

Minutes

Planning Committee 13th February 2024



Present

Councillors	Present	Councillors	Present
J Abbott	Yes	A Hooks	Yes
J Beavis	Yes	A Munday	Apologies
L Bowers-Flint	Yes	I Parker (Chairman)	Yes
T Diamond	Yes	F Ricci	Yes (until 8.00pm)
M Fincken	Apologies	P Schwier	Yes
J Hayes	Apologies	G Spray	Yes
D Holland	Yes		

Substitute

Councillor K Bowers attended the meeting as a substitute for Councillor J Hayes. (Councillor Bowers left the meeting at 8.00pm).

At the commencement of the meeting, the Chairman of the Planning Committee announced that she had decided to re-order the Items on the Agenda and that Item 6 – ‘Tree Preservation Order 07 2023 – Old Magistrates Court, Witham’ would be considered before Items 5c and 5d – ‘Application Nos. 23 02988 FUL and 23 02996 LBC – Witham Town Council, Town Hall, 61 Newland Street, Witham’.

58 **DECLARATIONS OF INTEREST**

INFORMATION: The following interests were declared:-

On behalf of Members of the Committee, Councillor I Parker, the Chairman of the Planning Committee, declared a joint non-pecuniary interest in Application No. 23/01911/FUL – Land South of 231 Witham Road, Black Notley as the Applicant’s Agent, Mr J Baugh, was an Elected Member of Braintree District Council, who was known to them.

Councillor K Bowers declared a non-pecuniary interest in Application No. 23/02988/FUL – Witham Town Council, Town Hall, 61 Newland Street, Witham and Application No. 23/02996/LBC – Witham Town Council, Town Hall, 61 Newland Street, Witham in his role as the Council’s Cabinet Member for Resources and Performance, as Braintree District Council was the applicant and the owner of the

property. Councillor Bowers left the meeting when the applications were considered and determined and he did not return.

Councillor F Ricci declared a non-pecuniary interest in Application No. 23/02988/FUL - Witham Town Council, Town Hall, 61 Newland Street, Witham and Application No. 23/02996/LBC – Witham Town Council, Town Hall, 61 Newland Street, Witham in his role as the Council's Cabinet Member for Economic Growth and Inward Investment, which had included the assignment of funding for the project. Councillor Ricci left the meeting when the applications were considered and determined and he did not return.

Councillor G Spray declared a non-pecuniary interest in Application No. 23/02988/FUL - Witham Town Council, Town Hall, 61 Newland Street, Witham and Application No. 23/02996/LBC – Witham Town Council, Town Hall, 61 Newland Street, Witham in her role as the Council's Cabinet Member for Planning and Infrastructure, as she had attended Portfolio Briefings at which the applications had been discussed. Councillor Spray stated that she had not been involved with the decision making process, or the allocation of grant funding for the project and that she would consider the applications on planning grounds. Councillor Spray remained in the meeting when the applications were considered and determined.

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

59 **MINUTES**

DECISION: That the Minutes of the meeting of the Planning Committee held on 23rd January 2024 be approved as a correct record and signed by the Chairman.

60 **QUESTION TIME**

INFORMATION: There were no questions asked, or statements made.

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

61 **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 and reasons contained in the Planning Development Manager's report. Details of these planning applications are contained in the Register of Planning Applications.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*23/02988/FUL (APPROVED)	Witham	Braintree District Council	Refurbishment of existing toilets and creation of new external door entrance with ramp, Witham Town Council, Town Hall, 61 Newland Street.
Councillor K Bowers and Councillor F Ricci each declared a non-pecuniary interest in this application and they left the meeting when it was considered and determined.			

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*23/02996/LBC (APPROVED)	Witham	Braintree District Council	Refurbishment of existing toilets and creation of new external door entrance with ramp, Witham Town Council, Town Hall, 61 Newland Street.
Councillor K Bowers and Councillor F Ricci each declared a non-pecuniary interest in this application and they left the meeting when it was considered and determined.			

62 **PLANNING APPLICATIONS REFUSED**

DECISION: That the undermentioned planning applications be refused for the reasons contained in the Planning Development Manager's report, as amended below. Details of these planning applications are contained in the Register of Planning Applications.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*23/01552/FUL (REFUSED)	Braintree	Weavers Park Limited	Erection of 22 residential apartments with associated access, parking and amenity area, land adjacent to Weavers Park, Courtauld Road.
In an update to the Agenda report, it was stated that Natural England had not objected to this application, subject to the Council securing a financial contribution towards ecological mitigation (Ramsar) via a Section 106 Agreement.			

Members of the Planning Committee were advised that an appeal had been lodged with the Planning Inspectorate against the non-determination of this application and that the Local Planning Authority could not determine it. A Hearing date of 26th March 2024 had been set by the Planning Inspectorate.

The Planning Committee agreed that if it had been able to determine the application it would have been refused for the Reasons contained in the Planning Development Manager's report. The Reasons for Refusal are as follows:-

Reasons for Refusal

- 1 The proposals would result in a low-moderate level of less than substantial harm to the significance of the Grade II Listed John Ray House and a low level of less than substantial harm to the Braintree Town Centre Conservation Area and would also result in harm to the non-designated Tabor House. Whilst the level of harm in this case would be less than substantial harm, taking into account the cumulative impact upon the designated and non-designated heritage assets, the benefits of the proposal do not outweigh the harm to the identified assets. The proposal is therefore contrary to Policies SP7, LPP47, LPP52, LPP53 and LPP57 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.
- 2 The proposed development would result in the loss of an area of informal recreation space. An assessment has been supplied by the Applicant, seeking to justify this loss and demonstrate that it is surplus to requirements, however, this position is not accepted. Moreover, it is not considered that the land is surplus to requirements and it is not considered that the benefits arising from the proposed development would outweigh the loss of the informal recreation space. The proposal is therefore contrary to Policy LPP50 of the Braintree District Local Plan 2013-2033.
- 3 The proposal would result in a poorly considered scheme which fails to secure a high standard of design and layout. The design fails to reflect the context of its surroundings, it is unsympathetic to its sensitive location and the amenity of future occupiers will be harmed by the inadequate internal and external amenity and a lack of car parking. Furthermore, the scheme relates poorly to neighbouring development, detrimental to residential amenity.

The proposals amount to poor design and layout failing to add to the quality of the area and an overdevelopment of the site, and would fail to provide a satisfactory level of amenity for future occupiers contrary to Policies SP7, LPP35, LPP52 and LPP65 of the Braintree District Local Plan 2013-2033, the Essex Design Guide, and the National Planning Policy Framework.
- 4 Policy LPP31 of the Adopted Local Plan states that affordable housing will be directly provided by the developer within housing schemes. The proposal fails to

provide a sufficient financial contribution in lieu of on-site provision of affordable housing in accordance with the local need and therefore fails to comply with Policy LPP31 of the Braintree District Local Plan 2013-2033.

5 Insufficient information has been submitted in relation to proposals for a sustainable urban drainage system such that it has not been possible for the Local Planning Authority to make an assessment. The proposal is therefore considered to be contrary to the National Planning Policy Framework and Policy LPP74 of the Braintree District Local Plan 2013-2033.

6 The proposed development would trigger the requirement for:

- A financial contribution in lieu of on-site provision of affordable housing;
- A financial contribution of £10,900 towards primary health care services;
- A financial contribution towards outdoor sports, equipped play and allotments;
- A habitat mitigation payment of £3,444.54 towards off-site visitor management measures for the Blackwater Estuary Special Protection Area (SPA) and Ramsar site.

These requirements would need to be secured through a Section 106 Agreement. At this time, a Section 106 Agreement has not been prepared or completed. As such the proposal is contrary to the Open Space Supplementary Planning Document (SPD) and Policy LPP78 of the Braintree District Local Plan 2013-2033.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*23/01911/FUL (REFUSED)	Black Notley	Ms Michelle Smith	Demolition of The Piggeries and construction of 2 No. 3 bedroomed 2 storey semi-detached dwellings with parking and associated works, land South of 231 Witham Road.

In an update to the Agenda report, Members of the Planning Committee were advised that Black Notley Parish Council had objected to this application on the grounds that the site was outside the village development boundary and concern had also been expressed about the proposed access.

The Committee refused this application, subject to the amendment of Reason No. 4 as follows:-

Amended Reason

4. Insufficient information has been submitted in order to assess the proposed access to the application site in terms of visibility splays, highway safety and access for the Fire Service and, as such, it is therefore considered that insufficient information has been submitted to fully assess the impact of the proposed development, contrary to Policies LPP42 and LPP52 of the Braintree District Local Plan 2013-2033.

63 **TREE PRESERVATION ORDER NO. 07 2023 – OLD MAGISTRATES COURT, WITHAM**

INFORMATION: Consideration was given to a report on Tree Preservation Order No. 07 2023 relating to land at Old Magistrates Court, Witham to which an objection had been submitted. The provisional Order had been made on 23rd August 2023 in respect of 12 individual deciduous trees (T1 – T12) situated within the gardens of properties at, and in the grounds of, Old Magistrates Court, Witham. The trees and properties were within the Witham Conservation Area. A copy of the Order was attached at Appendix 1 to the Agenda report.

The Order had been served following the submission of an application (23/02095/TPOCON) by a Mr T Steed to remove a Sycamore tree located in the rear garden of 9 Old Magistrates Court, Witham. Mr Steed was a prospective purchaser of that property. In response to the application, the Council's Tree and Landscape Officer had visited the site and she had viewed the tree and others in the vicinity from publicly accessible areas. Assessments of the amenity value of trees which were deemed to be suitable for protection had been carried out by the Officer using the standard TEMPO assessment. These assessments had shown that the making of an Order was appropriate. The assessments were attached at Appendix 2 to the Agenda report. It was considered that the trees had high amenity value, that they contributed significantly to the local landscape and that they should be retained. Following the service of the Order, two letters of support and one letter of objection had been submitted to the Council. Copies of these representations were attached at Appendix 4 to the Agenda report. The objection had been lodged by Mr Burkin of 9 Old Magistrates Court, Witham with respect to tree T6, a Sycamore, situated within the rear garden of that property.

Mr Burkin had explained that the property was on the market for sale and that a prospective purchaser had enquired if tree T6 could be removed due to concerns about possible damage that it could cause. Mr Burkin had expressed concern that the Sycamore tree's fine, shallow, aggressive roots could cause subsidence to the property and damage its water, sewage, and paving infrastructure. Mr Burkin had stated that a Sycamore tree could grow up to 30 metres in height and have a span of 22 metres and that it should be located at least 17 metres from any dwelling. However, Mr Burkin had indicated that tree T6 was 4.5 metres from 9 Old Magistrates Court and 3 metres from the property's patio. Furthermore, Mr Burkin had stated that Sycamore trees were fast-growing, with shallow roots and that tree T6 could be a potential hazard in strong winds. Mr Burkin considered also that heavy seed and leaf fall from the tree could cause damage to flora/grass beneath it.

Mr Burkin had stated that Sycamore trees were not native to Britain and that, in the main, they were planted in large recreation grounds, woodlands and hedgerows, not in a small garden close to a residential property. Mr Burkin considered that tree T6 should have been removed when planning permission had been granted for the development of the Old Magistrates Court site.

It was reported that all the trees contained within the Order were visible from publicly accessible areas in the vicinity; from within the Old Magistrates Court site; and from adjacent properties. The trees were all established and some, which were relatively young, had long retention spans. It was considered that all the trees, which were either of a medium or large size, were in fair or good condition. The trees had good amenity value, contributed to the local landscape and provided canopy cover in the area. The TEMPO assessments which had been carried out indicated that all the trees were worthy of preservation. The felling of the Sycamore (T6) was considered to be unwarranted and unacceptable, particularly as the tree was relatively young and its size and spread could be managed effectively by pruning of its crown. It was considered that the felling of the tree would set a precedent for the removal of other trees at the site. It was acknowledged that the making of a Tree Preservation Order did not exclude maintenance works being carried out to a preserved tree, subject to prior consent being obtained.

In discussing this Item, reference was made to an error in the Schedule to the Order regarding tree T10, a Sweet Gum. The description in the Schedule stated that the tree was situated on the grassed area in front of 9 Old Magistrates Court, Witham. However, it was reported that the description should state that the tree was situated on the grassed area in front of 8 Old Magistrates Court, Witham.

DECISION: That Tree Preservation Order No. 07 2023 relating to Old Magistrates Court, Witham be confirmed in the interests of amenity, subject to the Schedule to the Order being amended to state that tree T10, a Sweet Gum, is situated on the grassed area in front of 8 Old Magistrates Court, Witham, not on the grassed area in front of 9 Old Magistrates Court, Witham.

PLEASE NOTE: The full list of standard conditions and reasons can be viewed at the office of the Planning Development Manager, 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 8.10pm.

Councillor I Parker
(Chairman)