

PLANNING COMMITTEE
7 September
2023

<i>Present:-</i>	Cllrs Lilley (Chair), Barton, Buston, Davidson, Hogg, MacLean, McCarthy, McLean, Pearson, Tate
<i>Substitute Member:-</i>	Cllr Buston for Cllr Mannion Cllr Pearson for Cllr Warnes
<i>Also in Attendance:-</i>	Cllr Goacher Cllr Naylor

1015. Minutes

The minutes of the meeting held on the 15 June 2023 were confirmed as a true record.

1016. 231197 Land North of, The Kings Arms, Broad Green, Coggeshall, Colchester, CO6 1RU

The Committee considered an application for the layout of gravel and a change of use for vehicular parking north of and in association with the Kings Arms Pub and Hotel Proposed. The application also sought a change of use of land from agricultural to domestic residential gardens. (Retrospective). The application was referred to the Planning Committee as the applicant is a City Councillor.

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

RESOLVED (UNANIMOUSLY) That the application be approved as detailed in the officer recommendation.

1017. 231688 The Kings Arms, Broad Green, Coggeshall, Colchester, CO6 1RU

The Committee considered an application for a single-storey extension to existing Public House to provide a wheelchair accessible toilet. The application was referred to the Planning Committee as the applicant is a City Councillor.

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

RESOLVED (UNANIMOUSLY) That the application be approved as detailed in the officer recommendation.

1018. 231615 7 North View Cottages, Coach Road, Great Horkesley, Essex, CO6 4AT

The Committee considered an application for a single storey rear extension for disabled adaption to include bedroom and bathroom. The application was referred to the Planning Committee as the applicant was Colchester Borough Homes.

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

RESOLVED (UNANIMOUSLY) That the application be approved as detailed in the officer recommendation.

1019. 231370 4 St Botolphs Street, Colchester, CO2 7DX

Councillors Buston and Tate declared non-pecuniary interests in the application as members of the Colchester Civic Society.

Councillor Lilley declared that they had visited the site with officers but not as part of an organised site visit with the Committee.

The Committee considered an application where planning permission was sought for replacement of timber sash windows with UPVC sash windows which will be painted black. Also new timber door to flats and re-instatement of parapet & clock to front elevation. The application was referred to the Planning Committee in the interests of transparency, given the number of local representations having been received.

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

Hayleigh Parker-Haines, Senior Planning Officer, presented the application to the Committee and assisted the Committee in its deliberations. The Committee were shown the photographs of the windows that had been replaced on site and detailed that applications such as this were not always supported but that due to the circumstances associated with the application the application was being recommended for approval. The Committee heard that the proposal included the re-instatement of the clock on the building and would be conserving a non-designated heritage asset which would remain in commercial use and was deemed that the benefits of the proposal outweighed the identified less than substantial harm.

Howard Davies addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee heard that paragraph 15.7 of the report detailed an accusation from the Civic Society regarding something that it had not said, and the president of the society had asked that this be removed from the record. The Committee heard that there was a shrinking demand for retail floor space and that detailed that there were inaccuracies regarding a previous application on the site which had been approved in 2017 which detailed that there would be noise insulation and that the glazing on the windows would be internal as the windows formed part of the original conservation. The speaker questioned why this was overlooked and why the Council was overlooking the proper restoration of the City Centre. The speaker concluded by detailing that it seemed that the UPVC windows would be painted black and possibly fade into the background and that there had been other instances where other properties had been denied alternative windows.

Sam Good addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in support to the application. The Committee heard that they represented 500 businesses with one being Silk Road before Members and detailed that the work of the owner and their team should be celebrated who demonstrated their passion for the area and partook in Pubwatch. The speaker thanked the officers for looking at the application in detail and outlined that the climate that businesses were working in was very difficult and was changing and that the work had been done to invest within the area. The speaker concluded by detailing that the works would cost significantly more if the proposals from the Civic Society were implemented and that the report detailed that there would be minimal impact.

Councillor Mark Goacher addressed the Committee as Ward Member for Castle Ward. The Committee heard that the proposal was within a conservation area and detailed that there was concern from residents regarding the replacement of UPVC windows and why businesses were being treated differently to households in the area. The Ward Member was concerned that if the proposal was approved then it would set a precedent in the area and that it could lead to a watering down of standards.

At the request of the Chair, the Senior Planning Officer responded to the points raised by the Have Your Say speakers. The Committee heard that neighbouring complaints regarding enforcement were outlined in the report and that 15.7 noted the updated consultation responses and outlined that the report provided significant detail about the planning balance and the very specific circumstances surrounding the application. The Committee heard that there was some environmental harm that would be subject to mitigation as detailed in the proposed conditions and that the use weighs in favour of the scheme in these specific circumstances.

At the request of the Chair Simon Cairns, Joint Head of Planning detailed that residents had separate requirements and that there was no article 4 direction on dwellings as there was a lesser degree of control for dwellings. The Joint Head of Planning added that the degree of harm in the proposal was of a less than substantial magnitude which was outweighed by the public benefits and that it was up to Members to decide whether they agreed with the officer on balance recommendation.

A proposal was made and seconded that the application be approved as detailed in the officer recommendation.

A vote was taken as follows:

For: Three Against: Six Abstain: One

The motion was lost and the debate continued as follows.

Members debated the proposal with a Member noting that the proposal was a regeneration of the area and that the character fitted into the area. Debate continued with Members detailing that they understood the financial concerns, the listed building status and that there was approval for the improvement of the clock. Members detailed that the rectangular windows did not match the previous wooden ones with arched heads and asked whether a condition could be added to ensure the window frames were wood.

The Joint Head of Planning responded and clarified that the proposal was not part of a listed building and that if Members chose to refuse the application, then a two-year stay could be given before enforcement action was undertaken.

At the request of the Chair the Senior Planning Officer showed the photos that were in the presentation regarding the replacement windows.

Members continued to debate the proposal with some Councillors detailing that they did not have an objection to white UPVC windows or with the applicant and their contribution to the city but that the Committee and the Council needed to decide whether to enforce the conditions imposed for a retrospective application. The Committee discussed how a separate example of a nursery school in Lexden Road had changed their windows in a similar fashion and had ended up at the Crown Court. Some Members felt that there needed to be an even enforcement of the rules.

Members noted that the remark in 15.7 was not the opinion of the Civic Society and was noted by Members and an application on the site had previously been received in 2017. Some Members felt that without the details of the previous application before them then they could not make a decision on the application.

At the request of the Chair, the Joint Head of Planning outlined that the discussion should not be looked at as binary mode of policy but taking the plan as a whole and needed to be looked at holistically and could not be compared to binary nature of policies such as those that could be assessed under building control regulations. The Committee heard that the application needed to be looked at on its own merits weighing up the harm of the proposal with the benefits. It was noted that until the enforcement complaint had been received the change of the windows had not been noticed and that this was a good test of whether it was having a material detrimental harm.

The Committee continued to debate the application on the issues including the delicate balance of acceptability of the proposal and that the site was on the local list of historically important buildings, and that some Members felt that the proposal should be replaced with wooden window frames.

A proposal was made to defer the application to seek amendments to the window shape as those that had been removed. The proposal was subsequently withdrawn.

At the request of the Chair, the Joint Head of Planning outlined that the applicant could appeal the decision and if dismissed then the Committee could add to the resolution that a grace period of 2 years grace could be given before enforcement action was taken.

It was proposed and seconded that the proposal be refused for the following reasons:

The comprehensive unauthorised replacement of the original painted timber sliding sash windows by plastic double glazed windows has resulted in *less than substantial harm* to the character and appearance of the Colchester No.1 Conservation Area by reason of the uniform extruded appearance of the plastic frames, prominent trickle vents and the reflective quality of the double-glazed units. In the opinion of the Local Planning Authority, inadequate justification advanced to justify the harm identified to designated heritage asset contrary to policies Env1 and DM16 of the adopted local plan 2017-2033 together with paragraphs 199, 202 and 203 of the NPPF 2023 which together seek to prevent unjustified harm to designated heritage assets.

Plus informative:

The Local Planning Authority has agreed to allow a two-year period for the applicant to agree details of appropriate replacement painted timber box sash windows and carry out the works of reinstatement.

RESOLVED (SIX votes FOR and FOUR votes AGAINST) That the application is refused for the following reasons:

The comprehensive unauthorised replacement of the painted timber sliding sash windows by plastic double glazed windows has resulted in *less than substantial harm* to the character and appearance of the Colchester No.1 Conservation Area by reason of the uniform extruded appearance of the plastic frames, prominent trickle vents and the reflective quality of the double-glazed units. In the opinion of the Local Planning Authority, inadequate justification advanced to justify the harm identified to designated heritage asset contrary to policies Env1 and DM16 of the adopted local plan 2017-2033 together with paragraphs 199, 202 and 203 of the NPPF 2023 which together seek to prevent unjustified harm to designated heritage assets.

Plus informative:

The Local Planning Authority has agreed to allow a two-year period for the applicant to agree details of appropriate replacement painted timber box sash windows and carry out the works of reinstatement.

1020. 220526 Land Adjacent to 67, Braiswick, Colchester, CO4 5BQ

The Committee considered an application for approval of reserved matters following outline approval 191522 – erection of 27 dwellings and associated development. The application was referred to the Planning Committee as it had been called in by Councillor Sara Naylor for the following reasons:

“I doubt that high quality design can be delivered as required with a density of 27 houses.”

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

John Miles, Senior Planning Officer, presented the application to the Committee and assisted the Committee in its deliberations. The Committee heard that since the applications previous deferral new drawings had been submitted by the applicant addressing the points made at the previous meeting regarding the requirement for open space on the site. It was noted that it had been amended on some plots to create a larger consolidated open space on site. The Committee heard that the recommendation had been updated to require further architectural details to promote the sites' identity. The Senior Planning Officer presented the proposed changes in design of the dwellings which included stone sills and brick plinths. The presentation concluded with the Senior Planning Officer detailing that the proposal had a good quality of design and that the officer recommendation was for approval.

James Ryan, Planning Manager, added to the case officer's presentation as they had been the officer that had dealt with the appeal allowed by the Planning Inspectorate. The Committee heard that the outline application had been refused by the Planning Committee on the basis of the density being too high, that the application was premature and was overdevelopment of the site. The Committee heard that the Inspector had not agreed with

the Planning Committee's resolution and granted outline pp for up to 27 dwellings on the site.

David Mehigan addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee heard that there was a severe concern regarding the topography of the site and layout with the playground being located on the boundary with the A12 where there was a drop of 19 feet down to the A12. The Committee heard that this was the equivalent of jumping from a second storey window and that the play area would not be used as a tree belt could not be planted leading to safety issues of children getting near to the A12 and sheer drop. The speaker outlined that there were also concerns regarding car movements on site and that the urban design officer and applicant agreed that the site could not be built to a high standard of amenity.

Jack Baron addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in support to the application. The Committee heard that the proposed housing numbers, conceptual tree planting and the levels on the site had been agreed in the outline permission of the site. The Committee heard that the small peaceful areas of open space had been created partly through the removal of the double garage for plot 15 which would allow accessible use of the open space for wheelchairs and exceeded the 10% policy requirement for open spaces through the two areas on site. The Committee heard that in hindsight they wished the applicant had made these amendments sooner and that they had studied the character of the local area of Braiswick to ensure that the proposal was in-keeping with the local area.

Councillor Sara Naylor addressed the Committee as Ward Member for Lexden and Braiswick. The Committee heard that the developer was cramming properties on the area and that the developer was lacking in respect for their responsibilities with regards to open space and should not add more at the south of the site next to the steep slope and the noisy A12. The Committee heard that there was still only a lukewarm response from the Urban Design Officer as the design had remained largely the same as before and that the developer was not thinking ahead about what it would be like to live on the site and as such, they would have put forward a better design if they had. The speaker detailed that the presentation and report did not detail how cars would access plot 15 and its associated vehicle movements and that there was no detail regarding the drop down to the A12 and whether there would be a fence and the danger associated with the proposal if there wasn't one. The Ward Member concluded by detailing that they and the residents association would like to see a centralised playground on the site and that the Committee defer the application to allow this to happen.

Councillor Dennis Willetts addressed the Committee as Ward Member for Lexden and Braiswick. The Committee heard that the principle of development on the site had been confirmed and that there was a significant need for housing within the City. The Ward Member drew attention to policy DM12 and the residential development aspiring to be a high standard but qualified that they did not think that this proposal reflected that and that the Urban Design Officer was not supportive of the proposal through a lack of place making features. The Committee heard that the additional chimneys did not convince anyone regarding the quality of design and that the shuffling of the dwellings on site was not a material improvement. The Ward Member detailed that the scheme as amended did not convince them that it had been optimised with too many shortcuts having been taken. The speaker concluded by detailing that the proposal was like the shuffling of chairs on an ill-fated ship and asked that the Committee defer the application until a better design had been secured.

A statement from Councillor Lewis Barber, Ward Member for Lexden and Braiswick, was

read out by the Democratic Services Officer as follows:

"Dear Committee

You will be hearing this application once again after a further referral. I thank you for the time you have given this application to try and resolve outstanding issues. Unfortunately, it is my view that the additional public open space is insufficient to overcome the issues the committee have rightfully identified. For example, the committee is aware of the Neighbourhood Plan policy, which is adopted policy of the council, that specifies as follows:

HOU1: Developers should achieve the highest quality of design commensurate with current national and local design guidance.'; and

DPR1: 'Developments will aim to attain the highest quality and design standards and where appropriate encourage the use of relevant national standards by developers in order to achieve the highest possible levels of overall sustainability in the design and layout of new developments.'

The Urban Design Officer once again notes issues with the proposals:

"This consistency in the composition of the proposed built environment, combined with its homogenous placement, results in a lack of distinct identity and visual interest across the site."

Once again, the application has not reached the necessary planning standard. It is timely to remind the committee that the outline permission is an "up to" permission, not a fixed amount. Therefore, while the applicant may be able to reach this threshold, there is not a planning right to do so. Other factors must be taken into account. These factors continue to not be satisfied, such as policies HOU1 and DPR1. On this basis, I urge the committee to make a decision this evening to reject the application. "

At the request of the Chair, the Senior Planning Officer detailed that the levels on site had not changed since the application was previously at the Committee and that there was a substantial difference in the public open space that was relatively flat and has been recognised by officers as an improvement. The Committee heard that this was to be conditioned and that there were also pre-commencement conditions in place which would require the submission of details regarding safety on the eastern area of the site and concluded by detailing that there was an overprovision of parking on the site.

Members debated the proposal regarding the safety provisions on the site with concern being raised regarding the appropriate conditions being added. At the request of the Chair, the Senior Planning Officer confirmed that the safety elements being discussed were at the heart of the permission and that if the applicant did wish to change these it would have to be for a very good reason, however, they reiterated that the conditions in the proposal currently were enforceable and provided a certainty and security for the Committees decision making.

Members continued to debate the application on the issues of the loss of open space around the rest of the site through the consolidation of open space as well as the amendments to plot 15 and the access arrangements to this property. Some Members were concerned that the public open space in front of plot 15 would mean that there was no front garden for the property. Additionally, some Members were concerned that the levels on site would create a safety risk with the 19-foot drop adjoining the boundary to the A12.

At the request of the Chair, The Senior Planning Officer outlined that the public open space

plan had been amended and had consolidated the open space into the main areas and noted that although there was not a front garden for plot 15 it did have a very generous rear garden. With regards to the overall design of the proposal the Senior Planning Officer detailed that the principle of arcadian development had not been endorsed by the Planning Inspector through the appeal and confirmed that the two large areas of open space were policy compliant and that the safety details of the site would be provided prior to commencement. In response to a question from the Committee the Senior Planning Officer detailed that the approval of the pre-commencement conditions and whether they had been undertaken appropriately would not come before the committee but if there was a variation of a condition then that could be called in for determination to the Committee.

Members continued to debate the application on the issues including: the lack of green energy heating on the site and Electric Vehicle charging points, concern over the consolidation of open space, the maintenance of the public open space and that some Members felt that the response from the Royal Society for the Prevention of Accidents (ROSPA) was required before permission was granted.

At the request of the Chair the Senior Planning Officer detailed that the access road had been developed to incorporate the next tranche of development and link the connectivity and that this was not designed to be a gated community. It was further noted that although the gardens for plots 4 and 5 were smaller than others they were within acceptable standards and that there was a condition within the papers that meant that the open space would be overseen by a management company. In response to further questions the Senior Planning Officer confirmed that there would be natural surveillance of the play area and open spaces.

It was proposed and seconded that the application be approved as detailed in the officer recommendation and amendment sheet.

RESOLVED (EIGHT votes FOR and ONE vote AGAINST with ONE ABSTENTION) That the application be approved as detailed in the officer recommendation and amendment sheet.