

PLANNING COMMITTEE
29 JULY 2021

<i>Present: -</i>	Councillors Hazell (Chairman), Chuah, Davidson, Maclean and Mannion
<i>Substitutes: -</i>	Councillor G. Oxford for Cllr B. Oxford Councillor Harris for Councillor Lilley Councillor McCarthy for Councillor Barton Councillor Pearson for Councillor Warnes
<i>Also in attendance:</i>	Councillors Crow, Goacher, Scordis *Attended remotely

861. 190665 Between Via Urbis Romanae and Mill Road, Land South of Axial Way, Colchester

The Committee considered an outline application for a healthcare campus (5ha) of up to 300 older people's homes (C3), 4,300sqm private acute surgical hospital (C2), (1,200sqm) medical centre (D1), 3,600sqm, 75-bed care home (C2), up to 45100 sqm offices (B1a); up to 350 homes (C3), with ancillary retail and food and drink of up to 1000m2 of retail (A1), up to 500m2 of food and drink (A3), digital network of ultra fast broadband; 2 points of vehicular access from public highway, pedestrian boulevard and community green (4.5ha). All matters apart from access to be reserved in relation to outline elements of proposals. The detailed consent for a 1st phase of infrastructure was to include the creation of a pedestrian boulevard and associated landscaping, and a renewable energy centre and heat distribution network.

The application was referred to the Planning Committee because it was a major full planning application, elements of which were a departure from the current adopted Local Plan owing to the introduction of an element of housing onto a site that has been allocated for employment purposes. The site was an area of land that was currently owned by Colchester Borough Council. Objections had also been received and the application was conditionally recommended for approval. Furthermore, in the event that the officer recommendation was agreed by the Committee it would also be necessary to secure a section 106 agreement to secure contributions to mitigate impacts of the development and Committee approval was required for such an agreement.

The Committee had before it a report and amendment sheet in which all information was set out.

RESOLVED that the application be approved subject to:-

(i) Referral to the Secretary of State as a departure and should Sport England maintain an objection;

(ii) Prior completion of a section 106 agreement to include contributions to mitigate impacts upon infrastructure, in accordance with final conclusions on viability by consultants BPS/DVS on behalf of the local planning authority and the applicant's ex-gratia offer of £2.3m as per the suggested spend break-down set out at paragraph 15.0 of the report. In addition, the agreement to include appropriate viability reviews with suggested cascade spend mechanism;

(iii) Conditions as set out in the report for full and outline elements of the hybrid application with delegation on detailed wording of conditions should revision be required.

862. 210088 Former Museum Resource Centre, 14 Ryegate Road, Colchester

The Committee considered an application for the conversion of the building from Class D1 (Museum) to Residential Use (Class C3). The development would consist of 29 units comprising 23 HMO rooms and 6 self-contained flats, with cycle provision and bin storage. The application was referred to the Committee as a major item and as there had been objections to the scheme.

The Committee had before it a report and amendment sheet in which all information was set out.

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

Rowena MacAuley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in respect of the application. There was still some public confusion on the details of the west elevation, which was causing some concern to residents. The developer had apparently given an explanation that the elevation had not been included as part of the application and was not being changed. It was hoped that this meant that the window was safe and that all parties agreed with its importance. However, there was still a lack of specific plans for the façade and clarity was needed on the following points:-

- Would the crill windows be renovated or replaced with like for like materials;
- The plans showed that there would be rooms on the ground and first floor which would directly overlook Maidenburgh Street via this window. How would the design be managed so that the interior walls did not impact on the appearance of the window from the outside;
- What design solutions were proposed to address privacy issues, both for inhabitants of this building and of neighbouring buildings.

This window gave the building its iconic status and helped define the character of the immediate area. The information provided was too vague to provide reassurance to residents, and the Planning Committee needed to satisfy itself on these issues and air them publicly.

The Planning Officer confirmed that the aim was to retain the window given its importance to the street scene, and the proposed conditions and informatives would secure this. The need to retain the window had also been discussed with the applicant. Under the terms of the proposed condition, all but 2 of the existing windows would be retained. A condition could be included that would ensure that any internal walls, partitions or junctions were aligned to avoid any impact on external views of the windows, and that any glazing be painted black at any intersection between masonry and windows to prevent them being visible from external views.

In discussion, members of the Committee supported the principle of ensuring the retention of the windows to ensure the protection of the street scene and welcomed the additional conditions proposed. It was also suggested that the developer be encouraged to provide information about the history and previous uses of the building, through a plaque or similar mechanism. The Planning Officer explained that this could not be required by condition but would be raised with the developer.

RESOLVED (UNANIMOUSLY) that the application be approved subject to completion of a legal agreement relating to contributions and receipt of a RAMS payment and consideration of any additional comments received as part of the reconsultation, including from Private Sector Housing, and subject to the conditions and informatives set out in the report and additional conditions requiring the approval of the detailed design of the windows to be replaced, and prior approval of the junction of any internal walling with glazing.

863. 210983 172 Mill Road, Colchester

The Committee considered an application for the erection of 2 detached single storey dwellings with attached garages, the demolition of the existing dwelling and garage and alterations to existing vehicular access. The application had been referred to the Committee as it had been called in by Councillor Goss.

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

RESOLVED that the application be approved subject to the receipt of a RAMS wildlife mitigation payment and the conditions and informatives set out in the report.

864. 211654 Riverside Office Centre, North Station Road, Colchester

The Committee considered an application to determine if prior approval was required for a proposed change of use from offices (B1) to dwelling houses (C3). The application was referred to the Committee because it had been called in by Councillors Scordis, Goacher and Crow.

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

Nadine Calder, Senior Planning Officer, presented the report, and together with Simon Cairns, Development Manager, assisted the Committee.

In presenting the report the Senior Planning Officer highlighted that the application was to determine if prior approval was required for a proposed change of use. Under national legislation, subject to the development meeting certain criteria, the application was approved under permitted development rights. The development would result in changes to the parking layout, and cycle storage and amenity space would also be provided. The proposed floor plans were presented; the development would comprise 6 studio flats, 42 one bedroom flats, 26 two bedroom flats and nineteen three bedroom flats. All room sizes complied with national space standards.

The criteria that needed to be met for the change of use to be permitted development had all been assessed and it was considered that they were all met. The issue that had raised the most concern was the transport and highways impact. It needed to be considered that although the site was currently vacant it had a lawful use as office development. The Highway Authority did not consider the proposed use would be too dissimilar to the lawful use in terms of traffic flow. There would be parking onsite and whilst this did not quite meet the parking standards, this was a highly sustainable location. Electric charging points would be provided. Parking spaces would also be provided for the commercial units. The development would be subject to a condition requiring a car park management plan. The development should not lead to parking outside the site as this was controlled by double yellow lines and a parking permit scheme. It was considered that the application met all the criteria in the General Permitted Development Order and prior notification should be granted subject to conditions.

Anna Bolton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She represented 28 residents in attendance at the meeting and other residents living near the site. They were a diverse community who were proud of their area. From experience they understood what the area needed and what it could accommodate. The principle of the redevelopment of site was not opposed nor was the provision of well-planned affordable housing. However, residents were concerned by this development from out of town developers which would have a generational impact. The Council needed to intervene to mitigate the impact of the development. The access to the site was off a narrow residential road and the area was not primarily commercial as the report suggested. The buildings were unappealing as residential development. The site was adjacent to listed buildings on two sides. Under class O of the GDPO criteria this should be enough to halt the application. The local road network had struggled when the offices were in use and the existing highways issues arising from the site had been well documented in correspondence with the Council. These issues needed to be addressed before the application proceeded. The CO1 area around the site had suffered a worrying increase in anti-social behaviour recently with no response from the site owners. The Police had expressed a view that adding 93 social housing units would only exacerbate the situation. They had been informed by the Minister that where residents had concerns about the impact of permitted development on the amenity or wellbeing of an area the Council could consult the community on removing permitted development rights by making an Article 4 direction. The application should be refused until questions about the development had been satisfactorily resolved for the community and the Committee and that assurances were given that this was the best application for the site.

Councillor Scordis attended and with the consent of the Chair addressed the Committee in opposition to the application. There were concerns that the identity of the provider of the social housing was not known and the possibility of social housing tenants from other areas being moved into Colchester. There were concerns about the standard of accommodation that would be provided and whilst he supported the provision of social housing, this particular application could not be supported. The proposal by the Civic Society that the existing buildings be demolished and the site be rebuilt with decent housing blocks would be a better outcome. If the development was to proceed, there was insufficient parking being provided which would lead to residents parking on Causton Road. This was a town centre development with excellent links and a development with fewer cars should be pursued, with more community space and secure cycle parking in its place. A much more radical approach to the site should be taken.

Councillor Crow attended and with the consent of the Chair addressed the Committee. It was important to note that the site was within the North Station Conservation Area. The buildings should be replaced with a small scale low rise housing development. Of the criteria that could be considered in respect of permitted development, the area already suffered from congestion, illegal parking and dangerous driving. The increased traffic and resulting pollution conflicted with the Council's declaration of a Climate Emergency. North Primary was already at capacity so there was no educational provision in the area for children who were housed in the development. There was already considerable anti-social behaviour in the area and the police considered that adding in high density housing would increase these problems. The Committee should do all it could to stop the development including consideration of an Article 4 direction.

Councillor Goacher attended and with the consent of the Chair addressed the Committee to encourage the Council to look at protecting the area by removing permitted development rights through an Article 4 direction. Social housing should be of a high quality. The density of dwellings was too high which would lead to a poor quality of life for residents. There were already severe traffic and parking issues in the area and this would be exacerbated by a car based development such as this. It would have an impact over a wide area, which was the part of the criteria for an Article 4 direction. The Committee needed to address issues such as the numbers of children who would live in the development and where they would go to school, given that North Primary was at capacity. Other issues that needed to be addressed were how many of the units would be for people with disabilities and what provision was being made for access for those with disabilities? Had a health and safety audit been carried out for children living on the site, especially given volume and type of traffic? Was the building carbon neutral? How would the site be managed, in view of the anti-social behaviour issues in the area? Would the Council have any control over who was placed in the building? These were serious issues that needed to be addressed.

The Planning Officer was invited to respond to the comments made by speakers and emphasised that the Committee needed to determine the application as submitted. If the application was not determined within 56 days of receipt, and no extension was granted, it would be determined by default and prior approval granted. The 56 days

expired on the date of the Committee, although the applicant had granted an extension to 30 July. The car parking spaces would be allocated to specific flats and parking would be monitored by the building's management company, who would develop a car park management plan. Private amenity space was not a relevant consideration, although a children's play area would be provided. The fact that the site was in a conservation area was also not a relevant factor for a prior approval notification. In terms of traffic the site had a lawful office use, which would generate considerable traffic volumes at peak times and the change to residential use would not increase traffic from the lawful use.

If an Article 4 direction for the site was made, this would remove permitted development rights. This would not prevent the development of itself, but would require a full planning application to be made which would allow consideration of factors such as design and amenity space. However, this would not change the position of the Highways Authority about the impact of the development. The Council did not consider it was expedient to apply for an Article 4 direction for the site as it had not identified any material harm. The Article 4 process would also take longer than the 56 days the Council had to determine the prior approval. Issues such as health and safety and carbon impact were outside the scope of the application. The Committee could not consider matters relating to the identity of the housing company and tenants, although it was understood that the applicants had discussed with a housing officer issues around what sort of units were needed locally. Whilst there were listed buildings in the vicinity of the site, the site was not within their curtilage.

In discussion, members of the Committee noted the timescales and queried whether the report could have been reported to Committee earlier or whether there was any possibility of extending the timescale to try and seek improvements to the scheme. The Planning Officer explained that there would have been insufficient information to report to Committee at the previous meeting on 8 July, as not all consultees had responded. The Committee also sought clarification on issues around permitted development and Article 4 and the issues raised about the Class O objection. In terms of highways, the need to listen to the views of local residents was emphasised and concern were expressed about the impact of the forthcoming changes to access to North Station Road. It was suggested that it would have been helpful for a Highways Officer to attend the meeting. Concerns about the suitability of the buildings for social housing and the resulting quality of the accommodation were raised. Issues were also raised about health and safety aspects of the development, such as fire exits, and the support and access issues for residents with disabilities. The difficulty of making a building built in the 1960s into a carbon neutral development was highlighted.

In response the Planning Officer explained that a local authority could apply for an Article 4 direction to remove Permitted Development Rights from a certain area or building. This was sometimes done in conservation areas to ensure that the character of an area was maintained. This did not prevent development but meant that a full planning application was necessary. The process for the approval of an Article 4 direction could take up to a year as it required local consultation. Whilst there was a method of introducing an Article 4 direction immediately, the Council would need to justify why it was needed so urgently, and it was the Council's view that this could not be justified in this instance, as the issue of most concern, which

was traffic impact, could be considered under this application. Class O was the relevant part of the Permitted Development regulations that the application was being assessed under. Class O dealt with changes from office to dwellings house. All the flats met or exceeded with national minimum standards. The Council could not require that the development be car free, although if the Committee was minded it could add an informative to say it would prefer a car free development and request that the space allocated for car parking be used as amenity space. Issues around access and support for disabled residents were outside the scope of the application and issues around fire exits would be dealt with under Building Regulations. In terms of the social housing use, social housing was a wide definition and included key workers (amongst others). The applicant did not necessarily have to specify that the use was for social housing and could have made an application for generic C3 use. If prior approval was not granted the applicant would have the right of appeal and if the Council was found to have acted unreasonably there was a risk of costs being awarded.

In further discussion by the Committee, members expressed frustration about the limited control planning authorities were able to exercise in these circumstances. The planning history of the site was highlighted. There had been previous applications for the conversion of the building into residential units, one of which had been granted prior approval but not implemented, which could make an appeal against a refusal for prior approval more difficult to defend and increase the likelihood of costs being awarded against the Council.

The Planning Officer further clarified that in terms of permitted development, if the development met the following criteria the principle of the change of use was accepted.

- The building was last used an office;
- The site did not form part of a safety hazard area;
- It was not a listed building or in the curtilage of a listed building;
- The site did not contain a scheduled ancient monument.

All of these criteria were met so the principle of the change of use had to be accepted. Therefore issues about whether there was a need for offices or whether this was a suitable location for housing were not relevant. There were further issues of detail that needed to be met but it was the officer's view that these issues had all been satisfactorily addressed. The issue on which there was the most concern was traffic impact but it was the view of the Highways Authority that this use would not generate a more significant impact than the exiting legal use.

The Committee noted the limited criteria that it could consider in respect of prior approval and that these issues had been addressed in the officer's report and did not provide sustainable grounds for a refusal of prior approval, despite concerns about other elements of the scheme. In particular it noted that there was no objection from Essex Highways and therefore a refusal on highways grounds could not be sustained. It was suggested that if prior approval was to be granted conditions should be added requiring the installation of a sprinkler system and ensuring that sustainable heating and lighting systems were used. The Planning Officer advised that these issues would need to be addressed through an informative rather than a condition.

The Committee also considered whether it should also look to reduce the car parking and increase the amenity space, given the sustainable location of the site and increased lockable cycle storage options. However, it was considered that this could lead to more off site parking to the detriment of existing local residents. The site was adjacent to the Castle Park and therefore additional amenity space was not necessary.

RESOLVED (FIVE voted FOR, ONE voted AGAINST and THREE ABSTAINED from voting) that prior notification was required and was granted, subject to the conditions set out in the report and an informative encouraging the installation of a sprinkler system and the use of a sustainable heating and lighting system.

865. 211079 73 All Saints Avenue CO3 4PA

The Committee considered an application for the variation of condition 2 following the grant of planning permission for application 182603. The application was referred to the Committee as it had been called in by Councillor Buston for the reasons as set out in the report.

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

Annabel Cooper, Planning Officer, presented the report and together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Robin Wroe-Brown addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The proposed plans did go some way to meeting concerns of neighbouring residents with a reduction in width of the extension. However, it was disputed that the extension was a dormer. It was more of a partial third storey. Whilst the report argued that dormers were accepted features in the urban environment, this extension was not acceptable in this vicinity. Many of residents' concerns still applied. The most important was the height and increased fenestration and the resulting intrusion of privacy. The Juliet balcony and increased fenestration would cause a significant intrusion into the privacy of surrounding properties. Light and fresh air could be provided by the windows approved in the original scheme. Another dormer elsewhere in Prettygate had been built with frosted glass to prevent overlooking, which could be a suitable compromise. The report stated the development was not overbearing and there were no concerns in respect of loss of light. The Committee should visit the affected properties to assess this before reaching a decision. Both the built structure and the new scheme were beyond the original consent, to which no objections were made. The principle and spirit of the regulations should be upheld.

Daniel Nezhad addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Every decision had been based on the advice of their agent who acted as both architect and structural engineer. They had recently learned that the agent had been fraudulently claiming to be architect, had been fined by the courts and the company dissolved. He was now working with a new agent and the Planning Officer to find a solution that met the Council requirements and reduced the size of the dormer. The new proposals took

on board the objections . It was smaller in scale than the one previously approved and was in line with other recently approved dormers in All Saints Avenue. It fitted with permitted development and would have a reduced impact on public areas compared to the approved plans. The privacy concerns would be alleviated with the removal of the window closest to neighbouring gardens. The balustrade could be made obscured glass if that would alleviate concerns. Almost every aspect of every objectors' gardens was obscured by trees and or outbuildings.

This had been a very stressful period and it was unlikely he would be able to reclaim costs for the work undertaken based on the previous advice. There was insufficient finance available to revert the dormer back to the previously approved plans, although the plans before the Committee now could be implemented

Councillor Buston attended and with the consent of the Chair addressed the Committee. The objector was representing the views of approximately 12 residents. The development was contrary to policies UR2 and DP1. Residents did not consider that the permitted development was acceptable and were concerned that the failure to comply with the original permission had not been enforced. They also did not understand why the harm from the development as built was not being considered. Dormer structures were out of character for the area and where they were permitted they needed to be of acceptable design, which was not the case here. The main concern was that it was possible from the dormer to overlook all the surrounding gardens. It was also visible from residents' gardens.

In response, the Planning Officer explained that as built the development was not acceptable. The Committee were being asked to consider a revised scheme that qualified as permitted development. The Juliet balcony was also permitted development. It was not considered that any additional harm would be generated when considered against the originally approved application.

In discussion, the Committee raised concerns about the impact of the development and the impact of the Juliet balcony on the privacy of neighbours, and the likelihood of the revised permission being implemented, should permission be granted, given the financial position of the applicant. It was queried as to what enforcement action would be taken if the application was refused.

The Planning Officer explained that planning enforcement had been involved, resulting in this application coming forward. The application for the development as built had been refused. The current application would result in a dormer that was smaller than that approved under the original application. It would be a lot less prominent in the public realm. The Development Manager stressed that the revised application fell within the parameters of permitted development and that therefore it must be considered acceptable.

The Committee considered that if the application were to be granted, then further permitted development rights should be withdrawn and the balcony balustrade should be obscure glazed.

RESOLVED (EIGHT voted FOR, ONE ABSTAINED from voting) that the application be approved subject to the conditions in the report and additional conditions

requiring the removal of further permitted development rights and the obscure glazing of the balcony balustrade.

866. 210121 Outside 32 and 33-34 High Street, Colchester

The Committee considered an application for the erection of a statue of the Taylor sisters - Dedicated to the children of the world. The application was referred to the Committee for reasons of transparency as the applicant was an Alderman and High Steward of the Borough.

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

James Ryan, Principal Planning Officer, attended to present the report and assist the Committee in its deliberations.

Sir Bob Russell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Colchester had not really celebrated the Taylor sisters, who had written Twinkle, Twinkle Little Star when living on West Stockwell Street. It would be a great tourist attraction. The statue would be dedicated to the children of the world. The profits from sales of merchandise arising from the statue would be directed to the Mayor of the day to be spent for the benefit of children in Colchester. The sculptor would be Mandy Pratt, who had produced the statue of Peter Wright on the old Layer Road site. If permission was given he would proceed with fundraising for its construction and installation. Consideration would be given to an inscription or plaque explaining the statue and its context.

The Committee expressed its support for the application and thanked Sir Bob for bringing the application forward.

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

Councillor Davidson (as the owner of the site) declared a disclosable pecuniary interest in the application pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination

867. 211411 Newpots, Newpots Lane, Peldon

The Committee considered an application for the change of use of an agricultural storage building to general storage and distribution (B8) and modular office block ancillary to store. The application was referred to the Committee as the owner of the site was a borough councillor.

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

James Ryan, Principal Planning Officer, attended to present the report and assist the Committee in its deliberations.

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

868. 211519 Hythe House, 142 Hythe Hill, Colchester

The Committee considered an application to replace the existing timber and render cladding with cedar panels, replace windows with identical UPVC units in black, replace existing aluminium front doors with similar doors finished in black. The application was referred to the Committee as the applicant was the spouse of a senior manager within the Planning Department. The application had initially been considered at the meeting of the Committee on 8 July 2021 but had been deferred.

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

RESOLVED that the application be approved subject to the conditions set out in the report.