

Planning Committee

Thursday, 19 August 2021

Attendees: Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Michael Lilley, Councillor Jackie Maclean, Councillor Roger Mannion

Substitutes: Councillor Patricia Moore (for Councillor Robert Davidson), Councillor Gerard Oxford (for Councillor Beverley Oxford), Councillor Chris Pearson (for Councillor Martyn Warnes)

Also Present: Cllr Harris (attended remotely)

869 Planning Committee Minutes 17 June 2021

RESOLVED that the minutes of the meeting held on 17 June 2021 be confirmed as a correct record.

870 200910 Odeon Cinema, Crouch Street, Colchester

Councillor Chuah (in respect of her position as an Ambassador and member of the China Association) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the demolition of the former cinema buildings, the reconstruction of the Foyer Buildings and the erection of a new apartment block in place of the auditorium to provide 55 apartments, 2 retail units (A1) and 32 basement car parking spaces. The application had been referred to the Committee as it had been called in by Councillor Goacher for the reasons set out in the report.

The Committee had before a report in which all information was set out.

Simon Cairns, Development Manager, presented the report to the Committee and assisted the Committee in its deliberations. He explained that the former cinema was a considerable architectural presence in Crouch Street and was included on the Council's adopted list of Buildings of Local Architectural or Historic Interest. There was some surviving original detail on the street frontage. The surrounding area was rich in heritage with many buildings of significance surrounding the site. The existing approved scheme retained the façade of the building, with the new development located behind it. This

application was for development which would be one storey higher to accommodate a penthouse floor, together with further car parking provision. The additional floor would be set back from the frontage and built above the principal gable on the frontage. The development also proposed two commercial units fronting onto Crouch Street. The development included 55 units, as opposed to 46 in the approved scheme, and was richly provided with balconies on the south elevation.

Robert Pomery addressed the Committee in support of the application pursuant to the provisions of Meetings General Procedure Rule 8(3) explaining that the site was a problem both for the applicant and the town. It had been vacant for 19 years. The application was supported by expert heritage advice. Two main issues had been identified by officers: scale and the frontage. In terms of scale it was accepted that the building was not an exact replica but was sufficient to preserve the character of Crouch Street and the Conservation Area and once complete would be broadly the same. The additional floor had been added for viability reasons. The harm caused was minimal. Demolition of the frontage would aid viability and construction, and once the scheme was complete the appearance would be broadly similar. The cinema was not a listed building. The applicant was fully committed to the scheme and would deliver it if approved. Whilst the applicant was open to offers on the site, no credible offer had been received in the past six years. If a viable alternative use was possible the applicant would have brought it forward. If the Committee were satisfied with the scheme they should defer for officers to negotiate suitable measures to enable the scheme to be developed, such as a bond or unilateral undertaking. This proposal offered the best prospect of a viable scheme being developed on the site.

Committee members expressed concerns about a number of aspects of the scheme, including the demolition of the cinema frontage. The building meant a lot to the people of Colchester and whilst the frontage would be replaced, it would not be an exact replica. Whilst the building was not nationally listed, it was on the local list, which was indication of local feeling of the importance of the building. It was noted that the frontage was an important example of a style that was unique in Essex and its loss would be detrimental to the street scene. The retention of the façade was one of the main conditions included in the sale of the site and the purchaser had been aware of this

The additional floor made the building too tall, bulky and overbearing and would lead to a considerable change in the character of the area. Concerns were also expressed about the lack of car parking, and clarification was sought as to the provision of cycle storage and electric charging points. The Development Manager confirmed that there was provision for both these elements in the scheme.

The Committee also sought clarification as to what would happen to the site if the application were not approved. The Development Manager explained that the Council had statutory powers to prevent further deterioration of the building, which had already been used. A long term solution needed to be found, but there were significant

problems with this scheme, and the officer recommendation was supported by expert advice. Any replacement scheme needed to preserve the character and appearance of the area.

The Committee noted the suggestion that it defer the application for suitable measures to ensure delivery of the scheme. The Development Manager explained that if the Committee were minded to approve the scheme, then the Council would need to seek a legal mechanism to ensure that the development could be completed, if the developer were unable to do so.

RESOLVED (UNANIMOUSLY) that the application be refused for the reasons set out in the report.

871 211010 9 Mayberry Walk, Colchester

The Committee considered an application for a Certificate of Lawful Use to confirm the use of the property as a house in multiple occupation under use class C4. The application was referred to the Committee as it had been called in by Councillor Harris for the reasons set out in the report.

The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet.

Eleanor Moss, Senior Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Kate Crellin addressed the Committee against the application pursuant to the provisions of Meetings General Procedure Rule 8(3) to express concern about the lack of commitment to promises made when this application had previously been considered by the Committee. In addition to concerns about the building control process and the quality of the build, local residents were of the view that the proposed material changes were substantial and would not warrant a Certificate of Lawful Use without planning permission. A spacious three bedroom house had been changed to a cramped four bedroom dwelling, with an additional ground floor flat and kitchen. The use of the premises was now commercial rather than residential. Clarification was sought as to the definition of a material change. There had been misconnections of waste water by the owner of the property. Work had been undertaken by non-specialist trades people and in addition neighbour's property had been trespassed on and Anglian Water property damaged. Who would be responsible for ensuring those living in the accommodation were fit and proper persons, and for ensuring that rents remained affordable, given that it was classified as affordable housing? This would set a precedent for other properties in Mayberry Walk.

Councillor Harris attended remotely and with the consent of the Chair addressed the Committee. The Willows was an estate built in the 1970s with an emphasis on family use, and was a diverse and welcoming community. However, residents were increasingly concerned about the conversion of houses into HMOs. What checks would be made on the property to ensure that the limits on occupation were complied with? Was it up to residents to report infringements or would checks be made by a public authority? There were also concerns about the quality of the building works and Building Control had not confirmed to the local community that they had visited the property and whether there were concerns. This was important not just to the residents of 9 Mayberry Close but to those living on either side of the property. The Committee should instruct the relevant officers to undertake the necessary tests and checks to reassure residents of Mayberry Close.

The Committee expressed concerns about the conversion of the property into an HMO and the lack of control that the Permitted Development system gave the Council as planning authority. The Committee expressed particular concerns about fire safety and emphasised the need to ensure that housing provided in Colchester was of a good standard. It was suggested that a refusal of a Certificate of Lawful Use would send a message that housing needed to meet safety standards and was fit for purpose.

In response to the Committee's concerns and the views of public speakers, the Senior Planning Officer emphasised that the rental of rooms did not require planning permission. Officers from the Council's Private Sector Housing and Building Control Teams had undertaken inspections. The latest position in respect of Building Control was set out on the Amendment Sheet. The results of Building Control inspections were not made public. If the application were to be refused, the Committee needed to bear in mind that the conversion of a residential dwelling to a HMO was allowed under Class L of the Permitted Development Rights. The Certificate of Lawful Use was a tool to confirm the legal position, and refusal of the application would not impact upon the legality of the conversion.

The Committee explored whether it could defer its consideration until the Inspections by Building Control and Public Sector Housing had been completed. The Development Manager reiterated that planning permission was already given under Permitted Development Rights: the Committee were just being invited to approve a Certificate of Lawful Use to confirm it. Safety matters were for Private Sector Housing and Building Control, but because this was not a material change of use, Building Control powers were limited. The Private Sector Housing Inspector had provided a detailed report and they would seek to enforce their standards. However that was not dealt with by planning legislation and so was not a matter for the Planning Committee to enforce.

The Senior Planning Officer also explained that any refusal would need to be based on planning grounds and explain why the conversion did not fall under the proposed C4

use. Any such refusal could be appealed. The Development Manager suggested that given its concerns the Committee could add an informative to its decision to confirm the need for compliance with Private Sector Housing and Fire Service requirements, and the need to seek planning permission for the creation of a self-contained flat as that was not in the scope of the permitted change of use.

The Committee welcomed this proposal but remained concerned about the issue raised by this application and the lack of control local authorities had to regulate and control development under Permitted Development Rights. The Chair indicated she would be willing to write to the Secretary of State on this point.

RESOLVED (FIVE voted FOR, TWO voted AGAINST and ONE ABSTAINED from voting) that the application be approved for the reasons set out in the report together with an information confirming the need for compliance with Private Sector Housing and Fire Service requirements and that the creation of a self-contained flat would require planning permission and would not be in scope of this permitted change of use.