

Planning Committee

Thursday, 13 June 2019

Attendees: Councillor Lyn Barton, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Andrea Luxford Vaughan, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Martyn Warnes
Substitutes: Councillor Derek Loveland (for Councillor Andrew Ellis)
Also Present:

706 Site Visits

Councillors Hazell, Jarvis, Liddy, Loveland, Luxford Vaughan and Maclean (for the visit to Wyvern Farm, Stanway only) attended the site visits.

707 Planning Committee Minutes 25 April 2019

The minutes of the meeting held on 25 April 2019 were confirmed as a correct record, subject to the deletion of the name 'Councillor Hazell' from minute No. 685, Site Visits.

708 Planning Committee minutes of 22 May 2019

The minutes of the meeting held on 22 May 2019 were confirmed as a correct record.

709 183028 Land the corner of Tufnell Way and adjacent to 188 Bergholt Road, Colchester

The Committee considered a planning application for the creation of a four bedroom detached house at land at the corner of Tufnell Way and adjacent to 188 Bergholt Road, Colchester. The application had been referred to the Committee because it has been called in by Councillor Goss.

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.

Benjy Firth, Planning Officer, presented the report and assisted the Committee in its deliberations.

Emily Skinner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application for listed building consent. She explained that she lived with her family at 188 Bergholt Road, immediately adjacent to the application site. She referred to the east side of the proposal extending well beyond her own property which would be very overbearing with five windows being overshadowed by the proposal. She considered this loss of light would affect their utility bills, quality of life and mental health. A solicitor had advised that the proposals could impact her and her family's right to light under the Prescription Act 1832 due to the double height building beyond the original house size and, as such, it was possible that she would take legal action against the developer if the application was approved. Her concerns related to her ability to continue working from home due to noise and disturbance from the development as well as an adverse impact in relation to Article 1 of the Human Rights Act in terms of her family's ability to enjoy their home peacefully. She felt it may be necessary for her family to move from their home but that the development would negatively affect the value of their property. She was also concerned about the orangery windows which were not proposed to be of obscured glazing and she considered this impacted her rights to privacy. She considered the development would reduce visibility at an already dangerous junction which had previously been the subject of collisions. She was also concerned about wildlife destruction and did not consider there was need for a dwelling to be located on this site and the removal of trees from the site would remove screening of the electricity sub-station. She did not consider any benefit would be gained for the local community and no consideration had been given to the detrimental impact on local residents.

Michael Smith addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the previous dwellings occupying the site had been removed to make the access road into a new housing development. The applicant had maintained the land following the new development in order to bring it into residential use. Pre-application discussions had informed the proposal and care had been taken in the design of the building to create an attractive frontage and respecting the existing building line on the corner plot. He acknowledged the relationship with Bergholt Road was important and the height, scale and appearance of the building were intended to reflect the character of the area. The house would appear as the first house along Tufnell Way and there would be no negative impacts on highway safety and there would be a buffer of soft landscaping to the front of the property, replicating the landscape on the opposite side of the street. Car parking was also provided at the bottom of the garden, so that the character of Tuffnel way would be maintained. One single property was proposed so there would be no over development. Direct overlooking of the neighbouring house in Bergholt Road had been avoided and the current levels of sunlight and daylight had been maintained. He confirmed that the site would comply with the Council's Development Management Standards in terms of private amenity space and car parking. He was of the view that the proposal would make good use of the site and the design accorded with all planning

policies with no negative impacts to the existing house to the east and the safe operation of the road junction and it sought to maintain the landscape feel of the New Braiswick Park development.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. He referred the two brick walls on either side of Tufnell Way which acted like a gateway to the New Braiswick Park site and he considered the loss of part of that gateway would be detrimental to the original design of the development. He referred to the original intention to install a pedestrian refuge in Tufnell Way due to the width of the road but which had not been implemented by Essex County Council and the double yellow lines along the length of the road, questioning how it would be possible to manage construction vehicles in this location. He considered the junction to be very dangerous given the building of 710 houses and a school for 420 primary age children within the development, the majority of whom arrived at school by car. He had personal knowledge of accidents at the junction and commented on the location of the access to the proposed property at this junction. He referred to the impact of the proposal on the residents of 188 Bergholt Road as detailed in the report to the Committee and he also referred to 44 objections to the proposal from residents. He commented on the aspect of the proposed dwelling, with its side facing Bergholt Road and the front door to Tufnell Way which he did not consider fitted with the design of neighbouring properties. He considered the scheme was a questionable case, given the site was now located at a very busy junction which had not been the case when the original terraced houses had occupied the site and the road was the access to the Flakt Woods factory. He also referred to the previous applications for development of the site which had not been approved, he considered the current proposal to be over development, that it would negatively impact the residents of 188 Bergholt Road and that the driveway to the proposed property was inappropriate given the nature of the road junction at that point. He asked the Committee members to reject the application on grounds of overdevelopment, dangerous highway impact and the impact on 188 Bergholt Road.

The Planning Officer explained that a condition was proposed providing for the submission of a Construction Method Statement which would look to minimise the impact on the neighbouring area during construction and provide for all deliveries direct to the site. He explained that replacement trees would be required within the Landscaping Scheme and the Council's Arboricultural Officer had indicated his satisfaction with the removal of trees subject to the necessary replacements. He confirmed that the Highway Authority had not raised any objections to the proposal and to the location of the driveway to the property. He also confirmed that the site was considered to be capable of accommodating the size of the proposed dwelling and that the proposal complied with the parking and amenity space standards. He acknowledged that the impact on 188 Bergholt Road was of primary consideration and he confirmed that the 'right to light was civil legislation and, as such, was not a matter which the Committee could take into consideration but the planning policy tests in relation to loss of light had been met by the proposal. As such, although there would be an impact on

the neighbouring property, this was considered to be acceptable.

Members of the Committee sought clarification on the weight to be given to the loss of one side of the brick gateway, the details of the construction method statement in terms of construction details, delivery of materials and vehicle movements and whether measures could be sought to mitigate the detrimental visual impact of the removal of one side of the brick gateway.

One member of the Committee supported the views expressed by the ward councillor in terms of overdevelopment of the site and the poor siting of the driveway adjacent to a busy road junction.

Other members of the Committee were of the view that the proposal could potentially enhance the site, the previous applications had constituted over development of the site but the proposed single dwelling on a brownfield site was to be welcomed. Whilst the removal of one side of the gateway to New Braiswick Park was regrettable, this was not deemed to be a sufficient ground on which to refuse the application. Reference was also made to the driveway to the proposed dwelling being set back from the line of the road junction and views concerning over development of the site were not supported. It was acknowledged that the site had previously been used for residential purposes, whilst comments in relation to 'right to light' constituted a private legal matter for the resident concerned and, as such, was not a material planning consideration and the necessary planning loss of light tests had been passed.

The Planning Officer confirmed that there was no requirement to retain the brick wall and, as it was part of the application site it would need to be removed in order to implement the proposal whilst the wall on the opposite side of Tuffnell Way would remain unless the owner of the land wished to remove it. He again confirmed that a proposed condition provided for the preparation of a construction method statement, the details of which would be considered when submitted.

RESOLVED (SIX voted FOR and THREE voted AGAINST) that the planning application be approved subject to the conditions set out in the report and the amendment sheet.

710 183130 Former Homebase Ltd., St Andrew Avenue, Colchester

The Committee considered a planning application for the external alterations and subdivision of the existing Homebase store into two units, including change of use to allow food retail together with associated landscaping and car parking at the former Homebase Ltd., St Andrew Avenue, Colchester. The application had been referred to the Committee because the proposed development constituted a departure from the Local Plan being a town centre use in an out-of-centre location and was a major development where an objection has been received.

The Committee had before it a report and an 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. The Principal Planning Officer explained that Tesco had submitted a late representation referring to the need for a full Retail Impact Assessment however explained that there had been no adverse impacts identified as a result of a more basic impact assessment. Also referred to was the emerging Local Plan which set a lower threshold for retail impact assessments but she explained that the Plan was not considered to carry sufficient weight currently, whilst that part of the Local Plan had been the subject of objections and so would need to be examined. A further comment was made in relation to a lack of control of floorspace and there was potential for the two units to be amalgamated, in response to which she proposed adding a condition to the recommendation to ensure that the units were maintained as separate units. The objection letter also referred to the interpretation and application of the sequential test. She explained that a sequentially preferable site had been identified and was available at the Chesterwell Woods Neighbourhood Centre. However this site did not meet the suitability test as it did not meet the generic operational needs of the development as the site did not have the significant and immediate residential population needed to ensure the scheme's viability and there was insufficient roadside prominence, both of which would negatively impact on the scheme's viability and, as such, this site could not be made suitable for this type of development.

Marcin Koszyczarek addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he represented Rapley's Planning Consultant's on behalf of Lidl. He welcomed the planning officer's recommendations for approval, based on no adverse impact, no sequentially preferable sites to accommodate the proposal. He acknowledged the objections from Aldi and Tesco but considered no additional issues had been raised which had not already been addressed in the report. He confirmed that the Highways Authority considered the application to be acceptable in terms of access, parking and delivery, subject to conditions. The design was also considered to enhance the surrounding area and there was no significant impact on residential amenity. He also referred to a number of tangible benefits, including investment boosting the local economy, the redevelopment and reuse of a brownfield site, enhanced customer choice and improvements to the visual appearance of the surrounding area. As such he considered the proposal conformed with the provisions of the National Planning Policy Framework and he asked the Committee to approve the recommendation contained in the report.

One member of the Committee referred to the upgrading of the existing bus stops and asked whether it would be appropriate to relocate the bus stops to a location closer to the store which would encourage more customers to use a more sustainable form of transport. Concern was also expressed in relation to access to the nearest bus stops in

Cowdray avenue for residents of Ipswich Road.

The Principal Planning Officer explained that the bus stop improvements had been recommended by the Highway Authority for the benefit of staff as well as customers and she referred to the trend towards greater top-up shopping rather than weekly shopping which had been adopted by Lidl, the applicants, and that existing residential properties were located close by and would benefit from proposed improvements to the pedestrian crossings. She also confirmed that the Highway Authority had looked into the application in considerable detail and had been quite specific in their identification of the bus stops which required improvement, as such, the Highway Authority's professional requirements were being complied with in relation to the proposed conditions.

Another member of the Committee regretted the absence of the submission of a full retail impact assessment, given the threshold for this was due to be lowered in the foreseeable future.

The Principal Planning Officer confirmed that there was no requirement on the applicant to submit a retail assessment but, nevertheless, an assessment which addressed the retail impact had been provided which concluded that there was no adverse impact from the proposal. She acknowledged the emerging Local plan contained a policy which included the lowering of the threshold for a retail impact assessment but she confirmed that this had yet to be examined by the Inspector and, as such, it was not deemed to carry sufficient weight in this case.

Other members of the Committee referred to the site being vacant for some time, the need for the site to be brought back into use, that commercial competition was not a material planning consideration and that the proposal would enhance the site and would benefit local residents.

Comment was also made in relation to the vulnerability of glazed bus stops to vandalism and the need for all bus stops to incorporate raised kerbs for wheelchair and pushchair users

The Development Manager explained to the Committee members that, although the representations to the application from Tesco had been received late in the application process, the matters raised, in relation to the application of the Sequential Test and the availability and suitability of alternative sites must be borne in mind in the Committee's determination of the application.

RESOLVED (UNANIMOUSLY) that, in accordance with the Town and Country Planning (Pre-commencement Conditions) Regulation 2018, the Assistant Director Policy and Corporate be authorised to negotiate with the applicant / agent, and amend, as necessary, the pre-commencement conditions and subsequently approve the planning application subject to the conditions set out in the report and the amendment sheet and

an additional condition to provide for the separation of the two units to be maintained.

711 181859 Land north of Wyvern Farm, London Road, Stanway, Colchester

Councillor Maclean (by reason of her previous acquaintance with members of the public in attendance at the meeting in respect of this application) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered a planning application for for 102 residential dwellings (Use Class C3), comprising 96 houses (2 - 2.5 storeys) and an apartment building with six units (3 storeys), associated car parking, cycle parking, public open space and pedestrian / cycle infrastructure, formation of pedestrian and cycle links and other associated works and improvements and an amended submission for 100 residential dwellings (Use Class C3), comprising 95 houses (2 - 2.5 storeys) and one building containing five apartments (3 storeys) with associated car parking at land north of Wyvern Farm, London Road, Stanway, Colchester. The application had been referred to the Committee because it was a major application, material objections had been received and residential development was proposed on land currently allocated for employment use.

The Committee had before it a report and an 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.

Sue Jackson, Planning Projects Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Matt Parsons, on behalf of Persimmon Homes, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposals, which had been shaped following discussions with residents and planning officers, included 100 new homes with 2, 3 and 4 bedrooms and an apartment block including provision for wheelchair users, together with 20% affordable housing, in accordance with the Council's adopted policy, new pedestrian and cycle links, 6,000 sqm. of open space and an equipped play area. He confirmed that the area to the south of the site did not form part of this proposal. In addition, a £250,000 contribution would be provided for Stanway Country Park, £165,000 to a community facility on Stanway Western bypass, £745,000 for the expansion of existing schools and £36,000 towards local NHS services. He acknowledged the need for disruption to existing residents during the construction phase of the development to be minimised and, accordingly a construction management plan would be agreed prior to commencement of the development. He also confirmed that a central landscape area

would be provided prior to the commencement of phases 3 and 4 of the development. He confirmed that the scheme accorded with planning policy, the development was viable and the applicant was committed to its early delivery.

Councillor Scott-Boutell attended and, with the consent of the Chairman, addressed the Committee. She considered that the proposal would impact on residents of Stanway ward although the site was located in a neighbouring ward. She referred to Highways England's view that the contributions from the Tollgate and Stane Park applications would deliver solutions to the traffic problems associated with junction 26 of the A12, she was of the view that it would be preferable for these improvements to be implemented at one time in terms of cost effectiveness and prevention of ongoing disruption to the public. As such, she acknowledged that the proposed Wyvern Farm development would have little impact on the A12 junction. She sought clarification in the event that the linked development did not go ahead or if there was a considerable gap between the two implementation dates and asked whether this would mean that the junction 26 improvements would not be implemented. She acknowledged that no objections to the application had been received from Highways England or the Highway Authority and she was concerned that these conclusions did not take account of failure of delivery of one of the schemes. She noted that contributions towards the monitoring of improvements to the Stanway Western Bypass / London Road roundabouts would be required before the occupation of any dwellings but she was concerned about the delivery of the highway improvements themselves before housing occupation and she asked that a further condition be provided to ensure highway improvement delivery. She also acknowledged that no request had been made for a safe pedestrian crossing by Essex County Council to enable residents from the development to access schools, GPs and jobs. She was also aware of a further contribution of £25,000 towards the Stanway Western Bypass / London Road roundabout improvement from the Stane Park Phase 2 development. She sought clarification regarding the £36,000 NHS contribution in terms of what it would be used for. She also referred to the proposed condition to provide for an acoustic barrier and sought clarification that this would not displace the noise channelling along the A12 and, as such, would not negatively impact local residents and she asked whether any dog bins were planned.

The Planning Projects Officer confirmed that the responses from Highways England and the Highway Authority had been set out in full in the report and she confirmed that it had been concluded that the proposed development, in its own right, did not require any further improvements to junction 26 and that the contributions negotiated for Tollgate and Stane Park would be sufficient for this development as well. She further confirmed that the Highway Authority contributions would be paid prior to the occupation of any of the dwellings and that no contribution had been required for a pedestrian crossing at London Road. She explained that NHS contribution would go towards local surgeries within the Stanway area. She confirmed that a new acoustic barrier would be provided within the site, along the edge of the existing trees to screen road noise from the A12 and would not replace any existing barriers.

One member of the Committee referred to the numerous developments which had taken place in Stanway in recent months and she regretted that the Committee's previous request for a meeting with Highways Officers had not yet taken place. She also regretted the submission of proposals within the Stanway area in a piecemeal manner as she was of the view that a substantial and tangible improvement in traffic movement should be required to be provided for the benefit of local residents. She was of the view that the various contributions which had been negotiated for the numerous developments, relating to crossings, travel plans, schools, leisure now needed to come to fruition and schemes needed to be implemented. Concern was also expressed about the delayed delivery of the community facility. Reference was made to the first phase of development by Persimmon which had been approved by the Committee and was subsequently the subject to an amendment which had changed the development which was delivered. Complaints had also been received from residents of that development that Persimmon had not provided street signs prior to houses being occupied. She was of the view that the NHS contribution from that development was not sufficient to pay for an additional GP, yet GP appointments were still very difficult to get hold of. She was of the view that the construction traffic should not be permitted through the existing development and that no inconvenience and disruption should be placed on existing residents.

Another member of the Committee sought clarification regarding the location of the affordable housing on the site and sought assurances about future viability assessment of the development which may jeopardise delivery of the affordable housing element.

The Planning Projects Officer explained that the affordable housing element of the development was set out in detail in the report which was fully compliant with the Council's policy for 20% affordable housing together with two units for wheelchair users. She gave an assurance that the application would be referred back to the Committee in the event that the applicant considered the development to be unviable in the future. She confirmed that it was proposed for officers to be delegated the authority to refuse the application if no progress was being made with the Section 106 Agreement within six months of the Committee's decision. She explained that she was unaware of a request from the Committee for a meeting with the Highway Authority but she offered to make further enquiries, if that was required. The report also set out the details of the contributions which had been negotiated and which were all policy compliant and she confirmed that no suggestion had been made that the scheme may not be viable. She was aware that the trigger points for the contributions towards the provision of the community facility were approaching and efforts would be made to ensure those contributions would not be lost. She confirmed that a condition was proposed that street names were required to be put in place for dwellings which were occupied. The proposed route for the construction traffic had been proposed to be through the existing streets as the applicants did not have ownership of other land with which to direct the construction traffic.

Other members of the Committee asked whether it was possible to build a temporary access road to the site for the construction phase of the development and sought assurances regarding a noise barrier to mitigate disturbance from the traffic on the A12. The provision of affordable housing to the 20% ratio required in the Council's policy was welcomed whilst assurances were sought in relation to the proposed number of parking spaces for the development.

The Planning Projects Officer explained that the proposed parking provision met the adopted parking standard, that is 2 spaces per unit plus 25% visitor parking which provided a total of 225 spaces and this was as proposed. She also confirmed that a new noise barrier was proposed at the back edge of the tree belt.

Another member of the Committee agreed with previous comments that legitimate concerns made by residents should be properly addressed by a developer. Some residents were being required to live with problems associated with poor build quality and lack of street signs. She considered the needs of residents should be properly taken account of and measures should be considered by the Committee to ensure that concerns are taken seriously and improvements are undertaken.

Members of the Committee generally considered that the Council needed to be more robust in ensuring that levels of affordable housing were maintained and not subject to future negotiations downwards on grounds of poor viability. Support was also given to the provision of an access road for construction traffic and, if this was not possible, that a duty be placed on the developer to repair any damage caused to the existing roads by the construction traffic.

Reference was made to the assessment of the proposal by the Highway Authority, whether there were criteria which had been used to make the assessment, such as a maximum number of houses which an access road could service, and the absence of the detail of this assessment in the report to the Committee.

The Planning Projects Officer confirmed that the comments of the Highway Authority on the proposal had been set out in full in the report to the Committee and that it had been concluded that the capacity of the existing road network was adequate to accommodate the traffic generated from the development. She explained that the Highway Authority assessment was based on the detailed transport survey which had been submitted with the application but, if further information or more clarity was required from the Highway Authority, this would need to be referred back to the Highways officers. She also confirmed that it was proposed that the construction traffic would use the two existing access points off London Road.

A request was made that the proposed condition providing for the construction traffic route to be amended to provide for a designated route utilising the second access point only and then along the edge of the site and for this route to be repaired at the

conclusion of the development so it did not effect the existing development or inconvenience existing residents.

The Planning Projects Officer confirmed that it was possible to condition a designated route for the construction traffic but it would need to utilise a route of sufficient width to accommodate large construction vehicles and that it would also be possible to place a condition on the times of deliveries.

The Development Manager confirmed that proposed condition 3 could be amended to provide for the consultation of the three Marks Tey and Layer ward councillors on the agreement of a construction traffic delivery route.

The Chairman commended Persimmon Homes on the contributions which had been agreed within the proposed Section 106 Agreement. He acknowledged the request for a pedestrian crossing at London Road but accepted it was not possible for it to be delivered as part of this proposed development but asked that officers make a note that a pedestrian crossing at London Road be factored into future development negotiations, where relevant. He also referred to the concerns expressed by residents in relation to the performance of Persimmon in dealing with their complaints about poor construction and lack of road signs and he proposed that a letter be sent to Persimmon on behalf of the Committee to remind them of their obligations to residents occupying housing within their developments. He also considered that it would be helpful for a meeting to be arranged between the Highways Authority and the Committee members in order to clarify a number of issues.

RESOLVED (UNANIMOUSLY) that –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet, proposed condition 3 to be amended to provide for construction traffic delivery routes to be agreed following consultation with the three ward councillors for Marks Tey and Layer ward and with authority to make changes to the wording of those conditions, as necessary, 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 following:

- Parks and Recreation: a contribution of £251,337 to be used towards the provision and/or maintenance of a wheeled sports facility and ancillary items at Stanway Country Park, with Open Space and fully equipped LEAP on site and a commuted sum would be required if the Council adopted the open space/LEAP;
- Community Services: a contribution of £165, 000 to be used on phase 2 of the community centre on the Western Bypass;
- Education: no early year's contribution, primary contribution of £370,559.40 and secondary contribution of £375,293, totalling £745,852.40;
- Archaeology: a contribution of £281;
- Highways: a £25,000 contribution (index-linked) plus 2% (or up to £2,000) Section

106 agreement monitoring fee towards improvements at the Stanway Western Bypass/London Road roundabout to be paid prior to the occupation of any dwellings;

- NHS: a contribution of £36,271
- RAMS: a contribution of £122.30 per dwelling in accordance with the draft HRA Mitigation Strategy SPD;
- Affordable Housing provision: twenty units as affordable housing including two wheelchair accessible units as set out in the table below:

House Type Reference	Beds	Number of Units	Floor Area (sq ft)	Tenure
FT1 (wc)	1	1	667	Rent
FT2 (wc)	2	1	775	Rent
FT3	2	1	775	Rent
FT4	2	2	667	Rent
P	2	2	643	Rent
P1	2	1	663	Rent
P1	2	1	663	Intermediate
Q	3	3	811	Rent
Q	3	2	811	Intermediate
G	3	1	999	Rent
Q1	3	2	835	Rent
Q1	3	1	835	Intermediate
R	4	1	1168	Rent
M	4	1	1222	Rent
Total		20		

- The two bed ground floor apartment would be required to meet Part M4 Cat 3 (2) (a) adaptable with a wet room, so it could be suitable for a wheelchair user and the one bed ground floor apartment would be expected to meet Part M4 Cat 3 (2) (b) fully adapted and all other affordable homes (Excluding upper floor apartments) would be expected to meet a minimum Part M4 Cat 2 in lieu of lifetime homes.

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

(iii) A letter be sent to East of England Persimmon Homes from the Assistant Director Policy and Corporate, on behalf of the Planning Committee, with reference to community concerns around quality of build and site management issues and to remind them of their obligations to residents occupying houses within their developments.

712 190631 Former Bus Depot, Magdalen Street, Colchester

The Committee considered a planning application to vary Condition 2 of Planning permission 181281 at the former Bus Depot, Magdalen Street, Colchester. The application had been referred to the Committee because a minor increase in the height of the buildings was proposed which had been an issue when the original application was considered by the Planning Committee and a linking agreement was also required to ensure the obligations secured under the original application were also required under the revised submission.

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

RESOLVED (UNANIMOUSLY) that –

- (i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet and subject to the signing of a linking agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to link this application to the legal agreement for application reference 181281.
- (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 be authorised to complete the agreement.

713 190423 89 Chapel Road, West Bergholt, Colchester

The Committee considered a planning application for two new dwellings with associated parking and amenity following demolition of existing dwelling at 89 Chapel Road, West Bergholt, 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 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.

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

Bob Tyrrell, on behalf of West Bergholt Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application for listed building consent. He explained that the Parish Council was disappointed at the proposal to develop the small site, being uninspiring, of urban appearance and over development for a village location. He considered the proposed building needed to be set back from the line of 89A Chapel Road and the proposals would be very dominating at the junction of Spring Lane and Chapel Road. He considered the proposals to be contrary to the West Bergholt Neighbourhood Plan, which had recently been approved by the Planning Inspectorate, and the village design statement, adopted in 2009, which was used to protect inappropriate development. Spring Lane was identified in the Neighbourhood Plan as a character area, being part of the original village. He was concerned about the provision of four additional parking spaces which would have a negative impact on the special nature of Spring Lane. He was also concerned about site access. The Parish Council did not consider the site to be a windfall site due to its small proportions. He considered the proposals to be cramped and out of keeping and inappropriate in a village setting and was of the view that a single more modest dwelling would be more appropriate and asked the Committee to reject the proposals.

The Principal Planning Officer explained that matters of context and relationship with neighbouring dwellings had been considered in the report and amendments to the proposal had been made as a result of comments made. As such the width of the gables had been reduced and the roof pitch had been increased which was quite characterful of the area. The proposal had a similar appearance to other properties in the area which had one and a half storey appearance with dormer windows and garden sizes were also comparable. Parking provision had also been revised as a result of comments from the Highway Authority and no concerns had been raised about road safety issues regarding the junction. Queries about the legal right of access from Spring Lane were private matters and, as such, not of material planning consideration. A condition had been proposed requiring the parking provision to be provided prior to the occupation of the dwellings.

A member of the Committee acknowledged that the Parish Council was proud and protective of West Bergholt's village status and commended the work done by Parish Councillors in the village. The view that the proposal was contrary to the Neighbourhood

Plan was supported and concern was expressed regarding the character of the older part of the village which the community wished to protect. The Parish Council's wish to retain its ability to determine where new development would take place was also supported as well as the concerns reported regarding the resident of 89A Chapel Road. He considered the proposals to be an over-development of the site and would have a negative impact on the area.

Another member of the Committee referred to the line of the building not being in accord with that of 89A Chapel Road, expressed concern in relation the layout of the parking provision, acknowledged that the loss of light test had been met but was of the view that the proposal would be very cramped on the site. Clarification was sought in relation to the need for two-bedroom properties in the area.

The Principal Planning Officer confirmed that whilst a 'right to light' was a civil matter, the impact on the amenity of existing residents had been considered, such as adverse over-shadowing being harmful to the enjoyment of property. In this case it had been considered that there would not be a significant impact on the resident of 89A Chapel Road, in terms of loss of light, given the 45-degree test had been met both in elevation and in floor plan. She explained that if Committee members were concerned about matters of over development it would be necessary for particular issues would need to be identified and what harmful impacts the issues would have in order to justify any reason for a refusal of the application.

Concerns were expressed regarding the parking provision to the rear of the property and the potential congestion within Spring Lane, weighed against the benefits of the provision of two-bedroom accommodation which might be more affordable for local residents, whilst needing to be mindful of the contents of the West Bergholt Neighbourhood Plan and the village design statement. Comments were also made in relation to the proposal's negative impact on the street scene of Chapel Road, the over-bearing nature of the proposal and the potential for the character of the rural village to become spoilt. Clarification was also sought in relation to the current status of the West Bergholt Neighbourhood Plan.

The Principal Planning Officer referred to the policies contained in the village design statement concerning the retention of hedge lines, the need for new buildings to enhance the surrounding area and make a positive architectural contribution, requirements for in-fill proposals in terms of nuisance to adjacent properties, requirements to reflect size and shape of gardens, the contextually appropriate with the character of the area in terms of materials, colour, texture, proportion and scale, the width of new garden plots and new parking not being in front of properties. It was considered that the proposal complied with hedge line requirements, was of acceptable design, did not cause harm to adjacent properties, garden size reflected those in the surrounding area, the design of the proposal was in context of a number of other dwellings in the area, the width of the garden was comparable with others and the

parking provision had been located to the rear of the property.

The Development Manager confirmed that the West Bergholt Neighbourhood Plan was very advanced, with a date set for the referendum in September. A letter from the examiner confirmed that significant weight could be afforded to the emerging Neighbourhood Plan, although it was yet to be formally made. He went on to advise that the Committee would need to identify which policies in the Neighbourhood Plan to which this proposal was contrary and also to identify material harm, if the Committee were of a mind to refuse the application. He confirmed that a case could be made that the proposals are in conformity with many of the policies set out in the village design statement and the report had concluded that the majority of the policies within the Council's Local Plan had also been met, including parking, amenity space and impact on neighbouring properties.

Committee members considered the proposal had a negative impact on the surrounding area which had formed part of the original village. The design of the dwelling was not considered suitable and the garden size was insufficient. It was considered that the views of West Bergholt residents, as set out in the emerging Neighbourhood Plan, should be supported on the grounds that the proposal did meet the Plan's aspirations for the village. As such it was considered that the proposal was not in-keeping with the street scene and was out of character with the area and the design of the proposal was not appropriate given the close proximity and density of the two dwellings on the site.

Clarification was sought regarding garden sizes in the area and, given the substantial weight which could be afforded to the emerging Neighbourhood Plan, why the report did not contain more information on this aspect.

The Principal Planning Officer explained that the village design statement referred to the need to provide larger garden sizes than the standard, dependent upon context and she referred to the variety of building and garden sizes in the locality.

The Development Manager acknowledged the lack of coverage of the policies within the West Bergholt Neighbourhood Plan within the report because the report had been drafted the letter from the examiner was yet to be received and, as such, no commentary could be given regarding the weight to be given to the document. He considered it was at the discretion of the Committee whether to refuse the application and were this to be the case, officers would be happy to provide details reasons for refusal based on the discussion regarding inappropriate design, density and relationship to neighbouring properties.

As the discussion suggested that the Committee may be minded to refuse the application contrary to the officer's recommendation in the report, the Chairman invited the Committee to consider whether invoking the Delayed Decision Protocol should be considered but this was not considered necessary.

RESOLVED (SEVEN voted FOR and TWO ABSTAINED) that the planning application be refused on the grounds of conflict with the emerging West Bergholt Neighbourhood Plan, including failure to enhance the street scene on a prominent corner site, cramped and contrived and adverse impact on the amenity of neighbouring property, with the detailed wording of the reasons for refusal being delegated to the Assistant Director Policy and Corporate.

714 190690 Springbourne, Spring Lane, West Bergholt, Colchester

The Committee considered a planning application for a ground floor extension and first floor addition to an existing bungalow at Springbourne, Spring Lane, West Bergholt, Colchester. The application had been referred to the Committee because it had 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.

Sean Tofts, Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Bob Tyrrell, on behalf of West Bergholt Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application for listed building consent. He explained that the Parish Council objected to the proposal on the grounds of the overall height of the proposed dwelling which was out of keeping with adjacent properties. He explained that Spring Lane was on a slope and the land fell away across the width of the site. A reduction in the height of the building had been requested by the Parish Council but this issue had not been addressed by the applicant. He explained that existing property was about 2 feet taller than the adjacent bungalow and it was proposed to add an additional 10 feet making the new ridge 12 feet higher than the bungalow and he considered this to be entirely out of keeping. He also considered the proposal to be contrary to the West Bergholt Neighbourhood Plan and the village design statement, adopted in 2009 which was used to protect inappropriate development. Spring Lane was identified as a character area and part of the original village and the village design statement policy was to resist any building works that would detract from this character. The Parish Council's view was that the ridge height proposed should be reduced by 5 feet to make the proposals more appropriate and, as such asked for the application to be deferred in order to negotiate a reduced ridge height or to be refused.

Richard Brett addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposed extension to the property had been designed in order to provide a long-term

family home and to make a positive contribution to Spring Lane. He explained that the advice of the planning officers had been followed throughout the application process and a scheme had been produced which satisfied his family's needs whilst keeping the size of the extension to a minimum. He explained that the height of the ridge had been restricted to 1500m and the usable floor area had been maximised in order to keep the ridge height down. He confirmed that the footprint of the building would be increased by 2% and that there would be no impact on parking provision. He confirmed that there would be no new windows to the side elevation, with the exception of one roof light at very high level. All new windows to the rear would look over the property's own garden and he did not anticipate there to be any issues of over-looking, which was confirmed by the site plans. He considered there was no architectural value in the existing building on the site which was an early 1960's bungalow with low quality cladding. He also considered there was no cohesive architectural style or era in Spring Lane and in West Bergholt generally with which to frame the design. He considered each house in Spring Lane to be very different in terms of style, form, mass and finish and he did not consider there was over-arching style which should be followed. However, he did consider that the design was sympathetic to neighbouring properties. The materials planned were of superior quality including slate roof, rendered finishes and windows, all reflected elsewhere in properties nearby. The one and a half storey style was also already reflected in Spring Lane. He explained that Spring Lane sloped north to south and there was also a gradual decrease in height of dwellings which would still be the case after the development was complete. He was also of the view that the proposal would not dominate the street scene and, given the construction methods and materials used, that the impact on the neighbours during the construction phase would be minimised. He explained that extending the property was the most viable option for his family due to the high cost of property in the village and he was of the view that Spring Lane would be enhanced by the proposal.

The Planning Officer explained that, in officer's view, there was no need to reduce the proposed ridge height of the building as it was in-keeping with the street scene and was as low as possible to achieve the requirements of the extension. He referred to the emerging Neighbourhood Plan and confirmed that more weight could now be given to that document than had been suggested in the report. He confirmed that the proposal was located within the character area and that proposals were expected to respect this character status in terms of scale, design and setting of any development. It was his view that the proposal complied with this policy and potentially making the street more characterful. He also confirmed that the existing property did not contribute positively to the street scene.

One member of the Committee considered the policies within the emerging West Bergholt Neighbourhood Plan and the village design statement were of relevance in the Committee's consideration of this application and considered that the proposal conflicted with the policies in relation to a lack of enhancement of the area, that it did not reflect the character of the surrounding area and it negatively affected the amenity of the residents

in the neighbouring bungalow. He considered that an amended proposal, including a reduced ridge height could be supported.

The Planning Officer considered that the proposal was acceptable in relation to the emerging Neighbourhood Plan whilst he was mindful that the village design statement did not carry any statutory weight in decision making. He also highlighted the fact that the property had the benefit of permitted development rights which was a material consideration when taking into account the ability to mitigate some of the harm which may be caused. He explained that these rights would include the construction of a flat roof dormer across the property with windows which would not be subject to restriction, also the principle of development at the first floor would also be permitted development, as such, he maintained his view that the application was acceptable.

Other members of the Committee considered there was no harm caused by the proposals, given the height of existing properties either side of the site and, as such, the Parish Council's objections were not considered to be robust in this instance. The permitted development rights available with the property were also borne in mind as well as the benefits to be gained from an enhancement to the street scene which the proposal would deliver.

RESOLVED (EIGHT voted FOR and ONE voted AGAINST) that the planning application be approved subject to the conditions set out in the report.