

**PLANNING COMMITTEE**  
**15 APRIL 2010**

*Present :-* Councillor Ray Gamble (Chairman)  
Councillor Sonia Lewis (Deputy Mayor)  
Councillors Mary Blandon, Helen Chuah,  
Mark Cory, John Elliott, Andrew Ellis,  
Stephen Ford, Jon Manning and Ann Quarrie

*Substitute Members :-* Councillor Barrie Cook  
for Councillor Theresa Higgins  
Councillor Beverly Davies  
for Councillor Jackie Maclean

*Also in Attendance :-* Councillor Jackie Maclean

(No formal site visits were undertaken for this meeting.)

**215. 091651 Moler Works (Buildings 5 and 5A), Colne View, Colchester, CO2 8GQ**

The Committee considered a full application for the erection of a mixed residential and commercial development on land at the former Moler Brickworks at the Hythe known as building 5 and 5A. Building 5 is a new four storey building containing twenty-eight one bedroom units and thirty two bedroom units. Building 5A is a proposal for a detached single storey building identified for A3 use, restaurant and cafe. The Committee had before it a report in which all information was set out.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained that there was an extant permission for Building 5 for 48 units. This proposal was for 58 units and 50 car parking spaces. He mentioned the recently adopted new parking standards with a requirement for more spaces and the Core Strategy which permits a reduction in the standard in urban and accessible locations.

Mr Connor addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He had bought a flat in 2006 when only half of the development was complete. Since then the Colne View development has been completed using lower standards. In the centre of the development there was originally permission for four town houses and they have been changed to one bedroom flats, thus compounding the problems. He considered the parking situation to be ridiculous. Cars are double parked and parked on pavements outside the front of flats so that people cannot open their front doors where there are

parked cars. He had seen children running around parked cars and one child ended up in the path of a car. The situation causes a massive problem for residents and emergency services. Refuse vehicles do not enter the road because the vehicles cannot get down the road and no cleaning has been done since September with the resultant rubbish and mess.

Mr Biggs addressed the Committee on behalf of Barratts pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application which was submitted on the basis of concerns raised by the Appeal Inspector, namely the design of the plinth and how it related to the walkway. They had taken on board the comments raised and had been in discussion with officers. The plinth had been designed to include a number of staircases which integrates it more into the walkway making it more inviting and more acceptable. On the basis of the Inspector's concerns it should be grounds for approving the scheme. The council did not previously raise objections to the level of parking and neither did the Inspector raise it as an issue. The parking provision is the same as that incorporated in the scheme the subject of the appeal. He noted that a reduced level of parking is permitted in a location such as this. They are aware of the problems regarding rubbish and to date all complaints have been addressed or dealt with by the management company or by Barratts and they will seek to resolve the situation. They have worked with officers to play a role in regenerating this area.

Members of the Committee were aware of the issues raised by Mr Connor, and the parking issues were of particular concern. Some members were of the opinion that the parking was inadequate from the beginning and if this application was approved the situation for residents would worsen. Members noted that the application was received on 2 February 2010 and that the new parking standards were adopted by the Council in September 2009. A reduction in parking provision was permitted in certain circumstances but the provision in this application falls too far below the new standards, which had been devised specifically to address the problems described by Mr Connor. The new standards also included a move away from the 'domino' parking such as that provided in this proposal, to one which included smaller parking bays and soft landscaping. A refusal on the basis of the poor parking provision could be defended on the basis of the reality of the situation in the area. There was a view that this area should be a jewel in Colchester's crown but the current situation was very disappointing. Members were concerned about people's lives, their wellbeing and quality of life.

It was explained that the current application was submitted to the Council after the formal adoption of the new parking standards. Under the new standards it was estimated the submitted scheme would require 103 spaces,

considerably higher than the 50 spaces provided in this proposal. Under the current scheme, all the car parking for residential use would be provided in a basement area and it would not be possible to provide the additional spaces required under the new standards. It was also explained that when the last application on this site was refused by the Council the reasons for refusal did not include a reason relating to a lack of parking.

Members further questioned the affordable housing provision and it was explained that the current standard is 35% if units are to be provided on site as part of an approved development. Previous approvals on this site had secured a financial contribution to affordable housing provision in lieu of actual units within the building. The agreed contribution under the previously-submitted scheme was based on the increase in units and the Council's Development Team agreed the same approach under this current application.

*RESOLVED* (UNANIMOUSLY) that the application be refused on the grounds that the application fails to meet the current parking standards adopted in September 2009.

#### **216. 100302 1-4 Kingsland Beach, West Mersea**

The Committee considered an application for a proposed redevelopment of 1-3 Kingsland Beach, comprising a one bedroom apartment and four two bedroom apartments together with a new first floor extension to 4 Kingsland Beach, West Mersea. This application is a resubmission of 090534. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

*RESOLVED* (UNANIMOUSLY) 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.

#### **217. 091092 The Rectory, Church Lane, Marks Tey, CO6 1LW**

The Committee considered an application for the construction of a four bedroom house with a single garage and landscaping within the grounds of the existing rectory. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

*RESOLVED* (UNANIMOUSLY) 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.

**218. 100317 Plot 54 Wellhouse Green, East Road, West Mersea**

The Committee considered an application to amend the position of a garage at the rear of plot 54. 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.

**219. 100336 North Farm Barn, East Road, East Mersea, CO5 8UN**

The Committee considered an application for the installation of a wind turbine on a 15metre mast and two sets of photovoltaic panels, one located on an outbuilding roof and one at ground level. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Payne addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He did not have an issue with the condition relating to noise levels, but was aware of another application in another local authority area two or three years ago with exactly the same noise level criteria on the approval.

It was explained that the condition requested by Environmental Control

appeared to permit higher noise levels between the hours of 2300 hours and 0700 hours than between the hours of 0700 hours and 2300 hours. It was proposed that the application be deferred for clarification of these matters and the Head of Environmental and Protective Services be authorised to approve the application with any conditions and informatives she considers appropriate.

*RESOLVED* (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for clarification of the wording of the condition in respect to maximum noise levels permitted as required by the Environmental Control Team and as set out on the Amendment Sheet.

(b) Upon receipt of confirmation of the correct wording, the Head of Environmental and Protective Services be authorised to approve the application with any conditions and informatives considered appropriate.

**Councillor Stephen Ford (in respect of his close acquaintance with Mr Holley with whom he had discussed the application) 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 consideration and determination of the application.**

**220. 100352 7 Francis Way, Colchester, CO4 3DZ**

The Committee considered a retrospective application for the premises to be used for childminding. 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. He explained that the property had been used as a childminders since 2004. One of the objections was to outside play causing noise nuisance, and although Ofsted require that children experience outside enjoyment every day it need not necessarily mean in a garden but could be outside visits. A further condition is suggested on the Amendment Sheet limiting play in the garden to two hours per day. Complaints had been received about a noisy boiler on the premises but Transco had established that the boiler is working satisfactorily.

Mr Holley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He occupied the 'mother-in-law' flat above the application site. Had this use of the

adjacent property appeared on land searches he would not have purchased the flat. The noise and disturbance was having a detrimental effect on his health and his work which was physically demanding. He was entitled to the right to enjoyment of his property. His lounge was above the property and consequently he was subjected to a lot of noise from below. He had to close his windows to block out the noise. They were close to a T-junction and he suggested the business should move to a more suitable location. The hours of the childminding activity are from 7am to 6pm which was too long; 8.45am to 5.30pm being more suitable.

Mrs Lawrence addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She was aware that noise was an issue and had taken steps to overcome complaints. She had erected a fence to act as a barrier to noise from the garden and had addressed issues of noise from car engines and doors, loud voices and cars being reversed onto neighbours' drives by having discussions with parents to resolve the complaints. She has also asked her neighbours to let her know if any of these problems recur. She described her business activities and accreditation as set out in paragraph 4.2 of the report and she worked hard to make the children feel welcome and they take part in local activities and use facilities in the community. She had enquired in 2004 whether she needed planning permission and was told she did not, but had since discovered that planning permission was required depending on the numbers of children.

Members of the Committee had not received any complaints from neighbours about the activity at the premises and Mrs Lawrence appeared to have been a responsible person. The facility is needed in the area and it was noted that outside play was not always undertaken in the garden.

It was explained that there were no specific conditions regarding hours of operation in the recommendation, but it would be prudent to add such a condition for the avoidance of doubt.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet, together with an additional condition specifying the permitted hours of operation which shall be 7.30am to 6pm Monday to Friday only.

## **221. 091360 Bridgeside, Turkey Cock Lane, Stanway**

The Committee considered an application to allow the permanent use of the gypsy caravan site comprising two mobile homes and four touring caravans. The application also seeks to remove the personal nature of the permission

to allow the site to be occupied by any gypsies and travellers as defined in paragraph 15 of Circular 01/2006. 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. To put the application in context, he referred to the planning history, the national planning context and to the response to the consultation by the Planning Policy Team in respect of the number of pitches the borough needs to provide and the number currently available. This site was identified as being suitable for three pitches.

Mrs Edwards, Stanway Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She was of the view that if this application were to be approved and the temporary site became permanent and not personal to the families who are currently occupying the site, it could become a very different situation and caused some concern, given that the site is not geographically constrained. There was also a concern that the site is included in the Site Allocations document, currently the subject of an Inquiry. If the personal condition is removed, it will create a new permanent traveller site without the large wider consultation that the residents would expect.

Mrs Baalham addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. There was an established need to provide thirty pitches comprising a mixture of private and local authority sites. In the current economic climate private sites should be welcomed by the council as central government is partially funding the cost. The families of Messrs. Brown and Lee have lived on the site for five years and are exemplary neighbours, living peacefully with no fuss. People who did oppose the site now realised what good neighbours they are but unfortunately many complainants have not responded to invitations to meet the families and get to know them.

Councillor Maclean attended and, with the consent of the Chairman, addressed the Committee. She considered the proposal to be misleading because it not only sought to make the temporary permission permanent but also sought to remove the personal element allowing any traveller to occupy the site. The existing permission was for six caravans and not as stated. Many local people had come to accept the families but there is a real concern that the site may be occupied by any gypsy family. The site is in a rural area with an access off a narrow lane and close to a conservation area; there was no developed land to the west and south and the site was not naturally contained. Residents are concerned that there would be considerable scope to expand in the future. Clarification was required on whether the site would be used for residential or business purposes. This

Council is required to identify thirty pitches by next year; twelve have been allocated on a formal site and there are eight others on historic sites which is ten pitches short of the target. This application appears to be an underhand way of getting an established gypsy site in Stanway. Only a few people are aware of this proposal and she asked whether the proposed removal of the personal condition could be postponed to gain the views of residents but to continue to allow the families a permanent permission. Incidental to this application is the issue of small dogs on this site getting out onto the footpath alongside and the concern was that the fencing is insufficient to contain them within the site.

Members of the Committee had some concerns. The Government Circular on Travellers and Gypsies had undermined the earlier decision and there was a concern that whilst some sections of the community found it difficult to develop in rural areas other groups are permitted to do so. The Committee is being asked to give this site approval for an official gypsy site but it is included in the Local Development Framework (LDF) Site Allocations document currently undergoing examination. In view of the fact that the application has not received a wide consultation and that it is being considered within the context of the Site Allocations document it was considered that this Committee should not pre-empt what the Planning Inspector may decide. The view was that this decision should await the views of the Inspector on the examination of the Site Allocations document and a further temporary permission personal to the current applicants was suggested for the interim period.

The Committee recognised that initially there were those who were against the development but those same people now supported this site continuing with these families because they had been good neighbours. The concern was that if given permanent permission the present occupants may sell the site and the new occupants may not be such good neighbours and the site may become something very different. There was also a cautionary view that if the application was subject to wider consultation there may be a danger that residents in the area would not want a permanent gypsy site and these families may have to depart which would be beyond natural justice. The issue of small dogs wandering onto the adjacent footpath and road and were of concern and it may be that the fence needs to be made dog proof to safeguard against potential accidents.

The planning officer explained that the Committee must be mindful of the planning context including the national plan and the emerging policies. The Committee were advised that subsequent to the Circular being issued, there were no grounds for refusing the application for this site for its current use. Policy SAH2 identifies that thirty pitches are required throughout the borough. In respect of people being unaware of the potential for this site



being a permanent gypsy site, the Site Allocation document has been published and sent to both parish councils and to anyone who was on the LDF database and had expressed interest in the various documents. However, it was appreciated that the Site Allocations document was an emerging policy and to grant permanent permission may be pre-empting the Inspector's finding but it would be legitimate to grant a further period of temporary permission and if the Inspector does find the site suitable the applicants could submit another application. It would be difficult to sustain a refusal of a personal permanent permission on an Appeal given that the planning policy team have identified the site as suitable and it should not make any difference who occupies the site.

In respect to other comments made regarding expansion of the site, proximity of a conservation area, possible business use and small dogs causing nuisance, it was explained that land to the west of this site is in a flood zone but in any case any further expansion would need to be subject to a separate planning application. Whilst the site itself is not in a Countryside Conservation Area there is a conservation area to the north of the site. If residents were concerned about a possible business use they could write to the enforcement team and it would be investigated. It could be unreasonable to impose a condition requiring fences to be dog proof as part of this application if it was not part of the original permission.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, subject to the permission being for a temporary period of two years from the date of this meeting and that the permission be personal to the applicant families. The officer to check whether the public footpath adjacent to the site is fenced along its entire length and if not a condition to be added to secure the completion of the fence around the site.

## **222. 091539 Land rear of 185 Shrub End Road, Colchester, CO3 4RG**

This application was withdrawn from consideration at this meeting by the Head of Environmental and Protective Services for clarification of the extent of use being requested.

**Councillor Sonia Lewis (in respect of her former acquaintance at school with the agent, Mr Gordon Parker) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Ray Gamble (in respect of his acquaintance with the agent, Mr**

**Gordon Parker) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**223. 100161 Unit 3 St Ives Farm, St Ives Road, Peldon, CO5 7QD**

The Committee considered an application for the removal of condition 2 of planning permission 072151 which restricts the use to the overhaul and repair, sale and maintenance of contractors plant, sale of associated spare parts and associated offices. The application seeks to remove Condition 2 as far as it relates only to one of the approved new buildings within the site. 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.