

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
16 August 2012 at 6:00pm**

SUPPLEMENTARY AGENDA

Part A

(open to the public including the media)

Pages

9. Amendment Sheet

There was no Amendment Sheet circulated at this meeting.

PLANNING COMMITTEE

5 JULY 2012

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

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

21. Minutes

The minutes of the meeting held on 24 May 2012 were confirmed as a correct record.

22. 120973 Land opposite Sanders Drive, Lexden Road, Colchester

Councillor Lewis (in respect of being acquainted with many of the objectors) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Manning (in respect of his employer, St Benedict's Catholic College, having taken a lead role in opposition to the application) declared a disclosable pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(10) and left the meeting during its consideration and determination.

The Committee considered an application for prior notification of a proposed development by telecommunications code system operators for the installation of a 12.5m (to top) pole painted black and an associated electronics cabinet 1.9m x 0.8m x 1.65m. 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.

Peter Hill, Planning Officer, attended to assist the Committee in its deliberations. He showed a map of this area of Lexden upon which was superimposed the level of mobile signal reception to demonstrate that the current level of reception was lower than that of the surrounding areas and the predicted level of reception which would be on a par with the surrounding areas.

Jill Blaxill addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She referred to the objections to the phone mast being the largest number to date, and to five previous applications which were all refused. The site was within one of the most uniquely pleasant roads in Colchester; Lexden Road was a designated Conservation Area. The proposal would

be highly inappropriate and visually unacceptable. Had the site been within the Conservation Area more stringent conditions would apply; it was just outside one Conservation Area and 100metres from another. She related the history of previous mast applications and added that nothing had changed since that time. She referred to recommendations of the Stewart Report which had commented on the health implications. If approved, 2,000 children would walk though the beam of greatest intensity twice a day and she asked the Committee to refuse the application.

A member of the Committee enquired about the beam of intensity, but it appeared that the terminology was no longer used. The member thanked the applicants for their co-operation in looking for an alternative site and listed the sites which had been dismissed for various reasons. The member believed the mast would be prominent and intrusive when viewed from Sanders Drive and noted that the Landscape Officer's comments on the Amendment Sheet gave some credence to the photomontages of the mast which appeared to illustrate the mast as prominent and potentially visually intrusive when viewed from Sanders Drive.

The Stewart report stated that health considerations could in principle be taken into account but it was for the local planning authority to decide what weight to give to such considerations. She believed that there was a public perception of health dangers in regard to proximity of schools and number of children who pass the mast twice a day. She believed that this was a special case and danger to health could be considered a reason for refusal; siting and impact were also valid reasons for refusal as was impact on the Conservation Area and visual impact on Lexden Road with increased intrusion when viewed from properties in Sanders Drive.

The planning officer referred to the Amendment Sheet in respect of objections on the grounds of health. Following on from the Stewart Report in 2000 some recommendations were taken on and some were not. At that time explicit instructions were given that proximity to schools should not be cited as a reason for refusal. PPG8 included advice that it was the government's firm view that it was not the place to consider health aspects and concerns about them. He drew members' attention to the report where there was set out explicit guidance from the Government against considering health issues as they could lead to a potential claim for costs. The setting however was a material planning consideration, but the search suggested that there were no other options.

Other members of the Committee had some sympathy for the people of Lexden because there would be some intrusion, although background conifer trees may afford some visual protection in time. Weighing up the evidence against economic and sustainability factors there was likelihood that an appeal would be lost.

The planning officer explained that a lower mast may not provide the coverage the applicant was seeking because of the trees around the site. Whilst it was not possible to impose any conditions, the authority could indicate their preference for an alternative colour with a good chance that they would agree.

RESOLVED (MAJORITY voted FOR) that the application be approved and the applicant be requested to consider either dark blue or flat green as an alternative colour

to a black mast.

23. 111672 Cannock Mill House, Old Heath Road, Colchester, CO2 8AA

The Committee considered an outline application for a mixed residential development of twenty-three homes comprising two, three and four bedrooms with associated amenity and parking. 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.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. Neither the Grade 2 listed Cannock Mill, nor the mill pond formed part of the application site; the setting of the mill should be protected. Whilst applications have not been received, the applicant's agent indicated the intention was to convert the mill building into a single dwelling with satisfactory curtilage and parking. The application site was not within the flood zone, but there was a possibility that the mill pond could form part of a drainage proposal and there were a range of conditions relating to groundwater and surface water treatment.

Dominic Collins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The site was on a major traffic route, forms an important east-west corridor and containing a Grade II listed building on site. He referred to there having been no consultation with English Heritage and many of the surveys requested had not been addressed. Various natural habitats would be affected. There would be drainage issues leading to increased flooding at the front of the site. 23-40 vehicles would access the site presenting a danger particularly with the nursery on site and the displacement of five cars which currently parked on site. Any children living on the site would need to cross the road to access other schools. Schools nearby were oversubscribed.

Roger Hayward addressed the Committee on behalf of the owners, pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He acknowledged that the site presented challenges. This was an outline application; reserved matters would comprise design and materials proposals. The scheme was for family housing units and included affordable housing units. The site had good accessibility and the density was lower than it could have been. There were no objections from the Highway Authority. Parking provision was in accordance with the standards. The amenity of surrounding properties had been considered. Wildlife would be protected. The report indicated that the development could take place without any ill effect on trees, surroundings and ecology.

Councillor Blandon attended and, with the consent of the Chairman, addressed the Committee. She was unhappy with the slab levels and wanted to ensure that residents in Barn Hall Avenue would not be affected. She referred to the management of the mill pond, retention of trees and wildlife. The Lime trees at the rear of properties in Barn Hall Avenue were a concern as was flooding of the road from one side to the other.

She considered the contemporary approach and the proposed three storey buildings were inappropriate for the site and had concerns at the additional twenty-three vehicles exiting onto the busy road. She considered the current proposal to be over-development and asked that the application be refused. In the event that the application was approved she requested the addition of road markings at the entrance and traffic calming measures.

Members of the Committee were concerned about a number of issues:-

- the relationship between the listed building and the closest new property;
- that English Heritage should be consulted;
- the shared entrance;
- the ability of the internal roadway to be adopted by the Highway Authority;
- there being too many units on the development;
- a suggestion for the removal of permitted development rights ;
- a natural spring was noticed across the site flowing into the pond and concern at the proposal for a property in front of the pond;
- a drainage system could alleviate the problems of flooding which occurs;
- no mention of sustainable measures – grey water recycling or photovoltaic panels;
- the unit nearest the pond having very little outside space, and amenity space for another unit being below the standard;
- the development would not damage the wildlife corridor because the area to be developed was currently down to grass;
- congestion along the road;
- the nearest schools being full or nearly full;
- the reserved matters application should be determined by the committee.

In response to comments, the planning officer explained that:-

- the contemporary design being satisfactory but the units closest to the mill should be designed more in keeping with the listed mill;
- the unit adjacent to the pond was a first floor flat with parking below. It had only a balcony and a small patio area as its open space, a larger area may be possible;
- the access had been moved away from the current entrance;
- the Highway Authority could be asked about road marking and traffic calming;
- only if the internal roadway achieved adoptable standards would the Highway Authority be able to adopt it;
- highway issues may be a concern to members and residents, but the Highway Authority had raised no objections;
- it was unusual to have a condition for the management of surface water drainage and one had been imposed in response to concerns about the discharge of surface water and potential flooding. The Highway Authority had suggested a scheme to prevent surface water flowing out onto the road. Details of surface water and foul water treatment and works to the pond were both to be agreed;
- residents' privacy could be protected from overlooking at the reserved matters stage;
- the removal of permitted development rights was normally only imposed if the garden sizes were already so small that any further development would make them very small.;

- the site had the potential to exceed current requirements and sustainability;
- conditions in respect of sustainable construction would be imposed;
- the green link between Distillery Pond and Bourne Pond which included Mill Pond would be preserved;
- there were conditions for the retention of dead and rotting wood and the management of the pond;
- the pond had the potential for sustainable drainage although it did not form part of the current submission;
- several of the issues raised by the Natural History Curator were outside the scope of this application;
- it was not appropriate to consult English Heritage because the application did not exceed their thresholds where consultation was required.

RESOLVED (MAJORITY voted FOR) that –

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

- Affordable housing at 35% proportional to the overall mix;
- Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document;
- Community Facilities in accordance with the Council's Supplementary Planning Document;
- Education contributions, Primary, Early Years and Creche as Essex County Council formula; and
- Highways contributions to provide transport information packs.

(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, on the Amendment Sheet and a larger garden area to the unit adjacent to the pond be provided if possible.

(c) The reserved matters application to come back to the Committee.

24. 120380 Land between Haven Road and King Edward Quay, Colchester

Councillor T.Higgins (in respect of her spouse being employed by the University of Essex) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the demolition of existing buildings, site remediation and restoration works and mixed-use, student accommodation led development comprising of linked blocks of 4, 5, 6, 7, 8 and 9 storeys with 722 rooms that contain a total 765 bed spaces, approximately 1,288m² of shared facilities (bin stores, cycle stores, laundry, maintenance areas, lounge, reception/management area and shared open space) as well as convenience food retail store (A1), restaurant/bar (A3/A4), community space/gym (D1/D2), private and public open spaces, parking

provision and a new vehicular access from Haven Road. 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.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to comments on the Amendment Sheet and to the scheme of remediation having already been approved.

John Lawson, agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application on behalf of the applicant, owners and developers. This was a £35million development which would bring significant environmental and community benefits. The developer was ready to commence remediation and restoration works and the rest would follow. This was a mixed use scheme with potential benefits including a restaurant and bar. The student accommodation would be managed by a specialist national student accommodation company and would relieve pressure on the rented sector in the town. It would provide a pleasant and safe environment and would open in time for the next academic year; the remaining 354 bed spaces of accommodation would become available in 2014/15. The scheme included a new public park and spaces for public events which would be pump primed with a developer contribution.

Members of the Committee raised a number of comments:- the lack of any defined parking standards for student accommodation; parking provision does not meet the standard of one space for every five students; and the result will be on-street parking extending to the rest of the ward; the minimum standard has been applied for cycle parking; cycle paths need joining up; like to see more done for cyclists in the area along the lines of comments from the Colchester Cycle Campaign; wheelchair users should be able to access every room; there should be provision of car parking spaces for disabled users; the roof area should be made inaccessible for student safety; there was no outdoor space for kicking a football; open space may be used as a skateboard park; speculation regarding supply and demand for student accommodation; speculation regarding users of the retail spaces; issues regarding the use of Section 106 contributions; a range of opinions regarding the timing of the bridge being available for use; the council should look at maintaining the use of the open space; and a statue or water feature for the garden.

The planning officer explained that:- the developer had been made aware of the parking standards; the standard applied was the nearest applicable, in line with other student accommodation nearby; it was envisaged that the student car spaces would not be used every day; there was no on-street parking in the area; a disabled student parking area would be located near to disabled lifts and there would be general disabled parking spaces within the public parking area; the Highway Authority had not raised any objections to the parking provision; it was understood that the open space would be multi-functional; there would be a mix of hard and soft landscaping; there would be 24 hour surveillance on the site so that issues such as unruly behaviour could be controlled; access to the roof would not be available to occupiers of the units; 300 of the units would be let to the University; this was a mixed use development which had

a relationship with the wider area; the bridge would be similar to the other footbridge nearby, the bridge contribution that would be secured as part of the Section 106 agreement was based on the cost of the bridge that had been erected to serve the Weston Homes development to the northwest of the King Edward Quay site, but in any case the bridge was outside the control of the applicant; the landscaping scheme was conditioned and final details were within the council's control; cycling facilities would be provided in accordance with the policy; there was no ability to require ongoing contributions for activities in the open space; and in terms of sustainability SUDS and photovoltaic cells were included in the scheme.

The Development Services Manager accepted the Committee's concerns for the well being of students in such a high building and suggested there be a condition to prohibit any resident having access to the roof. He noted the Committee's point that the bridge was a priority and agreed to establish how quickly it could be provided. The cost of maintaining the open space and toilet facilities was at the developer's expense and was recognised as an extraordinary commitment. In terms of events in the open space, discussions were already taking place with the University of Essex Student Union.

RESOLVED (UNANIMOUSLY) that –

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

- a £180,000 contribution to off-site sport and recreational facilities (this sum split into two £90,000 amounts to be paid at identified trigger points);
- a £85,000 contribution towards community development events and activities to be held on the on-site open space – again this sum to be paid in two amounts of £42,500 at identified trigger points;
- a £300,000 contribution to be designated towards bespoke transport information and marketing packs for students and activities/projects which positively influence their travel behaviour;
- a contribution of £250,000 towards a new bridge across the river. However, if the bridge is not provided within a reasonable period of time then the funding may be used for the provision of specific identified pedestrian/cycleway enhancements between the application site and the University of Essex Campus identified in the Cycle Strategy SPD;
- a contribution to cover the cost of any amendments to existing and/or proposed waiting and/or loading restrictions required as a result of the proposal;
- other elements of the agreement would include ensuring public access to the designated open space and agreement on the use of the community facility on the site.

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

25. 120333 Land to the rear of 310-318 Ipswich Road, Colchester

The Committee considered an application for two houses at the rear of 310-318 Ipswich Road. The application was a resubmission of application 111408. 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.

Simon Osborn, Planning Officer, attended to assist the Committee in its deliberations. He referred to the Amendment Sheet and also to a number of trees which had been removed from the site, but added that they did not benefit from Tree Preservation Orders.

Councillor Gerard Oxford attended and, with the consent of the Chairman, addressed the Committee. He referred to the planning history and to several trees on the site having been removed. He also referred to the lack of a pedestrian footpath and vision splays when exiting because of a hedge and wall, not in the applicant's ownership, obstructing views to the right. He referred to the need to consider pile foundations because High Woods trees have had to be removed because they were too close to houses. There were trees in the country park along the western boundary of the site. If the Committee were minded to permit the development he asked that a condition regarding pile foundations be added to secure the safety of the trees for the future.

Members of the Committee were aware of the shared access to the site with the adjacent business premises and that the owner had a right to remove the trees because they were not protected by a Tree Preservation Order. Members questioned the size of the garages which were below standard, but it was explained that whilst there was room for bigger garages they would have a bigger footprint, be higher and more dominant. In any case the parking standards would be met without the garages.

The planning officer explained that the Highway Authority had no issues regarding the visibility splay for the existing access which also served the dental practice. Details of the visibility splays were to be provided prior to commencement of the development. He agreed that the country park was a high quality area and that this proposal included a native species hedge along the western boundary with the country park. He explained that the new hedge was a reasonable condition, the exact wording of which was being discussed with the tree officer.

RESOLVED (MAJORITY voted FOR) that –

- (a) Consideration of the application be deferred for submission of the following:-
- an amended plan being received to show landscaping to the western boundary of the site;
 - an updated tree report being received to include proposed means of protection of retained trees; and
 - confirmation from the Landscape Officer and Arboricultural Officer that the

additional information is acceptable.

(b) Upon receipt of the documents and information required, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, on the Amendment Sheet plus a condition requiring details of foundations to be agreed prior to the commencement in order to ensure that the wellbeing of trees to be retained is not prejudiced.

26. 120484 Land at Meadow Green Farm, Mount Bures Road, Wakes Colne

This application was withdrawn from consideration at this meeting by the Head of Environmental and Protective Services to allow more time for a consultants' report to be received.

27. 120411 Greyfriars, High Street, Colchester, CO1 1UG

The Committee considered an application for a variation of Condition 15 Use of rear terrace, Condition 20 Amended car park layout, Condition 26 Outdoor events and Condition 27 Use of outside areas, following grant of planning permission 102680. 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. The application had been considered at the Committee's meeting on 24 May 2012 and amended Conditions 15, 20 and 27 were agreed, but the matter was deferred for further information regarding Condition 26. He referred to a map received from the applicants showing the location of all addresses to be notified in advance of an outdoor event.

John Lawson, agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He stated that the applicants were very keen to progress the proposal and were similarly keen to have a good rapport with residents, and his client was content with the solution outlined in the report.

Councillor Frame attended and, with the consent of the Chairman, addressed the Committee. He was content with the rewording of Condition 26 but suggested that the permission should be for one year only and there be a review of events held during the year to make sure there were no issues. This was a new type of 'boutique' hotel and residents were not sure what it meant and how it would operate.

The planning officer reminded the Committee that the applicant was not seeking a temporary condition for outdoor events. The Development Services Manager suggested a condition requiring the hotel operator, the planning service and residents to meet on an annual basis to discuss the proceeding year's events.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report together with a further condition regarding an annual meeting between the hotel operator and the residents' association and planning service to discuss the operation of the hotel during the previous year.

28. 120891 15 Hawlmark End, Marks Tey, CO6 1NF

Councillor Lewis (in respect of her acquaintance with the applicants) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for a first floor side extension over a garage and conversion of the garage. 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. He referred to matters on the Amendment Sheet.

Helen Venner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She made representations in respect of the bathroom window which would impact on her rear garden. She requested that the window be moved so it overlooks the neighbour's own conservatory roof instead of her garden. The first floor exterior finish was plaster which could only be maintained from her property. She preferred an exterior finish to the first floor to be a material which did not require any maintenance. She also sought reassurance that the house would not become two properties.

Councillor Blundell attended and, with the consent of the Chairman, addressed the Committee. She requested that the application be looked at again with a view to making alterations to it. The extension was too bulky and overbearing, although there were others similar. In the officer's report there was a passing reference to an application for no.11 which had been refused and rejected on appeal. The first floor window would look into the secondary living room and she asked for the window to be moved. Finally she suggested the finish be entirely in brick to avoid any maintenance issues.

The planning officer explained that the difference between this application and the neighbour's application in 2005 was that this extension would be much further back on the plot. His response on the Amendment Sheet to the 'front door' suggested that such a door be excluded with an additional condition that it should not be reinstated at any time. Limited opening with the window facing rightwards was suggested for the bathroom window to overcome overlooking into the garden. A member of the Committee suggested recessing the bedroom window to avoid overlooking into the lounge window.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as indicated in the report together with the following amendments:-

- materials to be substituted by brick;
- removal of the ground floor entrance door and restriction on creating any opening;
- requirement for a limited opener on the first floor rear bathroom window hinges to be on the left side (looking out of the bathroom window); and
- either a set back or a build out with blank cheeks in respect of the proposed first floor bedroom window in order to minimise the risk of overlooking of adjacent windows.

29. 120954 24 Alan Way, Colchester, CO3 4LG

Councillors Lewis (in respect of her acquaintance with the applicant's agent, and her daughter and son-in-law and family's residence being in Alan Way) and L.Sykes (in respect of the applicant's agent being her neighbour) each declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for two storey front and rear extensions together with a single storey side extension. The Committee had before it a report in which all information was set out.

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

PLANNING COMMITTEE 2 AUGUST 2012

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Nick Barlow*, Nigel Chapman,
Peter Chillingworth*, Helen Chuah*, John Elliott*,
Stephen Ford, Sonia Lewis*, Michael Lilley,
Jackie Maclean, Jon Manning* and Laura Sykes*

Substitute Member :- Councillor Peter Higgins for Councillor Nigel Offen

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

34. Minutes

The minutes of the meeting held on 5 July 2012 were deferred for confirmation that the wording of the Section 106 Agreement contribution for the bridge contained within minute no.24 reflected the recommendation, and for a response for a proposed alternative minute format. The minutes of the meeting held on 19 July 2012 were confirmed as a correct record.

35. 120484 Land at Meadow Green Farm, Mount Bures Road, Wakes Colne

The Committee considered an application for the formation of a stud farm comprising a change of use of land and redundant livestock building to equestrian use, minor alterations to the building to form stabling, provision of manege, minor extension of existing access track and the siting of a temporary mobile home for a Stud Farm Manager, together with the diversion of public footpath no. 34, currently shown to pass through an established building. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Mark Russell, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mark Graham addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was representing Mount Bures Parish Council and Wakes Colne Parish Council because the application site was in both parishes. Both parish councils strongly objected to the mobile home, which would be a precursor to a permanent dwelling, and they also strongly objected to the proposed footpath regime, on the basis that walkers would probably not use footpaths which traversed an animal husbandry facility. The parish councils also took the view that the proposed use of the buildings would constitute over-development and that there could be horses of both sexes in adjoining fields because other stud farms abutted this site.

Ted Gittins, agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The applicant was an experienced and respected breeder who wanted to base his enterprise here. The site would provide stables and a barn with mixed agricultural/equestrian use and the footpath would be re-routed and reconnected. The financial test required a temporary home to establish that the business was viable. The National Planning Policy Framework (NPPF) made no distinction between types of rural workers. If the existing policy was strictly applied it would result in a refusal which was not supported by the NPPF. He considered it harsh to refuse this proposal which had the potential to produce rural employment. He hoped that members would accept that the countryside is open for business for all rural workers.

Members referred to the long planning history and the more recent sub-division of the site. This parcel was 34 acres and the most recent approved application was for a Dutch barn for agricultural use, which set the scene for the current application.

There appeared to be a conflict between the Local Development Framework and the NPPF. There were two issues:- whether the NPPF overrides DP24, and whether there was an essential need for a worker to remain on the site. The Local Development Framework referred only to permanent dwellings, unlike Annex A to PPS7 which gave discretion to give temporary consents to establish viability; this appeared to have been overlooked or omitted from the NPPF. However, Annex A of PPS7 had been cancelled which had left a gap which was unhelpful to the local authority or the consultants, and the policy team and the barristers had failed to agree.

A pragmatic approach would be to revert back to Annex A which set out what an essential need was until the gap was filled, either by new policies or by national guidance. In regard to any essential need it was considered that this could be a second reason for refusal if the application was to be refused. In view of the disagreement between consultants on the financial test it was considered that it should be left to an Inspector to determine because the Planning Committee was not in a position to overrule officers. The Committee therefore should follow officer advice to refuse the application and if the applicant felt strongly the application could be decided at an appeal.

RESOLVED (UNANIMOUSLY) that the application be refused on the grounds as set out in the report.

36. 100927 Land to the rear of 19 and 21 Empress Avenue, West Mersea

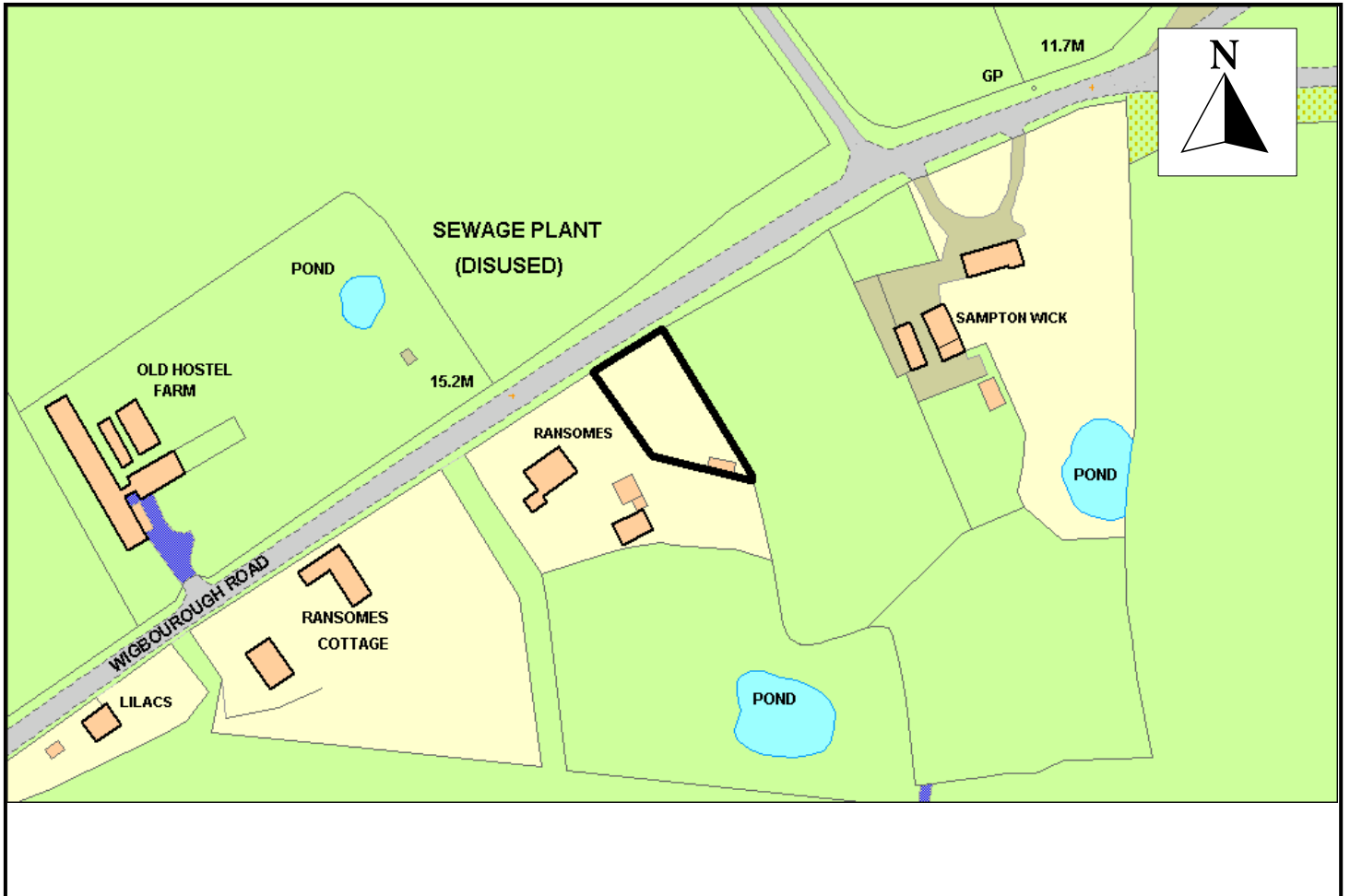
The Committee considered an application for an extension of time for the implementation of outline planning permission O/COL/05/1024 for a proposed new bungalow with a detached garage on plot 1. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for completion of a Unilateral

Undertaking to provide for a contributions towards Open Space, Sport and Recreational Facilities, and 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 and on the Amendment Sheet.



Application No: 121099

Location: Ransomes, Wigborough Road, Peldon, Colchester CO5 7RA

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **16 August 2012**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

7.1 Case Officer: Andrew Tyrrell Due Date: 20/08/2012

MINOR

Site: Ransomes, Wigborough Road, Peldon, Colchester CO5 7RA

Application No: 121099

Date Received: 25 June 2012

Agent: Mr Mark Perkins

Applicant: Mr & Mrs West

**Development: Proposed replacement three bedroom dwelling and detached car port -
Ref:COL/1397/81**

Ward: Pyefleet

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the owner of the site is Councillor Ellis. In the interests of probity, our Scheme of Delegation does not allow for applications such as this to be decided by Officers.

2.0 Synopsis

2.1 The report sets out that there is an existing planning permission on this site dating back to 1981, that remains "live". As such, it is a material consideration against any decision herein. The proposed scheme is an improvement when measured against the existing permission and therefore the current proposal is recommended for approval.

3.0 Site Description and Context

3.1 The site is the eastern part of the land belonging to “Ransomes”. “Ransomes” is a rural cottage sited outside of the nearby settlement boundary of Peldon in an area designated as countryside. The Wigborough Road, which the property fronts, is a typical rural road with fields, trees, hedgerows and highway verges to its edges. At the frontage to “Ransomes”, the speed limit is unrestricted although the 30mph zone can be seen to the east of the site when standing at the access way. This site has a large and well-established hedgerow along its frontage, other than at the existing access point.

4.0 Description of the Proposal

4.1 The proposal is to subdivide a section of the garden from the main property and to create a new dwelling within this area. The new dwelling would reflect the character of the donor property (“Ransomes”) although it would not be a copy. There would also be a cartlodge style outbuilding in front of the property for parking and a storage area.

5.0 Land Use Allocation

5.1 The land is allocated as countryside generally, as it is outside of the Peldon settlement boundary. The existing use is as a residential property and garden, and there is an existing permission for a second property here which this application seeks to replace.

6.0 Relevant Planning History

6.1 In 1981, permission COL/1397/81 granted a 3 bedroom dwelling of 2-storey height at this site. The site size and shape was broadly similar to the proposal herein. In 1983 building regulations were approved under reference BR/991/83. Site inspections for drainage works were noted in June 1983. However, the property did not proceed throughout the construction process thereafter and remains to be built.

6.2 Consequently, in 2006 a Lawful Development Certificate was submitted to confirm that enough work had been undertaken to constitute a material commencement in planning terms. Given the fact that the drainage works had been recorded, at that time (2006) Colchester Borough Council granted a lawful certificate to say that the permission had been commenced and remained “live” under application K/COL/06/0134.

7.0 Principal Policies

7.1 The National Planning Policy Framework (NPPF) is relevant to this application.

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

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

UR2 - Built Design and Character

PR2 - People-friendly Streets

TA1 - Accessibility and Changing Travel Behaviour

TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment
ENV2 - Rural Communities
ER1 - Energy, Resources, Waste, Water and Recycling

- 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
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP25 Renewable Energy
- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
Vehicle Parking Standards
Sustainable Construction
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

- 8.1 The Arboricultural Officer has raised concerns at the tree information provided on the basis that the trees towards the front of the site have public amenity value. However, having conducted a site visit the actual public amenity value of these trees is limited because of the screening provided by the hedgerow along the roadside verge. They could also be removed under the existing permission and as this is a material consideration no further information has been requested nor would it be a reason for refusal.
- 8.2 Consequently, the Landscape Officer has confirmed that there are no objections to the landscape proposals set out within the application.
- 8.3 The Urban Designer raised some concerns regarding the size of the garage building and the style of the dwelling proposed. The plans have subsequently been amended and the garage building has been reduced in size and altered in its design and appearance. The cottage is a sympathetic design that reflects the existing property. Therefore, whilst it may have some aspects that are not typical of standard housing in the borough in this era it is appropriate in this exact site and circumstance. The Urban Designer has also highlighted the small plot size in comparison with properties in this rural area.
- 8.4 ECC Highway Authority would not wish to raise an objection to the above subject to conditions ZIE, ZIF, and ZIG in the Borough Council's Model Planning Conditions. All of these conditions are included below.

8.5 Spatial Policy have stated that approval has already been granted for the construction of a three bedroom dwelling therefore they have no further comments to make on the above application.

9.0 Parish Council Response

9.1 The Parish Council has stated that it supports the application. They have said that the foundations are already in place (from the 1983 permission) and that this proposal has lower impact.

10.0 Representations

10.1 There have been no third party representations in response to the consultation exercise, which also included a site notice.

11.0 Parking Provision

11.1 The proposal meets the parking provision requirements. There is adequate space outside the frontage, but there are also 2 spaces within the parking building where designated parking spaces are proposed.

12.0 Open Space Provisions

12.1 The property garden size meets policy. There is no public open space as this is a single dwelling application and does not trigger a planning need.

13.0 Air Quality

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

14.0 Report

Design and Layout

14.1 The design of the property reflects the character of the donor property "Ransomes". It is finished in matching materials and colours shown. The front elevation is the only elevation that will be publicly visible and this has only glimpsed views from the access point. This has a traditional symmetrical appearance with elements such as the wall dormer windows, porch and the bay windows at ground floor level referencing the rural character of the donor property.

Scale, Height and Massing

14.2. The scale and height of development, significantly, is reduced from the 2-storey property that could be built today down to 1^{1/2} storey. The footprint is broadly similar, as is the siting within the plot. The massing is compact and confined by the size of the plot, which is smaller than would be expected given the overall size of "Ransomes" land, the rural location and the properties expected in such areas. However, this remains the same as the approved scheme and therefore we have limited weight to give to this concern.

Impact on the Surrounding Area

- 14.3 The impact upon the rural area is reduced from the approved scheme. Therefore, any visual impact or sustainability concerns must be balanced against the material consideration that, as a matter of fact, a property with greater impact can be built.

Impacts on Neighbouring Properties

- 14.4. There is only one neighbouring property, the donor property from which the site is being subdivided. Therefore, the landowners have control over whether or not to allow the development to take place or whether to keep from any impacts of development. In other words, the choice to sell the land and have a house built on it is their choice to make and will clearly result in some impact upon their current enjoyment of isolation.
- 14.5 In considering the proposal against adopted amenity standards, the proposal has no impacts on light nor overbearing. There is the potential for some parts of the donor property garden to be overlooked to the south, but these are primarily beyond any protected area. At more oblique viewing angles, there is still some potential for overlooking of the sitting out area and therefore the rear facing balcony would need to have a screen wall erected on its western flank to eye level, this obscures views that harm the privacy of "Ransomes".

Highway Issues

- 14.6 The highway issues are covered in brief above. However, aside from the existing permission there is also the consideration that to achieve visibility splays it would be necessary to cut out large sections of the existing rural hedgerow. At this location, that would have a truly unacceptable visual impact upon the countryside and therefore, usually a direct conflict would occur between the natural vegetation and the need to create an access. In this instance, because there is an approved access in the same location, it is considered that the need to gain a better splay can not be given more weight than the desire to retain the hedgerow. Therefore, the access will have an insufficient splay. For this reason, it is suggested that an unusual condition requiring a mirror on the entranceway be incorporated into any permission.

Other Matters

- 14.7 In considering the merits of this case the existing permission that could be built has been given weight. This has affected the opinions formed on various issues and the weight given to each individual aspect of the proposal.

15.0 Conclusion

- 15.1 Given that the proposal is better than the existing permission, it is concluded that the application should be approved. There are some issues that would be a concern had there been no existing permission, such as principle, highways, site characteristics. However the ability to build out the 1981 permission renders these limited. Thus, the chance to gain an improved scheme should be taken and is the only reasonable conclusion that can be argued.

16.0 Recommendation – Conditional Approval

17.0 Conditions

ZAA - Time Limit for Full Permissions

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

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

ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 915/01, 915/02a, 915/03b and 915/04 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

ZAJ - *Revocation of Previous Permission*

Notwithstanding the existing planning permission COL/1397/81 granted by the Local Planning Authority on 19 October 1981, no buildings other than those shown on the plans hereby approved shall be erected on the site.

Reason: In order to ensure that the two permissions are not both implemented as this would be considered to be an overdevelopment of the site and the implications of such a proposal would need to be carefully considered.

ZBC - Materials To Be Agreed

Prior to the commencement of development, precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction shall have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

ZCA - Residential Code for Sustainable Homes (Part 1 of 2)

Prior to the commencement of development, evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage or Interim Code Certificate demonstrating that the development will achieve Code Level 3 or higher for all dwellings shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the development is designed to be sustainable and will make efficient use of energy, water and materials.

ZCB - Residential Code for Sustainable Homes (Part 2 of 2)

Within 3 months of the first occupation of any dwelling hereby approved, a post-construction Final Code Certificate issued by an accreditation body confirming that the dwelling has achieved a Code for Sustainable Homes rating of Code Level 3 or higher shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

ZDB - Removal of PD for Residential Extensions

Notwithstanding the provisions of Classes A, B, C and D of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

ZDH - * Removal of PD - No Extra Openings*

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no windows or other openings shall be inserted in the west facing roofs or elevations of the dwelling or cartlodge building except in accordance with details which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To avoid the overlooking of neighbouring property in the interests of the amenities of the occupants of "Ransomes".

Non-Standard – Balcony Screen

Prior to the occupation of the development, the balcony shall be provided with a screen or means of obscuration to a height of 1.7m above the floor level immediately below, in accordance with details that shall have previously been agreed, in writing, by the Local Planning Authority. The screen shall thereafter be retained in the approved form at all times.

Reason: To ensure that there is no overlooking of "Ransomes" private sitting out area.

ZFC - Simple Landscaping Scheme Part 1 of 2

Prior to the commencement of development, there shall have been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the publicly visible parts of the site, which shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out but there is insufficient detail within the submitted application.

ZFD - Simple Landscaping Scheme Part 2 of 2

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the development where there is insufficient detail within the submitted application.

ZFS - Tree and Hedgerow Protection: General

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

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

Non-Standard Condition – Mirror on Access

Prior to the first use of the access hereby approved, a mirror or other such method of increasing visibility angles for persons exiting the site shall be erected in accordance with details that shall have previously been agreed, in writing, by the Local Planning Authority, and shall thereafter be maintained as agreed.

Reason: To ensure that vehicles can leave the highway in the safest manner in the interest of highway safety.

ZIE - Turning Areas

Prior to the first occupation of the development, a vehicular turning facility of a design previously agreed, in writing, by the Local Planning Authority shall have been constructed, surfaced and thereafter 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.

ZIF - No Unbound Surface Materials

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.

ZIG - No Gates to Access

At no point shall gates be provided at the vehicular access and the access shall remain open and free from obstruction for use in perpetuity.

Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety.

18.0 Informatives

ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

ZTB - Informative on Any Application With a Site Notice

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

Non-Standard Informative – Advisory Notes on Construction & Demolition

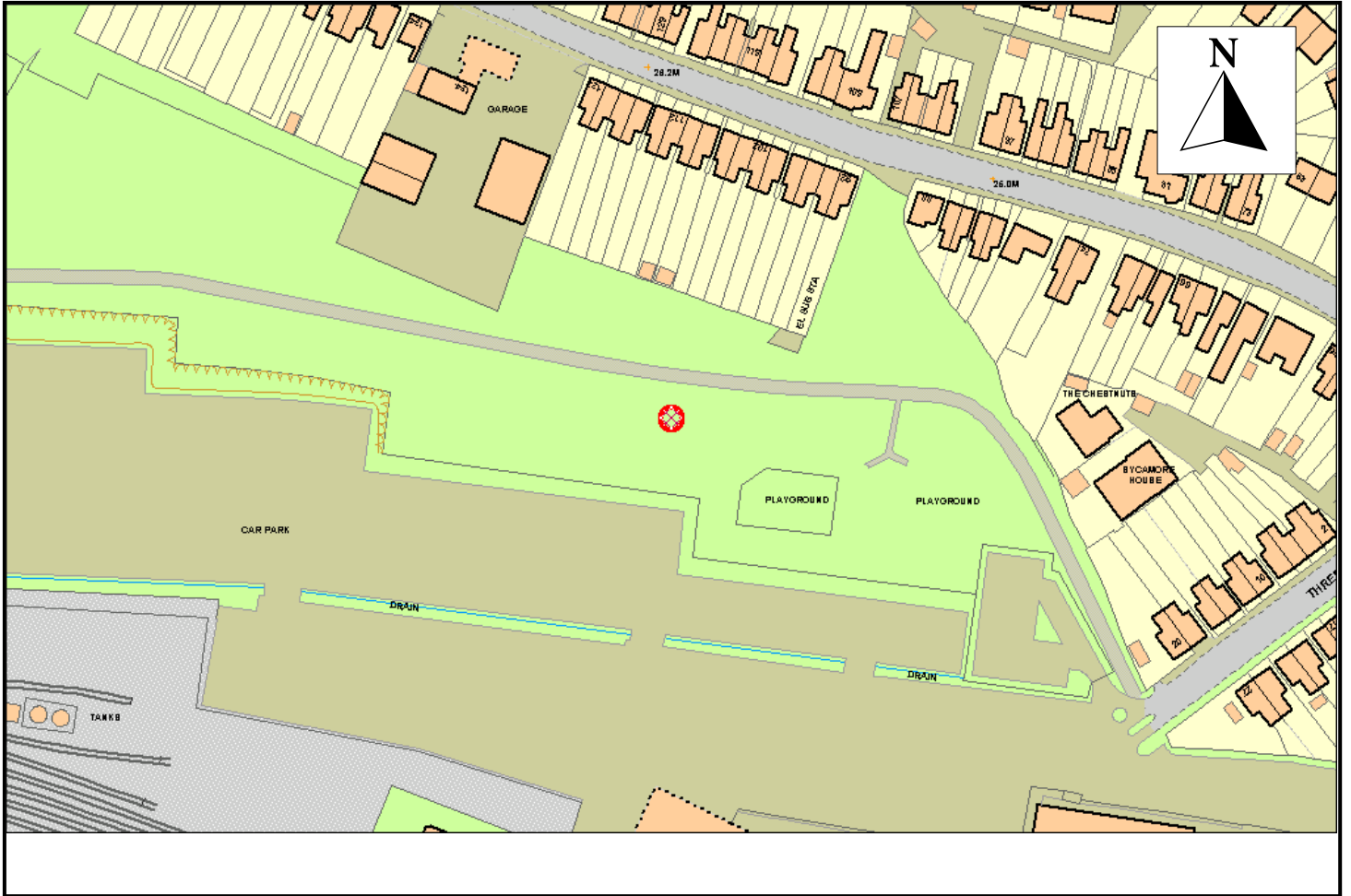
The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental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

Non-Standard Informative - Highway Works

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.

Non-Standard Informative - Site Workers

Steps should be taken to ensure that the Developer provides sufficient turning and off loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.



Application No: 121116

Location: Open Space, Bergholt Road, Colchester, CO4 5AQ

Scale (approx): 1:1250

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7.2 Case Officer: Sue Jackson

Due Date: 23/08/2012

OTHER

Site: Bergholt Road, Colchester, CO4 5AQ

Application No: 121116

Date Received: 28 June 2012

Applicant: Ms Jane Thompson

Development: Erection of 1 no. 6 metre lamp column to illuminate new pedestrian and cycle path linking existing path from New Braiswick Park to Three Crowns Road to Colchester Station.

Ward: Mile End

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

2.1 The application is for the erection of 1 no. 6 metre lamp column. The lamp column is required to light a new pedestrian and cycle path which will link an existing path to Colchester Station. The lamp column is the only part of the proposal requiring planning permission as the other works constitute permitted development.

3.0 Site Description and Context

3.1 The site is a tiny part of an area of open space laid to grass which extends behind Bergholt Road. A pedestrian path/ cycle path through the open space links the New Braiswick Park development (former Woods site) to Three Crowns Road. A new path is proposed from the existing path to North Station car park.

4.0 Description of the Proposal

4.1 The proposal relates to a lamp column 6 metres high required to light the new pedestrian and cycle path.

5.0 Land Use Allocation

5.1 Open Space

6.0 Relevant Planning History

6.1 None

7.0 Principal Policies

- 7.1 The following national policies are relevant to this application:
The National Planning Policy Framework (NPPF)
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP17 Accessibility and Access
- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
Cycling Delivery Strategy

8.0 Consultations

- 8.1 Environmental Control has no comment

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 The Parish Council has stated - "No objection".

10.0 Representations

- 10.1 Councillor Goss "Fully support this application and we need to get the project completed asap as the community are calling for an official pathway to be put in."

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

11.0 Parking Provision

- 11.1 N/A

12.0 Open Space Provisions

- 12.1 N/A

13.0 Air Quality

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

14.0 Report

Design and Height

14.1 The design and height of the lamp column are satisfactory.

Impact on the Surrounding Area

14.2 There will be a beneficial impact improving sustainable transport links in the area.

Impacts on Neighbouring Properties

14.3 The lamp column is sited at least 60 metres from the nearest residential property, 30 metres from the residential curtilage, and the light will be directed to avoid light spillage. It is considered there will be no adverse impact on neighbouring properties.

15.0 Conclusion

15.1 The provision of the lamp column in association with the provision of the new pedestrian and cycle path raises no issues; it will benefit the area and encourage the use of sustainable transport methods.

16.0 Recommendation – Conditional Approval

ZAA – Time Limit for Full Permissions

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

Reason: 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 plan scale 1:1250 date 18/6/2012 and the Outdoor Lighting Report date 17 May 2012 prepared by Paul Stephen.

Reason: To ensure the development will be carried out as approved and because any changes must be agreed in advance in writing by the local planning authority.

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
16 August 2012 at 6:00pm**

SUPPLEMENTARY AGENDA

Part B

(not open to the public or the media)

Pages

There are no Section B Items