

PLANNING COMMITTEE

7 OCTOBER 2010

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

Substitute Members :- Councillor Peter Higgins for Councillor Theresa Higgins
Councillor Wyn Foster for Councillor Ann Quarrie*

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

92. Minutes

The minutes of the meeting held on 23 September 2010 were confirmed as a correct record, subject to minute 91 being amended by replacing the word 'would' with the word 'should' in the penultimate line of the second paragraph.

93. 101484 Willow Park, Copford Place, 14 London Road, Copford

The Committee considered an application for the renewal of full planning permission granted under F/COL/00/1326 and renewed under F/COL/05/1076 for the erection of six one-bedroom flats, six two-bedroom flats and a guest suite for elderly people. 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.

Mr Tucker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He noted that his first objection regarding the retention of trees had been addressed in paragraph 11.6 of the officer's report. His other concern was in respect of the existing Grade 2 listed building on the site which had been boarded up and fenced off, but otherwise neglected for ten years. It was deteriorating rapidly which could lead to its structural collapse. He asked that a legal agreement or condition be used to require the owners to make structural repairs to the property.

Mr Dave Miller addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He acknowledged that the listed building was important but emphasised that this application concerned a new building not the listed building. The setting of the listed building was a planning consideration but not the building itself. Planning obligations had been discussed and agreed.

Some members of the Committee were concerned about the parking and access arrangements from London Road which wound around the listed building and between

some outhouses. It was explained that parking was provided around the periphery of the site in small groups of spaces set amongst trees with trellis to protect them and the site was considered to be sensitively laid out and adequate for the development.

There was also considerable concern about the listed building on the site which appeared to be falling into disrepair. There appeared to be no obligation on the owners to do anything and the local authority could only take action to make the building wind and weatherproof and safe from collapse. The Committee wanted the Conservation Officer and English Heritage to be notified about the present condition of the building and for there to be a dialogue with the owners. The Committee asked for information to be provided to them on whether the local authority could take some action on any work which could be done. They considered that if it was left a tremendous asset would be lost and replaced with another building.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a Section 106 Legal Agreement to secure the following planning obligations:-

- a contribution of £12,844.20 towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document;
- a contribution of £6,600 towards Community Facilities; and
- affordable housing of 35% which equates to four units.

(b) Upon receipt of a satisfactory Section 106 Legal Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

Councillor Peter Chillingworth and Councillor Jackie Maclean (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)

Councillor Helen Chuah and Councillor Ray Gamble (in respect of being acquainted with the applicant at events for former Mayors) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Andrew Ellis (in respect of having used the services of the agent) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

94. 101834 Teybrook Farmhouse, Brook Road, Great Tey, CO6 1JE

The Committee considered an application for the erection of a building to replace a listed barn which had been destroyed by fire. It was intended to use the replacement building as a residential annex or holiday let. The application was a resubmission of 101070. 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. It was explained that the consequence of the total loss of the building was that any proposal to rebuild has to be determined on its merits and in this instance it was appropriate to apply basic rural policy. The proposal was contrary to emerging local development policies on which the recommendation for refusal was based. The applicant had offered a Unilateral Undertaking to the effect that any annex would always be occupied by his family members and the annex would not be sold separately from the farmhouse. In the event that the farmhouse was sold, the occupation of the annex would cease immediately. Any occupation for holiday let purposes would not be for more than four consecutive weeks.

Ted Gittins, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the loss of the barn having created a gap in the historic grouping of buildings around the farmhouse and whilst the erection of a replica barn would be expensive, the low key use proposed would provide some return to justify the level of investment. His personal view was that the planning system would recognise that there was an important need to try to recreate the group. The holiday let would generate an income which was a material planning consideration. He acknowledged the relevance of countryside policies but considered that there were other policies to be taken into account. The issue was whether the development itself was harmful and he believed the proposal would make a positive contribution to the rural environment and rural resources. He confirmed the applicant's long standing commitment to Teybrook. He referred to the issue of drainage raised by the Environment Agency, and confirmed that there were no mains drains in this location. He considered that because any objection was far outweighed by the environmental benefits the proposal merited support.

Members of the Committee were mindful of the reasons for the recommendation of refusal, specifically the relevant case law set out in the report; the residential use of the annex being contradictory to planning policies; and that there was a presumption against development in the countryside with a consequent requirement for it to be supported by a demonstrable need. It was explained that if a building in the countryside with an established residential use had been lost under similar circumstances, it would be bound to be replaced, and it was difficult to argue that the building that was on the site two years ago, that had value as part of the group of buildings which helped to enclose the farmhouse, should not be replaced.

Members considered that this group of unspoilt farm buildings were almost unique in the area. Had the building not burnt down planning policies would certainly have allowed such a building to proceed with a use as a holiday let. The Committee were of the view that it was very unfortunate that an attractive building lost to a fire could not be replaced. They also noted that there were no objections from consultees, with the exception of Environmental Policy on the grounds that the proposed annex use had not been justified. The comment from the Environment Agency regarding the method of drainage was a response to the lack of mains drainage; a septic tank was the normal method of drainage in the countryside. The Committee were of the view that this was a unique site requiring a unique decision, and having taking all factors into consideration they were minded to approve the application.

RESOLVED (UNANIMOUSLY) that the application be approved with any conditions and informatives required by the Head of Environmental and Protective Services together with a Unilateral Undertaking as described above.

95. 101254 1 Firs Road, West Mersea, CO5 8JS

This application was withdrawn from the agenda by the Head of Environmental and Protective Services for an assessment against the adopted guidance for backland and infill development. The application to come back to Committee for determination.

96. 101546 37 Mile End Road, Colchester, CO4 5BU

This application was withdrawn from the agenda by the Head of Environmental and Protective Services for receipt of a drawing showing parking and turning facilities and to clarify uses on the site. The application to come back to Committee for determination.

97. 7.5 091245 Bellwood, Colchester Rorad, Great Wigborough

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 the application site has recently been on the market and it is considered essential to make it clear to potential buyers that the site does not benefit from a planning permission.

The Committee considered an application for a proposed conservation woodland and meadow with support facilities. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Members of the Committee were aware that attempts to gain planning permission for this parcel of land had been ongoing for some five or six years and the applicant had frustrated the council's attempts to restore the land to countryside by appealing against decisions of refusal and then submitting another application before the appeal was heard. The Committee were minded to refuse this application and authorise the Enforcement Team to take direct action.

It was explained that in the event of any direct action taken by the council, it would sell the mobile home to offset any costs arising, and if the proceeds of the sale of the mobile home exceeded the costs, the difference would be returned to the owner and if the costs exceeded the proceeds a charge would be put on the land.

There were concerns that the applicant may submit an appeal and an application to

frustrate the enforcement notice. It was explained that the direct action proposed was in respect of the removal of the mobile home which was a separate issue from this application for the woodland and meadow with support buildings. In the event that an appeal was lodged against the refusal of this application it would still be possible to take action to remove the mobile home.

RESOLVED (UNANIMOUSLY) that –

- (a) The application be refused on the grounds set out in the report.
- (b) The Head of Environmental and Protective Services be authorised to take direct action to remove the mobile home from the site as a matter of urgency.

98. Application No. 101080 // Moler Works (Buildings 5 and 5A), Colne View, Colchester

This report was withdrawn from the agenda by the Head of Environmental and Protective Services for a report with a full recommendation and conditions. The application to come back to Committee for determination.

. Amendment Sheet