

Planning Committee

Town Hall, Colchester
31 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

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please refer to Attending Meetings and "Have Your Say" at www.colchester.gov.uk

Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off or switched to silent before the meeting begins and note that photography or audio recording is not permitted.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A vending machine selling hot and cold drinks is located on the ground floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

Colchester Borough Council, Angel Court, High Street, Colchester
telephone (01206) 282222 or textphone 18001 followed by the full number you wish
to call

e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

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.

REASONABLE DECISIONS AND REASONS FOR REFUSAL.

Circular 03/2009: “Costs Awards In Appeals And Other Planning Proceedings”

Attention is drawn to the following paragraphs of Circular 03/2009:

A3 *“the costs regime is aimed at ensuring as far as possible that... planning authorities properly exercise their development control responsibilities, rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason”.*

B20 *“Planning authorities are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.”*

B25 *“Whenever appropriate, planning authorities will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. They should consider any conditions proposed to them before refusing permission. A planning authority refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.”*

COLCHESTER BOROUGH COUNCIL PLANNING COMMITTEE 31 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 1 - 15

To confirm as a correct record the minutes of the meeting held on 13 December 2012.

7. Planning Applications

In considering the planning applications listed below, the Committee may chose 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. 122189 Kyloe, Penlan Hall Lane, Fordham. **16 - 20**
(Fordham and Stour)

Proposed timber frame pole barn.

2. 122181 Leisure Centre, Cowdray Avenue, Colchester **21 - 26**
(Castle)

Variation/removal of Condition 4 of Planning Permission 121289 regarding tree and shrub planting.

8. Changes to the deadline for comments being included on the Amendment Sheet for the Planning Committee 27 - 29

See Report from 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 30

See Amendment Sheet attached

PLANNING COMMITTEE 13 DECEMBER 2012

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Nick Barlow*, Nigel Chapman*,
Peter Chillingworth*, Helen Chuah*, John Elliott*,
Stephen Ford, Cyril Liddy, Jackie Maclean*,
Jon Manning, Nigel Offen*, Philip Oxford and
Laura Sykes*

Substitute Member :- Councillor Marcus Harrington
for Councillor Sonia Lewis*

(* Committee members who attended the formal site visit.)

65. Minutes

The minutes of the meeting held on 15 November 2012 were confirmed as a correct record.

66. 120412 Butt Road, Colchester

The Committee considered an application for a local centre comprising a supermarket, six retail units, affordable housing and car parking. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit prior to the previous committee meeting on 14 June 2012 in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Vincent Pearce, Development Service Manager, attended to assist the Committee in its deliberations. Also present at this meeting were two officers from Essex County Council Highway Authority and the Council's highway consultant. He referred to the report having been updated with the results of additional highway survey work which indicated that the likely increase in traffic on the 'ladder' roads would be negligible to modest, taking into account the natural increase in traffic; no accident black spots had been identified. It was likely that there would also be a negligible increase in pedestrian movements. Therefore, he could see no sustainable reason to refuse the application on highway grounds and thus it was demonstrated clearly that there were no grounds for refusal.

Sarah Varela, on behalf of St Helena Road and Errington Road residents, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to this application for a store larger than the original plan for a local store. Her objections were in respect of safety regarding the pavement width of 1.4 metres at the Drury Road/Layer Road/Butt Road junction and another section of pavement on a blind bend with a narrow unprotected pavement alongside which commercial traffic would be directed. She was concerned that the proposals may result in a child being

hurt or worse. Pedestrian movements at peak times had been recorded by local councillors and residents and the results did not agree with those recorded as part of the Supplementary Transportation Statement. She urged that a full independent and robust assessment and safety risk assessment be carried out before a decision on this application was taken.

Mike Jacklin, on behalf of St Helena Road and Errington Road residents, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application on safety and congestion grounds. The residents had undertaken a pedestrian survey and a highway survey and neither reflected the results of the formal surveys. Nine roads fed into Butt Road and he would have expected there to be an increase. Primary school children walked to school along Butt Road on the narrow pavement, at a blind bend. The duty of care extends to making sure decisions are based on sound evidence and robust data. He believed that the data was incomplete and he urged the Committee to obtain full robust information, otherwise they should reject the proposal and build a local store as originally proposed for this site.

Roger Buston addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He related the history of the development of the Garrison site. Garrison traffic was routed through this area and the infrastructure could not sustain such traffic levels. The highway infrastructure had been designed to support what was in the original plan – a development around Circular Road North which included a local convenience store. Nothing had changed and the new population would be close to the numbers predicted. A bigger store would attract customers from further afield and they were likely to arrive by car. He did not believe that there would be no adverse traffic impact on the area as the studies suggested for a destination supermarket and compared the congestion to that experienced at the Hythe. He asked the Committee to refuse the application.

John Timothy, Head of Regional Corporate Affairs, Tesco Stores Limited, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He understood the discussion around traffic which had drawn attention and questions but they had worked hard to get the information to enable the Committee to support the proposal. They had listened to the views of the Committee. The traffic surveys demonstrated that there would be no significant impact on the roads. He confirmed that there would be a legally binding car parking area which would be managed through an automatic number plate recognition system. There would be a £30,000 contribution to provide additional weight restriction measures. Litter would be managed on site and there would be a further contribution to provide additional bins off site. A recruitment programme would make sure that people locally would have an opportunity to work at the store.

Martin Robeson, Planning Consultant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He was a specialist in superstores and supermarkets. He had heard the assertions about supermarkets and traffic issues. He spent time working for large supermarkets, getting research to support their schemes. The traffic survey looked into the consequence of introducing a supermarket to the town and it demonstrated there would be little extra

traffic. He spoke about the changes people make in their habits in regard to supermarkets and superstores. At the inception of superstores people made significant changes but with each successive remodelling of superstores, the changes were insignificant. Those living close to stores tended to walk rather than driving once a week. This local centre would be the last; there were no other allocations waiting to be built and no extant planning permissions.

Matthew Brown, Tesco Independent Highway Consultant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He described the extensive traffic and pedestrian surveys undertaken in the surrounding roads and footways by an independent company using video analysis. Detailed analysis has been undertaken both by Essex County Council and an independent consultant. Three experts agree that traffic impact on ladder roads would be minimal. There would be a marginal increase in traffic which would not give rise to environmental impacts and the scheme does not give rise to any safety concerns. Pavement widths were sufficient to avoid pedestrians stepping into the carriageway and pedestrian impacts were minimal. Officers have confirmed that this development would not have an impact on the surrounding network.

Councillor Nick Cope, Christ Church Ward, attended and, with the consent of the Chairman, addressed the Committee. He referred to the figures in the ladder roads as set out in the report at paragraph 5.22 and the number of traffic conditions incorporated relating to the prohibition of lorries using the ladder roads. He questioned the outcome of the surveys that a larger shop would result in smaller traffic flows, the absence of Butt Road in the data and whether it was possible to add all the figures for adjacent streets to come to a figure for all roads. Butt Road was a major route into the town centre but was not mentioned in the report. Some people believed the proposal was too large and he asked the Committee to discuss this aspect.

Councillor Pauline Hazell, Shrub End Ward, attended and, with the consent of the Chairman, addressed the Committee. She was also concerned about the traffic resulting from the increased size of the store and the impact on safety and urged the Committee to reject the application and return to the smaller store of 512 square metres with three retail outlets. This application was outside the designation for Butt Road. Tesco want a bigger store to draw customers from a wider area resulting in more lorry movements to service the store and more car journeys. The resulting lorries and vans would have a serious impact on traffic at all hours of the day. She asked the Committee to consider the difference in highways emphasis on road survey. She compared the provision for pedestrians at the Shrub End Road/Norman Way junction where railings had been installed around both sides to protect pedestrians. There was a need for such provision at the Butt Road/Layer Road/Drury Road junction where pavements were particularly narrow.

Councillor Sue Lissimore, Prettygate Ward, attended and, with the consent of the Chairman, addressed the Committee. She also objected to the larger size of the store and referred to the route of delivery lorries. She believed that each of the franchise outlets would have their own deliveries. Residents wanted conditions to prevent extended opening hours, and to require Tesco to ensure that all commercial vehicle movements adhere to restrictions and routing. She also wanted restrictions on lorry

stacking in residential roads, Tesco to pay for residents parking scheme, restrictions on signage, a weight limit on surrounding roads, a 20mph limit on ladder roads, safety measures on the blind bend paid for by Tesco, no on-line deliveries from the site, security measures, magnetic controls on trolleys, no increase in size of store, no petrol service station. The reasons for refusal were that the application contravenes the Council's policies and posed a serious risk to pedestrians. Butt Road was one way traffic flow near the town and cars would have to travel through the ladder roads to get to the store.

Councillor Will Quince, Prettygate Ward, attended and, with the consent of the Chairman, addressed the Committee. He was also concerned at the traffic, particularly along roads in Prettygate and on the corner of Butt Road. He had witnessed children stepping off the pavement into the road to avoid obstructions. He referred to the difference in survey data between the formal survey and the residents' survey. The highway figures did not add up. The Council should listen to residents who knew the area. If the Committee was minded to refuse the application, the applicant would go to appeal and costs would be awarded against the Council. He asked the Committee to take a chance and take residents seriously and that they give consideration to the conditions referred to by Councillor Lissimore.

The Development Services Manager, referred to general issues regarding traffic generation. The difference in traffic was a net increase as illustrated on page 12 of the report. He suggested that people may or may not have taken a different route when the formal survey took place which was unannounced. He responded to Cllr Cope in respect of Abbotts Road being an equivalent comparator. Cllr Quince urged the Committee to take a chance which might lead to an appeal and costs. Roger Buston referred to the Garrison development and the multi-million pound road improvements. The Council would not be able to defend a refusal on the grounds of wanting to address the safety of children on the bend.

Martin Mason, Essex County Council Highway Authority, referred to the traffic counts which had been done by video. He confirmed that there was no accident record in the area and no evidence to suggest that the proposal would lead to a safety problem. In respect of a suggestion for a guard rail he responded that the pavement was not wide enough. If installed the footway would be extremely narrow. He also confirmed that the Highway Authority were comfortable that the proposal would be well served by footways and crossing facilities. Mr Mason was also invited to indicate what his professional advice would be if the residents' pedestrian and highway survey results were accurate in response to which he confirmed that the figures were not such as to change his highway advice to the Council.

Matthew Last, Consultant, clarified the survey figures. The pedestrian survey was undertaken on the south side of the road and the residents survey was on the north side of the road which could explain the difference. A further survey of 54 movements was similar to the residents' survey. The formal survey was robust and reasonable and the junction capacity modelling was also reasonable. In all cases they were satisfied with the impact being minimal. A traffic assessment should take into account five years into the future and the projected future flows increased by 10% thus they would have no environmental impact.

Members of the Committee made the following comments or sought further information:-

- confirmation sought that the formal surveys were not undertaken on a non-pupil day;
- confirmation of pedestrian movements on the north side of Butt Road/Drury Road junction on a bend and unprotected. Need to ensure the route is safe;
- could this section of footpath be widened, perhaps by taking some of the grass on the other side of the road;
- buses make a very tight turn from Layer Road into Butt Road, suspect they may not get round at all if the road was widened;
- local people may not use their car in the future. A number of people live within 800 metres – had this been taken into account;
- request for a 20mph speed restriction as well as weight restrictions on the ladder roads;
- request for contributions towards road safety humps in the local area, alternatively ring fence the money for road safety to be used elsewhere in the local area;
- no on-line deliveries for this store;
- how would the agreed route be enforced. What if delivery vehicles needed to visit the other Tesco stores;
- enquiry on how many disabled parking spaces were provided and use of disabled bays;
- night closing of the car park;
- no physical extensions to the store be allowed without planning permission.

Matthew Last, Consultant, explained that the Highways Authority accepted movements from the store. It was reasonable to assume there would be some transfers from car to walking and the study did look at such an expected transfer. He also explained the Trip Rate Information Computer System (TRICS), an industry standard which held information on large developments and various types of development across the country and that information had been used to derive traffic predictions. This data was very robust because it included stores with petrol stations and stores without, and it was more likely that there could be an over estimation rather than an under estimation.

In response to the comments regarding the narrowness of the Layer Road/Butt Road footway, Martin Mason, Essex County Council Highways Authority, believed that it was not possible to meet highway standards in that area, and furthermore they were not prepared to sign off a junction which did not meet modern day standards.

The Development Services Manager explained that a plan for designated routes had been provisionally agreed with Tesco, but it would be possible to include other Tesco stores in Colchester in the plan. In terms of the designated route, if a regular driver took a different route it would be necessary to make direct contact with Tesco or the regional office to challenge the route taken; the Council was working with Tesco to honour such an agreement.

He also explained that this application resulted in an increase of 800 square metres on the original convenience store, and there was no change in the bend in the road from

the previous smaller convenience store. The Committee should be aware that there was already a live permission which would add activity at the bend. The difference in pedestrian movements would not be enough to require improvements at the junction and it was not reasonable to ask developers to do works based on a marginal increase in pedestrian movements. He did not believe a lollipop crossing would help people at that bend. Tesco had comprehensive coverage in Colchester and that may change behaviour so that people will shop locally. There would be twelve disabled spaces, eight parent and child spaces, and a number of motorcycle spaces.

He responded to suggestions for some additional conditions:-

- the store should close at 8pm instead of 10pm;
- all deliveries to be made within the hours of business and a delivery strategy to be agreed;
- external lorries to adhere to same hours of delivery as Tesco own lorries;
- a regular liaison session be set up with the store manager,
- a liaison be set up between ward members and someone who could authorise action;
- lorry stacking – could ask/explore waiting arrangements at Highwoods store;
- illumination to be agreed;
- it would be unreasonable to expect Tesco to fund residents parking extensions in nearby streets;
- signage could be controlled by conditioned;
- roads should be designed for 20mph and it was not now appropriate to fit road bumps into existing roads;
- could ask for a contribution for a lollipop crossing;
- no fast food;
- will have a discussion on closing the car park at night;
- provide clarification that this permission is for a fixed amount of floor space, despite any other changes;
- the site is too small to accommodate a fuel service station;
- Tesco own enforcement regime and they can be penalised;
- It is not possible to acquire contributions to be used elsewhere.

RESOLVED (NINE voted FOR, FOUR voted AGAINST, and ONE ABSTAINED from voting) that –

(a) Consideration of the application be deferred and the applicant be advised that the borough council was minded to grant a conditional approval provided that a legal agreement was signed, within four months of the date of this Planning Committee meeting, to cover the items set out under the Section 106 section of the original report, and repeated below:-

- Local Employment and Training
- Construction Traffic Management Plan
- Heavy Goods Vehicle Transport Plan
- Contribution to weight restrictions on vehicles using specified local roads (£30,000):
- Affordable Housing (14 units and trigger points for delivery)

- Travel Plan (for food store)
- Cycle Route on Layer Road (£43,000)
- Amenity Space Contribution (£28,000 - in lieu of delivering on-site amenity space for the affordable flats.
- Litter Bins Contribution £8,335.25 + VAT for the installation and maintenance (for 5 years) of 5no. litter bins within the immediate area
- Linking the residential development to 299a for the provision of Primary and Secondary Education Contribution; Public Open Space, Sport and Recreation Contribution; Community Facilities Contribution.

(b) Upon receipt of a satisfactory Section 106 Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the original report and in the report for this meeting with the following amendments and additional conditions:-

Condition 39: to be expanded to include the requirement to agree onward routing from the Butt Road store to other Tesco stores in the area and to include the requirement for Tesco to apply agreed routing to suppliers servicing the Butt Road store. This Management Plan shall also include the agreement of arrangements satisfactory to the Local Planning Authority, arrangements for 'stacking' of delivery vehicles that arrive early/late in order to avoid lay overs in adjoining streets. These arrangements may necessitate the laying over at Tesco's Highwoods store which operates on a 24-hour basis. It should be noted that in approving delivery times these should not be permitted outside of agreed business opening hours for customers. In addition the delivery times agreed shall exclude periods that coincide with children arriving at (am) and departing from (pm) the nearby Hamilton Primary School.

Condition 17: to be expanded to include the restriction that the store shall not be used for making home deliveries or on-line order collections unless otherwise agreed by the Local Planning Authority.

Extra Condition requiring Tesco to agree a method for closing the car park at night with the Local Planning Authority and then to implement that arrangement. This arrangement to include the provision of parking spaces outside of the lockable area for the use by visitors to the associated affordable housing units. Tesco may wish to give consideration to installing alligator teeth that can be raised after closing hours thereby allowing cars out but no cars in.

Extra Condition requiring a programme of liaison meetings to be arranged prior to commencement and then undertaken every four months during the construction period and the first year of trading between the Tesco Butt Road store manager, ward councillors from Christ Church and Shrub End wards and a representative from the Planning Service. Such meetings shall also be supplemented with a liaison meeting one month into the planned build programme and another one after one month of trading of the opened store with the regional director who attended the Planning Committee meeting to speak in support of the proposal.

Extra Condition requiring submission and approval of a signage strategy for the site which also identified those areas of the building and parts of the site where in principle

signage may be accepted.

67. 120848 Stanway Railway Depot, Halstead Road, Stanway

Councillor Harris (in respect of a family member being employed by Hopkins Homes Limited) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the construction of 123 residential properties with associated access roads, footpaths, garages, car parking, cycle parking, infrastructure works, landscaping, fencing, walling, public open space/equipped play space and public highway works. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Mark Russell, Principal Planning Officer, Vincent Pearce, Development Service Manager, Beverley Maclean, Coast and Countryside Officer, and Liam McKarry, Tree Officer, attended to assist the Committee in its deliberations.

Emma Asensio addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application in respect of local wildlife issues and the consultation period. She believed that the Essex Wildlife Trust had not been consulted on the proposal during the initial period of consultation for the Local Development Framework and that the Trust would have objected to the allocation at that stage in the same terms as their more recently submitted objection. Residents were concerned that there was no evidence that the woodland to the north would provide a suitable mitigation area and that there had not been a full debate regarding the tests of habitat regulations on whether there was a potential for harm.

Brian Rayner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application in respect of the impact of additional traffic joining the A12 at junction 26. The requirement for a junction assessment at the A12 junction had been marginal. He suggested that the majority of residents would travel by car and the A12 junction was the most direct route for most journeys. In regard to alternative means of transport, there was no proposal for additional services to the current provision of public transport, there was no clarity on whether cyclists would be able to cross Halstead Road, and to suggest that residents walk to the shops was farcical. He considered there was a need for an appropriate travel plan for this residential scheme.

Anthony Bell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application in respect of the translocation of protected species. He was of the opinion that the Great Crested Newt had declined and that translocation of this species might not be successful. Advice on this matter was unclear on whether it was a suitable species for translocation and the practice was regarded as damaging. In any case, there was a need to allow one year

before translocation took place and the reception site should be avoided if it had a pond. The owners of the site had a legal obligation in this respect.

Simon Bryan, Development Officer, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the land being allocated for residential use and that a development brief for the site had also been adopted; the proposals were in accordance with that brief. The site required ecology and engineering solutions. The land was in poor condition in respect of biodiversity because of the areas of contamination resulting from the previous use on the site and if left it would continue to degrade to the detriment of the wildlife; translocation of wildlife to the area to the north would enable their preservation. He referred to some illegal trespassing for dog walking and cycling purposes. He considered the land should be transferred to an appropriate body. They were providing four acres north of the railway line and an area of open space.

Melanie Archer addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application in her role as a qualified ecologist. She explained that surveys had been undertaken on the site for five years and in her opinion the proposal would result in significant ecological benefit in habitat and species. If the site was left there would be a lowering of biodiversity. The mitigation measures proposed were in line with best practice and current guidelines. There would be a loss of 3.9 hectares of habitat. The site was of special scientific interest with Great Crested Newts and notable species of nesting birds. She referred to tree preservation orders within the wood. She also referred to the 10-year management plan which would include the management of habitats and would improve the ecology of the site.

Robert Eburne, Planning Manager for Hopkins Homes, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the objections which related to the principle of development and he explained that the site was approved in principle for residential development. He also referred to the two previous planning applications in 2006 and 2011. This proposal was in accordance with the Local Plan which identified the site as suitable for between 120 and 140 dwellings and by comparison this proposal was a relatively low density.

Councillor Lesley Scott-Boutell attended and, with the consent of the Chairman, addressed the Committee. She was concerned about additional traffic and the current provision of public transport. The Highway Authority considered the development would affect the A12 and she questioned the impact of additional vehicles from the development on the surrounding road network. Of particular concern were the inadequate road surfaces, all the three routes into the town centre were residential roads with noise and congestion, journeys were slow and neither Halstead Road nor King Coel Road had any off road parking. She had undertaken a great deal of road safety work and was not satisfied that the surrounding roads would be able to cope. The A12 at junction 26 would exceed acceptable traffic flows. Traffic could be reduced by use of buses, cycling and walking but the bus service was only hourly. She asked that the Committee defer the application due to prematurity.

Councillor Kevin Bentley, also Essex County Councillor for Stanway and Pyefleet Division, attended and, with the consent of the Chairman, addressed the Committee. He referred to a petition of 250 signatures. A development of 123 homes could give rise to 300 cars from which there would be major congestion. Halstead Road was a small country lane. He questioned whether any appropriate traffic surveys had been undertaken and requested that a proper survey be done. He was not satisfied with those plots with undersized garden space. He believed the site allocation plan for 140 homes on this site was a mistake and possibly the development was flawed. He wanted the question of which organisation would manage the woodland to be resolved and considered the application should be deferred or refused on ecological grounds. The use of bicycles may not appeal to those who would use cars. The parish council, one of the ward councillors, himself and the Member of Parliament for the area, Priti Patel, were all opposed to the application.

Councillor Colin Sykes, attended and, with the consent of the Chairman, addressed the Committee. He referred to the history of the site and to its inclusion in the borough local plan and in 2010 to the Site Allocations Document. All three borough councillors were invited to contribute to that document which was signed off by the Portfolio Holder Councillor Lyn Barton who also invited members to comment. There was no request for the Portfolio Holder decision to be called-in. Therefore this site was allocated and agreed by default in 2011. Any developer would be able to submit a proposal for this site and the Committee could determine that application. Earlier speakers had mentioned ecology and traffic issues but the Committee was not in a position to refuse the application. He considered that the application was substantially in accordance with the planning brief and the Council's aspirations, and on balance he considered it to be acceptable.

In response to issues raised, the planning officer explained that due process had taken place and that Essex Wildlife Trust was aware of the site. It was also acknowledged that contamination work was being undertaken. A travel plan for a residential scheme was inappropriate, therefore a travel pack was being provided to encourage residents to use the bus services, etc. In respect of a safe crossing point, the Highway Authority regarded Halstead Road as too narrow and the predicted level of usage for a crossing was too low. The Highways Agency was content with the predicted impact on the A12. This was a live site in the Local Plan and the Local Planning Authority had agreed a development brief for the site. Nineteen of the total number of dwellings had garden sizes below the standard although many of these were only slightly deficient.

The Council's Coast and Countryside Officer responded to comments and queries raised in respect of the woodland and ecological issues. The previous planning permission on the site over-rode ecology issues. Essex Wildlife Trust had made representations on other sites but not on this site. The officer had been working with ecologist, Melanie Archer, and her work for the Great Crested Newt had complied with the guidelines for assessing ecology. Woodland management proposals had been challenged by Essex Wildlife Trust and Natural England and as a result a more robust management scheme had been developed. Standard procedures for translocation of the Great Crested Newt were being followed. Currently there was no access into the woodland and what had been offered would provide an improved access.

A member of the Committee raised the issue of the management of the woodland. There was a preference for any management plan to be in perpetuity rather than for just ten years, and it was suggested that the ownership of the wood should be transferred to an appropriate organisation such as the Woodland Trust. The wood was located in West Bergholt and Eight Ash Green ward and there was a request for ward councillors to be involved in any discussions regarding arrangements for the woodland. Other issues raised by members of the Committee included:-

- a request for the developer to consider the provision of water butts for dwellings;
- whether solar lighting had been considered;
- additional condition to control working practices during construction such as working times and days, wheel and road cleaning, no site vehicles to be parked on the highway, dust prevention and water bowsers;
- provision of grit bins;
- one access and egress to the estate;
- agreement with the borough council and the Highway Authority for the adoption of the estate roads;
- permitted development rights to be removed across the entire site;
- a crossing for school children;
- the impact on the A12 junction;
- social housing to be pepper potted throughout the site;
- problems with drainage and sewerage systems to be resolved;
- provision of dog bins;
- any roads which were particularly narrow be made up to a minimum 5 metre width;
- a maintenance plan for trees which were subject to a tree preservation order to ensure they did not become a hazard;
- trees to be removed from the location of the open space in order that it could be made available on time for residents to use.

The planning officer, Development Manager, Coast and Countryside Officer and the tree officer responded to the particular issues raised by the Committee in the following terms:- it would be possible to look at a scheme to achieve water efficiency, but surface water would be pumped away and there would be a storage system. It would be possible to request a SUDS system. In respect of working practices during construction there was a standard informative but it would be possible to impose suitable conditions, however, it would be unreasonable to prohibit site vehicles from parking in the highway. Essex County Council would resist adoption of estate roads prior to the completion of the development if it would involve repairs to be made afterwards caused by the development process. It would not be possible to widen estate roads because it would impact on the development to the extent that the entire scheme would need to be remodelled. It would be possible to ensure that street lighting, litter picking, and a management plan for potholes be repaired through a Section 106 legal agreement. The parking bays were of an acceptable size. Officers considered that a development of this size would not have any significant impact on the A12 junction. Affordable homes were provided in three areas of ten dwellings in each area; it was considered far better to secure affordable housing rather than insisting on pepper potting. In respect of the landscaping scheme, it was preferred that the scheme be planted up when the development was complete to avoid having to keep

repairing vegetation. Planting in public areas would be managed by the parks and recreation team.

In respect of arrangements for the woodland, it was accepted that the management plan should be extended to 25 years to ensure a proper management of the site. In the event that any funding provided by the developer was to be transferred to a third party, such as the Woodland Trust, a Section 106 legal agreement would be required. However, the Council was unable to require another organisation to take ownership of the woodland, although indications from ongoing discussions with the Trust were that they were willing to work with the Council on this matter.

RESOLVED (TEN voted FOR, THREE voted AGAINST and ONE ABSTAINED from voting) that –

(a) Consideration of the application be deferred for completion of a Section 106 Legal Agreement to provide the following:-

- 25% Affordable Housing;
- £150,000 for Community Facilities;
- £366,728 (index linked) for Education (primary provision);
- Woodland maintenance contribution of £37,00 per hectare for any areas of land to be maintained by Colchester Borough Council;
- Cycleway link to Dale Close;
- Upgrade of the two nearest bus stops;
- Travel packs;
- Contribution towards cycle training, marketing and 'led rides';
- £5,100 towards recycling and waste was requested to be added as an informative on the decision notice;
- Compensatory planting in the 1.75ha parcel of woodland to the west of the existing woodland;
- A strategy for land to the north of the railway which shall include:
 - o A woodland survey and a long term woodland management strategy to be prepared and submitted to Colchester Borough Council prior to occupation of any unit;
 - o An overarching Green Infrastructure Strategy for the Local Wildlife Site (LoWS) to bring all these strands together. The Woodland Management Strategy could be integrated into this document;
 - o A post-construction long-term management strategy for the Great Crested Newt habitats;
 - o A monitoring and mitigation scheme for all reptiles (including Slow Worms);
 - o Confirmation that any subsequent land-owner will also inherit the implementation of the 25 year plan.

(b) Upon receipt of a satisfactory signed Section 106 Legal Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the Amendment Sheet

together with the following amendments to the Section 106 Legal Agreement to include involvement discussion between a West Bergholt and Eight Ash Green ward councillor, a Colchester Borough Council ecologist and the Essex Wildlife Trust, and to phase the release of the open space early together with the following extra conditions:-

- Extra condition 26 relating to ecology documents;
- Extra condition relating to grit bins;
- Extra condition relating to site management to include litter picking, repair of street lights, dog bins and care for planting;
- Wheel washing/road cleaning, dust control and grey water recycling standard conditions;
- Condition 13 to be amended to refer to SUDS.

68. 121902 and 121905 152 High Street, Colchester CO1 1PN

Councillor Chillingworth (in respect of being a trustee of the Building Preservation Trust) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered planning application 121902 for an enlarged and refurbished Williams and Griffin store including part demolition and rebuild, remodelling of external elevations and internal alterations, and planning application 121905 for conservation consent in respect of the demolition aspect. The Committee had before it reports in which all information was set out, see also Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Vincent Pearce, Development Manager, and Andrew Tyrrell, Planning Manager, attended to assist the Committee in its deliberations.

Hugo Fenwick addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the sole letter in response to the public consultation which highlighted support for the proposal with no objections from local residents. It also compared Colchester's town centre to those in Ipswich and Chelmsford, both of which had received investment from John Lewis. It speculated that the proposal would pull people in from further afield. In respect of the heritage aspect, he referred to the renovation of the store both internally and externally, the consequence of which would be the removal of one façade. In conclusion he stated that the proposal was fully in accordance with the National Planning Policy Framework which set out to encourage sustainable development and would provide long term investment and regeneration for Colchester's town centre.

Councillor Lyn Barton, Colchester Portfolio Holder for Renaissance, attended and, with the consent of the Chairman, addressed the Committee. She fully supported the investment and the design of the store which would provide an important retail experience for residents. However, her main concern was in respect of the intention to demolish a 1920s façade. She referred to local experts having compiled a local list of

heritage assets and that elsewhere the list had been successful in protecting local heritage. The Development Plan Document states that existing buildings that are not formally listed buildings and local list buildings will be protected and enhanced. The block building would change the street scene and dominate the High Street. She asked if the recommendation could be reconsidered to incorporate these facades.

Councillor Sue Lissimore attended and, with the consent of the Chairman, addressed the Committee. She made representations on behalf of disabled drivers in terms of the proposed closure of the High Street to all cars and the existing facilities for disabled drivers being moved to North Hill. Her concern was that some disabled people may not be able to use the re-located disabled parking facilities because they would not be able to negotiate the hill. She requested that the Planning Committee give consideration to an amendment to the Section 106 Agreement to require Williams and Griffin to fund parking facilities for disabled people at the Nunns Road car park which would enable those with disabilities to access the High Street along a level pathway.

In response to the request for the retention of the 1920s facades, the Planning Manager referred to there having been a change in Government policy for planning matters rather than there having been any change in the Council's planning policies. The general recommendation now was for planning authorities to facilitate growth, although he cautioned that heritage was a finite resource which could not be recreated. In considering the loss of the 1920s facades he stated that whilst it was important that the local list be given due weight, the issue was about taking a balanced view on whether substantial harm would result from the loss of those facades. In this case it was considered that the harm was not substantial whereas the benefits of the proposal were substantial. The case referred to by Cllr Barton had primarily been refused on design grounds not on grounds and it was clear that the poor design proposed in that case was not comparable to this proposal. The applicants wanted to achieve a form of recognition on the High Street and if the 1920s facades were retained there would be an impact on the proposed frontage. In respect of the provision of disabled parking facilities he stated that the applicants did not own any land beyond the boundary of the buildings and it would require a dialogue with a third party in order to secure a change of location of such facilities. This would bring benefits to the store but it could not be secured through the Section 106 Agreement although it could be explored outside of the planning application.

Whilst not being opposed to modern architecture per se, some members of the Committee voiced their support for the retention of the 1920s facades and suggested the possibility of retaining them in a different location be investigated. Reference was also made to the earlier loss of the Cups Hotel further along the High Street. Other members of the Committee balanced the benefits against the disadvantages and supported the proposal with the significant investment in the High Street that it would bring, including a visual presence which would be lost were the 1920s facades to be retained. There was also a view that significant changes to the context of the 1920s façade had already had a significant impact on its historical value.

RESOLVED (ELEVEN voted FOR, TWO voted AGAINST and ONE ABSTAINED from voting) that –

Application 121902:

(a) Consideration of the application be deferred for completion of a Section 106 Legal Agreement to provide for items as set out in the report and in accordance with the Council's Policies.

(b) Upon receipt of a satisfactory Section 106 Legal Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the Amendment Sheet.

Application 121905:

Approved as per recommendation subject to conditions and informatives as set out in the report and on the Amendment Sheet.

69. 121895 2 Morello Court, Colchester

The Committee considered an application for the erection of a single storey conservatory to the rear of the property. The Committee had before it a report in which all information was set out.

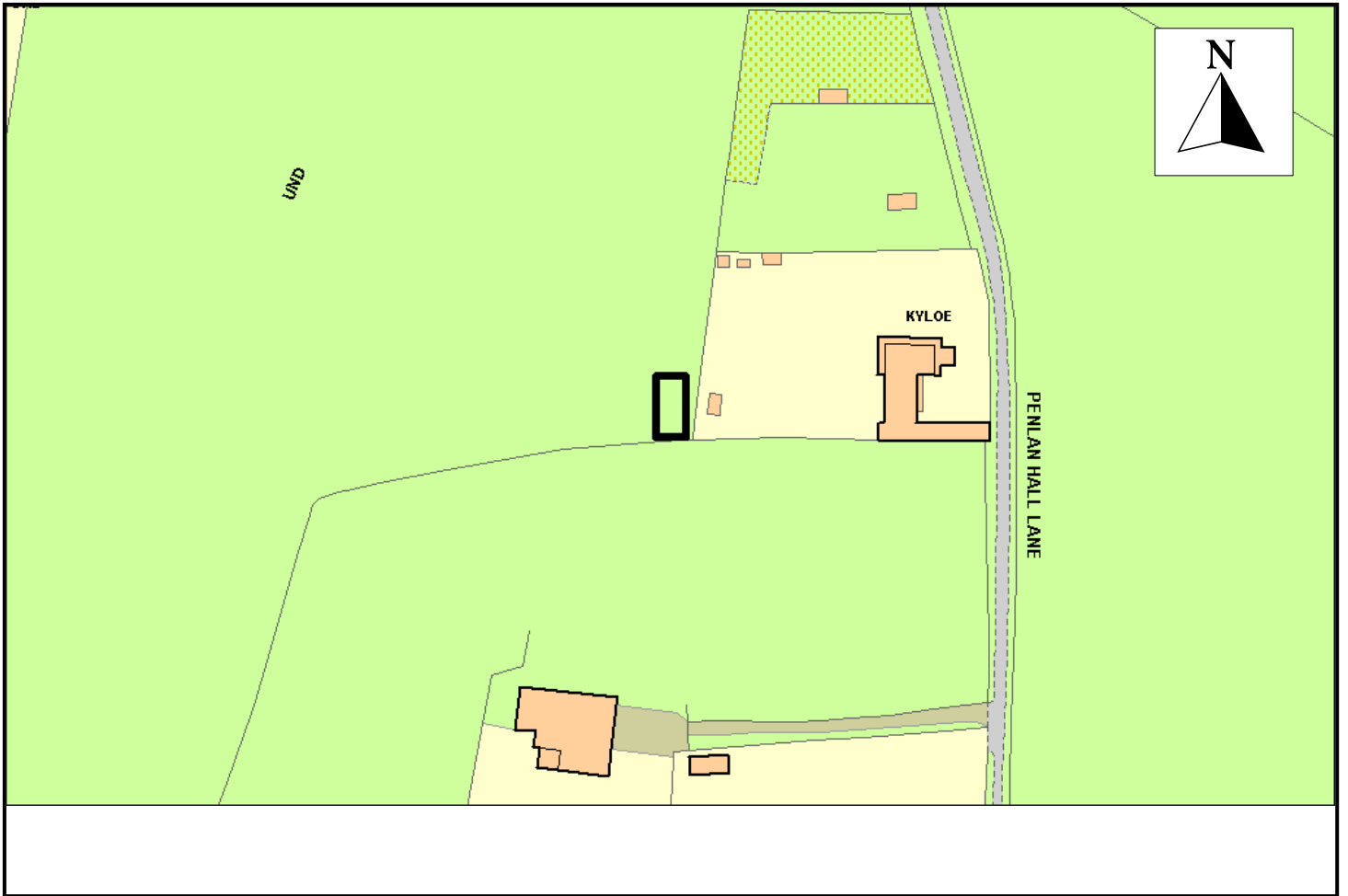
RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report.

70. Appeal Procedure // Land from Wormingford to Abberton including Abberton Reservoir, Peldon Road, Abberton

The Head of Environmental and Protective Services submitted a report on a proposed appeal procedure relating to grants determined by the Abberton Community Fund Panel. The Committee had before it a report in which all information was set out.

Andrew Tyrrell, Planning Manager, attended to assist the Committee in its deliberations.

RESOLVED (ONE ABSTAINED from voting) that an appeal procedure following a grant application being declined, be agreed and the Section 106 Agreement be amended to include and take account of the provisions as set out in paragraph 5.0 of the report by the Head of Environmental and Protective Services.



Application No: 122189

Location: Kyloe, Penlan Hall Lane, Fordham, Colchester CO6 3LP

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2012



Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **31 January 2013**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

7.1 Case Officer: Carl Allen

Due Date: 04/02/2013

MINOR

Site: Kyloe, Penlan Hall Lane, Fordham, Colchester CO6 3LP

Application No: 122189

Date Received: 10 December 2012

Applicant: Mr. Kurt Manders

Development: Proposed Timber frame pole barn

Ward: Fordham & Stour

Summary of Recommendation: Approval without conditions

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because Councillor Chillingworth has been identified on the Certificate of Ownership as having owned part of the land 21 days before the application was made.

2.0 Synopsis

2.1 The key issues explored below are design, amenity and the impact upon the countryside. The application for a pole barn is retrospective and it is concluded that the barn does not result in any amenity issues and that the design is suitable for the location and would not have a detrimental impact upon the countryside. Approval is recommended.

3.0 Site Description and Context

3.1 The site is to the west of the dwelling known as 'Kylloe' and occupies high land in the surrounding countryside. There are well established trees on the boundaries to the east and south whilst there is open countryside to the west. A timber pole barn has been built without planning consent and is approximately 4.2m high, 13.8m wide and 22m long. The building is open-sided and is constructed from telegraph poles and coated roof cladding with compacted hardcore as hard standing. The shelter is used for the storage of hay and farm machinery. The nearest neighbours (Windyridge and Madresfield) are over 50m south of the site.

4.0 Description of the Proposal

4.1 To retain the pole barn as built.

5.0 Land Use Allocation

5.1 Agricultural.

6.0 Relevant Planning History

6.1 An Agricultural Prior Notification (121789) was submitted in October 2012, but was refused because the barn was already completed, which is contrary to the conditions of Part 6 Class A Conditions A.2 (2) (i) and (iii) of the General Permitted Development Order.

7.0 Principal Policies

7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes clear that planning law requires applications for planning permission to 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
ENV1 - Environment

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP8 Agricultural Development and Diversification

7.4 None of the adopted Site Allocations (2010) policies are particularly applicable to this application.

7.5 Regard should be given to the following adopted Supplementary Planning Guidance/Documents:
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

8.1 None

9.0 Parish Council Response

9.1 The Parish Council has stated that they have no objections.

10.0 Representations

10.1 No representations have been received.

11.0 Parking Provision

11.1 N/A

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Development Team and Planning Obligations

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

15.0 Report

15.1 With the nearest neighbours 50m from the site and with well established trees and hedges in between, the proposal does not result in any detrimental amenity issues such as overlooking or overshadowing. Therefore the main considerations are the design and the impact on the surrounding countryside.

15.2 The building's design is an open sided barn with telegraph poles supporting a roof. Given the agricultural use of the barn the design is considered to be fairly standard and something that could reasonably be expected to be seen in the countryside. The materials, although basic are considered acceptable in the agricultural context. The proposal is considered to comply with the design policies of the Council.

15.3 The building is well screened to most boundaries, apart from to the west where open countryside extends. Given the height, the backdrop of hedging and trees that the barn would be seen against and that it is situated in the corner of the plot of land, there would be little impact on the quality of the surrounding countryside. The proposal is therefore considered to comply with Policies ENV1 and DP8.

16.0 Conclusion

16.1 It is considered that the pole barn does not result in any amenity issues, has a suitable design and does not have a detrimental impact on the surrounding countryside.

17.0 Recommendation – Approve without conditions

Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

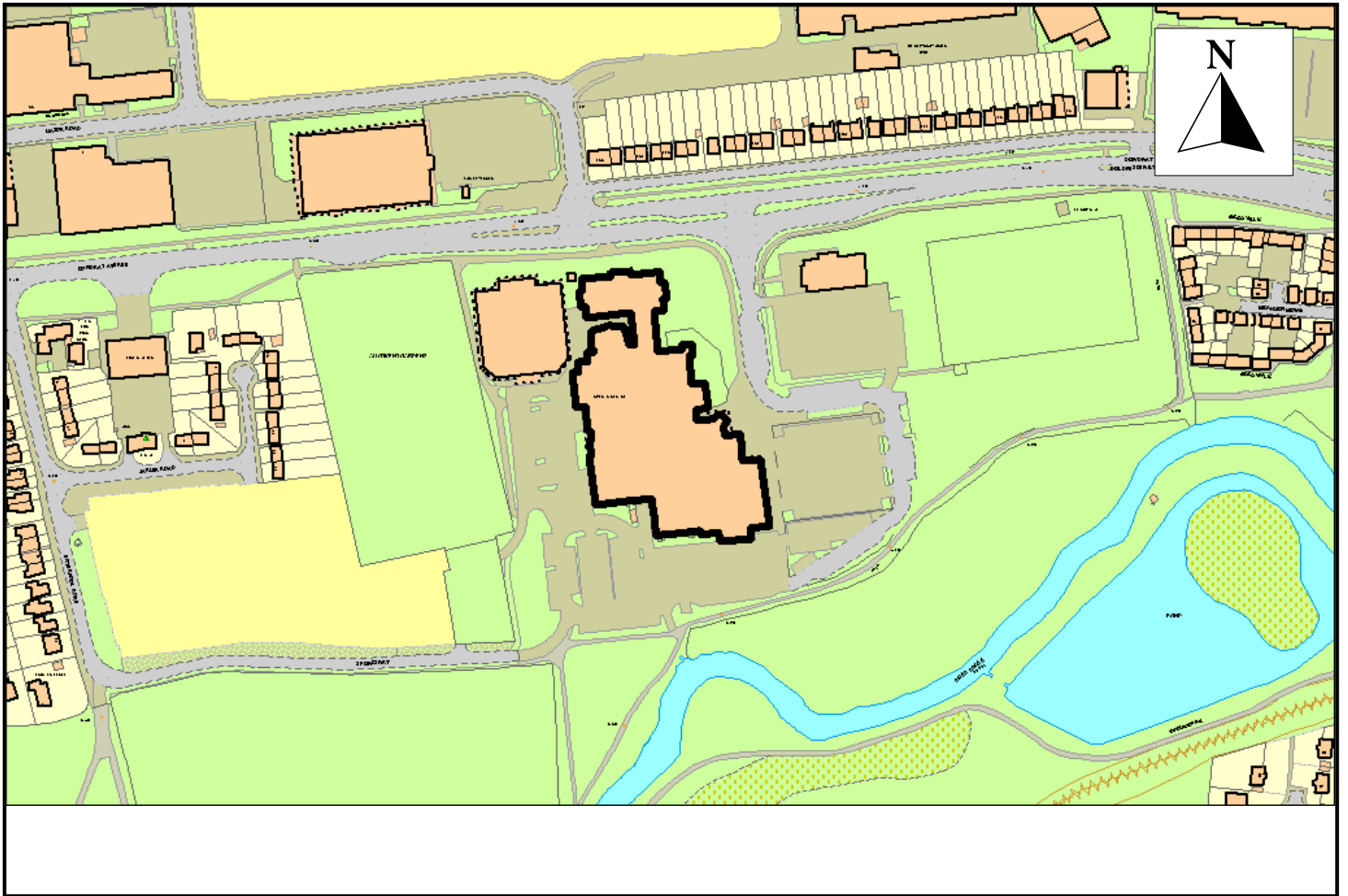
(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Application No: 122181

Location: Colchester Leisure World, Cowdray Avenue, Colchester, CO1 1YH

Scale (approx): 1:2500

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2012

7.2 Case Officer: Mr David Whybrow

Due Date: 01/02/2013

OTHER

Site: Cowdray Avenue, Colchester, CO1 1YH

Application No: 122181

Date Received: 7 December 2012

Agent: Nps South East Limited

Applicant: Colchester Borough Council (Lee Spalding)

Development: Variation/removal of condition 4 of planning permission 121289 regarding tree and shrub planting.

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This is a Colchester Borough Council application and is therefore referred to the Planning Committee for determination. Councillor Jo Hayes has raised objections to the proposal.

2.0 Synopsis

2.1 The report will consider the consultation responses and representations received and conclude that the proposals are satisfactory and recommended for approval.

3.0 Site Description and Context

3.1 Colchester Leisure World is the sport and recreation complex which lies on the south side of Cowdray Avenue and comprises swimming pools, sports halls, Charter Hall, Aqua Springs and Ten Pin Bowling along with extensive car parking. It is served by a light-controlled junction with Cowdray Avenue which also serves a McDonald's restaurant. A secondary access (non vehicular) is available from Sportsway to the south-west.

3.2 The application proposes the variation/removal of Condition 4 of the planning permission granted on 6 November 2012. The condition is worded as follows:-

“Prior to the commencement of development, details of tree and/or shrub planting and an implementation timetable shall be submitted to and approved, in writing, by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.”

4.0 Description of the Proposal

4.1 The original application was described as internal remodelling and refurbishment, single-storey main entrance and café extension on the building’s east elevation and external works including drainage and relocation of cycling facilities. The proposal included some remodelling of the external space alongside the main entrance including new paving and tree planting which is the subject of the present application.

4.2 The agent indicates that there is no precedent for tree planting in this area and planting is a target for vandalism and difficult to maintain. These problems were alluded to in the Design and Access Statement which accompanied the previous application.

5.0 Land Use Allocation

5.1 No notation

6.0 Relevant Planning History

6.1 The leisure complex has been the subject of a number of planning applications but none of direct other than that to be varied, Ref: 121289.

7.0 Principal Policies

7.1 The following national policies are relevant to this application and that which preceded it:

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:

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
SD3 - Community Facilities
CE2 - Mixed Use Centres
CE2a - Town Centre
UR2 - Built Design and Character

TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA4 - Roads and Traffic
TA5 - Parking

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

DP1 Design and Amenity
DP4 Community Facilities
DP6 Colchester Town Centre Uses
DP17 Accessibility and Access
DP19 Parking Standards

8.0 Consultations

8.1 The Trees and Landscape Officer comments:-

“The landscape proposals would appear in part acceptable; however as a minor amendment it is recommended the planted be extended south to a better corral and protect the seating area and the second tree (which is unacceptably close to the built form) removed in order to allow the remaining tree to act as a medium/large size feature tree, thereby leaving the main point open, clear and inviting but still softened by the feature tree and planters.”

9.0 Parish Council Response

9.1 Not applicable

10.0 Representations

10.1 Councillor Jo Hayes comments are as follows:-

- “1. It is stated in the application that there is no precedent for tree planting in this area. This is not a good reason for the proposed change in condition, because the policy of the Borough is to encourage tree planting for a number of strong environmental reasons as well as visual amenity. Without vegetation the development will look bare.
2. It is stated in the application that trees are targets for vandalism and can prove difficult to maintain. However, most residents value and appreciate trees.
3. This is presumably a cost-cutting measure but it must be recalled that when in the recent past shrubs were grubbed up in order to save maintenance costs, Colcestrians were aghast.
4. A tree outside the new café would provide welcome summer shade. Tables could be provided for guests to sit outside and enjoy its shade.
5. Nothing has occurred to justify removal/variation of the condition since the condition was imposed.”

11.0 Parking Provision

11.0 Non applicable

12.0 Open Space Provisions

12.1 Non applicable

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 effect of the present proposal is to have no planting within the reduced paved area leading to the entrance of the Leisure Centre. Although your Trees and Landscape Officer had suggested a compromise, involving a single feature tree (as opposed to 2 as originally shown) and extended planting to enclose the outdoor seating area, the agent has reiterated that Colchester Borough Council does not wish to carry out any soft landscaping.

15.2 There is an argument that tree and shrub planting will restrict views of the main entrance so as to maintain an uncluttered, clear and visiting approach to Leisure World. Members will see that this idea is recognised by the Trees and Landscape Officer in his comments.

15.3 Notwithstanding the Councillor’s concerns as reported above, there are ample trees and soft landscaping within the leisure complex where they serve to satisfactorily soften the visual impact of the surrounding car parks and enhance the riverside area and public routes within the site, but do not detract from the high visibility and attractiveness of Leisure World’s main entrance.

16.0 Conclusion

16.1 The removal of Condition 4 and omission of soft landscaping in the approach to the main Leisure Centre entrance has no significant impact on the visual amenity of the area and maintains an open and inviting approach to the Centre. Approval is recommended.

17.0 Recommendation – Conditional Approval

18.0 Conditions

1 - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers MS116110.DO1, Rev T1, PE04, P01, 03-06, 12, 21, 31, 40/41, 48-50, 53-58, 60, amended plans MS116110.P02 rev A and P10 rev A received 18 September 2012 and MS116110.P101 Rev A received 4 October 2012, 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.

19.0 Informatives

ZT0 – Advisory Note on Construction & Demolition

(1) 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.

20.0 Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Planning Committee

Item

31 January 2013

| | | | |
|----------------|---|--------|----------------|
| Report of | Head of Environmental and Protective Services | Author | Andrew Tyrrell |
| Title | Changes to the Deadline for Comments Being Included on the Amendment Sheet for the Planning Committee | | |
| Wards Affected | All | | |

This report sets out proposed changes to the reporting of late comments received on planning application via the amendment sheet process. It proposes to move the deadline for comments included on the amendment sheet forwards by 24 hours so that Members of the Committee can receive a single amendment sheet the day before the committee meeting. Any comments received after that time would be reported verbally as part of the case officer's presentation if the item were to be discussed at the meeting.

1. Decision Required

- 1.1 Members are asked to agree that any comments received after 5pm on the day 2 days before a committee meeting is scheduled will not be reported in writing via an amendment sheet.

i.e. Usually, no comments will be reported on the amendment sheet after 5pm on the preceding Tuesday before a Planning Committee meeting on a Thursday.

Any comments received after that deadline will be reported verbally by the presenting case officer if the case is called out for discussion at the committee meeting. If the case is voted on en-bloc then late comments received after the deadline would not be reported at the meeting, although they would still be mentioned at the Briefing before the committee meeting so that the Group Spokespersons could decide if they then wanted to call out the item for wider discussion.

2. Reasons for Decisions

- 2.1 Members are being asked to agree this decision so that the revised arrangements can be incorporated into the proposed revision to the Statement of Community Involvement that are being prepared by the Spatial Policy Team to ensure that they are satisfied with the amended scheme. The SCI is scheduled for adoption by the 11 March Local Plan Committee, so the changes can be included then.

2.2 The changes have been proposed as a consequence of discussions between Members and officers regarding the difficulties posed to working Councillors by the issuing of a later amendment sheet on the day of the Committee meetings. In some instances, this does not allow adequate time to properly digest all of the issues that may be raised on the later amendment sheet in good preparation for the discussions at the meeting. An earlier deadline for the amendment sheet would mean that working Councillors would be issued with the amendment sheet the day before the Committee met, giving them an evening time in which they could peruse the amendment sheet and consider any implications that this may have.

3. Report on the Proposed Changes

3.1 The proposed changes to be incorporated into a revised Statement of Community Involvement are included below (changes to para 5.20 underlined and in bold text):

“...Where an application is being reported to Committee a **list of the different material planning considerations raised within the various** comments received are summarised in the Committee report. Letters **or emails** will not be accepted after 5pm on the day before Committee. Once the agenda has been prepared, anything received before 5pm on **the day falling 2 days before the day of the committee meeting** will be reported on an amendment sheet. **Anything received after 5pm on the day falling 2 days before the day of the committee meeting will be reported verbally during any presentation given to the Committee by the relevant case officer.**

4. Alternative Options

4.1 An alternative option is to decline the proposed changes and continue under the current arrangements.

4.2 Another alternative option would be for members to propose any alternative arrangement that may be more satisfactory.

5. Financial implications

5.1 There are no significant financial implications resulting from the proposed changes, although there may be some minor cost savings related to printing costs.

6. Equality, Diversity and Human Rights Implications

6.1 There are no significant equality, diversity or human rights implications

7. Publicity Considerations

7.1 The Statement of Community Involvement will go through its own formal public consultation processes.

8. Risk Consideration

- 8.1 There is a low risk that not everybody will be satisfied with the changes. This is most likely to become apparent when someone wishes to make very late submissions on controversial applications that we refuse to include in written format. However, the purpose of stating deadlines in the Statement of Community Involvement is to ensure that there are clear and fair consultation processes in place for all to be aware of. Additionally, consultation period are only statutorily required for 21 days from the date of notification, so comments should really have been made in advance of the deadline in any case.

9. Strategic Plan References

- 9.1 The Planning Service contributes to all of the Council's key objectives.

10. Community Safety Implications

- 10.1 The proposed changes do not significantly affect community safety.

11. Background Papers

- 11.1 The existing Statement of Community Involvement.

AMENDMENT SHEET

**Planning Committee
31 January 2013
AMENDMENTS OF CONDITIONS
AND
REPRESENTATIONS RECEIVED**

7.1 122189 – Kylloe, Penlan Hall Lane, Fordham

As this is a retrospective application informatives 1, 2 & 3 can be deleted.



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.