

**PLANNING COMMITTEE  
20 NOVEMBER 2008**

*Present :-* Councillor Ray Gamble\* (Chairman)  
Councillors Mary Blandon, Nigel Chapman\*,  
Peter Chillingworth\*, Helen Chuah, Mark Cory,  
John Elliott\*, Wyn Foster, Chris Hall\* and Nigel Offen\*

*Substitute Members :-* Councillor Michael Lilley for Councillor Stephen Ford  
Councillor Richard Martin for Councillor Sonia Lewis

(\* Committee members who attended the formal site visit.  
Councillor Hall was not present at the site visit for minute  
no. 158)

### **155. Minutes**

The minutes of the meeting held on 6 November 2008 were confirmed as a correct record subject to the addition of personal interests declared for application at minute no. 141 as set out below:-

**Councillors Chapman, Chillingworth, Elliott and Foster (in respect of their association with Councillor Jill Tod, resident at Seven Arches Farm, Chitts Hill, Colchester) each declared their individual personal interests in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).**

**Councillor Nigel Chapman (in respect of having spent his working life in the licensing trade) 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.**

### **156. 081789 21 Osborne Street, Colchester, CO2 7DA**

The Committee considered an application for a change of use of the premises from use class A1/B1, retail, to use class A4, wine bar. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Robert Pomery, planning consultant representing the freehold owner of the land, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The condition limiting the permission to temporary for 3 years was unacceptable to his client because there was no justification for the limitation. There was no explanation as to how the objective of the

Vineyard Area regeneration would be so undermined by the change of use, and there is no planning permission or scheme in place in this area. The only material impact would be the long term value of the premises. If this change of use permission had expired by the time the building was required for the regeneration scheme, the value of the building for compulsory purchase order purposes would be reduced. In these circumstances he considered it unreasonable to impose a 3 year temporary condition and requested that this condition be removed.

Members of the Committee expressed agreement with the views of the public speaker.

*RESOLVED* (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report, subject to the removal of Condition 1.

**Councillor Ray Gamble (in respect of having previously declared his opposition to the application) 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) He made representations to the Committee in accordance with Paragraph 12 (2) of the Code of Conduct for Members and then left the meeting during the Committee's consideration and determination of the application.**

**157. 081808 Land adjacent to Eastwood Service Station, Ipswich Road, Colchester, CO4 0EX**

The Committee considered an application for prior approval for the erection of a 10 metre replica telegraph pole mast supporting a shrouded antennae unit containing three antennae, an overall height including antennae support of 10 metres, radio equipment housing and ancillary 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.

Councillor Ray Gamble addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application for a telecommunication mast and equipment boxes on the grounds of impact on amenity because of the cumulative effect on the street scene. He believed this mast was not needed because he had been informed by a local mobile phone shop that there was already good 3G coverage in the area, which he had also confirmed on the website. Residents were sceptical about the company's efforts to find alternative sites. The requirement to take into account the proximity to schools which was not a requirement to avoid schools and could therefore be ignored. Siting a mast on the highway costs the operator nothing. On the grounds of amenity, it is the cumulative impact of two

masts in one area along the residential street which is unacceptable. He asked that the Committee throw this out.

Councillor Gerard Oxford attended and, with the consent of the Chairman, addressed the Committee. The application is in Highwoods Ward but is on the boundary and affects both wards. He believed it was needed to cover Parsons Heath area which is a distance away. He had attempted to find out why the company was not looking in the Bromley Road area which was in the middle of the area needing to be covered. This will be sited 20 metres away from an existing mast and he was concerned it might double the emissions. It was in close proximity to St John's Church of England School and the area was already. He wanted to know if the Certificate of Conformity took into account the doubling of emissions from two masts close together. In searching for other sites, the operators recognised there was a need for sensitivity near a school; if this is allowed there will be two close to a school which seemed to be a nonsense. He had enquired and been told by mobile phone shops that they seem satisfied with 3G coverage in the area so there was no perception of need in the area.

Members of the Committee were sympathetic with concerns voiced by the speakers and residents. However many people use mobile phones and want the latest technology so there is a conflict between what is wanted and having one close to homes. The operator can decide whether or not this site is suitable from a functional point of view and officers look at siting and design. There is an existing monopole a few yards away and the view was that the suitability of the siting of that pole must be a material planning consideration. There were some concerns about whether the emissions from two poles would be significantly greater but other members of the Committee did not consider that this pole would make things worse in terms of street scheme. As people acquire equipment in their homes there will be a need for additional capacity. Companies would not incur expenditure unless there was a need.

It was explained that in the past the Borough Council had resisted applications for masts and the Council had lost all of those appeals. The Council's delivery grant was reduced about 3 years ago because of a poor appeals record and that poor record was as a result of the refusals of applications for masts. Having regard to previous appeal decisions is a material consideration. Phone operators are more conscious in siting masts near schools, however, this is one more structure which has been designed to look like a telegraph pole.

*RESOLVED* (MAJORITY voted FOR) that prior approval be given as recommended in the report.

**158. 081553 92 Coast Road, West Mersea, CO5 8LS**

The application was withdrawn from consideration at this Planning Committee by the applicant.

**159. 081611 Ranges Service Station, 154 Mersea Road, Colchester, CO2 8PU**

The Committee considered an application for alterations and redevelopment of the existing petrol filling station to provide a new forecourt and canopy, extensions to the sales building and underground tanks. 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.

John Bridge, resident in a property adjacent to the application site, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was not concerned with the refurbishment but he was concerned that the area at the rear of the site was insufficient to accommodate car parking spaces, the air and vacuuming area and cars using the car wash facility. Also the exit was an informal arrangement which did not provide users with a clear view when leaving the forecourt. The wall between the petrol filling station and his property has been breached three times so he was concerned that there may not be enough room when lorries emerge from the pumps and turn to exit the forecourt.

Councillor Dave Harris attended and, with the consent of the Chairman, addressed the Committee. The improvements on this site were welcomed. However, lorries making deliveries create noise and disturb those living in the flats and he requested that deliveries be prevented from taking place too early or too late. He was concerned that the raised canopy might interfere with cables. The higher canopy would allow larger vehicles to use the petrol filling area but this could cause delivery containers to have to wait before they can get access to the unloading area which in turn could cause an obstruction on the pedestrian crossing. In this instance a means of protecting the public needs to be devised. The wall of the house has been breached three times and although no-one has been hurt, there was a near miss on one occasion so an upgrade to the metal protecting barrier is required. He also mentioned the poor visibility at the exit, and the desirability of regular meetings between residents and owners which would be helpful.

It was explained that there is an access and egress arrangement. Gaining entry at the point near the house is discouraged. There is sufficient room for lorries going in and out. There are bollards along the left side of the site and it would be possible to require a similar arrangement along the right side to protect the wall. At the back there is a minimum distance of 6 metres between the parking and vacuuming areas permitting access to the car wash. The canopy will be one metre higher. The views of the power company have been sought but nothing has been received, however it is believed there is more than enough room to accommodate the canopy. Liaison between residents and owners of the garage could be added as an informative to include neighbour liaison during construction and demolition phases. A condition suggested on the amendment sheet includes business and delivery times but separate conditions are possible.

Members of the Committee agreed that the improvement was badly needed but there were a number of issues that needed attention:- the street frontage needs to be decluttered to improve visibility at the exit particularly because the exit is straight onto the roundabout; improved signage of the exit; a means of protecting the wall to no. 152 Mersea Road, possibly using bollards or another solution; the hours of delivery of supplies of fuel or goods should be different from the opening hours; a liaison group should be encouraged between the operators and local residents; and there were concerns regarding the sale of alcohol to those who were under aged and the possibility of restricting evening opening hours.

It was explained that a condition could be imposed for a visibility splay to the right of the exit but it may be difficult to achieve a visibility splay to the left of the exit. A scheme to protect the wall could be delegated to officers to agree. Operating times for the petrol filling station were conditioned at 6am to 10pm and delivery times suggested were 8am to 8pm.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report together with additional conditions and informatives as follows:-

1. Additional condition on the provision of visibility splay at the egress onto Mersea Road.
2. Additional condition on the hours of delivery of supplies of fuel and goods to be between 8.00am and 8.00pm
3. Additional condition for a scheme to be agreed prior to commencement of development to protect the boundary wall between the application site and no. 152 Mersea Road.
4. Amended additional condition on amendment sheet:  
The premises shall not be open for business outside the hours of 0600 – 2200 hours each day. Any forecourt lighting shall not be in use outside of these times.  
Reason: To ensure that the use does not cause harm to the amenity of the surrounding area.
5. An Informative to be added to decision notice encouraging the applicant company to liaise with local residents during demolition and construction phases of the development and also on an bi-annual basis once the development is completed.

#### **160. 081628 Gun Hill Garage, Ipswich Road, Dedham, CO7 6HR**

The Committee considered an application for an extension to an existing industrial building, use of land for stationing of two portacabins and one shipping container, partly retrospective. 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.

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

Ted Gittins addressed the Committee on behalf of Dedham West Residents Association pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Residents Association did not wish to put obstacles in the path. Their main concern was that if this Committee was having to make decisions partly on development to regularise unauthorised development and partly to accept new development. He wanted the Committee to be assured that any permission was based on a sound basis of the lawful use of the site. No legal determination existed of what the site is currently used for compared with what it was used for 14 years ago. The lawful use does not contain the words "storage" at all and that has been replaced by sales. He was unsure if it was an argument for future use or if it was an addition to the use of the site, or in conformity with the lawful use. He believed that the Committee should get a solicitors' opinion as to the conformity of the current use which is car sales and part sales with the Certificate of Lawful Use. He requested a delay to clarify this point as part of this decision.

Councillor Christopher Garnett attended and, with the consent of the Chairman, addressed the Committee. He was aware of other applications for this site in the pipeline; this one must be taken by itself and the others may come in due course. The letters of objection, however, covered all three applications not just this one which did not raise any great problems for the local residents. The site had been in use for forty years and predated the AONB. He welcomed the opportunity to regularise the use on this site. If the matter was not to be deferred, he asked that the Committee consider one or two alternatives to the conditions. The portacabins should be single storey only, if they became double storey they would be clearly seen from the AONB, from the A12 and from other footpaths. He wanted a clearer condition that the one suggested to prevent the proliferation of containers and portacabins on this site. He noted the condition on the amendment sheet that this be a 5 year temporary use and asked if in this circumstance it was reasonable to defer a decision for a solicitors' opinion as suggested.

Members of the Committee were mindful that this was a temporary application and could be granted without regard to other future applications. It was noted that the site was much improved and the view into the site was now obscured from Gun Hill. It appeared now to be run on a professional basis which the Committee were keen to encourage. The breakers yard element of the operation does assume a degree of retail trade. This site was visually important and the tiering of portacabins should be avoided.

It was explained that if there was an increase in the volume of sales and if that was a change of use it should be the subject of a further planning application. This application was for the portacabins which are already in situ and for the workshop which has been extended. The design and access statement was seeking temporary use only of the building because they wanted to put in an application for a permanent structure. It was confirmed that it would be possible to get a legal opinion on whether the current lawful use included sales or part sales, and for this to be investigated before the other applications come to Committee, but in the meantime it may be

helpful in terms of Condition 1 to substitute the words "lawful use certificate for the site for use as a car breakers yard and scrap yard, for the storage of damaged vehicles and spare parts associated with the car-breaking activities" for the word "principal" and in the light of a legal opinion to come to a view on whether there has been a change or intensification of the use.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, subject to the additional condition and informative on the Amendment Sheet and Condition 1 being amended as set out below:-

Condition 1

The permitted development shall not be subdivided from, or occupied at any time other than for purposes ancillary to, the lawful use of the site for use as a car breakers yard and scrapyards for the storage of damaged vehicles and spare parts associated with car breaking activities of the site known as Gun Hill Garage, Ipswich Road, Dedham.

Reason: For the avoidance of doubt as to the scope of this permission as a new use at the site would need to be given further consideration, especially if the principal use of the whole site ceased and these buildings became redundant.

**161. 081733 41 London Road, Marks Tey, CO6 1DZ**

The Committee considered an application for the erection of a canopy and use of the site as a car wash facility and for car sales. The Committee had before it a report in which all information was set out.

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

**162. 081740 Rosaville, White Hart Lane, West Bergholt, CO6 3DB**

The Committee considered an application for a proposed change of use of land to accommodate an extension of a domestic garden. The Committee had before it a report in which all information was set out.

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

**163. 081758 19 Cherry Chase, Tiptree, CO5 0AE**

The application was withdrawn from consideration at this Planning Committee meeting by the Head of Environmental and Protective Services in order that additional information may be obtained regarding the health of the horse chestnut tree.

**164. Performance Monitoring Report // Planning applications for the period 1 April to 31 October 2008, appeals analysis update for the period 1 July to 30 September 2008, and a planning agreement performance update for the period 1 April to 31 October 2008**

The Head of Environmental and Protective Services submitted a report setting out the achievement levels for planning applications determined, an appeals analysis update and a planning agreement performance update for various period of time in 2008.

Vincent Pearce, Planning Service Manager, attended to assist the Committee in its deliberations. He explained that major applications, minor applications and other applications have all met their targets for speed of decisions for the periods above. There were, however, a number of older applications and once they had come through that would impact on the achievement of the targets.

He also explained that the number of applications had gone down, and colleagues in other service areas were short of resources. It was intended that some planning officers would be seconded to other teams in planning policy, housing, corporate and regeneration for varying period of time during the next 12 months. There would still however, be a need to ensure that performance did not fall.

Members of the Committee offered their congratulations to all officers in the service for moving performance to this level and particular attention was drawn to the achievement of successfully defending 100% of appeals which was considered to be outstanding.

*RESOLVED* that the report be noted.