

**PLANNING COMMITTEE  
24 APRIL 2014**

- Present :-* Councillor Theresa Higgins\* (Chairman)  
Councillors Peter Chillingworth\*, Sonia Lewis\*,  
Cyril Liddy\*, Michael Lilley, Jackie Maclean,  
Jon Manning, Philip Oxford and Laura Sykes\*
- Substitute Member :-* Councillor Barrie Cook for Councillor Helen Chuah
- Also in Attendance :-* Councillor Nick Barlow  
Councillor Andrew Ellis  
Councillor Bill Frame  
Councillor Marcus Harrington  
Councillor Dave Harris  
Councillor Jo Hayes  
Councillor Colin Sykes  
Councillor Julie Young

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

**135. Minutes**

The minutes of the meeting held on 20 March 2014 were confirmed as a correct record.

**136. 131604 Former Essex County Council Offices, Park Road, Colchester**

**Councillor Manning (in respect of his employment at a school in the proximity of the application site) declared a pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination.**

**Councillor T. Higgins (in respect of her children being alumni of Colchester County High School for Girls) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for the erection of 31 dwellings, the creation of a new vehicular access via Park Road and the provision of an access road to the development, refuse and bicycle store, landscaping, public open space and groundworks.

The Committee had before it a report in which all information was set out together with additional comments on the 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, attended to assist the Committee in its deliberations.

Peter Dodgson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He expressed concern that the applicants indicated that the boundary of the site extended to the edge of the greensward on Park Road. If the greensward were to disappear, this would be to the detriment of the street scene in Park Road. He suggested that boundary of the site be shown with hedging or fencing with the greensward maintained as it was, except for the access roads and drives running across it. If this could be secured, this would help make the scheme more acceptable to local residents.

David Bradley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He indicated that the application had originally been submitted in 2013 but a series of meetings with officers had led to an improved scheme. The site had previously been developed and therefore was suitable for development. The demolition of the existing buildings had improved the amenity of the area. The development was low density with large gardens. The proposed access was safe and there was no objection from the Highway Authority. He confirmed the applicants had right of access to the site. He confirmed that with the exception of access roads, no development was proposed for the greensward. All planting would be on site. A section 106 contribution would be made to allow affordable housing to be provided off site.

Members of the Committee were pleased to note that the developers had listened to the concerns of residents and made improvements to the scheme to meet those concerns. However, the Committee sought reassurance that the concerns of the residents of Park Road about the protection of the greensward (verge to street frontage) would be met, possibly through the withdrawal permitted development rights to the front boundary of the site. Whilst it was necessary for the boundary between the site and the greensward to be marked, this needed to be done in a way that did not detract from the open character of Park Road. Members also noted the concerns of Mossfield Close who claimed that the revisions to the site plan had moved plots nearer to the rear of their properties. It was noted that the section 106 contribution would be used for the provision of affordable housing off site but there was also a pressing need for investment in education facilities in the area

The Principal Planning Officer highlighted the efforts the applicants had made to ascertain the ownership of the land along the frontage of Park Road and that they were confident they had right of access. In any case, it was not for the planning system to resolve disputes about land ownership. The Principal Planning Officer explained that the proposed plots were sufficiently distant from properties on Mossfield Close and that no overlooking or amenity issues arose. The application had been considered by the Council's Development Team who had considered that the section 106 funding should be directed towards affordable housing, which was the one of the Council's key strategic priorities. If any section 106 funding was left following the provision of the affordable housing, this would be directed toward education provision. She confirmed that the greensward on Park Road would be retained with planting along the front boundaries of the gardens. However an

additional condition could be imposed to control the means of enclosure to the frontage on Park Road to help protect the verge and maintain the character of the street scene.

*RESOLVED* (UNANIMOUSLY) that –

(a) The application be approved subject to 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. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Commercial Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- a commuted sum of £509,416 to be provided to the Borough Council for the provision of affordable housing across the Borough to meet the policy requirements for this site. If following the provision of affordable housing there is any of the contribution remaining it will be passed to Essex County Council for use as a contribution towards the provision of education
- a revised viability assessment to be undertaken, should the development have not commenced within 18 months from the date of the grant of planning permission, through a review mechanism.
- agreement to form a management company whereby the roads are maintained to a suitable level and retained as fit for purpose
- agreement to form a management company whereby the public open space is maintained to a suitable level and retained as public open space thereafter.

(b) On completion of the legal agreement, the Head of Commercial Services be authorised to grant planning permission subject to the conditions and informatives set out in the report and the Amendment Sheet, together with an additional condition withdrawing permitted development rights for front boundary means of enclosure on the grass verge to protect the verge and the streetscene.

### **137. 141087 62 Brook Street, Colchester**

The Committee considered an application for the erection of 12 dwellings, the provision of a new access road, the upgrading of the right of way and other ancillary development.

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.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

Jane Clarke addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She urged the

Committee to refuse the application on traffic noise and air pollution issues. The application would generate more traffic and increase air pollution in an area where air pollution levels already exceeded European Union limits. Traffic levels on Brook Street were increasing and resulting traffic queues were increasingly frequent and longer. The poor visibility and speed of traffic would make it difficult to pull out safely onto Brook Street from the proposed access. The proposed traffic islands would reduce the on street parking provision on Brook Street. The application would lead to the loss of trees and habitats for small animals

Councillor Frame attended and, with the consent of the Chairman, addressed the Committee. He explained that he had called in the application, despite it being recommended for refusal due to concerns on air quality. He noted the comments from Environmental Protection but stressed that there was a very real problem with air quality on Brook Street and that the traffic generated by the proposed scheme must create further air pollution. This site was a green lung for Brook Street and should be retained in its current state. He considered that air quality issues should be added to the reasons for refusal of the application.

Councillor Hayes attended and, with the consent of the Chairman, addressed the Committee to support the representations made by Jane Clarke and Councillor Frame. She stressed the air quality was an important health issue. It was not just a technical issue, but had a real impact on people's lives. The duty under the Environment Act to take action on air quality should impinge on planning issues. The application also posed a flood risk as the proposals for a ditch to deal with water runoff were inadequate

The Principal Planning Officer explained that whilst Brook Street was included in the Borough's Air Quality Management Area (AQMA), Environmental Control was not recommending refusal as the development did not include frontage development to Brook Street. Environmental Control's view was that whilst the proposed development would lead to increased traffic, the percentage increase was small. Therefore a refusal on air quality issues would not be sustainable. However, it was confirmed that the policy would be reviewed in light of this application. She also was confirmed that the Flood Risk Assessment submitted complied with Environment Agency advice.

The Committee noted this advice but requested that an informative be added to the refusal highlighting the adverse impact of the proposal on the AQMA and the impending revision of the Council's policy. The Committee also highlighted the other concerns about the proposal set out in the report and noted the objection from the Highways Authority. Whilst there was a need for affordable housing, this needed to be of higher quality than was proposed by this development.

*RESOLVED* (UNANIMOUSLY) that the application be refused for the reason set out in the report with an additional informative to be included highlighting the adverse impact of the proposal on the AQMA and the impending revision of the Council's policy.

### **138. 142128 9 Walters Yard, Colchester**

The Committee considered an application for the erection of a new 1 bedroom detached dwelling with basement, following the expiry of the permission granted under 090732.

The Committee had before it a report in which all information was set out including additional comments on the Amendment Sheet.

Mark Russell, Principal Planning Officer, and Simon Cairns, Planning Projects Manager, attended to assist the Committee in its deliberations.

Susan Jennings addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that historically, no building had been built on this site. The site was in a conservation area, with three listed buildings in the near vicinity. It would also prevent any renovation work to the listed wall running between the site and 59 West Stockwell Street. The garden of 59 West Stockwell Street was higher than the plot and contained a sink well. The proposed design was out of character and out of context with the area. The work to clear the plot had led to damage to neighbouring properties and building works would be hugely disruptive to other properties on Walters Yard. For instance it would be likely to block access to emergency vehicles.

Councillor Frame attended and, with the consent of the Chairman, addressed the Committee. He stressed that the development was completely out of context with the conservation area and he disagreed with comments about the design in the Committee report. Whilst it was only a small site, the development would cause huge problems. Construction would be very difficult. To get materials on site would be expensive and very disruptive to other residents of Walters Yard. He urged the Committee to judge the application on its merits and not be bound by previous approvals. The application should be refused on the grounds of inappropriate development.

Councillor Barlow attended and, with the consent of the Chairman, addressed the Committee. He noted that the applicant had advised that they no longer wished to include the basement within the application. This meant the development would be very small and could set a precedent for smaller properties. The design was flawed and incompatible with the area and would give a cramped feel to the environs. The large glass windows would lead to light pollution. If the Committee were minded to approve the application, they should consider deferring the decision so that full consideration could be given to the implications of the removal of the basement. A proper ground survey would be required as they may be an underground stream and a full archaeological survey should also be undertaken.

Some members of the Committee expressed their concern about the proposed design and one member suggested that the Committee defer for further consideration of the policy position.

It was explained that the principle of the development had been accepted on two

previous occasions and a similar design had received approval in 2010. Since the previous approval there had not been any material change in relevant national or local planning policies. Therefore there was no reason in planning terms to either refuse the application or to defer it for further consideration of the application. Neither did the removal of the basement from the application justify deferral as the major consequence of this was to remove one of the reasons for objection. Whilst the difficulties in implementing the permission were noted, strict conditions could be imposed to control the construction works and therefore this would not be sufficient grounds to justify refusal of the application.

*RESOLVED* (EIGHT voted FOR, ONE voted AGAINST and ONE ABSTAINED from VOTING) that the application be approved subject to the conditions set out in the report, the additional conditions set out on the Amendment Sheet and the following amended/additional conditions:

Condition 5 to be reworded as follows:-

The following windows and walls shall be sand-blasted and obscured to a level 4 or more of the Pilkington scale prior to development and shall remain as such at all times thereafter: The first floor gable window, the ground floor glass screen, the first-floor fire escape door.

Reason: In the interests of residential amenity.

### **Additional Conditions**

#### **Non-standard:**

Prior to the commencement of any works, additional drawings that show details of any proposed new windows, doors, eaves, verges, cills and arches, fenestration reveals, external joinery, lintel details, all extract and flue terminals and rainwater goods, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to these detailed architectural issues to protect the special character of the conservation area in accordance with the requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

**Non-standard:** Prior to the commencement of any works a sample panel of the self-coloured render shall be made available for inspection by the Local Planning Authority and the materials and methods demonstrated in the sample panel shall have been approved, in writing, by the Local Planning Authority. The approved sample panel shall then be retained on site until the work is completed and all brickwork shall be constructed in all respects in accordance with the approved details.

Reason: In order to ensure that the render can be satisfactorily considered on site in context with regard to preserving the character of the conservation area and the

setting of neighbouring listed buildings..

### **139. 142481 5 Queens Road, West Bergholt**

The Committee considered a retrospective application for the stationing of a mobile trainer for hot takeaway sales in the car park of the Queen's Head Public House.

The Committee had before it a report in which all information was set out together with additional comments on the 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.

Peter Hill, Planning Officer, and Simon Cairns, Planning Project Manager, attended to assist the Committee in its deliberations.

Parish Councillor John Gili-Ross addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that the Parish Council objected to the application on behalf of the majority of residents of West Bergholt on the grounds of adverse impact on the village environs and the well-being of residents. The Parish Council encouraged village based businesses provided they were good neighbours and when they were established in a respectful and caring manner. Granting planning permission in this case would threaten village life as the applicant had proceeded in a way that breached planning procedures. The application could set a precedent for the use of the other pub car parks in the village. The business could and should have been set up within the public house. The owners of the Queen's Head had shown little regard to working with the local community by allowing this business to be set up within their car park.

The Queen's Head was in a prominent and attractive location in the village. If the application were to be approved, it would encourage the further occupation of this or other village car parks by other inappropriate businesses which jeopardise village wellbeing.

John McGivern addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the Queen's Head public house was struggling economically. Twelve years ago, he had applied for permission to open an Indian Restaurant within the Queen's Head public house. The Parish Council had objected to that application and to any other proposal he made. When he had been approached about the siting of the trailer on the premises he had not been aware it would require planning permission. He also had not expected it to be as successful as it had proved to be. He charged the owner a low rent and therefore did not gain much from the trailer being located in the car park. It did not cause noise or odour and no trouble was caused by customers. Whilst the Parish Council had actively campaigned against the use of the trailer, it enjoyed wide support within the community as was shown by the petition signatures

Councillor Harrington attended and, with the consent of the Chairman, addressed the Committee. He explained that that he had called in the application to ensure both

sides had an opportunity to put their case. He understood that the latest figures on the petitions were that the petition for had 166 signatures and the petition against had 77 signatures. He had not expressed an opinion on the application although he had advised both supporters and opponents of the application. On behalf of the objectors he agreed with paragraph 15.3 of the Committee report that the trailer was incongruous. It was not residential or semi-rural in character. However, he also agreed with the paragraph 15.2 that it would increase the viability of the Queen's Head. He disagreed with the assertion in the report that viability of a community facility was a factor that should be given little weight. He was worried about the sustainability of the pub and the siting of the trailer did bring economic benefits. He felt that the allegation that the pub showed little regard for the community was unfair. He noted the comments of Environmental Protection at paragraph 8.1 of the report but explained that the facility had been open for a few months and could not agree with the conclusion at paragraph 2 that the benefits were outweighed by the noise, disturbance and odour pollution caused.. He lived approximately 100 metres from the pub and had done a number of site visits and had experienced no significant noise or odour disturbance from the trailer. A potential way forward would be to grant a temporary permission which would give an opportunity for the impact of the use to be assessed, particularly over the summer months when the impact might be greatest.

Councillor Harris attended and, with the consent of the Chairman, addressed the Committee. He explained that he had visited the site and as he had approached the Queen's Head he had been unable to see or hear the trailer, or to smell any odours from it. There had been no litter. Customers of the trailer and also patrons of the Queen's Head had been supportive. He believed that there was a need for such a facility in the area and that it could become an asset for the area. He supported the granting of a temporary permission.

Councillor J. Young attended and, with the consent of the Chairman, addressed the Committee. She indicated that she had visited the site. She drew attention to the fact that a number of rural pubs were closing and that this proposal would bring business to the Queen's Head. Whilst she noted the concerns expressed by Environmental Protection, no information on the level of noise or the density of smells was provided. She understood that the applicant had offered to install a filtration system which indicated that he was trying to be responsive to concerns and integrate into the village. The trailer could also be moved to the rear of the car park. She believed that a temporary permission was the way forward.

In response to the comments made by the speakers, the Principal Planning Officer explained that the Queen's Head was a community facility and support for it was therefore a material planning consideration. However, there was no evidence that the operation of the trailer improved the viability of the Queen's Head and in the absence of such evidence, little weight should be attached to this argument. In respect of the amenity issues, the Committee had a report from professional officers explicitly stating that problems had occurred which were sufficiently serious to warrant investigation and potential prosecution. This should be given considerable weight. Little weight should be attached to the numbers of signatures on the petitions. It was possible for an argument to be made that granting this application could set a



precedent for similar uses in other car parks, but it would depend on the particular circumstances of each case. Whilst the trailer could be moved to the rear of the site, which would reduce its prominence, this would be likely to increase the impact on neighbouring properties. If the Committee were minded to grant a temporary permission, the Committee would need to be clear as to its reasons and what issues it wanted to assess during the period of the temporary permission. As this was a retrospective application, the trailer was already in operation and complaints about its use had already been received. Whilst it was noted that the applicant appeared to be responsible and willing to work with residents, limited weight should be attached to this factor.

Members of the Committee expressed the view that there appeared to be some community benefits from the application and also economic benefits to the Queen's Head PH, although it was noted that no direct evidence had been supplied to support this. Members of the Committee expressed the view that the closure of the Queen's Head could have a detrimental impact on the village and the wider community. If it were to close, it was very unlikely that it would be able to reopen. These community and economic benefits needed to be balanced against the concerns raised about the impact on amenity. However, some members expressed some concern about the lack of detailed information about the complaints received. No information had been provided about the number of occasions on which concerns had been raised or about the noise levels involved. It was proposed that a temporary permission for 12 months be granted which would provide an opportunity to monitor the impact of the operation of the trailer on the amenity of neighbouring properties. It would also give an opportunity to assess the contribution it made to the viability of the Queen's Head. The Committee also expressed the view that, given the submissions made about the responsible approach of the applicant, the permission should be made personal to the applicant. This would also prevent the permission being sold or transferred to another, less responsible, operator. It was also suggested that the colour of the trailer be toned down so it was not so prominent.

It was explained by the Planning Officer and the Planning Projects Manager that the guidance from central government was that personal permissions should only be granted in exceptional circumstances and should relate to unique personal circumstances, which was not the case here. The colour of the trailer was not considered to be an issue but it was possible that the signage could be amended to make it less prominent. In respect of the issues raised about the viability of the Queen's Head there was no evidence to demonstrate that the business made a significant contribution to the viability of the Queen's Head or that this was the only solution to any economic difficulties it may be facing. If Committee were minded to grant a 12 month temporary permission then it was important that this period be used to demonstrate the contribution the trailer made to the viability of the Queen's Head.

As the discussion within the Committee suggested that the Committee may be minded to reject the recommendation in the Committee report the Chairman proposed that the Delayed Decision Protocol be invoked. This would provide for a further report to be submitted to the Committee which would report on the issues raised by the Committee including:-

- the potential for 12 month temporary consent;
- the use of a personal consent condition;
- issues relating to the viability of the Queen's Head;
- potential upgrading of noise/odour attenuation and the monitoring of noise and odour by Environmental Protection.

*RESOLVED* (NINE voted FOR) that the Delayed Decision Protocol be invoked and that a further report be submitted to the Committee which would report on the following issues:-

- the potential for 12 month temporary consent;
- the use of a personal consent condition;
- issues relating to the viability of the Queen's Head;
- potential upgrading of noise/odour attenuation and the monitoring of noise and odour by Environmental Protection.

#### **140. 142947 Hill Farm, School Lane, Great Wigborough**

The Committee considered an application for the replacement of the existing farmhouse with a four bedroom dwelling.

The Committee had before it a report in which all information was set out.

Nadine Calder, Planning Officer, and Simon Cairns, Planning Projects Officer, attended to assist the Committee in its deliberations.

Ted Gittens addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that this application was a resubmission of a previously refused application. The areas of dispute were the quality and scale of design. The proposed design was influenced by other local buildings, Brick Lane House and Birch Hall. It was misleading to suggest intransigence on behalf of the applicants. Significant changes had been made since the previous refusal and the applicants had confidence in the approach taken by a popular local architect. No criticism of the design had been made by the Parish Council and no objections had been received from the consultation exercise. The overall increase in floor space was 29% (excluding the attic storey served by dormers). If necessary the applicants were willing to remove the dormer windows from the side elevations but did not believe that the design would be enhanced by the removal of the second floor or the roof space.

Councillor Ellis attended and, with the consent of the Chairman, addressed the Committee. He stressed that design was subjective and explained that within its setting the proposed design worked in terms of scale and character. It was designed to look like another property in Layer Breton. Whilst it was in an elevated position it was not as visible as the Committee report suggested. It was a more attractive design than the current property on site. The applicant had addressed the concerns that led to the previous refusal. The height and scale had been reduced. The applicant had not introduced a double pile roof as they wished to use the roof space.

There had been no objection from the local community or from consultees. The only objection was on design grounds, which was a subjective criteria. He believed that it would be an asset to the landscape and it would be unreasonable to refuse the application.

Members of the Committee noted the arguments made about the lack of impact of the new dwelling and the lack of objections to the application. Members sought confirmation as to whether the removal of the dormer windows would meet the policy objections set out in the report.

It was explained that the Council's policy on Replacement Dwellings in the Countryside specified that the replacement should not significantly increase the size of the building beyond the original. The proposed increase in this case was 29%, even without taking account of the roof space. It was not possible to define exactly what percentage increase would be defined as significant, as that would partly depend on the proportions of the existing building. However, in the case it was the officer view that this was a significant increase in size. The size of other buildings in the area, or of the holding on which the building was to be built, was irrelevant to this policy test. There were no other material planning considerations that applied that could justify setting aside this policy.

*RESOLVED* that the application be refused for the reasons set out in the report (EIGHT voted FOR, ONE voted AGAINST and ONE ABSTAINED from voting).

#### **141. 142146 Oak Farm, Vernons Road, Wakes Colne**

**Councillor Chillingworth (in respect of being the applicant) declared a pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination.**

The Committee considered an application for the demolition and replacement of a porch to the annex to Oak Farm.

The Committee had before it a report in which all information was set out.

*RESOLVED* that listed building consent be granted subject to the conditions and informatives set out in the report.

#### **142. 142633 Briar Cottage, Mill Lane, Birch**

The Committee considered an application for a Lawful Development Certificate for a proposed conversion of an existing attached garage into a bedroom and store.

The Committee had before it a report in which all information was set out.

*RESOLVED* that the recommendation set out in the report be approved.

**143. 142929 31 Egerton Green Road, Colchester**

The Committee considered an application for single storey front extension. The report was presented as the applicant was a former employee of the council and subsequently a consultant contractor.

The Committee had before it a report in which all information was set out together with additional comments on the Amendment Sheet.

*RESOLVED* that the application be approved subject to the condition and informatives as set out in the report.

**144. 142419 24 Marram Close, Stanway**

**Councillor Maclean (in respect of her knowledge of the applicant) and Councillor L. Sykes (in respect of pre-determination) declared a pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination.**

The Committee considered an application for retrospective permission for a single storey rear extension.

The Committee had before it a report in which all information was set out together with additional comments on the 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.

Peter Hill, Principal Planning Officer, attended to assist the Committee in its deliberations.

Sarah Drain addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that the occupant of 1 Woodrush End, Mrs Stanley, had received very little notice of the development and therefore had not had the opportunity to check the deeds to her property before work began. During the building works a common boundary wall had been removed without her permission and not replaced. A pergola attached to the wall had also been removed and not replaced. In addition during the works, a portaloo had been placed in her garden. An enforcement visit had been carried out by a planning officer and although this had established that planning permission was required, it had not required building works to cease. Retrospective permission had been applied for, but this meant that Mrs Stanley had not had the opportunity to consider or comment on the plans before the development began and therefore the planning process had failed to protect her interests. These events had caused Mrs

Stanley great stress. Attention was drawn to paragraph 15.21 of the Committee report where it stated that the design was “not ideal”.

Councillor C. Sykes attended and, with the consent of the Chairman, addressed the Committee. He noted that the extension was half a metre larger than that allowed under permitted development rights. The development had had a considerable impact on Mrs Stanley’s amenity. The boundary wall had been in place for at least 15 years. This was also a party wall. The applicant had removed this wall without permission and had also removed a pergola and damaged the beds in her garden. No regard had been shown for Mrs Stanley’s amenity and she should therefore be recompensed. Therefore conditions should be attached to the permission requiring the reinstatement of the party wall in the same place and at the same height and the replacement of the pergola. Amenity was a material planning consideration and if the application had been considered in the normal way, conditions would have been imposed to protect neighbour amenity.

The Planning Officer explained that the issues raised were not planning matters and it would be inappropriate to use conditions on a planning permission to resolve a dispute about the position of the boundary between two properties and the removal or damage of private property. These were civil matters which should be pursued through the courts. There were no good planning reasons to support the proposed conditions and if the enforcement of the conditions were challenged, it was likely that they would be ruled ultra vires and, if applied for, costs awarded against the Council.

Members of the Committee expressed their sympathy for the way Mrs Stanley appeared to have been treated and their concern about the retrospective nature of the application. However, the issues raised were outwith the scope of the planning system to resolve and should be pursued through other avenues. It was suggested that the applicant may wish to consider replacing the pergola as a matter of goodwill, but the Planning Committee was not in a position to direct this

*RESOLVED* that the application be approved without conditions (SIX voted FOR and TWO voted AGAINST).