

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

SUPPLEMENTARY AGENDA

Part A

(open to the public including the media)

Pages

. Amendment Sheet

57 - 63

See Amendment Sheet attached.

AMENDMENT SHEET

Planning Committee
17 February 2011

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

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

7.1 102121 – Plot of land between 16 and 23 Darwin Close, Colchester

The agenda report has been prepared by Vincent Pearce and not John More as described.

Additional information

The Council has received written confirmation from the MoD that the trees on their land can be removed and that the fencing along the residential boundary needs to be a 1.8m high close boarded timber fence with concrete posts.

Amended conclusion

In the light of this and the fact that the boundary fence required is not a high security fence approval is now recommended.

Amended recommendation

That planning permission be **GRANTED subject to a Grampian condition** that restricts commencement of the development until such time as the 5 existing trees adjacent to the application site boundary have been removed

Suggested conditions shall include:-

- 1. removal of permitted development rights**
- 2. implementation of fencing as shown prior to occupation and thereafter retained.**

7.3 091057 – Car park opposite The Coast Inn, 108 Coast Road, West Mersea

It is confirmed that the Essex Wildlife Trust has not made any comment.

7.4 101520 – 36 Barrack Street, Colchester

The applicant is happy for a condition to be placed on the application stating that the car parking will only be used by the two business uses and the flat and that the spaces will not be made available to customers or members of the public. Condition 9 to be amended as follows:-

“A minimum of three car parking spaces shall be provided within the site prior to the occupation of the building and thereafter maintained as such at all times thereafter. Two of these spaces shall be allocated for the sole use of the staff of the take-away use and the third allocated for the sole use by the occupiers of first floor residential accommodation. Reason: For the avoidance of doubt as to the scope of this permission.”

Amend condition 4 as follows:-

“The use hereby permitted shall not operate or be open to customers outside of the hours 12:30 to 14:00 hours and 17:30 – 23:00 hours.”

7.5 **101901 – Powerplus Engineering Ltd., School Farm Buildings, School Road, Langham**

Langham Parish Council has submitted further comments:

“We consider that the present application should be considered in the context of the decisions concerning this site by two Government Planning Inspectors. The first, which was an appeal decision, dismissed the retrospective application no. 090409, listing 6 reasons all of which we feel are relevant to this latest application. Paragraph 4 of the appeal decision referred to the Council’s adopted Core Strategy policy ENV1 which states that the Council would conserve and enhance Colchester’s countryside and that the Council would support appropriate development of infill sites and previously developed land within the settlement boundary of villages (Core Strategy policy ENV2). Furthermore, saved local plan policy EMP4 indicates that in rural areas (apart from Rural business Sites, which this is not - see local plan review policy EMP5) new industrial and commercial development will be located only within village envelopes. Paragraph 5 of the appeal decision stated that the appeal site is not within the defined settlement boundary for Langham and is not previously developed land. The Inspector was also clear to point out that the expansion onto agricultural land was a damaging incursion into open countryside and could not be described as a small scale rural business scheme which would meet the requirements of Core Strategy policy ENV2. In conclusion under paragraph 7 the Inspector stated “the

development has an adverse effect on the character and appearance of the countryside and is in conflict with the Core Strategy policies to which I have referred, as well as with local plan policy EMP4”.

In his report on the examination into the Borough Council’s Site Allocations Submission Plan Document dated 27/09/10, the second Inspector stated under paragraph 2.9:-

“The proposals in representations relating to an extension of the existing LEZ on School Road were subject to SA by the Council. Whilst some of the individual elements of the assessment were favourable, the conclusion reached was that only the 1.06 ha site currently in employment use should be allocated as a LEZ. I see nothing unsound in this conclusion. The existing LEZ, in pursuance of the policy objective, provides employment opportunities in this rural location, and in my opinion it is of a size commensurate with the scale and character of Langham. When existing businesses outgrow their existing sites, it is not always appropriate for an expansion to take place at the same location. I note that there has been a recent appeal relating to an application for a rear extension to the site which was dismissed. My colleague found that the extension would be visible and would be a damaging incursion into open countryside and his conclusion that the development would have an adverse effect on the character and appearance of the countryside echoes the conclusion of the Council in its sustainability appraisal. Reasonable alternatives have been considered, and the allocation in the plan is sound”.

Both reports are significant material considerations in consideration of the present application and their decisions remain valid in respect of this site.

Other material considerations are as follows:

1. The application seeks Change of Use for Grade 2 high quality agricultural land, already enclosed, covered by Policy CO8 of the Local Plan.
2. The line of the footpath, as shown on the applicant’s diagram, crosses the proposed car park and footpath users would come into conflict with moving vehicles within the car park.
3. The Village Design Statement, adopted by the Borough Council in 2008, shows that Langham has an essentially rural character, with both residential and business premises abutting high quality agricultural land and, in some cases, Conservation Zones. The Parish Council should be consistent in its approach and oppose this and other similar applications for Change of Use.

4. In addition to the car parking area the applicant also seeks approval for use of the remaining enclosed land as “paddock”. This total enclosure is in conflict with both Government Planning Inspector decisions.
5. The development is fully visible from the public footpath, which traverses it.
6. One of the key criteria in the CBC planning policy sustainability appraisal is to achieve more sustainable travel behaviour and reduce the need to travel. The comments made by CBC were as follows: “Rural employment sites can help rural communities become more sustainable by providing jobs for locals and reducing the levels of out-commuting and so the impact on this objective is largely dependent on whether workers live in the immediate locality. Development on the site should remain small scale to ensure that it serves those living locally and does not give rise to high levels of in-commuting”. In conclusion, few if any of the Powerplus employees live locally (in Langham) and by virtue of the fact that this request is for a car park expansion it is clearly in direct conflict with the SA objective.

The Parish Council also considers that approval of this application would set a dangerous precedent for other applicants with enclosed land to seek similar Change of Use. Accordingly and for the above reasons, we urge the Planning Committee to refuse this application. The application site is adjacent to an established and allocated Local Employment Zone as shown on the LDF Proposals Maps and the table of Local Employment Zones in the Site Allocations document. The allocation of the LEZ is restricted to the existing buildings and areas of business activity. The Site Allocations document is clear that the allocation (and therefore uses associated with the site) should be restricted to t n.

Spatial Policy has also submitted comments:

“The existing buildings are as seen on the Proposals Maps. An extension to the site to provide car parking facilities is not considered to be in accordance with the allocation.

The application site has been considered previously on two separate occasions and both times the principal of development on this parcel of land has been rejected as outlined below.

1. In response to the Site Allocations Consultation a land bid was submitted for an extension to the existing site. The extension was larger than that currently proposed but this was considered inappropriate and didn't follow the Council's approach to the allocation of Local Employment Zones and was dismissed as well by the Council's Sustainability Appraisal which supported the Site Allocations document. The proposal to extend the site and allocate a larger Local Employment Zone was discussed at length during the Site Allocations Examination in Public which was held

during March and April 2010. The Inspector conducting the Examination agreed with the Council's approach to this site and found the allocation of the existing site to be sound as seen in paragraph 2.4 of the Inspector's report seen which is shown below,

2.4 I consider that the general approach of the LEZ allocations being strictly tied to the extent of existing employment buildings is sound. Since these rural allocations are within the countryside, the Council is justified in drawing the boundaries tightly. Any specific proposals extending beyond the allocation can be considered against the criteria of policy DP9 of the Development Policies DPD.

The Inspector also made specific reference to the representation relating to the Powerplus site in paragraph 2.9 of his report. It is clear from this paragraph which can be seen below that the Inspector was satisfied that the extension of the site was inappropriate and that the Council was justified in their decision to draw the boundaries of this Local Employment Zone tightly around the existing buildings and areas of activity.

2.9 The proposals in representations relating to an extension of the existing LEZ on School Road were subject to SA by the Council. Whilst some of the individual elements of the assessment were favourable, the conclusion reached was that only the 1.06 ha site currently in employment use should be allocated as a LEZ. I see nothing unsound in this conclusion. The existing LEZ, in pursuance of the policy objective, provides employment opportunities in this rural location, and in my opinion it is of a size commensurate with the scale and character of Langham. When existing businesses outgrow their existing sites, it is not always appropriate for an expansion to take place at the same location. I note that there has been a recent appeal relating to an application for a rear extension to the site which was dismissed. My colleague found that the extension would be visible and would be a damaging incursion into open countryside and his conclusion that the development would have an adverse effect on the character and appearance of the countryside echoes the conclusion of the Council in its sustainability appraisal. Reasonable alternatives have been considered, and the allocation in the plan is sound.

2. As outlined above the site was also subject to a separate planning application (090409) which also sought an extension to the existing site. The previous planning application was a retrospective application to provide staff car parking and outdoor storage, together with erection of fencing and diversion of the public footpath crossing part of the site. The Council refused this previous application as it was considered inappropriate. The applicant then took the application to Appeal (as outlined in the paragraph above). The appeal was dismissed in June 2010.

The current application focuses on the provision of staff car parking which the applicant describes as necessary to alleviate the problems caused by staff currently parking on School Road and the conflict this causes with the Primary School nearby. Spatial Policy accepts this conflict as recognised in the Langham Village Design Statement but do not believe the development of thirteen parking spaces on land outside of the Local Employment Zone is the best way to address these issues. Alternative approaches to addressing this problem could be for the businesses on the current site to introduce Travel Planning measures such as car sharing and opportunities for alternatives means of transport (where appropriate) or as indicated by the Planning Inspector conducting the Site Allocations Examination, look to relocate to another site in the Borough which will meet their current needs for space. The Council is confident that there are sufficient opportunities available across the Borough.

The Site Allocations Inspector made reference to Policy DP9 in his report (paragraph 2.4 as outlined above). Policy DP9(e) details expansion of an existing business into the countryside only where exceptional circumstances are demonstrated to show there is no space for the required use on the existing site. DP9(e) outlines the applicants responsibility to adequately demonstrate the need for the extension and consideration for the relocation of the business as part of their supporting information.

The applicant has not provided any new justification as to why this application should be permitted and the Spatial Policy Team still consider this application to be inappropriate and have concerns regarding the precedent the approval of this application may have across the Borough. The site as outlined above has been subject to previous applications and submissions to the Council. On both occasions the Council has rejected the extension to the site and this position has been supported by two different Planning Inspectors in the last nine months and this should be upheld in response to this current application.

Officer Response:

The additional response from the Parish Council and the comments of the Spatial Policy Team refer both to the Inspector's comments on planning application 090409 and the Inspector's comments on the LDF Site Allocations Submission Plan Document. This Inspector agreed with the conclusions of the planning appeal Inspector and noted it was not always appropriate for expansion of existing businesses to take place at the same location. The Site Allocations Inspector considered the boundaries of the LEZ as drawn to be sound. This is clearly a material consideration to be taken into account in determining the latest application.

Nonetheless the Inspector conducting the Site Allocations Examination also stated that "any specific proposals extending beyond the allocation can be considered against the criteria of policy DP9 of the Development Policies DPD".

The report to the Committee sets out the policy principles and examines the previous planning appeal decision. The parcel of land subject of the current application is much smaller than the parcel of land previously dismissed on appeal. It is acknowledged a footpath crosses the proposed parking area; however the Highway Authority has not objected to the proposal. The proposal is a practical solution to alleviating potential conflict of staff parking in School Road and the application provides an opportunity to improve the visual appearance of the factory building at the interface with countryside through the planting of an indigenous hedge. This is dealt with by condition no. 3 in the report. Condition nos. 4 and 5 also require the removal of an outer perimeter fence within 2 months and restrict any new fencing on this land. The application has been recommended for approval on this basis.

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SUPPLEMENTARY AGENDA

Part B

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Pages

There are no Section B Items