

## PLANNING COMMITTEE 1 DECEMBER 2011

*Present :-* Councillor Ray Gamble\* (Chairman)  
Councillors Christopher Arnold\*, Peter Chillingworth\*,  
John Elliott\*, Peter Higgins\*, Theresa Higgins\*,  
Sonia Lewis\*, Jon Manning, Philip Oxford and  
Laura Sykes\*

*Substitute Members :-* Councillor Michael Lilley for Councillor Stephen Ford\*  
Councillor Will Quince for Councillor Jackie Maclean

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

**Councillor Peter Chillingworth (in respect of being a resident in Vernons Road at a quarter of a mile distant from the site) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

### **95. 111335 Orchard Place, Vernons Road, Chappel**

The Committee considered an application for a change of use of land to form three pitches for gypsy/traveller caravans and the erection of associated utility sheds and boundary fencing and planting. The Committee had before it a report in which all information was set out, see also 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.

Mark Russell, Principal Planning Officer, attended to assist the Committee in its deliberations.

Sue Chalmeley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 on behalf of Chappel and Wakes Colne Parish Councils and residents in opposition to the application. She referred to the site being included in the Site Allocations DPD and questioned how a decision could be made without details of the sewage treatment system, refuse storage and disposal to be provided. The Highway Authority's response relied upon an informal speed survey which they acknowledged did not agree with guidance. She believed the applicant did not have control over the land required for the sight splay and the owner had announced that he would not relinquish the land. She implored the Committee to listen to those who had signed the petition who were present at this meeting.

David McLean addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. His property shared a length of boundary with the application site. He noted that there had been a change in the designation of the site from a conservation site to a traveller site; he was unaware of the reason for the change. He surmised that planning policy was being dictated by these applications. He asked that the application be treated as any other and drew a comparison between this application and an application for three bungalows on this

site. They had retired and had no problems until recently when there had been a number of occurrences of trespass, damage to their property and theft of chicken eggs had occurred. He did not want this development to spoil a beautiful village, nor should it cause unacceptable harm to people or natural resources from pollution.

Dave Cookson, agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to several fundamental changes from the earlier application including the adoption of the Site Allocations Development Plan Document (DPD) after a full examination by the Planning Inspectorate, which included access and location; he noted that the DPD was up to date. The use for three pitches was in conformity with the DPD and therefore permitted. The statutory consultees all found the scheme acceptable. Based on acceptance of non-mains drainage for the adjacent site, the Environment Agency had accepted the use of non-mains drainage on this site subject to conditions. The Highway Authority had no objections, and it had undertaken its own survey which had demonstrated fewer problems. He referred to the applicants' lifestyle which made it difficult for them to achieve some of the requirements for the provision of water, electricity and sewage without being resident on the site. The suggestion was to provide temporary arrangements for all three services while the applicants arranged for more permanent supplies. Sewage was a particular issue and the suggestion was to provide a power free temporary solution which would not cause a problem locally.

The planning officer referred to the Site Allocation DPD. He noted that neither Essex County Council (ECC) nor the Environment Agency had indicated refusal; both were satisfied with the conditions. ECC had confirmed that the vision splays were correct, but although it appeared that the applicant was in control of sufficient splays left and right, a small triangle of land was in dispute and no-one had claimed ownership. The former status of the site was as a Conservation Countryside Area and the current extant use of the site was for agricultural purposes, but it had not been used as such for some time. He was aware of the strength of feeling in the event that matters go wrong, but he confirmed that action would be taken within a reasonable amount of time to ensure that conditions were complied with. He acknowledged that guidance regarding travellers/gypsies was different because of their travelling lifestyle. The preferred location for such sites was in rural locations near the edge of a community, whereas this was quite an open aspect and boundary fencing was required at the rear to delineate it from the neighbour's land. The Agent had referred to alternative conditions for the provision of water, electricity and sewage. Any interim solution for sewage would give rise to concerns and he considered it important that the required arrangements should be implemented as soon as was possible.

Members of the Committee related recent events on the site which had impacted on neighbouring residents; some unauthorised occupation had caused problems and some had not. Reference was made to a Government consultation which might address complaints about the planning system treating a minority group differently from the general population. Reference was also made to the commencement of works at the site in Severalls Lane and those who were intending to occupy this site could apply for pitches at that site thus avoiding homelessness. The Committee were aware that this site was allocated for three pitches in the Local Development Framework.

Members of the Committee were concerned that the Highway Authority had reduced the required sight splay without any justification being given; noting that it had not been possible to implement the original specified sight splay. The likelihood of a road accident occurring was mentioned. However, it was unlikely that the Committee could take into account any careless driving and excessive speeds in the light of the response received from Essex County Council Highway Authority. Reference was made to an increase in traffic in the lane as a result of an expansion of the neighbour's business and the situation would be further exacerbated by additional vehicles as a result of this site. Some members held the opinion that despite the Highway Authority's comments there remained a highway safety reason for refusal.

Whilst Members were aware that it was not equitable to judge the behaviour of one group of residents with another, the poor behaviour of an earlier group who had occupied the site had left local residents with a fear that those events could be repeated. The genuine fear of crime and anti-social behaviour was cited as a reason for refusal. Other members referred to the provision of enforcement powers which were available to deal with such behaviour and that this was a new applicant. The residents' concerns were acknowledged, but it was considered that the new occupants should be given the benefit of the doubt.

In respect of the provision of utilities, there were concerns about the provision of a cess pit as the preferred sewage treatment system; there was a possibility that the system might be inappropriate for the soil conditions and would require ongoing monitoring. There were concerns about the intention to provide a generator as a power source which could become a noise nuisance for adjoining neighbours. It was considered that all utilities, including waste and sewage disposal, and electricity and water supplies should be in place prior to occupation. There were also concerns that no non-domestic animals should be kept on the site, horses were specifically mentioned.

The planning officer explained that the sight splays had been changed following empirical research into the speed of traffic on this road, and also because the new Manual for Streets had come into force. In the event that the required sight splay could not be provided the permission became fallow because it could not be implemented. In terms of the issue of crime and fear of crime, it was understood that it was a material consideration, however, planning was related to land use not to individuals. If this site was considered suitable for travellers in the Local Development Framework, it was difficult to support a refusal on the grounds of bad behaviour. It was acknowledged that Members were not satisfied that a cess pit was the most appropriate method to deal with sewage. If required a package treatment plant could be secured by condition. Government guidance was that local authorities should not be over-prescriptive and whilst it would be possible to condition anything, there was a need to apply the test of reasonableness.

Some members did not think enough emphasis had been given to the damage to the neighbour's business which relied on the attraction of a quiet corner of Essex for relaxation. The business had operated for some years and customers could be deterred from returning. The neighbour's capacity for holiday trade had increased which had exacerbated the traffic situation. The view was held that it was unfair to expect the neighbour to have to endure a reduction in amenity to the extent that his

business would suffer.

The Development Manager acknowledged the high level of emotion in this matter. He advised the Committee that any decision should be based on facts, and that this was a new applicant. There was no evidence of criminality or that they would not be neighbourly. The Local Development Framework process had included consultation and an examination by an Inspector who had agreed that it was an appropriate site for such a use. If some aspects of the proposal were unacceptable conditions could be imposed to mitigate against negative impacts. The Highway Authority had not objected to this site and if cross examined, there was no evidence to sustain an argument on highway grounds. All other consultees supported the application. Controls were available in the form of enforcement powers if there were any issues regarding light or noise pollution, and crime was covered by other legislation. The provision of authorised traveller sites in the borough helped to strengthen the case for enforcement measures against any unauthorised sites.

Some members accepted that there were insufficient grounds to defend a refusal at appeal and in such a situation costs would be awarded against the council. Members requested that conditions be put in place to cover the provision of a package sewage treatment, water supply, electricity supplies and waste disposal; all such services to be in place before the site was occupied. Other requirements were the provision of sight splays, extra fencing and screening including trees, only external storage approved by the Local Planning Authority permitted, only domestic animals to be kept on site, no business or trade to be undertaken on site. Officers requested that a Phase 1 contaminated land survey be added to the conditions. The planning officer commented that a housing for a generator could reduce much of the noise, given the proximity of the nearest residential property.

*RESOLVED* (FOUR voted AGAINST) that the application be approved with conditions and informatives as set out in the report together with amendments to the following conditions and an extra Informative to clarify the condition regarding animals:-

- Condition 12 to refer specifically to package treatment plant;
- Condition 13 to refer specifically to mains electricity and no generators;
- Condition 15 reworded to clarify that the permission only includes three pitches and also no business or trade use;
- Refuse storage to be agreed and provided;
- Phase 1 Contaminated Land Survey to take place;
- No non-domestic animals on site;
- No external storage.

#### **96. 111582 251 Bergholt Road, Colchester, CO4 5AT**

The Committee considered an application for the erection of a part two storey, part single storey rear extension plus the erection of a double garage. The Committee had before it a report in which all information was set out, see also 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.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report.

## **97. Members Engagement in Pre-Application Planning Discussions**

The Committee considered a report by the Head of Environmental and Protective Services on a proposed change to the Planning Procedures Code of Practice and setting out a protocol entitled Member Engagement in Pre-Application Planning Discussions which would allow Members to become involved in pre-application meetings between the Council and developers. The Committee had before it a report in which all information was set out.

Andrew Tyrrell, Development Manager, attended to assist the Committee in its deliberations.

In the interests of clarity Members of the Committee made some minor changes to the Code of Practice and specified those members to be invited to a pre-application planning discussion should be the ward Members and, upon authorisation by the Head of Environmental and Protective Services, Members for other wards which would also be affected.

*RESOLVED* (UNANIMOUSLY) that –

(a) The revisions to the Planning Procedures Code of Practice be agreed and implemented with immediate effect, subject to the following changes:- deletion of Section 3, paragraph 5; deletion of Section 4, paragraph 2; clarification of Section 5, paragraph 1 – Councillors can meet with residents and other people not associated with the planning application submission.

(b) The Protocol for Member Engagement in Pre-Application Planning Discussions be agreed and implemented with immediate effect, subject to the following change:- that the Eligibility of Members section be clarified so that invitations to meetings will also be sent to affected Members from other Wards identified by the Head of Service instead of being limited to the Ward Members for the application site.