

PLANNING COMMITTEE

12 JUNE 2012

Present:- Councillor R A Heaney (Chairman), Councillor S H Challinor (Vice-Chairman), Councillor N Brown, Councillor T J Fawcett, Councillor T A Howard, Councillor I Johnson, Councillor D P McLeod, Councillor G L Mitchell, Councillor J F White.

Substitute Members:- Councillor A J Mitchell (for Councillor K Simons), Councillor F H Nicholls (for Councillor S Candy).

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

(6.00 p.m. – 6.25 p.m.)

11.. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that this would be the last meeting that the Temporary Head of Planning would be attending before leaving to take up a new post with another authority. The Chairman thanked Sarah Stevens for her hard work for the Council and wished her the best, and the Committee echoed those sentiments with a round of applause.

The Chairman then welcomed those present to the meeting and briefly outlined the procedure.

12. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Candy and Simons, and the Planning Portfolio Holder Councillor G V Guglielmi.

13. MINUTES

The minutes of the meeting of the Committee held on 15 May 2012 were approved as a correct record and signed by the Chairman.

14. PLANNING APPLICATIONS WHERE THERE WILL BE PUBLIC SPEAKING

The Chairman advised that there would be public speaking on Planning Application 12/00026/OUT.

15. PLANNING APPEALS AND APPEAL DECISIONS

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

16. PLANNING APPLICATION - 12/00026/OUT - LAND NORTH OF TELFORD ROAD, GORSE LANE INDUSTRIAL ESTATE, CLACTON-ON-SEA, CO15 4LP

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.

An update sheet with details of an additional representation was circulated to Members

before the meeting.

Mr P Le Grys, on behalf of the applicant, spoke in support of the application. He asked that Members consider the application however requested that the time limit be increased to 18 months from 1 year.

The Temporary Head of Planning and the Development Planning Manager advised that an increase of 6 months to the time limit condition was acceptable.

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

RESOLVED – That application 12/00026/OUT be approved subject to the following conditions:

1. Time Limit (18 months).
2. Approval of reserved matters.
3. Prior approval of landscaping scheme for planting belt.
4. Provision of landscaping scheme and protection of existing trees.
5. Reptile condition suggested by extended phase 1 habitat study.
6. Prior approval of details from the protection of the Public Right of Way.
7. Prior approval of wheel washing facilities.
8. Grampian style condition for off site highways matters including:
 - a. Completion of new footway on west side of Telford Road
 - b. Upgrade of two nearest Stephenson Road bus stops.
 - c. Dropped kerbs and tactile paving in Stephenson Road.
9. Prior approval of archaeological written scheme of investigation.
10. Prior approval of surface water drainage scheme.
11. Prior approval of foul water strategy and pollution control to the water environment.
12. Prior approval of a scheme of water, energy and resource efficiency measures.
13. Prior approval of a phasing strategy for the development of the site.
14. Condition restricting uses to B2 and B8 (excluding B1 offices).

Informative:

In regards to the above planning application it should be noted that 3 spans of overhead line cross the eastern side of the proposed site.

This is a high voltage line running at 11,000volts. As such, no future development work at the site can take place to within 6m horizontally of the existing line. This clearance will be increased if cranes or similar are used at the site and will be subject to a site meeting with a UK Power Networks GS6 advisor.

Any proposal that encroaches on this clearance will be subject to all costs associated with diverting the overhead line, providing an alternative route can be obtained. UK Power Networks require sufficient notice if this will be required.

It was also proposed that the use of rainwater harvesting and solar panels where feasible or appropriate should be considered and that the landscaping scheme should incorporate native species.

Reason for approval:

The application has come with supporting information that shows that there is a reasonable chance of the scheme being delivered. The site forms a natural progression of the existing industrial estate and sits in an area that is away from residential neighbours. The site is not prominent in the landscape nor is it of any particular importance in terms of biodiversity. The access is acceptable in highway safety terms.

The proposal will have a negative impact on the Public Right of Way, but as the scheme is compliant with the overarching sentiments of the NPPF as it will help facilitate economic development, this harm is outweighed and a departure from the Development Plan is justified.

17. 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.

18. 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 cafe/drop-in centre would not have a significant adverse impact upon local resident's amenity levels.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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