

# PLANNING COMMITTEE

## 15 MAY 2014

*Present :-* Councillor Theresa Higgins (Chairman)  
Councillors Peter Chillingworth, Helen Chuah,  
Sonia Lewis, Cyril Liddy, Michael Lilley, Jackie Maclean,  
Jon Manning, Philip Oxford and Laura Sykes

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

### 145. Minutes

The minutes of the meeting held on 24 April 2014 were confirmed as a correct record.

### 146. 142481 - 5 Queens Road, West Bergholt

The Committee considered a report by the Head of Professional Services, in accordance with the Committee's Delayed Decision Protocol which had been invoked by the Committee at its meeting on 24 April 2014 as it was minded to approve the application contrary to the officer's recommendation, subject to further clarification on some issues. The application was for the stationing of a mobile trailer for hot takeaway sales in the car park of the Queen's Head Public House, West Bergholt. The report provided details of the risks and implications of overturning the officer recommendation, it addressed the key points made by members of the Committee and set out possible conditions for members to consider in their determination. Further information was also provided in the amendment sheet, including a further letter from West Bergholt Parish Council.

Peter Hill, Planning Officer, presented the report and assisted the Committee in its deliberations. Andrew Tyrrell, Planning Manager, was also in attendance.

Members of the Committee requested further clarification on information contained in the report regarding potential disturbance to neighbouring residents from odours and noise.

Samantha Riley, Environmental Protection Officer, explained in detail how odour nuisance was assessed and the possible methods that could be used to overcome odour problems and the difficulties of applying these conventional solutions to a vehicle as opposed to a permanent structure. In particular, she provided further detail in respect of her attendance at the location, explaining that she had witnessed an odour problem which, in her view, would not be possible to prevent due to the lack of containment of the cooking area provided by a vehicle and the method of cooking used. The installation of equipment to restrict odour would not be feasible in respect of a vehicle, meaning that the only method to overcome these problems would be to increase the distance from neighbouring premises, which, in itself wasn't possible due to the proximity of the site. She stated that, as the odour problem had been witnessed

during cooler months, it was inevitable that this would be a problem when the weather was warmer. Another officer had also witnessed noise nuisance from the compressor and the extraction system which may be possible to control with the introduction of alternative equipment but, in her view, would not be possible to silence.

In accordance with the Delayed Decision Protocol, the Chairman invited the Committee to vote on the proposal to approve the application. The proposal was lost (FOUR voted FOR, FIVE voted AGAINST and ONE ABSTAINED).

Councillor Chuah ABSTAINED from voting on this application as she had not been present at the Committee's original consideration of the application.

*RESOLVED* (FIVE voted FOR, THREE voted AGAINST and TWO ABSTAINED) that the application be refused, for the reasons set out in the report dated 24 April 2014.

#### **147. 142131 - Haye Yard, Upper Haye Lane, Fingringhoe**

**Councillor Lilley (in respect of his acquaintance with the applicant) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered a report by the Head of Professional Services, in accordance with the Committee's Delayed Decision Protocol which had been invoked by the Committee at its meeting on 10 April 2014 as it was minded to approve an application contrary to the officer's recommendation. The application was for the erection of a single dwelling in place of a mobile home, builder's yard and scrap yard at Upper Haye Lane, Fingringhoe. The report provided details of the risks and implications of overturning the officer recommendation, it addressed some of the key points made by members of the Committee and set out possible conditions for members to consider in their determination.

Simon Osborn, Planning Officer, presented the report and, together with Andrew Tyrrell, Planning Manager, assisted the Committee in its deliberations.

Members of the Committee requested further clarification on information contained in the report regarding the Inspector's decision on the site and the potential for the site to be sold for use for the breakage and storage of cars. Mention was also made of the potential to achieve the objectives of the Council's rural planning policies by means of the enhancement of the site by the provision of a low key dwelling and the associated clearance of the majority of the existing buildings.

Andrew Tyrrell confirmed that the Inspector's decision stated that the use was a Sui Generis mixed use and that also scrap yards were Sui Generis uses so any significant intensification or material change of use would require planning permission.

In accordance with the Delayed Decision Protocol, the Chairman invited the Committee to vote on the proposal to approve the application and reference was

made to the twelve suggested conditions, together with the measures contained in the Unilateral Undertaken offered by the applicant, details of which were set out in the report.

Councillor Liddy ABSTAINED from voting on this application as he had not been present at the Committee's original consideration of the application.

*RESOLVED* (EIGHT voted FOR, ONE voted AGAINST and ONE ABSTAINED) that, on the basis of the material Planning benefit that outweighs the harms caused, justifying an exception to adopted policies and national guidance on the following grounds:

- The existing lawful use of the site, the appeal history and the duration of those uses and
- The current unsightly and untidy condition of the location which was immune from other planning remedies and
- The unique circumstances of the current use located off a protected lane, the reduction in traffic volumes and size of vehicles and
- The significant enhancement to the site that could be achieved and
- The combination of these factors having made the site specifics so unique it was unlikely to set any precedent,

the application be approved, subject to the conditions and the Section 106 Unilateral Undertaking set out in the report.

#### 148. 132247 - Lexden Wood Golf Club, Bakers Lane, Colchester

**Councillors Chuah and L. Sykes (in respect of their Rotary Club membership which conducted meetings at the location of the application) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for the landscaping and re-modelling of an existing golf course, with the addition of an adventure golf course at Lexden Wood Golf Course, Baker's Lane, Colchester. The application had been referred to the Committee for consideration as it was a major application where material planning objections had been received. The Committee had before it a report in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) that –

- (i) The application be approved, subject the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting;
- (ii) In the event that the legal agreement is not signed within 6 months, authority be delegated to the Head of Professional Services to refuse the application, or otherwise to be authorised to complete the agreement to provide for a bond or cash

sum of no more than £20,000 from the owner/developer to be used if any damage is caused to Bakers Lane as a result of the development;

(iii) On completion of the legal agreement, the Head of Professional Services be authorised to grant planning permission subject to the conditions set out in the report.

#### **149. 143672 - Meadowside Lodge, Olivers Lane, Colchester**

The Committee considered an application for the erection of a canopy to the front entrance of a dwelling known as Meadowside Lodge, Oliver's Lane, Colchester. The application had been referred to the Committee because the agent is a former member of staff and is a consultant who undertakes some work for the Council. The Committee had before it a report in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be approved, subject to the conditions set out in the report.

#### **150. Councillor Sonia Lewis**

Councillor Chillingworth explained that this would be the last Committee meeting attended by Councillor Lewis after 24 years' service as a Councillor. She had been a long serving member of the Planning Committee and he thanked her for her common sense approach and her hard work during her time with the Committee.

Councillor Lewis responded by thanking her Councillor colleagues and various officers who she had worked with over the years.