

Planning Committee

Thursday, 06 February 2020

Attendees: Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Martyn Warnes

Substitutes: Councillor Theresa Higgins (for Councillor Lyn Barton), Councillor Chris Pearson (for Councillor Cyril Liddy)

Also Present:

776 Site Visits

Councillors Chuah, Hazell, Loveland and Maclean attended both of the site visits and Councillors Higgins and Jarvis attended only the site visit at the Garage Site, Hardings Close, Aldham.

777 Chairman

RESOLVED that, in the absence of the both the Chairman and Deputy Chairman of the Committee, Councillor Higgins be elected Chairman of the Committee for this meeting.

778 Deputy Chairman

RESOLVED that, in the absence of the both the Chairman and Deputy Chairman of the Committee, Councillor Pearson be elected Deputy Chairman of the Committee for this meeting.

779 Planning Committee minutes 9 January 2020

The minutes of the meeting held on 9 January 2020 were confirmed as a correct record.

780 192904 Former Severalls Hospital Site, Boxted Road, Colchester

The Committee considered a planning application for the variation of Condition 2 (site levels) following grant of planning permission 100502 at the former Severalls Hospital Site, Boxted Road, Colchester. The application had been referred to the Committee as an officer referral for reasons of transparency.

The Committee had before it a report and amendment sheet in which all information was set out.

James Ryan, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

Andrew Owen addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the site, with full planning permission, had been bought from the Homes and Communities Agency and, as part of the approved plans, indicative finished floor levels had been shown on the site layout. He explained that the application sought to regularise what had been built on site, that the site had been reliant on the delivery of the Northern Approach Road which formed the vehicular access to the site with connections for drainage and utilities, that the delayed delivery of the road had led to revised levels being required across the site to form the connections to comply with adoptable standards and that the road alignment and connections had all been approved by the relevant authorities. He further explained that the scheme was a sustainable homes development, including the provision of level access to each dwelling to provide for future adaptation for wheelchairs and, as such, the drives and paths had been amended to accord with this requirement and, where the levels had been raised, these were in the least sensitive locations. He referred to the properties in Thomas Wakley Close being closest to the scheme but where the levels were lower. He welcomed the views of officers that the proposals were considered acceptable.

One member of the Committee sought an assurance in relation to complaints from nearby residents regarding potential flooding and surface water drainage problems.

The Principal Planning Officer confirmed that the application for a change in levels was required as the scheme had been built to a level which did not accord with the approved levels drawing. He explained that the buildings had been built at different levels because the scheme needed to be worked into an adoptable highways and drainage system all of which needed to link into the new Northern Approach Road. He confirmed that the on-site drainage system was now in place and featured a number of sustainable urban drainage features, such as swales. He further confirmed that no professional evidence had been presented in relation to surface water drainage issues and the floor levels were lower than the nearest neighbouring properties. He also referred to the significant additional planting along the boundary to be secured by condition which would increase water uptake in that area.

RESOLVED (UNANIMOUSLY) that -

(i) The Assistant Director Place and Client Services be authorised to approve the planning application subject to the conditions set out in the report and subject to the signing of a linking legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting and, in the event that the legal agreement is not signed within six months from the date of the Planning Committee, the Assistant Director Place and Client Services be authorised, at

their discretion, to refuse the application or otherwise be authorised to complete the agreement.

(ii) The Assistant Director Place and Client Services also be authorised to approve the landscaping / buffer belt condition without further reference back to the Committee.

781 191467 Fairfield's Farm, Fordham Road, Wormingford, Colchester

The Committee considered a planning application for the removal or variation of a condition following grant of planning permission 172600 at Fairfield's Farm, Fordham Road, Wormingford, Colchester. The application had been referred to the Committee because it had been called-in by Councillor Chapman.

The Committee had before it a report and amendment sheet 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.

David Lewis, Planning Officer, presented the report and, together with Simon Cairns, Development Manager, Belinda Silkstone, Environmental Health Manager and Guy Milham, Environmental Health Officer, assisted the Committee in its deliberations.

Daniel Fenn addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was speaking on behalf of a number of residents of Wormingford. He had been a resident of Spring Cottage for 14 years over which time the number of nuisance complaints and the extent of the odour problem had steadily increased. He also referred to the problem extending into Sundays and Bank Holidays and being sufficiently intense to penetrate indoors even when doors and windows were closed. He and other residents had been hopeful that the new odour elimination system specified in the previous planning permission would successfully resolve the problems for residents, however he considered the system chosen to be installed by the applicants did not work to the standard required. As such, he was of the view that the implementation of increased working hours would increase the odour nuisance and health risks for residents. He expressed disappointment about the threat of legal action by the applicant, should approval of the application not be granted, along with statements about heavy investment in the business and potential job losses. He confirmed he and many other residents were small business owners and, as such, were aware of the challenging economic environment whilst also investing heavily in their homes. He was of the view that, if the odours did not occur, there would be no problem with the location of the factory. He asked the Committee members to support the residents' view and to refuse the application.

Robert Strathern addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the family business employed 40 local people, who faced the possibility of redundancy should the application be refused. He explained that the application was not to allow an extension of operating hours but that permission had been granted in 2017 for the business to operate over 24 hours, six days a week, subject to the installation of an odour unit. He confirmed that an odour unit had been installed at a cost of £250,000. He explained that the current application had been requested by the Council as a result of Environmental Health Officers not discharging the conditions associated with the 2017 planning permission, on the grounds that the approved drawings required the erection of a wall which had yet to be complied with. He understood that the Environmental Health Officer's view was that the absence of the wall would reduce the effectiveness of the odour unit, however no evidence had been submitted to support that concern. He referred to a letter from Land Air Consultants (LAC), consultants appointed by him, explaining why an internal wall would not have an observable effect on odour impact and concluding that local amenity is not adversely affected by 24-hour production. He also referred to the review of the LAC results, commissioned by the Council and regretted that this had not been published until the day before the Committee meeting. He considered this review did not address the issue of the internal wall and was of the view it was not relevant and compared its desk-top nature to be inadequate, particularly given the presence on site of his own consultants on many occasions. He noted that the residents of the two properties located closest to his business had indicated their support for the application as well the view of the Environmental Health Officers who were unwilling to support the application whilst odour complaints continued. He considered this provided residents with an incentive to continue to complain and that the majority of objections had been made by a few residents living more than 1km from the site. He referred to the Environmental Health Officer's confirmation that none of the complaints had constituted a statutory nuisance whilst he had received confirmation that his own legal situation was robust. He considered his business was at severe commercial risk despite support for the business out-weighting objectors. He was hopeful that the Committee would approve the discharge of the condition associated with the planning permission granted in 2017.

Councillor Chapman attended and, with the consent of the Chairman, addressed the Committee. He considered the applicant to be a very successful and innovative local employer but he was of the view that the production was causing considerable issues for residents locally and sometimes for others in the wider village. He explained that the prevailing westerly wind affected homes in a line, eastwards from the site. He had tried to be impartial but he acknowledged that complaints had escalated. He had assisted in facilitating liaison meetings between the applicant, residents and the Parish Council and regretted these had not continued due to the continuing level of complaints. He confirmed that many of the objectors were business owners who did not wish to become serial complainants. He considered the situation now needed to be resolved, he asked the Committee members to support the recommendation contained in the report and he

asked the applicant to be willing to work with the officers as well as his neighbours to resolve the issues.

Members of the Committee noted the substantial numbers of complaints recorded over a series of months, the number of occasions when the site was visited by the Environmental Health Officer together with the associated intensity of odour recorded and supported the view expressed by the ward Councillor for the applicant to be willing to work constructively with the residents. Comments were made regarding the odour reduction system which had been installed and the professional view of the Environmental Health Officer that the system was not operating at the optimal level that it was capable of delivering. Reference was made to the conditions and illustrations associated with a grant of planning permission and the need for those associated documents to be complied with. It was also noted that, on one visit by the Environmental Health Officer, the factory was in production but the extraction system had been switched off. Acknowledgement was made that complaints had not constituted a statutory nuisance but that there was a responsibility on any business owner to seek to address complaints, particularly when they were increasing in frequency and had occurred over a long period of time.

An observation was also made by those Committee members who had attended the site visit regarding the lack of separation between the frying and packing areas, the occasional escape of steam, its potential to spread across the factory area and to be extracted without any form of treatment from a high-level vent in the factory building. Reference was also made to the height of the chimney from the extractor unit and the potential for steam to travel beyond the closest neighbouring properties before descending.

Clarification was sought from the Environmental Health Officer regarding the additional work being required of the applicant and the likelihood that it would successfully address the odour problems being experienced by residents. Advice was also sought regarding the continued operation of the site, should the current application be refused, as recommended by the officer; whether the odour problems were required to be reduced to an acceptable level or to be eradicated completely and the discrepancies between the extreme intensity of the odour problem described by residents in comparison to the Environmental Health Officer's assessment of the odour as generally being of very faint or faint intensity.

Belinda Silkstone, Environmental Health Manager, explained that Environmental Health Service had been unaware of a high level vent prior to the publication of the report by LAC when they learnt that they had been provided in 2014 to enhance the environment for the staff and explained that work was still required to determine what effect the closure of the vents would have on the negative pressure of the building. She also confirmed that the assessment of the application made in 2017 in the absence of knowledge of the high-level vents.

Guy Milham, Environmental Health Officer, clarified that high-level extraction vents were positioned on the apex, just under the roofline of the building which extracted air without any form of treatment and he explained that air was treated by means of the canopy directly above the frying unit which directed air for treatment to the air handling unit. He went on to explain that the objective was for the impact on the amenity of the residents to be reduced such that the odours were reduced to negligible levels. He confirmed that during the course of visits the recorded intensity had ranged from very faint to very noticeable, whilst predominantly being very faint or faint. However, he considered the odour was clearly having a detrimental effect on amenity, often over 1km away from the site, whilst, if the air handling unit was operating effectively, odours would not be present that frequently at that distance from the site.

The Development Manager explained that the Committee members were being asked to consider the acceptability of the odour system as it stood, in terms of its operation, extraction, installation and location in the factory building, together with the odour problems which had been reported. He acknowledged Committee Members own observations from the site visit regarding the high-level vent which was taking volumes of air from the building and dispersing it into the wider environment. He also referred to problems associated with the system itself which may be due to design or operational problems, yet to be determined.

The Chairman confirmed her understanding that, if the current application was refused, production at the site could continue but the implementation of an extended 24-hour, six day per week operation would be dependent on the installation and operation of an air handling unit considered to be satisfactory by the Council's Environmental Health Service.

The Planning Officer confirmed that the conclusion had been drawn that the air handling unit in place was considered by the applicant to be an efficient system but this meant that odours were escaping from elsewhere which weren't being directed through the unit. The negative pressure of the building should prevent leakages occurring and, accordingly, the reason why this was not the case needed to be determined by the applicant. He also confirmed that the Chairman's understanding was correct, such that the air handling unit needed to be shown to be fit for purpose for the extended operating hours to be permitted.

RESOLVED (EIGHT voted FOR and ONE ABSTAINED) that the application be refused for the reasons set out in the report.

782 192671 Garage Site, Hardings Close, Aldham, Colchester

Councillor Higgins (by reason of her membership of the Cabinet with Portfolio Holder responsibilities for Commercial Services) declared an interest in the

following item pursuant to the provisions of Meetings General Procedure Rule 9(5) and left the meeting during its consideration and determination.

Councillor Jarvis (by reason of his Directorship of Colchester Commercial Holdings Ltd) declared an interest in the following item pursuant to the provisions of Meetings General Procedure Rule 9(5) and left the meeting during its consideration and determination.

Councillor Pearson here took the Chair.

The Committee considered a planning application for the demolition of existing garages and the construction of new affordable housing to provide four two storey dwellings, two 3 bedroom and two 2 bedroom at the garage Site, Hardings Road, Aldham, Colchester. The application had been referred to the Committee because the applicant was Colchester Amphora Homes Limited on behalf of Colchester Borough Council with Colchester Borough Homes as the agent.

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.

Nadine Calder, Senior Planning Officer, presented the report and assisted the Committee in its deliberations.

Jackie Daines addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that Aldham was a small village comprising 500 residents, it did not benefit from a regular bus service on weekdays, there was no shop, post office or school, there was little street lighting and a lack of footpaths, as such many residents relied on their own vehicles or the generosity of others. She explained that the garage site was surrounded by elderly persons bungalows, the residents of which could not walk distances and relied on friends and family for supplies, socialising and medical appointments, as such parking facilities close-by was essential. She was concerned that the proposal would mean the removal of the parking facility, causing stress to the residents. She referred to the availability of parking elsewhere in the village but this would be some distance away and may lead to neighbour disputes. She disputed the reference in the report to Aldham Parish Council having been consulted on the proposals. She considered the proposals could have a detrimental impact on residents of Hardings Close; an established right to use the site as a parking facility would be discontinued and, as such, she objected to the proposal on the grounds that existing residents would lose parking spaces whilst the new occupants of the houses would benefit from dedicated parking facilities. She was concerned about the noise, inconvenience and disruption associated with the construction phase of the development and the impact of this on the elderly residents.

She understood Colchester Borough Homes had issued notices to quit the garages to tenants and was concerned this was taking place prior to the determination of the application. She considered the site to be inappropriate for the development and, as such, should be refused by the Committee members.

Andrew Tyrrell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He confirmed that meetings had taken place involving Aldham Parish Council on three occasions. He explained that the site was a garage court with no licences to park. He explained that three of the garages were occupied by residents of Aldham; 50 on-street parking spaces were available within 100 metres of the site; policy compliant parking was being provided for the development and, although the applicant was not required to mitigate other sites, it would be possible, if required, to provide another six parking spaces close-by on open space that the Council owned. He referred to demand for the homes in terms of 3,000 people currently on the housing needs register; the last affordable house which had become available in Aldham had attracted 117 applicants and the last housing needs survey had identified a need for two-bedroom properties in Aldham. He also referred to the 17 properties which were owned by Colchester Borough Homes in the area, the successful integration of the tenants in the local community and he explained that the provision of these houses was a Council priority, a Council-led scheme being delivered with the assistance of the Council's housing management company, providing Council-owned properties for local people.

The Senior Planning Officer explained that the Local Plan had a defined development boundary for Aldham and the application was within that boundary which meant that the development was considered sustainable in policy terms. She confirmed that there was no established right to park on the site, it being Council-owned land, although she acknowledged that the availability of parking on the site had been a bonus for residents. She acknowledged that noise and disruption was a potential consequence of development but she had recommended conditions providing for a construction management plan and statement to keep disruption to a minimum.

Members of the Committee expressed sympathy for residents who would no longer be able to take advantage of the parking availability from the site but acknowledged the responsibility of the Council to provide homes for those on the housing register. In addition, the loss of open space for use as parking facilities was considered to be regrettable, unless it was deemed preferable by the residents located around the open space area itself, particularly given the generous availability of on-street parking facilities in the general locality. A question was also posed in relation to the design of the scheme.

Clarification was sought regarding the potential for the development to comprise four three-bedroom houses rather than two two-bedroom and two three-bedroom houses as well as the contention that notices to quit the garages had been issued.

The Senior Planning Officer explained that a number of factors had dictated the design of the properties, with semi-detached tending to be a pattern in the locality; the introduction of a gable in order to accommodate a third bedroom and the addition of a hip so that the views from the front of the houses, towards the church, would be less imposing. She reported that there was significant demand for two-bedroom properties and, accordingly, the proposed mix was recommended for approval. She also reported she and representatives for Colchester Borough Homes had no knowledge of notices to quit the garages had been issued.

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

783 192893 329 Straight Road, Colchester

The Committee considered a planning application to extend and remodel storage facilities at 329 Straight Road, Colchester. The application had been referred to the Committee because the applicant was a Councillor at Colchester Borough Council.

The Committee had before it a report in which all information was set out.

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