

# PLANNING COMMITTEE

## 1 MARCH 2012

- Present :-* Councillor Theresa Higgins (Chairman)  
Councillors Christopher Arnold, Peter Chillingworth,  
Stephen Ford, Peter Higgins, Sonia Lewis,  
Jon Manning, Philip Oxford and Laura Sykes
- Substitute Members :-* Councillor Marcus Harrington for Councillor John Elliott  
Councillor Mike Hardy for Councillor Jackie Maclean
- Also in Attendance :-* Councillor Henry Spyvee

(No formal site visits were undertaken for this meeting.)

### 118. Minutes

The minutes of the meeting held on 16 February 2012 were confirmed as a correct record, subject to the following paragraph being inserted immediately before minute no. 113 for application no. 111725 at 13 Park Road, Colchester:-

**Councillor Lewis was not present for the following item which, together with the application at minute no. 112, was determined under the en bloc arrangements.**

### 119. 112446 Land between 16-19 Magdalen Green and Former Day Nursery, Brook Street, Colchester, CO1 2WA

The Committee considered a planning application to replace an extant permission 081794 for a new vehicular/pedestrian junction to Brook Street to provide future access to a residential development at the former railway sidings. This application was a resubmission of 111570. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. It was explained that in the intervening period since the extant permission had been granted, there had been a change in the material consideration pertaining to the proposal in that the site for the development had been included within an Air Quality Management Order, Area No.1 which included Magdalen Street and Brook Street. He also referred to paragraph 8.2 of his report which set out comments received from the Council's Air Quality Officer.

Jane Clarke addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She referred to the Air Quality Management Area (AQMA) in surrounding roads and expressed a wish that the application be refused. Although it might be considered that the construction of the road itself would not give rise to an impact on air quality, she believed that it would have a considerable impact on traffic, noise and dust from the activity of excavation

and of the movement of building materials. She believed the impact of the road and subsequent development could not be assessed in isolation. The residents in Brook Street were already subjected to considerable problems due to traffic congestion which would be exacerbated by the development.

Councillor Spyvee attended and, with the consent of the Chairman, addressed the Committee. He also referred to the air pollution in Brook Street, which was very narrow. Some homes had only small front gardens, but of the eighty properties, sixty opened directly on to the pavement. The outcome of the work on reducing air pollution was as yet unknown but he considered it would involve some restriction on traffic. He was of the view that the railway sidings development should gain access via George Williams Way. He drew the Committee's attention to the comment by the Council's Air Quality Officer regarding the need to wait for the completion of another development on the east side of Brook Street before assessing the air quality of the area. Officers had commented that air quality was a material consideration. He asked the Committee to reject the application on the grounds of increased air pollution and wanted all areas to work together on the future of this area.

The planning officer confirmed that the construction of the road by itself would not be harmful to the AQMA, and with appropriate controls in place the road was not considered to be so detrimental that it would warrant a refusal. Given all the material planning considerations his view was that this proposal was acceptable. The development of an air quality action plan would be required, regardless of any development.

Members of the Committee had a number of concerns including the potential for misuse of the road, for example for parking cars and burnt out cars; litter and fly tipping. There appeared to be no reason for building the road at this stage. There may be the possibility of alternative access routes into the site. Members queried whether it would be possible to prevent the road from being constructed until the development on the east side of Brook Street was built and the Air Quality Assessment had been undertaken. Ultimately, there was no way of knowing what burden this road would put onto the wider road network. Members were aware that discussions were ongoing on a development brief for the railway sidings site, and took into account that the AQMA was a material consideration. They considered that there was a strong case for a refusal on the grounds that building the road would be premature.

The planning officer explained that the report had been written on the basis of this being a development in isolation. However, members appeared to be of the opinion that it was inappropriate to allow this development in isolation from the housing development and as there was no question that the development would follow on from the road there would be a consequent impact on the AQMA. This would be a reason for refusal.

Members clarified that any refusal of this proposal should not be interpreted that it was a rejection of the whole development; they preferred to see a comprehensive development. Members also wanted the development brief to include alternative means of access other than that onto Brook Street.

*RESOLVED* (UNANIMOUSLY) that the application be refused for the following reasons:-

a planning approval for the road would be premature, given that both the scale and impact of the development of the railway sidings land and also the impact of the approved development on the land opposite on the AQMA was not known.

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

The Head of Environmental and Protective Services submitted a report seeking approval to endorse a Deed of Variation to a Section 106 Legal Agreement. The Deed of Variation would ensure that the maintenance and ongoing responsibilities for the play area were transferred from the Borough Council to a management company for reasons detailed in the report by the Head of Environmental and Protective Services. The Committee had before it a report in which all information was set out.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

Kevin O'Connell, agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the Deed of Variation. His company had provided correspondence from the management company to the Council containing confirmation that the play area had already been included in their budget for maintenance. They had followed that correspondence up with further confirmation and included a plan showing the extent of the areas they were covering which included the play area. He also gave details of the financial arrangements.

Members of the Committee were aware that both sides were in agreement and this part of the process was effectively a formality.

*RESOLVED* (UNANIMOUSLY) that the proposed Deed of Variation to a Section 106 Legal Agreement as described be approved.