

# Planning Committee

Thursday, 30 July 2015

**Attendees:** Councillor Peter Chillingworth (Group Spokesperson), Councillor Jackie Maclean (Member), Councillor Helen Chuah (Member), Councillor Jon Manning (Chairman), Councillor Laura Sykes (Group Spokesperson), Councillor Pauline Hazell (Member), Councillor Brian Jarvis (Member), Councillor Michael Lilley (Member), Councillor Jessica Scott-Boutell (Deputy Chairman), Councillor Patricia Moore (Member), Councillor Jo Hayes (Member)

**Substitutes:** Councillor Dave Harris (for Councillor Rosalind Scott)

## 186 Site Visits

The following members attended the formal site visit: Councillors Chillingworth, Chuah, Hayes, Jarvis, Manning, Moore, Scott-Boutell and Sykes.

## 187 Minutes of 25 June 2015

The minutes of the meeting held on 25 June 2015 were confirmed as a correct record.

## 188 151298 Castle Park, High Street, Colchester

The Committee considered an application for the provision of a Winter Wonderland and Ice Rink with Germanic chalets selling traditional Christmas items at Castle Park, High Street, Colchester. The site would open on 26 November 2015 and close on 3 January 2016, opening times to be 10am until 10pm each day apart from Sundays when it would close at 9pm. The application had been referred to the Committee because it had attracted objections. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Alistair Day, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. He explained that the report contained a typing error in Condition 9 and he was proposing an additional condition to provide for noise emissions from the site to not exceed 5dB(A) above background noise levels at all the site boundaries

Ben Payne addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he had worked with various Council officers over the last year to develop a plan that would work

commercially as well as for the benefit of the residents of the town. The design and layout of the proposals had been the subject of detailed discussions to reach a satisfactory proposal for all and he confirmed that he was happy to work within the 5dB(A) threshold now being suggested. He confirmed that access to the site at night would be from the High Street only and a detailed transport and parking plan would be drawn up prior to the operation commencing. In addition there had been detailed negotiations to ensure there would be no damage to the Castle Park grounds. He believed the proposal would bring a feel good factor to the town and it was likely that an increase in trade in the order of 10 -15% would result.

One member of the Committee voiced concern about the increased commercialisation of the Park in a similar way as experienced with the recent installation of a large TV screen and she was concerned about the potential negative impact on residents in the vicinity of the Park. She questioned what mechanisms would be in place to assist residents if problems did occur.

Other members generally welcomed the proposal as an exciting opportunity for residents so long as adequate mitigation could be provided to prevent nuisance for nearby neighbours. Reference was made to the need for diesel spillage from generators to be discounted and the time to be allowed for clearing of the Park at the end of each day.

The Principal Planning Officer acknowledged the need for residents living nearby to be safeguarded and indicated that the additional condition to address noise at the site boundaries would achieve adequate mitigation. He confirmed the possibility of adding a 30 minute period to the hours of operation condition to provide for clearance of the site each day, that the generators being used were all fitted with spillage capacities and that the proposal currently included operation on Christmas Day which could be excluded by condition. He also confirmed that the serving of alcohol on the site would be governed by statutory Licensing restrictions.

Sam Riley, Environmental Protection Officer, attended to assist the Committee in its considerations. She explained that the noise threshold to be imposed would be similar to a low murmuring office environment. The Council's Environmental Protection Team did not provide a 24 hour service to the public but the team would be undertaking ad hoc monitoring and for problem reporting the local residents could contact the Council's night time duty service.

**RESOLVED** (ELEVEN voted FOR and ONE AGAINST) that the planning application be approved subject to the conditions set out in the report with the deletion of the word 'not' in Condition 13; an additional condition to provide, prior to the opening of the proposal, for noise emissions from any generator on site to not exceed 5dB(A) above background noise levels at all site boundaries and the amendment of Condition 9 to provide for the proposal to not be permitted to operate on Christmas Day and for the site to be vacated and secured by 22:30 hours Monday to Saturday and by 21:30 hours Sundays and Bank Holidays.

**Councillor Chillingworth (in respect of his acquaintance with the applicant's father) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for the erection of a farm based Biogas digester and associated works at Fairfield's Farm, Wormingford. 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 and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Mark Russell, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

Dr Russell Cowan addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was the owner of the property called Rochfords which was located about 500 yards from the application site. He cared about the countryside and was opposed to creeping industrialisation and crawling development. As such, he had been pleased that the urban design team had originally objected to the application, although this view had been subsequently revised to one of approval. He considered there was an unresolved issue in relation to the delivery of crops to the site. Although he considered himself to be a supporter of renewable energy schemes, he was of the view that the scheme proposed would mainly benefit the applicant whilst local residents would be considerably adversely affected by the odour from silage.

Robert Strathern addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that his family had lived and farmed in Wormingford since the 1930s. The current proposal was a farming diversification project which was intended to improve renewable gas and energy consumption. He considered this proposal to be ideally located on a disused airfield which had been designed in order to reduce any visual impact locally. The number of vehicle movements was anticipated to reduce from current levels, additional employment opportunities would result whilst the proposal would also produce fertiliser for use on the farm, thus having the effect of increasing the sustainability of the whole proposal. He considered the proposal complied with the National Planning Policy Framework (NPPF), it had received support from the Parish Council as well as local residents and traffic levels would be reduced. He confirmed that he had visited two similar biogas sites and he was of the view that odour would not be a problem for neighbouring residents.

Councillor Chapman attended and, with the consent of the Chairman, addressed the Committee. He acknowledged the concerns expressed by Dr Cowan but was of the view

that the site was an ideal location for this type of proposal. Although the site overlooked the Stour Valley, he considered that the mitigation proposed would benefit the area in due course. He considered the officer's report was well written but explained the difficulty for the public in following the progress of the application on the Council's website, through various stages of negotiation, although he was not sure how this could be improved upon. He asked for an assurance that the landscape plan would be maintained and for the planting to be tended through to maturity.

The Principal Planning Officer confirmed his view that the mitigation proposals would make the scheme acceptable which was in accordance with the principles of the NPPF that proposals should be approved where they could be made to be acceptable. He also confirmed that most or all crops for the biogas digester would be grown onsite but this could not be insisted upon and no condition should be imposed and the landscape conditions would be the subject of monitoring by the Council's Landscape Officer.

Sam Riley, Environmental Protection Officer, attended to assist the Committee in its considerations. She had visited a biogas digester site in Elmstead Market and confirmed odour was not detectable beyond a few metres away and she had consulted Environmental Protection colleagues at North Norfolk District Council who had confirmed that they had received no complaints in relation to biogas digester sites within their boundaries.

Members of the Committee welcomed renewable energy proposals which helped to combat the burning of fossil fuels. The application accorded with the NPPF as well as local planning policies, whilst the mitigation proposals would ensure that the buildings would be hidden by existing buildings and existing and new planting. The site visit had also confirmed to them that neighbouring Listed Buildings would not be seriously affected by the scheme and the evidence presented by the Environmental Protection Officer had confirmed that odour was not a problem associated with these types of initiative.

In response to specific issues raised, the Principal Planning Officer confirmed that a condition had been proposed for the proper provision of archaeological investigation to take place on the site and he advised the addition of a further condition to provide for the retention and maintenance of the existing hedgerow around the site.

*RESOLVED* (UNANIMOUSLY) that the planning application be approved subject to the conditions set out in the report and the amendment sheet, together with an additional condition to provide for the retention and maintenance of the existing hedgerow around the development site.

**190      150213 Land west of 58 Queens Road, Wivenhoe**

**Councillor Lilley (in respect of his acquaintance with the applicant's agent) declared a non-pecuniary interest pursuant to the provisions of Meetings General**

### **Procedure Rule 7(5).**

The Committee considered an application for the erection of a detached dwelling with associated parking facilities, a resubmission of application 112284 at land west of 58 Queen's Road, Wivenhoe, Colchester. The application had been referred to the Committee at the request of Councillor Scott. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Sue Jackson, Principal Planning Officer, presented the report and, together with Simon Cairns, the Planning Project Manager, assisted the Committee in its deliberations.

Chris Singleton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was representing the Queens Road Residents Association. Planning applications had been submitted for the site consistently since 2008 and strong objections had been made each time on the grounds that the site as known to be subject to problems of flooding. The flooding problem tended to improve when the drain and surface drainage was kept clear. The proposal would require the continued application of a maintenance agreement, including transference in the event of the ownership of the property being changed. He also voiced concerns about the ultimate responsibility for the flood risk at the site and the fact that the Environment Agency had indicated its removal of objections on the basis of the Council's satisfaction that the development would be safe for its lifetime. In addition, he referred to the unspecified maintenance regime for the Town Drain, bearing in mind its history of regularly becoming overgrown. Finally he mentioned the sighting of stag beetles in Queens Road and his view that the development was not in keeping with the surrounding area.

Alan Sherwood addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he was a Wivenhoe resident who ran his own business in the area. He had bought the site 7 years ago, had completed the renovation of the bungalow and had sought advice regarding the potential to develop part of the original garden as an infill plot. A flood assessment of the site had been undertaken at a cost of £15,000, following which an application had been submitted for a bungalow designed as a transition between the old and new properties in Queens Road. He considered he had complied with advice given to him by the Planning officers and asked the Committee to support the proposal.

Councillor Liddy attended and, with the consent of the Chairman, addressed the Committee. He explained that the Committee was a quasi-judicial body which posed a duty on its members to act reasonably. Accordingly, it was not unreasonable for the Committee to contradict officer's recommendations on certain occasions. He observed that applications for the development of this site had been considered on a number of occasions but questions still remained to be resolved. He referred to the views of the

Environment Agency which had removed its objection subject to the Council being satisfied as to the safety of the development for its lifetime. He considered this to imply an area of doubt with any risk associated with the proposal being passed to the Council. He was of the view that the Environment Agency may well be unfamiliar with the flooding solution being proposed and he was not aware that any evidence had been presented to demonstrate that the solution would work and the impact of any failure leading to flooding would fall on neighbouring properties. He concluded that there was a failure on the part of the statutory bodies to take responsibility for the potential flooding issue.

The Principal Planning Officer explained that the river and surface water was not the responsibility of the applicant and that the potential flooding issue would remain whether the development proceeded or not. The proposal would not lead to a reduction in the flood plain, the safety of the occupiers of the proposed dwelling was being protected by means of the raising of the ground floor levels and the maintenance programme for the void beneath ground floor, which would form part of a legal agreement, would require probably no more than a biennial flushing out of the void.

Members of the Committee acknowledged the measures taken by the applicant to provide mitigation for flooding issues along with the contribution of the Environment Agency and the Highway Authority in ensuring the Town Drain and the surface water drainage was adequately maintained. However, the Committee also queried the views expressed by the Environment Agency and sought reassurance in relation to the Council's potential Emergency Planning liability and the safety of future occupiers of the dwelling if approval for the scheme was granted

The Planning Project Manager was of the view that the Council could not be held liable if it could demonstrate that it had acted reasonably in all the circumstances. However, he advised that legal advice could be sought in order to clarify this issue.

*RESOLVED* (SEVEN voted FOR, FOUR voted AGAINST and ONE ABSTAINED)) that –

- (i) The planning application be deferred for officers to seek a legal opinion regarding any liability arising from a grant of consent, in relation to flooding risk
- (ii) Subject to the legal advice referred to in (i) above confirming no identified risk, and, subject to the signing of a legal agreement under Section 106 of the Town and Country Planning act 1990 within six months from the date of the Committee meeting to secure the submission of a maintenance schedule for the void and trash screens and agreement to the legal responsibility for implementing the maintenance schedule for the life of the property, the Head of Commercial Services be authorised to approve the application subject to the conditions set out in the report.

**191 143704 Rowhedge Business Park, Fingringhoe Road, Rowhedge**

**Councillor Lilley (by reason of his having expressed a prejudicial view on the application) declared an interest pursuant to the provisions of Meetings General**

**Procedure Rule 9(5) and left the meeting during its consideration and determination.**

The Committee considered an application for the change of use of land to a plant hire business at Rowhedge Business Park, Fingringhoe Road, Rowhedge. The application had been referred to the Committee at the request of Councillor Lilley. The Committee had before it a report and amendment sheet in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) that the planning application be approved subject to the conditions set out in the report and the amendment sheet.

**192 150923 31 Marlowe Way, Colchester**

The Committee considered an application for a front extension and single storey rear extension at 31 Marlowe Way, Colchester. The application had been referred to the Committee at the request of Councillor Buston. The Committee had before it a report and amendment sheet in which all the information was set out.

Eleanor Moss, Planning Officer, presented the report and assisted the Committee in its deliberations.

Stuart Wilsher addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was representing the views of Mr and Mrs Biggs of 29 Marlowe Way who were concerned that the proposed development would cause harm to the locality as it would stand apart from neighbouring properties and be out of character. He was of the view that the proposal was not in accordance with the Council's policies and it would have a negative impact with blank and oppressive views. He also pointed out that a similar scheme had been refused permission earlier in the year

Councillor Buston attended and, with the consent of the Chairman, addressed the Committee. He confirmed that he had called in the application but this was done on behalf of the residents and not because he had formed a view on the application's merits. He referred to the 'stepping forward' of the property some metres beyond the original building line as well as the new front roof area which did not include any barrier protection which he considered to be an anomaly.

The Planning Officer explained that the flat roof element of the development would include balustrading to the door, the recognised Design Guidance tests for overlooking had not been infringed and the proposal did not extend development beyond the building line.

*RESOLVED* (ELEVEN vote FOR and ONE voted AGAINST) that the planning application be approved subject to the conditions set out in the report.

**193      150605 129 High Road, Layer de la Haye**

The Committee considered an application for a first floor extension to an existing bungalow at 129 High Road, Layer de la Haye, Colchester. The application had been referred to the Committee because the agent for the applicant worked as a consultant for Colchester Borough Council. The Committee had before it a report in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) that the planning application be approved subject to the conditions set out in the report.