

**PLANNING COMMITTEE  
4 FEBRUARY 2010**

- Present :-* Councillor Ray Gamble\* (Chairman)  
Councillor Sonia Lewis (Deputy Mayor)  
Councillors Mary Blandon\*, Helen Chuah,  
Andrew Ellis, Stephen Ford, Theresa Higgins,  
Jackie Maclean\*, Jon Manning\* and Ann Quarrie
- Substitute Members :-* Councillor Barrie Cook for Councillor Mark Cory\*  
Councillor Richard Martin  
for Councillor John Elliott\*
- Also in Attendance :-* Councillor Sue Lissimore  
Councillor Mike Hardy

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

**170. Minutes**

The minutes of the meeting held on 21 January 2010 were confirmed as a correct record.

**171. 091357 Avon Way House, Avon Way, Colchester, CO4 3TZ**

This application was withdrawn from consideration at this meeting by the Head of Environmental and Protective Services.

**172. 090504 Tile House Farm, Great Horkesley**

The Committee considered an application for a residential development of five single storey, two bedroom dwellings on land located to the rear of properties fronting the A134 Nayland Road. 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.

The ward councillor had conveyed his concern in respect of there being no formalised facility for the collection of waste and recycling materials.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. In response to the ward councillor's concern in respect of

the location of a refuse and recycling collection point, it was explained that an extra condition could be added to require details of a waste and recycling facility to be submitted for approval on the basis of size and appearance.

*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, on the Amendment Sheet and an additional condition to require details of the design and size of the refuse/recycling collection point to be agreed by the Local Planning Authority.

### **173. 091068 33 North Hill, Colchester, CO1 1QR**

The Committee considered an application for the proposed conversion of existing offices/counselling rooms on the eastern side of North Hill to two residential flats. The Committee had before it a report in which all information was set out.

*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.

**Councillor Ray Gamble (in respect of being acquainted with an objector through membership of the same club) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Richard Martin (in respect of being acquainted with residents who**

**live further along Parsons Hill and on the opposite side of the road) 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 the applicant being known to her and a close family relative living in Prettygate Road) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**174. 091426 Mythian, 4 Parsons Hill, Colchester, CO3 4DT**

The Committee considered an application for a proposed development to provide nine apartments on land to the south of the junction of Parsons Hill and Church Lane, Prettygate. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. He made reference to the planning history on the site and drew the Committee's attention to certain variations between this scheme and the previous scheme: this scheme being 1 metre higher and the accommodation being provided over four floors with underground parking provided at 150%. He explained how the reasons for refusal on the previous scheme had now been more fully explained or dealt with to the satisfaction of the case officer. Officers were satisfied that the topography provided a satisfactory mitigation to overcome the overlooking issues.

Major Murray-Bligh addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He believed that the report contained errors and omissions of fact. There had been 114 objections submitted, not 'in excess of 90', and 716 signatures on the petition, not 176 as stated. This scheme is similar to the previous scheme with the same number of bedrooms in fewer apartments and the proposal remains inappropriate for this prominent site and could lead to similar proposals elsewhere. He clarified that there would be a loss of privacy to both his dining room and breakfast room both of which have north facing windows which are main windows not secondary windows. The survey giving details of excavation submitted with this application and noted as meeting all the criteria, was the same survey submitted with the previous application; one of the reasons for refusal was that the survey did not provide sufficient information. The contraventions of the previous Local Plan have been ignored. The junction was dangerous and new parking standards

have not been complied with. This is a totally inappropriate and unwanted development and the same reasons for refusal on the previous scheme apply to this one; it should be rejected.

Mr Sumner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Historically this area had been woodland, before it was sold for one house with 3 ½ acres and in 1971 it was acquired for the current development. In 2006 principles were agreed with planning officers and the current scheme, recommended for approval, is the result of dialogue with planning officers. There are no objections on the grounds of arboriculture and highways. Natural England endorses the scheme, and an environmental survey has demonstrated there are no endangered species and no bats on the site. The engineering survey with regard to the basement has demonstrated no problems. A management plan for the woodland has been approved by Essex County Council. Previous tree work was restorative for which advance notice was given to neighbours. Colours and materials will be chosen to match with the woodland, and replacement trees would be native species.

Councillor Lissimore, Prettygate ward councillor, attended and, with the consent of the Chairman, addressed the Committee. There had been 114 objections and a petition containing 716 signatures. The development would have a detrimental effect and neighbours on the boundaries would be especially affected. The site had been opened up due to the removal and pollarding of trees and with the removal of more trees it would remain open. The area comprised bungalows, family houses and parkland. This proposal is larger than the existing house. Neighbours will be affected by building work, by a loss of privacy and by the development's overbearing nature. The two metre high fences would be ineffective. Windows regarded as secondary are not secondary windows. There would be overlooking into many neighbouring windows. The mound would have to be dug out requiring many movements of vehicles and once building work was completed there would be fans to aerate the underground parking area. She estimated there would be forty-two extra cars from the occupants. Two speed-activated signs had been erected in Church Lane to reduce traffic speeds and this development will worsen this situation. She asserted that the Committee could refuse the application on highways grounds even though highways no longer object to the scheme. Many native species take shelter in the woodland and the loss of two trees could not be mitigated by planting because of the time for trees to grow. The roots of remaining trees would be damaged and the stability of the hill would be at risk. No stability survey has been conducted. She mentioned a number of national and local policies that this application contravened including UEA1 UEA2, UEA12, UEA13, UEA15 and UEA21 as well as a number of other policies.

Councillor Hardy, Lexden ward councillor, attended and, with the consent of the Chairman, addressed the Committee. He fully supported objections by residents and Councillor Lissimore. This site was on the Prettygate/Lexden boundary. Many more residents of Home Farm overlook the site than those on Parsons Hill. He referred to an application in the town centre where the planning officer explained that because of the diversity of this part of town it did not matter that the cottage did not match its neighbours. In contrast on Parsons Hill there was no diversity comprising only bungalows, modern detached houses, mixed modern detached and semi-detached and older, larger, detached houses. Most of these are owner occupied. This proposal for buildings in multiple occupation is a gross invasion of the established ambiance of this area which will set a precedent and further such developments will follow. He asked the Committee to reject the application.

In response to Major Murray-Bligh's comments the planning officer explained that the proposal had been assessed for overlooking impact on neighbours and had concluded that the fence was at a high level which would afford screening. In assessing any overbearing impacts the case officer had taken the view that whilst the property at No. 6 has windows facing the site it also has windows east and west facing which serve the same rooms. Policy states that when considering any impact less regard could be given to side windows which are not principal windows. The outstanding information required in respect of excavation is true for refusal reason one which related to the impact on trees. They were not seeking information on excavation in respect to subsidence, etc. The primary overlooking impacts are to properties immediately to the south, in other respects the development is in a spacious area with distance between it and other properties. In respect to the site context, in the previous report the planning officer gave consideration to urban greenery. This proposal is two buildings rather than a single building and the development in that respect was not going to be harmful to the character and green appearance of the area.

Members of the Committee made a number of comments including:-

- this development is out of keeping with the area and at odds with PPS1. It does nothing to enhance the area and will do real harm in this location by virtue of the impact on the adjacent Conservation Area. PPS1 states that "good planning ensures the right development in the right place at the right time making a positive difference and will protect and enhance the natural and historic environment. Good design should contribute positively for making spaces better for people this fails to enhance the area and would do real harm. This scheme is inappropriate in its context and should be refused;
- Church Lane and Parson's Hill is more in tune with a country lane;
- there is a potential danger involving school traffic where school children

on their bicycles cross Church Road and Parson's Hill, the two speed activated signs in Church Lane are indicative of this problem. It was queried whether the Highway Authority had looked at this proposal in the context of Safe Routes to School;

- a portfolio holder decision was taken recently on a Council Tree Policy because there had been no formal approach on the management of trees in the borough which could reduce the quality of the landscape character and this could reduce the quality of the landscape character. Retaining a species-rich urban woodland and trees of all ages is essential for tree succession. The pressure on urban trees is increasing and the likelihood of trees reaching maturity is diminishing. If the development was a smaller building trees would not be lost;
- parking standards: sixteen spaces is too few with no provision for visitors. There is nothing in the design and access statement; if this scheme is for older people there are no wider doorways and lifts so the proposal does not fit the intended occupiers. There were no disabled parking bays;
- this is a fresh application and members of this committee, a number of whom were not on the committee when the previous application was refused, should not be fettered by the previous reasons for refusal. The previous reasons for refusal have been addressed and in fairness it was appreciated that the applicant has done that;
- concerns about the design and layout and possibility of a succession of other such applications; opposing views were expressed that this was perfectly good design but it does not sit comfortably in this location;
- this scheme is over one metre higher.

The planning officer responded that the report stated that the design and layout was satisfactory. The building is slightly larger than previous, but it was considered that the impact on the Conservation Area was not detrimental. Design impacts were not issues raised as reasons for refusal in previous scheme. He reminded the committee of the planning history of the site. This is an application to address previous concerns as the other scheme was in all other respects acceptable, i.e. design, appearance and layout: he queried whether a smaller building be acceptable if it was the height and scale which were causing the committee difficulties. The proposal complies with the Essex Design Guide but the committee may be concerned with the scale, footprint and massing impact on the area, in particular on the site of the adjoining Conservation Area, and the impact on trees.

The Committee were advised not to introduce new reasons for refusal as costs may be awarded against the council if there is an appeal. The Inspector will not take account of the change in membership of the Committee. The decision made by the Committee is and was a Colchester

Borough Council decision and the Inspector will judge the new decision against the history on that basis, regardless of committee membership changes in the intervening time. However, if the Committee were minded to refuse the application then it was recommended that the reasons for refusal should refer to the bulk, form and massing of the building rather than design per se, and that the decision should include the Committee's reference from PPS1 regarding securing the right development in the right place at the right time and PPS1 and PPS3 reference regarding not accepting development that is inappropriate in its context as part of the reason for refusal.

*RESOLVED* (ELEVEN voted FOR, ONE voted AGAINST) that the application be refused on the following grounds –

1. The development is contrary to PPS1: “getting the right development in the right place at the right time”.
2. The development is contrary to PPS1 and PPS3: “should not accept development that is inappropriate in its context”.
3. The development is considered to be unacceptable in terms of its bulk, form and massing in an area that is primarily of a suburban residential character and scale, making the development inappropriate in its context, especially given its ability to harm the character and setting of the adjacent Conservation Area.

**Councillor Stephen Ford (in respect of having met the agent, Mr Snow, on a number of occasions) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Jon Manning (in respect of his acquaintance with an objector) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**175. 091608 89 High Street, Wivenhoe, CO7 9AB**

The Committee considered an application for new dormer windows, cladding of elevations, extension and alterations, including additions to the rear and comprise a single and two storey 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 and on the Amendment Sheet.

**176. 091635 28 Cape Close, Colchester, CO3 4LX**

The Committee considered an application for a two storey side extension front porch and internal alterations. The application is a resubmission of 081939. The Committee had before it a report in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be refused on the grounds set out in the report on the basis that the proposal would be disproportionate and a dominant feature on the side of the dwelling, significantly reducing the spacious character of the street scene to an extent that would be materially detrimental.

**Councillor Helen Chuah (in respect of her acquaintance with the applicant) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7 (10) and she left the meeting during its consideration and determination.**

**177. 090959 26 St Botolph's Street, Colchester, CO2 7EA**

The Committee considered an application for a change of use from retail A1 to restaurant A3 use. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Andrew Huntley, Planning Officer, attended to assist the Committee in its deliberations.

Mr D. Cookson addressed the Committee on behalf of a prospective user of the premises pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the designation of the area in the Local Plan being TCS9 which is not a regeneration area but a mixed use area. The most important element of the policy being the issue of the notation of the local shopping centre. The calculation of percentage of retail frontage uses will be slightly below the designation. He referred to the stated need to retain local shopping use in this street and to a submission by the Senior Enterprise Officer which raised a number of issues. There was some uncertainty about the designation of the cultural quarter; there were issues about the impact of other retail uses in the vicinity; there was an issue about the benefit to the building of a restaurant because any occupier could improve the building for the benefit of the area; and the overall issues of the retail use in St Botolph's Street; there was no profound need for a



specialised restaurant such as this.

Mr Mark Porter addressed the Committee on behalf of the applicant pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This is an application for a distinctive and quality restaurant. The applicant had considerable experience and with this restaurant wished to make a contribution to the town as a destination. He has made the highest open market bid. Objections to this application have been received from a rival bidder but full support has been received from the planning officer. The applicant currently has approval for A3 use elsewhere in the street but he would prefer to use this premises and will relinquish the other approval in exchange for this one. There will be a significant contribution to the regeneration and vitality of the town. This will be a specialised restaurant unique to the town; it is not a takeaway but will be a window on another culture.

Members of the Committee expressed a concern that the train station is not open on a Sunday so people would need to use the car on Sunday. There was also a concern that this proposal would tip the retail usage below the standard for this street; and a query regarding extractor fans.

The planning officer explained that the current policy, DCS9, requires 60% retail frontage in this area with not more than two consecutive A1 uses. If the restaurant useage at no. 30 was extinguished the retail A1 frontage would be approximately 58.6% which is very slightly below the current standard. The proposed future standard for this street is 50% with no more than three consecutive A1 uses, which is a reduction in the current standard. The preference for A1 useage is not a valid reason for refusal.

*RESOLVED* (TEN voted FOR and ONE ABSTAINED from voting) that –

- (a) Consideration of the application be deferred to secure the revocation of the extant permission for an A3 use at no. 30 St Botolph's Street.
- (b) Upon the satisfactory revocation of the extant permission for an A3 use at no. 30 St. Botolph's Street, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

**Councillor Andrew Ellis and Councillor Richard Martin (in respect of each having used the services of the agent, Mr E. Gittins) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**178. 091307 Church Road, Boxted, CO4 5TG**

The Committee considered an application for a change of use primary school including alterations and an extension to form a single detached dwelling. The Committee had before it a report in which all information was set out, see Amendment Sheet.

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

**Councillor Theresa Higgins (in respect of being a Colchester Borough Council Tourist Guide) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**179. 091328 St Botolph's Churchyard, Colchester**

The Committee considered an application to relocate a war memorial from its location between St Botolph's Church and the Priory to a location in the northwest corner of the churchyard, together with tree removal in the churchyard, minor ground contouring to the eastern area of open space and the relocation of the former Britannia Works crankshaft feature to a location adjacent to St Botolph's Church Hall. The application forms part of a wider scheme of improvements to the grounds of St. Botolph's Churchyard and the grounds of the Priory. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Mr Reg Patterson, Colchester Borough Council Regeneration Project Lead, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This scheme had been put forward by the Regeneration Team and forms part of the St Botolph's Quarter regeneration scheme which went through an extensive consultation period during 2008. The proposals have been received well and supported by those commenting. They have worked closely with the British Legion, the Colchester Engineering Society, The Church Commissioners, English Heritage and the Diocese. The proposal will be implemented and funded by a Haven Gateway grant and will make a contribution towards improving the use and access in this area including visitors who may be reluctant to go to the Priory ruins.

Members of the Committee were concerned that the Britannia Works crankshaft feature was being moved from a location where people pass it every day and on the site of the entrance to the former works, to one where it will be out of context and no-one will see it. There was a suggestion that the feature should remain where it is until such time as the area is regenerated and a better site is found for it.

The planning officer explained that the intended position of the feature would be a landscape setting. It was considered to be marginalised in its present position whereas in the new location it would be seen from a network of paths. The Committee could add the comment that in relocating the feature there should be an interpretation of its context in its new location. Alternative solutions suggested were to defer and authorise officers to secure the deletion of this element from the proposal, or to exclude this element from any permission with a request that it be the subject of a further application, or to issue a split decision which would refuse the relocation of the feature but approve the remaining elements of the application.

*RESOLVED* (UNANIMOUSLY) that –

(a) With the exception of the relocation of the Britannia Works crankshaft feature, all other elements of the application be approved with any conditions and informatives which the Head of Environmental and Protective Services considers appropriate.

(b) The relocation of the crankshaft feature be not approved on the grounds that the feature would be removed from a prominent position at the site of the entrance to the former works.

**180. 091580 Collins Green, School Road, Messing, Colchester, CO5 9TH**

This application was withdrawn from consideration at this meeting by the Head of Environmental and Protective Services.

**181. Enforcement Action // Land at 5 Inverness Close, Colchester, CO1 2SA**

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the permanent removal of a metal/glass railing, an external spiral staircase and wooden decking.

Andrew Tyrrell, Development Manager, attended to assist the Committee in its deliberations.

*RESOLVED* (UNANIMOUSLY) that an enforcement notice be served at 5 Inverness Close, Colchester requiring the permanent removal of a metal/glass railing, an external spiral staircase and wooden decking with a compliance period of 4 weeks.

. **Amendment Sheet**