

**PLANNING COMMITTEE
15 MARCH 2012**

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

Substitute Member :- Councillor John Bouckley
for Councillor Christopher Arnold*

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

121. Minutes

The minutes of the meeting held on 1 March 2012 were confirmed as a correct record.

122. 120208 1 Clara Reeve Close, Colchester, CO3 9XD

The Committee considered an application for alterations and subdivision of an existing dwelling/use of an existing extension as a separate two bedroom dwelling. The Committee had before it a report in which all information was set out.

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, subject to the word "No" at the beginning of Condition 9 being replaced by the word "The".

123. 091282 Pattens Yard, Nayland Road, West Bergholt, CO6 3DQ

The Committee considered an application for a change of use from agricultural land to a landscape contractors yard and scaffolder's yard and open storage of caravans, B8 and Sui Generis Uses for part of the site known as Pattens Yard. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Jane Seeley, Planning Officer, attended to assist the Committee in its deliberations. In her introduction she referred to the various areas within the site and adjacent to the site, together with their past, present and future intended uses. The site had been

used for more than ten years and under those circumstances, if an application was made, a Certificate for Lawful Use would be granted. She also referred to complaints from residents opposite the site. The applicants had indicated their willingness to enter into a legal agreement for the whole of the site in respect of hours of use, the storage of caravans and the provision of a hard surface to the access, subject to this application being granted permission. A fence and landscaping along the western edge of the site would be required to improve the long views and prevent ad hoc spillage onto the adjacent field.

Joseph Greenhow, Agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This was a long standing application which sought to regularise the various uses, some of which had been established over time but did not benefit from consent. Consequently, there were no limits on hours or activities and this was causing nuisance to residents. A planning permission would include a unilateral undertaking which would secure a hedge along the western boundary; a hard surface at the site entrance; a restriction on hours of use and the restriction of caravan storage to a specific area. The statutory bodies were now content with the scheme and the concerns of the Parish Council had been addressed.

Councillor Harrington attended and, with the consent of the Chairman, addressed the Committee. He was satisfied with what had been said and endorsed the recommendation but he did not want the conditions to be softened in any way. In this regard he noted that the movement of lorries, lighting and the fencing were each covered by a condition, whereas the requirement for a hard surface at the entrance was not covered by a condition. His other query was in regard to Condition 7 and the need for its amendment in respect of the insertion of the word 'not' between the words 'shall' and 'exceed'.

The planning officer explained that the reason for the apparent omission of a condition was that the conditions related to the application site, whereas the surfacing within the established site was outside the scope of this application, hence it was only referred to in the legal agreement. It was considered that the legal agreement was adequate to ensure its provision. The amendment to Condition 7 was accepted and she also proposed an amendment to Condition 3 so that it read "The use hereby permitted should be carried out..".

Members of the Committee acknowledged that some industrial sites in the countryside had a tendency to grow and could become difficult to control. This application had provided an opportunity to put controls in place to address such concerns on this site. Members were content with the proposals.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a Section 106 Legal Agreement to provide for the following matters:-

1. Restrictions on the hours of operation of the Local Employment Zone part of the site to: Monday to Friday 0700 to 1800, Saturdays 0800 to 1300, with no

- activities or vehicle movements on Sundays and Bank/Public Holidays.
2. The hardsurfacing of the vehicular access to the Local Employment Zone.
 3. The restriction of caravan storage to an identified area and no further use of the field to the west of the site for caravan storage.

(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 the following amendments:-

- Condition 3: to start “The use hereby permitted should be carried out.....”
- Condition 7: the insertion of the word "not" after the word “shall”.

Councillor Peter Chillingworth (in respect of his membership of the Council for the Protection of Rural Essex) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

124. 101541 and 101543 Lower Park, Colchester Road, Dedham, CO7 6HG

The Committee considered planning application 101541 for a change of use of parkland to mixed use, including agriculture and the keeping of up to three horses by residents of Lower Park, excluding riding or exercising within the parkland, together with the erection of a stable block with storage, a storage building and associated access, and the construction of a swimming pool. Also submitted in association with the planning application was application 101543 for conservation area consent for the removal of the remains of a concrete block detached outbuilding. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Simon Osborn, Planning Officer, attended to assist the Committee in its deliberations. He described the application and referred to the external materials and to the stable block and storage building now being genuinely single storey.

Ted Gittins addressed the Committee on behalf of the objectors, Mr and Mrs Muscote-Morris of Lower Park Cottage, pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He did not propose to object if this could be achieved without harm to the siting of the building and parkland. He referred to the requirements of DP14, Historic Environment Assets, to DP24, Equestrian Activities, and to a report by Purcell Miller Tritton which estimated the impact on the house and parkland to score 7 on a scale rising to 8, the second most harmful. The development fell far short of complying and conflicted with the area and setting of a listed building. A smaller proposal on the north side of the tennis court was preferred and he asked that the Committee withhold permission for this scheme.

Anne Fletcher, applicant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This application was the culmination of four years work. She referred to the unanimous approval for the previous application. They had no desire to compromise the character of Dedham nor their property, in which they had made a substantial investment. English

Heritage had not been in support of the earlier proposals and she explained that the document referred to by Mr. Gittins related to the previous proposal, not this one. The applicant had redesigned the site, lowered the building and changed the materials and were pleased with advice received from English Heritage. Their view was supported by four adjoining neighbours, the Parish Council, professional staff and the Planning Committee last year. She understood the concerns about the Dedham Vale Area of Outstanding Natural Beauty (AONB).

Councillor Garnett attended and, with the consent of the Chairman, addressed the Committee. The main objector felt that the size of the storage barn was too large at 1,800 square feet, which would be a reasonably sized bungalow; a smaller loose box would be better. He did accept that the new scheme was more in sympathy with the house and provided a considerable amount of protection from the Essex Way and Pennypot Lane. He considered a tarmac surfacing would be out of keeping and was surprised that gravel was not the preferred material. He believed a refusal would not be appropriate because this was a far better arrangement than that presented four years ago and he welcomed the removal of the remnant of a building which had outgrown its usefulness. He wondered if the buildings could be moved 30-40 metres further down to benefit from screening.

The planning officer confirmed that the Purcell Miller Tritton document referred to the previous scheme and English Heritage had agreed with those comments. That scheme had been revised and English Heritage now considered this scheme to be an improvement. Moving the building 30-40 metres further north would locate it further into the parkland and closer to the belt of trees. The intended location would enhance the site and was the best position for the setting of the parkland. The size of the building was not considered to be unreasonable. He noted that Condition 11 required details of surface treatment for the roadway to be submitted for approval.

Members of the Committee considered this scheme to be a significant improvement on the previous scheme and noted that it was supported by English Heritage and conservation officers. They did not consider the size of the building to be unreasonable. However there were concerns regarding the prevention of jumping and hacking within the parkland. It was considered that only jumping needed to be prevented on the grounds that it would not be unusual to see hacking in an AONB. It was suggested that Condition 16 be amended to reflect this concession.

Although the prohibition of jumping and hacking within the parkland had been suggested by the applicant, the planning officer did not object to the amendment of Condition 16 to permit hacking only. The Development Manager also suggested an amendment to the wording of Condition 6 restricting the use of the building for the use of horses and equipment to recognise that it also allows the changing room use for the pool.

RESOLVED (UNANIMOUSLY) that –

(a) Planning application 101541 be approved with conditions and informatives as set out in the report, subject to Condition 6 being amended by the insertion of the word 'stable' after 'The' at the start of the condition; and Condition 16 to be reworded

to allow hacking.

(b) Conservation area 101543 consent be granted with conditions and informatives as set out in the report.

125. 111468 Fishponds Field, Shop Lane, East Mersea

The Committee considered an application for a change of use of land from agricultural to mixed use land comprising agriculture and private equestrian use, together with the erection of an agricultural barn for the storage of hay and agricultural machinery. The Committee had before it a report in which all information was set out.

Nick McKeever, Planning Officer, attended to assist the Committee in its deliberations. He referred to the application being a Major application by virtue of the area of the site. The application had been supported by an agricultural consultant and the use of the barn was considered to be justified for the purpose of hay storage.

Alex Richardson addressed the Committee on behalf of himself and his neighbours pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application on the grounds of various sources of nuisance and in contravention of planning policies. He referred to instances of a pervading smell of horse manure, and a variety of cars visiting the site and parking in the lane causing a traffic nuisance. There was uncertainty in relation to the owner of the site, the use of which had grown to an equestrian centre. Previous applications for a barn and hay store had been refused by virtue of being contrary to policy. He contended that this application was eight times larger than the aforementioned hay store, and to indicate that it was 57% smaller was misleading. He doubted the building was justified on agricultural grounds. A significant amount of investment was proposed to secure equipment and buildings for the supply and storage of hay, which he believed could be obtained for a fraction of the cost by leasing nearby barns. He referred to the beautiful setting, restrictions on development and no letters of support. He warned of the possibility of the agricultural building being converted into a house.

Joseph Greenhow addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This proposal follows an earlier refused application and a prior notification proposal. The initial planning application was refused due to the impact on the character of the coastline regarding scale and design and insufficient justification. The latter reason had been addressed through prior notification of the scheme. Following lengthy discussions with officers the grazing of horses did not meet the requirements of an agricultural need which reduced the agricultural element to below 5 hectares. This application comprised a reduction in scale, massing, design and appearance. The impact had been assessed and supplementary planting would be provided. The application now met the test for an agricultural building.

Members of the Committee required clarification on what area of land would be served by the building and the purpose for which the land was to be used. Members recognised that this was not typical of a commercial building and that people were

prepared to spend more on an equestrian enterprise and needed a level of security. It was considered that this was an agricultural type business/activity which was acceptable in the countryside. Members questioned whether any further conditions should be added in regard to horseriders jumping on site and whether there were any lighting issues.

The planning officer referred to comments made by the council's spatial policy team in respect of the use of grazing and the building being acceptable in terms of policies DP24, Equestrian Activities, DP8, Agricultural Development and Diversification, and DP9, Employment Uses in the Countryside. He did not consider it possible to sustain an objection on policy grounds. It would be possible to add a condition to control the storage of manure if the Committee required such a condition. In respect of the areas of land for various uses, the total area was 6.5 hectares of which 2 hectares was for grazing and the remaining 4.5 hectares was for hay production. The siting, design and size of the building was considered to be appropriate for the enterprise. He referred to a belt of trees providing a buffer. The application was accompanied by a landscape impact assessment and the landscape officer required that any gaps in the hedge be filled in with hawthorn and oak trees to ensure that the impact on the coastal protection belt would be minimal.

The Development Manager suggested that Condition 3 be replaced by an appropriately worded condition and referred to Condition 15 on page 40 as a guide, an additional condition to prevent the subdivision of the barn from the agricultural use of the site, together with additional conditions on storage of manure, restrictions on lighting and prevention of jumping but allowing hacking.

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

- a condition to restrict use of the land for mixed use comprising agriculture/keeping of horses (see Condition 15 on page 40 of the agenda, as a guide;
- a condition to prevent the subdivision of the barn from the agricultural use;
- a condition to require appropriate storage of manure;
- a condition to control lighting;
- a condition to allow hacking.

126. 120158 Fieldings, School Road, Little Horkesley, CO6 4DJ

The Committee considered an application for the demolition of a double garage and the erection of a new double garage of larger plan size, but being the same depth and height. 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.

Mark Russell, Principal Planning Officer, attended to assist the Committee in its

deliberations. In his presentation he described the changes to the footprint and roof of the proposed garage and referred to the reduction of light to the neighbour's ground floor window and total obscuration of the neighbour's first floor window. Although both the existing and proposed garage would provide parking spaces which were/would be below the standard size, the Highway Authority had not objected to the application because there was sufficient space elsewhere within the site for two standard parking spaces.

Roger Drury, Clerk to Little Horkesley Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the original position of the garage as shown on the locational map in the agenda which had no impact on the neighbour and to the existing double garage being within 900cm of the neighbour's property. He referred to this rebuild being governed by the 1996 Party Wall Act. Light and privacy objections had not been accepted because of the planning approval for the existing garage. He believed the structure would be enlarged by 25% and that it would exclude light from the gable end window simply to allow easier parking. The Parish Council had recommended refusal on the basis of planning policy and the Village Design Statement (VDS) which stated that any extension should be sympathetic to adjacent properties in respect of scale, design and materials. The VDS had been approved by the council and he was disappointed that it was being ignored. He requested that the Committee refuse the application.

Chris Exley, agent, resident of Little Horkesley and member of the Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He stated that the application was primarily due to a structural failure of the existing garage which thereby presented an opportunity to overcome difficulties in manoeuvring cars into the garage. Contrary to the views of the Parish Council, he was of the view that the proposals were in accordance with the VDS. This application was to replace an approved existing garage by one or two feet longer at each end. The location had gained local authority approval as evidenced by the existing garage. The Parish Council's preference that the garage be moved to the west boundary would result in damage to or loss of trees. This proposal retained the roof pitch and height. However, the applicant was sensitive to the neighbour's windows and was prepared to adjust the location by one or two feet towards the road. If the Committee wished, he was agreeable to the use of render instead of a black boarding finish, and although he preferred to retain tiles on the roof which matched those on the house, he would be prepared to change them if the Committee had a strong preference otherwise. He was also willing to lower the roof slightly if the Committee wished.

Councillor Nigel Chapman attended and, with the consent of the Chairman, addressed the Committee. He believed this was an on balance decision, and one where it appeared possible to take it back for negotiation because there was clearly some movement on the issues raised. He asked that the Committee make up its mind on the basis of what they had heard and seen.

In response to the issues raised, the planning officer explained that if the Committee wished the garage to be located on the other side of the garden it would constitute a

change in what had been applied for and would require this application to be refused because there was an existing approval for a garage on the eastern side of the garden. The proposed roof would be no higher than at present but there would be an increase in roof area because of the increased footprint. The Party Wall Act was other legislation and could not be used to obstruct this application. The gable end window was a secondary window and the main south facing window serving the room was not affected. He acknowledged that the locational plan in the agenda was out of date. He considered it most helpful that the agent had thought about the objector's comments and was looking at alternative ways to help. In terms of materials he believed that render in a lighter colour would assist with reflected light and be in keeping with the host dwelling. Similarly, tiles on both the garage and house would match other buildings.

Having heard from the agent that the applicant was prepared to be flexible on various aspects of the replacement garage, the Committee came to a consensus that planning officers be required to facilitate negotiations to find a solution agreeable to the neighbour and the applicant based on the applicant's offer to make some adjustments on the wall and, possibly, roof materials, a small change of location, and roof height.

RESOLVED (UNANIMOUSLY) that consideration of the application be deferred for officers to negotiate an amended scheme. The revised application to be submitted to Committee for determination.

127. Endorsement to change the cascade mechanism for the delivery of affordable housing proposed as part of the approved planning application 091563 // Area S2Sw of the Colchester Garrison Urban Village Development

The Head of Environmental and Protective Services submitted a report on a new cascade mechanism for the delivery of affordable housing on Area S2SW of Colchester Garrison Urban Village Development, as set out in paragraph 3.2 of the Head of Environmental and Protective Services' report. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Members of the Committee enquired about whether there was a time limit by which the commuted sum must be spent on housing, and whether the sum was ring fenced for new social housing or ring fenced for social housing.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained that there was no time limit on when the sum needed to be spent and it was the intention to ring fence it for the provision of new affordable housing.

RESOLVED (UNANIMOUSLY) that the cascade mechanism for the delivery of proposed affordable housing be amended as follows:-

- The developer is responsible for the construction of the 5 shared equity units

(same as before).

- The Council is responsible for the nomination of perspective purchases (same as before). The 'nomination pool' has however been widened to increase the potential for finding suitable families; the qualifying families now include amongst others existing Council tenants and Housing Association tenants.
- After six months, if any of the five shared equity houses remain unsold, the unsold units are to be offered at the discounted rate to the Council and Housing Associations (new provision).
- After nine months, if

(a) none of the shared equity units have been sold, the developer shall transfer two of the units to a housing association and the remaining three units can be sold on the open market (no change);

however, if

(b) one or more of the shared equity units has been sold, the developer shall pay to the Council a commuted sum for each of the unsold units that equates to 33% of their open market value. (The commuted sum is for the provision of off site affordable housing provision). Following payment of the commuted sum, the developer can sell the units on the open market and is released from the requirement to provide any further affordable housing on this site (new provision).