
PLANNING COMMITTEE

15 MAY 2012

Present:- Councillor R A Heaney (Chairman), Councillor S H Challinor (Vice-Chairman), Councillor N Brown, Councillor S Candy, Councillor T J Fawcett (except items 9 (part) and 10), Councillor T Howard, Councillor I Johnson, Councillor D P McLeod, Councillor K Simons and attending as Planning Portfolio Holder, Councillor G V Guglielmi.

Substitute Members:- Councillor A J Mitchell (for Councillor G L Mitchell) and Councillor M J Talbot (for Councillor J F White)

In Attendance:- Temporary Head of Planning, Development Planning Manager, Legal Services Manager, Democratic Services Officer (ER).

(6.02 p.m. – 7.35 p.m.)

1.. CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed those present to the meeting and briefly outlined the procedure. Councillor Howard was also welcomed to his first meeting since his re-appointment as a member of the Planning Committee.

2. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors G L Mitchell and White.

3. MINUTES

The minutes of the meeting of the Committee held on 3 April 2012 were approved as a correct record and signed by the Chairman.

4. PLANNING APPLICATIONS WHERE THERE WILL BE PUBLIC SPEAKING

The Chairman advised that there would be public speaking on Planning Application 11/01381/FUL.

5. PLANNING APPEALS AND DECISIONS

The Committee noted the contents of a report (submitted for information only) advising of the details of recent planning appeals, enforcement appeals and appeal decisions.

6. ENFORCEMENT QUARTERLY PERFORMANCE REPORT

The Committee noted the contents of a report (submitted for information only) advising of the Enforcement Service's performance over the past three months (January - March 2012).

7. PROVISIONAL TREE PRESERVATION ORDER - 11/00048/TPO

The Committee was requested to determine whether the provisional Tree Preservation Order (TPO) made in respect of two woodlands known as Pedlars Wood and situated either side of Central Avenue, Frinton-on-Sea, should be confirmed, confirmed in a modified form or allowed to lapse.

Councillor Johnson declared a personal interest as a Ward Member in respect of the application.

It was moved by Councillor Johnson, seconded by Councillor Challinor and:-

RESOLVED – That Tree Preservation Order 11/00048/TPO be confirmed without modification in accordance with the Officers' recommendation.

8. PLANNING APPLICATION - 11/01381/FUL - 1 THE LANE, MANNINGTREE, CO11 1AW

Further to minute 129 (3.4.12) the Committee had before it the updated published Officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of refusal.

An update sheet with details of an additional representation was circulated to Members before the meeting.

Councillor G V Guglielmi declared a personal interest both as a Ward Member and as a Member of Manningtree Town Council in respect of the application.

Councillor Talbot expressed concerns about the decision of officers not to implement the decision of the Committee on 6 March 2012 (Minute 125 refers) to grant planning permission for the application. Councillors Johnson and McLeod also expressed similar concerns. Councillor Candy explained why she disagreed and considered that officers had followed the correct procedure. The Legal Services Manager explained why officers had taken the view that material planning considerations had unintentionally been omitted from the written report to the Committee's meeting on 6 March 2012 and that the action taken was intended to protect the Council from a legal challenge or a complaint to the Local Government Ombudsman being upheld. The Development Planning Manager gave a further explanation of the action taken by officers and indicated how it complied with case law which established the principles that (a) the Council's decision takes legal effect when the written decision notice is issued (as distinct from when the Committee resolves to approve or refuse an application) and (b) if further material considerations arise or come to light after the Committee resolution but before any written decision notice is issued, the Council is under a duty to return the application to the Committee so that it can take into account the additional material planning considerations.

A lively discussion ensued with questions from Councillor Howard and other Members of the Committee. The Chairman ruled that she considered the action taken by officers had been proper and appropriate and that it was time to close the debate on the matter and to move on to consider and determine the planning application.

Sue Brown, on behalf of the Manningtree and District Chamber of Trade, spoke against the application.

Malcolm Westwood, the applicant, spoke in support of his application.

It was moved by Councillor Candy and seconded by Councillor Simons that application 11/01381/FUL be refused in accordance with the officer recommendation (duly updated to take into account the Nation Planning Policy Framework) on the grounds that the proposed mixed use would result in the loss of a potential retail unit. On being put to the vote, the motion was declared LOST.

It was then moved by Councillor Talbot, seconded by Councillor Johnson and:-

RESOLVED – That application 11/01381/FUL be APPROVED contrary to the Officers' recommendation for the following reason(s):-

In approving this application the local planning authority has taken account of the development plan policies and/or proposals listed above. While the proposal may be in conflict with policy ER33 of the adopted Tendring District Local Plan (2007) it is considered that the proposed change of use to youth café/drop-in centre does not adversely undermine the retail function of Manningtree Town Centre due to the property's siting along a narrow lane set back off the main retail frontage of the High Street. Additionally, the proposal would provide for the continued running of a community facility for which the applicant has proven local need. This sits comfortably with paragraph 70 of the National Planning Policy Framework which requires Local Planning Authorities to plan positively for the provision of community facilities. Furthermore, due to the lack of complaints to the Council's Public Experience (Environment Health) department regarding noise and amenity concerns and the fact the site is sited within a town centre location (where some noise is to be expected) the proposed permanent use of the premises as a youth café/drop-in centre would not have a significant adverse impact upon local resident's amenity levels.

9. PLANNING APPLICATION - 12/00099/FUL - 23 JACKSON ROAD, CLACTON-ON-SEA, CO15 1JA

The Committee had before it the published Officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval with a summary of recommended conditions.

It was moved by Councillor McLeod, seconded by Councillor Johnson and:-

RESOLVED – That application 12/00099/FUL be approved in accordance with the Officers' recommendation and subject to the following conditions:-

- Time Limit
- Development in accordance with the plans

Reason for approval:

The loss of the public house is regrettable but its loss is outweighed by the fact the proposed mixed use scheme will bring the building back into beneficial use and will provide a new retail unit and housing in the town centre which is also well served by other public houses and clubs. The scheme also takes the opportunity to improve the façade of the building with a new rendered parapet wall in place of the unattractive metal handrail on the roof. Therefore the scheme is an improvement on the existing situation and complies with the development plan.

A representation from the Tendring CAMRA branch was carefully considered, in particular the comments relating to the draft National Planning Policy Framework (NPPF) have been carried across in the NPPF. The objection due to the loss of a public house, inaccuracies in the Design and Access Statement and application form and the lack of private amenity space was carefully considered but did not warrant the refusal of a mixed use scheme that will bring a new retail/office unit and 6 flats to the town centre in close proximity to existing local services including other public houses.

10. PLANNING APPLICATION - 12/00306/FUL - KIOSK 3A, KINGS PROMENADE, CLACTON-ON-SEA, CO15 5AF

The Committee had before it the published Officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval with a summary of recommended conditions.

It was moved by Councillor Candy, seconded by Councillor A J Mitchell and:-

RESOLVED – That application 12/00306/FUL be approved in accordance with the Officers' recommendation and subject to the following conditions:-

- Time Limit
- Plans

Reason for approval:

In approving this application the Local Planning Authority has taken account of the development plan policies listed and it considers that the proposed development is in accord with those policies and does not harm public amenity. The proposals improve the appearance of the kiosk and will provide a new bar area which will be a positive tourist addition. There will be no impact on the geological SSSI on which the kiosks are located.

11. PLANNING APPLICATION - 11/01383/FUL - KIOSK NO 1, NO 2 & NO 3, KINGS PROMENADE, CLACTON-ON-SEA

The Committee had before it the published Officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval with a summary of recommended conditions.

It was moved by Councillor Johnson, seconded by Councillor Challinor and:-

RESOLVED – That application 11/01383/FUL be approved subject to the following conditions:-

- Time Limit
- Plans

Reason for Approval:

In approving this application the Local Planning Authority has taken account of the development plan policies listed in the Officer report and it considers that the proposed development is in accord with those policies and does not harm public amenity. The proposals improve the appearance of the kiosks, promenade and seafront whilst retaining a 4.2 metre wide promenade that is adequate to allow the free movement of pedestrians and emergency vehicles. There will be no impact on the geological SSSI on which the kiosks are located and/so no harm to designated public open space.

12. PLANNING APPLICATION - 11/01489/FUL - CROOKED ELMS SHELTERED HOUSING UNIT, MAPLE CLOSE, HARWICH, CO12 4AL

The Committee had before it the published Officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval with a summary of recommended conditions.

It was moved Councillor McLeod, seconded by Councillor Johnson and:-

RESOLVED – That application 11/01489/FUL be approved subject to the following conditions:-

- Standard Time Limit (3 years)
- Approved plans

Reason for Approval:

In approving this application the local planning authority has taken account of the development plan policies and it considers that the proposed development is in accord with those policies, preserves the appearance of the conservation area and does not harm public amenity.

13. PLANNING APPLICATION – 11/01168/FUL – 11-13 WEST AVENUE, CLACTON-ON-SEA, CO15 1QS

The Committee had before it the published Officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval with a summary of recommended conditions.

Mr Peter Le Grys, agent on behalf of the applicant, spoke in support of the application.

It was moved by Councillor Candy, seconded by Councillor Simons and:-

RESOLVED – That application 11/01168/FUL be REFUSED contrary to the Officer recommendation for the following reason:-

Reasons for refusal:

The proposal involves the change of use from Class A1 retail to Class A2 Financial use. The application site is located in West Avenue in Clacton within a designated primary shopping frontage in the Local Plan and within the designated primary shopping area.

Policy ER32a of the Local Plan says that within the primary shopping area "proposals for non-retail development at ground floor level will not be permitted". The application is within fundamental breach of this policy.

Policy ER33 of the Local Plan is concerned with non-retail uses within primary shopping frontages. The proposal does not meet the requirements of this policy. It requires that non-retail uses do not dominate and that the proportion does not exceed 10% of the length of the individual street frontage. This 10% is already exceeded as on this street frontage it is currently 38%. If this was approved it would increase to 54%. This is far in excess of the policy and at over 50% will mean non-retail uses will dominate contrary to policy. The proposal is also in direct conflict with the final sentence of Policy ER33, which states that:- "Within the Primary Shopping Frontages non-retail uses will not be permitted at the ground floor level."

The proposal is therefore contrary to the policies in the Development Plan and in particular to saved policies ER32a and ER33 in the adopted Tendring District Local Plan (2007).

Chairman