

PLANNING COMMITTEE 16 FEBRUARY 2012

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

Substitute Members :- Councillor Barrie Cook for Councillor Ray Gamble*
Councillor Ann Quarrie for Councillor Jackie Maclean

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

110. Minutes

The minutes of the meeting held on 19 January 2012 were confirmed as a correct record.

David Whybrow, Principal Planning Officer, reported that after the meeting held on 19 January 2012, it had become apparent that the legislation regarding call-ins had changed. Confirmation was sought from the National Planning Casework Unit within the Department for Communities and Local Government that this was the case, and written confirmation has been received. Consequently there was no need for application 111981, Colchester Town Station, St Botolph's Circus, to be referred to the Secretary of State and Vincent Pearce, the Planning Service Manager, authorised the issue of the decision in accordance with the Planning Committee's determination as set out in minute no. 107.

Councillor Christopher Arnold (in respect of his close acquaintance with the public speaker in opposition to 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) He had become aware of his interest during the public speaker's address and immediately the speaker had concluded, he announced his interest and left the meeting for the remainder of the item's consideration and its determination.

111. 112480 14 Honywood Road, Colchester, CO3 3AS

The Committee considered an application for a minor material amendment to permission 111842, erection of a detached dwelling house with associated parking facilities, to permit the addition of a single storey garden room. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Mark Russell, Principal Planning Officer, attended to assist the Committee in its deliberations. Following discussions with affected neighbours and the applicant the proposed garden room had been reduced by 50% to an area of approximately ten

square metres.

Adam Spooner, also representing neighbours in close proximity to the site, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. His residence was directly opposite the application site. He referred to the developer having taken advantage of his detailed knowledge of the planning system to increase the footprint of the development soon after permission for the dwelling had been given, and to the planning officer having advised the developer on a more acceptable extension. He considered this proposal to be over development, which did not comply with the Council's planning policy documents, and having a poor design that did not match that of surrounding properties. Shrubs and trees had been removed, two of which were protected fruit trees. Much of the boundary fencing would also be removed and he requested that the 1.8 metre fence along the road be retained and that the application be rejected, pending discussion of conditions.

Councillor Hunt attended and, with the consent of the Chairman, addressed the Committee. He was disappointed that the council's planning office had advised the applicant to enable him to obtain permission for an extension which would bring the new dwelling back up to the size in the original application. He warned that if developers were able to build larger dwellings than they had permission for there could be chaos. He did not understand why the developer had not included this extension with the planning application for the main dwelling. This application had increased by 10% the footprint of a dwelling the committee had approved.

Councillor Cope attended and, with the consent of the Chairman, addressed the Committee. He referred to the backland and infill policy which included a list of practical considerations including loss of green links, visual intrusion and loss of space between buildings. The document advised that backland/infill development should make a positive contribution to the locality otherwise it should be refused. The document also advised that backland/infill should reflect the prevailing form but he speculated that this additional development took the matter beyond what was acceptable. He referred to the recently compiled Local List and he asserted that Ireton Road properties should be on the list. He questioned whether properties on that list would qualify for the same protection afforded to listed buildings if their setting was spoiled.

The planning officer explained that it was normal practice for developers to discuss applications with officers and for officers to discuss proposals with immediate neighbours. He confirmed that had the proposed garden room been included in the original application it would have been considered acceptable. He also confirmed that issues in connection with the backland and infill policy had been discussed at the earlier stage, and also confirmed that the land had been cleared including the removal of two fruit trees on the boundary. It would be possible to condition the retention of the 1.8 metre fence or its replacement if the original fence was removed. The planning officer confirmed that the condition relating to permitted development rights could include the host dwelling in addition to the new dwelling.

RESOLVED (MAJORITY voted FOR) 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 in accordance with the Council's Supplementary Planning Document.

(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, together with additional conditions for the following matters:-

- landscaping/trees to be planted to replace the fruit trees which had been removed;
- existing fencing shall be retained;
- Condition 2: Permitted Development Rights to include the host dwelling as well as the new dwelling.

Councillor Sonia Lewis (in respect of the applicant being her spouse) 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 she left the meeting during its consideration and determination.

112. 111415 10 Williams Walk, Colchester, CO1 1TS

The Committee considered an application for a new planning permission to replace existing planning permission 081053 in order to extend the time limit for implementation for a further three years. The application was a resubmission of 110817. 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.

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 and also Community Facilities in accordance with the Council's Supplementary Planning Documents.

(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.

113. 111725 13 Park Road, Colchester, CO3 3UL

Councillor Lewis was not present for this item which, together with the

application at minute no. 112, was determined under the en bloc arrangements.

The Committee considered an application for a proposed single storey extension providing an additional bedroom and a change of use from a dwelling House (C3) to a nursing home for people with physical or mental difficulties (C2). This application was a resubmission of 081154. 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.

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

114. 112266 Kingsford Business Park, Layer Road, Layer de la Haye, CO2 0HT

The Committee considered an application for a change of use of Unit C, No. 7, from B1 Office use to D2 Assembly and Leisure use by Roman River Valley Nature Photography and the erection of a hide. 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.

Keith Haddrell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The hide would be 40 metres from their boundary and he was concerned at the impact on their privacy. Although the windows would be at right angles to his garden, those using the hide would be able to look at his garden if they turned at 45 degrees. Previous consents had sought to protect and conserve this area of woodland and although it was described as low key, he considered it represented a commercial use which contravened previous planning permissions. The proposed hours and weekend working were in excess of currently permitted hours and if this was approved other units may seek to extend their hours and intensify their use. There were insufficient parking spaces relative to the numbers attending which could cause disruption in the drive and turning areas. The access still needed to be made up to the specification required and any intensification may lead to road traffic accidents in Layer Road.

David Harrison, tenant at Unit 7, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He had been a nature photographer for 25 years. He described the proposed use, the detail of which was set out in the report and on the Amendment Sheet. He considered it unlikely that the neighbour would suffer any disturbance. The hide windows would face away from the existing house. He had inspected the whole woodland and identified this site. He gave an assurance that students would be supervised on

arrival so they did not block the drive. He believed the use would enhance the countryside by allowing people to photograph wildlife. He would be giving a donation to the Essex Wildlife Trust.

Councillor Lyn Barton attended and, with the consent of the Chairman, addressed the Committee on behalf of residents. She considered there should be consistency and this structure would be located in woodland outside the area of the business park. The Committee had objected to the three containers within the woodland area and they had been the subject of an enforcement notice as a matter of principle. If approved she believed this proposal would set a precedent for another structure and would also increase traffic which had safety implications. She questioned whether it was acceptable to approve an application which was contrary to council policy.

Issues which were of concern to members of the Committee were the removal of the hide if the use ceased and some form of screening of the route to and from the hide and/or screening of the hide.

The planning officer explained that the Highway Authority had not raised any issues because this would not be an intensification of use. The hours of use at weekends would not overlap with other business users nor would they set a precedent for other users, and any increase in intensification of use would be unacceptable. It was considered that the low key use would not give rise to any significant harm in the woodland. Whilst the hide was not artificially raised it would be in an elevated position, however its orientation would be at right angles to the gardens to protect the privacy of the neighbours. Screening the route to the hide would be difficult and fencing in the woodland would be out of place. The condition regarding the scope of use needed to be expanded to include all limitations which were to be imposed. A condition could be added to require the hide to be removed if the use ceased.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, together with additional conditions set out below:-

- an extra condition requiring the removal of the hide if the use ceases;
- Condition 2 to be strengthened to add in other elements such as maximum 20 full days and 6 half days per calendar year etc.

115. 112321 Papillon House, Balkerne Gardens, Colchester, CO1 1PR

This Listed Building application was withdrawn by the agent prior to the committee meeting.

116. 112430 16 Rosetta Close, Wivenhoe, CO7 9RX

The Committee considered an application for a proposed first floor extension and associated alterations. 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, and Andrew Tyrrell, Development Manager, attended to assist the Committee in its deliberations. The planning officer described the proposal and objections received, and highlighted the change in height between this site and the objector's site which had resulted in a slight reduction in ridge height, a hipped roof and obscure glazed windows with a roof light to reduce the impact on the neighbour. The proposal protected the patio area of the neighbour. In terms of any overbearing impacts, the application did not breach the 45 degree rule and satisfied policy criteria in terms of proximity of the rear wall of the property as there were no windows in the rear or side elevations. She made reference to the Amendment Sheet.

Mike Bowler, Agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the reasons for the call in otherwise it would have been determined under the scheme of delegation to officers. There would be no loss of privacy or amenity because the master bedroom window would be obscure glazed and fixed shut which was controlled by condition and was enforceable. He referred to the lower land level to properties in Lilac Close of 500mm which probably constituted a slight difference rather than a significant difference in topographical levels. He hoped the lower ridge height of the extension had reduced the impact of the proposal.

Councillor Cory attended and, with the consent of the Chairman, addressed the Committee. His concern was any overbearing nature of the extension. He was pleased the Committee had undertaken a site visit so they would be fully aware of the difference in land levels of about 33 inches, which was not immediately obvious from the plans. He appreciated the efforts made to ensure there was no overlooking.

Issues which were of concern to some members of the Committee were the potential fire risk because of the permanently closed window; the blanked out window and the different roof lines were ugly; the neighbours would look at a brick wall; the extra storey being equivalent to a third storey because of the difference in ground levels; this extension being overbearing; and a larger area of the neighbour's garden would be in shadow. Other members of the Committee considered that the neighbour's light from the south would not be affected although there might be a reduction in light from the east. It was considered that the architect had done what he could to reduce the bulk of the extension. The difference in ground levels should not necessarily affect the decision. The site visit was very helpful.

The planning officer responded that the application would need to comply with building regulations, if it did not and needed an additional window an amendment will be required which could come back to the Committee. There was an opening window in the en suite to use in case of fire. This issue had also been discussed with the agent, who was a former building control surveyor who regularly submitted building regulation applications, and they had assured planners that this complied with building regulations as it was drawn. Although the extension would be visible from the

neighbouring property, it would not be overbearing in terms of impact on the neighbour's dwelling or create an oppressive impact on the dwelling itself when considered against adopted standards. The neighbour currently looked out onto a side wall and whilst the new wall would be closer, it would not be significantly more intrusive. The Development Manager explained that the end roof elevation was hipped back and the neighbour's sitting out area and windows were protected. Although a large area of the garden would be in shade, it was noted from the aerial photography shown within the presentation that existing trees also cast shadows northwards. However, in any event there was protection for the three metres from the house and that protection would remain.

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

117. Revocation of Deemed Consent // Rowhedge Wharf

The Head of Environmental and Protective Services submitted a report seeking the Committee's approval to revoke the Deemed Consent under the Planning (Hazardous Substances) Act. Deemed Consent was no longer required because no hazardous materials have been stored at the site for at least the last 10 years. The site was now the subject of a development brief for redevelopment to residential and mixed uses.

RESOLVED (UNANIMOUSLY) that authorisation to revoke the Deemed Consent under the Planning (Hazardous Substances) Act be approved.