

# Planning Committee

Town Hall, Colchester  
3 January 2013 at 6.00pm

## **This committee deals with**

planning applications, planning enforcement, public rights of way and certain highway matters.

If you wish to come to the meeting please arrive in good time. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

# Information for Members of the Public

## Access to information and meetings

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## **Material Planning Considerations**

The following are among the most common issues which the Planning Committee can take into consideration in reaching a decision:-

- planning policy such as adopted Local Development Framework documents, for example the Core Strategy, Development Plan Documents (DPDs) and the Site Allocations DPD, Government guidance, case law, previous decisions of the Council
- design, appearance and layout
- impact on visual or residential amenity including potential loss of daylight or sunlight or overshadowing, loss of privacy, noise disturbance, smell or nuisance
- impact on trees, listed buildings or a conservation area
- highway safety and traffic
- health and safety
- crime and fear of crime
- economic impact – job creation, employment market and prosperity

The following are among the most common issues that are **not** relevant planning issues and the Planning Committee cannot take these issues into account in reaching a decision:-

- land ownership issues including private property rights, boundary or access disputes
- effects on property values
- restrictive covenants
- loss of a private view
- identity of the applicant, their personality or previous history, or a developer's motives
- competition
- the possibility of a "better" site or "better" use
- anything covered by other legislation

## **Human Rights Implications**

All applications are considered against a background of the Human Rights Act 1998 and in accordance with Article 22(1) of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003 there is a requirement to give reasons for the grant of planning permission. Reasons always have to be given where planning permission is refused. These reasons are always set out on the decision notice. Unless any report specifically indicates otherwise all decisions of this Committee will accord with the requirements of the above Act and Order.

## **Community Safety Implications**

All applications are considered against a background of the implications of the Crime and Disorder Act 1998 and in particular Section 17. Where necessary, consultations have taken place with the Crime Prevention Officer and any comments received are referred to in the reports under the heading Consultations.

## **Equality and Diversity Implications**

All applications are considered against a background of the Council's Equality Impact Assessment (EIA) Framework in order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination. The legal context for this framework is for the most part set out in the Equality Act 2010.

# COLCHESTER BOROUGH COUNCIL PLANNING COMMITTEE 3 January 2013 at 6:00pm

## Members

Chairman : Councillor Theresa Higgins.  
Deputy Chairman : Councillor Helen Chuah.  
Councillors Nick Barlow, Nigel Chapman, Peter Chillingworth, John Elliott, Stephen Ford, Sonia Lewis, Cyril Liddy, Jackie Maclean, Jon Manning, Nigel Offen, Philip Oxford and Laura Sykes.

**Substitute Members** : All members of the Council who are not members of this Committee or the Local Plan Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-  
Councillors Lyn Barton, Mary Blandon, Mark Cable, Barrie Cook, Nick Cope, Beverly Davies, Annie Feltham, Marcus Harrington, Dave Harris, Jo Hayes, Pauline Hazell, Peter Higgins, Brian Jarvis, Michael Lilley, Sue Lissimore, Colin Mudie, Gerard Oxford, Will Quince, Lesley Scott-Boutell, Terry Sutton, Anne Turrell, Dennis Willetts and Julie Young.

## Agenda - Part A

(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief and agenda items may be considered in a different order if appropriate.

An Amendment Sheet is circulated at the meeting and is available on the council's website by 4.30pm on the day of the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm on the day before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

## Pages

### 1. Welcome and Announcements

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;

- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

## **2. Have Your Say!**

The Chairman to invite members of the public to indicate if they wish to speak or present a petition on any of items included on the agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

## **3. Substitutions**

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

## **4. Urgent Items**

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

## **5. Declarations of Interest**

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would

reasonably regard as so significant that it is likely to prejudice the Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

## **6. Minutes**

The minutes of the meetings held on 29 November 2012 and 13 December 2012 will be submitted to the meeting on 17 January 2013

## **7. Planning Applications**

In considering the planning applications listed below, the Committee may choose to take an en bloc decision to agree the recommendations made in respect of all applications for which no member of the Committee or member of the public wishes to address the Committee.

1. 121353 Land adjacent (south), Grange Road, Tiptree **1 - 27**  
(Tiptree)

Variation/removal of conditions 27,28 and 34 of planning permission 091627

2. 122071 57 Rosabelle Avenue, Wivenhoe **28 - 35**  
(Wivenhoe Quay)

Proposed two storey side extension

## **8. Enforcement Report // Application no. 121353 Land adjacent (south), Grange Road, Tiptree 36 - 38**

See report by the Head of Environmental and Protective Services

## **9. Exclusion of the Public**

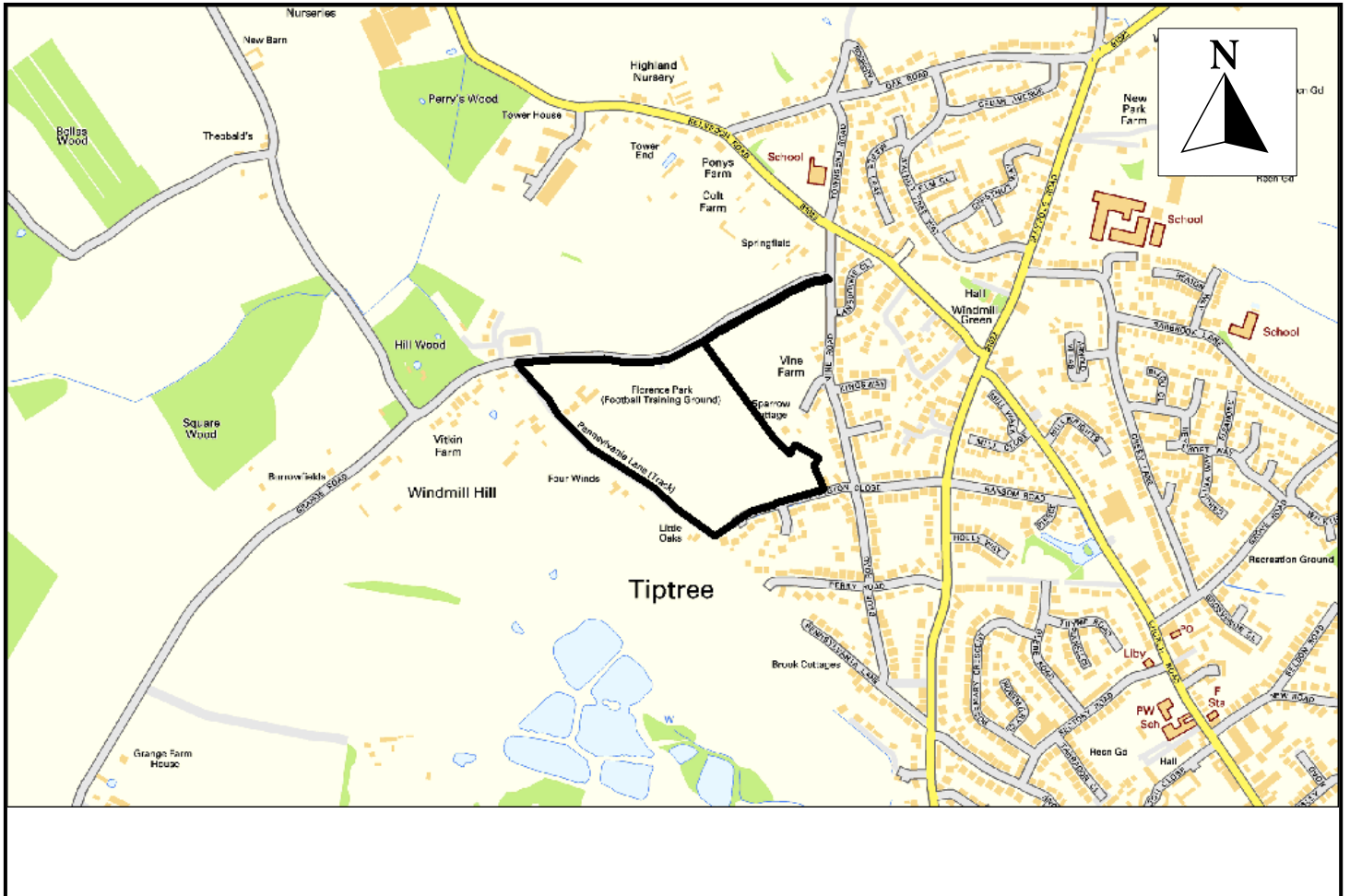
In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

## **10. Amendment Sheet 39 - 40**

See amendment sheet attached







**Application No:** 121353

**Location:** Land Adjacent (South), Grange Road, Tiptree, Colchester

**Scale (approx):** NOT TO SCALE

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# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **3 January 2013**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

**7.1 Case Officer: Mark Russell**

**MAJOR**

**Site:** Land Adjacent (South), Grange Road, Tiptree, Colchester  
**Application No:** 121353  
**Date Received:** 20 July 2012  
**Agent:** Lawson Planning Partnership  
**Applicant:** Colchester United Football Club Ltd  
**Development:** Variation/removal of conditions 27, 28 and 34 of planning permission 091627.  
**Ward:** Tiptree

**Summary of Recommendation:** Delegate to Head of Environmental & Protective Services subject to the signing of a legal agreement

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

- 1.1 This application is referred to the Planning Committee because of the amount of objections and because of the public and wider interest which has been aroused.
- 1.2 The application was deferred from the meeting of 29<sup>th</sup> November as the venue was not sufficiently large to accommodate the large number of people attending.

- 1.3 It has also been requested that the relationship between Colchester United Football Club (CUFC) and Colchester Borough Council be plainly stated:

There is *no* direct financial relationship between the Council itself and CUFC. CUFC are, however, tenants of Colchester Community Stadium Limited which is an arms length company limited by shares created and wholly owned by the Council to manage the Community Stadium. The published accounts of the Company can be found at <http://www.colchester.gov.uk/article/2176/Statement-of-Accounts---Colchester-Community-Stadium-Limited>.

- 1.4 It has been further requested to plainly spell out what the existing hours are, and what the proposed hours are. For the benefit of doubt, these are as follow:

August to April

Mon - Fri: 10:30 – 13:00 (exstg) 09:30 – 15:30 (proposed) ½ hr break, no Wednesday  
Saturdays: 10:30 – 13:00 (existing), 10:00 – 13:00 (proposed)  
Sundays: No Use (existing) 10:00 – 13:00 (proposed)

May and June

Monday - Friday: 10:30 – 13:00 (existing) No Use (proposed)  
Saturdays: 10:30 – 13:00 (existing) No Use (proposed)  
Sundays: No Use (existing) No Use (proposed)

July

Monday – Friday: 10:00 – 18:00 (break 13:00 – 14:00);  
Saturdays: 10:30 – 13:00 (existing) 10:00 – 13:00 (proposed)  
Sundays: No Use (existing) No Use (proposed)

NB: These hours do not apply to the community pitch which can be used up to three times a week and has much longer hours.

- 1.5 Apart from these two points, paragraphs 14.19 and 16.1 contain minor additions, condition 27 reflects the fact of non-use on Wednesdays in July and extra condition 4, relating to use of pitches on Sundays has been amended. Other than this, the report reads as previously.

## **2.0 Synopsis**

- 2.1 The following report sets out the Site history of the land to the south of Grange Road, Tiptree, (also known as Florence Park) which is in use as the Colchester United Football Club training ground.
- 2.2 The original proposal to extend hours of use to all day Monday to Friday (previously only two and a half hours per day) and to include use on Sundays (previously not permitted) is described in detail. This has, as a backdrop, a desire on the part of the club to maintain Category 2 status in the Elite Player Performance Plan (EPPP).
- 2.3 An amended set of hours is then discussed, this includes shortening the days to 3:30pm and having a day of non-use as well as longer hours in the late pre-season and weeks of non use prior to this.

- 2.4 Letters and emails from objectors (mainly residents) and supporters (mainly living more remotely) are looked at. These related to noise nuisance as well as Highway concerns and the fact that the club had flouted the existing conditions.
- 2.5 Also proposed is the relaxation of the 40 metre buffer (from pitch to houses) to relate only to existing and not proposed new houses.
- 2.6 The third strand of the application is to allow more than two pitches to be used at any one time.
- 2.7 The issue of noise is then looked at in some detail with analysis and findings from our Environmental Control team. This originally proposed a careful expansion of times, with the exclusion of Sunday usage, and a rewording of the condition allowing more than two pitches to be used at the same time, whilst accepting the change to the buffer condition. An amended set of hours is then discussed, and Environmental Control is broadly in agreement with this.
- 2.8 Highways issues, in terms of intensified use and possible conflict with school traffic are then considered and the Highway Authority's view on these points in the context of proposed speed restrictions are looked at.
- 2.9 The conclusion is then reached that the variation to condition 28 (the buffer) is allowed, condition 34 (more than two pitches up to six times a year) is allowed and the amended condition 27 (hours and days of use) is allowed.

### **3.0 Site Description and Context**

- 3.1 Florence Park is a purpose built training facility comprising five pitches and a club house. It is surrounded by disused farmland (zoned for housing), existing houses and paddocks and Grange Road itself which still has a rural feel to it with hedgerows on one side and a new footway on the other.

### **4.0 Description of the Proposal**

- 4.1 The application proposal was initially as follows:

Condition 27: The use of the Colchester United Training Pitches hereby permitted shall not operate outside the following times: 10.00 am to 6.00 pm Monday to Saturday and 10.00 to 1.00pm on Sundays.

Condition 28: At no time shall the boundary of any sports pitch be laid out or located closer than 40 metres to a residential curtilage that was in existence on the date on which planning permission was originally granted.

Condition 34: The use of the proposed four training pitches shall be restricted to use by Colchester United Football Club (CUFC) only, or for any community use that may otherwise be agreed by CUFC, and shall be restricted to the use of a maximum of two of these training pitches at any time, unless otherwise agreed in writing by the local planning authority.

4.2 Following a meeting with the club's representatives, an amended proposal was put forward as follows:

Condition 27: The use of the Colchester United training pitches hereby permitted shall not operate outside the following times:

i) August - April (inclusive)

- Mondays, Tuesdays, Thursdays & Fridays – 09:30 – 15:30 (with half an hour lunch break);
- Wednesdays – no use (unless the club has a Thursday fixture, in which case the 'no train' day will be swapped for another weekday during the same week);
- Saturdays – 10:00 – 13:00;
- Sundays – 10:00 – 13:00 (limited to children's football)

(Note – Limitations referred to above under this Condition exclude other community use which is separately permitted)

ii) Mid-May - June

- No use of pitches (unless one of the six scheduled sessions referred to below, or as otherwise agreed);

iii) July

- Mondays to Fridays – 10:00 – 18:00 (with an hour lunch break 13:00 – 14:00);
- Saturdays – 10:00 – 13:00;
- Sundays – no use.

Condition 28: No change from the above

Condition 34: More than two pitches to be used at the same time on up to six occasions per year.

*OFFICER'S COMMENTS: Some slight re-wording is suggested, which tweaks the times, replaces the word 'pitches' with 'ground'. Also, specific types of use are allocated to the weekends to prevent general use.*

## **5.0 Land Use Allocation**

5.1 Open Space including sport and recreational facilities.

## **6.0 Relevant Planning History**

- 6.1 090217 – Change of use of agricultural land to sports field, minor regarding and drainage of playing area, with associated vehicle parking area and vehicular access from Grange Road. Community usage of one pitch proposed. REFUSED 1<sup>st</sup> July 2009;
- 6.2 091115 - Change of use of agricultural land to sports field, minor regrading and drainage of playing area, with associated vehicle parking, vehicular access from Grange Road and provision of cycle/footway links to Harrington Close and Vine Road.(Resubmission of 090217) REFUSED 9<sup>th</sup> November 2009;
- 6.3 091117 – Change of use of agricultural land to sports field, minor regarding and drainage of playing area, *erection of associated building for changing rooms* and ancillary accommodation, water tank, vehicle parking, vehicular access from Grange Road and provision of cycleway/footway links to Harrington Close and Vine Road. REFUSED 9<sup>th</sup> November 2009;
- 6.4 091627 – Change of use of agricultural land to sports field, minor regarding and drainage of playing area, erection of associated building for changing rooms and ancillary accommodation, water tank, vehicle parking, vehicular access from Grange Road and provision of cycleway/footway links to Harrington Close and Vine Road (resubmission of 091117). APPROVED 8<sup>th</sup> January 2010.

## **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

TA4 - Roads and Traffic

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

DP1 Design and Amenity  
DP4 Community Facilities  
DP17 Accessibility and Access  
DP18 Transport Infrastructure Proposals

- 7.4 Further to the above, in the adopted Site Allocations (2010), Policy SA TIP1 allocates the land contained within the site at Grange for Open Space including sport and recreational uses.

## 8.0 Consultations

- 8.1 Environmental Control: Our Environmental Control section took a number of readings from nearby premises over a number of weeks. It concluded as follows:

### Condition 27

*Noise levels witnessed on Saturday mornings when a high level of activity was taking place dominated the entire area around the site and were intrusive at the worst affected properties. Noise from competitive matches, including the additional noise from spectators, elevated the levels in private gardens in excess of those predicted by Sharps Redmore. Regular competitive matches in addition to those taking place on the community pitch appear to have brought about an intensification that was not identified in the original application or acoustic reports.*

*Noise levels from standard mid-week training are only marginally lower at some properties than those experienced on Saturdays, but because training areas are restricted fewer properties are affected at any specific time.*

*In the interest of preventing significant impact on the amenity it is our professional opinion that the residents need to be protected from exposure to the noise levels by regulation of the hours.*

*Control of the activity within the hours applied for were initially considered, but having witnessed the noise we are of the opinion that such controls would prove impractical and difficult to enforce. We are also of the opinion that at times the noise is so intrusive that it can affect the residents' normal enjoyment of their properties and that some domestic or social activities may have to be arranged around those of the site. It is therefore important that the residents are aware of the hours the site is permitted to operate and have some respite at weekends, particularly as some residents already experience significant noise levels regularly mid-week.*

*We would therefore recommend that there is no change to the hours permitted on Saturdays and no activity on Sundays.*

*Noise levels from mid-week training sessions were also regarded as intrusive at the nearest properties and for the same reasons the residents need to know when they are likely to be disturbed.*

*We therefore recommend a maximum increase of one hour per day Monday to Friday/five hours per week, with any permitted hours fixed.*

### Condition 28

*We accept, to a degree, that persons moving to a new property are less likely to be disturbed by an existing activity.* However, in our experience, sometimes the focus is so concentrated on the new purchase, that not all environmental impacts are fully considered, particularly if viewings take place when the site is quiet.

*Having viewed outline plans for the proposed development to the north-east of the site, we understand that dwellings will be separated from the site by a footpath, cycle path and access road. Therefore, noise attenuation measures such as a reduced 20 m buffer, orientation of the units to shield private gardens and glazing/ventilation features can be conditioned on any subsequent application. We therefore have no objection to the condition being worded to apply to existing premises only. We suggest this applies to the date of determination of this application, as we are unsure of when the new properties to the south east of Sparrow Cottage were constructed.*

*During monitoring visits to the site it has been observed that a great deal of training actually takes place around the pitches, often close to the boundary with properties. Some areas appear to be particularly favoured, for example in front of Four Winds in Pennsylvania Lane. This activity is not covered by the original condition.*

*In order to provide some attenuation for noise produced by off-pitch activity, particularly for maximum levels, we recommend the following, additional, condition:-*

*At no time shall any training activity be located closer than 20 metres to a residential curtilage.*

*Note: A 40 m buffer would have been preferred, but appeared unreasonable owing to the constraints of the site.*

#### **Condition 34**

*Monitoring has shown that the highest noise levels have been recorded on Saturdays when competitive matches take place. These levels already exceed those predicted as a worst case by Sharps Redmore and are possibly exacerbated by spectator noise. Being competitive in nature, it is also possible that the noise from shouting from both players and coaches and the use of whistles also increases.*

*We understand that the applicant wishes to use more than two pitches simultaneously in order to host the occasional youth tournament. For the reasons previously explained, exposure to this level of disturbance should be restricted. We recommend that the condition is amended as follows:-*

*“... and shall be restricted to the use of a maximum of two of these pitches at any time, with the exception of five occasions per annum.” The local planning authority shall be notified in advance of each occasion.”*

Environmental Control also added the following commentary in terms of noisy equipment:

*Complaints have also been received regarding the use of the lawnmower/s. This has been witnessed and is loud when close to properties, a maximum noise level of 68.2 dBA being measured. We accept that regular ground maintenance is necessary and that the mower/s are continuously moving, but suggest the following conditions to ensure that such activity takes place within reasonable hours and the noise is controlled so far as is practicable:-*



*“Any equipment or machinery used for site maintenance which is clearly audible at the site boundary shall only be used between the hours of 09:00 and 18:00 Monday to Saturday.*

*Where practicable, any equipment or machinery used for site maintenance which is clearly audible at the site boundary shall be fitted with silencers.”*

- 8.2 With the **amended set of hours**, Environmental Control has reassessed its response, and has stated the following:

*‘The revised application represents a significant departure from the original application in terms of a substantial reduction in use from 51 to 28 hours per week during the playing season (August to April). It also provides a number of additional controls including a fixed mid-week rest day and a six week period between mid-May and the end of June during the off season when no training pitch use will take place.*

*We welcome the revised proposals, but note that regarding the mid-week rest day and mid-May to end of June period they refer to activity on the pitches. We have witnessed intrusive noise from off-pitch training activity and wish to ensure that mid-week rest days and off season periods are conditioned so that no activity is permitted that has the potential to impact on the residential amenity.*

OFFICER’S COMMENT: The reference to ‘pitches’ has now been re-worded to refer to the entire ground.

*We note that in July for four weeks prior to the season commencement the site is required for 7.5 hours per day Monday to Friday, plus three hours on Saturdays. Providing the off-season period preceding July is adequately conditioned we have calculated that this requirement provides no overall gain in the hours of use, based on the normal in-season hours applied for.’*

- 8.3 Consequently, Environmental Control has now revised its recommendation as follows:

**Condition 27 – Hours of use**

Mid-week

*We welcome the considerable reduction in mid-week hours from the 40 originally proposed to 22 and the inclusion of a rest day (normally Wednesday), subject to the controls previously discussed. In terms of amenity a rest day that is normally fixed will provide the residents with notice of a complete break from any potential training activity impact.*

*The current proposal still equates to 4.5 hours per week above those we originally recommended and we would prefer the mid-week hours to be reduced by an additional 30 minutes each day in order to narrow the period in which noise may affect residents.*

## Saturdays

*Saturdays already have permission for use between 10:30 and 13:00. The revised application is to extend this period by 30 minutes to 10:00, a considerable reduction from the additional increase of 5.5 hours (10:00 to 18:00) in the original application. We understand a 30 minute increase will not allow sufficient time for additional matches to be played over those already permitted.*

*There will be no Saturday matches from mid-May to July, a period which was included in the original application.*

## Sundays

*We understand that the applicants wish Sunday use only to apply to the younger youth teams, i.e. children under the age of 14 and this use is required between August to April (inclusive).*

*Recent monitoring of matches involving under 14s indicates that it is private gardens that could potentially be affected by under 14s matches on Sundays.*

*No Sunday use of the training pitches is proposed during May, June or July.*

*In response to the original application we recommended that there should be no activity on Sundays. This was because monitoring of matches involving under 18s on Saturdays measured noise of significant levels and of an intrusive nature, including swearing. It also took into account the fact that the application would have potentially permitted activity on every Sunday throughout the year.*

*Having only previously assessed activity involving under 18s during competitive matches on Saturdays we undertook additional monitoring on Sunday 11 November to assess noise levels from matches involving children under 14.*

*Monitoring took place from the private garden of Four Winds in Pennsylvania Lane (Site 2 in the report) during the morning. During monitoring matches were taking place on the first team pitch, southernmost pitch and community pitch. Previous monitoring has shown Four Winds to be the property most affected by noise produced at the first team pitch.*

*Noise levels at Four Winds with a match taking place on the first team pitch were found to be approximately 6 dBA lower than those for the under 18 matches previously measured on Saturdays. It was also only slightly above the continuous ambient noise level and 4 dBA above the maximum ambient noise level. Under normal conditions 3dB is considered the lower limit of perceptible change. Note: The ambient noise level is the level measured with no site activity taking place.*

*Subjectively the noise at Four Winds was still audible, but the shouting of the players and ball strikes were noticeably quieter than matches involving older players, as were the whistles (we understand the club is now using quieter whistles than those used previously). Shouting from coaches and, occasionally, players was clearly audible for brief periods (often seconds rather than minutes), but it was not the prolonged or intrusive disturbance witnessed on previous occasions from under 18 matches. No swearing was observed during the period monitored.*

*It was noted that a youth match comprises four 20-minute periods and with breaks is approximately 10 minutes shorter than an adult match.*

*At the boundary of the rear garden with Sparrow Cottage (Site 3 in the report), with matches taking place on the nearest two pitches, noise levels were higher, as the property is closer to the activity, the private garden being just 40 metres from the edge of both pitches. The levels were 12 dBA above the continuous ambient noise and 25 dBA above the ambient maximum levels, which is significant.*

*This was a worse case scenario as there were matches on both of the nearest pitches. If, for example, Sparrow Cottage was just exposed to activity from the southernmost pitch, noise reduction from the rear fence and just one pitch being used would reduce the noise levels by approximately 8 dBA, thereby reducing it to 3.5 dBA above the ambient continuous noise level. This is just above the limit of perceptible change. However, maximum levels would remain approximately 17 dBA above the ambient maximums.*

*Previous monitoring has shown that Sparrow Cottage is the worst affected property, the private garden being just 4 metres from the site and 40 metres from the two nearest pitches. Other properties would be affected to a lesser extent because of distance attenuation and private gardens being screened by houses.*

*Subjectively the shouting, and to a lesser extent, ball strikes and whistles were clearly audible and intrusive for brief periods, but not as prolonged, intensive or intrusive as that observed during adult matches. Again no swearing was witnessed during monitoring.*

*It is our understanding that the under 14 matches would be rotated, thus potentially reducing exposure to individual properties.*

*It has recently been drawn to our attention that the separate permission for the community pitch allows for use between 10:00 to 13:00 and 14:00 to 18:00 on Sundays. It also allows for any pitch on the site to be allocated as the community pitch. If correct, this means there is existing permission for louder and more intrusive adult matches on any pitch, so an under 14 match would have no additional impact over and above what is currently permitted. However, we are aware that the community pitch is restricted to only three matches per week, so the level of Sunday use in addition to the rest of the week is limited. Also, community use only applies to one pitch at a time, so noise from adult matches could only be used as a comparison for assessing the impact of under 14 matches at one pitch.*

*It is private gardens that could potentially be affected by junior matches on Sundays. The revised application would allow for residents to have a break from Sunday activity during, May, June and July, the months when residents are most likely to be enjoying the use of their gardens. This should be conditioned so that no activity that would impact on amenity would be permitted.*

*If permitted, any Sunday use should be conditioned so that matches are restricted to under 14s only.*

OFFICER'S NOTE – All references to under 14 should be revised to under 15, as it is a possibility that an under 15 team may also soon be set up.

**Condition 34 – Number of pitches used concurrently**

*The original application requested that more than two pitches could be used at any one time on an occasional basis an unlimited number of times. The revised application requests the use of more than two pitches concurrently is restricted to six occasions per calendar year, a slight increase on our recommendation of five occasions.*

*We recommend this is conditioned to ensure that such occasions are adequately spaced so that they are not concentrated over any specific period.*

*We would also recommend that neighbouring residents are informed and given reasonable notice of when these occasions are likely to occur.*

*In general, we also suggest the following noise reduction controls are conditioned:-*

*The quieter whistles that we understand are available are used at all times.*

*Signage is clearly displayed around the site, including all areas used by spectators, to ask site users to respect the residential amenity in respect of noise, foul language and general behaviour.*

*A noise management plan is submitted to the LPA. This could include a section on the club website to inform residents of noise reduction controls, forthcoming activity, which pitches will be used etc. which would benefit residents.*

*In addition to the previous conditions regarding site maintenance equipment, we suggest regular servicing of mowers etc. is added to the condition regarding silencers to ensure noise is minimised.'*

- 8.4 Highway Authority: The Highway Authority did not originally object, but a second opinion was sought in case it had not been fully aware of the level of proposed and actual intensification when compared with the permission granted with 091627.
- 8.5 The applicants have described the manner in which off-site parking (namely at the Jobserve car park) is available and that this could be utilised to overcome the shortfall in parking on-site.
- 8.6 The Highway Authority has replied that 'In this Authority's experience parking facilities which are separated from the target site, and therefore require additional effort from the drivers, are not fully or efficiently utilised; something which also can't be enforced.'
- 8.7 By way of solution, it proposes: 'in the interests of highway efficiency and user safety the Highway Authority would ask that the applicant provides a sum of £2,500.00 to be held by the Highway Authority for a period of ten years to go towards implementation of public parking restrictions in Grange Road or local residential streets, in the event of an issue arising. After this period, if this Authority is satisfied that the highway environment has not been unduly affected, this money can be returned to the applicant.'
- 8.8 This shall be secured by a Section 106 agreement.

8.9 Sport England: As a statutory consultee, this body commented as follows: *‘Overall, the implications of varying the three planning conditions as proposed would appear to be positive from a sports perspective and would not be detrimental to the use of the playing field. On this basis, I can confirm that Sport England has no objection to the planning application as a statutory consultee and is supportive as a non-statutory consultee.’*

8.10 Spatial Policy has not objected

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 Tiptree Parish Council has commented as follows:

*‘The Parish Council unanimously opposes this application. The original conditions were imposed to protect residents, who now firmly believe that if this application receives your approval, this will be the first of many such requests for removal of conditions. You should not allow this to happen.*

*Contained within the application is a reference to consultation with residents on this current proposal. At the Parish Council meeting on the 13<sup>th</sup> August, the Chairman took the opportunity to ask residents the form that the consultation had taken and was surprised to learn that, in fact, no consultation with residents has taken place. This must be addressed with the applicant.*

*The Parish Council was also dismayed to learn that the restrictions do not apply to the Community pitch. This is a major error on the part of Colchester Borough Council and should not have been allowed to happen. This effectively subjects residents to increased noise (and foul language) 24 hours per day and must be rescinded.*

*To sum up, Tiptree Parish Council is unanimously against this Planning application and trusts that Colchester Borough Council will take this view and the views of those residents living in close proximity to the training ground into account when reaching their decision.’*

9.2 Having been reconsulted on the new set of hours, the Parish Council maintained its objection as follows:

*The Parish Council considered that letter from the Lawson Partnership at its meeting on 12th November and voted unanimously to object to the proposals contained within. The Parish Councils’ concerns are -*

- 1. This remains a substantial increase on the current planning permission.*
- 2. The proposal is complex and variable and would be impossible to self regulate.*
- 3. Totally disagree with the removal of Condition 28 - the Parish Council believe the 40m buffer zone should apply to all properties not just the existing properties.*

*Community Pitch - the original application did not include any S106 funding, although a 'community pitch' was agreed. Unfortunately the pitch is of little use to residents of Tiptree as it is only available to organisations that are affiliated to either CUFC or Job Serve.*

## **10.0 Representations**

10.1 Approximately 300 letters and emails were received, with approximately 90 from local residents opposing the scheme and over 200, largely from further away and some in other parts of the country, supporting the proposal. Petitions with many more names were also received.

10.2 The main points of objection were:

- Noise pollution;
- Bad language
- The club knew what the restrictions were;
- The community hasn't been listened to;
- Increased traffic;
- Possible introduction of floodlights;
- Supposed to be a training facility, not for tournaments and competitive games;
- The road is unsafe;
- New houses should not be so close to the training ground;

10.3 In support:

- The restrictions are unreasonable;
- The proposed hours are not in anti-social hours;
- The houses are far enough away;
- Allows pitches elsewhere to be freed up for use;
- EPPP Academy status would be threatened;
- Pitches can only be used for a certain amount of time anyway;
- Jobs are being created;

10.4 With the new set of hours, more representations objecting to the hours were received. They expressed similar views:

- Because of noise and swearing there should be no further extension of hours;
- The application has not been handled well and breaches of condition have not been acted upon;
- Threat of legal redress if the matter is not resolved satisfactorily;

10.5 Some extra letters of support were also received, but did not raise any new points.

10.6 Any further comments will appear on the amendment sheet and the full text of all of the representations received is available to view on the Council's website.

## **11.0 Parking Provision**

11.1 There are 45 car parking spaces (three for people with disabilities) and spaces for one coach and two minibuses. There is also a covered cycle park. In addition, overspill parking is available at the Jobserve car park which is in the same ownership.

## **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 Report**

14.1 The consideration of this application entails a balancing of the needs of the club with the amenity of residents.

14.2 The set of hours which the club is now seeking differs from that sought at the time of the approved application 091627. Whether this is due to a change in circumstances, or was a pre-determined path of action, is irrelevant to the acceptability, or not, of the application which must be judged on its merits.

14.3 The club has stated that its youth programme and its participation in the EPPP are dependent on this application being approved. Also, the Club requires additional weekday flexibility to maintain its training programme. These are material considerations.

14.4 Environmental Control has expressed concerns about the proposal, but accepts the amended set of hours which have been proposed. This advice is a material consideration.

14.5 Almost 100 individuals (most of them living locally) in addition to many more on petition, have objected to the application, largely on the grounds of residential amenity. Their views, as well as any others which have been aired in support of the application, are also material considerations.

14.6 Any potential affect on the safe and efficient working of the Highway network is also a material consideration.

14.7 Whilst the following paragraphs look at all of these considerations and cover all of the proposed conditions, they focus largely on the proposed change in hours of use as this is the main point of contention.

14.8 Here the case for the football club (including the letters of support) is plainly spelt out, then the argument against this is considered, covering: i) Local opposition ii) Alleged loss of amenity, iii) The possibility that EPPP and Youth can survive without such an expansion of hours.

- 14.9 **The Case for the Application:** The general case for the application relates to a thriving youth programme, EPPP participation and ongoing investment to the betterment of the club, an approach which has led to a large number of representations in favour.
- 14.10 As the supporting documents state, the owner has invested £3.5 million in this training facility. Colchester United Football Club is a local employer and jobs are held to be at stake.
- 14.11 In terms of the first team, and setting aside the EPPP, the argument is made that a 2 ½ hour fixed window of use is not likely to be sufficient for a professional football club and that this should be expanded. If not, there would be little advantage over the previous scenario where university or army land was used within a restricted set of hours.
- 14.12 The club is also at pains to point out that the overall level of daily use is also intended to be 'equivalent to the 2.5 hours per day as originally envisaged' and that 'the main difference is to allow for further flexibility of use and separate sessions as needed'. On this basis, the level of use would equate to only 10% of a 24 hour period. From your Officers' perspective, however, limiting the actual use to this level would be difficult, and there is no real guarantee that use would at this low level.
- 14.13 The main elements which are held to be at risk, should the application fail however, apart from flexibility of use for the professionals, are the youth programme and the participation in EPPP.
- 14.14 The club states that to comply with EPPP it is essential that it is awarded some flexibility in the hours it trains and in the training methods it employs.
- 14.15 The central tenets of EPPP are to:
- Increase the number and quality of Home Grown Players gaining professional contracts in the clubs and playing first-team football at the highest level
  - Create more time for players to play and be coached
  - Improve coaching provision
  - Implement a system of effective measurement and quality assurance
  - Positively influence strategic investment into the Academy System, demonstrating value for money
  - Seek to implement significant gains in every aspect of player development
- The plan aims to improve youth development by focusing on the following:<sup>[2]</sup>
- Allowing clubs to have more coaching time with their young players
  - Helping clubs foster links with local schools in order to help young players get the best out of their football education as well as the academic side
  - Allowing clubs that have earned a top category grading to recruit young talent from further afield than is permitted under the current rules



- Working with the Football League to review the current system used for determining compensation.
- 14.16 In reference to the above points, the club has included an Academy arrangement with the Thurstable School, as well as investment in Warrior's Rest (including a Multi Use Games Area or MUGA) which it cites as gains from an active youth policy and EPPP.
- 14.17 Whether the two items above are inextricably linked with EPPP is not certain, but they do appear as an intrinsic part of the overall youth policy which is quoted by the club Chairman as having risen from £170k per annum in 2006 to £1m per annum.
- 14.18 Colchester United F.C. now employs a full team of professional staff (19 full-time and 17 part-time employees) to oversee youth development and also the running of the training facility. This includes a full-time Educational Officer. Scholars (those players whose ages range between 16 and 18) are provided with an education that results in a B-Tech, which is the equivalent to 3 A Levels and will allow them to pursue further education at a university if they fail to make it in the professional game.
- 14.19 The club also states that it has received a £480,000 grant which it will have to reimburse should the facilities it requires not be at its disposal and its participation in EPPP be put at risk.  
**OFFICER'S NOTE: The actual amount is about £300,000, with the figure of £480,000 being reached by season's end.**
- 14.20 The further point is made that, due to financial restrictions on smaller clubs such as Colchester United, it is essential that home-grown, local talent is recruited in order to be able to compete.
- 14.21 The club's proposal has also been supported by approximately 200 individuals. Whilst it is recognised that the vast majority of these do not live in the locality, and indeed several of them live in different parts of the country, and also that many of these were generated through the club's own website, this does still represent to some extent a body of opinion in favour of the proposal.
- 14.22 In conclusion to this section, the club is claiming that it requires the proposed hours in order to operate its youth scheme including participation in EPPP, and to fail to do so would result in a closure of these features and a failure to invest in development which would be to the disadvantage of the club. The proposal does have many supporters, albeit that many are not local.
- 14.23 **The Case Against the Application:** This has, at its heart: i) The local opposition, ii) Alleged loss of amenity; iii) The possibility that EPPP and Youth can survive without such an expansion of hours.
- 14.24 **Opposition:** Almost 100 local residents, many from very close by, have voiced opposition to the proposal to expand hours of use. These have been based on amenity considerations and a recent experience of a changed noise climate which has not been positive.
- 14.25 Several people have cited incidents of shouting and loud referees' whistles and have also cited swearing as being a common problem.

- 14.26 An analysis of the objection letters has shown that these have come predominantly from Vine Road, Townsend Road, Queensway, Perry Road, Pennsylvania Lane, Oak Road, Meadow View, Lansdowne Close, Kelvedon Road, Keeble Close, Heycroft Way, Harrington Close, Grange Road and Blue Road. Thus, they are largely from roads in the immediate vicinity, from addresses which were part of the original mailing. These are the properties most likely to be affected and the objections have not come from any campaign or hype to add volume to the voice of disagreement and must be accepted as genuine opposition to the proposal.
- 14.27 It is accepted that the opposition is given extra colour by the fact that the development was originally allowed contrary to many local objections, and because the club has been seen to operate in breach of the existing conditions.
- 14.28 Locals have also taken issue with the fact that, despite being described as a training ground, the site is being used for competitive matches for the youth teams with the result that use is far more intensive than described at the time of application. This manifests itself with noise, an overfull car park and occasional carriage-way parking and added features such as a burger van. In addition, behaviour of users of the site has been mentioned, including shouting and the use of foul language.
- 14.29 Alleged Loss of Amenity: Environmental Control has carried out a number of readings over the past couple of months on weekdays, Saturdays and on one Sunday and these results have been summarised in the consultations section.
- 14.30 Noise levels taken on the Sunday were found to be not as prolonged, intensive or intrusive as those observed during adult matches, due to the lower scale of activity.
- 14.31 The conclusion from Environmental Control is that the level of noise, whilst at times uncomfortable and intrusive does not exceed tolerable limits, does not cause a statutory nuisance and does not give sufficient grounds for refusal.
- 14.32 To recap, on the basis of its noise analysis, Environmental Control felt that the amended set of hours, with some extra conditions are acceptable, and thus the amenity argument cannot be easily sustained.
- 14.33 **EPP/Youth Programme without Expanding Hours:** Whilst the club has persistently stated that the proposal is essential to the well-being of the youth programme and participation of EPPP, this has not been expanded upon in any great detail.
- 14.34 Remarkably the source document explaining the pre-requisites for participation in EPPP and for what is required to qualify for the various categories, is not publicly available.
- 14.35 Your Officers have, therefore, employed the services of a Solicitor with specialist knowledge in EPPP. His view has been sought into whether the proposal is actually essential to the continued participation in this scheme. Given that continued participation in this is a material consideration, this advice is key.

14.36 The advice given by the Solicitor has been categorical that the claims that the club are making are all valid. He also states: 'Matches have to take place there or at the main CUFC stadia' The only possible flexibility is applying to have some dispensation so that some activities (other than matches) can take place at a venue other than the main site.

14.37 The applicants have responded to this by stating:

*'No EPPP games have been played at Warriors Rest...(this) falls short of EPPP guideline criteria concerning the standard of changing facilities for teams & officials in particular & the facility needs to be self-contained rather than dispersed over several grounds. The audit programmed for February would therefore not be satisfied if warriors rest was to be used & the Club would lose its EPPP Category status & fold. In addition, vehicular access arrangements from Maypole Road are substandard & coaches cannot serve the Warriors Rest Ground. Parking is also limited & related health & safety considerations also weigh against use of the Warriors Rest Ground.'*

14.38 Whilst the statement about the facility having to be self-contained is not strictly true, Warrior's Rest cannot be used for EPPP for the other reasons given above. Further clarification has also been provided by the Applicant's Agent including confirmation that the Warrior's Rest Ground is fully utilised by Tiptree Jobserve Youth F.C. at weekends which runs a series of junior groups from run 'mini-kickers', Under 8 to Under 17 year old teams. Consequently, even if the Warriors Rest ground met EPPP standards (which it does not) there would not be capacity to accommodate the associated games.

14.39 In conclusion to this section, the club does require a fuller use of the ground, including weekend use for the youth teams, the lack of this will mean removal from the EPPP and an undermining of the youth programme with subsequent loss of jobs and having to re-pay money to the Premier League.

14.40 **Analysis:** From the above, a picture begins to emerge whereby much of what the applicants have requested under their amended proposal could be granted permission, and it is accepted that the proposal is, by and large, necessary under EPPP, with no other venue being realistically available. This is notwithstanding the fact that the proposal would affect, to some degree, residential amenity and is unpopular with many local residents.

14.41 The judgement does, therefore, come down to a choice between allowing the club's EPPP/youth programme to continue, or acceding to residents' wishes for a lower level of on-site activity.

14.42 By way of background, it is worth bearing in mind that application 09117 was not refused for reasons of amenity, but for the following reasons: *“The site for this proposal is located within an area of white land i.e. no notation as allocated in the Adopted Review Colchester Borough Local Plan – March 2004. Additionally, policy ENV 1 of the Local Development Framework Adopted Core Strategy (December 2008) states, inter alia:*

*‘Unallocated green field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough.’*

*As new development within such areas is subject to restriction, the Council would wish to ensure that development proposals accorded with the aims of relevant policies in the Adopted Local Plan and the Adopted Core Strategy. To this end, the Council considers that the submitted scheme fails to include a sufficient degree of community use within the development to justify the use of this unallocated white land for an alternative purpose.’*

However, the reduced hours of 10:30 – 13:00 formed part of that application

14.43 The proposal to vary condition 28 (to allow pitches to be within 20 metres of any new housing), whilst being objected to in some quarters, has not led to any objection from Environmental Control. Furthermore, the current condition would prejudice the delivery of the adjacent allocated housing site. Your Officers do not oppose this variation.

14.44 The proposal to re-word condition 34 so as to be given dispensation to host tournaments has also been accepted by Environmental Control (albeit that there is a minor disagreement on the number of times this should be allowed to happen per annum). The likelihood is that such events would be akin to, or greater than, Saturdays in terms of levels of activities, for this reason such activities should be restricted to as few times as possible.

14.45 It is worth noting that the tournament events are not a pre-requisite for any given club to host in order to participate in EPPP (although there are certain requirements for a certain number to be held on a regional level). The benefits, however, would be recruitment and income generation for the club (as well as greater scope for community involvement) and Members may wish to reflect on these considerations.

14.46 The section on Sunday football, below, also makes it clear that more than two pitches are required for use on that day and your Officers have witnessed this condition being breached.

- 14.47 The argument has been made by some objectors that the competitive games being played on the site do not comply with the planning permission (i.e. "training ground"). The lawful use of the site, as granted under 091627, is D2 (Assembly & Leisure) restricted to use by Colchester United – this does not indicate that no competitive games can take place, and logically permits use by Colchester United to play against opponents for youth development purposes. A quick glance at the Land Use Gazetteer shows us that all of the following *Football ground, football stadium, football training building, football club field or pitch, football club premises, sports ground* are all D2.
- 14.48 It is noted that the way in which application 091627 and its predecessors were framed and the debate which followed did not focus on the possibility of competitive games. Therefore the argument that such activity may not have been expected by residents is a fair one. However, the fact of the matter is, under Planning law these games are not in breach of the permission nor of the conditions.
- 14.49 Therefore, one of the times seen as a chief nuisance (Saturday) is within what has been allowed under application 091627 and this will not change.
- 14.50 Extended week-day usage and any use on Sundays, however, require permission, and it is for the Local Planning Authority to judge whether that usage is acceptable.
- 14.51 Environmental Control has, after much analysis, suggested the new extension of time during the week is acceptable.
- 14.52 The requirements of the professional football club need to be considered. As stated at paragraph 14.10, a fixed 2 ½ hour window of use is not likely to be sufficient for a professional football club and that this should be allowed to be expanded. If not, there would be little advantage over the previous scenario where university or army land was used within a restricted set of hours.
- 14.53 A meeting was held with your Officers and the club's representatives in October to discuss the club's requirements and to seek a compromise. In this meeting the club claimed that a terminal week-day time of 15:00 would be acceptable. However, it has been pointed out that for a 90 minute training session to work after lunch the 15:30 terminal time is necessary, a fact that was not considered during negotiations.
- 14.54 Also at the same meeting it was stated that the wording of condition 27 should be tightened up and refer not just to the *pitches*, but to the entire ground (this to avoid use of the edge of the site outside of the permitted hours for pitches, which has resulted in an even greater loss of amenity due to the greater proximity to houses and gardens). The resubmission has retained the reference to pitches only, but your Officers have changed this to make reference to "training ground."
- 14.55 The final strand discussed at the meeting was that May and June would be quiet months (except where special events occurred, these being up to a maximum of six throughout a year). The resubmission reduced this to six/seven weeks by referring instead to "mid-May", but this has been changed back now to say "May and June".

- 14.56 June is always outside of the football season, most of May is also. However, it is understood that should the club's season be prolonged for any reason (such as fixture backlog or participation in the play-offs) that Colchester Borough Council would not take any action against it. The training ground is to assist the club, and should be available to it whilst the competitive season endures.
- 14.57 It is, therefore, proposed to reword that condition to include all of May and June, with an informative which recognises the particular requirements which may pertain should the season be extended.
- 14.58 The element which still needs to be addressed is weekend use. The proposal for the minimal increase in times on Saturday is not objectionable, the issue of Sunday needs to be carefully considered.
- 14.59 Currently no Sunday use is permitted (other than on the community pitch). But the hours of 10:00 – 13:00 are being sought. Environmental Control raised initial concerns about use on this day, and your Officers understand the concerns which have been raised by residents.
- 14.60 However, measurements taken on that day have shown that the noise climate is different from Saturday and your Environmental Control Officers do not feel that there is sufficient harm to propose refusal.
- 14.61 Readings taken from Fourways on Pennsylvania Lane show little in the way of noise. Whilst those taken from Sparrow Cottage on Vine Road show a higher level, if the activity were moved away by the equivalent of half a pitch, the problem would dissipate considerably.
- 14.62 Sunday morning usage is for children's teams at the younger end of the age scale, from under 9 to under 15 teams. These matches (usually three at the same time) are played on half a pitch. Therefore, if the half of pitch nearest to Sparrow Cottage, were excluded from use, then the principle source of nuisance would be much reduced.
- 14.63 The main reason for the different noise climate on Sundays is indeed because it is children playing rather than men or youths (this also means that there is little, or no, swearing). For this reason, the use can be conditioned to be limited to only that age group. In this way Sunday use can be tailored to the needs of the club whilst limiting the effect on amenity.
- 14.64 Therefore, with some management (careful use of pitches, restrictions to certain ages, use of quieter whistles) this can be brought down to even more acceptable levels.
- 14.65 It is therefore proposed that the amended hours applied for be agreed to, but limited to the specified age group and subject to a preclusion of the most sensitive half of pitch in order to protect residential amenity.
- 14.66 It is also worth noting that the level of weekend use described does not and will not occur every weekend. The under 16 and under 18 teams have 13 home games per season (played at the same time as each other) of which many have already been played this season as Florence Park was ready for use when other grounds were not.

- 14.67 Meanwhile the Sunday usage is likely to occur up to 28 times per year, which is about two-thirds of Sundays in the active months.
- 14.68 In all of these considerations, the community pitch also requires mention. The applicants have referred to use of this as potentially having just as much impact as the professional pitches.
- 14.69 The agreement reached by Colchester Borough Council in 2010 post permission relating to community use includes a long set of hours which go beyond those allowed on the other pitches. However, it also limits the number of times the community pitch can be used to three per week. Therefore, whilst acknowledging an argument that noise from a community game could potentially be more harmful than a children's or youths' game, the incidence of this is limited by condition and cannot be used as a very strong argument.
- 14.70 The club has also switched the day release schools scheme to Thursdays, thus meaning that Wednesdays will now be completely clean of any meaningful activity on site.
- 14.71 The issue of parking does require comment. Your Officers noted that the car park was packed to the brim, with some double parking, and the access road was also full of cars on 11<sup>th</sup> November 2012. One vehicle was also parked on some spare land next to Springfields. This follows previous incidences of the car park being full and carriageway or verge parking occurring. On 18<sup>th</sup> November, however, the arrangement was more satisfactory, with none of the above occurring.
- 14.72 The agent has pointed out that parking management measures include:
- Pre-booking of Florence Field parking spaces
  - Advance written notice of parking arrangements to visiting teams
  - Employment of a parking steward at the entrance to Florence Fields who directs visitors to either an on- site parking space or alternatively to the Jobserve car park.
  - For the Saturday & Sunday sessions the car park is usually fully occupied, but is managed through the arrangements outlined above.
- 14.73 However, the existing situation of an over-parked car park on Saturdays is not relevant to this application as this scenario has occurred within the permitted times. Similarly, if it occurs during the week, this too is in compliance with the agreed conditions, albeit that the situation on the ground is not as described at the time of application.

- 14.74 The applicants have given reasons why this over-parking has happened, but this does not comply with promises made in relation to green travel and these repeated incidences must give cause for concern. It is clear that the above measures, in conjunction with use of the nearby Jobserve car park (90 spaces) are not working.
- 14.75 In addition, the Highway Authority has stated that use of another site, albeit nearby, is not an acceptable solution, and has asked for s.106 contributions towards possible mitigation. This, therefore, appears to be the reasonable solution.
- 14.76 It may also be advantageous to ask the club to provide additional parking on site to reflect the reality of the situation, rather than the claimed scenario. This would require a separate Planning application.

## 15.0 Conclusion

- 15.1 In conclusion, the proposal to vary condition 28 relating to the buffer is held to be acceptable.
- 15.2 For condition 34 the amended proposal to restrict the use of more than two pitches is also held to be acceptable with certain provisos, which limit this to the Sunday children's games and six other occasions during the year.
- 15.3 The amended offer of hours for condition 27 is held to be acceptable on the basis of a reduced set of hours (terminating at 15:30 instead of 18:00) and restricted use on Sundays, and on the basis of two months largely without use (with the trade off of longer hours in July). The noise levels are not held to be sufficient to recommend refusal.
- 15.4 Considering the above, and Colchester United's participation in EPPP (on which this application hangs) and its ongoing youth development, the proposal is held to be acceptable and the conditions have been altered from those applied for to reflect this.

## 16.0 Recommendation

- 16.1 Delegate to Head of Environmental & Protective Services subject to the signing of a legal agreement to secure payments for Highway improvements, and the following conditions (**in addition to re-iteration of previous conditions, where relevant**):

**Condition 27** be varied as follows:

"The use of the training ground hereby permitted shall not operate outside the following times:

i) August - April (inclusive)

- Mondays, Tuesdays, Thursdays & Fridays – 09:30 – 15:30 (with half an hour lunch break between 12:15 – 12:45);
- Wednesdays – no use (unless the club has a Thursday fixture, in which case the 'no train' day will be swapped for another weekday during the same week;



- Saturdays – 10:00 – 13:00 (for use by C.U.F.C. under 16 and under 18 teams only);
- Sundays – 10:00 – 13:00 (for use by C.U.F.C. under 9 to under 15 teams only)

ii) May and June

- No use of pitches (unless one or more of the six scheduled sessions referred to below, or as otherwise agreed in writing with the Local Planning Authority);

iii) July

- Mondays to Fridays – 10:00 – 18:00 (excluding Wednesdays, and with an hour lunch break 13:00 – 14:00);
- Saturdays – 10:00 – 13:00
- Sundays – no use.

Reason: For the avoidance of doubt as to the scope of this permission, and in the interests of residential amenity.

**Condition 28** be varied as follows: “At no time shall the boundary of any sports pitch be laid out or located closer than 40 metres to a residential curtilage that was in existence on the date on which planning permission was originally granted.”

Reason: For the avoidance of doubt as to the scope of this permission, and in the interests of the residential amenity of existing premises.

**Condition 34** be varied as follows: “The use of the proposed four training pitches shall be restricted to use by Colchester United Football Club (CUFC) only, or for any community use that may otherwise be agreed by CUFC, and shall be restricted to the use of a maximum of two of these training pitches at any time, with the exception of Sunday mornings when the C.U.F.C. under 9s to under 15s teams may use half of three separate pitches and up to six further occasions per year as shall be agreed in advance in writing by the Local Planning Authority”.

Reason: For the avoidance of doubt as to the scope of this permission, and in the interests of residential amenity.

**Extra Condition**

The ‘six further occasions’ referred to above shall not be concentrated in the same period (being no more than two per calendar month).

Reason: In the interests of residential amenity and to avoid a concentration of such events during the quiet months of May and June.

**Extra Condition**

Neighbouring residents shall be informed and given reasonable notice (i.e. at least one week) of when the extra occasions are likely to occur. The applicants shall agree the scope of the notification within 28 days of this permission.

Reason: So that nearby residents may be kept informed of events on site in the interests of residential amenity.

**Extra Condition**

Any equipment or machinery used for site maintenance which is clearly audible at the site boundary shall only be used between the hours of 08:00 and 18:00 Monday to Saturday, and at no time on Sunday.

Reason: In the interests of residential amenity

**Extra Condition**

For Sunday usage by the children's/youths' teams, the halves of the pitches which are closest to Sparrow Cottage shall not be used.

Reason: In the interests of residential amenity

**Extra Condition**

Within 28 days of this permission, the applicants shall provide details of the quieter whistles to be used on site, these details are to be agreed by the Local Planning Authority and only these whistles shall be used thereafter.

Reason: In the interests of residential amenity.

**Extra Condition**

Within 28 days of this permission, a noise management plan shall be submitted to the Local Planning Authority which shall include a section on the club website to inform residents of noise reduction controls, forthcoming activity (including the rare instances of Wednesday usage), which pitches will be used and so on. Such details shall be agreed in writing by the Local Planning Authority and shall be made available at all times thereafter.

Reason: To allow residents to be aware of timetabled activities on site in the interests of residential amenity.

**Extra Condition**

Within 28 days of this permission, the applicants shall provide details of signage which is to be clearly displayed around the site, including all areas used by spectators, to ask site users to respect the residential amenity in respect of noise, foul language and general behaviour. Such details shall be agreed in writing and shall be retained as such at all times.

Reason: In the interests of residential amenity.

**Extra Condition**

Where practicable, any equipment or machinery used for site maintenance which is clearly audible at the site boundary shall be fitted with silencers.

Reason: In the interests of residential amenity

## **Informatives**

(1) The permitted hours refer to use of the ground for playing football and training purposes and exclude setting up and clearing away periods which do not constitute playing or training and could operate outside of these hours.

(2) The applicants are advised that the equipment or machinery used for site maintenance should be regularly serviced so that the silencers function correctly in the interests of residential amenity.

(3) The applicants are advised to submit an application to provide the site with more car parking spaces, as the current arrangements are not always sufficient for satisfactory on site parking, and this needs to be resolved in the interests of Highway safety.



**Application No:** 122071

**Location:** 57 Rosabelle Avenue, Wivenhoe, Colchester CO7 9PA

**Scale (approx):** 1:1250

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**7.2 Case Officer: Simon Osborn**

## **HOUSEHOLDER**

**Site:** 57 Rosabelle Avenue, Wivenhoe, Colchester CO7 9PA

**Application No:** 122071

**Date Received:** 21 November 2012

**Agent:** Steve Norman

**Applicant:** Mr & Mrs A Aldis

**Development:** Proposed two storey side extension

**Ward:** Wivenhoe Quay

**Summary of Recommendation:** Conditional Approval

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

1.1 This application is referred to the Planning Committee because the applicant is a member of staff for the Council.

### **2.0 Synopsis**

2.1 The key issues explored below are the impact of the proposal upon the character and appearance of the original house; the impact on the nearest neighbour in terms of overlooking; and the provision of off-street parking.

### **3.0 Site Description and Context**

3.1 The property is one of a group of three, which appear to date from the 1960's. The group consists of two side wings having monopitch roof forms with an interlinking flat roof section. In the case of No. 57 there is a covered space besides the building, which is part of the property's private amenity area, and beyond this is a group of 4 flat roof garages. This is believed to be within the ownership of the Council. The proposed side extension lies between the side wall of the house and the side of this garage block. There is no apparent off-street parking for this property as it exists today; the applicant parks outside on the road, which terminates at the end of these three properties and leads into a woodland track.

### **4.0 Description of the Proposal**

4.1 The proposal is for a 2-storey side extension onto the dwelling. Two new parking spaces are shown within the site frontage.

### **5.0 Land Use Allocation**

5.1 Predominantly residential

## **6.0 Relevant Planning History**

6.1 None

## **7.0 Principal Policies**

7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision making process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Government's primary objective that there be "a presumption in favour of sustainable development". There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:  
UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP19 Parking Standards

7.4 There are no adopted Site Allocations (2010) policies relevant to this application.

7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:  
Extending Your House?  
The Essex Design Guide

## **8.0 Consultations**

8.1 ECC Highways stated: Having regard to the fact that the property at present does not appear to be provided with off road parking facilities the proposal will benefit the highway environment as it will remove vehicles from parking in the highway. As such the Highway Authority would not wish to raise an objection to the above subject to the following;

- Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2 metres by 11 metres to the east and 2 metres by 11 metres to the west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance

with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, and condition ZID in Colchester Borough Council's Model Planning Conditions document dated July 2012.)

- No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.  
Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and condition ZIF in Colchester Borough Council's Model Planning Conditions document dated July 2012.)

Informative: All works affecting the highway to 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 to the Essex County Council on 0845 603 7631

- 8.2 Environmental Control recommended an informative regarding contaminated land as the site is within 250m of known/suspected filled land.

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 All members expressed an interest as the applicant was a member of the Town Council.

## **10.0 Representations**

- 10.1 None

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

## **11.0 Parking Provision**

- 11.1 There is no existing off-street parking for the existing dwelling. The application proposes two off-street spaces within the front garden of the property. This is in accordance with the standards set out in Policy DP19.

## **12.0 Open Space Provisions**

- 12.1 There is no requirement for such provision for a residential extension.

## **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 The most significant planning issues are the design of the proposed development, as well as its impact on neighbouring amenity in terms of outlook, light and privacy. The provision for off-street parking is also a material consideration.
- 15.2 The Council will usually seek to ensure that the design of an extension reflects the character and appearance of the host building. The design of this group of three buildings is unusual consisting of two side wings with monopitch roof forms and an interlinking flat roof section. The proposal is for a monopitch roof with a reverse camber to the monopitch on the existing dwelling. This would in effect be a part mirror image of the lean-to roof form on the host building. The design of the proposal as such seeks to reflect the character of the existing context and is considered satisfactory on its own merits. The development is visually acceptable and would not detract from the appearance of the original building. Consequently the design and layout do not harm the surrounding area either.
- 15.3 The proposed development would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement. Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Councils standards for assessing this issue as set out in the Essex Design Guide and the Extending Your House SPD.
- 15.4 The proposal as submitted shows first floor windows on the front, side and rear elevations. The one on the side elevation looks over the flat roofed garages and replaces an existing side window. The one on the rear looks toward the rear garden, but does result in a potentially unsatisfactory relationship with the private sitting out area of No. 8 Parkwood Avenue. Whilst there is an element of overlooking toward this sitting out area at present and there is a shrub close to the boundary which helps to screen views, it is nonetheless recommended that a condition is imposed that requires this to be obscure glazed. This would not be unreasonable for the applicant as there will be clear glazed windows at the front and side of this proposed room (a bedroom).
- 15.5 As noted in paragraph 11.1 above, there is no existing hardstanding within the red-lined application site for cars to park. The application shows two new spaces proposed on the frontage, which is presently laid to grass, provided as block paving or similar. This is considered acceptable in principle. The Highway Authority has no objection to the proposal subject to standard conditions.



## **16.0 Conclusion**

16.1 To summarise, the proposed development fully accords with the Council's policy requirements and no objections have been received. The proposal is recommended for approval subject to conditions as referred to in the report.

## **17.0 Recommendation - APPROVE subject to the following conditions**

### **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 approved plans ground floor layout, first floor layout, proposed elevations and site layout unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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, unless otherwise agreed, in writing, by the Local Planning Authority.

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

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

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the proposed first floor rear facing windows in the south elevation of the extension hereby permitted shall be glazed in obscure glass to a minimum of level 4 obscurity before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

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

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no additional windows shall be inserted above ground floor level in the rear-facing (south) and the side-facing (east) elevations of the except in accordance with details which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

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

Prior to the first use of the development hereby permitted, the parking spaces shown on the proposed site layout drawing shall be provided and thereafter made available for off-street parking purposes for the application dwelling.

Reason: To ensure an appropriate level of parking provision for the site.

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

Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2 metres by 11 metres to the east and 2 metres by 11 metres to the west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

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

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

### **Informatives**

#### **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) The applicant is advised that the site to which this planning permission relates is located within 250 metres of filled land. Under Approved Document C of the Building Regulations you will be required to consider this when designing the foundations of the development and precautionary measures should be incorporated to minimise risks from any ground gases. Prior to the commencement of the permitted development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. The LPA should be given prior notification of any proposed remediation scheme. The applicant is advised that this must be conducted in accordance with current official guidance, including Approved Document C of the Building Regulations, DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the NPR Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'. The LPA has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site. The site lies within 250m of a former (or suspected) landfill site and Environmental Protection wish to ensure that development only proceeds if it is safe to do so. This informative should not be read as indicating that there is any known danger from landfill gas in this locality.

## **Positivity Statement**

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.

3 January 2013

<b>Report of</b>	<b>Head of Environmental &amp; Protective Services</b>	<b>Author</b>	<b>Mark Russell</b> ☎ 01206 506941
<b>Title</b>	<b>121353 – Land adjacent (South), Grange Road, Tiptree</b>		
<b>Wards affected</b>	<b>Tiptree</b>		

## 1.0 Introduction

- 1.1 This report is presented as a companion to the Planning report for application 121353.
- 1.2 It comes about following a series of complaints relating to breaches of condition at the Florence Park training ground and the gathering of evidence which has confirmed that breaches are, indeed, taking place.
- 1.3 The report sets out the three main options for Planning enforcement which are available to Colchester Borough Council if matters are not resolved under the above application.
- 1.4 The conclusion reached is that no enforcement action should be taken at this time as current usage appears to be in compliance with Officer recommendation for the above application:

## 2.0 Options

- 2.1 The three key options are:
  - 1) A Stop Notice (including a Temporary Stop Notice);
  - 2) An Enforcement Notice;
  - 3) A Breach of Condition Notice.
- 2.2 A Stop Notice is usually issued in conjunction with an Enforcement Notice in order to ensure the cessation of a use before the period specified for compliance in the enforcement notice; i.e. before the enforcement notice takes effect. These are used rarely and usually in extreme circumstances and are used only when other measures have, or are likely to, prove unsuccessful in preventing a breach of planning control.
- 2.3 The disadvantage of using this method is that the Improper use of such a notice can result in the Council incurring claims for compensation.
- 2.4 An Enforcement Notice is served by a Council where:
 

"There has been a breach of planning control, and

it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations" (Town & Country Planning Act 1990 S.172 (1))

- 2.5 In this case, the Breach of Planning control is not an unauthorised change of use (as discussed in the Committee report, the site is being used for D2 'Assembly & Leisure' which is its authorised use), nor is there any unauthorised development. The breach is, therefore, a breach of conditions (including unauthorised hours of use, Sunday use and usage of more than two pitches at the same time).
- 2.6 The option of serving an Enforcement Notice alleging Breach of Condition(s) is therefore available to Colchester Borough Council.
- 2.7 The applicants are then given a time to appeal or comply (28 days, typically) after which time evidence gathering and prosecution can ensue.
- 2.8 The difference between this and the Breach of Condition Notice (below) is that the party on whom the notice is served may appeal the notice. They will inevitably appeal on "ground A" (namely that "permission should be granted") as well as any other grounds, for example alleging the activity isn't taking place or that the notice has not been correctly served.
- 2.9 Colchester Borough Council would then need to prepare a statement explaining why permission should not be granted. Effectively this is the same as a statement for a refused Planning permission.
- 2.10 Service of an Enforcement Notice would also have to be preceded by the service of a Planning Contravention Notice (PCN) so as to ensure that all owners are known to us. Failure to properly serve the Enforcement Notice on all interested parties would render it invalid.
- 2.11 A Breach of Condition Notice (BCN) is the final option. This contains a list of the alleged breaches and there is a minimum compliance period of 28 days. There is not an easy mechanism for appealing against a BCN and monitoring and prosecution can follow after the compliance period.
- 2.12 A disadvantage of the BCN is that all alleged breaches of conditions need to be itemised on the notice. Should one or more of the breaches be omitted, there is no second chance of serving a notice. This can make the service of a BCN very onerous and fraught with difficulties.
- 2.13 The alleged breaches of condition have been several during the setting up and use of Florence Park. However, the key conditions under discussion relate to hours/days of use (condition 27) and the use of in excess of two pitches at the same time (condition 34).
- 2.14 The current hours in which the ground is being used, those which have now been applied for, and those which your Officers feel are acceptable now broadly correspond with each other.
- 2.15 However, given that usage at the time of the first complaints was beyond what is now being applied for, it is possible that future breaches could occur.

### **3.0 Analysis**

- 3.1 Your Officers have recommended approval for the amended set of hours etc. as detailed in the Committee report for 121353. The current level of usage complies with these, and therefore there does not appear to be any outstanding enforcement issue.

- 3.2 Should Members choose to reject any part of application 121353, they may seek enforcement action against the matters outstanding (i.e. any use on site which does not comply with permission).
- 3.3 The best method would be an Enforcement Notice which should be served contemporaneously with the Planning decision. This would mean that both appeals would be heard together and would prevent a prolonged process of having two appeals spanning several months (during which time any breaches could continue unfettered, unless a Stop Notice were served).
- 3.4 If Members believe that a breach or breaches are likely to occur, then an Enforcement Notice may be prepared in anticipation of this. This may be the best course of action should further breaches materialise.
- 3.5 Members are reminded that Officers have recommended approval for the amended Planning application, and that such a notice would have to be justified were the application and notice go to appeal.

#### **4.0 Conclusion**

- 4.1 Given all of the above considerations, it is recommended that a Planning Contravention Notice be served to confirm the details of all owners and interested parties on the site.
- 4.2 That an Enforcement Notice be prepared and then served should any further breaches occur.

#### **5.0 Addendum**

- 5.1 It has been requested that reference be made to our Enforcement Strategy where a breach is deemed to have been deliberate.
- 5.2 Whilst not forming a view as to whether the breach has been deliberate or not, the following paragraph (4.5) of the Enforcement Strategy refers to deliberate breaches and states:

*‘Where the breach of planning control has been a deliberate act and unacceptable “harm” is being caused the person/s carrying out that breach can expect the Council to take a robust approach to taking enforcement action or bringing a prosecution. That approach will not allow protracted negotiation, particularly where the objective is, or appears to be, to unnecessarily stall or delay the Council from taking appropriate legal action.’*

- 5.3 In this case, the breach has been shown (in the Planning report, and in your Officers’ opinion) not to fall into the category of “unacceptable harm” and therefore no action has been taken thus far. If Members resolve to refuse the Planning application, however, then Enforcement action will ensue.

# AMENDMENT SHEET

Planning Committee  
3 January 2013

## AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 121353 – Land adjacent (South), Grange Road, Tiptree

- 1) Additional comments have been submitted by a third party in relation to Highways issues, disagreeing with the Highway Authority's recommendation and raising issues such as road safety and accident statistics. These comments, in part, also relate to separate Planning application 122134 for housing on the neighbouring parcel of land.

The Highway Authority has responded as follows:

*The 'more intensive use' argument is weakened by the fact that the use taking place, whilst different to that described in the initial application in 2009, tallies with the existing permission - the exception being Sundays.*

*It was felt that, as application 121353 is only increasing the use of the site on Sundays, requiring them to increase the size of the car park would not be acceptable as a condition as it did not fit the National Planning Policy Framework tests; it would be too onerous when regarding scale. We did however think that asking them for a deposit of £2,500.00, to be used in the future if on-street parking in the local highways became a safety and efficiency issue, was reasonable; the applicant has also agreed to this.*

The Highway Authority has therefore re-iterated its response as follows:

*Grange Road is a relatively busy rural route and the proposal, whilst not unacceptable in scale, may lead to an increase in on-street parking which would be unacceptable to this Authority. The Highway Authority therefore raises no objection to this proposal subject to the following;*

- *The proposed development shall not commence until such time as a sum of £2,500.00 has been received by this Authority from the developer. This money shall be retained for a period of 10 years and will be used only in the event*

*that the development proposed leads to parking problems in the surrounding local roads.*

**Reason:** *To ensure that the proposal does not create safety and efficiency issues within the local highway network as a result of increased on street parking. This is in the interest of highway safety and efficiency and is in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011*

**Note:** *This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority.”*

**OFFICER’S COMMENT:** The use of a condition may be superfluous in this situation, a legal agreement is sufficient to cover this point.

**INF01:** All works affecting the highway to 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 to the Area Highways Office (08456 037631)

The same objector has raised concerns about possible use of the building itself, and the implications this could have.

**OFFICER’S COMMENT:** The proposal does not alter the existing permission with this regard. If Members desire they may see fit to introduce a condition tying down the use of the building.

- 2) Extra informative: The hours of use referred to in condition 27 do not include the community pitch, which is covered by a separate condition.
- 3) Comments have been received relating to the non-use of the halves of pitches closest to Sparrow Cottage, stating that this ‘pushes the problem on to elsewhere.’

**OFFICER’S COMMENT:** The juxtaposition of the garden of this house with the pitches is the least comfortable and it is advised to avoid use of those areas closest to it.





## **Colchester Borough Council Development Control**

### **Advisory Note on Parking Standards**

The following information is intended as guidance for applicants/developers.

A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.

The residential parking standard for two bedroom flats and houses is two spaces per unit. The residential parking standard for one bedroom units is one space per unit. One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development.



## Colchester Borough Council Environmental Control

### Advisory Notes for the Control of Pollution during Construction & Demolition Works

*The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.*

#### Best Practice for Construction Sites

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

#### Noise Control

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

#### Emission Control

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

## **Best Practice for Demolition Sites**

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

### **Noise Control**

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

### **Emission Control**

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

# **The Town and Country Planning (Use Classes) Order 1987 (as amended)**

## **Class A1. Shops**

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,
- (k) as an internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet where the sale, display or service is to visiting members of the public.

## **Class A2. Financial and professional services**

Use for the provision of —

- (a) financial services, or
  - (b) professional services (other than health or medical services), or
  - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

## **Class A3. Restaurants and cafes**

Use for the sale of food and drink for consumption on the premises.

## **Class A4. Drinking establishments**

Use as a public house, wine-bar or other drinking establishment

## **Class A5. Hot food takeaways**

Use for the sale of hot food for consumption off the premises.

## **Class B1. Business**

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
  - (b) for research and development of products or processes, or
  - (c) for any industrial process,
- being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

## **Class B2. General industrial**

Use for the carrying on of an industrial process other than one falling within class B1 above

## **Class B8. Storage or distribution**

Use for storage or as a distribution centre.

## **Class C1. Hotels**

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided.

**Class C2. Residential institutions**

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.

**Class C3. Dwellinghouses**

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

**Class C4. Houses in multiple occupation**

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

**Class D1. Non-residential institutions**

Any use not including a residential use —

(a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,

(b) as a crèche, day nursery or day centre,

(c) for the provision of education,

(d) for the display of works of art (otherwise than for sale or hire),

(e) as a museum,

(f) as a public library or public reading room,

(g) as a public hall or exhibition hall,

(h) for, or in connection with, public worship or religious instruction, (i) as a law court.

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

(b) a concert hall, (c) a bingo hall or casino,

(d) a dance hall,

(e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

**Sui Generis Uses**

Examples of sui generis uses include (but are not exclusive to):

theatres, amusement arcades or centres, funfairs, launderettes, sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyards or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

**Interpretation of Class C3**

*For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004.*

**Interpretation of Class C4**

*For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004.*