

AMENDMENT SHEET

Planning Committee
4 July 2019

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 172049 – Land west of Chitts Hill, Stanway

Amendments to Recommended Conditions:

1. Corrections to drawing numbers listed in Condition 2 (Approved Plans):
 - Delete drawing references HT 946 Floor Plans 84-85 RP-017 Rev C and HT 946 Floor Plans 84-85 RP-018 Rev C as these have been included in error (previously superseded);
 - Include floor plans for Plot 5 as follows: HT 1635 Floor plans- 5, 17H, 27, 56H, 61, 72, 74, 86H RP-021 Rev B
 - Include: Proposed Site Access A09833-35-18-001 Rev E
 - Include: Landscape Masterplan JBA 15/38-SK02 Rev I
2. Deletion of Condition 17 (acoustic barrier) in response to further information and Environmental Protection advice:

An Updated Noise and Vibration Assessment was submitted in December 2018 which was considered by the Council's Environmental Protection Team. These comments were omitted from the Committee Report in error, but are as follows:

Having read the report it predicts the highest noise levels at the most exposed facades across the site as requested.

The data shows that the vast majority of the units have facades that are exposed to noise levels below our requirement of 60dBA (day) and 55dBA (night). It also shows that private gardens will comply with the WHO daytime standard of 55dBA without an acoustic barrier. It should be ensured that:

- *All units are fitted with adequate glazing and passive ventilation to comply with BS8233. For the more exposed units enhanced glazing and ventilation is required as highlighted in the relevant tables.*
- *The majority of residential gardens are shielded from the railway by the buildings. Where private gardens are exposed directly to the railway a 2m high close-boarded fence shall be erected along the exposed boundary.*

In which case, it is concluded that Condition 17, which required an acoustic barrier, can be deleted. Details of acoustic mitigation measures will be secured under Condition 16 as recommended in the Committee Report.

3. Amend wording of Condition 18 (detailed landscape works) to allow some works to commence:

No works shall take place above slab level....

4. Deletion of Condition 23 (materials to be agreed) as sufficient and acceptable information is provided on drawing RP-004 Rev D, approved under Condition 2.

5. Amend wording of Condition 25 (Remediation Validation Certificate) to allow for works to progress on a phased basis:

Prior to the first occupation of each dwelling.....

6. Amend wording of Condition 26 (Highway Works) to allow some flexibility in consultation with the Local Planning Authority:

No occupation of the development shall take place until the following have been completed or provided, or as otherwise agreed in writing by the local planning authority as part of a scheme of works....

7. Amend wording of Condition 28 (Ball Strike Assessment) to remove any suggestion of predetermination that mitigation measures will be required:

Plots 67-80 (inclusive) as shown on Planning Layout RP-003 Rev E shall not be occupied until a Ball Strike Assessment, to include full details of the design and specification of any mitigation measures and management and maintenance responsibilities (if any), has been submitted to and approved in writing by the Local Planning Authority. The details shall then be fully implemented as approved.

Reason: To provide protection for the occupants of the development and their property from potential ball strike from the adjacent playing field or sport facility, to reduce conflict between neighbours and thereby safeguard sporting use of the adjacent sports facilities.

7.3 190424 & 190425 – Land at East Bay Mill, 19 East Bay, Colchester

The comments from the Historic Building's and Area Officer can be summarised as follows:

"The main concerns from a heritage perspective involve the addition of parking spaces to the north of the barn, near the site's entrance which falls with the boundary of the conservation area. This is a zone that is currently used for unregulated parking and therefore, the provision of these bays that would help to manage this situation, can improve the appearance from the site and its views from East Hill."

Sustrans

The applicant has been in discussion with Sustrans regarding the proposed traffic calming measures. Sustrans comments on the latest drawings are set out below:

- Sustrans is happy with the 'Share with Care' signs and the cobble stone rumble strips with the central 2m wide smooth tarmac.
- It would be helpful if you were to show the 'no parking' signs on the plan; these can be on the same posts as the Share with Care' ones.
- If permission is granted, it will be important that there is a clear understanding about keeping the access road open at all times. There must be no blockages from parked vans, vehicles etc during the building works causing blocking of NCN51/Wivenhoe Way.

7.4 183046 & 183047 – Land to the north of Mill Buildings, Wakes Colne Mills, Colchester Road, Wakes Colne

1. Comments have been received from the Mills Section of the Society for the Protection of Ancient Buildings (SPAB), summarised as follows:

- Reservations regarding the impact of the proposal on the grade II listed mill complex.
- The scheme does have the benefit of bringing the coach house back into use and removing some modern additions that detract from it, but the proposals do not include a requirement to repair the two-storey gault brick office or house on the north-east corner of the Mill.
- The impact on the setting of the listed Mill on the River Colne has not been adequately considered. It is considered that the present form of the development would have a detrimental impact on the setting and thus the significance of the listed Mill complex.
- Urge that decision is delayed until further negotiations have taken place on the proposals to develop the site to the north of the mill.

2. Two further representations have been received from local residents who have previously comments on the proposals. The content of the representations is summarised below (main 'theme' highlighted in bold for ease of reference) and Case Officer comment is provided beneath each point.

- The committee report claims at paragraph 3.4 that the site is 'recorded as being a site of Special Scientific Interest (SSSI)' which is misleading and factually incorrect. The Officer recommendation is therefore predicated on an **incorrect assessment of the site**.

Case Officer Comment: This is a typing error. The site is within an SSSI Impact Risk Zone. Paragraph 3.4 of the report is a description of the site and its context. Consideration of the proposal within an SSSI Impact Risk Zone is assessed at paragraph 16.50 of the report so the Officer recommendation has been based upon a correct assessment of this particular constraint.

- Paragraph 7.4 of the report refers to the **Neighbourhood Plan for Boxted/Myland & Braiswick**. How is this relevant?

Case Officer Comment: Section 7.0 of the report lists relevant planning policy. Paragraph 7.4 is included in error and can be omitted from the report. The Neighbourhood Plan for Boxted/Myland & Braiswick is not relevant to the proposal.

- **Previously Developed Land:** The report claims that the 'majority of the site is concrete hardstanding', but in considering Google Earth images and online measuring tools (as well as own personal knowledge) it is considered that significantly less than 50% is concreted. The site is a relatively green open space (The CLEUD application 162414 noted that 'vegetation is encroaching'). The NPPF definition of Previously Developed Land excludes 'land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.' Serious questions therefore need to be asked as to how much of the site actually falls within the definition of Previously Developed Land. Previously Developed Land does not in itself justify planning permission.

Case Officer Comment: The Case Officer assessment of the site is based upon the information submitted with the application, a number of site visits, and comments from both statutory and non-statutory consultees; it is not considered to be a subjective view. Whilst vegetation is 'encroaching' as noted in the CLEUD application, the site is not overgrown and cannot be said to have 'blended into the landscape': the coal yard buildings remain, as does the built up land and concrete hardstanding. Please refer to

paragraphs 16.2-16.6 of the report with regards to the assessment of weight to be given to previously developed land.

- The report suggests that the fact that 'there is a great deal of detritus associated with the use of the site as a coal yard' is an important material consideration to justify development, but **the site could have been tidied up over the last 5 or so years.**

Case Officer Comment: Please refer to paragraph 16.41 of the report.

- **Policies ENV1 and ENV2 are relevant** as only part of the site was formerly used as a coal yard. The NPPF comments on Previously Developed Land do not trump the local development plan.

Case Officer Comment: A full assessment of Previously Developed Land, in the context of both the adopted Local Plan and the NPPF, is included at paragraphs 16.2-16.5 of the report.

- Reference to a refusal for 2 dwellings on previously developed land (**ref: 172053**) on the basis of policy ENV2 and impact on the countryside. Suggested inconsistency of approach by Colchester Borough Council. Reference to case law that previous decisions, including appeal decisions, can be a material consideration (e.g. DLA Delivery v Baroness Cumberledge [2018]).

Case Officer Comment: This is referred to in the Local Representation comments in section 10.0, and discussed at paragraph 16.74, of the report. It is agreed that previous decisions can be a material consideration, but the examples provided by the local resident in question relate to entirely different sites, with different site characteristics and context. For example, whilst not the only consideration, the site referenced under 172053 is much further removed from facilities and services than the application site. The examples of appeal decisions provided (and cited in paragraph 10.2 of the report) are not considered to have a material impact on the consideration of the current planning application.

- **The application site was rejected in the call for sites** and the Council has always maintained it is not under pressure to accept substandard sites. There is no reason why this site is more accessible and sustainable than those sites identified in the emerging local plan.

Case Officer Comment: The assessment of sites at the call for sites stage of the preparation of the emerging Local Plan takes a number of stages. The first stage is ruling out any sites which are not abutting or in very close proximity to the existing settlement

boundary; any of these sites would not progress to the further assessment stages. The application site was rejected at this first stage of assessment as it is not abutting or in very close proximity to the existing settlement boundary. The site was not, therefore assessed any further for the purposes of the emerging Local Plan. The fact that the site was not carried forward in the emerging Local Plan does not prevent an assessment of the proposal as part of the planning application process, taking into account relevant planning policy and material planning considerations, including the planning balance.

- Comments at paragraph 16.34 of the report that the **ridge line of the proposed new build** is almost the same height as the coach house's ridge is misleading as the report describes the coach house as being single-storey when there is a two-storey element.

Case Officer Comment: This does not alter the information shown on the submitted section drawings, nor the conclusion that the proposed new build would be 'almost the same height' as the coach house's ridge. The submitted Landscape and Visual Assessment (LVA) also shows the approximate ridgeline of the proposed new build within the context of the mill buildings and this has been assessed.

- **Photographs provided from PROW 126_7** to demonstrate visibility of the mill buildings.

Case Officer Comment: The LVA includes viewpoints from PROW 126_7. Please see Landscape Officer comments at section 8.0 of the report, and paragraphs 16.11-16.14.

- Paragraph 16.13 of the report states that viewpoints 8 and 9 are from footpath 152_27. These viewpoints are from footpath 152_27 so the Officer's **comments are incorrect and fundamentally wrong**.

Case Officer Comment: This is an error in the report. For clarity, viewpoints 10, 11, and 12 are taken from footpath 152_27. The main purpose of specifically referencing these viewpoints was to confirm that viewpoints from the adjacent and surrounding footpaths had been considered; this is not altered by the error in referencing the specific viewpoint numbers. Please refer to paragraph 16.13 of the report with regards to viewpoints included in the Landscape and Visual Assessment (LVA).

- Paragraph 16.34 regarding the consideration of **landscape impact** is vague and the report does not seem to substantively justify its assertions. The views demonstrate the visibility of the site, especially in winter.

Case Officer Comment: Please refer to the Landscape Officer comments at section 8.0 of the report and paragraphs 16.11-16.17.

- The report does not deal with the impact of the proposals on the **setting of the mill buildings**.

Case Officer Comment: Please refer to paragraphs 16.33-16.34 of the report.

- **Insufficient information regarding proposed materials.**

Case Officer Comment: Please refer to paragraphs 16.40 and 16.73 of the report.

- The **pre-application advice** raised significant concerns regarding the impact of the proposals on the heritage assets. The Council seems to have back tracked on its view.

Case Officer Comment: There has been pre-application advice regarding alternative proposals for this site. The current proposals have been developed following this advice and have been assessed during the formal planning application process with the benefit of advice from both statutory and non-statutory consultees, which would not have been the case during the pre-application process.

- There is no indication that the **meadow area** would be made available for public use and it appears to be a future private development site. The proposal does not comply with policy DP16.

Case Officer Comment: Planning permission would be required if the meadow site were proposed for development. If the current application is approved and a subsequent application received to develop the meadow land the loss of open space would need to be assessed along with other material planning considerations. The management of the meadow as open space can be included in the Landscape Management Plan required by condition (condition 20) of 183046. If Members are minded to approve the application this condition could be revised to specify the requirement for details of the future management of the meadow.

- Irrespective of the **traffic incidents** referred to in paragraph 16.55 of the report, there is an abnormally high number of recorded incidents (and unrecorded incidents) around the access of the site. The introduction of further traffic at this junction is going to increase the chances of a fatal accident in this clear accident black spot.

Case Officer Comment: The Highway Authority have commented on the traffic safety implications of the proposal (see paragraphs 16.52-16.56 of the report). The Case Officer has not received any evidence that the number of incidents are 'abnormally high', there being 10 recorded incidents over a 5 year period. For clarity, the incident records cover over 170m in either direction from the junction with Colchester Road. There are 3 recorded incidents within 22 metres of the Colchester Road junction, but these incidents are related to drivers on Colchester Road and are not related to drivers coming in or out of the junction. The remaining reported incidents are between 40-173 metres from the junction.

- The Officer has **failed to apply the planning balance properly**: it is the Council's legal duty to understand the setting of the listed buildings and give any harm, even less than substantial harm, great weight in their application of the planning balance.

Case Officer Comment:

- *For clarity, the assessment of the proposals took into account the present condition of the site, including the former Coal Yard and 1980s structures that are attached to the North elevation of the Coach House. The local representation fails to acknowledge the harm that these elements represent to the setting of the listed mill, the Coach House (both by obscuring the building and causing material damage to its fabric), and the character and appearance of the Conservation Area. The balancing act for the assessment of the application is not well grounded unless these issues are also factored in which they have been in the Case Officer assessment.*
- *The local representation makes reference to Essex County Council's 'Water and Steam Mills in Essex Comparative Survey' (2008), but this is not considered to alter the assessment taken in respect of the listed status and setting of the mill buildings, nor does it alter the assessment of the impact of the proposals upon the significance of the coach house. The cited survey does not discuss the present harm to the coach house from the adjacent coal yard buildings and built up land. The benefit from the introduction of a viable use consistent with its conservation is also not included.*
- *The submitted Heritage Statement does identify less than substantial harm to the setting of the listed mill. It states at paragraph 7.15: 'With regards to the level of harm, this would be less than substantial, the works would have public benefit in the form of reusing a listed building (coach house). Removal of the buildings associated with the coal yard and the removal of the coal yard would have public benefit through enhancement of the landscape which is also mitigation towards the development of two residential developments.' The Case Officer assessment takes into account the level of harm as part of the overall planning balance, i.e. whether there*

is sufficient public benefit to outweigh the perceived harm to the setting of the Mill and conservatino area.

- The Council has **failed to assess key views** or take account of the impact of the proposal on the conservations area, largely focussing instead on the alterations to the coach house.

Case Officer Comment: Please refer to paragraphs 16.11-16.14 and 16.18-16.36.

- Where are the **recommended conditions for the Listed Building Consent**?

Case Officer Comment: These are included at the end of the report.

- **Loss of amenity:** The garden to be provided for the Mill House regularly floods and there would be overlooking, with direct views to the coach house from the Mill.

Case Officer Comment: There are three windows on the south elevation of the main part of the coach house; windows from the Mill face west, but there may be some oblique views as suggested in the representation. The south-facing windows of the coach house, whilst not being high-level windows, are elevated above floor level which would prevent clear views into the rooms beyond. Similarly, the window positions would restrict overlooking from the coach house readily on a day-to-day basis; the resident would need to purposely stand at the window and look out. The position of the windows can be seen on the submitted elevation drawings. There are further south facing windows to the coach house, but these extend beyond the Mill House so would not be visible to or from the Mill. These windows would serve a bathroom, utility, and study/bedroom, but would face onto the communal access to the coach house and Mill House so would not have a detrinetal impact on privacy.

- Concerns regarding the **provisions of utilities**.

Case Officer Comment: Please refer to paragrah 16.64 of the report.

- If Members are minded to approve the scheme, request that condition 15 Construction Method Statement is revised to require maintaining safe access at all times to the existing homes.

Case Officer Comment: This can be accommodated in condition 15 of 183046 if Members resolve to approve the application. Reference to mainataining 'safe access' is considered somewhat

vague for a condition; it is suggested that the condition require 'site access to all existing homes to be maintained free from obstruction'.

7.5 182206 – Aveley Lodge, Abberton Road, Fingringhoe

Description has been amended as follows:

First floor extension to provide offices and staff room. Ground floor alterations to provide 3 new residents rooms and ancillary accommodation.(REVISED PLANS AND DOCUMENTS RECEIVED)

The proposal has been amended since original submission and this has reduced the proposed new residents rooms from nine to three.

7.8 191141 – Former Bus Depot, Magdalen Street, Colchester

Condition 2 – Add drawings received 02 July drawing numbers

1947_PL_20_020 rev A, 1947_PL_20_005 rev A, 1947_PL_20_004 rev A

1947_PL_20_003 rev A, 1947_PL_20_002 rev A, 1947_PL_20_001 rev A

1947_PL_10_005 rev A and 1947_PL_20_016 rev A