

Planning Committee

Monday, 01 October 2018

Attendees: Councillor Lyn Barton, Councillor Vic Flores, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Chris Pearson

Substitutes: No substitutes were recorded at the meeting

Also Present:

625 Site Visits

Councillors Hazell, Higgins, Jarvis, Liddy, Loveland and Maclean attended the site visits.

626 Minutes of 2 August 2018

RESOLVED that the minutes of the meeting held on 2 August 2018 be confirmed as a correct record.

627 181579 4 Park Road, Colchester

The Committee considered a planning application to vary Condition 2 of planning permission 171067 at 4 Park Road, Colchester. The application had been referred to the Committee because it has been called in by Councillor Barber. 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.

Chris Harden, Senior Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations. The Senior Planning Officer explained that the differences between the approved scheme and the revised scheme which was the subject of this application related to an additional first floor side window, two wider rear facing first floor windows, one wider rear facing ground floor window, the omission of one set of ground floor French windows and the enlargement of the front porch. He also explained that revised drawings had been submitted which reflected the actual size of the side window constructed and, as a consequence, one of the conditions would need to be amended to reflect the change in drawing numbers.

Jennifer Green addressed the Committee pursuant to the provisions of Planning

Committee Procedure Rule 8 in opposition to the application. She lived in a neighbouring property and had made no objection to the original application which had been approved with twelve conditions which she understood would be adhered to. She had been unaware that retrospective permission could be sought to amend conditions and that this could take place after the changes had been implemented. After careful consideration, she had submitted an objection to the application to vary condition 2 in respect of the additional side window on the south elevation. The window looked into the en-suite bathroom window attached to the bedroom of her property and she was of the view that she should constitute a material consideration in relation to the determination of the application in terms of the protection of neighbouring residents' amenity. She referred to the report on the application and its conclusion that, subject to conditions, there would be no significant impact on neighbouring residential amenity. She was of the view that the additional window did represent a significant impact on her privacy. The proposed conditions relating to the window provided for it to be non-opening and of level 4 obscurity, however she did not feel this was sufficient. She felt overlooked when using the bathroom and all of the south facing windows were not non-opening and had been open throughout the summer. She was concerned that this condition would not be complied with or would be subject to a subsequent application to amend it.

Peter Johnson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the principle of a replacement dwelling in this location had already been agreed, the Planning Officer had concluded that the changes were visually acceptable and that there was no detriment to neighbours. As such the amendments had been recommended for approval. Furthermore there would be no negative impact on neighbouring residential amenity from overlooking compared to the previous application. He considered there was no reason to object to the application and he requested acceptance of the officer recommendation.

Councillor Barber attended and, with the consent of the Chairman, addressed the Committee. His primary concern was in relation to the precedent it could set and how it contrasted with the principles included in the new National Planning Policy Framework (NPPF). The new NPPF stated that enforcement is important to maintain public confidence in the planning system. He was therefore concerned regarding how the non-compliance with the original conditions had been treated. He was worried that various conditions had not been adhered to but had nevertheless been discharged. As such he had little confidence that the conditions currently being proposed would be adhered to and maintained if subsequently breached. He was of the view that the window was currently able to be opened. He considered that the potential benefits of the window to the applicant had outweighed the potential harm caused to the neighbour. The new NPPF also stated that changes to conditions had to be justified and he did not consider clear justification had been provided. He stated that four of the original 12 conditions had been discharged despite being breached or varied. He also considered there was potential to provide for additional planting, contrary to the information contained in the

report. He considered there were relevant material considerations to reject the application and was concerned about the enforcement practice of the council following breaches of conditions.

In response, the Senior Planning Officer explained that enforcement measures taken in relation to breaches of condition on the site had been effective. He was of the view that the conditions had been adhered to and, following the submission of details about materials, had subsequently been discharged. This had provided for the inclusion of planting and obscure glazing and he was confident that the enforcement system would be able to ensure that the windows were non-opening. In addition, the level of obscurity provided to the windows and the non-opening provision was such that no overlooking would be possible. He considered that the risk of the conditions being breached were very minimal. He further commented that the vegetation in the garden previously could have been completely removed at any time without permission. He was also of the view that the new planting was very comprehensive and the Arboricultural Officer had considered it would not be appropriate to require any additional planting.

In discussion, members of the Committee, whilst regretting the retrospective nature of the application, acknowledged that the concerns expressed by the neighbour regarding overlooking would be adequately addressed by adherence to the proposed conditions. However concern was expressed that the side facing window was currently able to be opened and clarification was sought regarding the potential for the window to be one which was not possible to be opened to avoid the need for the condition to be actively monitored.

Reference was made to the need for windows generally to be able to be opened for ventilation purposes.

The Development Manager acknowledged the view of the neighbouring resident and explained that the proposed condition could be amended to provide for an approved scheme, such as with mechanical fixings, to ensure that the window is permanently shut and un-openable at all times.

The Senior Planning Officer also explained the merits of applying this amended condition to all three of the side facing windows as this would prevent overlooking of the neighbouring rear garden.

RESOLVED (NINE voted FOR and ONE AGAINST) that, subject to amendment of condition 1 to reflect the revised drawing number and the variation of condition 3 to require the submission and approval of a scheme to provide for the three first floor side windows to be permanently un-openable and for that condition to be implemented prior to occupation and maintained thereafter, the application be approved subject to the conditions set out in the report.

628 181214 Cannock Mill House, Old Heath Road, Colchester

The Committee considered a planning application for conversion to three flats at Cannock Mill House, Old Heath Road, Colchester. The application had been referred to the Committee because a legal agreement is required to link this application to a legal agreement with application 150492. The Committee had before it a report in which all information was set out. It was explained that the enactment of a recent statutory provision required the prior agreement of pre-commencement conditions with the applicant and, as such, the wording of certain proposed planning conditions would need to be amended. In addition, proposed condition 8 was a duplication and could be removed.

RESOLVED (UNANIMOUSLY) that, subject to the amendment of the wording of conditions 6 and 11 to reflect the need for the prior agreement with the applicant of pre-commencement conditions and the deletion of condition 8 –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the linking of this application to the provisions of the agreement with application 150492 to secure “The dwellings to be occupied only by members of the London Countryside Co-Housing Group. Prior to any of the dwellings being occupied by non-members a scheme of additional parking to be submitted to and approved by the Local Planning Authority the approved scheme to be implemented in accordance with an agreed timetable”

(ii) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, the Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application or otherwise to be authorised to complete the agreement.

629 181734 Thrupenny Cottage, 3 Pit Lane, Tiptree

The Committee considered an application for a proposed garage/games room at Thrupenny Cottage, 3 Pit Lane, Tiptree. The applications had been referred to the Committee because they had been called in by Councillor Loveland. The Committee had before it a report and amendment sheet in which all information was set out.

James Ryan, Principal Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Debbie Silvey addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that no

inspection of her property had been undertaken by the Planning Officer prior to the publication of the report. She acknowledged the potential noise problems could be dealt with by sound attenuation but this would not negate additional noise from people entering or leaving the building. She referred to the sunlight through the back door to her property whilst the kitchen window only benefitted from daylight. She considered the proposed building would extend beyond her back door and would block the light that they currently benefitted from. She considered that the impact on the visual aspect of her home and of Pit Lane by the removal of the magnolia and elder trees would be considerable. She referred to over-development of the site and was of the view that the proposal would be harmful. The building would be visible from the front, side and rear of her property and, as such, would be overwhelmingly enclosed. The house at 3 Pit lane had already been considerably extended and the proposed building was substantial in width and height and not in proportion to the existing property. She was of the view that her home would be adversely affected. She referred to future potential change of use having an increase on traffic in Pit Lane and the current problems of parking on the site. She considered the proposed building to be too high and too substantial for the current proposed use. She asked the Committee members to fully consider the objections and to refuse the application.

Deborah Wright addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that there was already permission for a garage on the site and, as such, she had not anticipated that the current proposal would lead to objections. The garage had been designed to be in line with the neighbouring property so that no impact would be visible from inside the property. She considered the magnolia tree to be over sized and was of the view that it created a negative impact for the neighbours currently. She explained that, due to the alignment of the properties and the height of the boundary fence, it was already possible to look into the neighbours back garden from her own property. The neighbour's garden was also overlooked by two other properties and, as such, she did not consider that the proposed building would have a significant impact. The existing garage was derelict and contained asbestos and she wished to improve the look of her own property by creating a driveway and a replacement garage in which she could park her car. She considered the area would be improved as a result and the value of all the houses in Pit lane would be increased. She refuted the idea that there would be extra noise and traffic as the garage was for her and her families own use.

In response, the Principal Planning Officer explained that there was a perception of a potential intensification of use of the site in the future but there were two proposed conditions providing for noise mitigation and for the use of the building to be only incidental to the enjoyment of the dwelling. It was not considered that the proposed building would lend itself to sub-division but in any event this would require a separate application. In terms of impact for the neighbour, it was acknowledged there would be an impact but the side window was small and was already impacted by the location of a substantial tree and there was a good sized window to the rear of the property. He

considered that the material harm was a balanced judgement but officers had determined it would not be materially harmful. The proposal accorded with the necessary parking standards and, although the proposal was for a substantial sized garden, the plot was of a size which could adequately accommodate it and already accommodated an existing garage.

In discussion, members of the Committee acknowledged the concerns of the neighbour but referred to the existing untidiness of the site and the impact for the neighbour from the tree. Reference was also made to the previous permission for a substantial double garage of only slightly smaller proportions to the current application.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report and the amendment sheet.