



Application No: 152512

Location: Merlin Swimming Pools, 243 Berechurch Hall Road, Colchester, CO2 9NP

Scale (approx): 1:1250

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7.4 Case Officer: Chris Harden Due Date: 05/02/2016

MINOR

Site: **243 Berechurch Hall Road, Colchester, CO2 9NP**

Application No: **152512**

Date Received: 20 November 2015

Agent: Mr Maurice Denney

Applicant: Merlin Leisure Group

Development: Proposed teaching swimming pool.

Ward: Shrub End

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 it has been called in by Councillor Lyn Barton on the grounds of concerns about the following:

1. Current plans do not show the new development which has been built alongside the proposed pool so the plans are incorrect;
2. Pump etc is sited alongside residential property;
3. Concerns about chlorine in a residential area;
4. Loss of amenity and concerns about parking if all the retail units on the site are remaining.

2.0 Synopsis

2.1 The key issues explored below are the policy principles, design, scale and form of the building and the impact on residential amenity and highway safety. It is considered that in policy terms the proposal can be supported and that the design, scale and form of the building is acceptable in this context and would not detract from the character of the street scene and its surroundings. It is also considered that there would not be a significant detriment to neighbouring residential amenity. There would also not be a detriment to highway safety, and adequate parking and manoeuvring space would be available.

3.0 Site Description and Context

3.1 The site lies within the physical limits of Colchester and is currently the commercial premises of Merlin Swimming Pools. There are residential properties on either side of this commercial site.

4.0 Description of the Proposal

- 4.1 The proposal is for the erection of a teaching swimming pool building which would measure 13.25 metres in length, 7.5 metres in width and 4.6 metres to the ridge of the pitched roof. It would have red/brown roof tiles and brown stained boarding to match the existing buildings. An existing Polytunnel building of a similar size would be removed to make way for the new pool building which would be attached to the rear of the existing single storey entrance area and office building.
- 4.2 The pool itself would measure 10 metres by 4.5 metres. Other commercial buildings associated with the swimming pool company would remain to the North-West of the site. Another smaller building to the rear of the site would be removed to provide extra parking spaces. A plant room and changing rooms would be located in the South-Western part of the building close to the side boundary. A total of 35 car parking spaces on the overall site would be provided although at a size of 2.4 x 5.5 which is a little narrower than the latest recommended parking space size. Twelve of these spaces would be set aside for the swimming pool use. Hours of use are proposed to be 09:00 to 17:30 Monday to Friday (10:00 to 16:30 in winter) and 09:00 to 17:00 on Saturday with no use on Sundays and Bank Holidays.
- 4.3 The applicant states that the swimming lessons will be provided by qualified instructors and normally based on half hour sessions. There would be a maximum of six children per session, by appointment. The administration of the pool will be separate to the adjacent offices owned by Merlin Pools and Spas. The applicant also states that there is a shortage of such pools available for teaching purposes in the area.
- 4.4 The applicant has submitted an additional plan showing the recently constructed residential properties on either side of the site and also the parking spaces for the pool use. The applicant also states "There will be no noise from our plant room as there are no large intakes for the Calorex dehumidification system. There are two small fresh air outlets to the main roof and these both come within the decibel law. The main building, including the plant room and changing room are highly insulated wall structure plus the plant room door which means no noise. There will be no chlorine gases as this is an indoor swimming pool which is run on an ionisation system which reduces chlorine levels down by 85%."

5.0 Land Use Allocation

- 5.1 Predominantly residential.

6.0 Relevant Planning History

- 6.1 There have been a number of planning applications determined in relation to the site. The most relevant recent approval was for a showroom and office extension in 2011 (111565). There has been recent residential redevelopment of the sites on either side of the application site.

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:

SD1 - Sustainable Development Locations
SD3 - Community Facilities
UR2 - Built Design and Character
ENV1 - Environment

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

DP1 Design and Amenity
DP4 Community Facilities
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP19 Parking Standards

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

- Community Facilities
- Vehicle Parking Standards
- Sustainable Construction
- Open Space, Sport and Recreation
- External Materials in New Developments

8.0 Consultations

8.1 Highways Authority states: This Authority has assessed the highway and transportation impact of this proposal and whilst it is noted that the parking space dimensions do not accord with current policy standards if the Local Planning Authority are minded to grant permission and will raise no objection as it is not contrary to the following policies:-

- A) Safety - Policy DM1 of the Highway Authority's Development Management Policies February 2011
B) Accessibility - Policy DM9-12 of the Highway Authority's Development Management Policies February 2011
C) Efficiency/Capacity - Policies DM13-15 of the Highway Authority's Development

- 8.2 Environmental Health have no objections and recommend the following conditions and advisory notes:

Limits to Hours of Work

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

Noise

We note that there are residential properties on both sides of the site and wish to ensure that noise

is not detrimental to the residential amenity and therefore recommend the following conditions:

Restriction of Hours of Operation

The use hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Weekdays: 09:00-17:30

Saturdays: 09:00-17:00

Sundays and Public Holidays: No operation.

A close-boarded fence 2 metres in height shall be erected along the boundary of the car park and existing residential properties.

Site Boundary Noise Levels (for fixed plant)

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Sound Insulation on Any Building

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

Light Pollution for Minor Development

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

NOTE: Demolition and Construction

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 Parish Council have made no observations.

10.0 Representations

10.1 4 letters of objection have been received which make the following points:

- Live in Catkin Mews next to the site: Development will create chlorine gas and smell of chlorine, causing air pollution of the surrounding area which includes Catkin Mews. Could be a potential health risk and very unpleasant for the residents. We won't be able to enjoy using our amenity areas.
- According to the Sports Council guidelines for swimming pools flues, air intakes, ventilation and extract louvers/cowls should be positioned away from public residential areas. Plant room would be situated next to Catkin Mews and would be 24 hr disturbance. Should be on other side of building.
- Flues, air intakes, ventilation and extract louvers/cowls should be positioned away from public residential areas on other side of building.
- Will cause ongoing noise and disturbance from children/people arriving, participating in and leaving the swimming lessons. Will affect us in the day as a number of us are home then.
- Noise from changing rooms and showers next to boundary.
- During construction there will be excessive noise, vibrations, traffic, dust, dirt and debris.
- Concerned that Catkin Mews will become an 'overflow' car park? if there is ever a shortage of car parking spaces.
- No need for yet another swimming/training pool in the Colchester area. Other pools are in non-residential areas.
- Surely a change of use of the existing facility on the site? The existing business constitutes no noise, smells or parking problems. I wish for it to stay that way.
- Would detract from the quality of life and have a considerable negative impact on the pleasant living conditions.
- Submitted plans are not a true reflection of what actually exists at present on the site.
- Concerned about the parking issues and traffic. Berechurch Hall Road is a very busy road and difficult to cross at the best of times. Does not appear adequate parking to accommodate even small coaches. Where will staff park?
- Merlin Pools is currently a small retail unit. Existing unit at Merlin Pools is 60.25m² and the proposed pool hall will be 137m², over twice the size.

- 15 parking spaces along the boundary fence of Catkin Mews, which will seriously affect the residents with constant usage and exhaust fumes.
- Proposed structure will be considerably higher than the existing poly tunnels.
- Would have a detrimental effect to the value of our properties and any ability to sell.
- Will block out sunlight.
- Increase in footfall / members of the public visiting with possible increased risk to the security of our homes and privacy to our homes, gardens and amenity areas.
- Human error can occur and acid can be placed into the chlorine container. This will produce deadly chlorine gas.

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

11.0 Parking Provision

11.1 35 spaces of 5.5 m x 2.4 m for the site overall (12 spaces for the pool use itself).

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

Principle

15.1 Having regard to the abovementioned National and Local Plan Policies and the location of the site, it is considered that the principle of the swimming pool being located on the site can be supported. The site is in a sustainable location, with access from a main road and it is close to Colchester and services. The site is currently a commercial premises and the swimming pool itself is to be a commercial operation. The employment use of the site will therefore be retained which is beneficial to the economy and accords with the national and local policy aims of promoting the economy. There would also be the provision of a community facility in the form of a teaching swimming pool. The proposal should therefore be judged on its detailed planning merits.

Scale, design and layout

- 15.2 It is considered that the scale, design and layout of the swimming pool building is acceptable in this context. The pool building would replace an existing polytunnel and would be on a similar footprint. It would be slightly taller to the ridge of its pitched roof but would be an attractive design that would relate well to the other buildings on the site. Indeed it would represent a visual improvement compared to the polytunnel, with its dark brown stained boarding matching the existing buildings on the site. The red/brown tiling would also be in keeping with other buildings on the site. Overall it is not considered that the building would detract from the character of its surroundings or from the street scene.

Impact upon neighbouring residential amenity

- 15.3 It is not considered that there would be any significant impact upon neighbouring residential amenity from the pool. The swimming pool itself is relatively small scale and such buildings are well insulated in respect of noise containment from the swimmers. The applicant has confirmed that there would be a maximum of six children being taught at any one time and this can be conditioned. The conditions recommended by Environmental Protection can be applied regarding the insulation of the building and the hours of use of the building. In addition it is concluded that there would not be any impact upon neighbouring properties from smell from chemicals used in the pool. The applicant has confirmed that only a very low amount of chlorine is used in such pools and Environmental Protection have confirmed that this is the case otherwise there would be an impact upon swimmers.
- 15.4 Similarly, whilst the plant room is close to the neighbouring boundary, it is not considered that this would cause a problem in respect of noise. Environmental Protection have recommended a condition to ensure that noise from any plant and equipment does not exceed 0Db(A) at all of the site boundaries. The agent has confirmed the plant room is well insulated. A condition will also be applied to ensure the erection of a 2 metre high boundary fence.
- 15.5 A condition will also be applied to minimise any intrusion from light pollution, as recommended by Environmental Protection and with the applicant. This should ensure that the amenity of the surrounding area is safeguarded from any detrimental impact from any lighting on the site.
- 15.6 There should not be any additional impact upon neighbouring residential amenity from vehicular movements as the site already has parking and manoeuvring facilities and the hours of use of the pool and associated activity will be controlled by condition.
- 15.7 Overall, subject to the application of the above-mentioned conditions suggested by Environmental Protection, it is not considered there would be any significant detriment to neighbouring residential amenity from the use of the pool. The concerns of the neighbours have been analysed in detail and discussed with Environment Protection. Accordingly, appropriate conditions have been applied.

Highway Issues

- 15.8 It is not considered there would be any detriment to highway safety from the proposed use. The Highways Authority have raised no objections to the scheme. The access to the site has adequate visibility in either direction and the provision of 35 car parking spaces on the overall site including 12 for the pool itself is considered to be an appropriate level. There is also room for minibuses if necessary.

16.0 Conclusion

- 16.1 It is considered that the scale, design and layout of the proposal is acceptable and would not detract from the character of its surroundings. Subject to appropriate conditions it is also not considered there would be any significant detriment to neighbouring residential amenity. There would not be any impact upon highway safety and there would be adequate parking provision.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions:

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 COL/325/15/5, received 20/11/15 and location plan received 5/1/16, COL/325/15/4A & COL/325/15/6 A received 22/1/16.

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

3 - Materials as Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

Reason: To ensure that materials are of an acceptable quality appropriate to the area

4 - Non-Standard Condition/Reason

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

5 - Non-Standard Condition/Reason

The use hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Weekdays: 09:00-17:30

Saturdays: 09:00-17:00

Sundays and Public Holidays: No operation.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

6 - Non-Standard Condition/Reason

A close-boarded fence 2 metres in height shall be erected along the boundary of the car park/swimming pool and existing residential properties prior to first use of the swimming pool and thereafter retained as such.

Reason: In the interests of neighbouring residential amenity.

7 -Non-Standard Condition/Reason

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

8 - Non-Standard Condition/Reason

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application. No external doors or windows to the pool room shall be open (apart from necessary access and egress) when teaching takes place.

9 - Non-Standard Condition/Reason

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone E22 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

10 - Non-Standard Condition/Reason

Prior to the first use of the swimming pool, 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 to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

11 - Non-Standard Condition/Reason

A maximum of 6 swimmers shall be taught in the swimming pool at any one time.

Reason: In the interests of the amenity of the area.

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.

20.0 Positivity Statement

20.1 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.