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Planning Policy and Local Plan Committee

10 October 2022

**MINUTES OF THE MEETING OF THE PLANNING POLICY AND LOCAL PLAN
COMMITTEE,
HELD ON MONDAY, 10TH OCTOBER, 2022 AT 6.01 PM
IN THE COMMITTEE ROOM , TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Turner (Chairman), Allen, Bush, Chapman BEM, Chittock, Davidson, Harris and Winfield
Also Present:	Councillors Coley (except item 23) and White (Chairman of the Planning Committee)
In Attendance:	Gary Guiver (Acting Director (Planning)), Ian Ford (Committee Services Manager) and Mark Wilson (Development Technician - Technical)

17. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor Fowler (with Councillor Davidson substituting) and Councillor Fairley (with Councillor Harris substituting).

18. MINUTES OF THE LAST MEETING

It was **RESOLVED** that the Minutes of the last meeting of the Committee held on 31 May 2022 be approved as a correct record and signed by the Chairman.

19. DECLARATIONS OF INTEREST

In relation to Agenda Item 7 – Report of Acting Director (Planning) – A.2 – Conservation Area Character Appraisal and Management Plans, Councillor Bush declared for the public record that he was both the Ward Councillor for The Oakleys and Wix Ward and a member of Great Oakley Parish Council.

20. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

Councillor Coley had submitted the following question on notice pursuant to Council Procedure Rule 38 in relation to directional signs and advertising boards for planning developments:-

“Would it result in a greater level of general compliance if Planning Officers drew all developers’ attention to their legal requirements regarding the placing of advertising signs etc., and make compliance with all aspects of these regulations standard Planning Conditions?”

The Secretary of State can suspend or remove permanently, Deemed Consent, in a particular area, on a request from a Local Authority. Should TDC not consider such an application in respect of sensitive conservation areas at least?”

Context supplied by Councillor Coley to his Question

“At the end of July this year, Mistley Parish Council asked my opinion concerning yellow Directional Advertising Signs, which had been placed by a large Housing Developer, on

a Parish Council owned green space, affixed to a light standard, a few feet from a War Memorial, in a Conservation Area, directly opposite a Grade One Listed Monument.

I advised the Parish Council to carefully remove the signs and return them to the owning developers. The Parish Council notified the developer of their actions and asked where the signs should be delivered. This resulted in the developer aggressively threatening the Parish Council with legal action and claims for compensation. To say that I was enraged is an understatement in the extreme. I have taken the developer to task over this.

I was since advised by our Planning Department, that the yellow directional arrow signs that were placed around the area would potentially have had 'deemed consent', under Section 11 of the Advert Consent Legislation set out by the government. Except that the developers missed key points, which means the Parish or District Councils would be able to remove them, quite legally.

It seems that although developers have legal obligations regarding these signs they never comply with the requirements and our Council never bothers to ensure compliance. See below:

Class 11: directional advertisements:

Permits housebuilding firms to put up temporary directional signs, telling potential house buyers and other visitors how to reach a site where new residential development is taking place. The rules for Class 11 are:

- Signs must not exceed 0.15 of a square metre in area
- No sign may exceed 4.6 metres above ground level, or 3.6 metres in an Area of Special Control of advertisements
- Any lettering or other information on the sign must not be less than 40 millimetres or more than 250 millimetres high
- Retroflective material and illumination must not be used
- The sign must not look like an official traffic sign
- The sign must be near to, but not on, highway land and not within 50 metres of an official traffic sign facing in the same direction
- No sign may be more than two miles from the main entrance to the housebuilding site
- 14 days before any sign is put up, the local planning authority must be told where it is to be displayed and from what date
- No sign may continue to be displayed after development of the housebuilding site is completed; or for more than two years.

I have noted that many of these directional advertising signs have been in place for over 4 years. I have found that some are more than 5 miles from the relevant development site.

Another common and casual breach by developers is the erection of huge advertising boards and flagpoles. These require planning consent, but it seems rarely are these applied for and as a Council, we take no action unless a Member actually complains. Then a cosy chat with the developer results in a belated, begrudged and retrospective planning application being submitted.

I have two of these live applications in my Ward currently. One for 18 flagpoles and two huge illuminated advertising boards on a site building 485 homes. The other for 10 flagpoles and two huge advertising boards on a site building 235 homes.

The Town and Country Planning (Control of Advertisements) Regulations 2007, Class 7(B) permits the display of advertising flags at housebuilding sites and where new houses remain available for sale.

The 7(B) Rules state that:

- Each flag must be on a single vertical flagstaff
- A site where 10 houses or less are built, may have one flag.
- A site where 11 to 100 houses are to be built, may have two flags
- A site where over 100 houses are to be built, may have three flags.
- The flagstaffs may not exceed 4.6 metres in height.
- The flags must not exceed 2 square metres in area.
- The flags and flagstaffs must be removed at the end of one year after the last dwelling has been completed.

So why are these applications not routinely refused by Planning Officers?

Members, you may think that this is a minor issue and hardly worth your consideration. However, I liken this to the 'Broken Window Syndrome'.

"The broken windows theory is a criminological theory that states that visible signs of crime, anti-social behaviour, and civil disorder create an urban environment that encourages further crime and disorder, including more serious crimes."

The analogy is that unless you concern yourselves with the minor transgressions, then the offender considers you to be a soft touch, lacking the will or determination to ensure compliance with more serious transgressions. This leads to a casual and persistent failure to comply with legal obligations.

In our Ward, we have battled with developers consistently breaching numerous and various planning rules and obligations over the last four years. Seemingly, because they know they can.

Our Ward is undergoing a huge amount of housing development and will do over the next eight to ten years. There are several developers involved in these works. Signs, hoardings, flags and direction boards are invading every open space.

In almost all cases these signs and flags have been erected without compliance with any of the legal requirements. If the impression given by this Council is that we don't care, then why should any of the developers care, about any compliance?"

The Chairman of the Planning Policy & Local Plan Committee (Councillor Turner) replied as follows:-

"The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and Circular 03/07: Town and Country Planning (Control of Advertisements) (England) Regulations 2007 detail the advert regulations. On this basis deemed consent is available across the District for adverts and this includes those available to

developers who may wish to advertise the routes to get to their site and on-site advertising of their development.

In respect of question 1. Failure to comply with the requirements of the advertisement regulations can be reported to our enforcement team for them to investigate. This would include enforcement of the 5 standard conditions under said regulations that would apply in all cases. In summary, these refer to ownership, endangerment of the highway, visual amenity, maintained in condition not to endanger the public, and restoration of sites. Making developers more aware of advert regulations when dealing with planning applications for other development maybe helpful to applicants/developers, perhaps as further informative notes. Further awareness could be a consideration for the future web site review and pre application discussions. It would not be reasonable or possible to condition adverts when they are not part of the proposal before the Local Planning Authority to consider and/or not part of the application site to reasonably control in some cases.

However, it is often a need to control construction management of a development site to protect amenity and this may include understanding routing options for construction development. It may be possible to add to the standard condition for said management for the inclusion of directional signs and that may be reasonable.

In respect of question 2. The Secretary of State can restrict deemed consent for adverts in an area. Government guidance is available on this point, but in summary: "it must be clear that one or more of the deemed consent provisions has had such adverse effects on the amenity or public safety of the area that there is no prospect of an improvement in the quality of advertising in the locality, unless the local planning authority are given the power to control that particular type of advertisement." Accordingly, it is unlikely that blanket restriction would be successful and evidence for certain areas in these terms would be needed. Historic interests in respect of Conservation Areas are not a specific criteria in this matter, but it is noted conservation areas already means adverts are restricted in those areas. In addition, the Secretary of State must publicise a local planning authority's proposal for any restriction, allow an opportunity for representations to be made and taken into account. This may result in publication of the proposal and a public hearing to examine the proposal and any representations. If successful, the details of the direction must be published and those owners / occupiers displaying advertisements which are affected by the direction in the area(s) must be notified. Accordingly, there is a process for such request, but resource, evidence and reasonable justification would be required to seek such a restriction and such evidence is not considered to be available at this time.

In summary therefore:-

Q1: Making developers more aware of advert regulations when dealing with planning applications for other development maybe helpful to applicants/developers, perhaps as further informative notes. Further awareness could be a consideration of the future web site review and pre-application discussions. It would not be reasonable or possible to condition adverts when they are not part of the proposal before the Local Planning Authority to consider and/or not part of the application site to reasonably control in some cases.

Q2: The Secretary of State can restrict deemed consent for adverts in an area. Government guidance is available on this point, but in summary "it must be clear that

one or more of the deemed consent provisions has had such adverse effects on the amenity or public safety of the area that there is no prospect of an improvement in the quality of advertising in the locality, unless the local planning authority are given the power to control that particular type of advertisement.” There is a process for such request, but evidence and reasonable justification would be required to seek such a restriction and such evidence is not considered to be available at this time.”

With the permission of the Chairman, Councillor Coley then asked a supplementary question in which he sought clarification of the advice given in answer to Question 1 and specifically with regards to enforcement.

The Acting Director (Planning) then responded to that supplementary question.

21. PUBLIC SPEAKING

Pursuant to the provisions of the Council's public speaking scheme for the Planning Policy & Local Plan Committee, no member of the public had registered to ask at this meeting a question regarding the matters contained in the reports of the Acting Director (Planning).

Bill Marshall made a statement regarding the matters contained in report item A.1 – Updated Housing Supply Position and Housing Trajectory (Agenda Item 6). He felt that small to medium sized developers were concerned that, since the adoption of the new Local Plan (Section 2) and the greater level of control, that it had given to this Council, the pipeline of small development sites that might be of interest to local builders had been stifled and proposals such as the Fox Street (Ardleigh) Deliverable Residents' Proposal Plan had been hindered.

The Acting Director (Planning (Gary Guiver) responded to Mr Marshall's points during his oral presentation of item A.1 of his report.

22. REPORT OF ACTING DIRECTOR (PLANNING) - A.1 - UPDATED HOUSING SUPPLY POSITION AND HOUSING TRAJECTORY

The Committee gave consideration to a report of the Acting Director (Planning) (A.1) which reported to it:-

- the number of new homes built in Tendring during the 2021/22 financial year and the up-dated year-by-year 'trajectory' for future housebuilding; and
- the current housing land supply position (the 'five-year' supply).

Key Points

It was reported that 777 (net) new homes had been built in the 2021/22 financial year, which meant that the annual housing requirement of 550 homes a year in the Local Plan had been achieved for the sixth year running. More homes had been completed in 2021/22 than had been expected in last year's housing trajectory.

Members were informed that there was sufficient land allocated for housing development in the adopted Local Plan, along with sites that already had planning

permission, to comfortably achieve the District's housing requirement up to 2033 without the need to consider the release of additional sites.

The Committee was advised that the Council could demonstrate a **6.89 year supply** of deliverable housing sites against the Government requirement to demonstrate a 5 year supply. This meant that the Council remained in a strong position to resist speculative and unwanted housing developments that fell outside of the settlement development boundaries of the Local Plan unless there were material benefits that might exceptionally justify a departure from Local Plan policy.

Housing Requirement

Members were aware that Section 1 of the Local Plan set out the 'objectively assessed housing need' (OAN) for Tendring of 550 homes a year, and the housing requirement for the period of the Local Plan 2013-2033 was therefore 11,000 homes. With approximately 5,000 homes already built between 2013 and 2022, the remaining requirement between now and 2033 stood at approximately 6,000 and the historic shortfall in housing delivery had now been addressed.

Housing Completions and Future Trajectory

It was reported that Officers had updated the Council's 'Strategic Housing Land Availability Assessment' (SHLAA) which contained a trajectory for future housing building up to 2033. Information from developers as well as officers' own monitoring of building sites had informed the forecast for the coming years.

Five Year Housing Supply and Decision Making

The Committee was reminded that the Government required Councils to demonstrate an ongoing 'five year supply' of deliverable housing sites to ensure that they were well placed to meet their future housing needs. Following the adoption of Section 1 of the Local Plan in January 2021, the Council's local housing need had been confirmed as 550 homes per year.

Taking into account the future trajectory set out in the SHLAA, the Council can demonstrate a 6.89 years supply of deliverable housing sites. Around 4,000 homes were expected to be built within the five years 2022/23 – 2026/27, against a five year requirement of approximately 2,900 homes.

Having considered and discussed all of the information contained in the Officer report (A.1):-

It was moved by Councillor Turner, seconded by Councillor Chittock and:-

RESOLVED that the Planning Policy and Local Plan Committee both endorses the contents of this report and notes that the new Strategic Housing Land Availability Assessment demonstrates an up-to-date housing land supply position for the purposes of determining planning applications and contesting planning appeals.

23. REPORT OF ACTING DIRECTOR (PLANNING) - A.2 - CONSERVATION AREA CHARACTER APPRAISAL AND MANAGEMENT PLANS

Earlier on in the meeting, as reported under Minute 19 above, Councillor Bush had declared for the public record that he was both the Ward Councillor for The Oakleys and Wix Ward and a member of Great Oakley Parish Council.

The Committee gave consideration to a comprehensive report of the Acting Director (Planning) (A.2) which reported to it the third tranche of 'Conservation Area Appraisal and Management Plans' prepared for the Council by Essex Place Services, and requested that the Committee agreed a recommendation to Cabinet that they be published for consultation purposes.

Members were presented with the next two draft Conservation Area Appraisals, namely:-

Great Oakley Conservation Area; and
Kirby-le-Soken Conservation Area.

Alterations to Boundaries

After a detailed assessment, the boundary of the Great Oakley Conservation Area would remain unchanged.

For Kirby-le-Soken minor changes to the boundary were recommended.

Additions: The Conservation Area boundary should include the gardens of the properties within the Conservation Area. They formed the domestic curtilage and contribute to the understanding of land use, layout and an indication of the area's development.

It was recommended to include the Oxborrows Yard, Maltings Lane. The site had historically been a service yard as noted on the Tithe Apportionment (1841). Therefore, it was considered to contribute to the Conservation Area's historic development and character. The site had been formerly occupied by Oxborrow Engineering but at the time of the assessment was vacant. The Oxborrow Family, Blacksmiths and Engineers, had a long-standing association with Kirby-le-Soken and Tendring dating from 1812. The early nineteenth century forge had been demolished for residential development in 2004. The property was visible from within the Conservation Area and was an attractive nineteenth century industrial building, unique within the area, contributing to local character and appearance.

Reductions: It was proposed to remove the back land development behind Number 44-64 The Street as it undermined, and was inconsistent, with the historic grain of development. The development was of a low scale, however, it was visible in the skygaps between the properties fronting The Street; this detracted from appreciation of Kirby-le-Soken as an isolated settlement. The quality of the development did not positively respond to the character and appearance of the Conservation Area.

Designated Heritage Assets

The appraisals made note of the listed buildings, scheduled monuments and registered parks and gardens in each Conservation Area.

Proposed Non-designated heritage assets

Those buildings had been identified as they were either considered to be good examples of their type or architectural style; were prominent local landmarks, demonstrated use of local materials or design features, or were connected to local historical events, activities or people, and were all relatively complete in their survival.

At Great Oakley these were:

- The Three Cups, High Street
- Mill House Cottages (2 – 5 High Street)
- Cambria House, High Street
- Apple Tree Cottage and No. 2, High Street
- Pillbox outside Apple Tree Cottage, High Street
- Romaric, Queen Street
- The Maybush Inn, Farm Road

For Kirby-le-Soken these were:

Number 57, The Street was a one and a half storey weather-boarded dwelling with a slate roof. The property sat perpendicular to the road, gable ended with decorative barge boards and a finial painted white. There was a single storey porch entrance to the east elevation and a lean to on the west elevation, both covered in red clay pantiles. There was a slender red brick chimney to the rear. The small scale and attractive detailing made it a noticeable dwelling within the street scene. The property did have a larger modern extension to the rear, however, this did not visibly detract from the original scale and historic core of the property.

Waterloo House (Number 34, The Street) was a large, detached and double piled dwelling of two-storeys and rendered elevation. The frontmost pile sat under a slate roof and the rear was covered in red clay tiles. It was one of the larger dwellings running parallel to The Street, making it a visually prominent within the streetscene. The single storey outbuilding to the west of the property was present of the first edition Ordnance Survey map (1897) and could be contemporary with the principal dwelling. The first floor had six over six sash windows; the windows to the ground floor windows and central entrance appeared to be modern alterations.

Heritage at Risk

Neither of the Conservation Areas contained buildings or structures at risk. The Conservation Areas themselves were also not at risk.

Archaeology

Throughout those Conservation Areas there was the potential for a multitude of below-ground heritage assets yet to be discovered. In general, the appraisals promoted a cautious approach to development which might disturb or destroy those assets.

Assessment of significance

A detailed assessment of significance of each of the Conservation Areas had been carried out. Many of the Conservation Areas were split into distinct character areas. Each assessment considered the following features:

- Layout
- Building materials and boundary treatments
- Listed buildings and non-designated heritage assets
- Other buildings
- Landscaping and open spaces
- Views

Opportunities for Enhancement

This section of each appraisal identified the issues facing the Conservation Areas which had been reviewed. A large number of the issues were common to all Conservation Areas, but where they were unique, that had also been highlighted, such as:

- *Both of the Conservation Areas could benefit from enhancement to car parking including planting trees and a review of hard landscaping to ensure its historic appropriateness.*
- *For both areas, on-street parking detracted from the historic character of the Conservation Area.*
- *Kirby suffered from empty properties which could have a detrimental impact on the character of a place over time.*
- *Both Conservation Areas suffered from the loss of, or inappropriate use of, architectural detailing such as UPVC windows and doors, rainwater goods and external paintwork.*
- *In the Conservation Areas modern development usually resulted in a negative or neutral impact on the area as a whole.*
- *The Conservation Areas suffered from some poor maintenance of buildings.*

For Great Oakley a couple of specific issues had been highlighted namely:

A number of buildings within the Conservation Area had been fitted with solar panels on their roofs, including several modern buildings at the eastern end of the High Street. While solar panels were an important element in the move towards sustainable energy sources, they were a modern intervention which could be visually intrusive, introducing large expanses of dark, reflective surfaces onto the traditional roofscape of the Conservation Area which were at odds with its vernacular character and appearance. Some traditional roofscapes, such as thatched roofs and those on listed buildings, were unsuitable for solar panels. Generally, solar panels should be confined to rear roof slopes or secondary roof pitches which faced away from the main thoroughfares or placed on outbuildings, to reduce their impact on the character of the Conservation Area.

The Convenience Store at 9-10 High Street had suffered some unsympathetic alterations, most noticeably the overpainting of the red brick façade, leading to loss of historic detailing and lack of coherence with its neighbours. The large plastic signage blocked the lower part of one of the first floor windows, whilst the ground floor shop window was obscured with vinyl signage. Those features detracted from the character of the Conservation Area. Removal of the paint from the brickwork elevation, removal of the vinyl stickers and installation of a smaller painted timber sign would improve its appearance. This should be in line with the Essex County Council's Shopfront Guidance.

There was also an area-specific issue at Kirby-le-Soken:

The Red Lion Public House had a large, tarmacked car park to the side stretching to Maltings Lane. The large expanse of hardstanding did have an urbanising effect, which detracted from the rural character and appearance of the Conservation Area. There was an opportunity to soften the appearance of the carpark through the addition of boxed planters or a gravel surface. Any changes to the carpark, however, should not undermine the openness of this section of the Conservation Area.

Management Proposals

As outlined above, there were a wide range of issues facing each of the Conservation Areas, many of which shared common themes. This section recommended management proposals which addressed those issues in both the short and long term.

- The preparation a Local Heritage List of non-designated heritage assets was suggested for both Conservation Areas.
- The Council was encouraged to use its enforcement powers to prevent inappropriate development within both of the Conservation Areas.
- Joint working between different Council departments to promote public realm improvements was also suggested.
- The monitoring of trees and additions to tree planting within public open space was recommended.
- Publishing guidance for homeowners and businesses in Conservation Areas could help owners identify appropriate alterations to their properties within Conservation Areas.
- The timely renewal of those Conservation Area Appraisals could help to monitor change within the Conservation Areas more accurately.
- Wayfinding could help with legibility.

Funding Opportunities

- Heritage lottery fund
- S106 Agreements
- Partnership Schemes in Conservation Areas

At the invitation of the Chairman, Councillor White, present in his capacity as Chairman of the Planning Committee, spoke of his positive experience and involvement with the review of the St Osyth Conservation Area and he encouraged Councillor Bush and other relevant Members to fully engage in the consultations around their own, specific Conservation Areas.

The Chairman (Councillor Turner) then read out the following statement:-

"I am pleased that this Committee and our Officers are progressing so well with the review of our Conservation Areas, with the rest to come by the end of this Municipal Year. I am also pleased that we have been able to write specifically to the properties in each of the respective areas to promote these important consultation activities.

Despite this, it strikes me from things I have seen both in my Ward and other areas, that there are still many residents and businesses with properties in our Conservation Areas who may be completely unaware of their location in an area of special architectural and historic character and the fact that there are certain responsibilities and controls placed upon them in respect of development, alterations and trees.

As we have demonstrated that it is possible to identify the properties that lie within each Conservation Area and we are aiming to have undertaken consultation in each of the 20 areas by the time our Council Tax bills go out in 2023, I would like to suggest to the Cabinet that we prepare a simple leaflet on Conservation Areas and their purpose and their implications and that this is printed in time to go out with the Council Tax Bill to all properties in those Conservation Areas. Communication and information is a key part of this Council's adopted Heritage Strategy and I think this leaflet will support the objectives of that strategy."

Having considered and discussed all of the information and advice contained in the Officer report and its appendices:-

It was moved by Councillor Bush, seconded by Councillor Chapman BEM and:-

RESOLVED that the Planning Policy and Local Plan Committee:

1. endorses the new Conservation Area Appraisal and Management Plans for Great Oakley (Appendix 1) and Kirby-le-Soken (Appendix 2) Conservation Area;
2. recommends to Cabinet that the above documents (forming Appendices 1 and 2) be published for consultation with the public and other interested parties;
3. notes that Conservation Area Appraisal and Management Plans for the District's other un-reviewed Conservation Areas will be brought before the Committee in due course over the next 6 months; and
4. recommends to Cabinet that a leaflet be produced by Officers for the residents of properties in all of the District's Conservation Areas and areas proposed, through the Conservation Area reviews, to be included in the Conservation Areas. Such leaflet to inform residents, in basic terms, of the purpose, implications and controls in relation to Conservation area status; and that the leaflets be distributed to the relevant households in those areas with the 2023 Council Tax Bill.

The meeting was declared closed at 7.19 pm

Chairman

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