

# Planning Committee

Thursday, 06 July 2023

**Attendees:** Councillor Lyn Barton, Councillor Robert Davidson, Councillor Mike Hogg, Councillor Michael Lilley, Councillor Jackie Maclean, Councillor Roger Mannion, Councillor Sam McCarthy, Councillor Leigh Tate, Councillor Martyn Warnes

**Apologies:**  
**Substitutes:**

## 1002 Site Visits

A site visit was conducted on the 6 July 2023 attended by Councillor Hogg. The Member visited the following site:  
222839 Land Adj, 62 Brook Street, Colchester, CO1 2UT.

## 1003 Minutes of Previous Meeting

The minutes of the meeting held on the 25 May 2023 were confirmed as a true record.

## 1004 222839 Land Adj, 62 Brook Street, Colchester, CO1 2UT

**Councillor Lilley declared that he knew the Agent on the application and that he had applied for an Almshouse with the Council's Sheltered Housing Team.**

The Committee considered an application for outline permission for the erection of 7 almshouse type one bedroom dwelling with associated parking facilities, alterations, and improvements to existing vehicular access and diversion of part of footpath 137. The application was referred to the Planning Committee as it had been called in by Cllr Nissen for the following reason:

"A resident has just recently contacted me regarding the planned building of 7 new houses off Brook Street – application number 222839, which closed in mid-December. This is on ecological and infrastructure grounds. I appreciated the date has passed for the call-in, and I did receive the notification as per process; would there be any grounds on which yourself as Chair and the Planning Committee would be willing to accept a late call in. The application had also been brought before the Committee as it was locally controversial and had a history of appeals on the site."

The Committee had before it a report in which all information was set out.

Chris Harden, Senior Planning Officer presented the application to the Committee and

assisted the Committee in its deliberations. The Committee were shown the location of the site in the red line plan as well as the blue line showing the land immediately adjacent to the site that was in the applicant's ownership. The Senior Planning Officer detailed the access to the site and how it would be intersected with the public right of way which would go between an existing dwellings driveway access. It was noted that the proposed access had been amended since a previous scheme and had been accepted by Essex County Council's Highways Department which had not been the case on previous applications on this site. The Committee were shown that the proposal would include the parking and manoeuvring space as well as a step and ramp system to the dwellings with the addition of terrace and amenity space. It was noted that the proposal before the Committee was an outline application and that there would need to be levelling on the site as well as the removal of some trees on the site which had been assessed to be dangerous. Members were informed that the Public Right of Way was significantly overgrown as seen on the photographs and the site visit and that the proposal would improve the security in the area near the access of the site. The Senior Planning Officer showed the Committee previous elevations that had been refused and explained the differences between the two proposals and confirmed that there would be a biodiversity net gain on the site. The Senior Planning Officer concluded by detailing the officer recommendation was for approval as detailed in the report.

Councillor Mark Goacher addressed the Committee as Ward Member for Castle. The Committee heard that the Ward Member had concerns regarding the context along the street and how the area was very polluted with the development adding to these issues by removing a green space. The Ward Member raised further concerns on the issues of traffic on Brook Street and how there were currently issues of traffic buildup and slow-moving vehicles. The Committee heard that they had further concerns about the removal of the trees on the site and asked for clarification on exactly how many were being removed, how many were dangerous and whether any silver birch trees were due to be removed from the proposal. The Ward Member concluded by detailing that their main concern was the pollution in the area, that the proposal would slow down the traffic in the area causing more issues, and asked that the application be refused on the grounds of the context of the proposal.

The Democratic Services Officer read out the statement as follows from Councillor Nissen, Ward Member for Castle:

*"At the beginning of 2023 I called in the Brook Street Almshouses application on Highways grounds. There have previously been concerns and revisions of the development. Given Highways have subsequently resolved these issues in accordance with resident concerns, and the grounds for challenge are no longer applicable; I am happy to withdraw the call-in.*

*My thanks to the Committee, Chair, and Officers for diligent consideration of the matters."*

At the request of the Chair the Senior Planning Officer and Planning Manager responded that the Silver Birch tree on site was a category C tree and had been sustained damage and that there was no special protection for the species.

Members debated the application and queried why the informatives regarding the Public Right of Way were not added as conditions, the flood management conditions and the sites relationship to the Air Quality Management Zone.

At the request of the Chair the Senior Planning Officer detailed that 4 trees were detailed to be removed from the site in total as well as a small group of vegetation and which had all been assessed by the Councils Arboricultural Officer as acceptable for removal. It was detailed that the reservoir was safe and protected and that the site was on the edge of the air quality management area but not actually in it with dispersion modelling showing that the site would not exceed the allowed limits. The Senior Planning Officer confirmed that the Environmental protection team had been consulted on the application and that the informatives regarding the footpath were standard as they were covered by other Public Right of Way legislation.

Members raised concern that if approved then the proposal could change and have different sorts of dwellings than the one bedroom as currently proposed on the site if the principle of development was agreed by the Committee. The Senior Planning Officer detailed that if there was such a proposal then that could be called in by the Ward Councillor and then brought before the Committee for consideration, however the applicant did have the right to put in any subsequent application as they chose to.

Members debated the proposal further with some concern being raised regarding the landscaped space on the site and its possible use as public open space, whether the proposal could be conditioned that the site could only be used for almshousing, and whether any further trees could be planted on the site.

The Senior Planning Officer confirmed that the proposal was for the open space to be private to the occupiers of the dwellings and that a legitimate planning reason would be needed to divert the private land to publicly accessible space. It was noted that the description for the development was for "almshouse type one-bedroom dwellings" and that these were private dwellings so could not be conditioned as such but did include the provision that they would only be available to over 60s. The Senior Planning Officer concluded by detailing that the provision of new trees that would be included on the site would be included in any reserved matter application.

**RESOLVED (UNANIMOUSLY)** That the application be approved as detailed in the officer recommendation.

**1005 Variation of S106 Agreement O/COL/01/1799 - 230758 Dinghy Park, Former Cooks Shipyard, Walter Radcliffe Way, Wivenhoe, Colchester**

The Committee considered an application for a revised S106 agreement with delegation to Officer Level to complete the variation of the legal agreement . The S106 agreement would be varied to include “ outdoor markets” and “any purpose other than as a dinghy park for the parking or storage of boats, their trailers and outdoor markets on behalf of Wivenhoe Town Council”.

The Committee had before it a report and amendment sheet in which all information was set out.

James Ryan, Planning Manager presented the application to the Committee and assisted the Committee in its deliberations. The Committee heard that the original application which had been built out was from 2001 and were shown pictures of the dinghy park on Walter Radcliffe way. The Planning Manager showed the relevant page in the Section 106 agreement which showed the areas where dinghies would be parked under the lease from the Wivenhoe Town Council. The proposal before the Committee was not a standard planning application and would be to allow Wivenhoe Town Council to use for any other use but notably that they would like to hold markets up to 12 times a year. The Planning Manager detailed that the officer recommendation to delegate authority to allow officers to process the changes to the S106 agreement.

Jonathan Frank addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee were asked whether they would undertake a site visit of the proposal and detailed that residents in the area should not have been losing sleep over what their Town Council was choosing to do with the park. The Committee heard that there was a strength of feeling against the variation and that the entire development was protected by the legal agreement the Town Council were trying to amend. The Committee heard that the proposal for the change was far too ambiguous and could lead to other events that had not been foreseen whilst showing contempt for residents and concluded by asking for the variation to be refused.

Tom Kane (Wivenhoe Town Council) addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee heard that the resident was one of the earliest residents of Cooks Shipyard and detailed that the Town Council spent £2,000 for the lease of the dinghy park and confirmed that they were not involved in the original S106 agreement. The speaker outlined that the applicants aim was to make a better use of the space and recoup some of the costs spent on the lease of the land and possibly use it for a summer market by moving the dinghies into one area. The speaker concluded that the Town Council would be failing in their duty if they did not try and get a better use for the area and that it would not be a competition to Colchester Market and that many

residents would welcome this local facility.

At the request of the Chair, the Planning Manager confirmed that the land was owned by Taylor Wimpey and that it was leased to the Town Council and showed the Committee a video of the site.

Members debated the proposal and raised concern that the change in the Section 106 Agreement could have on the residents and queried why a market could not be held elsewhere within the Town as the proposal could impact on the SSSI as well as the waterways and ecosystem in the immediate area. At the request of the Chair the Area Planning Manager responded that there may be other sites but that the Committee were being asked to look at the proposal before them and that the impacts were not something that the Committee had before them for information. The Committee heard that as the application was coming from a Parish Council it would be expected that they were acting in the public interest and that the proposals for a market would be mainly in the morning to mid day time and that the Colne River was already widely used for leisure activities.

Members continued to debate the variation on issues including: the possibility of breaching environmental regulations, the harm that could be caused to the areas, the wider benefit to the community, that the attendees would not be advised to park in the area and would encourage attendance on foot. Members concluded the debate by detailing that there was no precise number of how many market events would be held or other types of events.

A proposal was made and seconded as follows:

That the variation of the S106 agreement is refused due to the environmental impact, impact on local residents, and the impact on the river Colne

**RESOLVED (SEVEN votes FOR and TWO votes AGAINST)** That the variation of the S106 agreement is refused due to the environmental impact, impact on local residents, and the impact on the river Colne.