

PLANNING COMMITTEE 18 NOVEMBER 2010

Present :- Councillor Ray Gamble* (Chairman)
Councillors Peter Chillingworth*, Helen Chuah*,
John Elliott*, Andrew Ellis*, Stephen Ford,
Theresa Higgins*, Jackie Maclean, Jon Manning,
Philip Oxford*, Ann Quarrie* and Laura Sykes*

Also in Attendance :- Councillor Kevin Bentley
Councillor Christopher Garnett
Councillor Terry Sutton

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

112. Minutes

The minutes of the meeting held on 21 October 2010 were confirmed as a correct record.

Councillor Ann Quarrie (in respect of her residence being in an earlier phase of the development) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Stephen Ford (in respect of his residence being in Valley Road) 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 he left the meeting during its consideration and determination.

113. 091559 Former Cook's Shipyard, Phase 3, Walter Radcliffe Way, Wivenhoe

The Committee considered an application for the erection of thirty-two dwellings, commercial units within Class A1 - Retail and Class B1 - Business, garages, off street parking, roads and footpaths, public open space, foul and surface water drainage and hard and soft landscaping. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

Sheldon Leader addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application in respect of the access roads to the site. There was a view that the use of vehicles and access roads remained a poor relation in the whole of the plan. The increase would continue to rise and on each phase there was no clear indication of attention to the problems of access, either through Angelsea Road or through the village, and this was a symptom

of the problems. Approval of the application would not resolve the impact upon the village. There has been no consideration of the closure of Queens Road or other roads. Intensification of traffic flows and the detrimental impact on residents is equally a problem to other roads. There is a much larger number of cars.

Mike Bowen, Melville Dunbar Associates, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This application was a result of the market for homes and replaced the earlier scheme. Both applications were for 32 dwellings. At the last meeting the application was deferred for several issues raised by the Committee which included a request to the Highway Authority to reconsider the closure of Queens Road and to confirm their view that no significant increase in traffic would result from the development. The Highway Authority continue to endorse the proposals. It is suggested that the view of Queens Road residents and the traffic management of the area should be dealt with separately as it is not within the control of the applicant. The applicant had addressed the remaining issues:- one or two small shops would be provided and car parking for commercial units had been increased from thirteen to twenty-five spaces including four for shops. Visitor parking spaces remained at twenty-six including two disabled spaces. He hoped these amendments would meet the aspirations of the Committee.

Members of the Committee were pleased that the matters raised had been dealt with and Essex County Council had been consulted regarding the reopening of Queens Road and had indicated it should remain closed. One member had recently approached Essex County Council regarding the outstanding issue of traffic access routes to see if some alleviation of the traffic problem in the lower village could be achieved such as a one way system but had received no response to date. It was recognised that the traffic situation came from an earlier parking strategy which considered if there was good access to facilities residents would not need a car. It was noted that there were no education contributions in the Section 106 but it would be difficult to defend a refusal on that one issue. It was also recognised that there was an approved scheme and if this application was refused the benefits in this revised scheme would be lost. Members supported the planning officer's view that the Town Council were best advised to approach the Highway Authority regarding the traffic access issue.

It was explained that there were areas in the scheme which were allocated as permissive rights of way and the Town Council wanted them to be public rights of way, but they were shown as permissive rights of way on the Section 106 Agreement plan for the original outline application. Vehicles would be permitted to travel along to the dinghy park, but the permissive rights of way would be for pedestrians only.

RESOLVED (TWO ABSTAINED from VOTING) that –

(a) Consideration of the application be deferred for completion of a Section 106 legal agreement to secure the following:-

- two affordable units on plots 97 and 98;
- dinghy parking;
- visitor car park for cars, powered two wheelers and cycles;

- public access; and
- commercial floor space.

and to the prior variation of the existing Section 106 legal agreement to take account of the development proposed in application 091559,

(b) Upon receipt of a satisfactory Section 106 legal agreement, and prior variation of the existing Section 106 legal agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, together with additional conditions relating to the retail and commercial units and the deletion of Condition 22.

Councillor Laura Sykes (in respect of her membership of Stanway Parish Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

114. 101729 Land at Floral Acres/Tollgate West, London Road, Stanway

The Committee considered an application for the removal of Condition 16 attached to application 081333 to allow ancillary retail, wholesale sales/trade/business use. 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.

115. 102021 Development Site, 1-3 Kingsland Beach, West Mersea

The Committee considered an application for a proposed development of a terrace of three three-bedroom houses and associated car parking together with minor changes to the fenestration as well as the entrance porch on the north facing elevation. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) 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.

116. 102032 Paulfreemans, Bromans Lane, East Mersea, CO5 8UE

The Committee considered an application for the demolition of the existing bungalow and the large concrete block garage and the erection of a replacement single storey dwelling. It was also proposed that an existing cart lodge be repaired and reused for vehicular storage. The existing vehicular access into the site was also to be realigned. 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.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

Councillor Sutton attended and, with the consent of the Chairman, addressed the Committee. He referred to the narrowness of the lane and that it was also the only entrance into Cudmore Grove Country Park. He suggested that consideration of the application be deferred in order that the applicants could be invited to consider providing a passing bay by way of a planning gain. The Highway Authority had asked for a wide sight splay which recognised the problems along this road.

Members of the Committee considered that the sight splay itself may offer some additional width of hard surface which would be a real benefit in enabling oncoming cars to pass. However, the applicant may get frustrated with their sight splay being used in this way and may put large stones out to prevent its use by passing cars. It was suggested that a dialogue be held with the applicant to establish if they would be willing to accede to the suggestion.

It was explained that this was a one for one development and the land to provide the visibility splay would be in the applicant's control consequently there would be nothing to prevent them putting out large stones to stop people using the splay as a passing bay. Furthermore, it would be unreasonable to require the applicants to provide such a bay by condition or defer the application for a discussion. The reason for the suggestion was understood and it could be pursued separately but not in terms of this application.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report with an informative requesting the applicant to consider the possibility of providing a passing bay or to leave the site splay unfettered.

117. 102060 International Farm Camp, Hall Road, Tiptree, CO5 0QS

The Committee considered an application for a new communal building with access as approved under application 100684 for the exclusive use of temporary work staff who would be accommodated in modern mobile homes located nearby. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

118. 100275 81 Kingsland Road, West Mersea, CO5 8AH

The Committee considered an application for the reintroduction of no. 83 Kingsland Road with the erection of a two-storey three-bedroom dwelling. The Committee had before it a report in which all information was set out.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

David Jones addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The only objection he had to the proposal was that there was a build up of soil from the site against his garage wall which he believed was making his property damp.

The planning officer explained that the drainage for the site would be dealt with under a building regulations application but it would be possible to impose a drainage condition and this would enable the borough council to consult with drainage authorities.

Members of the Committee were aware that the drainage issue was not a reason to refuse this application.

RESOLVED (UNANIMOUSLY) 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, together with an additional condition requiring submission and agreement to surface water drainage details.

119. 101254 Land adjacent to 1 Firs Road, West Mersea, CO5 8JS

The Committee considered an application for the erection of a new detached three bedroom dwelling and a new vehicle access. 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.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations.

Graham Provan addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He made reference to the change in the policy regarding infill development. The report drew a comparison between this proposal and the neighbouring property. However, what would have been acceptable 10 years ago was not necessarily acceptable now. This proposal was at the margins regarding its proximity to neighbouring properties and the amount of amenity land. He believed he would lose light from his kitchen which was the only source of light for that side of the property. He was of the opinion that it might have met the standards but it was not necessarily appropriate for the site.

Members of the Committee were of the opinion that this proposal would fit in as there was a mix of types of dwellings in the area. However, there were concerns regarding the roof tiles. Plain clay roof tiles were preferred because they were a superior material and for their improved appearance both new and through the ageing process. The objector's point about garden grabbing was understood but this proposal was in accordance with the new guidelines including the size of the garden. Although the site was not typical because these were rear gardens, the Committee had seen the site and were satisfied that the proposal would fit in with the area.

The planning officer explained that Condition 3 would need to be reworded to provide for clay roof tiles. He also referred to Condition 6 which removed permitted development rights. In response to a query regarding the parking provision he confirmed that the two spaces were provided by the single integral garage of acceptable internal dimensions and a hardstanding for one space in front of the garage.

RESOLVED (UNANIMOUSLY) 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, subject to Condition 3 to be reworded to ensure the use of a clay roofing tile rather than concrete as indicated in the application.

Councillor Andrew Ellis (in respect of having made representations on the application as detailed in the report) 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 he left the meeting during its consideration and determination.

120. 101770 The Oak Stores, Hardy's Green, Birch, CO2 0NY

The Committee considered an application for a replacement dwelling and 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.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

Brian Regan addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He had worked on this project with planning officers for over a year. They were quite happy with the property which was a compromise, but he had accepted it. These last three houses are the only ones where the village envelope does not include the whole of their garden. Only 20% of the floor area was outside the village envelope and it was not in open countryside. The immediate neighbour has garages which extend back and next door there is a large barn both of which are further back than this house. He hoped the committee could agree the application.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. He was of the view that this was not excessive development but a replacement dwelling. He felt the design fitted in with the two houses next to it and that it improved the area. He was surprised by the recommendation given the amount of work over the last year that had gone into development of the scheme. During this time the design had changed as a result of work with officers. There were ample parking spaces and turning areas. No objections had been received from either the parish council or from any of the neighbours. He hoped the Committee would approve the application.

Some members were concerned that the building would be set back by a considerable distance and as a consequence it would be out of keeping with the street scene. They also considered that precedence would render it difficult to resist further such applications. Other members supported the application. They considered the proposed increased frontage to be appropriate for a building of this quality and that the reasons for wanting it set back were reasonable. There was no objection to its size and it was considered that it was a good design which would enhance the area. Reference was made to the positive comments from the Urban Design officer. The existing dwelling was built across the village envelope but the new dwelling would extend further beyond the village envelope. However, it was considered that no harm would be caused to the countryside. The Committee considered the planning officer's recommendation of a refusal to be the correct recommendation based on policy guidance, but they were of the opinion that this particular application was an exception.

The planning officer confirmed that if the whole of the property was within the village

envelope the recommendation would be for a permission. The officer considered that approval of this application would set a precedent by extending outside the village envelope. It was recommended for refusal because it was considered that the building would look incongruous and because the new building would extend further outside the village envelope than the existing building. Village envelopes were in place to protect the countryside. If members were minded to approve the application, she referred to conditions to secure landscaping to the front of the site, parking and turning provision, materials to be submitted and agreed from the traditional range of vernacular materials and other conditions pertinent to any dwelling. In response to a request she confirmed that permitted development rights could be withdrawn to prevent extensions being erected.

RESOLVED (TWO voted AGAINST) that the application be approved subject to conditions referred to above and on the Amendment Sheet, together with any further conditions considered appropriate by the Head of Environmental and Protective Services.

121. 101899 26 Prince Albert Road, West Mersea, CO5 8AZ

The Committee considered a reserved matters application for a three bedroom detached house, as approved under planning permission 080299. 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 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.

122. 101539 The Acacias, Bacons Lane, Chappel, CO6 2EB

The Committee considered an application for a variation of Condition 4 of planning permission 091391, visibility splays. 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.

123. 102062 Ashgrove Cottage, Grove Hill, Langham, CO4 5PJ

The Committee considered a retrospective application for a proposed amendment of a roof pitch from 50 degrees to 40 degrees and alterations to the chimney of a house approved under planning permission F/COL/07/0094. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. The Parish Council had originally objected to this application but subsequently they had withdrawn their objection. The neighbour maintained his objection to the height of the property and the change in design of the chimney.

Councillor Garnett attended and, with the consent of the Chairman, addressed the Committee. He had only one outstanding issue which was non standard Condition 7. He asked the Committee to tighten this condition up by imposing a time condition for cutting the verge, for example three or four times a year.

It was explained that this would require a further informative to the applicant, rather than a condition, and a discussion with the Highway Authority regarding any work to be done on a regular basis.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a revised 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 revised Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and an additional informative indicating the Committee's desire to see the highway verge opposite the site trimmed in accordance with Condition 7 on a regular (three monthly) basis.

124. 101893 16 Enville Way, Highwoods, Colchester, CO4 9UF

The Committee considered an application for a ground floor conservatory extension. 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.

125. 101282 Bishop William Ward CE Primary School, 22 Coach Road, Great Horkesley, CO6 4AT

The Committee considered an application for a new single storey preschool building with a new canopy to the rear and a playground with play equipment. 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.

126. 101520 36 Barrack Street, Colchester, CO1 2LJ

The Committee considered an application for a change of use from A1 shop to two A5 takeaway food uses, a new extension at first floor level over the existing rear extension to provide new staircase to existing first floor flat. The application is a resubmission of application 100934. The Committee had before it a report in which all information was set out.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

Shwan Alsulayman addressed the Committee, on behalf of a friend who had complained on line, pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. There was a concern that this proposal would cause problems for the residents in respect of parking, road safety for children at the college, and over provision of takeaways in the same road. It would be too difficult to manage car parking there, and there would be traffic day and night. The proposal may result in the road being blocked for five to ten minutes whilst people were served. The other concern was for the residential area on the other side of the road where children play as most of the houses do not have a front garden and it would not be safe for them.

Motin Miah addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He was of the opinion that the main benefit of the takeaway to the public would be the creation of between sixteen and twenty full time and part time jobs. The public would have more choice of multicultural foods, the best value for money and the best quality foods. The building was in a very bad condition which was detrimental to Barrack Street. After receiving permission his aim was to modernise and redecorate the building completely. There was secure off street parking at the rear of the building for two cars and a place for a motorcycle. The council and central government would benefit from the receipt of council tax from the property which would be fully occupied.

Although members of the Committee were keen to see the building brought back into use, they had a number of concerns. These were mainly around parking issues; whether the application meets the parking standards and whether there was somewhere for a delivery van to park; whether there was, or needed to be, a travel plan; whether the office was part of the takeaway business or a separate entity; clarification on the number of employees which were variously reported as eight and up to twenty; whether the flat was tied into the takeaway or a separate entity, and whether one of the parking spaces was allocated for the flat; whether there was over-provision of takeaways in the area; the Highways Authority had based their response on the business being mainly a telephone delivery service, but once permission was granted there would be no way to condition it as a delivery services and it could

become a counter takeaway use. Some members expressed a wish for a site visit to aid their understanding of the application and it was suggested that a deferral might be appropriate to obtain some clarification on the above matters and for a site visit.

It was explained that Condition 11 tied the flat to occupation by the owners of the takeaway business. Condition 6 requires the submission of a scheme for the control of fumes and odours. The development was not of a scale to warrant a travel plan. There was no policy in Barrack Street restricting the number of A5 use outlets. Should this proposal be granted permission there would still be a minimum of 50% A1 retail outlets. It was suggested that Legal Services be consulted on whether there could be any control requiring the premises to remain a telephone delivery service. It was not clear from the application documents whether the office space in the basement was linked to the A5 uses or whether it was a separate entity. The site appears to lack parking provision.

RESOLVED (UNANIMOUSLY) that the application be deferred for a site visit and clarification on the matters set out above.

Councillor Andrew Ellis (in respect of having previously employed the services of the agent, Edward Gittins & Associates) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

127. 101743 Park Stables, Berechurch Hall Road, Colchester, CO2 9NW

The Committee considered an application for a change of use of land to site temporary mobile home for use and occupation by the manager of the riding school and stables. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to the application having included a technical appraisal as well as a business plan. It was not considered that the proposal would have an undue harm on neighbouring properties.

Joseph Greenhow addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The application is for occupation by the applicant who has entered into a partnership with the landowner for Park Stables. The principal shortcoming is the lack of a permanent person on site in the event of emergency and at night. The proposal is for temporary siting of a mobile home until justification for a permanent dwelling can be proved by business records. This complies with planning policy. The mobile home would be sited in the heart of the complex so there would be no harm to the character of the area or local amenity. The applicant has an established right of way along the track for many years. The site is not served by public transport.

Members of the Committee considered that normally the council asks for an independent assessment on the business plan and they queried whether this had

been done because the application would result in a permanent dwelling. It was important to ascertain from the business plan whether the income generated after three years was likely to be enough to support the applicant and provide for the annual cost of providing the dwelling.

It was explained that the technical appraisal had been produced by a well known agricultural consultant and examined by the council's Economic Development Team who were satisfied. The document is available on the website.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report with the deletion of Condition 4 and an amendment to Condition 5 as set out on the Amendment Sheet.

128. 101920 1 Spring Chase, Wivenhoe, CO7 9QP

The Committee considered an application for a proposed single storey rear extension and alterations. 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.

129. Reporting of Planning Application 091034 // 314 Cowdray Avenue, Colchester, CO1 1YA

The Head of Environmental and Protective Services submitted a report on a planning application which had been determined under delegated authority although the applicant was an employee of the council, contrary to the Planning Procedures Code of Practice. The Committee had before it a report in which all information was set out, see also Amendment Sheet. They were asked to indicate that had the application come before them for determination they would have been minded to grant consent.

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

RESOLVED (UNANIMOUSLY) that the Committee concur with the determination under delegated authority that application 091034 be approved with appropriate conditions.

130. Enforcement Action // Stonefield, Kelvedon Road, Inworth, CO5 9SH

The Head of Environmental and Protective Services submitted a report on two unauthorised marquees being used in connection with the greengrocery/village shop at Stonefield, Kelvedon Road, Inworth. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

RESOLVED (UNANIMOUSLY) that an enforcement notice be served at the address requiring the removal of the marquees with a compliance period of twenty-eight days.

131. Enforcement Action // Tudor Cottage, Church Road, Fingringhoe, CO5 7BJ

The Head of Environmental and Protective Services submitted a report on an unauthorised fence because it was within the curtilage of a Listed Building and it exceeded one metre in height in a position which is adjacent to the highway. 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.

RESOLVED (UNANIMOUSLY) that an enforcement notice be served at the address requiring the fence to be removed with a compliance period of two months.