



Application No: 160379

Location: Clarendon Way, Colchester

Scale (approx): 1:1250

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7.4 Case Officer: Mark Russell

MAJOR

Site: Clarendon Way, Colchester

Application No: 160379

Date Received: 16 February 2016

Agent: Ms Samantha Jefferies, Arcady Architects Ltd

Applicant: Modena Homes Limited

Development: Application to remove/vary condition 2 & 17 of planning permission 145356. (Erection of 18 residential apartments, access and car parking)

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it is a major application and an objection has been received.

1.2 This application was deferred by Members at the Committee of 28th April for the following reasons:

“For further discussions with the applicant with a view to securing a more suitable solution to deliver parking provision in accordance with adopted dimensions and standards, a landscape scheme to include more suitable replacement planting in all locations where trees had been removed and consideration of the provision of charging points for low emission vehicles and a report on the outcome of these discussions be submitted to a future meeting of the Committee.”

1.3 The following report is amended from that of 28th April. Some paragraphs have been removed as they are out of date, **new paragraphs are in bold.**

2.0 Synopsis

2.1 The key issues explored below are the proposed amendments to Planning permission 145356 – namely amended drawings showing a new planting scheme to replace trees which have been removed and slightly smaller parking spaces.

2.2 **Following negotiations, an improved planting scheme and improved parking provision have been secured (more details below). However, it is not considered reasonable to insist upon the provision of charging points as this Authority does not have a Policy to support this.**

3.0 Site Description and Context

- 3.1 The site is on the northern side of Clarendon Way, to the north of North Station Road and about 500 metres from the station itself and about 1.2km from Colchester town centre.
- 3.2 The site measures approximately 0.2 ha and is rectangular in shape (roughly 75 metres by 30 metres). Whilst the site is quite flat, there is a change in level from north to south of approximately three metres, which is retained with a wall.
- 3.3 To the south of the site is a public footpath, beyond this is a residential development of flats of about 3.5 storeys. To the north are Childsplay Adventure Land and its car park, to the west is a private gym.
- 3.4 The eastern boundary is separated from employment buildings located in Mason Road by a public footpath (PROW 127_53) which is fenced off from the site.
- 3.5 To the south are the flatted residential developments of Bloyes Mews and Gilbert Court.
- 3.6 The site is currently vacant, having been cleared of tree and scrub late last year. It is located within an employment zone, but where permission has previously been granted for a retirement home and more recently C3 residential accommodation.

4.0 Description of the Proposal

- 4.1 The proposal, in the form of a Section 73 (Variation of Condition) application, covers two conditions: Condition 2 (drawing numbers) and 17 (size of parking spaces), and its **initial objectives were** i) to achieve a landscaping/planting scheme to compensate for lost trees on eastern edge of the site and ii) to achieve a slight relaxation on parking standards to allow the bays to be the absolute minimum standard (2.5 x 5 metres as opposed to 2.9 x 5.5 metres). iii) Also proposed are extra windows to aid ventilation and iv) A re-ordering of the ground floor to facilitate use of the cycle and bin-stores.
- 4.2 **It is explained below that an enhanced landscaping scheme has now been secured and the parking spaces, with one small exception, now comply with the standards.**
- 4.3 These matters are considered in more detail in the main Report section below.

5.0 Land Use Allocation

- 5.1 Employment land, but with extant permission to build a residential scheme.

6.0 Relevant Planning History

- 6.1 O/COL/03/1777 – Outline application for residential development comprising of 24 No 2 bedroom flats - Approve 9/09/2006

- 6.2 F/COL/04/1705 - Erection of 24 residential apartment s, car parking and landscaping. Refuse - 22/11/2004
- 6.3 090654 - 29/06/2009 - Reserved Matters - Approval of reserved matters for 24no.2 bedroom- 4 persons apartments. Approve Conditional - 28/09/2009
- 6.4 121252 – Outline 60 Bed Care Home over three and a half storeys. Approve conditional 27th March 2013.
- 6.5 145356 - Erection of 18 Residential Apartments, Access and Car Parking. Approve 13th March 2015.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD3 - Community Facilities
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character
TA5 - Parking

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards

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

n/a

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

Vehicle Parking Standards
Sustainable Construction
Extending Your House?
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

- 8.1 Highway Authority: As CBC are the parking Authority if CBC are minded to allow the smaller parking space dimensions this Authority would be happy for the condition to be removed/varied.
- 8.2 Natural England: No objection.
- 8.3 Landscape Planner: I am satisfied with the landscape proposals submitted under drawing no.LSDP 11334.01 rev B lodged on 18/02/16. I would therefore have no objection to the discharge of the relevant landscape conditions or removal/variation of condition 2 & 17 of planning permission 145356 (as applicable).

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

9.0 Parish Council Response

- 9.1 n/a

10.0 Representations

For the initial proposal the following were received:

- 10.1 A letter from residents of Bloyes Mews objecting, stating that their kitchen/lounge/dining room windows look directly out onto the proposed development. Adding:

The part of proposed Building B containing flats 3, 8, 13 and 18:-

- 1) will be far too close to Bloyes Mews and will be separated from it only by a footpath;
- 2) will overshadow Bloyes Mews;
- 3) will severely restrict the light to the Bloyes Mews flats; and
- 4) will deny the Bloyes Mews flats of privacy, as there will be 3 windows in each of the 4 flats in this part of the proposed development - all looking directly into the kitchen/lounge/diner windows of the Bloyes Mews flats.

They further added that, although some replacement trees were shown, there were none at the proposed Building B containing flats 3, 8, 13 and 18 facing Bloyes Mews.

- 10.2 A representation was also received from Colchester Cycle Campaign: "Please ensure that the cycle parking is still in accordance with the Essex Parking Standards."

- 10.3 As a matter of courtesy, neighbouring properties were re-consulted with the amended drawings. The deadline for comment was due after this report went to press. Any comments will appear on the amendment sheet.**

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

11.0 Parking Provision

- 11.1 24 spaces were originally proposed** (as per previous permission 145356), **these were originally tabled to be smaller. The applicant is now applying for 25 spaces, all bar four comply with space standards and these only just fall short of the required length by a few centimetres** (see Report section for more details).

12.0 Open Space Provisions

- 12.1 n/a

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a "Major" application. Its predecessor 145356 was considered by the Development Team. It was considered that the usual Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. Following a viability appraisal, it was decided that the Obligations that would be agreed as part of any planning permission should be:

- £5,000 towards footpath/cycleway improvements in line with the previous permission on this site for a care home.

- 14.2 This sum shall be carried forward to this application, with the s.106 being varied to refer to the new Planning application reference.

15.0 Report

- 15.1 Members are reminded that the proposal at hand has substantively been permitted already, as have other buildings of a similar size on this site. The only issues for consideration here are those matters which are applied for, namely:

- i) Planting, ii) Parking space sizes, iii) Extra windows, iv) Bin/Cycle-store alterations

Planting

- 15.2 Members may recall that Planning permission 145356 showed a line of trees to be retained along the southern aspect of the site across the road from Bloyes Mews. However, these have now been removed. As development had not commenced, it cannot be held that this was an unauthorized act. In fact, the trees could have been removed at any time before, during or after permission was granted.
- 15.3 Looking up Clarendon Way from the west there is a clearly established planting belt, including some quite mature trees, all the way up to the site, with the only break (apart from road accesses) being in front of the gym building. The belt used to continue in front of the application site and towards the footpath which leads to the railway line. It contained Field Maple and Hawthorn and a large Lime tree, all of this has been removed.
- 15.4 That which has been lost cannot be replicated. However, a scheme had been proposed which offered a mix of hornbeam hedge and five field maple trees to the front (south).
- 15.5 **At the previous Committee, Members were advised that the applicant had professed difficulties re-instating the full line of trees, particularly in front of the eastern block at the point in proximity to Bloyes Mews, from where the objection had been received. In this position, the applicant was proposing two types of deciduous shrubs (both varieties of Dogwood).**
- 15.6 **Members were not convinced by this proposal and asked for it to be reconsidered. In discussion with your Officer, the applicant has offered an *Amelanchier arborea* "Robin Hill" tree at the point where the Dogwood had been proposed. The Robin Hill, otherwise known as the Juneberry, has a bronze foliage and reaches eight metres in height with a spread of five metres.**
- 15.7 **Further, in response to Members' concerns, a *Tilia petiolaris* (Weeping Silver Lime) is being offered on the street corner (instead of a maple) so that a lime tree is included to replace the lime that was felled.**
- 15.8 **What was not made clear in the earlier Committee report is that these elements constitute only part of the proposed planting. In addition to the afore-mentioned Weeping Silver Lime, Robin Hill and four Maples, a further Maple is proposed on the southern aspect. Along the footpath to the east five *Tilia Cordata* (*Small-leaved Lime*) are proposed. Finally, seven *Acer platanoides* '*Drummondii*' (Norway Maple) are tabled, bringing the total of trees to twenty.**
- 15.9 **In addition to this, extensive shrub planting is proposed. In total the site stands to be significantly more landscaped than was the case before the previous trees were felled.**

Parking

- 15.10 The approved permission had a condition requiring the parking bays to measure 2.9 x 5.5 metres (as per the standards). However, the drawings only showed smaller bays (2.5 x 5 metres). **When the application at hand came to Committee in April, it was explained that**, due to the site constraints it was not possible to have 24 spaces at the larger size and therefore it was requested that the smaller size be used. This size is tolerated by the standards “in exceptional circumstances.” It is not clear exactly what this means, but your Officer believed that, in this instance, it would be expedient to accept the lower size. **It was believed at the time that** the alternative would be to lose four spaces and have 20 at the larger size. **For clarification, the spaces were not as small as was being suggested (2.5 x 5 metres), it was just that this “minimum” was being quoted.**
- 15.11 **Following concerns raised by Members, the applicant discussed alternatives with your Officer and has rationalised the space better to allow for parking spaces which meet the accepted standards. This has been achieved by reducing the size of the proposed storage areas (whilst still maintaining cycle parking and refuse storage) and double-banking two spaces (these will be allocated to two of the three bedroomed flats).**
- 15.12 **In so doing, an extra space has now been created so that there is now one space per two-bedroomed flat, two per three-bedder and two visitor spaces. This is in excess of what was already allowed under the previous permission 145356 and the residential permission O/COL/03/1777/090654.**
- 15.13 **As mentioned above, four of these spaces are marginally smaller than the standards; three of them by ten centimetres, or about three inches, one by half a metre. The latter can be tolerated as it is a double-banked space where the same flat owner will be responsible for both spaces and can thus park the vehicles closer together. The above-mentioned three spaces are also 15cm narrower than the rest. Given that twenty parking spaces are to standard and four fail very marginally, it is held to be acceptable.**

Other Matters

- 15.14 The other points raised by the objector are noted. However, the proposal at hand is identical to that already permitted at 145356 in terms of positioning and clear windows. Therefore the other points raised, relating to overshadowing, light and privacy are not for consideration. For the record, however, these issues were considered to be satisfied at the time of the last application.
- 15.15 There are no new windows proposed facing Bloyes Mews. On the next section along to the left, there are two high level windows proposed which are described as having their position “altered slightly”, these are obscured to en-suite bathrooms and in any case blind to the nearest part of Bloyes Mews because of the built form. Extra windows are proposed to the rear which have no bearing on residential amenity. Roof windows are shown to be slightly repositioned on the element closest to Bloyes Mews.
- 15.16 The re-ordering of the lower ground floor causes no major issues, allowing for ample waste storage and cycle parking.

15.17 As mentioned at Committee last time, the proposal drawings show two incidences of potential lateral overlooking from units 8 and 13 of the proposal. Whilst this is not an acute issue it can be easily overcome by drawing the balconies on those units back to Juliets. The applicant has agreed to this.

16.0 Conclusion

16.1 In conclusion, the issue of lost trees has been comprehensively dealt with; the proposed planting is way and above that which existed beforehand and is held to be of a very high standard which will complement the area.

16.2 The issue of parking spaces has been looked at thoroughly and, with very limited exceptions, has been successfully dealt with. The proposal offers far more parking than any other residential scheme in the area.

16.3 The request for charging points is held to be unreasonable and therefore your Officer does not recommend a condition for this.

16.4 No other issues of concern arise and therefore the proposed amendments are held to be acceptable.

17.0 Recommendation

17.1 APPROVE subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 varying the previous agreement in terms of reference to this Planning application. This to be done within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Environmental and Protective Services to refuse the application.

17.2 On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions:

18.0 Conditions

1 - *Removal/Variation of Condition(s) Approval

With the exception of condition 2 of Planning Permission 145356 which is hereby varied and condition 17 of 145356 which is hereby removed, the requirements of all other conditions imposed upon planning permission 145356 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

2 - Time Limit for Full Permissions

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3 - *Development to Accord With Approved Plans

With the exception of the details of condition 7 hereunder, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 15/18/PA1 C, 15/18/PA2 B, 15/18/PA3, 15/18/PA4, 15/18/PA5 A, 15/18/PA6 A and 15/18/PA7 A and LSDP 11334.01 REV D

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

4 - *Removal of PD - Obscure Glazed & Non-Opening (Check Building Regs)

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the windows shown as being obscured shall be of limited opening and glazed in obscure glass to a minimum of level 3 obscurity on the Pilkington scale before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

5 - Non-Standard Condition/Reason

Prior to the occupation of any of the units hereby permitted, the parking shown on the approved drawings shall be provided as shown and shall be retained as such for that sole purpose.

Reason: To avoid nuisance parking on the highway in the interests of highway safety and efficiency.

6 - Non-Standard Condition/Reason

Planting as shown on the approved drawing LSDP 11334.01 Rev D shall be put in place during the first available planting season following substantial completion of the development hereby approved and shall be maintained at all times as indicated on the approved drawing.

Reason: In the interests of visual amenity and to compensate for trees which have been lost.

7 – Non Standard Condition/Reason

Notwithstanding the details of the drawings hereby approved, the balconies shown for units 8 and 13 are hereby excluded and shall be replaced by Juliet balconies.

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

19.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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

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

(3) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

20.0 Positivity Statement

20.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.