

# Planning Committee

Thursday, 27 August 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 Rosalind Scott (Group Spokesperson), Councillor Jo Hayes (Member)
- Substitutes:** No substitutes were recorded at the meeting

## 194 Site Visits

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

## 195 Minutes of 16 July 2015

The minutes of the meeting held on 16 July 2015 were confirmed as a correct record, subject to minute no 180 being amended to read:

“The following members attended the formal site visit: Councillors Buston, Chillingworth, Chuah, Cook, Hayes, Jarvis, Maclean, Moore, Scott, Scott-Boutell and Sykes.”

## 196 151216 Land off United Way, Colchester

The Committee considered a reserved matters (access, appearance, landscaping, layout, scale) application for the construction of a leisure centre pursuant to the outline planning permission granted on 21 March 2006, ref: O/COL/01/1622, at land off United Way, Colchester. The application had been referred to the Committee because it included a Section 106 agreement offered by the Applicant company. The Committee had before it a report in which all the information was set out.

Vincent Pearce, Major Development Manager, presented the report and assisted the Committee in its deliberations. He explained that an additional condition providing for parking facilities at least 39 bicycles, referred to in the report also needed to be added to those proposed on the recommendation.

Members of the Committee acknowledged the substantial development proposed and

welcomed the interesting and unobtrusive design of the building. Questions were raised about the retention of hedgerow planting, the use to be put of Tower Lane, a designated bridleway, the proposed composition of the car park surfacing, whether it would be possible to provide multi-storey parking in order to reduce the area of land to be allocated, the lighting arrangements for the Multi Use Games Area (MUGA) and whether it was possible to consider the use of a green roof for the leisure centre building.

Councillor Hayes requested that her regret for the loss of a large section of hedgerow be recorded.

The Major Development Manager explained that the MUGA was intended to be marked out for a whole range of sports to be played, lighting would be switched off at night-time and the facilities would be managed by David Lloyd Ltd on behalf of the Council. He was doubtful that any profit generated would be substantial but it was hoped that it would be sufficient to enable funds to be reinvested such that the MUGA would be adequately maintained for the future. The existing hedgerow would be supplemented with additional planting as the importance of reading the historic landscape was acknowledged. He also provided an explanation of the planned bridleway and footpath network to be created through the North of the town. It was explained that the Sustainable Drainage Scheme had yet to be approved but it would be possible for negotiations to continue to provide for the use of a permeable surface for the car park. In terms car parking land area, the proposals to secure the delivery of a shared multi-storey car parking provision in the North Colchester area were outlined and investigations were continuing to identify whether it was considered possible for a green roof to be provided for the leisure centre building.

*RESOLVED (UNANIMOUSLY) that –*

- (i) 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, authority be delegated to the appropriate Head of Service to complete the agreement and to provide the following, as freely offered by the developer/operator within their operational ethos in building links with the community beyond its own membership:-
  - (a) Delivery of the proposed MUGA for community use at nil cost to the Council on an agreed basis and for this facility to be retained and managed by David Lloyd Ltd (or successors in title) to an agreed standard in the community interest in perpetuity unless otherwise agreed by the Council;
  - (b) An agreed recruitment scheme which facilitates the Council and the Job Centre being advised of forthcoming suitable job vacancies ahead of the new facility opening;
  - (c) An agreed user and coaching scheme which allows 200 hours of free court time per annum to nominees being coached by Council coaches

and

- (ii) Subject to the receipt of further information showing and/or describing:-
  - (a) Full external lighting details including light spillage diagrams;
  - (b) Full external mechanical plant and associated acoustic screening (including dome inflation apparatus);
  - (c) Full drainage details including calculated flow rates and capacity calculations for the attenuation ponds;
  - (d) Full external material specification;
  - (e) Highways England confirming in writing that it had not appreciated the reserved matters nature of the proposal and in the light of this it withdraws its objection;
  - (f) Full landscaping details

and that information being considered acceptable by the Council as Local Planning Authority (after appropriate discussion with its relevant consultation partners) then:-

- (iii) The appropriate Head of Service be authorised to grant planning permission subject to conditions including:-
  - (a) Condition to ensure that conditions applied to the outline planning permission ref O/COL/01/1622 where relevant continue to apply;
  - (b) condition to require the implementation of such details as shall have been approved as a result of this approval or as a result of the additional information required above being submitted and found satisfactory prior to the use commencing and thereafter being retained;
  - (c) Retention of the community MUGA for community use and not to be incorporated into club membership use;
  - (d) As may be required by consultees where these are, in the view of the Local Planning Authority, appropriate;
  - (e) Condition providing for cycling parking facilities for at least 39 cycles.

**197 151141 Birch Airfield, Blind Lane, Birch, Colchester**

**Councillor Chillingworth (in respect of his involvement with the applicant in the preparation of agricultural reports for proposals outside of the Borough) declared a pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination. He had also withdrawn from participation in the visit to the location undertaken by the Committee members.**

**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 an extension to the Solar Farm approved under application no 145133 to allow for re-planning of the existing scheme and inclusion of a Community Solar scheme at Birch Airfield Blind lane Birch. The application had been referred to the Committee because it was a Major application, in response to which, objections had been received. 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 proposal upon the locality and the suitability of the proposal for the site.

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

**198 151071 Bungalow Diner, 45 London Road, Marks Tey, Colchester**

The Committee considered an application for the erection of one fascia sign measuring 1.000 height x 4.000 width and 0.150 depth and one other sign measuring 5.000 height x 0.200 width and 0.100 depth at the Bungalow Diner, 45 London Road, Marks Tey. The application had been referred to the Committee at the request of Councillor Blundell. 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 proposal upon the locality and the suitability of the proposal for the site.

Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations.

Joseph Greenhough addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the Diner had been a busy independent transport café for a number of years and it currently employed seven full time members of staff. The current owner was seeking to provide a distinct identity for the business in order to attract new customers. The application had avoided the use of any neon lighting on the basis that a restrained approach which would not cause amenity harm was preferred. He considered the officer's report to be very thorough and requested the Committee to support the recommendation.

Councillor Blundell attended and, with the consent of the Chairman, addressed the Committee. She explained that she had lived in Copford for 40 years and was familiar with the café which had been operating for a considerable proportion of that time. She was concerned about the garish colours of the new signs, the proposal for external lighting and the proposed five metre height of the forecourt sign. She referred to recent problems for neighbouring residents due to noise disturbance from café users' vehicles and the fact that the café did not currently have any restriction on its hours of operation. She understood the wish for the owner to attract more customers but she was of the view that the proposed forecourt sign would be distracting to road users, cause highway

and safety problems and would have a harmful effect on the appearance of the location. She considered the application may have an impact on crime and may increase residents' fear of crime. She requested the Committee to refuse the application and for the application to be replaced with a proposal for a sign of a lower height.

Some members of the Committee questioned the appropriateness of the American themed design of the signage as well as the proposed five metre height of the forecourt sign. Other members were of the view that the existing signs tended to create a cluttered overall appearance and acknowledged benefit would be gained if the erection of the sign at the top of a pole would lead to the removal of various existing signs on the site boundary and the boundary of the neighbouring detached house. Reference also was made to the need for the times of illumination of the signs to be regulated. Notwithstanding differing opinions about the design and height of the signs, generally it was considered that there were insufficient grounds to refuse the application whilst its approval would provide the opportunity to tidy up the existing signage.

The Planning Manager confirmed there were other signs further along London Road which were of a similar height although slightly lower but more solid in appearance and that standard night time hours were usually deemed to be after 11pm and before 7am.

*RESOLVED* (ELEVEN voted FOR and ONE voted AGAINST) that the planning application be approved subject to the conditions set out in the report with the proposed condition 5 being amended to provide for the sign illumination to be switched off at 11pm or at the closing time of the Diner, whichever is earlier and with an additional condition to provide for the removal of the existing advertising signs along the frontage of the Diner and the neighbouring detached house upon the erection of the new signs.

#### **199 151269 11 Glen Avenue, Colchester**

The Committee considered an application for a proposed replacement dwelling for private use (existing dwelling and garage to be demolished) at 11 Glen Avenue, Colchester. The application had been referred to the Committee at the request of Councillor Buston. 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 proposal upon the locality and the suitability of the proposal for the site.

Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations.

Dick Barton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was addressing the Committee on behalf of a number of objectors. He explained that the existing building was a originally a farmhouse and was the only building on the Eastern side of Lexden Parish. He regretted the building did not benefit from any form of protection as a result of any listing designation and he considered that the opportunity should have been taken to renovate

the building rather than replace it. He was concerned about the size of the proposed redevelopment, bearing in mind what he considered to be a small site. He also considered the development would have an adverse effect on neighbouring properties in Bramley Close. He welcomed the numerous conditions recommended in the report and hoped they would all be enforced vigorously

Councillor Buston attended and, with the consent of the Chairman, addressed the Committee. He confirmed that he had called in the application on behalf of local residents. He was disappointed that the existing house had 'fallen through' the listing process as he was of the view that it was uniquely charming and of unique construction. It was an 1850s built farmhouse which would be unacceptable to lose. The proposed new dwelling was three times the size of the existing building and, by definition, would be overbearing and out of character so far as the neighbouring properties were concerned. He did not consider the issue of overlooking from the existing plot to be relevant as the farmhouse had existed before the neighbouring properties were built. He acknowledged it wasn't possible to preserve old buildings indefinitely but he was of the view that the applicants should reconsider their proposals and seek to preserve the existing building.

The Planning Manager explained that the applicants did not require planning permission to demolish the existing building and, as a consequence, its loss had to be accepted. Additionally, the building had not been listed as it was not considered to be of adequate quality. He also explained that the planning system was intended to assist and facilitate owners of property rather than to obstruct their intentions. Bearing this in mind, the size and character of the proposed dwelling was considered to be in-keeping and of an acceptable size compared to many in the neighbourhood.

Members of the Committee acknowledged the unusual gothic character of the old farmhouse with its pleasing window features, the mixed design context of the neighbourhood as well as the predominantly Georgian design features proposed for the new dwelling. Generally however, members of the Committee were of the view that there were no grounds upon which to base a refusal of permission. Reference was made, however, to the possibility of photographic records of the existing building being preserved and for a condition to be attached to provide for the retention of trees on the site.

The Planning Manager confirmed the possibility of adding a condition to provide for the recording of the existing building, that an existing condition already provided for the retention of trees the need for a minor rewording to Condition 16 and he also suggested the addition of a further condition to provide for the removal of permitted development rights in respect of outbuildings and extensions.

*RESOLVED* (TEN vote FOR and TWO ABSTAINED) that the planning application be approved subject to the conditions set out in the report with Condition 16 being amended to include the word 'place' after the word 'take' and additional conditions to provide for

the:-

- (i) Removal of permitted development rights for outbuildings and extensions
- (ii) Recording of the existing building prior to its demolition.

**200 151516 123 Gosbecks Road, Colchester**

**Councillor Lilley (in respect of his Board membership of Colchester Borough Homes) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for the replacement of existing PVCU framed double glazed windows and doors and the installation of a new external fire escape staircase at 123 Gosbecks Road, Colchester. The application had been referred to the Committee because the agent for the applicant was Colchester Borough Homes. 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.

**201 151318 35 Yorick Road, West Mersea, Colchester**

**Councillor Chillingworth, on behalf of the members of the Conservative Group (in respect of their acquaintance with the applicant) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).**

**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).**

**Councillor Moore (in respect of her close association with the applicant's family and the location) declared a pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination.**

The Committee considered an application for first floor and rear extensions at 35 Yorick Road, West Mersea. The application had been referred to the Committee because the applicant was related to a Borough Councillor. The Committee had before it a report and amendment sheet in which all the information was set out.

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

Mary Neville addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She voiced her concerns that the objections she had submitted to the proposal had been over ridden. She

referred to the increase in height to the flank wall, the larger area of the gable end by 30% and the cladding and soffits being within 25 inches of the boundary. She considered this to be overbearing with a negative effect on the amenity of her property due to loss of light. She also referred to the proximity of the proposed extension to the property at no 33 Yorick Road and she referred to the potential for the roof to be raised in the future under permitted development rights to provide for additional bedrooms. She mentioned an error in the report in relation to the correct elevation of the bathroom window. She acknowledged the variety of house sizes in Yorick Road but considered that the larger houses were located on larger plots. She considered the proposal to use cladding would not be in-keeping with the street scene and she asked the Committee to consider all her comments in coming to its decision.

Jamie Kelly addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposal was to increase the ridge height of the property and to provide a first floor and single storey extension. The original proposals had been revised in order to accommodate the concerns of the neighbours. He considered that the size and scale to be acceptable given other properties of higher dimensions existing in the street. The retention of the eaves at the existing height would reduce the impact to the neighbouring property in addition to revisions to the original proposal which would improve privacy.

The Planning Officer confirmed that the reference to the elevation of the bathroom window was in correctly stated in the report but was correct in the suggested condition and that the glazing to the bathroom window would be obscured. He suggested that the removal of permitted development rights would provide future control in relation to windows at the rear of the property and the height of the roof but this had not been considered necessary as it was already adequately controlled in the General Permitted Development Order. He considered the proposed increased height of the roof to be relatively modest and, as such, avoided any detrimental impact on neighbouring properties.

The Planning Manager indicated his view that, given the views expressed by the objector, the Committee may consider it appropriate to provide for the removal of Permitted Development rights in relation to the addition of a box dormer window.

Members of the Committee confirmed that, from a planning point of view, the impact of the proposal was reasonable, as such, the proposal was considered acceptable and the suggestion to remove permitted development rights in relation to a dormer window was prudent.

*RESOLVED* (UNANIMOUSLY) that the planning application be approved subject to the conditions set out in the report and an additional condition to provide for the removal of Permitted Development rights in relation to a box dormer window.

## **202 Garrison Urban Village Development // Amendment to mortgagee exclusion**

The Committee considered a report by the Head of Commercial Services giving details of a request from Chelmer Housing Partnership for a deed of variation to the Garrison legal agreements (both the Section 299a agreement and the Section 106 agreement signed in relation to the development of Area S2SW) in respect of mortgagee exclusion.

Alistair Day, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. He explained that the Outline Garrison Urban Village development had been granted planning permission in June 2003 and was subject to legal agreements, which covered, amongst other obligations, the provision of affordable housing. However, the mortgagee exclusion in the agreements was considered defective by lenders to the Registered Providers and, as such, they would only lend finance at a reduced value. The proposed variation to the legal agreements would enable Chelmer Housing Partnership, as the Registered Provider, to raise additional finance for the provision of affordable housing and would not affect the number of affordable housing units that had been agreed as a part of the Garrison Urban Village development.

The amendment sheet acknowledged that it was considered likely that other providers of affordable housing would seek similar amendments in the future and an amended recommendation was proposed to reflect this.

*RESOLVED* (UNANIMOUSLY) that:-

- (i) The requested Deeds of Variation to the Section 299a agreement dated 30 June 2003 and the Section 106 agreement dated 22 May 2012 in request of the requested changes to the mortgagee exclusion clauses be endorsed
- (ii) The Head of Commercial Services be given delegated authority to approve further Deeds of Variation in respect of the mortgagee exclusion clauses should other Registered Providers on the Garrison development request such a change.

## **203 Planning Performance End of Year Report for 2014/15**

The Committee considered a report by the Head of Professional Services giving details of the Planning Services' performance against various measures and Key Performance Indicators for the period 1 April 2014 to 31 March 2015 with comparative figures for previous periods in order to give some context to the performance achieved.

Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations. He also confirmed that he was not aware of any enforcement prosecutions being unsuccessful.

Members of the Committee welcomed the information provided in the report and congratulated the Planning Officers on the performance achieved. It was noted that a very small number of Committee decisions had been the subject of appeal and further

information as to which decisions these related to was requested.

*RESOLVED* that the performance of the Planning Service for the 2014/15 year be noted and arrangements be made for a detailed breakdown of Committee decisions subject to subsequent appeals to be presented to the Committee at a future meeting.