

# Minutes

## Planning Committee

7<sup>th</sup> September 2010



### Present

| Councillors     | Present   | Councillors                    | Present   |
|-----------------|-----------|--------------------------------|-----------|
| J E Abbott      | Yes       | D Mann                         | Yes       |
| E Bishop        | Yes       | Mrs J M Money                  | Yes       |
| J C Collar      | Yes       | Lady Newton                    | Yes       |
| Mrs E Edey      | Yes       | J O'Reilly-Cicconi             | Yes       |
| Ms L B Flint    | Yes       | Mrs W D Scattergood (Chairman) | Apologies |
| T J W Foster    | Yes       | Mrs L Shepherd                 | Yes       |
| Mrs B A Gage    | Apologies | Mrs G A Spray                  | Yes       |
| Mrs M E Galione | Yes       |                                |           |

### 41 DECLARATIONS OF INTEREST

Councillor J Abbott declared a personal interest in Application No. 10/01070/FUL – 38 Oak Road, Rivenhall as the Chairman of Rivenhall Parish Council which had submitted representations on the application. Councillor Abbott indicated that he had not voted on the matter when it had been considered by the Parish Council.

Councillor E Bishop declared a personal interest in Application No. 10/00970/FUL – Alec Hunter Pre School, Stubbs Lane, Braintree as for a number of years previously he had been a Governor of Alec Hunter High School, Braintree.

Councillor D Mann declared a personal interest in Application No. 10/00970/FUL – Alec Hunter Pre School, Stubbs Lane, Braintree as he knew both supporters and objectors of the application.

Councillor Mrs J M Money declared a personal interest in Application No. 10/01070/FUL – 38 Oak Road, Rivenhall as she was the personal friend of a neighbour. Councillor Mrs Money indicated that she would not vote on this application.

In accordance with the Code of Conduct Councillors remained in the meeting, unless stated otherwise, and took part in the discussion when the respective items were considered.

### 42 MINUTES

**DECISION:** That the minutes of the meeting of the Planning Committee held on 17th August 2010 be approved as a correct record and signed by the Chairman.

43 QUESTION TIME

**INFORMATION:** There were seven statements made, a summary of which is contained in the Appendix to these Minutes.

Any amendments to the Officers' recommendations having taken into account the issues raised by members of the public would be dealt with by conditions, a summary of which is contained within the appropriate minute. Full details of the Decision Notices are contained in the Register of Planning Applications.

44 TREE PRESERVATION ORDER NO. 09/2010 – THIRLMERE CLOSE, CONISTON CLOSE AND DERWENT WAY, GREAT NOTLEY

**INFORMATION:** Consideration was given to a report on Tree Preservation Order No. 09/2010 to which two objections had been submitted. The objections related specifically to tree T6 which was an oak tree in the rear garden of 1 Thirlmere Close, Great Notley.

Members were advised that the Tree Preservation Order had been served on 31<sup>st</sup> March 2010 in respect of 11 trees located at Derwent Way, Coniston Close and Thirlmere Close, Great Notley. The Order had been made to ensure continuity of protection following Essex County Council's decision to revoke the original Order made in 1960 (ref: 3/60) which related to the whole of the area of the former White Court estate. Each of the trees had been assessed using the 'TEMPO' (Tree Evaluation Method for Preservation Orders) process.

Objections had been received from the owner-occupiers of 1, Thirlmere Close, Great Notley and consultants acting for Loss Adjusters on the grounds that the tree was causing subsidence damage to the property and that the tree was not worthy of protection. Neither objector had provided any evidence to support the allegation of damage. Copies of the letters of objection and the Council's responses were attached to the report

It was noted that if the Order was confirmed and conclusive evidence was subsequently submitted to show that the tree was contributing significantly to subsidence, the objectors could make an application to carry out works to the tree.

**DECISION:** That Tree Preservation Order No. 09/2010 in respect of Thirlmere Close, Coniston Close and Derwent Way, Great Notley, and specifically 1 Thirlmere Close, Great Notley, be confirmed.

45 TREE PRESERVATION ORDER NO. 11/2010 – LANGDALE AND WINDERMERE DRIVE, GREAT NOTLEY

**INFORMATION:** Consideration was given to a report on Tree Preservation Order No. 11/2010 to which an objection had been submitted. The objection related specifically to the inclusion of a Group of trees with the reference G4 which consisted of two oak trees and one lime tree situated in the rear garden of 14 Buttermere, Great Notley.

Members were advised that the Tree Preservation Order had been served on 31<sup>st</sup> March 2010 in respect of 90 trees located at Langdale and Windermere Drive, Great Notley. The Order had been made to ensure continuity of protection following Essex

County Council's decision to revoke the original Order made in 1960 (ref: 3/60) which related to the whole of the area of the former White Court estate. Each of the trees had been assessed using the 'TEMPO' (Tree Evaluation Method for Preservation Orders) process.

An objection had been received from the owner of 14 Buttermere, Great Notley on the grounds that the trees constituted a danger in high wind, that the roots constituted a possible subsidence risk to the property and that the trees situated in the middle of the garden obscured light to the property, created a mess and were a health and safety hazard. Copies of the letter of objection and the Council's response were attached to the report

It was noted that if the Order was confirmed, the objector could make an application to carry out works to the tree.

**DECISION:** That Tree Preservation Order No. 11/2010 in respect of Langdale and Windermere Drive, Great Notley, and specifically 14 Buttermere, Great Notley, be confirmed.

46 PLANNING APPLICATION WITHDRAWN

**INFORMATION:** The Chairman reported that the undermentioned planning application had been withdrawn from the Agenda.

| <u>Plan No.</u>              | <u>Location</u>     | <u>Applicant(s)</u>  | <u>Proposed Development</u>  |
|------------------------------|---------------------|----------------------|--|
| *10/00912/FUL<br>(WITHDRAWN) | Hatfield<br>Peveler | Mr & Mrs P<br>Mayhew | Erection of rear garden room extension and oil tank to be positioned in front garden, 36 Priory Farm Road. |

47 PLANNING APPLICATIONS APPROVED

**DECISION:** That the undermentioned planning applications be approved under the Town and Country Planning Act 1990, including Listed Building Consent where appropriate, subject to the conditions contained in the Development Director's report, as amended below, details of which are contained in the Register of Planning Applications.

| <u>Plan No.</u>             | <u>Location</u> | <u>Applicant(s)</u> | <u>Proposed Development</u>   |
|-----------------------------|-----------------|---------------------|---|
| *10/00854/FUL<br>(APPROVED) | Braintree       | Mr Bob Hughes       | Demolition of existing dwelling and erection of one no. two bedroom cottage, The Old House Hotel, 11 Bradford Street. |

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| <u>Plan No.</u>             | <u>Location</u> | <u>Applicant(s)</u> | <u>Proposed Development</u>                                 |
|-----------------------------|-----------------|---------------------|---|
| *10/00855/CON<br>(APPROVED) | Braintree       | Mr Bob Hughes       | Demolition of existing dwelling and erection of one no. two |

bedroom cottage, The Old House Hotel, 11 Bradford Street.

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| <b><u>Plan No.</u></b>      | <b><u>Location</u></b> | <b><u>Applicant(s)</u></b> | <b><u>Proposed Development</u></b>  |
|-----------------------------|------------------------|----------------------------|---|
| *10/00771/REM<br>(APPROVED) | Great<br>Maplestead    | Mr Paul Erickson           | Demolition of existing barn/workshop to side of 1 Toldish Hall Cottages and erection of a detached four-bedroom dwelling house, land adjacent 1 Toldish Hall Cottages, Toldish Hall Road. |

The Committee approved this application, subject to an additional condition and an Information to Applicant as follows:-

Additional Condition

4. Prior to the commencement of the development, details of the arrangements for the accommodation of two off-street parking spaces shall have been submitted to and approved in writing by the local planning authority, and such arrangements as have been approved shall be provided prior to the first occupation of the dwelling.

Information to Applicant

The applicant is reminded that this decision relates to the matters reserved by the outline planning permission reference 08/02080/OUT and that all the remaining conditions of that outline permission continue to apply.

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| <b><u>Plan No.</u></b>      | <b><u>Location</u></b> | <b><u>Applicant(s)</u></b> | <b><u>Proposed Development</u></b>  |
|-----------------------------|------------------------|----------------------------|---|
| *10/00989/FUL<br>(APPROVED) | Sible<br>Hedingham     | Mr D Pannell               | Change of use of first floor to provide one single dwelling to be used in connection with existing ground floor workshop, 16 Swan Street. |

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| <b><u>Plan No.</u></b>      | <b><u>Location</u></b> | <b><u>Applicant(s)</u></b>    | <b><u>Proposed Development</u></b>                |
|-----------------------------|------------------------|-------------------------------|---|
| *10/00981/FUL<br>(APPROVED) | Witham                 | Van Dieman<br>Property Co Ltd | Change of use of 'The Old Chapel' 2A Maldon Road, |

Witham to A3 Restaurant use and alteration to rear addition roof form, The Old Chapel, 2A Maldon Road.

The Committee approved this application, subject to the amendment of Condition No. 6, to the addition of Condition Nos. 8 and 9 and the addition of three Information to Applicant as follows:-

#### Amended Condition

6. Development shall not be commenced until full details of the storage of recyclable and other waste have been submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details. The scheme shall be adhered to thereafter.

#### Additional Conditions

8. Prior to the commencement of the development, plans showing the detailed design of the rooflight shall have been submitted to and approved in writing by the local planning authority, and the development shall be implemented only in accordance with the approved details.
9. Details of any proposed external lighting to the premises shall have been submitted to and approved in writing by the local planning authority prior to its installation. Submitted details shall include the position, design, height, levels of luminance, hours of use and energy efficiency of all luminaries and development shall be implemented in accordance with the approved details and shall be permanently maintained as such. No additional lighting shall be inserted at any time without the prior approval of the local planning authority.

#### Information to Applicant

1. The applicant is advised to consider the arrangements for the installation of odour control equipment, as required by Condition 4, prior to the removal of the brick flue on the rear face of the building as this could provide a suitable route for the required ductwork.
2. In seeking to discharge the external lighting scheme condition you are advised that the details submitted should seek to minimise light spillage and pollution, cause no unacceptable harm to natural ecosystems, maximise energy efficiency and cause no significant loss of privacy or amenity to nearby residential properties and no danger to pedestrians or road users. Light units should be flat to ground and timer / sensor controls should also be included as appropriate. The applicant is invited to consult with the local planning authority prior to the formal submission of details.
3. It is noted that the southern wall of the application premises appears to form a party wall with the adjoining residential neighbour at No. 4 Maldon Road. Your attention is therefore drawn to the Party Wall etc. Act, 1996 – an explanatory leaflet is enclosed for your information.

48 PLANNING APPLICATION DEFERRED

**DECISION:** That the undermentioned planning application be deferred to obtain clarification as to whether an existing boundary fence is to be retained.

| <u>Plan No.</u>             | <u>Location</u> | <u>Applicant(s)</u> | <u>Proposed Development</u>                      |
|-----------------------------|-----------------|---------------------|--|
| *10/01070/FUL<br>(DEFERRED) | Rivenhall       | Mr Allan Dunne      | Erection of detached double garage, 38 Oak Road. |

49 PLANNING APPLICATION REFUSED

**DECISION:** That the undermentioned planning application be refused for the reasons contained in the Development Director's report, subject to Reason 2 being amended to read as follows:-.

| <u>Plan No.</u>            | <u>Location</u> | <u>Applicant(s)</u>    | <u>Proposed Development</u>  |
|----------------------------|-----------------|------------------------|--|
| *10/00970/FUL<br>(REFUSED) | Braintree       | Alec Hunter Pre-School | Erection of pre-school building with associated car park and play area with improved access off Haytor Close, Alec Hunter Pre School, Stubbs Lane. |

Amended Reason 2

2. Policy RLP 90 of the Braintree District Local Plan Review seeks to ensure that designs and layouts of developments promote a safe and secure environment.

Policies contained in the adopted Essex County Council's Highways and Transportation Development Control Policies as originally contained in Appendix G of the Local Transport Plan 2006-2011 and refreshed by Cabinet Member decision on 19/10/07, seek to ensure safety and efficiency for all road users.

Having regard to the existing traffic use and the additional traffic which this proposal is likely to generate or attract, the cul-de-sac (Haytor Close) is considered to be inadequate in terms of width, length and ability to turn to cater for the proposed traffic generation while providing safety and efficiency for all road users.

Furthermore, part of the proposed improvements to enable safe vehicular and pedestrian access to the site fall outside of the site boundary as indicated and outlined in red on the 'Site Location Plan' (Drawing No. 001 Rev A) and detailed on the 'Site Entrance' plan (Drawing No. 009). It has not been demonstrated that the applicant has the permission of the landowner to carry out these improvement works on the land outside the boundary of the site and therefore that safe and adequate access can be achieved to serve the development.

The proposal is therefore contrary to the abovementioned policies.

50 PLANNING APPEAL DECISIONS – JULY 2010

**INFORMATION:** Consideration was given to a report, for information, on planning appeal decisions received during July 2010. The report included a summary of each case and a précis of the decision.

Specific reference was made to the appeal against application number 09/00511/PLD for a Certificate of Lawfulness for Unrestricted A1 Retail Use at Unit 16, Swan Vale Industrial Estate, Colchester Road, Witham. The Inspector had allowed the appeal and had granted a Lawful Development Certificate. However, Members were advised that following the receipt of advice from Counsel, the Council had challenged the decision. A Hearing date was awaited.

**DECISION:** That the report be noted.

PLEASE NOTE: The full list of standard conditions and reasons can be viewed at the office of the Head of District Development, Council Offices, Causeway House, Bocking End, Braintree, Essex CM7 9HB.

(Where applications are marked with an \* this denotes that representations were received and considered by the Committee).

The meeting closed at 9.19pm.

J P L P O'REILLY-CICCONI

(Vice-Chairman in the Chair)

APPENDIX

PLANNING COMMITTEE

7<sup>th</sup> SEPTEMBER 2010

PUBLIC QUESTION TIME

Summary of Questions Asked / Statements Made During Public Question Time

1. Statement by Mr Christopher Callaghan, 1 Thirlmere Close, Great Notley (Owner) Agenda Item 5 Tree Preservation Order 09/2010 - Thirlmere Close, Coniston Way and Derwent Way, Great Notley

Mr Callaghan stated that he was the joint owner of 1 Thirlmere Close, Great Notley and that he had lived at the address since 2001. Mr Callaghan indicated that in 2009 he had noticed cracks appearing in the internal walls and ceilings of the property and in the external walls and that he had contacted his insurance company to seek advice. It had been considered that the oak tree could be causing subsidence and it was suggested that it should be reduced in size or removed. Mr Callaghan indicated that a monitoring programme had been implemented which was almost complete and he suggested that confirmation of the Tree Preservation Order should be deferred for a period of three months, or until the Council had met on site with his structural engineer to discuss the matter.

2. Statements Relating to Application No. 10/00970/FUL – Alec Hunter Pre School Stubbs Lane, Braintree

- (i) Statement by Mrs Sheila Gosling, 3 Haytor Close, Braintree

Mrs Gosling reported stated that none of the supporters of the application lived in Haytor Close, Braintree or close by. Mrs Gosling stated that she was in favour of the pre-school but that she did not support its access from Haytor Close.

- (ii) Statement by Mr Chris Morris, 5 Haytor Close, Braintree

Mr Morris stated that he objected to the proposed change of use of the school grounds. Mr Morris indicated that existing buildings at the site had been provided for agricultural and grounds maintenance purposes and that they had recently been refurbished. Mr Morris stated that Haytor Close was a private road with no records of it being formally adopted. Mr Morris indicated that Haytor Close was a very narrow road and he expressed concern that emergency vehicles and others visiting the Close, where several elderly people lived, might have difficulty gaining access if the proposal went ahead.

- (iii) Statement by Mrs Sarah Studd, 23 Rushmoor Drive, Braintree (for Applicant)

Mrs Studd spoke in support of the proposal. Mrs Studd stated that there was a need for affordable pre-school services and that the applicant had been successful in obtaining funding from Essex County Council to provide this. Whilst Mrs Studd sympathised with the concerns of the residents of Haytor

Close, the Headmaster of Alec Hunter Humanities College had indicated that no alternative sites were available within the grounds of the College. Mrs Studd stated that if the proposal was rejected the pre-school could close which would lead to the loss of jobs. Mrs Studd indicated that purpose built premises would increase the quality of care provided. Mrs Studd stated that there would be adequate car parking at the site and that the majority of staff and children would walk to school. Mrs Studd estimated that there would be a maximum of 30 vehicles visiting the site on a daily basis and she did not consider that the proposal would be detrimental. Mrs Studd indicated that the pre-school had been occupying facilities at Braintree Town Football Club but that these were not suitable in the long-term and that there had been massive increases in rent and running costs. In closing, Mrs Studd handed over a petition signed by 176 people in support of the pre-school.

(iv) Statement by Mr David Cakebread, 6 Anson Way, Braintree

Mr Cakebread stated that the Headmaster of Alec Hunter Humanities College had contacted the Council earlier in the day with a request to speak at this meeting, but that he had been denied. Mr Cakebread stated that the Headmaster was an important person in the consideration of this matter and he suggested that the application should be deferred to enable the Headmaster to make his views known.

*Response by Development Control Manager*

*In response, the Development Control Manager stated that she was not aware that the Headmaster had made a request to speak at the meeting and that Officers would not have discouraged him from speaking.*

3. Statement by Mr William Sullivan, 4 Maldon Road, Witham  
Application No. 10/00981/FUL – The Old Chapel, 2a Maldon Road, Witham

Mr Sullivan stated that he lived near to the proposal. Mr Sullivan stated that the area was zoned for residential purposes and he considered that The Old Chapel was more suitable for residential purposes than as a restaurant. Mr Sullivan stated that there was nowhere for customers of the restaurant to smoke.

4. Statement by Mr Fost, 36 Oak Road, Rivenhall End  
Application No. 10/01070/FUL – 38 Oak Road, Rivenhall

Mr Fost asked if Members of the Committee had received a copy of a letter which had been sent to the Planning Department on his behalf by Andrew Martin Associates. The Chairman confirmed that this had been received.

Mr Fost considered that the proposed garage would restrict lines of sight along the road at a dangerous corner. Mr Fost stated that the dimensions of the proposed garage were not clear and, in particular, he queried whether the proposal would go over the boundary line of Nos. 36 and 38 Oak Road and, if so, the applicant would need to access his property. Mr Fost expressed concern about vehicles that were sometimes parked outside the applicant's house, some of which had for sale notices on them and others were taken away on transporters. Mr Fost considered that the proposed garage would not be used solely for private purposes.