

**PLANNING COMMITTEE  
3 SEPTEMBER 2009**

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

*Substitute Member :-* Councillor Laura Sykes for Councillor Mark Cory\*

*Also in Attendance :-* Councillor Chris Hall

(\* Committee members who attended the formal site visit.  
Councillor Gamble was not present at the site visit  
referred to in minute no. 83)

## 82. Minutes

The minutes of the meeting held on 20 August 2009 were confirmed as a correct record subject to minute 81 being amended to reflect the Committee's decision for the temporary period to be for eighteen months ending on 28 February 2011.

**Councillor Ray Gamble (in respect of having worked at the magistrates court for 5 years, having links with the court over 30 years and his close personal association with a number of magistrates) 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 its consideration and determination. The Deputy Chairman, Councillor Ford, acted as Chairman for this item.**

## 83. 090752 St Botolphs Car Park, St Botolphs Circus, Colchester

**The Chairman has agreed pursuant to the provisions of Section 100B(4) (b) of the Local Government Act 1972 to consider the following item at this meeting as a matter of urgency to enable the application to be considered and determined within the 13 week period for determination of major applications.**

The Committee considered an application for the redevelopment of part of the St. Botolphs Car Park. The development comprises a part two, part three, and

part four storey magistrates court complex incorporating double height court volumes. Within the building there will be four magistrate courtrooms and one youth/family courtroom, with associated ancillary accommodation. There are eighteen secure staff car parking spaces and vehicular access off Magdalen Street that will entail alterations to the highway. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

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

Mr Dave Stenning, on behalf of Colchester Civic Society and former Head of Conservation at Essex County Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The report states that 'the new building will set a new context while relating to its surroundings.' This is confusing as it is the existing context which is important. The report goes on to state that 'an obvious architecture of a more contextual form will appear out of scale and out of character'. It is surely what is required. The current proposal ignores the location. The rear elevation towards the Priory is painfully horizontal in its depth. He regarded this proposal as an extraordinarily unsympathetic proposal and unacceptably damaging in this location. The fault lies in the Development Brief. There is also the matter of the Local Development Framework Committee which would like to see a 12m strip behind the building for buses. The resultant building is likely to be unpopular.

Mr P. Smith, Town Planning Consultant representing HM Court Services, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The existing building is no longer fit for purpose and new facilities are needed to deliver enhanced court services in Colchester. This is a joint project in both Colchester and Chelmsford. A pre-application meeting was held and the design and development of the scheme has taken full account of all views expressed. A number of consultation exhibitions were also undertaken and the views of design officers were positive. It is a complex site. The issues include the need to respond positively to changes in ground level and address three frontages and listed buildings. He believed this was a successful, balanced design. In terms of the car parking issue, Blue Badge holders will be able to park in the public car park. He referred to paragraph 9.3 of the report which notes that officers are confident that details raised by English Heritage can be overcome. He only became aware of this response recently. He was firmly of the opinion that the development will become an important asset to the town in terms of positive design and architectural response.

Councillor Hall attended and, with the consent of the Chairman, addressed the Committee. This is an area of heritage which needs to be protected. This is a prominent site and it is important that it is developed properly. The site is derelict at the moment. He was shocked by the proposal, by the building's originality, and comprehensive approach and modern design. It will give Colchester a major new building. English Heritage is supportive and he was surprised that the Civic Society had changed their minds. He considered the issues of the tower could be resolved and hoped Committee would take notice of the comments made.

Members of the Committee recognised that this building was crucial to Colchester whilst some had doubts about the contemporary design. There are outstanding issues of design and architectural detailing and these needed to be addressed. There was a suggestion that the Committee should indicate whether they were content with the decision being delegated to the Head of Environmental and Protective Services or whether they wanted it to come back to the Committee. A great building should have gravitas and it was important to make sure that the detail was right. Some members had doubts about the design but the computer generated image (cgi) showed what a landmark building it was. There were concerns that there should be disabled parking spaces for all those using the building and that access arrangements under DDA legislation to the court house and courts, for example induction loops, should be installed as part of the construction of the building rather than being added at a later date. Several members were concerned about the facade on to Magdalen Street. The reasons given included the loss of views of the Town Hall, the Priory and St Botolphs, the window frames and windows project from the vertical plane. There was nothing in the Section 106 to contribute towards the rest of the ward. An explanation of the terminology green wall, green roof and brown roof was requested together with the sustainable credentials of the building. There were three different terracotta tiles each varying in shade of terracotta and the question as to how they would be used was posed with a preference for the tower to be broken up in design terms.

It was explained that the Section 106 agreement is almost exactly as in the outline permission with the only change being on the Amendment Sheet. Any Section 106 asked for has to be related to the application to mitigate any negative impacts. This type of application does not trigger a contribution for open space. The elevation on to Magdalen Street is the staff side and has been designed to be less permeable and more secure, but because of the function that goes on inside any amendment to that elevation may be more than minor amendments. The courts are set back and the view from Magdalen Street is effectively a green wall. The surface treatments of the roofs are more sustainable. Green roofs are living plants, often from the sedum family,

to slow down water run off and take up carbon dioxide and give off oxygen. Brown roofs are made from crushed hard recycling material and create new habitats. A green wall is a living wall, often willow and forms a solid green screen which provides security benefits and helps to green the building. The heating system is fuelled by bio mass boilers. Significant alterations could be made to the tower but reducing it by a metre here and there may not give a better view of any particular landmark. The brief always envisaged a building of this scale on this site. The Magdalen Street elevation does have a human scale which it is believed would be a pleasing elevation.

*RESOLVED* (FIVE voted FOR, THREE voted AGAINST and THREE ABSTAINED from voting) that the application be deferred for further negotiation relating to:-

- the architectural detailing of the tower block in particular to give greater vertical emphasis and visual interest; and
- the provision of disabled parking spaces for visitors to the court.

No other elements of the design require amendment. The application to be referred back to the Committee for a decision.

#### **84. 090838 Blacksmiths Corner, Ivy Lodge Road, Great Horkesley**

The Committee considered an application for the erection of a single detached dwelling and alterations to the existing vehicular access. The Committee had before it a report in which all information was set out.

*RESOLVED (UNANIMOUSLY)* that, subject to the receipt of satisfactory comments from the Trees and Landscape Officer –

(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.

#### **85. 090906 2 Albertine Close, Stanway**

The Committee considered an application for a proposed detached dwelling which is a resubmission of 090507. 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.

**86. 090399 Primrose Cottage, The Street, Chappel**

The Committee considered an application for the renewal of planning permission for a proposed new dwelling and garage. 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.

**87. 090722 Plot 10, land off (formerly part of rear garden) no. 9 D'Arcy Road, Colchester**

The Committee considered an application for the erection of a four bedroom detached dwelling house. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

A concern was expressed from the Committee that a four bedroom house on this plot would be out of context with its surroundings which mainly comprise three bedroom bungalows and houses and terraced properties further away. There were also concerns about its height.

It was explained that in planning terms it was considered that the overall design and scale of the proposed dwelling is acceptable and does not appear out of keeping with the adjacent property. It is similar in scale to a new dwelling on the frontage of the completed development. Private amenity space and parking provisions meet the required standards and there is a condition regarding slab levels, which would secure a roof height level with neighbouring

properties. The site was a generous size and it would be hard to demonstrate that the site would be cramped or that the dwelling would be out of context with its surroundings.

*RESOLVED* (MAJORITY voted FOR) that –

(a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.

(b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, see also Amendment Sheet.

**Councillor Mary Blandon (in respect of her acquaintance with the applicant and his family) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**88. 090785 30 St Clare Road, Colchester**

The Committee considered an application for the demolition of the existing house, garage and outbuildings and the erection of a new detached house with detached garage. The Committee had before it a report in which all information was set out.

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. It was explained that this application was similar to one approved under COL/06/1541 with a number of changes, substantially the building being positioned 3m further back into the plot from the position previously approved, two additional dormer windows, a 300mm increase in overall height, and the garage being positioned further forward to improve vehicular circulation at the front. It was confirmed that a Category A Scots Pine tree was included in the tree survey which provided for root protection for the tree during development.

Mr John Nicholson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The introduction included all the points relevant to his application. The house was

located further back into the plot to assist with vehicular access to the road. He considered that the overlooking issues have been addressed and that the dormer windows would not impinge on the neighbours.

Members of the Committee raised a number of issues with the objective of safeguarding the privacy of the neighbouring property to the southeast. The large window to a rear bedroom, shown as patio doors, potentially had access to flat area above the bay on the ground floor. In order to prevent the patio doors from being used to access the flat roof area a Juliet balcony was proposed. However there was a view that the doors should be changed to a fixed window to prevent the flat roof area from being used as a balcony. Other members supported this view with a further suggestion that the balustrade around the perimeter of the flat roof area be removed. Also requested was a condition to require obscured glazing to the two dormer windows in the roof on the southeast elevation.

It was explained that the Juliet balcony was included to ensure that the balcony could not be used as a balcony as physical measures were considered to be more successful than conditions. In regard to the two new dormer windows, they face towards the driveway area of no. 44 Fitzwalter Road. There is no living space in the loft, which is to be used for storage only, and the windows will provide some light to the space, but it was for the Committee to determine the treatment of this window.

*RESOLVED* (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report together with an additional condition to secure obscure glazing in the two side dormer windows.

## **89. 090848 Part garden of 110 Oaklands Avenue, Colchester**

The Committee considered an application for the erection of a bungalow together with associated parking facilities for the new and existing properties. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr John Brew addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This application complied with the majority of the relevant policies. Any impact on surroundings and neighbours would be minimal. Parking provision is adequate and any on-street nuisance parking would be decreased. The design reflects the surrounding area. The minimum amenity space required is 50 sq m and

this proposal provides 85 sq m. In essence the only issue is the rear garden space, which is 17m wide and 4m deep. The rear garden is west facing and in the sun for the majority of the day.

It was explained that this proposal was considered inappropriate in planning terms. Although amenity space is provided, it is considered inappropriate because it does not create a usable or attractive garden due to its size and the way it is arranged. The issue is whether this proposal creates a better environment and it is considered that it does not.

Members of the Committee considered the amenity space to be poor. Another, similar infill property nearby has a usable garden space but this one does not. It was also unsatisfactory that the one parking space was in the garden.

*RESOLVED* (UNANIMOUSLY) that the application be refused on the grounds set out in the report.

#### **90. 090922 Coy View, East Road, West Mersea**

The Committee considered an application for the construction of a new access to an allotment area. The Committee had before it a report in which all information was set out.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Vince addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He did not object to the allotments themselves but did object to the access point which was opposite his bungalow. The original application was misleading because of the address, which has not been used for 10 years. The access point does not exist in the position indicated but was 300 yards to the west nearer the footpath and speed limit. This position for an access point is extremely dangerous. There are deep ditches on either side of the road and walking is extremely dangerous.

Members of the Committee acknowledged the concerns of the speaker but the Highways Authority have not raised any objections. It appeared that there was an access to the field which had become overgrown. Some of the hedging will need to be removed to improve the splay. They recognised that there were no grounds to refuse the application and considered that there was a lack of allotments throughout the borough.



It was explained that there was an access in the position indicated but it was not visible at the moment. The officer referred to another access some distance down the road which was likely to be the one referred to by the public speaker. The road bends at the point where motorists will exit the site and the curve of the bend provided good visibility to the motorist.

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

**91. 090360 Sports Ground, Colchester Road, West Mersea**

The Committee considered an application for a first floor extension to an existing sports and social club together with revised access and parking arrangements which was a resubmission of 081756. 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.

**92. 090486 Unit 1 Solus Development, William Harris Way, Colchester**

This item was withdrawn from this meeting by the applicant.

**93. 090743 200 Ipswich Road, Colchester**

The Committee considered an application for a proposed change of use of part of the ground floor from residential use to a fast food takeaway restaurant, with extensions to the front and rear, the formation of a car park to the rear and associated access. 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.

It was explained that this was an additional commercial unit within the plot, which would be a small fast food takeaway on the north side additional to the convenience and off licence store on the south side, with residential accommodation above. The proposals are identical to the previous proposals. Car parking was provided in the back garden comprising seven parking spaces at back for commercial units and three parking spaces for residential accommodation. In addition there were two parking spaces in front

of no. 200 Ipswich Road and two parking spaces on front of no. 202 Ipswich Road.

Members of the Committee were concerned about this becoming a fast food takeaway because odour extraction equipment was rarely entirely successful. The existing opening hours would be reduced by condition by closing one hour earlier and not opening at all on Sundays.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, see also Amendment sheet.

#### **94. Enforcement Action // Land at 111 Wilson Marriage Road, Colchester**

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the demolition of a front extension used as a porch and the removal from the site, of all materials arising from the demolition.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

A planning application was submitted in April this year which had varied from the existing porch and had been refused. No further applications have been received. Notwithstanding offers for improvement the existing porch looks incongruous in this location. The enforcement action proposes to return the porch to its original state.

Mr Hanak addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the proposed enforcement action. His grandmother had a stroke two years ago and at that time she became a wheelchair user. The extension to the porch was built at that time to house her wheelchair when she came to visit them. He now hoped to reduce the size of the porch to something that was acceptable. He wanted to establish what the procedure was and to find a way to alter the porch to comply with the rules.

Members of the Committee commented that the porch appeared to be free standing, did not enhance the property, and was an inappropriate extension to the front of the building. The occupier had submitted an application to regularise the situation, which had been refused. Now there is an opportunity to submit a further application without charge, a "free go", and this could be done within the 4 months period for removal of the current porch. The reason for the extension was understood but the existing porch appeared to be larger

than was necessary to house a wheelchair.

*RESOLVED* (UNANIMOUSLY) that an enforcement notice be served at 111 Wilson Marriage Road, Colchester, requiring the demolition of the extension to the porch and the removal from site of all materials arising from the demolition with a compliance of four months.

**Councillor Andrew Ellis (in respect of having used the services of the applicant's agent, Mr E.Gittins, and having purchased furniture from the company) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**95. Enforcement Action // Land at Furniture Zone, Turkey Cock Lane, Lexden Heath, Colchester**

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the cessation of use of the land for the siting of three containers used for storage purposes, and the removal of those containers from the site. See also Amendment Sheet.

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

Mr Ted Gittins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the proposed enforcement action. An application to retain the containers for a temporary period of 12 months has been refused and an appeal has been lodged. An appeal against an enforcement notice will duplicate the work, possibly taking 10 months in total, set against application for containers to remain for 12 months. The applicant had permission for storage on the land but is now instructed to put in an application for storage, which will come to council in 6 weeks so he queried whether this enforcement action is justified. The containers constitute a vital part of the operation. They are not visible from public vantage points and only used in the morning and never at weekends. Currently there is one delivery of stock each month; if they were to be removed deliveries every week would be required, thus causing a greater impact than at present. An appeal has been lodged and will be heard on its merits and if the Committee could consider using its discretion, without duplication, costs would be saved.

Mr Franklin addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the proposed enforcement action. In accordance with Council policy an application to regularise the breach was

refused and it was firmly stated that any further growth at this site is contrary to planning regulations. The site has changed considerably from its permitted use and the current use of storage in the containers is an extension and an increase in scale and intensity which is of concern. The containers are visible from their garden and there is an electricity supply. They contain flat pack furniture and are used daily. There are vans of various sizes visiting the site every week. Now there is storage, distribution and sales which is a larger operation. They have lost the amenity of their garden and have to confine their dogs inside because they are upset by the activity.

It was explained that the containers and their use is contrary to policy and has an impact on the neighbours. The enforcement notice is seeking removal of containers. In respect of the refusal of planning permission, if an appeal is dismissed it does not secure the removal of the containers. Thus the purpose of the two appeals running together secures their removal.

Members of the Committee supported the service of an enforcement notice to bring normality back for the neighbours.

*RESOLVED* (MAJORITY voted FOR) that an enforcement notice be served at Furniture Zone, Turkey Cock Lane, Lexden Heath, Colchester, requiring the cessation of use of the land for the siting of three containers used for storage purposes, and the removal of those containers from the site with a compliance period of four months.