

**PLANNING COMMITTEE
6 NOVEMBER 2008**

Present :- Councillor Ray Gamble* (Chairman)
Councillors Mary Blandon*, Nigel Chapman*,
Peter Chillingworth*, Helen Chuah*, John Elliott*,
Wyn Foster*, Chris Hall*, Sonia Lewis* and Nigel Offen*

Substitute Members :- Councillor Laura Sykes for Councillor Mark Cory*
Councillor Julie Young for Councillor Stephen Ford

(* Committee members who attended the formal site visit.
In respect of minute no. 141, Councillor Hall was present
at this site only, and Councillor Lewis was not present
at this site visit.)

Councillor Chapman was not present for the consideration and determination of all applications agreed en bloc, minute nos. 139, 140, 142, 143, 145 and 147 to 150 refer.

137. Minutes

The minutes of the meeting held on 16 October 2008 were confirmed as a correct record, and in connection with minute no. 134, the Committee confirmed that the fencing to be erected on site was to be 6' high.

138. 081520 Tesco Stores, Church Road, Tiptree, CO5 1AA

The Committee considered an application for the installation of a combined heat and power (CHP) unit to provide a sustainable method of powering the store. The Committee had before it a report in which all information was set out.

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

Members of the Committee sought confirmation that the noise level of 5dBA would be enforced. Concern was expressed that residential houses were closer to this store than is the case at Highwoods and there were no trees to shelter residents from the units. It was explained that the Environmental Control Team had been consulted on the proposal and if there were any concerns a recommendation of refusal would have been made.

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

139. 081676 The Coffee Exchange, 33A Church Road, Tiptree, CO5 0SU

The Committee considered an application for a variation of conditions 1 and 2 of planning permission 071202 to allow a permanent consent and to change the opening times to 9.00am to 11.30pm Mondays to Saturdays and 9.30am to 6.00pm Sundays and Bank/Public Holidays. 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.

140. 081732 The Coffee Exchange, 33A Church Road, Tiptree, CO5 0SU

The Committee considered an application for a new shop front with a new glazed door, fixed glazed section and three folding glazed doors. The new door entrance was to replace the existing entrance, to the right hand return, which was only accessible via the shop front forecourt of the adjoining shop. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Councillor Ray Gamble (in respect of having attended a meeting at a premises within the curtilage of the application site) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Nigel Chapman, Councillor Peter Chillingworth, Councillor John Elliott and Councillor Wyn Foster (in respect of their association with Councillor Jill Tod, resident at Seven Arches Farm, Chitts Hill) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Sonia Lewis (in respect of being a close acquaintance of the family residing at Seven Arches Farm, Chitts Hill) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and she left the meeting during its consideration and determination. Councillor Lewis took no part in the site visit.

141. 081702 Land west of Fairfields, 74 Chitts Hill, Colchester, CO3 5SX

The Committee considered an application for the construction of a new 3.5 metre wide domestic access drive approximately 500 metres long. The application was a

resubmission of 081107 in which a width of 4.5 metres had been proposed. The Committee had before it a report in which all information was set out. The proposed access would run through a small wooded copse at its south-eastern end and in this regard an Arboricultural Impact Assessment was also submitted.

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. The present access involved negotiating two gates. There would be an impact on neighbouring properties in Chitts Hill, but there was some separation between the proposed road and gardens. On balance it was officers' view that the development was non-essential in the countryside.

Ted Gittins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The present access was difficult and the only planning reason for refusal rests on the fact that it is non-essential development in the countryside which was not normally sufficient for refusal on its own. The key test was whether the development was harmful. The two consultees on the perspective of harm, the Landscape Officer and the Tree Officer, comment only that they required particular conditions, and neither defined any harm to the countryside itself. He hoped that in looking at other material considerations, the balance might shift more to the perspective of the convenience of the proposed access road which would be 300metres shorter and more straightforward for the occupants of Fairfields. He would support any condition to enable the development to be integrated into the landscape without harm.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. He supported the representations made by the residents in Chitts Hill as described in the report and urged the Committee to accept the recommendation and refuse the application.

Members of the Committee expressed a variety of views. When the A12 by-pass was built the Highway Authority closed the former access to the house and over the years the occupiers had accepted the situation. It was difficult to see how a new drive would be a visual problem as residents in Chitts Hill would not see the road and there would not be much change to the land. The current situation of the long, bumpy drive was difficult and some members found it difficult to see the harm that would be caused by the proposal, others were content to follow the recommendations for refusal.

The residents in Chitts Hill considered that the new access would be a problem; one of their concerns being the possibility of crime. There was a concern about a business being conducted from the house in which case the traffic movements could be considerable. However, it was explained that conditions to restrict the number of movements in a day or to prevent the use of the property and the area around it for commercial purposes, other than for office use, would not be possible because the property had residential use rights. If in the future there was an increase in traffic generated from a change of use of the dwelling the new situation would have to be

considered. The hedge mentioned by the Landscape Officer would impact on the distant views.

RESOLVED that (MAJORITY voted FOR) the application be approved with any conditions considered appropriate by the Head of Environmental and Protective Services.

Councillor Sonia Lewis (in respect of the agent having undertaken work for her spouse in the past which has now concluded) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

142. 081727 Westview Cottage, Long Road West, Dedham, CO7 6EH

The Committee considered an application for the demolition of an existing house and outbuildings and their replacement with a five bedroom detached house and double garage. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Councillor Nigel Chapman (in respect of having approved the management plan for Colchester cemetery and crematorium gardens in his former role as Portfolio Holder for Customer Services and Sustainability) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and left the meeting during its consideration and determination

143. 081729 Colchester Crematorium, Mersea Road, Colchester, CO2 8RU

The Committee considered an application for the removal and replacement of existing paving and the construction of an open sided timber structure with a plain tiled roof to be constructed over the centre of the existing Floral Tribute Area. The building is shown as being 9.5m in length, 4.8m wide and 4.5m in height. 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.

Councillor Ray Gamble (in respect of having been a customer of Papas Fish Shop) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

144. 072956 Papas Fish Shop, East Street, Wivenhoe, CO7 9BW

The Committee considered an application for two flats to be added to the upper floor of the single storey fish shop with a remodelled shop front to Papas Fish Shop. The application was a resubmission of 071034. The Committee had before it a report in which all information was set out, see also Amendment Sheet. The proposal was to build a garage to the side of the existing shop on the ground floor and to create two residential flats on the first floor above the newly created garage and the existing shop which would itself be remodelled.

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.

Revd David Thomas addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He represented the Church and local residents, including 79 people who had written to object. The pictures show that the proposal would obscure views of the church and he took issue with the view being subservient. He objected to additional car parking on street for loading purposes and increased litter. The present building needed improvement, however, he agreed with the fundamental criticism that the scheme was disappointing and his preference was to seek better proposals for a smaller building more in keeping with its surroundings. He considered this to be the wrong building in the wrong place and the wrong time.

David Stenning, architect, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. His concern with the shop dated from 1990 when the Conservation Area in Wivenhoe was designated. The issue of height and bulk seems relatively irrelevant, completely rebuilding with a single storey flat is uneconomic. He would object to anything which would damage the setting. Parish churches, enclosed and partially enclosed, are typical of England. This site was occupied by bulky buildings. The enhancement is a significant town planning objective. The proposal would be a 21st century building which would respect the location. All views had been taken into account. The site is situated in a pedestrian character area where passers-by would pass slowly.

Councillor Ford attended and, with the consent of the Chairman, addressed the Committee. He referred to UEA1 and 6.14 of the Colchester Local Plan in his arguments against the application. Paragraph 6.14 of the Colchester Local Plan states that "an established change of use which would detract or be detrimental to visual amenity will not be permitted". Before and after photographs were produced by Stuart Allen. Mr Allen lives in a house immediately in front of the application site and he is content with the proposal. Mr Allen has shown that the size of the proposal will be 3½ times larger and 2½ times higher than what currently exists – a 93% increase in footprint. Anyone standing in East Street will not be able to see much of the church. The best course of action would be to design a new building, shallow in plan,

and neither too bulky nor too high. Visual amenity gives communities a strong sense of identity. This is not just a view of a church it is a church which has stood in this location for 700 years. It is a focal point of the ward and a community church. The view gives continuity to the community and a strong sense of community. He believed that this proposal was overdevelopment leading to a loss of visual amenity, the loss of a view which provided a strong sense of community.

Some members of the Committee were concerned that the proposal was over development with detrimental views of the church. There was no room for waiting areas, only one space for residents parking and nowhere for delivery lorries to park. The street was very narrow and the proposed garage would open onto the street. Traffic was increased in this street because Queens Road was closed off. The application should be refused on the basis of over development of the site and the loss of amenity.

Other members of the Committee expressed alternative views. The Conservation Area is one of the gems of the borough and it is the Committee's responsibility to get the decision right. Residents see this proposal as a bulky building spoiling a good view of the church and making a narrow street even narrower. However, photographs of houses formerly on this site show that they were higher than this proposal. This site currently presents as a gap and a low, badly designed building. The proposal is supported by Conservation Officers. The Committee have visited the site twice and it is clear that this site in the Conservation Area needs to be improved and another, better scheme may not be forthcoming. The current building does not fit in with the Conservation Area and on balance this scheme would be an improvement, although not perfect.

It was explained that the current building has a wide span and with the additional floor will increase the height. The applicants had tried to articulate the building above the ground floor which would read as three elements instead of one big building, thus capable of assimilation into the townscape. There were no habitable rooms at the rear of the proposal so there would not be any overlooking of the church. UEA1 is concerned with protecting the character of the area and elements which contribute towards that character. This proposal is a response to an acknowledged problem in the area which can only be dealt with by some sort of development; demolition was not an option. This scheme is perceived as an enhancement of the area and will respect its character. The bulk of the church comes into view at the top of Rose Lane and that view will not change. The proposal has a higher ridge line than the building to the east and there is some variation in roofline. The view of the tower is not seen as critical to this scheme. The view above the flat roof area will be lost but the main view of the church will remain. The element of the church which will be obscured by the proposal is currently the tarmac parking area, the tower would remain in view. The garage doors had been designed not to open out into the street. With respect to smells, Condition 9 required details of a scheme to deal with noise and smells to be submitted prior to the commencement of development.

RESOLVED (MAJORITY voted FOR) that –

- (a) Consideration of the application be deferred for the dating 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.

145. 081313 21 Church Street, Rowhedge, CO5 7EY

The Committee considered an application for a new dwelling on land which was part of the garden of 21 Church Street. The application site is within the Rowhedge Conservation Area. 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 (UNANIMOUSLY) 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.

146. 081421 Adhere Industrial Tapes, Whitehall Road, Colchester, CO2 8JH

The Committee considered an application for a new storage building. 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.

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

Mr Coulson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The proposed building was within an area for industrial development and the design of the building was similar to surrounding buildings. An existing hedge and trees were to be retained and additional planting would be included to maintain a screen. The proposed building was required for additional storage because of the success of the business and would lead to the creation of two additional full time jobs and one or two part time

jobs. Additional traffic would be minimal.

Members of the Committee expressed concern about the screening and asked for additional trees because of the large size of the building and its visibility from Whitehall Close. It was explained that there was a landscaping condition which could be amended to include additional screening planting.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet together with additional screen planting to Whitehall Close.

147. 081643 118 Straight Road, Colchester, CO3 9DJ

The Committee considered an application for a change of use of an existing bungalow to a dental practice comprising two consulting rooms, a staff room/storage area, a reception desk and a waiting room. The practice would have a maximum of two full time and two part time staff. It was not proposed to do any works to the external appearance of the building. 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 and on the Amendment Sheet.

148. 081691 105 Nayland Road, Colchester, CO4 5EW

The Committee considered a retrospective application for a change of use of the front part of the building from retail (Class A1) use to office (Class B1) use and for its use to be in connection with the established use of the rear part of the building for workshop and storage purposes. 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.

Brian Rowe addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. It is the business which is the source of problems, this application for a change of use is not a problem. The available parking was insufficient for the number of vehicles. The business operates five vehicles of their own and all the vans. Those who work in the vans leave their vehicles outside all week, 24 hours a day. Vehicles are double parked outside Myland Parish Council offices. He requested that restrictions be applied where vehicles are parked and also on the number of vehicles that operate out of the premises.

Alfred Baker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The business has been

operating for many years. After Mr Baker retired in 2005 Mr Milton took over the business and now runs a property maintenance business. He has five spaces for staff who collect job tickets and materials in the mornings. There are no parking restrictions. Nayland Road is not just a residential road; it has been a business road for many years. The road became a no through road when the NAR was opened. Residents find it more convenient to park on the road. Mr Milton apologises for any inconvenience which is only for short periods.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. This site has had issues over the years. Vehicles double park which prevents buses getting through; drivers stand with doors open which prevents people getting through and is a constant issue. The Highway Authority does not propose to issue a formal recommendation in this case. Employees do park all week which pushes parking further up the road near the bus gate. Employment is welcome to the area and it is good for the economy but there are serious concerns about parking. Essex County Council intend to implement some parking restrictions in a years' time for Leeches Lane. He welcomed the business contribution to the economy but not the vans and cars which are causing problems on the road. He asked that only five vehicles use the premises.

Members of the Committee expressed their concerns at the issues presented by the speakers but were at a loss to know what the Committee could do to alleviate the situation; this was more about being a good neighbour. It was suggested that the operator be asked to make the best use of the space available for on site parking and to consider their neighbours. It was also suggested that the situation be conveyed to the Highway Authority and Street Services to see what could be done to improve the situation.

It was explained that there was limited space for manoeuvre and the office use would have less impact than the retail use. If there were conditions to regulate parking and traffic they would have been included in the report, but there was no ability to impose conditions or limitations on vehicle parking or regulating any aspect of the use as this was a retrospective application. The best that could be done in the circumstances was to add a suitably worded informative and to request the parking enforcement team if it is possible for them to give any assistance.

RESOLVED (UNANIMOUSLY) that the application be approved with a strongly worded informative to draw the applicant's attention to the problems caused by vehicles associated with the business on site – parking on street causing obstruction and congestion without consideration to neighbours and other road users, not making best use of existing on-site parking facilities. The matter be referred back to the Highway Authority and Street Services for concerted actions to try and alleviate the parking problems.

149. 081704 Joyclare, Boxted Road, Colchester, CO4 5HF

The Committee considered an application for a permanent use of the premises as an

occupational therapy annexe to St Paul's Hospital following temporary planning permission under COL/07/0128. Information regarding the use of the annexe has been provided in a supporting statement. The Committee had before it a report in which all information was set out; an amendment to the hours of operation in Condition 1 was set out on the Amendment Sheet.

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

150. 081483 61-63 Albion Street, Rowhedge, CO5 7ER

The Committee considered an application for full planning permission for a replacement front entrance porch at a property which is within the Rowhedge Conservation Area. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that the application for full planning permission be approved with conditions and informatives as set out in the report and on the Amendment Sheet.

151. 081484 47 St Botolphs Street, Colchester, CO2 7EB

The Committee considered an application for a change of use from vacant shop unit (Class A1), formerly trading as Pete's Treats, to a restaurant (Class A3) use. The Committee had before it a report in which all information was set out.

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

Mr Alan James, owner of the property, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He was proposing to open an up-market restaurant not a burger and chips establishment.

Members of the Committee expressed the view that any permission would have a major impact on the Cultural Quarter. There was some anxiety that if permission was granted there could be the possibility of a takeaway on this site which was not wanted, but a high quality restaurant would be a focus in the area. It was explained that A3 use class was for a restaurant which was not a food takeaway which was A5 use class, for which a change of use would be required.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report.

152. Enforcement Action // Land in garden of Berryfields, Coggeshall Road, Dedham, CO7 6ET

The Head of Environmental and Protective Services submitted a report regarding the status of building works to erect a new house on land to the south of an existing property on the site. Appropriate action was recommended in order to remedy a breach of planning control. The Committee had before it a report in which all information was set out.

The building works were considered to be not in accordance with the approved plans and furthermore the variations were considered to be material changes. It was intended that negotiations be undertaken with the developer to secure compliance with the original approved scheme or the submission of an alternative acceptable scheme. In the event that no agreement could be reached the Committee was requested to authorise the Planning Services Manager to take enforcement action or other legal action as appropriate.

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

Parish Councillor Robert Cannon addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the action proposed. The new dwelling was higher than any other structure in the road. It bore no relationship to the approved plans and the parish council expected the Committee to stand by its decision. If enforcement action was not taken it would give a green light to others in Dedham Vale. He considered that gross negligence had taken place. A mature hedge was removed in May 2008 against a condition of the approval. He wanted any forthcoming application or amendment to be refused, only accepting that the property be built in accordance with the approval.

It was explained that the recommendation is to take enforcement action and in the process to clarify the extent of the divergence from the approved plans. Any application submitted in response to the variations will be dealt with following the usual procedure. The Council will take enforcement action if necessary.

Members of the Committee supported the suggested course of action stressing that the Council must be strong in ensuring that developers do adhere to the permission and there should not be any movement in another direction.

RESOLVED (UNANIMOUSLY) that the Planning Services Manager be authorised to take enforcement action or other legal action as appropriate against unauthorised building works taking place at the site, subject to any negotiations with the developer to secure compliance with the original approved scheme or the submission of an alternative acceptable scheme.

153. Enforcement Action // 99D Winnock Road, Colchester, CO1 2BQ

The Head of Environmental and Protective Services submitted a report seeking authorisation to take enforcement action requiring the removal of a timber deck and balcony with a compliance period of two months. The Committee had before it a

report in which all information was set out. The deck and balcony had been installed on an existing flat roof of a property which had been subdivided into flats. Following the refusal of planning permission for the retention of the timber deck and balcony, an appeal had been submitted and the refusal had upheld.

RESOLVED (UNANIMOUSLY) that an enforcement notice be served with a compliance period of two months requiring the removal of the timber deck and balcony.