

Planning Committee

Thursday, 22 October 2020

Attendees: Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Martyn Warnes
Apologies: Councillor Brian Jarvis, Councillor Philip Oxford
Substitutes: Councillor Patricia Moore (for Councillor Brian Jarvis), Councillor Gerard Oxford (for Councillor Philip Oxford)

Also in attendance:
Cllr K Bentley, Cllr S Crow, Cllr P Dundas, Cllr A Ellis
Revd L Smith, Mr G Cottee
Mr D Kelly and Ms R Macauley

810 Minutes of Previous Meetings

The minutes of the meetings held on 30 July 2020 and 20 August were confirmed as a correct record.

811 St Peters Church, conversion to single dwelling

The Committee considered an application for the demolition of the majority of the south aisle (retaining western gable wall) and the renovation of the retained building envelope, conversion to a single dwelling, including new reinforced concrete raft foundation and partial mezzanine and new floors to the tower.

The Committee had before it a report and an amendment sheet in which information about the application was set out.

The Committee members had been provided with videos and photographs of the site taken by the Planning Specialists Manager to assist in their assessment of the impact of the proposals upon the locality and the suitability of the proposals for the site.

Reverend Lydia Smith addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She was speaking in her capacity as the local parish priest and Chair of the Parochial Church Council (PCC) and explained that she was supported in her comments by the Diocese. The PCC had already submitted written representations. It was accepted that weight would be given to the partial preservation of the Grade II listed building. A key concern was that whilst church buildings had been converted successfully to residential use, this was more generally where a graveyard had been closed and was then maintained by the Local Authority, however this was an open and working churchyard which would make it more difficult to mitigate conflicts between the various uses. In view of the national shortage of grave space, it was important to maintain access to burial ground. Access to the graveyard was proposed via the north side of

the church where the terrain is sloping and on the only level land, the graves are densely placed. The proposed access route was shown close to the north wall of the church, an area that has a high density of graves, including some dating from as recently as 1990, as well as some cremated remains. This access was unsuitable. The access for maintenance and grave digging vehicles had been to the south side of the church where the access was on level ground, but this area was proposed as a private garden. Parking and access for those attending graveside funerals or visiting graves would also be an issue.

The archaeological study and the bat survey should be undertaken first rather than through the inclusion of conditions.

Mr Gary Cottee, the applicant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application explaining that the family were committed to saving the building and the proposals represented the only scheme that would secure retention of part of the church. Once completed it would enhance the Conservation Area. He stated that interest in purchasing St Peters had been expressed in 2013 and early on he had carried out a survey of residents that had shown a majority in favour, but these results had been questioned by the Parish Council. No further surveys had been undertaken although the offer of a joint survey had been made. A conservation architectural practice had assisted in the drawing up of the proposals and a covenant would be sought limiting use to that of a single dwelling. In terms of access this would be through a private driveway, but parking is available on School Hill, other than directly in front of the school gates. To address any concerns about traffic movement during works there would be a traffic management plan, limiting the movement of construction traffic during school start and finish times.

Agreement had been reached to relocate tombs from the crypt should permission be granted. He also reassured members that the proposal required only partial demolition of the existing building, away from the active part of the graveyard. The proposal was much less disruptive to activities in the graveyard than The Church Commissioners' scheme which was for complete demolition.

Councillor Ellis attended and with the consent of the Chairman addressed the Committee relaying objections on behalf of the Parish Council who had stated the conversion of the building to a large 5 bedroomed dwelling was not appropriate in a churchyard open to burial. It would impact on the peace and quiet where burials take place. The report did not provide a resolution on the issue of access for funerals and machinery and more detailed information was needed. The number of conditions placed gave rise to concern. The Church Commissioners had expressed concern that the project might flounder, so resources needed to be considered for the viability of the project. In particular, the Parish Council stressed that they would not want the landmark spire to disappear and would wish to see safeguards in place for the retention of the spire. An instrument of guarantee should be in place before consideration of the conversion.

Councillor Bentley attended and with the consent of the Chairman addressed the Committee speaking on behalf of the Parish Council and residents. Mourners at

funerals and those who had loved ones buried in the graveyard would need to pass close by a house and this would be uncomfortable. Consideration should also be given to those tombs in the crypt. It was important that the spire be retained as a landmark.

Parking was an issue as the development was located in a busy cul de sac with traffic for the school. A major concern was whether the proposal would be seen through to completion. It was felt that an assurance should be given that works would not cease halfway. The inconsistency of the Church's position was noted, in that the Church Commissioners would be selling the Church to the applicant and yet a Church representative had spoken against the application.

Alistair Day, Planning Specialists Manager presented the report and, assisted the Committee in its deliberations. A presentation including plans and a video was made.

The Planning Specialists Manager explained the report was before the Committee as it had been called in in respect of demolition work and highway issues by Councillor Bentley. The church was located in the conservation area and grade II listed at the centre of Birch and classed 'at risk'. It had been closed in 1990 and the Church Commissioners had sought demolition and that had been subject to a Public Enquiry (which was subsequently aborted). Should the application before the Committee be unsuccessful proposals to demolish the Church would recommence.

One of the key concerns raised was how access would be maintained for the working of the churchyard. The extent of the proposed garden to the south of the church is the same that agreed at the public inquiry, The Church Commissioners have also accepted that this is the most logical place for a garden as it is subject to historic burials. It is accepted that the land to the south of the church has a shallower gradient and therefore provides an easier access route to the remainder of the churchyard. Officers consider that the precise alignment of any access route should be agreed between the landowner and the applicant. A condition was recommended to ensure that this route was appropriately detailed. The applicant has acknowledged that the development has to be sensitive to burials and has confirmed his willingness to reinter the burials in the crypt to an alternative location within the churchyard.

In respect of the resources for scheme completion, it was the opinion of officers that this is best secured as a condition of the sale of the land, making provision should the development stall.

Two parking spaces were proposed for the dwelling and the applicant had offered to create an area of additional parking to the front of the tower for those visiting the churchyard. The provision of the church visitor parking was a benefit being offered and was not essential for the conversion of the church to a dwelling. The Highways Authority was satisfied that the application would not have a severe impact on the road network. A condition had been included to ensure that there would be no clash with school times for construction vehicles.

The ecological report notes the presence of Pipistrelle bats within the church and a condition was recommended requiring further survey work and a scheme for

mitigation and enhancement to be agreed before the commencement of works p

Raft foundations had been proposed to minimise the impact on ground disturbance and any buried archaeology and memorials would be re-sited.

Members of the Committee acknowledged residents' concerns and raised the following issues:

There was concern that stained glass and all important features including the spire should be retained and should the application be approved a condition securing this should be added to the permission.

Access to the churchyard should be safeguarded, graves should be protected, and any preservation sympathetically carried out.

The tombs in the crypt should be removed for reburial.

Archaeological trenches should be dug, and any artefacts should be preserved in Colchester.

Vehicular access for construction would lead to damage of the greensward.

Parking spaces may in time not prove sufficient for the residents.

Non- completion of the project was an issue and it was felt that a bond/guarantee of available financing would be essential. A bond in place would provide reassurance.

Members also commented that there were many examples where redundant churches had been converted to dwellings. Some of the issues of concern were contractual matters to be resolved between the applicant and the vendor (Church Commissioners) such as financial viability, arrangements for funerals and access.

The Planning Specialists Manager further clarified that the access to the churchyard on the north side was outside the boundary of the application site, and smaller construction vehicles (lorries and forklifts) would need to be used given the access constraints. Planning conditions had been restricted to planning matters only. Two parking spaces for the residents met adopted standards. The survey of grave works was already included as a condition.

The bond to secure the completion of the conversion works was a private contractual matter and should the Church Commissioners not reach agreement on the sale of the land then demolition of St. Peter's would be the likely outcome.

Committee members had expressed a desire to see the landmark of the spire and St. Peter's church features retained and as much of the building itself retained. Members had explored the issues around the application including the conditions required and considered the alternative.

RESOLVED (SEVEN voted FOR, ONE voted AGAINST, ONE ABSTAINED FROM VOTING,) that the application be approved subject to the conditions outlined in the Assistant Director's report.

812 18120 Land at Queen Street, Colchester

The Committee considered report from the Assistant Director Place and Client Services, set out alternative proposals for the southern pedestrian access that is required to be delivered as a part of the approved Alumno development.

The Committee had before it a report and an amendment sheet in which information was set out.

The Committee members had been provided with a plan of the site and photographs taken by the Planning Specialists Manager to assist in their assessment of the impact of the alternative proposals upon the boundary walling and the suitability of the proposal for the site in the context of the wider conservation area.

Dorian Kelly addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the endorsement of the recommendation. Mr Kelly stated that members were not considering an application but a delegated decision where both options were untenable. As this was not an application no plans had been made available to the public and no public consultation had been undertaken. However, he highlighted that the steep ramp outlined in option 2 with no rail was unsafe and the proposal in option 3 would result in loss of heritage in that it would result in the loss of four and half metres of the heritage wall. He stressed that the planning inspectorate's firm ruling was a Grampian condition that the disabled ramp shall be designed in accordance with BS8300. Mr Kelly urged members to reject endorsement of both options and that the developers should be asked to devise an alternative solution which conformed with the Grampian condition.

Rowena Macaulay addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the endorsement of the recommendation on the grounds that no properly drawn up plans were available to support it and no public consultation had been undertaken on the basis of such plans. Concerns were also expressed that the options did not meet safety standards and in option 2 there was a lack of guarding at the upper level and mobility restricted walkers and wheelchair users may have difficulties were this to be endorsed. Plans were not in the public domain; detailed drawings were needed as gradients and dimensions were key. Provision of details had been requested at the hearing in 2019 when the Inspector had made it clear that this ramp should meet the highest standards. It was important that the ramp dimensions ensured equal and safe access.

Part M of Building Regulations were there to protect the safety of some of the most

vulnerable users of urban settings and the Committee should not authorise works that would fall short of the Building Regulations.

A written submission provided by Sir Bob Russell was read to the Committee pursuant to the provisions of Remote Meetings Procedure Rule 5(1) in opposition to endorsement of the recommendation. This stated:

It is not the role of the Planning Committee to choose the lesser of two evils.

Options before the Committee do not comply with legislation relating to disability access.

Therefore the options should be rejected.

No ifs. No buts.

It is one thing to recognise that there are occasions with existing buildings where it is not possible to provide disability access which is fully compliant – BUT there is no excuse, no justification, in a new development for disability access to be compromised with a sub-standard level of access which is not fully in accord with planning legislation.

There is no wriggle room in the legislation when it comes to new developments.

There was no wriggle room given by the Planning Appeal Inspector when – as a specific Condition for disability access – he allowed the Appeal for the development on the site of the former Bus Station.

Those who attended the Planning Appeal Hearing will recall the strong case put by Councillor Gerard Oxford during those proceedings.

What consultations have there been with organisations which represent the interests of those with disabilities?

Normally it is a delegated matter for Officers to determine Conditions.

This is the first time I can recall that Councillors have been asked by Officers to determine a specific Planning Condition – disability access.

I suggest this is because Officers are fully aware that the Options do not comply with Planning legislation.

It would be a breach of their professionalism to say “yes” to something which they know should be a “no”.

I suggest that Councillors should be very firm – and give a resounding “no” to the options put forward by the developers.

It is for the developers to come up with a scheme where all Conditions are fully in accord with Planning Laws and Regulations. For the Committee to knowingly approve

something that they know is not compliant with Planning Law would be aiding and abetting a wrong.

The Committee was unanimous when last year it Refused the Planning Application for this development. One of the specific reasons was disability access. Therefore the Committee would be consistent in refusing to accept the Options before members, because to do otherwise would be to allow a development to proceed in the full knowledge that disability access is in breach of the planning legislation.

Councillor Dundas attended and with the consent of the Chairman addressed the Committee. He stated that he understood that it had been difficult for the public to comment as the detailed design had not been included in the document pack. The options for disability access from Priory Street to the new development below an ancient wall were poorly conceived and would not work. These options should not be endorsed, in 2020 the developer should be able to find a solution to provide appropriate disabled access.

Councillor Crow attended and with the consent of the Chairman addressed the Committee saying that Colchester should be inclusive for all. Accessibility had been one of the reasons Planning Committee had rejected the scheme. The proposed options would not conform to British Standards. The town had unique heritage and in the past parts of the wall had been lost but in the 21st Century a more enlightened approach should be taken. A 4-metre hole in the wall for an option that would not comply with British Standards should not be agreed. This would be putting commercial gain over heritage. The developer should look at other options to resolve this.

Alistair Day, Planning Specialists Manager presented the report and, together with Simon Cairns, Development Manager assisted the Committee in its deliberations.

The Planning Specialists Manager explained that the report had been brought to Committee for a steer on the two options outlined in the report. The Development Manager added that direction was being sought in terms of the weight members wished to be applied to strict compliance with BS8300 and heritage significance and the approach members wished to be taken in pursuing further negotiations to provide satisfactory means of inclusive access from Priory Street.

The Planning Specialists Manager presented the 2 options in the report. The background to this was the St. Botolph's Masterplan that dated to 2004 that proposed a pedestrian access link to the development site from Priory Street. The Inspector had discussed at length at the Public Inquiry how this access could be provided, including whether a gradient of 1:15 was appropriate and whether this would meet the requirements of the requirements to meet the Equalities Act and concluded that this would and that the detailed design could be controlled through a planning condition. In arriving at the current proposals, consideration had been given to the Planning Inspector's decision letter and the designs presented had taken account of the British

Standard. The British Standard was a guidance document and did not override other legislation. There was a range of legislation and guidance, not all of which was consistent with each other. Building Control had confirmed that that Part M Building Regulations would not apply to the ramp as it was not classed as a building.

It was accepted that this was a complex technical issue to resolve and the Council had engaged an Access Consultant to advise on the proposal to ensure an independent view.

Both access options would comply with the British Standard and were in line in terms of the gradient of 1:15 accepted by the Inspector but in option 2 no guardrail would be provided at the intermediate landing; in Option 3 where a guardrail would be provided the opening in the wall would be significantly wider at 4.8 metres. The wall in question was part of the nineteenth century theatre and not Roman in origin although some Roman rubble may have been reused in the construction of the lower part. Historic England were satisfied with the proposals for Option 2.

The alternative route without the proposed access from Priory Street involved walking along a narrow footpath and up a steep hill, which would not be suitable for people with impaired mobility. The current proposals represented an improvement on this.

Councillor Liddy reassured the Committee that expressing a view in this context would not bind the Committee or prevent it from determining any future application that may be brought forward. It was also confirmed that terms of reference for Planning Committee allowed the Committee to express a view in the way outlined in the Committee report.

Committee members were very concerned with safety issues and it was suggested that the gradient of the ramp provided should be 1:20. The access should comply with the Equalities Act and be safe for all wheelchair users. The steepness of the gradient was an issue and intermediate landings would provide challenges for a manual wheelchair user.

With option 2 shown facing a set of stairs and no guard rail this would prove difficult. Members questioned whether Option 2 contravened the Equalities Act as vulnerable people should be able to access accommodation safely. This should be risk assessed and measures taken. Safe and dignified access to the site and town should be provided.

Members were also concerned about heritage issues and it was pointed out that full Council had recently approved a Strategic Plan stressing the importance of heritage issues. However, both options proposed the loss of part of the historic wall. There was concern around maintaining a sense of enclosure. It was suggested that the breach in the wall as shown in Option 3 be arched to maintain a sense of enclosure. It was acknowledged however that this may give rise to other safety issues such as climbing. Another suggestion was that additional land in Priory Street Car Park be used to facilitate the improvement of the ramp gradient, albeit it was recognised that this fell out the current application site boundary.

The Committee were advised that officers could further explore the issue of gradients and increase of space with the developers.

The Committee noted the recommendation in the report. The Committee unanimously voted AGAINST the recommendation in the Assistant Director's Report, namely that option 2 is supported .

A proposal was then made that option 3 be endorsed, subject to the breach in the wall being arched. On being put to the vote, this proposal was lost (TWO voted FOR, SEVEN voted AGAINST)

813 Applications Determined in Accordance with the Officer Scheme of Delegation

The Committee considered a report by the Assistant Director, Place and Client Services giving details of the applications which have been determined up to 1 October in accordance with the revised scheme of delegation agreed at the Committee's meeting on 18 June 2020.

The Committee had before it a report and detailed amendment sheet in which all information about the applications were set out.

RESOLVED (UNANIMOUS) that the applications listed in the Assistant Director's report and Amendment Sheet which had been determined under the revised scheme of delegation be noted.