

PLANNING COMMITTEE
3 JUNE 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* and Laura Sykes*

Substitute Member :- Councillor Wyn Foster for Councillor Ann Quarrie

Also in Attendance :- Councillor Dave Harris
Councillor Paul Smith
Councillor Tim Young

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

10. Minutes

The minutes of the meeting held on 19 May 2010 were confirmed as a correct record subject to the deletion of Councillor Ford from those indicated as present at the meeting and the addition of a substitute member, Councillor J.Young for Councillor Ford.

The minutes of the meeting held on 20 May 2010 were confirmed as a correct record subject to the addition of the word (UNANIMOUSLY) being inserted in the resolutions of minute nos. 5, 6, 7 and 8.

11. 091644 A12, Colchester Road, Boxted

The Committee considered an application for a roadside service area to include petrol forecourt and canopy, shop, Heavy Goods Vehicle (HGV) refuelling and canopy, HGV parking, car wash, jet wash, customer parking, underground fuel tanks, plant room and associated services. 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.

Councillor Jon Manning (in respect of the University of Essex being his employer) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

12. 091357 Avon Way House, Avon Way, Colchester, CO4 3TZ

The Committee considered an application for a further two blocks, A and B, of new

student accommodation forming a total of thirty-eight new student bedrooms in nine cluster flats. Each bedroom would be ensuite and would share kitchen and lounge facilities with other bedrooms within each cluster flat. The current proposal provides two blocks each of three storeys where they face the Avon Way House site and two storeys where they face the dwellings in Pickford Walk. The car parking provision was based on one space per five students. There would be 102 bedrooms within the previous scheme, 090498, and this current proposal, and based on one space for every five bedrooms gives a parking provision of twenty-one spaces which had been rounded up to thirty spaces. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee had 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 on the 29 April 2010 and at the meeting on that date the application had been deferred for two matters relating to onsite parking:-

- further discussions with the applicant in respect of increasing the parking provision to ensure it met with current policy,
- legal advice to be sought regarding the inclusion of the existing flats on the rest of the site within the parking allocation.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. The proposal provided thirty parking spaces which would be sufficient in terms of parking provision for this development according to the adopted parking standards, but it could not be guaranteed that this would not add to parking pressures on the streets in the surrounding area. A petition containing 47 signatures was handed in as set out below:-

“We are opposed to additional buildings A and B which face Pickford Walk, 15 metres between the front of houses and back of the new block which will take away natural light and sense of privacy as a result of the building. We are concerned about additional cars parked on the road leading to congestion on a busy road.”

William Thomson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Blocks A and B are far too close and will be far too noisy. Their proximity will be oppressive and residents will lose natural light and privacy. He wanted the over bearing effect reduced. It had been stated that these flats were going to be just two blocks. Excavation would be required if the 25 degree rule is to be observed but he was unable to determine if it had been observed. There was only fifteen metres distance between the houses in Pickford Walk and the new flats which is oppressively close. There will be 373 rooms with only 30 spaces; students will park wherever they can.

Cyril Ogunmakin addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. They had spent 12 months discussing this scheme. They had complied with every design requirement from the planning office including minimum distances. The outstanding issue is car parking. There are two gates onto Avon Way, one is closed to minimise noise. He had confirmed with officers and staff that they have not been charging £120 this year for

parking spaces. They make no money from car parking and it is in the tenancy agreement for students not to bring cars. They have done everything they can to discourage car parking and complied with all design guidelines. He asked that the decision be made today.

Cllr Tim Young attended and, with the consent of the Chairman, addressed the Committee. There were problems with the design, appearance and layout, visual and residential amenity, loss of daylight, overshadowing, noise, etc. The parking situation in Buffet Way is causing problems and the application had been deferred for this reason. Mansion House have done nothing to address the issue. They have agreed the cycle links and cycle park, but there have been twenty-seven cars on pavements. Students were being charged £8 per week to park in the Avon Way site. The only reason the density is allowed is because it is student accommodation and he asked the Committee to investigate the density. He believed that non-students were living in this development. He requested that the application be refused.

It was explained that the development had taken account of the Council's guidelines. They have moved both blocks further away from the existing dwellings. The 25 degree line clears the buildings which are the two storeys adjacent to Pickford Walk. The parking situation is slightly more difficult. In respect of the previously approved scheme for Blocks C to F and the scheme for Blocks A and B sufficient parking is provided. However, it is not clear how many parking spaces are available for the pre-existing dwellings and the new arrangement may have a detrimental effect on the surrounding area. The amendment sheet explains that there are currently 74 flats on the site occupied by 254 students which would require 51 parking spaces. There is a condition for the new development requiring flats to be let only to students. Reference was made to a late letter sent in by Bob Russell MP expressing concern that residents had not been notified. However, it was confirmed that appropriate residents had been notified of the committee meeting and as the resident had contacted the MP before the meeting about not being notified the resident was clearly aware that the item was on this agenda.

Members of the Committee reiterated that officers were not clear about the impact of the proposal on the surrounding area. It was recognised that the applicant and objectors want a resolution but the issue of parking is very important and the impact needs to be quantified. On this occasion officers were changing the emphasis of their advice to defer in order that the impact can be considered. It was recognised that this will disappoint the applicants. The conditions attached to the original permission for the existing blocks of flats could also explain who was permitted to occupy them.

RESOLVED (UNANIMOUSLY) that consideration of the application be deferred for clarification of the parking needs for this development and the adjoining Avon Way student accommodation.

Councillor Jon Manning (in respect of the University of Essex being his employer) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

13. 100433 16 Elmstead Road, Colchester, CO4 3AA

The Committee considered an application for the conversion of an existing house and the erection of a two storey rear extension to form eight bedsits together with a cycle and bin store and new boundary fences. 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. Essex County Council had not raised any objections on the basis of its proximity to essential facilities and the University. Additional parking spaces are to be provided on the front garden.

Stephen Egerton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The proposal complies with the Essex Design Guide. He was in agreement with the conditions limiting occupation to students. The issues raised by neighbours are car parking and he was happy to agree to two parking bays. There were numerous properties in Elmstead Road and Mascot Square occupied by students. A regulated agent will be appointed to manage the property.

Councillor T. Young attended and, with the consent of the Chairman, addressed the Committee. At the moment there was a happy mix of student and owner/occupiers but the balance could tip too far towards student accommodation. There was a lot of accommodation for students coming on stream. The proposal would be overbearing on 18 Elmstead Road because of the size of the extension. A single storey application was refused previously. It will produce up to eight cars for which there was no room. He would prefer the dwelling to be retained as a private dwelling. Eight bedsits would be too much for the area and out of character. He asked the applicant to rethink the development.

Some members of the Committee were concerned about the cycle and car parking spaces, but it was recognised that the proposed amendment to the car parking provision was within the guidelines. There were also concerns about the density produced by the extension. However, some members of the Committee were aware that the Council did not have a policy to maintain a mix of student/resident occupation. There was a recognition that this site was very convenient for the University and close to amenities making it a good site for students. There was a condition requiring occupation by students. The development may not be particularly attractive but it had been designed so it did not impinge on other properties. There was, therefore no reason to refuse the application.

It was explained that a tandem parking arrangement for three cars for an earlier scheme comprising a wide span single storey extension was unacceptable and had been refused; the subsequent appeal had been dismissed. This application has taken the surrounding buildings into consideration; the extension to the left has been stepped in

from 14 Elmstead Road so that it fitted in with the building line and complied with the 45 degree line. The current proposal has been assessed and it complies with all the planning criteria in the Essex Design Guide; this scheme requires two parking spaces at the ratio of one parking space to five students. There is no policy to assist with determining whether an extension is too big an increase on the original building; the committee must judge the proposal on its own merits. In respect of a query regarding the front wall, it was explained that the proposal will entail the removal of part of the wall and the repositioning of street furniture and street lighting etc. In response to a query about the accessibility of the property it was explained that disabled access was not a planning matter.

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, including an amendment to Condition 4 to require two on-site car parking spaces and appropriate conditions relating to highway safety.

Councillor Ray Gamble (in respect of having called in the application in order that it could be considered by the Committee) 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 on the application in accordance with Paragraph 12(2) of the Code of Conduct for Members and then left the meeting during its consideration and determination.

14. 100752 449 Ipswich Road, Colchester, CO4 0HF

The Committee considered an application for a variation of Condition 7 of application 090150 to remove a sycamore tree, the subject of a Tree Preservation Order, fronting Evergreen Drive. The Committee had before it a report in which all information was set out.

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

Councillor Gamble, St John's Ward Councillor, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to a recent application that had been submitted for the repositioning of the approved dwelling on plot 8 by ten feet and that this was the reason for this application. The question of amenity was considered previously when the planning application was being considered. Local residents had worked hard to get a Tree Preservation Order on the trees. What needs to be considered now was whether the removal of the tree impacted on local residents and the immediate neighbour in

view of the prospect of the building on plot 8 being moved. He asked that the Committee do not agree to the removal of the tree on the grounds that a category C tree was better than no tree at all.

Councillor Smith attended and, with the consent of the Chairman, addressed the Committee. He made reference to the proximity of the site to Bullock Wood, a Site of Special Scientific Interest and an ancient woodland dating back to the 13th century. Many houses in Evergreen Drive have trees in their front gardens and this tree is very significant in this particular location. Policies UEA12 and UEA 13 provide reasons for refusal. The tree is in poor quality because it has not been well maintained. The provision of a replacement tree is not a good enough reason for approval and he asked that the Committee give a clear message to the developer.

It was explained that the sycamore tree had been assessed by the arboriculturalist and on the basis of the BS guidance document the tree had been determined as Category C, not a fine specimen. Consequently, the tree was considered to be an undue constraint on the development of the site and it was therefore appropriate to agree to the application. In respect of the public benefit of retaining the tree, it was considered that it did have an impact on the street scene but it was not a good specimen. A replacement tree would have to be planted in the general vicinity of the tree to be removed.

Members of the Committee were aware of the poor quality of the tree and questioned why such trees were given a Tree Preservation Order designation. Having taken all relevant information into account it was considered that there were no good reasons to retain the tree. In order to secure the long term future of the replacement tree planting, Members requested that the officer look to serve a tree preservation order on these trees.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report together with a note that the new tree planting be given a Tree Preservation Order.

15. 072523 and 072522 The Old Oyster Sheds, Coast Road, West Mersea, CO5 8PA

The Committee considered application 072523 for the renewal of an existing approval C/COL/01/0526 to refurbish and renovate the timber frame walls and roof, re-erect walls and extend shed for use as a private oyster tasting and luncheon/dining suite. Application 072522 is an application for Conservation Area Consent. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee had made a site visit on 29 April 2010 in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site. The applications for The Old Oyster Sheds, Coast Road, West Mersea were withdrawn from consideration at that meeting in order that the Marine Management Organisation could be consulted on the development up to the high water mark. The report before

the Committee set out a detailed response from the Marine Management Organisation.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to the committee's site visit and emphasised the special maritime character of the building which was now in a poor condition. He also referred to the planning history of the site and to the current proposals set out in the officer's report. The main consultation responses set out in paragraph 8 of the officer's report had been favourable to the scheme. Other representations, including those from West Mersea Town Council and the Victorian Society, were also set out in the report. There was no conflict with planning policies and it was considered that the building itself would be an asset to the area.

Councillor Steve Vince, West Mersea Town Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Town Council was opposed to the proposal and considered it represented over-development and in contradiction of planning policy; a restaurant was not a suitable use in this site. The recommendation for approval was in spite of objections from the Conservation Officer. They believed that the sheds had been left to fall down and that this scheme proposed they be demolished. The Town Council opposed the use of glass and steel and would have preferred a proposal that defined the character of West Mersea and enhanced the Conservation Area.

Richard Hayden addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the sheds needing to have some works done and that they wanted to provide a special structure for Mersea. The proposal included a timber structure to retain the character and environment. They were aware of the traffic issues and had made a provision for car parking further along Coast Road. He stated that he was a local resident and would not be involved with the project if it caused any harm to the area. The facility would be a fine food restaurant and would not in any way compete with any of the other eateries but would enhance Mersea's gastronomy. The proposal would generate employment in partnership with the Peldon Rose so it would not only provide employment in the facility itself. Deliveries would be made in the mornings and the closing times in the evening were conditioned to reduce the impact on residents.

It was explained that the Environmental Agency had not raised objections but had required an assessment. Works to the building were to be welcomed and it was believed the proposal would add to the character of the area. The basic outline of the building would be maintained and as much of the building as possible, which would retain its wooden appearance. Traffic is acknowledged as an issue but there was a proposal for parking provision along with proposals for transporting customers to the site by bus.

Members of the Committee considered it was a good proposal, sympathetic to the area and beneficial to residents. Others were aware that whilst it would not be appropriate to fossilise the area, anything done in the Conservation Area must be done with care and thought. Every case must be judged on its merits and whether it would make a significant difference to the Conservation Area and the environment. It was recognised that this application was for an identical use which already had an earlier

permission. It was considered that the applicant had put forward a very good case, balancing economic need and environmental considerations. There was a request for a display within the building to explain the past history of the oyster sheds to customers.

It was explained that the issue of staffing would be dealt with as part of the legal agreement. In respect of a comment about the shutters it was considered that it would be appropriate to include a requirement for any materials used to be sympathetic to the building and the setting within Condition 8 which required the general submission of material samples and external finishes. In respect of concerns about traffic, this was more appropriately an issue for the change of use application which followed on the agenda. It would be possible to request that a historic reference be provided within the building.

RESOLVED (UNANIMOUSLY) that –

(a) In respect of application 072523: -

- Consideration of the application be deferred for completion of a Section 106 Agreement to secure consistency with the earlier consent C/COL/01/0526,
- Upon receipt of a satisfactory Section 106 Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the amendment sheet together with an amendment to Condition 8 to include a requirement for materials to be sympathetic; and an Informative be added to request a display within the dining area detailing the history of the building and its former uses.

(b) In respect of application 072522: -

- Consideration of the application be deferred for completion of a Section 106 Agreement to secure consistency with the earlier consent C/COL/01/0526,
- Upon receipt of a satisfactory Section 106 Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the amendment sheet the application be approved with conditions as set out in the report.

16. 071786 The Old Oyster Sheds, Coast Road, West Mersea, CO5 8PA

The Committee considered an application for a change of use to restaurant A3 Use Class of a previously approved private dining/corporate venue, together with additional parking. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee had made a site visit on 29 April 2010 in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site. The applications for The Old Oyster Sheds, Coast Road, West Mersea were withdrawn from consideration at that meeting in order that the Marine Management Organisation could be consulted on the development up to the high water mark. The report sets out a detailed response from the Marine Management Organisation.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to a remote area of car parking to be used and the fine dining experience being a quality standard in contrast to other uses which would seek to promote Mersea as a destination centre. A substantial volume of objections had been received including those from West Mersea Town Council. He referred to the amendment sheet which contained concerns about car parking and the character of Coast Road being spoiled by additional activity. However, it was considered that with appropriate conditions it would be possible to protect local amenity in terms of the impact resulting from car parking, cooking smells, lighting, outside storage and traffic activity including delivery vehicles.

Moray Graham addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He considered the proposal to be incongruous and its location inappropriate. The Highways Authority had expressed concerns about the site and the Planning Policy Team had recommended refusal due to the impact on residential amenity. The car parking facility would only be available from 1 October to 31 March and there is a year round restriction for on-street parking which will lead to on-street parking causing congestion and nuisance. He stated that PPS4 was not a blank cheque, in respect of any positive impact being weighed against negative ones. DC10 and DC12 related to the use of the existing building; DC16 relates to adverse impact on local trade. He did not believe the buildings were about to fall down. The 2007 committee report stated that the current proposal did not comply with principles adopted by the policy framework.

Richard Hayden addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the provision of a parking facility on the boat park being available at the busiest time of the year when boats will be in the water in the summer. The building itself was in the narrow part of Coast Road whereas the car park was in the widest part of Coast Road. They had agreed to make up additional car parking, off road and hidden. In respect of alternative uses for the building, they had explored options at some length. There was a museum in West Mersea but their resources were such that they were not able to utilise the building. They had agreed to all requests by the planning office in respect of policy issues.

In response to a question from the Committee regarding the provision of a footway for the entire stretch from the remote car parking area to the restaurant, it was explained that there was an existing footway but that there was a stretch alongside the oyster bar which needed upgrading. It was intended that this work would be achieved by a Grampian condition at the applicant's expense. Reference was also made to the no waiting restrictions which operated during the winter and summer up to 6pm and there was a condition imposing a closing time of 10.30pm on the restaurant. It was also pointed out that any future use of the building would be just as likely to generate a requirement for car parking.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives to cover the matters indicated in the report and additional condition on the amendment sheet.

17. 100635 2 Malting Green Road, Layer de la Haye, CO2 0JH

The Committee considered an application for the construction of four single storey bed and breakfast units, owned and controlled by the existing public house. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee had 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.

David Twemlow addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. During the last 20 years applications for the site had been refused. The land has not been redesignated. He was concerned that such a development would cause considerable loss of amenity to residents. He considered the units would increase noise and disturbance late at night and early in the morning. Their outlook would change permanently; the existing wall had been built to protect their privacy. He was concerned that two trees have been felled. He disagreed with the statement that the units would not be visible from the highway. The increased traffic will severely and adversely affect neighbouring properties and residents' quality of life. He asked the committee to uphold previous decisions.

Ginger Adams addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She was a long term resident in the village and part of the community. She was working to restore facilities in the village which had been lost. The aim of this proposal is to enhance the facilities they offer and improve their financial viability. They advertise events at Abberton Reservoir and like to offer accommodation in connection with ornithology. They have consulted the neighbours on their current proposals. She explained that EDF energy had felled the dead oak tree and they were advised to fell the ash tree because it was dangerous. She drew the Committee's attention to the disabled accommodation.

Members of the Committee had some concerns regarding the position the proposed development in relation to the village envelope; whether the situation for neighbours would be improved if the development was turned through 90 degrees; how high the trellis screen would be and would there be sensible planting to alleviate visual intrusion for neighbours; whether there was a right of way across the grassed area to the double gates in the fence along the southern boundary; and whether the overhead cables would go over the top of the proposed building.

It was explained that the site was inside the village envelope, and if members wanted further consultation with the Planning Policy Team on this matter they could defer the application.

RESOLVED (UNANIMOUSLY) that –

(a) The application be deferred to seek further comments by the Environmental Policy Team regarding the position of the building relative to the village envelope boundary; and to investigate the potential right of way to the existing gates.

(b) Subject to no adverse comments being raised by the Environmental Policy Team to the building straddling the Village Envelope boundary, the Head of Environmental and Protective Services be authorised to issue an planning permission subject to conditions and informatives as set out in the report and on the amendment sheet, including an amendment to Condition 18, Details of Walls and Fences as Plans, to require submission of details of height and design of fencing.

18. Amendment to Planning Permission 071123 // Middlewick Ranges, Mersea Road, Colchester

The Committee considered a non-material amendment to planning permission 071123. The permission allows a 2.4 metre high security chain link fence surrounding the firing ranges to satisfy health and safety. The Ministry of Defence, Defence Estates, have requested that a 535 metre section of the fence be moved approximately 20 metres to the south of the approved location. The Committee had before it a report in which all information was set out.

Councillor Harris attended and, with the consent of the Chairman, addressed the Committee. He requested that the Committee agree this proposed amendment to planning permission 071123 and took the opportunity to thank the Army for all their consideration of the residents' request.

RESOLVED (UNANIMOUSLY) that the proposed realignment of part of the northern section of the security fence be approved as an amendment to the permission 071123 granted on 8 June 2007.

19. Variation to Legal Agreement // Balkerne Heights Development, Colchester

The Committee considered a variation to the legal agreement accompanying planning permission F/COL/01/1313. The legal agreement required, amongst other items, the transfer of a play area in the north part of the site to the Council together with a further three public open space areas, all with standard commuted sums. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that the variation to the legal agreement accompanying F/COL/01/1313 be authorised in order to allow one of the open space areas on the Balkerne Heights development to be maintained by a management company instead of being transferred to Colchester Borough Council.