

PLANNING COMMITTEE
14 JULY 2011

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

Substitute Members :- Councillor Dennis Willetts
for Councillor Christopher Arnold*
Councillor Will Quince for Councillor Jackie Maclean*

Also in Attendance :- Councillor Nick Barlow
Councillor Bill Frame
Councillor Mike Hardy
Councillor Marcus Harrington
Councillor Beverley Oxford
Councillor Gerard Oxford

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

25. Minutes

Subject to the following amendments to the minutes for the meeting held on 26 May, the minutes of the meetings held on 26 May and 30 June 2011 were confirmed as a correct record:-

Councillor Barlow to be added to those councillors who were noted as Also in Attendance; and the figure of 75,000 be amended to 275,000 within the paragraph which recorded the representations made by Will Pavry, Chairman of the Stour Valley Action Group.

Councillor Sonia Lewis (in respect of her acquaintance with Mr Beresky) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Laura Sykes (in respect of her membership of Stanway Parish Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

26. 110736 Wyvern Farm, 274 London Road, Stanway, CO3 8PB

The Committee considered a retrospective application to regularise unauthorised uses in respect of Units 17, 18, 25 and 29 for light industrial (B1c), storage use (B8), retention of existing portacabins for office use (B1a), together with storage of hardcore and occasional crushing. The Committee had before it a report in which all information

was set out, see also Amendment Sheet.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Beresky addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He thanked the Committee because they had achieved extra conditions which were now proportionate to the activity. Local residents did not consider that this activity was light industrial activity because of the machinery used and tonnages of material being crushed. There remained some concern regarding the noise emitted by the crushing machine which could be compared to a light aircraft, and he asked if this was really the type of activity which should be undertaken in this area. He was aware that the operator had approval to load three lorries per day but there could be five or six vehicle movements a day in connection with the crushing activity and there could be additional vehicles coming and going. He speculated that if the tonnage to be crushed was equivalent to 240 tonnes and the vehicles arrived with a part load the number of vehicle movements would increase.

Members of the Committee welcomed the applicant's response to the Committee's comments at the last meeting and the consequent extra conditions. They were aware that the land was zoned for predominantly residential use and speculated that if this was a new application rather than a retrospective one, it may not have been recommended for approval. Reassurance was sought that in the event that of the conditions not being complied with then rigorous enforcement action would follow. Members reiterated the public speaker's request for screening to reduce the noise from the crushing activity. In respect to the applicant's offer to re-site the crushing activity, it was preferred that it remain in its current location rather than expose a wider area to the noise and dust. There was a query regarding the definition of light industry.

The planning officer explained the definition of light industry and considered that the crushing activity was not light industry but fell within the definition of general industry. She considered the suggestion for screening along the boundary adjacent to the crushing activity could be included. She also responded to the noise of crushing activity in respect of it being similar to a light aircraft, but with a different type of noise. She believed that with the safeguards being suggested there would not be a significant impact on residential amenity. She confirmed that the number of vehicle movements was restricted to three HGVs with the times and days of use as indicated. The crushing equipment had a limited capacity which was reflected in the number of occasions when it could be used. She believed it would be difficult to monitor because it was an average and it would also be difficult to separate out other traffic visiting the site from the crushing vehicles.

RESOLVED (ONE voted AGAINST) that the application be approved for a temporary period ending on 28 July 2014, with the exception of the storage and crushing of hardcore which shall cease on 20 August 2013, with conditions and informatives as set out in the report. An extra condition to be added to require details of screening along the boundary where the crushing activity takes place to be agreed by the Local Planning Authority.

27. 091563 Area S2, Colchester Garrison Urban Village, Berechurch Hall Road, Colchester

The Committee considered an application for the erection of twenty-one residential units on land formerly identified for employment purposes as a part of the Garrison Urban Village development. It was explained that this proposal for residential use was being put forward because there had been a reduction in the viability of an employment use. Subject to the Committee's endorsement, the application would provide a 'reduced' Section 106 package which would comprise solely of a pilot scheme for the delivery of five affordable houses. 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 Section 106 legal agreement to provide for five affordable units.
- (b) Upon receipt of a satisfactory Section 106 legal agreement, 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.

Councillor Ray Gamble (in respect of being a member of this Council's Standards Committee, the Chairman of which body was in the audience) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

28. 102598 Land rear of 53, 53A, 55 Lexden Road, Colchester, CO3 3PZ

The Committee considered an application for the erection of a new dwelling house with associated garage/parking facilities served via an existing access road/drive. 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.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. He put forward the suggestion that a construction methodology statement should be submitted regarding storage of materials, loading and unloading,

Robert Bartholomew addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to many of the objectors being allotment holders who were aware of the difficulties that a new house on the lane would pose. There were particular concerns about the entrance onto Lexden Road which would be dangerous. The lane was barely ten feet wide so there

was no ability for cars to pass. He requested a condition be applied to guarantee access along the drive. He also referred to previous applications which had been refused on the grounds of the access being inadequate and he believed that the lane would be impractical for construction vehicles. He asked the Committee to endorse the access as a reason for refusal.

Steve Norman addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to objections to previous proposals being the inadequacy of the access to the site. The plaque on the pillar at the junction with Lexden Road provided evidence that the drive had served Grove Lodge; it was also the access to the council allotment site. On the basis that the drive was acceptable to serve Grove Lodge it did not seem unreasonable that it could serve an alternative property and this stance was supported by the Highway Authority who had not objected to the proposal. Furthermore, the width of the drive at the front of the site would be of sufficient width for two vehicles to pass and provision would also be made for emergency vehicles. The size of construction vehicles could be restricted by condition or legal agreement.

Councillor Frame attended and, with the consent of the Chairman, addressed the Committee. This was the eighth application and all previous applications had been refused and appeals dismissed by Planning Inspectors. This proposal had been through a fairly rigorous process in terms of whether it was suitable for this plot of land. He referred to the Planning Inspector's report in following an appeal in 1997 at which time the Inspector had accepted that there was no right of access to Grove Lodge so a new development on this site would not be a replacement. The Highway Authority had not objected to the last three applications but they had all been refused and the Planning Inspector had supported those decisions. At an appeal in 1996 the Inspector had stated that the width of the driveway was inadequate to cater for the safety of the proposals. Councillor Frame asserted that nothing had changed since that time in relation to this application and in his opinion this was an intensification of the use of the drive. He urged the Committee to reject the application.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. He referred to the site as never having been part of the Grove Lodge site, but originally it had been part of the plot now occupied by number 53A. Any concerns that he might have had about the building had been addressed in the conditions. He had visited the allotment site at varying times and noted the presence or absence of vehicles. The greatest number of cars he observed was six, but recently there had been either no more than two or no cars at all, and he had never seen a pedestrian; he concluded that the volume of traffic along The Chase was very light. He did not believe that The Chase was exclusively for any one user and he upheld the lawful right of access of the allotment holders. He also believed that this proposal was not inappropriate and whilst the access arrangements were not ideal they were not unworkable. He could see no reason to oppose the recommendation.

Whilst members of the Committee were generally in agreement, some concerns were expressed. The entrance was a concern, although members considered that it was no worse than any other entrance along Lexden Road. The provision of a turning point at the gateway to the proposed dwelling would be an advantage, as would clear access in

front of the double gates serving the tennis court and the gateway to the allotment site. It was considered preferable for construction vehicles to be kept on site and the submission of a construction method statement was supported. There was a request for the removal of permitted development rights to retain some control over further development.

The planning officer explained that Condition 4 on the Amendment Sheet removed permitted development rights. A condition could be added requiring the submission and agreement of a construction method statement, and the size of construction vehicles to be restricted. Provision of a turning area for cars would also be possible. The Highway Authority had confirmed that although pedestrian visibility was substandard, vehicular visibility onto Lexden Road was acceptable.

RESOLVED (TWO voted AGAINST) that –

(a) Consideration of the application be deferred for completion of a Section 106 legal agreement to provide for a contribution towards:- Open Space, Sport and Recreational Facilities, and Community Facilities, in accordance with the Council's Supplementary Planning Documents.

(b) Upon receipt of a satisfactory Section 106 legal agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, on the Amendment Sheet and additional conditions and informatives below:-

- Condition requiring submission of an agreed construction method statement;
- Condition requiring submission of an agreed boundary treatment scheme across the plot frontage;
- Informative reminding applicant/builder to maintain unrestricted access to allotment site.

Councillor Jon Manning (in respect of his girlfriend's son who lives almost opposite the site but was not an objector) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

29. 110678 Greenways, St Fillan Road, Colchester, CO4 0PT

The Committee considered an application for proposed amendments to change the approved activity rooms and staffroom into five additional bedrooms to the approved scheme for a sixty-six bedroom care centre, making it a seventy-one bedroom care centre. 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.

Councillor Ray Gamble (in respect of his former role as Chairman of the Governing Body of Highwoods Community Primary School) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Philip Oxford (in respect of his son being a pupil at Highwoods Community Primary School) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

30. 111040 Junction of Eastwood Drive and Highclere Road, Colchester

The Committee considered an application for the installation of a 17.5 metre high street works style telegraph pole wood effect brown in colour with replica footpegs, supporting six antennas therein with a ground level cabinet measuring 1.9 metres x 0.8 metres x 1.65 metres plus ancillary apparatus to be shared by Vodafone and O2. 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.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. She referred to the Amendment Sheet and the Arboricultural Officer's recommendation of a refusal on the basis of there being no information supplied on any impact on the adjacent trees. She also made reference to the appendix to the report.

Nigel Hookway, Headteacher, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application on behalf of Highwoods Community Primary School and the local community, including Brinkley Grove Primary School which was nearby. He referred to the strong objections made by the Governing Body of Highwoods CPS due to the school's playground being just 100 metres from the proposed site of the mast. Many of the children from both these schools would pass by the site and they were concerned about the possible problems caused by the base of the mast where pedestrians may step out into the road; they were also concerned about the height of the mast. The report referred to schools or colleges in the vicinity being consulted, but Highwoods CPS had not been consulted. The health of the children was their major concern. He was aware of work done in Scandinavia where a different view on phone masts had been taken.

Councillor G.Oxford attended and, with the consent of the Chairman, addressed the Committee. He referred to a preliminary enquiry made by the applicant for a lower mast and cabinet on a site close to the site for this application. Officers had considered the lower mast to be unacceptable due to the height and the bulk, yet the applicant had returned with this higher and more bulky design. He also quoted remarks made by the Independent Expert Group on Mobile Phones as set out in paragraph 12.10, and to Mr Hookway's comments regarding research undertaken in Scandinavia to which he asserted the Government should have regard. He referred to an application in Norman Way which had been refused on the grounds of school children

using that route and he considered that those grounds were more applicable for this application because of the young age of the children, 2 ½ years to 16 years, 225 pre-school age children, 400 at Highwoods Community Primary School, 1,283 at The Gilbert School and 410 at Brinkley Grove Primary School. He wanted to place on record his thanks to Sophie Beech who had undertaken a survey on footfall, the results of which were appended to the report. He confirmed this was a high footfall area with a major supermarket, health facilities, the post office and the community centre. There were concerns regarding the cabinet especially if there was to be a surrounding fence which could cause groups of people passing by to go into the road. He referred to the conclusions of the Arboricultural Officer that it could be refused because no survey on hedges and trees had been submitted. He was aware of the recommended grounds to refuse the application but believed that there was sufficient evidence to add health concerns to the refusal notice.

Councillor B.Oxford attended and, with the consent of the Chairman, addressed the Committee. She was aware that councillors could not refuse applications on health grounds. However, residents were very concerned and it could affect the whole community. She referred to research which had identified that radio frequency magnetic fields could be harmful, to comments on health issues made by the applicant set out in the report, and also to the work done by the Independent Expert Group on Mobile Phones which concluded that it was currently not possible to say that masts were totally without health effects and a precautionary approach was justified. She believed that the advice should be to err on the side of caution. Many children were living within 400 metres range of the site. Highwoods was an attractive leafy community to live in and this mast would be out of character; trees may be damaged in the erection of the mast. The site was one of the main access points for the community with a high daily footfall. Residents believed the mast was not needed and they urged the committee to bear their concerns in mind and to refuse the application.

Some members of the Committee were also concerned about the children in the area, and wanted the health issue added to the reasons for refusal. Other members wished that the fear of health implications could also be added. One member referred to the amount of exposure to radio frequency radiation when making calls from a mobile phone was far lower than radio frequency radiation received from a mast or a base station. There were valid reasons for a refusal as set out in the report to which the absence of an arboricultural report could be added. The committee was aware that Government advice was that a refusal on the grounds of health impacts would not be permitted and if the applicant went to appeal there would be the possibility of the council having to pay costs. The committee were very concerned at the negative impact of the height of the mast on the character of the area which they considered was unacceptable.

The planning officer reiterated the Government advice on health issues, stating that a precautionary approach was being employed by the industry. This mast would operate at a frequency lower than that which was permitted. She explained that when an appeal was submitted the Local Planning Authority was required to substantiate all the reasons for refusal and costs may be awarded against the council on the basis of the refusal including health grounds. The planning system was not the place to consider health safeguards.

The Chairman thanked the local residents for compiling the report on the impact of the proposed mobile phone mast installation on the Highwoods community but explained that the Committee was required to comply with Government guidance.

RESOLVED (UNANIMOUSLY) that the application be refused for reasons below as set out in the report and on the Amendment Sheet:-

(a) The proposed mast is designed to have the appearance of a “mock telegraph pole” however at a height of 17.5 metres it would be considerably higher than adjacent street furniture and also project above trees on the highway verge. As a consequence the mast would be detrimental to the visual amenity of the area and to residential amenity and contrary to policy UR2 in the adopted Colchester Borough Core Strategy (December 2008) and policy DP1 in the adopted Colchester Borough Development Policies (October 2010).

(b) The application does not include a tree/hedgerow survey in line with BS 5837 (4.2 and 4.3) guidelines with protection zones within the development footprint. The survey should be able to be read against any proposed layout drawing and for all trees affected by the development (on and off site):

Record:

- Health
- Vigour
- Condition
- Species
- Height
- Trunk diameter at 1.5 AGL
- Category
- Age
- Relevant details/significant defects
- Remedial works required

Illustrate:

- Colour coded accurate existing true crown spreads
- Tree protection zone (including BRE requirements where applicable)
- Professionally assessed mature crown spread (where significant growth still expected)

The above may generate the requirement of a Categorization & Constraints Plan (set against the proposal footprint) and Tree Protection Plan and Arboricultural Implication Assessment/Method Statement, drawn up by an arboricultural consultant. This data is required to fully quantify the proposal, demonstrate no detrimental effect to principal landscape features (e.g. trees), secure their protection during proposed development and detail any specialist construction techniques and post construction works required and should be submitted for analysis/agreement. In the absence of this information it is not possible to properly assess the impact of the proposed development on the

principle landscape features and it therefore contrary to policy DP1 in the adopted Colchester Borough Development Policies (October 2010).

Councillor Peter Chillingworth (in respect of having undertaken work for Robinson and Hall in his role as a consultant) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Theresa Higgins (in respect of her membership of Fair Access to Colchester) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

31. 110451 Hill House Farm, Colchester Road, West Bergholt, CO6 3JQ

The Committee considered an application for the construction of a vehicular access and driveway. 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.

Andrew Tyrrell, Development Manager, and Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. The planning officer commented that the Highway Authority had confirmed that the proposal represented an improvement over what already existed, albeit that it did not comply with the standard site splay.

Mark Pollitt addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the minimum standard sightline being 160 metres, the sightline for the new access being 52 metres, and a second recommendation from a highway engineer that it was 57 metres. He was unable to understand why this should occur within a period of five weeks. There was no explanation provided that this case justified such a major change of standards and policy. There was no record of the decision for this major change nor was any evidence given by the senior officials and Essex County (ECC) councillors of the decision to deviate from the adopted policy. He had serious doubts that the ECC procedures were correct and he had been advised to contact the Complaints and Review Team. He questioned whether the Committee could be confident that they had a reliable recommendation from the Highway Authority on which to base their decision. The risk was the possibility of a legal challenge.

Peter Le Grys, Chartered Town Planner with Robinson and Hall, addressed the Committee on behalf of Mr Pulford pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The applicant was a farmer and as such was able to construct an access across his land as permitted development. He understood he could construct it on to the existing track but he required permission for the access onto the highway. He confirmed that there had been no meeting with the Highway Team at Essex County Council, but there had been correspondence and they

had acknowledged the issues of fact set out in the report and on the Amendment Sheet. He confirmed there had been an offer for him to use the existing track which was unconditional. All the applicant wished to do was to move the access 12 metres away from the existing access which would improve visibility.

Councillor Harrington attended and, with the consent of the Chairman, addressed the Committee. The reason for the new access was stated as safety, position and size, but together with the existing access it would present an unattractive feature. Visibility would be restricted by the hedge to the north and the fall in the road to the south. The development for a change of use was restricted to one business only but there were genuine grounds to suspect that this could lead to further commercial development on the site; any further development could lead to incursion into the land between West Bergholt and Braiswick, with attendant nuisance, noise and activity. He related the recent history between the applicant and the neighbour which had culminated in this application. If this application was refused, Bounceability would be able to use the existing access and residents could have peace of mind that further development would be prevented or need amendment with the restriction.

Members of the Committee expressed varying views. One was concerned that the site was outside the village envelope and the speed limit on the road being 60mph. The report referred to there being no intensification on the site, but it had been hoped that the committee would insist on a safe junction. Another view considered that there seemed to be a confusing message from the Highway Authority, while yet another considered the Highway Authority to be the experts and that the application should be supported.

The planning officer explained that the application for a business in the barn was granted with permission to use the existing track but now there appeared to be a difference of opinion over the use of this track. This proposal was a new access track and the opportunity was being taken to improve access for farm vehicles. The issues were those of highway safety and the impact on the local area. He referred to the Amendment Sheet and to the approved development which this new access would serve stating that there would be no intensification and no increased risk. It was clear that the track did not comply with the standards. However, as there was no intensification the view was that the new access would result in improved highway safety, whereas the current proposal represented an unacceptable risk for highway safety. The Development Manager explained that the Highway Authority had considered the proposal and set out their reasons for accepting less than the normal standards. They considered the proposal to be an improvement over the existing access. They had justified their reasons and this council is able to proceed on their advice.

RESOLVED (ONE voted AGAINST and THREE ABSTAINED from voting) that the application be approved with conditions as set out in the report and on the Amendment Sheet.