

Planning Committee

Thursday, 28 February 2019

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

Substitutes: Councillor Paul Dundas (for Councillor Vic Flores), Councillor Helen Chuah (for Councillor Theresa Higgins), Councillor Gerard Oxford (for Councillor Philip Oxford)

Also Present:

666 Site Visits

Councillors Barton, Chuah, Dundas, Hazell, Jarvis, Liddy, Loveland, Maclean and G. Oxford attended the site visits.

667 Minutes of 17 January 2019

The minutes of the meeting held on 17 January 2019 were confirmed as a correct record.

668 Minutes of 31 January 2019

The minutes of the meeting held on 31 January 2019 were confirmed as a correct record.

669 182120 Land at Queen Street, Colchester

Councillor Liddy (by reason of his directorship of Colchester Archaeological Trust) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered a planning application for the demolition of the existing buildings/structures and redevelopment to provide purpose-built student accommodation, hotel, commercial space (Use Classes A1, A3, A4, B1(c) and D2), artist studios and associated vehicular access and public realm improvements at land at Queen Street, Colchester. The application had been referred to the Committee because it was a major application to which objections have been received and a Section 106 legal agreement was recommended. The Committee had before it a report and an 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.

Alistair Day, Planning Specialists Manager, presented the report and, together with Simon Cairns, Development Manager, Jess Tipper, Archaeological Advisor and Martin Mason, Essex County Council Strategic Development Engineer assisted the Committee in its deliberations.

Sir Bob Russell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he had been an observer and participant of the Council for 55 years and he considered this planning application was without precedent. He welcomed the attendance of two Castle ward councillors and that they would be speaking against the application. He was also aware that the local member of Parliament was unhappy with the proposal. He was also aware that the Civic Society had been working on the proposals for some time and he thanked the Chairman for increasing the number of speakers permitted to make representations. He hoped that Planning Committee would reject the application and he reminded the Committee members that they were permitted to decline the advice of officers. He acknowledged that a case could be made for the proposal to be approved but he considered there was a much more convincing case on planning grounds for the application to be refused. He considered that the illustrations contained in the planning officer's presentation demonstrated what an appalling scheme the application was. He questioned who supported the proposal and was of the view that it had been supported by a small number of Cabinet members whilst those in opposition to it comprehensively outnumbered them. He considered Colchester was united against the proposals for the former bus station site. The scale and appearance of the application were not in accordance with best planning principles. He referred to the submission to Cabinet by the applicants of Lego-style pre-fabricated blocks of low quality accommodation. He also stated that student accommodation had not been mentioned in the approved Masterplan for the site. He acknowledged the site was derelict but he advocated an alternative proposal to the current one. He asked the Committee members to inform the applicants that their proposals were not good enough.

Dorian Kelly addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He said that he addressed the committee on behalf of 107 local people. He did not consider the proposed commercial development was the best use of the land and was of the view it should be dismissed. He was of the view that the proposal was the opposite of what Colchester wanted and needed, it did not conform with many plans and policies and was disliked as unnecessary, unwanted, unviable, unsustainable and in the wrong place. He considered that acceptance of the proposal would set a precedent and impact on the whole of the town centre. He considered there was huge unexploited potential for tourism, heritage, the arts, leisure and retail. He asked the Committee members to overturn the recommendation of the planning officer on the grounds of multiple material planning

considerations, including non-conformity to local planning policies, design, bulk, scale and visual appearance. He referred to the three criteria of the sustainability test and considered the application failed in each regard. He considered the application could be refused on strong sustainability grounds and was of the view that any appeal would fail. He also asked for it to be refused on economic grounds as there would be very little benefit to the Borough as a whole. He was concerned about the loss of public land for very little short-term gain, the absence of a financial viability study, the negative viability report commissioned by the Council and traffic issues and sought assurance for the protection of local residential amenities.

John Burton, on behalf of the Civic Society, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He commented that the Civic Society usually worked with the Council in relation to planning matters, but he was supporting the views expressed by the objectors to the application for reasons of non-compliance with the National Planning Policy Framework due to lack of consultation. He explained that the Civic Society had not been consulted on the application and requests from residents' groups had been refused. He was of the view that the revised application was essentially the same as the original, subject to height being added. He was Chairman of the Georgian Group Casework Panel and considered the proposal to be of significant poor quality with many contradictions making it difficult to determine what was being proposed. He was concerned that the public realm scheme, opening in the wall and detailed design matters would fall outside the Council's control and the scale envisaged in the approved Masterplan would be greatly exceeded by the four and five storey student accommodation. He was concerned about the transport and parking proposals and the problem of enforcement as well as the use of Priory Street car park which was already at capacity. He referred to the car-free access proposals but considered many journeys would be undertaken along the spine road and he questioned who would fund the public realm improvements proposed. He referred to disability access which had been an over-riding issue in the approved Masterplan whilst the proposed scheme included one disabled parking space, serving up to 34 accessible rooms as well as staff, the Curzon cinema and the hotel. He considered the proposed use of Priory Street car park for additional disabled parking would be too distant from the site. He was of the view that the proposal would be harmful to the conservation area, to archaeology, the Town Wall and the priory whilst views from the castle and the walls would be destroyed. He also referred to the spine road being uninviting, and was concerned about an absence of visual richness, fine detailing and articulated roof forms expected in an historic environment. He was concerned about the relationship of the proposal to Firstsite and was concerned that the elevations were not sympathetic to the surrounding Victorian architecture. He asked the Committee members to refuse the application which was of poor design and whose characteristics would not deliver the regeneration necessary to that part of the town.

Kathryn Oelman, on behalf of OMC Investments, Greyfriars Hotel, Victor Batte-Lay Foundation, Friends of the Minorities, St Thomas More's Primary School, Greyfriars

Court, Priory Area Residents Association, Dutch Quarter Residents Association, Rosebery and Smythies Residents Association and Sip and Tuck, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that a high standard of design was demanded for the site to deliver the regeneration envisaged. She considered a well-integrated, high quality and inclusive development was required with enhanced public realm. She considered buildings with inappropriate height, scale, size, form, massing, density and materials should be refused. She referred to the St Botolph's Masterplan having a visitor-based mix of uses on the site with a culture and leisure focussed development at its heart together with a correct balance of uses. She was of the view that the commercial uses proposed in the scheme would be dictated by the student component whilst local education establishments had not indicated their need for the development. She considered the site would become a student quarter and was concerned about the impact of the length of the proposed development on Firstsite and the safeguarding issue for the local school. She referred to the circular walk originally envisaged being realigned through a student courtyard and being closed for most of the year. She was concerned about the absence of links from the old bus depot, the design of the student block and potential anti-social behaviour. She questioned the proposed height and bulk of the hotel building adjacent to Queen Street and the harm caused to heritage assets and impact on the views from Castle Park East Hill as a consequence. She was of the view the proposal failed to improve the character, quality and functioning of the area and considered it to be refusable and defensible at appeal on the grounds listed in her objection letter.

Catherine Francis addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that she was a prospective student and young creative, living and working in the area. She referred to the site's prime location in terms of history and culture and the conception, development, design and investment of Firstsite which would be significantly undermined by the proposal. She considered public enjoyment of the public amenity would be harmed and this constituted a material consideration not previously identified. She referred to the conclusions of the light studies and the detrimental impact on the enjoyment of the space and designing out crime. She was concerned about the unique design of the Firstsite building being undermined by the development, the viability of the proposed commercial units not taking into account the current economic climate and the greatly exaggerated spending power of the student population. She regretted that Colchester's culture and history was not being adequately acknowledged and questioned whether the proposed development satisfactorily adhered to the existing covenants on the land.

David Campbell, Managing Director of the Alumno Group, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He welcomed the debate about his proposals for the site. He believed the scheme would provide a new vibrant community for the town and contribute to the

renewal of an important area of the town. He considered Alumno was the right partner for the site and the town. The company had been established for 13 years, strived to be a good neighbour and place making was at the heart of what the company was about. The company also had a special focus on student housing and the building of communities for students as well as artists, creatives and the wider community. They were part of the Places for People Group, the largest Housing Association in the UK, sharing a commitment to attention to detail and delivering long lasting and sustainable cultural enhancements. They were committed to collaboration and partnership, seeking to blend investment into the fabric of the community. They made a positive contribution socially, economically, culturally and architecturally. The company had delivered over 8,000 bed spaces in St Andrew's, Birmingham and Norwich. They had built nurseries, children's theatres, sculpture park and community parkland and worked with Space Studios on two projects. The company was mindful of the unique character of Colchester and had worked hard with officers to follow the blueprint set out in the Masterplan and he considered the requirements had been matched rigorously. He hoped they were given the chance to establish further rapport within the community.

Ben Wrighton, on behalf of Turley Planning Consultants, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He highlighted the comprehensive consultation which had been undertaken to ensure compliance with Council's policies and complementary to the historic environment. He referred to the allocation of the site for redevelopment within the adopted Local Plan and for student accommodation within the emerging Local Plan, without objection. He explained that the pre-application process had started in February 2018, many meetings had taken place with officers of the Council and Historic England and the scheme had been adapted throughout this period to accommodate comments from all parties, where possible. The application had been submitted in August 2018 and following this the consultation continued as well as after the first round of changes. The application had been amended and submitted again in December 2018, with significant changes including stepping the building back from the Town Wall and lowering building heights. Support had then been gained from Historic England. He was of the view that the applicants had listened and adapted and were confident that the scheme was in-keeping with the historic character of the area and local plan policies. He acknowledged concerns about archaeology and confirmed that extensive work had been undertaken and close contact had been made with the Archaeological Advisor to ensure there would be minimal impact on remains and that the pile layouts would not damage remains across the site. In addition, conditions had been proposed to ensure these issues would be properly enforced. He also referred to the economic benefits of the scheme which included spending from hotel guests and students, additional jobs for construction and operational phases and the payment of business rates by the operators. He confirmed the scheme was highly sustainable, with a Building Research Establishment Environmental Assessment Method (BREEAM) performance rating of very good being offered, although it not being a requirement, and a blue roof to deal with surface water run-off. He concluded that the proposal had been a collaborative scheme and urged the

Committee members to approve the application in accordance with the development plan and the planning officer's recommendation.

Sarah Simpson, Transport Planning Consultant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that the approach to transport for the scheme was to make sure it operated safely and efficiently and the St Botolph's areas was enhanced. She explained that the scheme had been designed to ensure that students' arrival at the start of the year and departure at the end of term would be in a controlled manner, with the least impact on people in the area. Discussions had taken place with the Parking Partnership as a result of which small changes had been proposed to the Priory Street car park to create a temporary drop off arrangement each year. Access to the St Botolph's area for disabled people would be improved and a ramp at the wall would provide a more accessible route to the site, avoiding narrow footpaths. Improvements to Queen Street had been included in the proposals, following discussions with Essex County Council, which would increase the width of footpaths, improve the bus stop area, increase the amount of cycle parking and realign the Queen Street carriageway.

Anna Harding, on behalf of Space Studios, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that Space Studios occupied the premises of the former Police Station in Queen Street. She supported the scheme as she had first hand experience of the quality of Alumno's work, using great design and creative friendly developments. She considered them to be considerate and imaginative and would be a great partner for Colchester. She was of the view that the architects had given consideration to heritage and historical assets and they had experience of other student accommodation schemes in Oxford, Cambridge and Norwich. She confirmed that Space Studio had worked with Alumno on a similar scheme in Southwark and in Stratford. She considered it to be an opportunity to build on the success of 37 Queen Street and to continue the development that it had initiated and she was happy that they had been asked to create some additional workspace.

Michal Kotowski addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained he had lived in Colchester for three years and he was of the view that the Queen Street area was in great need of regeneration. He welcomed the wide variety of uses and he considered it continued the improvements undertaken in the High Street. He referred to the change in look between the High Street and Queen Street and considered them to be two different communities with Queen Street being of lesser quality. He considered the scheme would be an attractive development, contributing to improvements in the town centre, the redevelopment of the former bus station and urged the Committee members to support the proposal.

Councillor Crow attended and, with the consent of the Chairman, addressed the

Committee. He explained that he was one of the Castle ward councillors and acknowledged the time and effort taken by the planning officers working on the application. He had previously advocated the need for more investment in the town centre but was unable to support the application. He did not oppose the principle of students living in the town centre and accepted the business model that proved their success of managed student accommodation. However, he did not believe the site was the right place for the proposal because of layout, density and overshadowing of the accommodation buildings which would block the neighbouring buildings, including Firstsite. He considered that Firstsite had been designed to be looked at, admired and enjoyed due to the way the outside copper and aluminium cladding caught the sunlight. He considered all views of Firstsite would disappear as a consequence of the development and light would be blocked. In terms of economic impact, he was of the view that the scheme would not revitalise this part of the town centre or make any significant impact to the town's economy. He was of the view that students spent much of the day on campus and would not use the town. He considered many of the windows to the student accommodation would be overlooked by the Curzon cinema and part of the development would be close to and overlook the playing field to St Thomas More's primary school which would be a safeguarding issue for the children. He also considered the parking provision to be inadequate, given Priory Street car park was already full and some students would break the tenancy contract precluding car ownership. He was concerned about the impact on nearby on-street parking facilities. He had met with Alumno and acknowledged their intentions to be genuine and they had an impressive portfolio. However, he considered the Council's expectations for the site had not been made clear at the outset. He was of the view the site required something of substantial benefit, creating a lasting legacy and destination for residents and visitors. He was also concerned that the proposals did not include provision to relocate the Visitor Information Centre. He speculated whether Alumno could have been assisted to locate a more suitable site for this investment and he was concerned that the proposals had been progressed without any direct consultation with two of the ward councillors. He was of the view that, if the application was approved, residents would feel cheated of the Cultural Quarter they felt they had been promised. Likewise, if it was refused, Alumno would rightly feel they had been misled.

Councillor Laws attended and, with the consent of the Chairman, addressed the Committee. He explained that he was one of the three Castle ward councillors and he was a member of the opposition party on the Council which he considered the reason he had not been directly consulted on the proposals. He had received numerous representations in opposition to the scheme. He was of the view that student living in town centre could provide a positive impact in terms of freeing up of houses in multiple occupation, increase in mid-week spending power, the lack of need for cars and on-site welfare support. However, he opposed the student aspect of the scheme being considered on grounds of scale and massing of design and economics. He referred to the use the architectural design and height of the Curzon building on which to base the concept of the proposal. He was of the view that a taller more architecturally interesting

building would have been more acceptable in complementing Firstsite. This would also have a smaller footprint and therefore more public realm. He was considerably concerned about the amount of piling for the proposed building and the impact this was likely to have on the site's archaeological remains. He acknowledged that the development would improve the existing condition of the site, however, from looking at the 2003 Masterplan it was clear that a significant cultural offering was intended for the site as well as including the relocation of the Visitor Information Centre. He referred to the wider Masterplan and was of the view that the proposal was a piecemeal development, with Berryfields and land owned by Essex County Council being excluded. He also referred to the potential need to look for additional sites for residential development in the town centre, whilst he considered the student accommodation would not contribute to the Council's Objectively Assessed Housing Needs figures.

The Planning Specialists Manager explained that student accommodation was compatible with the land use allocation for this site, confirming the adopted Local Plan promoted residential accommodation as being appropriate in town centres, reinforced by the Masterplan which showed retail and residential uses in the area. The emerging Local Plan also promoted student accommodation on the site, with no objections. He referred to the relevance of emerging policy DP10 and he confirmed that the student accommodation did count towards the Council's housing figures. He explained that the uses proposed for the site corresponded with the uses set out in the adopted and emerging Local Plans and the Masterplan and the flexible commercial uses would accommodate the specialist retail uses included in the Masterplan. He also confirmed that the Masterplan referred to development of three and four storeys and potentially higher and the proposal corresponded with these criteria. He explained that the footprint taken by the building proposed was less than that envisaged in the Masterplan and that existing piles at St James' House would be re-used, whilst piling on the remainder of the site was in accordance with Historic England guidance. He referred to the proposed size of rooms for the student accommodation, confirming these were typical of rooms in other developments in Colchester and elsewhere. He also confirmed that a potential future change of use was not a matter which the Committee should take into consideration when determining this application. He explained that it was not unusual for planning approvals to include a significant number of associated conditions to ensure matters were appropriately controlled and architectural quality assured. Concerns regarding the public realm work not being delivered would be addressed by the inclusion of trigger points to ensure delivery within a set timeframe. He confirmed that Essex County Council had been consulted on the proposal who had indicated that there was no specific guidance in relation to the safeguarding concerns regarding school pupils, however he also explained that it was not unusual for residential housing to be situated in close proximity to school premises, as such, he did not consider this to be a reason for refusal of the application. The developer had also offered to work with the school to secure adequate security arrangements. He referred to concerns about the consultation process and lack of engagement and explained that a consultation exercise had been run prior to the submission of the application and the application had been subject to two rounds of

consultation since submission, with all comments being taken into account during the course of the application. He referred to the access arrangements for Berryfields which was currently used by the local school in term time and the proposal provided public access along the Town Walls whilst preventing anti-social behaviour at night time, which would be secured by legal agreement.

The Development Manager affirmed that the proposed development was in close conformity to adopted plans and policies in terms of uses, scale and massing with the adopted 2005 Masterplan and the proposed uses conformed with both adopted and emerging Local Plans whilst, in terms of concerns regarding over-development, the proposal involved less site coverage and a lesser impact on the setting of Firstsite than envisaged in the adopted Masterplan. He also explained that the proposed building would be situated considerably further south than envisaged in the adopted Masterplan, allowing more space and lesser shading for Firstsite Square. He explained, therefore, that from the Committee's point of reference which was the adopted Policy Framework, the proposal compared more favourably than the current adopted Masterplan would deliver. In terms of detailed design considerations, these were subjective matters, however statutory consultee, Historic England, had not objected to the proposed design, the impact of the development on the character and appearance of the conservation area or the setting of adjacent listed buildings. He explained that the piling proposals conformed with adopted national policy and, as such, no excessive harm to the heritage of the site could be identified. He explained that the proposals did not preclude access through the bus depot site, this site was outside the scope of the proposal and the intention was to give public access when the site came forward for development.

Initial comments by the Committee members referred to conformity of the proposal with the development plan and adopted guidance, particularly in terms of the public consultation which had been undertaken by the applicant. Concern was expressed regarding the adequacy of the engagement process and clarification was sought as to whether the Council had any responsibility to facilitate this.

The Planning Specialists Manager confirmed it was for the developer to consult prior to the submission of the application as they felt appropriate. Accordingly, a public consultation exercise had been undertaken before the application was submitted and he assumed local residents had been invited and had the opportunity to participate. He was also aware that discussion had taken place between Alumno and the local school.

One member of the Committee referred to plans for the redevelopment of the St Botolph's Quarter dating back to 2006, the aspirations of the 2005 Masterplan for the area, the contents of the emerging Local Plan and the principles contained in the National Planning Policy Framework and was of the view that the proposals being considered fell short of these guidelines in terms of the residential element, the type of commercial content and the establishment of a sustainable community which would enhance the area. Concern was expressed about the need for the right development to

be diligently considered and that student accommodation would not engender a growing community, investment would be lacking and new jobs may be of poorly paid.

Other Committee members referred to the archaeology potentially contained on the site, the importance of heritage assets to the history of the town and previous developments in the town where historic remains had been lost whilst concern was expressed about the suggestion that a multiple storey building may be appropriate for the site, on the basis that development needed to be in-keeping with the town generally. Support was expressed for the long overdue regeneration of the area and the very poor condition of the site currently which was significantly detracting the look of the area generally, whilst it was acknowledged that the ambitious investment plans for the site proposed by the developer had been met with virtual universal opposition from residents. Concern was also expressed about the intention for parts of the site to have restricted access at certain times of the day, that this may detract from the site being a shared space for all and could potentially lead to the area being deemed a student quarter. Support was expressed for a cultural centre for Colchester, whilst recognising opportunities to expand this community had already been taken where possible. Proposals for transport improvements to Queen Street following approval of the application were noted and assurances were sought regarding the mechanism to ensure these would be delivered.

Extreme concern was voiced by a number of members of the Committee in relation to the adequacy of the accessibility proposals, particularly in relation to people with mobility disabilities, given the provision of up to 34 accessible rooms within the student accommodation, notwithstanding potential hotel visitors and the intention for the development to deliver only one disabled parking space in addition to the seven existing disabled parking spaces in Priory Street car park which were already very well utilised and clarification was sought that the provisions for people with disabilities would be satisfactory given the requirements of the Disability Discrimination Act (DDA). In this regard, reference was also made to the proposed ramp from Priory Street car park which was not fully DDA compliant in terms of the steepness of its gradient as it was not possible to provide sufficient length to the ramp due to the location of Priory Street itself. Questions were raised about the principle of providing a ramp which was known to be non-compliant with existing legislation and whether other proposals, such as a lift, which would be compliant with DDA requirements should be considered for that location. The proposed method of managing the disabled parking provision for the student accommodation and the hotel was considered to be woefully inadequate, particularly given the provision of 17 adapted rooms for students, with potential for a total of 34 and the likelihood of accessible rooms in the hotel. Views were also expressed that disabled parking proposals which were known to be non-compliant with DDA requirements should be deemed unacceptable.

References were also made by other members of the Committee to the student accommodation and the extent of its economic contribution to the town and the intention for the occupancy of the rooms during the academic holiday period. Clarification was

sought on the need for additional student accommodation in Colchester, especially in the light of other similar applications having gained approval; whether the Section 106 obligations included contributions towards additional clinicians as well as health services generally; more detail about Colchester Travel Plan and the sustainability of the employment proposals.

Very serious concerns were expressed about the scale, design, visual impact and density of the student accommodation and its likely significant impact on the setting of Firstsite and the substantial harm to the setting of the Town Wall. Strong misgivings were expressed regarding the quality and design of the proposal, which were considered poor, unattractive and oppressive, and whether the proposal would enhance the area given its acknowledged special character and significance and the high aspirations for the regeneration of that part of the town. It was also argued that views of the Town Wall and the Firstsite building should be a key consideration. Comments were also made about the building design being generic in character, of its time and that it would date quickly.

Clarification was sought regarding the need for student accommodation and whether this had been formally confirmed by the University of Essex itself or whether assumptions had been made on the University's behalf; whether student numbers had been based on the total number of University of Essex students at Colchester and Southend campuses or Colchester campus only; what enforcement measures would be used to prevent students bringing cars, motorbikes and mopeds to the site, given the likelihood of student car ownership and car leasing potential; whether the economic benefit of the development could be quantified and assurances regarding the long term sustainability of the business developing the site and what would happen to the development if the company went out of business in the future.

Reference was made to the need for student accommodation in the town and the associated viability of the scheme. It was mentioned that, in the previous 12 months, the Committee had approved applications for student accommodation at five sites which would total 1,918 beds whilst there was provision of 4,788 beds existing on campus which totalled 6,706 dedicated student bed spaces in Colchester. There were currently 14,000 students enrolled at the University of Essex and, as such, it could be argued that there was a demonstrable demand for additional dedicated accommodation. Comment was also made about the meticulous recording of artefacts which had been undertaken during the recent excavation of the archaeological site at the Mercury Theatre and that this would give confidence that a similar degree of attention to detail would be provided to protect any archaeological remains during this proposed development. It was also remarked that the current proposal was the first one to come forward to develop the site and that lost opportunities had occurred elsewhere, such as in relation to the proposal to transform the Jumbo water tower and to give it a new lease of life. It was argued that there was potential for the Queen Street site to decline should it remain undeveloped but the view was also expressed that it would be better to wait for a different proposal to

come forward which would have a better vision for the site. Further clarification was sought regarding the potential for more land to be developed on campus for student accommodation and for renewable energy criteria to be considered such as vehicle charging points.

The Planning Specialists Manager responded to the various comments made. In terms of impact on the historic environment and setting of the wall, it was explained that Historic England had been heavily involved and had concluded that the proposal would not cause harm to the setting of the wall, St Botolph's Priory, or the town centre conservation area. He confirmed that the Committee members could take a different view but requested that the full extent of concerns regarding harm and adverse impact are clearly articulated. In terms of scale and mass of the development, he explained that the adopted guidance set out the parameters for heights, layout and footprint of buildings. He explained that the proposed heights did follow the guidance and it would be helpful for an explanation to be given as to why the guidance was considered inappropriate should there be concerns in respect of this matter. Regarding the occupation of the building and alternative uses should the business fail, he explained that a 48 or 51week tenancy arrangement was proposed and, as such, the site would not be empty for large parts of the year. A condition had also been proposed to control the use of the building, together with a legal agreement to provide for occupation by those enrolled in tertiary education. In relation to NHS financial contributions, the NHS had been consulted and engaged throughout the application process and the contribution set out in the report was what had been requested as being necessary to mitigate the impact of the development. He also explained that, in terms of long-term sustainability of the proposal, the guidance contained in the National Planning Policy Framework that developments complying with policy, were to be assumed to be viable and therefore not required to submit a Viability Assessment.

The Development Manager referred to questions about need for supply of student housing and confirmed there was a very significant shortfall between the student numbers attending the university already and the level of purpose-built student accommodation in the town, the shortfall currently being met through the private rented sector which was often unmanaged. However, in addition to the University of Essex and its planned trajectory of growth, there was also the needs of Colchester Institute to take into account, which demonstrated a clear and continuing need for further student accommodation. There was also no perceived risk of redundancy or under-occupation. In relation to heritage impacts, he explained that the adopted Masterplan had provided for three storey development adjacent to the Town Wall whilst the current proposal had a stepped two storey form in this location and was, arguably, more respectful than that which was required under the adopted Masterplan. He also emphasised that Historic England had no objection to the proposal and the wall had a large and unattractive shed appended to it which would be removed as part of the proposals.

The Archaeological Advisor confirmed that a comprehensive archaeological evaluation

had been undertaken on the site with large test pit evaluation by Colchester Archaeological Trust, followed by a ground penetrating radar survey, followed by a further series of large test pits on the site of St James' House and the site as a whole. The evaluation found heavily robbed out remains, including of the Roman walls, with no evidence for show stopper finds which was assumed to be true of the entire site. He confirmed there had been a Roman mosaic on the site but there was no evidence of this remaining. The piling proposals were entirely in accordance with national standards and guidance produced by Historic England, which meant that 98% of the buried archaeology would survive. He confirmed that much of the buried archaeology was preserved over a metre in depth which would not be impacted by much of the development. He also confirmed that the piles would be re-used at St James' House thus minimising the damage in that locality and all other groundworks would be subject to intensive archaeological investigation through recording that excavation. There was also a very comprehensive and robust scheme of identification for the archaeological investigation which would deal with all eventualities. He also confirmed that the investigation would be consistent with that undertaken at other major redevelopment schemes at Fenwick's and at the Mercury Theatre. In terms of the setting, he referred to Historic England's guidance and he was of the view the scheme would not adversely impact the setting of the scheduled monuments, including the Town Wall, St Botolph's Priory and the below ground archaeology at Berryfields.

The Planning Specialists Manager further confirmed that the parking provision guidance used for commercial developments was for a maximum provision and which, in sustainable locations such as town centres, provided for car free accommodation to be appropriate. He also referred to the recently approved Magdalen Street site which provided for two parking spaces which was arguably in a slightly less sustainable location. He also welcomed the allocation of 5% of the proposed student accommodation as being adapted with a further 5% of the units being adaptable and he noted that not all disabled people would require parking facilities and he understood that the University tended to prioritise the allocation of rooms on the campus for people with disabilities. He also referred to the student accommodation at the Maltings which had two disabled units but which had, so far, not been allocated to disabled students. He also confirmed that the rooms which were adapted / adaptable had dedicated bathroom facilities. He further confirmed that a proposed condition provided for the submission of the highway works scheme for Queen Street and its implementation in full prior to occupation.

The Development Manager explained that, in relation to the proposed ramp for disabled access, it was always an officer's intention that developments should achieve DDA compliance, however in this instance, the length of ramp needed to achieve an ideal gradient would not be achievable within the application site boundary. The possibility of a lift had been investigated, however experience from the lift at Vineyard Street, it was felt that a lift may appear alien and intrusive but would also have potential problems associated with repeated and comprehensive breakdowns and resilience of service. It

had therefore been considered that a ramp would offer permanently available solution, albeit not entirely DDA compliant.

The Essex County Council Strategic Development Engineer confirmed that a great deal of time had been spent with the applicants discussing Queen Street and the proposed public realm improvements. He was of the view that the proposals had the potential to be acceptable although they still required further refinement but he was confident that it would be possible to deliver a suitable scheme within the highway or land within the applicant's control. The detail of this was to be secured by a condition and it had been agreed for the scheme to be delivered prior to occupation.

The Development Manager also confirmed that the implementation of the highway works prior to occupation would include the public realm within the application site and at the developer's expense. In response to a question concerning the Council's Objectively Assessed Housing Need, he explained that this was based on 2.5 bed spaces per dwelling, as such each 2.5 student bed spaces would count as one dwelling towards the Council's housing delivery target. With regard to the mass of the building in the locality of the wall, extensive consideration had been given to assess the impact in short views from Priory Street and longer landscape views and it had been concluded, in common with the view held by Historic England, that the impact on the setting of the wall was acceptable and would not cause significant harm, having regard to the provisions of the adopted Masterplan which envisaged three storey town houses along the top of the wall. Regarding restricted car ownership, this would part of the student lease arrangements which would prevent the bringing of vehicles to the site and for this to be actively enforced. This approach had also been accepted at other student accommodation sites at Magdalen Street and the Hythe. Evidence from the Maltings development at the Hythe indicated that car provision was unused and evidence from other student accommodation sites suggested that, in town centre locations, there was very low demand for on-site car parking. He went on to explain that the application was light in relation to the anticipated economic benefits, but it did include 17 new jobs created through the hotel operation and further contributions from the management and maintenance of the student accommodation. The flexible, commercial floorspace would also create a significant number of potential jobs, as corroborated by the speaker from Space Studios and the fully occupied creative use of the former Police Station. He further confirmed that, with regard to the student numbers quoted in the report, these had been based on information supplied to the Council by the University with regard to their Colchester campus in the context of the evidence base for the Local Plan.

The Development Manager referred to the sustainability credentials of the proposed building, he confirmed that the applicants had signed up to the BREEAM very good category. He further explained that there was no policy reason why the Council should preclude and not encourage people from experiencing town centre living as part of student life. He confirmed there was also support for this approach within the emerging Local Plan. He was also able to confirm that currently there were over 13,000 students

on the University of Essex Colchester campus and that the University of Essex had an economic impact on Colchester of £478million per annum in terms of its net contribution to the economy.

Further clarification was sought in relation to the proposed ramp and whether it was possible to make it DDA compliant and whether any redesign of the proposal as a whole could provide for the ramp to be DDA compliant. Clarification was also sought regarding the absence of any show stopper remains on the site.

The Development Manager confirmed that, without the ramp extending across the public highway, it was a physical impossibility to achieve the ideal gradient within the parameters of the car park and the area of land available. He further confirmed that other lift-based solutions had been considered with the applicant but there was a high degree of concern that this would not provide sufficient resilience and, in the event of a breakdown, would mean that disabled users would need to use the narrow footpaths along Priory Street and Queen Street which were considered to be less attractive / useable. Direct access into the site was considered preferable in these circumstances. He further confirmed that all redesign options had been looked at and none were able to provide for the ramp to be DDA compliant due to the constraints of the site.

The Archaeological Advisor confirmed that the evidence from the evaluation which had been comprehensive was that there were no show stoppers on the site and he was confident that no show stoppers would be encountered through the development. However, if something significant was found, then mitigation would be put in place and through the Written Scheme of Investigation there was scope for that and for more detailed investigations strategies, should they prove to be necessary. This was also supported by a proposed condition.

Members of the Committee continued to voice their grave concerns regarding the scheme, on the grounds that the ramp was not fully compliant with DDA requirements and the Council should no longer be seeking to approve applications which could not deliver full DDA compliance. There was also concern that the applicant had failed to consult in a timely fashion with all interested parties including local residents and had failed to produce a design which was in-keeping with expectations for this important site.

Accordingly, a *PROPOSAL* to refuse the application was moved and duly *SECONDED* on the grounds that it did not meet the satisfactory and appropriate expectations of the Committee in terms of DDA compliance together with a failure to consult in a timely fashion.

Reference was made to people manually wheeling themselves in a chair and the problem when this was attempted on slopes with gradients in excess of that proscribed in the DDA, there being a point where the wheelchair will inevitably tip backwards. Concern was also expressed regarding the potential for litigation in such circumstances.

It was also mentioned that the proposal appeared to be non-compliance with policy in respect of secure cycle storage.

The Planning Specialists Manager confirmed that the proposed cycle storage facilities for the student accommodation were both covered and secure and were located within the courtyards of the building. The numbers proposed were equivalent to those deemed to be acceptable at the Magdalen Street development and the scheme under construction at the Hythe. The hotel also had secure cycle parking, whilst visitor parking was provided within the public realm.

The Chairman invited the Development Manager comment on the risk of a potential refusal of the application.

The Development Manager confirmed that it was not a statutory requirement that all schemes are fully compliant with the DDA, it was only a requirement that every effort is made to achieve compliance and there were situations where it wasn't physically possible to do so. He suggested the Committee needed to think carefully whether it was possible to achieve a ramped access which was DDA compliant, otherwise it may be a vulnerable reason for refusal. He referred to policy DP17 which stated that 'proposals for development shall incorporate satisfactory and appropriate provision for pedestrians including disabled persons'. It was a statutory aim to achieve compliance with DDA but not something always achievable. He suggested the Committee members needed to consider whether, in this instance, policy DP17 was being breached or whether it is reasonable to allow a variance from the ideal to achieve and deliver a scheme which offers other public benefits against which the failure to comply with the DDA needs to be balanced. In relation to design and massing, he was of the view that the starting point needed to be the adopted Masterplan for the site. He explained that the massing and height was no greater than that envisaged in the Masterplan and, as such, he advised against refusing the application on these grounds. He acknowledged that design was a more subjective matter and, as such, it was within the Committee members' gift to decide whether the architectural approach selected is appropriate to the character and appearance of the area. He pointed that, in the opinion of Historic England and planning officers, it had been considered appropriate but it was open to the Committee to consider whether the design was appropriate.

One member of the Committee considered the Council's ability to choose whether to comply with the DDA deeply offensive, particularly given the potential danger, in this instance, to the lives of people with disabilities and he was of the view that the Council should not consider approving such an application. The view that the site should be accessible for everyone was supported by other members of the Committee and the opinion was expressed that more needed to be done and issues of concern had not been explored adequately.

The Development Manager confirmed that policy DP17 did provide the Committee

members with potential grounds to refuse the application. If it was the view of the Committee members that the scheme did not make adequate provision for disabled persons, then this could be a reason for refusal. He confirmed that it was highly desirable to achieve DDA compliance and wherever full compliance was possible it should be delivered. He again referred to the setting of Firstsite and that the impact was less than had been envisaged in the adopted Masterplan and that the CGI had illustrate that the prominence of Firstsite would be maintained within the scheme. He therefore advised against using the setting of Firstsite as a reason for refusal. He also reminded the Committee members that Council policy provided for development on the site and, as such, any development would, of necessity, obscure views of Firstsite. He also referred to the Council's adopted Statement of Community Involvement and he was not convinced that there had been such an inadequacy of engagement that the proposal could be deemed to have failed to comply with the adopted Statement on this matter and this may not be a robust reason for refusal.

Members of the Committee remained of the view that the application be refused on grounds that it did not meet the satisfactory and appropriate expectations of the Committee in terms of DDA compliance together with a failure to consult in a timely fashion and the PROPOSAL to refuse the application to this effect which had been previously moved and *SECONDED* was confirmed. A suggestion was made from another member of the Committee who was of the view that the proposed development constituted over-development, was not in-keeping with the conservation area and was of poor design, that these additional grounds for refusal of the application be included in the PROPOSAL.

The PROPOSER and SECONDER confirmed their willingness to accept two further grounds for refusal of the application, namely not in-keeping with the conservation area and poor design. They further confirmed their unwillingness to include grounds of over-development as they were of the view this could not be substantiated.

As the discussion suggested that the Committee may be minded to refuse the application contrary to the officer's recommendation in the report, in accordance with the Committee's procedures in these circumstances, the Chairman invited the Committee to consider invoking the Deferral and Recommendation Overturn Procedure (DROP), bearing in mind the implications of such decisions as set out in the reports and further explained by Development Manager earlier in the Committee's discussion.

The Committee agreed UNANIMOUSLY not to invoke the DROP and, accordingly, the Chairman then invited the Committee to determine the application.

RESOLVED (UNANIMOUSLY) that the application be refused on the following grounds:

- Lack of adequate accessibility provision and non-compliance with policy DP17;
- Failure to consult adequately with all interested parties and at the appropriate time;

- The detailed design was poor, inappropriate and not in-keeping with the character and appearance of the conservation area.

670 183085 Albert Roundabout, Cowdray Avenue, Colchester

The Committee considered a planning application for the erection of a metal three dimensional wayfinding sculpture, replacement of the existing planting and trees with a new landscape design that complements the sculpture and provision of two CCTV cameras within the roundabout central island (removal of the existing CCTV camera) at the Albert Roundabout, Cowdray Avenue, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report and an amendment sheet in which all information was set out.

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

671 183101 CNG Sports, Cuckoo Farm Way, Colchester

The Committee considered a planning application for the removal or variation of a condition following the grant of planning permission. (Condition 2 of 180438) at CNG Sports, Cuckoo Farm Way, Colchester. The application had been referred to the Committee because it was a major development proposal submitted on behalf of the Borough Council and has generated an objection from a local resident. The Committee had before it a report and an amendment sheet in which all information was set out.

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

Christine Edmonds addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that she lived at White House Farm and in the original approval of the application officers had been asked to give regard to the mitigation of any impacts on the occupants of Whitehouse Farm. She explained that this had not happened. Control on hours of work had not been complied with and improvement had only occurred following the intervention of a local ward councillor, the death of one of her horses and direct contact with the contractors. She had moved to Colchester to rear horses and for 11 years she had been surrounded by farm land and it had been quiet and private. However, the development had surrounded her property with noise, lights, people and their dogs. She considered it only fair that the development mitigated these changes to her lifestyle so far as is possible. She considered that the lighting on the site was in the scope of the application and she considered that the effect of the cycle-track lighting would be unknown and, as such, that they be consulted on its impact. She also requested that

consideration be given to the use of lighting bollards rather than 10 metre high posts and the relocating of at least one of the posts which would be clearly visible from her property. She considered that the plans for fencing for Whitehouse Farm access road were not safe for dogs, their owners or her horses. Their fencing ensured their horses couldn't escape but hadn't needed to exclude dogs but there was now a risk that they may enter her land, putting the horses and the dogs' owners at risk. She requested that the dog proof fencing to the A12 be applied to the whole of her property's boundary to provide protection. She also explained that she was not notified of the original application or this one and asked why this was the case as she was the most affected neighbour and asked for an assurance that she would be notified in future.

The Senior Planning Officer explained that the original application indicated flood lighting columns next to Whitehouse Farm so he was unclear about the current confusion about bollards but he had discussed the issue with Environmental Health who were of the view that there would not be any light spill towards Whitehouse Farm. In addition a proposed condition would control the precise detail of the lighting. He confirmed that the lighting columns would look towards the cycle store and, as such, he could not recommend it unfavourably. He also confirmed that there would be planting between Whitehouse Farm and the cycle track which would add further mitigation. He acknowledged the issue regarding the dog proof fencing and he had discussed this with the developer who had agreed to provide additional fencing along the boundary. An existing proposed condition encompassed the prior agreement of enclosures and, as such, this could be achieved without further amendment. He confirmed there was no proposal for an American Football pitch in relation to this application and, as such, if one were required a new application would need to be made. Regarding consultation on the current application, he acknowledged that some neighbours had been inadvertently omitted from the neighbour notifications but this had been identified early on and all affected neighbours had been re-consulted, including Whitehouse Farm.

Members of the Committee sympathised with the concerns expressed by the speaker but acknowledged that the application was lawful development of the neighbouring land. The issue in relation to nuisance caused to horses was unfortunate but the offer made by the applicant to provide additional dog proof fencing was considered to be very reasonable. It was understood that concerns regarding missed consultation had been identified and would be rectified in future. It was also hoped that the applicant would be willing to work with the residents of Whitehouse Farm to consider the potential relocation of one or more lighting columns.

The Senior Planning Officer explained that he had discussed the issue of the lighting columns with the applicant who had confirmed that columns rather than bollards would be necessary for the illumination of the cycle track. He offered to undertake further discussions with the applicant with a view to securing the relocation of one or more of the columns but he could give no assurance that this would be deliverable.

The Committee members recollected that during the consideration of the original application, the Committee members were keen that the Council, as applicant, acted as a good neighbour as possible in relation to any future changes or amendments. The view was taken that this principle should be maintained for the future, so that as much as possible is mitigated to the benefit of the neighbouring residents.

RESOLVED (UNANIMOUSLY) that, the application be approved subject to the conditions contained in the report and the amendment sheet and the undertaking of further discussions with the applicant with a view to seeking agreement to the repositioning of the cycle track lighting columns to mitigate the impact and address the concerns of the residents of Whitehouse Farm.

672 190042 Outside Bill's Restaurant, High Street, Colchester

The Committee considered a planning application for the installation of a drinking water fountain to the existing stone wall, the drinking water fountain of stainless steel construction, 900mm high x 330mm width x 365mm depth to be fixed to the existing stone wall and paved ground, excavations required for connection to water and drainage services associated with a redundant 'Uri-Lift' outside Bill's Restaurant, High Street, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report in which all information was set out.

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