

PLANNING COMMITTEE 11 OCTOBER 2012

Present :- Councillor Theresa Higgins (Chairman)
Councillors Nick Barlow*, Peter Chillingworth*,
Helen Chuah*, John Elliott*, Sonia Lewis,
Jackie Maclean*, Jon Manning, Nigel Offen and
Laura Sykes*

Substitute Members :- Councillor Pauline Hazell for Councillor Nigel Chapman
Councillor Michael Lilley for Councillor Stephen Ford
Councillor Julie Young for Councillor Cyril Liddy

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

47. Minutes

The minutes of the meeting held on 27 September 2012 were confirmed as a correct record.

48. 121543 Celebrations, 44 St Christopher Road, Colchester

The Committee considered an application for a change of use from A1 retail to A5 takeaway, including the installation of an associated kitchen extract system with the flue to terminate at the rear. 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.

Simon Osborn, Planning Officer, and Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. The planning officer drew attention to his responses to objections relating to highways and parking which were set out in his report. He explained that objections relating to noise were easily overcome by measuring the background noise and controlled thereafter by the imposition of a condition. Odour was more difficult to measure and it was important that the appropriate abatement technology should be installed. In this respect it was noted that a number of planning conditions required further details to be submitted and agreed in writing. He confirmed that the hot food takeaway use in this location was in accordance with planning policy and the 9pm closing time was similar to the existing takeaway facility although they were not open on Sundays.

Mr Cross addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. His main objections were on the grounds of odour emissions and reduced air quality, a late closing time, there being no need for another takeaway, an increased amount of litter nuisance, and parking facilities being insufficient and dangerous. He referred to other people present at the meeting also being dissatisfied with the situation.

Councillor Smith attended and, with the consent of the Chairman, addressed the Committee. The current group of retail units complemented each other but if this application was approved the takeaway facility would detract from the mix. He asked that the policy to preserve local shopping areas be taken into account. He considered residents' concerns regarding the effectiveness of the odour attenuation equipment at the existing takeaway premises were well founded, and in this respect he referred to an earlier appeal decision which rejected an application in 2001 in this arcade for a takeaway on the grounds of smell. In that instance residential accommodation was extremely close which had been a material factor. Overall he considered the development would be harmful to residents in nearby properties on the grounds of smell and the noise generated by the activity of customers.

The planning officer responded by describing the proposed method of extraction of odours at the premises. In respect of the appeal decision in 2001 for a Chinese takeaway he explained that the means of extraction was via a chimney which went above the eaves but no other information was supplied on how smells were to be dispersed. Whereas in this application the extraction equipment would be a better quality system; Environmental Control did not object to the method of odour extraction but did require further information on use, level of filtration, and maintenance of the system, all of which would be required by condition. The closing time in the 2001 application was much later with consequent disturbance from noise generated by people congregating in the vicinity. He confirmed that the reduction in percentage of A1 retail use conformed to planning policy of 50%, the hours of use of the premises would be in line with the other takeaway premises, and there being a number of litter bins at the front of the parade.

Members of the Committee were satisfied that a parade of shops was a suitable place to have a takeaway. However, having noted smells and noise from the extraction equipment for the existing takeaway, members of the Committee questioned whether it was reasonable to measure the ambient noise level where there was a particularly noisy extractor fan nearby; they were concerned not to make the situation any worse in terms of noise and smell nuisance. They also noted that the rear of the parade was strewn with litter but recognised that this was a behaviour issue. The parking area in front of the parade of shops was particularly difficult to access at busy times, but it was considered that the peak trading time was likely to be early in the evening when other shops were closed. It was recognised that in terms of the previous appeal decision there were significant differences between the two applications hence it could not be used as a precedent.

In response the planning officer confirmed that there were no extant permissions for an A1 retail use to become a non A1 use. Noise was easily measured and there was a condition requiring the provision of information about the proposed equipment together with an informative which required the applicant to contact Environmental Protection before undertaking the assessment of background noise levels. Environmental Control had highlighted that cooking odours were less easy to measure and difficult to control and in this instance the type of food had not been specified. However, they required that the correct type of odour abatement technology be installed and consequently there was no objection to the application on the grounds of odour. The principal

planning officer reaffirmed that all advice from other bodies and this council's Environmental Control team had assessed the application and deemed it acceptable, and as no objections had been received by those relevant bodies any refusal would be on uncertain grounds.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report.

49. 121457 Moss Farm, Penlan Hall Lane, Fordham

Councillor Chillingworth (in respect of his business relationship with the applicant) declared a pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(12) and left the meeting during its consideration and determination.

The Committee considered a listed building application for a single storey garden room extension. The Committee had before it a report in which all information was set out.

Lucy Mondon, Planning Officer, attended to assist the Committee in its deliberations.

Mr Richardson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he had acquired Moss Farm 6 years ago, prior to that it had been a tied house during which no repairs had been undertaken. They had completely renovated the property in keeping and now wanted a garden room to sit in and enjoy the countryside. The original character of the property would remain and be visible from the gable end because the garden room would be all glass. He confirmed that the lane on the west side was no longer in existence and he could not see how the extension would impact that view on as no-one would be using the lane. As the refusal was on the basis of size and siting he asked that the Committee consider a smaller garden room extension.

The planning officer confirmed that the lane along the west side no longer existed but drew attention to the need to consider whether proposals would cause harm to a listed building and to take into account the public benefit. In this case the benefit was personal to the applicant and therefore did not outweigh the harm to the listed building.

Some members of the Committee supported the proposal, some opposed the proposal and some were in favour of a deferral for discussion to take place between the applicant and officers on a revised design to minimise the impact. There were concerns that the proposal might spoil the listed building whilst others were mindful of the amount of work the applicant had put into renovating a run down building and considered that he should be allowed to improve the property to benefit his quality of life. Other members wanted to explore possible variations on design and materials to minimise the harm to the building.

The planning officer cautioned the Committee that if the proposal was deemed to cause harm to the building, a householder wanting to enlarge such a property would not outweigh the harm. The principal planning officer stated that with a listed building the

only consideration was the effect that the proposed alteration works would have on the special architectural or historic interest of the building. The Council's Conservation Consultant's comments were set out in the report which noted that Moss Farm was a small vernacular cottage which had been extended to its limit. Central Government guidance stated that the layout and plan form of a building were fundamental to the special interest of a listed building and that extensions should not be dominant in terms of their size, scale, design and siting. The proposed extension was located on the original front façade and would fail to respect the historic plan form of the cottage. Officers were clear that the form of extension was unacceptable and the application should be determined on what had been submitted. However, there was no objection to the officer meeting the applicant and agent to discuss alternative design solutions. A fresh application could be submitted thereafter. He confirmed that there was no fee for listed building applications.

RESOLVED (MAJORITY voted FOR) that –

- (a) Consideration of the application be deferred for re-negotiate the size/design of the garden room.
- (b) The application to come back to the Committee for determination.