

DR/42/12

committee DEVELOPMENT & REGULATION

date 23 November 2012

ENFORCEMENT OF PLANNING CONTROL – COUNTY COUNCIL DEVELOPMENT

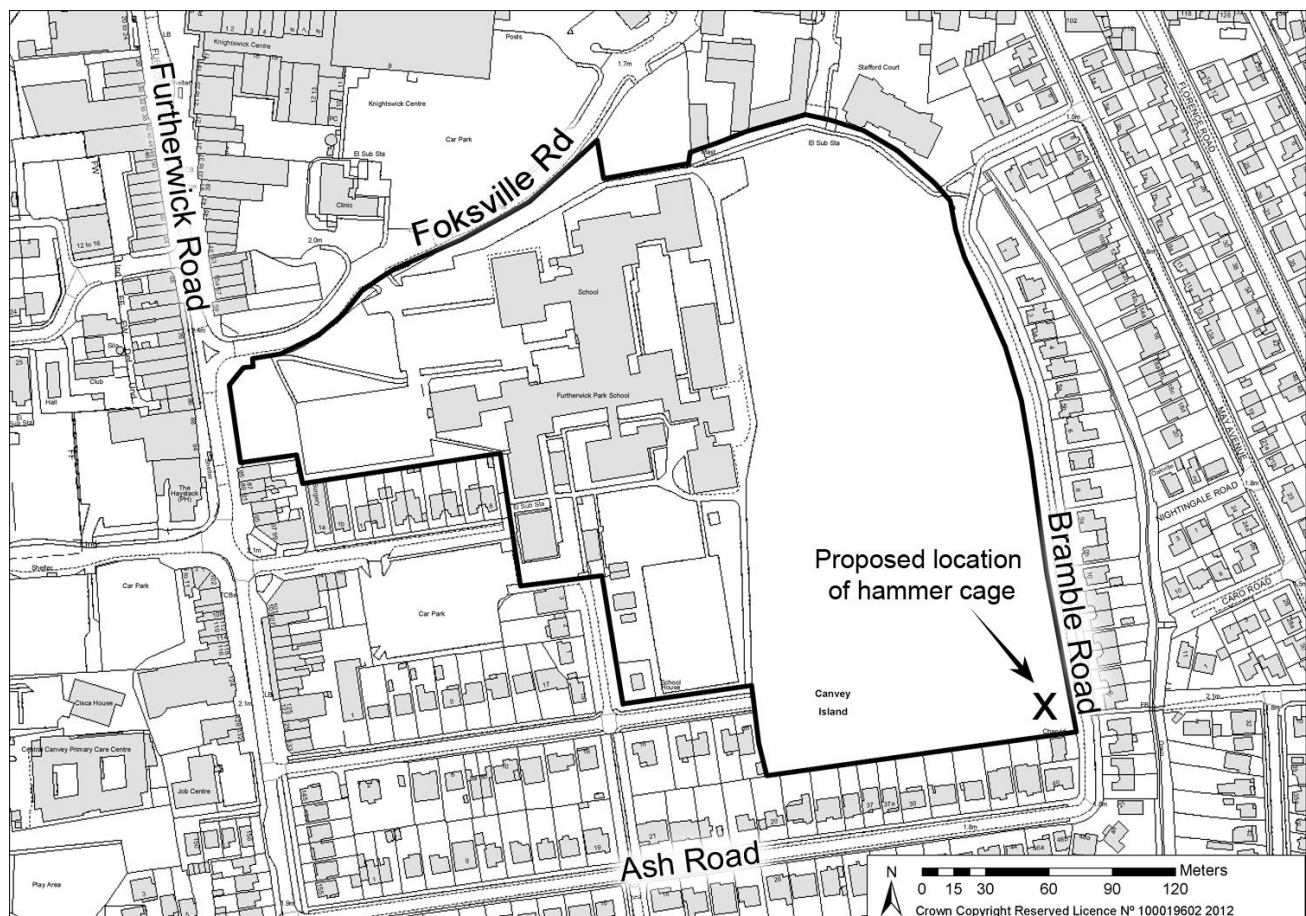
Proposal: **The erection and use of a hammer cage and associated landscaping (part retrospective)**

Location: **Castle View School, Foksville Road, Canvey Island, Essex, SS8 7AZ**

Ref: **CC/CPT/36/12**

Report by Head of Environmental Planning

Enquiries to: Matthew Wood Tel: 01245 435755



1. BACKGROUND

The planning application for the above development was considered at the Development and Regulation Committee on Friday 26 October 2012. The officer report (inclusive of the addendum) is attached at Appendix 1.

Members resolved to refuse the application for the erection and use of a hammer cage and associated landscaping (part retrospective) for the following reason:

- The structure is of an overbearing and oppressive nature and is detrimental to the visual amenity of the residential occupiers of the adjacent properties.

It was noted that as the development has already, in part, been carried out, the unauthorised development may require enforcement action to remedy any breach of planning control.

In accordance with the Committee Protocol, a formal decision on the application was deferred until the November 2012 meeting of the Development and Regulation Committee. The deferral was to allow officers to provide an appropriate and reasonable recommendation, based on planning policy, setting out the reasons for refusal in full as well as a consideration of whether it is expedient to undertake enforcement action to remedy the existing breach of planning control.

However, on 7 November 2012, the application was formally withdrawn by the applicant. As part of this withdrawal, and in line with the County Council's adopted protocol¹ (attached at Appendix 2), the applicant has outlined remedial works and the timescales for these to be undertaken in order to remedy the breach of planning control. Consideration of this is discussed later within this report.

2. SITE

Castle View School is situated within a predominately urban area on Canvey Island. The site itself is accessed via Foksville Road to the north of the site which itself is accessed from Canvey Island High Street. Both vehicular and pedestrian access to the site is from Foksville Road.

The main school buildings on site are situated to the west of the site, with the school's grass playing field located to the east of the site. The hammer cage is located in the south east corner of the site adjacent to residential properties in Ash Road to the south and Bramble Road to the east of the site. The development is approximately 5 metres from the façade of the nearest residential property.

Along the southern and eastern boundaries of the site there is some partial screening from a hedgerow beyond which are residential properties. There are a number of residential properties adjacent to the south west corner of the site which are also be partially screened from view by vegetation. Other residential properties

¹ 'Development Control Remedial Action Protocol for Dealing with Breaches in Planning Control relating to Development Undertaken by the County Council under Regulation 3 of the Town and Country Planning General Regulations 1992'

to the west of the site are adequately screened by the school's permanent buildings. There are no residential properties adjacent to the north boundary of the site.

The application site is within a Flood Zone 3 area and therefore there is a high risk of a flood event occurring. The site is also within the Essex Coast, Vange-Benfleet Coastal Protection Belt and Southend Outer Airport Safeguarding Zone.

A full description of the development is set out in the report at Appendix 1.

3. DISCUSSION

As the application has been withdrawn, but the unauthorised development remains, it is necessary to consider what remedial works, including appropriate timescales for their implementation, are required to remedy the breach of planning control (in line with the County Councils adopted protocol at Appendix 2).

The applicant has stated their intention (at Appendix 3) to amend the proposal and re-submit a planning application seeking the hammer cage's erection and use on the site by the end of 2012 whilst retaining the hammer cage in its current form during this time. The applicant has also stated that this timescale for re-submitting the planning application is needed in order to allow sufficient time for the applicant to discuss with the manufacturer the possibility of lowering the cage to five metres in height and in order to be able to obtain suitable confirmation of insurance coverage in relation to the cage and its use should it be reduced to five metres in height. If it transpires that the cage cannot be lowered then an alternative location would be sought on the school's playing field for the hammer cage even though this is only likely to be possible with significant reconfiguration of the existing playing pitches on the sports field. The cage in either case would still be proposed to be screened by landscaping similar to that previously proposed.

A submission of a planning application by the end of year would allow the application to be considered by the County Planning Authority and, without prejudice to any decision made, would allow for the hammer cage to be amended and landscaping implemented in the school's summer break. However, should planning permission be refused, the applicant has stated the hammer cage could be permanently removed from the site.

This approach is considered acceptable given the school's continued requirement for such a facility on the school site and consideration of the potential options for amending the proposed development.

4. RECOMMENDATION

That:

1. at this time, it is not considered expedient to take action, in accordance with the Council's protocol, to remedy the breach of planning control, given that efforts are being made to alter the development in an effort to reduce its impact, and;

2. a further update will be provided at the January 2013 Committee meeting, should a revised planning application not have been submitted to the County Planning Authority by 31 December 2012.

5. BACKGROUND PAPERS

Ref: P/DC/Matthew Wood/CC/CPT/36/12

6. LOCAL MEMBER NOTIFICATION

CASTLE POINT – Canvey Island East
CASTLE POINT – Canvey Island West

APPENDIX 1

AGENDA ITEM 5a

DR3612

committee DEVELOPMENT & REGULATION

date 26 October 2012

COUNTY COUNCIL DEVELOPMENT

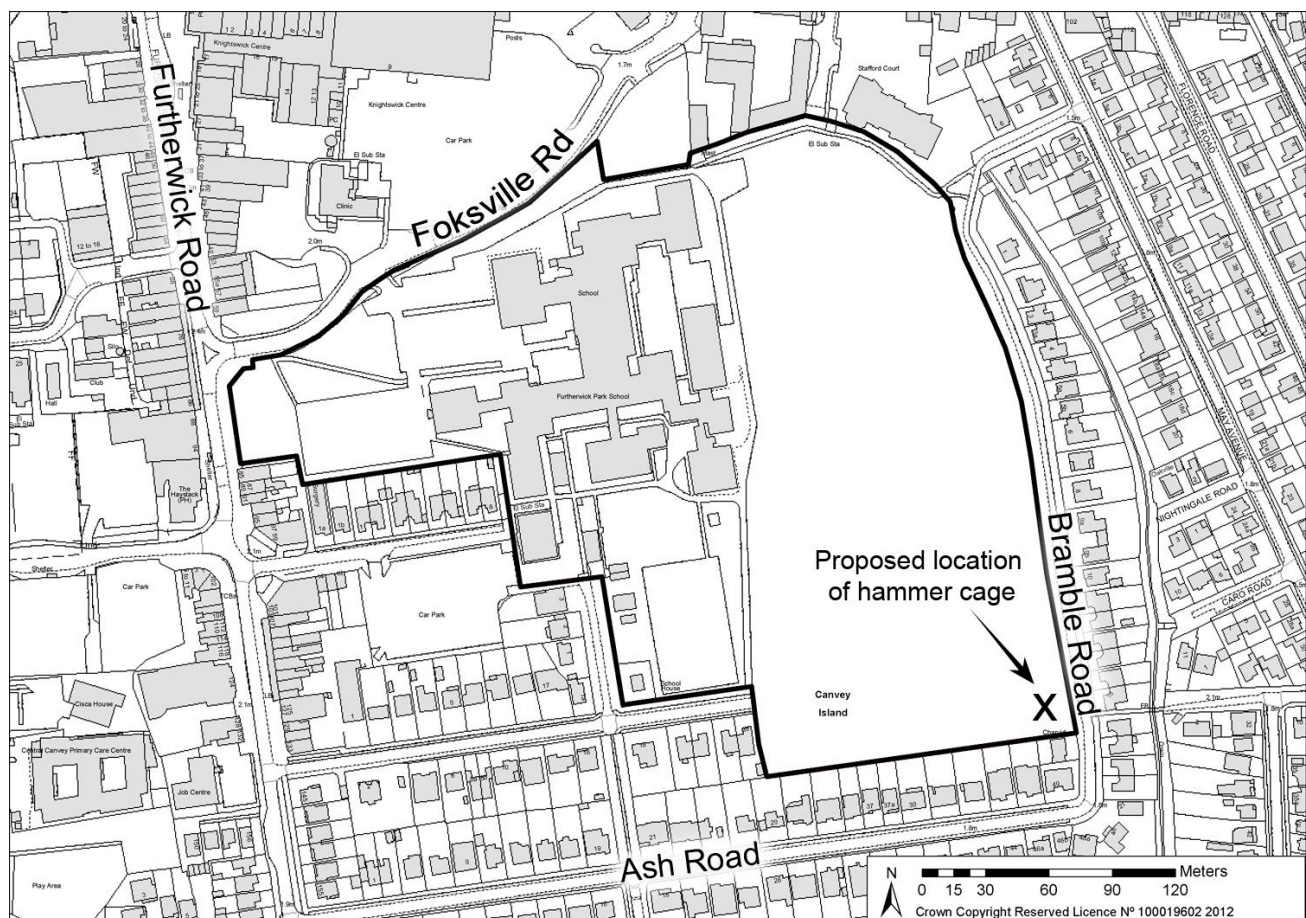
Proposal: The erection and use of a hammer cage and associated landscaping (part retrospective)

Location: **Castle View School, Foksville Road, Canvey Island, Essex, SS8 7AZ**

Ref: **CC/CPT/36/12**

Report by Head of Environmental Planning

Enquiries to: Matthew Wood Tel: 01245 435755



7. BACKGROUND

The redevelopment of the former Furtherwick School to form the new Castle View School was completed in early 2012. As part of the planning process a scheme for the phasing of sports facilities on the site was agreed with Sport England and approved by the County Planning Authority on 19 July 2010. This approval referred to drawing number SRM-PL-CVS-L-007 which highlighted the layout of sports pitches for the summer and winter.

During Summer 2012 the County Planning Authority (CPA) received a complaint from a local resident that a 'hammer cage structure' had been erected by the school adjacent to residential properties with no prior consultation having been undertaken. After investigating the matter further it appeared that the school had erected the hammer cage on the understanding that it had planning permission via the scheme for the phasing of sports facilities at the school as shown on drawing number ref: SRM-PL-CVS-L-007. However, the CPA consider that insufficient detail was given on this drawing to warrant planning permission for the hammer cage. The applicant has submitted this planning application seeking to regularise the erection and use of the hammer cage on the site.

8. SITE

Castle View School is situated within a predominately urban area on Canvey Island. The site itself is accessed via Foksville Road to the north of the site which itself is accessed from Canvey Island High Street. Both vehicular and pedestrian access to the site is from Foksville Road.

The main school buildings on site are situated to the west of the site, with the school's grass playing field located to the east of the site. The hammer cage is located in the south east corner of the site adjacent to residential properties in Ash Road to the south and Bramble Road to the east of the site. The development is approximately 5 metres from the façade of the nearest residential property.

Along the southern and eastern boundaries of the site there is some partial screening from a hedgerow beyond which are residential properties. There are a number of residential properties adjacent to the south west corner of the site which are also be partially screened from view by vegetation. Other residential properties to the west of the site are adequately screened by the school's permanent buildings. There are no residential properties adjacent to the north boundary of the site.

The application site is within a Flood Zone 3 area and therefore there is a high risk of a flood event occurring. The site is also within the Essex Coast, Vange-Benfleet Coastal Protection Belt and Southend Outer Airport Safeguarding Zone.

9. PROPOSAL

The application seeks approval for the erection and use of a hammer cage and associated landscaping.

The hammer cage measures a maximum of 9m in height above existing ground level and comprises of a main cage of painted metal poles and green coloured fibre mesh netting. The hammer cage is located in the south east corner of the site approximately 3m from the site's boundary.

It is proposed to screen the hammer cage from neighbouring properties by the introduction of landscaping comprising a number of Betula (Birch) trees which would be envisaged to grow to soften views of the cage.

10. POLICIES

The following policies of the Castle Point Borough Local Plan adopted 1998 (CPLP) provide the development plan framework for this application. The following policies are of relevance to this application:

CPLP

CF2	Education Facilities
EC3	Residential Amenity
EC16	Protection of Landscape

There are no policies within the RSS of relevance to this application.

The National Planning Policy Framework (NPPF), published in March 2012, sets out requirements for the determination of planning applications and is also a material consideration.

Paragraph 215 of the NPPF states, in summary, that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The level of consistency of the policies contained within the Castle Point Local Plan is considered further in the report.

11. CONSULTATIONS

CASTLE POINT BOROUGH COUNCIL – No objection.

SPORT ENGLAND – No objection.

ENVIRONMENT AGENCY – No comments to make.

PLACE SERVICES (Urban Design & Landscape) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No comments to make.

PLACE SERVICES (Trees) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection.

CANVEY ISLAND TOWN COUNCIL – No objection.

LOCAL MEMBER – CASTLE POINT – Canvey Island East – Objects, on the following grounds:

- The dominance and ugliness of the cage affects the views from windows, gardens, and balconies of all the properties near to the cage. It can also be seen from surrounding streets;
- There is no room for additional tree landscaping to hide the cage. There are only a couple of metres between the cage and the bungalow fence and walls. This boundary is already full of trees planted by Essex CC for the school 20 years ago that are no longer maintained. One local resident at present has to use the light in the bathroom at all times because of the closeness and overhanging of the existing trees, let alone any additional ones;
- It is considered that the Health and Safety argument for situating the cage and leaving it in its present position (elsewhere the thrown hammer would make dents in the playing field surfaces causing a trip hazard) to be unjustified with the real reason likely to be the financial expense of relocating the hammer cage elsewhere on the playing field.

LOCAL MEMBER – CASTLE POINT – Canvey Island West – Any comments received will be reported.

12. REPRESENTATIONS

107 properties were directly notified of the application. Two letters of representation have been received. These relate to planning issues covering the following matters:

<u>Observation</u>	<u>Comment</u>
Concerns over proposed landscaping and maintenance of it	See appraisal
Development is an eyesore/visual impact when viewed from adjacent residential properties	See appraisal
Hammer cage has already been erected by a company which has a background of redevelopment with ECC and who should be aware of planning law	The applicant initially understood that they had planning permission for the cage under permission ref: CC/CPT/19/10, however later understood that insufficient detail provided in relation to hammer cage meaning that planning permission was still required for the hammer cage on the site
No thought has been given to the impact on local residents	As part of this application process all issues including the impact of the development on local residents are taken into consideration and appraised within this report
Existing boundary hedge overgrown and not maintained	This issue is outside the scope of this application, however concerns have been forwarded onto the applicant

The old School had the cage located at the other end of playing field where it did not cause a problem	See appraisal
There are several other locations where the cage could be located	See appraisal
The proposed planting/landscaping would have to grow a considerable height to screen the cage blocking sunlight with root damage to property also possible	See appraisal

13. APPRAISAL

The key issues for consideration are:

- Need;
- Impact on Residential Amenity;
- Landscape and Visual Impact;
- Flood Risk.

A NEED

There is a clear mandate at all levels of Government for sport to be supported for young people and the school itself has stated that the retention of the hammer cage is an important aspect to school sports provision at Castle View School.

The NPPF also recognises the importance of sports provision. It states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

This is also recognised by CPLP policy CF2 (Education Facilities), which states, in summary, that the enhancement and improvement of existing educational facilities will be supported subject to proposals not detracting from the amenities of the local area by reason of noise or general disturbance. This policy is considered to be consistent with the NPPF in supporting educational facilities including those for sports provision. The potential impact of the development on local amenity is discussed later in this report, however in principle developments such as this are supported.

The school has also stated that Castle View students are currently national ranked in all throwing disciplines and at all age groups, a number of which are in the top ten of the UK. The cage itself is enabling the school to achieve excellence and inspire students to achieve and succeed in athletics events in and out of school which the school believe has been evident since the purchase of the hammer cage. Therefore without the hammer cage, these students would be severely disadvantaged.

The school has highlighted that an ex-commonwealth Hammer throw champion has expressed an interest in becoming a school community partner which would involve them attending the school and giving gifted and talented students some

coaching sessions which could also involve the wider community and gifted and talented students from around the Castle Point area. In addition the school now holds teacher/coach training courses that enable teachers and coaches to throw in a competitive environment and learn the technique of all throwing events.

Further, the school state that the hammer cage gives everybody a chance to throw in a competitive environment which some students (particularly those attending other schools without hammer cages) may never get to experience.

Therefore it is considered that there is a justified need for the development in order to enable the school to achieve excellence and inspire students to achieve and succeed in athletics events both in and out of school as well as to retain an important part of the school's sports provision complying with CPLP policy CF2. It is further considered that the development would improve local sports provision and contribute, in some way, to the health and well-being of the local community, particularly for younger generations, therefore complying with the NPPF.

B IMPACT ON RESIDENTIAL AMENITY

One of the core planning principles of the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The NPPF also states that to prevent unacceptable risks from pollution, decisions should ensure that new development is appropriate for its location with the effects (including cumulative effects) of pollution on health, the natural environment and general amenity, and the potential sensitivity of the area or development to adverse effects from pollution being taken into account.

CPLP policy EC3 (Residential Amenity) states, in summary, that development proposals which would have a significant adverse effect upon the residential amenity of the surrounding area by way of noise or other forms of disturbance will be refused. This policy is considered to be consistent with the NPPF in seeking to protect and safeguard residential amenity.

The closest residential properties to the site are situated in Ash Road to the south and Bramble Road to the east of the site. These properties are adjacent to the school sites boundary and are located approximately 5 metres from the development which is located in the south east corner of the site.

The development is partially screened from view from beyond the south and east boundaries of the site by a hedgerow running along the eastern and southern boundary of the site. Approximately the bottom 4 metres of the development is screened by this with the highest 5 metres still clearly visible.

The Local Member for Canvey Island East and a number of representations have raised objection to the development partly due to the dominance and ugliness of the cage making it an eyesore and its impact on the views from windows, gardens, and balconies primarily from all the adjacent residential properties situated in Ash Road and Bramble Road with the cage also being seen from surrounding streets.

A number of representations have been received which state that the cage could be located elsewhere on the school extensive playing fields and that the old school included a hammer cage at the opposite end of the site away from residential properties where there was no problem.

In terms of the location for the hammer cage on the school site the applicant has stated that this is most suitable and really the only viable option for health and safety reasons given the layout of the various sports pitches on the playing field and in particular the safety of students whilst participating in sporting activities on the field when the hammer cage is in use. The applicant has also stated that changing the position or location of the hammer cage would have an impact on the quality and safety of the playing field with divots potentially more likely to be created by the hammers themselves potentially giving rise to injuries.

It would also not be possible to lower the cage height or associated netting as this would pose another health and safety risk which would make the insurance for the use of the cage invalid. The height of the cage, measuring 9 metres in height is justified by the applicant in order to minimise and prevent any flying apparatus from potentially escaping the site and potentially damaging adjacent properties.

In relation to the previous layout of the school, the school did have a hammer cage of a similar height to this development, located at the northern end of the site. However, this cage was lost when the school was redeveloped in accordance with the planning permission ref: CC/CPT/19/10 granted by the County Planning Authority in April 2010. The current layout of the new school and in particular the summer and winter layouts for sports facilities on the playing fields were agreed with Sport England. The northern end of the site where the previous hammer cage was located now includes discus and shot put facilities in the summer and a football pitch in the winter. The applicant has stated that the present location of the hammer cage is the only area on the site where the hammer cage can be safely accommodated given the layout of other sports facilities on the playing field.

It is worth noting that the development is located on a sports playing field within a school which has been established on the site for many years. It is considered that sufficient evidence has been provided to demonstrate that there is no alternative location off site where the hammer cage could be located.

Although it is considered that the cage does have a visual impact on views from the adjacent residential properties this is not considered to be wholly unacceptable or adverse given that the cage is not a solid structure. Further, the closest property to the development is located in Bramble Road right on the south east corner of the site. This residential property is orientated east west with the lounge area facing east with the cage to the north. Taking this into account along with the need for the school to have such a structure and the existing layout of the sports pitches affecting the school's ability to re-locate the cage on the site it is further considered that any visual impact from the development is outweighed by the benefits of such a facility to the school.

The Local Member has also stated that it is considered that the Health and Safety argument for situating the cage and leaving it in its present position (elsewhere the thrown hammer would make dents in the playing field surfaces causing a trip hazard) to be unjustified with the real reason likely to be the financial expense of relocating the hammer cage elsewhere on the playing field.

The location of the hammer cage and the possibility of re-locating it elsewhere on the site was discussed with the applicant prior to the submission of this planning application. The applicant confirmed that there is no viable alternative location for the hammer cage to be re-located given the current layout of sports pitches on the playing field and health and safety considerations. A possibility could be to re-model the entire playing field to incorporate a new location for the hammer cage although this is considered to be an option which would involve considerable financial expense and re-consultation with Sport England who have already approved the existing layout of the sports facilities on the site. There would also be an element of uncertainty in this in that any re-modelling would again require the approval of Sport England.

The Local Member has also questioned the viability of the proposed landscaping to screen the development. The Local Member states that there are only a couple of metres between the cage and the adjacent properties fence and walls with this boundary already full of trees planted by ECC for the school approximately 20 years ago which are no longer adequately maintained. The Local Member also states that, at present one local resident has to use the light in the bathroom at all times because of the closeness and overhanging of the existing trees, let alone any additional ones.

Two letters of representation have also been received regarding the proposed landscaping and maintenance of this and that the proposed landscaping would be allowed to grow up too high potentially blocking sunlight and causing root damage to nearby properties. Concern has also been raised that the proposed planting could affect the cage itself as the planting matures.

It is considered that the proposed landscaping would be beneficial in terms of reducing the visual impact of the development from beyond the site, by breaking up its dominance and softening views onto the school site. The layout of the proposed landscaping includes spacing with planting placed to ensure sunlight to adjacent residential properties would not be adversely affected. Further it is considered that there would be no impact arising from lack of sunlight to those properties in Ash Road to the south of the site as the sun tracks to the south.

In terms of potential root damage to adjacent residential properties as the proposed planting would be growing up and maturing, this is considered to be unlikely given the nature of the planting proposed, Betula (Birch) trees which are regarded as a low water demanding species with the applicant's landscape consultant also recommending this species of tree in this location in the knowledge of the proximity of adjoining properties. This species are also lightly branched and have small leaves and therefore would not cast a dense shade. Further, the species proposed is multi-stem and is therefore unlikely to grow to a great height in maturity. Therefore it is not considered that the addition of the

planting itself would not have an adverse impact on local residential amenity. It is also considered that there would be enough room between the cage and boundary of the site to implement the planting successfully without any adverse impact.

The County Councils Landscape and Tree Consultant have raised no objection to the development or proposed landscaping. However, the County Councils Tree Consultant has stated that it may be more beneficial to plant a maximum of four trees, rather than the six that are proposed, as this would allow for the siting of the trees further away from the hammer cage structure and adjacent residential properties. The proposed planting of six trees is also more likely to create an increase in shading to those properties immediately adjacent to the site than the addition of just four trees. The applicant is happy to reduce the number of trees to four and re-position them and this has been reflected in an amended landscape scheme for the development.

In terms of the maintenance of the proposed planting, the applicant has stated that the school does have a maintenance contract which would include the proposed landscaping. However, should planning permission be granted a condition could be attached requesting a management plan for the proposed landscaping to be submitted for the approval in writing of the County Planning Authority to ensure that the proposed planting would be adequately maintained.

In relation to the existing established trees in the south east corner of the site, this is a maintenance issue outside the scope of this planning application. However, these concerns have been forwarded on to the applicant for them to action.

The development is unlikely to create additional noise as the hammer cage and activities associated with it are not considered to be particularly noise intrusive. Noise levels emitted from the site are very unlikely to increase as a result of the development given the current use of the site as a school including the associated sports playing field.

Further, Castle Point Borough Council has raised no objection to the development.

Therefore it is considered that the development does not have an adverse impact on local residential amenity provided further landscaping is introduced and it is further considered that the development conforms to the principles of the NPPF in terms of residential amenity and CPLP policy EC3.

C LANDSCAPE AND VISUAL IMPACT

The development is located within the Essex Coast, Vange-Benfleet Coastal Protection Belt and Southend Outer Airport Safeguarding Zone.

The NPPF states that planning decisions should address the connections between people and places and the integration of new development into the built environment. The NPPF also goes to say that the planning system should contribute to and enhance the natural and local environment by protecting and

enhancing valued landscapes.

CPLP policy EC16 (Protection of Landscape) states, in summary, that development which would have a significant adverse visual impact on the surrounding landscape will not be permitted. When assessing the impact of development regard will be had to the prominence of the development in terms of its scale, siting and external materials. This policy is considered to be consistent with the NPPF in minimising visual intrusion and protecting landscapes from inappropriate development.

Although the development measures up to 9 metres in height it is adequately screened from view from the surrounding landscape by existing residential properties (a mix of one and two storey structures) situated along the southern and eastern boundaries of the site. Given that the nearby area surrounding the site is urbanised it is considered that, due to the nature, scale, size and siting and external materials of the development that it does not have an adverse impact on the local landscape including the Essex Coast, Vange-Benfleet Coastal Protection Belt and Southend Outer Airport Safeguarding Zone and therefore it is further considered that the development conforms to the NPPF in terms of landscape impact and CPLP policy EC16.

D FLOOD RISK

The application site is situated within a Flood Zone 3 area as it is located on Canvey Island and therefore there is a high risk of a flood event occurring.

The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.

Given the nature, size and scale of the development it is not considered that the development does have an impact on flood risk in the local area or increase the likelihood of flooding elsewhere. It is therefore considered that the development is not be inappropriate development within this flood zone. Further, the Environment Agency has raised no objection to the development.

Therefore it is considered that the development does not have an impact on flood risk in the area and it is further considered that the development conforms to the flood risk principles of the NPPF.

14. CONCLUSION

It is considered appropriate to grant planning permission for the development in order to enable the school to achieve excellence and inspire students to achieve and succeed in athletics events both in and out of school.

It is further considered that the development is sustainable in light of the NPPF and that the Castle Point Borough Local Plan Policies (CPLP) referred to in this report are consistent with the NPPF.

It is also considered that with mitigation there would be no adverse impact upon

the residential amenity of the surrounding occupiers' properties, the local landscape or the flood risk zone considering the development. Therefore the development is considered to comply with CPLP policies CF2, EC3 and EC16.

15. RECOMMENDED

That pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992, planning permission be **granted** subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the details submitted by way of the application CC/CPT/36/12 dated 11 September 2012 and validated on 17 September 2012 together with Covering Letter including supporting statement dated 11 September 2012, drawing numbers plan CC/002, plan CC/003 titled 'Location of Hammer Cage', 0207 Rev PO1 titled 'Tree Planting to South East Boundary' dated 10 May 2010, photographs of structure and proposed landscaping received on 12 September 2012, e-mails from Tony Collins of Collins & Coward Ltd dated 08 October 2012 at 13:42 and 16:02 and in accordance with any non-material amendment(s) as may be subsequently approved in writing by the County Planning Authority except as varied by the following conditions:
2. Within 31 days of the date of this permission a Landscape Management Scheme shall be submitted for the approval in writing of the County Planning Authority. The scheme shall include how often the planting will be pruned and how this will be undertaken as well as how the planting will be maintained. The approved scheme shall be implemented and maintained during the life of the development hereby permitted.
3. Any tree or shrub forming part of the approved landscaping scheme as shown on drawing number 0207 Rev PO1 titled 'Tree Planting to South East Boundary' dated 10 May 2010 that dies, is damaged, diseased or removed within the duration of 5 years during and after the completion of the development shall be replaced during the next available planting season (October to March inclusive) with a tree or shrub to be agreed in advance in writing by the County Planning Authority.

BACKGROUND PAPERS

Consultation replies

Representations

Ref: P/DC/Matthew Wood/CC/CPT/36/12

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

The development is located approximately 1km from a European site (Benfleet and Southend Marshes SPA) and is not directly connected with or necessary for the management of that site for nature conservation.

No issues have been raised to indicate that this development adversely affects

the integrity of the European site, either individually or in combination with other plans or projects.

Therefore, it is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2010 is not required.

EQUALITIES IMPACT ASSESSMENT: The report only concerns the determination of an application for planning permission and takes into account any equalities implications. The recommendation has been made after consideration of the application and supporting documents, the development plan, government policy and guidance, representations and all other material planning considerations as detailed in the body of the report.

LOCAL MEMBER NOTIFICATION

CASTLE POINT – Canvey Island East

CASTLE POINT – Canvey Island West

ESSEX COUNTY COUNCIL

Planning Service Group

Development Control Remedial Action Protocol
for Dealing with Breaches in Planning Control
relating to Development Undertaken by the
County Council under Regulation 3 of the
Town and Country Planning General
Regulations 1992

Introduction

This document sets out how the County Planning Authority (CPA) would regulate any breaches of planning control relating to development undertaken by County service providers under Regulation 3 of the Town and Country Planning General Regulations 1992.

Where development is approved the CPA is obliged to ensure that all planning conditions attached to planning permissions are complied with in full. In addition, the CPA is obliged to investigate any allegation that a County Council development is taking or has taken place without the pre-requisite deemed planning permission.

The Town and Country Planning Act 1990 imposes a general but not mandatory duty to ensure compliance with planning control.

Accordingly, because there is an element of discretion as to whether or not it might be expedient to take appropriate action, there is a need for procedures to be adopted and followed to ensure that the CPA's approach is consistent and effective when deciding what action should be taken.

This protocol for Regulation 3 planning matters establishes formal procedures to enable the CPA, both the Development and Regulation Committee (the Committee) and officers acting under delegated powers to be consistent and effective in their approach. Additionally, promoting service providers would understand that should there be any breaches of planning control the CPA would take action under the terms of the protocol to remedy them.

The protocol would make the processes involved transparent, and would, if followed in full, avoid the need for ombudsman or District/Borough Council intervention.

Breaches of Planning Control

Breaches of planning control are likely to be brought to the attention of the CPA either by routine site monitoring inspections or following a complaint from a member of the public or other third party.

All complaints received from the general public would be logged on the complaints database and acknowledged within 2 working days. The complainant should, if the complaint is accepted, be able to expect a response within 14 working days setting out how the County Council intends to deal with the problem. The matter would then be dealt with, in the first instance, in the same manner as for non-County Council development, ie in accordance with Development Control Enforcement Policy, Complaints Code of Practice.

Site Monitoring and Gathering of Information

The CPA has the responsibility for determining all Regulation 3 development the County

Council wishes to carry out. Officers acting for the CPA may need to investigate alleged breaches of control once informed about them. In addition, in respect of planning permissions, officers may undertake routine monitoring to ensure planning conditions are met. County Council officers and contractors working with or for the County Council shall enable site inspections to take place and assist in providing any necessary information.

Regulation of Breaches

The Head of Planning has delegated powers to initiate enforcement action, although matters will be referred to the Committee if a Member decision is desired. For clarity, where a local resident or firm brings a confirmed breach of planning control to the attention of the CPA and, in officer's opinion, it would not be expedient to seek remedial action, then this would always be referred to the Committee for a final decision.

Remedial Action Procedure

Initial Action. The investigating officer will, under normal circumstances, visit the site in question to determine whether or not a breach of planning control has taken place. Reference will need to be made to extant planning permissions (where they exist) and to the General Permitted Development Order 1995 to ascertain if permitted development rights exist. When necessary, District/Borough Councils will be consulted to determine if they have granted planning permission.

If no breach of planning control were found the complainant would be informed accordingly. Additionally, the local member would be informed of the complaint and the outcome of the investigation.

Follow-up Action Upon concluding there has been a breach of planning control, negotiation would be the first step in addressing the situation. The investigating officer will discuss the situation with the relevant officer(s) acting for the promoting service provider and try to reach an agreed settlement including a timescale to carry out any remedial works, make any rectifying application, etc. Where the promoting department is willing to comply with an agreed way forward and agreed time periods, this will usually result in no further action being required.

Where remedial action is agreed to address the breach of planning control, the investigating officer will write to all parties involved setting out what has been agreed to correct the situation, including timescales.

The service provider should respond in writing stating that they are willing to carry out these works and in the time period.

If the works do not progress, or a commitment is not received to carry out the necessary remedial works, the investigating officer will then consider taking a more formal approach to resolving the situation.

At all times, any complainant would be kept informed as well as the local Member.

Committee Involvement Should the necessary action not be agreed, or the agreed action not be undertaken in full, then the matter would be brought to the attention of the Development and Regulation Committee for resolution.

If the Committee consider that remedial action is not necessary then no further enforcement action is required. The complainant and the local Member would be informed accordingly.

If the Committee determine that the breach of planning control does justify remedial action, then it would also determine any necessary action to overcome the breach, and refer the matter to the relevant Cabinet Member for action. The complainant and the local Member would be informed accordingly.

Cabinet Member Involvement

Service providers may wish to involve the relevant Cabinet Members throughout the whole process. However, Cabinet Members will be brought formally into the process at the stage of the Committee determining action needs to be taken.

Should the Cabinet Member determine that it would be appropriate to take the action recommended by the Committee, then this should proceed.

Should the Cabinet Member determine that different or no action is required, then the Committee will be informed.

Final Resolution

If the Committee accept this determination, then accordingly the matter will be resolved, subject to the completion of any agreed action. If the Committee consider this would not resolve the issue satisfactorily, then the matter would be referred to full Council for a decision, which shall be final.

T 01206 274145
M 07825 633573
F 01206 274146
E tony.collins@collinscoward.co.uk



Ref: CC/1218

7 November 2012

Matthew Wood
Planner
Essex County Council
County Hall
Chelmsford
Essex
CO6 4BS

Westwood Park
London Road
Little Horkesley
Colchester
Essex
CO6 4BS

By Email

Dear Mr Wood

APPLICATION CC/CPT/36/12 – WITHDRAWAL OF APPLICATION

I refer to the recent planning application submitted on behalf of the County Council and Skanska Construction UK Ltd for the retention of the hammer cage at Castle View School.

I'm now formally request that the above application be withdrawn in order that a new planning application might be prepared and resubmitted to your Council. It is intended that the new planning application would be submitted by the end of the year in order to allow time to discuss with the manufacturer the ability to lower the cage to five metres in height and to obtain suitable confirmation of insurance coverage. If it transpires that the cage cannot be lowered then an alternate location would be sought although this is likely to not be possible without significant reconfiguration of the playing pitches. The cage in either instance would still be screened with landscape.

A submission by the end of the year would allow the application to be considered by your Council and then implemented in the school's summer break, if planning permission were granted or if refused the cage could be permanently removed.

I trust that this is satisfactory but should you have any queries please do not hesitate to contact me at this office.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tony Collins'.

Tony Collins
Director

Collins & Coward Ltd www.collinscoward.co.uk
Directors: A Collins MRICS MRTPI MCIT MILT MEWI S Collins Dip TP MRTPI I Coward BA Hons MA MRTPI
Registered in England No. 6023726 Registered Office: Windsor House 103 Whitehall Road Colchester Essex CO2 8HA