

**PLANNING COMMITTEE
20 JANUARY 2011**

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

Also in Attendance :- Councillor Sue Lissimore

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

168. Minutes

The minutes of the meeting held on 16 December 2010 will be re submitted to the next meeting. The minutes of the meeting held on 6 January 2011 were confirmed as a correct record.

169. 102278 83 New Farm Road, Stanway, CO3 0PG

The Committee considered an application for an addition to an existing elderly persons home and a change of use from a private household residence to a care home use, Class C2. The application is a resubmission of application 100665. 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.

170. 102310 Land to the rear of 5 Broomhills Road, West Mersea

The Committee considered an application for a one and a half storey detached dwelling and a detached double garage. This application was a revision to the approved scheme under 091595. 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.

171. 102508 34 James Carter Road, Colchester, CO3 9XN

The Committee considered an application for a two storey front extension with a front porch and two side windows. The application was a resubmission of 101545. 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.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained that a computer modelling tool had been used to track the path of the sun in March/September, December and June to illustrate the shadowing effect, both before and after the proposed extension had been added. The results were set out in the report.

John Scarff addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. His objection was that the proposed extension would overshadow his property to the extent that he considered it would have a devastating impact on the enjoyment of his conservatory. He was also concerned about his privacy being invaded by the addition of a window in the side elevation of the proposed extension which would overlook his study, and that the fence between his property and the application site which would provide some screening may not be maintained which would result in a further invasion of his privacy.

Councillor Lissimore attended and, with the consent of the Chairman, addressed the Committee. She agreed that this was not a straight forward application. The Committee must decide whether it caused overshadowing or had an overbearing effect, and was fully compliant with the Council's policy on design. She believed that light to the conservatory would be blocked throughout the year and to the garden until the sun was high enough in the sky to clear the roof. It appeared that the report had dismissed the objections because the extension affected a conservatory built as permitted development. An earlier application which had been refused on the grounds of it being contrary to DC1 and UEA13, was identical to the current application with the exception that this application specified reclaimed instead of new roof tiles. She requested an explanation why this application was not also recommended for refusal on the same grounds.

It was explained that the one of the reasons for refusing the earlier application was

related to the lack of articulation between the existing building and the new extension. In hindsight it was now considered unreasonable to refuse on those grounds alone. It was also explained that the flank wall of a conservatory could not be regarded as the main window of a habitable room and it was difficult to deal with the loss of light in those terms.

Some members of the Committee considered that the extension should have proper articulation, and although another neighbouring property had a similar front extension which was not articulated, they considered the design of this proposal to be of insufficient quality. It was recognised that light was an issue but they considered it to be slightly less of a problem than the 'blocky' design of the proposal.

Other members of the Committee took an opposite view. They recognised that this was an exceptional case because the application dwelling was set back from the objector's dwelling, whereas the application site was almost identical with two neighbouring houses to the other side. They noted that they all had fairly bland 'block' fronts before any extension and that one of the two dwellings had a front extension not dissimilar to this proposal. From the street scene, there was nothing to distinguish an extended house from a house without an extension. In respect of the light issue, the evidence illustrated that the reduction in light available to the neighbour's property would be minimal. The overlooking into the study could be overcome by ensuring that the fence remained at a sufficient height to provide privacy. It was recognised that an approval may give an impression of inconsistency, but if this application was refused it was considered that an appeal would be upheld, bearing in mind the evidence on the light issue and the neighbouring front extension.

In response to these opposing views, the planning officers noted that there had been a change in approach with regard to articulation. The original concern regarding lack of articulation ran counter to design requirements which ask for subservient extensions. Articulation is usually required for extensions which are to the side or the rear, but would be inappropriate for extensions to the front. Furthermore, if the extension were articulated it might look skimpy. When investigated it became apparent that there was a similar front extension to a property nearby, and it was considered that an extension without articulation would cause little detriment to the street scene. In respect of the fence, it would be possible to impose a condition to retain the fence at 1.8m to ensure study window was protected. The view from the new window into the study was very oblique. It was also important to recognise that those living in both of these properties have equal rights to a family life. The modelling had established that significant overshadowing had not been proved.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report together with an additional condition requiring retention of screen fencing alongside the neighbour's conservatory.

172. 091057 Car park opposite 108 Coast Road, West Mersea, CO5 8NA

This item was withdrawn from the agenda by the Head of Environmental and Protective Services. The application to be reported back to Committee with site area for parking clarified and conditions.

Councillor Peter Chillingworth (in respect of being a member of the Campaign for the Protection of Rural Essex, an organisation which had submitted a comment on the application) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

173. 101128 Mill Race, New Road, Aldham, CO6 3QT

The Committee considered an application for a Certificate of Lawful Use for an existing use of importing, storage, devanning, distribution and manufacture of various products and commodities. The Committee had before it a report in which all information was set out.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained that there was insufficient evidence of the scope or length of time that the manufacturing use had occurred and the recommendation had been revised so that consideration of the application would be deferred for investigation into this matter and the Head of Environmental and Protective Services was authorised to issue a Certificate of Lawful Use, either as applied for or with the manufacturing use deleted, as appropriate.

Members of the Committee questioned whether the HGV Operator Licence was restricted so that all distribution had to be undertaken by C & S Mathews; and whether the manufacturing was related to the garden centre and the Certificate of Lawful Use could be narrowed down to that use; and whether there were restrictions on the times of entry and exit.

The officers explained that they were not aware that the C & S Mathews HGV Operators Licence was transferable in respect of hours but if it was there would be no reason why it should not be reflected in the Certificate of Lawful Use. All the activities on this site were separate from the garden centre and as long as the activities were properly defined it would not matter who was carrying out the activity.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for further investigation into the manufacturing activity at the site, including its scope and period of operation, and also further clarification of the extent of distribution activities to reflect any limitations imposed by the HGV Operators Licence.

(b) Upon receipt of satisfactory evidence supporting the manufacturing use, and following consultation with the ward councillor, the Head of Environmental and Protective Services be authorised to issue a Certificate of Lawful Use as applied for with the scale and scope of distribution activity being maintained at the current level

together with the note as set out in the report.

(c) In the event of the evidence supporting the manufacturing use being inadequate, and following consultation with the ward councillor, the Head of Environmental and Protective Services be authorised to issue a Certificate of Lawful Use as applied for but with manufacturing use being excluded from the Description of the Proposal and the note as set out in the report. The scale and scope of distribution activity to be maintained at the current level.

174. 102234 Tiptree Basket Works and Sawmill, Grange Road, Tiptree, CO5 0QQ

The Committee considered an application for a continuation of the proposed extension of site, new building and changes to operation of the Waste Transfer Station without compliance with Condition 2, development particulars, attached to planning permission ESS/51/02/COL. The effect of the application is to allow changes to the approved building roofline and design. The Committee, acting as a consultee, was requested to submit any comments on the application to Essex County Council. The Committee had before it a report in which all information was set out.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

A member of the Committee explained that there had been a misunderstanding by Tiptree Parish Council. They had believed the application was for the use of the site, rather than for changes to the approved design of a new building on the site.

The planning officer explained that the confusion was understandable as there were two separate proposals. This proposal was for minor changes to an approved building, whereas the other one, which the Committee was not being asked to comment on, sought to introduce another use on the site. The planning officers would write to Essex County Council to clarify the objection from Tiptree Parish Council.

RESOLVED (UNANIMOUSLY) that the Head of Environmental Planning, Essex County Council, be advised that Colchester Borough Council had no observations to make in respect of this application.

Councillor Andrew Ellis (in respect of having employed the services of the planning agent, Mr.E.Gittins, in the past) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

175. 102304 Sparrow Cottage, Vine Road, Tiptree, CO5 0LT

The Chairman has agreed pursuant to the provisions of Section 100B(4)(b) of

the Local Government Act 1972 to consider the following item at the meeting as a matter of urgency because of the excessive time taken to process the application.

The Committee considered an outline application for the erection of three detached dwellings and alterations to the access. 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.