

Minutes

Witham Area Committee

30th January 2007



Present:

Councillors	Present	Councillors	Present
J E Abbott	Yes	P A Heath	No
P R Barlow	Yes	P J Hughes	Yes
K E Bigden (Vice-Chairman)	Yes	M C M Lager	Apologies
K D Boylan	Yes	Ms J S M Martin	Apologies
Dr R L Evans (Chairman)	Yes	R G S Mitchell	Apologies
D M Finch	Apologies	Mrs J B Reekie	Yes
T J W Foster	Yes	Mrs K E Tearle	Apologies
Mrs M E Galione	Yes	R A G Tincknell	Yes
J E B Gyford	Yes	P J R Turner	Yes

Mr T J French, Chairman of the Standards Committee, was also in attendance.

78 **DECLARATIONS OF INTEREST**

The following Declarations of Interest were made:-

- Councillors P R Barlow, K D Boylan and Dr R L Evans declared personal interests:
 - (i) as members of Witham Town Council in Agenda Items 5 and 6 – Application Nos. 06/01143/OUT – Land South of Maltings Lane, Witham and 06/02294/FUL – Assembly Hall Adjacent To Bridge Hospital, Hatfield Road, Witham;
 - (ii) as members of Witham Constituency Labour Party which runs a commuter car park at the Labour Hall in Witham in Agenda Item 7 – Urgent Business.
- Councillor Mrs J B Reekie declared a personal interest as she regularly attends the United Reform Church in Agenda Item 5 – Application No. 06/01143/OUT – Land South of Maltings Lane, Witham.
- Councillor T J W Foster declared a personal interest as a member of Kelvedon Parish Council in Agenda Item 6 – Application No. 06/02159/FUL - St Dominics Residential Home, London Road, Kelvedon.
- Councillor Mrs M E Galione declared personal interests:
 - (i) as the agent was known to her in Agenda Item 5 - Application No.06/02341/FUL – Helston, Braintree Road, Terling;
 - (ii) as a member of Witham & Countryside Society in Agenda Item 5 – Application No. 06/01143/OUT – Land South of Maltings Lane, Witham.

- Councillor J E Abbott declared a personal interest as a member of Witham & Countryside Society in Agenda Item 5 – Application No. 06/01143/OUT – Land South of Maltings Lane, Witham.
- Councillor J E B Gyford declared a personal and prejudicial interest as a Treasurer of Witham Constituency Labour Party which runs a commuter car park at the Labour Hall in Witham in Agenda Item 7 – Urgent Business. In accordance with the Code of Conduct, Councillor Gyford left the meeting during the discussion of this item.

In accordance with the Code of Conduct, all Councillors remained in the meeting, unless stated otherwise and took part in the discussion for the above item and the vote thereon.

79 **MINUTES**

DECISION: The minutes of the meeting of the Witham Area Committee held on 3rd January 2007 were approved as a correct record and signed by the Chairman.

80 **PUBLIC QUESTION TIME**

INFORMATION: There were thirteen statements made, a summary of which is appended 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.

81 **ITEM WITHDRAWN**

INFORMATION: The item in Private Session entitled Asset Management was withdrawn from the agenda at the request of the applicant.

82 **PLANNING AGREEMENTS**

DECISION: That, subject to the applicants entering into a suitable legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 containing the Heads of Agreement as set out in the report, the Development Director be authorised to approve the following planning application in accordance with the conditions set out in the report, and 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>
*06/01143/OUT (APPROVED)	Witham	The Landowners	Erection of approx. 268 Dwellings, B1 business park, primary school, neighbourhood centre, community facilities, open space, landscaping and ancillary infrastructure, Land South of Maltings Lane.

Heads of Terms

As set out in report and amended as follows:

Commutated sums for public art provision and community recreation contribution to be passed to Witham Town Council for consultation with community.

The above application was approved, subject to an additional Condition as follows: As required by Condition 1, each Reserved Matters application shall be accompanied by a full ecological assessment and statement to detail the presence of flora and fauna, wildlife habitats and protected species together with measures for protection and mitigation during and after development. Members also requested the S106 details to come back to Committee for final approval before the decision was issued.

During the consideration of the above application, the Chairman allowed a comfort break of ten minutes between 9.45pm and 9.55pm.

DECISION: Subject to the applicants entering into a suitable planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990, agreeing to vary the initial agreement to state the following: "not to allow, permit or cause the Application Site or any structure constructed thereon to be used other than as a religious meeting place or for such community use as the Council shall in writing approve", the Development Director be authorised to approve the following planning application in accordance with the conditions set out in the report, 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>
*06/02294/FUL (APPROVED)	Witham	Persimmon Homes (Essex) Ltd	Demolition of existing hall and erection of Christian Meeting Room, Assembly Hall Adjacent to Bridge Hospital, Hatfield Road.

With due regard to the contentious nature of this application and the points raised in Public Question Time, Members requested that lessons be learnt in order that such issues did not arise with similar applications in future.

83 **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>
*06/01191/FUL (APPROVED)	Feering	Granville Developments	Erection of dining facility/crèche associated with business park development, Threshelfords Business Park, Inworth Road.
*06/02461/FUL (APPROVED)	Feering	Granville Investments (newden) Ltd	Variation to condition 1 of reserved matters planning permission 04/01418/REM (Amendments to Unit G), Threshelfords Business Park,

The above application was approved, subject to an additional Condition as follows:
5. No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. Such scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate. All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development unless otherwise previously agreed in writing by the local planning authority. All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier. Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.

*06/02159/FUL (APPROVED)	Kelvedon	St Dominics Residential Home	Erection of extension for 11 no. additional bedrooms and ancillary accommodation, St Dominics Residential Home, London Road.
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*06/02341/FUL (APPROVED)	Terling	Mr N Larwill	Demolition of existing bungalow and erection of a dwelling with detached garage, Helston, Braintree Road.
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Councillor Robin Dixon, of Terling and Fairstead Parish Council, joined the table for this item. Councillor Dixon stated that the Parish Council totally supported RLP15 and would have supported refusal but for the planning permission already granted which expires on 18th July 2009. He advised that the Parish Council was in the process of completing a Village Design Statement and noted that this development was at the gateway to the village. He considered that the proposed construction materials could indeed be seen elsewhere in the village. The applicant was prepared to relinquish all development rights and implement a landscaping scheme. He added that the Larwills had been resident in the village in excess of 15 years and the Parish Council wished to support their relocation within the village. Councillor Dixon felt the proposal should be recommended for approval.

The above application was approved, subject to the addition of the following Conditions:

1. The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.
2. The development hereby permitted shall be carried out only in accordance with the approved plans and specifications as shown on Drawing Nos. **PJT/OAK/NLL/001-005** unless otherwise agreed in writing by the local planning authority.
3. A schedule of the types and colour of the materials to be used in the external finishes shall be submitted to and approved in writing by the local planning authority before the development is commenced.

4. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any Order revoking and re-enacting that Order) no enlargement, of the dwelling-house nor the provision of any building within the curtilage of the dwelling-house with the exception of one shed/building of not more than 10 cubic metres, as permitted by Class A and Class E of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the local planning authority.

5. No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping to **the site**. Such scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate, together with measures for tree protection during construction. All planting, seeding or turfing contained in the approved details on the landscaping scheme shall be carried out in phases to be agreed as part of that scheme by the local planning authority. Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species, unless the local planning authority gives written consent to any variation.

6. No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following hours:- Monday to Friday 0800 hours - 1800 hours Saturday 0800 hours - 1300 hours Sunday - No work Bank Holidays - No work.

7. No piling shall be undertaken on the site in connection with the construction of the development until a system of piling and resultant noise and vibration levels has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Operations Director, and shall be adhered to throughout the construction process.

8. No burning of refuse, waste materials or vegetation shall be undertaken on the application site in connection with the site clearance or construction of the development.

9. This permission shall not be implemented in addition to, nor in combination with, planning permission 04/01456/FUL; decision dated 13/9/04.

10. Details of energy and water efficiency measures to be undertaken with the development shall be submitted to, and approved in writing by, the local planning authority prior to the commencement of development. Such details as approved shall be installed prior to the first occupation of the dwelling.

11. No external lighting shall be placed on the site without prior permission of the local planning authority.

84 **PLANNING APPLICATION REFUSED**

DECISION: That the undermentioned planning application be refused for the reasons set out below.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*06/01989/COU (REFUSED)	Fairstead	Mr D White	Change of use of land from agricultural to garden, Land Rear of Willow Cottage, Fuller Street.

Councillor Robin Dixon, of Terling and Fairstead Parish Council, joined the table for this item. Councillor Dixon stated that this was the most complex and protracted application the Parish Council had considered for many years. The property already benefited from the most generous garden in Fuller Street. Councillor Dixon commented that the applicants were entitled to use the entire paddock area without seeking planning permission. He was concerned that granting permission would set a dangerous precedent. The Parish Council recommended refusal as the application did not meet paragraph 3.45 of Policy RLP26 and considered the proposal, if granted, would result in demonstrable harm to the adjacent property. Councillor Dixon invited Members to view the site.

Reasons for Refusal

The site lies within an area where rural planning policies apply. The Braintree District Local Plan Review (Policy RLP26) provides for the extensions of domestic gardens into the countryside subject to the impact on the surrounding countryside and neighbouring dwellings. It is considered that the proposed garden extension, having regard to its size, would be contrary to this policy and result in an unacceptable adverse impact on the rural amenity of the area and the living conditions of the adjacent property, known as The Old Stores through noise and general disturbance or increased opportunities for overlooking.

85. **URGENT ITEM – CAR PARKING IN WITHAM**

(Councillor J E B Gyford left the meeting during the consideration of the following item)

INFORMATION: The Chairman agreed to take the following urgent item of business as it concerned a matter that had been outstanding for some time. The Head of Development Control referred to a planning application in 2002 for a car park at Cut Throat Lane in Witham and the request by the Committee at the time that car parking provision in Witham be considered in the wider context. Mr Southerby advised that a report would be brought to the next Area Committee on 27th February 2007 and that this would include the results of a survey on parking. Members would also receive an update on the situation at Cut Throat Lane. This matter had been outstanding for some time due to the number of issues to be overcome, including that of a ransome strip.

On another matter, Members were advised that there was £92,000 outstanding of S106 monies available from the development at Benton Hall but that this was earmarked for the Blackwater Rail Trail.

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

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

At 10.11pm, in accordance with Paragraph 8 of Part 4 of the Constitution, it was moved, seconded and subsequently Resolved to extend the meeting by 30 minutes in order to complete the business on the agenda.

Again, at 10.45pm, then 11.00pm and subsequently at 11.15pm, it was moved, seconded and subsequently Resolved to extend the meeting by 15 minutes in order to complete the business on the agenda.

The meeting commenced at 7.15pm and closed at 11.20pm.

DR R L EVANS

(CHAIRMAN)

APPENDIX

WITHAM AREA COMMITTEE

30th January 2007

PUBLIC QUESTION TIME

Summary of Questions Asked/Statements Made During Public Question Time

1. Statement Relating to Application No. 06/02341/FUL – Helston, Braintree Road, Terling

Statement by Mr Noel Larwill (Applicant)

Mr Larwill referred to the confusion at the previous meeting over what had or had not been approved in 2004 and the design of the approved property. Mr Larwill hoped all Councillors had received his letter clearly showing what had been approved. He was encouraged that the Parish Council supported the application and considered the main issues to be the size and position of the proposed dwelling. Compared to the existing bungalow, the proposed dwelling was obviously larger but if it was compared to the dwelling approved in 2004, it was very similar. Therefore, comparison should be made with the previously approved application and not the existing bungalow. Mr Larwill stated that the current proposal would not be so visible from the road. He asked the Committee to approve the proposal which he considered would last hundreds of years.

2. Statements Relating to Application No. 06/02294/FUL – Assembly Hall, Adjacent to Bridge Hospital, Hatfield Road, Witham

(a) Statement by Mr Philip Conway (Agent)

Mr Conway noted the proposal was part of the application by Persimmon Homes. His clients were purchasing the Hatfield Road site from Persimmon Homes, building a new hall to replace the existing Spring Lodge premises. The hall would be exactly the same as the existing and used as a place of worship only. Mr Conway was aware of a strategic review of public halls carried out by the Council and noted that Witham was served by four halls. He considered the town would be adequately served by community facilities and stated that the Council had no interest in the building at Hatfield Road. His clients had been happy to be located at Spring Lodge however they understood what the Council was trying to achieve in improving community facilities in Witham and were willing to assist by moving to the Hatfield Road site. This proposal was part of the bigger picture, Mr Conway asked the Committee therefore to grant consent.

(b) Statement by Mr Raymond Ricks, Boyer Planning

Mr Ricks stated that the relocation of the Jehovah's Witness building was another piece of the jigsaw in the redevelopment of the Spring Lodge site. Discussions had ensured the development of the site was appropriate and would release funding to benefit community facilities. No objections had been raised by local residents, the proposed building was a better design than the existing, very much in keeping with the residential area and an

improvement to the street scene. Mr Ricks referred to the issue of the loss of a community facility raised by Witham Town Council. He stated that the hall was not owned by Braintree District Council and was not relied upon by the community. The overall funding released by the redevelopment of the Spring Lodge site would deliver a net community benefit. Mr Ricks asked Members to have regard to this and urged them to support the application.

(c) Statement by Mrs Fenella Hardie, 71 Barwell Way, Witham

Mrs Hardie stated that the site was allocated for community use and questioned whether it was right to hand it over for closed use. She argued that it was used as a community facility, a day centre used the hall for over a year. She considered that Witham was chronically short of halls and meeting room space and the need would grow. Mrs Hardie concluded that the only basis on which any one group should be given the hall was if they agreed to allow the community to use the facility.

(d) Statement by Mr Jonathan Hodgkin, Orchard House, Maltings Lane, Witham

Mr Hodgkin stated that he supported the Town Council's views. He could not see that the hall would be used for community purposes in future. The hall would be sold to a closed sect, the Jehovah's Witnesses had very specific exclusive wishes. He concluded that if the application was granted, a community building would be given to a very small number of people.

3 Statements Relating to Application No. 06/01989COU – Land Rear of Willow Cottage, Fuller Street, Fairstead

(a) Statement by Mr Michael Alder, The Old Stores, Fuller Street, Fairstead

Mr Alder found the recommendation for approval of this application strange. He was aware of the national guidelines and the Council's policies, in particular RLP26. He stated that he had a strong desire to get on and find a compromise but his issue of concern was the proposed patio. Mr Alder was concerned about the location of the patio which was not shown on any plans but he had thought there was a revised application. In his professional capacity, Mr Alder reported that the available plans were not accurate in relation to his property which showed a separate barn that was now integral to his house. He was concerned that the proposed patio would be sited approximately 3.7m from an en suite bedroom and felt it should be sited behind Willow Cottage. He emphasised his desire to reach a compromise with the applicant as he accepted that refusal would be upsetting for the applicant as its acceptance would be upsetting for Mr Alder. He suggested that the Committee defer the application and consider the Listed Buildings Officer's advice.

(b) Statement by Mr Darren White (Applicant)

Mr White stated that the reason for the application was his family's attempt to have enjoyment of their garden. He advised that the neighbours had erected a building on the south facing boundary which blocked the light to the existing patio and displayed photographs to illustrate this. Mr White stated he was trying to live with the neighbours but had had serious

problems. He concluded that the application had been made in the proper way to save further problems.

4 Question Relating to Application No. 06/02159/FUL – St Dominics Residential Home, London Road, Kelvedon

Question by Mr William Clarke, 'Newmans', St Mary's Square, Kelvedon

Mr Clarke referred to a tree report dated 14th November. He had been unable to find out exactly what Ganoderma Adspersum meant and asked that this be investigated before a decision was made.

The Development Control Manager responded that this was a fungus which affected the roots and bottom part of the trunk, particularly in Horse Chestnut trees. It decayed the tree to such an extent that, if other diseases were present, the life span of the tree would be dramatically curtailed.

5 Statements Relating to Application No. 06/01143/OUT – Land South of Maltings Lane, Witham

(a) Statement by Mrs Ann Gould, 26 Collingwood Road, Witham

Mrs Gould spoke on behalf of Churches Together in Witham and District. She stated that Churches Together endorsed their previous decision supporting the Baptist Church should the Council decide to have a church separated from the community centre. If a joint church and community centre was agreed, Churches Together would then support Bethel's Project. She questioned whether there was another site in the town suitable for a main line denominational church able to provide various activities for the local community together with a meeting place for community groups.

Mrs Gould also referred to Application No. 06/02294/FUL – Assembly Hall, Adjacent to Bridge Hospital, Hatfield Road, Witham. She remarked that the facility was given for community use and stated that Churches Together would expect any church denomination or other group taking over the site to provide community facilities and activities for the local community.

(b) Statement by Mr Tim Jones, 33 Armond Road, Witham

Mr Jones stated that the Bethel's application was quite late as they believed the decision on the preferred denomination had already been made. He advised Members that plans for a community worship facility that went far beyond worship had been formulated. Bethel's was open seven days a week to reach a wider community than just its members. Mr Jones stated that if the Council desired a separate place of worship, Bethel's would back the Baptist church, but if a joint church and community centre was preferred, they would continue with their plans. He asked the Council to consider conveying a preference for either option in order that both parties could make plans accordingly.

(c) Statement by Rev Michael Child (Pastor, Witham Baptist Church)

The Revd Child stated that Witham Baptist church had for many years been seeking premises to develop its services, ministry and community activities. He asked that the Baptist Church be considered for allocation of the proposed site should the Council prefer a separate church building from the community hall. Revd Child emphasised that the Baptists were not in competition with any other Christian group and fully supported the Bethel Christian Fellowship if the Council wished the church to share facilities with a community hall. Revd Child requested the Council's assistance in finding suitable premises or land elsewhere in Witham if the latter proposal was accepted.

(d) Statement by Mr Andrew Wood, Wood End Farm, London Road, Witham

Mr Wood stated that he was losing faith, the second relevant day had passed but a church site had still not been identified. He was nervous that the requirement for the developer to transfer the church land to the Council or its nominee prior to the occupation of the 50th dwelling would not be met. He hoped a community centre site would soon be identified.

6. Statement relating to a Complaint which has lasted over two and a half years

Statement by Mr Edward Dersley, 63 Glebe Crescent, Witham (read by the Chairman)

"Thank you for the opportunity to seek your opinion regarding a complaint which I have repeatedly but unsuccessfully raised with the Council in the first instance in June 2004. Following an investigation the Local Ombudsman has fully upheld my complaint.

My complaint in essence is that notwithstanding clear evidence that a Council owned boundary hedge to my property of Leyland Cypresses was too high, the Council did not support my complaint and apart from a minor "one-off" measure the hedge has been allowed to grow unchecked for years as can be seen may I add from the attached photograph (*circulated to Members of the Committee*).

I am unable to refer to all of the substantial respective correspondence exchange between the Council, myself and the Local Government Ombudsman but all the references used in this statement can easily be substantiated. I have therefore concentrated on the Local Ombudsman's letter to the Council on the 9th October 2006 where she sets out the points of action for the Council.

Here she makes a clear point with regard to the delay in dealing with the complaint stating that "the Council is at fault in this matter" and continues by saying "that I have repeatedly complained to the Council about the hedge and considers that more could have been done to assist me".

Some eight weeks later I was advised in the letter to me dated the 5th December 2006 from the Council that the Ombudsman's suggestions for a local settlement had been accepted.

These included that the Council should remedy the injustice caused to me and to investigate the issue in a timely manner – if it finds that the hedge height is unacceptable then it should seek to enforce the matter via the tenancy agreement as soon as possible. Surely a clear emphasis to move this along without delay.

The Ombudsman further requests that I be kept informed during this process.

Sadly no date has been given for action and the hedge continues to grow and I was also not advised as promised by the Council of the arrangements for a Tree

Services Consultant to call and it was pure luck that I was at home when he arrived.

Additionally, the Ombudsman asked the Council to pay me £200 which includes payment for a "failure to properly investigate the case". I have received this payment.

This complaint has unbelievably dragged on for over two and a half years using up many hours of people's effort and my wife and I have been at our wits end of what to do for all of this time. This issue could have been so easily and quickly settled because of the conclusive evidence that the hedge was too high.

I had no option but to involve the Ombudsman who has ruled against the Council. Sadly this is the second occasion the Ombudsman has held up a complaint I have made against the Council.

I believe this issue could and should have been resolved within weeks of me raising it. I feel very badly let down and I would be grateful to get the Committee's opinion of this case."

Mr Dersley stated that Members of the Witham Area Committee would be very welcome to visit him and see the situation for themselves.

The Chairman invited Members to remark on this issue. The Ward Members commented they had advised Mr Dersley to take the matter up with the Ombudsman when the Council failed to address his complaint. The Committee requested the relevant senior officer to report to the next Witham Area Committee meeting on 27th February on the following issues:

- what had been resolved;
- why the Ombudsman's recommendations had not been completely implemented;
- why this complaint had been ongoing for so long;
- what lessons the Council had learnt from this matter.

Action: The Witham Area Manager to provide a report for the Witham Area Committee on 27th February 2007 covering the above issues.