

Planning Committee

Town Hall, Colchester
1 March 2012 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

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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 March 2012 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

1 - 7

To confirm as a correct record the minutes of the meeting held on 16 February 2012.

7. Planning Applications

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

1. 112446 Land between 16-19 Magdalen Green and Former Day Nursery, Brook Street, Colchester, CO1 2WA (New Town)

8 - 22

Application for a new planning permission to replace extant planning permission 081794 for new vehicular/pedestrian junction to Brook Street to provide future access to residential development at the former railway sidings. Resubmission of 111570.

8. Proposed Deed of Variation to Section 106 Legal Agreement // Ballantyne Centre and land off Hawkins Road, Colchester

23 - 26

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).

**PLANNING COMMITTEE
16 FEBRUARY 2012**

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Christopher Arnold, Peter Chillingworth*,
John Elliott*, Stephen Ford, Peter Higgins*,
Sonia Lewis, Jon Manning*, Philip Oxford and
Laura Sykes*

Substitute Members :- Councillor Barrie Cook for Councillor Ray Gamble*
Councillor Ann Quarrie for Councillor Jackie Maclean

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

110. Minutes

The minutes of the meeting held on 19 January 2012 were confirmed as a correct record.

David Whybrow, Principal Planning Officer, reported that after the meeting held on 19 January 2012, it had become apparent that the legislation regarding call-ins had changed. Confirmation was sought from the National Planning Casework Unit within the Department for Communities and Local Government that this was the case, and written confirmation has been received. Consequently there was no need for application 111981, Colchester Town Station, St Botolph's Circus, to be referred to the Secretary of State and Vincent Pearce, the Planning Service Manager, authorised the issue of the decision in accordance with the Planning Committee's determination as set out in minute no. 107.

Councillor Christopher Arnold (in respect of his close acquaintance with the public speaker in opposition to the application.) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) He had become aware of his interest during the public speaker's address and immediately the speaker had concluded, he announced his interest and left the meeting for the remainder of the item's consideration and its determination.

111. 112480 14 Honywood Road, Colchester, CO3 3AS

The Committee considered an application for a minor material amendment to permission 111842, erection of a detached dwelling house with associated parking facilities, to permit the addition of a single storey garden room. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Mark Russell, Principal Planning Officer, attended to assist the Committee in its deliberations. Following discussions with affected neighbours and the applicant the proposed garden room had been reduced by 50% to an area of approximately ten

square metres.

Adam Spooner, also representing neighbours in close proximity to the site, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. His residence was directly opposite the application site. He referred to the developer having taken advantage of his detailed knowledge of the planning system to increase the footprint of the development soon after permission for the dwelling had been given, and to the planning officer having advised the developer on a more acceptable extension. He considered this proposal to be over development, which did not comply with the Council's planning policy documents, and having a poor design that did not match that of surrounding properties. Shrubs and trees had been removed, two of which were protected fruit trees. Much of the boundary fencing would also be removed and he requested that the 1.8 metre fence along the road be retained and that the application be rejected, pending discussion of conditions.

Councillor Hunt attended and, with the consent of the Chairman, addressed the Committee. He was disappointed that the council's planning office had advised the applicant to enable him to obtain permission for an extension which would bring the new dwelling back up to the size in the original application. He warned that if developers were able to build larger dwellings than they had permission for there could be chaos. He did not understand why the developer had not included this extension with the planning application for the main dwelling. This application had increased by 10% the footprint of a dwelling the committee had approved.

Councillor Cope attended and, with the consent of the Chairman, addressed the Committee. He referred to the backland and infill policy which included a list of practical considerations including loss of green links, visual intrusion and loss of space between buildings. The document advised that backland/infill development should make a positive contribution to the locality otherwise it should be refused. The document also advised that backland/infill should reflect the prevailing form but he speculated that this additional development took the matter beyond what was acceptable. He referred to the recently compiled Local List and he asserted that Ireton Road properties should be on the list. He questioned whether properties on that list would qualify for the same protection afforded to listed buildings if their setting was spoiled.

The planning officer explained that it was normal practice for developers to discuss applications with officers and for officers to discuss proposals with immediate neighbours. He confirmed that had the proposed garden room been included in the original application it would have been considered acceptable. He also confirmed that issues in connection with the backland and infill policy had been discussed at the earlier stage, and also confirmed that the land had been cleared including the removal of two fruit trees on the boundary. It would be possible to condition the retention of the 1.8 metre fence or its replacement if the original fence was removed. The planning officer confirmed that the condition relating to permitted development rights could include the host dwelling in addition to the new dwelling.

RESOLVED (MAJORITY voted FOR) that –

2

- (a) Consideration of the application be deferred for completion of a Section 106 legal agreement to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.
- (b) Upon receipt of a satisfactory Section 106 legal agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, together with additional conditions for the following matters:-
- landscaping/trees to be planted to replace the fruit trees which had been removed;
 - existing fencing shall be retained;
 - Condition 2: Permitted Development Rights to include the host dwelling as well as the new dwelling.

Councillor Sonia Lewis (in respect of the applicant being her spouse) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and she left the meeting during its consideration and determination.

112. 111415 10 Williams Walk, Colchester, CO1 1TS

The Committee considered an application for a new planning permission to replace existing planning permission 081053 in order to extend the time limit for implementation for a further three years. The application was a resubmission of 110817. The Committee had before it a report in which all information was set out.

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

RESOLVED (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities and also Community Facilities in accordance with the Council's Supplementary Planning Documents.
- (b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

113. 111725 13 Park Road, Colchester, CO3 3UL

The Committee considered an application for a proposed single storey extension

providing an additional bedroom and a change of use from a dwelling House (C3) to a nursing home for people with physical or mental difficulties (C2). This application was a resubmission of 081154. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Councillor Sonia Lewis (in respect of her acquaintance with the applicant) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

114. 112266 Kingsford Business Park, Layer Road, Layer de la Haye, CO2 0HT

The Committee considered an application for a change of use of Unit C, No. 7, from B1 Office use to D2 Assembly and Leisure use by Roman River Valley Nature Photography and the erection of a hide. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations.

Keith Haddrell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The hide would be 40 metres from their boundary and he was concerned at the impact on their privacy. Although the windows would be at right angles to his garden, those using the hide would be able to look at his garden if they turned at 45 degrees. Previous consents had sought to protect and conserve this area of woodland and although it was described as low key, he considered it represented a commercial use which contravened previous planning permissions. The proposed hours and weekend working were in excess of currently permitted hours and if this was approved other units may seek to extend their hours and intensify their use. There were insufficient parking spaces relative to the numbers attending which could cause disruption in the drive and turning areas. The access still needed to be made up to the specification required and any intensification may lead to road traffic accidents in Layer Road.

David Harrison, tenant at Unit 7, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He had been a nature photographer for 25 years. He described the proposed use, the detail of which was set out in the report and on the Amendment Sheet. He considered it unlikely that the neighbour would suffer any disturbance. The hide windows would face away from the existing house. He had inspected the whole woodland and identified this site. He gave an assurance that students would be supervised on arrival so they did not block the drive. He believed the use would enhance the countryside by allowing people to photograph wildlife. He would be giving a donation to the Essex Wildlife Trust.

Councillor Lyn Barton attended and, with the consent of the Chairman, addressed the Committee on behalf of residents. She considered there should be consistency and this structure would be located in woodland outside the area of the business park. The Committee had objected to the three containers within the woodland area and they had been the subject of an enforcement notice as a matter of principle. If approved she believed this proposal would set a precedent for another structure and would also increase traffic which had safety implications. She questioned whether it was acceptable to approve an application which was contrary to council policy.

Issues which were of concern to members of the Committee were the removal of the hide if the use ceased and some form of screening of the route to and from the hide and/or screening of the hide.

The planning officer explained that the Highway Authority had not raised any issues because this would not be an intensification of use. The hours of use at weekends would not overlap with other business users nor would they set a precedent for other users, and any increase in intensification of use would be unacceptable. It was considered that the low key use would not give rise to any significant harm in the woodland. Whilst the hide was not artificially raised it would be in an elevated position, however its orientation would be at right angles to the gardens to protect the privacy of the neighbours. Screening the route to the hide would be difficult and fencing in the woodland would be out of place. The condition regarding the scope of use needed to be expanded to include all limitations which were to be imposed. A condition could be added to require the hide to be removed if the use ceased.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, together with additional conditions set out below:-

- an extra condition requiring the removal of the hide if the use ceases;
- Condition 2 to be strengthened to add in other elements such as maximum 20 full days and 6 half days per calendar year etc.

115. 112321 Papillon House, Balkerne Gardens, Colchester, CO1 1PR

This Listed Building application was withdrawn by the agent prior to the committee meeting.

116. 112430 16 Rosetta Close, Wivenhoe, CO7 9RX

The Committee considered an application for a proposed first floor extension and associated alterations. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Sue Jackson, Principal Planning Officer, and Andrew Tyrrell, Development Manager, attended to assist the Committee in its deliberations. The planning officer described the proposal and objections received, and highlighted the change in height between this site and the objector's site which had resulted in a slight reduction in ridge height, a hipped roof and obscure glazed windows with a roof light to reduce the impact on the neighbour. The proposal protected the patio area of the neighbour. In terms of any overbearing impacts, the application did not breach the 45 degree rule and satisfied policy criteria in terms of proximity of the rear wall of the property as there were no windows in the rear or side elevations. She made reference to the Amendment Sheet.

Mike Bowler, Agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the reasons for the call in otherwise it would have been determined under the scheme of delegation to officers. There would be no loss of privacy or amenity because the master bedroom window would be obscure glazed and fixed shut which was controlled by condition and was enforceable. He referred to the lower land level to properties in Lilac Close of 500mm which probably constituted a slight difference rather than a significant difference in topographical levels. He hoped the lower ridge height of the extension had reduced the impact of the proposal.

Councillor Cory attended and, with the consent of the Chairman, addressed the Committee. His concern was any overbearing nature of the extension. He was pleased the Committee had undertaken a site visit so they would be fully aware of the difference in land levels of about 33 inches, which was not immediately obvious from the plans. He appreciated the efforts made to ensure there was no overlooking.

Issues which were of concern to some members of the Committee were the potential fire risk because of the permanently closed window; the blanked out window and the different roof lines were ugly; the neighbours would look at a brick wall; the extra storey being equivalent to a third storey because of the difference in ground levels; this extension being overbearing; and a larger area of the neighbour's garden would be in shadow. Other members of the Committee considered that the neighbour's light from the south would not be affected although there might be a reduction in light from the east. It was considered that the architect had done what he could to reduce the bulk of the extension. The difference in ground levels should not necessarily affect the decision. The site visit was very helpful.

The planning officer responded that the application would need to comply with building regulations, if it did not and needed an additional window an amendment will be required which could come back to the Committee. There was an opening window in the en suite to use in case of fire. This issue had also been discussed with the agent, who was a former building control surveyor who regularly submitted building regulation applications, and they had assured planners that this complied with building regulations as it was drawn. Although the extension would be visible from the neighbouring property, it would not be overbearing in terms of impact on the neighbour's dwelling or create an oppressive impact on the dwelling itself when considered against adopted standards. The neighbour currently looked out onto a side wall and whilst the new wall would be closer, it would not be significantly more

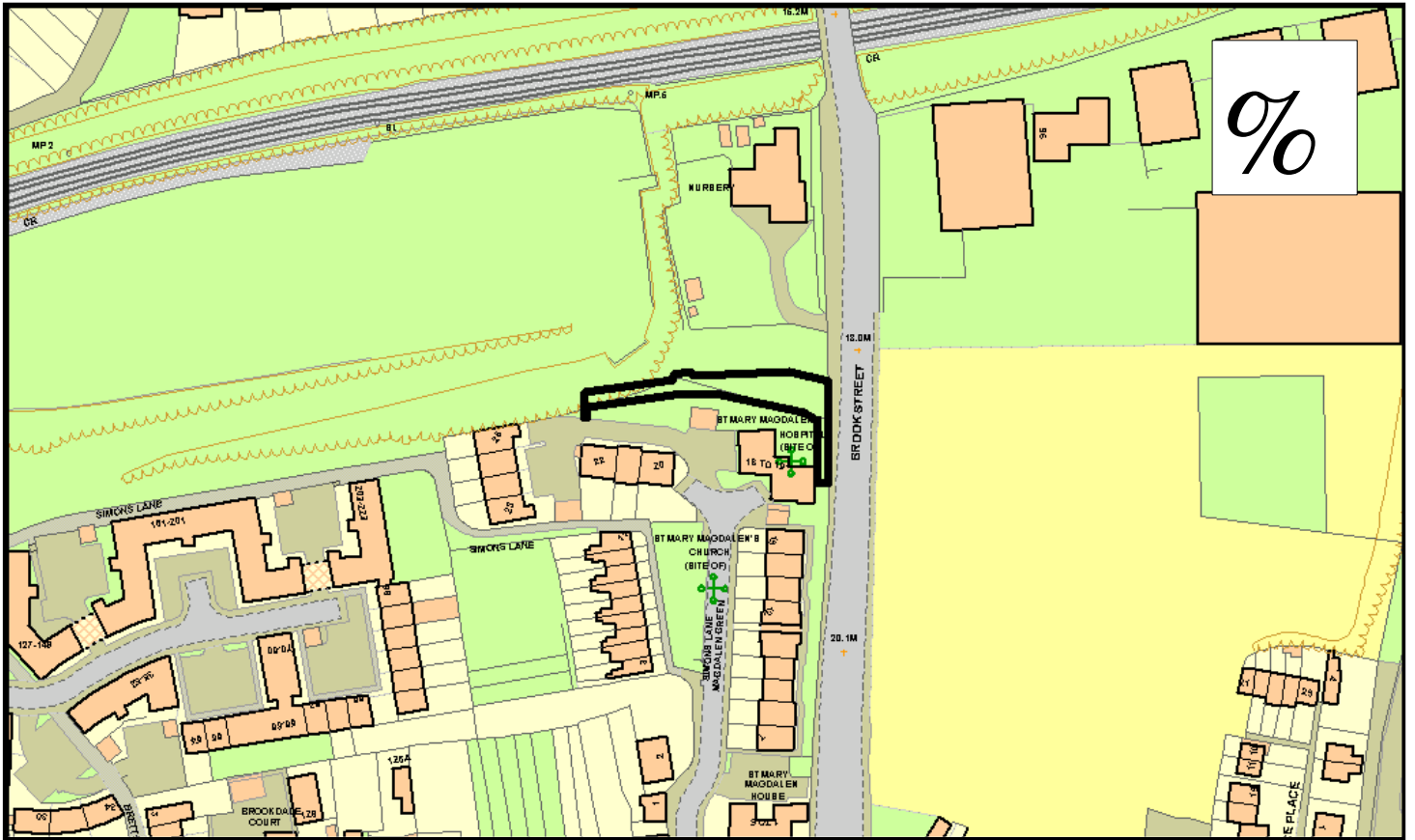
intrusive. The Development Manager explained that the end roof elevation was hipped back and the neighbour's sitting out area and windows were protected. Although a large area of the garden would be in shade, it was noted from the aerial photography shown within the presentation that existing trees also cast shadows northwards. However, in any event there was protection for the three metres from the house and that protection would remain.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet.

117. Revocation of Deemed Consent // Rowhedge Wharf

The Head of Environmental and Protective Services submitted a report seeking the Committee's approval to revoke the Deemed Consent under the Planning (Hazardous Substances) Act. Deemed Consent was no longer required because no hazardous materials have been stored at the site for at least the last 10 years. The site was now the subject of a development brief for redevelopment to residential and mixed uses.

RESOLVED (UNANIMOUSLY) that authorisation to revoke the Deemed Consent under the Planning (Hazardous Substances) Act be approved.



Application No: 112446

Location: Land Between 16-19 Magdalene Green &, Former Day Nursery, Brook Street, Colchester, CO1 2WA

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **1 March 2012**
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: **Bradly Heffer**

MINOR

Site: Land between 16-19 Magdalen Green & Former Day Nursery, Brook Street, Colchester, CO1 2WA

Application No: 112446

Date Received: 22 December 2011

Agent: Miss Hirose

Applicant: BRB (Residuary) Limited

Development: Application for a new planning permission to replace extant planning permission 081794 for new vehicular/pedestrian junction to Brook Street to provide future access to residential development at the former railway sidings. Resubmission of 111570.

Ward: New Town

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 Teresa Higgins as Ward Councillor. The reason for the call-in is as follows:

'I wish to call this application in as it will have an adverse impact on an air quality management area.'

2.0 Synopsis

- 2.1 The report will describe the development proposal and summarise the consultation responses received. Having considered these in the light of relevant central government and Local Plan policy it will be recommended to Members that a conditional planning permission is granted in this case.

3.0 Site Description and Context

- 3.1 The site for this proposal is an area of land that is bounded to the east by Brook Street, to the north by the Essex County Council Brook Street building and to the south by residential development (on the former site of the St. Mary Magdalen Church). To the west of the site the land falls significantly to an extensive area of land that forms a former sidings area for the railway that links Colchester Town station with the wider rail network. To the east of Brook Street is a site that is currently being redeveloped for residential purposes and a double mini-roundabout has been placed in the carriageway as a consequence of this development.
- 3.2 The site at present contains trees and vegetation and it sits at a level above Brook Street. The eastern boundary of the site is contained by a brick wall.

4.0 Description of the Proposal

- 4.1 Under this proposal, permission is sought to renew a previous permission for the provision of a new vehicular and pedestrian access off Brook Street. This proposal would create an access from Brook Street to the sidings land, which is identified in the Local Plan as a site suitable for future residential development.

The following statement is included as part of the information submitted in support of the scheme:

‘...the current Development Plan continues to allocate the application site and the former railway sidings for residential use, and the consented new access is necessary to facilitate future residential development. There has been no change in circumstances since the approval of the scheme in 2008, which would tell against the approved scheme being implemented beyond December 2011. The renewal of this application will reinforce the applicant’s commitment to promote housing development for the railway sidings, and ensure that this important site will deliver housing development for the future, which will contribute to the Borough’s housing requirements...’

The full text of the supporting information is available to view on the Council’s website.

- 4.2 Members should note that this application is accompanied by an air quality assessment and also an arboricultural report.

5.0 Land Use Allocation

- 5.1 The site for this proposal is located within:

- Residential area
- Air Quality Management Area

- Regeneration area
- East Colchester Special Policy Area
- Growth Area

6.0 Relevant Planning History

- 6.1 Application O/COL/05/0241 - Provision of new road/pedestrian junction to Brook Street for future residential development of former railway sidings. Application approved 12th October 2005.
- 6.2 Application 081794 - New Vehicular/pedestrian junction to Brook Street, to provide future access to residential development. Application approved 22nd December 2008.
- 6.3 Application 111570 - Application for a new planning permission to replace extant planning permission 081794 for new vehicular/pedestrian junction to Brook Street to provide future access to residential development at the former railway sidings. This application was withdrawn as the application was not accompanied by an air quality assessment or an arboricultural assessment.

This current application seeks a renewal of the previous permission granted in 2008 and includes the identified additional reports.

7.0 Principal Policies

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

Planning Policy Statement 1: Delivering Sustainable Development
 Planning Policy Statement 3: Housing
 Planning Policy Statement 12: Local Spatial Planning
 Planning Policy Guidance 13: Transport
 Planning Policy Statement 23: Planning and Pollution Control
 Planning Policy Guidance 24: Planning and Noise

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

SD1 - Sustainable Development Locations
 SD2 - Delivering Facilities and Infrastructure
 CE2a - Town Centre
 H1 - Housing Delivery
 UR1 - Regeneration Areas
 UR2 - Built Design and Character
 PR2 - People-friendly Streets
 TA4 - Roads and Traffic
 ENV1 – Environment

7.3 The following are relevant adopted Colchester Borough Development Policies (October 2010):

DP1 Design and Amenity
DP6 Colchester Town Centre Uses
DP17 Accessibility and Access
DP18 Transport Infrastructure Proposals

7.4 Within the Local Development framework Site Allocations document (adopted October 2010) the following policies are relevant:

SA H1 Housing Allocations
SA EC1 Residential Development in East Colchester
SA EC2 Development in East Colchester
SA EC5 Area 3: Magdalen Street
SA EC8 Transportation in East Colchester

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

Backland and Infill

8.0 Consultations

8.1 The comments of the Planning Policy Officer on the previously withdrawn scheme (111570) are included below for Members' information:

'The principle of enabling access to the railway sidings site has been established both by the approval of the initial permission and by allocation of the site for housing in the Site Allocations DPD. Since the earlier approval, however, the need to address air quality problems in the air has intensified, given the ever worsening conditions in the Brook Street Air Quality Management Area (AQMA) and the designation of Magdalen Street as part of an AQMA. Any application for development of the railway sidings will accordingly need to address the need to mitigate air quality problems caused by congestion. This will entail undertaking an Air Quality Assessment, possibly as part of an overall Environmental Impact Assessment. It would be preferable to undertake this work early on to establish if air quality presents any show-stopping issues, but it need not form a prerequisite for the decision of this application given that it can be required for any future applications for development of the railways sidings. The Council, working with the developer, is in the process of agreeing a development brief for the site which will highlight the need to carry out environmental assessment work including an Air Quality Assessment.'

Following on from this the comment below has been received from the Planning Policy Officer on this current submission which includes an air quality assessment:

'Planning Policy comments on the earlier version of this application noted that the principle of enabling access to the railway sidings site had been established both by the approval of the initial permission and by allocation of the site for housing in the Site Allocations DPD.'

The Council is continuing to work with the developer on a development brief for the site, although progress has been slow. The previous response noted that air quality issues had evolved as an important issue and that further information would be required, which has now been submitted. Planning Policy has no additional comments to make at this stage, given that the adequacy of the air quality work will need to be assessed by the appropriate Environmental Protection officer, who will need to consider the proposal in the context of the likely levels of development on the railway sidings site.'

8.2 The following comment has been received from the Council's Air Quality Officer :

'A dust management scheme shall be submitted to Environmental Control prior to the commencement of works.

Environmental Control considers that although the Air Quality Impact Assessment submitted is conclusive for the construction of the access road, it has not been able to adequately take into account the effect of the final development on the air quality of the surrounding area. This cannot be adequately considered until the completion and monitoring of the development, application number 101983, Land to rear of Brook Street. 110 Units.

There is concern that in any further residential development may be introducing new receptors (residents) into an already polluted environment (Colchester Central Corridors Air Quality Management Area).'

8.3 The Highway Authority has confirmed that it has no objection to the proposal subject to the inclusion of an informative on a grant of planning permission.

8.4 Environmental Control has advised that the comments made under the withdrawn application (ref 111570), and the previously approved application (081794), are applicable to this current proposal. The comments made at that time were that any permission should include the Council's demolition and construction informative.

8.5 The Council's Contaminated Land Officer has commented as follows:

'Since no additional information with reference to land contamination has been received since the 2008 application (081794), comments made by the Contaminated Land Officer at that time still apply and the full set of contamination conditions will still be required.'

8.6 The Council's Archaeological Officer has made the following comment:

'I would recommend that our standard archaeological watching brief condition C2.1 be imposed if consent is granted. The site may lie within the boundary of the Medieval leper hospital of St. Mary Magdalen, parts of which have been subject to archaeological excavation since 1989. '

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 Not applicable in this case.

10.0 Representations

10.1 The following response has been received from Essex County Council's Senior Policy and Strategy Manager - Schools Children and Families:

'I'm not sure of the details of this scheme, and a map would be really helpful, but a new link between Brook Street and ultimately Queen Street will really improve cycle routes from the East of town. There is also a real need to address the bridge over the railway from George Williams Way. If this bridge could be made cycle accessible at both ends it would revolutionise cycle access to town from New Town. It would also reduce car use by parents to St Thomas More School.'

10.2 The following comment has been made by Colchester Cycling Campaign:

'Can I ask, please, that this scheme (11246) is put before Rosemary Wilkins of ECC and Paul Wilkinson of CBC, so that there is some input with regard to cycling? I would be happy to do this but the application does not appear to include any drawings or maps.

I am aware that ECC has already responded, but the county's Chelmsford-based officers often lack the local knowledge needed to comment authoritatively on cycling matters.

There have been plans for a cycle route to run parallel to the railway line from the back of the new magistrates court, and this junction may be able to be altered to provide a crossing - should the scheme go ahead.

CCC is, however, aware of the air quality and motor traffic issues in Brook Street. We agree with residents that this scheme will lead to a worsening of both issues, infringing their human rights (right of respect for family life and right to peaceful enjoyment of their properties). '

10.3 As a result of local notification six letters of objection have been received from local residents. The points of objection may be summarised as follows:

- The area in which the proposal is located has been identified as an Air Quality Management Area. Any further development will add to this identified pollution problem.
- Traffic in the Brook Street area is already at saturation point and this proposal will make matters worse. No applications should be approved until the problems have been rectified.
- Efforts should be made to divert traffic flows rather than add to them.
- The existing infrastructure in the area is unsuitable to accommodate the proposals
- The proposal will result in the loss of trees

10.4 A representation has also been received from Councillor Spyvee as follows:

'I object to this Application as I did to its predecessor which was withdrawn. New development off Brook Street will cause additional vehicular traffic, adding to the air pollution that occurs there. Brook Street has been the subject of an Air Quality Management Area for some years. This is a material consideration in any Planning Application there or in streets which lead off it and have no other vehicular access. The AQMA has recently been confirmed and the Council has a legal obligation to produce a plan to mitigate its effects. While it remains in effect nothing should be done which adds to the pollution.

This Application is in New Town Ward but many of the people affected live in Castle Ward which I represent.'

11.0 Parking Provision

11.1 As this scheme seeks permission to renew permission for a road access there is no specific parking requirement as such.

12.0 Open Space Provisions

12.1 Not applicable in this case.

13.0 Report

13.1 As mentioned previously in this report, this proposal seeks to renew a previously – approved development on this land. Permission has been granted for the construction of a new road access leading off Brook Street and terminating some 60 metres to the west. As well as the road itself the access would incorporate two footpaths. Clearly it is intended that the road would provide access to the sidings land to the west, which has been identified as being suitable for residential development in the Council's adopted Local Development Framework.

13.2 The Council has seen fit to approve the scheme on two previous occasions – as may be noted by the planning history section of the report. However, since the time of the last planning permission, granted by 081794, there has been a change in the material considerations pertaining to the proposal in that the site for the development has been included within an Air Quality Management Order - one of 4 identified by the Council. The following extract is taken from Planning Policy Statement 25 and relates to the issue of AQMAs:

'In addition to their pollution control responsibilities, LAs are also responsible under Part IV of The Environment Act 1995 for reviewing and assessing ambient air quality in their areas. If there is a risk that, by the relevant date, levels of particular pollutants in any part of an authority's area will be higher than the objectives prescribed by the Air Quality (England) Regulations 2000 and Amending Regulations 2002, the authority is required to designate an Air Quality Management Area (AQMA), and to draw up an action plan (integrating this within the local transport plan where transport is a primary factor) setting out the measures it intends to take in pursuit of the objectives. This process will have an impact on development planning and development control decisions. The planning, transport and air quality control functions of LAs should therefore work closely together in:

- carrying out the reviews and assessments of air quality, especially where new development is likely;
- considering the possible impact of new development in drawing up any air quality action plans and local air quality strategies;
- considering the results of air quality reviews and assessments in the preparation of development plans; and
- taking any development control decisions which may have a direct or indirect bearing on existing air quality or creating exposure to poor air quality.

Air quality in AQMAs will inevitably be influenced by factors beyond their and individual LA boundaries. It is therefore important that the possible impact on air quality of developments close to an AQMA is also considered. Local planning authorities (LPAs) should also note that air quality can be an important consideration, whether or not levels of air pollution in areas on which the proposed development may impact due to dispersion or cumulative load are already high enough to justify the designation of an AQMA. More details are set out in Appendix 1G. Advice has also been issued by the Department of the Environment, Food and Rural Affairs (Defra) in Part IV of the Environment Act 1995 Local Air Quality Management, Policy Guidance LAQM. PG(03) and Technical Guidance LAQM. TG(03) (see www.defra.gov.uk/environment/aqm/).

- 13.3 Air Quality Management Area (AQMA) No.1 covers an extensive part of the town – incorporating Head Street, North Hill, High Street, Queen Street, St. Botolphs Street, St. Botolphs Circus, Osborne Street, Magdalen Street and Brook Street as well as parts of Mersea Road and Military Road. As a result of the creation of the AQMA the applicant was required to provide an air quality assessment in order that the potential impact of the proposed development could be properly judged. This report has been submitted to the Council's Air Quality officer. Following on from consideration of the assessment the officer has commented on the proposals as shown above and concluded that the submitted scheme would not give rise to an unacceptable level of pollution.
- 13.4 It will be noted from the above that although the site is included in an AQMA, the officer's advice is that this current development proposal would not undermine air quality within this area. As a planning judgement it is considered that, in itself, the proposed development, which is for an access road, would not give rise to an unacceptable level of pollution. Clearly, however, the subsequent development of the land to the rear of the site of the access road could potentially give rise to detrimental impacts. Any application to develop the land to the rear would require the submission of an air quality assessment that considered the impacts of the development proposed under that application. Additionally, as identified by the Air Quality officer, the approved development on the land on the opposite side of Brook Street to the east would have to be factored into the overall impact assessment. The concerns of the Ward Councillors and local residents with regard to air quality are fully acknowledged and appreciated and clearly through the submission of any application to develop the land to the rear the impacts on air quality may be properly considered as part of the overall consideration process.

13.5 In terms of the other elements of the scheme, it is noted that the Council's arboriculturalist is content with the findings of the supporting information dealing with impacts on trees etc., subject to the imposition of conditions on a grant of planning permission.

13.6 It is also noted that the Highway Authority does not object to the proposed development.

14.0 Conclusion

14.1 It is the intention of this application to renew a previous permission for the provision of an access road off Brook Street – to serve potential future development of land to the rear. Since the approval of the last scheme in 2008 there has been a change in the material considerations relating to the proposal in that the application site for the access road is included within a defined Air Quality Management Area. This application is accompanied by an air quality assessment and this has been considered by the Council's Air Quality officer. The officer advises that the proposed development would not be harmful to air quality. Members will appreciate that any application to develop the land to the rear in the future would also have to be accompanied by air quality assessment – and the impact of that development on air quality may be considered at that time.

14.2 On the basis of the above it is considered that this application for renewal of the planning permission for the access road may be approved, subject to the imposition of conditions.

15.0 Background Papers

15.1 PPS; Colchester Borough Core Strategy; CBDP; Development Framework Site Allocations; SPG; PP; HH; HA; AO; NLR; CCC; CBC

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

3 - 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.

4 - 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.

5 - Non-Standard Condition

The construction shall take place solely in accordance with the terms of the Methodology Statement received, which forms part of this permission, and no other excavation works shall take place that would effect the trees unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of the permission hereby granted.

6 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

7 -Non-Standard Condition

All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

8 - Non-Standard Condition

No development shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with approved details.

Reason: To ensure proper consideration and approval of any effects of change in topography on landscape features.

9 - Non-Standard Condition

A scheme of environmental works including construction of walls/fences/railings/planting of hedges etc and other structures on or adjacent to the boundary of the site with the highway/means of access shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The approved scheme shall be completed prior to the development being brought into use and shall be retained thereafter.

Reason: To ensure a satisfactory form of development and in the interests of visual amenity.

10 - Non-Standard Condition

Prior to the commencement of the development hereby permitted details of all materials to be used for hard surfaced areas within the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: To ensure that the proposed development is visually attractive and enhances the appearance of the locality.

11 - Non-Standard Condition

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 12 to 16 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 12 has been complied with in relation to that contamination.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

12 - Non-Standard Condition

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination of the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(1) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos

(2) an assessment of the potential risks to:

i. human health

ii. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes

iii. adjoining land

iv. groundwaters and surface waters

v. ecological systems

vi. archaeological sites and ancient monuments;

(3) an appraisal of remedial options and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land affected by contamination: Technical Guidance for Applicants and Developers.'

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13 - Non-Standard Condition

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historic environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

14 - Non-Standard Condition

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS 23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

15 - Non-Standard Condition

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 12 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 13 which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 14.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

16 - Non-Standard Condition

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in condition 13.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17 - Non-Standard Condition

Prior to the commencement of development the applicant shall commission and fund the provision of an archaeologist nominated by the Local Planning Authority. The Local Planning Authority shall be notified not less than 48 hours before the commencement of any work on site and the developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority and shall allow him to observe the excavations and record items of interest and finds.

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

18 – Non Standard Condition

Prior to commencement of development details of a Dust Management Scheme shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the agreed scheme.

Reason: In order to control dust pollution in the interests of protecting residential amenity.

19 – Non Standard Condition

This permission shall be carried out in accordance with drawings 620133/SK20 Rev B, 620133/01B, 620133/16 Rev B, submitted as part of the previously approved application Ref: no. 081794, unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and as this current scheme seeks to renew permission for a previously approved development.

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 08456 037631.



Application No: O/COL/03/2156

Location: Ballantyne Centre and land off Hawkins Road, Colchester, Essex

Scale (approx): 1:1250

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Planning Committee

Item

8

1 March 2012

Report of	Head of Environmental & Protective Services	Author	Bradly Heffer 01206 506940
Title	Proposed Deed of Variation to S.106 legal agreement Ballantyne Centre and land off Hawkins Road Colchester		
Wards affected	Harbour		

This report seeks Members' consent to allow a variation to a S.106 Agreement that relates to an approved mixed use (residential and commercial) development that is located on land off Hawkins Road Colchester

1. Decision(s) Required

- 1.1 Members are asked to endorse a proposed deed of variation to the existing S.106 agreement that relates to this development. The variation would mean that the Borough Council is no longer required to take responsibility for a play area within the development.

2. Reasons for Decision(s)

- 2.1 The play area has been considered for adoption by the Parks and Recreation Manager and he has commented as follows:

'From my position, the detail provided of the play area identifies that it is no more than an area of space allocated for play. It provides no equipment and no particular play value and is not easily accessible by the general public. It is for this reason that it is not suitable to be considered a play area to be maintained at Council tax payers' expense.'

3. Alternative Options

- 3.1 The alternative option in this case is that the terms of the agreement as currently written are complied with and the play area is taken on by the Council – together with the identified maintenance sum.

4. Supporting Information

- 4.1 As part of the outline planning permission granted for redevelopment of the site (granted under planning application reference O/COL/03/2156) clause 9 of the associated S.106 agreement required that the play area was laid out in accordance with a submitted plan and was handed over to the Council prior to the occupation of the 110th unit on the site – together with the maintenance contribution.

- 4.2 Subsequently a Deed of Variation to the original agreement was agreed on 9th May 2006, which varied details of the agreement, trigger points etc. but this variation still secured the play area and its transfer to the Borough Council.
- 4.3 This current revision before Members still seeks to secure the play area, but would not transfer the land to the Council and would not require the transfer of a maintenance sum. Members should note that Council officers have been liaising with the site developer regarding this specific issue over a period of time and the terms of the amendment have been agreed in principle.

5. Proposals

5.1 Under this proposed variation the terms of the agreement would be revised in order that:

- The site as identified on the submitted and approved planning application drawings is to be provided for sole use as a children's play site.
- The play site is to be provided for the benefit of residents of the development.
- The cost of the upkeep of the site is to be provided by the developer or their management company representatives on the basis of a resident's management fee.
- Any commuted sum payable to CBC specifically for the upkeep of the play site will not be payable to CBC but will be used to offset management costs for the maintenance of the play site.
- The play site is to remain fit for purpose whilst the residential development is occupied.

5.2 Members will note that the variation to the agreement would still ensure that the play area remained as such and its future use was safeguarded. The key revision is that the maintenance and ongoing responsibility for the play area would rest with a management company.

6. Strategic Plan References

6.1 The Planning Service contributes to all of the Councils key objectives.

7. Consultation

7.1 This matter has been the subject of consultation between the Planning, Legal Services and Life Opportunities sections of the Council.

8. Publicity Considerations

8.1 It is considered that publicity is not required in this case as the land in question would still be used for its intended purpose under the approved planning application but maintained privately and not by the Council.

9. Financial Implications

- 9.1 There is a cost implication to the Council as it is the party to the agreement that is requesting the change. The cost would be that generated by the Council's Legal Services team preparing the Deed.

10. Equality, Diversity and Human Rights Implications

- 10.1 None known

11. Community Safety Implications

- 11.1 None known

12. Health and Safety Implications

- 12.1 None known

13. Risk Management Implications

- 13.1 The developer is unwilling for the management company to be party to the deed of variation. This could potentially make enforcement of the terms of the agreement more difficult, because Colchester Borough Council could only enforce via the developer.

14. Background Papers

- 14.1 CAA



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.