

Application No: 160192

Location: Footbridge, Balcerne Hill, Colchester, Essex

Scale (approx): 1:1250

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Committee Report



Agenda item

7

To the meeting of

Planning Committee

on: **30 June 2016**

Report of: **Head of Professional/Commercial Services**

Title: **Planning Applications**

7.1 Case Officer: Daniel Cameron Due Date: 15/07/2016

MINOR

Site: **Balkerne Hill, Colchester, Essex**

Application No: **160192**

Date Received: 16 February 2016

Agent: Mr Mauricio Jardim

Applicant: Mr Paul Mclean

Development: The proposal is to remove the existing 1.8m wide footbridge and replace with a similar style bridge 3.0m wide. This is to provide a shared facility for both cyclists and pedestrians to have access via this bridge into Colchester Town Centre.

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee as it has been subject to the Member call- in procedure. Former Councillor Frame requested that the application be discussed by Planning Committee as he was concerned that the width of the proposed bridge will lead to health and safety issues.
- 1.2 The application was previously presented to Planning Committee on the 26th May 2016. Members felt that there were several issues left unanswered by the application and deferred their decision until such time as these sufficient information could be provided on those points. For clarity those issues identified included:

- Details of the relevant cycle routes, including cycle route maps, that cross the bridge;
- Whether removal of a Traffic Regulation Order (TRO) from the existing bridge would be an adequate solution to allow cyclists a legal crossing point to access the town centre;
- Investigate whether a white line for the separation of cyclists and pedestrians is required on the bridge;
- Whether it would be possible to install a separate bridge over Balkerne Hill alongside the existing footbridge for dedicated use by cyclists;
- Provide elaboration of the detail of the road safety audit conducted on the design of the proposed bridge with particular regard to the safety of pedestrians using the bridge alongside cyclists; and
- Investigate whether removal of the existing TRO's from Sheepen Road or Crouch Street underpasses would permit cycle usage as an alternative solution to the proposed works to the footbridge.

1.3 These questions have been passed to the applicant and their responses are noted starting at paragraph 15.21 and have been highlighted in italics.

2.0 Synopsis

2.1 The key issues explored below are:

- The impact of the bridge works on the nearby scheduled ancient monument, grade I and grade II listed buildings and conservation area; and
- Health and safety concerns raised by former Councillor Frame.

3.0 Site Description and Context

3.1 The footbridge is located at the western fringe of Colchester Town Centre and provides an east-west pedestrian link over the A134 Westway. To the immediate east of the footbridge lies the 'Hole in the Wall' Public House with the Mercury Theatre building and Balkerne Gardens residential and sheltered accommodation development directly behind the Roman walls and Balkerne gate. To the west lies St Marys multi-storey car park behind which lies terraced residential housing along Crowhurst Road. To the immediate north-west of the footbridge lies the St. Marys Fields residential development.

4.0 Description of the Proposal

4.1 The works proposed are the removal of the existing 1.8m wide footbridge and its replacement with a 3m wide shared use pedestrian and cycle bridge. In order to facilitate a wider bridge some ground works will be required for the extension of the piers which support the bridge and anchor it in place.

5.0 Land Use Allocation

5.1 The area directly to the east of the existing footbridge is allocated as cultural facilities noting the proximity of the scheduled ancient monument, grade I and II listed structures and location of the Mercury Theatre. The area directly to the west is allocated as car parking.

6.0 Relevant Planning History

- 6.1 Following the installation of the footbridge in 1977, there is no relevant planning history associated with the existing footbridge.

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 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

PR2 - People-friendly Streets

TA1 - Accessibility and Changing Travel Behaviour

TA2 - Walking and Cycling

ENV1 - Environment

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

DP1 Design and Amenity

DP14 Historic Environment Assets

DP17 Accessibility and Access

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

- Cycling Delivery Strategy (Adopted January 2012)

8.0 Consultations

- 8.1 Consultation on the application was sought from:

- Essex Highways;
- Colchester Civic Society;
- Historic England; and
- The Ramblers Association.

- 8.2 Colchester Civic Society and The Ramblers Association did not respond to the consultation request.

- 8.3 Essex Highways had no objection to the proposal provided that the following condition was imposed: No works shall be commenced until such time as the full nature of any existing highway right has been ascertained and prior to the way being open for public access any due legal process required to amend the aforesaid right or create the new cycle track should be confirmed.
- 8.4 Historic England also raised no objection to the proposed works. They noted that a separate application had been submitted to the Secretary of State for scheduled ancient monument consent. They felt that while the works proposed had the potential to cause harm to buried archaeological remains in the vicinity of the site, this potential harm was slight and the proposed written scheme of archaeological investigation proposed by the applicant was sufficient to mitigate it. Historic England concluded that the proposed works met the tests prescribed by the NPPF in relation to designated heritage assets.
- 8.5 Further, internal consultation was sought from:
- Archaeological Advisor;
 - Environmental Protection; and
 - Transport Policy
- 8.6 Environmental Protection offered no comments on the application.
- 8.7 Comments from the Archaeological Advisor concurred with those made by Historic England provided that the submitted written scheme of archaeological investigation is secured by condition.
- 8.8 Transport Policy commented that when the A134 Westway was constructed it created a barrier to movement from the west of Colchester to the Town Centre. There are three crossing points for pedestrians but none that cyclists can legally use. Their comments conclude that addressing this issue is consistent with existing adopted policy to promote sustainable modes of transport. It is noted that this will also have positive impacts for air quality within the Town Centre as well as providing an improved facility for pedestrians using the proposed shared use bridge.

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 The site lies within an unparished town centre ward.

10.0 Representations

- 10.1 To date eighteen public representations have been received regarding the application. Six have been received in support of the application. Ten have objected to the application. The remainder have been mixed in their response or have only made general comments.

- 10.2 A summary of the issues raised by the representations is given below:
- Width of the proposed bridge should be increased to at least 4m;
 - Bridge should be constructed with non-slip materials underfoot;
 - Lighting should be provided on the bridge;
 - Bridge should not be a shared use facility;
 - Existing bridge is adequate for the purpose;
 - Project represents a waste of funding;
 - Work should be timed to reduce its impact;
 - A separate bridge should be provided for cyclists;
 - No separate bridge should be provided for cyclists;
 - Essex County Council consultation is inadequate;
 - Guard rails on the bridge are inadequate; and
 - Proposed road closures and diversions are too severe.
- 10.3 Of these issues only those relating to the health and safety of the users of the bridge are considered to be material for the purposes of planning. These will be addressed within the body of the report to follow.
- 10.4 It should be noted that Sustrans, Colchester Cycle Campaign, Colchester Travel Plan Club and the Mercury Theatre have all responded in support of the application.

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

11.0 Parking Provision

11.1 N/A.

12.0 Open Space Provisions

12.1 N/A.

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 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

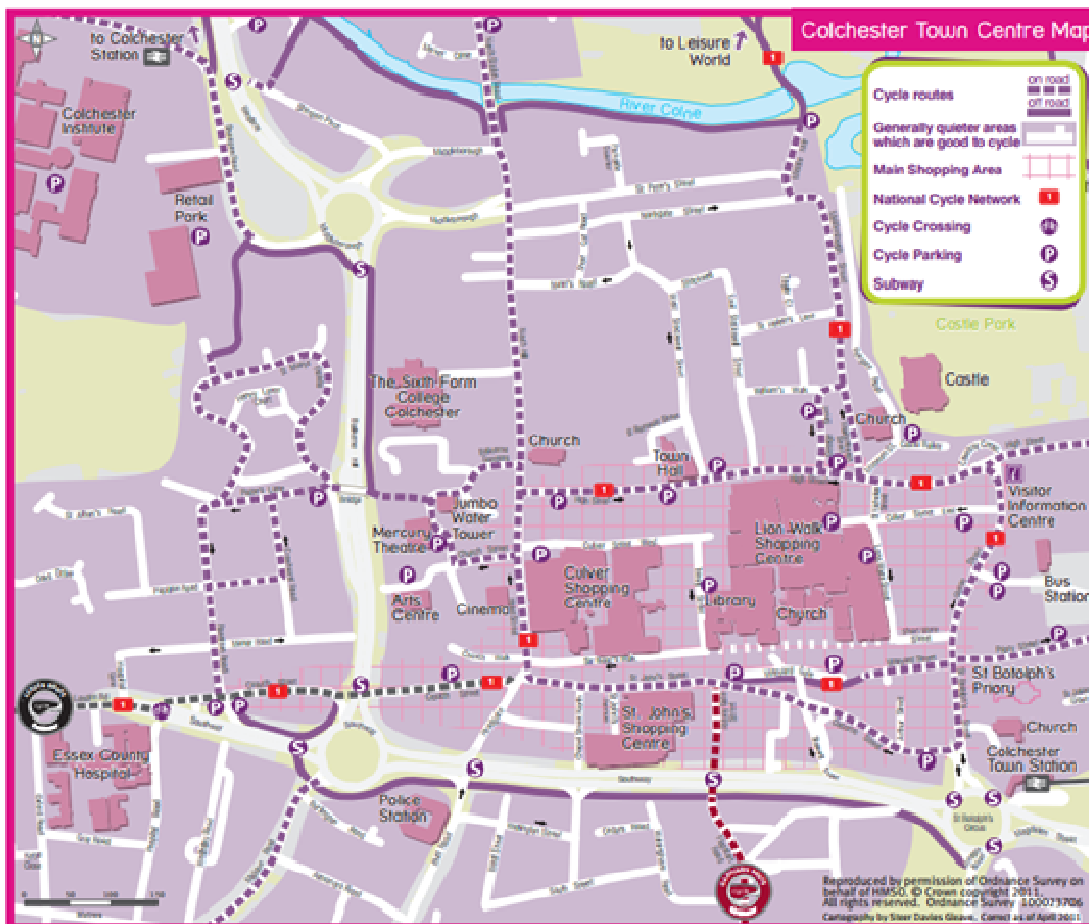
15.1 *Policy Background*

Given the nature of this application and having regard to its location, the two most important planning policy issues to consider are the principle of the development in light of Colchester Borough Council's transportation policies and whether the impacts of the application would be harmful to the heritage assets within the area.

- 15.2 Paragraph 30 of the NPPF states that ‘...encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion...’. Paragraph 35 goes further stating that ‘...plans should protect and exploit opportunities for the use of sustainable modes of transport...’. The development is considered to contribute positively to this aim.
- 15.3 Further policy support is given by Core Strategy policies PR2, TA1 and TA2, as well as Development Policy DP17. Collectively these policies commit the Council to the improvement of the street environment, to change travel behaviour and improve accessibility, and to promote both walking and cycling as ‘...integral and highly sustainable means of transport...’. Further, particular attention should be paid to policy TA2 which specifically notes ‘...the Council will seek to provide excellent walking and cycling connections into and through the town centre...’. Again, the development is considered to accord with these strategic policy objectives.
- 15.4 The adopted Cycling Delivery Strategy covers investment in infrastructure including the filling of gaps within the existing cycling network to provide continuous routes and the upgrading of existing routes. The proposal would improve connectivity in conformity with the aims of the strategy.
- 15.5 With regards to designated heritage assets the NPPF clearly assigns great weight to their conservation stating that ‘...substantial harm to or loss...should be wholly exceptional...’. Paragraph 134 states where any harm would be less than substantial; it should be weighed against the public benefits of the application of the proposed works.
- 15.6 Core Strategy policies UR2 and ENV1 as well as Development Policy DP14 are also highly relevant. They commit the Council to the protection and enhancement of Colchester’s unique history and heritage. Historic England and the Council’s Archaeological Advisor do not object to the proposal on heritage grounds.
- 15.7 *Principle of Development*
The proposed works are intended to link existing cycle routes and provide a safer environment for cyclists. It is also proposed to give further space to pedestrian users of the bridge, to ensure that the pedestrian environment is protected. Further it would create a legal crossing point over the A134 Westway which could be utilised by cyclists. At present there are none.
- 15.8 The scheme is entirely consistent with both national and local transport policy to promote sustainable transport and encourage modal shift. This would also be of benefit to the wider aims of the Council to help address air quality issues within the Town Centre.
- 15.9 With regards to the impact of the works upon the nearby heritage assets, it is not considered that the removal of the existing bridge and its replacement with one broadly similar in terms of design constitutes harm to the setting of either of the grade I or grade II listed buildings, nor would it unduly impact upon the character of the conservation area. In this regard it is clear that the proposed works only constitute slight harm at very worst. This is more than offset by the public benefits identified.

- 15.10 As part of the application a written scheme of archaeological investigation was submitted by the applicant and appraised by both Historic England and Colchester Borough Council's Archaeological Advisor who both concluded that the report was sound and represented adequate mitigation of its impacts. Historic England felt that this was sufficient to satisfy the tests laid out within the NPPF, namely that the benefits of the written scheme overcame any potential slight harm. The carrying out of the scheme will be secured by condition.
- 15.11 Members should note that due to the proximity of the Balcerne Gate and Town Walls both of which are designated as Scheduled Ancient Monuments, separate consent is required from the Secretary of State for the works proposed. It is understood that the applicant has recently been granted this consent.
- 15.12 *Health and Safety Issues*
The proposed design of the bridge is similar to that of the one already in place on site with the notable exception that its width has been increased so that it now measures 3m across. The structure is enclosed by metal railings with handrail along its edges.
- 15.13 The material public representations received centre on the possible conflicts between cyclists and pedestrians utilising the proposed new bridge. Suggested solutions include the widening of the proposed bridge to 4m or the erection of a separate cyclist only bridge.
- 15.14 These issues were discussed with the applicant during the course of the application. They have responded that a bridge wider than 3m would entail far more engineering complexity, with substantially more work being required to construct the supporting piers of the bridge. Further, they comment that a wider bridge could potentially encourage misuse as it would be wide enough to accommodate a car. Far greater safety equipment would therefore be required to prevent this occurring, while a narrower span would accomplish this naturally.
- 15.15 ECC also commented that a 3m wide structure would be enough to accommodate the number of cyclists estimated to make use of the bridge, while helping to manage the speed which cyclists are able to cross the bridge at. They note that a wider bridge leads to encouragement of greater speed, which in turn may lead to greater conflict.
- 15.16 The safety audit carried out by Ringway Jacobs on behalf of ECC on the proposed bridge structure raised no issues concerning either its width or the height of the proposed handrails. Further, appropriate signage for the shared use nature of the bridge will be provided as part of the design. It has been conditioned that this is installed prior to the first beneficial use of the bridge.
- 15.17 *Impact on Neighbouring Properties*
In terms of outlook from the neighbouring properties the design of the proposed bridge will have no material impact, other than the fact it is wider than the bridge currently in place. The greatest imposition on the neighbouring properties is the build programme for the replacement bridge during which the existing bridge will be removed for a period of two months.

- 15.18 During this time alternative crossing points would have to be used by any pedestrians or cyclists wishing to cross the A134 Westway. The closest crossing is the signal controlled crossing at Crouch Street. However, the subway at Sheepen Road could also be utilised.
- 15.19 Given the close proximity of the alternate routes, the inconvenience of the works is not considered to be an undue hardship upon the neighbouring properties or pedestrians.
- 15.20 Road closures during the proposed works are to be scheduled so that the majority of the larger scale road closures take place at night. The only notable closure is that of the slip road which connects St. Marys car park with the A134 Westway, with motorists instead being diverted into the one-way system along Rawstone Road.
- 15.21 *Cycle Routes – The map below, produced by Cycle Colchester, indicates the connection between on and off road cycle routes either side of the existing bridge. A full sized, colour copy has been attached. Alternatively copies can be viewed online at www.colchester.gov.uk/cycling or www.essex.gov.uk/cycling.*



- 15.22 *Cycle Routes – Further to the map above, Essex County Council are keen to stress a courteous approach is essential to interactions between cyclists and pedestrians on shared facilities and in particular the danger that cyclists can pose. This is emphasised within their free Bike-Ability training sessions as well as on copies of their physical cycle maps.*

- 15.23 *TRO on current bridge – It has been confirmed that presently, the bridge is too narrow to allow it to be used by cyclists and that a TRO allowing this use could not be placed on the bridge given its current width, it will require the widening proposed within this application to enable this access.*
- 15.24 *White line to denote separation of users – Essex County Council has confirmed that they do not intend to segregate users of the proposed bridge. They wish to avoid introducing a possessive mentality to the users of the bridge which can arise when dedicated areas are used. They confirm that all safety aspects of this has been considered and analysed within the safety audit. Further this shared space mentality will be reinforced through signage erected on the proposed bridge.*
- 15.25 *Options for a second bridge – A second bridge would require significant alteration and engineering work to facilitate its installation. This would substantially increase the cost of the overall project making it unviable. If the project were financially viable, the existing bridge would not be usable for the duration of any works by the public due to the proximity of the second bridge works to it. It is likely that due to the additional engineering work required to install a second bridge that works may run past the eight week closure required for the proposed replacement bridge and may also require the closure of the A134 Westway to a greater degree than that required for the proposed replacement bridge.*
- 15.26 *Further detail of safety audit – Essex County Council has now submitted details of their safety audit (Ringway Jacobs) which is attached to this report. Potential conflict between cyclists and pedestrians has been carefully considered throughout and the solutions suggested by the audit have been incorporated into the final design of the project. In particular attention has been paid to the need for tactile paving on the approach to the bridge so that partially sighted pedestrians are aware they are in an area that may be used by cyclists, further clear signage indicating the shared nature of the proposed bridge is to be displayed.*
- 15.27 *Removal of nearby TRO's – The existing subways are pedestrian only facilities and will require conversion or other such works to allow for their use by cyclists. This option would require further investigative work to determine what would be necessary to allow this conversion. Should such works be possible, it is thought that removal of the TRO's would complement the works at the bridge and would offer a number of legal crossing points for cyclists accessing the town centre. However, it should be noted that it may not prove possible to accomplish these works as existing constraints may curtail them.*

16.0 Conclusion

- 16.1 The proposal is in general conformity with relevant national and adopted local policy, will provide improved facilities for both pedestrian and cyclist users of this popular east-west route to the Town Centre. The nature of the development makes it necessary that some disruption will occur during the construction works. However, this is not held to be of sufficient weight to outweigh the benefits of the improved facilities which will be provided as part of this application.

- 16.2 An adequate health and safety audit has been completed on the proposed design of the bridge and has not raised any comments or concerns over either the width of the new bridge or the height of its handrails. A wider structure should reduce any current conflict between users of the bridge, although it should be noted that it is impossible to remove this completely.
- 16.3 The impact of the bridge upon the designated heritage assets is slight at worst and any undue impacts upon underlying archaeology in the area has been suitably mitigated through a written scheme of investigation which has been endorsed by both Historic England and Colchester Borough Council's Archaeological Advisor.
- 16.4 In light of answers being provided by the applicant to address the concerns raised by Planning Committee at their meeting of the 26th May, the officer recommendation remains as originally set out within this report.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions:

18.0 Positivity Statement

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.

19.0 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 BR0900-01- 0401; BR0900-01-0202; and BR0900-01-0203.

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

3 - Materials to be Agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

4 - Surfacing Material to be Agreed

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable accessways, driveways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

Reason: There is insufficient information within the submitted application to ensure that these details are satisfactory in relation to their context and where such detail are considered important to the character of the area.

5 - Non-Standard Condition/Reason

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with the Written Scheme of Investigation that has been submitted with the application. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Colchester Borough Council's Core Strategy (2008), revised July 2014.

6 - Non-Standard Condition/Reason

Prior to the first beneficial use of the development hereby approved new instructional and directional signage shall be erected within its vicinity to inform users of its change of status to a shared surface facility.

Reason: To ensure that the general public is made aware of the change in status of the bridge.

20.0 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) All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

(5) No works shall be commenced until such time as the full nature of any existing highway right has been ascertained and prior to the way being open for public access any due legal process required to amend the aforesaid right or create the new cycle track should be confirmed.

(6) Prior to work commencing an alternative walking route to access the town centre should be clearly signposted for the benefit of anyone wishing to access the town centre from St. Marys car park or vice versa. Further detail of the works should be shared with residents and neighbouring businesses.