

# Planning Committee

Town Hall, Colchester  
1 December 2011 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](http://www.colchester.gov.uk) or from Democratic Services.

## Have Your Say!

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## **Material Planning Considerations**

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

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

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

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

## **Human Rights Implications**

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

## **Community Safety Implications**

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

## **Equality and Diversity Implications**

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

# COLCHESTER BOROUGH COUNCIL PLANNING COMMITTEE 1 December 2011 at 6:00pm

## Members

Chairman : Councillor Ray Gamble.  
Deputy Chairman : Councillor Theresa Higgins.  
Councillors Christopher Arnold, Peter Chillingworth,  
John Elliott, Stephen Ford, Peter Higgins, Sonia Lewis,  
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 Development Framework Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-  
Councillors Nick Barlow, Lyn Barton, Mary Blandon,  
John Bouckley, Nigel Chapman, Barrie Cook, Nick Cope,  
Annie Feltham, Bill Frame, Mike Hardy, Marcus Harrington,  
Pauline Hazell, Michael Lilley, Sue Lissimore, Nigel Offen,  
Ann Quarrie, Will Quince, Paul Smith, Terry Sutton,  
Dennis Willetts and Julie Young.

## Agenda - Part A

(open to the public including the media)

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

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

## Pages

### 1. Welcome and Announcements

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

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

- action in the event of an emergency;
- mobile phones switched off or to silent;

- location of toilets;
- introduction of members of the meeting.

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

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

## **3. Substitutions**

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

## **4. Urgent Items**

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

## **5. Declarations of Interest**

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the

public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

## **6. Minutes**

The minutes of the meeting held on 17 November 2011 will be submitted to the next meeting.

## **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. 111335 Orchard Place, Vernons Road, Chappel **1 - 24**  
(Great Tey)

Change of use of land to form 3 pitches for gypsy/traveller caravans and the erection of associated utility sheds and boundary fencing planting.

2. 111582 251 Bergholt Road, Colchester, CO4 5AT **25 - 32**  
(Mile End)

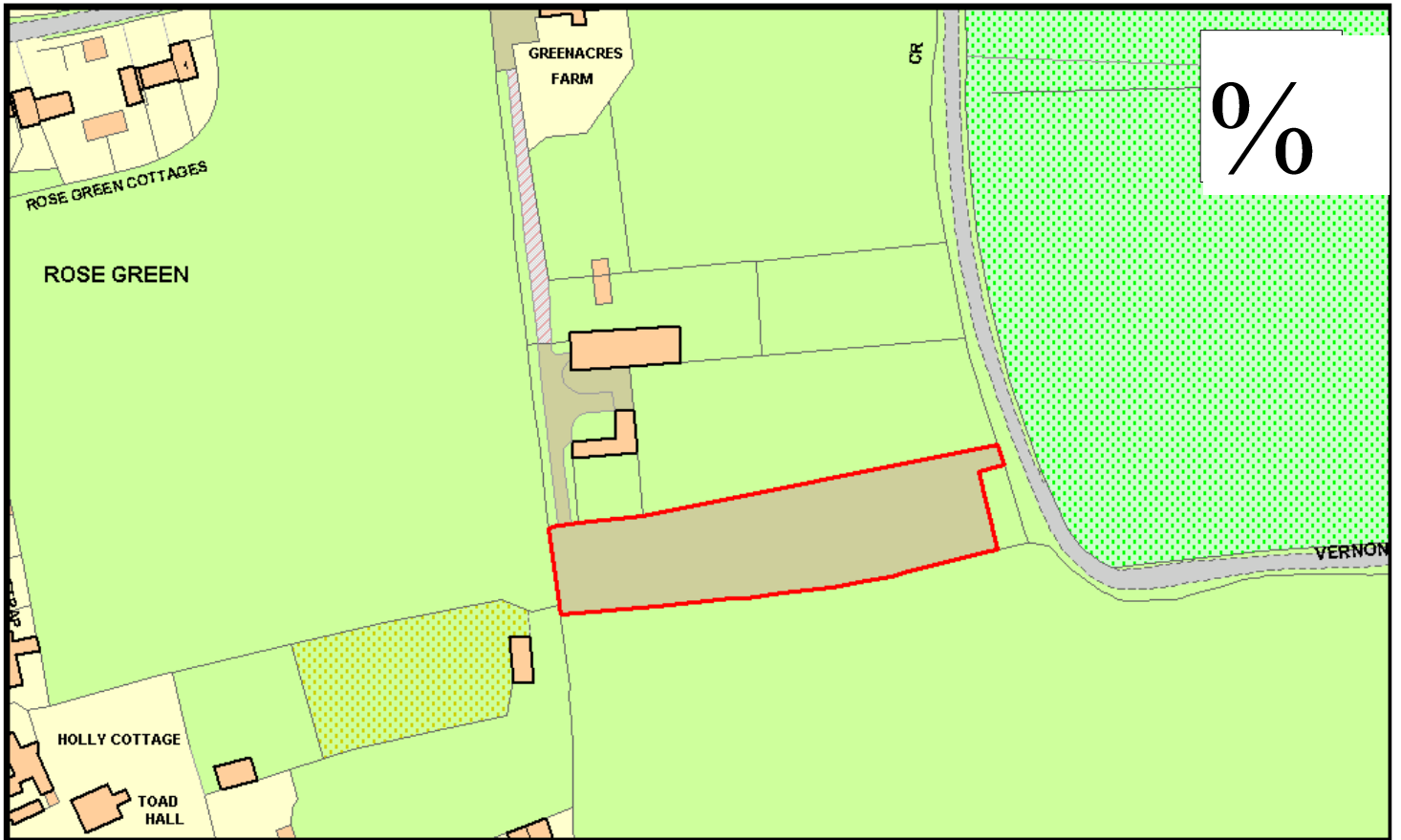
Erection of part two storey, part one single storey rear extension plus erection of double garage.

## **8. Members Engagement in Pre-Application Planning Discussions 33 - 53**

See report by the Head of Environmental and Protective Services.

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

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



**Application No:** 111335

**Location:** Orchard Place, Vernons Road, Chappel, Colchester

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

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# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **1 December 2011**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

Relevant planning policy documents and all representations at the time this report was printed are recorded as BACKGROUND PAPERS within each item. An index to the codes is provided at the end of the Schedule.

## 7.1 Case Officer: Mark Russell

## OTHER

**Site:** Orchard Place, Vernons Road, Chappel, Colchester

**Application No:** 111335

**Date Received:** 19 July 2011

**Agent:** Mr Dave Cookson

**Applicant:** Mr C O'Driscoll

**Development:** Change of use of land to form 3 pitches for gypsy/traveller caravans and the erection of associated utility sheds and boundary fencing and planting.

**Ward:** Great Tey

**Summary of Recommendation:** Conditional Approval

### 1.0 Introduction

1.1 This application is referred to the Planning Committee because it has been called in by Councillor Chillingworth for the following reasons:

'Residents' amenity, highways and sewage disposal.'



## **2.0 Synopsis**

- 2.1 This application follows the refusal of application 090891 which was for six pitches for travellers. That application was refused as it was seen as an unacceptably intense use of the site which would have dominated its surroundings, and was also refused on grounds of Highway safety, including insufficient visibility splays.
- 2.2 The following report describes the resubmitted proposal for a travellers site at Vernons Road, Chappel. The position regarding national guidance and local policy is clarified. Consultation replies, and objections are listed. The strengths and shortcomings of the application are then analysed in the context of relevant, policies, and the circular, and finally approval is recommended.

## **3.0 Site Description and Context**

- 3.1 The site comprises a parcel of former agricultural land (which is still its extant lawful use) and is approximately 100 metres outside of the Chappel Village Envelope. This measures approximately 2,600m<sup>2</sup> (i.e. 0.26ha) although it is wrongly described as being 0.05ha in some of the submitted documents. The site is surrounded on two sides by open country, and on one side by the grounds of Greenacres Farm which is a cravan site and is itself mainly open land with permission for static caravans. The fourth side is the entry point on to the unclassified Vernon's Road. The site is partially screened by trees and hedging, although in the case of the southern aspect this is virtually non existent.
- 3.2 The application before Members is, at the time of writing, partially retrospective. Fencing has already gone up around the site, including internal divisions between the original proposed plots, entrance gates have been installed to the Vernon's Road frontage, and whilst the site was occupied almost consistently between February and September 2009, it has been largely unoccupied since that time. In addition, the site is now entirely covered with crushed aggregate or hardstanding.

## **4.0 Description of the Proposal**

- 4.1 The application is for the use of the site for the stationing of 6 no. caravans on 3 no. pitches for gypsy families. These pitches would be located on the left hand side of the site, with the access from Vernons Road to the right. It is proposed, as the description suggests, to have two caravans in each pitch. Utility buildings and a septic tank/cess-pool are also proposed.

## **5.0 Land Use Allocation**

- 5.1 Allocated as a travellers' site in the Local Development Framework (Site Allocations) Document (October 2010). Previously agricultural land.

## **6.0 Relevant Planning History**

- 6.1 090559 - Retention of use of land for permanent stationing of 12no. caravans for occupation by gypsy families. Erection of small toilet/washing sheds and laying of hardcore/chipping surfaces. Withdrawn.

6.2 090891 - Retention of existing unauthorised use of land for permanent stationing of 12 no. caravans on six pitches for occupation by gypsy families. Erection of small toilet/utility sheds and laying of hardcore/chipping/tarmac surfaces. Resubmission of 090559. Refused 25<sup>th</sup> September 2009.

## 7.0 Principal Policies

7.1 The following national policies are relevant to this application:

Planning Policy Statement 3: Housing  
Planning Policy Statement 7: Sustainable Development in Rural Areas  
Planning Policy Statement 9: Biodiversity and Geological Conservation  
Planning Policy Statement 10: Planning for Sustainable Waste Management  
Planning Policy Statement 12: Local Spatial Planning  
Planning Policy Statement 23: Planning and Pollution Control

Circular 01/2006 (Planning for Gypsy and Traveller Caravan Sites).

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

H5 - Gypsies, Travellers, and Travelling Showpeople  
ENV1 - Environment  
ENV2 - Rural Communities

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

DP1 Design and Amenity  
DP10 Tourism, Leisure and Culture  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes

7.4 Finally, the following Site Allocations document is of importance:  
Policy SA H2 (Gypsy and Traveller Accommodation).

## 8.0 Consultations

8.1 Highway Authority:

'This site has been the subject of much discussion and a couple of different applications for planning permission. The original proposal was for 12 (sic) pitches which this Authority felt was excessive when having regard to the nature of the road.

It has now been stated in the submitted information that the access can provide visibility splays of 2m x 32m. Manual for Streets guidance suggests that these dimensions are suitable where traffic speeds are no higher than approximately 25mph. The informal speed survey undertaken by the applicant's agent has shown figures which appear to average at approximately 22mph. This would be within the Manual for Streets' accepted parameters.

Taking the above into account the Highway Authority would not wish to raise an objection to the above subject to the following....

- Visibility splays of 2m x 32m;
- Parking and turning facilities;
- No unbound materials close to the carriageway;

- Gates to be inward opening;
  - Prevention of water discharge onto the Highway.’
- These conditions are listed in full at the foot of this report.

## 8.2 Environmental Control

“We note the comments made re. the provision of sewage/disposal treatment and once the decision has been approved by the EA we require a detailed scheme showing the location of the system, the location of any discharge and a maintenance schedule before commenting further. We also require information on refuse storage and disposal.”

Following the Environment Agency’s response (below) Environmental Control has responded as follows:

“Having read the correspondence from the EA regarding the provision of sewage disposal/treatment, it appears that the site is suitable for the septic tank system referred to in the planning statement. I can therefore see no reason why the detailed scheme requested cannot be conditioned as normal. The same goes for refuse storage and disposal.”

A condition regarding light pollution and an informative relating to contaminated land were also requested, these are listed in full at the foot of this report.

## 8.3 Environment Agency:

“The site overlies a minor aquifer and is in a drinking water area. We note from the Foul Drainage Assessment Form (FDA1) that the applicant proposes to dispose of foul water by means of a cess pool/pit arrangement. The Environment Agency Pollution Prevention Guideline 4 (PPG4) ‘Treatment and disposal of sewage where no mains drainage is available’ makes the point that a cess pool arrangement is regarded as a suitable method pending a permanent solution. However, assuming the pitches are to be permanent, our preference would be for a more sustainable solution such as a package treatment plant and then a septic tank in accordance with PPG4.

A cesspool requires regular emptying and must not be allowed to overflow. We recommend that the applicant installs a level warning device to indicate when it is nearly full. Additionally, the applicant should check that whoever empties the cesspool is registered with us to carry waste. Further reference should be made to PPG4.

Where the applicant opts to use a package treatment plant or a septic tank which would involve a discharge to surface water or groundwater, an exemption for registering sewage treatment system as exempt from the need for an environmental permit may be available subject to the satisfying of certain criteria. Full details are set down in our guidance document ‘Summary guidance for householders – Summary criteria for the registration of small sewage discharges’.

We endorse the comment made by the Council’s Environmental Control Team that a detailed scheme showing the location of the system, the location of any discharge and a maintenance schedule should be provided. We assume a suitably worded condition covering a foul water disposal scheme will be appended to any planning permission granted.”

#### 8.4 Planning Policy:

“Policy H5 (Gypsies, Travellers and Travelling Showpeople) of the Core Strategy states that the Council will identify sites to meet the established needs of gypsies, travellers and travelling showpeople in the Borough. The policy states that the Council will seek to locate sites within reasonable proximity to existing settlements and with access to facilities. Sites should also provide adequate space for vehicles and appropriate highway access.

Since the previous application for this site was considered the RSS Single Issue Review into Gypsy and Traveller Accommodation in the East of England has been published. The Single Issue Review states that Colchester should have a total provision of 30 gypsy pitches by 2011. Subsequently 30 pitches were allocated in the Site Allocations DPD and one of these allocations is the application site. Policy SA H2 (Gypsy and Traveller Accommodation) states that the site will be considered suitable for 3 pitches.

As set out in the planning policy response to the previous application the site is located approximately 370 metres by road and 130 metres directly outside the existing village envelope. The site is also well related to existing sporadic development on Vernons Road. It would be necessary for residents at the application site to travel to The Street, Chappel, to access the shop, post office, public house and school (approximately 1.0 – 1.2km from the site by road). There is a footway on one side of Colchester Road (A1124) linking the Rose Green area to the other parts of Chappel and Wakes Colne.

At the Examination into the Site Allocations DPD Spatial Policy explained that the identification of this site for a lower number of pitches should enable the reasons for refusal of the previous application to be overcome. The use would be less intensive, vehicle movements and associated noise reduced, and there would be more space on the site for amenity space and vehicular parking.

Policy DP1 (Design and Amenity) of the Development Policies DPD is also relevant to this application. This policy requires all development to be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability.

The Planning Statement submitted as part of the planning application states that a 2 metre high close boarded fence already bounds the site and that over time the site will be further screened by planting. The block plan shows proposed hedge planting but no detail is given on the type of hedge to be planted. It is essential that the site is sufficiently screened to help reduce the landscape impact of the proposal and to help reduce effects on residential amenity in accordance with policy DP1. Therefore, if consent is granted a condition should be attached requiring details of a landscaping scheme for the site to be submitted and approved by the LPA and implemented.

The Environment Agency has confirmed in a letter to the agent that they would have no objection to the installation of septic tanks providing that ground conditions permit. If this application is approved it is essential that septic tanks are installed with approval from the Environment Agency. It may be appropriate to attach a condition to the consent, if given, relating to this.

Providing that the Highways Authority raise no objections to the application and the issues of sewerage disposal and screening are addressed it is considered that this proposal complies with planning policy.”

#### 8.5 Arboricultural Officer: No objections, subject to standard conditions to protect trees (at the foot of this report).

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 Chappel Parish Council has responded as follows:

“Chappel Parish Council remain concerned and are taking advice that the site at Orchard Place, Vernons Road, Chappel was allocated and included in the Local Development Framework Site Allocations Document without the correct statutory consultations taking place. Orchard Place had never been mentioned in prior documents.

At the time the Application was registered – Wednesday 19<sup>th</sup> July 2011 - the site was occupied by the applicants, Mr O’Driscoll. This was confirmed to Chappel Parish Council by Cheryl Headford of Colchester Borough Council on Thursday 28<sup>th</sup> July. Due to antisocial behaviour involving both neighbours, Colchester Borough Council Enforcement Officer, the Environment Department and the Gypsy Liaison Officer were all contacted. Consequently Sarah Hayes, Enforcement Officer and Kelly Vanderson, Gypsy Liaison Officer visited the site.

Chappel Parish Council has received a number of concerns from residents regarding the fear of crime and the impact on the viability of local businesses. In this respect we understand the Police have been contacted on a significant number of occasions in relation to this specific site and its occupation.

Chappel Parish Council has requested and await confirmation from Colchester Borough Council that the correct fee was paid when the application was submitted. We trust this will be advised on the Amendment Sheet.

At the Planning Committee Hearing on 17 September 2009 **unanimous refusal** was given to 6 pitches, erection of toilet/utility sheds and laying of hardcore/chipping/tarmac surfaces.

The current application is in respect of the same site. Chappel Parish Council wish the Planning Officer and the Planning Committee of Colchester Borough Council to consider what has changed in the two years since the last application was **unanimously refused** which could persuade them to reach a different conclusion.

- The Summary of **Recommendation of Refusal** by Case Officer Mark Russell in 2009 states “if the Council were considering this as a site there may be concerns that it is not suitably located”.  
**Nothing has changed**
- The Summary of **Recommendation of Refusal** by Case Officer Mark Russell in 2009 states: “The proposal would create a sub-standard vehicle access by reason of insufficient visibility splays”  
**Nothing has changed**

- Essex County Council Highways **Recommendation of Refusal** in 2009 states: “This proposal in requiring all facilities such as education, employment and shopping elsewhere, would introduce additional domestic traffic including pedestrians and cyclists (both adults and children) into this very rural location where there are neither street lights nor footways..... The proposal would accordingly be contrary to the interests of highways safety.  
**Nothing has changed**
- Essex County Council Highways **Recommendation of Refusal** in 2009 states: The proposal would create a substandard vehicle access by reason of insufficient visibility splays which should measure 4.5m x 90m in this location.  
**Nothing has changed**
- Essex County Council Highways **Recommendation of Refusal** in 2009 states: The proposal would lead to intensified use of the rural road network by large vehicles and caravans in an area which is not suitable for this level and size of traffic and would therefore have a detrimental effect on the roads and an increased maintenance liability for the Highway Authority.
- Since the unanimous refusal of the Planning Committee Hearing on 17 September and the Refusal Notice from Colchester Borough Council dated 25 September permission has been granted on 24 May 2011 to Application 110510 – change of use for the development of land for four holiday let, static caravans at Greenacres Farm, Vernons Road, Chappel.  
**There are already 4 additional units on Vernons Road**

Chappel Parish Council refute the validity and credibility of the informal speed survey undertaken by the applicant’s agent. We submit that it is not the average speed that is pertinent but the 85<sup>th</sup> percentile speed. Furthermore we note the speeds which Essex County Highways and the survey refer are not those generally experienced by village residents and frequent users of the road as stated in many of the letters received by you and now available on the website.

Chappel Parish Council has written to Essex County Highways on 1<sup>st</sup> October 2011 requesting clarification of their recommendation. To date no reply has been received albeit Chappel have again emailed the letter on the 3<sup>rd</sup> November and chased for a reply on the 9<sup>th</sup> November in time for the Parish Council meeting.

- **Andrew Hunter, Environment Agency** states: Until a non-mains drainage assessment is carried out – the site overlies a minor aquifer – we would not be content with your approach. Non-submission of a non-mains drainage assessment can be grounds for **refusal**  
**Not submitted**

- Case Officer, Mark Russell's letter to Mr Dave Cookson (Agent) dated 9 August 2011 requests information and clarification regarding connection of water supply to the site; where cesspits are likely to be placed and from which neighbour electricity is being supplied from. Mark Russell states: "this extra information will be of use in determining the application".

Chappel Parish Council requested the above information being greatly concerned with drainage matters and "which neighbour electricity is being supplied from". The response received were quotes from Paragraphs 5.2 and 5.5 of the "Guide".

**Chappel Parish Council and the Planning Committee cannot comment or determine this application without this information.**

- If permission is granted to this present application, that will mean consent has been granted for **10** additional caravans in Vernons Road in the last year – a potential of at least **20** adults in addition to numerous children in this one road.
- "The current adult population of Chappel is approximately 414. Assuming just two adult residents in each caravan, based on 10 caravans this would indicate **20** additional adults. This equates to an increase of **5%** to the population of Chappel.

The current adult (20 years and more) population of Colchester Town is approximately 140,000 and by applying the same percentage increase to the Colchester population this would equate to **8,096** travellers in **4,048** caravans moving onto a site in Colchester".

This would clearly have a serious detrimental impact on the existing infrastructure. This is evidently not sustainable in Colchester nor is it in Chappel.

With the hard copy of this letter please find enclosed a petition, organised by the residents of Chappel and Wakes Colne, containing 563 signatures in respect of this Planning Application. This equates to 70% of the residents. We would draw your attention to the many letters and email comments available on the website for this current application 111335 and the previously **unanimously refused** application 090891. Chappel Parish Council would also refer the Case Officer and the Planning Committee to previous comments many of which remain relevant.

We request the Planning Committee **REFUSE** this application."

9.2 Wakes Colne Parish Council has responded as follows:-

"The Parish Council wish to comment as follows:

We object to this planning application and request this application is refused for the following reasons:-

1. Most of the concerns raised during the previous application in 2009 are still valid.
2. The proposed development site is still outside the village envelope.
3. There is poor road access. Vernons Road is narrow, with a sharp bend beside the site, and there is no pavement along this stretch of the lane.

- The Summary of Recommendation of Refusal by Case Officer Mark Russell in 2009 states: “The proposal would create a substandard vehicle access by reason of insufficient visibility splays.
  - Essex County Council Highways Recommendation for Refusal in 2009 states: “This proposal in requiring all facilities such as education, employment and shopping elsewhere, would introduce additional domestic traffic including pedestrians and cyclists (both adults and children) into this very rural location where there are neither street lights nor footways...The proposal would accordingly be contrary to the interests of highway safety.
4. The site is in a rural area and should thus prohibit development in the open countryside.
  5. The present local amenities such as sewerage, refuse collection and parking spaces are insufficient to support this development.
    - Andrew Hunter, Environmental Agency states: Until a non-mains drainage assessment is carried out the site overlies a minor aquifer – we would not be content with your approach. Non-submission of a non-mains drainage assessment can be grounds for refusal.  
To our knowledge this has not been submitted.

Please also consider the feelings of the parishioners of Chappel and Wakes Colne Parishes as demonstrated by the amount of objections lodged on the planning website along with the larger number of signatures included on the petition organised by residents.”

## 10.0 Representations

10.1 In addition to the above-mentioned petition, as of (and including) 21<sup>st</sup> November 2011 up to 62 letters of representation had been received. All of these were objections, and the main points covered:

- The application has already been refused
- Noise and disturbance
- Highway danger
- Lack of water and sewerage facilities leading to issues of smell
- No details about drainage
- Insufficient details about the size of buildings
- Visual blight (existing fencing and iron gates plus proposed statics, utility buildings, laundry)
- Inadequate space for vehicles
- Why is there a need if Severalls has been approved?
- Light pollution
- Dumping of rubbish
- Potentially no limit on the number of caravans
- The site is not close to an existing settlement
- Chappel does not have the facilities to support extra people
- Highway report is out of date/inaccurate/flawed (note comments from Cox and Parish Council)
- Possible influx from Crays Hill
- Travellers being dealt with differently to the settled community
- No information about which families will be living there
- The site is not large enough for the level of proposed use



- Inadequate space for proper planting
- Sub-standard entrance
- Retrospective permission should not be granted
- Plans are not to scale
- House values will drop
- The neighbouring caravan site could suffer financially
- The required Planning conditions are unlikely to be complied with
- The access to the plot is not legal
- The impending replacement of circular 01/2006 lessens its weight
- Insufficient consultation
- Insufficient information has been submitted
- This would set a precedent for any form of development in the countryside
- More people could live on the site than are being applied for
- Will a request for section 106 payments be made?
- If permission is granted, the number of caravans should be limited to three

## **11.0 Parking Provision**

- 11.1 There are no adopted parking standards for travellers' sites. One parking space per pitch is being proposed, although in practice this is informal and in fact space is available for additional parking.

## **12.0 Open Space Provisions**

- 12.1 N/A

## **13.0 Report**

### Policy position

- 13.1 Policy SAH2 of the LDF Site Allocations document (adopted October 2010) identifies Orchard Place as a site for traveller accommodation along with sites in north Colchester, Aldham, Tiptree, Layer Breton and Stanway. Within that document this site is considered suitable for a maximum of three pitches. Also of specific relevance to the issue of travellers, are Core Strategy policy H5 and government circular 01/06.
- 13.2 Members will be aware that the Planning system is being reformed, and there is consequently a degree of flux and uncertainty. The Parishes have asked for clarification on this point, and specifically on the weight to be given to the National Planning Policy Framework (NPPF) and the draft Planning Policy Statement (PPS) on Planning for Gypsy and Traveller Sites. The following response has been received from Planning Policy:

'The draft National Planning Policy Framework (NPPF) was published for consultation on 25 July 2011; the consultation closed on 17 October 2011. The draft NPPF is a consultation document and therefore only limited weight can be attached to it as it is possible that the document will be amended before it is adopted. The Planning Inspectorate (PINS) issued an advice note for its Inspectors on 8 September 2011 stating that the draft NPPF is capable of being a material planning consideration. The guidance note states that the weight given to it will be a matter for

the decision maker in each particular case and Planning Policy Statements, Planning Policy Guidance and Planning Circulars remain in place until cancelled.

The PINS guidance note should be taken into account by Colchester Borough Council as Inspectors will consider it when dealing with planning appeals. Therefore, Colchester Borough Council may treat the draft NPPF as a material planning consideration, albeit with limited weight owing to its status as a consultation draft.

A draft Planning Policy Statement (PPS) on Planning for Gypsy and Traveller Sites was published for consultation from 13 April – 6 July 2011. This draft PPS will replace Circulars 01/06 and 04/07. The changes set out within the draft PPS are designed to ensure greater fairness in the planning system and align policy for traveller sites more closely with that of other forms of housing. The draft PPS requires Local Planning Authorities (LPAs) to set their own targets for the provision of gypsy pitches and identify sites to meet this target.

PINS has not published guidance on whether weight should be given to the draft Gypsy PPS, although the PINS NPPF guidance note states that the Gypsy PPS will be incorporated into the NPPF. Colchester Borough Council may treat it as a material planning consideration. However, limited weight should be attached to the document as it is a consultation draft and therefore subject to changes and the existing gypsy and traveller Circulars (01/06 and 04/07) are still in place.

The weight to be given to the draft NPPF and draft Gypsy PPS is perhaps less of an issue for Colchester Borough Council than other LPAs as the Council has three adopted and up to date Development Plan Documents (DPDs): the Core Strategy (adopted in December 2008), the Site Allocations (October 2010) and the Development Policies (October 2010). It remains the case in law that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise [Section 38(6) of the Planning and Compulsory Purchase Act 2004]. Therefore, whilst Colchester Borough Council may treat the draft NPPF and Gypsy PPS as material planning considerations the weight attached to these documents should be limited and the Council's adopted DPDs will take precedence. Finally, in line with the PINS guidance note, which advises Inspectors 'to advise on the weight to be given to the NPPF and why in every case, where the draft NPPF is referred to by the Council the weight to be given to it and reasons for this should be clearly explained.'

- 13.3 The conclusion, therefore, is that the position is little changed at the moment and the adopted documents (Core Strategy, Development Policies and Site Allocations) should have considerable weight attached to them.
- 13.4 The principle, therefore, has been accepted, and the Planning Act (2004) provides that determinations of applications for planning permission must be in accordance with the development plan unless material considerations indicate otherwise. As has been pointed out by some objectors, just because the site is in the Site Allocations document, it does not automatically mean that permission should be granted if the details of the application itself are not acceptable. The material consideration here is, whether the details of the application are sufficient to grant permission. The following issues are of note:

## Highway Issues

- 13.5 The Highway Authority has not objected to the application. At the time of 090891 it objected to the proposal for six pitches on the following lines:

‘This proposal, in requiring all facilities such as education, employment and shopping elsewhere, would introduce additional domestic traffic, including pedestrians and cyclists (both adults and children) into this very rural location where there are neither street lights nor footways and where traffic is subject to no special or local speed limit other than that nationally imposed for single carriageway roads. The proposal would accordingly be contrary to the interests of highway safety.

The proposal would lead to intensified use of the rural road network by large vehicles and caravans in an area which is not suitable for this level and size of traffic, and would therefore have a detrimental effect on the roads and an increased maintenance liability for the Highway Authority.

The proposal would create a sub-standard vehicle access by reason of insufficient visibility splays which would measure 4.5m x 90m in this location.’

- 13.6 Since that time, the Authority has had discussions and site meetings with the applicants and your Officer, and has considered the new, reduced, proposal and looked at the consultant’s report which was submitted with the application. It has changed its recommendation to approval, with conditions which can be seen at the foot of this report.
- 13.7 On 1<sup>st</sup> October 2011 Chappel Parish Council wrote to the Highway Authority questioning its revised stance and its more relaxed vision splay requirement (now 2 x 32 metres, as opposed to 4.5 x 90 metres in the earlier application). It also disputed the methodology of the consultant’s report, stating that it was of insufficient duration (one and a half hours, as against the standard of four hours) and contained other inaccuracies (the full text of this is available to view on the Council’s website).
- 13.8 Following this, the Highway Authority has responded to Colchester Borough Council (4<sup>th</sup> November 2011) as follows:

“Whilst an initial recommendation of refusal was submitted to the original proposal for 12 caravans, due to i) The subsequent negotiations which saw the proposal reduced to 3 plots, ii) The site visits I undertook to view the road and traffic levels and compare these with the figures quoted in the applicant details, and iii) the fact that appropriate visibility splays can be achieved in accordance with the Manual for Streets, the Highway Authority does not feel that a recommendation of refusal would be sustainable.

I do not wish to add anything further to our recommendation.”

- 13.9 The Highway Authority then received subsequent representations, and as a result it carried out its own speed recordings. The following response was received by the Local Planning Authority, via email, on 16<sup>th</sup> November 2011:

“This morning (we) spent between 08:30 and 09:45 on site undertaking a speed survey; we managed to gain 8 readings.

The visibility splay to the north-west is not an issue, but as vehicles pass the access they are approaching the sharp bend. The readings we gained from the 4 eastbound vehicles are as follows; 1) 26mph, 2) 21mph, 3) 23mph, 4) 24mph

The visibility splay to the south east is into the sharp bend. The 4 westbound vehicles were recorded thus; 1) 10mph, 2) 15mph, 3) 16mph 4) 15mph.

There was also one pedestrian - a man walking a Golden Retriever.

It is no surprise to me that our recordings this morning reinforce my opinions of the proposed development, and indeed, our investigations produced speed readings which are lower than those supplied by Richard Martin.

The above noted figures are too few to produce a meaningful 85<sup>th</sup>ile figure but it is would be in the region of 23-24mph for eastbound traffic and 14-15mph for westbound. Looking at average figures, for eastbound traffic we recorded an average of 23.5mph and for westbound vehicles it is 14mph.”

- 13.10 Given this confirmation, and the fact that conditions are proposed to prevent the egress of water and loose materials on to the highway, there are no Highways reasons for refusal.

#### Density

- 13.11 A key reason for the refusal of Planning application 090891 was the proposed level of use (six pitches), both for its effect on the surrounding area and for the crowding which would result on site. The current proposal is for three pitches, and thus represents a decrease in density. This level of usage, however, still needs to be measured against recognised standards.
- 13.12 As is the case with parking, and other standards, traveller sites have no statutory measure to comply with. Rather, it is necessary to look at guidelines and good practice. In this case we are directed towards the Communities and Local Government Good Practice Guide on ‘Designing Gypsy and Traveller Sites’ (May 2008). This guide is designed for local authorities who are supplying their own sites, but is helpful when looking at private applications. The Guide tells us that a pitch should be capable of accommodating an amenity building, a large trailer, and touring caravan (or two trailers, drying space for clothes and a lockable shed), parking for two vehicles and a small garden area. Colchester Borough Council’s interpretation of this requirement (as mentioned in paragraph 4.15 of the Site Allocations Document) is that a density of one pitch per 500m<sup>2</sup> is appropriate.
- 13.13 In this instance, the site measures 0.26ha, or 2,600m<sup>2</sup> (not 500m<sup>2</sup> as wrongly described on the application form) and therefore the average pitch measures about 865m<sup>2</sup>. These, however, are gross measurements including the access road and proposed planting belt which, when excluded from consideration, leave a measurement of approximately 2,125m<sup>2</sup> which still equates to average pitch sizes of about 70m<sup>2</sup> – about 40 per cent larger than the recommended size.

## Layout

- 13.14 The Good Practice Guide, on which Colchester Borough Council bases its 500m<sup>2</sup> stipulation, states at Paragraph 4.17: 'In designing the layout of a site, enough space must be provided to permit the easy manoeuvrability of resident's own living accommodation both to the site and subsequently on to a pitch.' As discussed at the section on density, the pitch sizes easily comply with guidance.
- 13.15 Annex C, paragraph 3 of Circular 01/06 states: 'The list of criteria adopted by a local planning authority should not be over-long as the more criteria there are, and the more restrictive they are, the greater the likelihood of authorities refusing planning permission.' Therefore, the Local Planning Authority should not be overly-prescriptive in its requirements. The following, however, are worthy of consideration.
- 13.16 Paragraph 4.47 of the Guide states: 'To ensure fire safety it is essential that every trailer, caravan or park home must be not less than 6 metres from any other trailer, caravan or park home that is occupied separately.' On that point, paragraph 4.48 goes on to say: 'Other structures are allowed in the separation zone if they are made of non-combustible materials (such as a brick built amenity building), as long as they do not impede means of escape.' Meanwhile, paragraph 4.13 adds: 'Measures to protect the safety of site residents from fire are of paramount importance, and it is essential that a clear gap of 3 metres is provided within the inside of all site perimeter boundaries as a fire prevention measure.'
- 13.17 Paragraph 4.18 of the Good Practice Guide adds: 'The site design should strike a balance between enabling a variety of accommodation to be catered for, and making best use of available space. Access roads and the site design itself should be capable of providing sufficient space for the manoeuvrability of average size trailers of up to 15 metres in length, with capacity for larger mobile homes on a limited number of pitches where accessibility can be properly addressed in the light of the land available.'
- 13.18 In terms of roads on the site, paragraphs 4.18, 4.27 and 4.29 state that 'routes for vehicles on the site, and for access to the site, must allow easy access for emergency vehicles and safe places for turning vehicles', 'Roads must not be less than 3.7 metres wide, or if they form part of a one way traffic system, 3 metres wide' and 'where possible, site roads should be designed to allow two vehicles to pass each other (minimum 5.5m)...'
- 13.19 The application is held to comply with these requirements. Spaces between the trailers are clearly more than six metres, utility buildings will have to be of non-combustible materials if placed in the separation zone. Whilst the adjacent land (to the south) is open farmland and thus fire-spread may be considered less of a concern, Plot 3 is shown to be at least three metres from the boundary, whilst plots 1 and 2 are near to this standard. The access road is just shy of 5.5m in width and there appears to be room for turning a 15 metres trailer on site although this has not been clearly annotated.

- 13.20 Paragraph 4.26 of the Guide states that. 'No caravan or park home (shall be) more than 50 metres from a road. Roads must have no overhead cable less than 4.5 metres above the ground. Vehicular access and gateways must be at least 3.1 metres wide and have a minimum clearance of 3.7 metres.' The proposal clearly complies with these matters, with each pitch being next to the access road and the gateway being over five metres in width and no overhead cables being present.
- 13.21 On other matters regarding layout, the Guide goes on to say at paragraph 4.34: 'Site layout should maximise natural surveillance enabling residents to easily oversee all areas of the site.' Paragraph 4.38 states: 'It is recommended that the inclusion of a communal recreation area for children of all ages is considered where suitable provision is not available within walking distance on a safe route or using easily accessible public transport, and for larger sites.'
- 13.22 Due to the shape of the site (linear rather than horse-shoe) and the apparent height of the internal fences, the scheme does not offer this surveillance nor does it explicitly offer a children's play area, although there is clearly space within each pitch for this. On this point, the Planning statement which accompanies the application states: 'The applicants have confirmed they do not require a separate communal recreation area for children.' A condition will be put in place for internal fences to be agreed, but this need not necessarily stipulate that they should be low enough to offer surveillance.

#### Boundary Treatment

- 13.23 Paragraph 4.10 of the Guide states: 'The site boundary must provide clear demarcation of the perimeter of the site, so as to prevent nuisance for existing residents created by others seeking to move on to the site without permission. Boundaries should take into account adjoining land uses, and be designed with the safety and protection of children in mind.' And at paragraph 4.11: 'A range of different boundaries may be used including fences, low walls, hedges and natural features. The aim should be to achieve a boundary that is sympathetic to, and in keeping with, the surrounding area. Boundaries can also be used to provide shelter for more exposed sites.'
- 13.24 The applicants have offered a one metre planting strip to help to soften the transition from open farmland towards the close-boarded fence which currently forms the boundary. In practice this narrow strip will only be able to provide sufficient space for a narrow belt of native hedging such as hawthorn, which will only reach a limited height. The applicant has agreed in principle to plant one or two small trees at various points to help break up the profile of the fence. This may require the fence to be moved back slightly to enable the planting. These issues can be agreed by condition.
- 13.25 The general public view of the site boundary is to the south, and is seen from footpath number 126-2 which runs north-south and links Vernons Road to Colchester Road and is between 150 and 450 metres from the site. The shape of the land means that the site is not readily visible from Colchester Road. The landscape is not, therefore, held to be unduly harmed.

## Utilities

- 13.26 The issue of utilities provision, and in particular sewerage, has been raised as a concern by many parties. Paragraph 5.19 states: 'Wherever possible, each pitch should be connected to a public sewer when it is economic to do so. Where this is not possible provision must be made for discharge to a properly constructed sealed septic tank. All sanitation provision must be in accordance with current legislation, regulations and British Standards.'
- 13.27 The applicant has advised that mains sewerage connection is not feasible and this has been accepted by the Environment Agency. The submitted application form states that a cess pit/septic tank system is being sought, and that advice from the Environment Agency will be taken at the time regarding the position.
- 13.28 As reported in the consultations section, the Environment Agency has stated that a package treatment system would be preferred given that the proposed use is permanent. However, it does not go so far as to recommend refusal if the pit/tank system is chosen and advises that any system should include a level warning device to indicate when it is nearly full, and that whoever empties the cesspool is registered with the Environment Agency to carry waste. All of this can be dealt with by condition and by informative where matters relate to other relevant legislation
- 13.29 Paragraph 5.2 of the Guide states: 'It is essential for a mains water supply suitable for drinking to be provided for each pitch on the site, sufficient to meet the reasonable demands of residents. Water supplies must comply with current legislation, regulations and British Standards.' The Utilities Assessment submitted with the application states: 'The nearest water main is located to the north of the site in Vernons Road, and ends just before it bends southwards at the top of the hill. Anglian Water has indicated verbally that connection to the main by themselves is practicable (subject to the proper request procedures being carried out), and would cause no problems in terms of local supply. The pipe runs from that connection down Vernons Road to the site must be supplied by the applicants.'
- 13.30 It is noted that this would be expensive, but as it is possible then it would not be reasonable to refuse the application on that basis. Provision of the water supply can be left to condition, to be provided prior to any further occupation of the site.
- 13.31 Regarding electricity, paragraph 5.5 of the Guide states: 'The provision of mains electricity to each pitch is essential, sufficient to meet the reasonable requirements of the residents, and with separate meterage for each pitch. Ideally electricity meters will be provided in amenity buildings for each pitch by the relevant supplier directly and must be for domestic usage.' In this instance, the submitted Utilities Assessment gives scant information, simply stating 'It is understood that the applicants are in negotiation to obtain a mains supply through a neighbouring property.' To date no further information has been provided to substantiate this.

13.32 A subsequent email from UK Power Networks to the applicant, has been forwarded to Colchester Borough Council and indicates:

“I can confirm that there is mains power in the vicinity of the above site and there is a feasible solution to provide power to supply your connections. So far I have provided you a budget estimate which is based upon a desk top study of the power available to us in the immediate vicinity. As there is no existing low voltage infrastructure in the vicinity the point of connection would be at high voltage. It would be necessary to carry out excavations in the public highway and also on third party land.

Should you choose to proceed with a formal application for quotation you would receive a “provisional” price based on UKPN being able to obtain third party consents from land owners. In the case that these consents are not forthcoming it will be necessary to redesign the scheme of works and any additional costs incurred as a result of this would be borne by you.

Other factors involved are excavations in the public highway and the requirements of the local authority specific to the area. These may also impact on the cost. ‘

13.33 The issue of connection is, therefore, in some doubt. The applicants have offered to place a low-noise generator on site should this connection not materialise. Again, this matter can be left to condition.

13.34 The final issue to consider in terms of utilities provision is that of waste disposal. The Guide does state that

“Residents of Gypsy and Traveller sites should receive the same waste disposal arrangements at their home as any other member of the community. Standard domestic waste disposal arrangements must be provided for each pitch in accordance with local authority requirements for the disposal of domestic waste.

A key element in designing the layout of the site is to ensure that sufficient space exists for local authority refuse collection vehicles to reach an appropriate point from which waste can be collected from individual pitches, as well as any communal refuse areas.”

13.35 The applicant has indicated that the refuse storage facilities can be placed near to the front of the site. This would be largely screened from view by the trees at the front of the site, and would be convenient for the refuse freighters.

13.36 Environmental Control has indicated that post-permission conditions will be acceptable to secure the details of refuse storage and disposal.



## Other Matters

- 13.37 Regarding other reasons for objection, Paragraph 62 of Circular 01/06 states that 'local planning authorities should not refuse private applications solely because the applicant has no local connection.' Paragraph 7 of Annexe C to the Circular goes on to say 'Gypsies and travellers are by their very nature nomadic and so will not always have local connections. Planning authorities have to determine applications for development from anyone who submits them. As the businesses which Gypsies and travellers have traditionally engaged decline, the new trades and businesses they take up often necessitate new locations.' It would not, therefore, be acceptable to refuse the application on this basis.
- 13.38 In terms of the validity and all other matters relating to the details provided within the application, the application was carefully scrutinised and had to be corrected and was ultimately considered acceptable at the time of submission in July and validated accordingly. Whilst the drawings are not to an architectural standard they are perfectly clear and to scale.
- 13.39 Regarding the point which has been made that Chappel does not have the facilities to support extra people, the principle of travellers living on this site was accepted by the Inspector at the time of the examination of the LDF documents. The issue was looked at in detail at the time of application 090891, and was reported as per the two paragraphs below:
- 13.40 Proximity to an existing settlement and access to facilities is a key consideration which has been flagged up by many parties. The site itself is approximately 130 metres from the village envelope, adjacent to Greenacres Farm and approximately 150 metres from two small clusters of houses on Vernons Road and Rose Green. The houses of Colchester Road are a similar distance "as the crow flies" but require a journey of in excess of 400 metres. The school requires a journey of approximately one kilometre, with the Post Office/shop being a similar distance. Community facilities are scarce. Thus, if the Council were considering this as a site there may be concerns that it is not suitably located. Members are advised, however, that case law does not wholly support this as a reason for refusal, and the distance from the Severalls site (which has been granted permission, and is held up as a good example in the above-mentioned Good Practice Guide) to facilities, is not dissimilar to this application.
- 13.41 The argument that "an isolated location which is remote from schools and shops is unsuitable" is noted, and is a relevant point to consider. However, the Planning Inspectorate has previously ruled in some cases that access to educational facilities is a problem which applies to all children living in rural areas, and has also noted that shops were in reach by car. As most Gypsies have the mobility to visit shops some distance away, the argument of remoteness has been held by the Inspectorate to have limited force.
- 13.42 The concern about light pollution is noted and a condition can be imposed for such matters to be agreed, as is often the case with non-domestic applications in the countryside, and indeed in urban areas, to prevent unnecessary light-spill.

- 13.43 The contention that this could lead the way to any development in the countryside is not accepted. Applications for travellers' sites are subject to different considerations, and Annex C of the Circular states that it would be unrealistic for such provision not to impact on the countryside in some way.
- 13.44 The concern that house prices and neighbouring businesses will be affected is not for consideration.
- 13.45 Regarding the question about the correct fee for the application, this was £335 for a change of use. This is the same fee that was charged for the previous refused application. The Parishes have been advised of this.
- 13.46 Finally, regarding the request that the number of caravans should be limited by condition, the Circular states that this is arbitrary, but does acknowledge: 'Any maximum should be reached through planning conditions but should be related to circumstances of the specific size and location of the site and the surrounding population size and density.' Given the history of the site, and the previous application for a more intense use, it is held to be fair and reasonable to place a condition limiting the number.

## **14.0 Conclusion**

- 14.1 In conclusion, whilst the objections are all noted, the site has been put forward and accepted in the Site Allocations Document as a travellers site. The proposed level of usage has been reduced and is held to be acceptable. With all of the above, and given that Highways and other matters are satisfied, Members are advised to approve this application.

## **15.0 Background Papers**

- 15.1 PPS; Core Strategy; CBDP; HA; HH; NR; PP; AO; PTC; NLR

## **15.0 Recommendation - APPROVE subject to the following conditions:**

### **Conditions**

- 1 - A1.5 Full Perms (time limit for commencement of Development)

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

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

## 2 - Non-Standard Condition

Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2 metres by 32 metres to the north and 2 metres by 32 metres to the south, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

## 3 - Non-Standard Condition

Prior to occupation of the development the vehicular parking and turning facilities, as shown on the submitted plans shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

## 4 - Non-Standard Condition

No unbound material shall be used in the surface treatment of the vehicular access within 10 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

## 5 - Non-Standard Condition

Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 10 metres from the nearside edge of the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

## 6 - Non-Standard Condition

Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

#### 7 -Non-Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light' for zone E2 . This shall include sky glow, light trespass into windows of any property, source intensity and building luminance.

Reason: In order to safeguard the amenity of neighbouring residential properties by controlling the undesirable, disruptive and disturbing effects of light pollution.

#### 8 - C10.15 Tree & Natural Feature Protection: Protected

No work shall commence on site until all trees, shrubs and other natural features shown to be retained on the approved plans are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. 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 enable proper attention to be given to the impact of the proposed development on existing trees.

#### 9 - C10.16 Tree & Natural Feature Protection: Entire Site

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

#### 10 - C10.18 Tree and Hedgerow Protection: General

All trees and hedgerows on and immediately adjoining the site shown on the approved plans to be retained 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 to be retained shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that these 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 enable proper attention to be given to the impact of the proposed development on existing trees.

#### 11 - C11.14 Tree / Shrub Planting

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.

#### 12 – Non Standard Condition

Prior to any further occupation of the site, the applicants shall provide details of proposed sewerage storage and disposal. These details shall include: Location, design, a management regime and a level warning device to indicate when it is nearly full. Such details shall be agreed in writing by the Local Planning Authority and shall be implemented prior to further occupation and retained as such and complied with at all times thereafter.

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

#### 13 – Non Standard Condition

Prior to any further occupation of the site, the applicants shall provide details of proposed electricity connection or generator provision. Such details shall be agreed in writing by the Local Planning Authority and shall be implemented as such within six months of the granting of this permission, and complied with at all times thereafter.

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

#### 14 – Non Standard Condition

Prior to any further occupation of the site, the applicants shall provide details of proposed water connection. Such details shall be agreed in writing by the Local Planning Authority and shall be implemented as such within six months of the granting of this permission and complied with at all times thereafter.

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

#### 15 – Non Standard Condition

The site shall house no more than six caravans/mobile homes or any other unit of traveler accommodation at any one time.

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

### **Informatives**

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

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 01206 838600.

(3) A cesspool requires regular emptying and must not be allowed to overflow. The Environment Agency recommends that the applicant install a level warning device to indicate when it is nearly full. Additionally, the applicant should check that whoever empties the cesspool is registered with the Agency to carry waste. Further reference should be made to PPG4 which can be accessed using the following web link:

<http://publications.environment-agency.gov.uk/PDF/PMHO0706BJGL-E-E.pdf>



**Application No:** 111582

**Location:** 251 Bergholt Road, Colchester, CO4 5AT

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

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## 7.2 Case Officer: Nick McKeever

**OTHER**

**Site:** 251 Bergholt Road, Colchester, CO4 5AT

**Application No:** 111582

**Date Received:** 13 September 2011

**Agent:** Mr Russ Payne

**Applicant:** Mr James Holland

**Development:** Erection of part two storey, part one single storey rear extension plus erection of double garage

**Ward:** Mile End

**Summary of Recommendation:** Conditional Approval

### 1.0 Introduction

1.1 This application is referred to the Planning Committee at the request of Cllr Anne Turrell under the Council's 'Call-In' procedure. The reason for the 'Call-In' is due to the adverse impact upon the amenity of No. 253 Bergholt Road.

### 2.0 Synopsis

2.1 The application proposes the erection of a two storey and single storey extension to the rear, together with a detached double garage located at the end of the rear garden. The controversial aspect is the two storey extension due to the claimed adverse impact upon the neighbouring dwelling, 253 Bergholt Road. There are also objections from two other neighbours and an objection by Myland Community Council. The report will consider these objections in the context of the Council's adopted planning policies and the associated adopted SPD 'Extending your house?'

2.2 Having considered these matters the report will conclude that the proposed extension and the new garage are acceptable and that permission is recommended accordingly.

### 3.0 Site Description and Context

3.1 The site is one of a pair of two storey, semi-detached dwellings fronting onto the Bergholt Road and within a predominantly residential area where development such as that proposed is considered to be acceptable in principle.

3.2 The property has a long, but narrow, rear garden area with an access onto an unmade track that runs along the length of the properties along this part of Bergholt Road. To the north is a large area of open and un-developed land. There are residential properties on the opposite side of Bergholt Road.



3.3 There is a hedge in the garden that forms the common boundary with 249 Bergholt Road. The northern boundary of the site is of open aspect with no enclosure to this boundary.

3.4 Number 253 Bergholt Road is separated from 251 by a side passageway. This neighbouring dwelling has a single-storey lean-to building on the rear elevation, which extends to the rear elevation of the existing building at 251 Bergholt Road, and a glazed conservatory on a brick plinth added onto this lean-to. There is also a single storey detached building located adjacent to the northern boundary.

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

4.1 The application has three components:-

- A two storey rear extension adjacent to 253 Bergholt Road. It is to be built in matching brick and roof tiles. It projects approximately 1.4m beyond the rear elevation and is approximately 4m in width. This extension is to create a master bedroom.
- A single storey rear extension 6.70m in width and a maximum depth of approximately 3300mm beyond the rear elevation of the host building. This is to provide a dining room and an extended kitchen. The external materials are to match the host building.
- A detached double garage with a store area within the roof void. This has a brick plinth, weatherboarded elevations and a tiled roof. The building is shown on the submitted drawings as being 6m in width, 7.5m in length and 5.3m in height. The north facing elevation incorporates a pair of double doors.

#### **5.0 Land Use Allocation**

5.1 Predominantly residential

#### **6.0 Relevant Planning History**

6.1 None

#### **7.0 Principal Policies**

7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
SD1 - Sustainable Development Locations  
UR2 - Built Design and Character  
TA5 - Parking

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  
DP19 Parking Standards

- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:  
Vehicle Parking Standards  
Extending your House  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

- 8.1 The Council's Arboricultural Officer is in agreement with the conclusions and recommendations made within the submitted Tree Survey & Arboricultural Implication Assessment report. He 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 Myland Community Council consider that the plans are inadequate, they do not show the position of the property in respect of neighbouring properties, it is therefore impossible to ascertain the possible effect the proposed extension may have on the neighbours. As a result MCC has concerns regarding the vision splay and the loss of sun light to the neighbouring properties. Due to the inadequate proposed plan, which shows the same 1:100 scale for the elevations and the floor plans of the garage, when they are plainly different, there is no way of knowing how high the proposed garage will be making it again impossible to comment

## **10.0 Representations**

- 10.1 The occupier of 253 Bergholt Road has raised the following objections:-

1. The two storey section of the rear extension exceeds the 45 degree rule as given in Colchester Borough guidelines. The floor plan for this section shows the internal measurement as 1100mm, this would result in an outside wall measurement of 1400mm. This would be 400mm over the guidelines. This will be overbearing, particularly as there is an existing conservatory at the rear. Light will also be considerably reduced and the visual impact unattractive. Of the three semi detached properties built at the same time, no other property has had the rear level built beyond the existing building line.
2. The outside side wall of the extension will be excessively close to the boundary fence, resulting in maintenance difficulties for both households. This wall should be "stepped away" from the boundary sufficiently to allow such maintenance. This would also allow access to the side gate of 251 and encourage mutual sharing of the upkeep to the side passageway.
3. The single storey section is also longer than the 3 metre recommended in the same guide line unless a metre gap is allowed for with the attached 249 property. This would significantly affect the light to the kitchen window of 249 (which is currently a rented property).
4. The roof of a single story extension would be less noticeable to neighbours if a "Hip" design was considered.

5. Garage height is difficult to ascertain from the plans, and this should not exceed planning regulations. By positioning the garage so close to the boundary, once again there is a maintenance problem. It is suggested that consideration should be given to changing this to the other side of the garden. By doing so this would avoid less disruption to the cherry tree roots.
6. Trees on the planning application site (section 7) - the applicant has stated that no trees are to be pruned. However the tree report indicates that this is not so by recommending reduction of the branches by 1.5 m
7. The roof line on the aerial site plan appears incorrect.

10.2 The occupier of 255 Bergholt Road comments that:-

- The development will result in a loss of natural light
- Reduction in width in side passageway between nos. 251 & 253 Bergholt Road
- Plans do not show the relationship to the adjoining properties
- Impact upon the cherry tree.
- Impact upon 249 Bergholt Road.

### **11.0 Parking Provision**

11.1 The proposal includes the erection of a double garage. The dimensions of this garage accord with the current standards (i.e. 7m x 6m minimum internal dimensions).

### **12.0 Open Space Provisions**

12.1 The proposed development does not have a significant impact upon the level of private amenity space within the site. There is no requirement for contribution to open space and recreation by way of a Unilateral Undertaking.

### **13.0 Report**

13.1 No objections are raised to the proposed double garage. This building is to be located close to an outbuilding at the rear of 253 Bergholt Road. Whilst it has storage space within the roof void, the building in this position will not prejudice the amenity of the neighbouring dwellings. The external appearance is satisfactory and the Council's Arboricultural Officer is also satisfied in terms of any impact upon the existing cherry tree.

- 13.2 The concerns of the occupier of 253 Bergholt Road are acknowledged. As far as the impact of the two storey extension is concerned, this extension of approximately 1.4m beyond the rear wall of the host building is relatively modest. The property at 253 Bergholt Road has a conservatory added to the rear elevation. The two storey extension will not infringe a 45 degree line projected from the corner of this conservatory, where this is adjacent to the site. The two storey addition will extend approximately 800mm beyond a 45 degree line drawn from the corner of the existing rear lean-to building on 253 Bergholt Road. However, there are no windows within the flank wall of this neighbouring dwelling. In addition the aspect (i.e. facing north east) will mean that there will not be any significant overshadowing impact. The neighbour's fully glazed conservatory will mean that daylight will be received through out the north and west facing elevations. Having regard to these considerations it is considered that the proposed two storey rear extension is acceptable in terms of its impact upon this neighbouring dwelling.
- 13.3 The Council's policy DP13 and associated SPD 'Extending your house?' normally requires that extensions should not exceed 3.0m in length where it is to be built up to the boundary. An additional metre can be added to this length for every metre that the extension is inset from the boundary. In this case the extension is a maximum of 3.300m but the existing building is more than 3.0m from the boundary with 253 Bergholt Road and more than this from the boundary with 249 Bergholt Road. As such the proposed extension is acceptable in terms of its relationship and impact upon these two neighbouring dwellings.
- 13.4 Number 249 Bergholt Road has a ground floor window within the rear elevation. However the single storey extension is inset approximately 900mm from the boundary with this neighbouring dwelling. As such the single storey extension will not infringe a combined 45 degree plan and elevation line projected from the centre of this neighbouring window.
- 13.5 The rear extensions will project beyond the rear elevation of the existing building. However there is a wide variation in the layout of the neighbouring dwellings, with no uniformity to the rear building lines. In this context the development will not appear incongruous or out of context.
- 13.6 With regard to other stated objections or concerns, the application includes a 1:1250 scale location plan which shows the relationship of the site to other existing dwellings. The 1:50 scale floor plans also show the relationship of the two storey extension to number 253 Bergholt Road. The 1:100 scale elevations, and 1:50 scale floor plans, of the garage also include all the appropriate dimensions including the overall height.
- 13.7 The neighbour's concerns regarding the maintenance issue is acknowledged. However, this is not in itself a reason to withhold planning permission.

#### **14.0 Conclusion**

- 14.1 The proposed double garage is considered to be acceptable in terms of its scale, appearance and location and will not have any significant impact upon visual or residential amenity.

14.2 The two storey extension is relatively modest in scale. Whilst it will have some impact upon the amenity of the neighbouring dwelling at 253 Bergholt Road, in terms of overbearing impact or overshadowing, this will not be so significant as to justify the refusal of permission.

14.3 The single storey extension is deemed to be acceptable in terms of the policy DP13 and the associated SPD 'Extending your house?'. In terms of its design, it is located on the rear elevation and as such will not have any impact upon the public street scene.

## **15.0 Background Papers**

15.1 PPS; Core Strategy; CBDP; SPG; TO; PTC; NLR

## **16.0 Recommendation – Conditional Approval**

### **Conditions**

1 - A1.5 Full Perms (time limit for commencement of Development)

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

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 - Non-Standard Condition

The development shall be carried out in accordance with the approved drawings numbers RP-251-1028-01 and 02, unless otherwise 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 - C3.2 Materials as Stated in Application

The external materials and finishes to be used shall be as stated on the application form and as indicated on the approved plans and schedule returned herewith, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity and helps to reinforce local character and identity.

4 - Non-Standard Condition

The double garage hereby approved shall be provided for the parking of cars and thereafter maintained as such to serve the dwelling at No.251 Bergholt Road. Furthermore the space within the roof void of this building shall only be used for storage and not for any commercial or business use or for any living accommodation unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission, to ensure the provision of on-site parking and to protect residential amenity.

#### 5 - C10.15 Tree & Natural Feature Protection: Protecte

No work shall commence on site until all trees, shrubs and other natural features shown to be retained on the approved plans, are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. 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.

#### 6 - C10.16 Tree & Natural Feature Protection: Entire Site

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.

#### 7 -C10.18 Tree and Hedgerow Protection: General

All trees and hedgerows on and immediately adjoining the site shown on the approved plans to be retained 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 to be retained shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that these 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.

### **Informatives**

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

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 01206 838600.

**1 December 2011**

<b>Report of</b>	<b>Head of Environmental and Protective Services</b>	<b>Author</b>	<b>Andrew Tyrrell</b>
<b>Title</b>	<b>Member Engagement in Pre-Application Planning Discussions</b>		
<b>Wards Affected</b>	<b>All</b>		

**This report proposes changes to the Planning Procedures Code of Practice and sets out a protocol entitled “Member Engagement in Pre-Application Planning Discussions” that would allow Members to become involved in pre-application meetings between the Council and developers.**

**1. Decision(s) Required**

- 1.1 Members are asked to agree to the proposed changes to the “Planning Procedures Code of Practice” that are set out in Appendix A to this report with immediate effect.
- 1.2 If the changes outlined in 1.1 above are agreed, Members are also asked to agree the “Protocol for Member Engagement in Pre-Application Discussions” set out in Appendix B to this report, taking effect immediately.

**2. Reasons for Decisions**

- 2.1 Colchester Borough Council has agreed a constitution which sets out how the Council works, how decisions are made and the procedures that are followed to ensure efficiency, transparency and accountability to local people. Some of these procedures are required by law, while others are a matter of choice for the Council. The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document. One of these, found with Part 5 (Ethical Framework) of the Constitution is the “Planning Procedures Code of Practice”.
- 2.2 The Code of Practice was last revised in October 2008. It sets out how the Council deals with planning applications and applies to all councillors who are involved in the development management and planning policy process. It also recognises the separate roles of councillors and officers. On this basis, the current Code of Practice does not allow for Members to participate in planning discussions with applicants and their appointed architects/agents.
- 2.3 The principal change proposed herein is to allow for Members to be engaged in the planning process on major applications as early as possible. Whilst introducing this flexibility the roles of officers and members will remain distinct and separate, consequently there is also a need to introduce a protocol for instances where Members are involved in the early stages of the planning process. This protocol will need to be followed at all times.

2.4 As per the existing Code of Practice, it remains that all Councillors are bound by the Council's Members Code of Conduct contained in the Council's Constitution. The Planning Procedures Code of Practice still aims to complement what is contained in the Members Code of Conduct and if there is any unintended disparity between what is contained in this Code of Practice and the Members Code of Conduct, the latter will still prevail.

### **3. Report on the Proposed Changes**

3.1 The Code of Practice sets out the role of Members and the role of Officers. These roles remain largely unchanged. The crux of the changes relate to the way in which these roles can be conducted, specifically with regard to discussions with developers. The key change here is that Councillors will be able to participate in pre-application discussions on major planning proposals in instances that accord with the Council's adopted protocol entitled "Member Engagement in Pre-Application Planning Discussions".

3.2 The role of Members within these meeting will be to ask questions that may clarify elements of proposal for them and to raise awareness of any issues that their constituents may raise in due course, but they will not take part in any negotiation, which shall remain a role of the relevant officer(s). All meetings will be chaired by Officers and they shall start meeting by setting out the grounds as provided within the associated Protocol.

3.3 The Code of Practice continues to make it clear that Members must not meet an applicant, or any other person in connection with a planning application, alone (i.e. without officers being present) and that they are advised not to express their personal opinions prematurely, before they have heard all of the evidence for and against a proposal. This is usually not until the planning committee meeting, once people have exercised the "Have your Say" option and other Members have asked all of their questions regarding a proposal.

3.4 The Code of Practice also distinguishes the difference between Members who are part of the planning decision making process and those who are not. Ward Members who are not part of the committee are able to act on behalf of their constituents and will be able to address the committee as a visiting ward member. This is because they are not part of the decision making body. Should a member of the Planning Committee wish to act in this manner, they would need to relinquish their place on the Planning Committee in order to address the Committee as a ward member, they should also leave the room as soon as they have finished addressing the committee in order to avoid influencing the vote through their continued presence.

3.5 In terms of the Protocol, this sets out the formal processes in greater detail. These should be followed in all instances to avoid Members being at risk of prejudicing their positions, breaching their Code of Conduct or causing a malpractice that could result in more serious punishment to the Council. Usually, pre-application discussions are treated as private and confidential for a variety of reasons, including that they may be speculative, affect unknowing employees, or even involve land transactions were publicity could affect viability. Consequently, there are significant considerations in broadening the audience on pre-application discussions with regard to the public awareness that may arise. To safeguard Members, it is proposed that they shall only be invited to engage in the process once a developer has confirmed in writing that they are happy for the information to be circulated more widely, and more publicly.



- 3.6 A meeting shall then be set up so that the Developer may discuss the proposal at a formal meeting convened for such purposes. Only “major” development shall be eligible to pre-application meetings. Minor proposals will continue to be undertaken by Officers. For the purposes of Member Engagement, the definition of major development used in the Development Management NI157 Performance Indicators shall be used, with the exclusions of any application to vary a condition related to a previous major planning permission, or waste and mineral applications (which are usually a County Council function). This means that eligible major applications will potentially consist of any proposal for:
- ten (10) or more residential dwelling units;
  - any residential site area exceeding 0.5 hectares where it is not known how many dwellings are to be created;
  - new non-residential buildings over 1,000m<sup>2</sup>;
  - a change of use over 1,000m<sup>2</sup>; or
  - Any other development site area that is 1 hectare or more.
- 3.7 All Members attending pre-application discussions must have first attended a training session on conduct at pre-application discussions. These training sessions will be organised by the Planning Service on a regular basis in order to ensure that the integrity of the Member’s decision making role is maintained. No Member engaging in pre-application discussions should go more than 24 months without at least attending a “refreshment training session”. It is also proposed that only the following Members will be invited to attend pre-application meetings:
- The Chairperson of the Planning Committee
  - Local Ward Members
  - Any other Members only at the invitation of the Head of Environmental and Protective Services (with the reasons for invitation being recorded on file).
- 3.8 Full details of the protocol for the meeting itself are set out in Appendix B.

#### **4. Alternative Options**

- 4.1 The alternative option is to decline the proposed changes to the Planning Procedures Code of Practice and the introduction of the proposed Protocol for Member Engagement in Pre-Application Discussions and continue to operate in accordance with the existing Code of Practice.

#### **5. Financial implications**

- 5.1 There are no significant financial implications resulting from the proposed changes.

#### **6. Equality, Diversity and Human Rights Implications**

- 6.1 The constitution relates to all universally and these proposed changes do not alter its integrity and soundness in respect of equality and diversity.

#### **7. Publicity Considerations**

- 7.1 The changes will need to be publicised. It is proposed that the changes will be promoted via the Council’s website, as well as being communicated to our regular planning agents and architects through the Planning Agents Forum.

## **8. Consultation**

- 8.1 There has been no prior formal consultation regarding this proposal. However, national research has indicated that developers and local communities alike are generally supportive of the idea. Consequently, it is increasingly common for Councils to adopt similar protocols allowing greater member involvement and the idea is in line with changing Government policy aimed at greater representation of local residents. The Council has also previously been asked to involve members in the planning process at an earlier stage to avoid new issues being brought to the fore at a later stage, which would also support the presumption that this change would be welcomed externally.

## **9. Risk Consideration**

- 9.1 The main risk is from a breach of the Code which could result in maladministration or worse. Previously, Member involvement was not encouraged; however in recent years there has been a steady flow of new legal decisions seeking to draw the line between legitimate predisposition and unlawful predetermination and there are a number of cases that illustrate a shift towards increased pragmatism in this area. However, they also reveal a continuing conceptual uncertainty at the heart of the law in this area. Predominantly, concerns centre on poor practices, the issue of lobbying, the need to avoid bias and predetermination and take account of the general public's (and the Ombudsman's) expectation that a planning application will be processed and determined in an open and fair manner. It is critical not only that proper procedures exist and are followed, but that they are perceived by all as being fair and reasonable. This is the reason for setting out a clear protocol but care and common sense must be exercised by all the parties involved.

## **10. Community Safety Implications**

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

## **11. Background Papers**

- 11.1 The Constitution

## **12. Appendices**

- 12.1 Appendix A sets out the tracked changes version of the Code of Practice. The tracked changes version in Appendix A is included as this documents every change suggested, including all deletions and insertions. This was considered to be the easiest way to keep track of the changes in an open and transparent manner.
- 12.2 Appendix B sets out the full version of the proposed Protocol for "Member Engagement in Pre-Application Planning Meetings".



# Colchester Borough Council

## Planning Procedures Code of Practice

(Revised November 2011)

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# Colchester Borough Council Planning Procedures Code of Practice

## Introduction

- (1) Planning applications and the allocation of sites within the Development Plan, including the way they are decided, attract a great deal of public and media interest. It is important that the system is, and is seen to be, open and free from improper influence.
- (2) This Code of Practice describes how the Council deals with planning applications. It applies to all councillors who are involved in the development management and planning policy process. It recognises the separate roles of councillors and officers.
- (3) If you have any questions about this document, or would like some further explanation, please contact the Council's Monitoring Officer, Andrew Weavers.

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## Basic assumptions

- (1) The purpose of the planning system is to consider development proposals in the light of wider public interests.
- (2) To be successful, the planning system relies on councillors and officers acting in a way which is fair and is clearly seen to be fair.
- (3) Councillors have a special duty to their constituents, but their first duty is to the whole community of the Borough of Colchester. They must vote in the interests of the whole Borough where planning matters are concerned. They should bear in mind the Development Plan and all other relevant material planning considerations, (The Development Plan incorporates the adopted Core Strategy, Development Policies, and Site Allocations).
- (4) All Councillors are bound by the Council's Members Code of Conduct contained in the Council's Constitution. This Planning Procedures Code of Practice aims to complement what is contained in the Members Code of Conduct and if there is any unintended disparity between what is contained in this Code of Practice and the Members Code of Conduct, the latter will prevail.
- (5) Councillors are reminded that some breaches of this Code could potentially amount to allegations of criminal offences by individual Councillors; could result in judicial challenges to decisions by the Planning Committee; and/or could result in significant cost implications for the Council.

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**Colchester Borough Council  
Planning Procedures Code of Practice**

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## Section 1 - The role of Councillors

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- (1) In making decisions on applications, councillors will:
  - act fairly and openly
  - approach each application on its own merits and with an open mind
  - carefully weigh up all the relevant material planning considerations
  - avoid undue contact with interested parties
  - ensure that the reasons for any decision are clearly stated.
- (2) The planning system exists to consider development proposals in the light of the wider public interest. Councillors must take into account the interests of the whole of the Borough of Colchester and act in a way which is fair and is clearly seen to be so.
- (3) Councillors will not give instructions to officers, and they will not put pressure on officers to make a particular recommendation on an application. This behaviour would amount to a Councillor using his/her position improperly which would constitute a breach of the Members Code of Conduct.
- (4) Councillors can expect officers to give them every help in answering questions on planning matters.
- (5) Councillors who are members of the Planning Committee will be free to vote on planning applications in the way they consider appropriate, that is, without a Party 'whip'. They will also take account of all the relevant information, evidence and arguments. These will include the Development Plan and all relevant planning considerations.
- (6) In the event that the Chairman of the Planning Committee is required to exercise his/her casting vote on an application, the Chairman will exercise his/her vote based solely on the planning merits of the application before them and the debate on the application by the Committee.

NB: For more detailed guidance on Councillor/Officer relationships, please refer to the Council's Member/Officer Protocol in the Constitution.

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## Section 2 - The role of Officers

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- (1) In making decisions on applications, officers will:
- give professional and impartial advice
  - make sure that all the information is given that is needed for a decision to be made
  - put the application in context, in terms of the Development Plan and all other relevant material planning considerations
  - give a clear and accurate written analysis of the issues
  - give a clear recommendation, with reasons,
- (2) Officers will give advice only. The exception is if they have been given further powers under the Council's Scheme of Delegation to Officers, or when the Planning Committee gives specific delegated authority.
- (3) Officers are responsible for carrying out the decisions of the Planning Committee.
- (4) The Council endorses the Royal Town Planning Institute Code of Conduct in particular that Chartered Town Planners must not make or subscribe to any statements or reports which go against their own professional opinions.

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## Section 3 - Discussions with Applicants

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- (1) The Council encourages officers to have meetings with prospective applicants before they make an application. To avoid misunderstanding, in most instances these meetings will only involve officers and should only be held at the Council's offices or on site. However, Councillors will be able to participate in pre-application discussions on major planning proposals in instances that accord with the Council's adopted protocol entitled "Member Engagement in Pre-Application Planning Discussions". The only other exception when Councillors will be allowed to participate in planning application discussions, will be when the Planning Committee has passed a resolution that meetings will involve councillors. The resolution must have been passed during a meeting with the public present. In all of the above instances minutes of all such meetings must be recorded and inserted in the relevant planning application file, as well as being reported in any delegated officer report or planning committee agenda.

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## Colchester Borough Council Planning Procedures Code of Practice

(2) Officers will chair all pre-application meetings and they shall make it clear at each meeting that:

- only informal opinions and provisional views can be given, and these shall be based on the Development Plan, other Council policy and material planning considerations;

- no advice or opinions expressed at this time can bind or affect the Planning Committee (or the Head of Environmental and Protective Services if he/she is delegated to make the decision) because not all of the relevant information will have been made available at this time.

- Members are present to ask questions that may clarify elements of proposal and to raise awareness of any issues that their constituents may raise in due course, but they will not take part in any negotiation, which shall remain a role of the relevant officer(s).

All Council representatives taking part in these discussions will make it clear that decisions on planning applications are taken either:

- by the councillors on the Planning Committee; or
- under specific circumstances by the Head of Environmental and Protective Services or an officer specified using delegated powers as under the Scheme of Delegation to Officers.

(3) The officer will make a written note of all issues discussed at each meeting. If appropriate, the Officer will also send a follow-up letter if the prospective applicant has left documentary evidence with the Council. The Officer will also make a note of any telephone conversations.

(4) If a pre-application meeting involves councillors, at least one officer will be present at all such meetings and a note of the discussion will be made. If an application is then made, the note will be made available for public inspection, as long as this is allowed under the usual rules about access to information.

(5) Councillors will not take part in post-submission meetings with applicants or other parties, unless:

- section 5 of this code of practice allows this; or
- the matter has been reported to the Planning Committee and the councillors concerned have been appointed by the committee.

(6) A note of any discussions will be taken. This will be made available for

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# Colchester Borough Council Planning Procedures Code of Practice

public inspection, as long as this is allowed under the usual rules about access to information. At least one officer will be present at all such meetings.

## Section 4 - Role of Informal Briefings

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(1) To assist in the decision making process, officers will undertake informal briefings where appropriate to explain underlying issues/policies relating to major development proposals.

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(2) These shall not extend to detailed discussion on any proposal the subject of a current planning application which has yet to be determined by the Planning Committee.

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## Section 5 - Lobbying

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(1) It is quite common for applicants and others to want to discuss a proposed development with councillors before an application is decided. This can help councillors better understand the issues involved. However, to avoid compromising their position before they have received all the relevant information, evidence and arguments, councillors and in particular members of the Planning Committee will:

- not meet an applicant, or any other person in connection with a planning application, alone (i.e. without officers being present)
- not make it known in advance whether they support or oppose a proposal
- not express an opinion which could be taken as support for, or opposition to, a proposal
- not organise support or opposition for a proposal or lobby other councillors (except when speaking before the committee)
- direct lobbyists or objectors to the case officer
- inform the Head of Environmental and Protective Services and the Chairman of the Planning Committee about the existence of any lobbying interests.

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<#>limit their reply to giving procedural advice¶

(2) Councillors who are **not** members of the Planning Committee may express predisposed support for a particular body of opinion before the matter is considered by the committee. But they must make it clear that they will not prejudicially reach a final view on a proposal until all the relevant information, evidence and arguments have been put

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before them.

- (3) A councillor who had previously expressed support for a particular body of opinion as referred to in Paragraph (2) above who is subsequently substituted onto the Planning Committee will not be able to speak or vote on any item that they have expressed support for in advance. This will also apply if any item is referred to full Council for a decision.
- (4) Any member of the Planning Committee (or councillor who is substituted onto the Planning Committee) whose impartiality has been compromised by them expressing a prejudicial view on an application prior to the Committee considering the matter will need to withdraw from the decision-making process. Any councillor who finds his/herself in this position should seek advice from the Monitoring Officer.
- (5) Councillors must avoid putting themselves in a position that could lead to the public thinking that they are receiving preferential treatment for themselves, friends or relatives, or for any firm or body they are connected with. The Council's Members Code of Conduct gives more information about this.

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## Section 6 - Reports to Planning Committee

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- (1) Committee papers will normally be available at least five clear working days before the meeting.
- (2) All applications presented to the Planning Committee for decision will have a full written report from officers. This will include:
  - the substance of any objections
  - the views of people who have been consulted
  - a clear explanation of the Development Plan, site and related history
  - any other material planning considerations
  - a reasoned consideration of the proposal
  - a clear recommendation.
- (3) Any relevant planning information which is received after the written report has been prepared and prior to 5pm on the day preceding the Planning Committee meeting will be presented to the Committee by officers. Any representations received after 5pm, the specified cut off

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time will not be presented to the Committee. In the event of significant new information being received after the specified cut-off time, the Head of Environmental and Protective Services may recommend that the Planning Committee defers consideration of the application.

- (4) If the circumstances of an application change between the preparation of the report and its discussion by the Planning Committee, the Head of Environmental and Protective Services may remove any item from the agenda of the meeting.
- (5) If an application is decided in the way an officer's report recommends, the decision will be worded as in the report. Any amendments that officers or councillors put forward at the Committee meeting will be taken into account.
- (6) If councillors disagree with officers' professional advice, the reasons for rejecting a report's recommendation must be clearly stated at the meeting and recorded in the minutes. In this situation, councillors need to be sure that their decisions are based on sound planning reasons. Councillors must be aware that they may have to justify their decision at any appeal and may be held accountable by local residents.
- (7) Applicants and third parties will be entitled to speak at the meeting, as allowed by the Council's "Have your Say" planning procedure.
- (8) There will be an officer from the Council's Corporate Management at all meetings to make sure that procedures are properly followed.

## **Section 7 - Disclosure of interests – Councillors**

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- (1) The law and the Council's Members Code of Conduct set out rules and guidance for councillors on declaring their interests. Councillors must follow these rules and guidance and also review their own situation regularly. Under the Council's Code of Conduct impropriety must be avoided, and also any appearance of or grounds for suspicion of improper conduct. Where there is the possibility of an allegation of bias or predetermination, councillors must seek advice from the Monitoring Officer.
- (2) Councillors who are unsure whether an interest should be declared must seek the advice of the Monitoring Officer, or the Democratic Services Officer at the meeting.
- (3) Councillors are discouraged from receiving hospitality from people with an interest in a planning proposal. In accordance with the Council's Member's Code of Conduct councillors are required to register any gift or hospitality over the value of £25 on their Notice of Registerable Interest within 28 days of its receipt and declare the nature and

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existence of the gift and hospitality at the relevant committee meeting for a period of 3 years from the date of receipt.

- (4) Any member of the Planning Committee who has expressed a prejudicial view on an application will not participate in the determination of that application. If they do not wish to make representations in accordance with the Council's Member's Code of Conduct then they will leave the room for the duration of the discussion and vote on the application. If they wish to make representations they may do so as a visiting ward member (provided they are an eligible ward member) or from the public gallery in other instances (only if the public are so entitled) and must leave the room once they have finished their representations or the Committee decides that they have finished. They must not remain in the room when the vote is taken on the application.
- (5) If a councillor has acted in such a manner as to give rise to an allegation of bias or predetermination they must seek advice from the Monitoring Officer prior to seeking to make any representations or participation at Planning Committee.

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### Section 8 - Disclosure of interests – Officers

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- (1) If an officer has an interest in any planning matter then they must declare this to their Head of Service/Planning Service Manager. This is recorded on the relevant application file and they must take no part in the processing of the particular matter.
- (2) No officer will, when exercising a power granted by the Scheme of Delegation to Officers, exercise that power in the case of an application where they have been responsible for writing the report and making the recommendation to the Planning Committee. In these circumstances the officer will refer the case to another officer for advice.
- (3) No officer will deal with any planning application within a radius of 500m of their own property.
- (4) Officers are discouraged from receiving hospitality from people with an interest in a planning proposal. If this is unavoidable, officers will declare its receipt, as soon as possible, in the relevant register of gifts and hospitality. Any concerns in this regard must be raised with the Monitoring Officer.

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## Section 9 - Applications submitted by Councillors or Officers

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- (1) All applications which are submitted by or on behalf of councillors, former councillors or officers or their spouse/partners, will be reported to the Planning Committee for a decision. Wherever this becomes apparent, they will not be dealt with under the Scheme of Delegation to Officers. The Monitoring Officer will be informed of all such applications as soon as it becomes apparent to the Planning Service.
- (2) The councillor (in accordance with the Members Code of Conduct) or officer concerned will take no part in the processing or deciding of the application.

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## Section 10 - Training

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- (1) All councillors must receive training in planning procedures. The subjects covered by the training will be decided by officers in consultation with councillors. A councillor who does not undertake this training will be disqualified from the Planning Committee and from being a substitute for members of the committee who are unable to attend. They will also be disqualified from taking part in deciding an application referred to full council. They will also be unable to participate in any pre-application or planning application meetings that include the developer, applicant(s) or their agent(s).
- (2) A programme of training will be available each year, covering issues of current importance as well as updating knowledge. From time to time, specialist training will be provided to cover particular topics or to look at matters in greater depth.

## Section 11 - Complaints and compliments

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- (1) Complaints and compliments about the Council's development management process will be dealt with under the Council's corporate complaints and compliments procedure.

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## Section 12 - Review of this Code of Practice

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- (1) This code will be reviewed regularly to make sure that it reflects changes in the law, the Council's structure or other relevant considerations.

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## Colchester Borough Council Planning Procedures Code of Practice

- (8) The visiting party will stay together as a group. No lobbying by applicants or objectors will be allowed and the public has no right to be in attendance. If an applicant or group persists in attempting to lobby, all councillors and officers will leave the site and the site visit will be abandoned.
- (9) When councillors on the Planning Committee are on site visits they must not make any comments that could give the impression that they had already formed a view on the merits of the application. No decision on the application will be made until a formal meeting of the Planning Committee, where councillors will have before them all necessary information to be able to make an informed decision. This will include a record of the site visit.

### Site visits by individual councillors

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- (1) Councillors are discouraged from visiting sites on their own, however if undertaken, councillors should:
  - Offer equal time to all parties for and against a proposal to try to hear both sides
  - not commit themselves to one side or another
  - always declare their visits to the Planning Committee before the item is considered.
- (2) Councillors need to be aware that lobbying or expressing their opinions could prejudice their opportunity to vote at any Committee meeting where a planning application is considered. Councillors may want to seek advice from the Monitoring Officer before making unaccompanied site visits.
- (3) Any councillor that does undertake a site visit on their own will not be acting as part of the Local Planning Authority and so will have no rights of access to any private land.
- (4) A note of any visit to a site outside of the Planning Committee must be made and passed to officers immediately and will be recorded on the planning application file.

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**Colchester Borough Council Protocol for:**

**“Member Engagement in Pre-Application Planning Discussions”**

**Introduction**

In December 2009 the Department of Communities and Local Government (DCLG) published a consultation document entitled “Development Management: Proactive planning from pre-application to delivery”. Development Management introduces a proactive and engaging approach to dealing with developments as opposed to the traditional regulatory role that has been taken in the past (under “Development Control”).

A greater emphasis is placed on pre-application discussions and the Council is committed to providing a high quality Development Management service for local communities; inward investors; Developers; other statutory bodies and infrastructure providers in order to promote high quality, sustainable development. A Development Management approach, however, will necessitate a change in the way that both Officers and elected Members work within the planning applications system. Development Management encourages Members to be involved in pre-application discussions to act as champions of their communities but, where applicable, without prejudicing their role as decision makers.

Over recent years, there has been a steady flow of new legal decisions seeking to draw the line between legitimate predisposition and unlawful predetermination. Three relatively recent cases illustrate a shift towards increased pragmatism in this area:

- R (Island Farm Development Ltd) v Bridgend County Borough Council [2006] EWHC 2189 (Admin) [2007] LGR 60
- Condrón v National Assembly for Wales [2006] EWCA Civ 1573 [2007] LGR 87
- R (Linda Ware) v Neath Port Talbot Council & National Grid [2007] EWHC 913 (Admin)

However, they also reveal a continuing conceptual uncertainty at the heart of the law in this area. Concerns on poor practices within local authorities have often been based on the issue of lobbying. Councillors, and members of the planning committee in particular, need to avoid bias and predetermination and take account of the general public’s (and the Ombudsman’s) expectation that a planning application will be processed and determined in an open and fair manner. This is a challenging frontier, but one that can reap huge benefits if undertaken in a proper manner. It is critical not only that proper procedures exist and are followed, but that they are perceived by all as being fair and reasonable. Care and common sense must be exercised by all the parties involved.

The purpose of this protocol is to provide clear guidance to ensure that elected Members can take part in discussions on development proposals at all relevant stages, including when options are being scoped and plans shaped, without prejudicing their decisions or compromising the integrity of the process.

**Creating “Eligible Pre-Application Proposals”**

Usually, pre-application discussions are treated as private and confidential for a variety of reasons, including that they may be speculative, affect unknowing employees, or even involve land transactions where publicity could affect viability. Consequently, there are significant considerations in broadening the audience on pre-application discussions with regard to the public awareness that may arise. To



safeguard Members, it is proposed that upon initial receipt of a major pre-application proposal the Planning Service shall contact the Developer to request their consent to engage Members in the planning process. This request will make clear that such schemes may be distributed more widely and may raise more public awareness. However, this has benefits to them to consider.

The agreement of the Developer will always be necessary.

Where Developers give consent, the plans shall be made available for Members to inspect. The Developer shall then be invited to attend a meeting to discuss the proposal at a formal meeting convened for such purposes. Only “major” development shall be eligible to pre-application meetings. Minor proposals will continue to be undertaken by Officers.

For the purposes of Member Engagement, the definition of major development used in the Development Management NI157 Performance Indicators shall be used, with the exclusions of any application to vary a condition related to a previous major planning permission, or waste and mineral applications (which are usually a County Council function). This means that eligible major applications will potentially consist of any proposal for:

- ten (10) or more residential dwelling units;
- any residential site area exceeding 0.5 hectares where it is not known how many dwellings are to be created;
- new non-residential buildings over 1,000m<sup>2</sup>;
- a change of use over 1,000m<sup>2</sup>; or
- Any other development site area that is 1 hectare or more.

Proposals falling in the above categories shall be considered as “Eligible Pre-Application Proposals” (EPAPs) once consent is given by the Developer to engage Members. These are more likely to be those of major strategic importance, which will represent a major contribution to delivery of the Local Development Framework (LDF).

The timing of meetings will be essential to ensure that developments evolve through genuine discussion. Members will be invited to engage in EPAPs at the earliest opportunity, however, before any Member involvement it is necessary that any major pre-application proposal will have first been considered by the Council’s Corporate Development Team. This is to ensure that the Officer can give accurate advice regarding any financial considerations to Members based upon the Corporate Development Team analysis.

All major planning proposals are currently considered by the Council’s Corporate Development Team. The Corporate Development team are responsible for setting out any s106 requirements. No planning obligation should be requested outside of this process and it should be noted that there are no proposed changes to the Corporate Development Team procedures.

Should Members wish the Corporate Development Team to reconsider any suggested contributions to be sought from an EPAP then the proposal would return to the Corporate Development Team for a second consideration. This may occur during the pre-application of application stages and may need to be subject to flexibility on each individual case.

### **Eligibility of Members**

Once an EPAP is confirmed, it is proposed that the following Members will be invited to attend meetings:

- The Chairperson of the Planning Committee
- Local Ward Members

Any other Members will only be invited at the discretion of the Head of Environmental and Protective Services and the reasons for allowing them to engage in a pre-application proposal shall be recorded on file.

All Members attending pre-application discussions must have first attended a training session on conduct at pre-application discussions. These training sessions will be organised by the Planning Service on a regular basis in order to ensure that the integrity of the Member's decision making role is maintained. No Member engaging in pre-application discussions should go more than 24 months without at least attending a "refreshment training session".

### **Pre-Application Meetings**

Members should only attend those meetings organised in accordance with this protocol and not arrange private meetings with Developers. The meeting will be conducted during office hours. It shall be arranged by Officers who shall accommodate, as far as reasonably practical, the availability of Eligible Members.

In the interests of transparency, consistency and fairness to all, the meetings shall follow a firm structure, as follows:

- The planning Officer will act as Chair for the meeting, introducing participants and setting out the purpose of the meeting to advise how it will be conducted.
- The Developer will present their proposal.
- Members will then have the opportunity to ask questions and seek clarification. They may alert the Developer to what they perceive as the likely views of their constituents but care will need to be taken that personal views are not expressed.
- The Chair will then thank the Developer for attending and the Developer shall leave the meeting.
- Once the Developer has left the meeting, Members may advise Officers of any other matters they wish to be explored further and any elements which they feel would benefit from negotiation.
- Officers will then offer a professional opinion to guide Members as to what negotiations would be reasonable and align with LDF policy.
- The Chair will then conclude the meeting.

The Chair will record the meeting and take a note of all present, plus any issues identified. Officers will take appropriate follow up action. The note of the meeting will be placed on the public file at the earliest opportunity.

In all cases, the involvement of Members will be recorded in any subsequent Committee Report.

The Chair will make it clear to the applicant/Developer that the role of the Member is to listen to the discussion, identify issues that the Developer will need to consider and to represent community interests but that it will not be possible for any Member to enter into negotiations or express a view on the proposal.

Negotiations will take place after the meeting and will be undertaken by professional Officers only.

In the case of potentially contentious meetings, 2 or more Officers will attend. For certain major, complex proposals it may be necessary to have more than one Member meeting and, to this end, a schedule of involvement will be agreed with the Developer by Officers.

### **Member Disagreement with Officers**

Planning decisions are not an exact science, so interpretation can vary. It is critical to the openness and transparency of the planning service that mutual trust between Councillors and their Officers is demonstrated and each understands the other's role.

The Local Planning Authority has a duty under section 38 (c) of the Planning and Compulsory Purchase Act 2004 to determine applications in accordance with the development plan (adopted policy) unless material planning considerations indicate otherwise. Whilst Members may interpret policies differently, and are perfectly entitled to reach a different conclusion on the weight to be given to the material considerations, Members must not seek to influence the Officers' professional assessment of any proposal. If the interpretations differ, Officers will continue to lead discussions and the Member will have their opportunity to put across their opinion during the usual Planning Committee procedures.



## **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.