

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
4 February 2010 at 6:00pm**

SUPPLEMENTARY AGENDA

Part A

(open to the public including the media)

Pages

. Amendment Sheet

121 - 129

See Amendment Sheet attached.

AMENDMENT SHEET

Planning Committee
4 February 2010

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

LATE AMENDMENTS HAVE BEEN INCORPORATED INTO THIS AMENDMENT SHEET AND ARE SHOWN AS EMBOLDENED

7.1 091357 – Avon Way House, Avon Way, Colchester

Withdrawn by the Head of Environmental and Protective Services to allow officers to carry out further investigation. The application will come back to Committee at the earliest opportunity.

7.2 090504 – Tile House Farm, Great Horkesley

Recommendation received from Highway Authority. Raise no objections to amended plans and only request inclusion of standard highway contact informative as follows:

“All works affecting the highway are to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600.”

A letter of support has also been received from a resident in Tile House Lane who states that should the application be rejected it is highly probable that the site would become overgrown and neglected providing a focal point for dumping of rubbish and possible anti-social behaviour and increased fire risk.

7.4 091426 – Mythian, 4 Parsons Hill, Colchester

A letter has been received from Bob Russell MP commenting as follows:-

“I am astonished that an application to all intents and purposes identical to one which had previously been Refused, I believe unanimously by the Planning committee - is on Thursday being recommended for Approval when the substantive reason for the earlier Refusal remains. Indeed, it simply cannot be overcome! Therefore to be consistent, the latest Application should have been recommended for Refusal.

I trust, therefore, that Members of the Planning Committee will be consistent and stick to their previous decision.

The Planning Department should have presented a Report which upheld the Committee's previous reasons, strong reasons, for Refusal – not present a Report which favours the Applicant.

In stark, simple, terms the position is this: if Consent is given, then its set the precedent for other houses in this part of Colchester to be demolished to make way for high density housing which would be out of keeping and out of scale, and for the special character of a wooded residential neighbourhood to be destroyed to the lasting visual detriment for those who have pride in our town. This could be the first of the teeth to be knocked out. Or, to use another expression, the first of the dominoes to fall. Do we really want this to happen here? I don't.

I sincerely hope that the Planning Committee will be consistent, and for a second time Refuse an Application using the principal planning reason given last time as the main reason for Refusal.

I would be most grateful if this letter could be circulated at the meeting on Thursday."

7.5 091608 – 89 High Street, Wivenhoe

Environmental Control have no comments to make with regard to this application.

Town Council sympathise with the observations of made by local residents and further express concern over the loss of a bungalow property. They also seek assurance that the delivery and storage of building materials should not impact upon the surrounding area.

Second condition be amended to read:

"Before the development hereby permitted commences, the external materials and finishes to be used on all elevations, shall be agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with agreed details.

REASON: As there is insufficient information to ensure that the proposed weatherboarding will be of a suitable type and colour to fit into the context of Wivenhoe, in the interest of visual amenity and to preserve the character and appearance of the conservation area."

7.7 090959 – 26 St Botolphs Street, Colchester

Comments from Strategic Policy and Regeneration:

See separate letter

The Enterprise & Tourism Development Officer comments:

"I echo and support Jim's comments in favour of the Nepalese restaurant. Cycling is also of considerable importance of course but I would think that Colchester Town (St Botolph's) Station would be a more appropriate location for cycle purchase but especially cycle hire. I know that the rail authorities are keen to encourage this and I have been working with others to try to bring this facility to Manningtree Station with a view to opening 'Constable Country' up as a cycling/sustainable transport visitor destination."

7.8 091307 - Church Road, Boxted

Further information has been provided by the applicant in regard to the joinery details and the materials to be used. Having looked at this information with the Council's Urban Designer, it is considered that these details are acceptable. Therefore, Conditions 4 and 6 as shown on Page 98 should read as follows:

Condition 4:

The joinery details, which include the windows, doors and eaves used in the development shall be exactly as detailed on the approved drawings received on the 26th January 2010 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the joinery details have an appearance appropriate to the character of the existing school building and the surrounding Conservation Area.

Condition 6:

The external materials and finishes to be used shall be as stated on the application form and as indicated on the approved plans and schedule returned herewith, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the use of an appropriate choice of materials having regard to the importance of this scheme in the Conservation Area and to ensure that the choice of materials will harmonise with the character and appearance of other buildings and development in the area.

In addition, further discussions have taken place in regard proposed conditions 7, 9 and 10. These conditions relate to the brickwork details, details of the proposed rooflights and landscape proposals. It is considered that Condition 7 should be reworded as follows.

Condition 7:

The brick walls to the building hereby approved shall be constructed in Flemish Bond with a lime mortar mix unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the use of an appropriate choice of materials having regard to the importance of this scheme in the Conservation Area and to ensure that the detailing will harmonise with the character and appearance of other buildings and development in the area.

In regard to conditions 9 and 10, the only changes to these conditions are to the trigger points for these details to be submitted and approved. Therefore, the details of the rooflights will not be required until the building works get to the stage where they are required and the landscaping scheme will need to be submitted and approved in writing prior to first occupation. These changes are considered to be acceptable.

7.9 091328 – St Botolph’s Churchyard, Colchester

While not a planning matter, Members are advised for information that the applicant has received approval to a Faculty application for the works from the Chelmsford Diocese.

Following the comments from the Council’s Contaminated Land Officer, the applicants commissioned a further site investigation report which has now been received.

The conclusions of this report are as follows:

“The conceptual model has identified potentially active pollution linkages due to the historical land use of both the neighbouring Iron Works and the onsite Engineering Works.

The Tier I Human Health Risk Assessment has determined that there are no unacceptable concentrations of potential contaminants within the underlying soils that would pose a potential risk to human health of future site occupants.

The Tier I Controlled Water Risk Assessment has determined that there are no unacceptable concentrations of potential”

The Council’s Contaminated Land Officer has been consulted on these additional findings to see if the conditions recommended require deletion or amendment in light of this further information.

Members are requested to give Officers the authority to amend the land contamination conditions contained in the report in line with any comments received from the Council’s Contaminated Land Officer.

7.10 091580 – Collins Green, School Road, Messing

Withdrawn by Head of Environmental and Protective Services – to come back to Committee

To: Andrew Huntley
Planning, Protection and Licensing
Planning Services

Application no.: 090959

Development: Change of use to A3 restaurant (Nepalese – specialist cuisine)

Location: 26 St Botolph's Street, Colchester, C02 7EA

Comments from Enterprise on the above application with particular reference to the objection by Dave Cookson Associates on behalf of Mr J Higgins (dated 8 December 2009)

The above objection is based upon a proposed alternative use as a 'cycles sale and repair shop'; it is contended that this is a better use by Dave Cookson Associates (hereafter, DCA) than the proposed use as a Nepalese restaurant.

Key economic development comments in support of the application

Regeneration benefit: Cultural Quarter

The applicant is proposing to make a substantial investment for the long-term in a "gateway" location to the Cultural Quarter. It is my understanding that this investment in a quality restaurant will support the overall revitalisation and regeneration of Queen Street/St Botolph's Street. While this may not be a "material" planning consideration, the "catalytic" potential of this proposed usage is certainly higher than that of a pram shop at the southern end of our Cultural Quarter.

Employment benefit

The proposed use as a restaurant will employ 6 FT employees and 2 P/T; approximately, 7 F/T. (Applicant's statement). In comparison, an independent cycle shop would employ at best half this number. (In fact, the average workforce of Town Centre independent cycle shops is, in fact, 3.5 staff – Source: Annual Business Inquiry, 2008)

The shop will require significant investment to make it commercially successful. The applicant proposes to make such investment and to take a long-term view (5-7 years) of his involvement in making the business a commercial success, area in which he has a track record. This investment will assist the Council in reducing the cost of maintenance for its properties.

Estates benefits.

The applicant provided the highest open market bid for the lease on the premises; this income supports Council services. His application has complied with all due diligence. Enterprise and Planning Services have worked closely to move the application forward. However, the decision-making on this preference still rests with Planning Services.

Spatial planning considerations

The area is in flux in terms of the mix of commercial uses and this development and change will continue. The Cultural Quarter and Vineyard Gate will contribute to uplift property values and are likely to expel fast food uses to beyond St Botolph's roundabout where the costs of business occupancy are less.

On the other hand, the proposed restaurant needs to be close to the Town Centre core to be successful. Restaurants – often specialist – appreciate and benefit commercially from being close together – “clustering”; see, for example North Hill. (Interestingly, there has been no objection from the adjacent Thai restaurant or nearby Chinese take away)

Development planning considerations

For the above reasons, the fascia argument is therefore increasingly outdated and limiting for commercial development.

1. That *‘the proposed use would offer very little to the overall vitality and viability of the Town Centre*

This is an extremely subjective statement! However, it might be that were the public asked the answer might be that a cycle shop offers less vitality and viability for the Town Centre in comparison with a Nepalese restaurant with associated cultural offerings.

2. That *‘It may be that there is no Nepalese restaurant in the Town Centre but there are many offering foreign and exotic food. There is a Thai restaurant next to the application site and Chinese take away round the corner. It cannot be said therefore that there is a NEED for such a restaurant to override the policy objections. There is no evidence submitted as to why and how this use would “rejuvenate the area” ‘.*

There is a self-evident gap in the market for a specialist restaurant of the ethnic cuisine offered. The applicant correctly states in his submission that, ‘a specialist Nepalese restaurant will complement the cosmopolitan offering of Colchester as a city in the making’. Past trading from earlier premises in the vicinity demonstrated visitor flows from a considerable distance (including London and other parts of the Region) to this type of restaurant. These visitor flows support the Borough’s enterprise and tourism objectives.

3. That *‘It is not considered that a restaurant constitutes a cultural use‘ and that ‘the proposed use would involve no active shop window display’*

The restaurant will, like all specialist restaurants, “offer a window into another culture” – this is one of the draws of specialist ethnic restaurants. The restaurant window display is yet to be determined but the applicant has informed Enterprise that he intends to promote Nepalese culture both within and outside the building.

For example, the end wall facing St Botolph’s roundabout is planned to be tiled to create a mosaic visual artwork including the message “Welcome to Colchester’s Cultural Quarter”. This artwork – which will require separate planning permission – will reflect the multicultural nature of Colchester and will be developed as a project in conjunction with schools, colleges and the different ethnic communities within the Borough.

While the principal market for the restaurant is, of course, non-Nepali, it is worth noting that the local Nepali community numbers around 300 people and that the applicant is the Treasurer of the Nepalese Welfare Society in the Borough which is affiliated to TACMEP (Tending and Colchester Minority Ethnic Partnership). As the Nepalese Welfare Society lacks its own premises, the restaurant will provide a focus for the Nepali community and, according to the applicant, function as something of a drop-in centre for members of that community who seek his advice and close links to the Nepalese embassy in London.

4. That the proposed use as a restaurant could be located anywhere within the Town Centre

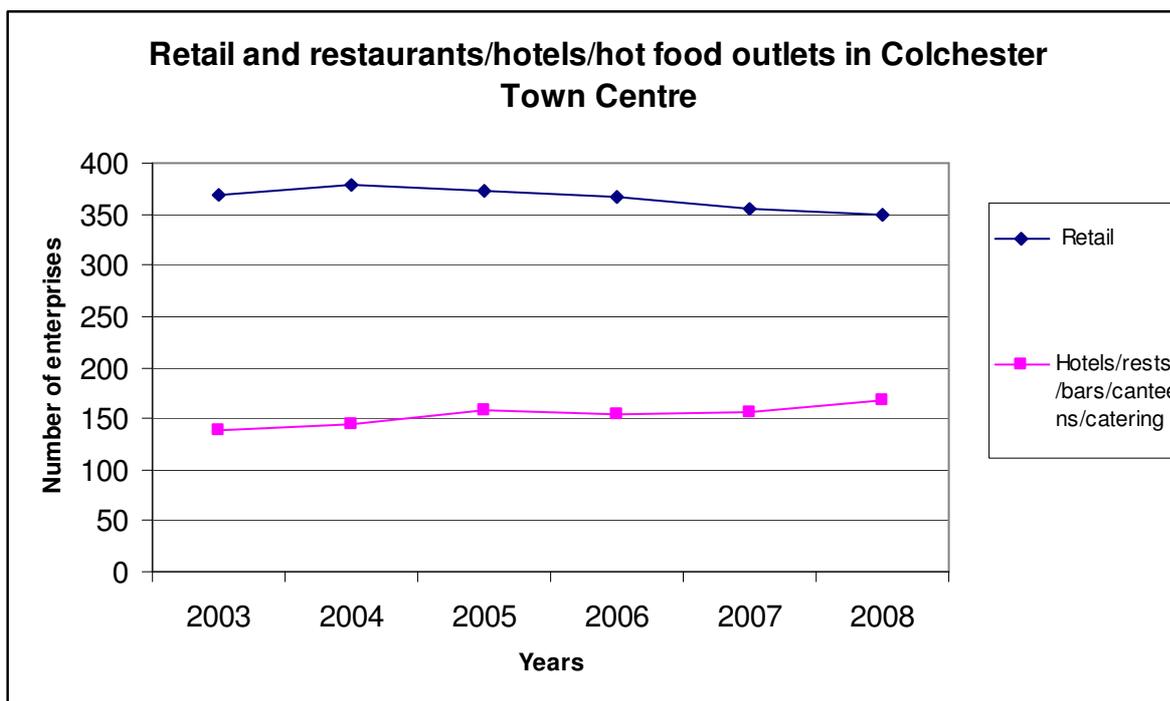
This is not the case. The ideal location for this restaurant is between the Garrison, with which the Ghurka Nepali community retains strong links and the Town Centre core.

The proposed location for the restaurant is a key, anchor site for the Cultural Quarter and the applicant is prepared to invest significantly to refurbish the building and create a gateway location to this improving area. There could be no better location for the proposed use and it will add to the “place-making” plans which the Borough and our key partners (FirstSite, Garbe, EEDA, Ash Sakula, Haven Gateway Partnership, Arts Council East and Essex County Council) have for the Cultural Quarter. The accompanying investment will contribute to accelerating the improvement of Queen Street/St Botolphs Street, providing yet another “market signal” that the area is improving as the Town Centre core extends to incorporate what was once a marginal and down market location.

5. That there is a growing shortage of retail outlets but that there are ‘dozens if not hundreds of eateries’ in the Town Centre

This is, again, not an objective statement. There are currently 167 Hotels, restaurants, bars, etc. in the Town Centre compared to 350 Retail outlets. (Source: Annual Business Inquiry, ONS, 2008 – most recent data).

The chart below shows the evolution of A1 (retail outlets) against A3 (food outlets) in the Town Centre for the available and most recent consistent series.



Over the period 2003-2008, the share of retail combined with Hotels, restaurants, bars, etc. has fallen from 72.6% of all business units to 67.6% - a fall of 1 percentage point per annum. It is suggested that this change is not cause for concern as the growth of tourism as a major income source for the Town Centre has led to a small shift in the balance of A1 against A3 units.

6. That ‘the Town Centre has lost a number of cycle shops over the years..’

No evidence is adduced for this assertion by DCA. Enterprise, however, holds an up to date and comprehensive business database produced by Experian (supplied in December 2009) listing some 6,300 businesses in the Borough which employ one or more people – effectively, the economically-significant businesses (ie VAT and/or PAYE registered).

Interrogation of that database reveals that there are currently 9 cycle shops within the Borough, 6 of which are ‘independent’ and 3 of which are ‘multiples’. **Of this total, there are 2 independents and 2 multiples within the Town Centre, and 1 independent and 1 multiple on Cowdray Avenue (Town Centre fringe).**

Business name	Business address				Employees
53-12 LTD	Unit D11	Cowdray Centre	Cowdray Avenue	CO1 1BP	5
COLCHESTER CYCLE STORES	50 St Johns Street			CO2 7AD	5
CYCLE KING	46a East Street			CO1 2TG	5
ITS ONLY A SCRATCH	5-7 Winnock Road			CO1 2BG	1
R & A CYCLES	16 Barfield Road			West Mersea CO5 8QT	1
THOMAS'S CYCLE REVOLUTION	Unit 1	Peartree Business Centre	Peartree Road	Stanway CO3 0JN	2
JJB SPORTS	High St			CO1 1DN	45
JJB SPORTS	Sheepen Road Retail Park	Sheepen Road		CO3 3GT	53
HALFORDS	Unit 8	Colne View Retail Park	Cowdrey Avenue	CO1 1YN	40

Source: Yell (Experian) Colchester Borough Council database, December 2009

7. That the proposed change of use from A1 to A3 will result in a conflict with Policy DP 6

Spatial planning considerations

The area is in flux in terms of the mix of commercial uses and this development and change will continue. The Cultural Quarter and Vineyard Gate will contribute to uplift property values and are likely to expel fast food uses to beyond St Botolph’s roundabout where the costs of business occupancy are less.

On the other hand, the proposed restaurant needs to be close to the Town Centre core to be successful. Restaurants – often specialist – appreciate and benefit commercially from being close together – clustering; see, for example North Hill. (Interestingly, there has been no objection from the adjacent Thai restaurant or nearby Chinese take away)

Development planning considerations

For the above reasons, the fascia argument is therefore increasingly outdated and limiting for commercial development. However, the use nonetheless appears in conformity with Policy DP6 which proposes...

Supporting Alternative appropriate non-retail uses, particularly A2, A3 and D1 uses provided that they contribute to the vitality of the Town Centre and would result in:

- no more than three consecutive non-retail uses in the street frontage; and,
- no loss of active street frontage.

The objection considers the Noodle Bar to be 2 units whereas it is clearly one which, with the Gentleman's Leisure Bar, makes two units in all. Consequently, the applicant's proposal would create no more than three consecutive non-A1 uses.

Jim Leask
Senior Enterprise Officer
Strategic Policy and Regeneration

25 January, 2010

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
4 February 2010 at 6:00pm**

SUPPLEMENTARY AGENDA

Part B

(not open to the public or the media)

Pages

There are no Section B Items