

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
20 October 2011 at 6:00pm**

SUPPLEMENTARY AGENDA

Part A

(open to the public including the media)

Pages

10. Amendment Sheet

59 - 81

See Amendment Sheet attached.

AMENDMENT SHEET

Planning Committee
20 October 2010

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

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

7.1 111302 – Colchester United Football Club Site, Layer Road, Colchester

- 1) The Highway Authority has given its formal response. 'The Highway Authority would not wish to raise an objection to the above application subject to the following requirements:'

A series of conditions are then requested, which are repeated in full at the foot of this document, but which involve:

- Footways/dropped kerbs/visibility splays to Layer Road;
- Visibility splays for private drives;
- Internal modifications showing footways, cross-overs, splays and parking spaces to comply with standards;
- Phasing of development to be linked to Highway works;
- Wheel-cleaning facilities.

Financial contributions (as already reported):

- Improved cycle links;
- Travel packs;

- 2) Your Arboricultural Officer has advised that some re-arrangement is required to avoid conflict with crown spread and potential growth of trees on neighbouring sites. This affects plots 21, 22 and 37 the omission of a garage at plot 15 (to be replaced by a parking space). This has been accommodated without any undue effects.
- 3) Plot 44 has also been slightly enlarged to accommodate a fourth bedroom in order to comply with affordable housing requirements.

- 4) The issue of the “no-man’s land” appears to have been resolved. The applicant has contacted Colchester Borough Council with the following information:

‘I attach an extract of the survey that was produced showing the marked out position of the land we are buying.

If you look carefully there are station point letters. This is the line you show on the site layout plan as the red line.

I also attach the title plan which confirms the same.

I suspect that the area that people are referring to as “no-mans land” is the area between our legal title and the bottom of the bank in the gardens of 26 and 27 which is shown as a line on the survey behind the leylandii trees. I have shown it in yellow. This land is probably owned by the owners of the houses behind. In any event, our red line excludes it completely.

There is also a small area between the C/B fence and our boundary in plot 25 but this is only a very small strip.’

This extract will be shown on the Committee presentation.

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

No occupation of the development shall take place until such time as the following have been provided or completed: • A priority junction off Layer Road to provide access to the proposal site. Junction shall have 2no. footways each with dropped kerbs and tactile paving as well as a minimum 70 x 2.4 x 70 vehicular visibility splay maintained clear to ground at all times • For plots 1-5, 54 and 55 a private drive access off Layer Road, each with 2no. 1.5 x 1.5 metre pedestrian visibility splays as well as a 70 x 2.4 x 70 vehicular visibility splay. For pedestrian visibility splays there shall be no obstruction above a height of 600mm (as measured from the finished surface of the access) within the area of the visibility splays thereafter. All vehicular visibility splays shall be maintained clear to ground at all times

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.

3 - Non-Standard Condition

The development shall be implemented in accordance with the in principle planning application drawing number 16570/1007 Rev C as prepared by Woods Hardwick.

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.

4 - Non-Standard Condition

Prior to the commencement of development the planning application drawings shall be amended and submitted to and approved in writing by the Local Planning Authority to show the following:

- A transition between the main access road and the Type 6 shared surface roads based on the sketch received by Colchester Borough Council on Sunday 16th October 2011.
- A 2 metre wide footway on the south-eastern side of the central park area between the two visitor parking spaces
- A 9 metre radius outside plot 9 together with hardening/strengthening of the verge and footway
- A minimum 6 metres from behind all parking spaces to any obstruction
- For the Type 6 roads a minimum centreline radius of 13.6 metres or 10.5 metres with over-run areas on all bends. The latter would affect the proposed layout of the grassed areas and parking bays
- All private drives treated as a standard dropped crossing arrangement
- Removal of the verges along the Type 3 feeder road
- A 2 x 25 metre visibility splay at both parking court accesses off the Type 3 feeder road. This will affect the proposed trees and visitor parking bays along the Type 3 feeder road.

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.

5 - Non-Standard Condition

The carriageway(s) of the proposed estate road(s) shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months from the occupation of such dwelling.

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 unbound material shall be used in the surface treatment of a vehicular access within 6 metres of existing or proposed highway.

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.

7 - Non-Standard Condition

Prior to occupation of each dwelling, each vehicular access shall be provided on both sides with a 1.5 x 1.5 metre pedestrian visibility splay as measured from existing or proposed highway. There shall be no obstruction above a height of 600mm (as measured from the finished surface of the access) within the area of the visibility

splays thereafter.

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.

8 - 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 of the development and maintained during the period of construction.

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.

9 - Non-Standard Condition

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

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

10 - C3.20 Surfacing Materials to be Agreed

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable access ways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

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

11 - C10.15 Tree & Natural Feature Protection: Protected

No work shall commence on site until all trees, shrubs and other natural features shown to be retained on the approved plans are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. No access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

12 - C10.16 Tree & Natural Feature Protection: Entire Site

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

13 - C10.18 Tree and Hedgerow Protection: General

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

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

14 - C10.19 Tree and Hedgerow Protection: Excavations

No works shall start on site until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved in writing by the Local Planning Authority (LPA). The details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

Reason: To adequately safeguard the continuity afforded by existing trees.

15 - 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.

16 - 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.

17 - Non-Standard Condition

Prior to the commencement of development, the applicants shall submit details of the proposed central feature for the Public Open Space. This feature shall be agreed in writing by the Local Planning Authority and shall be put in place within one year of the occupation of the first dwelling.

Reason: In deference to the historic use of the site.

18 - Non-Standard Condition

All buildings shall be fitted with external glazing bars.

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

19 - Non-Standard Condition

Windows to all rooms which are shown to be bathrooms or en-suites shall be obscured to a minimum of Pilkington Level 3 and shall be retained as such at all times.

Reason: In the interests of residential amenity.

20 - A7.4 Removal of ALL Perm Devel Rights (residential)

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

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

21 - B6.6 Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include: (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos; (ii) an assessment of the potential risks to: • human health, • property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, • adjoining land, • groundwaters and surface waters, • ecological systems, • archaeological sites and ancient monuments; (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

22 - B6.8 Submission of Remediation Scheme

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

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

23 - B6.9 Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

24 - B6.10 Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 21, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 22, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 23.

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

25 - B6.13 Validation Certificate

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

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

26 - Non-Standard Condition

A bat survey along the lines advocated in the submitted Extended Phase 1 Habitat Survey Report from ACD Ecology, dated 27 June 2011 (Document File Ref: ABBEY17754Ph1.doc) shall be undertaken prior to any demolition and details of the results shall be forwarded to Colchester Borough Council.

Reason: In order to protect the well-being of any potential bat population.

27 - Non-Standard Condition

Prior to the commencement of development or any demolition or site clearance, a Phase 2 reptile survey of the site shall be undertaken. The survey, together with any intended remedial measures, shall be submitted to, and agreed in writing by, the local Planning Authority. The development shall be carried out in accordance with such agreed details.

Reason: A large area of suitable reptile habitat, including the former football pitch which is now a large area of grassland and the surrounding hard standing and rubble, could house reptiles. Although this is unlikely, it is recommended that the survey take place.

28 - Non-Standard Condition

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

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

29 - Non-Standard Condition

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

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

30 – B4.6 Slab Levels

No development of the site shall take place until cross sections of the site and adjoining land and buildings, including details of existing ground levels around the buildings hereby approved and any changes in levels proposed, together with the proposed floor slab levels within that part of the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with those approved cross sections.

Reason: To enable the Local Planning Authority to exercise proper and considered control over the development as whole and to protect the amenity of occupiers of adjacent properties.

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 01206 838600. Should the bat survey reveal that the buildings are used as roosts by bats; works will need to be licensed by Natural England. Natural England will only grant licences for works affecting bats if it is demonstrated that the actions taken are not detrimental to the favourable conservation status of bats in their natural range. The licence application would therefore need to be accompanied by a detailed method statement which would include all necessary mitigation measures (e.g. sensitive timing of works, sensitive deconstruction methods and provision of replacement roosts).

(3) If the loss of boundary trees/vegetation is necessary either as good arboricultural practice or to accommodate the new development, removal of this habitat should ideally be undertaken in the period October to February inclusive (i.e. outside the breeding bird season) or September – March inclusive sub-optimally.

(4) Should it prove necessary to remove bird nesting habitat during the breeding season, the area must be checked in advance for the presence of bird nests by a SQE. Once checked, if there is no evidence of breeding birds, clearance work should be completed within 48 hours of inspection. If any active nests are found in this area then vegetation clearance must cease and an appropriate buffer zone should be established. This buffer must be left intact until it has been confirmed that the young have fledged and the nest is not longer in use.

(5) There may be a fox den located within some of the scrubby vegetation at the edge of the former football pitch. Clearance of this and other large areas of vegetation should be carried out sensitively (i.e. with a destructive search) such that any wild animals can be identified and removed from the development area.

(6) Good building practice during the construction phase will safeguard any individual animals which venture onto the site. Deep holes and trenches should be covered overnight and/or planked escape routes for any trapped wildlife should be provided. Any liquids should also be stored in a secure lock-up.

(7) All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority.

(8) Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.

(9) All highway related details should be agreed with the Highway Authority.

(10) Any proposed traffic calming should be laid out and constructed having consulted the emergency services and bus operators.

(11) Prior to occupation, each dwelling should be served by a system of operational street lighting between the dwelling and existing highway, which should thereafter be maintained in good repair.

(12) Steps should be taken to ensure sufficient turning and off loading facilities for delivery vehicles, together with an adequate parking area for those employed in developing the site, is provided within the limits of the proposal site.

(13) Due to emerging disposal and storage implications for surface water run off, the applicant should specify in broad terms, the sustainable drainage proposals for the proposal site

(14) Any tree planting proposed within existing or proposed highway should be agreed with the Highway Authority. Trees should be sited clear of all underground services and visibility splays as well as be sympathetic to existing or proposed street lighting. All proposed tree planting would attract a commuted sum to cover the cost of future maintenance (to be agreed with the Highway Authority).

7.2 111538 – Abberton Reservoir Scheme, Peldon Road, Abberton

The application as worded refers to the beginning of October as any planning permission will not be granted to after that date the applicant has agreed to the following amended wording:

“Variation of condition 62 of permission 080194; to allow use of Broad Meadows as access for a temporary period until 30 April 2012. Use will be for light goods vehicles (up to 60 movements per day), 8 wheel delivery trucks of 30 ton GVN, (20 movements per day for 2 weeks at the end of October 2011) and concrete deliveries of 20 ton GVN (up to 6 movements per day, once per week between the end of October 2011 until January 2012”.

7.3 & 7.4 – 102422/102432 – Buildings F & K, East Gores Farm, East Gores Road, Great Tey

1) Omission from Planning History:

101124 – ‘Change of use of Shed K1 from agricultural use to storage B1 office.’ Approved 2nd August 2010.

2) An additional objection has been received from the occupier of Whytegates, East Gores Road. This follows the publication of the proposed conditions. The objection reads as follows:

‘I would like to object to Non-Standard Condition (No 2) that the hours of use are submitted as partly being 07.00 - 19.00 hrs on Saturdays. This was not what was said by Mr Sunnocks when I spoke with him about the proposal and I would like clarification as to why the timing has since been changed? I live in the adjacent house to East Gores Farm and will be most affected by noise and traffic that will be caused by use at the weekend. I would like clarification before a decision is made or planning passed.’

Officer’s Comment – We are not aware of any conversations which may have taken place between the applicant and any other party. Whilst the concerns are noted, the stated hours of use coincide with others at East Gores Farm, and it would be impractical to try and impose and enforce different hours of use for one unit.

Agenda Item 8 – Land east of Brook Street, Dedham

A letter has been received from Mrs Pryke which is attached.

16th October 2011

To: The Members of Colchester Council's Planning Committee

From: Mrs Gwen Pryke – resident of land off Brook Dedham, now known as Eastbrook, Brook Street, Dedham, C07 6AD

I understand the dealings between myself and my family and your Planning Department are to be put before you next Thursday evening. I shall endeavour to be present. I have been living on my land with my husband and three children since the end of May of this year. We found ourselves unable to meet financial commitments earlier this year. The matter was compounded by a 50% hike in our rent, rising costs and a huge cut in our Family Tax Credit. I became increasingly concerned as I looked to the future and saw poverty, destitution and homelessness looming. I believed that in approximately two months we would not be able to eat properly, much less get to work and get the children to school and college. This was not some wild fantasy. We decided at short notice to locate to my childhood home in Dedham, a village that my family has long been associated with. The building had burned down some years before but services such as water, power and primitive sewerage remained. Being sensitive to local feeling and the AONB we moved on in tents and hoped to construct a small, sustainable building that would shelter our family through times of great need. We hoped that upon seeing our plight that the Planners would be sympathetic and even interested in our ideas and that we could work together. I believe we are a resourceful family and a strong loving unit who can work constructively together.

It soon became clear that this was a forlorn hope as they have waged a campaign of intimidation and threats against us. They insist that we will never get planning permission however hard we try. Initiatives such as affordable housing and Grant Schapps recent plan concerning local people building just outside the village envelope they insist that they will never countenance. My site is right in the centre of the village and as such does not attract many of the concerns attached to other sites. We walk to the shops, doctor's surgery and chemist. My son catches a bus to attend Colchester Sixth Form two minutes away. We are set back from the road and disturb no-one, apart from one neighbour who only has a chicken wire fence, but that is yet another story. The land is over two acres and we would dearly like to keep a few small animals and grow fruit and vegetables but we have been told that we cannot even do that. Recently several houses, all valued over £1 million have been

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Gwen Pyke

built in the village, outside the envelope and the local plan. No other type of house has been built. I can think of several reasons why the planners regard this as desirable and if they do not why have they not rectified their guidelines and policies? Some may agree with their guidelines and policies and the effects that these have but I do not, and it is unjust that they will not even consider my views and needs.

The Council took us to Court in July and obtained an injunction which prevented us from putting up any structure of any sort. This has caused us great hardship as we are not able to have proper toilet and washing facilities. In my worse moments I believe we are the only people in England to be treated thus. The Judge however made plain that he was very sympathetic to our cause and in a long judgement made clear that the Planners should sort out our planning application and do so within 6 weeks. The housing department should house us locally in a suitable house and that we should not be in tents after the 15th September as we are very concerned for the welfare of the children. I should like to make plain that we are also very concerned about the welfare and the future of our children. All our actions have been designed to minimise disruption to their lives and so they can stay in their schools. My eldest son had to take his GCSEs at East Bergholt High School this summer. We will do anything for them and endure anything and this is how we find the strength to continue and to fight for what we consider is right and just which is a future for all of us together. Looking back on my actions and decisions in May of this year I really believe that we were in a survival situation where you either get busy surviving or dying and we chose the former.

The Housing Department were unable to find us suitable accommodation locally and were only able to offer us Bed and Breakfast in Ipswich when and if we are evicted from here. The Judge made plain that this was not acceptable. We had a meeting with a Planner after we pushed for it where he refused to answer any of our questions and he and the enforcement officer rolled their eyes and sniggered and the plans that we put forward. Realising that we were not going to be able to sort anything out by the 15th of September we applied to the Court and to the same Judge. Due to the pressure of work commitments he was unable to hear the case until the 19th of September. He allowed us to stay indefinitely and was very angry to hear that our case had been accepted by the Planning Inspectorate. Out of 7 categories they believe we have a case in 6, including Ground A which is the local planning guidelines and this is where your officers insist we have no chance whatsoever. The Judge has de-listed the case and will only hear further evidence when the Planning Inspectorate have completed their job. Currently I understand that the Inspectorate are favouring Ground D which is the reinstatement of the former use. Obviously they are impartial but this does give us hope. We also understand from them that they believe that the

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Gwen Pyke

Enforcement Notices should be removed from us and they are pressing Colchester Planners to do this.

Through various means we were able to secure the use of three small caravans to get us through the winter or until the Planning Inspectorate rules. On the Injunction it does not mention caravans and we assume that so obvious a medium was left off the wording of the injunction because caravans have a different legal definition. We have been very careful to observe both the letter and spirit of the Injunction and Judgement from day one as we believe that the law should protect us. We have spoken to the Court on two occasions one of which was the day before we brought on the caravans. We do not believe that we are in Contempt of Court and anyway we would never be contemptuous in so serious a matter. We were guided by a humanitarian imperative and were extremely frightened in the days building up to this.

I notice that one of the charges levelled at us is that some local people no longer feel comfortable walking down the lane which goes past our field. I should just like to point out that there is a financial storm raging outside which is causing homelessness and poverty on a scale not seen before in our country and if the only flotsam that washes up on their shores is me and my family then they have escaped relatively undamaged. We also understand that the Parish Council have voted unanimously to have us evicted. This does not surprise me and for various reasons does not really hurt my feelings. However last Tuesday two of your enforcement officers turned up at what is our home with two uniformed Police Officers. I was there with my two youngest children. As I was washing at the time the children tried to bar their way and were told that they had no rights, which I thought was very unfortunate. The enforcement officers threatened me with arrest for contempt of Court, although the Police then made plain that this was not the case. Various neighbours were watching and texting each other having been told, I understand that I was about to be arrested. The following day my son confronted a teacher at school whom he believed of mocking another child saying that the other child was being abused and denied his rights. The teacher was greatly upset by this, although she did understand when we explained. This incident ^{is} although the latest is part of a whole catalogue of abusive actions undertaken by your officers in front of my children. I have kept the enforcement officers informed at all times and tried to speak with them. We have begged them to refrain from their actions in front of the children. We have given them our mobile numbers and offered to meet with them so they can serve us with papers but to no avail. They have even praised us for our co-operative natures. They do not tell the truth and use psychological tricks with us knowing that we are in shock and vulnerable. I have enough intellectual discipline to know that of course I would deplore their actions and that I need to see things from their point of view as

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Gwen Pryke

well as my own. I have done this but even taking everything into account their actions are shameful and I would not wish anyone else to suffer as we have.

I am not sure what your role is in this matter and whether you can help us or would even wish to do so. I feel it is my duty however to bring certain aspects of this case to your attention.

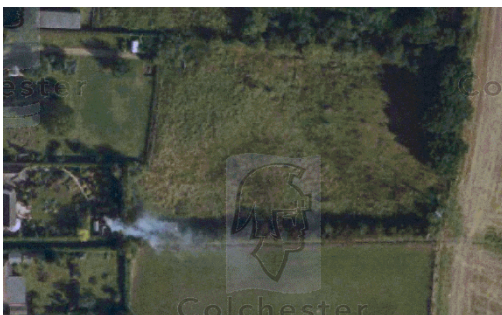
Yours sincerely


GWEN M PRYKE

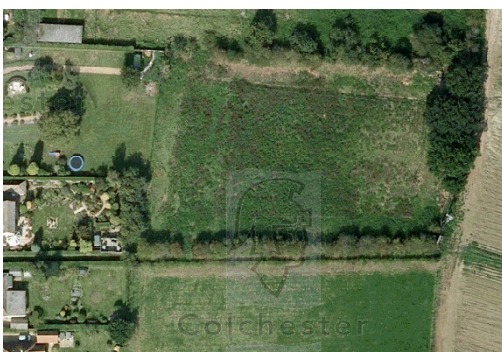
Planning Service Manager's comments on content of Mrs Gwen Pryke's letter to Members dated 16 October 2011

In Mrs Pryke's first paragraph she refers to a previous building that occupied the site and describes it as having been burnt down some years before she and her family started living on the land in May 2011

An examination of aerial photographs from 2000 onwards (please see below) does not reveal evidence of a dwelling although the photograph from 2009 indicates what appears to a small indeterminate object in the south-western corner of the site.



2000



2006



2009

DC0901MW eV2

In 1980 an outline planning application was submitted for the erection of a house on the land which was refused on policy grounds. At that time a letter of objection was received from a local resident in which the author referred to:-

“No planning permission was sought before the original caravan was eventually burnt out and the owner of the property was unable to control his livestock which were a great nuisance to all his neighbours...”

Therefore there is some suggestion that an unauthorised caravan may have sat on the site some 30 years ago but there is no evidence of a dwelling.

The O.S. map submitted with the 1980 application has no evidence of buildings or structures being within the site.

Whilst the site is within walking distance of the village centre, local facilities and bus stops it is not within the village envelope and is not a rural housing site identified for the delivery of affordable village housing as an exception to policy. There is no policy justification for a departure from policy on the grounds that the family own the land and wish to live on it. If that were sufficient justification then any field in any part of the borough would be open to development.

Mrs Pryke refers to a judge making it plain that the Council should sort out the Prykes planning application and do so within 6 weeks. It is a fact that no valid planning application has been submitted and so there is no planning application to determine.

Mrs Pryke states that on 19th September 2011 the judge allowed the family to stay indefinitely and was angry to hear that their case had been accepted by the Planning Inspector. The judge did not indicate that the family were allowed to stay indefinitely. What His Honour Judge Newton did was to indicate that the family could remain in the unauthorised tents until the appeal was determined and the outcome known. The appeal is an enforcement appeal against the service of an enforcement notice to require the removal of tents from the land and cessation of use as an unauthorised campsite. The Judge did not vary the Injunction in respect of the restriction on bringing other structures onto the land. By bringing caravans onto the site Mr & Mrs Pryke are in contempt of court.

Mrs Pryke is misguided when she states “ the Planning Inspectorate are favouring Ground D which is the reinstatement of the former use. Obviously they are impartial but this does give us hope. We also understand from them that they believe that the Enforcement Notices should be removed from us and they are pressing Colchester Planners to do this.”

The Council has had no such contact from the Inspectorate and it would be highly inappropriate and unexpected for the Planning Inspectorate to discuss a case that is still to be determined with either the appellant or the Council.

Members are advised that Ground D is:-

Ground (d) – That at the time the enforcement notice was issued it was too late to take enforcement action against the matters stated in the notice.

As the unauthorised use the subject of the enforcement notice occurred in 2011 the Council is confident that the notice was served well within time allowed.

Mrs Pryke states that she and her husband have been careful to observe both the letter and spirit of the Injunction and would never be contemptuous. The Council is returning to Court on the basis that the bringing on of caravans does flout the Injunction.

Mrs Pryke refers to an incident where two enforcement officers turned up accompanied by police. The Council officers referred to were the Planning Service Manager and an enforcement officer. The officers were there to investigate the alleged breach of planning control and were there to exercise their lawful right of entry. At no time did the Council officers threaten to arrest Mrs Pryke because Council officers do not have that power. The police officers were not required therefore to make it “plain that this was no so” (ie Council Officers there to arrest Mrs Pryke).

Human Rights:

ARTICLE 5 RIGHT TO LIBERTY AND SECURITY

The Council has pursued and continues to pursue the Injunction action through the courts in line with the requirements of the law and the Enforcement Notice through Planning Law via the Planning Inspectorate.

ARTICLE 6 RIGHT TO A FAIR TRIAL

The Council has pursued and continues to pursue the Injunction action through the courts in line with the requirements of the law and the Enforcement Notice through Planning Law via the Planning Inspectorate. The action taken conforms to the Councils Constitution.

ARTICLE 7 NO PUNISHMENT WITHOUT LAW

The Council has pursued and continues to pursue the Injunction action through the courts in line with the requirements of the law and the Enforcement Notice through Planning Law via the Planning Inspectorate.

ARTICLE 8 RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

The occupation of the site for residential purposes is unauthorised and appropriate enforcement action is to be taken in accordance with the law to remedy that breach. The exercise of such powers by the Council are in the interest of protecting the rights and freedoms of others.

Vincent Pearce
Planning Service Manager
20th October 2011

The Council has received a representation from Linda Russell Consultants , dated 20 October 2011, prepared on behalf of neighbours to the site which is being submitted to the Planning Inspectorate in respect of the outstanding enforcement appeal. The solicitor has asked that the letter be placed before members at tonight's meeting as it highlights issues relevant to the action being taken by the Council via the Injunction.

Letters are produced below:-

Linda S Russell
Solicitors & Planning
Consultants

57 North Hill
Colchester
Essex CO1 1PX
t: 01206 766333
f: 01206 766332
e: info@lindarussell.co.uk

The Planning Inspectorate
Room No 3/26
Temple Quay House
2 The Square
Bristol
BS1 6PN

Your ref: APP/A1530/C/11/2157753
Our ref: SS/TAY1/1

By Post & Email: Teame2@pins.gsi.gov.uk

20 October 2011

Dear Sirs

Appeal at Land to East of Brook Street, Dedham, Colchester
Appellants: Mr Asa Pryke & Mrs Gwen Pryke
Enforcement Number: APP/A1530/C/11/2157753

We are instructed by Mr and Mrs Taylor of Limetree House, Brook Street, Dedham, to make representation and objection to the Enforcement Notice appeal.

Mr and Mrs Taylor share a common boundary with the appeal site. In addition to the unlawful planning issues occurring at the appeal site, our clients are forced to endure the view of the makeshift camp that has been erected at the bottom of their garden. Our clients invite the Inspector to view the appeal site from their garden.

Our clients, their children, and near neighbours have been subjected to verbal abuse and attempted intimidation from the Appellants. Despite their claim to be co-operative, it is known that the Council now only attend the site with a Police presence. It is likely that more submissions would have been received by the Planning Inspectorate from local residents were it not for the fear of recrimination.

The Appellants' family circumstances are, without doubt, highly unfortunate and distressing for them. However, this does not justify the flouting of well founded Planning Policy.

The site is a Greenfield site within the Dedham Vale Area of Outstanding Natural Beauty and is outside the settlement boundary for the village of Dedham. National and Development Plan Policies protect sites like the appeal site from development. Given its location, Planning Policy dictates that it must be afforded the highest protection.

The Appellants are not pursuing their ground a appeal and therefore the planning merits, or not, as it is in this case of the site, are not discussed because it is not a matter to be argued for the purposes of this appeal. The Appellants have not appealed grounds a, b or ground g.

Linda S Russell: Principal (Director), Nicola Mee: Trainee Solicitor, Zachariah Robinson: Paralegal, Sharon Smith: Senior Planner
www.lindarussell.co.uk VAT No. 759 8540 74 Regulated by the Solicitors Regulation Authority, SRA Number: 532080
Linda S Russell Limited, Registered Office: 57 North Hill, Colchester, Essex CO1 1PX Registered Company Number: 6764194

DC0901MW eV2

Ground C Appeal

In respect of the ground c appeal, that there has been no breach of planning control, the Appellants' assert that the land has always been used for residential purposes. No evidence has been provided to substantiate this ground of appeal. The Council's records do not support any residential claim as alleged by the Appellants, and indeed the earlier planning applications in 1980 and 2009 make reference to the site having an agricultural use. In her unsuccessful 2009 planning application Mrs Pryke, herself, states that the site has been vacant since 1980. Even if any residential use has historically occurred, the use has long since been abandoned. It is for the Appellants to prove the claimed residential use and not for the Council to disprove it.

To state, as the Appellants have done, '... that any building or development will be within the planning procedures...', is an incorrect statement because residential development of the site, unless it is for agricultural purposes or unless a continuous residential use is proven, is clearly contrary to Planning Policy.

The Appellants have provided no evidence to demonstrate that the 'claimed' residential use has not been abandoned. The Council's records do not evidence any historic residential use. Notwithstanding this, even if this has occurred, the residential use must have long since been abandoned.

Ground D Appeal

In respect of the ground d appeal, the Appellants' assert that it is too late to take enforcement action. To justify this argument, the Appellants need to demonstrate that the use of a caravan for residential purposes has occurred permanently and continuously at the same level for the last ten years (up to the date of the service of the Enforcement Notice), or that the residential use in any other building/structure or operational development has occurred in the same manner for more than four years, up to the date of service of the notice. There were no visible structures on the site until May 2011 except for the horse box. The septic tank was installed in June 2011.

The Appellants have not demonstrated this. If there was any residential use occurring, and this is not substantiated, this ceased in 1979 as stated by the Appellants. Notwithstanding this comment made by the Appellants, there is no evidence to support this claim. Maintenance of land (as agriculture) is not a continuing residential use of the site. The appeal on this ground d must fail.

Ground E Appeal

In respect of the ground e appeal, no justification has been provided that the notice has been served incorrectly. The appeal must therefore fail on this ground. Notwithstanding this, in respect of the ground e appeal, the Applicants have sought to declare their personal circumstances to justify this ground. Personal circumstances are very rarely a material planning consideration. Whilst the family's circumstances are indeed unfortunate, there is provision for supporting them through alternative legislation. The planning legislation should not be utilised as a mechanism to support a homeless family particularly when their proposal is so clearly contrary to Planning Policy.

If this mechanism through the planning process was utilised, there would be countless other similar encampments.

The family have been offered alternative accommodation, which they have declined. That was their choice to do so. Both Appellants claim to be in gainful employment and have options available to them including, presumably, the sale of the appeal site.

Ground F Appeal

In respect of the ground f appeal - lesser steps; no defence has been put forward. There is none. The Council are entirely justified in requiring the unlawful breach to cease.

Other Matters

The Appellants' submission in respect of the ground a appeal must be disregarded, as this appeal ground has fallen because of non payment of fee. Any attempts to demonstrate compliance with Planning Policy are not relevant and cannot therefore be considered.

When the Enforcement Notice was issued there were no caravans present on the site. The Appellants claim that they intend to comply fully with planning process, but have already bulldozed a hedge and brought three caravans onto the site, all whilst they were appealing the Enforcement Notice in relation to the tents and the septic tank. This does not indicate that the Appellants are complying fully with the planning process. As a result of the introduction of caravans to the site, the Appellants now find themselves in Contempt of Court following the granting of an injunction by Chelmsford County Court on 1 July 2011.

The appeal site is land-locked. The only way of emptying the septic tank that has been installed will be via the public footpath (number 18). The freehold ownership of this footpath has been established with another party (not the Appellants). We are advised that the lawful owner is engaged in separate legal proceedings with the Appellants. Despite their current usage, the Appellants have no right to utilise the public footpath as their access to the appeal site. In the event the septic tank is not removed, without lawful access it may never be emptied.

At this stage, Essex County Council are not pursuing the unlawful vehicular access of public footpath number 18: on behalf of our clients we may now be making representation to them. The daily driving of multiple vehicles on and off the site, with other associate bike and motorbike movements, results in highway danger for users of the public footpath who also feel intimidated if using the footpath, and for other footpath and road users as vehicles drive along the footpath. The visibility splays and exit onto the public road (Brook Street) are not satisfactory, and this causes further highway danger for pedestrians and other road users. The Highway Authority in respect of the 2009 application objected to the proposal on the grounds of highway safety. Furthermore, there is no dropped kerb in this position, which means that vehicles are bumping over the kerb stones.

In addition, whilst the surface of the footpath is not being affected at the current time, with the advancing winter weather conditions, the footpath, without doubt, will become 'churned up'. It is an offence to cause this to happen and this will be a matter that the County Council must investigate.

As already stated, it is acknowledged that the Appellants' personal circumstances are hugely unfortunate, but this is not a reason for their continued unlawful occupation of the site with the stationing of caravans, tents and the horse box. The Inspector is respectfully requested to uphold the Council's Enforcement Notice. Although the Appellants have not appealed the ground g appeal, the six months given by the Council is considered entirely reasonable to allow the family to find alternative accommodation and vacate the site.

Yours faithfully

Sharon Smith, Senior Planner
Linda S Russell, Solicitors & Planning Consultants

Encl.

Councillor Garnett has forwarded an e mail from a local resident. However, the Planning Service is of the opinion that it does not raise planning matters relevant to the report being considered tonight.

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
20 October 2011 at 6:00pm**

SUPPLEMENTARY AGENDA

Part B

(not open to the public or the media)

Pages

There are no Section B Items