

PLANNING COMMITTEE 11 AUGUST 2011

- Present :-* Councillor Theresa Higgins* (Chairman)
Councillors Christopher Arnold, Peter Chillingworth*,
John Elliott*, Stephen Ford, Peter Higgins,
Sonia Lewis*, Jackie Maclean*, Jon Manning*,
Philip Oxford and Laura Sykes*
- Substitute Member :-* Councillor Barrie Cook for Councillor Ray Gamble*
- Also in Attendance :-* Councillor Nick Cope
Councillor Margaret Fairley-Crowe

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

39. Minutes

The minutes of the meetings held on 14 July 2011 and 28 July 2011 were confirmed as a correct record.

40. 111139 S & K Premier Convenience Store, 87 Drury Road, Colchester

The Committee considered an application for the provision of a single storey rear extension to increase the warehouse and retail shop floor area to the existing food store on the ground floor and at first floor level, the construction of one two-bedroom flat. The application was a resubmission of 102679. 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.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to the Amendment Sheet which confirmed that the Design and Heritage Unit were satisfied with the amended plans and set out proposed conditions.

Kevin Ranson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He agreed that the shop provided a useful service and the additional floor space was required to improve the flow in the shop. However, he believed the increase in warehouse space would increase the flow of goods and lead to more customers and more deliveries, and he was concerned about the traffic and parking. He noted that the adopted parking standards required twenty spaces which could not be provided within the site and for this reason he believed the proposal constituted over-development. He also noted that there were no disabled parking spaces. He believed this situation would lead to an increase in on street parking to the detriment of residents.

Mark Potter addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The food store provided a valuable local service but increased local competition and Sunday trading had led to larger food stores and the applicant's response was to improve the store. He referred to the proposed screening to prevent overlooking from the flats, and that the parking for the flats was in accordance with the adopted standards. The store was currently cramped and the applicant wanted to widen the aisles rather than to increase turnover and the larger warehouse would decrease the number of deliveries required. He hoped that signage in the parking area would prevent parking in the street and reduce congestion. The Travel Plan was supported by the Highways Engineer.

Councillor Cope attended and, with the consent of the Chairman, addressed the Committee on behalf of Mr Phillips in respect of overlooking. He questioned whether this application was sufficiently different to warrant proceeding. He had noticed contributions from various other people and was of the impression that the Highway Authority were positive about the issue. He sought confirmation that issues raised by Cllr Barton had been adequately addressed.

The planning officer explained that there were no windows in the flat which could cause overlooking towards the Rayleighs. There was a single window which looked back towards the flats across the service yard and officers were satisfied that privacy issues had been dealt with. There was overlooking across Drury Road which would be the situation in any street. In accepting that the scheme would improve the facilities, the Committee should consider whether this was sufficient justification to accept the status quo or whether more parking should be provided; residents' parking had been improved but customer parking had not.

Members of the Committee were aware that this was an essential facility and those who lived in the area found it very useful. However, when market circumstances change the applicant must do what they can to provide a shopping experience which the customer requires otherwise they will go out of business. The Committee were aware that amenity problems had been overcome and that there were no outstanding objections. They also understood the concerns of the objectors but found it difficult to do other than approve the proposal because a refusal on highways grounds was not supported by the Highway Authority.

The planning officer explained that a limit on the number of deliveries would be difficult to enforce and he commented that it should be left to the Travel Plan which would be monitored on a yearly basis. In regard to disabled parking, the status quo would be maintained, and it was therefore difficult to comment on the use of the external space. He confirmed that the turning space referred to in Condition 3 was adequate for staff cars to leave the site in a forward gear.

RESOLVED (ONE ABSTAINED from voting) that –

(a) Consideration of the application be deferred for the signing 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 signed Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out on the Amendment Sheet.

41. 111126 Priory Farmhouse, Priory Farm, Braxted Park Road, Tiptree

The Committee considered an application for a change of use and alterations to a storage building to form a live-work unit. 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.

Andrew Tyrrell, Development Manager, and David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. The planning officer made reference to the reasons for the application as stated by the applicant, and to the comments made by the Spatial Policy Team. It was not considered essential for the applicant to live in the area and whilst their personal circumstances were temporary, once the dwelling was built it would remain in perpetuity.

Ted Gittins, Edward Gittins and Associates, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to Priory Farm comprising a large residence and outbuildings and to its current use as an engineering business. Mr Upson was a full time carer for his wife whilst at the same time running the business. This situation was only possible if his residence and workplace were in the same location. He was of the opinion that all the buildings at Priory Farm formed a significant and concentrated cluster in the countryside but with no encroachment on the countryside. The proposed building would easily convert into a small cottage with substantial benefits to the business. He referred to one of the aims of the emerging National Planning Policy Framework being to assist business and enterprise where possible and to some limited weight being given to the personal circumstances. He suggested a personal condition could be added.

Councillor Fairley-Crowe attended and, with the consent of the Chairman, addressed the Committee. She also referred to the history of the farm and to Mr Upson still being active in the business. The bungalow was too big but with his home on site he could continue to care for his wife, who had lived on the farm since 1948. They only required a simple cottage and the business needed someone on site, particularly with the occurrence of thefts of tractors in the area.

The planning officer confirmed that although economic reasons had been put forward, they did not outweigh the strong policy objections to new housing in the countryside.

Some members of the Committee were of the opinion that whilst they would normally adhere to planning policies to avoid ad hoc development in the countryside, in this case there were particular circumstances. The applicants wanted to continue to work on site but also wanted to look after themselves without being a burden on the community. In the event that a personal condition was added, members sought an explanation on how

the cottage would revert back to its current use. If either the existing bungalow or this proposed cottage was sold it would result in a new dwelling which was not what was wanted. The policies quoted were designed to balance the need to protect the countryside and the needs of those who lived and worked in the countryside. It was considered that the Spatial Policy Team were putting forward an “on balance” situation. The building was already there in the form of a cartlodge which could revert back very easily, so this application was more a change of use. Nothing was being added to the countryside so it was not considered that the proposal would do any material damage to the countryside, but it would benefit this rural business. The applicant had proposed that the use would cease when he and/or his wife no longer required it and a condition could be added to tie a permission to the named individuals so that when the last one left the premises it would revert back to a cartlodge. It was believed that the applicant had made a strong case which should be considered in the light of all the facts and circumstances. The proposal was supported by the parish council.

Other members commented that the applicant already lived on the site and was able to look after the business, however his wife would benefit if they lived in a smaller property. This proposal would enable him to sell off the existing property. There was a view that a temporary permission for conversion of the farm building to a house would be unusual and examples where this had occurred were requested. The site was outside the village envelope and could not be supported.

The planning officer explained that this would be a new building with a new curtilage and would not be associated with the existing bungalow. He was of the opinion that this was a home with an office, and not really a live-work unit. Clearly the conversion worked, but the drawings illustrated a domestic building with chimneys, porches and windows. In theory it could revert back, but in reality that situation would be confused by someone wanting to retain it as a dwelling in its curtilage with a residential use value. The usual process would be to establish if there was a functional need for a dwelling in this location on economic grounds. Officers had considered the personal issues and economic issues and they believed that planning policy objections should prevail.

The Development Manager commented that the speaker had described the business as a small engineering operation and as such the council would not normally direct such uses to a farm as the operation appeared to be industrial. The live-work unit also seemed to be at odds with the described activities as it appeared that there were six staff who had to travel to work every day contrary to the principle to direct development to places where there was easy access to facilities and services which everybody needs, for example public transport. This was not considered to be a sustainable location but would be a new house in the countryside. The site was shown to be subdivided in the application and the new dwelling would have a new curtilage and different ownership. He did not believe that anyone would buy a house which was required to be demolished; at some point an approval would have to be given to remove the personal permission on the basis that it made no difference who lived in the dwelling. The temporary consent would be for a permanent building and he believed that once converted this building would not be removed from the site.

He also questioned whether this was any better than the previous refused scheme which the applicants had not appealed, and he also questioned why an annex had not

been explored. An annex would keep the residential element on the farm within the same dwelling curtilage and ownership whereas a new dwelling would have its own curtilage. Referring to earlier comments, he confirmed that fear of crime was not a consideration in this case as there was a dwelling on the site subject to the same risk; thus the point had already been addressed. In respect of the new National Planning Policy Framework, although it says economic development and growth should be given great weight in consideration with the rest of the policies at National level, sustainable development was still a key theme. The National Planning Policy Framework proposal was still a draft and could change and he considered it should not be given very much weight.

Having heard the Development Manager's considerations, some Members of the Committee were keen to pursue avenues which had not been explored previously, the annex for example. They hoped that an alternative proposal could be identified in order that the applicants could continue to live and work on the site whilst also being a better fit with current policies.

RESOLVED (SEVEN voted FOR, SIX voted AGAINST, the Acting Chairman having exercised her casting vote FOR) that the application be refused for reasons set out in the report with an added note to the Head of Environmental and Protective Services that she explore with the agent possible alternative means of providing residential accommodation without the creation of a separate dwelling unit and a separate curtilage.