

# Planning Committee

## Thursday, 23 August 2018

**Attendees:** Councillor Lyn Barton, Councillor Vic Flores, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Chris Pearson

**Substitutes:** Councillor Nick Cope (for Councillor Theresa Higgins), Councillor Gerard Oxford (for Councillor Philip Oxford)

**Also Present:**

### 617 Site Visits

Councillors Barton, Cope, Hazell, Jarvis, Liddy, Loveland and Maclean attended the site visits.

### 618 Minutes of 5 July 2018

*RESOLVED* that the minutes of the meeting held on 5 July 2018 be confirmed as a correct record.

### 619 172935 Stane Park Site, Essex Yeomanry Way, Stanway, Colchester

The Committee considered a planning application for the erection of a retail unit with an external yard and retail space (A1), a retail terrace comprising six units with mezzanine cover (A1); two supermarkets (A1) and restaurant units (A1/A3/A5), with associated parking and landscaping at Stane Park Site, Essex Yeomanry Way, Stanway, Colchester. The application had been referred to the Committee because the proposal constituted a departure from the Local Plan, being retail development on a site allocated for Employment uses. The Committee had before it a report and amendment sheet in which all 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.

Lucy Mondon, Principal Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations. The Principal Planning Officer explained that, in addition to the further information contained in the amendment sheet, additional comments from the Council's Transport Policy Team had also been received reinforcing matters in relation to the provision of the Toucan crossing over the bypass and improving pedestrian connection as well as the need for secure covered cycle parking, infrastructure for electric charging of vehicles and an over-arching travel plan, all of which were the subject of recommended conditions in the report and

the amendment sheet.

Matt Cloke addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposals were well designed and of high quality which be of important benefit to the local community and Colchester as a whole. Traffic was a known issue in the area and, as such the proposals included investment totalling £2.5 million for highway, cycleway and pedestrian improvements. The Highways Authority and Highways England had agreed that the proposals would fully accommodate existing congestion as well as future traffic from the site, whilst the scheme also included the provision of a second pedestrian crossing on the Western Bypass adjacent to London Road. Commitments to the scheme had been made by B & Q, Marks and Spencer and Aldi and other 'new to Colchester' retailers had expressed firm interest. In total the development would deliver 400 full and part-time jobs. Traditional employment jobs had been considered to be unviable on the site by the Council's consultants whilst the cost of highway improvements was a major constraint. As such the proposals were the only realistic way to deliver jobs and investment at the site. In addition, there would be ecological and landscape enhancements which would otherwise not come forward. He considered Aldi and M & S would add choice in local food retailing whilst other goods sold would be bulky and conditioned as such. The impact of the proposals on the town centre would be negligible. He welcomed the clarification in the amendment sheet explaining that the proposed disabled parking provision was compliant with the relevant standards. He emphasised the investment to the site, improvements in local infrastructure and committed retailers and commended the proposals to the Committee members.

Councillor Dundas attended and, with the consent of the Chairman, addressed the Committee. He was generally in support of the proposals with some reservations reflecting comments made by local residents. He considered it appropriate for the application to be recommended for approval, in the light of two recent appeal decisions. He was of the view that there there was no realistic potential for alternative employment proposals for the site and that the current scheme would bring welcome retail jobs to the local area. His main concern was in relation to the poor traffic infrastructure in the area which had been needed since the 1990s and, as such, welcomed the improvements which would be brought forward as a result of the proposals. He was also concerned about access for pedestrians between the Stane Park, Sainsbury's and Tollgate sites and didn't wish to see people driving between the sites. He considered the car parking provision may be inadequate and that this may lead to congestion extending back to the A12 carriageways. He sought clarification on the type of bus stop to be provided to the development and whether it would include a shelter and layby. He welcomed the condition to provide for the completion of road improvements prior to occupation of the site and he considered the delivery of jobs with the development of the site to be a very positive consideration. On balance he hoped the Committee members would approve the application.

Councillor Scott-Boutell attended and, with the consent of the Chairman, addressed the Committee. She welcomed the pragmatic approach taken in consideration of the application, including the requirement for the decision to be referred to the Secretary of State to ascertain whether it was deemed necessary for the application to be called in. She welcomed the proposed conditions providing for no occupation of the site prior to the delivery of the improvements to the A12 junction 26 roundabout and the local road network improvements and pedestrian crossing points. She was concerned about proposed parking provision for vehicles and cycles and also highlighted the car parking space sizes proposed. She questioned whether the criteria for exceptional circumstances had been met for the small parking sizes. She was aware of existing issues at busy times whereby customers at one site were using parking provision at neighbouring sites. She was of the view that this practice was likely to lead to shoppers parking in residential streets which may prove particularly troublesome at Christmas and Bank Holiday times. She asked about the provision of a site management and security plan, including CCTV and monitoring, on site security, litter control and cleaning. She was particularly concerned about measures to control the site and the parking areas outside business hours, in line with measures already in place at Tollgate Village. She also requested the imposition of a condition to provide for litter picking beyond the site for a period of five years, again in line with measures at Tollgate Village, given the restaurant use intended and the likelihood of takeaway litter.

In response, the Principal Planning Officer explained that the relevant parking standard was based on a maximum provision and the proposed provision had been based on TRICS data contained in the transport assessment for the application which had established that peak usage would bring 780 vehicle arrivals and 733 vehicle departures with 637 peak car park accumulations. The assessment, which had been verified by the Highway Authority and Highways England, had therefore shown that the total parking provision of 739 spaces would create a contingency of more than 100 spaces. She acknowledged that the car parking spaces proposed were of the minimum size allowed in the standards, justified by the applicant on the basis of the over capacity of space provision. She confirmed that the proposed conditions did not include one to provide for site safety and security but one could be added should the Committee members consider it to be appropriate. She confirmed that the decision notice for Stane Park Phase 1 included a condition for a scheme to be agreed for the disposal and collection of litter and, as such, it would be possible to mirror this condition in relation to the current application. She further confirmed that the proposal from the Highway Authority was for an on-road bus stop, without a layby.

In discussion, members of the Committee welcomed the proposals in terms of the investment in the area and the commitments made to the development by B & Q, Marks and Spencer and Aldi whilst also referring to the need for improved connectivity across the whole local road network and the need for pedestrian access between each of the neighbouring sites. The provision for cyclists was supported, along with the intention to provide two lane access to and from the site. Nevertheless strong concern was

expressed in relation to the proposed on-road bus stop and the impact on congestion this was likely to make if access to the from the site was impeded. Concern was also expressed in relation to the need for two lane vehicular provision between this site and the Sainsbury's site and the A12 junction and also in relation to the proposed car park space size, given the considerable use of the site by customers. Reference was made to the impact of the Stane Park, Tollgate and Sainsbury's sites together and the inability of the Committee to seek retrospective contributions from each of the developers to mitigate the cumulative traffic impact in the area. Clarification was also sought in relation to the conclusion contained in the report that the proposal would have negligible impact on Colchester town centre as well as the reasons why the smaller size car park spaces had been considered acceptable.

The Principal Planning Officer confirmed that contributions from developers to secure highway improvements were restricted to measures to mitigate an individual site only. She explained the measures to improve pedestrian access and to deliver connectivity between Stane Park Phase 1 with Phase 2. She reiterated that the on-road bus stop had been considered adequate by the Highway Authority whilst a bus gate had been provided within the neighbouring Wyvern Farm development which could be utilised from this site. She confirmed that the applicant was sensitive to the connectivity issues and was willing to accommodate a second pedestrian crossing on London Road, however this would be instead of the £25k contribution requested by the Highway Authority for nearby roundabout improvements. She referred to the relinquishing of an area of land as part of the Sainsbury's development for the provision of a cycleway, should the Highway Authority require it in the future. In terms of retail impact, the Planning Inspector for the Tollgate Village appeal had indicated that he did not consider the accepted 14% impact from that development on the town centre to be significant and, as such, an accepted 9% impact from this development could therefore not be considered significant. She explained that any revision to the scheme to provide for increased car parking spaces would lead to the reduction in the total number of spaces which was likely to mean that the scheme would be non-compliant with the standard for parking provision. She also confirmed that the smaller car park space size had been provided for at the Stane Park 1 site which had been approved on appeal.

An argument was put forward that, if it was considered that the provision for car parking was inappropriate, a revised scheme could be considered comprising a reduced number of retail units. There was also concern about the potential for the on-road bus stop to block access to the site and whether a further condition needed to be applied to provide for a bus stop with a lay by.

The Development Manager explained that an increase in the size of the parking spaces would reduce the total number of spaces by approximately 20% which would have a significant impact on the way the car park would perform. He confirmed that the smaller size space being proposed was the national norm, not sub-standard and of the proportions found in the majority of car parks across the UK. He explained that the larger

space options had been used for residential developments to mitigate problems associated with vehicle parking on roads rather than in designated spaces, whilst the smaller space size was appropriate for car parks at retail and commercial developments.

The Principal Planning Officer further confirmed that proposed conditions provided for the road improvements to the A12 junction and the local road network were all required to be completed prior to occupation of the units. She also explained it would be possible to amend the condition providing for highway improvements to include the provision of a bus stop lay-by, under a Section 278 Agreement with the Highway Authority but she cautioned whether there would be sufficient space to include a lay-by and questioned the potential impact on landscaping proposals. She also explained that the proposals included the provision of two lane entry to and exit from the site.

The Development Manager explained that the Highway Authority had considered the scheme on the basis of the current proposal and had no objection to the bus stop provision. He considered therefore that the Committee would lack evidence to require a lay-by solution, particularly as the contingent implications were not known. He also clarified that the location of a second pedestrian crossing, instead of £25k roundabout improvements, would be dictated on highway grounds and would form part of the Section 278 Highway Agreement and so was for the Highway Authority to determine.

*RESOLVED* (SIX voted FOR and FOUR ABSTAINED) that –

- (i) The application be approved subject to the conditions and Section 106 Agreement contained in the report and the amendment sheet;
- (ii) The Assistant Director Policy and Corporate be authorised to consult the Secretary of State in order to ascertain whether they wished to exercise their call-in powers under section 77 of the Town and Country Planning Act 1990;
- (iii) The Assistant Director Policy and Corporate be authorised to determine the application either upon receipt of confirmation from the Secretary of State that they do not wish to 'call-in' the application or following the expiry of 21 days from receipt of the consultation;
- (iv) The Assistant Director Policy and Corporate be authorised to negotiate the obligations and clauses of the Section 106 and approve planning permission subject to the conditions and revisions set out in the report and the amendment sheet, together with additional conditions to provide for site safety and security and the disposal and collection of litter, mirroring the condition attached to the Stane Park 1 development, as well as the revision of condition 14 to add a further pedestrian crossing on London Road and the consequent deletion of the £25k contribution for roundabout improvements and 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 to provide for the following:

- Mitigation contribution (£150,000 proposed by the Applicant) towards funding the Council's economic development initiatives to improve the commercial attractiveness of Colchester;
- Employment initiatives to ensure that occupier's seek employees on opening through local agencies (e.g. Job Centre);
- Provision of an extended footpath/cycleway link between the existing footpath/cycleway which currently terminates south of Essex Yeomanry Way and north of the Sainsbury's building;
- A £25,000 index-linked contribution towards improvements at the Stanway Western Bypass/London Road roundabout (plus a contribution monitoring fee in accordance with Essex County Council guidance);
- A Travel Plan monitoring fee.

(v) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application.

## **620 180873 Land north of Dyers Road, Stanway, Colchester**

The Committee considered a planning application for the erection of 57 residential properties with associated parking, servicing, amenity space, landscaping and utilities at land north of Dyers Road, Stanway, Colchester. The application had been referred to the Committee because the application was a major, objections had been received and a legal agreement was required. The Committee had before it a report and amendment sheet in which all 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, Planning Project Officer, presented the report and assisted the Committee in its deliberations. The Planning Project Officer explained that the consultation deadline for the revised layout plan did not expire until the day after the date of the Committee meeting and, should any further representations be received, raising new substantial issues, the application would be reported back to the Committee.

Jeremy Hagon addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He considered that Stanway already had enough development and he was concerned about the consequent problems associated with traffic flow. He questioned the proposed development on a narrow lane with no path ways and considered the delivery of infrastructure was required in order to alleviate traffic problems and improve safety on Winstree and Blackberry Roads. He also referred to the lack of progress in relation to the delivery of a new school within the Lakelands development although it had been promised for some time. He considered that the application should be required to provide additional infrastructure such as broadband at speeds of up to 20mb together with reliable mobile phone signal

coverage as well as a local defibrillator. He opposed the approval of the scheme on the basis that it was premature and needed to be delayed until improvements were implemented at Tollgate and after the GP surgeries and school provision had been improved.

Kevin Coleman addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He wished to respond to comments made by residents to the application. Some residents had indicated their opposition to further development and associated traffic problems but the site was allocated in the Local Plan for residential development and was part of a jigsaw of sites which, together, would provide the Stanway Southern Slopes access road. The Parish Council had commented on the site being over-developed with a lack of open space. He confirmed that the proposal included 15% open space, although the relevant policy standard was for 10%, whilst the proposed density was comparable to the neighbouring sites to the south and the north which already had the benefit of permission. Proposed parking and garden sizes both met the relevant standard required and in many instances exceeded these requirements. Concerns had been raised in relation to ecology, however, he pointed out that Essex Wildlife Trust had raised no objections. The applicant was agreeable to the provision of community services and affordable housing as required in the Section 106 Agreement. He also pointed out that there were no technical objections from consultees. Mersea Homes had a reputation for building developments to high standards and they had worked with the council's officers to create a well-designed proposal with a good mix of development. He hoped the Committee members would agree with the officer recommendation for approval.

Councillor Scott-Boutell attended and, with the consent of the Chairman, addressed the Committee. She referred to the ecology and diversity aspects of the application which was an issue for local people. Muntjac deer had been regularly seen on the site but there was no reference to any sightings in the report. She referred to the conditions attached to the permission for the area to the north of the site, which include bat roosting opportunities, bird boxes and hedgehog holes in fences and asked for these to be included as conditions for this site. Dormouse nesting boxes would also be installed on the neighbouring site and she was surprised that assessments had indicated that dormice were absent from this site. She welcomed the planting of blackthorn and the encouragement of invertebrates but sought clarification as to what provision would be made for reptiles. She welcomed the creation of bee banks and she questioned whether the measures proposed for badgers would be sufficient. She also sought clarification on the wildlife enhancement buffer. She asked for provisions to secure discussions between the applicant and residents regarding boundary treatment where there are significant changes in ground levels, as had been the case at the neighbouring site, developed by Taylor Wimpey and she requested that this be extended to the residents at The Burrows. She was disappointed that no objection had been raised to the proposal from the Highway Authority on the grounds of highway safety or capacity as she was concerned regarding the cumulative effect of multiple site development in the area. She was also

disappointed that there would be no contribution towards improvements to the junction at Warren Lane and Maldon Road. She welcomed provision for a nature trail and community facilities which she hoped would contribute to better amenity for children. She also asked about trigger points.

Councillor Dundas attended and, with the consent of the Chairman, addressed the Committee. He referred to the volume of objections from residents on various subjects. He referred to the status of the current Local Plan and the amount of residential development which had taken place during the lifetime of the Plan. He commented on the amount of required infrastructure which had failed to be delivered such as improvements to the A12 junction and the surrounding road network. He referred to the poor performance of the Warren Lane junction with Maldon Road where regular accidents now occurred and was concerned that no improvements were being delivered. He referred to the cumulative effect of developments. He was of the view that the other aspects of the Local Plan, such as infrastructure and community facilities, needed to be delivered not just the residential development. He welcomed the application in terms of the open space provision and density proposed. He was, however, concerned about screening provisions and sought clarification that adequate protection would be made for existing trees. He concluded by asking the Committee members to consider whether the application had been submitted prematurely, given the infrastructure to make it sustainable had yet to be delivered.

In response the Planning Project Officer confirmed that the site was allocated for residential development, forming part of the Stanway Growth Area and that the Highway Authority had not objected to the access proposals or the Warren Lane junction with Maldon Road. She understood concerns regarding the cumulative effect of developments but explained that an applicant was only required to mitigate its own impact. She further confirmed that Dyers Road would be closed to through traffic once the forthcoming Stanway Fruit Farm development was implemented. The applicant had agreed to all the Section 106 requirements, including open space, affordable housing, education and community facilities. She explained that the Lakelands development included a much greater number of housing units and had included the provision of a new school, delivery of which would be triggered following the completion of a required number of units of accommodation. Ecology management and habitat requirements were covered in a proposed condition which included bat and bird boxes, whilst the landscape condition would secure species appropriate to encourage wildlife. Dormice had not been identified on the site despite thorough site assessments being undertaken. She also explained that Essex Wildlife Trust had raised no objection to the proposals subject to the provision of a 10 metre ecological buffer. The provision of broadband within development proposals was not a current requirement.

In discussion, members of the Committee generally welcomed the proposals, including the ecological provisions and the proposals for the affordable housing but sought clarification in relation to the monitoring of the practice of developers in relation to trigger



points, the adequacy of proposed garden sizes, the financial contribution of £180,000 for community facilities, whether electric charging points would be provided, what type of affordable housing would be provided and whether the proposed ecological and boundary treatment conditions were consistent with those attached to the neighbouring development. Concern was expressed generally in relation to highway safety, particularly in relation to children travelling to school as well as the car parking layout and road widths on the development.

An observation was made in relation to renewable energy sources, electric vehicle charging points and ecologically sustainable proposals and the ability of the Council to require developers to make adequate provision for the way people currently lived in the 21st century. Reference was also made to the ecological implications of the delivery of the Fiveways Fruit Farm development and the need for adequate protection to be provided for the local wildlife as the last remaining habitat in the area.

The Planning Project Officer explained that the eleven affordable housing units were predominantly two and three bed units as well as two four bed units and one one bed unit, affordable in the true sense of their tenure and managed by a Housing Association. She was of the view that developers were keen to complete developments and that the staging of contributions avoided any deliberate non-completion. The minimum size of gardens was provided for in the Essex Design Guide and the proposals for the development had exceeded these standards. Contributions for community facilities was for an extension to the Evangelical Church which was well attended and over-subscribed, whilst education contributions had been required by Essex County Council and would be given to existing schools, rather than towards the site allocated for a primary school at Lakelands. She confirmed that the proposed conditions included a requirement for the provision of electric vehicle charging points. She explained that parking layouts had been provided for so that the open space would not be dominated by parked cars and, as such, spaces had been relocated to provide an organic edge to the boundary treatment. In many instances plots had 2/3 parking spaces as well as a garage and a condition requiring garages not to be converted for incidental purposes. She also confirmed that the access roads were designed to be suitable as a bus route and internal roads include turning heads suitable for refuse freighters.

**RESOLVED** (NINE voted FOR and ONE ABSTAINED) that, subject to no material objections being received as a result of the further neighbour notification on the revised plans which expired on 24 August 2018 –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions and revisions set out in the report and the amendment sheet and 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, to provide for the following:

- Open Space, Sport and Recreation: A total off site open space contribution of £312,699.36, a Public Open Space and Tree maintenance sum, if these features are

adopted by Colchester Borough Council, of £24,638.78, details of the Management Company for the open space to be submitted and agreed prior to the commencement of any development;

- Primary Education: £12,734.00 per place 16.2 places , Secondary Education: £19,345.00 per place 10.80 places;
- A continuation of the spine road between the adjacent Taylor Wimpey site (east of Warren Lane) and Dyers Road to be completed in accordance with details including an implementation timetable, to be agreed with the Highway Authority;
- Affordable Housing: 11 units tenure to be in accordance with adopted policy and all of the affordable housing to meet a minimum of building regulations Part M4 Category 2;
- Community Facilities: a contribution required towards the refurbishment and extension of the Evangelical Church £180,000 for the building work at Stanway Evangelical Church and £2000 for installation of a hearing loop and relevant equipment at Stanway Youth Centre;
- A financial contribution towards Recreational Disturbance Avoidance and Mitigate Strategy (RAMS).

(ii) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application.

**621 180805 Ground Floor, River House, Quay Street, Wivenhoe, Colchester**

The Committee considered a planning application and a Listed Building Consent application for change of use from office space to three studio flats and alterations to existing bedsits at Ground Floor, River House, Quay Street, Wivenhoe, Colchester. The applications had been referred to the Committee because they had been called in by Councillor Liddy. The Committee had before it a report and amendment sheet in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that the planning application and Listed Building Consent application be approved subject to the conditions set out in the report and the amendment sheet.

**622 181313 Lealands, Chapel Lane, West Bergholt, Colchester**

**Councillor G. Oxford here left the meeting**

The Committee considered a planning application for a proposed single storey side extension at Lealands, Chapel Lane, West Bergholt, Colchester. The application had been referred to the Committee because it had been called in by Councillor Barber. The Committee had before it a report in which all 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.

Lucy Mondon, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

Darren Bishop addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was a resident of Homecroft, adjacent to the application site. He did not object to an extension in principle but was concerned about the design and the impact on the residential amenity of his property. He was of the view that no consideration had been taken from his perspective as no contact had been made for access or to view from his property's perspective. He asked whether the assessment had been made by use of a desk top study. However, he pointed that the two properties were at different levels. He referred to the open plan internal style of his property. He considered there would be significant impact due to the proposed extension being closer to the site boundary and he was concerned about loss of light inside his property and in the garden and potential over shadowing. He acknowledged that parking issues had been resolved but he asked for clarification regarding any need for a retaining wall. He asked about the preservation of the 45 degree angle and whether the requirement had been met adequately. He also asked how the tests had been carried out.

In response the Principal Planning Officer confirmed that two parking spaces would be provided and, as such, the relevant parking standards had been met. The site tapered to one side but the extension was between 1.6 metres and 1.8 metres from the fence line. The distance from Homecroft, the neighbouring property, was a further 3.5 metres from the fence line. The higher level of Homecroft was an important fact to consider in relation to concerns regarding loss of daylight or sunlight as well as the fact that the proposed extension would be no higher than the existing property. As such there would be sufficient sunlight around the garden and sufficient daylight to reach the windows. She also explained that it was possible for planning applications to be assessed in terms of distances and relationship between properties by means of a desk top exercise and confirmed the 45 degree angle would go above the extension when measured from Homecroft.

In discussion, members of the Committee commented on the movement of the gable end of the property forward, with no change to the size or height and no impact on light or amenity for the neighbouring property. As such, no material planning considerations were evident

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

**623      181548 Former Waiting Room Cafe, Bus Station, Queen Street, Colchester**

The Committee considered an Advertisement Consent to display bespoke heras fence panels around the former Waiting Room Cafe, Bus Station, Queen Street, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report and amendment sheet in which all information was set out.

Lucy Mondon, Principal Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Cecilia Dickinson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She was concerned about the proposed height and extent of the adverts and that they would obscure the view of the Firstsite Museum. She did not support the erection of an eight foot barrier in this location on the grounds that it would detract from the attraction of the Cultural Quarter. She suggested the artistic groups could have been invited to assist with the visual representation of the barriers to better effect. She considered the proposal needed to be undertaken in a cultural way or not at all. She also objected to the use of plastic for the adverts and she questioned why it could not be made of recyclable material.

In response the Planning Project Officer explained that, as application for advertisement consent, the proposal had to be dealt with in a different way to a planning application. The aspects to be considered were in relation to amenity and public safety. It was acknowledged that the site would be developed, however currently a building had been demolished and the site was unsightly. It had therefore been considered that the adverts would create more visual interest than the existing fencing as well as screening the demolition.

Members of the Committee generally sympathised with the comments made by the speaker, particularly in relation to the use of plastic however, the height of the proposed adverts was not considered to be excessive. It was acknowledged that the demolition site was an eyesore and, as such, the proposed screening was welcomed. Clarification was sought in relation to the quality and durability of the plastic material proposed, whether public access to the site would be adequately secured, whether the wording and content of the adverts would vary and over what period of time they would be on display. Views were also expressed in relation to the application being submitted on behalf of the Council and whether a request could be considered for the material to be recyclable and for local artistic groups to be invited to assist with the aesthetic design of the adverts.

The Planning Project Officer confirmed that the existing heras fencing would be maintained and it was this that provided security of the site. One of the proposed conditions provided for the regular monitoring, maintenance, repair and replacement of the adverts. She also confirmed that the content and colour of the adverts were as

submitted and the application was for a temporary period until 31 July 2020. She suggested the Committee may wish to consider the addition of an informative in relation to the material to be used for the adverts.

The Development Manager reiterated that the considerations for signage were amenity and public safety only and sustainability was not a valid consideration in this instance. He also reminded the Committee members that they had a statutory duty to consider the application before them on its merits. He advised that it was not within the Committee's remit to try to redesign the scheme.

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

- (i) The application be approved subject to the conditions set out in the report and the amendment sheet and an additional informative to advise that a more sustainable material should be considered instead of the plastic proposed.
- (ii) The applicants be advised that the Committee would, in future, prefer a more artistic approach to advert design that engages with the local community.

#### **624 Section 106 Agreement in respect of land at 6/7 Hawkins Road, Colchester**

The Committee considered a report by the Assistant Director Policy and Corporate giving details of the proposed variation of a Section 106 agreement attached to an approved planning application for a residential and commercial development at Hawkins Road, Colchester.

Bradly Heffer, Senior Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations. The Senior Planning Officer explained that, following the acquisition of the site by a new owner, the viability of the scheme had been raised with officers and had indicated it would not be possible to deliver the financial element of the Section 106 Agreement relating to the education contribution or the affordable housing provision. The remaining element, related to a footway and cycleway across the frontage between the site and the river, had not been disputed. The supporting information had been independently assessed and the conclusions were agreed.

In discussion, members of the Committee sought clarification on the terms of reference for the viability study and whether this was determined by the Council or the developer and whether any agreement to a variation would set a precedent.

In response the Senior Planning Officer explained that each viability assessment followed a standard approach. The assessment would be produced by the developer after which it would be independently assessed. He explained, however, that the site incorporated previously contaminated land which was in a flood zone and, as such,

contained abnormal features which would impact the development costs. He also explained that outline and reserved matters permission had been sought separately and the opportunity had been taken by the Council, due to the site's prominent location, to drive up the development in terms of standard, value and appearance through use of architecture and materials which had been a factor in the overall viability of the scheme. It was also explained that, although this was due to change in the future, currently there was a confidentiality element to the independent assessment of the viability study.

Some members of the Committee expressed disappointment that the education contributions and the affordable housing provision would be lost but welcomed retention of the provision and ongoing maintenance of the footway and cycleway. Other members of the Committee sought clarification regarding the progression of the scheme should it not be completed within the three year time frame suggested in the report.

The Senior Planning Officer explained that the developer would be required to start the development within a period of three years and once commencement had taken place, completion would be required within a second period of three years. If the development was not completed in the timeframe the viability would then be reassessed and if no development had commenced at all the planning permission would expire.

*RESOLVED* (FIVE voted FOR, TWO voted AGAINST and TWO ABSTAINED) that the Section 106 agreement be amended by the insertion of the following wording:

'After commencement of the approved development, it is completed within a three year period or

If the development is not completed within this period the viability is reassessed and, if found to be financially viable, appropriate contributions secured for affordable housing and primary education provision to reflect the viability identified.'