

**PLANNING COMMITTEE held at COUNCIL OFFICES LONDON ROAD  
SAFFRON WALDEN at 2.00 pm on 27 JULY 2011**

Present:- Councillor K Eden – Vice-Chairman in the Chair.  
Councillors C Cant (acting as Vice-Chair), J Davey, R Eastham,  
K Eden, E Godwin, K Mackman, J Menell, D Perry, V Ranger,  
J Salmon and L Wells.

Officers in attendance:- L Bunting (Democratic Services Officer), C Oliva  
(Solicitor – Litigation and Planning), M Ovenden (Head of  
Development Control), J Pine (Policy and Development Control  
Liaison Officer) and A Taylor (Divisional Head of Planning and  
Building Control).

DC12

**APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Apologies for absence were received from Councillors J Cheetham and  
J Loughlin.

Councillors Eden and Perry declared non-prejudicial interests in applications  
1045/11/FUL Saffron Walden and 1323/09/FUL Saffron Walden as members  
of Saffron Walden Town Council.

Councillor Davey declared a personal and non-prejudicial interest in  
application 0874/11/FUL Great Easton for social connections.

Councillor Menell declared a personal and non-prejudicial interest in  
0947/11/FUL Chrishall as she received the parish newsletter

At the start of the meeting the Chairman referred to item 5 on the agenda  
and announced that, as there were a large number of members of public  
present for the discussion on that item, (1323/09/FUL Tesco, Saffron  
Walden), that it should be brought forward and considered first. This was  
agreed.

DC13

**MINUTES**

The Minutes of the meeting held on 29 June 2011 were received, confirmed  
and signed by the Chairman as a correct record.

It had been noted that, at the Full Council Meeting held yesterday, Tuesday,  
26 July, the decision was to change the title of the Development Control  
Committee to Planning Committee as of that meeting.

DC14

**UTT/1323/09/FUL: EXTENTION TO EXISTING CLASS A1 RETAIL STORE  
TESCO RADWINTER ROAD SAFFRON WALDEN**

The Divisional Head of Planning and Building Control reported that since the  
resolution to grant planning permission for the Tesco extension at the Special  
Development Control Meeting on 9 December 2010, new survey data had

become available which had resulted in Sainsbury's requesting that the original resolution to grant be reconsidered in light of the new information.

It was reported that of the Committee had resolved to grant planning permission under reference UTT/1323/09/FUL for the "Extension to existing Class A1 retail store" at the meeting held on 9 December 2010. However the original report contained an error and referred to the Committee resolving to grant permission subject to a S106 Agreement and the following heads of terms were listed:

- £75,000 to be paid for MOVA works to Elizabeth Way/Radwinter Road traffic lights
- £180,000 to be paid towards the investigation and implementation of improvement measures at the Air Quality Management Area location of Thaxted Road/Radwinter Road/East Street/Chaters Hill.
- £3,000 to be paid for monitoring the Travel Plan

The Committee had resolved that the head of term relating to the MOVA (Microprocessor Optimised Vehicle Actuation) should be replaced. Therefore condition 20 was added to the decision notice and stated: "Before development commences details of the implementation of MOVA controls to the signal controlled junction of Elizabeth Way and Radwinter Road shall be submitted to and approved in writing by the local planning authority. Subsequently the implementation of MOVA controls shall be carried out prior to the first use of the extensions hereby approved for retail purposes." The Section 106 Agreement had therefore been drawn up without reference to the £75,000 contribution in line with the original resolution. The error does not affect any of the further information contained in the report.

The Divisional Head of Planning and Building Control continued to report that, since the resolution had been granted, some factual changes in circumstances had arisen and were listed below:

- Sainsbury's had lodged an appeal in respect of their application refused under reference UTT/1451/09/FUL. It was anticipated that the appeal would be held in September 2011.
- Waitrose had been granted planning permission for an extension to their store.
- Sainsbury's had submitted a revised application for a store approximately 20% smaller than the previously refused scheme. A parallel application had been submitted for a petrol filling station. These applications were currently being considered by the Council, references UTT/0787/11/FUL and UTT/0788/11/FUL.

The Divisional Head of Planning and Building Control went on to outline the comprehensive report which contained details of a household survey of shopping patterns, undertaken by NEMS Market Research (referred to as NEMS data). One of the principal results of the NEMS data was that a markedly different comparison goods sales profile, with sales levels showing slight over-trading in comparison to the original survey data considered as part of the decision making process in relation to the original Tesco application. The Retail Assessment submitted with the Tesco application predicted retail growth in comparison goods shopping to increase by £36mpa from £140.58mpa to

£176.87mpa by 2012. Retention rates for comparison retail expenditure had been expected to be around 42%.

It had been revealed in the NEMS data that for the year 2011 around £314.28mpa comparison goods expenditure would be available within the district, of which around £37.71mpa expenditure would be available within Saffron Walden, representing around 12% retention rate of the District's expenditure. These expenditure and retention rates had been significantly different to those originally reported.

Correspondence had been received from counsel representing Sainsbury's, that, in their opinion, the results of the NEMS data had "radically altered its (the consultants) view of the health and prospects of Saffron Walden town centre." The following areas were identified where they considered the Council had now substantially altered its previous position:

- (a) The recent NEMS survey indicated that there was not the level of overtrading for comparison turnover (as was promoted in the Tesco committee report);
- (b) There was a concern that Saffron Walden would lose further influence in terms of comparison trading from the town centre given committed growth in competing facilities.

The Council had received a letter in response from Berwin Leighton Paisner, who represented Tesco which advised that, on the basis of the information they had been party to, there had been no change in material circumstances relevant to the grant of planning permission for the Tesco scheme. Advice had therefore been sought from Counsel on this matter who advised that the Development Control Committee, as planning decision maker, should be given the opportunity to assess matters for itself.

The Council's consultant was asked to review the advice given in respect of the original application in light of the NEMS survey. The report focussed on the comparison goods issue as the consultant was of the opinion that there was no change to the original recommendation to the Tesco proposal in respect of the convenience goods impact. The assessment concluded that there would be a surplus of floorspace available for the zone and as such there would be no significant effect upon the vitality and viability of the comparison shopping in Saffron Walden town centre. It was predicted that retail expenditure for comparison goods would continue to grow but retention rates were likely to fall. Given that there were no immediate commitments for additional comparison goods floorspace within the town centre there would continue to be a requirement for additional capacity. As such it was the Council's consultant's view that the NEMS data did not lead them to advise that there was a comparison goods impact objection in relation to either the proposed Tesco extension or the proposed Sainsbury's scheme, either in isolation or when considered together.

After careful consideration and discussion by Members of the Committee, it was

RESOLVED that the Section 106 Agreement be sealed and the decision notice issued in accordance with Members' resolution to approve the

application subject to conditions and an agreement at the meeting on 9 December 2010.

*Tony Fletcher spoke for the application. Paul Gadd spoke against the application.*

DC15

## **PLANNING APPLICATIONS**

### **(a) Approvals**

RESOLVED that planning permission be granted for the following developments, subject to the conditions, if any, recorded in the officer's report.

**0947/11/FUL Chrishall** – New access, relocate and extend car parking and associated landscaping – 11 High Street for Ms A Beeching.

Subject to rewording of condition to say no fence unless agreed then continue about landscaping.

*Ms A Beeching spoke for the application.*

**0874/11/FUL Great Easton** – Proposed redevelopment of Moat House to provide 26 extra care units, 1 visitor suite with associated car parking and landscaping (amendments to approved planning permission UTT/0426/06/FUL). Retention of existing access to serve Moat Cottage – Moat House, Dunmow Road for R V Moat House Limited.

**0808/11/FUL Great Canfield** - Proposed continued use of long stay caravan pitch for the use of one gypsy family. (Not subject to condition C.13.4 UTT/0998/08/FUL "The mobile home and touring caravan hereby permitted shall be occupied only by Mr T Boswell and Ms A Fuller and when they cease permanent occupation they shall be removed from the site within 2 weeks of this event and the land shall be restored to its former condition within 1 month in accordance with a scheme of work submitted to and approved by the local planning authority in writing") – Tandans, Canfield Drive, Canfield Road for Mr and Mrs Boswell.

Subject to the inclusion of a personal condition referring to Mr Boswell.

*James Kellerman spoke against the application. Cllr Jon Sams spoke for the Parish Council against the application. Ron Perrin spoke for the application.*

**0824/11/FUL Stansted** – New hanger and ancillary accommodation – Hanger 12 plot, Ninth Avenue, London Stansted Airport for Fayair (Stansted) Ltd.

### **(b) District Council Application**

RESOLVED that pursuant to the Town and Country Planning (General Regulations 1992, permission be granted for the proposed development subject to the conditions recorded in the Officer's report.

**1045/11/DC Saffron Walden** – Erection of steel framed industrial building – Council Depot, Shire Hill Industrial Estate for Uttlesford District Council.

DC16

**ESS/65/06/UTT: EASTON PARK ESTATE - EXTRACTION OF SAND AND GRAVEL - DEED OF VARIATION**

The Head of Development Control presented a report concerning a deed of variation to amend a legal agreement on land at Easton Park which would permit the owner to implement a recent planning permission for sand and gravel extraction. The amendment would retain the provisions of the agreement except for permitting the implementation of the recent planning permission.

The report outlined details of an agreement that was entered into in 1939 between the executors of Frances Evelyn Countess of Warwick and Dunmow Rural District Council, as planning authority, limiting the future development of the land at Easton Park. Dunmow Rural District Council was then replaced, along with Saffron Walden Rural and Borough Councils, by Uttlesford under the local government reorganisation of 1974. While Uttlesford the local planning authority for most planning matters, the County Council responsibility for determining applications relating to minerals and waste.

In March 2011 planning permission was granted by the Minerals Planning Authority (Essex County Council) on 53.5 hectares of the site which permitted *"The winning and working of sand and gravel, erection of a concrete batching plant workshop and ancillary buildings and the importation and treatment of inert material to produce secondary aggregates and reclamation material for progressive restoration to landscaped farmland and the temporary use of the Lodge as offices associated with the development. Preferred Site K, Land off the A120, Little Easton, Great Dunmow"*. The permission to land to the northwest of Highwood. It was the subject of a seventy nine page report, a site visit by the County Council's committee, a twenty four page, sixty seven condition decision notice and forty two page S106 agreement.

The planning application was approved after consideration of all planning issues but its implementation would be prevented by the 1939 agreement. The landowner had asked for the agreement to be amended to permit the implementation of the permission. The permission related to approximately 16% of the total area subject to the 1939 agreement.

The 1939 agreement was made with the planning authority and officers consider that the judgement about whether to amend it should be made on planning grounds. It was because the planning issues had already been considered in the planning application process carried out by the County Council that there were no grounds for this Council to refuse to vary the 1939 deed.

A letter had been received from GoodyBurrett LLP who act for their client, Mrs Joan Pickford of Stone Hall, Easton Park, stating that "... at no time has either authority given any statutory or other notification to our client, either of the application for planning permission, terms of the s.106 agreement being discussed or the proposed variation of the 1939 agreement." The letter also referred to Mrs Pickford's enjoyment of a water supply from a borehole.

Counsel also referred in the letter to the 1939 Agreement in their letter which states "... As we understand the transitional provisions, an agreement under s.34 of the Town and Country Planning Act 1932 (such as this) is treated as a planning obligation to which ss.106 and 106A of the 1990 Act apply. If you disagree with that, doubtless you will tell us and give your reasons."

The Council's Solicitor – Litigation and Planning considered that Counsel was incorrect on a legal point in that there was no requirement for the Council to consult. However, she was sure that the County Council would have consulted appropriately. She also said that the S106 agreement had been gone through very carefully, was found to be binding and is satisfied that it can be enforced.

The Head of Development Control commented that clear reference had been made to Stone Hall in the Committee report relating to the application.

Members fully discussed the variation application after which it was

RESOLVED that the deed of variation be agreed.

*Mr Matthew Sorrel Cameron of Counsel, acting on behalf of Mrs Joan Pickford of Stone Hall, Easton Park, Great Dunmow, objecting to the deed of variation.*

DC17

**ENF/0265/09/B: GREENARBOUR RADLEYS END DUTON HILL GREAT EASTON**

The Head of Development Control outlined this report to Members regarding permission for the Council to enter into a S106 agreement with the property owner to allow the continued use of an outbuilding as extra accommodation to the main dwelling and preclude its separation or sale as a separate dwelling. No alterations were proposed and therefore there was no associated planning application.

The report described the property which was on the northern side of the main Thaxted – Dunmow Road (B184) approximately opposite Blamsters Rise. All access to the site was from a single treed access with a parking area in the yard enclosed by the dwelling and coach house. There was no separate curtilage or sub division of the site into more than one unit. The brick building had been used for ancillary purposes to the main dwelling including providing accommodation used in conjunction with the main dwelling. Listed Building Consent was granted in 1998 for alterations to form an annexe.

The whole site – main dwelling, coach house and garden - changed hands a couple of years ago. The owner had confirmed that he intended to retain the building as part of the main property and not separate it as a dwelling in its own right. To preclude it becoming a separate dwelling Officers had advised the owner to enter a S106 agreement to tie the use and ownership of the accommodation to the main dwelling. It was therefore

RESOLVED that the Council entered into a S106 agreement with the property owner to allow the continued use of an outbuilding as accommodation used in conjunction with the main dwelling and preclude its separation or sale as a separate dwelling.

DC18      **ENFORCEMENT – PROGRESS REPORT**

The Committee was updated on the progress of current enforcement cases.

DC19      **APPEAL DECISIONS**

The Committee noted details of the appeal decisions that had been received since the last meeting.

The meeting ended at 4.05 pm