

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
26 April 2012 at 6:00pm**

SUPPLEMENTARY AGENDA

Part A

(open to the public including the media)

Pages

. Amendment Sheet

93 - 97

See Amendment Sheet attached.

AMENDMENT SHEET

Planning Committee
26 April 2012

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

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

7.1 120012 – Chapel Road, Wivenhoe

The Agent has stated that the pitched roof element to the utility room and bathroom on the side cannot be clad in render or boarding. Lead could be used instead of zinc
(Officer Response: Noted. Condition 3 requires the submission and agreement of materials)

Additional comments have been submitted from Wivenhoe Town Council, the Wivenhoe Community Trust (WCT) and solicitors Taylor Vinters on behalf of the WCT (this last was emailed to all the Councillors). These reaffirm that the hall has been used since 2006 by the Gilbert and Sullivan Society and a singing group and focus on whether or not the proposal is compliant with Policy DP4 in relation to the 4 limbs of the policy:

- (i) The proposal application is not a genuine community facility
- (ii) It has not been demonstrated that the existing building is not economically viable for another community use. The WCT has developed a 3 year business plan on the basis of potential community hirers, running costs and restoration costs and are in a position to proceed with the purchase at the asking price.
- (iii) The property was not marketed through residential estate agents and very few local people were aware it was for sale. WCT began negotiations for its purchase in March 2011, but were held back by the previous offer from the applicant.
- (iv) There is not an excess of other community facilities. The William Loveless Hall is used almost to capacity. The police houses recently purchased will need to be rented as houses for at least 10 years to help pay the capital investment to buy them.

Attention has also been drawn to the National Planning Policy Framework (NPPF) and the importance of delivering social and recreational facilities.

(Officer Response: The officer report acknowledges in paragraph 14.9 that the potential community use of the proposal appears limited. The property has been on the market for a substantial period of time, since April 2006 and community groups have been aware of this, but none had the finance to proceed and the refurbishment costs were previously prohibitive. The Council is informed that there is a new offer has been submitted from the WCT, but there is no guarantee that this will proceed if planning permission for this scheme is refused.

The NPPF reaffirms that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration on planning decisions. The NPPF states that Council's should plan positively for the provision of community facilities and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. The Council has an adopted policy (DP4) that addresses this issue. The relevant policies were adopted in 2010 and are in line with the policies in the NPPF. So as far as this application is concerned I do not consider that the NPPF has made any significant policy change. It is for Members to consider if they are happy that the proposal is in line with the Council's adopted policies.)

7.4 120151 – University of Essex, Wivenhoe Park, Colchester

Item withdrawn from the Agenda by the Head of Environmental and Protective Services in order that the design and s106 agreement issues can be explored further. The application will be reported to Committee at a subsequent meeting.

7.6 120158 – Fieldings, School Road, Little Horkesley

For clarification, letters were sent out to consultees stating that amended plans had been received. The description given was: "Demolition of double garage and erection of new double garage of larger plan size (same depth and height)-AMENDED DESIGN 28/3/2012." In fact, the proposed height is slightly lower than the existing.

The neighbour who originally objected has contacted your Officer to state that she does not object and will not be attending Committee. This has not been received in writing however.

Little Horkeley Parish Council has responded as follows:

“The Little Horkeley Parish Council has no objection to the revised plans.”

The Highway Authority has not objected to the amendments.

The agent for the applicant has also contacted us, stating:

“Thank you for the notification regarding the Committee meeting this Thursday. Mr Cavallo and I have discussed this and do not propose to make a further presentation to the Committee. One item which may be of interest to the Committee (it was raised in your report) is the aspect of building at/over the boundary. Chris Tople (Priory Farm Cottage) and Peter Cavallo (Applicant) met on site this weekend and Chris confirmed that the boundary is marked by a metal peg at the road end of the boundary. Lining this through to the rear of the properties (apparently – I haven’t seen this) it looks as though the existing garage’s eaves are built entirely on Mr Cavallo’s land. He has previously sought clarification via the solicitor who did the conveyance but there is no setting-out detail for this boundary other than as discussed between the two neighbours/ this peg.”

This is for Members’ information only, and does not affect the recommendation for approval.

Agenda Item 11 – Scheme of Delegation – Proposed Change of Section 106 Agreements

It is now recommended to extend the amendment to the current Scheme of Delegation to include applications for renewal of an extant planning permission which is the subject of a valid S106 Agreement where there has been no material change of circumstance since the original planning application was considered or when the original agreement was signed. (material factors include changes to relevant adopted planning policies or guidance, relevant impacts arising from the adoption of a CIL regime in the future and relevant physical contextual changes on or around the site) .

As with the position in respect of minor material amendments this change is being recommended on the basis of it currently representing a technical procedural matter that is causing an inefficiency. Normal call-in safeguards will continue to apply.

The report title is therefore now:-

Proposed change to the scheme of delegation to permit the determination of minor material amendment applications that require the amendment of an earlier related S106 Agreement and to permit the determination of renewal applications that require the amendment of an earlier related S106 Agreement where in either case that amendment is triggered by the need to refer to a new planning application number reference and not by any substantive change to the community gain already secured via the original S106 Agreement.

The recommendations are therefore now amended to read:-

- A. That members agree to support a change to the Scheme of Delegation that permits the following to be delegated to the Head of Environmental and Protective Services as an extended category:-**

“Where a minor material amendment application that requires a new S106 Agreement that is to all intent and purpose a mirror of an extant S106 Agreement (or a variation of an existing Agreement) without a material change to Obligations being entered into by the parties who are signatories (or where such changes are already allowed without referral to the Planning Committee virtue of paragraph 23 of the delegated powers) then delegated authority is given to the Head of Environmental and Protective Services to determine that application provided that to do so does not conflict with other restrictions within the Scheme of Delegation.”

- B. Where a renewal of planning consent/permission application that requires a new S106 Agreement that is to all intent and purpose a mirror of an extant S106 Agreement (or a variation of an existing Agreement) without a material change to Obligations being entered into by the parties who are signatories and where in judging the merits of the proposal there has been no material change in circumstances since the original planning application was considered or when the original agreement was agreed (or where such changes are already allowed without referral to the Planning Committee virtue of paragraph 23 of the delegated powers) then delegated authority is given to the Head of Environmental and Protective Services to determine that application provided that to do so does not conflict with other restrictions within the Scheme of Delegation.”**

Material factors that may constitute a change of circumstance include changes to relevant adopted planning policies or guidance, relevant impacts arising from the adoption of a CIL regime in the future and relevant physical contextual changes on or around the site.

- C That the Legal Services Manager and Monitoring Officer be instructed to take the appropriate steps to secure the formal amendment of the Constitution to reflect the change desired by the Planning Committee as described above in recommendation 1.**

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Part B

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Pages

There are no Section B Items