

PLANNING COMMITTEE 17 OCTOBER 2013

Present :- Councillor Theresa Higgins (Chairman)
Councillors Peter Chillingworth, Helen Chuah,
Stephen Ford, Sonia Lewis, Cyril Liddy,
Jackie Maclean, Jon Manning and Laura Sykes
Substitute Member :- Councillor Gerard Oxford for Councillor Philip Oxford

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

75. 131568 - Bawley House, Walter Radcliffe Road, Wivenhoe

The Committee considered an application for the change of use of approved 8 office units on the first and second floor of the commercial block to polyfunction units with associated parking. The Committee had before it a report in which all the information was set out.

Ms Sue Jackson, Principal Planning Officer, assisted the Committee in its deliberations.

A Member of the Committee sought several points of clarification. It was explained by the Principal Planning Officer that there was no proposal to reduce the number of parking spaces on the site. However, as the parking standard for residential units was a minimum standard, up to sixteen spaces would be set aside for such use, which would reduce the number available for the restaurant. However restaurant use attracted only a maximum standard of parking, which would still be complied with in such circumstances.

The contributions for Affordable Housing would supplement a Borough-wide funding pot. It was highlighted that the units in question were to be provided with private balconies and public amenity space was available in the area.

It was noted that there was no requirement for the provision of a community facility within this application.

RESOLVED (UNANIMOUSLY) that –

(i) the application be approved subject to the signing of a unilateral undertaking within six months from the date of the Committee meeting to secure the financial contributions and a linking agreement to the legal agreement in respect of application 091559 to secure the erection of the building.

(ii) In the event that the unilateral undertakings were not signed within six months, to delegate authority to the Head of Professional Services to refuse the application, or otherwise to be authorised to complete the undertakings.

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

and amendment sheet.

76. 131809 - 2 Middleborough, Colchester

The Committee considered an application for the variation of condition 4 (opening hours) attached to planning permission 122147 relating to the Papa Johns Pizza Takeaway. The Committee had before it a report and amendment sheet in which all the information was set out.

Mr Carl Allen, Planning Officer, presented the report and assisted the Committee in its deliberations. He emphasised that, in planning terms, the main consideration for the Committee was the noise disturbance of delivery vehicles.

Ms Sue Kavanagh, 1 St Peter's Yard, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She claimed that there was inadequate parking on the application site to provide for the business use currently employed. She said that parking was currently undertaken off the site, in front of the adjacent advertisement hoarding. This was currently being investigated. She emphasised that Essex County Council's Highways wasn't consulted. She further suggested that noise from delivery vehicles was disturbing the residents that were near the rear of the building. She claimed that although the area was busy in the day, at night it was quiet and the noise was disruptive.

Mr James Edwards addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He claimed the proposal was reasonable in planning terms and simply confirmed the principle established in the earlier permission. He stated that the Environmental Protection Team were happy with the proposal and had always intended the restrictions to apply to the delivery of raw materials, not takeaways. He suggested that the site was deemed to be busy, in the centre of Colchester and that delivery vehicles would not cause any additional disturbance. He stated that the applicant was in discussion with delivery drivers and was working with staff regarding their behaviour.

Councillor Frame attended the meeting and, with the consent of the Chairman, addressed the Committee. He called in the application because of the noise generated from deliveries, which was a significant disturbance in the evening. He believed that it should be ensured that drivers didn't linger near residential areas. He stated that he had received a lot of complaints regarding the noise generated. He said that Papa Johns' should behave as a good neighbour and control their noise levels.

Councillor Hayes attended the meeting and, with the consent of the Chairman, addressed the Committee. She reiterated previous comments regarding the inadequate parking facilities on the site, causing drivers to park illegally off site. She said she would be interested to hear the outcome of investigations. She commented that the road was a busy pedestrian thoroughfare and believed there was a highways issue that should have attracted consultation. She believed that the existing restrictions on takeaway delivery hours were reasonable and suggested the Committee did have sufficient grounds to refuse the application.

The Committee sympathised with the residents however it was noted that as Environmental Protection had raised no objections, the proposal was considered acceptable. It was suggested that the issues raised by residents were more management related.

It was explained that at that moment the site did adhere to parking standards, which was related to floorspace. The Enforcement Team was aware of the issue of illegal parking. Although the area in question was not part of the application site, investigations into the ownership of that land were being made. It was anticipated that an application for increased parking to the rear of the property would be submitted in due course. It was explained by the Planning Officer that the development was next to a highway, which was available for vehicles to use at all times of the day and night. As such, delivery vehicles using this road later at night could not be considered an unreasonable disturbance. The surrounding area was of mixed business and residential use, which attracted activity late into the night.

The Committee raised the issue of unauthorised parking and requested that it be raised with the Enforcement Team to monitor. They also suggested that the applicant needed to take on board the comments of the residents and Committee regarding the parking arrangements.

RESOLVED (UNANIMOUSLY) that the application be approved, subject to the conditions set out in the report and additional informatives to:

- The applicant regarding an application to improve parking facilities, and
- To the Highway Authority and Environmental Protection in respect of inappropriate parking and amenity issues.

77. 131676 - 9 Little Foxburrows, Shrub End

The Committee considered an application for the conversion of an existing car port and associated alterations. The application had been deferred from the Committee meeting of 3 October 2013 for further information on previous conditions relating to parking and the use of car ports when the original application was approved. The Committee had before it a report and amendment sheet in which all the information was set out.

Ms Nadine Calder, Planning Officer, and Ms Sue Jackson, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. The Officers explained that condition 26 of the original planning permission, relating to the use of car ports, was to ensure highway safety. As such, she had consulted the Highway Authority had been consulted and had no objections.

Mr Mike Hardy addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was speaking on behalf of Ms Stone and other residents. He stated that the estate was created as a careful balance between homes, open space and parking, with little surplus space. He suggested that the final permission for the estate should be considered as a policy, as

it outlined a particular style for the area. He claimed that the proposal was inconsistent with this design. Car ports were used in this area to minimise on-street parking. To increase parking needs while simultaneously decreasing parking provision would be nonsensical. He requested that the Committee uphold the original permission and its conditions.

Councillor Barton attended the meeting and, with the consent of the Chairman, addressed the Committee. She thanked the Planning Officer for considering the boundary considerations. She suggested that it was necessary to look at the bigger picture. She stated that the Committee which had originally granted permission understood the traffic issues caused by garages and conditioned appropriately. No enforcement was being acted upon regarding that condition. If this Committee did not refuse the application, planning conditions would be rendered pointless.

Councillor Hazell attended the meeting and, with the consent of the Chairman, addressed the Committee. She commented that car ports were for cars and not for people. She also suggested that an approval of this application would contradict the spirit of the original permission. In her opinion, the application was of such a nature as to not warrant any reference to the National Planning Policy Framework. She highlighted that residential amenity was not purely for the applicant but for the neighbouring residents as well. She was concerned as to the consequences of the application with regard to the amount of traffic generated. She urged the Committee to uphold the 2005 decision in spirit and intent.

Members of the Committee expressed concern that approving the proposal would undermine the original planning permission, citing existing traffic problems in the area. It was suggested that the application could be refused on the grounds of being contrary to the original planning permission conditions. Several Members of the Committee were troubled by the potential precedent an approval of this proposal would set. Concern was also expressed regarding DP13 and the significant increase in size, although not in footprint, of the house from a four bedroom to a five bedroom property. It was suggested that this would be out of keeping with the rest of the area.

The Planning Officer reiterated that the Highways Authority had not raised any objections to the proposal, after visiting the site. She explained that planning conditions removed permitted development rights and were placed on planning permissions to ensure that control remained with the Council to consider planning applications on their specific merits. She explained that the proposal was not considered contrary to policy DP13.

Several members of the Committee commented that the footprint of the property was not being increased in any way and that sufficient parking, according to policy, would still be available on the driveway for a five bedroom dwelling.

The point was further raised that the garden area appeared to be covered in decking, which was contrary to policy. It was explained by the Planning Officer that this part of the layout could be excluded from any permission granted by a condition. It was further requested that, if approved, a condition be added to ensure use remained residential.

RESOLVED (FOUR voted FOR, FOUR voted AGAINST, TWO ABSTAINED from voting, and the Chairman having exercised her casting vote FOR) that the application be approved, subject to the conditions and informatives set out in the report with:

- An amendment to condition 2 to exclude the additional decking from the permission granted, and
- An extra condition ensuring that the development shall be used solely for residential purposes.