

Planning Committee

Thursday, 07 September 2017

Attendees: Councillor Helen Chuah, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Chris Pearson

Substitutes: Councillor Paul Smith (for Councillor Lyn Barton), Councillor Peter Chillingworth (for Councillor Pauline Hazell), Councillor John Elliott (for Councillor Derek Loveland)

Also Present:

508 Site Visits

Councillors Chuah, Elliott, Higgins, Jarvis, Liddy and J. Maclean attended the site visits.

509 Minutes of 17 August 2017

The minutes of the meeting held on 27 August 2017 were confirmed as a correct record.

510 170424 Colchester and East England Co-op, Long Wyre Street, Colchester,

The Committee considered an application for change of use of the building with associated physical works to allow a mix of A1 retail units, A3 restaurant units, along with 24 residential apartments and ancillary storage and service/access areas at Colchester and East England Co-op, Long Wyre Street, Colchester. The application had been referred to the Committee because it was contrary to adopted policies, it constituted a major application for which a Section 106 Agreement was required and on which a material planning objection has been received. 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.

Lucy Mondon, Planning Officer, presented the report and assisted the Committee in its deliberations. She explained that the amendment sheet gave details of amendments to proposed Condition 2 as a consequence of revisions to application drawings. She also explained that the two affordable units would be provided as affordable rented accommodation with management details being agreed with the Council's Affordable Housing Officer and referred back to the Planning Committee if agreement was not reached.

Sir Bob Russell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He noted that the Council's policies sought to promote the town centre as the prime retail location for the Borough, however, he considered the application to be in breach of these policies on the basis that it would not deliver adequate retail provision. He was concerned at the increase in restaurant numbers in the town centre but if the Committee was minded to approve the application he sought an additional condition. He was aware that the building contained a foundation stone dating from the 1970s and asked for it to be retained and relocated prominently within the refurbished building. He mentioned the economic decline of the area and attributed this in part to the Council's decision to close the bus station. He also reported that he had sought collaboration between the Colchester and East England Co-op and the owners of Red Lion Walk with a view to their consideration of the provision of an indoor market within the development currently being considered. He asked the Committee members to defer their consideration of the application for negotiations with a view to securing more retail provision within the scheme, preferably including an indoor market.

Matt Clarke addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He welcomed the planning officer's report on the application which followed detailed and lengthy pre-application discussions. He considered the report to be generally well balanced and explained that the proposal would bring back into use a building which had been vacant for a long time as well as providing for the reinstatement of architectural details of the building. The approach adopted in the scheme was consistent with the principles of the emerging Local Plan and would contribute to the revitalisation of the area. However, he was concerned that Condition 6 was overly prescriptive in relation to the shopfront details as it may conflict with the operational requirements of prospective retailers and the associated cost implications may have a further adverse impact on the scheme's viability. He confirmed that the applicants would be willing to accept a further condition to provide for the relocation and display of the foundation stone referred to by Sir Bob Russell.

The Planning Officer explained that the extent of retail use provided in the scheme had been considered within the report. It had acknowledged that the proposal was contrary to policy DP6 in terms of the percentage of non-retail units but this was in respect of one corner unit only which was not considered to be sufficiently detrimental to warrant refusal. In addition, consideration had been given to the length of time the building had been marketed without success and the likelihood of the restaurant use increasing the active frontage areas such that it had been concluded that the proposal being considered by the Committee members was a positive solution for the area.

Members of the Committee generally welcomed the proposed development on the basis that it would rejuvenate and assist the economic growth the area, bring residential units to the town centre and contribute to improving St Nicholas Square generally. Whilst a higher percentage of retail units may be desirable, the buoyancy of the restaurant

market was acknowledged along with the impact of online shopping on traditional retail patterns. The sympathetic design of the buildings was also welcomed. Clarification was sought in relation to the addition of a condition to provide for the display of the foundation stone, the provision of sprinkler systems within the building and whether the outcome of the Tollgate Village Appeal had been taken into consideration in the planning officer's recommendation for the proposal. Reference was also made to the nature of the social housing units proposed, given the Council's view in relation to its own housing stock that studio provision was no longer adequate for current lifestyles.

Particular reference was also made to the importance of adhering to Condition 6 in its entirety on accessibility grounds. The view was expressed that the Committee members wished to encourage full access to all shops and restaurants for those people with disabilities and for this reason the provisions contained in the proposed shop front condition were supported in full. In addition the need to ensure any outside retail / restaurant activity was covered by relevant licencing applications.

The Planning Officer confirmed that an additional condition could reasonably be applied to provide for the display of the foundation stone and the two units of social housing would be one bedsit and a one bedroom apartment. She explained that the impact of the Tollgate Village appeal had been given due consideration and was part of the reasoning whereby the benefits of getting the building back into use with improvements to its design, outweighed a strict adherence to policies seeking to maximise retail provision. She confirmed that the provision of sprinkler systems was not a planning matter but was included within building regulation controls. She further stated her view that it would be beneficial for an addition to be made to the reasons for Condition 6 to include accessibility grounds.

RESOLVED (UNANIMOUSLY) that –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions 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, in the event that the legal agreement is not signed within six months, authority be delegated to the Assistant Director Policy and Corporate to refuse the application, or otherwise to be authorised to complete the agreement to provide for the following:

- Two affordable residential units and
- £20,000 towards public realm improvements at St Nicholas Square, Colchester.

(ii) The approval set out in (i) above also be subject to:

- A further condition to provide for the relocation and display of the building's foundation stone
- An additional informative to remind the applicants of the need for relevant licences in relation to use of outside areas for conducting retail / restaurant activities
- An addition to the reason for Condition 6 to include accessibility grounds.

511 171779 The Former Garrison Gym, Circular Road South, Colchester

Councillor Liddy (by reason of his directorship of the Colchester Borough Homes) 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 change of use to theatre rehearsal space and for community based lettings, including associated internal fit-out works, and minor exterior alterations at the former Garrison Gym, Circular Road South, 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 and the amendment sheet.

512 171944 Castle Park, High Street, Colchester

The Committee considered an application to provide Colchester with a Halloween event to operate during the month of October 2017 at Castle Park, 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 and an amendment sheet in which all information was set out.

Alistair Day, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. One additional letters of objection had been received which had not raised any additional matters of material planning consideration. He also confirmed that the application had been amended to provide for a last entry time of 22:30 hours and a site clearance time of 23:00 hours.

Jo Crawford, a resident of Greyfriars Court, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She considered that the approval of the application was a fait accompli as the event had already been advertised on the organisation's website. She reminded the Committee members that the Castle Park had numerous residential boundaries and she considered it unreasonable for an event to be conducted up to 23:30 hours on 15 consecutive occasions. Similar events had previously taken place at Colchester Zoo which did not have residents living close by. She was concerned about the mock execution event in terms of its potential impact on young people, people of different faiths and military personnel and was of the view that it compromised the historical integrity of the Castle.

The Principal Planning Officer again confirmed the revised closure times and explained that, in order to prevent noise and disturbance, the event would be policed and

marshalled to ensure access was controlled and visitors would be escorted to the main entrance when the event closed.

Members of the Committee acknowledged the concerns expressed by nearby residents but were generally of the view that similar themed events had taken place elsewhere with no reported adverse effects. One member of the Committee did not consider the proposal to be reasonable but acknowledged there were no material planning grounds to oppose the proposal.

RESOLVED (EIGHT voted FOR, ONE ABSTAINED and ONE voted AGAINST) that the application be approved subject to the conditions set out in the report and the amendment sheet.

513 171857 8 Roman Road, Colchester,

The Committee considered an application for the demolition of rear extensions and construction of a two storey rear extension (resubmission of application 170260) at 8 Roman Road, Colchester. The application had been referred to the Committee because the applicant was an employee of 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.

514 171820 8 Ball Alley and Ken Cooke Court, East Stockwell Street, Colchester

Councillor Liddy (by reason of his directorship of the Colchester Borough Homes) 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 replacement of windows to flats at 8 Ball Alley and Ken Cooke Court, East Stockwell Street, Colchester. The application had been referred to the Committee because it had been submitted by Colchester Borough Homes. 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.

515 171870 The Waldens, Lexden Road, West Bergholt, Colchester,

The Committee considered an application for a proposed first floor rear extension, small side extension at ground floor to form boot room, internal alterations at The Waldens, Lexden Road, West Bergholt, Colchester. The application had been referred to the

Committee because it has been called in by Councillor Willetts. 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.

Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations. He explained that the amendment sheet gave details of additional conditions requested by the Tree Officer.

David Temperton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He confirmed that his original objection to the application still applied. In his view the three separate extensions would add bulk to the house which would adversely affect the neighbours. As such he considered that the proposal did not comply with the relevant policies. He added that the development would be overbearing due to its height and bulk near to the boundary of the site. He referred to an application nearby which had been refused on similar grounds and considered this current application should be refused on grounds of over development.

Neil Patterson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he had communicated in full with his neighbours about the application and had considered residents' views and worked to accommodate their concerns. The proposal had been amended to a more traditional design to accommodate views expressed by the Parish Council and, as such it now complied with the Village Design Statement. The proposal was not harmful as it was an extension to the rear and was not visible from public view. He confirmed that the Parish Council had not raised concerns in relation to over development. He considered objections raised from the occupiers of No 1 Colchester Road were incorrect. He concluded that the proposal had been significantly amended to accommodate concerns expressed and that it complied with all relevant planning policies.

The Planning Manager explained that there was no loss of usable amenity space and, as such, in planning terms, the proposal could not be considered over development. In terms of design, there was no negative impact or harm and the proposal was not prominently visible to the public. In addition there were no windows in the façade facing the neighbouring properties in Colchester Road, which were a reasonable distance away, therefore the neighbours' privacy and outlook could not be considered to be affected. He further confirmed that planning considerations did not include any protection of views, there was no conflict with any of the environmental planning policies including DP1 and UR2 mentioned by the visiting speaker and the revisions to the proposal had ensured that the application now complied fully with the Village Design Statement. As such, there were no material planning considerations to refuse the application.

Members of the Committee were generally of the view that the proposal could not be considered over development and, as the roof of the new extension was no higher, or significantly closer, than the existing roof and there were no windows to this side, it would not impact on the amenity of the neighbouring garden.

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

516 171964 Colcheser Mercury Theatre, Balkerne Passage, Colchester

Councillor Liddy (by reason of his directorship of the Colchester Borough Homes) 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 Mercury House and Food @ the Mercury Restaurant, felling of selected trees, construction of a 2-3 storey production block, construction of a two-storey extension on the northeast corner, infill of the porte-cochere to provide internal ground floor accommodation, archaeological investigation, landscaping works, installation of temporary site cabins and storage areas for the duration of the construction process at the Colchester Mercury Theatre, Balkerne Passage, Colchester. The application had been referred to the Committee for complete transparency and probity because the Mercury Theatre site was land owned by Colchester Borough Council and Colchester Borough Council were heavily involved, as the project lead, in the “Mercury Rising” Project to extend the Mercury Theatre. 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.

Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations. He explained that the amendment sheet gave details of an additional condition to protect ecology.

Members of the Committee welcomed the proposal as a major enhancement to the area and congratulated all those involved in bringing the designs to fruition with no objections being received. Clarification was sought in relation to the provision of a travel plan for staff members, the possibility of allowing the removal of two trees to the rear of the site, the location of the in-filled former reservoir, the archaeological significance of the site and the access arrangements to be put in place during the construction phase and its potential impact on access and egress via Balkerne Passage connecting to North Hill. Reference was also made to the need for the new open space area to be accessible for cyclists as well as pedestrians.

The Planning Manager confirmed that it would be reasonable to include an additional condition to provide for the agreement of a satisfactory travel plan arrangement. He

acknowledged the need for construction traffic to be suitably and sensitively managed bearing in mind the nearby location of elderly residents but considered the access arrangements during the construction phase needed to be left open for discussion with the Highway Authority as he was aware of requirements of residents of Balkerne Gardens to use Balkerne Passage for both access and egress and alternative traffic management options may be identified. He confirmed that a very comprehensive Archaeological report accompanied the application documents, that the site was of considerable archaeological interest and that a full archaeological excavation would be undertaken. The former reservoir was located near the existing entrance to the Mercury Theatre, there was some limited potential that the unknown in-fill material may be contaminated and work to clarify this would be undertaken at the same time as the archaeological investigations as a precautionary approach.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report and the amendment sheet as well as an additional condition to provide for the agreement of a satisfactory travel plan arrangement.

517 Summary of Recent Appeal Decisions

The Committee considered a report by the Assistant Director Policy and Corporate giving details of four Appeal decisions which had been received between 27 July and 21 August 2017 for applications in the Borough or in neighbouring Local Authority areas, the intention being to enable the Committee members to remain up to date with outcomes, trends and changes so they could further understand how Inspectors were presiding over decisions.

Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations.

Members of the Committee welcomed the information provided in the report.

RESOLVED that the contents of the report be noted.