

PLANNING COMMITTEE
9 JULY 2009

Present :- Councillor Ray Gamble* (Chairman)
Councillor Sonia Lewis* (Deputy Mayor)
Councillors Mary Blandon*, Helen Chuah*,
Mark Cory*, Andrew Ellis*, Stephen Ford,
Theresa Higgins, Jackie Maclean* and
Jon Manning*

Substitute Members :- Councillor Richard Martin
for Councillor John Elliott*
Councillor Jill Tod for Councillor Ann Quarrie*

Also in Attendance :- Councillor Kevin Bentley
Councillor Martin Goss
Councillor Anne Turrell

41. Minutes

Subject to the following amendments, the minutes of the meeting held on 25 June 2009 were confirmed as a correct record:-

- (a) Councillor Manning being recorded as having attended the site visits;
- (b) In the fourth paragraph of minute no. 33, the deletion of the phrase "Minibeast surveys had been undertaken and" and the insertion of the phrase "A dedicated minibus service". The insertion of a new sentence "One pitch would be a community sports pitch which would fulfil a recognised need for local clubs."

As a consequence of these amendments the text from the word "Minibeast" to the phrase "to be provided" to be amended to read:- "One pitch would be a community sports pitch which would fulfil a recognised need for local clubs. All trees and hedgerows would be retained. A dedicated minibus service and pedestrian and cycle links are to be provided." and the last two sentences of that paragraph to follow on with no amendments.

Councillor Ray Gamble (in respect of his acquaintance with the public speaker, Mr Parker) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Sonia Lewis and Councillor Richard Martin (in respect of their former acquaintances at school with the public speaker, Mr Parker) declared a personal interest in the following item pursuant to the provisions of

Meetings General Procedure Rule 7(3)

42. 090398 Swift Construction Group Limited, North Lane, Marks Tey

The Committee considered an application for the proposed demolition of an existing building and the construction of a two bedroom dwelling adjacent to North Lane, a new headquarter office building (B1A use), a new nursery crescent building providing seven units for B1c light industrial use, and one unit retaining the existing B8 storage and/or distribution use. A proportion of the existing hardstanding area is to be retained and the access road reconfigured together with associated parking, and hard and soft landscaping. 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.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Gordon Parker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The application is set against the permitted development rights for open storage; the authority of the rights has not been questioned and was first validated on 17 April. The inclusion of all the rear storage area within the red line is unacceptable to his client because it removes one third of the storage area which is vitally important to his core business for the provision of scaffolding. The condition if imposed would probably jeopardise the whole scheme and he asked that Condition 23 be deleted. He asserted that this was an excellently designed scheme which provided the opportunity to remove the unrestricted hours of use element, created a more acceptable entrance, removed an asbestos clad building and improved employment opportunities. This scheme includes suggestions and recommendations from local residents. He hoped members would be minded to grant approval and requested that Condition 23 be omitted.

Whilst some members of the Committee were keen to see part of the rear area retained in landscape form for the benefit of existing ecology there was an opposing view that the rear of the site was surrounded by countryside and a railway embankment and as such there would be no great impact. It was also recognised that with the current usage the grassed area could be covered with scaffolding.

It was explained that although the Council had a desire to retain some land in landscape form it was acknowledged that members may give consideration to

employment in this instance. A scheme for hard and soft landscaping was required and it would be possible to ensure that the existing landscape treatment on the boundary is enhanced through the discharge of that condition.

RESOLVED (MAJORITY voted FOR) 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, see also Amendment Sheet.

43. 090416 Lordswood Road, Colchester

The Committee considered an application for amendments to part of a residential development approved under F/COL/04/1998 to replace fourteen flats and fourteen houses with eight two bedroom houses, seventeen three bedroom houses, and three four bedroom houses, minor amendments to the garden area of plot 22R, external works, parking areas and open space. 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 Deed of Variation to link this application to the original Section 106 Agreement.

(b) Upon receipt of a satisfactory Deed of Variation, the Head of Environmental and Protective Services be authorised to grant consent with suitably worded conditions to cover the matters indicated to in the report and informatives as set out in the report.

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

Councillor Richard Martin (in respect of his acquaintance with the public speaker, Mr Gittins) declared a personal interest in the following item

pursuant to the provisions of Meetings General Procedure Rule 7(3)

44. 090688 Willow Grove, Grove Hill, Langham

The Committee considered an application for the demolition of an existing bungalow and erection of a four/five bedroom barn style property with a detached triple bay garage and temporary siting of a mobile home. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Mr T. Gittins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The proposed dwelling was designed to reflect the rural setting and makes a contribution to the character of the countryside and the lane. This proposal creates a cluster of farm buildings with those opposite. The enhanced scale is not felt to be harmful to the countryside and the barn style is not out of place in the landscape. There will be additional vegetation and surrounding trees and hedges. The impact on the AONB and Blackbrook Valley has been evaluated and there is no visual harm to the area. The building will blend into the setting and the design respects the character of the area.

Members of the Committee considered that this was exactly what would be expected of a barn conversion. It is reflective of rural forms and will make a positive contribution. The borough should encourage the construction of listed buildings of the future. The new condition for sustainability was noted and 28 days was considered a more appropriate time frame for the removal of the caravan/mobile home from the site.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, see also Amendment Sheet.

45. 082055 Marks Tey Railway Station, Station Road, Marks Tey

This application was withdrawn from this meeting by the Head of Environmental and Protective Services so that further consideration can be given to alternative access arrangements, landscaping and noise and disturbance issues.

46. 090471 Gwynlian, Kelvedon Road, Tiptree

The Committee considered an application for a change of use of land from agriculture to private gypsy caravan site including hard standings for four caravans, the erection of a communal dayroom/utility building and the formation of a new access. This application is a resubmission of 082030. 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.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. The Amendment Sheet contained additional conditions for controls of the maximum number of caravans; any permission to be personal to the applicant; the extent of the use of the day room; no commercial activities to be permitted on site; and further details of the drainage scheme required.

Mr Joseph Greenhow, Gittins Associates, addressed the Committee on behalf of the applicant pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The applicant is from a bona fide gypsy family having lived in the area for some time and the application is for a permanent site for two sons of the Taylor family and their four children between the ages of 3 and 10 years, who attend local schools. This proposal represents an addition to a well kept gypsy site within Tiptree. As a result of negotiations there are no outstanding objections. The two existing access points have been replaced with one central access. The applicant wishes to stress that the protected ancient hedgerow was removed by the previous landowner. The new hedge will be thickened and maintained to the satisfaction of the local Highway Authority and Planning Authority.

Members of the Committee voiced concerns about the lack of clarity regarding the area of the site to be occupied. There appeared to be a difference between the site which was divided by a fence to form a front area mostly covered in hardstanding material and a rear grassed paddock area divided with a wooden fence, and the plans as submitted which appeared to include a portion of the paddock with the front area. The site on the ground mirrored the adjacent plot to the northwest, also occupied by the Taylor family, on which none of the rear paddock area of that site was occupied by caravans. The front part of the site the subject of this application appeared to allow adequate space for four caravans. There was some concern that if the larger area, including part of the paddock, was given permission it could lead to an increase in the number of caravans on the site, possibly from other areas. Two mobile caravans and two touring caravans for two families were

considered to be satisfactory for the site. The gateway in the centre of the plot is satisfactory but a means of securing the gate was requested to keep the site secured when unoccupied.

It was explained that the plan shown on the screen covers a larger area than the site as it exists on the ground. Most of the buildings will be set back which gives an area of planting along the frontage. It was suggested that the item be deferred to consider the layout and arrangement of the dayroom and caravans on the smaller area and await submission of a suitable plan.

RESOLVED (MAJORITY voted FOR) that consideration of the application be deferred for clarification of the area of the site to be used and for the receipt of revised plans to be submitted showing the caravan layout and details of a new lockable gate. The application to come back to Committee as soon as possible.

47. 090551 Former Dairy Deot, Wimpole Road, Colchester

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 this meeting as a matter of urgency to enable the application to be considered within the 13 week period for determination of major applications.

The Committee considered an application for a single building close to the road frontage comprising a small convenience retail store on the ground floor and six two-bedroom flats on the first floor and the roof area, together with associated car parking and alterations to the existing access. 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.

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

Mr Ricks addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The scheme has reduced in scale from the previous permission and is more compatible with the street scene. The 'L' shape creates an urban square. The scheme includes cycle parking, landscaping and seating; it incorporates a mixed development and supports policy objectives. Whilst the issue regarding a gate has not been raised previously, he suspected that there would be some form of

security. He believed that the Section 106 agreement related to contributions towards play space and affordable housing the principle of which had been agreed, subject to appropriate wording. He asked that the opening time be brought forward to 7am as there were other retailers which opened at that time. He also asked that the start time for deliveries of goods be applied to deliveries by HGVs so that the delivery of goods by light vans, bread and newspapers specifically, could be made earlier.

Members of the Committee were aware that there had been a retail operation on the site previously. It was considered that the detailing of the frontage would add to the character of the street. Confirmation was sought that six of the parking spaces would be designated for sole use by the occupiers of the flats. The view was expressed that the Section 106 agreement should be for this site together with the site to the rear otherwise some benefit may be lost. There were opinions in favour of and against the installation of gates across the entrance to provide security when the convenience store was closed.

It was explained that there were no specific parking spaces allocated for residents but this could be achieved by condition. The Section 106 agreement has been advised on the application as submitted and the mitigation achieved would be for this application not for the parcel of land to the rear of this site. If the proposed condition on the hours of working and the hours of opening were felt to be inappropriate the recommendation could be amended. There was no indication of gates on the plans but if considered necessary that too could be achieved by condition. There were no objections to the time of opening commencing at 7am, however the applicant would be able to make a subsequent application to revise the time of opening.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a Section 106 Agreement by 22 July 2009 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 Section 106 Agreement by 22 July 2009, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, see also Amendment Sheet, together with an amendment to the car parking condition to ensure that six spaces are reserved solely for the occupiers of the flats in perpetuity, and an informative be added advising that occupiers of the flats are unlikely to receive favourable consideration for application for residents parking permits.

(c) In the event that a satisfactory Section 106 Agreement is not received

by 22 July 2009, the application to be refused due to the lack of a legal agreement.

Councillor Andrew Ellis (in respect of having made representations in opposition to the application in his role as ward councillor at the meeting on 2 April 2009) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and left the meeting during its consideration and determination

48. Enforcement Report // Collins Green, School Road, Messing

The Head of Environmental and Protective Services submitted a report on proposed enforcement action regarding unauthorised material changes made to the external appearance and scale of the nearly completed units 1, 2, 3 and 4 of this small infill development. 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.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. Enforcement action to lower the building may not be successful. It was considered that the best course of action was to achieve the cosmetic changes which would improve the appearance of the dwellings so they better fitted into their setting.

David Hooker addressed the Committee on behalf of Messing Parish Council and other residents pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the proposed enforcement action. Residents objected to the dwellings on plots 1 and 2 on the basis of their increased bulk created by the height of the brickwork and the raised roofline. The dwellings lacked architectural design and were out of character and out of keeping with the village. They are bland and give a barrack-like appearance which dominates and overwhelms their setting. The developer argues that the added height and the lowering of the floor were necessary, but at no time was the datum level of the floor slab identified so he cannot argue that he lowered the building. The issue of the height and size remain. In his marketing of the properties they were described as town houses not village properties. The developer has ignored the terms of the planning permission and created additional bedrooms. All the options set out in the report should be included; the reduction of the roof on plots 1 and 2 and the facades of plots 1 to 4.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. Messing welcomes new residents and new homes in the village, but not these ones. This is a missed opportunity for beautiful cottage style housing. The best option is to take them down and start again. The real issue is the height of the buildings which clearly contravenes the planning permission. References to the unauthorised building included the height. He asked members to accept all the remedial works in paragraph 1.1 of the report and to include the part demolition identified in paragraph 3.2. If the Committee really want to keep the style and character of the village they must fit in and these do not. His preference was for the dwellings to be demolished and rebuilt.

Members of the Committee agreed that it was probably unreasonable to require the dwellings to be demolished and rebuilt in accordance with the plans. However, the Committee would not have approved the dwellings as built which were essentially town houses and out of keeping in the village setting. When the application was first considered, the Committee had asked officers to negotiate with the developer for something more in keeping with the village. It was understood that the developer had held an exhibition in the village hall and residents had discussed the plans with the developer and the Committee had approved the resulting design. The Committee were minded to agree to the action outlined in paragraph 1 (a) to (h) and to the removal of courses of brickwork outlined in paragraph 3.2 of the report. Had the developer attended the Committee they would have been able to hear the rationale behind the changes and may have understood better. The Committee also supported Condition 3 for the removal of permitted development rights so any increase in bedrooms would require prior permission.

RESOLVED (UNANIMOUSLY) that enforcement action be authorised to require the matters detailed in paragraph 1.1 (a) to (h) and in paragraph 3.2 of the report by the Head of Environmental and Protective Services to be completed with a compliance period of 1 month after the 28 day period after which the Notice takes effect.

49. Tree Preservation Order 22/77

The Head of Environmental and Protective Services submitted a report on an application to fell a large mature oak tree in the small to medium sized rear garden of a domestic suburban property. A number of background documents containing exempt information were provided separately for information on the confidential part of the agenda. 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 application upon the locality.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations.

Ian Holdbrook addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He thanked Councillors Turrell and Goss for their assistance over the past few months. He had not taken the matter lightly and confirmed that he was aware that the tree was protected when he purchased the house. However, at that time they were often out so the tree did not impact on their lives. They now have a family and in the summer the garden is in shade most of the weekend and in total shade from 4pm in the afternoon. He would like to move but the current economic climate prevents him. The tree is one of the factors affecting his health and now he was seeking to improve the quality of life for himself and his family. He had wanted to extend his house but a structural engineer had suggested that he would need to deep pile which would be expensive. He appreciated the value of the tree and had offered to plant a replacement Oak tree which could be enjoyed by the community.

Councillor Turrell attended and, with the consent of the Chairman, addressed the Committee. The tree has caused his family anxiety, there should be a priority and people are more important than a tree. If a resident's quality of life has been reduced the tree should be removed. He has offered to replace the tree with two others which will provide a better environment for future generations. This road backs on to Highwoods Country Park; felling the tree might change the skyline but will not spoil the skyline. The applicant's circumstances have changed since he bought the house. He could have taken the tree down without permission but he has been an honest resident and applied for permission. The assessment on the tree is border line scoring an 11 and just about defensible; it was an on balance decision. The applicant deserves the support of the Committee.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. He was concerned about the way the resident had been advised. In general, he did not agree with felling trees, but the evidence in this instance is clear. Not far from this property the Council is removing fir trees on its own land because they are too big. The applicant's garden is too shaded. When suffering from stress light is a healer. The applicant is willing to provide two replacement trees for Stammers Road. A TPO is based on one person's opinion. He considered this TPO to be border line. In summary, he asked that the Committee take into account the two replacement trees being offered in response to the tree being removed and to bear in mind the tree felling being done by the Council.

Members of the Committee were very sympathetic towards the applicant, and had regard to the following matters: the border line nature of the assessment; the lack of evidence to support the application; the ecological value of the oak tree; the impact of felling a mature tree; the amount of crown reduction the tree had already undergone and the visual impact of further reduction; the scoring for the original TPO and what makes a tree worthy of a TPO; the danger of setting a precedent by acceding to the request; and the offer for replacement trees to be planted in Stammers Road. The Committee understood the need for evidence and did not consider they had sufficient evidence to determine the matter.

It was explained that the Council does not prevent tree works where the tree is causing an active nuisance, but there has been no supporting information submitted to justify such works. Numerous applications are submitted on the basis that it affects life or health but it is for the applicant to provide appropriate evidence. Evidence could be in relation to the tree, any damage being done by the roots or the impact on the applicant's health, but any evidence should be provided by a qualified practitioner in the respective disciplines. There is a need to clarify the scoring mechanism. Generally the Council would accept replacement trees to be replanted in the vicinity to the original tree. Personal circumstances should not be grounds for felling the tree but a reduction in the canopy would be acceptable. It was suggested that it might be better for the application to be withdrawn and re-submitted with a suite of evidence.

RESOLVED (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred to enable the applicant to withdraw the application and resubmit a new application including additional information demonstrating the harm that the tree causes.
- (b) If the application is not withdrawn within the statutory time frame, the application to be refused. Any new application to be referred to Committee for consideration.