

Planning Committee

Town Hall, Colchester
24 May 2012 at 6.00pm

This committee deals with

planning applications, planning enforcement, public rights of way and certain highway matters.

If you wish to come to the meeting please arrive in good time. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please refer to Attending Meetings and "Have Your Say" at www.colchester.gov.uk

Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off or switched to silent before the meeting begins and note that photography or audio recording is not permitted.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

Facilities

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Material Planning Considerations

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

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

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

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

Human Rights Implications

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

Community Safety Implications

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

Equality and Diversity Implications

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

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
24 May 2012 at 6:00pm**

Members

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

Substitute Members : The following members of the Council have attended a required planning skills workshop during the previous two years and, subject to appointments to the Local Plan Committee at the Annual Meeting, may act as members or substitute members at this committee meeting.
Councillors Christopher Arnold, Lyn Barton, Mary Blandon, Barrie Cook, Nick Cope, Annie Feltham, Bill Frame, Ray Gamble, Martin Goss, Marcus Harrington, Pauline Hazell, Peter Higgins, Sue Lissimore, Will Quince, Paul Smith, Terry Sutton, Colin Sykes, Dennis Willetts and Julie Young.

Agenda - Part A

(open to the public including the media)

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

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

Pages

1. Welcome and Announcements

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

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

- action in the event of an emergency;

- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Have Your Say!

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

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

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

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

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so

significant that it is likely to prejudice the Councillor's judgement of the public interest.

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

6. Minutes **1 - 11**

To confirm as a correct record the minutes of the meeting held on 26 April 2012.

7. Planning Applications

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

1. 120151 University of Essex, Wivenhoe Park, Colchester, CO4 3SQ **12 - 29**
(Wivenhoe Cross)

Construction of multi-deck car park above existing surface level car park; creation of new access to car park from Boundary Road to include taxi drop-off/pick-up area and relocation of existing compactor.
2. 120531 Stuart Pawsey Court, Stanley Road, Wivenhoe, CO7 9SS **30 - 34**
(Wivenhoe Quay)

Construct a mobility scooter shed (Timber Framed) utilising 1no. car parking space in a private car park.
3. 120243 Fujita, 2 Birch Street, Birch, CO2 0NF **35 - 42**
(Birch and Winstree)

Change of use of land to garden allotment for growing vegetables, keeping chickens and bee keeping.
4. 120301 Town Hall, High Street, Colchester, CO1 1PJ **43 - 48**
(Castle)

Upgrade of existing emergency lighting system.
5. 120349 Town Hall, High Street, Colchester, CO1 1PJ **49 - 55**
(Castle)

Listed building application for new extractor hood installed in kitchen.

6. 120411 Greyfriars, High Street, Colchester, CO1 1UG
(Castle)

56 - 65

Variation of conditions 15 (use of rear terrace), 20 (amended car park layout), 26 (outdoor events) and 27 (use of outside areas) following grant of planning permission 102680.

8. Exclusion of the Public

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

**PLANNING COMMITTEE
26 APRIL 2012**

Present :- Councillor Ray Gamble* (Chairman)
Councillors Peter Chillingworth*, John Elliott*,
Stephen Ford, Peter Higgins*, Theresa Higgins*,
Sonia Lewis*, Jackie Maclean, Jon Manning and
Laura Sykes*

Substitute Member :- Councillor Mike Hardy
for Councillor Christopher Arnold*

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

139. Minutes

The minutes of the meetings held on 29 March 2012 and 12 April 2012 were confirmed as a correct record.

Councillor Sonia Lewis (in respect of her acquaintance with the public speaker, Brian Sinclair, during his former role as the Mayor of Wivenhoe) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Stephen Ford (in respect of his acquaintance with the public speaker, Parish Councillor Brian Sinclair) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Jon Manning (in respect of his membership of Wivenhoe Town Cricket Club) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

140. 120012 and 120013 St John Ambulance Site, Chapel Road, Wivenhoe, CO7 9DX

The Committee considered planning application 120012 together with application 120013 for conservation area consent for the demolition of the superstructure of the existing St John Ambulance building and the erection of a two storey building of mixed use C3 Residential and D1 Gallery/Studio. These applications were resubmissions of 110608 and 110609. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee had undertaken a site visit on 29 March 2012 in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site. However, both applications were withdrawn by the Head of Environmental and Protective Services in advance of that meeting in order to give consideration to information which had been submitted after the committee report had been prepared.

Simon Osborn – Planning Officer, Karen Syrett – Spatial Policy Manager, Vincent Pearce – Development Services Manager and Andrew Tyrrell – Planning Manager, attended to assist the Committee in its deliberations.

The Planning Officer drew attention to the additional information on the Amendment Sheet which included reference to policy DP4 Community Facilities and alleged non-compliance with policy together with comments relating to the National Planning Policy Framework (NPPF). He explained the changes made to the scheme which were submitted to address some of the objections to the earlier scheme. He also referred to the extent of the D1 community use during and after the time the hall was used by the St John Ambulance, and the extent to which policy DP4 applied. He advised the committee to consider whether this proposal was in accord with the council's adopted policies.

Brian Sinclair, Chairman of Wivenhoe Community Trust and a former Mayor of Wivenhoe, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to an offer made by the Trust to purchase the building a year ago. He explained that the William Loveless Hall was so heavily booked on a daily basis that they could not accommodate all requests. There were other organisations which had their own facilities but they only had limited availability because the facility was primarily used by the organisation itself. He believed the demolition of the hall would be contrary to the NPPF and challenged the applicant to demonstrate that the proposal would be a genuine community building, that there was an excess of community provision, together with other issues regarding community use both past and proposed in the future. The Trust was in a position to complete within 28 days and they had a business plan, management skills and the prospect of an Essex County Council Big Society grant.

Robert Pomery, Chartered Town Planner, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He described the application as a modest proposal which had been designed to add to the townscape and comply with planning policy. Apart from the offer by Pru Green, there had been no other offers to purchase the property, either from an individual or a group, during the 5 years the property had been for sale. This offer was from a local artist for a modest home above a studio and gallery where she could work, teach and display her work and that of other artists. Whilst the Wivenhoe Community Trust had wanted to acquire the building, he believed it was nothing more than ambition. He believed the proposal was consistent with policies, including DP4, and the proposal would continue a community use. The scheme accords with the up to date development plan and approval was recommended.

County Councillor Julie Young attended and, with the consent of the Chairman, addressed the Committee. She believed it would be difficult to determine whether the proposal complied with adopted policies. She referred to five reasons for refusal of the proposal:- it was overbearing; it did not meet the private amenity space requirements, it did not comply with parking standards, it would impact on a tree which would cause long term disputes; and it would result in the loss of a modest community

building. Wivenhoe Town Council believed the application should be refused. She referred to planning policies DP4 and DP1 and confirmed that the William Loveless Hall was at capacity and could not provide alternative facilities; she did not believe there was sufficient capacity for the needs of Wivenhoe residents. In her opinion the building had made little contribution to the lives of the population, but she believed it would be difficult for the Gilbert and Sullivan Society to find an alternative place to work on their scenery.

Members of the committee were aware that the applicant was a much valued member of the community. Reference was made to the significant increase in the population in Wivenhoe and to the William Loveless Hall being the only hall serving the community. They were also aware of other halls run by various organisations but that those organisations' own needs took precedence over any external bookings. Reference was made to policies DP1, DP4, DP14, UR2 and the NPPF. Members were aware that policy DP4 related to community facilities and the test was whether or not the building had been in community use, particularly since the St John Ambulance use had ceased in 2006. Mention was made of its historical community uses and to more recent community uses. It was recognised that the hall had historical significance within the locality. Wivenhoe Town Council had stated that demolition of this building would be a loss to the community and was therefore contrary to DP4. The Town Council did not believe the hall had been abandoned but marketing of the building had attracted few potential purchasers. There was a view that the proposal for a modern replacement building was contrary to DP1 because it would not fit within the Chapel Road townscape. The officer report highlighted that there was a difference of opinion on whether or not the proposal achieved the aims of UR2. There were also concerns regarding overbearing and amenity space.

The Spatial Policy Manager explained that all parties were in agreement that the hall had been used in the past by St John Ambulance who also hired the hall out to local groups, which demonstrated that the building had functioned as a community asset. However, at the time the building had been put on the market for sale the community use had become more infrequent and informal. Currently there was no connection to water and the hall was in a poor condition. A survey had been undertaken by a film group which indicated that it would cost £400,000 to bring the hall up to the required standard. She also referred to a letter from the St John Ambulance organisation which listed all those parties who had shown an interest in purchasing the property together with any previous users of the hall of which they were aware. She referred to the Wivenhoe Town Plan of 2008 which had been prepared by the local community, and which acknowledged a high level of social activities and community groups. However, she believed it did not do justice to Wivenhoe because she had identified a significant number of clubs and musicians bands/groups, etc., together with a number of venues including the William Loveless Hall, pubs and clubs and other various venues. She also acknowledged that Wivenhoe had undergone considerable expansion in recent years including developments at Cooks Shipyard and the Cedrics site, and although there was space on Cooks Shipyard for a community use there had been no attempt to use or offer the space for such use. She confirmed that the NPPF was a material consideration, however where there was any conflict the existing policies carried full weight for twelve months. The NPPF required that consideration

be given to whether the community would be able to meet its day to day needs in the event that a change of use was proposed. She was also of the opinion that it was a difficult decision on a finely balanced proposal.

In response to a query regarding whether the committee was able to look at potential uses of the building under policy DP4, or whether it was restricted to looking at previous uses, the Spatial Policy Manager explained that the Committee could take into account a potential use but it should relate to any previous use of the building.

The planning officer responded to the five reasons given for refusal of the application as stated by Councillor Young:-

- the proposal failed the tests for overbearing but so did the existing building. However, the amended proposed new building increased the degree of overbearing impact on the neighbour's garden over and above the impact of the existing building, but it was a relatively small additional impact which was not sufficient to warrant a refusal
- the amenity space provided for the new proposal was deficient when compared with the standard. However, there were a number of properties in the vicinity with similarly deficient areas of amenity and there was a public park nearby
- the Tree Officer had stated that the tree was not worthy of a Tree Preservation Order and the impact on the tree cannot therefore be used as a reason for refusal
- the proposal was deficient in parking spaces but the parking standard for a community building would be much higher, and so that was not a good reason for refusal
- DP14 provided for the protection of heritage assets which were in a Conservation Area, but that did not preclude any building in the Conservation Area from being demolished, even if that building was on the local list. Consideration should be given to the particular building and its proposed replacement. In this case, the historic connection with the building was not in dispute, but it had a utilitarian and ordinary appearance. The proposal was a modest two storey building and was considered to be an improvement on what currently existed.

The Planning Manager confirmed that parking provision was a material consideration for the proposed building. The parking standard for residential properties was a minimum whereas the parking standard for a community facility was a maximum. Therefore under the current criteria as a community hall the building did not exceed the criteria.

It appeared to members of the Committee that most of the issues that had been identified did not amount to matters which could be used as reasons for a refusal. However, the community had come together and made it difficult not to refuse this application. The Wivenhoe Community Trust and the Town Council stated that the building was needed as a community facility. There were various sources of funding and the Wivenhoe Community Trust had a plan and had demonstrated it was financially viable. On the other hand the proposal was a private facility which relied on the business of the applicant and how much access she wanted to give to the public.

Taking into account the historical context of the hall and it being within a Conservation Area, the retention of the hall appeared to be a better solution than the proposal.

The Spatial Policy Manager advised that policy DP4, required an alternative facility to be provided to meet local needs, which in this case was the ability to store scenery and meet on a regular basis. The Town Council believed the William Loveless Hall was almost at capacity. The Development Services Manager advised that the Committee should not put too much emphasis on the NPPF, but the proposal should be judged against existing policies. The NPPF did enable communities to build but they would need a neighbourhood plan which they did not have at present. He had seen the hall from the inside and although he was in no doubt that it had been used informally since 2006, he considered that it was currently under used.

Some members of the Committee were of the opinion that although the building had been put to a wide variety of uses throughout its life, it was now untenable. It had been used widely simply because of the altruistic nature of St John Ambulance in allowing the community to use the property, but that was regarded as a legitimate use and needed to be considered. The community had used the hall for painting scenery and rehearsals, but they considered whether the community use was at such a level that the application should be refused. They considered that it did not change the status of the hall and the loss of right for the property developer. The hall was extremely run down with no facilities and only one parking space; anything done to the hall would enhance the area. There was some sympathy with the Wivenhoe Community Trust but St John Ambulance would allow this offer to proceed to its conclusion before looking at other offers. Some members were not convinced that DP4 was applicable.

The Planning Manager advised members of the committee not to introduce reasons for refusal which were not cited for the refusal of the earlier application and that if the committee were minded to refuse the application then it was appropriate and right to cite policy DP4, on the grounds of the loss of community facilities.

RESOLVED (MAJORITY voted FOR) that planning application 120012 and conservation area application 120013 be refused on the grounds that they were contrary to DP4, by virtue of the loss of a community facility.

Councillor Peter Higgins (in respect of being employed by the University of Essex) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Theresa Higgins (in respect of her spouse being employed by the University of Essex) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

141. 120109 Land east of Boundary Road, Colchester, CO4 3SQ

The Committee considered an application for the erection of a new higher education research and training facility comprising 5,550 square metres of D1 floorspace including ancillary facilities with associated car parking and landscaping. The Committee had before it a report in which all information was set out.

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

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

142. 120151 University of Essex, Wivenhoe Park, Colchester, CO4 3SQ

This application was withdrawn from consideration at this meeting of the Planning Committee by the Head of Environmental and Protective Services in order that the design and Section 106 Agreement issues could be explored further. The application would be reported to the Committee at a subsequent meeting.

143. 100927 Land to rear of 19 and 21 Empress Avenue, West Mersea, CO5 8EX

The Committee considered an application for an extension of time for the implementation of outline planning permission O/COL/05/1024, 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.

Nick McKeever, Planning Officer, and Vincent Pearce, Development Services Manager, attended to assist the Committee in its deliberations.

Jennifer Taylor addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She was concerned that the site plan shown in the agenda had been interpreted as land owned solely by the applicant, but she believed it was only acceptable as an indication of the site. The planting of the drive was her ultimate responsibility as confirmed in the case officer's report. The applicant had claimed ownership of the entrance drive, so she had registered her interest with the land registry and requested that the Committee include a copy of her land registry title to avoid any further misinterpretations. She had brought with her a number of documents which proved the extent of her ownership.

The planning officer explained that the Unilateral Undertaking had been agreed on the basis of the plan shown on the screen. The applicant had correctly submitted the appropriate Certificate of Ownership Certificate B which confirmed that other parties owned land on which the application was made. It was not possible to revisit the condition relating to planting either side of the access drive which was attached to the 2007 permission. However, when the applicants came to implement and discharge the condition there was nothing to preclude them from negotiating with Mrs Taylor and

all parties concerned coming to a mutual agreement. However the Development Services Manager requested that the Committee defer consideration of the application to allow officers to check the situation regarding conditions and landscaping issues.

RESOLVED (UNANIMOUSLY) that consideration of the application be deferred to allow officers to check the validity of previous conditions and landscaping issues, particularly retention of established flora.

144. 120158 Fieldings, School Road, Little Horkesley, CO6 4DT

The Committee considered an application for the demolition of a double garage and the erection of a new double garage of a larger plan size, but with the same depth and height. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

145. Air Quality Management Areas // Briefing Note

The Head of Environmental and Protective Services submitted a report on Air Quality Management Areas (AQMA) which included a map and description of the four locations now the subject of an AQMA and the implications for future reporting of planning applications to the Committee.

Vincent Pearce, Development Services Manager, attended to assist the Committee in its deliberations.

RESOLVED (UNANIMOUSLY) that –

(a) The designation of four new Air Quality Management Areas within Colchester Borough brought into effect on 5 January 2012 be noted.

(b) The requirement for Air Quality Impact Assessments to be submitted with planning applications where it was considered appropriate and reasonable by the Planning Service in association with the Air Quality Officer, be agreed and endorsed.

(c) Air Quality Management Areas awareness be included in the 2012 planning workshops for members.

146. Performance Monitoring for the period 1 April 2011 to 31 March 2012 // Planning application determination and Appeals performance

The Head of Environmental and Protective Services submitted a report on

determination of planning application performance and appeals performance for the period from 1 April 2011 to 31 March 2012 judged against former key National Indicators (NI's) and important current local indicators.

In respect of Major, Minor and Other applications the actual percentage of applications determined within the relevant target time were higher than both the national target and the local target. These figures represented outstanding performance throughout the year and demonstrated that improved performance was now being sustained. It was also noted that this level of performance was achieved in the climate of an increase of 1.3% in the number of applications received compared with the year to March 2011. In respect of Household applications, whilst there were no national or local targets, the percentage determined exceeded the former national indicator NI 188.

In respect of appeals performance, the council lost only 18.8% of appeals and none of the appeals lost had resulted in an award of costs against the council. In addition no Ombudsman complaints of maladministration were upheld against the Planning Service.

Vincent Pearce, Development Services Manager, attended to assist the Committee in its deliberations. He added that Colchester still had economic viability and buoyancy and was attracting internationally recognised architects.

The Chairman noted that the performance results were outstanding and credit was due to all officers within the planning team together with members of the Planning Committee. On behalf of the Committee he asked the Development Services Manager to pass on their congratulations to all staff in the planning team.

RESOLVED (UNANIMOUSLY) that –

- (a) The planning application determination performance and appeals performance be noted.
- (b) The Planning Committee members' congratulations be conveyed to all staff in the planning team on their performance statistics for the year 1 April 2011 to 31 March 2012.

147. Members Call-in Procedure // Changes to the process

The Head of Environmental and Protective Services submitted a report on a proposed change to the members "call-in" procedure whereby members can ask for an application to be determined by the Committee rather than being determined by officers under the scheme of delegation.

Vincent Pearce, Development Services Manager, attended to assist the Committee in its deliberations.

The proposed change would extend the period within which members would be

permitted to "call-in" an application for determination by the Committee. The purpose of this change was to permit members to review all representations made, in order to make an informed decision on whether or not to "call-in" the application. It was proposed to extend the period from 21 days to 25 days from the date of being formally notified.

It was also intended to extend the member "call-in" facility to include those cases where the Planning Service had formally re-notified owner/occupiers/parish councils following receipt of accepted revisions prior to determination of an application. In such cases it was proposed that the member "call-in" period be extended to two calendar days beyond the time given to owner/occupiers/parish councils.

Members of the Committee welcomed this proposal as an improvement to the Scheme of Delegation to Officers. However some members had found it difficult to access the council's intranet system (The Hub) in order to register a request for a call-in. It was also suggested that the wording be amended to reflect that the application was being called-in on behalf of residents. Officers advised that when members were calling-in an application they should record that they were doing so on behalf of their residents.

It was explained that the process by which all members can access The Hub had not yet been resolved corporately. However, planning officers were working with ICT colleagues to give councillors a webpage. Members wanted the technical issues around the call-in process resolved.

RESOLVED (UNANIMOUSLY) that –

- (a) The initial notification period for the member "call-in" facility be extended to 25 calendar days from the date of initial formal notification be agreed.
- (b) The member "call-in" process be extended to include those applications where the Planning Service had decided to formally re-notify owner/occupiers/parish councils following the receipt of accepted revisions prior to determination of an application. In such cases the member "call-in" period will be the time given to owner/occupiers/parish councils plus two calendar days.
- (c) The revised "call-in" process be introduced on or prior to 1 June 2012 and on-going technical difficulties regarding the process be noted and efforts be made to find a resolution.
- (d) The Legal Services Manager and Monitoring Officer be instructed to make such changes to the Constitution/Committee Procedures as appropriate to formally facilitate these changes into the Adopted Council Governance.

148. Scheme of Delegation to Officers // Section 106 Agreements

The Head of Environmental and Protective Services submitted a report on a proposed change to the Scheme of Delegation to Officers in respect of minor

material applications which required linking to Section 106 Agreements.

Vincent Pearce, Development Services Manager, attended to assist the Committee in its deliberations.

The proposed extension to the Scheme of Delegation to Officers would enable minor material amendment applications that effectively required linking to an existing Section 106 Agreement, to be determined by officers instead of having to be determined by the Planning Committee. The applications affected were those which were by their nature minor and unlikely to generate any new demands on the original Section 106 Agreement. However, excluded from these provisions would be those situations where an applicant submitted a minor material amendment application to amend an existing extant planning permission that was already the subject of a Section 106 Agreement.

The Development Services Manager referred to the Amendment Sheet which set out a further extension to the current Scheme of Delegation to Officers to include applications for renewal of an extant planning permission which was the subject of a valid Section 106 Agreement where there had been no material change of circumstance since the original planning application was considered or when the original agreement was signed. Material factors include changes to relevant adopted planning policies or guidance, relevant impacts arising from the adoption of a Community Infrastructure Levy regime in the future and relevant physical contextual changes on or around the site.

RESOLVED (UNANIMOUSLY) that –

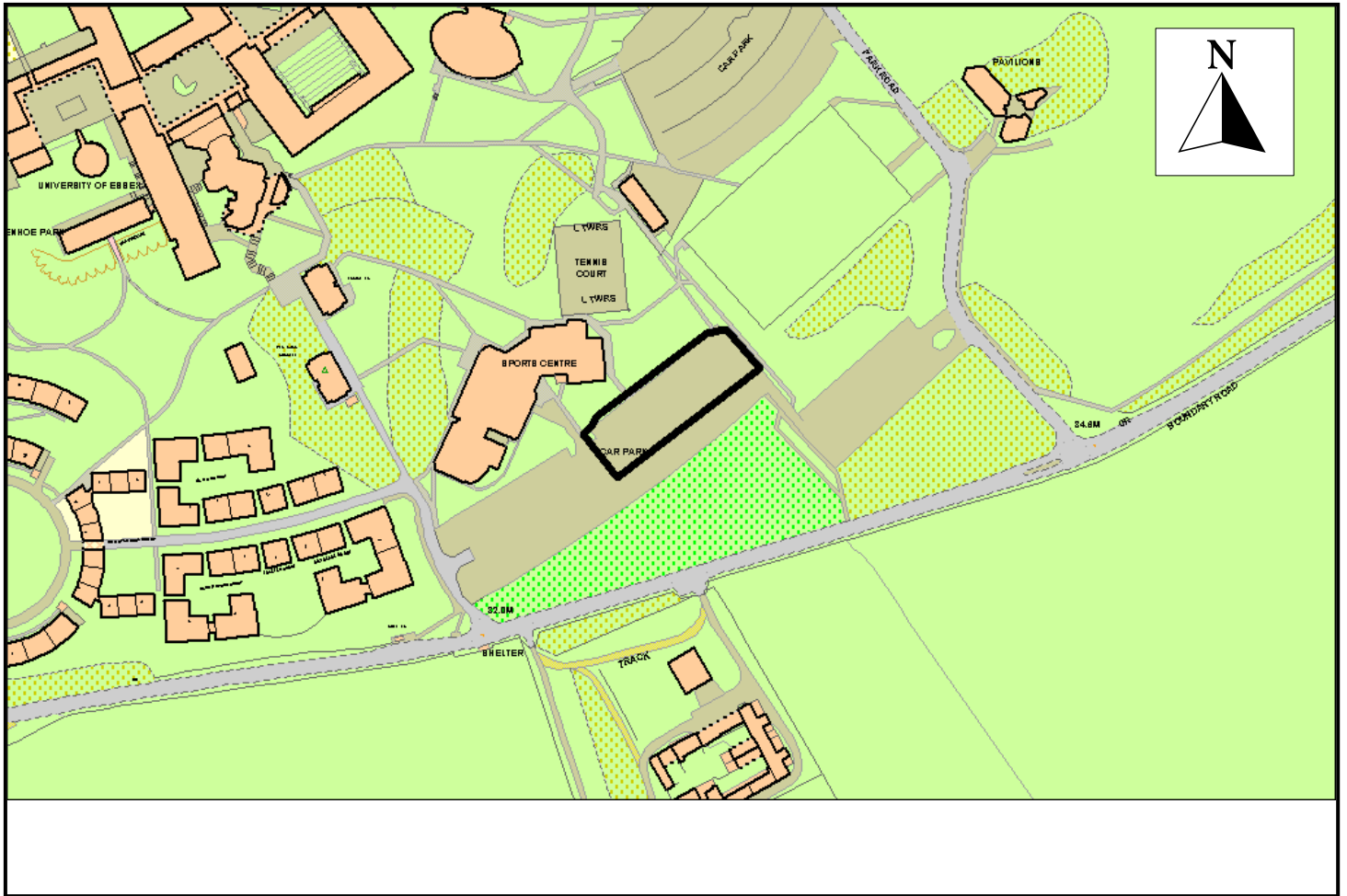
(a) The following amendments to the Scheme of Delegation to Officers (the Head of Environmental and Protective Services) be agreed as two additional categories:-

- “Where a minor material amendment application that requires a new Section 106 Agreement that is to all intent and purpose a mirror of an extant Section 106 Agreement (or a variation of an existing Agreement) without a material change to Obligations being entered into by the parties who are signatories (or where such changes are already allowed without referral to the Planning Committee by virtue of paragraph 23 of the delegated powers) then delegated authority is given to the Head of Environmental and Protective Services to determine that application provided that to do so does not conflict with other restrictions within the Scheme of Delegation.”
- "Where a renewal of planning consent/permission application that requires a new Section 106 Agreement that is to all intent and purpose a mirror of an extant Section 106 Agreement (or a variation of an existing Agreement) without a material change to Obligations being entered into by the parties who are signatories and where in judging the merits of the proposal there has been no material change in circumstances since the original planning application was considered or when the original agreement was agreed (or where such changes are already allowed without referral to the Planning Committee virtue of paragraph 23 of the delegated powers) then delegated authority is given to the Head of Environmental and Protective Services to determine that application

provided that to do so does not conflict with other restrictions within the Scheme of Delegation.

Material factors that may constitute a change of circumstance include changes to relevant adopted planning policies or guidance, relevant impacts arising from the adoption of a Community Infrastructure Levy regime in the future, and relevant physical contextual changes on or around the site.”

(b) The Legal Services Manager / Monitoring Officer be instructed to take the appropriate steps to secure the formal amendment of the Constitution to reflect the change desired by the Planning Committee as described in (a) above.



Application No: 120151

Location: Multi-Storey Car Park (Proposed), University Of Essex, Wivenhoe Park, Colchester, CO4 3SQ

Scale (approx): 1:2500

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **24 May 2012**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

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

7.1 Case Officer: **Bradly Heffer**

MAJOR

Site: University Of Essex, Wivenhoe Park, Colchester, CO4 3SQ

Application No: 120151

Date Received: 24 January 2012

Agent: Mr Nick Davey

Applicant: University Of Essex

Development: Construction of multi-deck car park above existing surface level car park; creation of new access to car park from Boundary Road to include taxi drop-off/pick-up area and relocation of existing compactor.

Ward: Wivenhoe Cross

Summary of Recommendation: Conditional Approval subject to signing of Section 106 Agreement

1.0 Introduction

1.1 This application was due to be determined at the Planning Committee meeting scheduled for 26th April 2012. The recommendation to Members was one of refusal – reasons being based on the design and layout of the proposal, and also the fact that a legal agreement to fund a financial contribution for the provision of local highway improvements had not been secured.

1.2 The application was withdrawn from the agenda prior to the meeting in order to ascertain whether the reasons for refusal could be satisfactorily addressed. The report previously submitted for Members' consideration was as follows:

2.0 Reason for Referral to the Planning Committee

2.1 This application is referred to the Planning Committee following a call-in request submitted by Ward Councillor Manning. The reasons for the request are as follows:

- This application should be considered in relation to the other University application for the relocation of the Essex Business School
- Location of the car park is vital
- It is important that the Multi-storey car park is provided before other development takes place.

3.0 Synopsis

3.1 The report will explain the terms of the submitted application, together with a resume of consultation responses and representations received. The report to Members concludes that although the principle of this car park proposal is considered acceptable by officers, the design of the proposed building fails to achieve a satisfactory standard. Additionally, the identified mitigation (sought by s106 agreement) cannot be secured as the applicant has declined to enter into such an agreement. On this basis the recommendation to Members is one of refusal.

4.0 Site Description and Context

4.1 The proposed site for the multi-storey car park building currently forms part of a surface car park, located on the periphery of the Essex University campus. This car park is immediately adjacent to the campus sports complex. A wide landscaped area of land defines the southern boundary of the car park and runs adjacent to Boundary Road, which runs along the southern and western boundaries of the campus, linking Elmstead Road and Colchester Road.

4.2 The site is mainly level and given over to hard surfacing. A smaller portion of the site is a grassed, bunded area of land immediately adjacent to the sports centre building. To the east of the application site are other car-parking areas punctuated by greensward and established tree planting. There are also enclosed sports pitches and playing fields. To the north and west of the site are established campus buildings such as the sports centre and halls of residence. To the south, on the opposite side of Boundary Road, is an extensive area of open agricultural land that is outside of the defined University campus.

5.0 Description of the Proposal

5.1 The development proposed under this application submission is the erection of a multi-storey car park building. Members should note that it is intended that the building would incorporate a roof and therefore cars would not park at this level. The building would be erected on part of the existing car park identified as car park B on the campus. The building itself would contain 382 spaces on three levels each of 5m x 2.5m dimension and would be 90 metres length and 32 metres width. The overall height of the structure would be approximately 12 metres above site ground level.

Car park B would also be reconfigured as a result of the proposed development, with a revised point of access directly from Boundary Road, as opposed to the current situation where access is provided to the east, through car park A. The plan also shows the provision of a taxi drop-off area.

5.2 In terms of external appearance the building design would incorporate a combination of red cedar louvres and 'living walls' – planted green elements within the facades of the building. The 'living wall' elements of the building project beyond the plane of the timber elements. This treatment would not continue to ground floor level and the structure at this point would be expressed by columns. The north-west elevation of the building would be the 'service' side of the building, where access and ramps to each floor of the car park would be provided. The roof area of the building would be enclosed by a guard rail and this space would contain a series of solar panels. The following extract is taken from the Design and Access Statement accompanying the application, by way of explaining the proposed design in more detail:

'The approach to the design has been to create an iconic design through simplicity rather than complexity and the Colchester BC officers' desire to see a building which exhibits a high degree of architectural integrity and logic has been taken on board. The vehicle ramps are expressed as a sculptural three-dimensional feature on the north western side of the building. The other elevations use a combination of timber louvres (to provide subtle screening and mitigate light spillage) and areas of living wall (to reflect the soft landscape in this part of the campus and to create an additional ecological habitat). The proposed character and appearance of the MSCP is therefore intended to sit comfortably within its surroundings and comprises a range of materials including:

- areas of 'Living Wall' to the most visible elevations.
- natural western red cedar louvres to other areas to achieve subtle screening whilst maintaining ventilation and good levels of daylight.
- expression of the vehicle ramps as a three dimensional feature.
- flat roof and metal fascia (robust and low maintenance).
- photovoltaic panels to roof, as well as the safety balustrade, are set back from the roof edge so as not to be so visible from ground level

5.3 The design development has involved considering a variety of combinations of 'Living Wall' and timber louvres, ranging from a highly formalised arrangement to a more random distribution. The submitted proposal seeks to balance the local planning authority's desire for architectural logic and integrity with breaking up the formality of the elevations in an 'organic' way which reflects the tree belt to the south. The opportunity has been taken to 'strengthen' the corners on the tree belt side by having a greater density of 'Living Wall' at these points, and then reducing the density along the south eastern elevation (which will never be viewed as a full elevation due to the presence of the trees). The net effect is that the informal pattern of 'Living Wall' areas help to break up the lines of the structure, both vertically and horizontally.'

The full text of the design and access statement, submitted as part of the overall application submission, may be viewed on the Council's website.

6.0 Land Use Allocation

6.1 Within the Council's adopted Local Development Framework adopted Proposals Map document (October 2010) the site for this proposal is within land allocated for University purposes.

7.0 Relevant Planning History

7.1 The overall University campus has been the subject of an extensive number of development proposals. However, there are no previous applications that are of specific relevance to this proposal.

8.0 Principal Policies

8.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

8.2 The following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

SD1 - Sustainable Development Locations

UR2 - Built Design and Character

TA1 - Accessibility and Changing Travel Behaviour

TA2 - Walking and Cycling

TA3 - Public Transport

TA4 - Roads and Traffic

TA5 - Parking

ENV1 - Environment

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

DP1 Design and Amenity

DP17 Accessibility and Access

DP19 Parking Standards

8.4 Further to the above, the adopted Site Allocations (2010) policies set out below should also be taken into account in the decision making process:

SA EC7 University of Essex Expansion

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

Vehicle Parking Standards

Sustainable Construction

External Materials in New Developments

9.0 Consultations

9.1 The Highway Authority originally advised that it had no objection to the proposal, subject to various requirements – one of which was a £250 000 contribution to be secured that would be used to help fund highway & transport improvements in the vicinity of the proposal site; improvements to include but shall not be limited to the proposed University of Essex to Wivenhoe cycling and walking route. This request was raised with the University's agent and as a result the following comment was received:

'...The University is not prepared to make any contribution towards sustainable transport measures as part of the car park proposal. There is, however, a mechanism, by which the sum requested, could be secured (under the existing Section 106 Agreement relating to the Knowledge Gateway Development)...

The further views of the Highway Authority were sought and it has confirmed that in the light of this mitigation element not being achievable, it recommends a refusal of the scheme.

9.2 The Council's Development Team advises:

Application noted and approved, subject to the provision of a S106 contribution towards the construction of a cycle link between Wivenhoe and the University (amount to be confirmed).

9.3 Environmental Control requires the imposition of the demolition and construction informative on a grant of planning permission.

9.4 The Landscape Officer requires some variations to the proposal including additional planting in the landscape belt adjacent to the road, alteration to the arrangement of the green walling, and use of green walling in lieu of the proposed safety rail. Conditions are also suggested.

9.5 Natural England identifies that this proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development.

9.6 The Design and Heritage Officer comments as follows:

'Having considered the latest elevations for this proposal I do not consider that the quality of the design outweighs the negative impacts that the scale, mass and positioning of the building has upon the existing campus. Its relationship to the sports hall is visually overbearing with inadequate space between the two buildings. The loss of green areas is detrimental to the setting of the campus and the enclosure created by the cramming does not reflect the predominately well considered composition of spaces and buildings on the campus.

The design of the green walls fails to mitigate the mass of the building. This is largely because the green areas float above the ground and appear as decorative wall elements rather than structural landscape features that such a large structure requires to be broken down in an appropriate visual manner. The monotonous method of cladding emphasises the disproportionate scale and mass of the building.'

9.7 The Council's Transportation Policy officer requested additional information following the initial submission of this application. Following receipt of this, the following comments have been made:

'The University case is rather "predict and provide" – we have this number of students staff and visitors parking, therefore we must provide for them.

The University of Essex has a transport strategy dated 2006 which has the following aims :

Aims and Benefits of the Strategy

2.1 Aims

The University of Essex Transport Strategy aims to :

(a) Significantly decrease car parking demand on campus and reduce the impact of University generated traffic on the local environment, particularly in terms of congestion and carbon emission levels. This will be achieved by increasing the opportunities for staff, students and other campus users to travel by alternative means of transport and a long term commitment to changing travel patterns related to work, thereby reducing the need for single occupancy car journeys.

(b) Promote a sustainable, integrated approach to transport both on and off campus.

2.2 These aims are supported by a number of short, medium and long term objectives focusing on particular areas, details of which can be found in Section 4 of this document.

The Transport strategy suggests that there are some 1,600 permanent car parking spaces on site. Survey work undertaken in the Universities Application Statement January 2012 suggest that there are 1,500 permanent spaces, plus some 250 to 300 vehicles which could be accommodated in overspill areas.

The University has a car parking review group. Information here http://www.essex.ac.uk/staff/car_parking_review/ suggests 1,400 spaces plus additional overflow car parking. In 2008/9 the University issued some 2,800 car parking permits, which is double the number of spaces and issued 3,500 permits in 20011/12 (Application Statement Jan 2012).

If we were to apply the 2009 adopted car park standard D1 (1 space for every 15 students for students + 1 space for every 15 students for staff) then the total number of spaces would be :

- 10,000 students = 667 spaces for staff
- 10,000 students = 667 spaces for students

Total spaces = 1,334 spaces (note the University has miscalculated the standard).

This would seem to suggest that the University already has sufficient permanent spaces on site compared with the standard. There seems to be little evidence in the University's case for increased level of car parking, except to meet the existing demand :

- The case is built around the 1969 Traffic Study – transport policy has moved on significantly since then.
- They discuss growth over the next two decades but do not substantiate this growth
- Car park supply has crept up over a number of years
- The University has issued too many permits and now cannot effectively control the demand
- The benefits and need of the travel plan to the University and the staff and students needs to be promoted

It is accepted that in building the Business School that they will lose the overspill parking next to North Towers car park but it is not clear what the capacity of this space is. Recent surveys (February 2012) only suggest 58 vehicles were using this area. Even allowing for this the supply is still greater than the adopted standards.

I have looked at other campus Universities which are located away from the nearest main town e.g. UEA at Norwich, Lancaster, and Sussex at Brighton. The latter two are similar to Essex in size and campus.

All of them have a travel plan and their car parking charges which are similar to those at Essex:

- UEA charge between 72p to £2.30 per day dependant on the student/staff and salary
- Lancaster - £115 per annum for students, £150 per annum for staff
- Sussex - £165 for students, £300 per annum for staff
- Essex – 40p per day for those eligible for a permit with a £20 or % of salary registration fee. There are certain car parks which are barrier controlled and the charge is £324 per annum

All have travel plans and offer incentives for other modes, use restrictions and enforcement, allow exceptions car parking. Essex is not unique in its Travel Plan and parking issues and could learn from other Universities on incentives.'

Officer note: The parking standard referred to in the above consultation response is not correct as that standard refers to a new building to be used for D1 purposes i.e. a new academic building. This proposal is for a new car and the adopted standards advise that such proposals are to be considered on their own merits.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

10.0 Town Council Response

10.1 The following comments have been made by Wivenhoe Town Council:-

'Proposal fails to comply with the requirements as set out in the CBC LDF. It does not comply with the transport statement. It will affect an overload on traffic routes, produce congestion on roads and have the effect of a reduction in the University's support of the use of buses, which in term may cause a very good public transport system to be reduced, or even lost.

The proposal is placed in an ancient park, damaging the amenity value of historic parkland depicted in John Constable's painting, contrary to policy DP1 which states that *'developments should respect or enhance the landscape and other assets that contribute positively to the site and surrounding area'* The visual impact of this proposal will be overbearing and present a monstrosity in a once beautiful place.

Policy DP2 states that *'all development should be designed to help promote healthy lifestyles and avoid causing adverse impacts on public health'*

The proposal encourages car use. The University should instead be promoting cycling, as per their 1995 strategy in which their future plans were to reduce dependency on car usage by promoting cycling and installing a railway halt.

Policy DE17's key requirements is that *'all developments should seek to enhance accessibility for sustainable modes of transport by giving priority to pedestrian, cycling and public transport access'*

The proposal does not explain how the building of the car park will enhance sustainable transport.

The transport statement does not provide substantial evidence and is inadequate.

There is nothing to demonstrate what pressure would be put on the roads in and out of Wivenhoe. Nothing has been done to encourage cyclists – such as a dedicated cycle lane.

The economic statement fails to address how it would benefit the surrounding area, i.e. Wivenhoe. There is no evidence that the new car park will provide an extra benefit to the local economy over and above what is already provided. Wivenhoe has reached saturation point with car usage. Its roads are gridlocked and car parking spaces are extremely limited. This car park will encourage yet more car use. The CBC LDF requires sustainability to be enhanced. This has not been demonstrated as there are no new measures proposed for neither cyclists, public transport nor pedestrians.'

11.0 Representations

11.1 As a result of local notification, the Council has received 18 letters of objection (including a petition containing 67 signatures). Objections have also been received from Colchester Cycling Campaign, C-Bus and the Wivenhoe Society. The Council has also received 15 expressions of support for the proposed scheme. The main points raised in objection to the scheme are summarised as follows:

1. The proposed development would be damaging to historic parkland in the vicinity.
2. The proposal would increase traffic on the local road network, promotes car travel and does not improve access for alternative transportation modes. The proposal will lead to an increase in pollution and is a waste of money.

3. The development undermines sustainable transport principles that are promoted by Council policies and central government. The University should manage its existing parking facilities more effectively.
4. The supporting documentation fails to give sufficient information to consider the proposal.
5. Car sharing would negate the need for more parking at the University.
6. The University should be leading the way with sustainable transportation proposals as opposed to simply providing more car parking spaces.

11.2 Comments made in support of the scheme are summarised as follows:

1. The design of the car park is sympathetic.
2. There is an urgent need for more parking spaces at the University.
3. Areas currently used for 'overflow' parking are being damaged.
4. There has been significant growth in the number of students and more students now drive to the campus.
5. People drive to the University campus already and need somewhere to park; demand outstrips supply.

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

12.0 Parking Provision

12.1 The Council's adopted parking standards identify that planning applications for new car parks should be treated on their individual merit (Page 69).

13.0 Open Space Provisions

13.1 The proposal, being for a new car park facility, does not generate a need for open space per se.

14.0 Air Quality

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

15.0 Report

15.1 The proposal for a new car park at the University campus has resulted from the University's perceived need for additional car parking spaces to meet demand. The information that accompanies the proposal recognises that the University has expanded substantially with circa 10 000 students studying at the main Colchester campus. Of these, approximately 6000 students living off campus and travel to the site. Additionally, 2 250 staff members as well as visitors to the campus generate more trips. Obviously, not all these journeys are undertaken by car but it is a fact that there is significant car parking demand at the campus. The University currently has four main surface level car parks which contain approximately 1 500 spaces in total. Other areas of land are used as 'official' overspill car parks that can accommodate another 250-300 cars. Nevertheless, car parking also takes place on unallocated verge/green areas within the campus to meet demand.

15.2 In 1996 the Council refused permission for a 300 space car park on grazing marsh land at the end of Valley Road, primarily on environmental grounds. Following on from this refusal the University created a sustainable transportation strategy that, in combination with creation of official 'overspill' and unofficial verge car parking areas, has enabled travel and parking demand to be managed. Sustainable transport measures include:

- The closure of Boundary Road to through traffic – being bus only
- Pay and display parking across the campus
- Students living on campus being actively discouraged from bringing cars to campus
- Disabled parking being provided in the most accessible locations
- Student car parking registration scheme
- Wheel-clamping and parking ticket enforcement
- Introduction and active promotion of a car sharing scheme (open to both staff and students)
- Provision of taxi drop-off and pick up points
- Provision of new and upgrading of existing cycle and footpaths through the campus
- Promotion of the National Walk to Work week each May
- The provision of shower and locker facilities, subsidised cycle purchase scheme, free cycle checks and a cycle tagging scheme
- Business mileage scheme for staff who use cycles on University business
- Upgrading of cycle parking stands (estimated to number some 1 800) and provision of a number of cycle lockers
- Improve bus shelters and facilities across the campus
- Introduction of two new bus routes linking the Colchester campus to Greenstead and Maldon.
- Introduction of discounted annual season tickets for bus travel (the Unicard) available to students and staff. Discounted tickets on TGM Network Colchester buses for those living within 3 km of the University.
- Public transport salary advance scheme available to all permanent staff members.
- Promotion of sustainable travel information through the University's website and publications

15.3 Notwithstanding the range of elements identified above the University considers that the existing parking arrangements on campus are insufficient to meet demand. Not least as the campus facilities have expanded substantially in the last 20 years and the amount of car parking on site has not increased significantly to reflect this expansion. It is estimated by the University that there is a need to provide an additional 300 – 400 spaces on the campus.

15.4 Members will be aware that the issue of parking at the University has been an ongoing concern with complaints of University-generated car parking taking place on roads within Wards adjacent to the campus and also in Wivenhoe, and bearing the above in mind, it is acknowledged that the existing demand for car parking spaces may not met adequately on campus. Furthermore, in terms of location, it would appropriate, in principle, to locate additional car parking facilities within an established car park area. That said, the visual impact of the development is obviously an important consideration.

- 15.5 To this end it is noted that the design of the proposed building has given rise to concerns from the Design and Heritage Officer (DHU). These concerns relate to the overall impact that proposed building would have in this setting. The proposed location of the car park is on the periphery of the University campus. While the existing established planting to the south of the proposed site would assist in filtering views of the building, it would not be 'lost' in the landscape completely. Additionally, clear views would be available from the west, adjacent to the nearest accommodation blocks, and also to the east across open parkland and playing fields. The DHU comment identifies that the proposed building is in uncomfortable proximity to the adjacent sports centre building and this proximity contradicts the general character and arrangement of the development on the periphery of the campus, which is characterised by buildings set within extensive landscaped areas. On this basis, it is considered that the building would appear cramped within this setting.
- 15.6 Following on from this it is noted that the design of the building does not achieve an appropriate standard. The functional nature of the development is fully appreciated, and it is acknowledged by officers that attempts have been made to address the impact of the structure and minimise its impact in the landscape by use of elements such as green walling. Additionally, efforts have been made to overcome officers' initial concerns regarding the appearance of the building – primarily by the rearrangement of the green wall elements of the structure. Nevertheless, officers remain concerned that the scheme fails to achieve a sufficiently-high standard of design commensurate with this peripheral location. It is your officers' view that a new building in this location, albeit a primarily functional one such as a multi-level car park, should demonstrate a similar exemplary architectural approach, to other newer buildings on campus such as the proposed Essex Business School building (also on this Committee agenda for consideration).
- 15.7 Members will note that the proposed development has given rise to a substantial number of representations in objection to and support of the submitted scheme. Generally the points of objection relate to the need to provide additional parking spaces at the University campus, bearing in mind issues of sustainable travel, encouragement of alternative modes, impact on the environment etc. The representations in support advise that the existing car parking provision at the campus is inadequate to cater for demand. As is identified above the University does employ a range of measures to encourage sustainable modes of travel to the campus and to discourage students from bringing cars. However, the fact that overspill parking facilities are necessary and also that further 'unofficial' parking takes place on verges etc. suggests that inadequate official spaces exist. As a principle, therefore, it is felt that a need for additional car parking can be substantiated.
- 15.8 That said, it is considered that as part of a holistic approach to the issue of sustainable transportation the provision of this type of facility on campus should be off-set by additional elements to encourage alternative travel modes parking on the campus. The consultation recommendation received from the Highway Authority identifies that improvements to the local highway infrastructure should be secured as part of the proposed development. Members should note that this request has been endorsed by the Council's Development Team. Specifically, improvements to cycle/pedestrian links between the campus and Wivenhoe are identified as desirable as a way of encouraging walking and cycling between these nodes, and the approval of this development should include a commitment to a contribution from the University to

secure these improvements. In response, the University's representative has advised that the submitted scheme is not able to fund the identified improvements. As an alternative, it is suggested that monies secured under the s106 agreement attached to the outline planning permission for the University's Knowledge Gateway site could be used to contribute towards the improvements requested by the Highway Authority. Members will note that the Highway Authority has rejected this suggestion on the basis that the Knowledge Gateway s106 funds are already earmarked for improvements to the Greenstead Road roundabout and this current proposal generates a requirement for mitigation in its own right. A recommendation of refusal is made by the Highway Authority on this basis, and this recommendation is endorsed by officers.

16.0 Conclusion

- 16.1 In conclusion, the additional car parking provision proposed under this planning application is not objected to in principle. However, the scheme as put forward for Members determination does not achieve a standard of design that is considered necessary for this location. Furthermore, it is considered that the building would appear cramped in this setting due to its proximity to the existing sports hall building. Lastly, the financial contribution considered necessary to mitigate this particular development (as identified by the Highway Authority and endorsed by the Council's Development Team) is not secured. On the basis of the above a recommendation of refusal is made to Planning Committee.

Recommendation - Refusal

Reasons for refusal

1- Non-Standard Refusal Reason

Within the National Planning Policy Framework (published March 2012) it is a fundamental requirement of central government that good design is achieved in development proposals. Specifically, the Framework states '...The government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, indivisible from good planning, and should contribute positively to making places better for people...In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions...' Leading on from this, policies SD1 and UR2 of the Council's Local Development Framework Core Strategy (2008) state the Council's intention to promote a high standard of design that enhances the built character and public realm of the area in which they are located. Furthermore, policy DP1 of the Development Policies (2010) document requires inter alia that development proposals '...respect and enhance the character of the site, its context and surroundings...' and '...respect or enhance the landscape and other assets that contribute positively to the site and the surrounding area...' The Council considers that the proposed development fails to accord with the above central and local policies due to the negative impacts that the scale, mass and positioning of the building has upon the existing campus. Its relationship to the sports hall is visually overbearing with inadequate space between the two buildings. The loss of green areas is detrimental to the setting of the campus and the enclosure created by

the cramming does not reflect the predominately well considered composition of spaces and buildings on the campus. Additionally, the design of the green walls fails to mitigate the mass of the building. This is largely because the green areas float above the ground and appear as decorative wall elements rather than structural landscape features that such a large structure requires in order to be broken down in an appropriate visual manner. The monotonous method of cladding emphasises the disproportionate scale and mass of the building, to the further detriment of the setting in which it would be located.

2 – Non Standard Refusal Reason

Within the National Planning Policy Framework (NPPF) (published March 2012) it is stated that ‘...Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of planning obligations...’ The NPPF describes the tests that must be met when obligations are sought. At the local level, the Local Development Framework Adopted Core Strategy Policy SD1 requires inter alia that ‘...New development will be required to provide the necessary ...transport infrastructure...to meet the community needs arising from the proposal...’ Development Policy DP3 also recognises the role that S106 agreements have in the development control process.

The proposal fails to include a mechanism to secure the identified contribution to provision of highway and transport improvement in the vicinity of the appeal site that are deemed necessary to balance the provision of additional car parking spaces with measures to promote sustainable modes of transport. The proposal therefore conflicts with the aims of the above identified policies and Policies DM9 and DM10 of Essex County Council’s Highway Authority’s Development Management Policies (February 2011).

17.0 Additional Report

17.1 Members are advised that further discussions have taken place with the applicants and their representatives regarding the proposed reasons for refusal of the scheme. On the issue of position of the building – this has been amended in order to pull it away from the sports complex. The revised location also maintains the area of bunding and planting that is located between the sports complex and the existing surface car park. This reposition is considered to satisfactorily address the previous concerns regarding the building’s location and the visually-cramped appearance that this would create. Leading on from this the design of the building has been amended. Key changes include the internalisation of the access ramps to each deck (these previously were external elements). Also the structure of the building has been revised in order that it continues to the ground floor, as opposed to being on columns. This gives the building a ‘solidity’ of appearance. The external materials have been amended to alter the overall appearance of the building. The planted areas to create green walling are also taken to the ground which is considered to be appropriate visually.

17.2 Members are advised that the Council’s Urban Design Officer has been involved in the revised proposals (having recommended that the originally-submitted scheme be refused). The following comments have been received from that officer on the revised scheme:

‘The amended design has addressed the main concerns with the design. Car parks are always large objects with regard to scale and mass. The new design is far better grounded and no longer appears as floating mass. The visually stronger ground floor now has the appearance of structure that is capable of supporting the mass above. This is a welcomed improvement, giving the appearance of architectural integrity to the building. The treatment of the facades has drawn aesthetic rhythms from the original campus; this makes it much easier to relate the building to its location. Using this architectural sympathy achieves a building that has a stronger relationship to the campus. The green walls now extend appropriately down to the ground. This will give a more natural appearance to this element and should act as a stronger visual element to mitigate the mass of the car park. The internalisation of the access ramps has created a more appropriate space between the sports centre and the new building. This has, to an extent, lessened the cramped appearance of the previous scheme. This has also allowed for the treatment of the facades to extend around the whole building. On the elevation that was previously ramps the green wall will be a stronger visual mitigation for the lost view to the established sylvan boundary on the campus edge.’

17.3 The repositioning of the proposed building and the alterations to design has impacted on car parking spaces. The following table shows the revisions for Members’ information. The effect of the revisions is that 2 less spaces in total would be provided.

	Originally Submitted	Revised Scheme
Surface Level	397	401
First Floor	126	124
Second Floor	126	124
Third Floor	130	128
Total	779	777

17.4 On the issue of the required contribution, Members are advised that an approach has been agreed whereby funds already secured from the s.106 agreement attached to the approved outline planning permission for the University Knowledge Gateway development can be drawn on to meet the Highway Authority's request for a £250 000 contribution to provision of the identified footpath/cycleway link required as a consequence of this application. The funds drawn from the Knowledge Gateway s.106 agreement would be replaced at a later date. This proposal has been endorsed by the Council's Development Team and the Highway Authority has also confirmed its agreement.

17.5 On the basis of the above the recommendation to Members has been revised to one of approval – subject to the mechanism described above being formally completed.

18.0 Recommendation

APPROVE subject to the prior completion of a legally-binding mechanism to provide the following:

- A contribution of £250 000 to be secured that would be used to help fund highway & transport improvements in the vicinity of the proposal site; improvements to include but shall not be limited to the proposed University of Essex to Wivenhoe cycling and walking route.**

On completion the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

Conditions

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

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

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

2 - C11.11 – Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

3 - C11.12 Landscape Works Implementation

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

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

4 - C11.17 Landscape Management Plan

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved by the Local Planning Authority prior to any occupation of the development (or any relevant phase of the development) for its permitted use.

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

5 – Non Standard Condition

Prior to commencement of the development details of a wheel cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the local planning authority. The wheel cleaning facility shall be provided prior to commencement and during construction of the development.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

6 - Non-Standard Condition

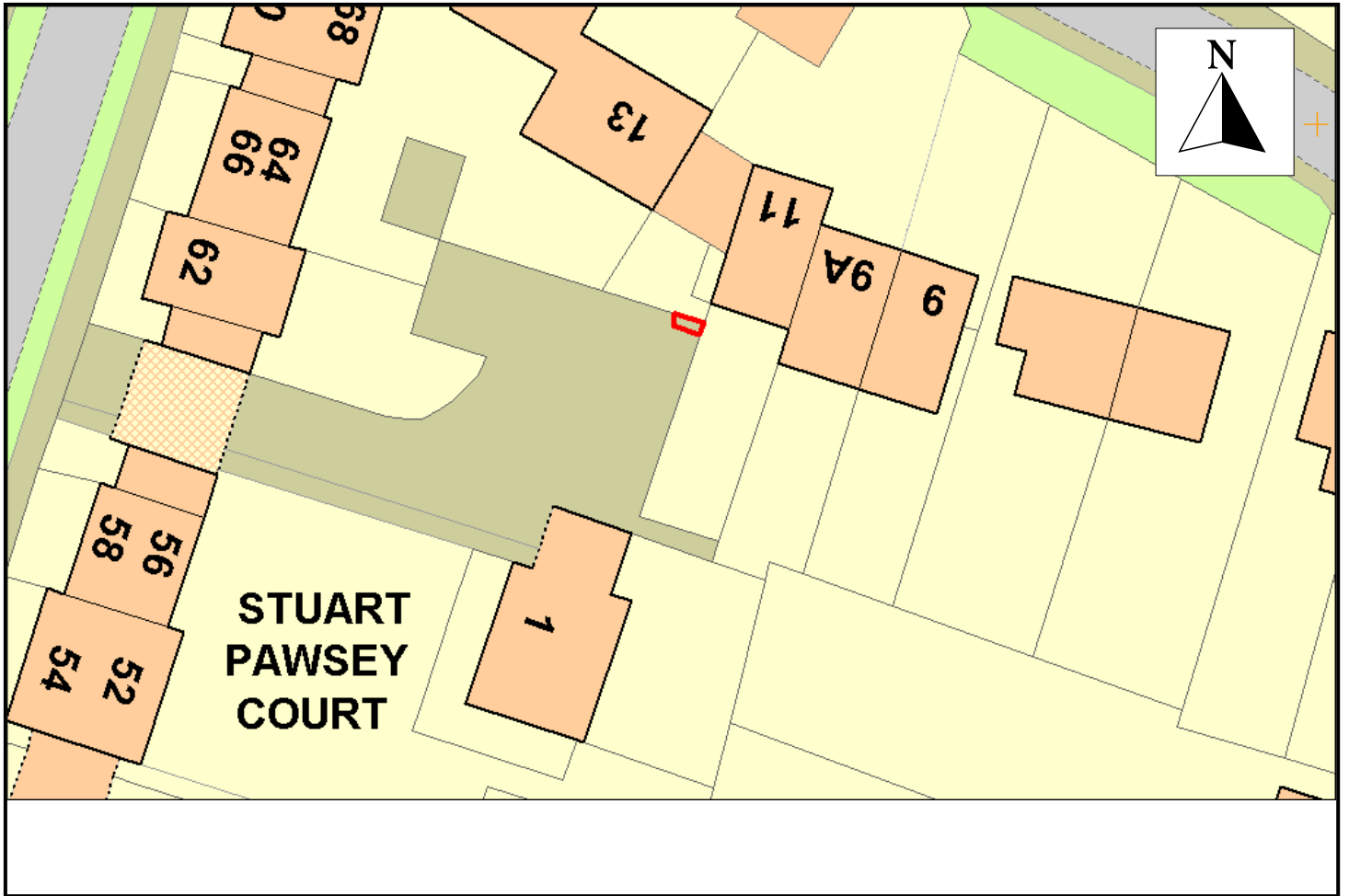
No occupation of the development shall take place until such time as the University of Essex's Travel Plan is reviewed and if necessary amended to take account of the development.

Reason: To balance the provision of additional parking spaces by ensuring the proposal site and University of Essex as a whole is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Informatives

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

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.



Application No: 120531

Location: Stuart Pawsey Court, Stanley Road, Wivenhoe, Colchester CO7 9SS

Scale (approx): Not to scale

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7.2 Case Officer: Simon Osborn

Due Date: 15/05/2012

Site: Stuart Pawsey Court, Stanley Road, Wivenhoe, Colchester, CO7 9SS

Application No: 120531

Date Received: 20 March 2012

Agent: Mr Dale Broughtwood

Applicant: Colchester Borough Council

Development: Construct a mobility scooter shed (Timber Framed) Utilising 1 no. car parking space in a private car park.

Ward: Wivenhoe Quay

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 applicant is Colchester Borough Council.

2.0 Synopsis

2.1 The proposal is for a small shed to provide secure storage space for 4 mobility scooters. This involves the loss of 1 vehicular parking space. The report considers the potential impact of the proposal on the amenity of the nearest neighbour and considers the proposal in relation to its adopted parking standards. The report concludes that the proposal is modest in nature and no material harm is caused by the proposal.

3.0 Site Description and Context

3.1 The application site is set within a residential area on the outskirts of Wivenhoe. It comprises a small sheltered housing scheme for the elderly comprising linked blocks of 2-storey flats and bungalows, which enclose a rear parking court and garden amenity areas. A wall, 1.9 metres high, divides the parking court from the neighbouring property of 11 Rectory Road.

4.0 Description of the Proposal

4.1 The application seeks to erect a small timber-framed shed to park up to 4 mobility scooters. This will utilise one of the existing parking spaces within the rear parking court. The proposed shed is to be positioned immediately besides an existing bin store building and is 4.6m long and 2.2m wide with a shallow lean-to roof. The reason for the planning application was that there is currently no official space for mobility scooters to be parked, and are currently being parked in the hallways, which is causing a health and safety risk. There are a number of residents that use mobility scooters within this scheme and, by losing one car parking space 4 mobility scooter spaces are gained.

5.0 Land Use Allocation

5.1 Predominantly residential

6.0 Relevant Planning History

6.1 None

7.0 Principal Policies

7.1 The following national policies are relevant to this application:
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:
SD1 - Sustainable Development Locations
UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP19 Parking Standards

7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
The Essex Design Guide

8.0 Consultations

8.1 None

9.0 Parish Council Response

9.1 The Parish Council stated “no observations”,

10.0 Representations

10.1 None

11.0 Parking Provision

- 11.1 The adopted standard for new retirement developments (including warden assisted independent living accommodation) is 1 vehicle space per dwelling, plus 1 cycle space per 8 units, plus 1 mobility scooter space per each 2 units. The site has a total of 21 units with 18 existing vehicle parking spaces. There is no designated mobility scooter space other than storage within hallways. The proposal will result in the loss of 1 existing vehicle parking space, but will provide an area for 4 mobility scooters.

12.0 Open Space Provisions

- 12.1 The provision of this development does not require any new open space provision.

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

- 14.1 The most significant planning issues are the design of the proposed development, as well as its impact on neighbouring amenity in terms of outlook, light and privacy. The design of the proposed development is considered satisfactory on its own merits. The development is visually acceptable and would not detract from the setting of this sheltered housing scheme. This part of the site is not visible from the street and consequently the proposal does not harm the surrounding area either.
- 14.2 Although the shed is to be positioned up to the boundary with the rear garden of 11 Rectory Road, it is to be positioned behind an existing bin store and at a maximum height of 2.2 metres will barely project above the existing boundary wall. The shed is 2.2m deep and will project approximately 3m beyond the rear of the neighbour's rear conservatory. The proposed development would not appear overbearing on the outlook of the nearest neighbour. No objection has been received to the proposal.
- 14.3 The proposal will result in the loss of one of the vehicular parking bays in this rear parking court. This leaves a total of 17 parking spaces; which is technically below the adopted parking standard requirement for new developments of this nature. However, the development does not provide any designated mobility scooter spaces, and mobility scooters therefore have to be kept in hallways at present, which is far from desirable. The development provides 21 sheltered units for elderly persons and it is understood that only 4 existing tenants own cars. The purpose of the development is to provide a secure shelter for 4 mobility scooters and, in the circumstances, the proposal does not seem unreasonable.

15.0 Conclusion

- 15.1 The proposed development is modest in terms of nature and impact and no material harm is likely to be caused arising from the proposal. The application is recommended for approval.

16.0 Recommendation – Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

The development hereby permitted shall be constructed in strict accordance with the approved site location plan and drawing no. CBH/1112/3007/02 dated Nov 2011, unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt as to the effect of this permission.

3 - C3.2 Materials as Stated in Application

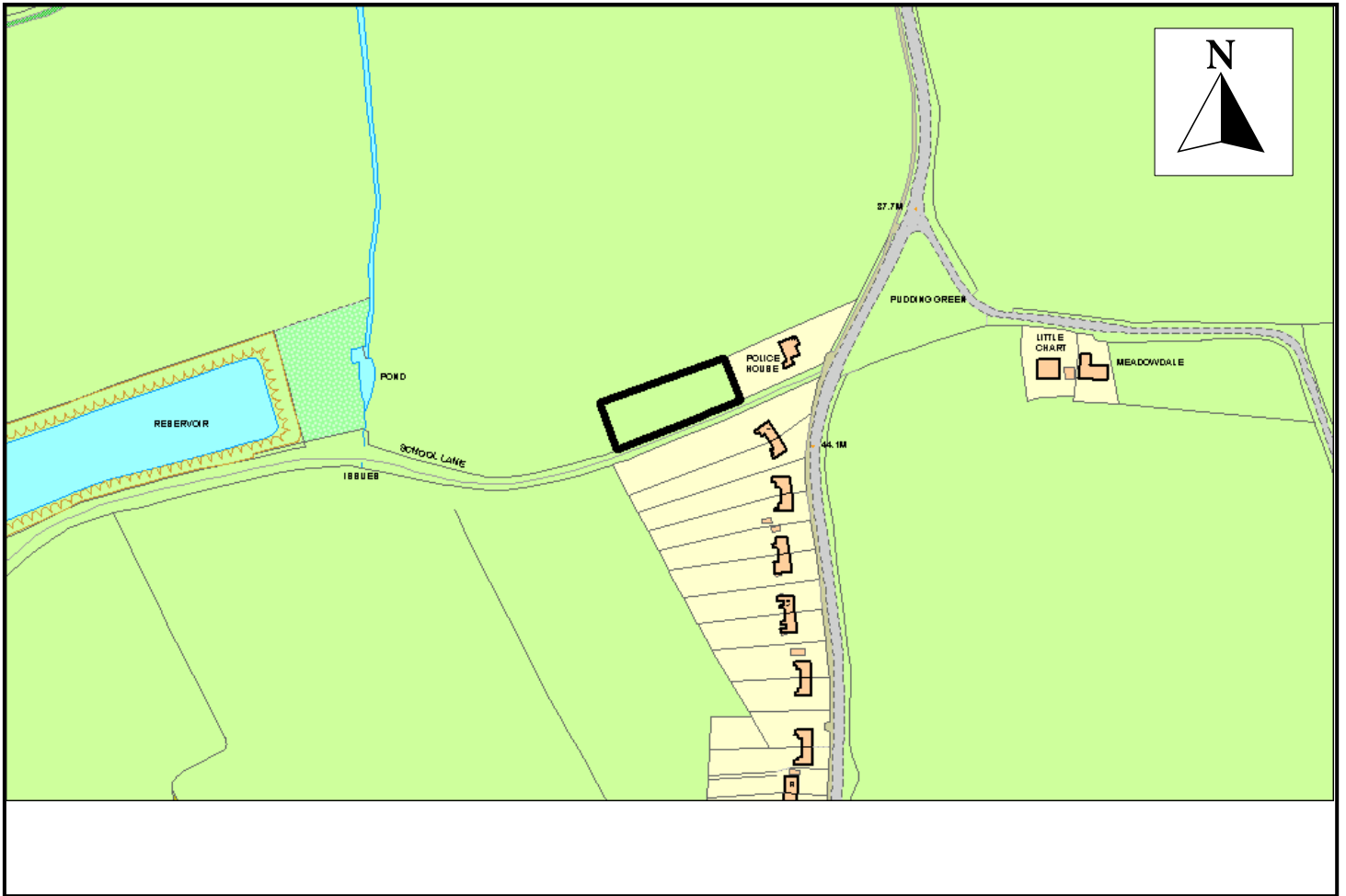
The external materials and finishes to be used shall be as stated on the application form and as indicated on the approved plans and schedule returned herewith, unless otherwise agreed in writing by the Local Planning Authority

Reason: To harmonise with the character of existing development in the area.

Informatives

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

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.



Application No: 120243

Location: Fujita, 2 Birch Street, Birch, Colchester CO2 0NF

Scale (approx): 1:2500

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7.3 Case Officer: Vincent Pearce

OTHER

Site: Fujita, 2 Birch Street, Birch, Colchester CO2 0NF

Application No: 120243

Date Received: 3 February 2012

Applicant: Mrs S Harrison

Development: Change of use of land to garden allotment for growing vegetables, keeping chickens and bee keeping.

Ward: Birch & Winstree

Summary of Recommendation: Conditional approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee on the grounds that it is a retrospective application following an enforcement investigation prompted by an enquiry from an officer within Environmental and Protective Services.
- 1.2 The application is also referred to the Planning Committee on the grounds that the proposal does not conform to the Council's basic land use policy in the countryside outside of areas designated for development.

2.0 Synopsis

- 2.1 At first sight the application appears to involve development outside of the defined village envelope for Birch where the Council's normal presumption is against permission for development. However when judged against the Council's policy for extending gardens into the countryside the proposal is acceptable because of its particular 'small holding'/'allotment' nature and consequently sympathetic appearance it will not have an adverse impact on the character of the countryside. With appropriate conditions the Council can ensure that the particular features of the application that make it acceptable can persist and if circumstances change then the position is reviewable by the Council.

3.0 Site Description and Context

- 3.1 The site lies to the rear of what was once the police house at the northern end of Birch Street and is now a private house with an associated café/gallery business on much of the ground floor. The café/gallery trades as "Birch Gallery & Tea Room"
- 3.2 The rectilinear plot of land which comprises the application site measures 67.26m x 22.80m and sits immediately behind the private residential garden of Fujita occupying the same plot width as the main house.

- 3.3 Currently the land has been rotivated and comprises two planting rows of bare soil that run the complete length of the plot on its northern and southern thirds. The central third is not rotivated but accommodates 5 large timber framed raised planting beds. In the north-west corner of the plot adjacent to the residential garden to 'Fujita' is a small hen house with laying hens in a small enclosure.
- 3.4 The entire plot is bounded by a ranch style fence comprising full round posts connected by two lateral (top & bottom) half round rails. The fence is chicken wired to keep rabbits out.
- 3.5 To the north, east and west of the application site is open farmland whilst to the south is a narrow finger of ribbon development that points out from the village of Birch.
- 3.6 Immediately to the south of the site is Public Right of Way no 39 which is a by-way that runs east-west connecting with Public Footpath no 13 and dividing the application site with its immediate neighbour no. 4 Birch Street.
- 3.7 The by-way is a densely foliated route that extends beyond a line equivalent to that of the ends of gardens of the other properties in Birch Street. Immediately to the west of the site boundary the tree and hedge cover disappears for a short spell where an open field access provides a connection between an uncultivated field to the south and open farmland to the north. The by-way then weaves gently westwards through the countryside slipping between open and hedged lined fields and skirting the occasional copse.
- 3.8 The rear boundaries of properties in Birch Street are delineated by a patchwork of treatments that sit uncomfortably with the pastoral scene.

4.0 Description of the Proposal

- 4.1 The proposal is to regularise the unauthorised change of use from agricultural field to a fruit & vegetable garden associated with the domestic use of the property known as Fujita, 2 Birch Street, Birch.
- 4.2 As the application seeks retrospective planning permission the description of the proposal has already provided in section 1 of this report (Site Description and Context).
- 4.3 The applicants' supporting statement is available to view on the Planning Service's on-line web-site under the application reference 120243.
- 4.4 Particular emphasis is drawn to the following extracts:-

"...The garden farm concept was always my retirement plan and this is still the case. I intend to retire...in 2013 when I intend to dedicate the majority of my time to working the garden and managing the produce in the form of self-sufficiency....."

"....so that I can use this small section of agricultural land for the purposes of keeping chickens, growing vegetables, fruit and the keeping of bees.."

5.0 Land Use Allocation

- 5.1 The site lies outside of but adjacent to the village envelope for Birch and is 'white land' (rural & not designated for development).
- 5.2 By-way no: 39 runs immediately adjacent to the southern edge of the site but the proposal does not affect that route which remains untouched by the proposal.

6.0 Relevant Planning History

- 6.1 26 April 2005:

Full planning permission GRANTED for single storey front extension for gallery/tea room and a rear extension and loft conversion. The gallery/tearoom element was, amongst other things, conditioned to be personal to the present applicant's husband and subject to a restriction that the tea room is ancillary to the gallery use.

- 6.2 September 2011 planning enforcement investigation: unauthorised change of use from agriculture to garden and/or domestic fruit and vegetable garden.

7.0 Principal Policies

- 7.1 The following national policies are relevant to this application:
National Planning Policy framework (NPPF) published 27 March 2012.
- 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 Developments Locations
Env 1 – Environment
Env 2 – Rural Communities
- 7.3 In addition, the following policies from the Adopted Colchester Borough Development Policies (October 2010) are relevant:
DP13: - dwelling Alterations, Extensions and Replacement Dwellings para 5.15

8.0 Consultations

- 8.1 The Environment Agency has identified the site as low risk and therefore states that it will make no comment
- 8.2 The Council's Environmental Control Service has indicated that it has no comment to make.

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 Birch Parish Council is supportive stating:-

“Birch Parish Council has no objection to this application and likes to encourage rural activity in what is a rural community. We are surprised that a change of usage is even required as this application is on rented agricultural land”

Officer comment: Whilst the Parish Council’s incredulity about the use requiring planning permission is understandable the facts of the case are:-

When the use first came to the attention of the Planning Service in 2011 the plot appeared to be in use as an extension to the garden of Fujita in that it has been laid to lawn, fenced and was being used as a garden as evidenced by the appearance of a trampolene, climbing frame and a medium sized playpool. The plot is accessible from a gate to the garden of Fujita. Even once the domestic paraphernalia had been removed and the land rotivated it was not deemed to constitute an agricultural use in that it was not being used to generate a living agricultural wage and was quite clearly to be used as a retirement hobby ancillary to the incidental enjoyment of the residential dwelling. On that basis a change of use from agriculture had occurred.

10.0 Representations

10.1 The occupier of no 6 Birch Street has written in support of the application stating:-

“I wish to support the application on the basis that, if successful, the proposed use can only be of benefit to the community and would seem to have no detrimental effect. The applicant is a pillar of the local community and might be tempted to move away if the proposal is refused, which would be a great loss.”

Officer comment: Whilst the consultee’s comments in respect of external impact are material the fact that the applicant may in her words be a “pillar of the community” is not a matter that can be taken into account when determining this application and nor can the comment that the applicants may move away. It should also be noted that the application relates to a private domestic undertaking and not a community facility. Although some community benefit could be said potentially arise from the sale of excess garden produce. (assuming that the extent of produce sale does not constitute a material change of use to retail)(orthodox interpretation of the Use Classes Order suggests that the incidental and modest sale of produce grown on premises from the gate of those premises does not constitute a material change of use – but this will be a matter of fact and degree).

11.0 Parking Provision

11.1 This application does not generate the requirement for any additional parking to be provided.

12.0 Open Space Provisions

12.1 This application does not generate the requirement for any additional open space provision or SPD payments.

13.0 Air Quality

13.1 This proposal does not generate any 'air quality' implications. Any implications for nuisance caused by the storage of manure are dealt with below in the main body of this report.

14.0 Report

14.1 The central consideration for members here will be judging the impact that the use is having on the character of the countryside and whether that impact is harmful and cannot be reasonably mitigated.

14.2 Para 5.15 of the Council's Adopted Development Policies states:-

"5.15 Proposals for the extension of a domestic garden into open countryside will not be permitted if they have a material adverse impact on the surrounding countryside, or result in the loss of good quality agricultural land, or would set a precedent for unacceptable extensions to gardens at one or more neighbouring properties. Where planning permission is granted, applications will be expected to relinquish their permitted development rights over the new area of garden."

14.3 This report now considers each element of the above in turn.

14.4 **Countryside impact:** The rotivated beds and raised beds do not look out of place in the open countryside as they are effectively only soil and when vegetable crops and fruits are visible (from the adjacent short section of open edged by-way or in long views across fields from Birch Street) the scene will be harmonious to the countryside setting. The fencing erected around the plot has a character that does not look out of place on a field edge. There are no buildings on the plot other than for a modest hen house adjacent to the garden boundary of the house and this does not impose itself on views. Members will have noted earlier in this report that houses to the south of the site have a mixture of rear boundary treatments some of which are not as sympathetic.

14.5 **Loss of agricultural land:** At only 1541sq.m. this application does not pose any strategic issues around the loss of good quality farmland. The proposal doesn't necessarily represent a natural rounding off of an adjacent illogical residential boundary that also takes an awkward and difficult to cultivate parcel of land out of agricultural use. Whilst one corner appears to be quite claggy and whilst the corner immediately adjacent to the original residential garden would be difficult to get into with a tractor or harvester, the end of then plot furthest from the house is cultivatable.

14.6 **Precedent for other garden extensions:** As reported earlier in this report were it not for the intersection of by-way 39 this application does produce a newly contiguous rear boundary line for properties in Birch Street and so doesn't set an unfortunate precedent.

- 14.7 **Other considerations:** The applicant has indicated that she hopes to add to her flock of hens and expand the egg production operation to produce and supply fertilised eggs. This means that a cockerel/cockerels will be added to the flock. Whilst the sound of cockerels crowing with the light is evocative of the countryside it can also be a significant disturbance to nearby residents. You would expect cockerels to be kept in the countryside so the issue for members is whether the use should be conditioned to prevent the keeping of cockerels (or cockerel) in order to avoid disturbance and nuisance to nearby residents. On balance it is not felt to be appropriate or reasonable to control this aspect of potential nuisance via the planning system as anyone can keep chickens in their garden without the need for planning permission. Cockerels will crow at any time night or day when the mood takes them. The amenity issue associated with cockerels crowing to herald the dawn is that this is when such a fanfare is likely to disturb and disrupt the sleep of nearby residents.
- 14.8 Whilst chicken muck from the hen house can easily be dug into the soil and so not become a smell nuisance it is considered appropriate to require the applicants to agree how muck will be stored and disposed of in order to provide the Council with an ability to control potential nuisance.
- 14.9 As the applicant does not intend to use the plot as a garden this should be enforced and controlled by condition as the introduction of garden paraphernalia, landscaping and activity would be unacceptable in that it would represent an alien intrusion into the landscape. Similarly the plot should not be accessible to users of the gallery/café as this would increase the potential for adverse impacts on the character of the countryside hereabouts as a result of increased human activity.
- 14.10 This permission should be restricted to the applicant because of the definite commitments given by her as to how the plot will be used and managed and a consent should not run with the land.

15.0 Conclusion

- 15.1 The use perhaps got off on the wrong foot and the applicant has apologised for her lack of awareness of the need for planning permission and she has suggested that as she rents the land she believed it was the responsibility of the owners to have sorted out any necessary approvals. That may have been a naïve assumption. That said as soon as the situation was explained she sought to regularise the situation. No offence was committed and the planning system makes provision for retrospective planning applications. Members should not therefore have regard to the retrospective nature of the use and should judge the proposal on its own merits as it would were the use not to have already commenced.
- 15.2 Judged on its merits the proposal is considered acceptable as it does comply with the Council's planning policies and therefore the presumption in favour of sustainable development contained in the NPPF should apply.

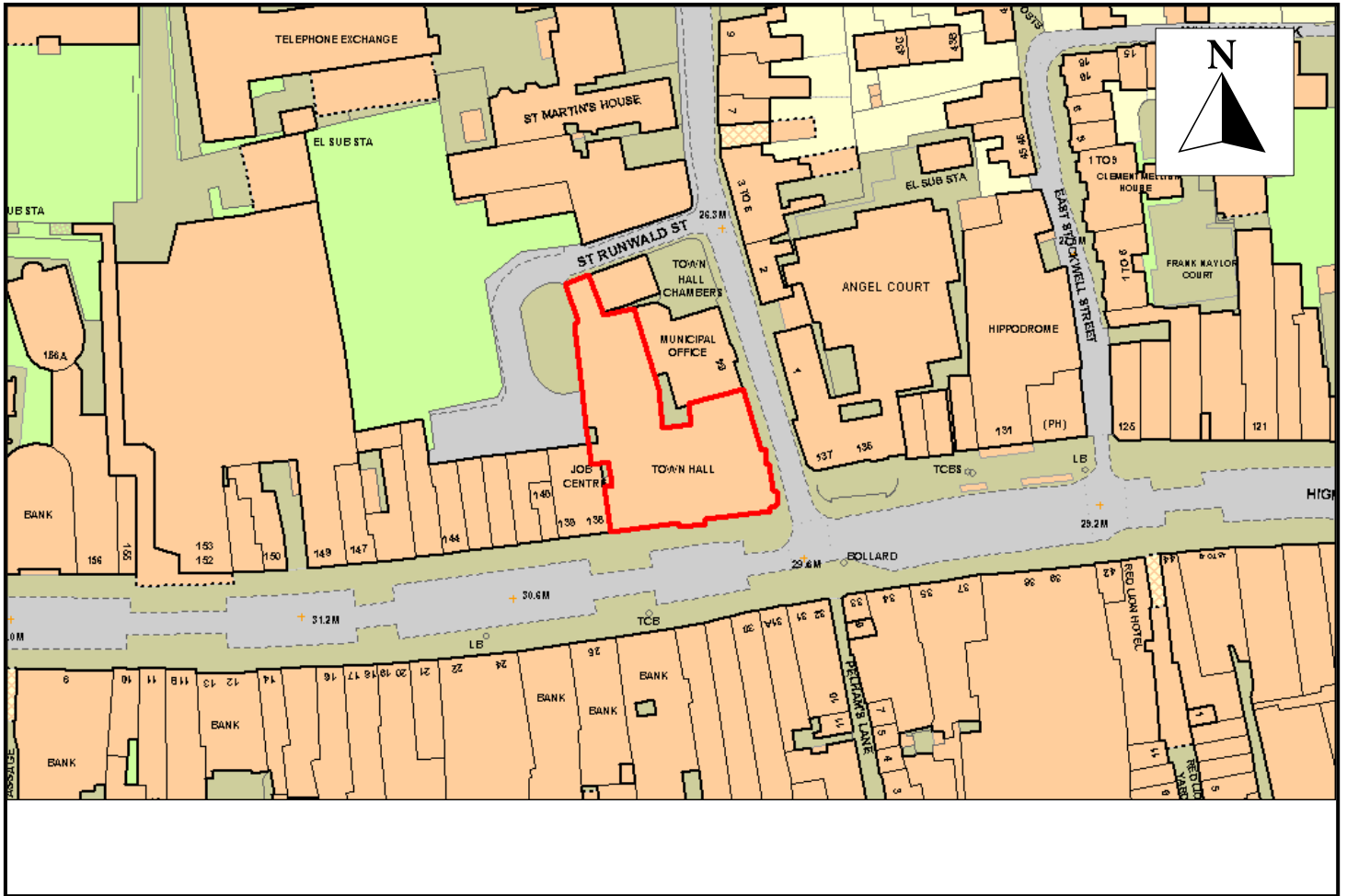
16.0 Recommendation – Conditional Approval

Conditions

- Personal to the applicant Mrs Susan Harrison.
- The plot shall not be used independently of the occupation of no2 Birch Street.
- In the event that the permitted use ceases the land shall be restored to open farmland within 1 month of the use for permitted purposes ceasing.
- Temporary permission 5 years.
- That the plot shall only be used for the growing of fruit and vegetables and the keeping of chickens and bees.
- The plot shall not be used for any purpose, including domestic garden, other than that specifically permitted.
- No public access to the plot is permitted.
- No buildings other than the existing chicken shed shall be erected or placed on the site.
- No flower beds or ornamental planting (other than fruit trees) shall be created/planted on any boundary.
- No access to the plot shall be created from/to by-way 39.
- No bonfires.
- Within 1 month of the date of this permission the applicant shall agree with the Council how much will be stored and disposed of.
- Such other conditions as may be reasonable.

Informative:

It is noted that the applicant intends to expand her flock from hens and egg production to include the production of fertilised eggs (chicks). She is asked therefore to carefully consider the impact of such a proposal on the amenity of nearby residential properties as a result of potential disturbance caused by cockerel/s. She may want to consider using a type of chicken building that reduces a cockerels ability to crow (particularly at dawn) by reducing the amount of available head height.



Application No: 120301

Location: Colchester Borough Council, Town Hall, High Street, Colchester, CO1 1PJ

Scale (approx): 1:1250

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7.4 Case Officer: Mr John More

OTHER

Site: Town Hall, High Street, Colchester, CO1 1PJ

Application No: 120301

Date Received: 22 March 2012

Agent: NPS London Ltd

Applicant: Mr Lee Spalding

Development: Upgrade of existing emergency lighting system.

Ward: Castle

Summary of Recommendation: Refer to Secretary of State for approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it is a Council application and the scheme of delegation requires such application to be considered by the Planning Committee.

2.0 Synopsis

2.1 The main issue for consideration is whether the upgrade of the emergency lighting system would materially affect the special interest of this grade I listed building.

3.0 Site Description and Context

3.1 The High Street was the Via Principalis of the Roman colonia. From its junction with North Hill and Head Street, the High Street run eastwards along the main ridge of the town, with the land falling away to the north and south. The width of the street reflects its commercial importance and its function as the site of the town's market throughout the centuries.

3.2 Approaching from the east, the former All Saints Rectory and Castle Public House form a gateway to the High Street. The Town Hall with its magnificent tower projects into the street and plays a pivot townscape role acting as a focus in sequential views along the street. Beyond the Town Hall, views are closed by the buildings on the west side of North Hill and Head Street and dominated by the impressive bulk of the 'Jumbo' water tower.

3.3 The Town Hall is the most impressive building in the High Street. Built in 1898 in red brick and Portland stone and designed by the architect John Belcher; Belcher designed in a free classical style with more braggadocio than anyone and Colchester Town Hall is proof of this.

3.4 Major changes to the High Street occurred in the Victorian and Edwardian periods. Besides the Town Hall, the Grand Theatre (now Liquid), along with several handsome banks and shops were constructed during this period. Despite the more recent insertion of a number of poor quality modern buildings the High Street retains much that is of interest and of a quality and character that stands comparison with any other English historic town.

4.0 Description of the Proposal

4.1 The works comprise upgrading the existing emergency lighting system and decorations within the main stairwell (serving the Moot Hall) and also an upgrade to the emergency lighting system within the East stairwell currently used by staff of the Town Hall. (The decoration works do not require listed building consent.)

4.2 The works are required to improve the existing emergency lighting provision within both stairwells and also clarify emergency egress at lower ground floor level.

5.0 Land Use Allocation

5.1 Civic Hall and Council Offices

6.0 Relevant Planning History

6.1 090383 - Creation of new gated entrance and flight of steps with landings to form accessible route to building together with new stepped access to churchyard. Installation of stair lift with support guide rail and new external lighting – Town Hall Chambers Churchyard, St Runwalds Street, Colchester – Approved 8.7.09.

6.2 091425 - Internal decorations to the moot hall area, rewire works to moot hall and council chamber, external fabric repairs and decorations and the insulating of the roof void above the moot hall – Town Hall, High Street, Colchester – Approved 2.1.10.

6.3 090735 - Creation of new gated entrance and flight of steps with landings to form accessible route to building together with new stepped access to churchyard. Installation of stair lift with support guide rail and new external lighting - Town Hall Chambers Churchyard, St Runwalds Street, Colchester – Approved 27.8.09

6.4 C/COL/03/1846 - Change of use from Civic Hall and Council Offices to Civic Hall and Council Offices and commercial functions/business meeting rooms - Town Hall, High Street, Colchester – Approved 12.12.03.

6.5 111289 - Listed building application to install an additional handrail to the main internal staircase – Approved 18.11.11.

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
ENV1 - Environment

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP14 Historic Environment Assets

8.0 Consultations

8.1 English Heritage recommends the application should be determined in accordance with national and local policy guidance, and on the basis of your expert conservation advice.

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 N/A

10.0 Representations

10.1 No representations have been received at the time of writing the report. Any late comments will be reported on the Amendment Sheet.

11.0 Parking Provision

11.1 N/A

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

13.1 N/A

14.0 Report

14.1 In respect of decisions concerning listed buildings and conservation areas, there are legal provisions that impinge upon decision-making that must be taken into account and which therefore overlap with the decision-making policies listed above:

- (i) in considering whether to grant listed building consent, the local planning authority shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses (Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990); and,

- 14.2 Paragraph 131 of the NPPF states when determining planning applications, local planning authorities should take account of:
- (a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - (b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - (c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 14.3 Core Strategy Policy ENV 1 states that the Council will conserve and enhance Colchester's natural and historic environment. Policy DP14 of the Development Policies (adopted October 2010) states that development will not be permitted that will adversely affect a listed building.
- 14.4 The Town Hall is listed grade I for its special architectural and historic interest and occupies a prominent position within the Colchester Conservation Area No.1. The building dates from 1898 in an exceptionally rich Edwardian Baroque style by John Belcher.
- 14.5 The works include converting existing lamps to led fittings, the mounting of continuous string LED's behind existing coving, the mounting of new emergency light fittings, upgrading of existing emergency light fittings and new emergency exit signs. As the works involve fixtures and fittings they are reversible in nature. The works proposed are minor in nature and have been designed to minimise any impact on the internal appearance and special interest of this listed building.
- 14.6 The proposals have been discussed with the Conservation Officer who has no objection to the works proposed as they are minor and would not affect the special interest of the listed building.
- 14.7 The proposals would facilitate a sustainable economic use of the building ensuring its long term preservation and upkeep without causing harm to the special interest of the building.

15.0 Conclusion

- 15.1 The works proposed to upgrade the emergency lighting inside the Town Hall are considered to preserve the special interest of this building while allowing it to be put to a viable economic use consistent with its conservation. It is therefore recommended that Members endorse this application.

16.0 Recommendation

- 16.1 It recommended that Members endorse this application and, in accordance with paragraph 8 of Circular 08/2009 "Arrangement for Handling Heritage Applications", that this application is referred to the Secretary of State for his approval.

Conditions

1 - A1.6 LBs & Con Area Consents-time lim for comm of development

The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: In order to comply with the requirements of Section 18(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990, as amended by the Planning & Compulsory Purchase Act 2004.

2 - Non-Standard Condition

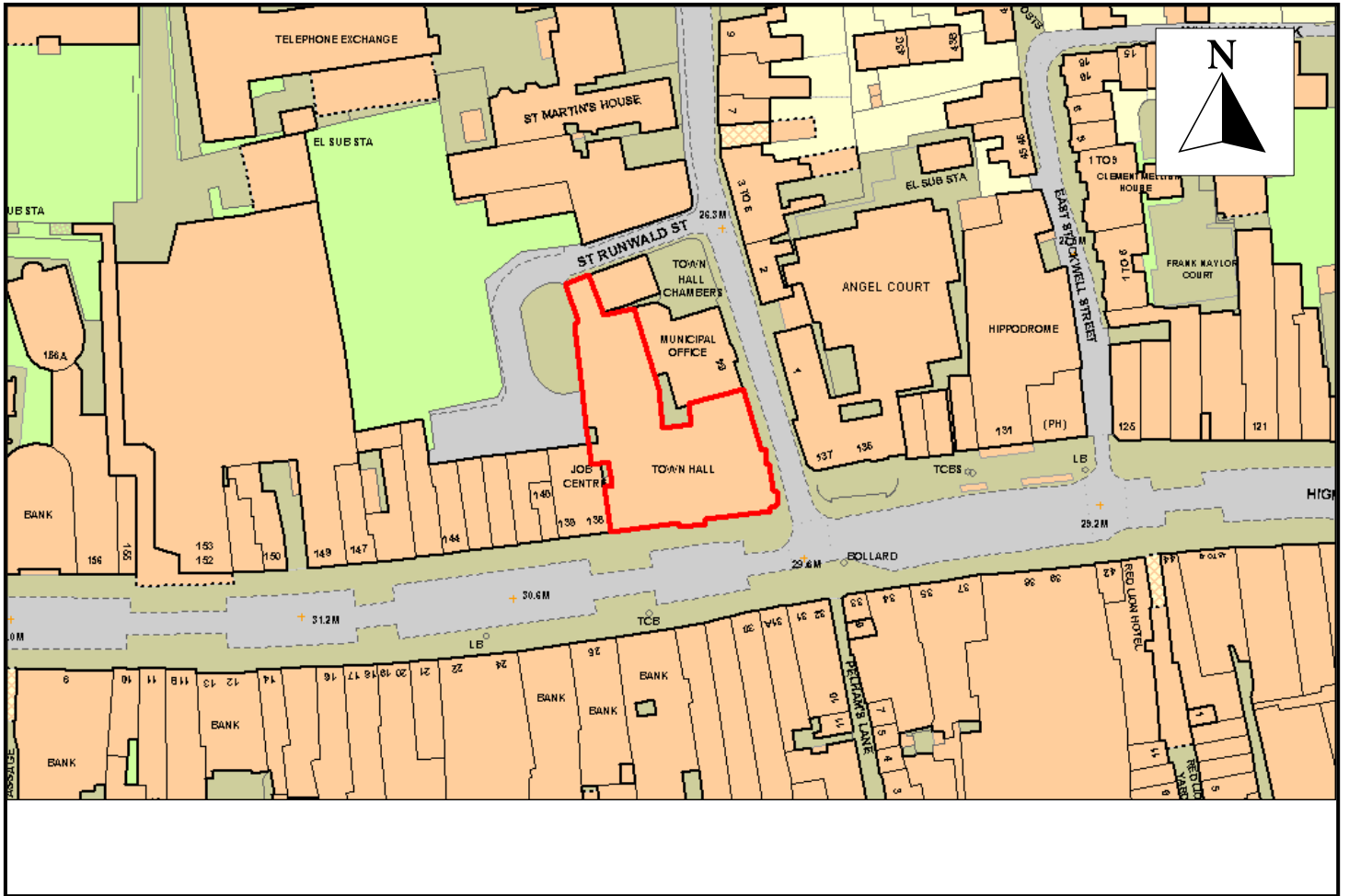
The development shall be implemented in all respects strictly in accordance with the submitted plans and Schedule of Work dated 9 Feb 2012 hereby approved. These plans include drawing number E01.

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

Informatives

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

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.



Application No: 120349

Location: Town Hall, High Street, Colchester, CO1 1PJ

Scale (approx): 1:1250

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7.5 Case Officer: Mr John More

OTHER

Site: Town Hall, High Street, Colchester, CO1 1PJ

Application No: 120349

Date Received: 22 February 2012

Agent: NPS London

Applicant: Colchester Borough Council

Development: Listed building application for new extractor hood installed in kitchen.

Ward: Castle

Summary of Recommendation: Refer to Secretary of State for approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it is a Council application and the scheme of delegation requires such application to be considered by the Planning Committee.

2.0 Synopsis

2.1 The main issue for consideration is whether the insertion of a new kitchen extractor hood and extract vent to the moot hall kitchen would materially affect the special interest of this grade I listed building.

3.0 Site Description and Context

3.1 The High Street was the Via Principalis of the Roman colonia. From its junction with North Hill and Head Street, the High Street run eastwards along the main ridge of the town, with the land falling away to the north and south. The width of the street reflects its commercial importance and its function as the site of the town's market throughout the centuries.

3.2 Approaching from the east, the former All Saints Rectory and Castle Public House form a gateway to the High Street. The Town Hall with its magnificent tower projects into the street and plays a pivot townscape role acting as a focus in sequential views along the street. Beyond the Town Hall, views are closed by the buildings on the west side of North Hill and Head Street and dominated by the impressive bulk of the 'Jumbo' water tower.

3.3 The Town Hall is the most impressive building in the High Street. Built in 1898 in red brick and Portland stone and designed by the architect John Belcher; Belcher designed in a free classical style with more braggadocio than anyone and Colchester Town Hall is proof of this.

3.4 Major changes to the High Street occurred in the Victorian and Edwardian periods. Besides the Town Hall, the Grand Theatre (now Liquid), along with several handsome banks and shops were constructed during this period. Despite the more recent insertion of a number of poor quality modern buildings the High Street retains much that is of interest and of a quality and character that stands comparison with any other English historic town.

4.0 Description of the Proposal

4.1 The application proposes the installation of a kitchen extract hood over the cookers which would vent through the upper sash of the existing window. The hood would be fitted to the internal face of the external wall with ductwork running up from the hood to the top of the window. The top row of glass panes would be removed and an extract grille fixed to the ductwork on the inside of the window frame. The second top row of glass panes would also be removed and ductwork (painted grey) butted up to the inside of the window frame to allow fresh air intake.

4.2 In mitigation for this work it is proposed to remove the existing grills inset into a window further along this elevation (to the left when looking externally from the street) and replace with glazing.

4.3 The works are required to ensure compliance with Gas Safe and HSE regulations and to bring the kitchen up to current BS standards. This will enable the continued use of the kitchen for events held at the Moot Hall and the economic use of the building.

5.0 Land Use Allocation

5.1 Civic Hall and Council Offices

6.0 Relevant Planning History

6.1 090383 - Creation of new gated entrance and flight of steps with landings to form accessible route to building together with new stepped access to churchyard. Installation of stair lift with support guide rail and new external lighting – Town Hall Chambers Churchyard, St Runwalds Street, Colchester – Approved 8.7.09.

6.2 091425 - Internal decorations to the moot hall area, rewire works to moot hall and council chamber, external fabric repairs and decorations and the insulating of the roof void above the moot hall – Town Hall, High Street, Colchester – Approved 2.1.10.

6.3 090735 - Creation of new gated entrance and flight of steps with landings to form accessible route to building together with new stepped access to churchyard. Installation of stair lift with support guide rail and new external lighting - Town Hall Chambers Churchyard, St Runwalds Street, Colchester – Approved 27.8.09

6.4 C/COL/03/1846 - Change of use from Civic Hall and Council Offices to Civic Hall and Council Offices and commercial functions/business meeting rooms - Town Hall, High Street, Colchester – Approved 12.12.03.

6.5 111289 - Listed building application to install an additional handrail to the main internal staircase – Approved 18.11.11.

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
ENV1 - Environment

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP14 Historic Environment Assets

8.0 Consultations

8.1 English Heritage recommends the application should be determined in accordance with national and local policy guidance, and on the basis of your expert conservation advice.

8.2 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 N/A

10.0 Representations

10.1 No representations have been received at the time of writing the report. Any late comments will be reported on the Amendment Sheet.

11.0 Parking Provision

11.1 N/A

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

13.1 N/A

14.0 Report

- 14.1 In respect of decisions concerning listed buildings and conservation areas, there are legal provisions that impinge upon decision-making that must be taken into account and which therefore overlap with the decision-making policies listed above:
- (i) in considering whether to grant planning permission for development that affects a listed building or its setting or whether to grant listed building consent, the local planning authority shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses (Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990); and,
 - (ii) in considering whether to grant planning permission with respect to any buildings or other land in a conservation area, the local planning authority shall pay special attention to the desirability of preserving or enhancing the character or appearance of that area (Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990).
- 14.2 Core Strategy Policy ENV 1 states that the Council will conserve and enhance Colchester's natural and historic environment. Policy DP14 of the Development Policies (adopted October 2010) states that development will not be permitted that will adversely affect a listed building.
- 14.3 The Town Hall is listed grade I for its special architectural and historic interest and occupies a prominent position within the Colchester Conservation Area No.1. The building dates from 1898 in an exceptionally rich Edwardian Baroque style by John Belcher.
- 14.4 The Moot Hall on the second floor has recently been refurbished and the Council is seeking to maximise opportunities for its economic use. The works proposed are required to ensure compliance with Gas Safe and HSE Regulations and to bring the kitchen up to current BS standards so it can continue to be used for events.
- 14.5 The main impact on the external appearance of the building would be where the extract system would vent through the upper sash of the existing window on the West Stockwell Street facade. The top two rows of glass panes would be removed to allow the extract and fresh air intake units to vent through the windows. The original timber sash window frame would remain. Internally, the hood would be fitted to the internal face of the external wall with ductwork running up from the hood to the top of the window. The works would be reversible enabling the window and wall to be returned to original condition if/when the extraction system were no longer required. The existing extract vents on the adjacent window will be removed and reinstated to their original design.
- 14.6 The proposals have been discussed with the Conservation Officer and although in itself the new extraction system through the window is not desirable, the impact is partly mitigated by the removal of the existing window vents and reinstatement of glazing to match the existing. Furthermore, the proposals would facilitate a sustainable economic use of the building to ensure its long term preservation and upkeep.

14.7 In view of this, it is considered that benefits of installing the kitchen extraction hood and the associated alterations, combined with the replacement of the existing grill with glazing would outweigh the harm caused to the appearance of the building by the alterations proposed.

14.8 The alterations to the external appearance of the listed building are relatively minor and it is considered they would raise significant adverse harm to the character and appearance of the Conservation Area.

15.0 Conclusion

15.1 The proposed kitchen extraction hood and the associated alterations are considered to preserve the special interest of the listed building and Conservation Area and it is recommended that Members endorse this application.

16.0 Recommendation

16.1 It is recommended that Members endorse this application and, in accordance with paragraph 8 of Circular 08/2009 "Arrangement for Handling Heritage Applications", that this application is referred to the Secretary of State for his approval.

Conditions

1 - A1.6 LBs & Con Area Consents-time lim for comm of development

The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: In order to comply with the requirements of Section 18(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990, as amended by the Planning & Compulsory Purchase Act 2004.

2 - Non-Standard Condition

The development shall be implemented in all respects strictly in accordance with the submitted plans and Heritage Statement hereby approved. These plans include drawing numbers B-01.

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

3 - Non-Standard Condition

Before development commences, precise details of the external grilles, including type, colour, method of fixing and more detailed drawings showing this in relation to the original windows, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details as approved.

Reason: The information submitted contains insufficient detail in this respect to ensure the development preserves the special interest of the heritage asset.

4 - Non-Standard Condition

Before the new extractor unit hereby approved comes into beneficial use, the existing window vents identified on the approved drawings shall be removed and replaced with glass to match the existing window. Any damage to the window frame shall be made good and the window decorated to match the existing.

Reason: This work is necessary mitigation to preserve the special interest of the listed building.

5 - Non-Standard Condition

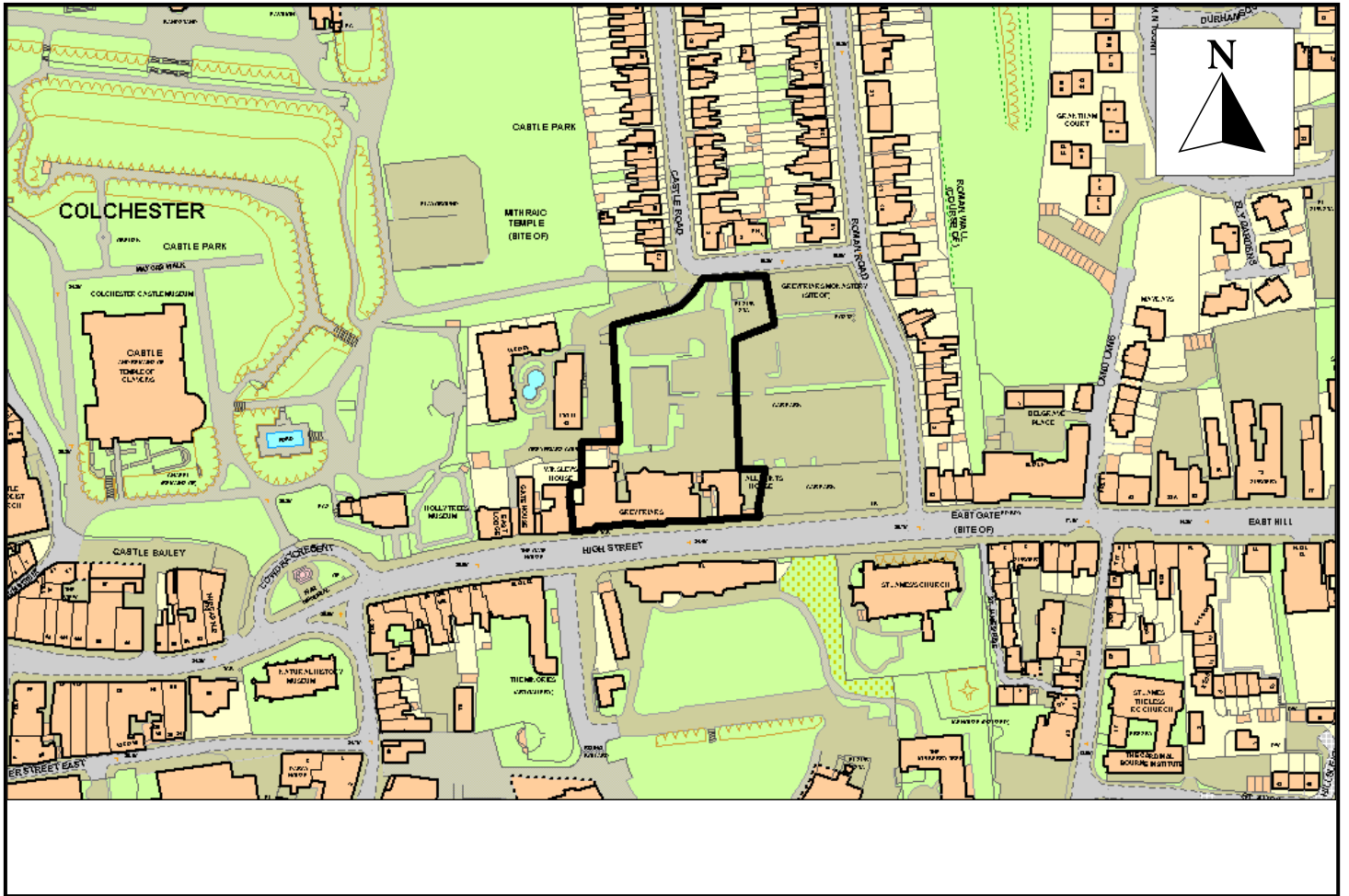
When no longer required, the extractor hood and all associated paraphernalia shall be removed, any damage to the building and window made good, and the window glazed with glass to match the original.

Reason: To preserve the special interest of the listed building.

Informatives

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

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.



Application No: 120411

Location: Adult Community College, Greyfriars, High Street, Colchester, CO1 1UG

Scale (approx): 1:1250

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7.6 Case Officers: Mr Mark Russell/Mr John More

OTHER

Site: Greyfriars, High Street, Colchester, CO1 1UG

Application No: 120411

Date Received: 7 March 2012

Agent: Lawson Planning Partnership Ltd

Development: Variation of conditions 15 (use of rear terrace), 20 (amended car park layout), 26 (outdoor events) & 27 (use of outside areas) following grant of planning permission 102680

Ward: Castle

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 was called in by Cllr. Henry Spyvee for the following reason:

“This Application seeks to reverse decisions made by the Planning Committee under Application 102680 and would cause noise nuisance to the 24 occupants of the apartments at Greyfriars Court who have objected. Any revisions, other than those accepted by the tenants should be made by the Planning Committee.”

2.0 Synopsis

2.1 The report below sets out the applicants’ proposal to vary four conditions largely relating to hours of use/use of the outdoors and also the layout of the car park. Objections are listed and analysed and the issues are addressed in the report section which concludes that the proposals are acceptable.

3.0 Site Description and Context

3.1 The application site comprises three buildings; Greyfriars, Hillcrest and All Saints House and their respective grounds. Greyfriars and Hillcrest previously formed part of the community college operated by Essex County; it is understood that All Saints House was acquired following its part conversion to a restaurant. The buildings on site are currently vacant apart from the live in caretaker/security in Greyfriars.

3.2 The site occupies an important position within Colchester town centre, falling within the Roman walls and on the area of land occupied by a Franciscan monastery (founded in the C14 and dissolved in the mid C16).

- 3.3 Greyfriars is one of the town's finest Georgian houses. The original part of the house dates from circa C18 and consists of the central front range with its two canted bays framing an Ionic door case, above which is a Venetian window beneath a pediment; fine panelling, rich cornices and chimney pieces survive within this part of the building. To this was added the garden range, with its double height bay flanked by sets of Venetian windows; again interior fixtures and fittings survive. Further alterations were made between 1904 and 1908, which included the addition of the red brick wings in C18 style. The house is listed at grade II* for its special architectural or historic interest.
- 3.4 Hillcrest is a C18 red brick fronted brick house that was linked to Greyfriars as a part of the Edwardian extension works. It is three storeys in height and has an asymmetrical façade with a panel door with a fanlight and sash windows. Internally the house has a typical domestic layout. The ground floor plan remains largely unchanged; the first and second floors were altered in the early C20 to allow access between this property and Greyfriars
- 3.5 All Saints House is described as dating from the C18 and is of a polite stripped classical design. The front façade has a two window range of double hung sashes and pediment head door case with Ionic columns. North and east side has modillioned eaves cornice, upper oriel window with double hung sashes. Internally the building has suffered from recent insensitive (unauthorised) alteration works (damage to main stair case, opening inserted into walls etc).
- 3.6 To the rear of the listed buildings is a large open area that is currently used for car parking and contains a Holm Oak tree of significant amenity value.
- 3.7 The site is opposite East Hill House, a Grade I listed building and the entrance to the former bus station which is currently being redeveloped as an art gallery. To the east of the site is the former garden to All Saints House (now used as a car park and in separate ownership) and is enclosed by a high boundary wall that is listed grade II in its own right.
- 3.8 To the rear and side of the site are the residential streets of Roman Road and Castle Road, containing a range of mostly two and three storey Victorian terraced houses with a public house. Castle Road runs across the northern boundary of the site and provides pedestrian links to the upper section of Castle Park to the west and the lower section via a gateway in the Roman wall to the north.
- 3.9 Vehicular access to the site is from Castle Road while pedestrian access is from both the High Street and Castle Road.
- 3.10 The site is located within the designated Colchester Town Centre Conservation Area. The site contains three listed buildings - Grey Friars - listed Grade II*, and Hillcrest and All Saints House - both listed Grade II. The boundary wall of Grey Friars fronting Roman Road is also listed (Grade II), and the boundary wall of All Saints House to High Street and Roman Road (in separate ownership) is also listed Grade II.

4.0 Description of the Proposal

- 4.1 The original application which was approved by the Planning Committee proposed the change of use and reconfiguration of the site to provide a hotel containing 21 bedrooms, with associated bar, restaurant, staff facilities, access and car parking. A number of conditions were attached to the permission to make the development acceptable in planning terms. This application seeks to vary conditions 15, 20, 26 and 27 of planning permission ref: 102680. The original condition and reason and the proposed variations to the conditions are set out in turn below. The original condition and reason in italics for ease of reference.

Original condition 15

No hotel guests or any customers shall be permitted on the rear terrace outside the following times, unless otherwise agreed in writing by the local planning authority: 0800hrs – 2330hrs, Mondays - Fridays 0800hrs – 2330hrs, Saturdays 0800hrs – 2200hrs, Sundays.

Reason: To prevent undue noise and disturbance to nearby residential properties.

Proposed Condition 15

No hotel guests or any customers shall be permitted on the rear terrace outside the following times, unless otherwise agreed in writing by the local planning authority: 0700hrs – 2330hrs, Mondays – Saturdays, and 0800hrs – 2200hrs, Sundays.

Original condition 20

Notwithstanding the details submitted, no development shall commence until an amended parking layout has been submitted to and approved in writing by the local planning authority. The amended parking layout shall incorporate the following:

- Switching the location of the powered two wheeler and cycle parking*
- Additional car parking to be provided in the area to the north of the formal garden area and Holm Oak tree (the layout and construction of which to be informed by the Arboricultural Impact Assessment and Method Statement). The use hereby permitted shall not commence until the approved details have been surfaced, laid out and made available for use. That area shall not thereafter be used for any purpose other than the parking of vehicles and cycles in association with the use hereby permitted.*

Reason: To ensure that vehicles visiting the site can park off the highway to ensure the convenience and safety of pedestrians and other road users is not prejudiced and to protect the amenity of nearby residents.

Proposed Condition 20

Notwithstanding the details submitted, no development shall commence until an amended parking layout has been submitted to and approved in writing by the local planning authority. The amended parking layout shall incorporate the following:

- Switching the location of the powered two wheeler and cycle parking
- Suitable provision for overflow car parking to be made in the area to the north of the formal garden area (the layout and construction of which to be informed by the Arboricultural Impact Assessment and Method Statement).

The use hereby permitted shall not commence until the approved areas have been surfaced and made available for use and shall not be used for any purpose other than the parking of vehicles and cycles in association with the use hereby permitted, except for the overflow car parking which will perform a dual function as an amenity area in connection with the hotel.

Original condition 26

No outdoor events of any kind shall be held within the site as outlined in red on the submitted plans.

Reason: To prevent undue noise and disturbance to nearby residential properties from outdoor events.

Proposed Condition 26

No outdoor events of any kind shall be held within the site as outlined in red on the submitted plans unless agreed in writing by the Local Planning Authority, and with a scheme of prior neighbour notification to be agreed in writing by the Local Planning Authority.

Original condition 27

No outside area within the site as outlined in red on the submitted plans (excluding the bar terrace which is covered by condition 15) shall be used by hotel guests or any customers and staff other than between the hours of 0730hrs - 2000hrs, other than for the purpose of parking and access to the parking areas.

Reason: To prevent undue noise and disturbance to nearby residential properties.

Proposed Condition 27

No outside area within the site as outlined in red on the submitted plans (excluding the bar terrace which is covered by condition 15) shall be used by hotel guests or any customers and staff other than between the hours of 0730hrs - 2200hrs, other than for the purpose of parking and access to the parking areas.

The application is supported by a Noise Assessment report and various drawings including a draft landscape plan.

5.0 Land Use Allocation

- 5.1 The site is currently allocated for mixed use in the Local Development Framework Proposals Maps, Oct 2010 and is located within Colchester Conservation Area No.1.

6.0 Relevant Planning History

- 6.1 Planning permission was granted for the *“Change of use of the site and premises from their existing use within Use Class D1 (Grey Friars/Hillcrest) and Class B1 (last known use of All Saints House) to hotel, with bar, restaurant, function room, ancillary offices and staff flat (primarily within Use Class C1). Partial demolition of outbuildings and boundary walls; and internal and external alterations to existing buildings to form the proposed hotel accommodation. Erection of new three-storey height lift enclosure; single storey extensions to form glazed entrance foyer, office and corridor space; and roofed enclosure for external freezer units. External works including: hard and soft landscaping”* under application ref:102680. At this time listed building consent was granted for the works associated with the aforementioned planning permission under application ref: 102681.
- 6.2 Subsequent to this a s.73 application, ref: 112428, was submitted for *“Variation of conditions 15 (use of rear terrace) and 20 (amended car park layout) and removal of conditions 26 (outdoor events) and 27 (use of outside area) attached to planning permission 102680.”* This application was withdrawn.

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:
SD1 - Sustainable Development Locations
CE1 – Centres and Employment Classification and Hierarchy
CE2 – Mixed Use Centres
CE2a - Town Centre
UR1 - Regeneration Areas
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA5 - Parking
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 - Design and Amenity
DP4 - Community Facilities
DP6 - Colchester Town Centre Uses
DP10 - Tourism, Leisure and Culture
DP14 - Historic Environment Assets
DP17 - Accessibility and Access
DP19 - Parking Standards
DP20 - Flood Risk and Management of Surface Water Drainage
DP25 – Renewable Energy
- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
Vehicle Parking Standards

8.0 Consultations

- 8.1 Environmental Control
Environmental Control accepts the changes to this planning application regarding conditions 15, 26 and 27.
- 8.2 Conservation Officer
'No significant conservation issues appear to be raised by this application and, as such, I do not intend to make any observation in respect of this proposal unless otherwise requested to do so by the case officer.'
- 8.3 English Heritage
'The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.'
- 8.4 Highway Authority
'The Highway Authority would not wish to raise an objection to the above application.'

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 N/A

10.0 Representations

- 10.1 The consultation exercise has resulted in three letters of objection. The comments are summarised below.
- 10.2 Greyfriars Court is a peaceful place with bedrooms facing the hotel site. The conditions originally imposed will prevent disturbance of this peaceful existence.
- 10.3 One letter of objection suggests that the current suggested amendments are broadly satisfactory subject to a restriction being placed on amplified music in the garden area within condition 27. They make reference to the applicant's noise report, page 10 paragraph 4.3 which states "As there will be no amplified music in the garden area the main impact on the amenity of existing local residents will be from the occasional small group of people in high spirits who will communicate with raised voices in the garden area."

Officer comment: The comment regarding condition 27 mentions areas outlined in red. The areas coloured red are areas being built over and are not outside areas. The areas covered by condition 27 are the areas coloured purple. The bar terrace is coloured orange.

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 N/A

14.0 Report

- 14.1 Section 73 of the Act provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide the original conditions should continue. The original planning permission will continue to exist whatever the outcome of the application under section 73.
- 14.2 Paragraph 206 of the NPPF states that “Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. This repeats the tests set in Circular 11/95 – Use of conditions in Planning Permission.
- 14.3 Regarding Condition 15, your Officers agree that the rear terrace can be used from 0700hrs to bring it in line with the service area, but the terminal hour on Sunday should be 2200hrs.
- 14.4 Regarding condition 20, your Officers agree to the switching of the powered two wheeler and cycle parking but object to the loss of the additional permanent parking area as insufficient parking would be provided. Condition 20, therefore, remains as before.
- 14.5 Regarding condition 26, the holding of any outdoor events would be close to the living and sleeping accommodation of flats in Greyfriars Court. The land on the Greyfriars side of the wall is higher than that in Greyfriars Court which does not help the situation. With noise in mind, the frequency and type of outdoor events that may be held needs to be defined at the outset as well as seeking the prior written approval from the local planning authority. Clarification has been sought from the applicants about this, and the following response has been received:

‘Thank you for your email regarding the above. The comments in relation to condition 26 are noted, however, we do consider that the reference to the land on Grey Friars side being higher than that on the Greyfriars Court side is not helpful and is potentially misleading as it appears to suggest a significant disparity. In reality, there is a solid wall of more than 2 metres in height (from ground level on the Grey Friars side) separating the two properties which would provide a reasonable level of sound attenuation and privacy, and it should be noted that Greyfriars Court itself is set well back from the boundary between the two properties. In addition, we

would wish to point out that under the proposed revision to condition 27 of the planning permission governing the change of use to a hotel, the use of outdoor areas (other than the rear terrace and smoking area) would be limited to up to 10pm only and this restriction would therefore also apply equally to any outdoor events that are permitted to be held at the premises, further protecting residential amenity.

We have spoken with our client (OMCI Ltd.) regarding your question about the frequency and type of outdoor events that may be held. As the hotel is not yet operational you will appreciate that it is difficult to predict, with any degree of certainty, the likely number of such events. However, as set out in paragraphs 33 to 39 of the supporting statement accompanying the current S73 application, this is intended to be a small boutique hotel with a limited-sized bar and function room, catering predominantly for the business market, and the size of the hotel and its grounds would also not readily lend itself to the holding of large formal gatherings. Accordingly, it is not envisaged that such events would be a regular occurrence. Nevertheless, the wording of condition 26, as proposed to be varied, requires advanced written consent to be sought from the LPA for any formal outdoor events. The Council would therefore still retain full control over both the nature and frequency of any outdoor events to be held at the premises and could veto any requests that were considered unacceptable, for instance if it were concerned that such events were becoming too frequent. It should also be noted that suitable safeguards will exist to protect the amenities of the occupiers of nearby residences from undue noise disturbance through the restrictions on the permitted hours of use of the outdoor areas (e.g. conditions 15 and 27) and through other legislation, such as the provisions of the Environmental Protection Act 1990 and Licensing Act 2003.

In terms of the nature/type of outdoor events, we would respectfully point out that it was the Council who imposed the original condition restricting 'outdoor events' and it would really be a matter for the LPA to identify exactly what they are seeking to control, the existing wording of condition 26 being imprecise and potentially open to interpretation. Ideally, our client would have preferred for the condition to be removed in its entirety to avoid any confusion, but having sought advice from John More and from the Council's Environmental Protection Officers, we appreciate that the Council would like to retain some control and that the removal of the condition would be unlikely to be acceptable to Members. We have therefore sought to assist matters by suggesting a suitable definition of an 'outdoor event' in our requested varied wording for condition 26, as being "a previously organised and arranged gathering, event or function held outside of the buildings". To further clarify this, it would be possible in the wording of the varied condition to give an example of the sort of event the condition relates to, as set out below:

"26. No outdoor events shall be held within the site as outlined in red on the submitted plans without prior approval in writing by the local planning authority. For the purposes of this condition, an 'outdoor event' means a previously organised and arranged gathering, event or function held outside of the building(s) [e.g. Weddings]."

- 14.6 This appears to be a fair and sensible approach, the condition can be broadened to include agreement of a scheme by which notification is made - i.e. how much notice should be given both to the Local Planning Authority and to local residents.

14.7 Regarding condition 27, 2200hrs rather than 2000hrs is acceptable as the revised evening time limit for guests and customers to access the outside areas outlined in red on the submitted plan (excluding the bar terrace and smoking area covered by condition 15). Whilst noting that allowing outdoor events, however well controlled, will impose adverse noise impacts on residents of Greyfriars Court, 2200 is earlier than the anti-social hour of 2300 which our Environmental Control colleagues deem to be 'night-time.'

15.0 Conclusion

15.1 The application to vary conditions is supported in part. The variation of condition 15 (regarding the terrace) is supported, with the proviso that the terminal hour be 2200 hours. Condition 20, to reduce the amount of parking, is not supported. The variation of 26 (outdoor events) is supported, but with a heavily caveated set of restrictions. Condition 27 (access to outside areas) is supported.

16.0 Recommendation

16.1 Vary conditions 15, 26 and 27 as described below

Conditions

All relevant conditions from the previous application to be restated (and re-worded where they have already been discharged, etc with the following amendments:

Condition 15 re-worded as follows:

No hotel guests or any customers shall be permitted on the rear terrace outside the following times, unless otherwise agreed in writing by the local planning authority: 0700hrs – 2330hrs, Mondays – Saturdays, and 0800hrs – 2200hrs, Sundays.

Condition 26 re-worded as follows:

No outdoor events shall be held within the site as outlined in red on the submitted plans without prior approval in writing to the local planning authority and neighbouring premises. For the purposes of this condition, an 'outdoor event' means a previously organised and arranged gathering, event or function held outside of the building(s) [e.g. Weddings]. Prior to the use permitted coming in to force the applicant shall agree a scheme, in writing, which properly defines the terms 'prior approval' and 'neighbouring premises' and the scheme shall be complied with at all times thereafter.

Condition 27 re-worded as follows:

No outside area within the site as outlined in red on the submitted plans (excluding the bar terrace which is covered by condition 15) shall be used by hotel guests or any customers and staff other than between the hours of 0730hrs - 2200hrs, other than for the purpose of parking and access to the parking areas.



Colchester Borough Council Development Control

Advisory Note on Parking Standards

The following information is intended as guidance for applicants/developers.

A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.

The residential parking standard for two bedroom flats and houses is two spaces per unit. The residential parking standard for one bedroom units is one space per unit. One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development.



Colchester Borough Council Environmental Control

Advisory Notes for the Control of Pollution during Construction & Demolition Works

The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.

Best Practice for Construction Sites

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

Noise Control

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

Emission Control

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Best Practice for Demolition Sites

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

Noise Control

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

Emission Control

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.