



Application No: 152550

Location: Bawley House, Walter Radcliffe Road, Wivenhoe, CO7 9FG

Scale (approx): 1:1250

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Committee Report

Agenda item

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To the meeting of **Planning Committee**
on: **18th February 2016**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Sue Jackson Due Date: 26/02/2016

MAJOR

Site: **Bawley House, Walter Radcliffe Road, Wivenhoe, CO7 9FG**

Application No: **152550**

Date Received: 27 November 2015

Agent: Mr C Marshall, Mark Perkins Partnership

Applicant: Mr J Frank

Development: Variation of condition 2 of planning permission 145776 - Variation is to subdivide the ground floor into three B1 units.

Ward: Wivenhoe Quay

Summary of Recommendation: Conditional Approval subject to signing of Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been “called in “by Councillor Liddy for the following reasons ““The original concept for this development has become eroded over the years with this proposal affecting the last commercial space left. The whole Cooks’ development was marketed with the promise of bringing employment, commercial and social benefit to the area and enhancing the community without negative impact and also reflecting a little bit of Wivenhoe’s past. A good restaurant that specialised in fresh local seafood would have supported our local fishermen, and could have brought income into the town from visitors. The residents of the Cooks’ development consists mainly of commuters and working families who had been looking forward to having a restaurant within their midst. The original s106 Agreement secured a visitors’ car park and was leased to the Town Council with the

intention of providing much needed income from the commercial units and the restaurant. With the danger of the estate becoming primarily residential the visitors' car park will be rendered a white elephant. The Town Council does not accept Mr. Frank's reasons for varying the condition as this has just confirmed their fears from the onset that the concept of commercial units and the restaurant was just a 'backdoor' to more residential units".

2.0 Synopsis

- 2.1 The key issues explored below are the site history and the permitted uses on the ground floor of the building.

3.0 Site Description and Context

- 3.1 Bawley House is the name of a yet to be constructed building located on the former Cooks Shipyard site in Wivenhoe. The Cooks site is on the east side of the town accessed via Anglesea Road or through the historic centre, as the name suggests it was formerly used as a shipyard and has a substantial river frontage.
- 3.2 Bawley House forms the final element of Phase 3, all the residential elements of this phase are now built and occupied. Planning permission has been granted for this building facing the river.

4.0 Description of the Proposal

- 4.1 This application seeks to vary condition 2, which lists the approved plans, of application 145776. The variation is to approve plans which show the subdivision of the ground floor into three B1 office units instead of a single office unit and minor changes to the ground floor elevations. The upper floors of the building are unaffected.
- 4.2 Application 145776 permits the ground floor to be used as a single unit for retail, B1 office or restaurant purposes and the upper floors for B1 business use or use for seven polyfunctional units (use classes C3 residential /B1 business).
- 4.3 The applicant has submitted the following response to the comments made by Councillor Liddy in calling-in the application;

"The ground floor of Bawley House already has planning consent for A3 Restaurant use/ B1

Commercial use and A1 Retail use.

We are applying to continue the commercial B1 use and simply sub-dividing the ground floor into three separate units, as this is where the demand from occupiers is coming from. These units are still approximately 1000 sq feet each and are therefore generously proportioned and will allow a multitude of uses.

The supposition that these will become residential units is unfounded and the detailed planning and building regulation applications that have now been submitted shows the intent to provide these three units for commercial occupation.

It should also be noted that ground floor of Bawley House previously had planning consent to be three commercial units under planning consent number 091559.

I am afraid that some of Councillor Liddy's comments are somewhat misleading and I would like to clarify the following:

1. Fish Restaurant- When we originally made our planning application for the redevelopment of Cooks Shipyard our application included a restaurant on the ground floor of the building now known as The Oystercatchers which is next to the Wet Dock. There was a huge amount of opposition from residents (and the Wivenhoe Town Council) to this element of the scheme and at the planning meeting the committee were persuaded by the objectors to request that we omitted the restaurant from our proposals which we regrettably did. It was our suggestion alone, that this could have been a fish restaurant, with the idea being that the local fishing boats that would be allowed to use the wet dock could have supplied the restaurant. It was the residents of Wivenhoe that got that proposal withdrawn!

2. Visitors Car Park-The commercial success of the Town Councils car park has nothing to do with the commercial elements of this development. The Town Council during our initial pre-application discussions insisted that there was a need for this parking facility and hence a car park was included within the scheme. When the car park was negotiated and agreed there was no restaurant included and therefore the assertion that WTC is not receiving the income it expected, because there is no restaurant is completely incorrect.

Cllr Liddy states that the original concept has been eroded and in some way the Cooks Shipyard Development has not lived up to what was promised! I would argue that this development has very much lived up to what was promised and has far exceeded any other development that I can think of in terms of community provision. This development has:

1. Cleaned up a highly contaminated former industrial site and former gas works
2. Provided circa 100 high quality homes where people really want to live.
3. Provided a publicly accessible pier/jetty at no cost to the public.
4. Opened up a large section of waterfront that had no public access
5. Provided a fully restored wet dock with mooring facilities for local fishermen that had no previous rights to moor.
6. Provided Affordable Housing within Wivenhoe (not Colchester as could have been the case).
7. Provided a storage facility for local fishermen and a toilet facility adjacent to the wet dock.
8. Provided public car parking facilities
9. Provided commercial accommodation at ground floor level in both stand alone and live work forms.
10. Provided the original crane from Hardings Yard at the head of the wet dock (sadly chopped down to a stump at the request of WTC!!!).
11. Provided Dinghy Parking facilities
12. Provided a public slipway
13. Gifted the water meadows/marsh land for conservation purposes.

These things were agreed with Councillor Peter Hill leader of the Wivenhoe Town Council's working party, prior to an application being made. We were not forced to do these things as we wanted this to be an exemplar development of the very highest quality.

Maybe its time to stand back and look at what has actually been achieved on this site, speak to the residents of Cooks Shipyard who love living there, speak to the hundreds of people that enjoy walking through the site, speak to the artists that have built such a strong base from which to work and sell, admire the fact that you can still identify this

site as a former shipyard and be pleased that it doesn't look like every other modern day housing estate”

5.0 Land Use Allocation

- 5.1 Predominantly Residential Conservation Area

6.0 Relevant Planning History

- 6.1 O/COL/01/1799 - Outline planning permission approved on 5 November 2004 for erection of houses, flats, offices, fisherman's store and W.C. Refurbishment of wet dock, jetty, slipway and waterfront. Reconstruction of St John's Road and Walter Radcliffe Way.
- 6.2 072701 - Reserved matters approval for Phase 3 comprising 32 residential units, affordable housing, commercial units – Planning permission granted
- 6.3 091559 - Full application approved to erect 32 dwellings and class B1 and A1 retail floor space
- 6.4 122122 - Variation of Conditions 2 and 8 of application no. 091559 in order to include A3 restaurant use and to include reference to Drawing Nos. 1369-105 & 1369 - Approved
- 6.5 131568 - Change of use of approved eight office units on the first and second floors of the commercial block to eight poly-functional units with associated parking. Approved
- 6.6 145776 Proposed A1 retail use, A3 restaurant use or B1 office use to ground floor and 7no. poly-functional units (B1 & C3 use) to first, second and third floors with associated car parking. Amendment to planning approval 131568. Approved

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
UR1 - Regeneration Areas
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets

TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP14 Historic Environment Assets
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP23 Coastal Areas

- 7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process: site is within a predominantly residential area

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Vehicle Parking Standards
Wivenhoe Town Plan Adopted 2008

8.0 Consultations

- 8.1 Senior Enterprise Officer "I have no problem with the proposed subdivision into three B1 Units as there is a shortage on paper at least of office space for small businesses in Wivenhoe as indirectly evidenced by VOA data and resident propensity for self-employment. Given that there appears to be no restaurant operator interest – and I now appreciate why Jonathan Frank is not going in that direction"
- 8.2 Planning Policy no comments
- 8.3 Environmental Protection No comment
- 8.4 Highway Authority does not wish to submit a formal recommendation.
- 8.5 Environment Agency We have no objection to the application if the conditions requested for application 091559; finished floor levels and flood proofing have be discharged and this application does not seek to vary them.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 The Town Council have stated that “The original concept for this development has become eroded over the years with this proposal affecting the last commercial space left. The whole Cooks’ development was marketed with the promise of bringing employment, commercial and social benefit to the area and enhancing the community without negative impact and also reflecting a little bit of Wivenhoe’s past. A good restaurant that specialised in fresh local seafood would have supported our local fishermen, and could have brought income into the town from visitors. The residents of the Cooks’ development consists mainly of commuters and working families who had been looking forward to having a restaurant within their midst. The original s106 Agreement secured a visitors’ car park and was leased to the Town Council with the intention of providing much needed income from the commercial units and the restaurant. With the danger of the estate becoming primarily residential the visitors’ car park will be rendered a white elephant. The Town Council does not accept Mr. Frank’s reasons for varying the condition as this has just confirmed their fears from the onset that the concept of commercial units and the restaurant was just a “backdoor” to more residential units.
The Town Council will be requesting that the application is called in”.

10.0 Representations

- 10.1 None

11.0 Parking Provision

- 11.1 The parking provision remains the same. Twenty one spaces to the rear of the building including two within the building, four spaces near the river front, a public car park next to the building plus a further nine public spaces . Provision is also made within the building for bicycle storage.

12.0 Open Space Provisions

- 12.1 N/A

13.0 Air Quality

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. Application 145776 has a legal agreement which secures a financial contribution of £40,000 for affordable housing and the construction of the building within a specified period. A linking agreement is required so these matters continue to be secured.

15.0 Report

Planning History

- 15.1 Outline planning permission for Cooks shipyard, application O/COL/01/1799 was approved on 5 November 2004 for erection of houses, flats, offices, fisherman's store and W.C. Refurbishment of wet dock, jetty, slipway and waterfront. The application was subject to a legal agreement which required a public car park together with other facilities to be managed by the town Council.
- 15.2 A restaurant proposed on another part of the Cooks site was removed from the outline application following local objection and the outline planning permission permitted only B1 for the commercial building. When the Town Council was a signatory to the legal agreement in 2004, in respect of the public car park and other facilities, the planning permission did not include a restaurant.
- 15.3 Application 091559 included planning permission for 3 three units on the ground floor of the commercial building.
- 15.4 Application 122122 was approved and extended the range of permitted uses on the ground floor to include a restaurant.
- 15.5 The latest approved application application145776 authorises the ground floor to be used for B1 office, A1 retail and as an A3 restaurant but reduced the number of polyfunctional units from 8 to 7.
- 15.6 The ground floor therefore has planning permission which authorised its use as a single office and this application proposes a change from a single large office space to 3 smaller offices.

Design and Layout

- 15.,7 The amendments to the ground floor elevations are minor; the south west elevation, which fronts the river, and the south east, side, elevation are unaltered. The south west, side elevation, has brick detail instead of stone to the opening for 2 parking spaces which will now include timber doors. Changes to the north east elevation, which faces the car park and rear of residential properties, include the repositioning of a door and 2 "false doors" in recessed brickwork and the removal of the extract flue.

Scale, Height and Massing

- 15.8 Unaffected

Impact on the Surrounding Area

- 15.9 Officers have supported a range of commercial uses in the building to add the vibrancy of the waterfront. It is agreed that a seafood restaurant could have supported local fishermen and bought visitors to the town and would have been a positive impact on activity along the river frontage.

Impacts on Neighbouring Properties

- 15.10 No representations have been received. There was objection from residents to the application for the restaurant use.

Amenity Provisions

- 15.11 There are no amenity issues.

Highway Issues

- 15.12 The Highway Authority has made no comment

16.0 Conclusion

- 16.1 Planning permission allows the ground floor of Bawley House to be used for either B1 office, A1 retail or C3 restaurant use. The ground floor could therefore be occupied as a single office the proposal is to allow its use as 3 smaller offices. The application which includes minor changes to two of the ground floor elevations is acceptable and planning permission is recommended.

17.0 Recommendation

- 17.1. APPROVE subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Commercial Services to refuse the application, or otherwise to be authorised to complete a linking agreement to provide a financial contribution of £40,000 for affordable housing and the construction of the building within a specified period.
- 17.2 On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions:

18.0 Conditions

1 - Non-Standard Condition/Reason

With the exception of condition 2 of Planning Permission 145776 which is hereby varied, the requirements of all other conditions imposed upon planning permission 145776 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1025-01A (first, second and third floor plans), 06, 100C and 110A.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

19.0 Positivity Statement

- 19.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.