

Planning Committee

Moot Hall, Town Hall
6 June 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. 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.

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Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates *The Planning and Compulsory Purchase Act 2004*, which requires (in law) that planning applications “*must be determined in accordance with the development plan, unless material considerations indicate otherwise*”.

The following approach should be taken:

- Identify the provisions of the Development Plan which are relevant to the decision and interpret them carefully, looking at their aims and objectives
- Identify and consider relevant material considerations for and against the proposal
- Consider whether or not the proposal accords with the Development Plan and, if not, whether material considerations warrant a departure from the Development Plan.

When applying material considerations the Committee should execute their decision making function accounting for all material matters fairly, reasonably and without bias. In court decisions (such as *R v Westminster CC ex-parte Monahan 1989*) it has been confirmed that material considerations must relate to the development and use of land, be considered against public interest, and be fairly and reasonably related to the application concerned.

Some common material planning considerations which the Planning Committee can (and must) take into consideration in reaching a decision include:-

- Planning policies, including the NPPF and Colchester’s own Local Plan documents
- Government guidance, case law, appeal decisions, planning history, “fallback” positions
- Design, scale, bulk, mass, appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations such as archaeology, listed buildings or a conservation areas
- Environmental issues such as impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism
- Social issues such as affordable housing, accessibility, inclusion, education, recreation
- The ability to use planning conditions or obligations to overcome concerns

The following are among the most common issues that are **not** relevant planning issues and cannot be taken into account in reaching a decision:-

- land ownership issues including private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses
- matters specifically controlled through other legislation
- unless they are “exceptional”, personal circumstances, including hardship

Strong opposition to a particular proposal is a common feature of the planning process. However, in the absence of substantial evidence of harm or support from the Development Plan is unlikely to carry much weight. The same principles apply in reverse where there is strong support for a proposal that is contrary to the Development Plan and there is harm (or lack of substantially evidenced benefit).

Inspectors and Courts (see *North Wiltshire DC V SoS & Clover, 1992*) have established that precedent can be a legitimate consideration, but it is not enough to have a “general anxiety” and there has to be evidence of a real likelihood that similar applications (in all respects) will be submitted.

Human Rights, Community Safety and Equality and Diversity Implications

All applications are considered against the background and implications of the:

- Human Rights Act 1998
- Crime and Disorder Act 1998 (and in particular Section 17)
- Equality Act 2010
- Colchester Borough Council 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.

Using Planning Conditions and Considering Reasons for Refusing Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework reinforces this by stating that “*Planning should operate to encourage and not act as an impediment to sustainable growth*”. Therefore, development should be considered with a positive approach. However, not all development is acceptable and almost every permission will require planning conditions in order to make them acceptable. Some will remain unacceptable and should therefore be refused. Circular 11/95 (The Use of Conditions in Planning Permissions) and Circular 03/2009 (Costs Awards In Appeals And Other Planning Proceedings) set out advice on the government’s policy regarding the appropriate use of planning conditions and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. They derive from an interpretation of court judgments over the years and, although not planning law, are important material considerations. A decision to set them aside would therefore need to be well-reasoned and justified.

In terms of the Planning Committee, Circular 03/2009 makes it clear that “*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*”.

The power to impose conditions is an important material consideration in any determination. Circular 03/2009 states that “*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*”. Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. *The Circular adds that “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.”* Advice on the need to consider whether conditions may make a proposal acceptable which would be otherwise unacceptable is also to be found in Circular 11/95.

Any planning condition imposed on a development must be necessary, relevant to planning, relevant to the development to be permitted, reasonable, precise and enforceable. Unless conditions fulfil these criteria, which are set out in Circular 11/95, they are challengeable at appeal as *ultra vires* (i.e. their imposition is beyond the powers of local authorities). If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted.

In considering the reasons for that refusal, Circular 03/2009 makes it clear that planning authorities must “*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*”. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that public authorities act fairly and reasonably in executing their decision making functions, and that it is evident to all that they so do.

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
6 June 2013 at 6:00pm**

Members

Chairman : Councillor Theresa Higgins.
Deputy Chairman : Councillor Helen Chuah.
Councillors Peter Chillingworth, Stephen Ford, Sonia Lewis, Cyril Liddy, Jackie Maclean, Jon Manning, 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 Nick Barlow, Kevin Bentley, Mary Blandon, Mark Cable, Barrie Cook, Nick Cope, Beverly Davies, John Elliott, Bill Frame, Marcus Harrington, Dave Harris, Julia Havis, Jo Hayes, Pauline Hazell, Peter Higgins, Brian Jarvis, Margaret Kimberley, Michael Lilley, Sue Lissimore, Colin Mudie, Nigel Offen, Gerard Oxford, Lesley Scott-Boutell, Terry Sutton, Anne Turrell and Dennis Willetts.

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 available on the council's website by 4:30pm on the day before 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 application 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 two days 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 to silent;

- the audio-recording of meetings;
- 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

To confirm as a correct record the minutes of the Meeting held on 22 May 2013.

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. 130929 - Land Adjacent (South) to Grange Road, Tiptree (Tiptree)

2 - 10

Variation of condition 01 of planning permission 121353 to allow for two extra weeks of use in June (for 2013 only) and condition 8, to change 'no play' months on community pitch to June and July, and to finish earlier (16:00) for community pitch on Sundays.

2. 130480 - Grassed Area North of Norman Way and East of Reynolds Avenue & Landseer Way, Colchester (Prettygate)

11 - 23

Application for a new planning permission to replace an extant planning permission 100223 for new access road to service The Philip Morant School.

3. 130481 - Philip Morant School, Rembrandt Way, Colchester (Prettygate)

24 - 37

Application for a new planning permission to replace an extant planning permission 100172 for a new access road to Philip Morant School and 6th form college and internal road for dropping off/collection and additional parking (Renewal of application F/COL/04/2217).

4. 130752 - 58-60 Military Road, Colchester

38 - 43

(New Town)

Erection of temporary hoarding to site frontage.

5. 130781 - 3 The Glade, Colchester
(St John's)

44 - 50

Ground floor front extension to kitchen, first floor side extension and internal alterations.

8. Amendment Sheet

51 - 52

See attached amendment sheet.

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).

PLANNING COMMITTEE
22 MAY 2013

Present :- Councillors Peter Chillingworth, Stephen Ford,
Theresa Higgins, Sonia Lewis, Cyril Liddy and
Laura Sykes

Substitute Member :- Councillor Barrie Cook for Councillor Helen Chuah

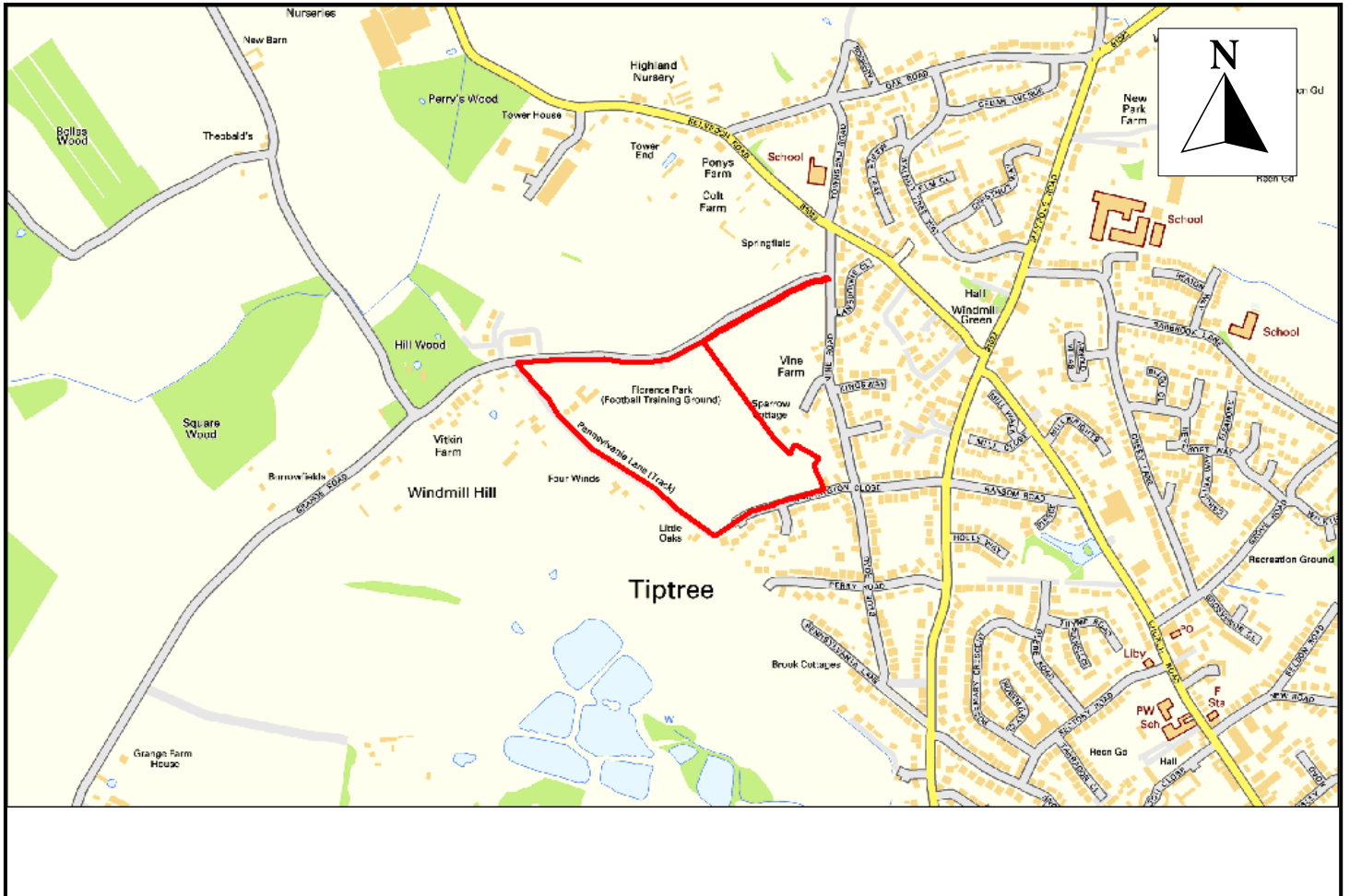
(* Committee members who attended the formal site visit.)

1. Appointment of Chairman

RESOLVED that Councillor T. Higgins be appointed Chairman for the ensuing Municipal Year.

2. Appointment of Deputy Chairman

RESOLVED that Councillor Chuah be appointed Deputy Chairman for the ensuing Municipal Year.



Application No: 130929

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

Scale (approx): NOT TO SCALE

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **6 June 2013**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Mark Russell Due Date: 08/08/2013

MAJOR

Site: Land Adjacent (South), Grange Road, Tiptree, Colchester

Application No: 130929

Date Received: 9 May 2013

Applicant: Mr Mark Hedgecock - Colchester United Fc

Development: Variation of condition 01 of planning permission 121353 to allow for two extra weeks of use in June (for 2013 only) and condition 8, to change 'no play' months on community pitch to June and July, and to finish earlier (16:00) for community pitch on Sundays.

Ward: Tiptree

Summary of Recommendation: Approve subject to the variation of the legal agreement under Section 106 of the Town and Country Planning Act 1990 relating to Planning Application 121353

1.0 Reason for Referral to the Planning Committee

1.1 This item is referred to the Planning Committee as it classified as a major application and objections have been received.

2.0 Synopsis

2.1 The key issues explored below are: a) the requirements of the football club and b) the potential impact on residents. Also considered is c) the potential for the introduction of some new control over the hours of use of the community pitch.

2.2 Comments, including objections that hours of use of the community pitch are not being reduced enough, are discussed. Consultation replies from bodies such as Environmental Control and Sport England are also considered, and it is concluded that the scheme is acceptable.

3.0 Site Description and Context

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

4.0 Description of the Proposal

4.1 The proposal has two strands to it:

- i) Use of the training ground for two extra weeks – the last two weeks of June – for 2013 only.
- ii) Amendment of some of the hours of use, and the months of non-use, of the community pitch.

4.2 For point i) this has been sought as the Football League season is commencing two weeks early (3rd August, as opposed to 18th August last year). This early start is due to the celebrations of the 125th anniversary of the Football League, and also the 150th anniversary of the Football Association. Celebrations throughout the season mean that 2013/14 will go on for longer.

4.3 For clarification, the hours sought for these two weeks are: Mondays, Tuesdays, Thursdays & Fridays – 09:30 – 15:30 (with half an hour lunch break between 12:15 – 12:45) and no use Wednesdays, Saturdays or Sundays.

4.4 For point ii) it is proposed that the hours of use on the community pitch on Sundays be shortened, with a terminal time of 16:00 as opposed to 18:00.

4.5 It is also proposed that the 'non-use' months of the community pitch be changed to June and July (as opposed to the current July and August) to at least partially comply with the non-use months of the professional pitches.

4.6 The original neighbour notification letter stated that the proposed months of non-use of the community pitch were May and June. A correction letter was sent out a few days afterwards confirming that the months were in fact June and July.

5.0 Land Use Allocation

5.1 Open Space including sport and recreational facilities.

6.0 Relevant Planning History

- 6.1 090217 – Change of use of agricultural land to sports field, minor regarding and drainage of playing area, with associated vehicle parking area and vehicular access from Grange Road. Community usage of one pitch proposed. REFUSED 1st July 2009;
- 6.2 091115 - Change of use of agricultural land to sports field, minor regrading and drainage of playing area, with associated vehicle parking, vehicular access from Grange Road and provision of cycle/footway links to Harrington Close and Vine Road.(Resubmission of 090217) REFUSED 9th November 2009;
- 6.3 091117 – Change of use of agricultural land to sports field, minor regarding and drainage of playing area, *erection of associated building for changing rooms* and ancillary accommodation, water tank, vehicle parking, vehicular access from Grange Road and provision of cycleway/footway links to Harrington Close and Vine Road. REFUSED 9th November 2009;
- 6.4 091627 – Change of use of agricultural land to sports field, minor regarding and drainage of playing area, erection of associated building for changing rooms and ancillary accommodation, water tank, vehicle parking, vehicular access from Grange Road and provision of cycleway/footway links to Harrington Close and Vine Road (resubmission of 091117). APPROVED 8th January 2010.
- 6.5 121353 - Variation/removal of conditions 27, 28 and 34 of planning permission 091627. APPROVED 29th April 2013.

7.0 Principal Policies

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

The National Planning Policy Framework (NPPF)

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

TA4 - Roads and Traffic

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

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

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

8.0 Consultations

8.1 Environmental Control:

We understand that this application to commence the pre-season training for 2013 two weeks early (from 17 June) is because of the season starting two weeks early owing to the FA celebrating 150 years. It is a temporary permission applying to the 2013/14 football season only.

Whilst this does mean that training will be permitted within the recently approved 'closed' period of May and June, we understand that in exchange for this permission the applicant has offered to vary conditions that restrict activity on the Community Pitch so that its use will not be permitted in June or July (we understand that use of this pitch is currently permitted in June). This will ensure that during a normal year no activity will take place across the whole site during that month. The applicant has also offered to restrict the times the Community Pitch can be used to 16:00 on Sundays instead of the 18:00 currently permitted.

The application to vary the permission regarding the Community Pitch is permanent, whereas the current application applies to 2013 only. Considering part of the Community Pitch restriction applies to Sunday afternoons, a time when residents are likely to be at home and in their gardens, this application appears to be of potential benefit to nearby residents in the long term.

Should permission be granted we advise the following restrictions in order to minimise any potential impact:-

The permission is conditioned to apply to 2013 only (in respect of the professional pitches).

No weekend activity is permitted within the extended training period.

We seek clarification regarding the hours of training requested during the period applied for.

OFFICER'S NOTE: Environmental Control has now been provided with this information and is content that this is for short days and excludes weekends and Wednesdays.

8.2 Highway Authority:

No comments

8.3 Sport England:

Overall, the implications of varying the two planning conditions as proposed would not appear to be detrimental to the use of the playing field. This being the case, Sport England does not wish to raise an objection to this application.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

9.1 Tiptree Parish Council's comments are awaited. Given the timescale available, these comments will appear on the amendment sheet.

10.0 Representations

10.1 At the time of writing, due to the tight timescale, two responses (both of them objections) had been received. However, more representations are expected and these will be reported and discussed on the amendment sheet.

10.2 The objections, from nearby residents, were along the following lines:

1. By the time the application is decided, June might be over already.
2. The bund should be made higher.
3. More screening (fencing, planting) should be put in place for noise and visual amenity reasons.
4. The club should have announced this change earlier.
5. The Sunday cut-off time should be earlier.

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

11.0 Parking Provision

11.1 Not relevant to this particular application, but for information there are 45 car parking spaces (three for people with disabilities) and spaces for one coach and two minibuses. There is also a covered cycle park. In addition, overspill parking is available at the Jobserve car park which is in the same ownership.

12.0 Open Space Provisions

12.1 n/a

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

14.1 Whilst this application is classed as a "Major" it was 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 Members will recall Planning application 121353 which sought longer hours of use in connection with the Elite Player Performance Plan (EPPP) for which Colchester United was seeking to confirm its Category 2 status. Members resolved to approve this application on 3rd January 2013, with the decision notice finally being issued on 29th April 2013.

- 15.2 The application before Members now is to slightly amend that approval to respond to the altered and unique circumstances of the 2013/14 season, and to allow the professional football club to prepare for the season from mid-June this year on a one-off basis.
- 15.3 Following recent complaints about noise from community games, the club has also offered to, as much as possible, synchronise the months of no-play on the community pitch with those on the professional pitch. This is not a perfect fit - May and June are the 'no-play' months for the professional pitches, whilst the local league season tends to run deep into May due to fixture congestion. However, with a 'no play' of June and July for the community pitch, this at least gives a clear month (June) with no use at all in a normal year.
- 15.4 Additionally it is proposed to shorten hours of use of the community pitch on Sundays from 18:00 to 16:00. This is a small reduction, but means that games will not go on into the evening, especially in the summer months, whilst ensuring that fixtures can still take place.
- 15.5 These changes to the use of the community pitch are not vital to the acceptability of the extra days sought for the professional pitches, but do illustrate a response to concerns raised about use of the community pitch. It is accepted that this reduction is small, and that residents have voiced a desire for the reduction to be greater. However, the hours of use relate to operability of the pitch and the ability to hold a certain number of fixtures. Therefore, further reduction of playing time, whilst desirable from residents' perspectives, may not be practicable or reasonable in view of the nature of the changed consent.
- 15.6 Sport England, as a statutory consultee, has given its blessing to the amendment to the Community Use Agreement.
- 15.7 In response to requests for further mitigation – higher bund, more planting, earlier finishes still – the first two of these requests would appear to be disproportionate to the proposal at hand, whilst the latter would hit on the ability of the clubs to play their matches.
- 15.8 Because of the tight timescale (desired commencement of use being 17th June) it is not possible to take this item to the Committee of 20th June, hence the requirement to report some comments on the amendment sheet (the deadline for comment being 5th June).
- 15.9 The applicants have also mentioned, verbally, that they have had to make provisions for some or all of the players to train elsewhere in any event due to the uncertainty of this application, thus the level of use in the two weeks in question may be limited. However, in view of the imminent start date, it is considered appropriate to present this application to Members as soon as possible to provide open discussion of the merits of the proposal to deliver certainty for all in a timely manner.

16.0 Conclusion

- 16.1 In conclusion, whilst the benefits from this application to the local residents are small, they do at least represent some form of improvement. It is necessary to allow the professional club to operate and prepare for the league season and would be unreasonable to decline this request.
- 16.2 The legal agreement relating to application 121353 will have to be altered to include reference to this application.

17.0 Recommendation

- 17.1 APPROVE subject to the legal agreement relating to Planning application 121353 being altered to reference Planning application 130929:
- 17.2 On completion of the legal agreement, the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

18.0 Recommended Reasons for the Decision

- 18.1 The proposal represents some improvements for local residents whilst allowing Colchester United to operate in a manner necessary to its function as a Football League club. It is therefore seen as a positive for all concerned.

19.0 Conditions

1 - Non-Standard Condition/Reason

Condition 1 of 121353 be altered to include the words "...with the exception of the 2013/14 season, whereby use of the ground will be permitted in the last two weeks of June, with hours of use to comply with those permitted August to April, with no use on Wednesdays, Saturdays or Sundays".

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 - Non-Standard Condition/Reason

Condition 8 of 121353 be varied as follows:-

The Community Use Scheme as submitted to, and approved in writing by, the Local Planning Authority in relation to condition 12 of Planning permission 091627 on 25th October 2012 **(and amended to change the terminal hour on Sunday to 16:00, and to change the no play months to June and July)**, shall be complied with at all times unless otherwise agreed in writing by Colchester Borough Council.

Reason: To secure well managed safe community access to the sports facility.

3 - Non-Standard Condition/Reason

All other conditions relating to application 121353 to be re-iterated.

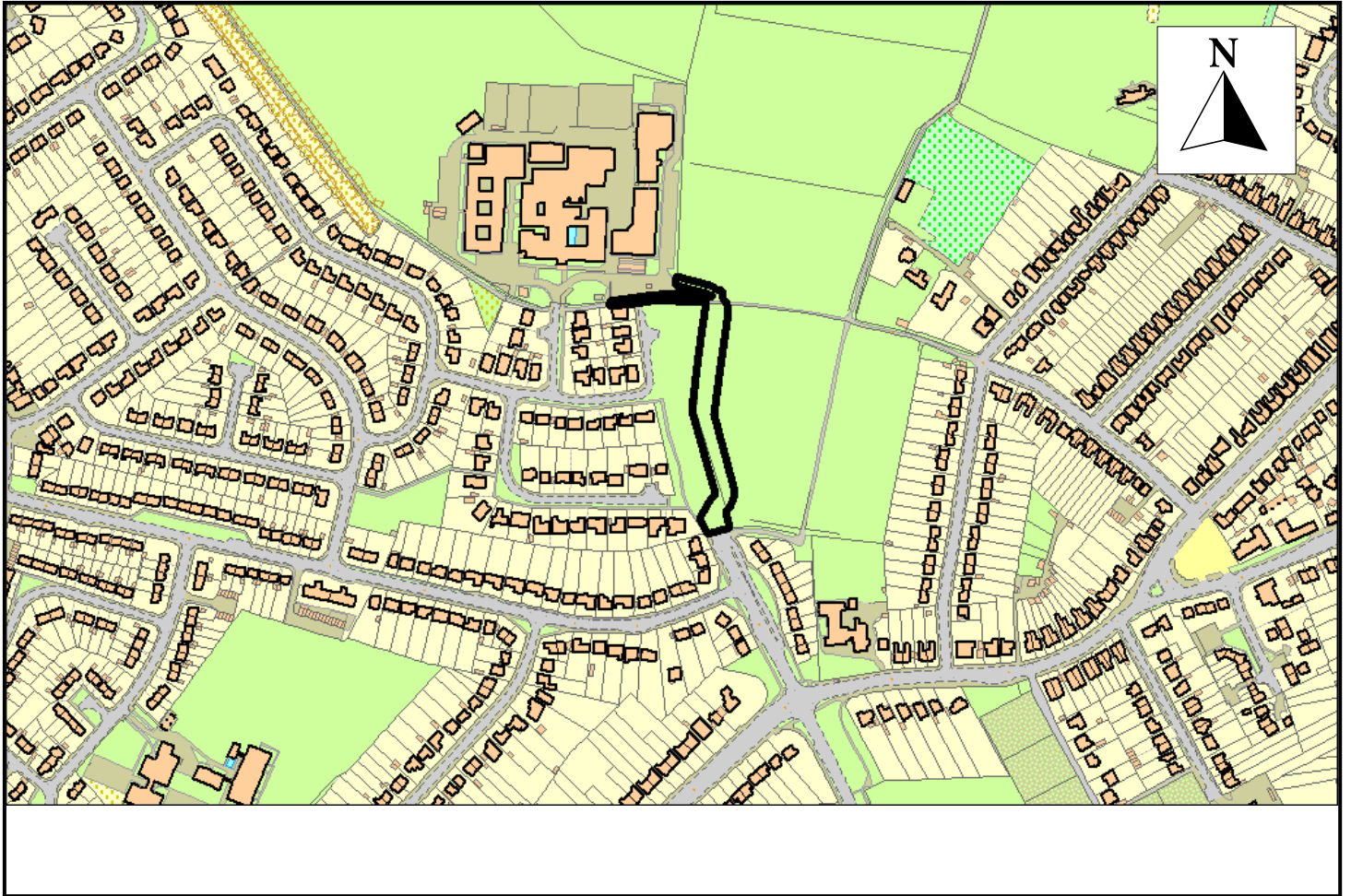
20.0 Informatives

20.1 N/A

21.0 Positivity Statement

21.1 YOP - *Reason for Approval (Objection(s) Received - Committee)

The Planning Committee having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval because of the unique circumstances surrounding the Football League season 2013/14 and also the opportunity to improve matters for the local residents. Thus, having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application.



Application No: 130480

Location: Grassed area of land north of Norman Way & East of Reynolds Avenue and Landseer Way, Colchester

Scale (approx): NOT TO SCALE

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7.2 Case Officer: Mr David Whybrow

MINOR

Site: Grassed area of land north of Norman Way and Reynolds Avenue and Landseer Way, Colchester

Application No: 130480

Date Received: 8 March 2013

Applicant: Philip Morant School And Sixth Form College

Development: Application for a new planning permission to replace an extant planning permission 100223 for new access road to service The Philip Morant School.

Ward: Prettygate

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application has been called in to the Planning Committee by Councillor Hunt.

2.0 Synopsis

2.1 This report describes the proposal by The Philip Morant school and College to replace an existing Planning permission for a new access road/additional parking. The history of the site describes the appeal history and various renewals.

2.2 Consultation replies are looked at - including objections from residents due to the loss of green space, increase in traffic and pollution to the detriment of students; also Environmental Control's suggested conditions and the Highway Authority's positive recommendation.

2.3 Finally, with all of the above have been considered, approval is recommended.

2.4 This full application for a new access road to Philip Morant School is an alternative proposal to that considered under application 130480.

3.0 Site Description

3.1 The intended purpose of the new road is to provide access into the School for staff and visitors' cars, delivery and emergency vehicles. It is not intended to be used for the dropping off and collection of pupils nor for cyclists to access the School. Gates will be provided for safety and security purposes and it is not intended that the road will be open outside the hours of use of the school premises.

3.2 The proposed route is designed to intrude less into the public open space, to utilise land that is not currently accessible to the general public and can in part be screened by the existing hedgerow, when viewed from the houses to the west.

3.3 The application as originally submitted was accompanied by a Design and Access Statement, Arboricultural Impact Assessment, Phase 1 Habitat Survey and Transport Assessment, all of which may be viewed on the Council's website. Key features of the scheme are:-

1. Cycle paths are to be enhanced by increasing their width and re-routing of the Sustrans route allows a new dropped kerb to be placed between the end of Norman Way and the path, allowing cyclists direct access.
2. The new road will remove traffic from existing residential streets where visibility at junctions is sub-standard.
3. The new layout is designed to encourage lower vehicle speeds and cyclists and pedestrians are segregated from vehicular traffic.
4. The landscaping details submitted with the application fall outside the scope of the application and must be treated as illustrative only. However, the development of the site will bring an opportunity for best practice tree and woodland management of the retained trees and also wildlife habitat creation. This land would be passed to a charitable trust for maintenance purposes.

3.4 For Members' information, since 2010 steps were actively being taken to de-classify the allotment land and provide equivalent alternative provision in the locality.

4.0 Description of the Proposal

4.1 The proposal differs slightly to that considered under application 130480. It proposes a route to the east of the former line and utilises land currently a vacant part of the allotment gardens and largely clear of the allocated open space/greenlink area. The allotment land is enclosed by chain link fencing and is part hedged on its western side. It also includes a plantation of young trees in its northern part.

5.0 Land use Designation

5.1 Open Space/Private Open Space
Green link
Public Footpaths 204 & 206

6.0 Relevant Planning History

6.1 The land, subject of this application, has no specific planning history but the background history to the new road proposals are set out in the previous report.

7.0 Principal Policies

7.1 The following national policies are relevant to this application:
The National Planning Policy Framework (NPPF)

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

SD2 - Delivering facilities and infrastructure
UR2 - Built design and character
PR1 - Open Spaces
TA1 - Accessibility and changing travel behaviour
TA2 - Walking and cycling
ENV1 – Environment

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

DP1 – Design & Amenity
DP15 – Retention of Open Space, etc.
DP17 - Accessibility & Access

8.0 Consultations

8.1 Environmental Control recommended conditions to be attached to any consent granted, relating to site boundary noise levels and light pollution.

8.2 The Trees and Landscape Officer was satisfied with the landscape content of the proposal subject to minor amendments to the scheme submitted in conjunction with 100223. The Tree Protection Officer also had no objection.

8.3 As in the previous case the Highway Authority support the proposal for a new access road in general. They raise no objections and recommend conditions to be attached to any consent granted to cover:-

- Closure of Rembrandt Way access to vehicular traffic.
- Conversion of Footpath 204 to a 3.5m wide shared use cycleway/footway.
- Cycle parking facilities.
- Footpaths 204 and 206 to remain on their current alignments.
- £2000 contribution towards highway improvements.
- Existing vehicular access to Rembrandt Way to be improved as a pedestrian and cycle access.

8.4 The Archaeological Officer requests an archaeological watching brief condition.

8.5 Transport Policy Team previously confirmed that relevant Policy TA1 seeks to change travel behaviour by requiring major developments, employers and institutions to develop travel plans to promote sustainable travel behaviour and resist developments that promote unsustainable travel. In this case, their detailed requirements are for:-

1. The applicant's commitment to promotion of cycling and the travel plan.
2. The route should not be a dropping off/pick up point for students.
3. The pedestrian/cycle entrance on Rembrandt Way should be retained and cyclists also allowed to enter the south-east gate to the School.
4. The road to incorporate physical features to reinforce 20 mph speed limit.

5. Improved pedestrian crossing facilities at Norman Way entrance to road and at the north end of the road to maintain desire line of footpaths.
6. Confirmation of a significant increase in cycle parking as referred to in the application.

9.0 Parish Council Response

9.1 n/a

10.0 Representations

10.1 Objections have been received from 10 local residents whose concerns are summarised as follows :

1. Will dissect existing public rights of way & cycle paths, increasing conflicts & hazards, notably to schoolchildren.
2. Loss of valuable open space & wildlife habitat and detriment to green link. Land has a Deed of Protection to safeguard green space for the community.
3. School no longer has plans to expand, therefore road is unnecessary.
4. Could open up land to more development.
5. Will encourage parents to drop off their children, increasing traffic & hazards and with disbenefits to children's health

10.2 Expressions of support have been received from 2 occupiers in Reynolds Avenue & Rembrandt Way. They note that Painters Estate roads were not designed for the volumes of traffic currently experienced and are an "accident waiting to happen" despite the many traffic restrictions which have little effect. They comment also that much of the Green will be retained as open space with other areas being created in compensation and the design of the road incorporates traffic calming and separates vehicles from pedestrians & cyclists.

11.0 Parking Provision

11.1 The application for a roadway makes no specific provision for car parking facilities other than dropping off and collection facilities.

12.0 Open Space Provisions

12.1 n/a

13.0 Air Quality

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

14.0 Development Team & Planning Obligations.

14.1 The application is for a replacement of an extant planning permission that did not include any S106 requirements. It is not classed as a "Major" application and therefore there was no need for it to be considered by the Development Team and no requirement for S106 obligations to be sought.

15.0 Report

- 15.1 The background to this application is set out comprehensively in the previous report. Similar considerations apply in this case although there are marked advantages to this scheme in terms of:-
1. Minimal visual impact on the important established area of greenswards incorporating the green link. Indeed, the proposal potentially allows for more carefully landscaped areas to be created with wildlife habitat benefits.
 2. Segregation of traffic and pedestrian/cycle routes and a road alignment that actively restricts traffic speeds as a safety feature.
 3. Increased separation from residential property and additional safeguards to protect residents from noise and light pollution beyond those secured in the previous scheme.
- 15.2 In relation to 100223 the established green travel credentials of the School were noted in several of the letters received, however, requests for further pedestrian/cycle route improvements, particularly relating to the permissive path linking the 2 ends of Norman Way, are beyond the scope of this application. That said, the Highway Authority have considered the matter with a view to optimising the opportunities to encourage and prioritise non-car travel in line with adopted policies and it is confirmed that the applicants find these requirements acceptable. In particular they indicated that 2 new cycle parks were proposed comprising 120 spaces for 6th form and 20-30 for staff. This is in addition to 200 spaces already provided. They also confirm acceptance of any conditions relating to bollards, drainage and surface treatments. Initially, lighting is not proposed.
- 15.3 Currently local residents enjoy access to land east of the School and it is not envisaged that this will be affected other than a small corner of the field will now accommodate a short section of access road. However a new area of potential open space could be created which would compensate for the loss of the corner of the field.
- 15.4 Members will note that the existing vehicular Rembrandt Way access will be closed as a result of the new access being created and this is expected to bring relief from congestion to this area. Whilst Norman Way is likely to experience a greater intensity of vehicular use as a result it is wider, less tortuous and is generally further from larger numbers of dwellings although a number of individual properties may experience dropping off/collecting activity nearby.
- 15.5 A number of stakeholder meetings including resident meetings were held prior to submission of 100223 and, it is understood, during of the preparation of the present application. The final form of scheme before Members arises out of these sessions.
- 15.6 This scheme, involving a new means of access to the School, remains a contentious issue for many local people, as reflected in their representations. The predominant themes of those objections concern loss of open space and traffic safety matters. These issues were also decisive factors in the Inspector's decisions as reported in the previous item.

15.7 In the present case your officers previously concluded that the scheme now before Members has no greater effect on the open space area than the previous scheme and has the advantage of greater separation from Painters Corner dwellings, affording them a continued frontage onto open land. At the same time the road will relieve large numbers of Painters Corner residents from twice-daily problems of congestion, nuisance and hazards and relocate the school's main vehicular entrance to where greater space provides the opportunity to manage the traffic with least direct effect on existing householders. Members will recognise that the proposal has garnered broad support from all the main professional consultees and especially the Highway Authority.

15.8 The Development Policies Document was adopted in October 2010 after the granting of planning permission in respect of 100223 however there is not considered to be any material change in the policy background to the present case. It is recommended that a carefully conditioned planning approval allied with the School's rigorously promoted green travel plan is appropriate here.

16.0 Conclusion

16.1 Given the previous Planning history, and the fact that no new material Planning considerations mitigate against a renewal of permission, Members are requested to approve this application.

17.0 Recommendation – Conditional Approval

18.0 Recommended Reasons for the Decision

18.1 YOP - *Reason for Approval (Objection(s) Received - Committee)

The Planning Committee, having considered the recommendation contained in the officer's report, was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval because of the previous Planning history. Thus, having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application.

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - Non-Standard Condition/Reason

The construction shall take place solely in accordance with the terms of the methodology statement submitted with the planning application and no other works shall take place that would affect the trees on site unless otherwise agreed in writing by the Local Planning Authority.

Reason: To enable proper attention to be given to the impact of the proposed development on existing trees.

3 - Non-Standard Condition/Reason

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

4 - Non-Standard Condition/Reason

All existing trees and hedgerows shall be retained, unless shown to be removed on the approved drawing. All trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its guidance notes and the relevant British Standard. All existing trees shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that any trees and/or hedgerows (or their replacements) die, are removed, destroyed, 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. Any tree works agreed to shall be carried out in accordance with BS 3998.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.

5 - Non-Standard Condition/Reason

Before any works commence on site, 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.

6 - Non-Standard Condition/Reason

No development shall take place until full details of the surfacing materials and other treatment, including barriers or gateways, of the connection between the proposed access road and Norman Way, and of the crossings of the defined Footpath No. 206 and of the informal footpath leading to St Benedict's Catholic Secondary School and the Colchester County High School, have been submitted to and approved by the Local Planning Authority and those works shall be carried out as approved.

Reason: In the interests of highway safety.

7 -Non-Standard Condition/Reason

The applicant shall commission a professional archaeological contractor to observe the excavations and allow sufficient time for the recording of any features and finds of interest.

Reason: To ensure that any remains of archaeological importance are properly recorded.

8 - Non-Standard Condition/Reason

The access road hereby permitted shall not be brought into use until such time as further details of any traffic calming measures shall be provided and approved in writing by the Local Planning Authority. Such traffic calming as is proposed shall be noise-suppressed in accordance with further details which shall have also been provided and approved in writing by the Local Planning Authority. In addition, full constructional details, including surface finishes, drainage, kerbing, lighting and bollards or other means of enclosure, have been provided to and approved in writing by the Local Planning Authority prior to the commencement of the development. The development shall only be implemented in accordance with the agreed details which shall be retained at all times thereafter.

Reason: In the interests of highway safety and local amenity.

9 - Non-Standard Condition/Reason

The access road hereby permitted shall not be used other than to provide access to and from the Philip Morant School and Sixth Form College.

Reason: In the interests of highway safety.

10 – Non-Standard Condition/Reason

The access road hereby permitted shall be provided with a gate or barrier at its junction with Norman Way, to be operated by an automated system allowing entry by staff, emergency or public transport vehicles only, further details of which shall be submitted to and agreed in writing by the Local Planning Authority before the development is commenced. The agreed scheme shall be installed prior to the proposed road coming into use and thereafter be retained.

Reason: In order to satisfactorily control the use of the road in accordance with the details submitted with the planning application and protect local amenity.

11 – Non-Standard Condition/Reason

The access road hereby permitted shall be gated and locked shut outside of the hours of use of the School premises except in the case of out-of-hours entry onto the School site for coaches and associated attending parties involved in school trips or visits from Philip Morant School (but no other Schools in the area). Such activity as defined above shall only occur within Philip Morant School grounds.

Reason: In the interests of highway safety and protecting local residential amenity.

12 – Non-Standard Condition/Reason

The details of the connection with Norman Way shall be the subject of further plans to be agreed in writing with the Local Planning Authority. The Local Highway Authority intend that there should be a return footway over the end of the existing highway and that a boundary fence and wall be erected where, locally, pedestrians were separated from cycles and motor vehicles. The latter would enter the gateway via a dropped crossing retaining pedestrian priority.

Reason: In the interests of highway safety.

13 – Non-Standard Condition/Reason

The public's right of way and ease of passage across all public footpaths affected by the development hereby permitted shall remain uninterrupted at all times.

Reason: In order to ensure that the development does not adversely impact on public footpaths.

14 – Non-Standard Condition/Reason

No development shall take place until full details of any impact of the access road (including any ancillary works) hereby permitted on Footpath No. 204 have been submitted to and agreed in writing by the Local Planning Authority.

Reason: The application as submitted contains insufficient information regarding this point and proper consideration of the proposals will be necessary in order to protect the integrity of this footpath.

15 – Non-Standard Condition/Reason

Any lighting of the development shall be located, designed, directed and screened so that it does not cause avoidable intrusion to adjacent residential properties/cause unnecessary light pollution outside the site boundary. (Avoidable intrusion means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.)

Reason: To protect the amenity of adjoining residents and in the interests of highway safety.

16 – Non-Standard Condition/Reason

A competent person shall ensure that the rating level of noise emitted from the site shall not exceed 5dBA above the background level prior to the road hereby permitted coming into beneficial use. The assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the Local Planning Authority.

Reason: In order to safeguard the amenities of local residents.

17 – Non-Standard Condition/Reason

Immediately the new access is brought into use the existing access at the northern end of Rembrandt Way shall be suitably and permanently closed to vehicular traffic to the satisfaction of the Local Planning Authority, retaining only access for pedestrians and cyclists to the satisfaction of the Highway Authority immediately the proposed new access is brought into use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety to ensure accordance with Policy 1.1 of the Highways and Transportation Development Control policies.

18 – Non-Standard Condition/Reason

Prior to the road hereby permitted coming into use an Order securing the conversion of the existing definitive right of way (Footpath 204 Colchester) to a 3.5m wide shared use cycleway/footway will have been agreed with the Local Planning Authority, the Order must be confirmed, and the new route has been constructed to the satisfaction of the Local Planning Authority.

Reason: To ensure the continued safe passage of cyclists and pedestrians in accordance with Policies 1.1 and 3.4 of the Highways and Transportation Development Control policies.

19 – Non-Standard Condition/Reason

Prior to the commencement of the development the details of the number, location and design of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure, convenient and covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy 7 of the Highways and Transportation Development Control policies and in furtherance of sustainable travel.

20 – Non-Standard Condition/Reason

The route of the two Public Footpaths (204 and 206, Colchester) when converted to cycleway/footway shall remain on their current alignments. The new access route shall provide suitable raised crossing facilities thereby retaining priority for cyclist and pedestrian traffic.

Reason: In order to provide suitable cycling and pedestrian facility on the desired lines in the interests of sustainable travel modes and in accordance with Policies 1.1, 3.3, 3.4 and 3 in Appendix G to the Local Transport Plan.

21 – Non-Standard Condition/Reason

No works in connection with the proposed development shall commence until such time as the applicant has satisfactorily fulfilled the specific commitment given by Brandon Hallam, Director of Policy, Community Planning and Regeneration at Essex County Council, in his e-mail dated 17 March 2010 to support Essex County Council Highways to deliver related highway improvements.

Reason: To make adequate provision within the highway for a traffic regulation order to protect the turning head at the northern end of Norman Way and remove the risk of indiscriminate parking during school pickup and drop off times created as a result of the proposed development.

22 – Non-Standard Condition/Reason

Prior to the road hereby permitted coming into use the existing pedestrian access east of the existing vehicle access on Rembrandt Way shall be improved to be a pedestrian and cycle access to the satisfaction of the Local Planning Authority.

Reason: To ensure appropriate cycle facilities are provided in the interest of highway safety and amenity in accordance with Policy 7 of the Highways and Transportation Development Control policies.

23 – Non-Standard Condition/Reason

During the construction period of the road hereby permitted all storage of building materials and parking of contractors' vehicles shall take place within the curtilage of the school and at no time shall such materials or vehicles be parking in the public highway or other public open space areas unless previously agreed in writing with the Local Planning Authority.

Reason: In order to protect local amenity and ensure the safety and convenience of other road users.

24 – Non-Standard Condition/Reason

In the event of Application No. 100172 being implemented in whole or part before the road hereby permitted is commenced, all works in connection with 100172 shall be removed in their entirety and the land reinstated to its former condition to the Local Planning Authority's satisfaction prior to the road hereby approved being brought into beneficial use.

Reason: For the avoidance of doubt as to the scope of the permission and to ensure that only one permitted road scheme is implemented in the interests of the appearance, visual amenity and character of the locality.

20.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition**

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

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

(3) The applicant is reminded of their responsibilities and duties with regard to the line of Public Footpath 204 to the East of the School site. Should any works affect the line of the route these must be carried out in agreement with the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838696 or by email on highways.eastarea@essex.gov.uk.

(4) The Local Planning Authority request that upon the implementation of this planning permission, the use of the improved foot and cycle access alongside the electricity substation shall be monitored by the applicants to ensure congestion, noise and disturbance do not occur, to the detriment of adjoining residents. In the event that such problems do arise, the School is invited to discuss solutions with the Planning and Highway Authorities at an early stage.

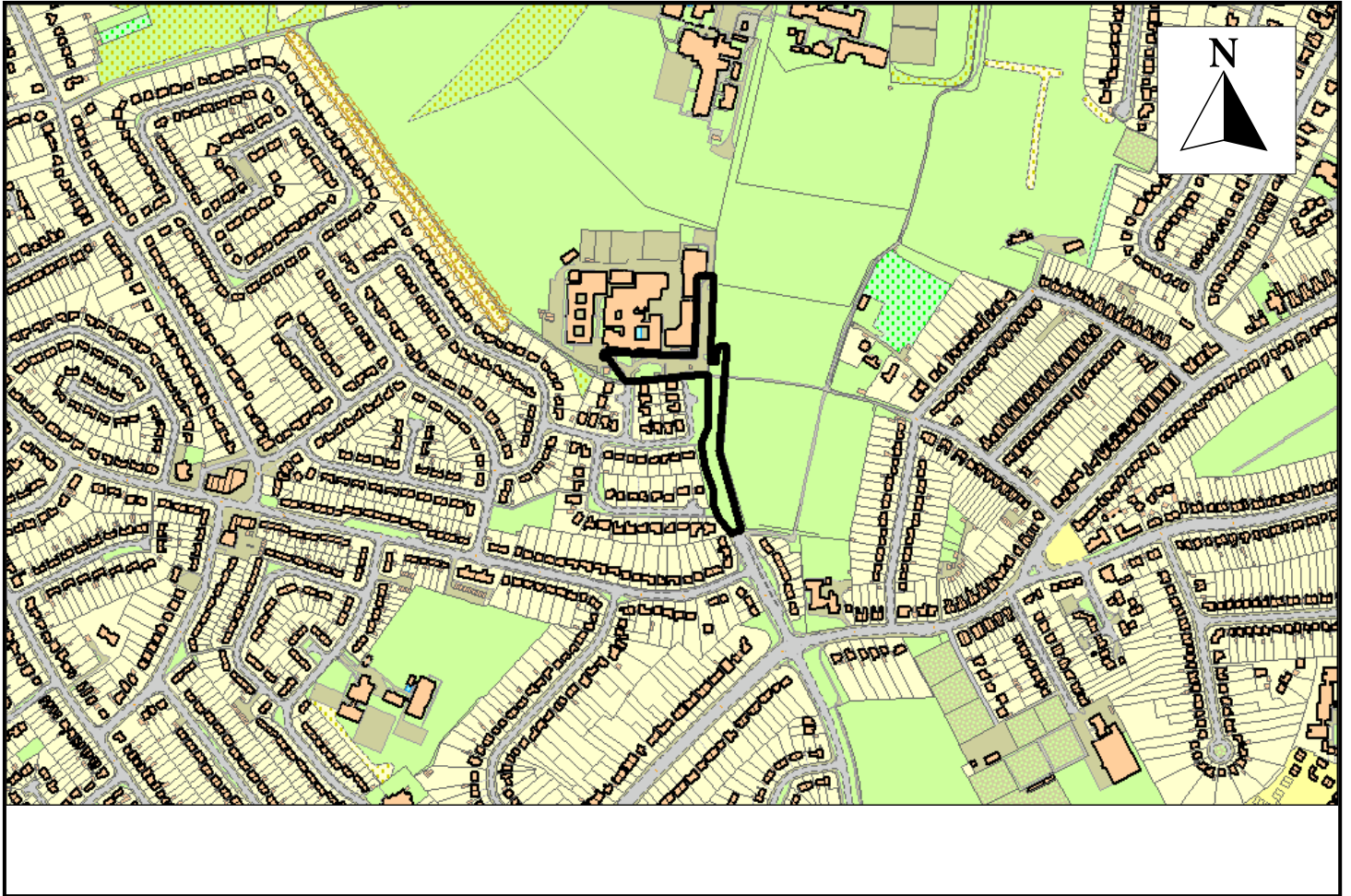
(5) The Local Planning Authority recognises that the School actively pursues green travel arrangements through the Green Travel Plan and would advise the applicants that they attach great importance to the maintaining of the permissive pedestrian/cycle route between the northern and southern sections of Norman Way on its current alignment. This, as a means of further encouraging pedestrian and cycle access to the School and promoting sustainable transport objectives in the locality.

(6) The Local Planning Authority request that so far as the applicants are able, they honour their Statement of Intent, provided with the application, that the remainder of the Irvine Road allotment land be passed to the Playing Field Trust at the earliest opportunity in order that it can be maintained as open space and amenity land.

21.0 Positivity Statement

21.1 WA1 – Application Approved Without Amendment

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: 130481

Location: The Philip Morant School, Rembrandt Way, Colchester, CO3 4QS

Scale (approx): 1:1250

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7.3 Case Officer: Mr David Whybrow

MINOR

Site: The Philip Morant School, Rembrandt Way, Colchester, CO3 4QS

Application No: 130481

Date Received: 8 March 2013

Applicant: Philip Morant School And Sixth Form College

Development: Application for a new planning permission to replace an extant planning permission 100172 for a new access road to Philip Morant School and 6th form college and internal road for dropping off/collection and additional parking (Renewal of application F/COL/04/2217).

Ward: Prettygate

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application has been called in to the Planning Committee by Councillor Hunt.

2.0 Synopsis

2.1 This report describes the proposal by The Philip Morant school and College to replace an existing Planning permission for a new access road/additional parking. The history of the site describes the appeal history and various renewals.

2.2 Consultation replies are looked at - including objections from residents due to the loss of green space, increase in traffic and pollution to the detriment of students; also Environmental Control's suggested conditions and the Highway Authority's positive recommendation.

2.3 Finally, with all of the above have been considered, approval is recommended.

3.0 Site Description

3.1 As reported to the Committee in connection with 100172, the proposed development involves the creation of a new access road, 6m wide, leading directly off Norman Way across open space and heading north to the school curtilage. Within the school site itself it is proposed to create additional car parking space and a bus turning facility. The existing school access off Rembrandt Way would be restricted to pedestrian and emergency vehicle use only. The new road would be approximately 200m in length.

3.2 The open land over which the new road would be constructed is bounded to the west by dwellings off Reynolds Avenue and Landseer Road (part of the Painters Corner Estate) and to the east by allotment land, beyond which is Irvine Road. The subject land is owned, in part, by Colchester Borough Council and, in part, by Essex County Council.

4.0 Description of Proposal (and Background to Application incorporating relevant planning history)

4.1 Application 100172 was itself an application to renew a previous consent and this in turn had a significant case history. In 1997 permission was sought for a similar form of development to that now proposed under Ref: COL/97/0155. At that time the application was presented to Committee with a recommendation of approval – subject to the completion of a Section 106 Agreement that would cover the following points:-

1. The closure of the Rembrandt Way access to the school to all vehicular traffic - except emergency services.
2. The new road to be a private road to provide access for and to the Philip Morant School for educational purposes only.
3. Provision of landscaping within the adjoining land to the west at no expense whatsoever to the Council.
4. The access road being gated and closed outside of the hours of use of the school premises.
5. Provision of traffic calming measures and provision for cyclists and pedestrians as may be appropriate.

4.2 Members agreed with the recommendation. However, subsequent difficulties with securing the legal agreement resulted in an appeal being submitted against the non-determination of the application by the Council.

4.3 Subsequently, under Application COL/99/0536, permission was again sought for the provision of the proposed new access road to serve the school. The application was amended from the previous submission in that the arrangement of turning facilities within the school site itself had been altered to avoid conflict with the footprint of a recently constructed maths/science block. Furthermore, the application was a full application, as opposed to an outline application. The proposal was reported to Committee with a recommendation of approval.

4.4 A second appeal against non-determination was submitted. Those appeals submitted under COL/97/0155 and COL/99/0536 were both considered at the same time by the Inspector and both appeals were subsequently upheld. As the appeal decision was dated 1 December 1999 and both had the usual 5 year commencement period (the outline application COL/97/0155 having been altered to a full application in a letter dated 21 April 1999) the permissions expired on 1 December 2004. The 2004 application sought to renew this permission. In fact duplicate applications (including F/COL/04/2216) were lodged at that time and were determined concurrently.

5.0 Land Use Allocation

5.1 Open Space/Private Open Space
Green link
Public Footpaths 204 & 206

6.0 Relevant Planning History

6.1 The relevant planning history relating to this new roadway is set out in part 3.0.

7.0 Principal Policies

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

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

SD2 - Delivering facilities and infrastructure

UR2 - Built design and character

PR1 - Open Spaces

TA1 - Accessibility and changing travel behaviour

TA2 - Walking and cycling

ENV1 – Environment

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

DP1 – Design & Amenity

DP15 – Retention of Open Space, etc.

DP17 - Accessibility & Access

8.0 Consultations

8.1 Environmental Control team recommend conditions to be attached to any permission granted, relating to site boundary noise levels and light pollution. In respect of noise, they recommend that the road is constructed using a non-gravel material, i.e. tarmac and also recommend that a 1.8 metre high close-boarded fence is erected along residential boundaries close to the road. In addition they require the standard informative with regard to demolition and construction works.

8.2 The Highway Authority have long supported the principle of vehicular access to the school being removed from residential estate roads. As before they raise no objection to the proposal and recommend approval with conditions to cover:-

1. Closure of Rembrandt Way access to vehicular traffic associated with the school.
2. Conversion of footpath 204 to a 3.5m wide shared use cycleway/footway.
3. Cycle parking facilities.
4. Retaining alignments of Footpaths 204 and 206.
5. £2000 contribution towards highway improvements.
6. Improvements to pedestrian and cycle access to Rembrandt Way.

8.3 The Archaeological Officer recommends a condition requiring a watching brief over the works to be commissioned by the applicant. The road line may be cut by the projected course of the Lexden Dyke system.

9.0 Parish Council Response

9.1 n/a

10.0 Representations

10.1 Representations in the form of letters, emails and on-line comments have been received from 29 local residents, including members of Painters' Corner & Irvine Road Residents' Associations. A summary of their concerns is set out below :

1. Conflicts with requirement to retain & enhance green links & maintain POS. Green spaces should be sacrosanct & essential for healthy urban living.
2. Will result in further reduction in rapidly decreasing open spaces in this part of Colchester.
3. New road will dissect existing public rights of way & cycle paths and increase safety risks.
4. The road is not essential to the School which will not be expanding as much as predicted with Alderman Blaxhill school now remaining open. Various building projects have also been completed without the need for the road.
5. The school has adequate access but causes significant traffic congestion in surrounding area. There is no justification for encouraging parents to drive pupils to school. They will in any event benefit from more exercise.
6. Increased pollution, noise & disturbance, loss of trees & visual amenity.
7. The application is not about improved access but rather a bid to open up land for development.
8. The road will create more of a bottleneck than ever, encouraging parents to find other drop off locations.
9. Claims about pupil safety are not proven & no major traffic incidents have occurred involving pupils.
10. The area would be likely to become a congregation point for youths in cars out of school hours & must be carefully managed & gated.
11. Environmental Control recommend a close-boarded fence is erected along residential boundaries. This will unacceptably obstruct views & outlook.

11.0 Parking Provision

11.1 The application for a roadway makes no specific provision for car parking facilities but it is intended to construct additional facilities within the school site itself.

12.0 Open Space Provisions

12.1 n/a

13.0 Air Quality

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

14.0 Development Team & Planning Obligations.

14.1 The application is for a replacement of an extant planning permission that did not include any S106 requirements. It is not classed as a "Major" application and therefore there was no need for it to be considered by the Development Team and no requirement for S106 obligations to be sought.

15.0 Report

- 15.1 It will be seen that this scheme had its genesis over 13 years ago. The Planning Committee at that stage were concerned that the proposed development would be contrary to the then emerging Borough Plan in that it would result in loss of open space and a green link. These issues were considered by both the Appeal Inspector and Local Plan Inspector.
- 15.2 The refused applications were considered by way of individual appeals to the Planning Inspectorate. However, the Inspector dealt with both appeals via a single decision notice dated 1 December 1999. In determining the appeals the Inspector had regard to the Development Plan existing at that time, and to the emerging Local Plan where the proposed allocation of the land as Greenlink was mentioned. The Inspector's report outlined the main issues that were relevant in the appeals - i.e. the impact of the development on the open land and the traffic/safety considerations. The conclusion of the Inspector was that the appeals should be upheld. Members should note that the 2004 applications were identical proposals to the application approved at appeal (Ref: COL/99/0536).
- 15.3 Members are also advised that the area of open land within which the proposed development would be located was considered as part of the Local Plan Inquiry taking place at that time - following an objection to the proposed allocation as Public Open Space. The relevant comments of the Inquiry Inspector are included below for Members' information:-

10.12.11 On 1 December 1999 planning permission was allowed on appeal for the formation of a new access road to Philip Morant School and Sixth Form College and an internal road for dropping off, collection and additional parking on the grassed area to the north of Norman Way. The objectors assert that the area of land, the subject of the decision, should be deleted from the proposed Irvine Road public open space. The Council argues, on the contrary that the public open space allocation should be confirmed and that this would amount to a changed circumstance that would enable any renewal of planning permission to be properly resisted if and when the current permission, which it considers was wrongly granted, expired.

10.12.12 I do not agree with either argument. The area of land, the subject of this appeal decision, forms a small part of the public open space designation. The Inspector identified, at paragraph 9 of his decision, that the land has the appearance of open space to which the public has access. He observed at Paragraph 12 that the access road would occupy the east side of the land and would not have any substantial effect on the treed area on the west side. He concluded on this point by saying that, having regard to the Council proposals for the incorporation of adjoining allotments into the overall area of public open space now designated by Policy L4, he did not consider that construction of the proposed access road would amount to a serious loss of an important area of informal open space. By the same token, I do not consider that the site of the approved access road would amount to a serious loss of potentially usable public open space.

10.12.13 In these circumstances, I see no contradiction between the implementation of the planning permission granted on appeal and the public open space designation incorporating this site. **Because of its small size in relation to the overall public open space allocation, I am firmly of the opinion that any renewal of the extant permission would not amount to a substantial departure from the provisions of the development plan.** At the same time I would look with extreme disfavour upon any attempt by the Local Planning Authority to circumvent the appeal decision. By confirming the designation of this land as public open space, I am not providing the Council with a carte blanche to refuse renewal of the current planning permission if it expires. **I have no reason to doubt that there is a pressing need for new access arrangements for the school, which is the principal issue upon which the Inspector, quite properly in my view on the evidence before him, allowed the appeals.** The main reason why the permission has not been subsequently implemented appears to be the complicated pattern of land ownership by various public bodies in the locality. If this could be unscrambled by the disposal of the relevant land to allow the access road to proceed, it may free revenues that could enable the remainder of the public open space provision to be effected. Under these particular conditions, I somewhat reluctantly recommend that no alteration be made to the Local Plan in response to this objection.

In reaching his conclusions with regard to the proposed allocation of the site in the Local Plan, the Inspector was mindful of the previous Inspector's conclusions with regard to the appeal. In fact, specific comment is made with regard to the impact of the proposal within the open space at the start of Paragraph 10.12.13. The Inspector's comments in this paragraph are quite clear.

- 15.4 Members may be aware that latterly the area of the roadway has been the subject of a Deed of Protection in conjunction with Fields in Trust. In this respect the Legal Services Manager has indicated that the restrictions conferred by the Deed are about what CBC as landowner can do with the land, ie only to use it as a public playing field and recreation ground. The Council cannot use the land for any other purpose, develop or dispose of it without the consent of Fields in Trust. He has confirmed however that ECC could apply to renew their permissions and the planning authority would probably not have any grounds upon which to refuse them.
- 15.5 This has for some years been a contentious development, and, when considered in isolation, might have been considered contrary to the open space allocation in the Local Development Framework, and also, at first sight, to its sustainability and accessibility objectives. Certainly the Core Strategy seeks to protect and enhance the existing network of green links, open spaces and sports facilities (ENV1 and PR1) and identifies that walking and cycling improvements will be focused on schools and other local traffic destinations (TA1 & 2).

- 15.6 However, this report has set out at some length the way the issue has been considered directly through the appeal process and indirectly through the Development Plan process when the development was held to be acceptable both having regard to its small impact on the overall public open space allocation and acceptability in traffic safety terms. These are the two chief issues that are consistently raised in the many representations received.
- 15.7 Members should also have regard to the fact that the School successfully operates a green travel plan to attempt to optimise travel arrangements other than car-based modes. There has been additional cycle provision put in for the students of the College and for staff since the matter was last considered. Additionally students and parents are regularly reminded of the Schools Eco policy and the need for students to walk or cycle to School. The School is also a member of the Cycle to work scheme. It is noted that the Highway Authority have no objection to the proposals and recommend appropriate conditions. Their recommendation also includes a requirement for a contribution towards highway improvements including parking restrictions.
- 15.8 As a consequence, the renewal of an extant consent is considered appropriate and correct in planning terms and in line with previous decisions. There is not considered to be any material change in the policy background to this case following the adoption of the Development Policies Document in October 2010, nor any change in circumstances which would justify a different recommendation in this case.

16.0 Conclusion

- 16.1 Given the previous Planning history, and the fact that no new material Planning considerations mitigate against a renewal of permission, Members are requested to approve this application.

17.0 Recommendation - Conditional Approval

18.0 Recommended Reasons for the Decision

18.1 YOP - *Reason for Approval (Objection(s) Received - Committee)

The Planning Committee, having considered the recommendation contained in the officer's report, was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval because of the previous Planning history. Thus, having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application.

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - Non-Standard Condition/Reason

Before any works commence on site, details of all existing trees with a stem diameter of 75mm or greater at 1.5m above ground level, shall be submitted to and agreed in writing by the Local Planning Authority and shall include, as appropriate, a Tree Survey, Categorisation and Constraints Plan in accordance with BS 5837.

Reason: To enable proper attention to be given to the impact of the proposed development on existing trees.

3 - Non-Standard Condition/Reason

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

4 - Non-Standard Condition/Reason

All existing trees and hedgerows shall be retained, unless shown to be removed on the approved drawing. All trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its guidance notes and the relevant British Standard. All existing trees shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that any trees and/or hedgerows (or their replacements) die, are removed, destroyed, 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. Any tree works agreed to shall be carried out in accordance with BS 3998.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.

5 - Non-Standard Condition/Reason

No works or development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the Local Planning Authority (see BS 1192: part 4). These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting).

Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

Written specifications (including cultivation and other operations associated with plant and grass establishment).

Schedules of plants, noting species, plant size and proposed numbers/densities.

Planting area protection or decompaction proposals.

Implementation timetables.

Reason: To safeguard the provision of amenity afforded by appropriate landscape design.

6 - Non-Standard Condition/Reason

All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded 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 the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

7 -Non-Standard Condition/Reason

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved by the Local Planning Authority prior to any occupation of the development (or any relevant phase of the development) for its permitted use.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by the landscape.

8 - Non-Standard Condition/Reason

No development shall take place until full details of the surfacing materials and other treatment, including barriers or gateways, of the connection between the proposed access road and Norman Way, and of the crossings of the defined Footpath No. 206 and of the informal footpath leading to St Benedict's Catholic Secondary School and the Colchester County High School, have been submitted to and approved by the Local Planning Authority and those works shall be carried out as approved.

Reason: In the interests of highway safety.

9 - Non-Standard Condition/Reason

The applicant shall commission a professional archaeological contractor to observe the excavations and allow sufficient time for the recording of any features and finds of interest.

Reason: To ensure that any remains of archaeological importance are properly recorded.

10 - Non-Standard Condition/Reason

The access road and internal road hereby permitted shall not be brought into use until replacement cycle sheds have been provided within the grounds of the school, in accordance with a scheme that has been approved by the Local Planning Authority.

Reason: In the interests of highway safety and in furtherance of sustainable travel.

11 - Non-Standard Condition/Reason

Notwithstanding the details shown on the submitted drawings the access road hereby permitted shall not be brought into use until further details of the proposed traffic calming measures have been submitted to and approved in writing by the Local Planning Authority. Any traffic calming measure shall be noise-suppressed to the satisfaction of the Local Planning Authority in accordance with additional details which shall also be submitted to and agreed in writing by the Local Planning Authority. The development shall only be implemented in accordance with the agreed details which shall be retained at all times thereafter.

Reason: In the interests of highway safety.

12 - Non-Standard Condition/Reason

Following the bringing into use of the access road and internal road hereby permitted, the existing access from Rembrandt Way shall not be used for vehicular access other than by emergency vehicles.

Reason: In the interests of highway safety.

13 - Non-Standard Condition/Reason

The access road hereby permitted shall be provided with a gate or barrier at its junction with Norman Way, to be operated by an automated system allowing entry by staff, emergency or public transport vehicles only, further details of which shall be submitted to and agreed in writing by the Local Planning Authority before the development is commenced. The agreed scheme shall be installed prior to the proposed road coming into use and thereafter be retained.

Reason: In order to satisfactorily control the use of the road in accordance with the details submitted with the planning application and protect local amenity.

14 - Non-Standard Condition/Reason

The access road hereby permitted shall be gated and locked shut outside of the hours of use of the School premises except in the case of out-of-hours entry onto the School site for coaches and associated attending parties involved in school trips or visits from Philip Morant School (but no other Schools in the area). Such activity as defined above shall only occur within Philip Morant School grounds.

Reason: In the interests of highway safety and protecting local residential amenity.

15 - Non-Standard Condition/Reason

The details of the connection with Norman Way shall be the subject of further plans to be agreed in writing with the Local Planning Authority. The Local Highway Authority intend that there should be a return footway over the end of the existing highway and that a boundary fence and wall be erected where, locally, pedestrians were separated from cycles and motor vehicles. The latter would enter the gateway via a dropped crossing retained pedestrian priority.

Reason: In the interests of highway safety.

16 - Non-Standard Condition/Reason

The details of the surfacing materials and other treatment at the crossroads between the new track and the Capel Road - Lexden Dyke path shall be the subject of further plans to be submitted to and agreed by the Local Planning Authority prior to commencement of the development. Such detail as shall have been agreed shall be implemented and thereafter retained.

Reason: In the interests of highway safety.

17 - Non-Standard Condition/Reason

The public's right of way and ease of passage across all public footpaths affected by the development hereby permitted shall remain uninterrupted at all times.

Reason: In order to ensure that the development does not adversely impact on public footpaths.

18 - Non-Standard Condition/Reason

No development shall take place until full details of any impact of the access road (including any ancillary works) hereby permitted on Footpath No. 204 have been submitted to and agreed in writing by the Local Planning Authority.

Reason: The application as submitted contains insufficient information regarding this point and proper consideration of the proposals will be necessary in order to protect the integrity of this footpath.

19 - Non-Standard Condition/Reason

Any lighting of the development shall be located, designed, directed and screened so that it does not cause avoidable intrusion to adjacent residential properties/cause unnecessary light pollution outside the site boundary. (Avoidable intrusion means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.)

Reason: To protect the amenity of adjoining residents and in the interests of highway safety.

20 - Non-Standard Condition/Reason

A competent person shall ensure that the rating level of noise emitted from the site shall not exceed 5dBA above the background level prior to the road hereby permitted coming into beneficial use. The assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the Local Planning Authority.

Reason: In order to safeguard the amenities of local residents.

21 - Non-Standard Condition/Reason

Immediately the new access is brought into use the existing access at the northern end of Rembrandt Way shall be suitably and permanently closed to vehicular traffic to the satisfaction of the Local Planning Authority, retaining only access for pedestrians and cyclists to the satisfaction of the Highway Authority immediately the proposed new access is brought into use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety to ensure accordance with Policy 1.1 of the Highways and Transportation Development Control policies.

22 - Non-Standard Condition/Reason

Prior to occupation an Order securing the conversion of the existing definitive right of way (footpath 204 Colchester) to a 3.5m wide shared use cycleway/footway will have been agreed with the Local Planning Authority, the Order must be confirmed, and the new route has been constructed to the satisfaction of the Local Planning Authority.

Reason: To ensure the continued safe passage of cyclists and pedestrians in accordance with Policies 1.1 and 3.4 of the Highways and Transportation Development Control policies.

23 - Non-Standard Condition/Reason

Prior to the road hereby permitted coming into use the details of the number, location and design of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure, convenient and covered and provided prior to the road hereby permitted coming into use and shall be retained thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy 7 of the Highways and Transportation Development Control policies.

24 - Non-Standard Condition/Reason

The route of the two Public Footpaths (204 and 206, Colchester) when converted to cycleway/footway shall remain on their current alignments. The new access route shall provide suitable raised crossing facilities thereby retaining priority for cyclist and pedestrian traffic.

Reason: In order to provide suitable cycling and pedestrian facility on the desired lines in the interests of sustainable travel modes and in accordance with Policies 1.1, 3.3, 3.4 and 3 in Appendix G to the Local Transport Plan.

25 - Non-Standard Condition/Reason

No works in connection with the proposed development shall commence until such time as the applicant has satisfactorily fulfilled the specific commitment given by Brandon Hallam, Director of Policy, Community Planning and Regeneration at Essex County Council, in his e-mail dated 17 March 2010 to support Essex County Council Highways to deliver related highway improvements.

Reason: To make adequate provision within the highway for a traffic regulation order to protect the turning head at the northern end of Norman Way and remove the risk of indiscriminate parking during school pickup and drop off times created as a result of the proposed development.

26 - Non-Standard Condition/Reason

Prior to the road hereby permitted coming into use the existing pedestrian access east of the existing vehicle access on Rembrandt Way shall be improved to be a pedestrian and cycle access to the satisfaction of the Local Planning Authority.

Reason: To ensure appropriate cycle facilities are provided in the interest of highway safety and amenity in accordance with Policy 7 of the Highways and Transportation Development Control policies.

27 - Non-Standard Condition/Reason

During the construction period of the road hereby permitted all storage of building materials and parking of contractors' vehicles shall take place within the curtilage of the school and at no time shall such materials or vehicles be parked in the public highway or other public open space areas unless previously agreed in writing with the Local Planning Authority.

Reason: In order to protect local amenity and ensure the safety and convenience of other road users.

20.0 Informatives

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

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

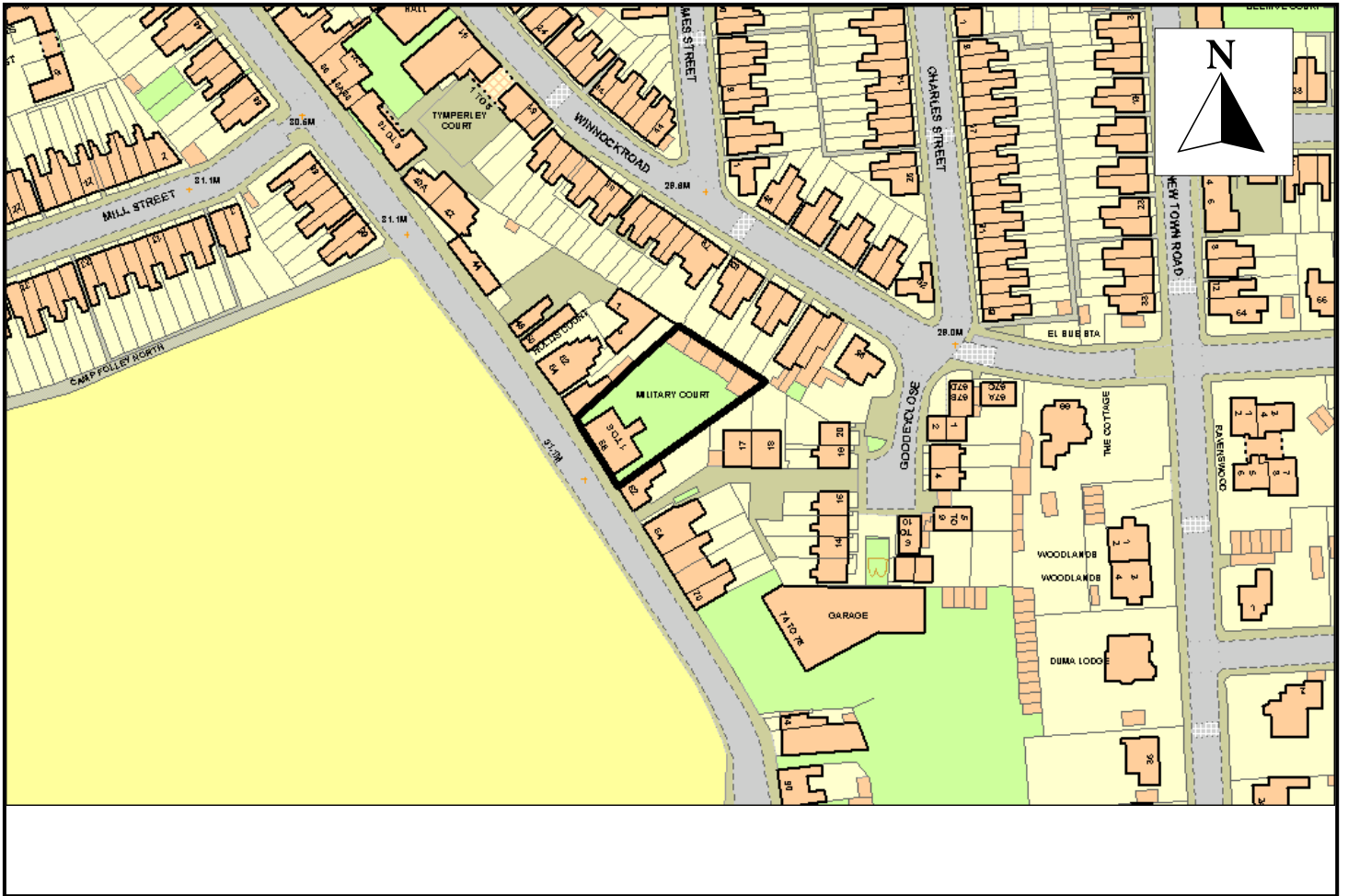
(3) The applicant is reminded of their responsibilities and duties with regard to the line of Public Footpath 204 to the East of the School site. Should any works affect the line of the route these must be carried out in agreement with the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838696 or by email on highways.eastarea@essex.gov.uk.

(4) The Local Planning Authority recognises that the School actively pursues green travel arrangements through the Green Travel Plan and would advise the applicants that they attach great importance to the maintaining of the permissive pedestrian/cycle route between the northern and southern sections of Norman Way on its current alignment. This, as a means of further encouraging pedestrian and cycle access to the School and promoting sustainable transport objectives in the locality.

21.0 Positivity Statement

21.1 WA1 – Application Approved Without Amendment

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: 130752

Location: Military Court, 58-60 Military Road, Colchester, CO1 2AN

Scale (approx): 1:1250

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7.4 Case Officer: Carl Allen

Due Date: 18/06/2013

OTHER

Site: Military Court, 58-60 Military Road, Colchester, CO1 2AN

Application No: 130752

Date Received: 23 April 2013

Agent: Mr Michael Gurton

Applicant: Colchester Borough Council

Development: Erection of temporary hoarding to site frontage

Ward: New Town

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because Colchester Borough Council is the applicant.

2.0 Synopsis

2.1 The key issues explored below are the impact upon the amenity and street scene. In these regards the application is acceptable, and approval is recommended with conditions regarding the colour of the hoarding and the length of the temporary period.

3.0 Site Description and Context

3.1 The site is the former Military Court which was a three storey building in a poor condition. This building was demolished under planning permission 121821 and the site is now clear with temporary Heras security fencing to Military Road frontage and to the rear boundary which adjoins the rear gardens of dwellings on Winnock Road.

4.0 Description of the Proposal

4.1 The proposal is to erect a 2.4m high temporary plywood hoarding to the Military Road frontage. A gated recessed area would be provided for vehicular access. The painted colour is to be agreed.

5.0 Land Use Allocation

5.1 Residential.

6.0 Relevant Planning History

- 6.1 121821 – Demolition of block of six flats, staircase, extension and five garages. Approved.

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 it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Government's primary objective that there be "a presumption in favour of sustainable development". There are three dimensions to sustainable development, which are an economic role, a social role and an environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

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

UR2 - Built Design and Character

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

DP1 Design and Amenity

- 7.4 Further to the above, the adopted Site Allocations (2010) policies set out below should also be taken into account in the decision making process:

N/A

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

N/A

8.0 Consultations

- 8.1 None

9.0 Parish Council Response

- 9.1 N/A

10.0 Representations

- 10.1 None 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 The main issue to consider is the impact of the hoarding on the street scene. The general street scene is made up of dwellings with a frontage immediately to the footway of Military Road, whilst opposite the site is the high brick wall of the Garrison area. With these considerations a 2.4m high hoarding would not appear to be overly dominant in the street scene, especially given that a three-storey building stood at the site until very recently.

15.2 Although it has been stated that the hoardings would be temporary, no time period for the hoardings to remain in place has been given, although the aim is to re-develop the site. With this, and the current economic climate, a temporary period of two years would seem appropriate. The condition could be worded to allow an extension of this period if required – if agreed with the Local Planning Authority. The site is not in a Conservation Area.

15.3 Regarding amenity, the hoarding would not cast any shadows that would impact upon the immediate neighbours, and as such is acceptable in regards to amenity and complies with DP1.

15.4 The painted finish of the hoarding should be conditioned to ensure the overall appearance has an acceptable design to accord with UR2 and DP1.

16.0 Conclusion

16.1 It is concluded that there would be no detrimental impact upon the amenity or the street scene. The hoarding should be conditioned to be temporary for a period of two years.

17.0 Recommendation - APPROVE subject to the following conditions

18.0 Recommended Reasons for the Decision

18.1 The proposal accords with the relevant policies in the Statutory Development Plan (as set out above). Having also had regard to all material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged planning importance.

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Location Plan, Drawing Numbers 001 and 002 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - Non-Standard Condition/Reason

The hereby approved hoarding shall be removed from the site within two years of the date of this planning permission, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of the local amenity.

4 - Non-Standard Condition/Reason

No hoarding shall be erected until full and precise details of the painted colour of the hoarding has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented, within two weeks of the hoarding being erected.

Reason: In the interest of the local amenity..

20.0 Informatives

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

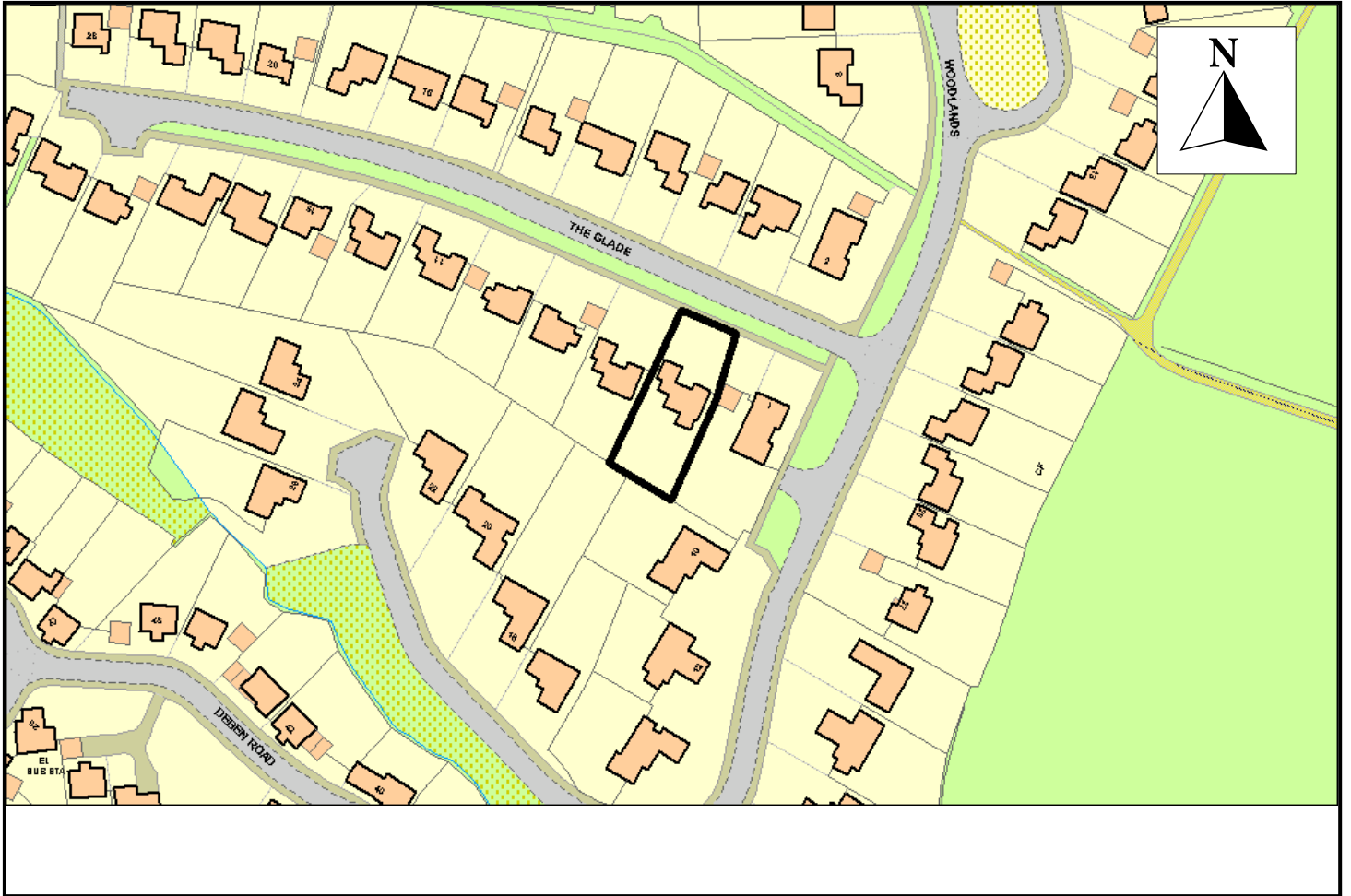
(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

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

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

21.0 Positivity Statement

21.1 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: 130781

Location: 3 The Glade, Colchester, CO4 3JD

Scale (approx): 1:1250

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7.5 Case Officer: Jane Seeley Due Date: 14/06/2013

HOUSEHOLDER

Site: 3 The Glade, Colchester, CO4 3JD

Application No: 130781

Date Received: 19 April 2013

Agent: Mr P Tyler

Applicant: Mr Lee

Development: Ground floor front extension to kitchen, first floor side extension and internal alterations

Ward: St Johns

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the agent is employed on a consultancy basis by this Council.

2.0 Synopsis

2.1 The key issues explored below are the design of the proposed extension and its impact on the street scene and neighbouring amenities.

2.2 It is considered that these are acceptable and approval is recommended.

3.0 Site Description and Context

3.1 3 The Glade is a detached dwelling with a front projecting flat roof double garage. The house has been extended at single storey to the rear and to the side (to the rear of the garage). There are trees with Tree Preservation Orders (TPOs) in the front and rear gardens. The front boundary is not marked. The other boundaries have planting and/or fencing. The site slopes down from the road. There is a bungalow to the side (east) and detached houses to the rear and west.

4.0 Description of the Proposal

4.1 It is proposed to erect a small single storey extension to the front, a first floor extension over the majority of the existing single storey side elements and a pitched roof over the retained front projection part of the aforementioned side extension. Since submission the application has been amended so that the single storey extension does not wrap around the existing front gable and the material of part of the first floor extension has been changed to render.

5.0 Land Use Allocation

- 5.1 Predominantly residential
TPO 17C/97

6.0 Relevant Planning History

- 6.1 COL/88/2011 Two storey front, rear and side extensions – Approved but not implemented
- 6.2 COL/91/0454 Single storey extension – Approved

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 it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Government's primary objective that there be "a presumption in favour of sustainable development". There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

UR2 - Built Design and Character

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

Extending Your House?
The Essex Design Guide

8.0 Consultations

- 8.1 Tree Officer – recommends standard tree protection conditions.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

9.1 N/a

10.0 Representations

10.1 None

11.0 Parking Provision

11.1 There is adequate off street parking to comply with adopted parking standards.

12.0 Open Space Provisions

12.1 As this scheme is for a domestic extension room it will not generate any open space contribution requirements.

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

Design and Layout

15.1 The proposed extension is similar to the unimplemented 1988 planning permission and to an extension that has been erected following an Appeal decision in 1999 at Number 11. It is considered that the extension reflects the character of the existing dwelling. The use of render for part of the first floor extension reflects the material used at ground floor level on part of the front elevation. Originally it was proposed to use hanging tiles to match the existing front gable but the applicant suggested the change. The use of an alternative material to the existing gable is desirable. Whilst render at first floor is not a feature of the area it has recently been approved elsewhere on the estate. Refusal on the basis of the use of render is not considered to be justifiable.

Impact on the Surrounding Area

- 15.2 The Glade has a pleasant sylvan character. The housing in the vicinity of the site originally appeared to have a spacious layout because of the single storey flat roofed double garages to the side. Over the decades many of the garages have been built over. The area, nevertheless, retains much of the originally proposed character due to the mature trees and the fact that the housing is set well back from the road. Given the changes that have already occurred within the street scene it is not considered that the proposed extension will have a negative impact on the locality.

Impact on Neighbouring Properties

- 15.3 The extension accords with the criteria in the SPD 'Extending Your house?' The first floor extension and alteration to the garage roof will project forward of the front wall of the adjacent house (No 5). The potential impact on amenity has been assessed using the principles set out in this the SPD for assessing amenity for rear extensions. It has been concluded that the impact of the extension in relation to the front windows of Number 5 is acceptable.
- 15.4 Number 5 has an obscurely glazed side landing window facing the proposed extension. As this is to a non habitable room it is considered that any impact on light is not material.
- 15.5 The dwelling already has first floor windows and given the juxtaposition with surrounding properties there is an element of mutual overlooking. The impact of the proposed doors at first floor in the extension will be partly mitigated by the juliet style railings. It is not considered that the impact on amenity is unreasonable.

TPO trees

- 15.6 Tree protection measures are included in the application and the Tree Officer has not raised any objections. Standard tree protection conditions are suggested to ensure the works do not adversely impact the TPO trees on the site.

16.0 Conclusion

- 16.1 This scheme is acceptable in design terms, would not cause harm to the adjacent TPO trees and would not cause harm to neighbouring amenity. Therefore an approval is warranted

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

18.0 Recommended Reasons for the Decision

- 18.1 The proposal accords with the relevant policies in the Statutory Development Plan (as set out above). Having also had regard to all material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged planning importance.

19.0 Conditions – Approve subject to the following 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 1 and 4a unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - Non-Standard Condition/Reason

The external facing and roofing materials to be used shall match in colour, texture and form those used on the existing building.

Reason: This is a publicly visible building where matching materials are a visually essential requirement.

4 - Non-Standard Condition/Reason

Prior to the commencement of development, all trees, shrubs and other natural features not scheduled for removal on the approved plans shall have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

5 - Non-Standard Condition/Reason

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

6 - Non-Standard Condition/Reason

All existing trees and hedgerows shall be retained, unless shown to be removed on the approved drawing. All trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its guidance notes and the relevant British Standard. All existing trees shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that any trees and/or hedgerows (or their replacements) die, are removed, destroyed, 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, by the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.

20.0 Informatives

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

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

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

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

21.0 Positivity Statement

21.1 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.

AMENDMENT SHEET

Planning Committee
6 June 2013

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 130929 – Land adjacent (south) to Grange Road, Tiptree

- 1) The number of objections from residents had risen to eleven at the time this amendment sheet was prepared (14:00 on 5th June). If any further comments are received these will have to be reported to Committee.

These objections covered the following points:

- The previous permission has only just been granted;
- Extra noise/disturbance for residents;
- Warrior's Rest/other facilities should be used instead;
- The approach is incremental;
- The May/June rest period should not be interfered with;
- The applicants have said they do not need this use anyway;
- The applicants were aware of these extra two weeks six months ago;
- The amended change of non-use months for the community pitch will impact on amenity.

OFFICER RESPONSE: These revisit points already raised and responded to in the report. The final point, however, illustrates that to some people it would be preferable to have no community games in August.

- 2) Responses from Tiptree and Messing cum Inworth Parish Councils have also been received.

Tiptree Parish Council:

"Tiptree Parish Council objects to this application. It is understood that all football league clubs were made aware in January 2013 of the extension to the 13/14 football season to celebrate the 150 year anniversary of the Football Association - if 2 weeks additional training is so important, CUFC should have applied 5 months ago for this variation. By applying so late and with no guarantee of approval being given, it is assumed that alternative arrangements for training must by now have been

made and this application should therefore be retracted. The variation to Condition 27 in application 121353 included no use of the facility in May and June 'in the interest of residential amenity'. CUFC agreed to this condition and it should not be amended in any way.

Tiptree Parish Council is very concerned about the continual applications for variations of the original planning decision for this facility. This shows a complete lack of respect for the local residents and in the interest of local amenity, Colchester Borough Council should now advise CUFC that no further applications for variation of conditions will be considered.”

Messing cum Inworth Parish Council:

“The Planning Committee of Messing cum Inworth Parish Council met to discuss this application on 21/5/13. They determined to object to this application as:

a) *they felt that within days of new conditions being agreed, that once again CUFC were seeking to stretch their planning conditions.*

b) *Councillors and the Clerk have observed that the club has never adhered to the Transport Plan and as a result Inworth has seen a substantial increase in traffic as players and staff travel to the training ground in their own cars rather than the supposed one team coach- coming from the CUFC's ground. It is noted that CBC have yet to start enforcement action in relation to this breach!!*

c) *Our residents and those in Tiptree parish need a rest from the disruption and noise created by the activities of club employees.*

d) *We acknowledge that the football season is starting earlier this year, but this was known when the club were negotiating their conditions with the council and they should have made suitable representations then. We suggest that the team train at their stadium and give us a rest even if it is only for a short while.”*

OFFICER RESPONSE: The comments made largely echo those made by residents. The further points raised by Tiptree Parish Council are also noted, but it is not in the gift of the Local Planning Authority to have the application withdrawn, nor to fail to consider any subsequent applications which may be submitted.

7.2 130480 – Grassed Area North of Norman Way and East of Reynolds Avenue & Landseer Way, Colchester

Correction to Paragraph 15.5 – NO meetings have been held during the preparation of the application as intimated by the report.

Condition 24 should refer to current application 130481



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.