

**PLANNING COMMITTEE
1 APRIL 2010**

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

Substitute Member :- Councillor Laura Sykes
for Councillor Theresa Higgins*

Also in Attendance :- Councillor Nick Cope
Councillor Martin Hunt
Councillor Sue Lissimore
Councillor Mike Hardy
Councillor Henry Spyvee

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

Councillors Ellis and Lewis, having declared personal and prejudicial interests in one of the following applications, were not present for the determination of applications at minute nos. 209 and 211 which were all determined under the en bloc arrangements.

206. Minutes

The minutes of the meeting held on 18 March 2010 were confirmed as a correct record.

Councillor Stephen Ford (in respect of having argued at a public meeting in favour of the access) 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 he left the meeting during consideration and determination of the application.

Councillor Martin Hunt (in respect of his long standing campaign against the extension of Norman Way and the loss of open space that would result from such an extension.) 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)

Councillor Nick Cope (in respect of his long standing campaign against the extension of Norman Way and the loss of open space that would result from such an extension.) 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) Councillor Cope made representations on the application in accordance with Paragraph 12(2) of the Code of Conduct for Members and then left the meeting during consideration and determination of the application.

207. 100172 Norman Way and grassed area to east of Reynolds Avenue and Landseer Road, Colchester

The Committee considered an application to replace an extant planning permission F/COL/04/2217 which expires on 30 June 2010 and to extend the time limit for implementation of that consent for the creation of a new six metre wide access road leading directly off Norman Way across open space which is bounded to the west by dwellings off Reynolds Avenue and Landseer Road and to the east by allotment land. The purpose of the road is to provide access into Philip Morant School for staff and visitors' cars, and delivery and emergency vehicles. It is not intended to be used for the dropping off and collection of pupils nor for cyclists accessing the school.

Within the school site it is proposed to create additional car parking space and a bus turning facility. Gates would be provided for safety and security purposes and it was intended that the road would be closed outside the hours of use of the school premises. The existing school access off Rembrandt Way would be restricted to pedestrian and emergency vehicle use only. 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.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations.

Richard Pettit, Chairman of the Painters Corner Residents Association, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application on the grounds that it cut through the whole length of the public open space known as the Green; it was a visual intrusion and obstruction to residents living alongside the Green; it would create a safety hazard to pupils of three schools who use the footway/cycleway alongside the proposed access road; and the proposal was contrary to the Local Development Framework and to planning policies. The proposed access road was granted permission on appeal and renewed

five years ago, and he requested that the Committee agree not to renew it this time.

Paula Whitney addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She was concerned at the loss of open space and the damage to the green link corridor. She believed there was a need to save cycle routes with more children walking and cycling. This route would dissect a public footpath and destroy a traffic free route to three secondary schools, which was contrary to the safe routes to school policy. The underlying reason for the proposal was an enlarged school which was another unsustainable reason against the proposal. She mentioned a number of relevant local development policies relating to open space being important, protected and enhanced which should rule out the route.

Timothy Oxtan addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He believed the number of objections to the proposal had not been counted correctly. The field has been used for public recreation as far back as the 1920's. Now was not the time to compromise the safety of children using the site for a footpath and cycling which Philip Morant School makes efforts to encourage. These applications are the result of schemes to close two schools in Colchester and he urged the Committee to reject the application.

Mr Barrow addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He objected on the grounds that public money was going to Essex County Council and being used to fund a private road at public expense. He was concerned about who would get the money if the school became private. He lived in Norman Way and had observed the traffic congestion. There were no shelters to protect children on foot against the weather. He questioned the proposal to close the existing entrance because it would leave one exit for all 2,550 children to use in an emergency. There was also the risk of a dual carriageway if both applications were approved. He supported the previous speakers.

Councillor Cope addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The planning inspector had referred to the road as having a minimal impact on the open space, but local people did not agree. He quoted extracts from paragraph 10.12.13 which he considered important for the Committee to take into account because the Council's policies were overturned or undermined by the Planning Inspectorate. It was important that Council policies were watertight as evidenced in this case; particular cases are not the same as general policies.

Neil Jones, Governor at Philip Morant School, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He regarded Philip Morant School as an excellent school which delivered results and was oversubscribed. This application was for a renewal of an existing approval and the alternative route was a response to working with residents to determine a better route. Essex County Council supported the school in assembling land and the borough council had held a stakeholder meeting. Calls for improvement have been made many times and he referred to the Planning Inspector identifying the issues. An improved access is an increasing and pressing issue and arguments in favour of the application were compounded by the growth in school numbers. The school wishes to be a good neighbour and had reassured the council that if built the road would be private and its use restricted to school hours. It was not intended for dropping children off which the school will be trying to manage. The school has a travel plan and caters for 250 cyclists; this capacity will be increased to 600+ pupils. Two hundred people service the school and provide support which leads to many movements. The school is committed to (a) giving back or releasing land equivalent to that required for the road; and (b) releasing more land than is used by the road. He reminded the meeting that the release of playing field land has to be approved by the Secretary of State. The Governors want to do the best for the community and are doing everything they can to mitigate the impact of the road.

Councillor Lissimore attended and, with the consent of the Chairman, addressed the Committee. She asked the Committee to add some additional conditions in the event that the scheme was implemented. Specifically, she requested that any traffic calming measures were as quiet as possible and cycle friendly. She wanted Condition 13 to be held to most strongly. Condition 14 required the gates to the access road to be closed at evenings, weekends and holidays, but she did not want coaches returning from school trips out of permitted hours to stop in Norman Way for parents to collect pupils. She preferred that this condition be modified to permit coaches to gain access to the school site where pupils could embark and disembark. She requested a condition to prevent excavation materials and vehicles from being stored in Norman Way because there were elderly residents nearby and their lives would be affected. She sought reassurance that the building regulations would ensure the safety of pupils on the site during construction, and lastly she requested that the playing field be given in trust to the Playing Field Association.

It was explained that the appeal decision gave clear guidance on the line that the Committee should be taking in respect to visual intrusion, loss of play space and loss of green link. The overall effect on the open space was

relatively small. These applications do not necessarily deliver compensatory open space, but there is a firm intention in the future for land to be brought forward for public open space and for wildlife habitats and corridors. In respect of the comment about the proposed road discouraging cycling, the school actively encourage green transport modes as evidenced by increasing numbers of children using cycles. In respect of the numbers of objection letters, the reports for each application mentions 31 and 22, totalling 53. It was outside the scope of planning matters to comment on funding. It was confirmed that the original access would be maintained for pedestrians and therefore available in the event of an emergency. It was highly unlikely that both schemes would be implemented. The extra conditions mentioned in relation to traffic calming and use of the road by school and sixth form trips did not present any problem. However, late night use by coaches would potentially create a noise and disturbance problem to residents. The requirement not to store building materials off site was a standard condition.

Members of the Committee made a number of comments. There is two way foot/cycle traffic along the permissive path; many parents drop children off either end of Norman Way and they use the permissive path to get to the school at the other end. There was disappointment at the travel plan on this application. Guidance was sought on any mechanism which might be available to guarantee the release of the Irvine Road playing field to the Playing Field Association rather than to accept that there is an intention.

Some members found it unsatisfactory that both applications could be approved and in that event a condition was requested to prevent 100172 being implemented if 100223 had already been implemented.

Whilst some of the Committee expressed some empathy with what the public speakers had said, there was every chance that if the Committee refused this application the Inspector would allow it on appeal. An Appeal Inspector has made a decision that this road should be allowed and another Inspector has said he will agree the open space; the Committee is not in a position to refuse the application for the road. The Committee agreed to include a number of the conditions requested by speakers.

The Committee were reminded that they must determine each application on its own merits. It was confirmed that the link between the two ends of Norman Way was a permissive path not a definitive route and whilst representations have been made to make this route available in perpetuity that is beyond the scope of this application. However, it was suggested that an informative could be added that the Committee would like to see the permissive path remain as a permanent route between the two ends of Norman Way. Equally it was not possible to secure the guarantee of the release of playing field land but the Committee have heard the Statement of

Intent and another informative could be added stating that the Committee hold this Intent as a very important feature they would like delivered.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, together with additional conditions as set out below:-

- no building materials, etc., permitted in the highway during the construction period,
- gates to be provided with a mechanism that shall be agreed to restrict access to permitted users, i.e. staff vehicles, emergency vehicles, delivery vehicles and public transport vehicles;

and the following conditions to be amended:-

- Condition 11 to be reworded to include the need to submit details of noise suppressing traffic calming measures,
- Condition 14 to be reworded to permit out of hours entry onto the school site for coach parties involved in school visits from Philip Morant School only, any other schools are excluded;

and the following informatives to be added:-

- a recognition of the Statement of Intent from the Governors expressing a commitment to finding alternative land to replace that which is being lost,
- the school's attention being drawn to the Committee's desire to see the current permissive footpath link from Lexden Road to the southern end of Norman Way retained on its current alignment.

Councillor Sue Lissimore (in respect of being an allotment holder and a member of the Allotment Association) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Martin Hunt (in respect of his membership of the Irvine Road Residents' Association) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Stephen Ford (in respect of having argued at a public meeting in favour of the access) 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 he left the meeting during consideration and determination of the application.

208. 100223 Grassed area of land north of Norman Way and east of Reynolds Avenue and Landseer Road, Colchester

The Committee considered an application for an access road to Philip Morant School, which is an alternative proposal to that considered under the previous item. It proposes a new access road to the east of the former line and utilises land currently a vacant part of allotment gardens and largely clear of the allocated open space/green link area. This alternative route is designed to intrude less into the public open space, to utilise land that is not currently accessible to the general public and can in part be screened by the existing hedgerow when viewed from the houses to the west. The road is to provide access into Philip Morant School for staff and visitors' cars, delivery and emergency vehicles. It is not intended to be used for the dropping off and collection of pupils nor for cyclists to access the school. Within the school site it is proposed to create additional car parking space and a bus turning facility. Gates will be provided for safety and security purposes and it is intended that the road will be closed outside the hours of use of the school premises. The existing school access off Rembrandt Way would be restricted to pedestrian and emergency vehicle use only. 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.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations.

David Kennedy, Chairman of the Irvine Road Residents Association, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application on the grounds that this new proposal was worse than the original proposal because it divides the public open space known as the Green and Irvine Road playing field, thus residents will be cut off from the field. Currently the route of the road is registered as allotment land which is in short supply. The application conflicts with national and local planning policies in respect of open space. PPG 17 states that planning permission should only be given if the public open space is surplus, which is not the case here. Nine hundred signatures have been collected in protest against this scheme. Residents use the land on a daily basis as allotment or open space so it is not surplus and it is not possible to compensate for damage and its destruction. For the last ten years the school has functioned effectively using the current access. Safe routes to school should be encouraged, but there seems an

unwillingness to give the initiative time to develop. The school operates a green travel plan but this road is required to improve staff access which appears to contradict the school's intention and will do nothing to discourage staff from driving to work. This route is used by many local children who can walk and cycle safely. He requested the Committee to preserve the area and reject the application.

Paula Whitney addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. This route includes former allotment land which is now a nature reserve. Former allotment land does not belong to the council for use as roads. Braintree have a policy not to use allotment land for other purposes. Loss of extra space is adding to other losses. This application comes ten years after the Inspector's decision and if approved Colchester Borough Council will not have credibility as a clean and green council.

Timothy Oxtan addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He made reference to the numbers of objections to the application which, in his view, did not tally with the number quoted in the report. Having just approved the first application he asked the Committee not to approve this second application which occupies more land and has a greater impact, especially on the Irvine Road playing field and the permanent removal of allotment land. There is no need for another road. The School Governor mentioned the need for teachers to be able to park on site at the school, whereas most people cannot park at their place of work; he suggested that teachers park on the road. From the 1970's to the present, children and grandchildren have enjoyed play times on Irvine Road playing field which is safe from vehicles. If this road goes ahead they will be less safe. The School Governor mentioned offers of alternative land to compensate for the loss of part of Irvine Road playing field, but they have been unsatisfactory, small strips of land, useless for games and he asked the Committee to reject this application.

Neil Jones, Governor at Philip Morant School, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The School shared the Council's aim to work for improved footpaths and cycle ways in the area. He reiterated that the school wanted to see the release of land to support the community and to see the matter resolved. Planning officers have pointed out that for many reasons this is the school's preferred route. Having listened to comments of residents he also considers this to be the best solution.

Richard Pettit, Chairman of the Painters Corner Residents Association, addressed the Committee pursuant to the provisions of Planning Committee

Procedure Rule 8 in support of the application. The Residents Association were very concerned about the loss of open space and wish to protect the existing open space known as the Green. This route has a less adverse effect on the public open space than the original route and leaves the Green as open space and a safe route to school. It is safer than the original route because it separates vehicles from pedestrians and cyclists. Access is intended for cars and delivery vehicles to relieve the streets of some of that traffic. The sinuous alignment has a traffic calming effect. He did not support cyclists using the path alongside the electricity sub station because of congestion and the potential for damage to adjacent properties and he suggested that this was changed. The Residents Association have pointed out inconsistencies between plan drawings and he wanted a condition that these inconsistencies are resolved to the satisfaction of local planning authority. Application 100172 has been approved and he considered it essential to approve this one because there will be a choice of route. There have been negotiations between the council, the school and residents which provided pointers to negotiate a particular route to benefit as many people as possible.

Councillor Hunt attended and, with the consent of the Chairman, addressed the Committee. He asserted that neither of these roads is needed as the case for them has not been proved. The Inspector was convinced of the overriding and necessary need for the road 10 years ago so it could not have been that overriding and necessary otherwise it would have been built by now. Nothing to the north of this road is on this application. Local residents are concerned about the future of the permissive path which goes to the other end of Norman Way. As a result of consultations, Essex County Council, Philip Morant School and local residents have produced this alternative route which has greater support than the original route. This route is private open space and if there is no public access in the future it may be decided to return the land back to allotments. He was still against both roads and would prefer both refused, but if this is rejected all the residents on both sides could end up with a route across the Green. He asked that the crossing point on the Irvine Road cycle route be a proper pedestrian crossing to protect cyclists.

Councillor Lissimore attended and, with the consent of the Chairman, addressed the Committee. She asked for additional/amended conditions as with the previous application. There are over five hundred people on the waiting list for allotments and this site would provide thirty plots. She wanted a condition for landscaping so the land to the east could be used as allotments. She asked that the existing hedging along the chain link fence to the west be protected and improved to provide a screen for nearby housing. She also wanted a quiet form of traffic calming; no link to Philip Morant playing field; coaches on school trips to use the school grounds to collect

and drop off; no materials stored on Norman Way; changes to the entrance alongside the electricity sub-station because residents have had problems with pupils gathering on the footpath; the permissive path to be protected in perpetuity for future generations and no change in the route of the path.

It was explained that this is a relatively narrow corridor between the Green and allotment land and takes up a corner of the land to the north but the corner is more than compensated for by the opening up of the allotment land. The Council is looking at providing the equivalent allotment land elsewhere, but there was no obvious reason why the land should not be retained as allotments. This scheme will result in meaningful blocks of open space. The travel plan actively discourages teachers from arriving by car to reduce demand within the site, but on street parking is a potential traffic hazard.

Members of the Committee recognised that if these two applications were approved it would provide options. The Statement of Intent regarding a land exchange as described by Mr Neil Jones in his representations on application 100172 was supported. Members requested a condition to secure regular monitoring of the entrance to the electricity sub-station 10-15 minutes before and after school and at lunchtimes. Clarification was sought regarding the turning point for coaches. Some members were not comfortable with either application, and did not understand why school staff were being allowed to use the road and why Rembrandt Way needed to be closed to school traffic, whereas if both entrances were available it would relieve pressure on both. Some members preferred this route over the original route because it protected the Green and provided a better cycleway due to the separation of users. If this application was approved it could provide an opportunity to consult with residents on whether they would prefer allotments or open space.

It was explained that the issue of land ownership must be divorced from this application. It was recognised that Irvine Road Residents Association were strongly opposed to this application and that the Painters Corner Residents Association considered this application better than the previous one. The land use issue is not a matter this Committee needs to take into account but there would be no harm in referring to a Statement of Intent in an informative. It was suggested that the additional conditions placed on the previous permission should be repeated on this permission together with an additional informative on monitoring the electricity sub-station access.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, together with additional conditions as set out below:-

- no building materials, etc., permitted in the highway during the construction period,
- gates to be provided with a mechanism that shall be agreed to restrict access to permitted users, i.e. staff vehicles, emergency vehicles, delivery vehicles and public transport vehicles,
- in the event that application 100172 is implemented in whole or in part before the road hereby permitted is commenced, all works in connection with application 100172 shall be removed in their entirety and the land reinstated to the satisfaction of the Local Planning Authority prior to the road hereby approved being brought into beneficial use;

and the following conditions to be amended:-

- Condition 8 to be reworded to include (i) the need to submit details of noise suppressing traffic calming measures, and (ii) the need to submit constructional details of kerbs and any lighting such as may be proposed prior to commencement,
- Condition 11 to be reworded to permit out of hours entry onto the school site for coach parties involved in school visits from Philip Morant School only, any other schools are excluded;

and the following informatives to be added:-

- the Local Planning Authority looks to Philip Morant School to honour the undertaking provided with this application to create additional open space within the former allotment land,
- the school's attention being drawn to the Committee's desire to see the current permissive footpath link from Lexden Road to the southern end of Norman Way retained on its current alignment,
- Philip Morant School to monitor the use of the pedestrian gate by the electricity substation to ensure that its use does not give rise to congestion and nuisance to local residents.

Councillor Andrew Ellis (in respect of having made representations in opposition to the application in his role as ward councillor at the meeting on 2 April 2009) 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 he left the meeting during consideration and determination of the application.

209. 100178 Collins Green, School Road, Messing, CO5 9TH

The Committee considered an application for material amendments to the

dwelling on Plot 5 of the site, which has approval for the erection of 7 dwellings (071734). 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 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, see also Amendment Sheet.

210. 100293 5 Abberton Grange, Layer Road, Abberton, CO5 7NL

The Committee considered a retrospective application for an extension of an external decked area to one of the ground floor units at Abberton Grange. Generally, units at Abberton Grange are equipped with a balcony or decked area, the first floor balconies being sited directly above the ground floor decked areas, and with the same dimensions. This retrospective application is to extend the area of decking at 5 Abberton Grange into the open communal area around the units, by a further two metres in depth and 6.2 metres in width. The Committee had before it a report in which all information was set out.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

Ms Hunt addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She had moved into flat 23 in the apartment block having signed a lease stipulating that no major alterations would be allowed, and then found this extension in progress. Her enquiries revealed that it did not have planning permission. She made the following statement on behalf of other residents: residents have chosen this location mainly because of the peace and tranquillity which should be protected. This decking extension has altered the dynamic between apartments. Residents of many ground floor flats could extend their decking in a similar way as this into communal areas. None of the residents had been informed of the work. The value of her property been blighted and the value of flat 5 had been enhanced. All residents should be able to enjoy the facilities of their home as in the original plan without this invasion of

privacy.

Mr Bridges addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He apologised for the application being retrospective. At his request the management company had granted him permission to extend the decking as part of the contract when he purchased the property. He now believed that the management had been aware that planning permission was required before it was built but they had not informed him. He was not going to do anything different in that area from what he would have done without the extension. Everyone can still walk past the decking and can access their property from the main entrance.

Some members of the Committee could understand that the occupier in the ground floor flat would want the decking to prevent people sitting immediately outside his windows. Other members of the Committee were not clear about the nature of the impact on the flat above the decking but they believed that the issues raised by the objector were legal matters which were outside the scope of planning and should be taken up with the management company. If the extended decking area occupied part of a communal area the occupiers in the flat above could potentially use it.

It was explained that the area where the deck has been extended into did form part of the communal area but the decking was for the sole use of the ground floor flat. It was also explained that it would be inappropriate to seek to assist the occupier of the first floor flat in pursuing any legal matters by adding an informative to indicate that the extension of the decking appeared to have been done in contradiction to the terms of a lease signed by the other resident in the complex.

RESOLVED (MAJORITY voted FOR) the application be approved without conditions.

Councillor Andrew Ellis (in respect of his acquaintance with the applicant's husband) 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 closely acquainted with 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 consideration and determination of the application.

211. 100294 Seven Arches Farm, 72 Chitts Hill, Colchester, CO3 9SX

The Committee considered an application for the erection of a replacement barn for agricultural use, which is sited with other buildings within the farm complex and with a back drop of the railway line embankment. 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.

212. 100299 King George Pavilion, Clairmont Road, Colchester, CO3 9BE

The Committee considered an application for the conversion of a redundant function room area in the pavilion to provide spaces for an early years/Surestart facility, and to construct a single storey extension to provide a dedicated entrance. The existing garage would be upgraded to create additional space for a drop in area, family room/training room and a consultation area with associated toilets and office. A new pedestrian footpath will be installed to the side of the existing private drive to enable access to the facility on foot. The existing courtyard area would be landscaped with planting and a buggy shelter. The centre would use existing parking available nearby. 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. It was explained that the application included internal alterations and two disabled parking spaces.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. He explained that Lexden ward was not as affluent as it might appear and was a mid ranking ward on a par with Mile End ward. It provided a very wide range of houses but lacked many facilities such as an NHS dentist and doctor surgeries with only a few shops at the western edge of the ward. He welcomed the children's discovery centre and this is a good way of bringing a dilapidated building back into use. The pavilion was due to be moth balled but the project had come about through Essex County Council recognising the potential for the site and the needs of the area. It is more like the sports and recreation centre on Boadicea Way provided for Prettygate and Stanway. He referred to Condition 2 regarding the use of the building which seemed to him to be too prescriptive that its sole use should be the children's centre. Various people have suggested other uses but the condition precludes any other uses and he asked the Committee to remove the condition or relax it to enable the potential of the building to the

community to be realised.

Members of the Committee were aware that the main room has been used for a community use and the hope is that it would continue to include community use in Condition 2. They did not want the use restricted because of the potential benefit to the community. Members' also referred to Condition 3, which did not make sense as written. Members were directed to paragraph 9.2 where the change of use was described as a sports pavilion within Class D2 to a mixed use sports pavilion D2 and community facility falling within Class D1, and it was suggested that Condition 2 be removed and Condition 3 be amended to read "The use hereby permitted shall only be operated between the hours of 8am to 10pm Mondays to Saturdays and 10am to 4pm on Sundays. It shall not operate on Bank and Public Holidays."

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, subject to Condition 2 being removed and Condition 3 being amended as set out above.

Councillor Ray Gamble (in respect of being acquainted with the public speaker, Mr Curry) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Mary Blandon (in respect of being acquainted with two families in the vicinity of the application site) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

213. 090880 St John's Walk, Colchester

The Committee considered an application for the erection of red brick wall and automated decorative steel double gates across the entrance of the rear access road to St. John's Shopping Centre where it meets Abbeygate Street. The service road is used for the shopping centre as well as for rear parking for the residents of Abbeygate Street. A stretch of 2.2 metre high red brick wall topped with railings would be built either side of the access gate, three metres in length to the right and one metre in length to the left of the gates. The gates would be set back five metres from the edge of the carriageway at the request of the Highway Authority. The application is a resubmission of 090649. 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.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. She explained that land ownership including private property rights, boundary or access disputes and restrictive covenants are not material planning considerations. Crime and vandalism is not a material planning consideration but crime and fear of crime is. She also mentioned a number of planning policy documents which had been referred to by objectors, and whilst some were not relevant to this application, those that were had been taken into account. She stated that this was an application for gates and the issue is whether the gates are acceptable in terms of appearance and design in a conservation area; easement is not a material planning consideration but is for residents to pursue elsewhere.

Mr Curry addressed the Committee on behalf of the Abbeygate Street Residents Association pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application on the grounds that the loss of residents car parking was a breach of planning policy because it materially and negatively impacted on residential amenity; the application would cause substantial harm without mitigation; and the reasons supporting the application are of insufficient weight to outweigh these objections. He asserted that there were no safety issues caused by the parking and there had never been any safety incidents. He believed the planning officer had designed the gates and was thus biased. He had not considered the street scene in the context of the listed buildings and had disqualified himself. The report was legally flawed and their planning policy objections are appropriate, well founded and of material weight. The application should be refused.

Councillor Spyvee, Mayor of Colchester, attended and, with the consent of the Chairman, addressed the Committee. He related the history of the site which had culminated in this application. He was surprised that officers were recommending approval of the gates across this access, the only use for which is as a fire escape and 24/7 access to electricity supply. He speculated that if the gates were built residents on the west side would turn their front gardens into car parks. Those on the east side would have nowhere to park so would probably leave and the houses would become flats and the street would be ruined. It is not just the loss of parking but the loss of such a street in the town centre. He urged the Committee to turn the application down.

Members of the Committee were displeased at the officer being impuned; planning officers are available to give guidance to applicants and the Committee did not believe that the officer had personally designed the gates. There was a suggestion that the application be deferred to see if the gates could be relocated further back to permit residents to continue to park

whilst achieving the security required by the applicants. Members were aware that an easement was nothing to do with the Committee and if the residents had a legal entitlement to park this application would never be implemented.

In response to a query about the materials it was explained that the gates were metal painted black and located 4.8 metres from the back edge of the highway. The application site shown in the agenda papers was an indication only and not accurate. It was also explained that if the gates were set further back the proposal might be more acceptable to some residents but not to others, and if the residents have an easement it would be irrelevant where the gates are sited.

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

214. Enforcement Action // 1A North Station Road, Colchester, CO1 1RE

The Head of Environmental and Protective Services submitted a report on the proposed service of an untidy site notice under Section 215 of the Town and Country Planning Act 1990. In its current condition the building was regarded as adversely affecting the amenity of the area. It is on one of the main routes into the town centre and can be seen by a large number of people including visitors to Colchester. The matters requiring attention were the removal of graffiti and the remains of fly posting from the site and the replacement of the fascia board. The Committee had before it a report in which all information was set out.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained that work on the building had been commenced and it was suggested that the notice be served only if the works had not been completed within 28 days.

RESOLVED (UNANIMOUSLY) that –

(i) The owner of the building be given 28 days from the date of this meeting in which to complete the works requiring the tidying of the building by the removal from the site of graffiti and the remains of the fly posting and the replacement of the fascia board.

(ii) If the works above are not completed within 28 days from the date of this meeting, an untidy site notice be served under Section 215 of the Town and Country Planning Act 1990 with a compliance period of two months.