

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE**

17 November 2011 at 6:00pm

SUPPLEMENTARY AGENDA

Part A

(open to the public including the media)

Pages

14. Amendment Sheet

124 - 137

See Amendment Sheet attached.

AMENDMENT SHEET

**Planning Committee
17 November 2011**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

**LATE AMENDMENTS HAVE BEEN INCORPORATED INTO THIS
AMENDMENT SHEET AND ARE SHOWN AS EMBOLDENED**

7.2 110953 – Church Lane, East Mersea

The Highway Authority comments are reproduced as follows:-

“Whilst this Authority would welcome appropriately worded conditions whereby the proposed cycling facilities and public transport information can be secured, the Highway Authority raises no objection to this proposal.”

Additional conditions:-

15 – The car parking facilities shown on the approved drawings shall be provided prior to the use of the new accommodation hereby approved, and thereafter maintained as such to serve the development.

Reason: In order to provide adequate parking facilities to serve the development in the interest of highway safety and the amenity of the area in general.

16 – Cycle parking facilities, together with cycle hire facilities, shall be provided in accordance with the submitted Travel Plan Framework, or as may be agreed by the Local Planning Authority in conjunction with Essex County Council as the Highway Authority in the form of any amendments to the Travel Plan, and maintained thereafter to serve the development.

Reason; In order to provide adequate cycle facilities and to encourage the use of alternative modes of travel.

17 – Information relating to public transport facilities shall be made available to all occupiers of the new accommodation, and within the Holiday Park in general, in accordance with details to be submitted to and agreed by the Local Planning Authority in consultation with Essex County Council as the Highway Authority. This detail can be included within any amendments to the Travel Plan.

Reason: In order to encourage the use of public transport facilities.

Paragraph 11.3 of the Committee Report. This should be amended to read that the cycle repair and maintenance facility will be provided OFF SITE rather than within the site. The cycle hire facility is to be provided within the existing Reception area of the Holiday Park.

Cllr Terry Sutton had initially advised that he would wish for this application to be referred to the Committee unless the application was to be refused, or the event that the concerns of the Parish Council and local residents were to be resolved in any meeting with the Applicant.

This meeting was held. In response the Applicant submitted the Noise Report, which is referred to in the main body of the Committee Report. However, other issues remain unresolved and are also covered in this Report.

Condition 2 – Delete “217 Rev B” and replace with 217 Rev C.

7.3 111302 – Colchester United Football Club Site, Layer Road, Colchester

Essex County Council has been contacted with regard to issue of a zebra crossing and has responded as follows:

‘Further to the discussion at last week’s Development Team, I confirm we have no plans or budget to provide a zebra crossing in the vicinity of the proposed residential development at the above site.

Also having visited the site on Friday with one of our safety engineers, I confirm that for a number of reasons it would be difficult to position such a crossing and it would also come with a number of difficulties in terms of its design, which in turn would mean it expensive to install, potentially prohibitively expensive.’

The applicant has further added: *‘Our highways consultant has noted that there is a central island crossing approximately 50m from the site, within the desire line of the local park. The view is therefore that a zebra crossing is not justifiable in these circumstances.’*

The Development Team has requested a financial contribution of £10,000 to public art to be put towards the proposed statue. This will be fed into the Section 106 agreement and will facilitate community involvement in the project. It is suggested that a new Planning condition be inserted relating to the proposed memorial garden, seating and plaque, as distinct from the issue of the statue.

By way of clarification, whilst the net effect of the changes to the scheme have resulted in two three-bedders being changed to two-bedders, the scheme has been amended as follows:

- a) Reduction from 4 bed to 3 bed houses on plots 8, 33, 34 and 51**
- b) Relocation of dwellings onto more suitable garden sizes to plots 20,36, 37,42,43 and 44.**
- c) Adjustment of garden fence positions to increase garden sizes to plots 6,7,29,30, 52 and 53.**

A revised Garden Schedule is attached.

Revised condition 09:

“The development hereby approved shall comply with amended layout drawing number 16570/1007/H, street-scene drawing 16570/200/B, and drawings 16570/212/A, 16570/122/125, 16570/126, 16570/120/A, 16570/102/A, 16570/103/A, 16570/108, 16570/108/A (as amended 5th October 2011), 16570/100/A, 16570/101/A, 16570/109A, 16570/111/A,16570/112/A, 16570/113 (as amended 5th October 2011), 16570/114/A, 16570/116 (as amended 5th October 2011),16570/118/A,16570/119/A, 16570/121/A, 16570/122/A, 16570/124/A, 16570/126/A, 16570/127 and 16570/128 unless otherwise approved in writing by the Local Planning Authority.”

New condition 31:

‘Prior to the commencement of development, the applicant shall provide details of the proposed memorial garden, including hard surfacing, walling and seating and details of a plaque in memoriam to those whose ashes have been scattered on the Layer Road pitch. These details shall be agreed in writing by the Local Planning Authority and shall be put in place at a time to be agreed, but no later than occupation of the 40th unit of accommodation.

Reason: For avoidance of doubt as to the scope of this permission, and in memory of those whose ashes have been scattered on the pitch at Layer Road.’

7.4 111842 – 14 Honywood Road, Colchester

Full list of 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 – A7.4 Removal of ALL Perm Development Rights (residential)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification), no development within Classes A to E of Part 1 of the Schedule of the Order (any extension, outbuilding, garage or enclosure) shall take place without the prior written permission of the Local Planning Authority.

Reason: To safeguard the visual amenity of the area, to protect the amenity of adjoining residents and to prevent the overdevelopment of the site by controlling future extensions, alterations and associated development.

3 – Non Standard Condition

No new windows shall be inserted above ground floor level of the house hereby approved unless agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

4 – C11.14 Tree/Shrub Planting

Before any works commence on site, details of tree and/or shrub planting and an implementation timetable shall be submitted to and approved in writing by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.

5 – Non Standard Condition

Prior to the commencement of development, detailed drawings, at scales 1:5 - 1:20 as applicable, shall be submitted to the Local Planning Authority. These drawings shall include details of proposed joinery and brickwork features such as flat gauged arches, the front door arch and wooden bay window panelling as well as other elements that are insufficiently described in the application drawings.

Reason: The finer details of the proposal need to be scrutinised by the Local Planning Authority in the interests of the visual amenity of the area.

6 – 3.1 Materials (general)

Before the development hereby permitted commences, the external materials and finishes to be used, shall be agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with agreed details.

Reason: To ensure that the development does not prejudice the appearance of the locality.

7 – C3.21 Hard Surfacing

Prior to the commencement of the development hereby permitted details of all materials to be used for hard surfaced areas within the site including [roads/driveways/car parking areas/courtyards/etc] 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 development does not prejudice the appearance of the locality.

8 - Non Standard Condition

Sufficient parking to local authority standards shall be provided prior to the occupation of either dwelling and shall remain as such at all times.

Reason: In the interests of highway safety.

9 - C2.1 – Watching Brief

Prior to the commencement of development, details of a watching brief to be carried out by a suitably qualified archaeologist during construction works shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out strictly in accordance with these agreed details. In the event that any important archaeological features or remains are discovered which are beyond the scope of the watching brief and require a fuller rescue excavation the construction work shall cease immediately and shall not recommence until a revised programme of archaeological work including a scheme of investigation has been submitted to and approved, in writing, by the Local Planning Authority.

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

10 - 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.

11 - 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.

12 - 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.

13 – C10.14 – Ecological Survey

An ecological survey of the site shall be undertaken with a detailed assessment of the impact of the proposed development thereon. The survey together with any intended remedial measures, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with such agreed details.

Reason: To allow proper consideration of the impact of the development on the contribution of nature conservation interests to the amenity of the area.

14 – 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 works shall take place that would effect the trees unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the protection and well-being of nearby trees.

15 – Non Standard Condition

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.

16 – Non Standard Condition

Prior to the first occupation of any dwelling hereby approved, a post-construction Final Code Certificate issued by an accreditation body confirming that 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.

17 – Non Standard Condition

The development hereby approved shall comply in all respects with the submitted drawings "Front Ireton Road", "Side - Honeywood Road", "Layout", and the submitted elevations and floor plans, received 23rd September, unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of this consent.

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 demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.
- (2) The applicants are advised that they will need to amend the parking order for the residents parking scheme if they are to be able to use their parking spaces and prevent parking across their access.

Paragraph 12.1 should read:

'Whilst these gardens may comply with standard, it is worth noting that these sizes do NOT reflect with those in the vicinity. Neighbouring 4 Ireton Road has 300m²; number 6 375m²; the nearby houses on Honywood Road have about 160m²; gardens the other side of Ireton Road are in excess of 400m², and those on the far side of Honywood Road in excess of 350m².'

7.5 111195 – The Stream, Layer Road, Kingsford, Colchester

Condition 2 - amend wording as follows:-

This consent relates to building B only as identified on the submitted drawing and permits areas 1 and 2 as shown on Plan A to be used for B8 storage purposes only.

Condition 3 – amend wording as follows:-

Add “The B8 storage use” before “hereby permitted”

New Reason: For the avoidance of doubt as to the scope of this permission and to ensure that no intensification in use of the access occurs. To protect the users of the highway in the interest of highway safety and to accord with Policy DM1 of the Highway Authority’s Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Reason 5: After visual amenity add “and for the avoidance of doubt as to the scope of this permission and to ensure that no intensification in use of the access occurs. To protect the users of the highway in the interest of highway safety and to accord with Policy DM1 of the Highway Authority’s Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative

All works affecting the highway shall 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 to the Area Highways Office (08456 037631)

Correction to line 1 of the introduction it should read does NOT meet highway criteria

Additional condition:

“All delivery of goods to and despatch of goods from the premises shall be by long wheelbase transit van type only and shall be restricted to a maximum of 6 vehicle movements a week (i.e 3 to the premises and 3 from the premises).

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

Agenda Item 11 – Tree Preservation Order 23/11

An e mail has been received from Mr Pedley who comments as follows:-

“At the Planning Committee meeting to be held next Thursday, Item 11 of the Agenda concerns a proposed Tree Preservation Order on trees affecting my home. I have submitted an objection to the TPO; I assume a copy of my letter (dated 16th October 2011) will have been made available to you. The Agenda contains a statement allegedly made by me but which I did not make. I have been advised to inform you of my concerns in advance of the meeting.

At para 2.2 of Agenda Item 11, Mr Liam McKarry summarises my objections via six bullet points. The first five relate to my objections but the sixth - ‘*The TPO application process is onerous and bureaucratic*’ is not, and never was, an argument used by me in support of my objections. I do not ever recall making such a statement or alluding to the planning process in those terms.

I do not know where Mr McKarry found this statement – certainly not among my correspondence – but it may distort the Planning Committee’s view of my objection and give the case for the proposed TPO unfair credence.

I should be grateful, therefore, if you could bear my concerns in mind at next Thursday’s meeting and ensure that the other Committee members are also made aware.”

The objection letter from Mr Pedley is produced below in full:

Tel: [REDACTED]

Email: [REDACTED]

Mr G R Pedley BA(Hons)

[REDACTED]

16th October 2011

Colchester Borough Council
PO Box 889
Rowan House
33 Sheepen Road
Colchester, CO3 3WG

For the Attention of: Mr Liam McKarry (via email)

Dear Mr McKarry

TREE PRESERVATION ORDER – 23/11 SHAKESPEARE ROAD/WORDSWORTH ROAD
COLCHESTER - OBJECTION

Your Ref: LMK /075111 dated 29 September 2011

I have received your letter concerning the proposal to impose a preservation order on the trees in the vicinity of my property. I herewith lodge an objection to that proposal.

I understand that the trees subjected to the TPO were once under the protection of the Essex County Council and that at some time in past 24 months that authority handed over responsibility for the trees to Colchester Borough Council. I also understand that the CBC needs to review all TPOs. However, none of this has been offered by the CBC as the reason for TPO 23/11.

According to the letter at reference, the Council's only reason for imposing this order is that *'the trees are important natural features visible within the local landscape with potential to become veteran trees, and as such should be accorded appropriate protection'*.

The Woodland Trust defines a veteran tree as *'usually in the second or mature stage of its life and has important wildlife and habitat features including: hollowing or associated decay fungi; holes; wounds and **large dead branches.**'* (My emphasis). I am alarmed by the prospect of old large trees with large dead branches within reach of my, or anybody else's, home. It should be noted that a footpath ("Rupert Brook Walk") is contained within much of the eastern stretch of the row of trees. Many people including children use this footpath on a daily basis and there is a risk of injury, or even death, if a branch should fall from these aging trees. Furthermore, there is a risk of these trees being blown down by strong winds. It has happened before and it will happen again. Every time the wind gathers strength, I am obliged to keep a wary eye on the trees. I see no good reason for these trees to be given protection; the residents stand to lose more than trees.

Continued...

Trees may enhance the scenic amenity of an area but only from a distance. The closer they are, the 'amenity' value soon diminishes and becomes, instead, a nuisance. It's not easy living with large trees in close proximity to one's house. They suck moisture out of the ground and drop leaves and twigs by the ton and the shade cast makes growing plants very difficult. The trees also block out the sun to the houses obliging residents to switch on lights earlier than others. Some householders towards the western end of the row have taken it upon themselves to have those trees on their property pruned and lowered. I am not surprised. Enough is enough - the trees had to be dealt with. If the trees overshadowing my house were on my property, I too would have brought in the tree surgeons.

I understand that the Council was prompted to bring forward TPO action on these trees by a resident who objected to the pruning. This resident – not of the roads affected by the TPO – objected, it seems on aesthetic and sentimental grounds. That resident is not affected by the nuisance the trees cause. The rest of us have to suffer the nuisance and cannot, it seems, do anything about it. Is it right that one person's sensibilities are able to override the practical needs of the many?

In the spring of 1998 the Council proposed to carry out work on the trees to enable more light to access the shaded areas. Some residents in Wordsworth Avenue objected on the grounds that the 'screen' to the rear of their houses would be affected. The work was stopped. Those residents were, of course, on the sunny side of the trees. Did they give any thought to the rest of us languishing on the shaded side? Even if the work had been completed as thoroughly as possible, the trees would still have re-grown and bushed out thus preserving the 'screen'.

I object to the imposition of a TPO on the grounds that the people who have to live with these trees – indeed, have ownership of them – should be free to maintain them as they see fit without having to seek official permission. In my view, no tree within twenty metres of a house should be allowed to grow higher than the house. I fully understand the desirability to retain trees for their amenity value but one man's amenity can be another's nuisance. Protect trees in a rural environment by all means but within an urban setting, caution and commonsense should prevail not sentiment or misplaced aesthetics.

I do not wish to see the trees uprooted but I believe the owners should have the right, and indeed, the responsibility, to maintain the trees in order that they do not overwhelm their own, or encroach upon their neighbours' environment. Even if this objection is upheld and the TPO cancelled, there is nothing I can do about the trees overshadowing my property as they stand on Council land. But I do not want to see a TPO deterring the Council in its responsibility for maintaining the trees.

Agenda Item 12 – Tree Preservation Order 18/11

The objection letter from Mr Marley is produced below in full:-

Keith Marley



8th October 2011

Tree Preservation Order: 18/11 – St. Chads, Chapel Lane, West Bergholt

Dear Mr. McKarry,

This letter is in response to the communication received from yourself in September 2011, informing me that a temporary tree preservation order (TPO) had been placed on two oak trees in the property known as St Chads. This letter is sent not only from myself, but on behalf of the undersigned who are all affected by the oak tree that you have referred to as T2.

Firstly, we would like to state that we have no objection to a TPO being placed on the tree referred to in your letter as T1. This tree is far enough away from our properties that we do not believe it to be a cause for concern.

We do however object to a TPO being placed on the tree referred to as T2 for the following reasons:

Property damage

Both the owners of number 5 and number 6 Moss Way have suffered property damage to their garages and adjoining brick wall, which has resulted in financial loss.

Whilst the damage to property to date has been caused by the roots of the tree T2, the foliage is now so overgrown and unmanaged, that it is touching the garage roofs of numbers 5 and 6 Moss Way. Further tree growth will undoubtedly cause further damage.

Enclosed (Appendix 1) are details of the insurance claim and repair work to the garage of number 5 Moss Way in October 2010, which resulted in Mrs Pledger having to pay £1,000 in insurance excess. You will note from these documents that the oak tree is stated as the cause of the damage, and that the owners of St. Chads were 'put on notice' as a result of the claim. Despite this, the oak tree has not been touched in any way since, and continues to grow unmanaged.

Mrs Ullah, the owner of number 6 Moss Way, has suffered similar damage to her brick wall which adjoins her garage, again caused by the oak tree roots, and resulting in similar financial loss.

Limited use of property

Tree T2 is extremely large, overgrown and unmanaged. It has been allowed to grow far beyond the property boundaries of St Chads. As a result, it is limiting the use of the Garden of 15 Valley Crescent and making the use of the car parking spaces belonging to properties in Moss Way too dangerous for their intended purpose. This in turn has caused a parking issue for all residents in Moss Way, as there are now fewer available car parking spaces than cars.

Safety

As stated above, the oak tree severely overhangs the property of 15 Valley Crescent and garages and parking spaces of residents of Moss Way. Whilst we have only suffered leaf, acorn and twig fall to date, there is concern amongst residents over potential branch failure, as many significant branches are not only very long, but also appear to be supported by other branches. The unfortunate fate of Daniel Mullinger is still raw in the village of West Bergholt!

Lack of Tree management

Despite being put on notice following Mrs Pledgers' insurance claim, and despite repeated requests from many residents over a number of years, the owners of St. Chads have still failed to manage this oak tree, resulting in its continued unchecked growth. For a mature oak tree to be allowed to exist in a residential area, it needs to be routinely managed. If the TPO on this oak tree were to become permanent, it would increase bureaucracy and add to an already frustrating situation.

Enclosures:

Appendix 1 – Details of insurance claim and repair works, number 5 Moss Way.

Appendix 2 – Recent photographs showing size, overhang and danger to property of Oak tree T2.

Appendix 3 – Map received from CBC, updated to show a more realistic size of oak tree T2, the properties damaged as described in this letter, and the parking spaces unable to be used due to overhang and foliage fall from tree T2.

Layer Road, Colchester Garden Schedule

Plot	Flat / House	Type	Sq. Ft	Actual	Standard	Difference
	1	2 Bed		64	50	14
	2	2 Bed		67	50	17
	3	2 Bed		76	50	26
	4	2 Bed		75	50	25
	5	2 Bed		70	50	0
	6	2 Bed		50	50	0
	7	2 Bed		50	50	0
	8	3 Bed		60	60	0
	9	4 Bed		100	100	0
	10	4 Bed		102	100	2
	11	3 Bed		73	60	13
	12	3 Bed		60	60	0
	13	3 Bed		100	60	40
	14	4 Bed		101	100	1
	15	4 Bed		100	100	0
	16	4 Bed		100	100	0
	17	4 Bed		104	100	7
	18	4 Bed		102	100	0
	19	4 Bed		100	100	0
	20	4 Bed		100	100	0
	21	3 Bed		60	60	0
	22	4 Bed		100	100	0
	23	4 Bed		100	100	0
	24	2 Bed		50	50	0
	25	3 Bed		60	60	0
	26	3 Bed		60	60	0
	27	3 Bed		36	60	-24
	28	3 Bed		36	60	-24
	29	4 Bed		101	100	1
	30	4 Bed		100	100	0
	31	3 Bed		60	60	0
	32	3 Bed		60	60	0
	33	3 Bed		70	60	0
	34	3 Bed		85	60	25
	35	3 Bed		61	60	1
	36	3 Bed		70	60	10
	37	2 Bed		81	50	31
	38	3 Bed		50	60	-10
	39	3 Bed		50	60	-10
	40	4 Bed		100	100	0
	41	4 Bed		105	100	5
	42	4 Bed		100	100	0
	43	4 Bed		105	100	5
	44	2 Bed		50	50	0
	45	2 Bed		50	50	0
	46	4 Bed		100	100	0
	47	4 Bed		103	100	3

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
17 November 2011 at 6:00pm**

SUPPLEMENTARY AGENDA

Part B

(not open to the public or the media)

Pages

There are no Section B Items