

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE**

29 November 2012 at 6:00pm

SUPPLEMENTARY AGENDA

Part A

(open to the public including the media)

Pages

10. Amendment Sheet

62 - 67

See Amendment Sheet attached.

AMENDMENT SHEET

Planning Committee
29 November 2012

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

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

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

Further correspondence has been received since the publication of the Committee report.

Letters have been received re-iterating the view that the proposal is not acceptable. A bundle of 60 letters was received by this office (some of which were copies of those already received) on 15th November, which cite examples of noise nuisance which people have experienced in their gardens, this includes incidents of foul language and people feeling that they are unable to use their gardens especially at weekends and also having to close windows due to the nuisance.

A four page letter has been received from Mr Caffery of Harrington Close which quotes excerpts from the National Planning Policy Framework, Circular 11/95 (conditions) and the publicly visible rules and regulations of the Elite Player Performance Plan (EPPP). The full text has been forwarded to Members and is available on the Council's website.

Mr Caffery concludes that the application falls foul of NPPF, and that the existing conditions comply with the six tests of reasonableness in Circular 11/95 and should not be altered.

He also contends that the club's drive for commercial profit based on the EPPP 'should not be allowed to overrule and diminish the residents amenity by increasing the existing noise nuisance.'

OFFICER'S RESPONSE:

Whilst the club's agents have cited the six tests of Circular 11/95, your Officer agrees with Mr Caffery's view that the original conditions were not irrelevant, imprecise, unfair or unenforceable. The quoting of the Circular by the agents is, therefore, of little weight.

However, this fact does not preclude an applicant from applying to vary conditions if they so wish, and these variations need to be looked at on their own merits.

For reasons set out in the Committee report, your Officer has reached the conclusion that the amended hours being applied for are acceptable (and are relevant, fair, precise, and enforceable).

The reference to NPPF cites issues of residential amenity. It is acknowledged that, to some extent, there is an effect on amenity. However, as set out in the report and in reference to all of the noise monitoring which has taken place, your Officer has concluded that the amended hours are acceptable.

In terms of the final point. It is recognised that EPPP is commercial in its nature, and also that it assists the running of the youth programme for a football league team. This has been balanced against residential amenity, amended hours have been negotiated, and the conclusion is as per the Committee report.

Additional representations have been received in the last few days from the agents and applicants, residents and Priti Patel M.P.

- 1) It has been requested that the relationship between Colchester Borough Council and Colchester United Football Club be plainly set out.**

The response, as already supplied on an FOI request, is thus:

There is no direct financial relationship between the Council itself and Colchester United Football Club (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>

- 2) It has been further requested to spell out what the existing hours are, and what the proposed hours are:

For the benefit of doubt, these are as follows for August to April (different hours relate to May-July):

Monday to Friday: 10:30 – 13:00 (existing)
09:30 – 15:30 (proposed – with a break,
no Wednesdays)

Saturdays: 10:30 – 13:00 (existing)
10:00 – 13:00 (proposed)

Sundays: No Use (existing)
10:00 – 13:00 (proposed)

For May and June:

Monday to 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)

For July:

Mondays to Fridays – 10:00 – 18:00 (with an hour lunch
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.

- 3) The office of Priti Patel MP has written an eight page letter to the Chief Executive yesterday which raised various points (and was copied to Members of the Committee). A lengthy response has been prepared and is with our legal team. It was requested that the response be given before tonight's Committee meeting, however given the very short time available this might not be possible.

However, the salient points are:

- The Committee report lacks information/ is misleading on several counts etc.

OFFICER RESPONSE: All of the points raised have been looked at, and it is not felt that this is the case. The two issues of (i) Making it clear what the relationship is between the Council itself and Colchester United Football Club and (ii) spelling out what the existing and what the proposed hours of use are – have been responded to above.

The other main points were that the club is not yet EPPP Category 2, but is aspiring towards it. A letter from the Football League dated 31st July 2012 clarifies this point and states: 'unless and until you are notified by the PGB to the contrary, the Academy is to be treated, for the purposes of the applicable Youth Development rules and regulations, including funding, as a Category 2 Academy.' This letter has been made available to Members.

The final main point is that the claimed £480,000 has not been forwarded to the club yet. There is some truth in this, the actual amount thus far is £211,000 (rising to £249,000 tomorrow with the next payment). The amount by the end of the season would be £480,000. The club has forwarded a bank statement showing the payments thus far.

It must be stated here, that the fact of money which would have to be paid back, and the fact of whether category 2 status has been achieved yet or not, have not informed the recommendation of the Committee report.

- 4) A further letter from Priti Patel's office, containing six new letters from constituents, including an FOI request, have been received this morning. These raise several points which relate to this and the 091627 applications. There has not been time to answer them before Committee, but these will be answered.

- 5) **Omission:** The Spatial Policy team has not objected to the proposal.
- 6) **Correction:** The condition relating to use in July should refer to Wednesday as being excluded.

7.2 121333 – Mersea Court, High Street North, West Mersea

Further comments have been received from 15 High Street North objecting because (i) the proposal will restrict light and view to a lounge window on the side and (ii) the side window on the proposed extension will result in a loss of privacy.

Officer Response:

The Council use the 45 degree rule to calculate potential loss of light. The 45 degree rule comes from the Essex Design Guide (p40) which suggests that 'obstruction of light and outlook from an existing window is avoided if the extension does not result in the centre of the existing window being within a combined plan and section 45 degree overshadowing zone'. To calculate if a new building/ extension satisfies this test it is necessary to calculate: (i) whether the new building infringes a line taken at an angle of 45 degrees outward from the centre of an existing window (the plan view), and (ii) whether the new building infringes a line taken at an angle of 45 degrees upward from the centre of an existing window (the sectional or elevation view). A new building will only fail to satisfy this guidance if it fails to satisfy both of these tests; if it fails to satisfy one of the tests (commonly the outward angle or plan view) but does satisfy the other test, it is not then within a combined plan and section overshadowing zone. In this instance the proposed extension is set sufficiently far away so as not to infringe a 45 degree angle drawn upward from the centre of this lounge window; it therefore meets the test in the Essex Design Guide that the proposal does not result in the centre of an existing window being within a combined plan and section 45 degree overshadowing zone.

There is no right to a view over a neighbouring property.

There is a ground floor side facing window in the proposed extension, but this looks toward the frontage of 15 High Street North and does not result in unreasonable overlooking. It is noted that the proposed first floor plan still shows a side facing first floor window, which was removed from the amended elevation drawing and substituted with a roof light. An additional condition is recommended to clarify this:

Additional Condition 11:

Notwithstanding any indication to the contrary on drawing 900B, no first floor window shall be provided in the south side wall of the development hereby permitted.

Reason: In accordance with the amended elevation drawing 906C, which shows this window deleted and substituted by a roof light, so as to prevent unreasonable overlooking to the neighbouring property.

7.3 121334 – Akhurst Court, Melrose Road, West Mersea

An email was received from 11 Melrose Road querying compliance with the 45 degree rule referred to in paragraph 14.4 of the report in relation to the first floor windows.

Officer Response:

The 45 degree rule comes from the Essex Design Guide (p40) which suggests that ‘obstruction of light and outlook from an existing window is avoided if the extension does not result in the centre of the existing window being within a combined plan and section 45 degree overshadowing zone’.

To calculate if a new building/extension satisfies this test it is necessary to calculate: (i) whether the new building infringes a line taken at an angle of 45 degrees outward from the centre of an existing window (the plan view), and (ii) whether the new building infringes a line taken at an angle of 45 degrees upward from the centre of an existing window (the sectional or elevation view). A new building will only fail to satisfy this guidance if it fails to satisfy both of these tests; if it fails to satisfy one of the tests (commonly the outward angle or plan view) but does satisfy the other test, it is not then within a combined plan and section overshadowing zone.

In the case of 11 Melrose Road, although the proposed new building is going to infringe on a 45 degree angle taken outward from the centre of the nearest window, it is not going to infringe on a 45 degree angle taken in an upward direction. It therefore meets the test in the Essex Design Guide that the proposal does not result in the centre of an existing window not being within a combined plan and section 45 degree overshadowing zone.

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SUPPLEMENTARY AGENDA

Part B

(not open to the public or the media)

Pages

There are no Section B Items