

**PLANNING COMMITTEE
31 OCTOBER 2013**

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Peter Chillingworth*, Helen Chuah*,
Stephen Ford, Sonia Lewis*, Cyril Liddy*,
Jackie Maclean*, Jon Manning* and Laura Sykes*
Substitute Member :- Councillor Gerard Oxford for Councillor Philip Oxford

(*Committee members who attended the formal site visit. Councillor Lewis was present for the site visit at minute No. 84 only.)

78. Minutes

The Minutes of the meetings held on 26 September 2013 and 3 October 2013 were confirmed as a correct record.

79. 131807 Tymperleys, Trinity Street, Colchester

The Committee considered an application for the change of use of Tymperleys, Trinity Street from a garden to an outdoor seated area in connection with tea room and restaurant use, plus use of the garden in connection with weddings, corporate private events and outdoor performances. The Committee had before it a report and amendment sheet in which all the information was set out.

Ms Sue Jackson, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

The Committee requested that condition 4 be amended to require seven days prior notification to residents of any events to be held.

RESOLVED (UNANIMOUSLY) that the application be approved, subject to the conditions set out in the report and amendment sheet with condition 4 to be amended to ensure residents are given 7 days prior notice of the 10 events finishing no later than 10.30pm.

80. 130239 99 & 105 London Road, Copford

The Committee considered an application for the erection of 7 residential units at 99 & 105 London Road and the extension of the car park to the neighbouring employment. The Committee had before it a report and amendment sheet in which all the information was set out.

Ms Lucy Mondon, Planning Officer, presented the report and assisted the Committee in its deliberations. Additional paragraphs were included in the amendment sheet relating to Habitat Surveys and Natural England Standing Advice.

Mr Robert Pomery, Agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He took the opportunity to clarify that discussions had taken place between the applicants and the residents of Allendale Drive. He suggested that as the layout was only indicative at this stage, aspects such as the footpath could be removed. A compromise had been reached regarding car parking spaces and it was planned to provide 11 spaces over and above policy requirements. He stated that the cul-de-sac was not satisfactorily finished in its current state and that the development would improve this situation.

A member of the Committee was glad of the clarification relating to car parking on the site and said that if this could be addressed and accommodated for, residents would be happy. The inclusion of the footpath was not considered beneficial. It was noted that any reserved matters issues would form part of another application.

RESOLVED (NINE voted FOR, ONE ABSTAINED from voting) that –

(i) The application be approved, subject to the signing of a Section 106 Legal Agreement within six months from the date of the Committee meeting to provide the following:

- That the development outside the settlement boundary is not commenced until such a time that the development on the adjacent site has commenced; and
- That, should the development not commence within 12 months from the date of permission, a revised viability assessment be undertaken and any surplus revenue be paid to the Council for the use of Affordable Housing, Community Facilities, Open Space, Sport and Recreational Facilities (to be repeated if the development is not substantially complete within 24 months from the commencement of the development).

(ii) In the event that the Section 106 Legal Agreement is not signed within six months, authority be delegated to the Head of Commercial Services to refuse the application, or otherwise to complete the Agreement.

(iii) On Completion of the Legal Agreement, the Head of Commercial Services be authorised to grant planning permission subject to the conditions set out in the report and amendment sheet.

81. 131020 & 131023 The Jumbo Water Tower, Balkerne Passage, Colchester

Councillor Chillingworth (in respect of his being a Trustee of the Building Preservation Trust) and Councillor T. Higgins (in respect of her being a Colchester Blue Badge Guide) declared a non-pecuniary interest in these items pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Chillingworth clarified on behalf of the Conservative Group that

advice had been sought from the Monitoring Officer and there was no disclosable pecuniary interest to declare regarding donations made by the applicant to the North Essex Conservative Association.

The Committee considered an application for the change of use of the Jumbo Water Tower and alterations to provide a mixed use development comprising of three apartments, a restaurant, an office and an observatory / museum with an ancillary shop / café and the erection of an ancillary building (boiler house) and associated work. A listed building application for these works was also considered. The Committee had before it a report and amendment sheet in which all the information was set out.

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

Ms Sue Jackson, Principal Planning Officer, and Ms Libby Kirkby-Taylor, Historic Buildings and Areas Officer, presented the report and assisted the Committee in its deliberations.

Mr Brian Light of the Balcerne Tower Trust addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He suggested that the existing features of the Water Tower were not being used and that damage would be done to the tank structure. He claimed that the designation of the area for cultural facilities was not being adhered to. He objected to the prospect of light pollution from the in-filled glazed area, especially at night. He believed the proposal, at a considerable £2.4 million investment, was unlikely to be viable in the long term and that discussions had regarding the involvement of the Balcerne Tower Trust in the running of the museum were unrealistic. He urged the Committee to consider the alternatives and refuse the application.

Mr Robert Pomery, Agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He recognised that the Jumbo site was of great importance and suggested that English Heritage did not entirely object to the proposal but had advised that the application should only be approved if it was considered to be the only practical solution. He believed that the proposed development was the only viable option, with no other practical alternative being found in the past 30 years. He claimed the development would unlock an unrivalled heritage asset for the town. He also welcomed discussion with the Balcerne Tower Trust in regard to the museum arrangements.

Councillor Quince, attended the meeting and, with the consent of the Chairman, addressed the Committee. He raised the point that 16 applications for the Jumbo site had been refused and the building was now decaying. He sympathised with those that wanted to save the unconverted Jumbo Water Tower but suggested that no viable alternative could be found. He highlighted that no tax payer money would be used for the proposal, which would become a significant heritage asset. He urged the Committee to welcome change and regeneration. He believed that the regeneration of the Jumbo site could put Colchester on the map. He supported the application and believed the proposal would provide enjoyment for the whole town.

Councillor Hayes, Heritage Champion, attended the meeting and, with the consent of the Chairman, addressed the Committee. She referenced the National Planning Policy Framework (NPPF) which stated that any deliberate neglect to this site should be ignored when considering the planning application. The NPPF also laid out a test for the consideration of listed buildings. If the harm done to the building was substantial then the application must be refused unless necessary for public benefit. If the harm was considered less than substantial then the use must be reasonable, there must be no viable alternative use, grant funding must be demonstrably not possible and the public benefit must outweigh the damage done. She claimed that this proposal fulfilled none of these requirements.

Councillor Barlow, attended the meeting and, with the consent of the Chairman, addressed the Committee. He warned the Committee against agreeing the proposal solely because something needed to be done. He advised that the Victorian Society had put Jumbo on the 'At Risk' register because of this application. He also suggested that the restaurant and museum should be the key to the application rather than added on as an afterthought. He claimed that more detail on these proposals was needed. He suggested that, if approved, in the future conditions and uses could be altered to something entirely different.

It was explained by the Principal Planning Officer that the oak door and railings would be, where possible, retained or replicated. She advised that, although restricted to cultural use, the Planning Policy Team had raised no objections to residential and office use being included in the application. She recognised that the museum report should have been made available earlier. In relation to the opening of the museum element of the proposal, it was indicated that three months was a minimum requirement and that it was hoped the museum would be open for much longer. There would be a requirement for the museum to open even if the other elements of the proposal were to close. The details of the museum space were to be submitted and agreed to by the Council.

It was explained by the Historic Buildings and Areas Officer that if a listed building was not originally designed with windows it was not uncommon for windows to be added when the uses of such buildings were changed. It was the Officer's opinion that the proposal did not cause substantial harm to the building as the alterations were, excluding the removal of the pipes and valves, mainly additive and reversible. None of the alterations would adversely effect the elements which had contributed to the building's Grade II* listed status. The in-filling of the legs was not necessarily harmful, with several buildings of national importance, such as the Albert Hall and British Museum, making similar alterations. She also advised that the public benefit of the proposal greatly outweighed any harm.

It was explained by the Planning Project Manager that English Heritage had verbally indicated at the preliminary enquiry stage that the harm done was less than substantial. It was considered that this was the only viable proposal, which was not reliant on unspecified grants. He suggested that, when considering the views from around the Colchester area, the space between the legs of the tower was more perceived than real, as the central staircase blocked some of these views.

The Committee called attention to several points regarding the application. Questions

were raised as to the viability of the proposal. It was also suggested that access to the tower, through the lift and emergency staircase, was insufficient. Several members of the Committee were concerned about the significant light pollution resulting from the glazed in-fill. It was suggested by several members of the Committee that in-filling the legs of the tower was substantial harm and that it was not just the views from a far that should be considered.

It was explained by Officers that the lift would be within a fireproof shaft and was considered satisfactory by the Essex Fire and Rescue Service. It was also clarified that uniform blinds would be fitted to all the windows to prevent light pollution.

The Committee accepted that the Jumbo Water Tower was a national asset and recognised that action needed to be taken to maintain it. The Tower was considered to be part of Colchester's identity with local workmanship throughout many parts of the structure and should not be allowed to continue to decay.

A member for the Committee highlighted that several key changes had been made since the last application. In particular, the tank was to be retained, which, it was suggested, was more important to the heritage of the building than the space between the tower legs.

Concern was raised by several members of the Committee as to the effect of the proposed development on the listing of the building and the current state of disrepair was criticised.

In response to a question on any subsequent appeal, the Planning Project Manager stated that a planning inspector would be expected to consider the extent of any harm done and whether or not this was justified, as well as considering any viable alternatives. He stressed that no viable alternative had been found. He clarified that the listed status of the building could be reviewed at any time, irrespective of this proposal, although there was nothing within the proposal to suggest the listing would be down graded. He also explained that if the application were to be refused it would be possible for the owner to serve a notice on the Council requiring the purchase of the building, although the associated costs of this possibility were unknown.

RESOLVED that –

- (i) The Committee were minded to refuse the applications (THREE voted FOR, SEVEN voted AGAINST a proposal to accept the application) due to the unacceptable impact incurred on a Heritage Asset in a Conservation Area; and
- (ii) The Delayed Decision Protocol be invoked (NINE voted FOR, ONE voted AGAINST) and the detailed reasons for refusal of the applications be submitted to a future meeting of the Committee for determination.

82. 131512 & 131648 Seaview Holiday Park, Seaview Avenue, West Mersea

The Committee considered applications for the variation of condition 2 of planning

permission COL/95/1190 and condition 3 of planning permission C/COL/05/2073 to allow for a twelve month, year round, holiday use on these elements of Seaview Holiday Park. The Committee had before it a report and amendment sheet in which all the information was set out.

Ms Sue Jackson, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. She proposed to the Committee that additional conditions be added to provide approval on a temporary basis, for 18 months, in order for the Council to fully monitor the effects of the proposal. A condition relating to the clear signage of the site was also suggested.

Town Councillor Peter Clements, Mayor of West Mersea, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He suggested it was naive to believe that only holiday use would continue on the site if this proposal was approved. He claimed that the caravan site was already a huge strain on local resources and that services such as the local surgery would buckle if the additional months use were approved. He believed that this was a back door application for cheap, substandard housing.

Councillor Sheane attended the meeting and, with the consent of the Chairman, addressed the Committee. He said that extended occupancy was a real concern, particularly when considering the limited school places. He also claimed that the proposal would be detrimental to tourism, as the caravans would be used for residential purposes instead. He believed the proposal would change the very nature of the caravan site to residential. He suggested several additional conditions to the proposal such as having an up to date register and providing council tax documentation for primary residences.

Councillor Sutton attended the meeting and, with the consent of the Chairman, addressed the Committee. He supported the comments made by Councillor Sheane and added that conditions mitigating the potential detrimental effects of the proposal were important. He asked the Committee to consider refusal or, if they were minded to approve, to adopt robust conditions.

It was explained by the Principal Planning Officer that although this was the first application of its kind within Colchester, elsewhere permission had been granted for such proposals. She suggested that the temporary nature of the refusal would allow the Council to review the situation. Regarding concerns raised about the ability of the infrastructure to cope with the extra two months use, it was advised that the Highways Authority had not objected. If children from the caravan site were attending school, this would indicate use as a residential dwelling and would be contrary to the permission.

The Committee recognised that this was a difficult issue to monitor and would concern the local residents. It was suggested that a proactive approach be taken to monitoring the situation during the trial period. An amendment to conditions, to ensure that users of the caravan site would not be permitted to travel to school or work from the site, was suggested. The additional conditions regarding Council Tax information, temporary permission and additional signage were approved of. It was suggested that local Councillors should be involved in the monitoring of the site, in order to achieve a great

amount of community involvement.

The Principal Planning Officer explained that proactive monitoring would take place and that the owners of the site were paying business rates, although it was unclear whether these rates would increase as a result of extended use.

RESOLVED (UNANIMOUSLY) that –

(i) In respect of application no 131512, subject to no objections being raised by the Emergency Planning Officer, authority be delegated to the Head of Commercial Services to grant planning permission, subject to the conditions set out in the report and amendment sheet and:

- An additional condition for 18 month temporary permission;
- An additional condition providing for signage to indicate holiday use only;
- An additional condition that Borough / Parish Councillors be involved in site monitoring; and
- Condition 3 to be reworded to ensure occupants of the caravans/chalets cannot go to work or attend school from the site.

(ii) In respect of application no 131648 authority be delegated to the Head of Commercial Services to grant planning permission, subject to the conditions set out in the report and amendment sheet and:

- An additional condition for 18 month temporary permission;
- An additional condition providing for signage to indicate holiday use only;
- An additional condition that Borough / Parish Councillors be involved in site monitoring; and
- Condition 3 to be reworded to ensure occupants of the caravans/chalets cannot go to work or attend school from the site.

83. 131667 Elmcroft Bungalow, Fen Lane, East Mersea

The Committee considered an application to extend the occupancy period of Cosways Caravan Park from 1 March – 31 December to 1 March – 31 January. The Committee had before it a report and amendment sheet in which all the information was set out.

Ms Sue Jackson, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. Conditions to ensure an 18 month trial period of the proposal and additional signage were suggested.

Mr Ian Butter addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He advised that the

extension of months of use for caravan sites was a national trend. He also suggested that allowing residential use of the site would not be in the owner's interest as it raised planning, licensing and contractual issues. He believed the 18 month trial would be beneficial to determine the use of the site. He also clarified that business rates were paid by the owners of the site and that the caravan users were contributing to this through the paying of fees.

Councillor Sutton attended the meeting and, with the consent of the Chairman, addressed the Committee. He clarified that this was, practically, an application for 11 months use. He believed temporary permission was a good idea and suggested that involvement of local Councillors be incorporated into this application as well.

RESOLVED (UNANIMOUSLY) that the application be approved, subject to the conditions set out in the report and amendment sheet and:

- An additional condition for 18 month temporary permission;
- An additional condition providing for signage to indicate holiday use only;
- An additional condition that Borough / Parish Councillors be involved in site monitoring; and
- Condition 4 to be reworded to ensure occupants of the caravans / chalets cannot go to work or attend school from the site.

84. 131622 122 Bromley Road, Colchester

The Committee considered an application for a first floor extension over the garage of 112 Bromley Road and a ground and first floor extension to the gable end of the rear elevation. The Committee had before it a report in which all the information was set out.

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

Ms Nadine Calder, Planning officer, presented the report and assisted the Committee in its deliberations. She explained that all three of the skylights fronting 8 Chaffinch Gardens were to be glazed.

Mrs Swaine addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that she had an amicable relationship with her neighbours and had consulted them on the proposals at several stages, resulting in the proposals before the Committee tonight being half the size of the original submission. She stated that the proposal would not have any detrimental effect regarding loss of light. The windows facing 8 Chaffinch Gardens would be obscure glazed and the street scene would not be significantly affected. She spoke of her reluctance to uproot her family from their home and believed that extending for the future was a necessity.

Councillor Hogg attended the meeting and, with the consent of the Chairman, addressed the Committee. He informed the Committee that he was representing the views of the residents at 8 Chaffinch Gardens, directly adjacent to the application site. The proposal would mean that the view from the dining room and master bedroom of this property would be of brickwork and roof tiles, which was not welcome. He suggested that this would have a fundamentally detrimental impact on the life of the residents of 8 Chaffinch Gardens and, as such, considered the design of the proposal to be detrimental. He considered that the residents visual amenity would be impacted and their decision to object to the application was understandable.

Several members of the Committee expressed their appreciation of the objector's situation and the work done by the applicant to take mitigating action. It was requested that conditions be put in place to ensure that the rooflights were obscure glazed, non-opening and of sufficient height. It was considered that no light would be lost and, although the proposal was significant, it would not be overbearing in terms of planning policy. It was noted that the wall of the extension would be broken up by painted render.

Concerns were raised by several members of the Committee that the skylights would be directly facing two main rooms in the objector's property and would alter the atmosphere and perceived privacy of these rooms. It was suggested that the proposal could be refused on the ground of design, bulk, mass and appearance as well as loss of amenity.

It was explained by the Planning Officer that the 45 degree rule had been applied to the proposal and, in accordance with Council policy, the development was not considered to be overbearing.

RESOLVED (FOUR voted FOR, FOUR voted AGAINST, TWO ABSTAINED from voting and the Chairman having exercised her casting vote FOR) that the application be approved, subject to the conditions and informatives set out in the report with an additional condition to ensure that rooflights in the southern elevation facing Chaffinch Gardens are obscure glazed, non-opening and of sufficient height.