

**PLANNING COMMITTEE
17 DECEMBER 2009**

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

Substitute Members :- Councillor Beverly Davies
for Councillor Andrew Ellis
Councillor Mike Hardy for Councillor Sonia Lewis
Councillor Peter Chillingworth
for Councillor Jackie Maclean

Also in Attendance :- Councillor Chris Hall
Councillor Nick Barlow

(The Committee did not undertake any formal site visit.)

147. Minutes

The minutes of the meeting held on 3 December 2009 were confirmed as a correct record.

148. 090732 Land adjacent 9 Walters Yard, Colchester, CO1 1HD

The Committee considered an application for the erection of a one bedroom detached dwelling with a basement on a small parcel of land currently laid out to grass and set behind Grade II Listed Buildings within Colchester Conservation Area 1. Outline approval for a dwelling on the site was granted in 2005 for a similar sized building. The Committee had before it a report in which all information was set out, see also Amendment Sheet. The application had been presented to the Committee on 19 November 2009 but was deferred to allow further consultation with some neighbours who had been omitted from the initial consultation. The Committee had made a site visit prior to that meeting in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations.

Susan Jennings addressed the Committee, on behalf of residents of Walter's Yard and West Stockwell Street pursuant to the provisions of Planning

Committee Procedure Rule 8 in opposition to the application. Residents had accepted that there would be development on this plot but this proposal was very different from the original permission. Her concerns were that the application had used unreliable information for example the site description and identity of the adjacent properties, nos. 57 and 58 West Stockwell Street would be completely boxed in, and the Highway Authority had objected. Visitors to the Dutch Quarter appreciate the buildings and the owners of properties seek to protect that history. The proposed building could not be more out of character in this location.

Dean Pearce, agent, acting on behalf of the applicants, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the diversity of periods of building in the Dutch Quarter and those surrounding the site, and that this proposal would reinforce that trait by being a building of its own time whilst maintaining traditional values of character and quality. Basements and attics were typical of the area. The applicants work locally and have a long association with the town and were aware of the difficulties of the site.

Councillor Barlow attended and, with the consent of the Chairman, addressed the Committee. He referred to the objection by the Highway Authority and the possibility that it may not be possible for vehicles to get to the far end of Walter's Yard. He referred to Council policies particularly UEA2 in respect of protecting the Conservation Area, and disagreed that the building would contribute to the area; and UEA12 in respect of overlooking and overshadowing. He was concerned that there would be large amounts of earth to be removed during the construction process affecting the Georgian wall at 59 West Stockwell Street and considered that strong conditions would be required to protect neighbours amenity. He was also concerned about that property being shut off. The extant permission had specific conditions regarding fitting in with the area; this on the other hand was a different design and style which was inappropriate for the area and he urged the Committee to reject this application on the grounds that it was not the right design.

Members of the Committee expressed a range of opinion on the design of the building and whether or not it fitted into the area. Some considered it to be an interesting modern design, and others considered it to be out of keeping with the surrounding much older dwellings. It was recognised that this area already comprised a mix of 15th to 20th Century buildings and a good modern design was not sufficient reason for refusal. Other towns such as Cambridge had modern buildings next to old buildings and in time this could fit in well and be an asset. There were also concerns about the use of copper and the design of the chimney, the loss of light and privacy to neighbours and the small amount of private amenity space but the proposal

complied with the Design Guide in regard to privacy and amenity elements. There was a concern about an objection raised by the Highways Authority on an earlier approved application which had not been taken into account then and the Highway Authority had objected again on this application. The Georgian wall abutting the site was of great concern and a specific condition was requested to protect it during excavation on the site and thereafter. There were also concerns about the works causing a disturbance to neighbours and a condition to reinforce the advisory notes during construction was requested. Some members preferred the design of the earlier approved building.

In response it was explained that the Council has policies that seek to promote and enhance an area. Gap sites such as this make no contribution to an area and their redevelopment using imaginative and high quality designs is to be encouraged. A new building should not reflect earlier designs but should have regard to scale, height and mass of surrounding buildings and this building fulfilled this requirement, relating well to the buildings opposite. Local Authorities are required not to stifle design or impose a particular style on an applicant. The area displays a wide variety of styles spanning five centuries and the different styles contribute to the character of the Dutch Quarter. In response to the preference for the earlier approved scheme, the Committee were reminded that Local Planning Authorities cannot prevent different schemes from coming forward. In respect of concerns about overlooking, the window on the side of the building will provide light for the stairwell and be obscure glazed, and the elongated door/window on the frontage is to provide a fire exit and will be of etched glass; there is also a condition for it to remain closed except in an emergency. In respect of concerns about the copper roof, there is a condition requiring samples of all materials to be submitted before development commences and it is suggested that the copper roof be treated to a burnished brown. It was acknowledged that the garden size was small but a number of garden sizes in surrounding properties are similar which is considered acceptable in central locations and the previous scheme also had a small garden. In respect of the wall, there is full access from one side of the wall and there is a condition requiring a full archaeological survey to be done. There will be an impact on the building at the end of West Stockwell Street but this proposal is not dissimilar in height to the previous approved building and it would be difficult to justify a refusal on those grounds. The previous and current parking standards policies state that in town centre locations the parking policy can be relaxed. Access through to the end of Walter's Yard will not be affected. With regard to disturbance during construction, Condition 3, scheme of works, could be amended to include a reference to hours of work as set out in the advisory note.

RESOLVED (MAJORITY voted FOR) 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 amendment to condition 3 to include reference to the hours of work as set out in the advisory note.

149. 091417 13 Nayland Road, Colchester, CO4 5EG

The Committee considered an application for a variation or removal of Condition 2 of planning approval COL/92/1460 which limits staffing at the premises to one practitioner and two ancillary staff. Subsequent planning consents had given permission for up to four consultancy rooms. The Committee had before it a report in which all information was set out.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. The issue of numbers of car parking spaces for dental staff and pharmacy staff was raised at the time the application for an extension to the rear of the building was granted. There are fourteen spaces in total, five at the front of the site and the remainder at the rear. This application seeks to rectify the fact that the permission granted in 1992 had only one consulting room at the pharmacy but there have been two operating for a number of years.

Mr Welham addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The overall plan shows four parking spaces for the unit above the pharmacy which was for one surgery but there are now two new consulting rooms and one treatment room. The current facilities generate up to fifteen cars which currently park on the footprint of the parking area for the further approved surgery. However, when the surgery extension is built there will be eight displaced cars that will have to park on the highway. This is a retrospective planning permission. Pedestrians may be at risk and he wanted to know who was going to accept liability for the planning permission.

Ms Sam Matthews, Dental Clinic Practice Manager, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Since March 2003 the dental clinic has operated under a contract with the Primary Care Trust. According to a

recent planning approval the car parking places comply with current standards on current approval and this one. There have been no objections from the Highway Authority and there is a good bus route reducing the need for staff to use a car. Wherever possible they employ local staff who could walk or cycle and there is a car sharing scheme. If the approval is denied they will have to shut down with a loss of jobs and patients having to find another dentist. They also have a domiciliary contract so a further two members of staff park there for ten minutes to collect equipment.

Members of the Committee were disappointed at this retrospective application. The situation at the surgery would create overspill but there was not much that the Council could do about off street parking. This was a dilemma in a growing town which needed facilities. In consideration of the previous planning application a request was made for yellow hatching to protect access to two parking spaces for 15 Nayland Road together with a condition for provision of cycle parking which requirements were not mentioned in the report. Members were aware that Mile End Road was not as busy as it had been prior to the Northern Approach Road becoming operational.

It was confirmed that the practice was operating in compliance with the parking provision of fourteen parking spaces, five were provided at the front of the building and a series of spaces at the back. It was explained that the hatching and cycle parking should have been incorporated in the previous planning permission and it would be possible to add a condition for the provision of cycle parking provision to serve the current practice/extension.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report together with an additional condition for the provision of cycle parking to be agreed.

150. 091441 The Cottage, Moor Road, Langham, CO4 5NR

The Committee considered an application for a change of use from agricultural land to garden extension. 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.

151. 091442 35 De Vere Road, Colchester, CO3 4EA

The Committee considered an application for a two storey rear extension. 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.

152. 091513 Greenstead Road, Colchester, CO4 3UJ

The Committee considered an application to determine whether prior approval was required for a slim line mono pole streetworks structure and associated equipment cabinets accommodating equipment for O2 and Vodafone. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred until after the expiry date of the consultation period as advertised in the newspaper, due to expire on 1 January 2010.

(b) Subject to no substantive objections being received which raise new issues, the Head of Environmental and Protective Services be authorised to inform the applicant that prior approval is required, that the details submitted are acceptable and that prior approval is granted for the siting and appearance of the development.

Councillor Theresa Higgins (in respect of an association some years ago with a resident in the neighbouring property) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

153. 090817 1 Moorside, Colchester, CO1 2TJ

The Committee considered an application for a change of use from a betting shop, Class A2, to Indian takeaway, Class A5. The application is a resubmission of 081777. The Committee had before it a report in which all information was set out.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. The submission included works comprising a chimney to the rear. However, this application was submitted for a change of use and if approved a form of extraction equipment would be required which would

need to be housed within a chimney which itself would itself require separate planning permission. It was confirmed that the extraction system details do achieve the aim of reducing smell to the level where it is acceptable. A red line is drawn around building itself indicating that the courtyard area to the rear is not within the control of the applicant thus there is no off street parking provided as part of this application. The surrounding roads have double yellow lines restricting on street parking at any time. Thus there is no opportunity for on street or off street parking. It was confirmed that the Highway Authority had stated that they had no objections to the application. In terms of planning policy it is considered that this use is acceptable. Hours of operation were considered to be acceptable as there are other similar outlets in the area which operate for similar hours. Reference was made to a further three suggested conditions on the amendment sheet which could be added to ensure that any development of the ground floor business unit did not adversely impact on the amenity of neighbouring properties.

Gordon Hawley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. They would have to live with the decision of the meeting. The fact that there is no parking in the area seems to have been dismissed yet the problem is insuperable. There is no dedicated parking for customers or possibility of it being provided. The nearest legal parking was 90 paces away. The site is opposite The Rose and Crown Hotel, one of the best medieval timber framed buildings in Colchester. An Indian takeaway seems inappropriate in the area, and its operation seven days a week from 12 noon to 12 midnight appears difficult for the residents to put up with. This building was originally built as offices. The only way to access the first floor would be up a flight of stairs next to a commercial kitchen. The danger of fire was mentioned and its threat to the escape route down the stairs. There was a timber framed house attached to this premises and the risk of fire was of great concern to the occupiers.

Mrs Salma Ahmed addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Most of the issues were related to traffic, parking, noise, smell, litter, traffic and parking. She noted that the Highway Agency had not objected. Currently there was one space behind the building and there are parking restrictions in the area. However, there is on street parking for 30 minutes between the hours of 8am and 6pm and after 6pm there was parking available on East Street. Trading will be for local customers passing by and for employees in the industrial area of Moorside. Most business would be during the evening hours when customers can park safely without obstructions. Environmental Control had no objections as extraction equipment would be installed prior to first use. She did not believe it would be reasonable to decline the application on the grounds mentioned.

Councillor Hall attended and, with the consent of the Chairman, addressed the Committee as the ward councillor and the Heritage Champion. This is a very important area. It was noted that the area had been at risk but its improvement had begun with the restoration of Charlie Browns and it was crucial to this eastern approach to Colchester that this improvement be continued. He was concerned at the lack of parking for collections and deliveries which should be taken into consideration and he was disappointed at the response from the Highway Authority and considered that they should be present to hear the Committee's deliberations. He was concerned about smells which could penetrate through wattle and daub and the impact on the environment and disturbance to local people. He was disappointed that another use could not be found. Local takeaways have been there for forty years.

Members of the Committee had a number of concerns principally in regard to the impact on the residents of the timber framed residential properties adjacent and close to the site which would primarily be the smells, causing considerable inconvenience for residents. Subsidiary concerns were the risk of fire to these properties and the hours of use, 12 noon to 12 midnight Monday to Saturday and 12 noon to 11pm on Sundays and public holidays. This site was within a Conservation Area on the outer limit of the town centre and there were concerns in respect of disturbance to the balance of the area and with traffic, including the slamming of doors and conversation at night. The lack of parking was considered to be an encouragement for illegal parking. It was thought that parking on double yellow lines may be permitted for a very short time.

The planning officer explained that there were no objections from Environmental Control or from the Highway Authority. It was recognised that members considered this use would give rise to amenity issues to residents. It was within an area where it was considered not essential to provide parking facilities but the Committee may consider that to be unacceptable. The Highway Authority were primarily considering the impact on highway safety and would assume that no customers would park on the double yellow lines around the property. The risk of fire in respect of any installation and use of kitchen and extraction equipment was an issue within the remit of Building Control which would be considered at the appropriate time. The Environmental Control team had responded that any smell nuisance would not be sufficient to sustain an objection to the application. It is possible to take into account the potential impact on the amenity to the building next door but defence of a refusal at appeal would be difficult if the Committee's concerns are not supported by the appropriate experts. In terms of impact on the character of the area, this current application does not propose any external alteration to the building but reference was made to

a subsequent application for the installation of a chimney at the rear of the property. The duct would exit at the rear and extend higher than the roof. It was considered that the duct cladding would have been harmful to the character of the Conservation Area so the duct would be housed in a false chimney on the boundary with the neighbouring property.

Members remained concerned principally on amenity issues from the hours of opening; the potential impact of smell nuisance and having an extraction unit very close to residential properties; the lack of any parking to cater for the use, even accepting that it is an area on the periphery of the town centre.

RESOLVED (UNANIMOUSLY) that the application be refused on the following grounds:-

- noise, disturbance and smell to local residents;
- impact on adjacent listed buildings and residential amenity; and
- impact on the Conservation Area.

154. 091261 and 091263 Little Netherhall, Princel Lane, Dedham, CO7 6HE

These applications were withdrawn from the agenda in order that they be determined under the Council's Scheme of Delegation to Officers by the Planning Committee.

155. Enforcement Action // Geylanii Stores, 11 St Botolph's Street, Colchester

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the removal of unauthorised external shutters and housing at the premises which are considered to be contrary to existing planning policies. The site is within Colchester Conservation Area 1. The Committee had before it a report in which all information was set out.

Members of the Committee referred to the recently approved guidance on shutters in the town centre.

RESOLVED (UNANIMOUSLY) that an enforcement notice be served at Geylanii, 11 St Botolph's Street, Colchester, requiring the removal of external shutters and housing with a compliance period of three months.

156. Enforcement Action // The What Bar, 7 Queen Street, Colchester

The Head of Environmental and Protective Services submitted a report on proposed listed building enforcement action requiring the removal of unauthorised wooden shutters at the premises which is within Colchester Conservation Area 1. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that a listed building enforcement notice be served at The What Bar, 7 Queen Street, Colchester requiring the removal of wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.

157. Enforcement Report // Land at The Smallholding, Colchester Road, Mount Bures

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the cessation of the unauthorised use of a showman's caravan for residential purposes on part of the site, and its disconnection from all services; water, electricity, heating and calor gas, which would facilitate residential use for any showmen's caravans. The development is considered to be contrary to existing planning policies and the site is within a Countryside Conservation Area and remote from any defined village envelope, services and places of employment. The Committee had before it a report in which all information was set out, see also Amendment Sheet. It was noted that the site was within Great Tey ward and not Fordham and Stour as indicated.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to the late request on the Amendment Sheet that the compliance period should be increased to twelve months. However, given the Council's attempts to achieve the cessation of the unauthorised occupation of the site during the last twenty months as detailed in paragraph 4 of the report, it was considered that a compliance period of six months was appropriate in this case.

Members of the Committee took into account the fact that the occupiers of the unauthorised caravan had had every opportunity to take appropriate steps and were supportive of the compliance period of six months. If the occupiers had nowhere to live at the end of the compliance period they would become homeless and have a priority for being housed by the local authority.

RESOLVED (UNANIMOUSLY) that an enforcement notice be served at The

Smallholding, Colchester Road, Mount Bures requiring:-

- the cessation of use of the showman's caravan on any part of the site for residential purposes, and
- the disconnection of all services, including provision of water, electricity, heating and calor gas, which would facilitate residential use for any showmans' caravans,

with a compliance period of six months.