

Application No: 151216

Location: Land off United Way, Colchester

Scale (approx): 1:2500

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **27 August 2015**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1. Case Officer: Vincent Pearce Due Date: Extension of time agreed

MAJOR

Site: Land off United Way, Colchester

Application No: 151216

Date Received: 9 June 2015

Agent: CBRE

Applicant: David Lloyd Leisure (abbreviated in this report to DLL)

Development: Reserved Matters (access, appearance, landscaping, layout, scale) for the construction of a leisure centre pursuant to the outline planning permission granted 21 March 2006 ref: O/COL/01/1622

Ward: Mile End & Highwoods (with implications for sport & leisure across borough)

Summary of Recommendation: Conditional Approval subject to a prior s106 Agreement


1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it includes a s106 Agreement offered by the applicant company. The applicant is a private sector membership sports facility provider and the land is currently owned by the Council.
- 1.2 In determining this reserved matters application the Council must have regard to all material planning considerations and should not, cannot and will not be influenced by the s106 offer made by the applicant company in addition to that originally secured under the original outline planning permission.

2.0 Synopsis

- 2.1 The principle of the land use was established back in 2006 by the grant of outline planning permission that allowed, amongst other things, a total of 9290 sq.m. of leisure floorspace (Use Class D2) on Cuckoo Farm West (land west of what is now named via Urbis Romanae [previously NAR3]).
- 2.2 This report concludes by recommending the approval of reserved matters (delegated to the appropriate Head of Service) subject to final resolution of technical sustainable urban drainage (SuDS) issues and other matters identified in the report and completion of the S106 offered by the applicant company. This recommendation arises from the professional opinion that other than for the matters identified which require an indication from appropriate consultees that they are satisfactory the submitted details are acceptable.

3.0 Site Description and Context

- 3.1 This roughly trapezoidal  site is flanked on its northern edge by United Way

and on its southern boundary by Tower Lane. Land to the west and east remains vacant and in Council ownership. Approximately half the site (east side) has until recently been in agricultural use whilst the remainder has been vacant and has seen some early colonisation by pioneer species of flora. The two halves are bisected by an established hedgerow (part of a larger fragmented network) of varying quality that runs diagonally south-west to north-east. The strongest landscape feature hereabouts is Tower Lane that remains unaffected by this proposal.

- 3.2 Whilst the site is generally flat, it sits below parts of United Way which were elevated on bunding at the time of its construction.
- 3.3 The site sits within the Colchester Northern Gateway Framework Area and development for leisure purposes melds beautifully into the overall Council vision for the wider area as a sport and leisure hub not just for North Colchester but the wider town and beyond.

4.0 Description of the Proposal

- 4.1 The proposal consists of four distinct main operational elements:-
1. Sport and leisure facilities within a building (tennis, swimming, gym, studios, changing and clubhouse with bar/restaurant).
 2. Outdoor sport and leisure facilities (tennis (with seasonal dome), pool spa garden and members terrace))
 3. Associated surface car park for club members (246 spaces)
 4. A Multi-Use Games Area (MUGA) for community use.

- 4.2 Members who are familiar with the outline planning permission will know that Condition 5 contains a restriction on the maximum amount of floorspace permissible within certain Use Classes within buildings. One such restriction relates to leisure uses such as that being proposed here. (Use Class D2). That threshold was set at 9290 sq.m. The proposal before members includes a total of 4845 sq.m. (gross internal) within buildings and no other permission has been granted to date for leisure uses. (The Stadium was not included in this restriction and was separately limited to 10,000 seats). This means that there remains some 4445 sq.m. of implementable leisure floorspace available in the event that reserved matters approval is given to the David Lloyd proposal.

5.0 Land Use Allocation

- 5.1 The site benefits from an extant outline planning permission (ref: O/COL/01/1622) for mixed use including D2 uses (assembly & leisure). The wider site, including the site of this application, is allocated as Employment Zone in the current Adopted Local Plan. The proposal before members is in accordance with the outline planning permission of 2006 (ref: O/COL/01/1622) and sits comfortably within the overall 'floorspace within buildings' threshold maximum prescribed by Condition 5 of that permission. (taking into account any other relevant permitted development).
- 5.2 Trees within Severalls Hospital are subject to a TPO but these are not affected by this proposal. Trees within the application site are not formally protected.

6.0 Relevant Planning History

- 6.1 O/COL/01/1622: Outline planning permission granted 21 March 2006 for:-
"Community stadium, health & fitness centre, hotel, pub/restaurant, A3 units, two storey business unit, employment use, associated parking, transport interchange facilities and landscaping".
- 6.2 Condition 2 of that permission allows the submission of reserved matters for 10 years after the date of the original outline planning permission. The submission before Members is well within that timescale
- 6.3 Condition 5 of that permission contains the floorspace maximum thresholds referred to in paragraph 4.2 above. As previously confirmed the reserved matters currently before Members are in conformity with the restrictions in Condition 5.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must 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 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 As this application is a reserved matters submission this report will not dwell on policies that relate to the principle of uses but will rather focus on those that deal with detail.

7.3 The NPPF has three strands of advice that are particularly relevant to the consideration of this application:-

Section 7: Requiring good design; and,
Section 8: Promoting healthy communities; and,
Section 11: Conserving and enhancing the natural environment

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

UR2 - Built Design and Character
ENV1 - Environment

7.4 Reference will also be made to SD3 - Community Facilities when considering what if any contribution the proposed development will bring to the wider community.

7.5 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP4 Community Facilities
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

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

Vehicle Parking Standards
Cycling Delivery Strategy

8.0 Consultations

8.1 **Highways England** recommends that planning permission not be granted until such time as the applicant has produced a satisfactory Transport Statement demonstrating the proposals impact on the A12.

Officer comment:

This response was at the time of writing this report being discussed with Highways England as it is a reserved matters submission subsequent to the grant of outline planning permission following full consideration of a full EIA that included extensive Traffic Impact analysis and proposed mitigation. All highway infrastructure required by Highways England has already been provided. The position of Highways England is considered unreasonable and unnecessary as a result. A verbal update will be provided at the meeting.

8.2 **Essex County Council as local highway authority** raises no objection subject to a condition requiring the proposed access bell mouth to the site being formed prior the use commencing.

8.3 **Essex County Council as sustainable urban drainage authority** has issued a holding objection on the basis that the application contains inadequate technical supporting information and calculations to assess the merits of the proposal.

Officer comment:

The applicant has been advised and is expected to submit additional material.

8.4 **Colchester's own Environmental Control team** raise no objection but comment that in the event of reserved matters approval being granted conditions should be added controlling external lighting.

Officer comment:

This is entirely appropriate and necessary to ensure that future residential development as already approved (outline planning permission ref: O/COL/01/1624 (as amended)) on the adjacent former Severalls Hospital site is not prejudiced through an unacceptable erosion of amenity caused by light pollution from uncontrolled lighting. The current application lacks adequate detail to determine the impact of external lighting, particularly from floodlit tennis courts.

8.5 **Natural England** raises no objection on the basis that the proposal does not affect statutory nature conservation sites. It directs the Council to its standing advice on protected species.

Officer comment:

This is noted and this report considers the supporting reports from the applicant in respect of invertebrates and bats in a subsequent section.

8.6 **The Environment Agency** formally "has no comment to make".

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 Myland Community Council comments as follows:-

"The proposed provision of this facility by a respected national company such as David Lloyd is welcomed by this Council. Its provision will be an asset to the Northern Gateway Development. MCC would support this application in principle but would draw your attention to the following concerns we have on the current application:

1) The site currently has a row of mature English Oak trees, several of which are category A. There are a further three trees of category A bordering the Severalls site. The majority of these will be retained, however, a clump nearest United Way will need to be removed to facilitate car parking space. MCC view the removal of such iconic healthy trees as regrettable and unable to be justified in order to facilitate parking. Consideration should have been made for either reduced parking, multi-storey covered, or indeed perhaps an arrangement with Weston Homes Stadium to share

their facilities. Alternatively use of the Park & Ride car park would be a more environmentally-friendly answer.

2) MCC would wish to register their concern that no mention is made of the Tower Lane footpath which runs along the rear boundary of this site. This registered footpath is also a wildlife corridor and should have been upgraded to a 5m wide bridleway. MCC intend to pursue this matter vigorously if assurances are not forthcoming on its preservation.

3) Comments by CBC Environmental Health draw attention to light pollution levels. MCC is particularly concerned that this guidance is followed. Recent complaints with regard to light pollution have been experienced with the VW Garage on Axial Way and MCC would wish to ensure that this is not repeated, and that lighting integrity is maintained.”

Officer comment:

The Community Council's welcoming of this facility is noted as is their objection and reasoning to the loss of A category trees. The report considers the impact on trees and Tower Lane in detail a little further below. The loss of trees is regrettable and it would have been preferable to adjust the position of the proposed vehicular access if this could have achieved better tree retention. Unfortunately it was not possible to reach agreement on re-providing viable coach parking facilities elsewhere close to the stadium with the Football Club. Moving the access and car park to the far eastern end of the site is not considered appropriate in urban design terms. Whilst the applicants may not have referred to FP233 the Major Development Team is well aware of its existence and is looking to ensure it becomes the centre piece of a more extensive network of paths and bridleways across the Northern Gateway. The proposed development sits beyond the FP but its character will be reinforced by landscaping and habitat creation within the DLL site.

10.0 Representations

- 10.1 **Colchester Cycling Campaign** draws attention to under provision of cycling parking facilities within the layout and urge the upgrading of Tower lane to 4m wide with an easily rideable surface

Officer comment:

The paucity of cycle parking facilities is noted and addressed in this report. It is suggested that that a condition be added requiring the submission of a minimum of 39 cycle parking spaces. Members should note that Essex County Council intends to upgrade Tower Lane from a public footpath to a multi-user route.

- 10.2 **Four expressions of support** have been received welcoming the arrival of DLL and or this type of facility to the town.

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

11.0 Parking Provision

- 11.1 The Adopted Parking Standard requirement (2009) for D2 use of this nature (swimming pools, gyms and sports halls) is as follows:- (no minimum applies)

Max: 1 space per 10 sq.m. of public area.

- 11.2 With a public (indoor) sports area of approx. 2890 sq.m. the maximum requirement would be 289 spaces. **The proposal at 246 satisfies Council vehicle parking policy.**
- 11.3 In order to satisfy the Council's cycle parking standards a minimum of 10 spaces + 1 space per 10 vehicle spaces will be required. This means that in this case 39 spaces are needed to meet the Council's required standard. The proposed layout plan suggests that five cycle stands are to be provided which should be capable of accommodating 10 bikes. **The proposal is therefore deficient in cycle parking but this can easily be remedied by the addition of a condition requiring the provision of cycle parking facilities for 39 bikes.** It is not unreasonable to expect a major leisure provider such as David Lloyd Leisure to meet the Council's cycle parking standard as encouraging health and fitness through enjoyment of sport is a core component of their business model.

12.0 Open Space Provisions

- 12.1 The mandatory provision of open space is usually applied to residential development but David Lloyd Leisure has sought to include provision of facilities for community participation in sport within their development. This is welcomed and shows commitment to the wider ambitions of the Council and the Government to promote opportunities to encourage healthier living. It also ensures that the scheme delivers community facilities for local people.
- 12.2 The proposed Multi-Use Games Area (MUGA) and associated seating is to be located prominently on the site's principle United Way frontage. This will provide an opportunity for public interactivity, street drama and the animation aspired to in the draft Northern Gateway Framework Document. It will be marked out and equipped to facilitate a range of ball games to be played. DLL has offered community use of the space free of charge for 500 hours per annum with use at other times available to the community at :-
£15 per hour for youth and disabled sports organisations and schools (subject to T&Cs)
£25 per hour for other public use

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. It is acknowledged that these (the AQMAs) may have been declared after the original planning permission of 2006 was granted but the location and scale of development is such as not to pose new air quality issues within the latest AQMAs.

14.0 Development Team and Planning Obligations

- 14.1 The scope for the Development Team to influence S106 matters is restricted by the existence of an extant outline planning permission and associated s106 Agreement but the applicant has offered to provide a community MUGA, advertising job opportunities in partnership with the Council and provide free court time in association with the Council and its own tennis coaches.

- 14.2 In considering the merits of this reserved matters submission the Council as local planning authority has had no regard to the Council's position as a provider of non-member commercial fee paying leisure facilities (e.g. Leisureworld and Shrub End Tennis Centre) on the basis that competition is not a material planning consideration.
- 14.3 The Council's economic development team supports the DLL's commitment to work with the Council to publicise job opportunities for locally unemployed people and school leavers.

15.0 Report

15.1 Design, layout scale and massing

- 15.2 The design and layout have undergone various amendments and morphed through myriad incarnations to arrive at a solution that is considered to satisfactorily meet the local planning authority's requirement to deliver a building and associated space that contributes well to the overall quality and character of the Gateway area.
- 15.3 Whilst there is no disguising the fact that what is needed from an operational point of view is a large box to accommodate indoor tennis courts and the other leisure activities the applicants and their architect have responded to officers' urgings for a suitably animated and interesting external appearance.
- 15.4 The proposed roof will provide one of the most striking elements of the design in that it will present its face over a gently arcing profile that resembles the flight path of a descending tennis ball to United Way. This means that the scale of the building is cleverly disguised from the public vantage point of United Way.
- 15.5 The two main sections of main building are treated in design terms as two volumes. This has the distinct aesthetic benefit of breaking down visual impact of the potentially overly 'boxy' geometry as one volume is set back from the other and the roof is treated as two planes with different profiles.
- 15.6 A limited but complementary palette of materials is to be used to create a crisp modern appearance:-
- Roof: metal standing seam
Walls: a combination of Forticrete blockwork, timber cladding and banded composite cladding
Doors, windows & rainwater goods: powder coated aluminium
- 15.7 The overall layout has also been the subject of much negotiation and now includes the retention of a significant section of the existing hedgerow that bisects the site. This is welcome as it will give visual clues as to the previous agricultural character of the site and historic field boundaries.
- 15.8 Originally the outline planning permission envisaged that the entire hedgerow hereabouts would be removed to facilitate development although the emerging draft Northern Gateway Framework document has tried to ensure cohesive and important sections of this natural network are retained.

- 15.9 Outdoor sport and recreational facilities fan out from the main building along the sites southern boundary with Tower Lane. This open character and the inclusion of landscaped areas and attenuation ponds with reinforce the natural margins to Tower lane and has been a benefit of further extensive negotiation.
- 15.10 The associated surface car park has been positioned on the north side of the western end of the site where its visual impact will be less intrusive and sterilising set against the existing large coach parking area to the Western Homes Community Stadium and the car parking beyond. The layout does not preclude the creation of the boulevard /avenue character on land to the east as envisaged in the Framework document.
- 15.11 What will be the exposed eastern edge of the site will screened by new boundary planting. Developers of the adjacent land to the east (CBC owned) will be required to create a new footpath/cycleway along this boundary with its own landscaped margin (east side) to ultimately create a new green link between the Gateway and Severalls.

15.12 Impact on natural environment

- 15.13 The original outline application (as subsequently approved) was accompanied by a full Environmental Impact Assessment (EIA) and development was approved. The current applicant has undertaken an ecological update (invertebrates, bats and trees) and produced an ecological management plan and this has been submitted with the latest reserved matters application.
- 15.14 The bat survey concludes that the proposed mitigation (restrictions on lighting times, replacement roost features and new planting and retention of tree T10) will address the impact of the proposal on known bat habitat/activity. **On this basis it is accepted that provided proposed mitigation is implemented as envisaged then the proposal will not have an unacceptable impact on bats.** The applicant company is legally required to comply with the requirements of the Wildlife and Countryside Act (1981) (as amended) (et al) and may require a bat license from Natural England.
- 15.15 As the invertebrate survey concludes that no mitigation is required no further mitigation is required.
- 15.16 Whilst the proposed development will result in the loss of one category A tree (high quality) and part of a category A tree group due to construction activity where such trees would normally be expected to be retained it is acknowledged that for a development of this nature to proceed in line with the extant outline planning permission some tree loss is inevitable. Whilst it has not been possible to retain all trees/hedgerow it has been possible to secure the retention of other important trees and hedgerow originally envisaged as being lost. **On balance the need to accommodate previously approved development and the mitigation being proposed in terms of extensive new planting and habitat creation are considered to provide suitable compensation.**

15.17 Impacts on Neighbouring Properties

Noise pollution, lighting pollution and odour nuisance

Noise: Four principal sources of possible noise nuisance might be generated by a proposal such as this:-

1. from external plant (including any blowers required to keep the dome inflated)
2. from the use of external sports/leisure facilities (human voices or the sound of sports equipment in use)
3. vehicle noise and doors closing
4. activity within the building (eg music tannoys etc)

Nos. 1, 2 & 4 of these sources of noise are controlled by conditions attached to the original outline planning permission and the applicant is required to satisfy the relevant requirements. The position of the car park is such that it is as remote from future residential development as possible within the site and is alongside existing parking facilities for the stadium where existing vehicle related activity is already established.

Lighting: In view of the lack of lighting detail supporting this application it is not possible to comment on what impacts will result although it can be said that modern lighting solutions are capable of avoiding unacceptable nuisance. The applicant should be required to submit further detailed lighting plans by condition. It is noted that the Severalls masterplan includes a wide area of existing woodland beyond Tower Lane as being retained within the residential layout and it is therefore expected that established dense flora will provide affective masking or softening of lighting impact.

Again it is expected that the Environmental Control team will be able to prevent odour nuisance emanating from the kitchen in the main building through appropriate control of extract plant and ducting.

15.18 Highway Issues

15.19 No new highway issues beyond those considered at outline application stage are raised by this submission and the highway authority has raised no objection.

15.20 Drainage

15.21 The applicant is proposing a series of attenuation ponds and the use of existing ditches to as part of their detailed design response to satisfactorily handling surface water. Whilst the local planning authority welcomes the commitment to SuDS techniques Essex County Council as SuDs authority has commented that the application lacks adequate supporting technical assessments and calculations to enable to solution to be tested for technical adequacy. **On that basis it is considered appropriate to condition the requirement to submit further detail as relates to all drainage aspects of the proposal.**

16.0 Conclusion

16.1 Subject to the addition of further conditions described in this report and receipt of satisfactory detail where appropriate and concluding a legal agreement to secure those benefits offered by the developer the proposed detail is considered acceptable.

17.0 Recommendation

1. SUBJECT TO the signing of a legal agreement, under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to delegate authority to the appropriate Head of Service to complete the agreement and to provide the following, as freely offered by the developer/operator within their operational ethos in building links with the community beyond its own membership:-

- delivery of the proposed MUGA for community use at nil cost to the Council on an agreed basis and for this facility to be retained and managed by DLL(or successors in title) to an agreed standard in the community interest in perpetuity unless otherwise agreed by the Council
- an agreed recruitment scheme which facilitates the Council and the Job Centre being advised of forthcoming suitable job vacancies ahead of the new facility opening
- an agreed user and coaching scheme which allows 200 hours of free court time per annum to nominees being coached by Council coaches

AND

2 SUBJECT TO the receipt of further information showing and/or describing:-

- a. full external lighting details including light spillage diagrams
- b. full external mechanical plant and associated acoustic screening (including dome inflation apparatus)
- c. full drainage details including calculated flow rates and capacity calculations for the attenuation ponds
- d. full external material specification
- e. Highways England confirming in writing that it had not appreciated the reserved matters nature of the proposal and in the light of this it withdraws its objection
- f. full landscaping details

AND THAT INFORMATION BEING CONSIDERED ACCEPTABLE BY THE COUNCIL AS LOCAL PLANNING AUTHORITY (after appropriate discussion with its relevant consultation partners); THEN

3 THE APPROPRIATE HEAD OF SERVICE be authorised to grant planning permission subject to the following conditions: (it is noted that the Head of Commercial Services is responsible for both major planning and estates/regeneration functions of the Council and so the Head of Legal Services needs to be satisfied that delegated authority is exercised by the appropriate Head of Service to ensure that transparency of the planning decision is clear and open)

SUBJECT TO conditions including

- condition to ensure that conditions applied to the outline planning permission ref O/COL/01/1622 where relevant continue to apply
- condition to require the implementation of such details as shall have been approved as a result of this approval or as a result of the additional information required above being submitted and found satisfactory prior to the use commencing and thereafter being retained

- Retention of the community MUGA for community use and not to be incorporated into club membership use
- As may be required by consultees where these are in the view of the local planning authority appropriate

18.0 Positivity Statement

18.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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.