

**PLANNING COMMITTEE**  
**11 JUNE 2009**

*Present :-* Councillor Ray Gamble\* (Chairman)  
Councillor Sonia Lewis\* (Deputy Mayor)  
Councillors Mary Blandon\*, Helen Chuah\*,  
Mark Cory, John Elliott\*, Stephen Ford,  
Theresa Higgins\* and Jon Manning\*

*Substitute Members :-* Councillor Peter Chillingworth  
for Councillor Andrew Ellis\*  
Councillor Christopher Arnold  
for Councillor Jackie Maclean\*  
Councillor Richard Martin  
for Councillor Ann Quarrie\*

## **17. Minutes**

Subject to the name 'Sarah Stello' being corrected to read 'Sarah Costello' in the last line of the fourth paragraph of minute no. 16 of the meeting held on 21 May 2009, the minutes of the meetings held on 30 April, 20 May and 21 May 2009 were confirmed as a correct record of those meetings.

## **18. F/COL/06/1132 26 Hythe Quay, Colchester**

The Committee considered an application for the refurbishment and redevelopment of the existing Victorian warehouses and the construction of a new residential block to form twenty-four apartments including landscaping and riverside improvements. The Committee had before it a report in which all information was set out.

Bradly Heffer, Principal Planning Officer, and David Whybrow, Development Manager, attended to assist the Committee in its deliberations. The issue relating to this application is the ongoing maintenance of the river wall. The red line extended to include the river wall on the Jewson site, but the red line does not extend to include the river wall on this application.

Jonathan Frank addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Comparisons have been made between this site and two other riverside sites, but the circumstances are different. The other sites are both new build sites and have full unobstructed access to the river wall. This application is a restoration needing specialised equipment brought in by barge. The draft Section 106 agreement has taken 16 months to complete after the Committee approved the application. It contained financial obligations that they had not

agreed to nor were they prepared to maintain some of the walls they did not own. The Council's own consultant agreed that this site produced a sub-standard level of profit at the height of the housing boom. We are now in a recession and if the redevelopment was marginal at the height of the boom how can he be expected to give an open ended contribution. If any of the officers were still in the employ of the Council, the fact that the files did not make mention of the continuing maintenance of the river wall would be enough not to ask for this contribution. These buildings are some of the final and most visible buildings in the regeneration area which will be preserved for future generations by a reliable company.

It was explained that officers were relying on what was presented to the previous Committee meeting. The identity of the owner of the river wall was unknown. There is a desire to see the buildings re-used and to get the walls repaired but there is also a desire for consistency on all redeveloped sites along the riverside in terms of securing the ongoing maintenance of the river walls, but officers were in agreement that this was a different case because it was a conversion not a new build site. It had been suggested if the applicant was willing to enter into a legal agreement that included the on-going maintenance of the wall, a clause could be included so that in the event that the actual owner came forward and took steps to prevent the applicant from carrying out any maintenance work, the applicant's responsibility for the maintenance of the river wall would be extinguished. However the applicant was not willing to enter into such an agreement even with the proviso.

Members of the Committee were very disappointed that the application was being recommended for refusal. They were aware that the river walls were not within the red line. It was confirmed that the applicant was willing to repair the section of the wall beyond the extent of the buildings and considered it unusual to ask an applicant to do something which was not in his ownership, but they were also aware that the applicant was not willing to agree to take on the maintenance of the river walls in perpetuity. The Committee were reminded that if they approved the application without the on-going maintenance secured, it might be the Council's responsibility which could be very expensive in the future. It was suggested that the Council could look at the possibility of a heritage organisation taking responsibility for the wall which could be investigated by other teams in the Council.

*RESOLVED* (MAJORITY voted FOR) that –

(a) Consideration of the application be deferred for completion of a Section 106 Agreement, to include matters set out in the original report for planning application F/COL/06/1132, but to exclude any clauses relating to ongoing maintenance of the river wall.

(b) Upon receipt of a completed Section 106 Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives covering matters set out for planning application F/COL/06/1132, or any other conditions considered appropriate.

#### **19. 090371 Graylands, Peldon Road, Abberton, CO5 7PB**

The Committee considered an application for the replacement of an existing detached bungalow with a detached one and a half storey four bedroom house, previously approved under F/COL/06/0379. The Committee had before it a report in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report.

#### **20. 090385 140 Mile End Road, Colchester, CO4 5BZ**

The Committee considered an application for the conversion of an existing three bedroom house into two one-bedroom flats with parking and an amenity area. The Committee had before it a report in which all information was set out.

*RESOLVED* that –

(a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.

(b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

**Councillor Ray Gamble (in respect of his acquaintance with Mr Parker through their work for Colchester United Football Club) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Sonia Lewis and Councillor Richard Martin (in respect of their individual acquaintances with Mr Parker during their schooldays) declared a personal interest in the following item pursuant to the provisions of**

## **Meetings General Procedure Rule 7(3)**

### **21. 090452 Calver House, 44, 46, 48 and 38 Artillery Street, Colchester**

The Committee considered an application for the construction of three, three person, two bedroom bungalows for physically disabled people with associated parking. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Development Manager, attended to assist the Committee in its deliberations. He referred to the amended drawings submitted since the previous meeting which showed three wider parking spaces, outside storage facilities enclosed by fencing together with further fencing to separate and give enclosure to the private amenity space. In addition there had been a dialogue between Colne Housing and one resident regarding the proposals and other residents had seen copies of the amended plan.

Gordon Parker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He confirmed that the wider parking spaces would be provided and that one of the tenants has had direct dialogue with Colne Housing and he had spoken with two of the residents about the proposals. Amendments have been made to the scheme to address the concerns of residents who no longer wished to object to the scheme. He believed the Unilateral Undertaking had been signed and the monitoring fee submitted and he asked that the Committee grant consent.

Members of the Committee were content now that the residents' concerns had been addressed and they no longer objected to the revised proposal and Mr Parker was thanked for liaising with the tenants and for the resulting amendments.

*RESOLVED* that –

(a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.

(b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report together with an additional condition linking the permission to the amended drawings submitted.

**22. 090545 76 Lexden Road, Colchester, CO3 3SP**

The Committee considered an application for part demolition and extension of an existing residential care home. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

*RESOLVED* that the application be approved with conditions and informatives as set out in the report, see additional conditions on the Amendment Sheet.

**23. 090552 Bures Water Tower, Chappel Road, Wakes Colne, CO6 2BD**

The Committee considered an application for the addition of one 600mm transmission dish at 21.6metres attached to an existing pole-mount fixed to the inner face of the parapet wall on the top of the water tower, together with the retention of three existing 600mm dishes with one 600mm dish re-sited adjacent the new dish and two 600mm dishes at 21.6metre centres on the existing pole to the right of the top of the tower, together with associated feeder cabling. The existing pole-mount on the front of tower to be removed on completion of the re-siting works. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

*RESOLVED* that Prior Approval is required, and the application is approved.

**24. 090241 Hythe Station Road, Colchester**

The Committee considered an application for a change of use from highway to allow open pedestrian access. The Committee had before it a report in which all information was set out.

*RESOLVED* that the application be approved with conditions and informatives as set out in the report.

**25. 090260 Hythe Station Road, Colchester**

The Committee considered an application for alterations and improvement works including resurfacing works, erection of shelters and benches. The Committee had before it a report in which all information was set out.

*RESOLVED* that the application be approved with conditions and informatives as set out in the report.

**26. 090366 17 Heather Close, Layer de la Haye, CO2 0EQ**

The Committee considered an application for a single storey rear extension to a ground floor flat. The Committee had before it a report in which all information was set out.

*RESOLVED* that the application be approved with conditions and informatives as set out in the report.

**27. 090375 4 Bargate Lane Cottages, Bargate Lane, Dedham, CO7 6BN**

The Committee considered an application for a first floor side extension over an existing single storey side extension. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

David Whybrow, Development Manager, attended to assist the Committee in its deliberations. He confirmed that the private area immediately to the rear of no. 5 Bargate Lane Cottages would be protected from overlooking, but the rear portion of the garden will be overlooked by no. 4 from the new rear bedroom window. He commented that there was no articulation between the new gable and the house, but neither was there articulation between the existing gable and the house.

Mr Sharp addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He requested that the new rear window be moved to the side of the new extension and that a bedroom be used as a bathroom. If the proposal goes ahead as submitted the new window at the back will overlook his garden and he will have no privacy.

Mr Clarke, the applicant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He stated that both houses have gardens looking towards the other's patio and garden. The neighbour was objecting on the grounds that a bedroom window will create overlooking rather than it reducing privacy. He suggested that there will be a greater level of privacy than at present. The rear bedroom will be a bathroom with opaque glass. The view from bedroom window will be

partially obscured because of the extension and bedroom two will have a partial view going down towards the end of the garden but it will be impossible to see round to the patio area of no. 5. The proposal will not worsen the situation and the design issues are not contrary to any planning policy. He accepted the conditions and suggested the following mitigating amendments:- both neighbours to allow their hedges to gain height, the applicant will remove the existing fir tree and plant a taller tree and he offered to reduce the size of the bedroom window by 20%.

It was explained that these were matters which might mitigate the impact on the neighbour. However, in this case the proposals did not add significantly to overlooking the neighbour's garden for the reasons explained. A high hedge may not be a good idea because of the risk of contravening high hedge regulations. The bedroom window will only be able to see towards the rear of the garden.

Members of the Committee agreed that the objector did not have a good case in planning terms and believed that when the extension was built he would not find the situation worse. It was not considered that the reduction in size of the bedroom window would help, but there was a recognition that the applicant was trying to be a good neighbour. It was also recognised that there was going to be some overlooking into the back garden, but not so much that it can be refused and both parties can decide how tall to allow their hedges to grow.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report.

## **28. 090399 Primrose Cottage, The Street, Chappel, CO6 2DD**

The Committee considered an application for a renewal of planning permission F/COL/03/2172 for a proposed new dwelling and garage. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to the consultation in respect of the Conservation Area not having been done and also that he anticipated that the Environment Agency would not raise any objections to the proposal.

Mr Smith addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The design of the new dwelling was drawn up in 1989. He had attempted to agree the height of the dwelling with officers and the Environment Agency but it appeared not to be an issue. The internal layout had been altered so that it was now a two

bedroom property instead of having a box room. If required the property could be set further back into the site.

Members of the Committee commented that the parish council was grateful that their comments were on the Amendment Sheet. Whilst this is a 20 year old consent and the parish council were aware that the development was likely to go ahead, during the intervening 20 years the desire to protect the Conservation Area has hardened. It was considered that the dormer windows and the triangular finial to the garage structure do not fit in with The Street which is a very well preserved Victorian village street. A plainer brick facade was preferred without so much decoration but with some Victorian detailing similar to Primrose Cottage so it fitted into the street better than at present and to this end it was requested that officers discuss with the applicant an improvement to the detailing. If there was no agreement on an improved design the Committee wanted the application to come back for a decision.

It was explained that the principle of development was well established and that the scheme would not have any material impact on the school route by causing any additional street parking. Negotiations in respect of the design would include comments from the Design Team to make the building more contextual with the surrounding buildings together with the requirement for a plainer design and high quality materials suitable for the Conservation Area was noted.

*RESOLVED* that –

- (a) Consideration of the application be deferred for negotiation with the applicants to achieve an improved design in the light of the Committee's comments; for consultation in respect of the Conservation Area; and for a response from the Environment Agency.
- (b) Subject to an improved design being agreed, and to there being no new issues raised following the statutory notification of the application in respect of its impact on the Conservation Area and no objections being raised by the Environment Agency, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as she considers appropriate.
- (c) In the event that there is no agreement on the improved design or there are any new issues raised from the consultation or objections from the Environment Agency, the application to be re-submitted to the Committee for a decision.

## **29. 090420 7 Stour Walk, Colchester, CO4 3UX**



The Committee considered an application for a conservatory and had before it a report in which all information was set out.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Tuthill addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The application site was directly below his flat, and whilst he did not wish to spoil the owners' enjoyment of their property, he was concerned that if permission was given for the conservatory he would encounter real difficulties in maintaining the first floor window, the gutter and soffit above the conservatory. The conservatory would be 6' by 10' and it would be necessary to protect it. There is a covenant that says no habitable structures can be built. He asked the Planning Committee to refuse the application on the basis of the real difficulty and cost that this construction would cause him.

Mr Campling addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. They lose sunlight early in the afternoon from their lounge which goes cold quickly and they hoped that this conservatory would rectify this situation. He believed that he was complying with the lease which states that there should be no building without the prior approval of the appropriate authority. The issue regarding access to the upper floor was covered by health and safety regulations and would require scaffolding.

Whilst members of the Committee did have some sympathy with the objector, the issues he raised were not planning issues. The Committee considered that the applicant had a duty to help his neighbour when the property needed maintenance work and whilst it was not possible to enforce this by condition it was hoped that the applicant would act as a good neighbour and be prepared to overcome the problem by assisting financially.

*RESOLVED* that the application be approved with conditions and informatives as set out in the report.

### **30. Enforcement Action // Land to the rear of Oaktree Farm, Straight Road, Boxted**

The Head of Environmental and Protective Services submitted a report seeking authorisation to take enforcement action against the owners of the above property to secure the cessation of the use of the land and buildings for B2 industrial and storage uses and any other unauthorised use. The

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

The land and the buildings to the rear of Oaktree Farm had an agricultural use. However, the site is currently being used for the formation of large wooden structures, which are used in civil engineering; this employs the use of loud machinery and, being a place where building materials are being manufactured, is considered to be a B2 use. It is the officers' opinion that the current unauthorised use is harmful to the open countryside and is contrary to the Borough Plan Policies.

David Whybrow, Development Manager, attended to assist the Committee in its deliberations. The unauthorised use was noisy and involved formwork and shuttering which it was considered was inappropriate in the countryside.

Mr Oliver addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the request for enforcement action. He explained that his property was immediately adjacent to the site and he had reported the unauthorised use which had continued for the last nine months.

Members of the Committee were in agreement that the use was inappropriate. There were many residential properties in the area and the reported activity was a nuisance. The Boxted Employment Site was not far away which would be an alternative location for the activity.

It was explained that the use of the site has to be appropriate in terms of scale and nature and this is a particularly unsuitable use in the context of the additional policy relating to the Straight Road/Boxted area.

**RESOLVED (UNANIMOUSLY)** that enforcement action be authorised for the cessation of the B2 use on land and buildings to the rear of Oaktree Farm, Straight Road, Boxted with a compliance period of three months.