

Planning Committee

Thursday, 04 February 2016

Attendees: Councillor Peter Chillingworth (Group Spokesperson), Councillor Helen Chuah (Member), Councillor Jo Hayes (Member), Councillor Pauline Hazell (Member), Councillor Brian Jarvis (Member), Councillor Michael Lilley (Member), Councillor Jackie Maclean (Member), Councillor Jon Manning (Chairman), Councillor Patricia Moore (Member), Councillor Rosalind Scott (Group Spokesperson)

Substitutes: Councillor Gerard Oxford (for Councillor Philip Oxford), Councillor Nick Cope (for Councillor Jessica Scott-Boutell)

268 Site Visits

Councillors Chillingworth, Chuah, Cope, Hazell, Jarvis, Maclean, Manning, Moore, G. Oxford and Scott attended the site visits.

269 Minutes of 17 December 2015

The minutes of the meeting held on 17 December 2015 were confirmed as a correct record, subject to Minute No 252 being amended by means of the insertion of the word 'if' before the words: 'planning permission was granted' in the last sentence before the resolution.

270 152120 Land adjacent to Chapel Road, Tiptree,

The Committee considered an application for the erection of 39 residential units (Class C3) with associated parking, landscaping, open space and access at land adjacent to Chapel Road, Tiptree. The application had been referred to the Committee because it was a major application which had generated objections and a legal agreement was required.. The Committee had before it a report and an amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Sue Jackson, Principal Planning Officer, presented the report and, together with the Simon Cairns, Major Development and Projects Manager, assisted the Committee in its deliberations.

Steve Bays, on behalf of Tiptree Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application.

He explained that the Parish Council had been involved in discussions throughout the progress of the application. He referred to the loss of a football pitch and the agreement to the provision of an alternative pitch by means of a Section 106 agreement. He was concerned about the density of the development which was greater than that in the surrounding area and, as such, did not fit well in the locality. He considered that the proposals should have been in accordance with typical development in Tiptree which provided for dwellings with front gardens. He was also concerned about parking problems for potential occupants with commercial vehicles, the affordable housing provision, the lack of visibility splay at the entrance to the development and the arrangements for the waste collections given the restricted access way through the development.

Simon Slatford addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the thorough negotiations which had taken place with Planning Officers to arrive at a layout and design for the development which was thought to be acceptable. The proposals had resulted in no objections from the technical consultees whilst other objections were disappointing as the applicant had worked very hard with the community to address any potential areas of concern.. He was of the view that concerns around density alone would not be sufficient for the application to be refused. He also confirmed the benefits of the scheme in relation to the public open space in addition to the new housing for the area.

Councillor Elliott attended and, with the consent of the Chairman, addressed the Committee. He was of the view that the scheme was a reasonably good one for the community but he was concerned regarding the arrangements for the collection of waste. He did not consider that the community were being compensated for the loss of a football pitch, rather that the previous level of pitch provision was being reinstated. He also referred to highway issues due to the congestion and amount of parking along Chapel Road and the volume of traffic in the area generally. He explained the fact that for many Tiptree households car ownership was essential in order to travel to places of work and he was therefore of the view that the proposed parking provision was likely to be inadequate for the potential amount of car ownership. He also referred to the entrance to the development and the lack of sight splay which he considered to be inadequate for the location.

Members of the Committee referred to the very busy nature of Chapel Road and voiced concerns about the access proposals for the scheme. Clarification was sought regarding the open space provision within the site as well as the arrangement proposed for alternative open space provision for the use of the community and also regarding the adequacy of the road network on the development.

One member of the Committee was of the view that the access road to the development would be preferable from the north side via Morley Road which would also provide a

shorter more convenient pedestrian route for the development.

A number of Committee members were of the view that the road layout and parking provision, whilst acceptable in relation to the Council's adopted standards, did not address the likelihood of residents with multiple vehicles opting to park on the access road which would lead to access issues generally as well as specifically in relation to refuse collections and the egress of visitors and commercial vehicles generally. Reference was also made to the height and size of garages and the size of parking spaces which did not take account of ownership of larger vehicle such as for commercial or disability purposes and the fact that the parking space provision included garage spaces which were likely to be used as storage areas rather than for parking.

The Principal Planning Officer explained that the access road serving the development would be built to adoptable standards but there were no proposals for the road to be adopted by the Highway Authority rather it would be the subject of control by a Management Company which would be required to address any future problems restricting access and egress. She confirmed that the density equated to 35 dwellings per hectare which was currently considered to be relatively low and that the parking provision satisfied the Council's standards which were applicable across the Borough with no differentiation in terms of quantity, height or dimension according to individual location. The Affordable Housing element of the proposal included both two and three bedroom units whilst the road layout provided for sufficient width and a turning circle to accommodate a Refuse Freighter as well as 15 visitor parking spaces. The concerns regarding the lack of sight splay had been referred for further consideration by the Highway Authority who had reiterated their view that there were no highway grounds to refuse the application. The access proposals provided sufficient width for two vehicles to enter and exit the site whilst giving pedestrians priority. She went on to explain that the application had been vacated by Tiptree United Football Club when it merged with Maldon Football Club. There was no specific requirement for an alternative pitch to be provided and, as such, there was no restriction on an application for residential development to be applied for. The proposed Section 106 Agreement included a financial contribution for Borough wide recreational open space provision. It was confirmed that the land to the north of the application site was in private ownership and, as such, was not in the control of the applicant.

The Major Development and Projects Manager explained that, as the proposals were in accordance with the Council's adopted parking standards and no objection had been raised by the Highway Authority, there was no technical evidence on which to base a refusal of the application. In addition, although the designs were not typical of the area and included idiosyncratic elements, there was no impact on the street scene and, as such, were considered to be reasonable for the development. He went on to explain that the applicant had demonstrated the safety of the road network and that it was possible to service the development for the collection of refuse. It was also not possible to seek parking provision in excess of the Council's adopted standards, whilst the likely propensity of residents to use the access road for parking purposes was a matter which

would have to be left to the Management Company to resolve with the residents.

RESOLVED (SIX voted FOR, FIVE voted AGAINST and ONE ABSTAINED) that –

(i) The planning application be approved subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, in the event that the legal agreement is not signed within six months, to delegate authority to the Head of Commercial Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- 20% affordable housing
- Community facilities contribution £51,000 towards the refurbishment of St. Luke's Community Hall in Tiptree.
- Open Space, Sport and Recreation contribution £201,000.
- A Private Management Company to maintain the open space and other communal areas within the site
- Transfer of land in Colchester Road to Tiptree Parish Council at no cost for recreational sport use

and on completion of the legal agreement, the Head of Commercial Services be authorised to grant planning permission subject to the conditions set out in the report

(ii) The Head of Commercial Services be requested to ask Essex County Council to include consideration of flexibility to accommodate the ownership of different types and size of vehicles such as for commercial uses and for people with disabilities within the forthcoming parking standards review.

271 143715 B & Q Warehouse, Lightship Way, Colchester

Councillor G. Oxford (in respect of his membership of the Local Plan Committee) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the use of premises as a retail (convenience and comparison goods) superstore with external alterations; installation of a GOL facility, colleague area; two concessions and domestic area at ground level and a café at mezzanine level; the removal of the existing garden centre and builders' yard, provision of cycle parking, recycling facilities and reconfiguration of the customer car park at B&Q Warehouse, Lightship Way, Colchester. The application had been referred to the Committee because the application was classified as a major development and objection had been received and also because the recommendation required the completion of a legal agreement under Section 106 of the Town and Country Planning Act. The Committee had before it a report and an amendment sheet in which all the information was set out.

Simon Cairns, Major Development and Projects Manager, presented the report and,

together with Martin Mason, Essex County Council, Strategic Development Engineer, Laura Chase, Planning Policy Manager, and Paul Wilkinson, Transportation Policy Manager, assisted the Committee in its deliberations. He explained that the mitigation measures proposed for the scheme had been agreed in part by the applicant but a number of improvements, such as upgrading of the railway bridge to accommodate cyclists, street lighting and the duration of support for the bus service, had been contested by the applicant.

Caroline Hewitt addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that work on the application had started in 2013 and that the issues now before the Committee centred on the highway and retail impact. She highlighted the view of the Council's retail consultant who found the proposals to be acceptable and that otherwise the feedback on the application had been generally positive. In summary the application involved the re-use of an existing store, the creation of 450 new jobs with B&Q staff to be offered opportunities, no significant detrimental impact on the neighbouring retail units and improvements to the road network.

Councillor T. Young attended and, with the consent of the Chairman, addressed the Committee. He explained that, on balance, he cautiously welcomed the application having weighed up the highway and traffic issues against the employment opportunities. He voiced hopes that Sainsbury would agree to adopt the Living Wage (as calculated by the Living Wage Foundation) and was of the view that the objections raised by Tesco needed to be considered in the context of fair competition and choice for consumers. He considered the traffic volumes to be the most significant negative issue and hoped that the mitigation measures agreed would be sufficient to adequately address them. He referred to considerable levels of congestion at certain times of the day which was unlikely to be improved by the proposal. He also made mention of the concerns raised by Colchester Bus Users Group regarding additional improvements to bus services citing the difficulty of accessing the location for residents of Greenstead and he considered any subsidy agreed needed to be for a three year duration. He further considered the improvements for walkers and cyclists to be vital, together with 24 hour security and street lighting measures.

Some members of the Committee sought clarification regarding the status of the application site as employment land, questioned the disregarding of the impact on the existing Tesco store and raised concerns about the future commitment to the retention of the Sainsbury store in the Town Centre whilst others welcomed the employment and retail opportunities derived from the application.

Other Committee members were of the view that retail competition should be welcomed as it would maintain jobs and reduce prices.

The Committee members were generally of the view that improvements to the bus service and cycle provision were crucial, a number favouring a three year bus subsidy,

potentially with support scaled down when the service proved sustainable, as well as the railway bridge improvement and the street lighting proposals but concern was raised about the impact on traffic congestion in the area and clarification was sought on the measures to be introduced to the roundabout at the junction of the A133 and St Andrew's Avenue.

In response to specific questions the Major Developments and Projects Manager confirmed that, as the current retail use had been established over a number of years, there was no prospect of the application site returning to employment land. He considered, as Lightship Way was an un-adopted road, it would be preferable to secure the offer made by the applicants to provide improved lighting from the within the site, together with an additional bus shelter. He explained that the assessment of the retail impact had demonstrated that the sequential and retail impact test had been satisfied and had provided no evidence to suggest that the Town Centre Sainsbury store would be forced to close as a consequence of the proposals under discussion. The impact on the existing Tesco store had shown a reduction in turnover of over 28% which would reduce the profitability but was not considered sufficient to lead to closure.

The Strategic Development Engineer provided details of the impact on the highway network and the A133/St Andrew's Avenue roundabout and explained that the Highway Authority was very keen to secure the improvements to the road network as it was very aware of the traffic problems in the area. He was confident that the proposals, which would be delivered by means of a Section 278 agreement and involved the provision of a third lane around the southern half of the roundabout from Clingoe Hill to St Andrew's Avenue and lane widening northwards at the crossing on the Colne Causeway, would achieve what was required in terms of mitigation.

The Major Development and Projects Manager confirmed that the views expressed by Tesco on the proposals in relation to the loss of employment land had been taken into account by NLP, the Council's retail consultants, who had concluded that the current retail use was now established and the loss of employment land was not a matter which could be taken into account in the consideration of the application in the current circumstances.

The Transportation Policy Manager confirmed that officers would be willing to seek a three year subsidy of the bus service with a view to it becoming sustainable thereafter.

RESOLVED (ELEVEN voted FOR and ONE voted AGAINST) that the Head of Commercial Services be authorised to seek developer contributions providing for extended support for the bus service, CCTV and the upgrading of the adjacent pedestrian rail bridge for cyclists, as set out in the report. If these negotiations are unsuccessful, the application be referred back to the Committee for further consideration. If agreement is achieved, then the planning application be approved subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, in the

event that the legal agreement is not signed within six months, to delegate authority to the Head of Commercial Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following financial contributions:

- Provision of enhanced bus service - £50,000
- Upgrading of pedestrian bridge over rail line to facilitate use by cyclists - £100,000
- Provision of CCTV to enhance pedestrian/cyclist safety for shoppers - £66,000
- Implementation of recruitment and training initiative to improve opportunities for the local unemployed

and on completion of the legal agreement, the Head of Commercial Services be authorised to grant planning permission subject to the conditions set out in the report as amended in accordance with the changes set out in the amendment sheet

272 152182 36-40 Crouch Street, Colchester

The Committee considered an application for the variation of condition 2 of planning permission F/COL/04/1046 (to relocate bin store and cycle store) at 36-40 Crouch Street, Colchester. The application had been referred to the Committee because it was classified as a major application and objections had been received. The Committee had before it a report and an amendment sheet in which all the information was set out.

Chris Harden, Planning Officer, presented the report and, together with Simon Cairns, Planning Projects Manager, assisted the Committee in its deliberations.

Rod Woods addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was representing leaseholders from the application site. The leaseholders had received no consultation regarding the proposals and were concerned that the changes would be imposed upon them. He referred to the report on the proposal and that it made little mention of the commercial occupants of the building but who were in the practice of making use of the bin store. He disputed the estimate of the number of cycles that could be accommodated in the cycle store and he considered the proposals to be inadequate to meet the necessary demand from the leaseholders.

Members of the Committee were generally of the view that the premises were in a highly sustainable location and, as such, no reduction in cycle storage provision should be approved. It was acknowledged that there was currently an over provision but this was considered to be desirable given the potential for cycle usage to increase in the future. Members of the Committee were also generally of the view that the bin store provision needed to be retained at its existing capacity in the light of the Council's stated priority to increase recycling rates in the Borough.

The Planning Officer explained that the agents for the applicant had confirmed that the bin store areas were not utilised by the commercial users of the premises. The Council's standards for the premises required the provision of two eurobins whereas the actual

provision was proposed to be five. As such, there was also potential to increase the recycling bin capacity in the future should it prove necessary. The proposal further included a reduction to the cycle storage provision but, as there had been an over provision when measured against the Council's adopted standards, the proposals would still meet the Council's requirements.

Other members of the Committee, whilst disappointed that no discussion with leaseholders had taken place, acknowledged the provision for bin storage was well in excess of the required standard and with improved cycle racking the cycle storage would be adequate to provide sufficient space for each flat occupant.

The Major Development and Projects Manager confirmed that there was an existing over provision of storage space and the proposals were in accordance with the Council's adopted standards for bin and cycle storage. In his view, if the Committee was minded to refuse the application there was a risk that that the decision would be considered unreasonable and, as such, the Council could be liable for costs.

As the discussion suggested that the Committee may be minded to refuse the application contrary to the officer's recommendation in the report the Chairman invited the Committee to consider invoking the Deferral and Recommendation Overturn Protocol (DROP). The Committee did not support invoking the DROP and accordingly, the Chairman then invited the Committee to determine the application without deferral.

RESOLVED (NINE voted FOR and THREE voted AGAINST) that the planning application be refused on grounds of sustainability.

273 152512 243 Berechurch Hall Road, Colchester

Councillor Hazell (in respect of a previous transaction at the applicant's company) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for a proposed teaching swimming pool at 243 Berechurch Hall Road, Colchester. The application had been referred to the Committee because it had been called in by Councillor Barton. The Committee had before it a report in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Chris Harden, Planning Officer, presented the report and, assisted the Committee in its deliberations. He had been notified that the parking arrangement for the application were to be updated to provide for 12 to 14 spaces to cater for the teaching pool with a disabled vehicle space at the front of the site, the details of which would require submission in writing and be the subject of formal approval.

Steve Conway addressed the Committee pursuant to the provisions of Planning

Committee Procedure Rule 8 in support of the application. He explained that he had operated a business from the site for 31 years. The proposed building was only one metre larger than the existing poly-tunnel structure, there would be no noise from the plant equipment and chlorine gas levels were reduced by 85%. The building was highly insulated and produced no noise. There was a demand for baby and young people's teaching pools and he wished to take advantage of this business opportunity to increase his income capacity.

One member of the Committee acknowledged that the applicant had gone a long way to address the concerns expressed by neighbouring residents. However there remained issues for residents of Catkin Mews in relation to the proposed location of the plant room and the height of the fencing and potential penetration of exhaust fumes from customers' vehicles. Concern had also been mentioned regarding potential disturbance from pool parties.

The Planning Officer agreed that an additional condition could be included to specify a height and type of fencing to address concerns expressed by residents. He did not consider a further condition to place a restriction on the holding of pool parties to be reasonable.

RESOLVED (ELEVEN voted FOR and ONE ABSTAINED) that the planning application be approved subject to the conditions set out in the report and additional conditions to provide for the height of the boundary fences to be raised and for the transfer of exhaust fumes to be controlled.

274 152331 41 Victoria Road, Colchester

Councillor Chuah (in respect of her acquaintance with the objector to the application) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Cope (in respect of his acquaintance with the objector to the application) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor G. Oxford (in respect of his acquaintance with the objector to the application) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for part double, part single storey extensions to side and rear and addition of oriel window to front, following demolition of existing side and rear extensions at 41 Victoria Road, Colchester. The application had been referred to the Committee because the application had been called in by Councillor Hardy. The Committee had before it a report and an amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the

proposals upon the locality and the suitability of the proposals for the site.

Chris Harden, Planning Officer, presented the report and, assisted the Committee in its deliberations.

Colonel Tony Barton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that Victoria Road was an attractive place to live and that appropriate modifications had taken place to houses in the area over time. He considered the proposal to be an aggressive development on the boundary of his property and he was concerned that it would set a precedent. The rear extension would extend to half way down the side of his rear garden which would lead to overshadowing and a denial of sunlight except during the height of the summer months. He referred to his being in receipt of a War Pension, that he was less mobile than he had been and that his garden was relatively small compared to his neighbours'. The impact to the neighbouring property on the other side of the application site was also negative as it would lead to a restriction of the light to the bedroom occupied by a person with Type1 diabetes. He considered the proposal would alter the character and ethos of this part of the town and that the plans were inadequate.

Joseph Eyre addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposals were consistent with those in relation to the extension at 43 Victoria Road which had received approval in 2008 and were similar to those which had been constructed at 39 Victoria Road. He explained that the existing car port was unsightly and that the proposals would restore the gap between the building and the boundary. The proposals would not create any over-looking as the proposed window would have obscured glazing. With regard to the neighbour's extension, he considered there would be no impact due to the north facing aspect. The shape of the proposed extension would follow that of the house whilst the roof, at its highest point, was three metres away from the boundary. In relation to the proposal to replace a circular window to the front of the house with an oriel one, he confirmed from photographic evidence that the original window had been rectangular not circular, whilst his proposals also provided for wooden framed windows. He considered the proposals to be entirely in-keeping with the street scene of the area.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. She referred to the practice of buying small houses and extending them to meet modern requirements. She asked the Committee members to protect the neighbouring residents from inappropriate development. The application related to a modest detached house created in the 1920s or 1930s on a corner plot. She referred to the change to the front window as early as 1931 and requested that the circular window be retained whilst acknowledging that the site was not in a Conservation Area. She explained that the neighbouring residents considered that the proposal would detract from the original spatial concept of the art deco property and an improved design was required. The pitch of the roof to the south side was considered unacceptable and that

this overbearing element needed to be looked at again. She also referred to the extension at 43 Victoria Road which had created an upstairs window and which was now threatened by a loss of light and privacy.

The Planning Officer explained that he did not consider the proposal to be aggressive but that it was a considerable improvement to the existing structure in the site in that it was both lower and further away from the neighbouring property. He confirmed that the single storey to the side would have no impact on the property at 43 Victoria Road. He acknowledged that the proposal did extend further down the garden but as it was away from the boundary line, he considered this to be acceptable. He was also of the view that the design would create no detriment to the street scene. He did not consider it reasonable to seek the retention of the circular window as the property was not a Listed Building and was not located in a Conservation Area. He went on to explain that the permission to replace the window was only required because the new window was one which would project forward of the building line. He confirmed that he had visited both neighbouring properties on two occasions and that the plans had been amended with a view to accommodating some of the concerns.

Members of the Committee were generally of the view that Victoria Road included a mix of style of properties and, as such, there would be no detrimental effect on the neighbouring properties. In addition it was not considered reasonable to refuse an application on the grounds that a neighbour's extension required to be protected. Reference was also made to the design of the proposals which were considered acceptable and the view expressed that the proposals would be an enhancement to the existing structure on the site.

RESOLVED (ELEVEN voted FOR and ONE ABSTAINED) that the planning application be approved subject to the conditions set out in the report.

275 152795 Rowan House, 33 Sheepen Road, Colchester

The Committee considered an application for the construction of car ports incorporating integral solar photovoltaic panels and associated works at Rowan House, 33 Sheepen Road, Colchester. The application had been referred to the Committee because it had been submitted on behalf of Colchester Borough Council. The Committee had before it a report in which all the information was set out.

RESOLVED (UNANIMOUSLY) that the planning application be approved subject to the conditions set out in the report.