



**Application No:** 151978

**Location:** Valentinus Crescent, Colchester

**Scale (approx):** 1:2500

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**7.3 Case Officer: Alistair Day      Due Date: 03/12/2015**

**MAJOR**

**Site:**                      **Valentinus Crescent, Colchester**

**Application No:**    **151978**

**Date Received:**    3 September 2015

**Agent:**                Mr Stephen Collis

**Applicant:**           Colchester Borough Council

**Development:**    Variation of condition 2 of planning permission 142439.

**Ward:**                Berechurch

**Summary of Recommendation:** Conditional Approval

## **1.0    Reason for Referral to the Planning Committee**

- 1.1    This application is referred to the Planning Committee because the applicant is Colchester Borough Council.

## **2.0    Synopsis**

- 2.1    The key issues explored below are whether the variation of condition 2 of planning approval 142439 (amendment of the car park layout) will have a significant impact on the character and appearance of the area and/or amenity of nearby residents.

## **3.0    Site Description and Context**

- 3.1    The application site is a rectangular shaped piece of land that extends to some 2.49 hectares. The land is relatively flat and is now mostly rough grassland with trees and vegetation along the north-eastern and eastern boundaries.
- 3.2    The site is located to the east of Valentinus Crescent, which forms part of the housing development built under the Garrison Urban Village planning approval. To the north of the site is an established residential housing estate. A public footpath bounds the eastern boundary of the site beyond which is Colchester Cemetery and Willow Allotment Gardens. To the south of the site is an area of woodland, which forms part of the Garrison Eastern Green Link.

## **4.0    Description of the Proposal**

- 4.1    The application seeks permission to vary condition 2 of planning approval 142439.

## **5.0    Land Use Allocation**

- 5.1    Cemetery Land, Green Link and Garrison Regeneration Area

## **6.0 Relevant Planning History**

- 6.1 142439 - Change of use of the field to cemetery use, the creation of a vehicular access link from the existing cemetery to the application site, the formation of a car park for 20 vehicles and associated landscaping and boundary treatments - Approved

## **7.0 Principal Policies**

- 7.1 Planning law requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies that are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
UR1 - Regeneration Areas  
UR2 - Built Design and Character  
PR1 - Open Space  
PR2 - People-friendly Streets  
TA1 - Accessibility and Changing Travel Behaviour  
TA2 - Walking and Cycling  
TA5 - Parking  
ENV1 - Environment

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):

DP1 Design and Amenity  
DP15 Retention of Open Space and Indoor Sports Facilities  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes

- 7.4 Further to the above, the adopted Site Allocations (2010) policies set out below should also be taken into account in the decision making process:

SA GAR1 Development in the Garrison Area

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Colchester Garrison Urban Village Master Plan (2002)  
Colchester Garrison Development Brief (2002)

## **8.0 Consultations**

- 8.1 Landscape Officer - No objection.
- 8.2 Tree Officer - No objection
- 8.3 Environmental Protection Team - No comments received at the time of writing this report
- 8.4 Highway Authority – No objection
- 8.5 Natural England – No comment

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

## **9.0 Parish Council Response**

- 9.1 Not Parished

## **10.0 Representations**

- 10.1 One letter of representation has been received to this application which is summarised below;

There is concern that there is vehicular access to the site via Valentinus Crescent and that visitors to the cemetery may want to use that access to attend burials and visit graves instead of using the main cemetery access from the Mersea Road. This would lead to additional parking in Valentinus Crescent and Secundus Drive as well as congestion in the roads of the Marlborough Place development. There is only one road into the estate and it would be busier with additional cars using Marlborough Place to access the cemetery. The same can be said for Gurdon Road.

*Officer Comment: Planning permission for the cemetery extension was approved under application 142439. The current application relates to a variation of this planning approval and relates to an amendment to the layout of the proposed car parking only.*

The full text of all of the representations received is available to view on the Council's website.

## **11.0 Parking Provision**

- 11.1 No change to the number of parking spaces proposed.

## **12.0 Open Space Provisions**

- 12.1 Not applicable

### **13.0 Air Quality**

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

### **14.0 Development Team and Planning Obligations**

- 14.1 The application relates to an amendment of a planning condition to application 142439 and does generate the need for any s106 planning obligations and/or a linking agreement.

### **15.0 Report**

- 15.1 Planning permission was granted in 2014 for the change of use of the application site to cemetery use, the creation of a vehicular access link from the existing cemetery to the application site, the formation of a car park for 20 vehicles and associated landscaping and boundary treatments (ref 142439). The planning approval was subject to variation conditions, a number of which are in the process of being discharged. Condition 2 of the planning approval lists the approved drawings for this development.
- 15.2 This application seeks planning approval for the variation of condition 2 of planning permission 142439 to allow substitution of approved drawing 141 1155 nps dra01 Rev P3 with drawing no. 15.1827.01 D and 15.1827.02C. The amended drawings propose a revision to the layout of the proposed cemetery car park and its associated landscaping. The revised layout to the car park has been proposed so that a hearse and limousines cars can enter and exit site in forward gear without the need to undertake a 'three point' turn.
- 15.3 The amended car park layout provides the same number of spaces as that approved under application 142439. The landscaping proposals reflect the previously agreed principles and include a close boarded fence and planting of a hedge to the north boundary of the site. This is to help mitigate any potential impact on the amenity of the local residents that back onto the new car park. Both the Landscape Officer and Tree Officer have confirmed that they have no objection to the current application.
- 15.4 The access arrangements (pedestrian and vehicular) to the proposed car park from the existing cemetery remain unchanged from that approved under application 142439. The new access points are to be designed with a suitable visibility splay to minimise potential conflicts between those crossing and using the footpath. On the existing cemetery land, these works include the removal of a section of the boundary hedge and the realignment of railings; new 5.5m gates are also proposed. It is proposed to upgrade the public footpath so that it can accommodate vehicles at the crossover point. Access along the existing public footpath will be maintained and will continue through to the wider external network. Conditions are proposed requiring the formation of the visibility splays prior to the site coming into operation / use. The upgrading of the footpath to accommodate vehicular traffic will be subject to an agreement with the Highway Authority. The Highway Authority has re-confirmed that they do not have an objection to this proposal.

15.5 For the reasons set out above, it is considered that the proposed development would not have an adverse impact of the character and appearance of the area and would not have a detrimental impact on the amenity of nearby residents. The proposal is therefore considered to accord with the policies set out in the adopted local plan and the NPPF.

## **16.0 Conclusion**

16.1 The submitted application is considered to accord with the relevant development plan policies and the guidance set out in the NPPF. The application is therefore recommended for approval.

## **17.0 Recommendation**

17.1 It is recommended that this application is approved, subject to the conditions set out below.

## **18.0 Conditions**

### **1 - Time Limit for Full Permissions**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

### **2 - \*Development to Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 15.1827.02Revc and 15.1827.01 rev d.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

### **3 - Non-Standard Condition/Reason**

In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the Local Planning Authority and where remediation is necessary, a remediation scheme must be prepared, in accordance with the requirements of, and subject to the approval in writing of, the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the approved remediation scheme. This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and the Essex Contaminated Land Consortium's "Land Affected by Contamination: Technical Guidance for Applicants and Developers".

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### 4 - Non-Standard Condition/Reason

Prior to their first use, any car parking and service areas shall be screened to minimise any noise impact on nearby residential premises and in such a manner so as to prevent nearby residential premises being affected by vehicle exhaust fumes in accordance with a scheme that shall previously have been submitted to, and agreed in writing by, the Local Planning Authority.

Reason: To ensure that there is adequate screening in place to limit any unnecessary fumes, noise and disturbance to the surrounding areas and/or residents from vehicles using these areas.

#### 5 - Non-Standard Condition/Reason

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

#### 6 - Non-Standard Condition/Reason

All existing trees and hedgerows shall be retained, unless shown to be removed on the approved drawing. All trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its guidance notes and the relevant British Standard. All existing trees shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that any trees and/or hedgerows (or their replacements) die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, by the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.

#### 7 -Non-Standard Condition/Reason

No works or development shall be carried out until an Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

Reason: To adequately safeguard the continuity of amenity afforded by existing trees.

#### 8 - Non-Standard Condition/Reason

During all construction work carried out underneath the canopies of any trees on the site, including the provision of services, any excavation shall only be undertaken by hand. All tree roots exceeding 5 cm in diameter shall be retained and any pipes and cables shall be inserted under the roots.

Reason: To protect trees on the site in the interest of visual amenity.

#### 9 - Non-Standard Condition/Reason

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

#### 10 - Non-Standard Condition/Reason

Prior to the use coming into operation, the visibility splays to the footpath crossover shall be formed in accordance with the details as shown on the approved drawing unless otherwise agreed in writing by the Local Planning Authority. The visibility splays shall thereafter be retained free of any obstruction in perpetuity.

Reason: To ensure the continued safe passage of the public and the definitive rights of way and accessibility.



## 11 - Non-Standard Condition/Reason

Prior to the use coming into operation, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use. The parking spaces shall have minimum dimensions of 2.9m x 5.5 and the mobility impaired spaces shall have a minimum dimension of 3.9m x 6.5m.

Reason: To ensure an appropriate level of parking is provided.

## 12 - \*Removal/Variation of Condition(s) Approval

With the exception of condition 2 of Planning Permission 142439 which is hereby varied below, the requirements of all other conditions imposed upon planning permission 142439 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

## 19.0 Informatives

### (1) **ZT0 – Advisory Note on Construction & Demolition**

The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

(2) All works affecting the highway should 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 by initially telephoning 08456 037631.

### (3) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

(4) PLEASE NOTE: The applicant/developer is advised that the application site is, or appears to be, affected by the existence of a public right of way. It should be noted that:

(i) it is an offence to obstruct or divert a public right of way (or otherwise prevent free passage on it) without the proper authority having been first obtained. In the first instance contact should be made with the Public Rights of Way Office, Highways and Transportation Services, Essex County Council, County Hall, Chelmsford, Essex CM1 1QH. The telephone number is 01245 437563.

(ii) The granting of planning permission does not authorise the undertaking of any work on a public right of way. Where it is necessary for a right of way to be stopped-up or diverted in order that development may take place, no work may take place upon the line of the right of way until an appropriate order has been made and confirmed (see (i) above). The applicant/developer should note that there is a charge for making a change to the rights of way network.

(iii) Where a private means of access coincides with a public right of way, the granting of planning permission cannot authorise the erection of gates across the line or the carrying out of any works on the surface of the right of way and that permission for any changes to the surface must be sought from the highway authority (Essex County Council).

(5) PLEASE NOTE: Protected species may be present on the site and it is the developer's responsibility to ensure the requirements of the Wildlife and Countryside Act 1981 are complied with. Further advice on surveys and compliance with the legislation can be obtained from Natural England.

## **20.0 Positivity Statement**

20.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.