

**PLANNING COMMITTEE
17 FEBRUARY 2011**

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Peter Chillingworth*, Helen Chuah,
John Elliott*, Stephen Ford, Jackie Maclean*,
Jon Manning, Philip Oxford*, Ann Quarrie* and
Laura Sykes*

Substitute Members :- Councillor Wyn Foster for Councillor Andrew Ellis*
Councillor Nigel Offen for Councillor Ray Gamble

Also in Attendance :- Councillor Christopher Garnett
Councillor Dave Harris
Councillor Colin Mudie
Councillor Tim Young

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

187. 102121 Land between 16 and 23 Darwin Close, Colchester, CO2 8US

The Committee considered an application for the erection of two two-bedroom dwellings. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations.

Steve Heywood, Regional Director for Icen Homes and speaking on behalf of Colne Housing Society, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He stated that the scheme would regenerate a redundant garage site by providing two affordable homes and also benefit the community by removing an area of anti-social behaviour. He referred to the five oak trees on the MOD land along the eastern boundary, three of which were diseased and the other two would have an unacceptable overbearing impact on the development. Crowning and pruning had been considered but reluctantly it had been concluded that all five trees should be removed. Agreement with the MOD to undertake this work had been reached and he hoped the provision of the two homes would outweigh the loss of the trees.

Councillor Mudie attended and, with the consent of the Chairman, addressed the Committee. He was not opposed to the development of the area as such and had no objections to the removal of the three diseased trees but was opposed to the removal of the two healthy trees. In his opinion one of the remaining two trees was such a fine ancient specimen that he considered it should remain, and he believed that the removal of the other four trees would permit sufficient light to enable the development

to proceed. He was also concerned that there would be a loss of habitat along with the loss of the trees. He made reference to the Birch Glen estate having no amenities such as shops, buses, a pub nor a community centre save for the wooded backdrop of the MOD land and a piece of hard standing recreational land on a common. He asked that the application be refused because information provided was misleading and denied the public the right to protect the trees with Tree Preservation Orders (TPO).

Councillor Harris attended and, with the consent of the Chairman, addressed the Committee. He presented a petition with eleven signatures of residents who were either in favour of the proposal or didn't mind it. The garages had been demolished following local pressure arising from the anti-social behaviour experienced on the site. Anti-social behaviour was now directed at the trees which were subject to graffiti, and persistent littering in the area. The residents wanted something done. This scheme provided disabled friendly affordable housing which took people off the waiting lists and fulfilled the diversity policy and the planning policies. He considered it very unfortunate that a good oak tree would be lost and he had offered to help provide a replacement tree on army land. He considered the estate to be a wonderful place to live but this area needed to be fenced which would be achieved if the two houses were built. He hoped the Committee would enable this application to go forward.

Councillor T.Young, Portfolio Holder for Housing and Community Safety, attended and, with the consent of the Chairman, addressed the Committee on behalf of the Cabinet. This proposal meets the strategic objective of homes for all and has the support of all eight Cabinet members including Councillor Barton, Portfolio Holder for Planning and Sustainability and Essex County Councillor for the Berechurch area. He stated that this site had been a magnet for anti-social behaviour which would cease if these two homes were built. He reminded the Committee that affordable housing was desperately needed in Colchester. This site was the first of a number of similar sites owned by the council which he hoped would be similarly developed. The residents supported the scheme. He recognised that there were planning reasons not to grant permission but the inclusion of a Grampian condition and support of the MOD would enable the Committee to consider granting approval. If the application was refused valuable funding would be lost. He asked the Committee what was more important, an oak tree or two affordable homes.

The planning officer explained that normally a tree would only be given a TPO if there was a threat to the tree. Although the trees would be felled, the timber would remain on the site for the benefit of insects which would be a benefit to nature conservation. There was also an undertaking that replacement trees would be provided off site and the wooded backdrop would ensure that visual amenity was maintained. It was also explained that the houses would be suitable for people who were disabled through the provision of wider doorways.

Members of the Committee confirmed that they had undertaken a very useful site visit and they had noted the untidy nature of the site. Although no-one liked to see trees removed, the view was that these trees had little value and were covered in ivy. It was considered that relatively little harm would be done if they were removed and replaced elsewhere. With regard to affordable housing, it was recognised that there had been

a slow down in the provision of affordable homes in the town and the Committee were keen not to lose any opportunity to increase provision. It was also considered that these houses were well designed, would alleviate the anti-social behaviour and enhance the area. One member recalled a similar situation in Braiswick where trees had to be removed following which the area suffered from heave and two houses had to be pulled down and rebuilt. She wished that in this case there was some other way of achieving the homes without removing the trees.

RESOLVED (MAJORITY voted FOR) that –

(a) The application be approved, subject to a Grampian condition to prevent the commencement of the development until and unless the five existing trees on the common boundary have been removed, together with any conditions and informatives considered appropriate including conditions to remove permitted development rights and the implementation of fencing as shown prior to occupation and thereafter retained, and informatives requesting replacement trees to be provided off site on MOD land and the retention of the felled timber on the adjoining site as a wildlife resource.

(b) In the event that the Grampian condition cannot be delivered or satisfied, the Head of Environmental and Protective Services be authorised to refuse the application on the grounds of the oppressive impact of the adjacent trees on the outlook from the garden and the natural daylight in rooms within the houses.

188. 102360 Waldegraves Farm Holiday Park, Waldegraves Lane, West Mersea, CO5 8SE

The Committee considered an application for an extension of the Wheatsheaf Social Centre to provide additional accommodation, a food holding room and a changing room and toilets, including the demolition of a conservatory. The application is a resubmission of 101202. 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.

Councillor Peter Chillingworth (in respect of being acquainted with the applicant) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

189. 091057 Car Park opposite The Coast Inn, 108 Coast Road, West Mersea, CO5 8NA

The Committee considered an application for the retention of posts and shuttering to enclose a car parking area. 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.

190. 101520 36 Barrack Street, Colchester, CO1 2LT

The Committee considered an application for a change of use from A1 shop to A5 takeaway food and a new extension at first floor level over an existing rear extension to provide new staircase to the existing first floor flat. The application is a resubmission of application 100934. The application had been deferred at the meeting on 18 November 2010 for a site visit and for clarification of matters set out in the report. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained that the application did not comply with the parking standards; six spaces would be required for this use, two for each takeaway and two for the flat. The provision of cycle parking spaces exceeded the standard. The takeaway outlets would be operated on a predominance of deliveries rather than a counter service, but there would be some customers presenting at the shop. The officer view was that, based on the test of reasonableness, a recommendation of refusal would not be justified.

Doug Flack addressed the Committee on behalf of New Town residents pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Residents' main concerns were in respect of traffic congestion, parking, noise, pollution and litter, especially in evening hours. He was surprised that the Highway Authority had raised no objections to the proposal and he referred to the frequent failure of the traffic lights at the nearby junction and the narrowness of the street. He referred to other existing takeaway outlets and shops which were sources of congestion and litter. He was concerned that there were only three off-street parking spaces for eight full time staff and three part time staff in the two establishments. He also referred to the nearby new development in Port Lane and the new magistrates' court and this proposal would further increase the problems for residents. This proposal would also affect existing businesses at a time when trade had slowed down and he did not believe there was a need for two outlets in one building.

Members of the Committee were aware of the traffic congestion in Barrack Street which must cause problems for the residents. They did not object to the low level of parking because of the emphasis on a delivery service and the proximity to the small off-street shoppers' car park in the Wilson Marriage centre. They considered that the proposal would greatly improve the street scene and also the appearance of the rear

of the building both of which were currently in a poor state. The proposal would provide jobs. There were concerns regarding the increasing proportion of A5 uses in Barrack Street but this proposal would not take it above the 50% threshold. Environmental Services would be able to deal with any problems from smells. Most of the Committee's earlier concerns had been addressed and the Highway Authority had not provided a reason to reject the application so there did not appear to be any planning grounds for a refusal.

It was explained that the former use had generated some traffic activity particularly during the daytime whereas the proposed use would be predominantly an evening operation with an emphasis on a delivery service so the congestion may improve. There were local problems in filling the retail premises and in such circumstances other uses would be considered in a mixed use area where they were complementary to the main use. An informative could be added to lay down a marker regarding the proportion of uses in the street.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet, and including a note about the A5 uses within the retail frontage.

Councillor Jackie Maclean (in respect of her professional acquaintance with the applicant company, Powerplus Engineering) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

191. 101901 Powerplus Engineering Limited, School Farm Buildings, School Road, Langham, CO4 5PA

The Committee considered an application for the provision of thirteen staff car parking spaces including two disabled spaces and associated hedgerow. 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. He referred to an earlier application which had been refused and the subsequent appeal which had been dismissed. Expansion of the site had been put forward for inclusion in the Site Allocation Development Plan Document but had not been accepted. There was a shortage of parking spaces which had created friction with other occupants and cars exiting dangerously into School Road causing conflict. He referred to policy DP9 which did not necessarily rule out expansion of business sites if they were small scale and did not have negative impacts. The Spatial Policy Team recommend refusal because there was enough in DP9 to suggest it did not comply with the policy.

Councillor Tony Ellis, Chairman of Langham Parish Council Planning Committee, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to their written

submission to the Committee and confirmed that they fully supported the comments made by the Council's Spatial Policy Team. The site had been reviewed by an Inspector as part of an appeal process for a retrospective application which had been dismissed, and then again for inclusion in the Site Allocations document which had not been accepted. In their submission document the parish council had given six reasons for refusal. He was concerned that in this new application the size of the fence had not been reduced, the application did not address previous objections, and it did not seek to improve the parking problems in School Road. He stated that expansion of car parking facilities was in conflict with sustainability objectives to reduce car travel in the borough and this incursion into the countryside was not the answer.

Ted Gittins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the application having been submitted five months ago yet there were five pages of last minute comments from a statutory consultee. He had not had the opportunity to consider these representations nor could he respond at this meeting. He considered it wrong to draw comparisons between two previous decisions relating to an appeal and to the LDF examination, which itself related to the whole of the site. He stated that this modest proposal would avoid overspill parking into neighbouring businesses and off site parking by securing a limited increase in parking provision on site. The proposal would not affect residential amenity and would provide environmental improvements for the countryside. He believed the committee had a responsibility to allow this important group of employers to operate reasonably and provide a safe environment for their employees.

Councillor Garnett attended and, with the consent of the Chairman, addressed the Committee. He informed the committee that this company had moved because it outgrew its first premises in Boxted and that it has subsequently grown further and appeared to be doing well in difficult times. However he considered the application to be an extension into the countryside which was contrary to the Site Allocations document. He believed that public footpaths were being moved at will and he did not believe youngsters should be subjected to crossing a factory floor. He stated that footpaths were used a great deal by school children on their way to the community shop. He did not refute the effort that the company had put into the site and the kind of work they were doing, but he believed the application should be refused and stood a good chance of any appeal being denied.

The planning officer explained that previously the footpath had been diverted around the perimeter but in this proposal it would follow a line straight through the parking area. The extension in this proposal was one third of the original area.

Members of the Committee had differing views. Some members were surprised that the Spatial Policy Team had not been consulted at an earlier stage and were disappointed about the late information. They believed that this application was being recommended for approval on the grounds of putting aside a policy in favour of the benefits. However, there was a view that policy DP9 Employment Uses in the Countryside, was a pertinent policy and rural industrial sites were not friendly to the countryside, which was the reason for the very strict policies in place to control them

which should not be put aside. Members were pleased to hear of this successful engineering business in Colchester and wanted to see companies grow and did not want to see the loss of jobs, but if the business continued to grow there could be another application for a further incursion into the countryside. It was apparent that this business was short of space and its management should take a view on whether the current premises were suitable for the future and if not look for a bigger site. There was some concern about the conflict of a public footpath cutting across a car park, and that situation would be even more dangerous if the footpath was rarely used because drivers would not be used to seeing walkers. There was a preference for it to go around the outside of the car parking area. Some members believed the application should be refused in accordance with the policy whilst others wanted it deferred for a site visit and for negotiation on the concerns expressed.

Other members were of the view that the company would probably like to move, but obtaining the necessary finance to move was very difficult at the moment and they did not want to do anything to make life difficult for the company. They had no objection to the expansion of the car parking area subject to very stringent conditions, one of which should be the requirement for a 'green' surface where it has the appearance of grass and the use tied to the applicant company and not passed on if they moved. This type of surface was expensive to install but would have less impact than tarmac. There was also support for the metal fence to be removed and a hedge replanted which included trees to create a wildlife environment.

The planning officer explained that comments from the Spatial Policy Team had not been requested at the outset hence the late comments on the Amendment Sheet. It was unfortunate that their late submissions had not given the applicant or the agent any chance to respond. The proposal for a deferment would allow the agent to address the issues raised such as provision of a travel plan, the extent of additional car parking, the surface treatment, boundary treatment, clutter within the site and securing a safe footpath, together with the opportunity for a site visit.

RESOLVED (MAJORITY voted FOR) that consideration of the application be deferred for a site visit and the following matters:- provision of a travel plan; 'green' surface treatment of the car park; measures to ensure the footpath is maintained clear of vehicular traffic; removal of metal fencing and provision of replacement hedge planting comprising indigenous species; clarification of areas of storage, clearance of any unauthorised items.

192. 102414 Land to rear of 143 High Road, Layer de la Haye

The Committee considered an application for a variation of Condition 08 (trees) of planning approval 071986 to enable the removal of three trees on a site currently under construction for two dwellings. The Committee had before it a report in which all information was set out.

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

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