

**PLANNING COMMITTEE
19 FEBRUARY 2009**

Present :- Councillor Ray Gamble (Chairman)
Councillors Mary Blandon, Nigel Chapman,
Peter Chillingworth, Helen Chuah, Mark Cory,
Stephen Ford, Wyn Foster, Chris Hall, Sonia Lewis and
Nigel Offen

Substitute Member :- Councillor Richard Martin for Councillor John Elliott

(* Committee members who attended the formal site visit.)

210. Minutes

The minutes of the meeting held on 5 February 2009 were confirmed as a correct record.

Councillor Peter Chillingworth (in respect of his Chairmanship of the County Branch of the Campaign for the Protection of Rural England, one of the consultees) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

211. 081951 Former Rowhedge Port, Rowhedge

The Committee considered an outline application for the redevelopment of the former port site to provide 300 dwellings, comprising one, two, three and four bedroom units, buildings for retail use (use class A1); café and restaurant uses (use class A3); business class (use class B1); community uses (use class D2); a public waterfront area incorporating dinghy park and car park; landscaping and associated works. The site was a regeneration area and a development brief was in place for the whole of the site. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. The main issues were that the proposal was a two phase development due to land ownership; there would only be minor improvements to the access road (haul road) linked to phase 1 whereas the main improvements to the road would be completed as part of phase 2; the four storey elements fronting the rivers were out of keeping with the rest of Rowhedge; concerns in respect of high densities, particularly within the area called Roman fronting onto the Roman River; and the submitted information being insufficient to demonstrate the site could satisfactorily accommodate the development proposed. Reference was made to the Amendment Sheet which contained amendments to two of the reasons for refusal as set out in the report.

Christine Sharp, Chairman of East Donyland Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Parish Council were concerned that the proposal does not follow the development brief; the building layout is not in keeping with the surrounding area and waterfront but instead follows the standard residential estate layout; the three and four storey elements create a walled effect; the improvements to the haul road are connected with phase 2, and the applicant does not own the land comprising phase 2; the parish council is very concerned about the phasing because the landowners of the phase 2 site had written stating that they had no intention of signing a legal agreement; the High Street was very congested and should not be considered as an access as it is not capable of coping with that level of increased traffic.

Charlie Barda, representing the owners of phase 1 part of the site, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that this is a brownfield site for which the Council had produced a development brief. A comprehensive independent consultation had been carried out over two days and a great deal of technical work had been undertaken to address the issues of the main access route and the site layout. An impact assessment had also been undertaken. It was accepted that not all matters had been resolved but not accepted that there were fundamental issues with the scheme. Essex County Council had raised issues with the access, but their advice indicated that these could be overcome. The Amendment Sheet indicates that they are already progressing towards a revised design and this scheme would assist the Council in meeting its housing targets. He urged the Committee to defer the application for a revised design to be submitted.

Councillor Lilley attended and, with the consent of the Chairman, addressed the Committee. He did not believe that this was the right development for that area. It was out of character with the rest of the village. Much of Rowhedge runs down towards the river in straight lines and does not obscure views of the river, unlike this scheme which has a wall of development obscuring the river. In spite of the 300 cycle spaces there was no dedicated cycle path. The only access to the development was from Rectory Road. There were no pathways linking in with the existing network to connect to schools, etc. Without these connections the development would be isolated from the rest of the village. A new community hall was proposed but there was already a community hall existence. During construction there would be disruption in the High Street and Fingringhoe Road with many lorries and noise. He preferred that the development be completed as one whole scheme.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. He considered Rowhedge to be one of the jewels in the crown of the borough and an act of architectural vandalism to approve plans in outline that do not demonstrate that they draw on the design principles of the village. The development brief was specific about buildings of no more than two storeys. The three and four storey elements in this scheme created a high wall along the river frontage which was out of character and raised the density. PPS1 states any new development which fails to take the opportunity to improve character and quality of an area should not be

accepted; this is a material reason for refusal. He doubted the ability of the applicant to deliver any enhancements which would be needed if the scheme was to succeed. Predicted traffic of 2,000 lorries a day will affect neighbouring wards. He hoped the Committee would take the interests of Rowhedge and surrounding villages into account.

Councillor Davidson attended and, with the consent of the Chairman, addressed the Committee to represent the views of Fingringhoe residents and to alert the Committee to the Roman River Conservation Area which was supported by Natural England and the Essex Wildlife Trust. The design of this scheme could be improved and he urged the Committee to encourage the applicant to come back with a better scheme. He was concerned that little attempt had been made to address the issues of a commuter link. This was a missed opportunity for an ongoing ferry service from Rowhedge to Wivenhoe to connect to the Wivenhoe cycle trail. The developers should adhere to the development brief so the community could benefit. The reasons for refusal should be robust in the event of appeal.

Members of the Committee were also concerned that the applicant had not followed the development brief as closely as they should, resulting in the many objections to the scheme. Many statutory consultees had also objected the scheme. The Committee recognised that they could not approve a scheme without a Section 106 Agreement which was uncertain because of the problems from the ownership issues. Other concerns expressed were the high number of lorries predicted to be using small local roads during construction; there was a hope that something should be built on this site but that it should be in character with the area; and the risk of the site flooding.

It was explained that the reasons for refusal were robust enough to defend an appeal. Withdrawing the application to allow negotiations on the scheme to continue was an action open to the applicant. The question of land ownership was a fundamental issue which needed to be resolved before any application would be acceptable at this site. Planning officers had not seen the legal advice in respect of the acceptability of phasing this development which was in contradiction to the Council's own Legal Services advice that phasing was not acceptable without the certainty of obligations being forthcoming. The Highway Authority was concerned about the road improvements to the extent that they had recommended refusal. The High Street was very narrow and the Authority did not want to encourage any additional traffic. The Highway Authority would like to see footpaths and cycleways linking new development to the school and to the village. There was uncertainty about public access to the pits. The site did not need to be developed at any cost because there was no imperative for it to be developed. It was noted that the applicant was present and will have heard the comments of the Committee.

RESOLVED (MAJORITY voted FOR) that the application be refused for reasons set out in the report and on the Amendment Sheet.

Councillor Ray Gamble (in respect of his acquaintance with a relative of one of the

objectors) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

212. 090003 12 Headgate, Colchester

The Committee considered an application for a change of use from an estate agents office to a sandwich bar, mixed use class A1/A5, with a heavy reliance on hot food takeaway. The Committee 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. It was explained that a sandwich bar would not need a change of use application. Objections to this application had been received from an existing sandwich bar in Crouch Street on the basis that it would create additional competition. Whilst the implications for existing sandwich bars was acknowledged competition was not a matter which could be taken into account as a valid consideration. There was no policy objection to partial A1 use. There were concerns raised about night time economy but the applicant was not looking for night time use; use ceases at 5pm and there will be a restriction on hot food being served on the premises, i.e. fried food which would need mechanical extraction equipment. An Informative had been included in respect of deliveries in response to comments received from the Colchester Civic Society.

Julie Southgate addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She was representing her daughter who was a proprietor of Bon Appetite Sandwich Bar which was ½ mile from 200 food premises of which 23 were in Crouch Street and Headgate. She was aware that competition was not a reason for refusal, but since their business opened 4 years ago their sales had reduced to 40%. Another sandwich bar would close her business down resulting in the loss of jobs and her daughter's livelihood. Other matters also of concern were access, traffic, lorries loading and unloading and the safety of the public.

Members of the Committee had some sympathy with the public speaker's point of view, but competition was not a planning issue. Some members had previous experience of food outlets progressing on to serving hot food. There was some support for an extractor fan system being included as a condition. There were also concerns about the maintaining the attractive frontage of the building which was considered to be part of the history of Headgate and a similar issue was raised in respect of signage. The building was not listed but was within a Conservation Area. It was also noted that there was no disabled access to the building. Questions were raised in respect of any policy for areas where there was a large number of food outlets. Other issues raised were the hours of use, access for disabled and how collections and deliveries could be managed in such a location.

It was explained that any wish to change the exterior of the building would require planning permission. There were no proposals for alterations to the exterior of the building and the proposed use would use the existing access with no alteration to the ground floor window; the building was not listed. No plans had been received for

external advertising but the need for advertisement signage can be included as an informative. There was no disabled access, and it may not be possible to provide one because of the difference in levels. There is no requirement to provide disabled access as part of this application.

In respect of policy regarding types of use, this site fell within the mixed use area A and the main restriction was that there should not be less than 50% of retail frontage. In respect of the intended use, there was no material difference and the premises could operate as a sandwich bar without any further permission; it was the hot food element which required permission. There was a wish to avoid the need for extraction fans which were only likely to be required for cooking and frying which, in this case, was not considered appropriate as this was primarily a sandwich bar. If the serving of hot food became a problem it would be picked up from complaints. In respect of the use of vehicles for deliveries, it would be possible to include an informative indicating that motor cycles or small moped vehicles would be most appropriate vehicles for deliveries of orders. A sandwich bar will need to be serviced and any occupier would need to adhere to the constraints that the site poses.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report together with additional informatives on signage, alterations to the front of the building and appropriate vehicles to be used for deliveries of orders.

213. 090021 48 St Christopher Road, Colchester

The Committee considered an application for the siting of a single Tomra recycling unit, to crush cans and bottles, together with associated works outside a Tesco store. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. The Highway Authority have confirmed that they have no objections. Environmental Control had raised concerns about noise issues for residential flats above and a condition was suggested to restrict the hours of operation of the equipment to 7am to 10pm. In respect of the emptying of the unit, it was suggested that condition 5 could require details to be agreed with the local planning authority prior to implementation of the permission.

John Egan, Colchester Civic Society, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. This was one of three identical applications for stores in Colchester and it was suggested that the Council should respond to all three. The description of the proposal is for crushing cans and bottles, whereas in practice the unit can only crush cans and plastic bottles, and the question arises as to what happens to glass items which are rejected. This unit was to be located in an area where there was a high doorstep recycling scheme; it was thought this might be a trial. In other areas where there were recycling facilities any items left on pavements get kicked around; the

Colchester Civic Society did not want litter to be encouraged. He asked what would happen if someone arrived when the unit was closed. The operating hours proposed are the hours when the store is open, so could the unit be sited within the store. The Highway Authority has recommended one of the other proposed units should be refused because it would be an obstruction in the highway. He wondered why this objection would not apply to all three proposals. He requested that this application be deferred to enable planning officers to discuss the objectives of the scheme and submit all three applications to the Committee together.

Members of the Committee had concerns regarding such a proposal when similar facilities were available nearby. It was noted that Street Services wanted a condition to secure information on recycling tonnages. A number of questions were raised in respect of various matters: what happens to rejected items or those abandoned when the unit is full or not available; information on any policy on recycling units was requested; might the units be regarded as clutter; and are they fixed or can they be moved; would a temporary permission be appropriate. The Committee also requested an indication of how the unit operates.

RESOLVED (UNANIMOUSLY) that consideration of the application be deferred for more information and an indication of how the unit would operate.

214. 081938 3 Priory Street, Colchester

The Committee considered an application for the continued use of the building and rear amenity area for worship. The site comprised one of a pair of semi-detached houses, No. 3, and the rear gardens of Nos. 2, 3 and 3a, all of which had been laid to hardstanding. The other side of the pair, No. 2, is currently already under authorised use as a mosque. The site is in Colchester Conservation Area 1 and adjacent to the grounds of St. Botolph's Priory. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

In accordance with its determination at the last meeting, 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.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to photographs, the nature of the use and further information on the Amendment Sheet. The permission was required for use of rear gardens as an overspill area for Friday prayers from 12.30pm to 1.30pm; the services were silent with no amplified music or singing. In addition funerals were held at the current rate of one per year and a further use twice a year for 45 minutes for Eid services.

Theresa Whiting addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Their objections had been made on the proposal and not on any religious grounds. She thanked the Committee for the site visit which she hoped would enable the Committee to

appreciate the effect on the neighbouring property. They objected to the use of the outside area at the rear of Nos. 2, 3 and 3a for open air funerals and worship in respect of the impact on their boundary and the loss of privacy. There was an increased risk of crime because walls had been taken down to form a car park. The numbers of people using the mosque had increased to 250. She believed there was a detrimental impact on the area and the general outlook. She considered the numbers of people using the mosque was likely to increase and the point had been reached when it was overbearing. The facility could attract far more than 250 people and this has not been taken into account in formulating the recommendation for approval. She asked if there were any restrictions in the use of the area and how could it be regulated without causing offence. She questioned whether the use was appropriate and whether there was a responsibility to protect vulnerable individuals. The area of concrete was constructed for use as a car park and she believed it had lead to an increase in crime in the area. She asked the Committee to reject the application if they considered the proposal to be unreasonable.

Councillor Barlow attended and, with the consent of the Chairman, addressed the Committee. The main issues were the land being in a Conservation Area and the use of residential garden now being used for meetings. The detail of what the area would look like was not available. There was no objection to the continuation of use of buildings inside, but he questioned the use of a residential garden becoming a meeting space and the precedent that would set.

Members of the Committee had concerns about what the surface was going to be and the height it would be in relation to No. 4 which was already 2 feet below the surface of the concreted area. The attendance of so many people implies a need for the usage in Colchester which may increase further. There were concerns regarding the safety of those who attend the services, there being only one access in and out of the site. Questions were raised on whether there should be a maximum number in attendance. Some advice on safety for the numbers of people attending was requested and whether Priory Street itself can cope with so many worshippers.

The boundary treatment with No. 4 needed to be clearly specified and it was important that those living further along the road do not have to look out on coffins on show and it was preferred that they remain inside. The existing low boundary wall appeared to be crumbling and with large numbers of people it needed some protection otherwise it could collapse. A green landscaped screen on the eastern edge set a few metres inside the boundary between the low wall of No. 4 and a new fence was suggested. It was only the use of the outside area in this application because the use of the inside is established use. More detail on the proposal was needed. It was hoped that there could be some negotiation with applicants and the objector next door with the aim of agreeing on a satisfactory solution.

The concerns that the Committee had raised were understood by planning officers and would assist their discussions with both parties. The sensitivity of the matter was appreciated and it was the planning issues which needed a resolution.

RESOLVED (UNANIMOUSLY) that consideration of the application be deferred for discussions with the applicant and the objector on the boundary treatments, the

number of people attending outside services and the use of the former garden space as a parking area.

Councillor Lewis left the meeting at this point.

215. Legal Action // Land at Turnpike Close, Old Ipswich Road, Colchester

The Head of Environmental and Protective Services submitted a report seeking authorisation to take civil action in the County Court pursuant to Section 187B of the Town and Country Planning Act and/or other legal action be undertaken to secure the removal of unauthorised vehicles and structures from the land together with a palisade fence which has been erected to sub-divide the site, all in direct contravention of the terms of the Unilateral Undertaking which regulated the use of this land in the interests of safeguarding the character and appearance of the countryside. The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. Officers were satisfied that the storage of commercial vehicles were unrelated to the authorised use of the site. However, reference was made to additional information received from the solicitors of the owners of the site stating that there had been insufficient time and information provided by the Council to enable the owners to be in a position to make full representations to the Committee thus prejudicing their client's position.

Members of the Committee were willing to defer the matter to the next meeting in order to give the owners of the site and their legal representatives sufficient time to make representations.

RESOLVED (UNANIMOUSLY) that consideration of the matter be deferred to the next meeting to enable the owners of the site and their legal representatives more time to make representations to the planning authority.