

MINUTES
of the
PLANNING COMMITTEE
held on 16 April 2024 at 7pm

Present:

Councillor J. Sosin (Chair)
Councillor S. Dobson (Vice Chair)

Councillors S. Hall, R. Hyland, J. Lardge, R. Lee, E. Sampson, A. Thompson, A. Thorpe-Apps and N. Walsh

Also Present:

Councillors P. Clark and S. Davis

1. Chair's Announcements

For the benefit of the public, the Chair explained the arrangements for the meeting.

2. Apologies for Absence

Apologies for absence were received from Cllrs Armstrong, Pappa, Tron and Wilson. Cllr Walsh substituted for Cllr Tron.

3. Declarations of Interest

All Members were reminded that they must disclose any interests they knew they had in items of business on the meeting's agenda and that they must do so at this point on the agenda or as soon as they became aware of the interest. If the interest was a Disclosable Pecuniary Interest they were also obliged to notify the Monitoring Officer within 28 days of the meeting. Any declarations are recorded in the relevant minute below.

4. Minutes

The minutes of the meeting on 5 March 2024 were confirmed as a correct record and signed by the Chair.

5. Public Question Time

One public question had been submitted for Item 6. [The question submitted in advance can be viewed via this link.](#)

6. 21/02475/FUL – Land East of Great Leighs Racecourse, London Road, Braintree, Essex

The Committee considered an application for a five plot travelling showpersons site situated on a strip of land between the A131 and London Road, Great Leighs. The Committee heard that part of the site had historically been used for the entrance to the former Essex Showground and now benefited from planning permission for car parking associated with the Racecourse and therefore lied within the Special Policy Area for the Racecourse. The Committee were also informed that the Masterplan for Strategic Growth Site 7 had accepted the principle of a TSP site and in recognition of that, it was proposed to be included within Strategic Growth Site 7a within the recently published Chelmsford Local Plan – Preferred Options Consultations Documents and thereby be excluded from the Special Policy Area. The Committee heard that the proposal met all of the criteria of Policy DM3 (A) and provided broad compliance with the Council's Travelling Showperson Planning Advice Note and the Government's planning Policy for travelling sites, subject to various planning conditions. The site was acceptable in policy principle and acceptable in its own right based upon policy guidance. The Committee were informed that the application was being recommended for approval subject to conditions and a legal agreement securing a serviced showpersons site, relevant financial contributions and the safeguarding of land to the site frontage for future cycleway/footway improvements along London Road.

In response to questions from the Committee, officers stated that a decision had been taken in Planning to bring applications within the area to Committee for a decision, due to their relevance to Strategic Growth Site 7. It was also noted that the Highway Authority were content with the proposals and the entrance and exit of large vehicles into the site. There were other applications planned for the wider highways works in the area that could lead to a reduction in the speed limit along London Road. The access arrangements were however acceptable in their own right. The Committee also heard that there was an ideal space within the scheme (to the north) for landscaping works and the applicant had committed to three trees per plot plus compensation for trees lost through previous works and the proposal. The most northerly building had been positioned to provide an 'acoustic barrier', supplemented by acoustic fencing to its side, to the neighbouring property. Impact on neighbours was considered acceptable. It was also noted that there would be background noise from parallel roads, but this had been assessed and the public health team had not raised concerns with noise or air quality – condition recommended for installation of the proposed acoustic fencing. The Committee also heard that the heads of terms of the legal agreement would agree the specific use of the site and if in the future changes were sought then a new planning permission would be required. Any legal tie to Site 7a would need to be considered as part of the planning application for that site.

RESOLVED that the application be approved, subject to an agreement, as indicated in the report and also the conditions detailed in the report.

(7.02pm to 7.27pm)

7 & 8. 24/05019/TPO Works to trees subject to a TPO - 48 Waverley Crescent, Runwell, Wickford, Essex, SS11 7LW & 24/05020/TPO Works to trees subject to a TPO - 52 Waverley Crescent, Runwell, Wickford, Essex, SS11 7LW.

The Chair agreed to consider Items 7 and 8 together, with one officer report due to the similar nature of the items. The Committee also discussed both items together, before voting on separate resolutions for Items 7 and 8.

The Committee considered two applications to fell preserved oak trees within the rear gardens of 48 & 52 Waverley Crescent due to the trees being alleged as a contributory factor in subsidence of the rear extension at 50 Waverley Crescent. The Committee heard that information and evidence submitted in support of the application, indicated that the oak trees were a contributory factor implicated in the subsidence occurring at the property. The Committee heard that the trees concerned were protected by a Tree Preservation Order and were mature specimens, that appeared to be in good health. The Committee were informed that the proposed felling would prevent the influence of the trees on the soil below the foundations of the extension at number 50 and provide long term stability. The Committee also heard that there had been objections from local residents and the local Parish Council, including a petition put forward against the felling of the trees. The Committee heard that sufficient evidence had been provided to indicate the trees likely being a contributory factor implicated in the subsidence occurring at number 50 and that previous reductions and maintenance had provided ineffective at managing the subsidence. It was noted that the felling would be regrettable, however consent could not reasonably be refused in light of the evidence available, and that a condition requiring replacement planting was recommended for a low water demand species. It was also noted that the granting of planning consent would not remove the owner's private property rights and the Council would not be able to require the felling of the trees. The Committee were informed that the applications were recommended for approval and had been called in by the local ward Councillor due to local residents concerns.

The Committee heard from two members of the public who raised concerns about the loss of abundant wildlife if the trees were felled, the trees were not causing them any problems despite being in their own garden, other trees had been felled in the past, crowning had been required to take place but professionals had told them that the trees were not causing subsidence to their neighbours extension. They also stated that there were a large number of oak trees within the same TPO and were concerned about whether they would end up being felled as well. They also told the Committee that the oak trees had been valuable environmental assets for over 200 years and should continue to be. They also highlighted that there was no definitive proof that those exact oak trees were causing the subsidence and felling them was unnecessary.

The Committee heard from the two local ward members, who raised the following concerns with the recommendation to approve the felling of the trees.

- There had been various TPO matters recently in Runwell, with recommendations for felling.
- The tree surveys had been undertaken by consultants appointed by the insurance companies, who often then ended up with the work to fell the trees at the end.
- The trees were 100 years or more older than the extension and experts had told them it was not likely that oaks would cause such subsidence from 30 meters away.
- Why had further preventative measures such as regular crowning or root barriers not been properly considered?

- The Council did not appear to be keen to protect important TPO's that they had put in place themselves and this conflicted with the Council's Climate Change and Ecological Emergency plan.
- The foundations that had been used for the extension may have been sufficient at the time, but would now be significantly under the expected requirements.
- No DNA analysis had been undertaken, so there was no proof that the specific trees being considered were actually causing any subsidence.
- It seemed that in the future the whole TPO would be removed, leading to 30 Oak trees potentially being felled.
- It seemed far too easy for insurance companies to get TPO's removed when it suited them.
- There was significant local opposition to the felling of the three trees that had not been given sufficient weight within the officer's recommendations.
- Why had there not been any subsidence within buildings closer to the trees in question?

In response to the points raised by the local ward members, officers stated that they did not feel a precedent was being set, other trees in the ward had recently been protected and that the reports had been assessed by officers independently. The Committee also heard that roots did not always follow one particular direction and would seek out the best soil conditions, hence why there were not issues with the other properties nearby. The Committee were also informed that officers were satisfied there was sufficient evidence to say the located oak roots were causing the alleged subsidence. It was also clarified that language such as alleged or likely was used in these situations, to offer an element of protection for officers and the Committee, for example if the application was refused, then the Committee could not be tied to a 100% view in advance. The Committee heard that DNA testing would be too expensive to carry out and the risk of heave had been considered in the independent reports. The Committee also heard that natural environment officers had visited the properties concerned and looked at the issues carefully. Officers also clarified that they were not requiring the trees to be felled, rather that their recommendation was that consent for felling should be approved, but that this would not have any effect over the property owners rights to not fell the trees. In conclusion officers stated that, they felt there was sufficient evidence of subsidence to justify the felling of the three trees.

In response to points raised by the Committee, officers stated that,

- Previous crown reductions had not helped with the subsidence problems and measures such as root barriers, would have mixed chances of success, but more importantly, the Committee could only consider the application that had been put before them and not other possible solutions.
- The Council would be liable for any future damage to the extension in question, if consent was not granted for the felling of the trees.
- DNA testing was not a viable option due to the cost and requirement of specialists to carry out the work.
- The measurements carried out for subsidence indicated a seasonal pattern, meaning that the rehydration of soil, indicated it was from vegetation as otherwise it would not change again in the winter.
- Nobody could guarantee with 100% certainty that the correct trees were being proposed for felling, only that the evidence presented did detail seasonal patterns of movement that only came from vegetation.
- There was not a planning consideration related to an acceptable level of subsidence.

- These oak trees were the closest ones within the zone of influence, so officers were satisfied that the correct trees had been proposed. It was unlikely to be others which were further than 30 meters away instead.
- Live oak roots had been found when a borehole had been taken of the ground just outside of the extension in question.

The Committee's legal advisor also confirmed that if consent was not granted, then the Council would be liable for any future subsidence claims and the owner would be entitled to compensation under Regulation 24 of the 2012 TPO Regulations. It was noted that damage would have to be evidenced but if it was then the Council would be potentially liable to cover the cost of works, which could run into significant financial amounts. It was clarified however that the Committee were entitled to refuse consent but should be aware of the fairly high risk of future compensation costs.

Officers also confirmed that the owners could refuse to remove the trees, even after consent was granted but then they would likely be liable for future compensation costs themselves.

RESOLVED that both applications be approved, subject to the conditions detailed in the relevant reports.

(7.29pm to 8.49pm)

9. Planning Appeals

RESOLVED that the information submitted to the meeting on appeal decisions between 15th February 2024 and 25th March 2024 be noted.

The meeting closed at 8.49pm.

Chair