

**PLANNING COMMITTEE  
7 JANUARY 2010**

*Present :-* Councillor Ray Gamble (Chairman)  
Councillor Sonia Lewis (Deputy Mayor)  
Councillors Mark Cory, Stephen Ford,  
Theresa Higgins, Jon Manning and Ann Quarrie

*Substitute Members :-* Councillor Laura Sykes  
for Councillor Helen Chuah  
Councillor Richard Martin  
for Councillor John Elliott  
Councillor Christopher Arnold  
for Councillor Andrew Ellis

*Also in Attendance :-* Councillor Andrew Ellis

(The Committee did not undertake any formal site visits.)

#### **158. Minutes**

The minutes of the meeting held on 17 December 2009 were confirmed as a correct record.

**Councillor Ray Gamble and Councillor Jon Manning (in respect of each being a season ticket holder for Colchester United Football Club) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Jon Manning (in respect of his employer, the University of Essex, being the current provider of training facilities for Colchester United Football Club) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

#### **159. 091627 Land adjacent (South), Grange Road, Tiptree**

The Committee considered an application for a change of use of agricultural land to a sports field with minor regrading and drainage of playing areas, associated vehicular parking and access from Grange Road, and provision of cycle/footway links to Harrington Close and Vine Road. This application is a resubmission of a previously refused application. The Committee had before it a report in which all information was set out, see also amendment sheet.

Vincent Pearce, Planning Service Manager, attended to assist the Committee in its deliberations. He described the site and its land use allocation in the Local Plan and in the emerging Local Development Framework (LDF), in which document the site was allocated for mixed use including open space. He referred to the significant residential developments on two sides of the site which would be protected by a series of baffle zones of 40 metres within which no football activity could take place. He highlighted that all consultees including the Parks and Recreation Service, the Tree Officer and the Landscape Officer, had supported the application. At an appeal the defending officer would have to show what the demonstrable harm would be and if no demonstrable harm can be shown, then a refusal cannot be justified. The Committee had refused the most recent application on the grounds that the development did not have sufficient community use. He referred to Policies PR1 – Open Space, Sport and Recreation Facilities, ENV1 – Environment, and ENV2 – Rural Communities and PPG17 – Open Space, Sport and Recreation. Developer contributions for Open Space and Community Facilities set out in the supplementary policy document applied only to residential developments. PPG17 states there is an identified need in Tiptree for 9.2 pitches in the future, however this document does not differentiate between public and private facilities. The level of community use required for the borough had not been identified in any policy document. In relation to this application, it could be the number of pitches, the number of occasions when they can be used, or the groups that can use the pitches. The applicant had offered one pitch for community use in an environment where the Council did not have a policy to expect any pitches, and was proposing that two local teams would have first call on that community pitch. The pitch would be available for three matches a week which would preserve it from over-use. He emphasised that Conditions 11 and 12, relating to the community use pitch, would need to be linked to ensure that the Community Use Scheme was satisfactory.

Mr Caffrey addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. This site is outside the Tiptree boundary on a greenfield site and does not offer any open space. He referred to the previous reasons for refusal and to the fact that reference to the site allocation in the LDF process was premature. He described the building as large with forty-five parking spaces. The proposal involved excavation and the provision of an industrial fence. Such a proposal was not appropriate in the countryside because it included non-essential elements for support. His view was that this was a commercial development in the countryside and the local character assessments for Tiptree argues against such development in favour of all new sports facilities being sited at Tiptree Sports Centre. Only four local teams would be able to use the community pitch from a large population. All the reasons for refusal

on the previous application applied to this application. He asserted that the Council's defence statement at the appeal should be supported.

Mr Robbie Cowling addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The two earlier applications were recommended for approval. On both those occasions it was turned down because of a lack of community use. He was very passionate about the community use; the pitch was not a grass field, but would be a high specification playing surface, one of the best in Essex; other pitches may have poor playing surfaces. It would be more viable to provide a floodlit pitch but that is not what Tiptree wants. This pitch will be used for five-a-side enabling the pitches at the Warriors Rest site to be used for mini football. This pitch would provide Tiptree with its requirements without using any public funds. His business supported other sporting facilities. He understood the reasons why residents wanted this site to remain as undeveloped farmland but he considered that this might not be an option because the land would be developed and this proposal was a low impact one.

Councillor Ellis attended and, with the consent of the Chairman, addressed the Committee. This proposal is identical to the earlier one. It was still a commercial enterprise seeking to locate a sporting facility on the boundary of Tiptree, miles from the football ground. There would still be one, so called quality community pitch for use only by designated teams and this was just not a good enough community gain. Tiptree had suffered from years of a lack of sufficient planning gains. The community pitch was not subject to a legal agreement. There were numerous objections on highway grounds, noise, etc., which had been submitted to the Inspector for the appeal hearing. Planning Policy Guidance 17 and Planning Policy Statement 7 relate to community use whereas this proposal is for a commercial use. He was not clear why the Highway Authority had supported the proposal. He was aware that the Council would consider small scale rural businesses on sites outside, but contiguous with the village boundary, but he was of the opinion that this was not a small scale proposal. He considered that the proposal would have a negative impact on the environment and would not provide local employment or affordable housing. It contravened policies ENV2 and ENV1 with no benefit for the community; the facilities being offered would benefit less than 1% of the community. The LDF allocation has not yet been approved by an Inspector. He considered that the application would do irreparable harm to Tiptree. This was not about a football training ground, but was the start of a large scale residential development on an adjacent parcel of land.

In response the Planning Service Manager acknowledged the comments made by Mr Caffrey, but it was also necessary to have regard to existing

policies which encourage the provision of sports and recreation facilities, and an area close to a village is a suitable location if it does not cause demonstrable harm. These facilities do make some contribution towards community use. In respect of traffic issues, the Highway Authority had raised no objections, subject to conditions. In response to Councillor Ellis' comments, the Planning Service Manager explained that whilst the residents may consider this proposal may be paltry, he cautioned that there was no policy available to the Committee which described the amount of facilities required for local people in a scheme which delivers sports facilities so the Council cannot demonstrate whether or not one pitch was sufficient. There was a view in the Parks and Recreation Service that they would support this scheme in this location without any community provision. Previous tangible benefits in Tiptree were not secured but this application could not be expected to make up that historical shortfall. There was no reason for refusal on the grounds of noise because of the restriction on the hours of use and the provision of a baffle zone. There was nothing in the proposal which was contrary to the policies cited by Councillor Ellis. In respect of the emerging LDF proposals, if the preferred option is approved and adopted, the residents of Tiptree must expect further development in this part of Tiptree, but that is not a planning consideration for this application.

Members of the Committee raised various issues which included:-

- local football teams are a small part of Tiptree itself,
- this site is outside the village envelope and officers normally try to protect the countryside,
- the community use offered of one pitch is insufficient gain,
- development outside the village envelope would need exceptional circumstances or reasons which have not been supplied by the applicant. An appropriate gain could be the small parcel of land to the northwest of the site comprising 7 acres to be given for public open space together with a lump sum to change it from agricultural to a public park,
- regret that there was no time for negotiations to take place on what else could be achieved in respect of community use. It might have been possible for the two sides to come to an agreement on more benefits for Tiptree,
- the issue should be determined by an independent Inspector at a public inquiry.
- there appeared to be no justification for a refusal in planning terms,
- there were no policy reasons to oblige the applicant to provide any community use,
- a suggestion that there be some negotiation on the Community Use Scheme referred to in Condition 12.

In response the Planning Service Manager explained that the small parcel of land referred to above would be allocated as open space in the LDF and if the Inspector accepts the LDF proposal a discussion can be held, but the Council cannot require the applicant to provide that area as public open space. Whilst it would be unusual for members to have an input into discussions to discharge a condition, there appeared to be no reason why they could not do so. It was imperative that Conditions 11 and 12 are linked.

*RESOLVED* (FOUR voted FOR, THREE voted AGAINST and THREE ABSTAINED from voting) that the application be approved with conditions and informatives as set out in the report and on the amendment sheet together with the following amended Condition 11:-

“None of the sports pitches shall be brought into use until one sports pitch has been laid out and made available for community use in accordance with such details as shall have first been approved in writing pursuant to condition 12. Thereafter one sports pitch (which shall be of an adult specification with minimum dimensions of 100 metres in length and 65 metres in width) shall be made available on the site for such community use during all permitted playing times.

Reason: To ensure that the approved scheme incorporates an appropriate level of community use.”

#### **160. 091380 35 New Road, Tiptree**

The Committee considered an outline application for the demolition of a detached bungalow and the erection of three detached two storey houses, the layout of a private drive, manoeuvring and amenity areas, cart lodges and garden sheds and alteration to the vehicular access onto New Road. The application is a resubmission of 090134. The Committee had before it a report in which all information was set out.

Andrew Tyrrell, Principal Planning Officer, attended to assist the Committee in its deliberations. It was explained that this application includes all matters except landscaping which was the only reserved matter. Attention was drawn to two windows which did not meet the Essex Design Guide (EDG) standards; one served an ensuite room and would be obscure glazed, the other was a landing window which was not a habitable room.

Mr Robert Urand addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He had three main objections. The development was out of character with the surroundings; there were issues of overlooking, overshadowing and loss of

light; and landscaping. The area comprised mainly detached and semi-detached properties at a density of seventeen dwellings per hectare (dph). The private amenity space for each new house was close to the minimum and out of character with the surrounding properties. One of the new houses was only three metres distant from his house which would be overshadowed and overlooked; and sunlight would be blocked from the south side. The houses are closer to the northern end of the site than they need to be. No details of the landscaping scheme are provided only broad principles. Generous garden sizes are essential to preserve the open character of the village, particularly as there is a significant lack of open space and private gardens could help to make up for the deficiency.

Mr Stewart Rowe addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This application followed a withdrawal of an earlier scheme following concerns on design and highways issues. The number of units has been reduced from five to three addressing highways objections and the access has been moved further away from the junction. Following discussions with the Design Officer, the design issues have been resolved. The density of the development is 25 dph which is below the national minimum. He did not see any reason why the existing density should not be reflected in this proposal. He believed this was a well designed scheme with normal requirements of open space. The three metre relationship of the scheme to the house to the south was acceptable in an urban area.

The Planning Officer responded that the scheme met the EDG adopted standards in respect of impact on privacy and light and a refusal on those grounds could not be sustained. Amenity space and parking provided were adequate and this was not necessarily over development of the site. The garden sizes were 106sqm, 119sqm and 120sqm which were more than 75sqm. The design was not considered out of character, but is of its era. This area comprises predominantly two storey dwellings. Landscaping is a reserved matter and will be negotiated and determined when that application is received.

Members of the Committee raised the following issues:-

- an explanation was requested regarding hedging,
- a query was raised regarding the greater gap between the new properties than between the new and the existing property at the northern end of the site,
- there were preferences for the properties to front onto and/or gain access via Keeble Close,
- an explanation was requested on whether the windows of any existing properties were affected, it was suggested that the landing window,

referred to earlier, be obscure glazed.

The Planning Officer responded by explaining that the hedging along Keeble Close boundary had very little ecological value but in any case was not in the applicant's ownership. The three metre distance from the existing dwelling was acceptable in terms of impact on light and met the EDG requirements so there would need to be some justification to ask for revised layout.

However, there were fourteen days before the decision needed to be issued, and as the applicant had indicated his willingness to revise the layout, it would be possible to negotiate the repositioning of dwellings. The two properties to the north now face out onto the street scene which was one of the reasons for refusal of the previous application. There would be no effect on neighbouring windows as the 45 degree line taken from their windows did not intersect the new properties. The 25dph density of the development was between the 30dph EDG minimum and that of the local area of 17dph.

*RESOLVED* (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for negotiation to reposition the dwelling on plot 3, to achieve an increase in the distance between the dwelling at 1 Keeble Close and the nearest new dwelling.
- (b) Upon the successful completion of negotiations referred to above, the applicant be requested to complete a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.
- (c) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the amendment sheet.
- (d) If the negotiations to reposition the dwelling on plot 3 are unsuccessful, the application to come back to the Committee for determination.

**Councillor Richard Martin (in respect of being the applicant) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and he left the meeting during its consideration and determination.**

**161. 091448 Vingt Trois, The Basketworks, Grange Road, Tiptree**

The Committee considered an application for the demolition of a dwelling house and its replacement with a new bungalow. The Committee had before it a report in which all information was set out.

*RESOLVED* that the application be approved with conditions and informatives as set out in the report.

**162. 091391 The Acacias, Bacons Lane, Chappel**

The Committee considered an application for the retention of a vehicular access and continued use of the land for keeping livestock. The Committee had before it a report in which all information was set out.

*RESOLVED* that the application be approved with conditions and informatives as set out in the report.

**163. 091494 Unit 4, 13 High Street, West Mersea**

The Committee considered an application for an additional use of a tea room/café premises to include A3 use as a restaurant, and A5 use for takeaway sales, together with extended opening hours from 0800 hours to midnight. The Committee had before it a report in which all information was set out, see also amendment sheet.

*RESOLVED* that the application be approved with conditions and informatives as set out in the report.

**164. 091504 Tower View, Pennsylvania Lane, Tiptree**

The Committee considered an application for the erection of a dwelling on the site. The Committee had before it a report in which all information was set out.

*RESOLVED* that –

(a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.

(b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of

Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the amendment sheet.

**165. 091514 86 London Road, Marks Tey**

The Committee considered an application for the replacement of an existing stand alone ancillary storage facility with a purpose built building to form a new pharmacy. This application is a resubmission for a slightly larger building than that previously approved and with some changes to the design. The Committee had before it a report in which all information was set out, see also amendment sheet.

*RESOLVED* that the application be approved with conditions and informatives as set out in the report.