

# **Planning Committee**

## **Thursday, 02 August 2018**

**Attendees:** Councillor Lyn Barton, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean

**Substitutes:** Councillor John Elliott (for Councillor Vic Flores), Councillor Gerard Oxford (for Councillor Philip Oxford), Councillor Dave Harris (for Councillor Chris Pearson)

**Also Present:**

### **610 Site Visits**

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

### **611 Have Your Say! (Planning)**

A petition, signed by approximately 800 local residents, was presented to the Chairman outlining the concern of the local community in relation to planning application number 180733, on land adjacent to Armoury Road, West Bergholt. The petition sought to protect the identity of the village, called on the Committee to reject the application which was considered to be opportunistic and speculative and requested support for the village to complete its Neighbourhood Plan to deliver houses in a community friendly way.

### **612 180733 Land adjacent to Armoury Road, West Bergholt, Colchester**

The Committee again considered a planning application for a development comprising 26 dwellings, including 30% affordable housing provision, vehicular and pedestrian access from Coopers Crescent, pedestrian access from Armoury Road, public open space and structural landscaping at land adjacent to Armoury Road, West Bergholt. The application had been deferred at the Committee's previous meeting in accordance with the Deferral and Recommendation Overturn Procedure (DROP).

The Committee had before it the report from the previous meeting, updated to include the matters previously contained in the Amendment Sheet and information provided to the Committee during their previous consideration, together with a further report giving details of the risks and implications should the Committee resolve to overturn the officer's recommendation contained in the previous report. In addition information was set out in the Amendment Sheet for this meeting.

The Chairman reminded the Committee members of the convention that had been adopted in the past, when applications subject to DROP had been referred back to the Committee for determination, in that those Councillors who had not been present at the Committee's original consideration of the application had abstained from voting.

Sue Jackson, Planning Project Officer, presented the report and assisted the Committee in its deliberations. The Planning Project Officer explained that a further six letters of objection had been received following the publication of the Amendment Sheet, five of which did not raise any new issues whilst one letter considered that insufficient weight had been given in the Committee report to the Neighbourhood Plan. She explained that the Neighbourhood Plan had just completed the pre-submission consultation phase, as such it was not at a sufficiently advanced stage to give it more than limited weight.

Stephen Scruton, on behalf of West Bergholt residents, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the 800 signature petition which had been presented to the Committee calling on the Council to respect the contents of the West Bergholt Parish Council Neighbourhood Plan. The petition was a demonstration of the strength of local opinion on the application and an illustration of local democracy being put into practice. He considered a dangerous precedent would be set if the wishes of the local community was ignored by the Committee. He was concerned about the impact of the application if it was approved and implemented given that local schools and GP surgeries were already full. He considered the community engagement undertaken by the applicant and their agents had been woeful, consisting of only one consultation event. He also referred to the revision to the application in relation to Coopers Crescent which was originally designated as pedestrian access only but was now proposed to be used as the sole vehicular access to the site. He considered this would lead to considerable risk to the safety of children and older people as well as potential damage to buildings and kerbs. He explained that two accidents had taken place in the last year, the potential increase in vehicle movements was likely to be up to 300 per day and the access route was not suitable for construction traffic. He called on the Committee to support the West Bergholt Parish Council Neighbourhood Plan.

Jay Mehta addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposals, for up to 26 dwellings, were modest with approximately 25% of the site allocated as open space and 30% allocated for affordable housing. Only two potential reasons for refusal had been suggested, firstly in relation to the lack of a Section 106 agreement, however the applicant had indicated his willingness to enter into such an agreement and, as such, this would not justify a refusal of the application. Secondly in relation to non-compliance with the settlement boundary policy in the Council's Development Plan which, again, did not justify a refusal of the application as it contradicted a well-established case law principle when the application was compliant with all other Development Plan policies.

He considered the application should be approved on the basis of the planning benefits in terms of the over-provision of affordable housing and because it was not prejudicial to the Emerging Local Plan. He urged the Committee to approve the application subject to the imposition of a Section 106 agreement.

Councillor Willetts attended and, with the consent of the Chairman, addressed the Committee. He was speaking against the application and trusted the Committee would refuse the application for the reasons set out in Section 4 of the further report. He considered the committee's previous consideration of the application had been like going back 30 years in terms of the planning criteria being discussed. The Committee had been advised that the proposal would not cause harm to the countryside, to residential amenity, to the landscape or to the road network. He did not consider this was the appropriate way to determine this planning application. He advocated a policy based approach outlining what is good and what is harmful. He referred to the Council's policy on Defined Settlement Boundaries and the fact that the site Defined Settlement Boundary and, as such, if the site were to be developed, interested parties should have invited consideration of the site in the development of the Emerging Local Plan. The Parish Council had proactively identified sites for development in the community and, after a public consultation exercise, had made an informed choice regarding the best sites for development in the village. The application site was not one of the sites identified in the Neighbourhood Plan and it failed to meet the Council's policies on public benefit with no guarantee of 30% affordable housing. No reference had been made to the importance of the Essex Way to the north of the site. He considered the worst aspect of the application was in relation to the use of existing sub-standard un-adopted estate roads as the sole access to the site. Despite the local Highway Authority indicating they had no objection to the application, residents had themselves used Department of Transport criteria to demonstrate the unsuitability of the road as an access route to the site. In addition, the application contained no proposals to bring the access road up to adoptable standards. He highlighted a deviation from planning policies which required development to be of benefit to the local community. The emerging Neighbourhood Plan had produced an evidence based analysis of the economic benefits to the wider community of site in the village which could provide 120 houses. The application before the Committee was a major deviation from the Council's policy based criteria, it was contrary to the Local Plan and the emerging Neighbourhood and Local Plans, the benefits had been overstated with little benefit to the community, and sustainability criteria were negative, particularly in relation to the sub-standard access road and support for the Essex Way. The only benefit he could see was that it would fill in a gap between existing developments in the community.

In discussion, members of the Committee expressed concern that the application site was not allocated for development in the current or emerging Local Plan, nor was it identified for development in the emerging Neighbourhood Plan. In addition, the proposed development site was located outside the settlement boundary which, if approved, may create a vulnerability to other speculative applications. Reference was

also made to the extent of support given by local residents to the petition which demonstrated the strength of local opinion against the proposals.

In response the Planning Project Officer explained that the location of the site outside the Defined Settlement Boundary would not be sufficient grounds for an appeal to be dismissed. The further views of the Highway Authority had been obtained and the view had been maintained that there were no grounds to object to the application. She advised that the suggested grounds for refusal set out in the Committee's further report would provide the Council with the opportunity to defend an appeal with the likelihood of costs not being too great.

Members of the Committee further expressed concern about the unsuitability of Coopers Crescent as an access route for the proposed development and the potential negative impact this would have on the amenity of residents.

RESOLVED (SIX voted FOR and FOUR ABSTAINED) that the application be refused on the grounds set out in paragraph 4 of the further report to the Committee.

**613      180940 Development at Severalls Hospital, Boxted Road, Colchester**

The Committee considered a planning application and a Listed Building Consent application for the conversion and alteration of the retained buildings (Larch House, The Administration Building and the Echelon Building) to provide 20 residential units, car parking, landscaping and private amenity space at Severalls Hospital, Boxted Road, Colchester. The Listed Building Consent application also sought the alteration of the Administration Building into a single dwelling, car parking / garaging, landscaping and private amenity space. The application had been referred to the Committee because a legal agreement was required to link the proposed development to the outline planning approval for the redevelopment of the former Severalls Hospital site (ref 151401) and its associated legal agreement(s). The Committee had before it a report and amendment sheet in which all information was set out.

RESOLVED (UNANIMOUSLY) that the planning application and Listed Building Consent be approved subject to the conditions set out in the report.

**614      170247 Classic Pot Emporium, 30A Straight Road, Boxted, Colchester**

The Committee considered a planning application for the demolition of existing buildings and the construction of a new business centre comprising retail, office, general industrial and warehousing units (Use Classes A1, B1, B2 and B8), together with associated car parking, highway works and landscaping at the Classic Pot Emporium, 30A Straight Road, Boxted, Colchester. The application had been referred to the Committee because the application was classified as a major application and objections had been received.

The Committee had before it a report and amendment sheet 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.

Eleanor Moss, Senior Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations. She confirmed that since the publication of the Amendment Sheet updated drawings had now been received which would require a revision to proposed condition 2, Development to accord with Approved Plans, to take account of this.

Stephen Mann addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was one of the residents who would be directly affected by the proposal, living close to the entrance to the site. He was not opposed to business activity on the site but was concerned that the proposal wasn't in accordance with the Boxted Neighbourhood Plan, in particular it would not comply with the requirement to protect the rural character of the area. Currently only occasional deliveries were made to the site by heavy goods vehicles, however the proposal included the possibility of up to 15 business units on the site with the potential for a significant increase in the amount of heavy goods vehicle traffic in what was a rural location and was also not in accordance with the Boxted Neighbourhood Plan. He asked the Committee to consider refusing the application but, if the application was approved, he sought an additional condition to restrict vehicle movements to within normal business hours.

Matthew Letten addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the business was currently operated from a series of glass houses which were difficult to maintain, in a poor condition and no longer made full use of the site. The proposal was to create a new rural business centre with various uses and size and creating up to 60 new jobs. The development would be carefully planned bearing in mind the close proximity of neighbouring houses. He acknowledged that a condition would be acceptable to limit the hours of use in order to address the concerns of neighbouring residents. He was of the view that the proposal would integrate well into the landscape and explained that the building materials and landscaping on the site would be subject to agreement by officers. He also confirmed that the access to the site would be upgraded. Objections had been made to the proposal on the basis of the principle of the development but he confirmed that the site was already designated as an employment zone. He confirmed that access through the site to the businesses at the rear would be maintained. He explained that the development would promote local employment as well as making a positive impact in terms of its economic and social contributions.

The Senior Planning Officer confirmed that the site was allocated as a local employment zone and was not contrary to the Neighbourhood Plan. She further explained that the proposed design was acceptable for the rural location whilst the landscape officer had

found the proposals acceptable. Deliveries to the site had been addressed within proposed conditions 26, Hours of Delivery, and 27, Hours of Operation, and she invited the Committee to consider whether these should be amended.

Members of the Committee acknowledged the concerns of local residents in relation to the permitted delivery hours, suggesting amended permitted hours could be agreed following joint discussions between the residents and the applicant. In addition concern was expressed regarding proposed hours of operation on Sundays. Clarification was also sought in relation to the hours of operation of the business units to the rear of the site and the types of businesses likely to occupy the proposed units.

The Senior Planning Officer wasn't able to comment on the practices in relation to the business units to the rear of the site although she confirmed that a right of access did exist to the commercial area to the rear. She considered that an amendment to the hours of delivery and operation would be possible to achieve by means of negotiation. The designation of the site as a Local Employment Zone supported various types of occupier of the units, however, given the progress of the planning application, actual tenants had yet to be confirmed.

The Development Manager confirmed that the proposed conditions for both Hours of Delivery and Hours of Operation could be amended through negotiation but that a clear indication of what would be acceptable to Committee members would be welcomed.

In response Members of the Committee confirmed that the following would be considered appropriate:

Hours of Delivery: Weekdays 7:30 am to 7:00 pm; Saturdays 9:00 am to 7:00pm; Sundays and Public Holidays not at all and

Hours of Operation: Weekdays 7:00 am to 7:00 pm; Saturdays 7:00 am to 7:00pm; Sundays and Public Holidays not at all

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report, subject to revisions to proposed condition 2, Development to accord with Approved Plans, to take account of updated plans, and to condition 26, Hours of Delivery, and condition 27, Hours of Operation to provide for hours up to 7 pm on Weekdays and Saturdays and none at all on Sundays and Public Holidays.

**615 181237 59 West Stockwell Street, Colchester**

The Committee considered a planning application for the erection of a shed at the rear of the property at 59 West Stockwell Street, Colchester. The application had been referred to the Committee because the applicant was an employee of Colchester Commercial (Holdings) Ltd. The Committee had before it a report and amendment sheet in which all information was set out.

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

**616      172642 Wakes Hall, Colchester Road, Wakes Colne, Colchester**

The Committee considered a planning application and a Listed Building Consent application for the demolition of part of the existing buildings, extension and conversion into twelve dwellings and the erection of ten dwellings (22 dwellings in total), including associated car parking at Wakes Hall, Colchester Road, Wakes Colne, Colchester. The application had been referred to the Committee because planning application 172642 constituted a major application which required a Section 106 legal agreement. The accompanying Listed Building Consent application (172643) was also referred to Planning Committee for completeness as the applications were mutually dependent. The Committee had before it a report and amendment sheet in which all information was set out.

Lucy Mondon, Principal Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations. She confirmed that, notwithstanding the submitted details, the applicant had agreed to further conditions to be applied to the planning application only, firstly to provide for charging facilities for cars and mobility scooters and secondly to provide for increased accessibility for wheelchair users at Wakes Hall.

Nick Percival addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that Wakes Hall had been built in 1837, his grandfather had worked at the farm on the site and in 1947 the house had come into the ownership of his family. The house had subsequently been sold in the 1960s to the Stars Organisation for Spastics, it later being taken over by SCOPE who had converted the building for use as a care home for 40 residents. In 2012 the care home had been closed and he had acquired the property in 2016. The planning application had been submitted in the autumn of 2017 to provide for a housing development for the over 55s. He asked the Committee to support the recommendation for approval of the application but sought the removal of the proposed condition requiring the retention of the remaining the service staircase on the second floor of Wakes Hall. He explained that the parts of the staircase on the ground and first floor had been removed many years previously and, as such, the remaining section served no purpose. The retention of the staircase would mean that the size of the bathrooms to the apartments would need to be reduced, however, he did confirm that it would be accommodated if the Committee insisted on its retention.

Councillor Chillingworth attended and, with the consent of the Chairman, addressed the Committee. He explained that, as ward councillor, he had taken an interest in the development which affected a local listed building. The property had been used a care home and subjected to numerous alterations and additions over many years which were

not in-keeping. He considered it important that the scheme was fully scrutinised, given the house was prominent in the local landscape and confirmed that the proposal was supported by local residents and the Parish Council. The development would provide generously sized retirement homes for older people, giving an opportunity to downsize in their local area. There would also be a commuted sum for affordable housing. He welcomed the competent and well-reasoned report but was concerned regarding the requirement for the service staircase to be retained, particularly given the lower floor sections had been removed in the past. The stairs had no functional use and he asked the Committee members to consider removing proposed condition 12 as a consequence.

The Principal Planning Officer explained that the service staircase was considered to be an important element of the building's evolution and past experience had shown that it could be blocked off and used as a storage area, with the bathrooms re-arranged accordingly. The guidance from Historic England was that the planned form of a building was frequently one of its most important characteristics, internal partitions, staircases, and other features were likely to form significant elements and, as such, it was considered important that the staircase be retained.

Members of the Committee warmly welcomed the proposal but were concerned that the proposed condition to retain the staircase didn't make sense, given that its lower levels had previously been removed and it would serve no useful purpose.

The Development Manager explained that the retention of the staircase did not prejudice the delivery of the scheme as it could be sealed off and used as shelving within the bathrooms. He also indicated that, because it was a service staircase, it did not mean it had less significance than a principal staircase. Historic England's guidance was clear in that such staircases were of equal significance and even though they may not be pretty, they were of equal narrative value in terms of understanding how buildings were used in the past. A proposal to remove any staircase in a Listed Building was required to be referred to Historic England for approval, as such, it was considered to be a red line issue over which the Council should not cross. He further considered there was no justification for the removal of the staircase, other than the additional few square metres it would provide in the bathroom areas, however, the bathrooms were of large proportions in any event. He further reminded the Committee that the statutory presumption was that all harm was undesirable and this would have a degree of harm within it as it would be a loss of historic fabric. He therefore strongly advised that the Committee should not remove the proposed condition as it would set a very poor precedent in other areas.

The Committee members acknowledged the view expressed in support of the retention of the staircase but were not supportive of the option to box it in for storage purposes. Clarification was sought regarding the potential to remove the staircase and to either fully record and photograph it for historical purposes or for it to be placed on display. In



addition assurances were sought regarding provision of internal lifts to enable wheelchair users to access the top floors of Wakes Hall.

The Development Manager referred to the staircase now comprising only one flight of what had previously been a two flight staircase, and was of the view that half a staircase could be considered twice as precious. He considered that if the staircase was allowed to be removed it would be a sad occasion and may disintegrate in the process of removal. In his view it either had to be retained, in situ, and used as bathroom shelves or it should be preserved by recording its features prior to removal. The building had already lost a lot of its original features and every piece retained would help in giving it back its personality. He acknowledged that the scheme did offer many public benefits but the retention of the staircase did not get in the way of the successful delivery of the scheme and working with the features would give the scheme added value.

The Principal Planning Officer confirmed that, whilst not being able to provide dimensions of the bathrooms, they were sufficiently large to each accommodate a bath, toilet, basin and shower. She also confirmed that it would be possible to add a condition to provide for wheel chair accessibility to all floors of Wakes Hall.

The Committee members concluded that the proposed condition to provide for the retention of the service staircase should not be removed, with a preference for it to be used as feature shelving within the bathrooms.

RESOLVED (UNANIMOUSLY) that –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application and the Listed Building Consent subject to the conditions set out in the report and the amendment sheet 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, in the event that the legal agreement is not signed within six months, authority be delegated to the Assistant Director Policy and Corporate to refuse the application, or otherwise to be authorised to complete the agreement to provide for the following:

- That the development is for the over-55's (as this is the basis on which the application has been made and has a bearing on the contributions being sought);
- That the on-site facilities (tennis courts, allotments, communal gym and lounge area) are provided and maintained for use by the residents (as the provision of on-site facilities has resulted in no community facilities or open space contributions being sought);
- A review mechanism for the viability review (in order to ascertain whether there is any monetary surplus from the development that can be contributed towards affordable housing, as no affordable housing is being provided); and
- A clause to ensure that the works to the listed building are carried out as part of the development (as the premise of the application is that the overall development of residential units will fund additional works to the listed building in order to improve its

character and setting).

(ii) The planning application approval set out in (i) above also be subject to two additional conditions to require the submission of a scheme to deliver wheel chair accessibility to all floors of Wakes Hall conversion and to require electric charging points for cars and mobility scooters.