

PLANNING COMMITTEE 12 AUGUST 2010

Present :- Councillor Ray Gamble* (Chairman)
Councillors Peter Chillingworth*, Helen Chuah*,
John Elliott*, Stephen Ford*, Jon Manning*,
Philip Oxford* and Laura Sykes*

Substitute Members :- Councillor Mike Hardy for Councillor Andrew Ellis
Councillor Barrie Cook for Councillor Theresa Higgins*
Councillor Richard Martin for Councillor Jackie Maclean*
Councillor Jill Tod for Councillor Ann Quarrie*

Also in Attendance :- Councillor Martin Goss
Councillor Dave Harris
Councillor Colin Mudie
Councillor Kim Naish

(* Committee members who attended the formal site visit.)

60. Minutes

The minutes of the meeting held on 29 July 2010 were confirmed as a correct record, subject to the deletion of the words "Chairman of Stanway Parish Council" after the words "Councillor Lesley Scott-Boutell" from the seventh paragraph of minute no. 57.

61. 101311 88 and 90 Mersea Road, Colchester, CO2 7RH

The Committee considered an application for two semi-detached three bedroom dwellings, one with an integral garage. The application is a resubmission of 100446. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to the matters raised by objectors and confirmed that the proposed development complied with the guidelines for backland and infill development.

Mark Burrows addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the planning history of the site and a number of aspects of the development which he objected to, specifically the loss of trees and hedges, loss of privacy, the appearance of the proposal being out of keeping with the existing houses, the detrimental effect on the nature conservation area and on bats which have been seen flying within the close, landscaping, overdevelopment and loss of on street parking.

Councillor Harris attended and, with the consent of the Chairman, addressed the Committee. He was concerned at the impact on Mersea Road and Dudley Close. He considered that this application could set a precedent and that two three-bedroom dwellings was too much for the plot and was concerned that the developer would not have to live with the consequences as he did not live in the host dwellings. He considered that parking could become a problem, particularly if the integral garage attached to one of the new dwellings was converted into dwelling space at some stage in the future. He asked that the application be refused.

Councillor Naish attended and, with the consent of the Chairman, addressed the Committee. He was concerned that previous refused applications may be resubmitted in the future. He referred to bats, foxes and slow worms being seen in the area and asked if an environmental study had been undertaken. He questioned whether the houses were needed because there were new houses available nearby. He also asked that the application be refused.

Councillor Mudie attended and, with the consent of the Chairman, addressed the Committee. He disliked the notion of garden grabbing to get as much profit as possible. This proposal would blight the life of residents who should be listened to. He believed that the resident who lived immediately adjacent to the development site, had not been notified of the application. He also referred to certain documents on the website lodged under this application number having nothing to do with this application. He asked for a deferral so Mr Hamersley could submit his views.

In response to these comments it was confirmed that Mr Hamersley had been consulted in time for his views to be reported and that the plans for this application had been available at all times. In respect of garden grabbing, it was confirmed that gardens were no longer regarded as brownfield land, but planning authorities could make their own decisions on the type of development permitted. The degree of separation was in accordance with the adopted guidance and the form and scale of development was considered to be broadly in line with existing properties, albeit with a slightly higher roofline. He also referred to a condition requiring slab levels to be submitted and approved. It was suggested that a condition be added to prohibit the conversion of the integral garage to dwelling space. It was acknowledged that most of the existing properties had generous driveways providing ample parking and to the loss of a small length of on street parking, which was not considered to be significant, particularly as there was no wish to encourage on street parking. It was confirmed that there was no indication of a bat roost nor of any other protected species so an ecological report had not been required.

Members of the Committee sought clarification on the amount of off street parking a dwelling should provide and it was confirmed that the guidance required two and a quarter spaces for each unit, but that where the number of units was less than four then two spaces for each unit was considered to be reasonable; a deficit of a quarter of a parking space was not considered to provide sufficient grounds for a refusal. In regard to the lack of a response from the Highway Authority, it was explained that they had not objected to the previous application nor to this application but they had queried the size of the parking bays in the earlier application; this point had been addressed in this

application. It was also confirmed that none of the trees on the site were protected so they could be removed at any time provided the removal was undertaken outside the nesting period.

RESOLVED (MAJORITY voted FOR) 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 together with an amendment to condition 6 to provide for the garage to be retained for parking and an additional informative that tree removal should take place outside nesting times.

Councillor Laura Sykes (in respect of being a member of Stanway Parish Council and the applicant's agent being her neighbour) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

62. 101277 5 Millers Lane, Stanway, CO3 0PS

The Committee considered an application for the demolition of an existing commercial outbuilding and a smaller outbuilding on the boundary with 3 Millers Lane, and the erection of a pair of one and a half storey dwellings to the rear. The application is a resubmission of 100740. 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 proposal upon the locality and the suitability of the proposal for the site.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations.

Councillor Scott-Boutell addressed the Committee in her capacity as a resident in the immediate vicinity, pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Her main objections concerned highway issues, specifically that the Highway Authority had requested visibility splays which were impossible to implement; and it was only by moving the entrance northwards were they almost achievable and then the relocated driveway would be opposite the driveway of no. 6A. She was concerned that this section of the lane was used by students and was a rat run and a cut through by traffic police; there was no safe parking for visitors. The development would increase the sense of a loss of privacy. She requested clarification regarding boundary fences and distances required to protect tree roots.

In response to these comments it was explained that there was no requirement for a tree assessment because the distances of the dwellings from the boundary were not

sufficient to require one. Whilst the report did acknowledge some overshadowing of properties to the north, the impact was not sufficient to refuse the application because it complied with standards. The Highway Authority were satisfied that there was sufficient space for vehicles to turn round and exit the site in a forward gear. The width of the driveway would be 4.8 metres which would enable two cars to pass. The Highway Authority had asked for a vehicular visibility splay, a pedestrian visibility splay and parking and turning areas to be left unobstructed. By re-positioning the entrance the splay was almost but not quite achieved, but this slight shortfall was not considered sufficient a reason for refusal.

Some members of the Committee were concerned about parking issues in Millers Lane and the conflict between children using the pedestrian exit from the field and the vehicular exit from the site. It was suggested that some form of barrier might be a solution to this potential conflict. The parish council had expressed concern that the off street parking arrangements were insufficient to exit the site onto Millers Lane in a forward gear. One suggestion to overcome this concern was that the properties could be moved further westwards and the entrance moved further northwards but other members of the Committee considered there to be an adequate turning area within the site to enable cars to exit the site in a forward gear. It was noted that there were no parking restrictions in the lane and the views down the lane in both directions were adequate but there remained the difficult pedestrian exit from the field.

The planning officer commented that the proposal to remodel the field entrance and moving the vehicular exit further to the north would improve the potential conflict between vehicles and pedestrians. However, the installation of measures at the field entrance was dependent on the land ownership and any barrier should not reduce the width for wheelchairs and prams. On inspection it did appear that the field entrance was within the red line but if this proved not to be the case any measures might need permission from the landowner.

RESOLVED (MAJORITY voted FOR) 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 with an additional condition to provide a barrier being put in to stop children running across the site vehicular access from the field.

63. 100983 Area K1, Abbey Field Urban Village, Butt Road, Colchester, CO3 3DS

The Committee considered an application for Conservation Area consent for the demolition of the stables blocks, SUP8, SUP9 and IC9, the ablution/wash house and a modern 20th century building. The Committee had before it a report in which all

information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that the application for listed building consent be approved with conditions and informatives as set out in the report.

64. 100763 East Road, West Mersea

The Committee considered an application for a change of house types to four plots on the development known as Wellhouse Green. The most significant change was to plot 1 which has permission for a two bedroom bungalow with a shallow pitched roof and the proposed house type is a house with a steeply pitched roof with three bedrooms in the roof. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet.

65. 101267 6 Braiswick, Colchester, CO4 5AX

The Committee considered a retrospective application for the retention of a storage building erected early in 2009. The application is a resubmission of 091368. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. It was regretted that this matter had taken some time to resolve, but in itself it was an acceptable proposal which did not harm local amenity and was conditioned to protect amenity; the building was not to be used for industrial purposes. There had been an issue with privacy from a window but the applicant had offered to infill the window.

John Kissonerghis addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application; he was also representing residents at 9 Warwick Bailey Close, 8 Braiswick and 14 Bluebell Way. He objected to this application on the grounds that this was an industrial sized storage building which was only 25% smaller than the previous application which had been refused. He had invited the planning officer to visit their house and view the impact from every window but the offer had not been taken up. The building affected their quality of life and their sense of garden space and it impacted on the street scene. He did not understand the need for such a large storage building which the applicant had provided for one flat. On the grounds of Health and Safety, he asked if there were any restrictions on the type of materials stored, for instance hazardous and inflammable materials, because a recent explosion in a garage in Braiswick had resulted in the destruction of the building and the house itself.

Councillor Goss attended and, with the consent of the Chairman, addressed the

Committee. This application has caused a great deal of frustration amongst residents. The applicant had shown complete disrespect for the planning process by putting in various applications and not complying with officers' requests to come back in a timely fashion. The building had been in its current state for over a year; it was totally unacceptable because of its ugly appearance and large size. He believed that the applicants lived on a caravan site and had previously tried to live on this site; he was concerned that attempts may be made to use the building as a residence whether or not there were any windows. No action had been taken against the unauthorised building. There was no mention of the height of the building or the ground levels in the report. The building obscured residents' views. The tree mentioned in the report as requiring protection has already been damaged, so protection measures were too late. In summary he considered that a great deal of disrespect has been shown to all affected and future maintenance of the building was a concern. He asked that the application be refused or that the Committee visit the site.

It was explained that this was not an industrial scale building and it did not impinge on light or privacy of adjoining dwellings; there were also a number of trees which softened the building. It was confirmed that there were no permitted development rights on the site and that the building measured 6 metres by 4 metres. By way of explanation, Condition 1 related to the use of the storage building being incidental to the use of the main building. The Committee were reminded that no one had a right to a view. It was considered that there were no particular issues with the building.

Members of the Committee were very concerned with this application to the extent that based on the representations made by the objector and ward councillor it appeared that there may be grounds for a refusal. However, they considered that a site visit was necessary before making a determination.

RESOLVED (UNANIMOUSLY) that consideration of the matter be deferred for a site visit to be undertaken and the application to come back to a future meeting of the Committee.

66. 101335 9 Sussex Road, Colchester, CO3 3QH

The Committee considered an application for a change of use of land to garden without compliance with two conditions:- Condition 2, no entry point from Highfield Drive; and Condition 3, tree planting scheme. The application is a resubmission of 100730. The application is described as Sussex Road, but comprises land off Highfield Drive, an unmade private track off Lexden Road, which was formerly wooded and has been purchased by the owners of 9 Sussex Road. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations.

Louise Smith addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Their main concern was

that they wanted to protect the lane and keep it as it had been with trees and shrubs, and for this reason they had been satisfied with the conditions on the earlier application. However, a light fence had been erected and tarpaulin covered the ground. They had no information on why the access was required and were concerned that a garage may be planned. She argued that the occupier could get access to the land via their existing side access. They had installed a speed bump across the lane because some cars were travelling too quickly and they were concerned that there might be an accident involving children. The houses in Sussex Road have protected parking and it was never intended for the property to have access to Highfield Drive. All residents want is that in future planning applications any hard standing or garage be excluded.

Mr Welles addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. When he submitted the earlier application he had failed to look at the deeds directing that no access was granted. He had bought the land to gain access via Highfield Drive because it was an advantage to access the shed from Highfield Drive. He had agreed with the owner not to erect a garage on the land. The fence was simply a temporary measure and would be replaced with a better quality fence. He had only wanted to improve his garden by adding a bit more length, but the original planting scheme would take up too much land as the area was only 6 metres by 9 metres.

Members of the Committee did not have any particular concerns provided the suggested conditions were imposed on the approval. As stated, there was protection from a garage being built and it was considered reasonable to allow pedestrian access. It was confirmed that Highfield Drive was a private road and a cul de sac.

The planning officer drew the Committee's attention to Conditions 2, 3, 4 and 5 which removed permitted development rights for a hard standing and required landscaping treatment appropriate for the area of land.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report.

67. 100670 Unit 2 Turner Rise Retail Park, Petrolea Close, Colchester, CO4 5TU

The Committee considered an application for a variation of Condition 12 of permission COL/91/0887 to allow for the sale of sports goods, sports wear and related products and the associated installation of a 742 square metre mezzanine floor and installation of lighting to the footpath to the rear of 10-38a Peto Avenue. The Committee had before it a report in which all information was set out.

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

68. 101077 Bromans Farm, Bromans Lane, East Mersea, CO5 8UE

The Committee considered an application for the conversion of a single storey former dairy building to two holiday letting cottages and amendments to the existing holiday let cottage granted permission under F/COL/99/1438 and LB/COL/00/0515. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

69. Enforcement Action // 33 North Hill, Colchester, CO1 1QR

The Head of Environmental and Protective Services submitted a report concerning a Breach of Condition Notice which has been served under delegated authority. The Notice requires the removal of a window which does not accord with a plan submitted to discharge a planning condition, and the installation of a window which does accord with the plan. A period of three months has been allowed for compliance. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Andrew Tyrrell, Development Manager, attended to assist the Committee in its deliberations. He explained that a planning application had been received for permission to retain the unauthorised window which would be determined. In the event that the planning application is refused the Head of Environmental and Protective Services requested authorisation to serve the Breach of Condition Notice as set out in the report.

RESOLVED (UNANIMOUSLY) that –

- (a) The Head of Environmental and Protective Services be authorised to serve a Breach of Condition Notice at 33 North Hill, Colchester for the removal of a window which does not accord with the approved plans and the installation of a window which does accord with the approved plans with a compliance period of three months.
- (b) The service of a Breach of Condition Notice be deferred for the determination of a planning application received for the unauthorised window. In the event that the planning application is refused, the Head of Environmental and Protective Services be authorised to serve the Breach of Condition Notice as authorised in (a) above.