

**PLANNING COMMITTEE  
3 DECEMBER 2009**

*Present :-* Councillor Ray Gamble\* (Chairman)  
Councillor Sonia Lewis\* (Deputy Mayor)  
Councillors Mary Blandon\*, Helen Chuah\*,  
Mark Cory\*, John Elliott\*, Andrew Ellis\*,  
Jackie Maclean and Jon Manning\*

*Substitute Members :-* Councillor Michael Lilley  
for Councillor Stephen Ford  
Councillor Barrie Cook  
for Councillor Theresa Higgins\*  
Councillor Sue Lissimore  
for Councillor Ann Quarrie

*Also in Attendance :-* Councillor Christopher Garnett  
Councillor Kevin Bentley

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

#### **141. Minutes**

The minutes of the meetings held on 5 November 2009 and 19 November 2009 were confirmed as a correct record.

#### **142. 091193 Turner Road, Colchester, CO4 5JL**

The Committee considered an application for the erection of a building for the decontamination and sterilisation of hospital equipment, associated car parking and landscaping. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Highway Authority had required the provision of a pedestrian/cycle ramp and an east-west cycle route to mitigate the impact of the additional travel volumes generated by new staff at the facility. This requirement was supported by the Council's Development Team. At the time of writing the committee report discussions were ongoing with the Highway Authority regarding the provision of these highway works, however since the report had been published the Colchester Hospital University NHS Trust had indicated that they did not consider the requirement for these works to be reasonable at this stage as the Trust would be reviewing and updating their own Travel Plan, including improved cycle facilities, as part of a future application for additional staff and public parking at the General Hospital and

the suggestion was that these highway requirements could be included at that stage.

*RESOLVED* (UNANIMOUSLY) that subject to confirmation from the Development Team that they were content with the proposal put forward by the Colchester Hospital University NHS Trust regarding the highway works, the Head of Environmental and Protective Services be authorised to approve the application with appropriate conditions. In the event that the Development Team are not willing to accept the proposal, the application be refused on the grounds that the highway works as required have not been included in the application.

**Councillor Andrew Ellis (in respect of having previously used the services of the objectors' agent) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**143. 081633, 090795 and 081631 Gun Hill Garage, Ipswich Road, Dedham, CO7 6HR**

The Committee considered three applications for this site as set out below:

- 081633, a retrospective application for the erection of perimeter security fencing;
- 090795, a part retrospective application for the construction of earth bunds and landscape works;
- 081631, a part retrospective application for the erection of storage racking.

The Committee had before it a report on each application in which all information was set out, see also Amendment Sheet in respect of 081631.

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

David Whybrow, Development Manager, attended to assist the Committee in its deliberations. Both the wooden fencing and palisade fencing were to be painted a matt dark green colour. The landscaping scheme was to be planted in the first planting season after approval of the application and would include semi-mature or mature trees. In respect of the storage racking, the landscaping was considered sufficient to screen the racking but a temporary consent was recommended to ensure that the landscaping was sufficient to achieve satisfactory screening.

Ted Gittins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 on behalf of the Dedham West Residents' Association in opposition to the application. He stated that those who live in Coles Oak Lane are generally supportive of this site. However proposals did raise fundamental issues concerning the longer term control of the site. He understood that the primary use of the site is now the sale of road worthy cars which is a different use class from its current lawful use as a scrap yard and breakers yard. If these permissions are granted they will include a use which is outside that of the current certificate of lawful use. It was his view that this would constitute a change in use of the land which had not been ratified as acceptable. This new use covers a large part of the site which could intensify with more racks. He referred to the minute in respect of the application for the portacabins in November 2008, and in particular that an investigation could take place before other applications come to the Committee to establish whether the current lawful use included sales or part sales. He believed that advice was absent at the moment. His client would like the Committee to consider that, in light of legal advice, whether car sales use should be regularised. He confirmed that local residents would support two tier operation of the racking with a temporary restriction to allow sufficient time for landscaping to be effective.

Councillor Garnett attended and, with the consent of the Chairman, addressed the Committee. A number of enforcement officers have taken great trouble to keep the site in good order. In respect of 081633, he fully supported the matt painting in condition 1 on page 27, but asked that the palisade be toned down as well. In respect of 090795, he would support condition 3 for the management plan and hoped that the parish council and ward member would be kept informed of the plan when it is submitted. In respect of 081631, he would support the removal of the racking in the event that the landscaping was not completed. He requested that the racking of cars should be initially restricted to two tiers and only when the foliage was green to permit three tiers of cars. Finally he supported the recommended conditions for this application but asked that the parish council and ward council be kept informed.

In response to Mr Gittins, the planning officer confirmed that the sale of road worthy cars would go beyond what is permitted by the certificate of lawful use. He was not able to confirm if there had been an investigation but in any case it would be outside the scope of the current application. He undertook to investigate the matter and, if necessary, to deal with it either by enforcement or by a further application. He confirmed to Councillor Garnett that the condition required all fencing to be painted and toned down but the condition could be made more explicit to specify the timber fencing and palisade fencing.

Members of the Committee were in agreement with the more explicit wording for the painting of the timber fencing and palisade fencing. They were also in agreement with permitting the lower two tiers only initially to permit the landscaping foliage to grow so as to provide a sufficient screen and then to permit the third, top tier; Condition 2 for application 081631 would need to be amended to reflect this requirement. There was a suggestion that this permission could be for two years to give the planting an opportunity to develop, and at the end of that time an application for the use of the third tier could be considered. Members wanted it made clear that it was the top 'roof' area of racking which could not be used for storage of cars at this stage. Members were also keen to establish what the situation was in respect of the extent of what is permitted on the site under the certificate of lawful use.

*RESOLVED* (UNANIMOUSLY) that application 081633 be approved with conditions and informatives as set out in the report with Condition 1 amended to include the wording "palisade and timber" before the word "fencing" in the second line.

*RESOLVED* (UNANIMOUSLY) that application 090795 be approved with conditions and informatives as set out in the report.

*RESOLVED* (UNANIMOUSLY) that application 081631 be approved with conditions and informatives as set out in the report for a temporary period until 1 January 2012, with condition 2 reworded so that the top rack is not permitted for the use and no more than two cars are stacked one above another.

#### **144. 091226 Oxley House, Mersea Road, Abberton, CO5 7NR**

The Committee considered an application for alterations and extensions on the north side of the existing dwelling house and the creation of a lake area and conservation water feature with surrounding planting. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained that the proposed extensions to the dwelling would cause no harm to the surrounding countryside. All areas beyond the residential curtilage were deemed to be agricultural land and the proposed water feature area falls within land proposed as additional residential curtilage. The water feature is seen as an enhancement of the site and of benefit to the surrounding area. He suggested that it would be prudent for the Committee to include a condition which detailed the extent of the

curtilage for the avoidance of doubt as to its extent.

Mrs P. Hackett addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Their patio area adjoins the site and whilst they had no concerns regarding the proposals per se, they were concerned that by installing a water feature on agricultural land there was a danger that the status of the agricultural land may change to residential curtilage with the risk of it becoming subject to development.

Having sought clarification on whether it was being suggested that the land be included as part of domestic curtilage or that it remain as agricultural land, the Committee suggested that if it was to be regarded as domestic curtilage then permitted development rights should be removed. The planning officer clarified that the lake area will be regarded as domestic curtilage and all areas beyond that are not within the domestic curtilage and that it would be prudent to remove permitted development rights from the water feature area.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report together with additional condition on the amendment sheet and further conditions to define the residential curtilage and to remove permitted development rights for garden structures from the approved water feature area.

#### **145. 091245 Bellwood, Colchester Road, Great Wigborough, CM9 8HG**

The Committee considered an application for a proposed conservation woodland and meadow with support facilities. 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 proposals upon the locality and the suitability of the proposals for the site.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained that the applicant had agreed by way of a Unilateral Undertaking that he will vacate and remove the mobile home from the site, but is seeking to erect three structures which would be used in connection with the formation of a conservation woodland on the majority of the site to the south of the plot together with a meadow area and drainage point on the frontage, the regeneration of the frontage hedgerow, and retention of the existing access and hardstanding areas. The three structures are a tall structure to the rear of the site, a small toilet building towards the frontage of the site and an open sided tractor shed, all to support the management of the woodland and the meadow, which does not

require permission.

Mr Laurance Hunnaball addressed the Committee on behalf of the applicant, pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The applicant had wanted to live and be self-sufficient on the site, but he now wanted to vacate the land and leave it as a legacy to his children. The machinery was necessary to enable the site to be maintained in accordance with forestry requirements and the buildings were necessary mainly to accommodate and maintain the equipment, but also because some equipment had been stolen from the site. He stressed that the site would remain as agricultural use. The front hedge had been removed due to Dutch Elm disease but a new hedge would be planted which could be positioned to provide the optimum site lines for the existing access, at which point the road is subject to a 40mph speed restriction.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. He conveyed that there was great concern amongst local people about the site in general which has a long history going back 5 years. The fundamental concern in respect of this application is that this is agricultural land and should remain so. There appears to be no application to change the use of the land which was welcomed, but the buildings were of concern, particularly the toilet block. The only reason for a toilet block would be if the site was being opened to the public, so the need for such a building is not understood. He noted that the Highway Authority consider the dimensions of the toilet building and store shed to be excessive which seems to contradict the planning officer's view which is that the buildings are in line with their setting. The meadow and woodland were supported but he asked for further clarification on the need for facilities on this parcel of farmland.

Concerns expressed by members of the Committee included the mismatch between the scale of the enterprise and the size of the buildings in the application. Whilst they were delighted with the proposal for a woodland and the legacy, they requested clarification on the woodland, specifically what a managed woodland is, how long it would take to establish, how much management is required and how intensive the work would be to maintain it effectively. There were also concerns about the size and siting of the buildings, particularly the toilet block, the need for which was questioned as it was considered to be out of keeping in this location. The need for a tractor was understood but the view of some members was that the existing tractor shed was too close to the road and it was suggested that it be relocated further back. The size and position of the implement store was questioned; if the proposed store was larger than the existing store that would be unacceptable, but it was considered that in its current position the implement store was easy to break into without being seen. Further information was

requested on the circumstances under which the mobile home was to be removed.

In response the planning officer explained that the woodland would be planted with indigenous species and thereafter managed in consultation with the Woodland Trust but there was no detailed information on the management regime in terms of man hours required, the length of time for it to grow and the justification for certain types of equipment and facilities to support the venture. The toilet block would be a garden building with a toilet inside and as such had been assessed in terms of its impact on the countryside. The tractor shed was in a conspicuous position and if it were to be relocated to a less conspicuous position, possibly closer to the edge of the site and screened, it would be less vulnerable to theft. If the Committee were minded to defer consideration of this application, it would be possible to come back to a future meeting with a response to the issues raised.

In regard to the removal of the mobile home, the Unilateral Undertaking stated that the applicant was to cease occupation of the mobile home within 42 days of the notification of a refusal on application 090342 for the chicken unit. This notice had been issued on 16 July 2009. It was confirmed that it was for the Council to decide whether to take action on the removal of the mobile home in co-operation with the owner. This site is now proposed to become a wildlife area and not a site on which the applicant wished to live.

*RESOLVED* (UNANIMOUSLY) that consideration of the application be deferred for more information on the implementation, management regime and maintenance facilities required for the woodland; negotiation on the removal of the toilet block which it was considered would appear harmful to the countryside; and, subject to any justification of need, a reduction in scale and relocation of the other buildings.

#### **146. High Hedge Complaint // Pumphouse, Queens Road, Wivenhoe, CO7 9JH**

The Committee considered a report by the Head of Environmental and Protective Services seeking authorisation for a Remedial Notice to be served securing the reduction of the hedge to a height of 5.28 metres in the first instance and then for the hedge to be maintained thereafter at a height of not more than 5.88 metres. The Committee had before it a report in which all information was set out.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained the legislation under which complaints

against high hedges were made and also the methodology by which a determination is made on whether a hedge meets criteria for a high hedge. The methodology includes consideration of the height and orientation of the hedge and the size of the affected garden. This hedge not only satisfies the criteria for a high hedge, but it has a negative impact on the neighbouring garden. The owner of the hedge had been approached and requested to reduce its height and as a last resort a Remedial Notice has been issued. He referred to paragraph 7.2 of the report by the Head of Environmental and Protective Services which set out the guidelines for the height of such hedges to be reduced; initially to 5.28metres and subsequently to be maintained at 5.88metres.

Mr Morris addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the Remedial Notice. He inherited the hedge when he bought the property and was aware that the neighbouring local authority do not have a problem with 5.88metre hedges. Andrew Tyrrell had measured the hedge to be 5.88metres from the garden on the west side. He had agreed that he would cut the hedge if it failed under planning rules. The hedge is between 5.2metres and 5.4metres. He was upset to hear that this matter came under the anti social behaviour legislation. He understood that there was no time limit and 2 years ago he had had the hedge cut which cost him £1,200. Since then he has been cutting it slowly. He only wanted to have some privacy in his garden.

Mr Shirley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the Remedial Notice. He supported the officer's recommendation. He wrote to Mr Morris and understood his need for privacy. However, for seven years before Mr Morris bought the property, Anglian Water kept the hedge to 3.7metres. He wrote on 8 August 2006 and thanked him for keeping the hedge to 4 metres high. Since July it has now grown beyond 6 metres and it is still growing. It is a very untidy hedge and not kept to the standard they are used to. The hedge affects the light to their lounge window, especially in the winter when, as the sun drops, they get less light. He requested reassurance that the recommendations would be adhered to.

It was clear to members of the Committee that this matter had resulted in a difficult situation between the two neighbours, but if the hedge contravened the high hedge rules it should be reduced. Members sought reassurance that the hedge had been measured from the correct side bearing in mind that the ground levels on either side of the hedge differed by 1.05metres, they also wanted confirmation on whether it could be lower than 5.88metres.

In response the planning officer referred to paragraph 3.5. The height of the hedge and its impact on the owner of the hedge are of no concern. The



hedge has been measured on the side where it is required to be measured, which is on the complainant's side from the footpath using the council's own equipment. The officer confirmed that it was a very precise measurement as stated in his presentation. If a Remedial Notice is served the owner has a right of appeal in respect of ground levels. The hedge could be lower than 5.88metres but that must be between the parties; the minimum height is 2 metres. The proposed action is a matter of last resort where mediation has failed.

Having heard confirmation that the hedge was measured correctly and that the measurement was recorded at higher than 5.88metres the members of the Committee were prepared to accept the recommendation.

*RESOLVED* (UNANIMOUSLY) that a Remedial Notice be served at the Pumphouse, Queens Road, Wivenhoe, requiring the reduction of the hedge to a height of 5.28 metres in the first instance and then for the hedge to be maintained thereafter at a height of not more than 5.88 metres, both measurements to be taken from the complainant's side.