

PLANNING COMMITTEE

1 JULY 2010

Present :- Councillor Ray Gamble* (Chairman)
Councillor Helen Chuah* (Deputy Mayor)
Councillors Peter Chillingworth*, John Elliott*,
Andrew Ellis, Stephen Ford, Theresa Higgins*,
Jackie Maclean*, Jon Manning*, Philip Oxford* and
Laura Sykes*

Substitute Members :- Councillor Barrie Cook for Councillor Helen Chuah*
Councillor Wyn Foster for Councillor Ann Quarrie*

Also in Attendance :- Councillor Mike Hardy
Councillor Sonia Lewis
Councillor Terry Sutton
Councillor Julie Young
Councillor Tim Young

(* Committee members who attended the formal site visit.
Councillor Manning was present only at the site visit for
minute no. 37.)

29. Minutes

The minutes of the meetings held on 3 June and 17 June 2010 were confirmed as a correct record, subject to Councillor L. Sykes being noted as present at the site visits on 3 June 2010.

30. 100183 Land rear of D'Arcy Road, Colchester, CO2 8BA

The Committee considered an application for minor amendments to the size and design of a pair of semi detached dwelling houses granted permission under 071668 together with parking facilities as previously approved. The minor amendments comprised an 'L' shaped footprint in place of the approved rectangular footprint which involved extending the dwellings into the front gardens by approximately two to three metres and a new window proposed in the side elevation. 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 and on the Amendment Sheet.

Councillor John Elliott (in respect of his former acquaintance with the applicant) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

31. 100704 Bluebells, Drakes Corner, Great Wigborough, CO5 7SA

The Committee considered a retrospective application for a stable block/hay store on land to the rear of the dwelling. 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. Reference was made to concerns which had been expressed regarding the resident of Teal Cottage and her allergy to horses and a letter confirming the significant allergy had been received from the resident's doctor. The stable building had been measured on site at three metres from the boundary of Teal Cottage and it had been suggested by the neighbour that the stable be relocated further from the boundary. A fence from the stable to the boundary of Teal Cottage could be used to exclude horses from the area between the stable and the boundary of the cottage. The authorised use of the land was unclear as it had possibly been used as a garden since the 1980s and a paddock since 1994 and in that situation the stable building would be considered to be permitted development.

Peter Headford addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the neighbour having suffered an extremely acute allergy to horses for all of her life and there was the strong likelihood that she could have an anaphylactic shock which could be fatal. The neighbour had been in treatment at Addenbrookes Hospital for many years and her youngest daughter had also begun to show similar signs which was under investigation. However, they did not want to stop Mr Taylor from keeping a horse but requested that he move the stable; failure to accede to this request could result in the neighbour and her daughter having to move house. They had sought legal advice in respect of Human Rights and disability discrimination issues.

Chris Tivey addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. When he was purchased the stables there was no existing boundary. Mr Taylor had erected the stable within the lawful curtilage. If the stable had been erected further west it would have been permitted development and would have been closer to the cottage; this was the alternative position when considering the application. On a recent hot day no smells, odour or mess was apparent and since the manure had been removed the nuisance had ceased. There was no minimum distance between the stable and any related dwelling but Teal Cottage was 43 metres from the stable. The applicant's granddaughter also suffers from a similar health issue therefore they are mindful of the position.

It was explained that health and safety was a material consideration but there was no

specific guidance or legislation in this respect. In determining the application consideration of normal criteria would be appropriate, for example the distance of the stable from the property. An investigation of other authorities' websites made reference to a distance of 30 metres from a residential property to a stable and this situation met that requirement. Horses can be kept on land without planning permission. There was nothing specific in Human Rights legislation to take account of this situation.

Members of the Committee were made aware that the letter from the doctor made it clear that the neighbour suffered from a significant allergy to horses and they considered that the stable was too close to that boundary and should have been sited as far away as possible. There was a view that it should be moved or refused, although it was recognised that the stable may not in fact need permission. Some members wanted more medical information whilst others considered that the best solution was to use fencing to prevent horses from getting close to the neighbouring garden. They were aware that retrospective applications had to be considered in the same way as fresh ones. It was suggested that some discussions be held with the applicant to try and accommodate the neighbour's needs in the light of the extraordinary circumstances.

RESOLVED (UNANIMOUSLY) that consideration of the application be deferred for discussions with the applicant on relocating the stable further away from Teal Cottage.

32. 100809 449 Ipswich Road, Colchester, CO4 0HF

The Committee considered an application for the relocation of an approved dwelling on plot 8 of planning approval 090150 dated 12 May 2009. The application proposed the relocation of the four bedroom dwelling on plot 8 three metres closer to the Evergreen Drive frontage which will have the effect of increasing the private amenity area for this property from 130 square metres to 170 square metres. The design, size, parking provision and details otherwise remain as originally approved. 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.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. In response to queries from members of the Committee, she confirmed that the parking provision was in accordance with the Council's standards and that the Tree Officer had confirmed that there would be no impact upon the roots of the remaining sycamore tree.

RESOLVED (MAJORITY voted FOR) that –

(a) Consideration of the application be deferred for completion of a supplementary Legal Agreement under Section 106 of the Town and Country Planning Act 1990, linking this planning permission to the contribution previously paid in respect of application 090150.

(b) Upon receipt of a satisfactory supplementary Legal Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

33. 100886 6 East Mersea Road, West Mersea, CO5 8SJ

The Committee considered an application for the construction of a single storey outbuilding for holiday let accommodation. The proposal comprises the erection of a building located within the front garden area of the Old Forge House. 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.

Councillor Ray Gamble (in respect of his acquaintance with the agent, Gordon Parker) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

34. 100915 St Ives Farm, St Ives Road, Peldon, CO5 7QD

The Committee considered a retrospective application for the removal of Condition 2 of permission attached to 072151 for building 2 on the site. This building has been subdivided into two Units, 1 and 2, which are currently occupied by two tenants carrying out two different uses. Condition 2 restricts the use within the building to “the overhaul and repair, sale and maintenance of contractors plant, sale of associated spare parts and associated offices, all as stated in the application and for no other purpose in Class B1”. The requested use is to permit the sale of packaging tape, bubble wrap, shrink wrap and stock boxes and the manufacture of bespoke cardboard boxes. If Members were minded to approve this application it was recommended that Condition 2 should be replaced by a condition restricting the use to that applied for. 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 to await the views of the Highway Authority.

(b) Upon receipt of confirmation from the Highways Authority that their recommendation is for approval, 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 his acquaintance with the agent, Gordon Parker) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

35. 100940 St Ives Farm, St Ives Road, Peldon, CO5 7QD

The Committee considered a retrospective application for the removal of Condition 2 attached to permission 072151 for building 2 on the site. Building 2 has been subdivided into two Units, 1 and 2, which are currently occupied by two tenants carrying out two different uses. Condition 2 restricts the use within the building to “the overhaul and repair, sale and maintenance of contractors plant, sale of associated spare parts and associated offices, all as stated in the application and for no other purpose in Class B1”. The requested use for this Unit is to permit the continued use by Swift Boats. Their business involves the repair and maintenance of wooden boats and sale of ancillary equipment. If Members were minded to approve this application it is recommended that a "personal" consent to Swift Boats be given. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. It was not anticipated that the Highway Authority would object to this proposal. He also explained that the hours of use differed from the previous application for another unit in the same building because they responded to the differing needs of the relevant companies.

Gordon Parker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The existing approval was for an agricultural engineer and plant business. He commented that if all four buildings had to retain the current use it would result in an increase of large lorries visiting the site. The proposals for the two uses were both tied to specific operators and they operated with small vehicles which were mainly staff cars and bicycles.

Councillor Sutton attended and, with the consent of the Chairman, addressed the Committee. He referred to the two units in the building having different permitted hours of use and asked that the hours of use for both units to be consistent and for this application the hours of use be amended to those for Unit 1, the previous application on this agenda.

Members of the Committee were in agreement that the hours of use for both units within the building should be consistent.

RESOLVED (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred to await the views of the Highway Authority.
- (b) Upon receipt of confirmation from the Highways Authority that their recommendation is for approval, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, subject to confirmation from the agent that the applicant is in agreement for the hours of

use to be amended to those permitted for application 100915.

(c) In the event that the agent does not agree to the amended hours of use, the application to be reconsidered by the Committee.

Councillor Peter Chillingworth (in respect of being employed on occasions by the same planning practice as the agent, Peter Le Grys) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7 (3)

36. 101011 Hill House Farm, Colchester Road, West Bergholt, CO6 3JQ

The Committee considered an application for a change of use of farm buildings to a trampoline activity centre for those with physical disabilities and special learning needs. This application was a resubmission of application 100134 which had been refused under delegated powers and was now the subject of an as yet undetermined appeal. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit to the application site and to the applicant's current premises in Smeaton Close, Colchester, in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the application site.

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

Mark Pollitt addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. His main objections were that the proposal was contrary to current council policies, that the proposed development was outside the village envelope, adjacent to listed buildings and only accessible via a private drive leading onto a new farm track, and that the buildings would need heating, lighting and other facilities for the proposed use which would be a commercial business use and may lead onto other things.

Alderman David Cannon addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application on the basis that Bounceability provided an essential facility with beneficial effects for members of society with a range of difficulties and from all age groups. This is the only trampoline facility in Great Britain providing for those with special needs; ninety percent of users of the facility were disabled, more than twenty-four care homes and special needs schools used the facility as well as many private family clients and those with no special needs. If the building was in full agricultural use far larger vehicles would visit the site.

Members of the Committee had mixed opinions on the application. Some members considered that this was a valid case for farm diversification which was supported by PS7 in respect of redundant buildings which this appeared to be. Diversification normally required an acceptable use with no harm caused to the landscape or other

rural considerations, and whilst this site did lead onto a busy road the Highway Authority had not submitted objections. If the Committee were to approve the application it should be for this use and personal to the applicant. Other members of the Committee were concerned that the site was outside the village envelope and that the facility would require facilities such as toilets, water, lighting and storage. It was suggested that consideration of the application be deferred for a sequential test and if it was a departure from the Core Strategy then a business plan should be submitted. The objector referred to a second access which was not apparent on the site visit but it was noted that some of the farm buildings had been given permission for residential use.

It was noted that the application was a resubmission of an earlier application which was substantially the same as the earlier one but accompanied by some endorsement and support from other agencies. It was confirmed that these buildings were definitely redundant and diversification in the form of an alternative use for redundant buildings is generally supported to supplement a viable agricultural business; however, although these were new buildings which had been used for storage there was a strong officer view that the buildings should be in agricultural use. The first principal of development in rural areas is that the use must be one which has to take place in a rural area. If there were alternative sites in Colchester then refusal was the correct decision. The use proposed would generally incur visits mainly by minibus and the buildings were served by a farm track which merged into a joint access from the highway. If any further information was required the application should be deferred.

In addition it was explained that the Government advice on personal conditions was that they should be used sparingly, particularly where capital money was expended, a business plan could demonstrate that it was a viable proposition and in that circumstance a personal use might be appropriate. A business case could be put forward to satisfy members concerns targeted at a worthy cause. If a sequential test was required it would highlight that there will be a building within the urban area suitable for this use.

RESOLVED (MAJORITY voted FOR) that the application be approved with any conditions and informatives that the Head of Environmental and Protective Services requires including a condition limiting the use for that specified and a further condition limiting the use to the applicant.

Councillor Stephen Ford (in respect of his acquaintance with the agent) 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 the applicant) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

37. 091325 140 High Street, Wivenhoe, CO7 9AF

The Committee considered an application for amendments to an approved scheme F/COL/06/0799 which comprised the construction of an extended cellar, the provision of outside seating including the removal of Highway Rights, minor elevational amendments and the retention of existing store buildings in connection with F/COL/06/0799. The application was considered at the Committee's meeting on 21 January 2010 and deferred in order to carry out consultation with the Highway Authority. As a result of subsequent discussions between the agent, planning and highway officers, amended drawings have been submitted. The Committee had before it a report which detailed the amendments to the original approved scheme, 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. He referred to the response to the amended drawings from the Highway Authority which were set out on the Amendment Sheet. This is a busy junction and the main concern was in respect of the width of the pedestrian footway particularly along Belle Vue Road, but also along the frontage on the High Street. In the original scheme along the Belle Vue frontage soft landscaping was proposed but following discussions between the planning and highway officers and the agent it was now proposed to be left open with a gravel surface.

Andrea Vaughan, Wivenhoe Town Councillor, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Her main concern was in respect of the high rights which had been removed over the footway. She held the view that this would endanger pedestrian safety. She was also concerned that there would not be sufficient parking for the occupants of the flats and that the solid wall along the High Street frontage would affect visibility at the junction. The Town Council had an agreement in principle for a zebra crossing, but identifying a safe place to site the crossing could become problematic because of the solid wall impairing visibility. The width of the footway could also impair pedestrian safety. Wivenhoe Town Council supported the development and the business but because of their concerns she asked the Committee to deny permission because of reduced pedestrian safety.

Tim Snow addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This application was an attempt at addressing issues resulting from the previous scheme. There were issues regarding delivery vehicles, but they had always been present and the continued use of this building did not create any issues that did not already exist. They had held discussions with the Highway Authority and the Town Council and believed they had an agreement to the revisions to the High Street elevation but that seemed not to be the case. The footway widths had been maintained to those that had existed formerly and he was confident that highway rights did not exist. The footway on the frontage had been widened and it would be handed over to the Highway Authority to be held in perpetuity.

Members of the Committee were of the view that this was a gateway building in a Conservation Area and was much improved and in keeping with the streetscape; it was

considered a very good scheme. However it was a complex junction and reassurance was sought that the width of the Belle Vue Road footway was sufficient so that pedestrians would not have to walk in the road.

It was explained that the status quo had been maintained in terms of Belle Vue Road and the proposal was to keep the length of the path adjacent to the building open. At the corner there was 1.5 metres between the pedestrian safety barrier and the wall which enclosed the outside seating area. Whilst there was a significant width of footway between the barrier and the kerb it was requested that the Highway Authority be asked if the barrier could be moved to create a slightly wider footway.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet, subject to the Highway Authority being requested to giving consideration to the relocation of the pedestrian barrier at the High Street/Belle Vue Road junction in favour of pedestrians.

38. 100780 12 St Clare Road, Colchester, CO3 3SZ

The Committee considered an application for two storey extensions to the south and rear elevations, with rooms in the roofspace and the replacement of the existing roof. Also included is an open swimming pool to the rear and a pergola-style car port to the north elevation to the front of an existing garage. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. Amended plans had been received which addressed many of the concerns expressed. The boarding and flat roof were very contemporary. An additional condition was proposed on the Amendment Sheet to prevent the use of the terrace as a balcony.

Mrs Carbiner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. They had applied for the extension to improve and upgrade the house to a comfortable standard. The plans had been discussed with planning officers and with the majority of the neighbours who have given positive feedback. The balcony in the original plans has been removed to protect the privacy of neighbours. Access to the flat roof is for maintenance. The contemporary feature at the back of the house will not be seen. She confirmed that there was no intention to use the studio as a dentists studio.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. There have been a number of objections on this application but they should not be seen as confrontational in this area of special character and for neighbourly privacy and harmony. All fronting onto St Clare Road has been satisfactorily addressed as have the colour of the tiles, the large black roof and the overlooking into no. 10. There remain concerns about the car port and its proximity to the vertical posts to her fence and any interference with the footings of the fence and access for future maintenance. The elevation of timber boarding was also an issue.

The Mayor, Councillor Sonia Lewis, attended and, with the consent of the Chairman, addressed the Committee. She was pleased to hear Mrs Carbiner's confirmation about the intended use of the studio. She requested a condition restricting the use to residential only. She thanked officers and the applicant for all the work they had done and subject to responses to questions raised by Councillor Hardy and the addition of the condition for residential use only she was content.

It was explained that the pergola was a very basic timber frame bolted to the ground and not attached to the fence. It is a modern addition to a traditional building. A3 use would enable the householder to operate any form of medical services from his property, but it is restricted to householders only. It would be possible to add a condition for the property to be for residential use only.

RESOLVED (UNANIMOUSLY) that, subject to the receipt of satisfactory amended drawings, the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet together with an additional condition to restrict the use to residential only.

Councillor Stephen Ford (in respect of his acquaintance with the agent) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

39. 100481 Le Talbooth Hotel, Gun Hill, Dedham, CO7 6HP

The Committee considered an application for the removal of an existing compound containing storage containers and a portable toilet unit and its replacement with a new service building at the western edge of the hotel containing customer toilets, a wash up facility and an attic storage area. 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.

Councillor Jon Manning (in respect of being a student at, and employed by, the University of Essex) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

40. 091357 Avon Way House, Avon Way, Colchester, CO4 3TZ

The Committee considered an application for two blocks, A and B, of new student accommodation forming a total of thirty-eight new student bedrooms in nine cluster flats. The proposal provided two blocks each of three storeys facing onto the Avon Way House site and two storeys where they face the dwellings in Pickford Walk. The Committee had before it a report in which all information was set out, see also

Amendment Sheet.

Vincent Pearce, Planning Service Manager, attended to assist the Committee in its deliberations. He explained that the issue of parking and its impact was the main outstanding issue. Since the last meeting the applicant had agreed to increase number of parking spaces within the development to 57 spaces which would be 18 spaces below what would be required across the entire Avon Way House site if it was in single ownership. The parking policy for student accommodation is one space for every five units. The pre-existing units comprise 254 bedrooms requiring 51 parking spaces, the additional units, blocks C to F recently given permission comprise 81 bedrooms requiring 16 parking spaces; and blocks A and B, the subject of this application, comprise 38 bedrooms requiring 8 spaces, making a total of 75 parking spaces. However, he explained that the planning system could not require an applicant to make up a shortfall on an earlier scheme and there are adequate parking spaces for blocks A and B. He was of the view that it would be unreasonable to require the applicant to make up the shortfall because the applicant's ownership does not extend to the land occupied by the pre-existing units. It was noted that the Highway Authority had previously recommended refusal on the basis of parking in surrounding streets, however, they had lifted their objection subject to 57 spaces being provided and being available without charge to occupiers. Students are currently charged £50 per year for a parking space which may be increased to £354 per year. However, the owners have suggested that they would agree to the fee being removed to encourage student parking if required to do so.

Margaret Shipley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The two blocks were two storeys high at the front and three storeys high at the rear and would be constructed on ground higher than the dwellings in Pickford Walk. She quoted from the Essex Design Guide that upstairs flats can cause problems and should be no closer than thirty-five metres. This applies to blocks A and B, and a fifteen metre gap is insufficient. The report made no mention of the noise and disruption during construction. During term time the surrounding roads would be used for parking. She appreciated that the Mansion Group have increased the number of parking spaces, but the revised number would be inadequate for the additional number of students. Families with children live in Avon Way and the parking situation on this site would make Avon Way dangerous for people who would have to cross the road between parked cars.

Cyril Ogunmakin addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This application exceeds all of the Design Guide requirements. It is student only accommodation certified by a national body. There were numerous tenants who live around the property. He highlighted road accident statistics for March 2007 when there were six car accidents due to cars parked in Avon Way, two years before students were brought on to this site. They have done all they can to re-designed the layout and increase the car parking. Legal advice was clear that car parking cannot be imposed retrospectively. This proposal will contribute towards the growth of Colchester and is the right decision for the people of Colchester.

Councillor J. Young attended and, with the consent of the Chairman, addressed the

Committee. She considered the diagram on the supplementary agenda very helpful. The planning officer referred to blocks A and B, currently being used as parking sites, which will no longer be available when built. She considered it entirely unreasonable to allow two blocks of flats to be built knowing the parking provision was inadequate. She considered it unfair, unreasonable and unjust for Mr Groves to have to live with three storey flats a few metres away from his front door. Mansion House had claimed there was no waiting list for parking on site but it appeared that they were charging students for the right to park. The Highway Authority had responded that they would be objecting to the proposal. She believed that there were people other than students living on the site and she wanted a condition to restrict the new accommodation to student occupation only. She asked if such a condition applied to the existing flats and noted that the density can be increased if students are the intended occupants. She was disappointed that there had been no changes made in terms of adaptations for people with disabilities.

Councillor T. Young attended and, with the consent of the Chairman, addressed the Committee. He believed that if there had been six car accidents in 2007 local councillors would be aware of them. He had asked officers if there were any non-students living on the site. He believed that there would be undue pressure on surrounding streets as a result of on-street parking and considered that Mansion House wanted the maximum density and to charge students for parking. He was concerned that residents would be affected by overlooking and loss of amenity. He reported that the Student Union consider the density on this site is too great.

The Chairman referred to a statement made by Mr Ogunmakin relating to objectors having misled the Committee and to a planning officer being labelled as corrupt. He stated that these views were personal to Mr Ogunmakin, and invited Vincent Pearce, Planning Service Manager, to comment. He explained that there had been an investigation into the allegation that money had been paid to the Council so the application would go through. Planning officers, the applicant and his advisers and the party making the allegation had been interviewed and he had found no instance of any wrong doing on anyone's part. However, he had discovered there was confusion about Section 106 planning gain, in that it was believed by the complainant that the payment of a financial contribution via a Section 106 Agreement was in some way buying a permission, whereas Section 106 payments were used to mitigate any adverse impacts of the development on the area.

Vincent Pearce explained that the flats would be higher than the houses in Pickford Walk. Blocks A and B have been moved back and the three storey element was now on the inside of the scheme only. Since blocks A and B had been moved back, this scheme complies with existing standards. Mrs Shipley referred to thirty-five metres distance in terms of flats which applies to a view from a living room at the rear of a flat, but this is a front elevation not a rear elevation and it complies with all the standards. He went on to explain how the council's separation standards and daylighting standards are applied. No representations had been received from the Student Union. The applicant has gone a fair way to amend the scheme to satisfy standards and has made a commitment to reduce the parking fee but the difficulty in the shortfall of parking spaces remains. His view was as earlier stated that it would be unreasonable to ask for more spaces. In respect of the accident record for Avon Way, accidents occurring in

2007 would not necessarily indicate the potential for accidents in 2010 and he did not know whether the cars belonged to students or otherwise. Compliance with DDA legislation was a matter for building regulations not for planning.

There were no conditions which applied to the earlier 1970s blocks for their occupation only by students but he had no reason to suspect that they are occupied by anyone other than students based on evidence provided by the applicants. The body responsible for regulating and checking student accommodation have accepted that this is good accommodation. Noise from construction can be controlled by a condition on the hours of working. The parking ratio of one space per five units of accommodation incorporates any visitor parking which is the same situation for residential standards. The applicants have given a commitment to removing parking charges if it was felt to be beneficial and this can be included in the Section 106 agreement together with the management plan on the parking to ensure allocation is made available to students. This scheme could be controlled by a badge system which could be checked for abuse; the applicants would take their own action.

Members of the Committee remained concerned substantially about the arrangements for car parking on the site. It appeared that the whole Avon Way House site was in a single ownership when the 1970s blocks of flats had been built. At that time the occupants of the 1970s blocks of flats had been used to parking their cars within the site on areas which comprise the current application site which has more recently been sold off to the applicants, The Mansion Group. The proposed new blocks of flats are located on the former car parking areas thus reducing the area available for car parking. The Committee's concern was that there would not be sufficient car parking spaces within the entire site for the use of students in all the blocks of flats, new and pre-existing, thus forcing students to park their cars in streets around Avon Way causing obstruction and nuisance to road users and a danger to pedestrians crossing the roads. Insufficient car parking for disabled car users was also mentioned as an issue. Members were aware that if the application went to appeal an Inspector would not look at historical aspects of parking but only at whether appropriate standards were proposed for this application. The car parking provision for the whole site would be one space for five units which equates to 75 spaces, whereas 57 are now proposed in this revised scheme which is 18 spaces too few across the whole site. If blocks A and B were removed from the scheme there would be sufficient parking on the entire site. Members were disappointed that the new blocks were being built on parking areas for the pre-existing blocks. It was recognised that the applicant had complied with most of the policies.

Other issues mentioned by the Committee concerned the density on the whole site after the proposed new blocks of flats were built which would leave very little amenity area. Landscaping of car parking areas was also an issue. There remained concerns that some of the 1970s accommodation may not be occupied by students and the density required for residential non-student accommodation was much lower than the ultimate density on the whole site would be. They questioned whether this application would enhance the area.

Vincent Pearce explained that the applicants had given a commitment to remove parking charges if it was felt to be beneficial and this could be included in the Section

106 agreement together with a management plan on parking to ensure the allocations are made to students. It was acknowledged that there was very little amenity space within the whole site, but across the cycleway is a large area of open space for recreation and leisure, so it would be difficult to justify a refusal based on the lack of public amenity space. The scheme, however, was deficient in private amenity space. It could be said that when viewing the site from the nature reserve the development may have a detrimental impact on the countryside and on Pickford Walk and does comprise over development. Although a high density will have been created across the entire site when completed, it is close to the University and provides much needed student accommodation.

RESOLVED (MAJORITY voted FOR) that the application be refused on the following grounds:-

- Overdevelopment;
- lack of amenity space on site; and
- inadequate car parking resulting in overflow parking in surrounding streets to the detriment of highway safety and residents' amenity.

41. Enforcement Report // Home Farm, Mersea Road, Peldon, CO5 7QG

The Head of Environmental and Protective Services submitted a report on proposed listed building enforcement action requiring the removal of the UPVC windows, which are inappropriate and adversely affect the special interest of the listed building, and the installation of wooden windows more appropriate to the building with a compliance period of eight months. The windows which were removed, although of timber rather than UPVC, were not themselves of historic merit or appropriate to the building. It is not considered appropriate to prosecute in this case, as no historic fabric has been lost. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that an enforcement notice be served at Home Farm, Mersea Road, Peldon, CO5 7QG requiring the removal of the UPVC windows and the installation of wooden windows more appropriate to the building with a compliance period of eight months.

42. Enforcement Report // Annex Building at 43 Peppers Lane, Boxted, CO4 5HL

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the cessation of use of the former storage area as a separate unit of accommodation and removal of kitchen and bathroom which facilitate the unauthorised use; the cessation of use of the annex accommodation as a separate unit of accommodation; and the removal of fencing affording a private garden to the annex building, facilitating the unauthorised use, all with a compliance period of four months. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that –

(a) The owner be permitted a period of time to demonstrate that the breach as reported has ceased.

(b) In the event that the breach has not ceased, the Head of Environmental and Protective Services be authorised to serve an enforcement notice at 43 Peppers Lane, Boxted, CO4 5HL requiring the cessation of use of the former storage area as a separate unit of accommodation and removal of kitchen and bathroom which facilitate the unauthorised use; the cessation of use of the annex accommodation as a separate unit of accommodation; and the removal of fencing affording a private garden to the annex building, facilitating the unauthorised use, all with a compliance period of four months.

43. Revised Planning Service Enforcement Strategy

The Head of Environmental and Protective Services submitted a report on a proposed revised enforcement strategy. The Committee were requested to agree and adopt the revised Planning Service Enforcement Strategy reproduced as an appendix to the report, and to authorise the Head of Environmental and Protective Services to review the Planning Service Enforcement Strategy annually and amend it where appropriate in the light of such a review.

Members were advised that the Legal Services Manager has confirmed that these are matters which rightfully sit with the Planning Committee to determine. The Committee had before it a report in which all information was set out.

Vincent Pearce, Planning Service Manager, and Geoff Kirby, Major Applications Support and Enforcement Manager, attended to assist the Committee in its deliberations.

RESOLVED (UNANIMOUSLY) that –

(a) The revised Planning Service Enforcement Strategy be agreed and adopted as appended to the report by the Head of Environmental and Protective Services.

(b) The Head of Environmental and Protective Services be authorised to review the Planning Service Enforcement Strategy annually and amend it where appropriate in the light of such a review.