

Planning Committee

Thursday, 21 January 2016

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

Substitutes: Councillor Annesley Hardy (for Councillor Pauline Hazell)

263 Site Visits

Councillors Chillingworth, Chuah, Hardy, Hayes, Jarvis, J. Maclean, Manning, Moore, Scott, Scott-Boutell and Sykes attended the site visits.

264 151379 Wickhams, Bures Road, West Bergholt

The Committee considered an application for a proposed replacement dwelling, associated parking, car port and garaging, hard and soft landscaping at Wickhams, Bures Road, West Bergholt, Colchester. The application had been referred to the Committee because it had been called in by Councillor Harrington. The Committee had before it a report in which all the information was set out.

Carl Allen, Planning Officer, presented the report and, together with Andrew Tyrrell, Planning Manager, assisted the Committee in its deliberations.

James Firth addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the applications. He explained that the application was similar to the application for the replacement dwelling which had already received approval and involved minor alterations to accord with the landscaping scheme and sustainability issues. He confirmed that the site would be returned to agricultural use which would mean there would be no loss to the countryside. He considered the revised site for the dwelling was the optimum location whilst the proposals would enhance the quality of the site by means of significant landscape enhancements, the nearest properties were over 200 metres away and, as such, caused no significant impact to the neighbourhood.

Councillor Harrington attended and, with the consent of the Chairman, addressed the Committee. He explained that he had called in the application as a consequence of the Planning Officer's recommendation to refuse the application. The application was for

permission to replace a dwelling which had been demolished, located 45 metres away from the original location together with landscape enhancements which would align with the historic landscape as well as improving the screening to the application site. He confirmed that there no neighbours within 200 metres along Bures Road and, as such, the density was sufficiently low that this would not constitute a pattern of development against which to judge the application. Although the design of the dwelling was considered to be an exemplar, no objections had been received from the Parish Council or the landscape officer and the proposal was in-keeping with the West Bergholt Village Design Statement, he was disappointed that the application had not received a recommendation for approval. He considered the grounds for refusal to be weak whilst those for approval were compelling.

The Planning Officer considered that there were no valid reasons to move the location of the dwelling as the landscaping enhancements could be undertaken without such a change. He confirmed that no other dwelling in the area extended so far into the countryside and, as such, the proposal was not in-keeping with its surroundings. The landscape officer had confirmed that the new planting was likely to take up to 10 years to grow into a juvenile woodland which would mean the dwelling would remain exposed for this period of time. The recommendation was an 'on balance' judgement which had been debated with Principle Planning Officer colleagues which had concluded that it would set a precedent for the one neighbouring dwelling located opposite the application site.

Some members of the Committee were of the view that the application would not set a precedent as the existing permission for a replacement dwelling had already moved away from the curtilage of the previous dwelling. In addition it was considered that there was no pattern of development in the area of the application and there was no material harm caused to the countryside due to the proposal to recreate the old historic hedgerows. The house was also considered to be an exemplar in terms of its architectural design merits and that there was no requirement for development in the countryside to necessarily follow uniformity with neighbouring properties. Reference was also made to assurances being sought in relation to the future use of the site of the previous dwelling and the need for it to be returned to agricultural use.

Other members of the Committee, whilst welcoming the enhancements to biodiversity in terms of replacement tree planting, were unconvinced of the need to change the location of the dwelling and were of the view that there was an absolute presumption to not build isolated dwellings in the countryside. Reference was also made to the possibility to requiring the planting of semi-mature trees for better screening results.

The Planning Officer confirmed that whilst the siting of the replacement dwelling did not correspond with the footprint of the previous dwelling, it did not extend beyond the curtilage. He was of the view that the demolition of the previous dwelling demonstrated intent to rebuild but that this needed to be respectful of the surrounding countryside. He had received reassurance regarding the future agricultural use of the site fronting the proposed development and acknowledged that future development was unlikely given

the aspiration to gain additional peace and quiet.

The Planning Manager confirmed that the additional cost associated with the planting of semi-mature trees rather than whips would be considerable and, as such, unreasonable to impose by condition. He also confirmed that the proposal was an 'on balance' judgement and the Committee had fully explored the material considerations in relation to the application.

As the discussion suggested that the Committee may be minded to refuse the application contrary to the officer's recommendation in the report the Chairman invited the Committee to consider invoking the Deferral and Recommendation Overturn Protocol (DROP). The Committee did not support invoking the DROP and accordingly, the Chairman then invited the Committee to determine the application without deferral.

RESOLVED (SIX voted FOR, SIX voted AGAINST and the Chairman exercised his casting vote FOR) that the planning application be refused for the reasons set out in the report.

265 152042 39 Harvey Crescent, Stanway

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

Councillor Sykes (in respect of her acquaintance with the applicant) 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 three bedroom dwelling and parking at 39 Harvey Way, Stanway, Colchester. The application had originally been referred to the Committee because it had been called in by Councillor Sykes and the Committee's consideration had been deferred at the meeting on 5 November 2015 to allow the applicant the opportunity to produce a better design for the proposal. The Committee had before it a report in which all the information was set out.

Eleanor Moss, Planning Officer, presented the report and, together with Andrew Tyrrell the Planning Manager, assisted the Committee in its deliberations.

Robert Pomery addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the applications. He explained that the application had been deferred for discussions to secure proposals which better reflected the location. The house had been re-orientated through 180 degrees, the ridge of the roof was now parallel and the doors and windows better reflected the neighbouring buildings. This was not a contemporary approach but he was hopeful it would be acceptable by Committee members. He considered the proposal was in accordance with Local Plan policies, the 45 degree angle guidelines and was acceptable to the Highway

Authority. He referred to the objection to the visual impact of the parking proposals at the front of the site but that this had not raised concerns with the Highway Authority. The proposal had received five letters of support and one objection. He considered that he had met all the requirements of the Committee members but was willing to try other options if necessary.

The Planning Officer explained her concerns about the proposed parking arrangements to the front of the site, the loss of opportunity for landscaping that this presented and the encroachment to the front of the dwelling. She also referred to the lack of detail in the drawings and the cramped layout which may adversely affect the users of the adjacent footpath.

Some members of the Committee were of the view that a lot of work had been done to improve the design of the proposal and welcomed the options to deliver more parking spaces. The requirement not to reverse out of parking spaces was not considered reasonable given the practice observed to be adopted by other residents. Reference was made to the support offered by other residents and the change in the street scene already created due to the rendered appearance of the existing dwelling. The opportunity to improve the appearance of the site was also welcomed.

Other members of the Committee acknowledged the efforts made by the applicant to present an acceptable proposal for development but there were concerns that this still did not meet acceptable parking standards or design guidelines. Reference was also made to the untidy and unkempt nature of the site, the need for it to be maintained as a garden /open space and the measures that could be taken to improve its appearance other than development. In addition the existing character and layout of Harvey Crescent was considered to be important and the need to maintain the open aspect at each corner and the general integrity of appearance of the locality.

The Planning Officer confirmed that her view was that the proposal was not appropriate and it would not improve the character of the area. The Planning Manager acknowledged that, if the Committee was minded to approve the application, appropriate conditions should be applied to a planning permission.

As the discussion suggested that the Committee may be minded to approve the application contrary to the officer's recommendation in the report the Chairman invited the Committee to consider invoking the Deferral and Recommendation Overturn Protocol (DROP). The Committee did not support invoking the DROP and accordingly, the Chairman then invited the Committee to determine the application without deferral.

RESOLVED (EIGHT voted FOR and THREE voted AGAINST and ONE ABSTAINED) that the planning application be approved on the basis of the scheme of four and subject to appropriate conditions to be agreed by the Head of Professional Services.

The Committee considered an application for a proposed alterations and an extension at 19a Belle Vue Road, Wivenhoe. The application had been referred to the Committee because it had been called in by Councillor Liddy. The Committee had before it a report in which all the 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.

Chris Harden, Planning Officer, presented the report and, together with the Planning Manager, assisted the Committee in its deliberations. He provided details of an additional letter of objection which had been received from the resident at 19 Belle Vue Road, Wivenhoe.

Edwin Willett addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the applications. He explained that he was objecting to the application as he considered that the 45 degree angle guidance had not been complied with. He considered the building to be overbearing as the proposals provided for a two storey building although the neighbouring properties were chalet bungalow, the windows would be intrusive should the fence be removed and the sight lines had been undermined. He was unhappy that the application had been submitted over the Christmas and New Year period and he had been left with reduced time to submit his comments on the proposals.

Kevin Hall addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the applications. He explained that the dwelling was intended as a home to which to retire for the applicant. He referred to the extension which had been erected at no 20 Belle Vue Road and the previous removal of permitted development rights which had required the current proposal to be subject to permission by the Planning Authority. He was of the view that the extension was not overbearing as it was being constructed away from the boundary to the neighbouring property and a cupola had been added to the roof in order to reduce any negative impact whilst the 45 degree angle test had also been adequately satisfied. As such he considered that the proposal would not materially harm the amenity of either of the neighbouring properties.

Councillor Liddy attended and, with the consent of the Chairman, addressed the Committee. He explained that he had called in the application at the request of Mr Willetts on the basis that the proposals were overbearing and oppressive. He further explained that he was also a resident of Belle Vue Road but the application did not affect him personally. He referred to the objector's view that the proposal would reduce the natural light entering his property and, as such, his amenity would be adversely affected. The objector was also of the view that the extension could not be viewed in isolation of the host dwelling which was considered incongruous with the street scene and the addition of the extension would further increase the oppressive nature of the property and exacerbate the problems experienced.

The Planning Officer confirmed that the proposal did meet the 45 degree angle criteria,

the side window would not lead to overlooking issues as it was at ground floor level and screened by a fence. He explained that the submission of applications over the Christmas period was permitted and any reduction in time for comments was in relation to amended plans to illustrate the lower roof proposal. He considered there would be no loss of light for the neighbour as the proposal was ground floor only and was not a cramped form of development.

Some members of the Committee acknowledged the work done with the proposal to reduce any negative impacts but were concerned about the addition of an extension in the light of the permitted development rights removal. Reference was also made to the design of the extension and whether it could be considered inappropriate in the context of the surrounding area.

Other members of the Committee considered the more recent leniency of permitted development rights, the modest nature of the extension proposed and the compliance of the proposal with policies and guidelines regarding overlooking and loss of light.

In response to specific questions the Planning Officer confirmed the removal of permitted development rights did not prevent further development, rather that control was retained by the Planning Authority. He was also of the view that the extension, including the lantern feature in the roof included welcome design elements and, as such, did not constitute a reason for refusal.

The Planning Manager did not consider it reasonable to add a condition to provide for the retention of the side fence as any loss of privacy could be rectified by the neighbour whilst design criteria for developments at the rear of properties tended to be more lenient than those visible from the highway.

RESOLVED (SEVEN voted FOR, THREE voted AGAINST and TWO ABSTAINED) that the planning application be approved subject to the conditions set out in the report.

267 152438 40 Boadicea Way, Colchester

The Committee considered an application to retain additional windows, repositioning of side door and window in newly built garage at 40 Boadicea Way, Colchester. The application had been referred to the Committee because it had been called in by Councillor Hazell. The Committee had before it a report in which all the 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, Planning Officer, presented the report and, assisted the Committee in its deliberations.

Simone Bradshaw addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the applications. She explained that she had purchased her property adjacent to the application site 15 months previously since

which time she had lost over half of the natural sunlight entering her rear garden. She referred to overlooking from four windows in the proposed garage and the loss of access to her rear garden as a result of the garage construction.

Councillor Hazell attended and, with the consent of the Chairman, addressed the Committee. She explained that the construction of the garage had taken place some 12 months after that of the house which it was served by. She questioned the repositioning of the windows to the garage and referred to the size and height of the garage and the impact on the privacy of the neighbouring property in that it seriously affected the neighbour's ability to enjoy her leisure time. She also referred to the fencing in of the rear access to the neighbouring garden and considered, as the garage was capable of being used as a separate dwelling, that enforcement action should be taken to return the windows to their original position within the garage. If the Committee approved the application she requested consideration of conditions to prevent the use of the structure as a separate dwelling, the windows to be of obscured glazing in perpetuity and for the rear access of the neighbouring property to be reinstated.

Members of the Committee were generally of the view that the applicant should be required to revert the position of the windows to that illustrated in the existing planning permission and sympathised with the neighbour's concerns about the access to her rear garden. Reference was also made to the inclusion of conditions to provide for windows being of obscured glazing as well as non-opening and the door being non-glazed on the grounds of potential for noise, fumes and the perception of overlooking.

The Planning Officer confirmed that the existing permission for the garage included a condition to prevent its use as a dwelling and that this had been repeated for the current proposal. In addition conditions had been proposed to provide for obscured glazing in relation to the windows facing the neighbouring property. She explained that the windows and door facing the rear of the house on the application site were not causing harm, that conditions to provide for the reinstatement of the rear access to the neighbouring property were not considered reasonable as they were not relevant to the development and that this was a matter which needed to be the subject of separate legal advice by the neighbour. She went on to advise against refusal of the application on grounds of future use as the applicant had confirmed its use for the storage of cars and it was also proposed to apply a condition to address this eventuality. She also referred to the 1.6m boundary fence to the neighbouring property which provided screening to the garden and prevented overlooking from windows.

The Planning Manager took the opportunity to explain that a refusal of the application would mean that the site would revert to the existing permission which did not include any conditions to prevent the introduction of additional windows. The determination of the existing application would give the Planning Authority additional control as it would include conditions preventing additional windows. Given the Committee's discussions, he offered to arrange for further negotiations with the applicant with a view to securing

greater protection for the neighbour if that was possible.

RESOLVED (ELEVEN voted FOR and ONE ABSTAINED) that consideration of the planning application be deferred and the Head of Professional Services be requested to facilitate further negotiations with the applicant in order to seek a better level of protection to neighbouring properties, by means of an amendment to the proposed windows and to secure more control over the garage use and to report back to Committee in due course.