

Development and Regulation Committee

10:30	Friday, 26 May 2017	Committee Room 2, County Hall, Chelmsford, CM1 1QH
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Quorum: 3

Membership:

Councillor C Guglielmi	Chairman
Councillor J Abbott	
Councillor M Garnett	
Councillor M Hardware	
Councillor I Henderson	
Councillor J Henry	
Councillor S Hillier	
Councillor R Massey	
Councillor M Mackrory	
Councillor R Moore	
Councillor J Reeves	
Councillor A Wood	

For information about the meeting please ask for:

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Essex County Council

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Part 1

(During consideration of these items the meeting is likely to be open to the press and public)

		Pages
1	Apologies for Absence The Committee Officer to report receipt (if any).	
2	Declarations of Interest To note any declarations of interest to be made by Members in accordance with the Members' Code of Conduct	
3	Appointment of Vice-Chairman To appoint a Vice-Chairman of the Committee	
4	Minutes To approve the minutes of the meeting held on 21 April 2017.	7 - 24
5	Identification of Items Involving Public Speaking To note where members of the public are speaking on an agenda item. These items may be brought forward on the agenda.	
6	Committee Protocol	
6.1	Changes to Committee Protocol To seek the Committee's endorsement of a revised Committee Protocol, which has been updated to make D&R Committee member training mandatory. This reflects the ambition of the Member Development Steering Group to further protect the Council and Members from legal challenge. Report DR/21/17.	25 - 40
7	Enforcement	
7.1	Enforcement of planning control To update members of enforcement matters for the period 1 January to 30 April 2017 (Quarterly Period 1). Report DR/22/17.	41 - 46
8	Information Item	

- 8.1 Applications, Enforcement and Appeals Statistics** **47 - 48**
To update Members with relevant information on planning applications, appeals and enforcements, as at the end of the previous month, plus other background information as may be requested by Committee.
Report DR/23/17.
- 9 Date of Next Meeting**
To note that the date of the next Committee is scheduled for Friday 23 June 2017.
- 10 Urgent Business**
To consider any matter which in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

Exempt Items

(During consideration of these items the meeting is not likely to be open to the press and public)

To consider whether the press and public should be excluded from the meeting during consideration of an agenda item on the grounds that it involves the likely disclosure of exempt information as specified in Part I of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

In each case, Members are asked to decide whether, in all the circumstances, the public interest in maintaining the exemption (and discussing the matter in private) outweighs the public interest in disclosing the information.

- 11 Urgent Exempt Business**
To consider in private any other matter which in the opinion of the Chairman should be considered by reason of special circumstances (to be specified) as a matter of urgency.

All letters of representation referred to in the reports attached to this agenda are available for inspection. Anyone wishing to see these documents should contact the Officer identified on the front page of the report prior to the date of the meeting.

Minutes of the meeting of the Development and Regulation Committee, held in Committee Room 1 County Hall, Chelmsford, CM1 1QH on Friday, 21 April 2017**Present:**

Cllr R Boyce (Chairman)	Cllr J Lodge
Cllr K Bobbin	Cllr M Mackrory
Cllr M Ellis	Cllr J Reeves
Cllr I Grundy	Cllr C Seagers
Cllr S Lissimore	

1 Apologies for Absence

Apologies were received from Cllr A Erskine, Cllr C Guglielmi (substituted by Cllr I Grundy), Cllr J Jowers and Cllr Lady Newton (substituted by Cllr C Seagers).

2 Declarations of Interest

Cllr Mackrory declared a pecuniary interest in respect of agenda item 6.2 (Beaulieu Park Schools Campus), as a director of the Boswell's Multi-Academy Trust, the Local Authority's preferred bidder for the Secondary School under consideration in that item.

Cllr Mackrory also declared that as member for the Chelmsford Springfield division, he is the local member for item 6.2. He would address the meeting as local member and then take no further part in either discussion of or voting for the item. (Minute 7 refers.)

3 Minutes

The minutes of the meeting held on 24 March 2017 were agreed and signed by the Chairman.

4 Identification of Items Involving Public Speaking

Persons to speak in accordance with the procedure were identified for the following items:

- 1) To consider Report DR/17/17, relating to the construction of a detached Two Storey School Building, including 9 New Classrooms and Ancillary Facilities.

At Joyce Frankland Academy, Essex, Newport, CB11 3TR

Reference: CC/UTT/04/17.

Applicant: Essex County Council

Public Speaker: Gordon Farquhar speaking for.

And Cllr Ray Gooding, speaking as local member and as Cabinet Member for

Education and Lifelong Learning.

2) To consider report DR/18/17, relating to the proposed development of the Beaulieu Park Schools Campus, consisting of a 1200 place three storey Secondary School, 420 place two storey Primary School, 56 place single storey Nursery, Sports Hall with associated community facilities, hard and soft play areas, means of enclosure, landscaping, car parking, bicycle and scooter parking and associated infrastructure on a site of approx.11.8ha with vehicular access from Armistice Avenue and pedestrian access via Beaulieu Square, Chelmsford.

At Land to the northeast of the junction of White Hart Lane (A130) and Essex Regiment Way, Chelmsford.

Reference: CC/CHL/07/17.

Applicant: Essex County Council

Public Speakers: David Fletcher speaking for.

Barry Murphy

And Cllr Mike Mackrory, speaking as local member.

Minerals and Waste

5 Waste Transfer Station, Harlow

The Committee considered report DR/16/17 by the Acting Head of County Planning. Members noted the Addendum to the agenda.

Policies relevant to the application were detailed in the report.

Details of consultation and representations received were set out in the report.

The Committee noted the key issues:

- Need
- Amenity Impact
- Traffic & Highways.

There being no further issues raised by Members, the resolution was proposed and seconded. Following a unanimous vote in favour, it was

Resolved

That planning permission be granted, subject to conditions updating those attached to planning permission ref ESS/26/16/HLW, covering the following matters:

1) An amended Condition 2 as follows:

The development hereby permitted shall be carried out in accordance with the details of the application dated 27/07/2011, together with:

- Drawing number 26310/HA/A/CVD/004/D dated 05/07/11;
- Drawing number 26310/HA/A/CVD/006/C dated 19/07/11;
- Drawing number 26310/HA/A/CVD/008/A dated 12/10/10;
- Drawing number 26310/HA/A/CVD/009/C dated 14/07/11;
- Drawing number 26310/HA/A/CVD/010/B dated 20/07/11;
- Drawing number 26310/HA/A/CVD/012/A dated 16/06/11;
- Drawing number 26310/HA/A/CVD/013/B dated 19/07/11;
- Drawing number 26310/HA/A/CVD/014/A dated 17/06/11;
- Drawing number 26310/HA/A/CVD/015/A dated 05/09/11;
- Drawing number 26310/HA/A/CVD/016/A dated 05/09/11;
- Drawing number 26310/HA/A/CVD/017/A dated 05/09/11;
- Drawing number 26310/HA/A/CVD/021/A dated 20/07/11;
- Drawing number 26310/HA/A/CVD/022/A dated 20/07/11;
- Drawing number 26310/HA/A/CVD/031/A dated 06/06/11;
- Drawing number 26310/HA/A/CVD/040/B dated July 2011;
- Drawing number 26310/HA/A/CVD/100/B dated 19/07/2011;
- Drawing number 26310-06/A/CVD/002/A dated 01/10/2010;
- Supporting Planning Statement dated July 2011;
- Arboricultural Impact Appraisal and Method Statement dated 4/2/2011;
- BREEAM Assessment dated July 2011;
- Consultation Statement dated July 2011;
- Daylight and Sunlight Assessment dated July 2011;
- Draft Site Waste Management Plan dated July 2011;
- Drainage Assessment dated July 2011;
- Ecology Survey (Extended Phase 1 Habitat Survey) dated July 2011;
- Land Quality Report dated July 2011;
- Noise Assessment dated July 2011;
- Odour Assessment dated July 2011;
- Transport Assessment dated July 2011;
- Utilities Statement dated July 2011;
- Letter dated 21 September 2011 from Chris Hooper (Amec)
- Emails from Brian Hamilton (Amec) dated 6 September 2011 and 23 September 2011;
- Email from Gavin Cunningham (Amec) dated 7 September 2011;
- Email from Clare Heeley (Amec) dated 21 September 2011;
- Emails from Tim Perkins (Amec) dated 8 September 2011, 9 September 2011 and 22 September 2011; and,
- The contents of the Design and Access Statement dated July 2011

AS AMENDED BY those details reserved by condition of Planning Permission ref No.ESS/38/11/HLW and as amended by Non Material Amendments ref No's. ESS/38/11/HLW/NMA1, ESS/38/11/HLW/NMA2 and ESS/31/11/HLW/NMA3

AND AS AMENDED BY For ESS/26/16/HLW those details as set out in:

- Application Form from Veolia Environmental Services dated 16.06.2016;
- Veolia Environmental Services Planning Statement entitled S73 Planning Application to vary the wording of condition 14 relating to noise monitoring of planning permission No. ESS/38/11/HLW dated June 2016;
- Drawing VES_P_HLWWTS_001 dated June 2016

AND AS AMENDED BY For ESS/06/17/HLW those details as set out in:

- Application Form dated 02/11/16;
- Cover letter from Veolia dated 02/11/16 (and amended 06/04/17);
- Supporting Statement for Harlow Waste Transfer Station: Planning application for overnight parking of HGVs by Veolia dated 11/01/17 (and amended 06/04/17); and,
- Drawing number VES_P_HLWWTS_001 Rev A dated 08/10/16 'Planning Application Site Boundary'

And in accordance with any non-material amendment(s) as may be subsequently approved in writing by the Waste Planning Authority, except as varied by the following conditions: -

2) That an additional Condition 30 be imposed to ensure the HGVs and trailer are emptied of waste prior to overnight parking.

3) That an additional Condition 31 be imposed to ensure the HGVs and trailer are parked only in the areas shown on drawing ref VES_P_HLWWTS_001 Rev A dated 08/10/16.

4) That all other conditions attached to permission ref ESS/26/16/HLW be updated and re-imposed as appropriate.

County Council Development

6 Joyce Frankland Academy, Newport

The Committee considered report DR/17/17 by the Acting Head of County Planning. Members noted the Addendum to the agenda.

Policies relevant to the application were detailed in the report.

The Committee noted the key issues:

- Principle of development
- Site layout and design
- Sustainable transport and highways impact
- Impact on playing field
- Impact on natural environment
- Impact on historic environment.

In accordance with the protocol on public speaking the Committee was addressed by Gordon Farquhar, the Head Teacher of Joyce Frankland Academy. Mr Farquhar said:

- The school has been improving since 2012, becoming increasingly popular and is now at capacity. The school has been working with Essex County on these proposals, which aim to meet the increasing needs of pupils and staff with minimum impact on the surrounding area
- This development will enable the school to expand, providing not only 9

- extra classrooms but also a graphics/photography/digital media room, which will significantly improve educational opportunities at the school
- Consideration is being given to working on the main entrance to the school, to alleviate problems that had been expressed by the local parish council

Councillor Ray Gooding, as local divisional member and Cabinet Member for Education and Lifelong Learning, addressed the meeting. Cllr Gooding said:

- This is a much needed development, as there is increasing pressure for places in this area, which is working through the primary schools
- Mr Farquhar should be commended for his achievements in raising standards at the school since his arrival
- On transport and traffic, were the school being built from scratch, it would be designed differently. Most pupils travel in by bus and train and the local council has expressed concern over congestion. This is an ongoing problem that needs management. Cllr Gooding has spoken to both the school and the local council about this. A travel plan is being developed and this will have to be modified year by year. The school has a significant role, but it also needs the ongoing engagement of both the County Council and the local community.

In response to points raised by members, it was noted:

- There were significant problems with access to the school, but these were well managed by staff at present
- There were no changes to the entrance within the proposals under consideration and any proposals in future would require a full planning application
- Coaches/buses leaving their engines running while waiting outside the school could give rise to issues over diesel fumes; but, as the vehicles would be on the public highway, they could not be made subject to any conditions within these proposals. However, such issues could be addressed as part of the travel plan, encouraging liaison between the school and the travel company.

There being no further issues raised by Members, the resolution was proposed and seconded. Following a unanimous vote in favour, it was

Resolved

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 begun before the expiry of 3 years from the date of this permission. Written notification of the date of commencement shall be sent to the County Planning Authority within 7 days of such commencement.
2. The development hereby permitted shall be carried out in accordance with the details submitted by way of application reference CC/UTT/04/17 validated on 09/01/2017 including the following drawings and documents:

Drawings

DR-A-9000 Rev. P02 Location Plan
DR-A-0201 Rev. P03 Proposed Site Plan
DR-A-1200 Rev. P04 Ground Floor Plan Option A
DR-A-1201 Rev. P04 First Floor Plan Option A
DR-A-1202 Rev. P02 Roof Plan
DR-A-3100 Rev. P04 Proposed Elevations
DR-A-4101 Rev. P01 Proposed Elevations

Haydens Tree Survey Drawing No. 5569-D dated 25/08/16

Documents

- Planning Statement, prepared by Strutt & Parker in association with Pick Everard, dated December 2016.
- Design and Access Statement, prepared by Pick Everard, dated December 2016
- Preliminary Ecological Appraisal Report V2 , prepared by Practical Ecology Ltd, dated September 2016
- Aerial Tree Inspection report by Practical Ecology Ltd, by letter dated 15th November 2016
- Tree Survey, Arboricultural Impact Assessment, Preliminary Arboricultural Method Statement & Tree Protection Plan, prepared by Haydens Arboricultural Consultants, dated 26/08/2016.
- Transport Statement, Issue 07, prepared by Pick Everard, dated 15 March 2017
- School Travel Plan, prepared by Joyce Frankland Academy, dated March 2017

and in accordance with any non-material amendment(s) as may be subsequently approved in writing by the County Planning Authority.

3. Landscape Plan

Within one month of commencement of development on site, a landscape scheme shall be submitted for the prior written approval of the County Planning Authority.

The scheme shall include details of areas to be planted with species, sizes, spacing, protection and programme of implementation.

Replacement trees should be of suitable species and suitable maturity to mitigate the loss of amenity value.

The scheme shall be implemented within the first available planting season (October to March inclusive) following commencement of the development hereby permitted in accordance with the approved details and maintained thereafter.

Any tree or shrub forming part of a landscaping scheme approved in connection with the development 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.

4. Advance Archaeological Investigation

No development or preliminary groundworks shall take place until a written scheme and programme of archaeological investigation (trial trenching and excavation) and recording has been submitted to and approved in writing by the County Planning Authority. The scheme and programme of archaeological investigation and recording shall be implemented prior to the commencement of the development hereby permitted or any preliminary groundworks.

5. Bicycle Parking

Prior to first occupation of the proposed building, a minimum of 10 covered bicycle stands for staff use shall be erected on the school landholding outlined in blue on the site location plan (DR-A-9000 Rev. P02)

Within one month of commencement of development on site, details of proposed location and detailed design drawings for the covered bicycle stand shall be submitted for the prior written approval of the County Planning Authority and the development carried by implemented in accordance with the approved details.

6. Construction Method Statement

No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to and approved in writing by the county planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities
- v. details of a suitable construction access
- vi details of routing of construction vehicles on local roads.

7 Beaulieu Park Schools Campus, Chelmsford

The Committee considered report DR/18/17 by the Acting Head of County

Planning.

The Members of the Committee noted the contents of the Addendum, in particular the changes to the wording of the conditions 2, 3, 4, 5, 8 and 10 and the additional conditions on page 80: 13. Sample and 14. Signage. It was also noted that the following sentence should be added after this last condition: "The development shall be implemented in accordance with the approved details."

Policies relevant to the application were detailed in the report.

Details of consultation and representations received were set out in the report. The Committee noted the key issues:

- Principle of Development
- Site layout and design
- Sustainable transport and highways impact
- Flood risk
- Impact on natural environment
- Impact on historic environment
- Impact on residential amenity
- Sustainability
- Community sports facilities

In accordance with the protocol on public speaking the Committee was addressed by David Fletcher, Associate Partner, Strutt & Parker, on behalf of the applicant. Mr Fletcher said:

- The proposals have been subject to a long collaborative process between a range of stakeholders, including ECC education, Chelmsford City Council, the Highway Authority and Countryside Properties. A public exhibition was also arranged prior to the submission of the application
- They represent a good balance between providing an excellent educational facility for students and a good response to the required design criteria, but also ensuring that the proposals can be delivered within the available budget
- There is less detail provided on the neighbourhood square, as this has a split ownership and the level of detail was not there when the papers were drawn up. This is being progressed through a collaborative approach with the developers for the wider site
- With regard to transport matters, the parking level is above the maximum standard in recognition of both the problems associated with schools and the community use of the site; in addition, the neighbourhood centre has been planned with some spaces that would be made available to parents delivering and picking up their children
- This will provide both an excellent educational facility and will promote the use of Community Facilities at the School Buildings, Sports Hall and Outdoor Areas
- There is a need for the application to be approved in order to ensure that the Primary School is ready for September 2018 opening and the

Secondary School is ready for a September 2019 opening.

Barry Murphy, a Partner at Dalton Warner Davis, representing Countryside Zest (Beaulieu Park) LLP also addressed the Committee. Mr Murphy said:

- Countryside Zest, the owner of the application site and developer of the wider Beaulieu development, fully supports this school in this location but has three specific concerns
- Community Use Agreement. The 'Joint Use Facilities' are a policy requirement of the adopted North Chelmsford Area Action Plan and Beaulieu Outline Consent and S.106 Legal Agreement, to which Essex County Council are a signatory and to which Countryside Zest contribute up to £843,000. Both Chelmsford City and Sport England recommend that a Condition should be attached as in the latter's experience, without a planning condition the community access is generally not kept in perpetuity by the School Operator. The wording used in the committee report - ie 'promoting' the community use and it is 'intended' that the facilities will be subject to a formal Community Use Agreement - is not strong enough. It is unclear why this condition has not been included
- School Design. The design, particularly in respect of the 90 metre long windows overlooking White Hart Lane, is disappointing, considering the 'quality and innovative nature' of the surrounding development. In view of the considerable period until the secondary school is due to open, it is suggested that an appropriately worded condition be attached, allowing for appropriate amendments to be made to the design in good time
- Beaulieu Square open space. It is unclear why the Addendum has removed the requirement for the public realm area to be designed jointly with the applicant, in condition 4; it makes sense for it to be designed collaboratively. A design has now been agreed. It is recommended that this not be removed and that it should be amended to require the submission of a Public Realm Maintenance and Management Plan.

Councillor Mike Mackrory, as local divisional member, addressed the meeting. Cllr Mackrory said:

- The need is certainly well established
- The report itself could have included more information, so that members would have been better informed before the meeting
- Staff parking provision is not sufficient, given the likelihood that virtually all teachers will come by car. The standard was set in 2009 but should be revisited
- Dropping off points - a conflict is likely between the use of spaces for retail customers/workers and parents, with children being dropped off in that space as well
- There are no spaces for visitors
- Residents on the other side of White Hart Lane were not consulted - and not all of these houses are well screened
- The proposed operator should have been involved in the design of the

school.

In response to matters raised, several points were noted:

- Regarding community use, the community use of the sports centre has been assessed and consequently there are no planning restrictions in respect of this. It is not thought there is a need to include a further condition as there is a requirement that the development is carried out in accordance with the submitted details. This is a stand alone full application to Essex County Council as planning authority, which is not the same as a reserved matters approval to Chelmsford City Council under the previous permission granted by them
- With regard to the removal of the requirement for the public area to be jointly designed, under Condition 4, the applicant does not have any control over half of this area and this application does not include proposals over it; it is not considered appropriate to have words in a condition that require the agreement of a third party
- At junior and senior schools the number of staff parking (135) is based on the number of pupils rather than staff numbers (one space per 15 pupils), which gives a result of 109 places. The actual figure is 135, which is contrary to Essex Parking Standards policy; however, it has not been thought appropriate to reduce this, as there is no separate provision for those using the sports facilities
- The design is based on most of the children arriving on foot or by bicycle. 68 spaces are available in Beaulieu Square, for visitors to the school or the other facilities, with a further 50 or so spaces also available, to the south, as well as a number of parking bays along Armistice Avenue
- There are three parking spaces for coaches, with a turning head. There are no drop off points planned within the school grounds themselves.

There being no further matters raised by Members, the resolution, with the noted amendments, was proposed and seconded. Following a vote of seven for and none against, with one abstention, it was

Resolved

1. The development hereby permitted shall be begun before the expiry of 3 years from the date of this permission. Written notification of the date of commencement shall be sent to the County Planning Authority within 7 days of such commencement.
2. The development hereby permitted shall be carried out in accordance with the details submitted by way of application reference CC/CHL/07/17 validated on 25/01/2017

Drawings

Site Wide Drawings

BPS-NOR-SW-ZZ-SH-A-1003 Rev A - EXTERNAL BUILDING FINISHES
SCHEDULE

BPS-NOR-SW-ZZ-SI-A-9001 Rev B - SITE LOCATION PLAN

Site Landscape Drawings

BPS/WWA/SW/XX/PP/L/0001 Rev PL04 - Rendered landscape masterplan/Block Plan

BPS/WWA/PS/ZZ/GA/L/0001 Rev PL01 - Nursery and Primary School Landscape Layout

BPS/WWA/SS/ZZ/GA/L/0001 Rev PL01 - Secondary School Landscape Layout

BPS/WWA/SC/ZZ/GA/L/0001 Rev PL01 - Sports Hall and Car Park Layout Plan

BPS/WWA/PS/ZZ/GA/L/0002 Rev PL01 - Primary and Secondary School Sports Pitches

BPS/WWA/SW/ZZ/PL/L/0001 Rev PL01 - Planting Strategy

BPS/WWA/SW/XX/PP/L/0004 Rev PL01 - Cyclist and Pedestrian Movement Analysis

BPS/WWA/SW/XX/PP/L/0004 Rev PL01 - Cycle and Parking Provision

BPS/WWA/SW/XX/PP/L/0003 Rev PL01 - Security Fencing Strategy

BPS/WWA/SW/ZZ/SE/L/0001 Rev PL02 - Site Sections

Secondary School Drawings

BPS-NOR-SS-00-GA-A-3001 Rev K - GROUND FLOOR FUNCTION PLAN

BPS-NOR-SS-01-GA-A-3002 Rev K - FIRST FLOOR FUNCTION PLAN

BPS-NOR-SS-02-GA-A-3003 Rev J - SECOND FLOOR FUNCTION PLAN

BPS-NOR-SS-RF-GA-A-3701 Rev G - ROOF PLAN GENERAL ARRANGEMENT PLAN

BPS-NOR-SS-ZZ-SE-A-4001 Rev H - GENERAL ARRANGEMENT SECTIONS

- SHEET 1

BPS-NOR-SS-ZZ-EL-A-4002 Rev D - GENERAL ARRANGEMENT SECTIONS

- SHEET 2

BPS-NOR-SS-ZZ-EL-A-5001 Rev F - GENERAL ARRANGEMENT ELEVATIONS - SHEET 1

BPS-NOR-SS-ZZ-EL-A-5002 Rev F - GENERAL ARRANGEMENT ELEVATIONS - SHEET 2

BPS-NOR-SS-ZZ-EL-A-5003 Rev F - GENERAL ARRANGEMENT ELEVATIONS - SHEET 3

BPS-NOR-SS-ZZ-EL-A-5004 Rev F - GENERAL ARRANGEMENT ELEVATIONS - SHEET 4

BPS-NOR-SS-ZZ-SH-A-7501 Rev D - GROSS EXTERNAL AREA SCHEDULE

Sports Centre Drawings

BPS-NOR-SC-00-GA-A-3001 Rev K - GROUND FLOOR FUNCTION PLAN

BPS-NOR-SC-RF-GA-A-3701 Rev G - ROOF PLAN GENERAL

ARRANGEMENT PLAN

BPS-NOR-SC-ZZ-SE-A-4001 Rev G - GENERAL ARRANGEMENT
SECTIONS

BPS-NOR-SC-ZZ-EL-A-5001 Rev E - GENERAL ARRANGEMENT
ELEVATIONS

Nursery Drawings

BPS-NOR-NU-00-GA-A-3001 Rev J - GROUND FLOOR FUNCTION
PLAN

BPS-NOR-NU-RF-GA-A-3701 Rev G - ROOF PLAN GENERAL
ARRANGEMENT

BPS-NOR-NU-ZZ-SE-A-4001 Rev G - GENERAL ARRANGEMENT
SECTIONS

BPS-NOR-NU-ZZ-EL-A-5001 Rev F - GENERAL ARRANGEMENT
ELEVATIONS

Primary School Drawings

BPS-NOR-PS-00-GA-A-3001 Rev K - GROUND FLOOR FUNCTION
PLAN

BPS-NOR-PS-01-GA-A-3002 Rev K - FIRST FLOOR FUNCTION PLAN

BPS-NOR-PS-RF-GA-A-3701 Rev G - ROOF PLAN GENERAL
ARRANGEMENT PLAN

BPS-NOR-PS-ZZ-SE-A-4001 Rev G - GENERAL ARRANGEMENT
SECTIONS - SHEET 1

BPS-NOR-PS-ZZ-SE-A-4002 Rev C - GENERAL ARRANGEMENT
SECTIONS
- SHEET 2

BPS-NOR-PS-ZZ-EL-A-5001 Rev F - GENERAL ARRANGEMENT
ELEVATIONS - SHEET 1

BPS-NOR-PS-ZZ-EL-A-5002 Rev D - GENERAL ARRANGEMENT
ELEVATIONS - SHEET 2

Vehicle Tracking Drawings

BPS-MLM-ZZ-XX-DR-D-1000-P06-S2 - Vehicle Tracking - Refuse Vehicle

BPS-MLM-ZZ-XX-DR-D-1001-P08-S2 - Vehicle Tracking - Fire Tender

BPS-MLM-ZZ-XX-DR-D-1002-P07-S2 - Vehicle Tracking - 7.5 Tonne Box
Van

BPS-MLM-ZZ-XX-DR-D-1003-P08-S2 - Vehicle Tracking - 12m Rigid
Lorry

BPS-MLM-ZZ-XX-DR-D-1004-P08-S2 - Vehicle Tracking - Coach
Entrance and Turn

Drainage Drawings

BPS-MLM-ZZ-XX-DR-D-0101/P05 Initial Drainage Strategy

BPS-MLM-ZZ-XX-DR-D-0102/P02 Enlarged Drainage Strategy Sheet 1

BPS-MLM-ZZ-XX-DR-D-0103/P02 Enlarged Drainage Strategy Sheet 2

Documents:

- Planning Statement, prepared by Strutt & Parker, dated January 2017
- Design and Access Statement (REV E) prepared by Norr Architects
- Transport Statement, prepared by MLM, dated
- Sustainability Statement (including BREEAM pre-assessment), prepared by Hoare Lea
- Drainage Statement (Incorporating Flood Risk Assessment), prepared by MLM, dated 11 April 2017.
- Letter from Essex County Council Infrastructure Delivery Project Sponsor dated 20 March 2017, Ref. Community Use Agreement.

and in accordance with any non-material amendment(s) as may be subsequently approved in writing by the County Planning Authority.

3. Bicycle Parking

Prior to first occupation of the proposed buildings, a minimum of 400 pupil and 24 staff covered bicycle stands for the secondary school and a minimum of 100 pupil scooter parking stands and 40 pupil and 7 staff bicycle stands for the primary school and a minimum of 7 staff bicycle stands for the nursery, shall be erected on site at the locations indicated on the Site Layout Plan. Within 6 months of commencement of development on site, detailed design drawings for the covered bicycle stands and covered scooter stand shall be submitted for the prior written approval of the County Planning Authority and the development shall be carried out accordance with the approved details.

4. Beaulieu Square design details

Prior to first beneficial use of the proposed school buildings, the part of the Beaulieu Square within the development site boundary, shall be finished and landscaped in accordance with a plan to be submitted for the prior written approval of the County Planning Authority.

The proposed plan shall include details of hard and soft landscaping proposed.

5. Detailed Landscape Plan

Within six months of commencement of development on site, a detailed landscape scheme shall be submitted for the prior written approval of the County Planning Authority.

The scheme shall include details of areas to be planted with species, sizes, spacing, protection and programme of implementation.

The scheme shall be implemented within the first available planting season (October to March inclusive) following commencement of the

development hereby permitted in accordance with the approved scheme.

Any tree or shrub forming part of a landscaping scheme approved in connection with the development 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.

6. Sustainable Building Materials

The proposed development shall utilise a minimum of 20% sustainable building materials and/or re-use of recycled materials in the construction of the development.

No development above DPC level shall take place unless and until a Sustainability Statement demonstrating a minimum of 20% of sustainable building materials and/or re-use of recycled materials has been submitted for the prior written approval of the Planning Authority.

The development shall be implemented in accordance with the approved details.

7. Surface Water Drainage

The development shall be implemented in accordance with the Drainage Statement (Incorporating Flood Risk Assessment), prepared by MLM, dated 11 April 2017.

8. Primary School Cycle Store Wall facing Beaulieu Square

Within six months of commencement of development on site, detailed proposals for the blank wall of the Primary School cycle store, facing the Beaulieu Square, shall be submitted for the prior written agreement of the County Planning Authority.

Without prejudice to the foregoing, the proposals shall incorporate a design feature (such as community art wall/revolving school art project). The development shall thereafter be implemented in accordance with the approved proposals.

9. Detailed Lighting Design

No fixed lighting shall be erected or installed until details of the location, height, tilt, lighting controls, lighting design, illuminance levels, uniformities, spill light contour lines on to Ordnance Survey mapping and consideration given to switching off or dimming after hours has been submitted to and approved in writing by the County Planning Authority. The details shall include a design summary to ensure the lighting is designed to an appropriate lighting standard will minimise the potential nuisance of light spillage on the local environment, adjoining properties

and highways. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

10. Fenestration Details

All fenestration on the proposed buildings shall be recessed or projecting. No development shall proceed above DPC unless and until detailed design drawings have been submitted for the prior written approval of the County Planning Authority. The development shall thereafter be implemented in accordance with the approved detailed design drawings.

11. External Material Finishes and Samples

Within one month of commencement of development on site, a full schedule of all external material finishes plus samples shall be submitted for the prior written approval of the County Planning Authority.

The development shall be implemented in accordance with the approved details.

12. Building Entrance details for Nursery and Primary School

Prior to commencement of construction on the Nursery and Primary School buildings, detailed drawings of the entrance features to both buildings shall be submitted for the prior written agreement of the County Planning Authority. The development shall be implemented in accordance with the approved details.

13. Sample (brick specific)

Before starting any brick work, a sample panel of the facing materials to be used shall be erected on site to establish the detail of bonding, coursing and colour, type of jointing shall be agreed in writing with the County Planning Authority. The quality of finish and materials incorporated in any approved sample panel(s), which shall not be demolished prior to completion of development, shall be maintained throughout the development.

14. Signage

Prior to erection of any signage on the proposed buildings, detailed drawings and specification of the proposed text, logos and material finishes shall be submitted for the prior written approval of the County Planning Authority. The signage shall be implemented in accordance with the approved details.

Cllr Grundy left the meeting at this point.

Information Item

8 Applications, Enforcement and Appeals Statistics

The Committee considered report DR/20/17, applications, enforcement and appeals statistics, as at end of the previous month, by the Acting Head of County Planning.

The Committee NOTED the report.

9 Date of Next Meeting

The Committee noted that the next meeting would be held on Friday 26 May 2017 at 10:30am in Committee Room 1, after the County Council elections.

Enforcement Update**10 Land at Dannatts Quarry, Hatfield Peverel**

The Committee considered an update (DR/19/17) on progress in respect of Dannatts Quarry, specifically matters relating to the transfer of the land to the county council for future use as a country park in accordance with the planning legal agreement under section S52 of the (former) Town and Country Planning Act 1971. Members also noted the contents of an earlier report that had been attached as a confidential item as Appendix 2 to the paper.

Members having noted the report, the resolution was proposed and seconded. Following a unanimous vote in favour, it was

Resolved

The case is closed from a planning position and no further work is undertaken by ECC as Mineral and Waste Planning Authority in respect of planning enforcement matters in relation to the previous planning permissions and S52 Legal agreement, subject to the formal transfer of the land being achieved.

Cllr Reeves pointed out that this would be Cllr Boyce's last meeting as chairman and she thanked him for carrying out this role so ably over the preceding four years. On behalf of officers, Mr Greaves thanked Cllr Boyce for his support over this period.

Before closing the meeting, the Chairman thanked all members, who had helped make his role as chairman an easy one.

There being no further business the meeting closed 11:56am.

Chairman

DR/21/17

committee DEVELOPMENT & REGULATION

date 26 May 2017

REVISION OF DEVELOPMENT AND REGULATION COMMITTEE PROTOCOL

Report by Acting Head of County Planning - Economy, Localities and Public Health

Enquiries to: Richard Greaves Tel: 03330136817

1. PURPOSE OF REPORT

The purpose of this report is to seek the Committee's endorsement of a revised Committee Protocol. The Protocol has been updated to make D&R Committee member training mandatory. This reflects the ambition of the Member Development Steering Group to further protect the Council and Members from legal challenge.

2. BACKGROUND

The Development and Regulation Committee Protocol was last formally revised in September 2014.

The revised Protocol, attached as Appendix 1 and dated May 2017, reflects the latest updates (*highlighted in italics*).

The amendments can be found within section 3 - Member Training.

RECOMMENDED

That the Committee endorse the revised Development and Regulation Committee Protocol (dated May 2017) as attached to the Appendix to this report.

BACKGROUND PAPERS

The D&R Committee Protocol - May 2014

DEVELOPMENT & REGULATION COMMITTEE PROTOCOL



Essex County Council

**Development and Regulation Committee
Revised May 2017**

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This Protocol has been prepared in order to set out clearly the way in which the Development and Regulation Committee will conduct its business in relation to its consideration of planning applications.

1. Summary

No Member shall be appointed to the Development and Regulation Committee without having agreed to undertake a period of training in planning procedures as specified by the Authority.

Members and officers shall avoid indicating the likely decision on an application or otherwise committing the Authority during contact with applicants and objectors.

Members will make oral declarations at a Development and Regulation Committee of significant contact with applicants and objectors, in addition to the usual disclosure of personal and pecuniary interests.

All applications considered by the Development and Regulation Committee shall be the subject of full, written reports from officers incorporating firm recommendations.

The reasons given by the Development and Regulation Committee for refusing or granting an application shall be set out in the minutes, especially where these are contrary to officer advice or the development plan.

2. Basic Principles

Planning decisions are not based on an exact science. Rather, they rely on informed judgement within a firm policy context. Decisions can be highly controversial as they affect the daily lives of everyone. This is heightened by the openness of the system (it actually invites public opinion before taking decisions) and the legal nature of the development plan and decision notices. It is important, therefore, that the process is characterised by open and transparent decision-making.

One of the key purposes of the planning system is to manage development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way....” (*Probity in Planning: The Role of Councillors and Officers’ May 2009 (Revised guidance note on good planning practice for councillors and officer dealing with planning matters).LGA*).

The basis of the planning system is the consideration of private proposals against wider public interests.

The successful operation of the planning system relies on ensuring that officers and Members act in a way that is not only fair but is clearly seen to be so.

Members have a special duty to their constituents, but their over-riding duty is to the whole community of Essex. They should vote in the interests of the whole county in relation to planning matters. However, there is no reason why a local Member should not participate in the decision making process for a particular planning application, provided that he/she has abided by the Protocol.

Planning applications submitted by the County Council for its own development will be treated in the same way as those for private developers, both in terms of procedures and the assessment of material planning considerations.

The Public Sector Equality Duty applies to all planning decisions. A local authority must, when making a decision, have due regard to the need to eliminate unlawful discrimination, harassment, victimisation; advance equality of opportunity between people who share a protected characteristic and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it. The duty should be explicitly taken into account in determining planning applications and deciding on enforcement action.

3. Member Training

It is fundamental that Members involved in planning should receive appropriate training.

No Member should be appointed to the Development and Regulation Committee without having agreed to undertake **mandatory** training in planning procedures relating to County Matters as specified by the Authority ^{Note 1}. Such **mandatory** training will also be required for preferred substitutes.

4. Declaration of Personal and Pecuniary Interests and Predetermination/Bias

When considering a planning matter it is important to have in mind whether a Councillor has an interest in it and the consequences of that interest for how that Councillor then acts in relation to the matter. There were significant changes in this area as a result of the Localism Act 2011.

Disclosable Pecuniary interests

All Councillors are required to complete a disclosure of interests form. If a Councillor has a disclosable pecuniary interest (DPI) the Councillor should disclose the interest at the meeting and, if it is not already registered, advise the monitoring officer about it within 28 days.

If a Councillor has a DPI and that interest relates to a matter being considered at a meeting of the committee the Councillor should not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting, or take any steps, or any further steps, in relation to the matter.

It is a criminal offence if a Councillor fails without reasonable excuse, to register or declare DPIs, or takes part in council business at meetings.

DPIs are defined as an interest of the Councillor, or their spouse or civil partner or someone they are living with as a spouse or civil partner and is within the following categories:

Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M [i.e. the member] in carrying out duties as a member, or towards the election expenses of M.

¹ Member Development Steering Group September 2013 and 12 November 2013

	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

DPIs and membership of other authorities

Where Councillors are also members of other local authorities, that interest is a DPI and should be registered and declared at the meeting. However, it does not necessarily preclude the Councillor from participation in the D&R Committee, as this will only be the case where membership of another authority 'relates to a matter being considered' at the Development and Regulation Committee.

Whether or not this will apply will be a matter of judgment in each case. The most significant factor to take into account is the effect of the decision. If the decision affects a small number of individuals, or is relevant to the county as a whole, membership of another authority is unlikely to stop the Councillor taking part in the discussion and voting at the Development and Regulation Committee.

However, where the decision is specific to the function of the other body represented by the Councillor or is has a specific impact on a geographical area (such as a ward or parish) represented by that Councillor, or the people who live there, then the interest is likely to require specific disclosure and the Councillor should not speak or vote on the proposal. They do not also have to withdraw, but may prefer to do so for the sake of appearance. If a Member decides to stay, they should explain that they do not intend to speak and vote because they have (or could reasonably be

perceived as having) judged the matter elsewhere, so that this may be recorded in the minutes.

Councillors should be able to take part in any discussion on a proposal when acting as part of a consultee body (ie where they are also a Councillor of a District/Borough/City Council as well as being a County Council, Town or Parish Council Councillor), provided that the proposal does not substantially affect the well-being or financial standing of the consultee body and it is made clear during the discussion at the consultee body that they:

express their view on the limited information before them only
reserve judgment and the independence to make up their own mind on each separate proposal when it comes before the Development and Regulation Committee, based on their overriding duty to the whole community, not just to the people in their ward, and when they hear all of the relevant information
do not in any way commit as to how they or others may vote when the proposal comes before the Development and Regulation Committee

Interests other than DPLs

As well as these statutory obligations, Councillors should be aware of their duty to comply with the Code of Conduct for all Councillors adopted by Essex County Council under the Localism Act whenever they conduct the business of the authority or act as a representative of the Authority. This Code can be found in the Council's Constitution and includes the following advice on Other Pecuniary Interests and Personal Interests.

Other Pecuniary Interests

(i) Any contract for goods, services or works between you or a Relevant Person (or a body in which the relevant person has a beneficial interest) and the Authority which has been fully discharged within the last 2 years.

(ii) Any tender bid quotation or expression of interest submitted by you or a Relevant Person (or a body in which the relevant person has a beneficial interest) to the Authority within the last 2 years.

Personal Interests

This is where a matter is considered and;

(i) it relates to or is likely to affect any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council; or;

(ii) It relates to or is likely to affect any body exercising functions of a public nature; directed to charitable purposes; or one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); of which you are a member or in a position of general control or management, or;

(iii) a decision in relation to that matter might reasonably be regarded as affecting your wellbeing or the wellbeing or financial position of a friend, relative or close associate to a greater extent than the majority of other council tax payers or inhabitants of the electoral division, affected by the decision.

These interests should also be registered and kept up to date. They should also be disclosed at the meeting of the Development and Regulation Committee where they are relevant to a matter being considered.

Bias

Separate from the requirements of the Localism Act, planning decisions are at risk if they are successfully challenged on the basis that the decision was motivated by actual bias or where there is an appearance of bias. The test is “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the decision maker was biased”. Examples of where decisions have been ruled to be biased include:

A family relationship or close friendship between the decision-maker and the beneficiary of the decision

A connection between the member of the committee and an external consultant
Planning committee members who had season tickets for a football club and did not disclose this when deciding an application by the club

Predetermination

There is a great deal of overlap between bias and predetermination but it can be a ground for challenging planning decisions separate from those already mentioned. The effect of unlawful pre-determination by a Councillor is that the decision of the Committee will be open to legal challenge and to allegations of maladministration.

It exists if it appears that a Councillor has already finally made up their mind about a planning matter prior to the Committee meeting; in other words they have a closed mind and are no longer willing genuinely to be influenced by the information and opinions given at Committee.

Pre-determination can be inferred from an unequivocal written or oral statement made by a member of a Committee which is to take the decision on a matter. It can also be inferred in other ways e.g. a Councillor has campaigned on the matter e.g. a Councillor has been placed under an obligation as to how they should vote on the matter.

However, a Councillor can legitimately already have expressed an initial view on the matter providing this is not expressed to be a final one. For example, a Councillor may have been lobbied by the public and he/she feels that it is appropriate and necessary to express their present thinking on a planning application (see section on Lobbying of Councillors). The Councillor in this situation will not have appeared to predetermine the application providing it is clear that the view expressed is not a final one. The Courts recognise that Councillors are representatives of the community and in that role it is sometimes necessary to give a provisional view or to be “predisposed” to a particular view. In such situations a Councillor should think

carefully how they express their view so as not to give the impression that they have already finally “made up their mind” on the matter.

Predetermination and the Localism Act

The position in relation to pre-determination has been clarified and confirmed by the Localism Act which provides that “A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because;

the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take”.

The explanatory notes to the Act go on to say *“if a Councillor has given a view on an issue, this does not show that the Councillor has a closed mind on that issue, so that if a Councillor has campaigned on an issue or made public statements about their approach to an item of Council business, he or she will be able to participate in discussion of an issue in the Council and to vote on it if it arises in an item of Council business requiring a decision.”*

Where a Councillor is also a District/Borough/City Councillor or Town/Parish Councillor he/she can vote on the application at the consultative stage with the District or Town/Parish Council without having been seen as predetermining the matter, providing the impression is given that this is not his/her final view. In many cases the Councillor is simply expressing a view on the limited information available at the consultation stage and is only predisposed to the view expressed. This also applies to the situation when a Councillor is on a body that is consulted on a planning application.

If a Councillor believes that they have predetermined a matter, or could be seen by the public to have done so, then they should declare that they have a predetermined view so that this can be minuted. They should take no part in the determination process (ie debate or vote on the issue). Failure to do follow these requirements could result in a claim of maladministration or even the initiation of High Court Proceedings against the Council to quash the decision.

If any Councillor is concerned about whether they may have predetermined an issue they should contact the Monitoring Officer for further advice.

5. Lobbying of Councillors

Lobbying is a normal and perfectly proper part of the political process: those who may be affected by a decision of the Committee may seek to influence it through an approach to their elected representative or to a Committee Member. However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a Committee Member being called into question.

Committee Members ideally should not express their view on any planning application prior to its consideration at Committee. This helps to show the public that there is little doubt that the decision made by the Committee has been determined

fairly on the information provided to the Committee. There may however be circumstances when a Committee Member considers that it is appropriate to express an initial view (predisposition) prior to the Committee meeting; in such circumstances it is essential that the Member makes it clear that he/she is only expressing an initial view and that a final decision will be made at the Committee when all information will be available. For further information on predetermination Councillors should consider the section on Predetermination/Bias.

A Councillor who represents the electoral division that is affected by a decision of the Committee may be in a difficult position if it is a controversial matter. Often such a Councillor finds that he/she is subject to intense and passionate lobbying. Where a Committee Member feels that it is appropriate to express an initial view it is more likely that the lobbyists could misunderstand the view expressed and are more likely to consider making a complaint or even commencing legal proceedings. For this reason a Committee Member should make it very clear that his/her view is only provisional and that his/her mind is not closed to new information that is provided at Committee.

If a Committee Member feels obliged to express a final view or join in a campaign for or against the proposal then they should declare that they have predetermined the issue and not debate or vote on the issue. However, he/she may attend and speak at a Committee meeting as a local Member before the case is debated.

All Councillors are reminded that if they do not wish to represent the views of a lobbyist they can always remind the individual that the public may speak to the Committee as described in the section on public speaking or submit their representations in writing.

Committee Members must not organise support or opposition for a proposal or lobby other Councillors (other than when addressing the Committee). Such actions can easily be misunderstood by parties to the application and the general public. More importantly the Committee Member might be accused of having predetermined the matter.

6. Pre-Application/Post Submission Discussions, and Attendance at Public Meetings

Constructive pre-application discussions between potential applicants and planning officers have long been recognised as good practice, helping to ensure all relevant considerations are addressed when an application is submitted. As there is a strong need to allow and encourage Councillors to be champions of their local communities, there has followed a realisation that Councillor engagement in pre-application discussions on major development is increasingly necessary to allow Councillors to fulfil this role.

A Councillor's engagement in pre-application discussions is not intended to bring forward his/her views on the proposal – whether or not in a position to give a preliminary view on a proposal. However, Committee Members should not express a view which may pre-determine their position at the Committee meeting. If a Committee Member decides to express anything but a preliminary view, or at this stage decides to give support to a view on behalf of their community or division in

support of their 'community champion' role, then this pre-determined position will require the Committee Member to stand aside from the determination process of any subsequent planning application. If a Committee Member wishes to make it clear that any views expressed at those of his/her constituents are not necessarily their own, then this is acceptable provided that it cannot be claimed that the Member has pre-determined the matter.

As good practice, it will often be possible for local Councillors, who do not sit on the Committee, to express their initial views on behalf of their communities, whilst Development and Regulation Committee Members restrict themselves to questions or clarification, unless such Members wish to become pre-disposed and subsequently decide to remove themselves from the Committee and decision making process.

To minimise the risks of challenges based on suspicion that Councillors may have prejudiced their positions by being involved in pre-application discussions, transparent processes have merit. Whether or not discussions are held in private, a note of those present, the issues discussed and any actions will be placed on a public file by the case officer. This helps protect the Councillor and the Authority by detailing what issues were discussed and that no pre-determination arose. Often open public meetings, with the developer present, will assist in making the pre-application process transparent. The following protocols for pre-application discussions should apply:

Councillors may be invited to any pre-application forum or public/developer presentations to the Council on major applications (to ensure transparency of process and minimise private briefings).

The Chairman or Case Officer explains the role of Councillors present at any pre-application discussion and this will be recorded in a note of the meeting.

A Committee Member's role in pre-application discussions is to learn about the emerging proposal, identify issues to be dealt with in any further submissions, but not to express a view on the proposal as to pre-determine their view on any formal application.

Officers will note those present, the issues identified at the pre-application discussion meeting or forum, and take appropriate follow up action recording the outcome of the meeting to the developer and place on the case file.

Any Development and Regulation Committee Member who elects to support a view for or against the development being discussed in pursuit of their community champion role will have pre-determined their position to the extent they should not take part in the determination process (debate or vote). Such a Member will be free to present their views, on behalf of his/her constituents to the Committee, but should not debate or vote on the application.

7. Officer Reports to Committee

All applications considered by the Development and Regulation Committee shall be the subject of full, written reports from officers incorporating firm recommendations.

The reports will consider national and development plan policies and guidance, representations made by statutory consultees, local residents and other interested parties, as well as any other material considerations. The report will contain all the relevant material known at the time the report is despatched to Members and updating information will be provided to Committee Members only if there have been any significant developments or changes to the report.

Once the Committee papers for a meeting have been published, any subsequent information that is received containing material planning considerations will be presented in an addendum and/or reported orally by officers to the Development and Regulation Committee at its meeting.

Proposals for the County Council's own development, which fall to be determined by the Development and Regulation Committee, will be treated in the same way as any application submitted by a private developer. The requirements of the Town and Country Planning and other Acts, regulations and Government guidance will be followed in the usual way. Decisions will be made strictly on planning merits without regard to any financial or other gain or loss that might accrue to the Council if the development is permitted. The County Council recognises that its own planning applications must not only be treated no differently from any other but should be seen not to be treated differently.

Similarly the Committee will not take into account any implications for the County Council financial or other gain or loss that might arise from any applications for minerals and waste development.

The agenda and reports for the Committee will normally be published at least five clear days before a Committee meeting (excluding the day of publication and the day of the meeting) and will be available for public inspection on the County Council's website, www.essex.gov.uk.

8. Substitute Members, and Attendance of Non-Members at Meetings

The Council's rules on these issues are set out in the Council Procedure Rules.

The rules governing Substitute Members provide that a Committee Member shall, if he/she wishes another Member of the political group to which he/she belongs to attend a meeting of that Committee in his/her place, give the Committee Administrator written notice not later than 9.30 a.m. on the day on which the meeting is to be held that he/she is unable to attend and that the substitute Member named in the notice will attend in his/her place. A substitution notice may be given on behalf of a Committee Member by the leader of a political group or by the group spokesman of the Committee.

The effect of a substitution notice shall be that the Member named in the notice shall cease to be a Member of the Committee for the duration of that meeting and that the substitute Member shall be a full Member of the Committee for the same period.

A substitution notice may be revoked at any time preceding the deadline for the giving of such notice.

In the case of the Development and Regulation Committee there is a system of preferred substitutes, whereby each political group has nominated several Members who are to be used as substitutes in the first instance.

The scheme of preferred substitutes has been developed in response to the need for **mandatory** Member Training in the issues that the Committee consider.

Any County Councillor shall be able to attend any Committee meeting of which he or she is not a member and, if invited to do so by the Chairman of the meeting, may speak at the Committee meeting, but not take part in a discussion nor any vote. It must be stressed that a Member of the Council who is not a Member of the Committee may not speak unless that Member has obtained the agreement of the Chairman. Any County Councillor who is not a Member of the Development and Regulation Committee and wishes to address the Committee on an application at one of its meetings is limited to speaking for no more than three minutes subject to the discretion of the Chairman.

9. Public Speaking at Committee

Arrangements have been developed to enable applicants or their agent, objectors and other interested parties to address the Committee, and are detailed in a separate document entitled 'Public Speaking at the Development and Regulation Committee'.

Generally only one prospective speaker will be allowed to speak from each of the following categories:-

- District/Borough/City Council (to speak on behalf of the relevant Parish Council unless that Parish Council's view is different, in which case the Parish Council may also speak).
- Objector
- Applicant
- Supporter

Anyone wishing to speak at a meeting shall give two working days' notice to the Committee Officer and, subject to confirmation that they may address the Committee, shall then submit a supporting paper outlining the main points of the presentation also at least two working days prior to the meeting. This is to enable the points they wish to raise to be fully considered at the meeting. Presentations will be limited to 3 minutes each.

The time limits and number of speakers may be extended particularly for major strategic applications at the discretion of the Chairman of the Committee.

Under normal circumstances public speaking will only be permitted when a planning application is considered for the first time by the Committee. Therefore if the application is deferred a further presentation to the Committee will not be permitted

unless new and significant factors have arisen. A County Councillor who has declared a prejudicial interest in an application will be afforded the same speaking rights as a member of the public.

10. Determination of Applications

Section 38(6) of the Planning & Compulsory Purchase Act 2004, states that *“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”*.

The County Council recognises that planning decisions are often matters of fine judgement where the balancing of considerations is difficult. The officer's report will normally rely heavily on planning policy and Members of the Committee may wish to exercise their discretion to permit an application as an exception to policy or may not agree with the recommendation. In such cases the procedural requirement is that they should formally move a motion to take the place of the officer's recommendation.

A Member of the Committee may only vote upon a recommendation if he or she has been present for the full debate on the application.

Where the Development and Regulation Committee is minded to determine an application contrary to the Officer's recommendation (whether for approval or refusal), the onus is upon the Committee to identify its reasons for the decision, which should be based on material planning considerations. The final decision on the application will usually be deferred until the next meeting of the Committee (provided it does not prevent a final decision within a reasonable timescale) to ensure that Officers can provide appropriate advice as to the clarity and reasonableness of the reasons put forward for approval (including recommending suitable planning conditions) or refusal of the application.

There will be full and accurate minuting of resolutions with a careful record being kept of the debate when a resolution is proposed which is contrary to an officer recommendation. In such cases the Chairman will summarise, or cause to be summarised, the salient points of the debate, and ensure the text of the proposition is clearly understood before putting the matter to the vote.

Chairman

From time to time it may be appropriate for the Chairman to use his or her discretion in the consideration of an application to enable the Committee to conduct its business in a proper manner for instance to permit or not permit further speakers on an item and in seeking the Committee's agreement to an adjournment of a meeting or deferral of the item until, for example, a site visit has taken place.

12. Committee Site Visits

Formal site visits will only be held where there is a clearly identified benefit to be gained from holding one i.e. where a proposal is contentious or particularly complex, and the impact is difficult to visualise or assess from the submitted information and

plans contained in the information before the Committee. Site visits can cause delay and additional costs and should only be used where the expected benefit is substantial.

The Committee must be mindful that site visits should be organised carefully to ensure that the purpose, format and conduct are clearly established at the outset and subsequently adhered to.

All Members of the Committee will be invited to attend the site visit, together with the local Member(s). No other parties will normally be invited to take part in the site visit.

All Members attending site visits should be accompanied by an officer. If access to private land is necessary, officers will secure the prior agreement of the land owner/operator/applicant who will be advised that lobbying Members of the Committee is unacceptable.

The purpose of the site visit is to view the site. Therefore any issues that are not consistent with Members familiarising themselves with the site should be prevented. The site visit shall consist simply of an inspection by the Committee with officer assistance. Members may raise questions but answers will be reported to the formal meeting of the Committee, and be discussed in public.

The role of the local Councillor shall be limited only to pointing out parts of the site he/she thinks are relevant to the Committee Members becoming familiar with the site and its setting. The local Councillor shall not make representations on the application at the site meeting.

The Committee Officer will arrange for transport for the site visit for all Members and officers from County Hall. Any Member wishing to meet the Committee locally must liaise with the Committee Officer to make appropriate arrangements to be picked up at a suitable location. However a Member should not meet the Committee at the application site unaccompanied by an officer. Members of the Committee should be especially careful when arriving at the site alone, as this may present an opportunity for lobbyists to attempt to influence the Member informally.

The Committee cannot determine the application on a site visit. The visit should at all time be run similar to the strict lines of a Planning Inspector's site inspection – i.e. not allowing arguments and views to be expressed on site.

13. Officers

Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to officers through a decision of the Council or its Executive or a Committee. A successful relationship between Councillors and officers can only be based upon mutual trust and understanding of each others' positions. This relationship and the trust which underpins it must never be abused or compromised.

Officers involved in the processing and determination of planning matters must act impartially and in accordance with the Council's appropriate Codes of Conduct and any professional code of conduct (primarily the Royal Town Planning Institute's Code of Professional Conduct). As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

Councillors should not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority. Officers are part of a management structure and Councillors should only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.

Councillors should not put pressure on officers to put forward a particular recommendation on a planning application. However this does not prevent the Councillor from asking questions or submitting views to the Planning Officer, which may be incorporated into any committee report.

14. Reviewing Decisions

As a commitment to ongoing best practice Members of the Committee will from time-to-time be asked to revisit a sample of sites of implemented planning permissions to assess the quality of the decisions. These reviews will play a valuable part in Member training as well as help the Committee improve the quality and consistency of decision making, strengthen the public confidence in the planning system and help with reviews of planning policy.

15. Possible Consequences of a Breach of the Protocol

As this Protocol has been approved by the Development and Regulation Committee it is binding on all Councillors. Moreover, it is a statement by the Council about the proper way Councillors should conduct themselves as Members of the Committee. Therefore any contravention of it could be seen as a basis for a complaint to the Local Government Ombudsman on the grounds that maladministration has occurred that has caused injustice; the maladministration being a failure to make a determination in accordance with the Committee's own Protocol.

This document has been produced jointly by the Minerals and Waste Planning Team, Democratic Services and Essex Legal Services, Essex County Council.

DR/22/17

committee DEVELOPMENT & REGULATION

date 26 May 2017

ENFORCEMENT OF PLANNING CONTROL – INFORMATION ITEM

Enforcement update.

Report by Acting Head of County Planning

Enquiries to Suzanne Armstrong – Tel: 03330 136 823

1. PURPOSE OF THE ITEM

To update members of enforcement matters for the period 1 January to 30 April 2017 (Quarterly Period 1).

2. DISCUSSION

A. Outstanding Cases

As at 30 April 2017 there are 25 outstanding cases. Appendix 1 shows the details of sites (11) where, after investigation, a breach of planning control is considered to have occurred.

B. Closed Cases

6 cases were resolved during the period 1 January to 30 April 2017.

LOCAL MEMBER NOTIFICATION

Countywide

Enforcement Committee Report

<u>Location</u>	<u>Nature of problem</u>	<u>Action Result</u>	<u>Remarks</u>
Brentwood Borough Land on the South Side of Church Road, (To the rear of Lizvale Farm), Church Road, Navestock, Romford, RM4 1HB	Importation of waste		Suzanne Armstrong 05-apr-17 16:10:05 A material change of use of the land to land used for the importation, deposition, storing and spreading of waste materials, subsequently raising the levels of the land. An Enforcement Notice has been served for the removal of the waste, the notice has taken effect and full compliance is due by the 7th February 2018
Brindles Farm, Hanging Hill Lane, Hutton, Essex, CM13 2HN	Importation of waste		Suzanne Armstrong 05-apr-17 15:59:59 A material change of use of the land to land used for the importation, deposition, storing and spreading of waste materials, (including soils, rubble and other similar waste materials) raising the levels of the land. An Enforcement Notice has been served for the removal of the waste, the notice has taken effect and full compliance is due by the 24th August 2017.
Waterworks Spring, Dagwood Lane, Doddinghurst, Brentwood, Essex, CM15 0RX	Importation of waste		Suzanne Armstrong 06-apr-17 14:45:16 Without the benefit of planning permission, the use of the land for the importation, deposition, storing and spreading of waste materials (including soils, rubble and other similar waste materials), raising the levels of the land. A Temporary Stop Notice was served on the 4th November 2016 and an Enforcement Notice on the 27th October 2016. The notice requires to cease and do not resume, the importation, deposition, storing and spreading of waste materials, remove from the land all waste materials and restore the land. The notice has taken effect and full compliance is due by the 25th December 2017.
Spring Farm, Murthering Lane (opposite Curtis Mill Lane), Romford, Essex, RM4 1HL	Skip Company operating from land		Suzanne Armstrong 06-apr-17 14:43:14 A large amount of waste material has been deposited around the border of Spring Farm. A timescale has been agreed, with the land owner, for the removal of the waste materials. Further visits will be carried out.

<u>Location</u>	<u>Nature of problem</u>	<u>Action Result</u>	<u>Remarks</u>
Chelmsford City Land at Youngs End, London Road, Braintree, Essex, CM77 8QN	Importation of waste		<p>Suzanne Armstrong 25-apr-17 17:15:38</p> <p>The unauthorised importation and deposition of waste materials. A Temporary Stop Notice (TSN) was served on the 7th April 2017 to cease importation of waste materials. The TSN remains effective for 28 days and expires the 5th May 2017.</p>
Colchester Borough Gean Trees, The Causeway, Great Horkesley, Colchester, CO6 4EJ	Importation of waste		<p>Suzanne Armstrong 12-apr-17 09:36:20</p> <p>The use of the land for importation, deposition, storing, processing and spreading of waste materials (including soils, and other similar waste materials), subsequently raising the levels of the land (the unauthorised development). On the 6th March 2017 Essex County Council as Waste Planning Authority attended Chelmsford Magistrates Court to prosecute the land owner and tenant for failure to comply with the enforcement notice served on the 28th August 2015, also the Environment Agency prosecuting for breaching a waste exemption. At this hearing the defendants (land owner and operator) pleaded guilty to both offences. The defendants (land owner and operator) were each sentenced to a fine and costs, which altogether totaled £66,493.00. The court has issued a deadline of the 7th May 2017 for payment of this fine.</p>
Epping Forest District Tylers Cross Nursery, Epping Road, Nazeing, Waltham Abbey, EN9 2DH	Depositing of inert waste material		<p>Suzanne Armstrong 06-apr-17 14:38:21</p> <p>Without the benefit of planning permission, the use of the land for the importation, deposition and spreading of waste materials (including soils, rubble and other similar waste materials), raising the levels of the land. An enforcement notice is being prepared for the removal of the waste materials.</p>
Maldon District Rear of Greystones, Scraley Road, Heybridge, Maldon,	Waste operations		

<u>Location</u>	<u>Nature of problem</u>	<u>Action Result</u>	<u>Remarks</u>
Maldon District Essex, CM9 8JA			<p>Suzanne Armstrong 06-apr-17 14:39:22</p> <p>A waste transfer facility is operating from this land. The land owner has been advised that all waste operations should cease and the waste be cleared from the land. A timescale has been agreed and a follow up visit will be carried out to ensure compliance.</p>
Asheldham Quarry, Southminster Road, Asheldham, Essex, CM0 7DZ	Concrete batching plant		<p>Suzanne Armstrong 05-apr-17 16:11:48</p> <p>Application ESS/25/15/MAL for the retention of the concrete batching plant was refused and as part of the original decision it was recommended an enforcement notice be served for the removal of the concrete batching plant. An enforcement notice was served on the 11th January 2016. The notice took effect on the 10th February 2016 and compliance was due by 10th July 2016.</p> <p>The applicants' agent appealed the enforcement notice; however the Planning Inspectorate declined the appeal on the grounds of the application being out of time. A new application was submitted, for the retention of the concrete batching plant with the applicant seeking to address the previous applications reasons for refusal, as well as providing a revised location along with additional infrastructure.</p> <p>The new application ESS/20/16/MAL was an application for a Temporary Permission with a number of amendments to the original application, including the relocation of the existing batching plant, some new development and some retrospective. Application ESS/20/16/Mal was refused on the 12th August 2016.</p> <p>An appeal against the refusal to grant planning permission has been submitted to the Planning Inspectorate.</p>
Tendring District Mantys Equestrian, Brook Farm, Nansen Road, CLACTON-ON-SEA, Essex, CO15 5EF	Importation of waste		<p>Suzanne Armstrong 12-apr-17 09:31:44</p> <p>Importation, deposition and spreading of waste materials (including soils, rubble and other</p>

<u>Location</u>	<u>Nature of problem</u>	<u>Action Result</u>	<u>Remarks</u>
Tendring District			similar waste materials) raising the levels of the land. On the 3rd March 2016 a Temporary Stop Notice was served to cease the importation and spreading of the waste on the land. ECC are currently working with the land owner in removal of the waste from the land. Ongoing monitoring.
Uttlesford District New Farm, Elsenham Road, Stansted, CM24 8SS	Importation of waste		Suzanne Armstrong 05-apr-17 15:57:13 Importation, depositing, storing and spreading of waste materials on the land. On the 5th October 2015 an enforcement notice was served. The land owner and tenant appealed the enforcement notice. The Planning Inspectorate issued their decision in relation to the appeal on the 1st July 2016. The appeal against the enforcement notice was allowed on ground (g) such that 12 months has been given for the removal of the waste and restore the land, which commences from the 1st July 2016. The removal is required by the 1st July 2017.

DR/23/17

Committee DEVELOPMENT & REGULATION

Date 26 May 2017

INFORMATION ITEM**Applications, Enforcement and Appeals Statistics**

Report by Acting Head of County Planning

Enquiries to Emma Robinson – tel: 03330 131 512

or email: emma.robinson@essex.gov.uk

1. PURPOSE OF THE ITEM

To update Members with relevant information on planning applications, appeals and enforcements, as at the end of the previous month, plus other background information as may be requested by Committee.

BACKGROUND INFORMATION

None.

Ref: P/DM/Emma Robinson/

MEMBER NOTIFICATION

Countywide.

Major Planning Applications**SCHEDULE**

N°. Pending at the end of March

29

N°. Decisions issued in April

3

N°. Decisions issued this financial year

3

Overall % in 13 weeks or in 16 weeks for EIA applications or applications within the agreed extensions of time this financial year (Target 60%)

100%

N°. Delegated Decisions issued in April

1

N°. Section 106 Agreements pending at the end of April

6

Minor Applications

% of minor applications in 8 weeks or applications within the agreed extensions of time this financial year (Target 70%)

100%

Nº. Pending at the end of March

16

Nº. Decisions issued in April

7

Nº. Decisions issued this financial year

7

Nº. Delegated Decisions issued in April

6

All Applications

Nº. Delegated Decisions issued in April

7

Nº. Committee determined applications issued in April

3

Nº. of Submission of Details dealt with this financial year

5

Nº. of Submission of Details pending at the end of April

81

Nº. of referrals to Secretary of State under delegated powers in April

0

Appeals

Nº. of outstanding planning and enforcement appeals at end of April

2

Nº. of appeals allowed in the financial year

0

Nº. of appeals dismissed in the financial year

0

Enforcement

Nº. of active cases at end of last quarter

30

Nº. of cases cleared last quarter

4

Nº. of enforcement notices issued in April

1

Nº. of breach of condition notices issued in April

0

Nº. of planning contravention notices issued in April

0

Nº. of Temporary Stop Notices issued in April

1

Nº. of Stop Notices issued in April

0