that the proposed condition 24, relating to noise, needed to be revised to include provision for noise from the electricity substation, the drawing number in condition 34 needed to be amended, a new condition added to provide for the sheds to Plots 1, 2 and 3 to be located two metres from the rear boundary, conditions 9, 12, 13, 14, 15 and 24 to be amended to provide for the demolition of the existing buildings prior to the commencement of the development and condition 28 could be removed as it was a duplication of condition 27.

Rodney Gear, on behalf of Wivenhoe Town Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He lived at 41 Parsons Heath and wished to express his concerns about loss of light to rooms in his house due to the forward location of the development, whether the hoarding at the front of the site had received planning approval, the

inclusion of windows to the dwelling on Plot 1 which would overlook his property, the proposed width of the path and the location of the access to the site being in close proximity to a busy roundabout and the increased potential for collisions.

Robert Pomery addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that, the application was for the development of one of the few brownfield sites left in Colchester which had been within no beneficial use for 11 years, although the site was a highly sustainable one with shops, doctor's surgery and schools nearby and a location close to bus routes. As such, it was ideal for redevelopment. The properties proposed were lower cost housing scheme for young families and first time buyers. Discussions had been undertaken with officers for some time which had resulted in significant amendments being incorporated as well as changes to meet Highway Authority requirements. There was no loss of amenity to residents, no overlooking or loss of outlook, the Highway Authority had raised no objections and it was fully policy compliant. He gratefully acknowledged the proposed amended conditions to provide for demolition prior to commencement of the scheme.

Councillor Smith attended and, with the consent of the Chairman, addressed the Committee. He was of the view that there had been a lack of effective communication with residents, the result of which had meant that there were a lot of concerns expressed. He acknowledged that the development would generally enhance the area but some details, such as size and strength of fencing, remained to be resolved. He sought clarification regarding the apparent conflicting wording of condition 25, relating to hours of operation between 8am and 6pm and condition 26, relating to the restriction on vehicle movements between 7:30am and 9:00am. He was surprised the Highway Authority had not been more restrictive. He requested that arrangements be made for the road markings on Parsons Heath to be repainted, especially those close to the doctor's surgery and Roach Vale School. He was concerned that contamination issues associated with the site were adequately addressed and was also aware that the area had known drainage issues. He considered the scheme included two dwellings too many and referred to residents comments about the design being in-keeping with the area, acknowledging the generally terraced housing in St John's Road compared to the much larger housing around Roach Vale. He also queried whether there would be arrangements for charging electric vehicles on the site.

The Planning Officer confirmed that boundary treatment matters had been provided for in condition 9, Anglian Water had proposed conditions to address potential drainage issues and the contamination officer had been fully consulted.

The Planning Manager confirmed that residents' concerns about overlooking windows related to two small secondary windows to the building in plot 8 which could be conditioned to ensure they weren't provided.

Members of the Committee generally welcomed the proposals on the grounds that they addressed problems associated with a derelict site, the site was small and compact and sustainable. However, concerns were expressed that traffic problems may result due the location of the access to the site between a very busy roundabout and a school. It was suggested that a request be made to the Highway Authority for the provision of a road sign to highlight the concealed entrance. Concern was also expressed regarding the noise from the electricity substation. Committee members sought clarification about the conditions for hours of operation and restrictions on vehicle movements, requested confirmation that a condition to provide for charging points for electric cars could be added and the arrangements for refuse collection would be adequate.

The Planning Officer confirmed that the Highway Authority had given approval to the access arrangements, the properties fronting the site would receive roadside refuse collections whilst a collection point would be provided for the properties to the rear of the site. She confirmed that an amendment to the condition relating to noise had been suggested to provide for the inclusion of noise from the electricity substation.

The Planning Manager confirmed that provision for charging points for electric cars could be incorporated by means of an addition to condition 35 and that the contradictory wording in conditions 25 and 26 could be addressed by giving delegated authority to officers to discuss the detail with the Environmental Protection and to amend the conditions' wording accordingly.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report and the following amendments:

- Conditions 9, 12, 13, 14, 15 and 24 to be amended to provide for the demolition of the existing buildings prior to the commencement of the development;
- Condition 24 to be revised to include provision for noise from the electricity substation;
- Delegated authority be granted to the Assistant Director Policy and Corporate to discuss the detail of the contradictory wording in conditions 25 and 26 with the Environmental Protection team and to amend the conditions' wording accordingly;
- Condition 28 to be removed as it was a duplication of condition 27;
- The drawing number in conditions 2 and 34 to be amended;
- Condition 35 to be expanded to include provision for some electric vehicle charging points;
- A new condition added to provide for the sheds to Plots 1, 2 and 3 to be located two metres from the rear boundary;
- A new condition added to provide for the exclusion of the two small secondary windows to the building in plot 8;
- A request be made to the Highway Authority for the provision of a road sign to highlight the concealed entrance.

556 180307 Car park at Sheepen Road, Colchester

The Committee considered a planning application for a non-material amendment to relocate the external plant and bin store areas at the car park at Sheepen Road, Colchester. The application had been referred to the Committee because Colchester Borough Council was the applicant. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that the application be approved.