

# Minutes

## Planning Committee 13th October 2020



This meeting was held in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 via Zoom and YouTube.

### Present

Councillors	Present	Councillors	Present
J Abbott	Yes	Mrs I Parker	Apologies
K Bowers	Yes	F Ricci	Yes
T Cunningham	Yes	Mrs W Scattergood (Chairman)	Yes
P Horner	Yes	Mrs G Spray	Yes
H Johnson	Yes	N Unsworth	Apologies
D Mann	Yes	J Wrench	Yes
A Munday	Yes		

### 71 DECLARATIONS OF INTEREST

**INFORMATION:** The following interests were declared:-

Councillor J Abbott declared a pecuniary interest in Application No. 18/02010/FUL - Gimsoms, Kings Chase, Witham as when he had not been a Member of the Planning Committee he had met with objectors to the development, taken part in a protest walk and campaigned for a Tree Preservation Order for the site. On the basis of pre-determination, Councillor Abbott did not take part in the meeting when the application was considered and determined.

Councillor Abbott declared a pecuniary interest also in Application No. 20/01101/VAR - Appletree Farm, Polecat Road, Cressing as when he had not been a Member of the Planning Committee he had submitted a personal objection to the development of the site. On the basis of pre-determination, Councillor Abbott did not take part in the meeting when the application was considered and determined.

Councillor Mrs G Spray declared a non-pecuniary interest in Application No. 20/00352/REM - Land rear of Tey Road, Earls Colne as a number of the objectors and members of the 'Tey Road Action Group' were known to her. Councillor Mrs Spray stated that she had previously provided practical advice on the planning process, but that she had not expressed an opinion on the application.

In accordance with the Code of Conduct, Councillors remained in the meeting, unless stated otherwise, and took part in the discussion when the applications were considered.

72 **MINUTES**

**DECISION:** That the Minutes of the meetings of the Planning Committee held on 22nd September 2020 and 29th September 2020 be approved as a correct record.

It was reported that the Minutes of the meeting of the Planning Committee held on 18th August 2020 were not available for approval.

73 **QUESTION TIME**

**INFORMATION:** There were nine statements made about the following matters. Those people who had registered to participate during Question Time had submitted written statements in advance of the meeting and these were read to the Committee either by the registered speaker or by the Council's Governance and Member Services Officer immediately prior to the consideration of the applications.

Application No. 18/02010/FUL - Gimsos, Kings Chase, Witham

Application No. 20/00352/REM - Land rear of Tey Road, Earls Colne

Application No. 20/00785/FUL - 3 Coggeshall Road, Braintree

Application No. 20/01101/VAR - Appletree Farm, Polecat Road, Cressing

Application No. 20/01175/HH - 21 Constable Way, Black Notley

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

74 **PLANNING APPLICATION APPROVED**

**DECISION:** That the undermentioned planning application be approved under the Town and Country Planning Act 1990, including Listed Building Consent where appropriate, subject to the conditions and reasons contained in the Planning Development Manager's report. Details of this planning application are contained in the Register of Planning Applications.

<b><u>Plan No.</u></b>	<b><u>Location</u></b>	<b><u>Applicant(s)</u></b>	<b><u>Proposed Development</u></b>
*20/01175/HH (APPROVED)	Black Notley	Mr James Douglas	Erection of a two-storey rear extension and single-storey front porch, 21 Constable Way.

**SECTION 106 AGREEMENTS**

<b><u>Plan No.</u></b>	<b><u>Location</u></b>	<b><u>Applicant(s)</u></b>	<b><u>Proposed Development</u></b>
*18/02010/FUL (APPROVED)	Witham	Mr Steve Read	Demolition of existing dwelling and construction of 78 dwellings including access, landscaping, parking and associated works, Gimsons, Kings Chase.

**DECISION:** That, subject to the applicant entering into a suitable legal agreement pursuant to Section 106 of the Town and County Planning Act 1990 (as amended) to cover the following amended Heads of Term:

- **Affordable Housing:** 23 units comprising tenure of 15 x Affordable Rent and 8 x Shared Ownership.
- **Public Open Space:** On-site provision of public open space. Management Company be appointed for the maintenance of the proposed on-site open space. Financial contribution in accordance with the Town Council and Open Spaces Action Plan for:
  - Equipped play: £48,693.65 - Upgrading and refurbishing Witham Town Park Play Area
  - Allotments: £2,300.63 - Allotments (Site 1), Cut Throat Lane, Witham for the installation of raised gardening beds for less physically able people and improvements to parking area.
  - Sports: £72,499.52 – For the provision and maintenance of practice cricket nets at Witham Hockey and Cricket Club, Sauls Bridge Sports Ground, Riverview, Maldon Road, Witham. The contribution could also be used for the provision of equipment including walking/running signage and kilometre markers and/or improvements to the outdoor sports facilities at Sauls Bridge Sports Ground, Riverview, Maldon Road, Witham.
  - The Public Open Space contributions to be paid prior to first occupation of the development as appropriate.
- **Footpath / Cycleway Improvements:** £48,500 to improve a section of the River Walk and £7,500 to improve a section of the footpath in Witham Town Park.
- **Education:** Financial contributions for Early Years and Child Care: £52,266, Primary education: £304,856.
- **NHS:** Financial contribution of £29,187 to improve Fern House Surgery.

- **Cricket Safety Netting:** Financial contribution of £21,155 for the provision and installation of ball stop netting and a further financial contribution of £15,000 to be paid to the Council to cover the cost of maintaining the ball stop netting for a period of 15 years.
- **Habitat Regulations Assessment (HRA):** Financial contribution of £125.58 per dwelling (£9,795.24).

the Planning Development Manager be authorised to grant planning permission for the above development in accordance with the approved plans and the conditions and reasons set out in the report, as amended below. Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the Planning Committee's decision, the Planning Development Manager be authorised to refuse planning permission. Details of this planning application are contained in the Register of Planning Applications.

In discussing this application, Members of the Planning Committee considered an update report regarding the Habitat Regulations Assessment (HRA) and Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). An appropriate assessment had been completed and it was proposed that an HRA financial contribution should be secured to ensure that the proposed development would not have an unacceptable impact on the Blackwater Estuary Special Protection Area/Ramsar sites. This payment would amount to £125.58 per dwelling. The applicant had agreed to pay the HRA contribution and it was proposed that an additional Head of Term should be included within the Section 106 Agreement.

The Committee approved this application, subject to an additional Head of Term, three additional Conditions and an additional Information to Applicant as follows:-

#### Additional Head of Term

Habitat Regulations Assessment (HRA): Financial contribution of £125.58 per dwelling (£9,795.24).

#### Additional Conditions

26. Notwithstanding the boundary treatment shown on the site boundary adjoining Witham Town Park and Witham Cricket Club on approved plan 'PR135-01 C,' prior to first occupation of plots 50-53, 57-69, 70-78 details of the proposed means of boundary treatments to the extent of the above-mentioned boundaries shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation of plots 50-53, 57-69, 70-78 the approved boundary treatments shall be installed in accordance with the approved details and thereafter retained as such.
27. No development shall commence unless written confirmation, from an Approved Inspector or Local Authority Building Control Service to certify that plots 33, 34,

35, 36, 37, 63, 67, 68, 69, (Flats 38, 40, 43, 57, 58, 61) as indicated on drawing number 857-PI-03ZJ have been designed to comply with Building Regulations 2015 Part M4 Category 2, has been submitted to and approved in writing by the Local Planning Authority.

28. Prior to occupation of each of the following plots - 33, 34, 35, 36, 37, 63, 67, 68, 69, Flats 38, 40, 43, 57, 58, 61 as indicated on drawing number 857-PI-03ZJ hereby approved, written confirmation from an Approved Inspector or Local Authority Building Control Service to certify that each respective plot (as indicated above) has been constructed in accordance with Building Regulations 2015 Part M4 Category 2 shall be submitted to and approved in writing by the Local Planning Authority.

#### Additional Information to Applicant

4. The applicant is advised in respect of Conditions 27 and 28 that evidence is required to be submitted to demonstrate compliance with the afore-mentioned standards as it is the responsibility of the person carrying out the development to let the Building Control body know about any conditions setting an optional requirement under the Building Regulations.

Witham Town Council submitted a written statement against this application, which was read to the Committee by Town Councillor M Lager prior to the consideration of the application.

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<b><u>Plan No.</u></b>	<b><u>Location</u></b>	<b><u>Applicant(s)</u></b>	<b><u>Proposed Development</u></b>
*20/00352/REM (APPROVED)	Earls Colne	B D G Design (South) Ltd	Application for approval of reserved matters pursuant to the Section 73 variation application (application reference no. 20/00440/VAR) - Approval of Reserved Matters (appearance, landscaping and scale) for the erection of 23 No. detached and semi detached 1, 2, 3, 4 and 5 bedroom dwellings with associated garages, parking, amenity areas, public open space, estate roads, private drive, drainage infrastructure and landscaping, land rear of Tey Road.

**DECISION:** That the Reserved Matters application be granted, subject to:

- (1) The completion of a suitable legal agreement to secure a financial contribution of £8,754.48 for 'amenity greenspace', which may include the incorporation of this obligation within a Deed of Variation to the Section 106 Agreement attached to the Section 73 variation application (application reference no. 20/00440/VAR);
- (2) The decision on the non-material amendment application (application reference no. 20/00468/NMA) being issued;
- (3) The decision on the Section 73 variation application (application reference no. 20/00440/VAR) being issued;
- (4) The description of the development for this Reserved Matters application being amended so that the Reserved Matters are pursuant to the Section 73 variation application (application reference no. 20/00440/VAR) as opposed to the original outline planning permission (application reference no. 18/00214/OUT);
- (5) The approved plans and the condition and reason set out in the report, as amended below.

Details of this planning application are contained in the Register of Planning Applications.

The Committee approved this application, subject to the addition of an Information to Applicant as follows:-

Information to Applicant

The applicant is advised that security lighting should not be left on at the site outside of working hours in order to protect the amenities of neighbouring properties.

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<b><u>Plan No.</u></b>	<b><u>Location</u></b>	<b><u>Applicant(s)</u></b>	<b><u>Proposed Development</u></b>
*20/01101/VAR (APPROVED)	Cressing	Inland Limited	Application for variation of Conditions 6, 9, 11, 17, 18 of application 18/00920/FUL granted 13/02/2020 for: Demolition of existing buildings on site and erection of 78 residential dwellings with associated open space,

landscaping, amenity space,  
car and cycle parking and  
other associated works,  
Appletree Farm, Polecat Road.

**DECISION:** That the application be granted, subject to the completion of a Deed of Variation to ensure that the application is bound by the obligations within the original Section 106 Agreement pursuant to the extant planning permission for the site (application reference no. 18/00920/FUL), and to the inclusion of an additional Head of Term relating to the Habitat Regulations Assessment. Details of this planning application are contained in the Register of Planning Applications.

In discussing this application, Members of the Planning Committee considered an update report regarding the Habitat Regulations Assessment (HRA) and Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). An appropriate assessment had been completed and it was proposed that an HRA financial contribution should be secured to ensure that the proposed development would not have an unacceptable impact on the Blackwater Estuary Special Protection Area/Ramsar sites. This payment would amount to £125.58 per dwelling. The applicant had agreed to pay the HRA contribution and it was proposed that this should be secured through an additional Head of Term via a Deed of Variation to the Section 106 Agreement relating to application no. 18/00920/FUL.

The Committee approved this application, subject to an additional Head of Term, and to the amended Conditions and additional Condition as follows:-

#### Additional Head of Term

Habitat Regulations Assessment (HRA): Financial contribution of £125.58 per dwelling (£9,795.24).

#### Amended Conditions

6. (Contamination) Where the preliminary contaminated land risk assessment determines that further assessment is required, then prior to the commencement of development a comprehensive survey shall be undertaken to assess the nature and extent of any contamination on the site. A copy of the survey findings, together with a remediation scheme to bring the site to a suitable condition in that it represents an acceptable risk, shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby approved.

Notwithstanding the above, should contamination be found that was not

previously identified or not considered in the remediation scheme agreed in writing with the Local Planning Authority, that contamination shall be made safe and reported immediately to the Local Planning Authority. The site shall be re-assessed in accordance with the above and a separate remediation scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development.

Upon commencement of remediation works at the site, the developer shall give written notice to the Local Planning Authority which shall include an anticipated duration/completion estimate of the remediation works. Within four weeks of completion of the remediation works of the relevant phase a validation report undertaken by a competent person or persons and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site (or beneficial occupation of the office building hereby permitted) until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

9. (Surface Water Drainage Scheme) No development, except for demolition, shall commence until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme should include, but not be limited to:
  - o Demonstrate that storage features such as the attenuation basin have suitable half drain times. Storage should half empty within 24 hours wherever possible.
  - o Final modelling and calculations for all areas of the drainage system.
  - o Detailed engineering drawings of each component of the drainage scheme, this includes cross sections of each component.
  - o A final drainage plan which details exceedance and conveyance routes, finished floor levels and ground levels, and location and sizing of any drainage features.
  - o A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

11. (SUDs Maintenance Plan) Prior to first occupation of the development a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies shall be submitted to and agreed in writing by the Local Planning Authority.



Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

17. (Landscaping) Prior to the first occupation of the development hereby approved a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.

18. (Various) No development shall commence until details pertaining to the list below have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
- Earthworks showing existing and proposed finished levels or contours;
  - Proposed and existing functional services above and below ground [e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant];

The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance which shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development.

#### Additional Condition

19. No above ground development shall commence until details pertaining to the list below have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
- Means of enclosure and retaining structures;
  - Boundary treatment[s];
  - Other vehicle and pedestrian access and circulation areas;

- Colour and type of material for all hard surface areas and method of laying;
- Minor artefacts and structures [e.g. furniture, play equipment, refuse or other storage units, signs, external letter boxes etc.];
- Renewable energy installations where relevant;
- Lighting, floodlighting;
- An implementation programme, [including phasing of work where relevant].

Any landscaping works shall be carried out in accordance with the approved details before any relevant part of the development is first occupied in accordance with the agreed implementation programme.

The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance which shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development.

## 76 **PLANNING APPLICATION REFUSED**

**DECISION:** That the undermentioned planning application be refused for the reasons contained in the Planning Development Manager's report. Details of this planning application are contained in the Register of Planning Applications.

<b><u>Plan No.</u></b>	<b><u>Location</u></b>	<b><u>Applicant(s)</u></b>	<b><u>Proposed Development</u></b>
*20/00785/FUL (REFUSED)	Braintree	Brand Builders & Developers Ltd	Conversion of building used for storage and distribution (Class B8) to 8 No. one bed Cottages (Class C3), 3 Coggeshall Road.

In a correction to the report, Members of the Planning Committee were advised that the application site had not been allocated for residential development in the draft Local Plan.

## 77 **SCHEME OF DELEGATION - REVIEW**

**INFORMATION:** Consideration was given to a report on the proposed review of the Council's Scheme of Delegation for the determination of planning applications.

The review was being undertaken to ensure that the Council's Planning Committee focussed on determining the most significant planning applications affecting the District and those with a higher level of public interest; to ensure that the Council was able to discharge its Development Management function in an efficient, cost effective and timely manner to meet Government and Council performance targets; and to introduce a mechanism to enable meaningful engagement to take place between applicants/agents and Members of the Planning Committee prior to the determination of planning applications. It was proposed that the Scheme of Delegation should be

more prescriptive and that it should provide greater clarity for applicants, agents and members of the public. A copy of the proposed Scheme was attached at Appendix 1 to the report.

The current Scheme of Delegation which had been approved in 2015 had sought to achieve efficiency savings and timely decision-making by widening delegated powers. However, the Scheme had not enabled the Planning Committee to concentrate on applications which had the greatest impact on the District and it was considered to be unduly complex. Analysis of delegation rates showed that the proportion of planning applications determined by the Council's Planning Development Manager was currently relatively low in comparison to other District Local Planning Authorities in Essex.

The revised Scheme of Delegation would set out how planning applications should be determined, namely those which would be referred to the Planning Committee; those which could be determined under delegated powers, but may be subject to referral to the Chairman's Briefing; and applications which could be determined under delegated powers. All 'major' applications would be reported to the Planning Committee including outline, full and reserved matters applications. 'Minor' applications which did not raise significant planning issues and 'other' applications would be determined under delegated powers. Applications would no longer be categorised on Planning Committee Agendas as 'Part A' or 'Part B' and all applications referred to the Committee would be debated by Councillors. It was proposed that the Councillor 'call-in' process should be monitored to ensure that applications were referred to the Planning Committee on planning merit; and that representations submitted by Parish/Town Councils which were contrary to the Planning Development Manager's recommendation should be assessed to determine if an application would be reported to the Committee for determination. The Chairman's Briefing process would be retained to enable the Chairman and Vice-Chairman of the Planning Committee to consider, subject to set criteria, if an application should be referred to the Committee for determination.

As part of the review of the Scheme of Delegation, it was proposed that a 'Members' Forum' should be introduced at which applicants and agents would be able to present their proposals to Members of the Planning Committee at the pre-application, pre-submission and application stages of the planning process. In accordance with the Localism Act 2011, Councillors would be able to attend meetings of the Forum to ask questions and express a view subject to maintaining an open mind. It was anticipated that Local Ward Councillors and representatives of Parish/Town Councils could also be invited to attend meetings of the Members' Forum and that meetings would take place in the evening, either in addition to, or in lieu of scheduled meetings of the Planning Committee. The meetings would be subject to clear governance arrangements and Minutes would be taken to record the proceedings. Developers would meet the costs associated with this process.

Public consultation on the proposed Scheme of Delegation and Member engagement would take place between 26th October 2020 and 13th November

2020. The proposals would also be considered by the Council's Developing Democracy Group on 20th October 2020 and by the Corporate Governance Group on 12th November 2020, following which they would be submitted to full Council on 7th December 2020 for approval.

In discussing the proposed Scheme of Delegation, Members of the Committee acknowledged that the Councillor 'call-in' process and the ability of Parish/Town Councils to contribute to the planning process were not being removed, but refined. However, some concern was expressed about the impact on Parish/Town Councils and whether their representations would be properly acknowledged. It was suggested that specific training could be provided to Parish/Town Councils and that they should be required to attend a meeting of the Planning Committee if a substantial objection had been submitted. It was also considered that the Planning Committee had not been responsible for any delay in the determination of planning applications under the current Scheme of Delegation and that, following the recruitment of Planning Officers to vacant posts within the Development Service, improvements had been made to the rate at which applications were determined. It was queried whether the time spent by Officers in preparing for the Chairman's Briefing could be reviewed and adjusted.

In discussing the proposed Members' Forum, Members of the Committee acknowledged that this represented a major change to the Council's planning procedures and it provided an opportunity for Councillors to question developers about important proposals affecting the District at an early stage in the planning process. The involvement of Ward Councillors and Parish/Town Council representatives in the Forum and that it would be subject to formal governance arrangements were also welcomed. However, some concern was expressed that Councillors could be perceived as pre-determining applications.

#### **DECISION:**

- (1) That the proposed revised Scheme of Delegation as set out within Appendix 1 to the report, and the proposals for Member engagement, be noted.
- (2) That the commencement of a 21 day period of consultation on the proposals with the public and stakeholders be noted.
- (3) That it be noted that the final proposed Scheme of Delegation, as set out in Appendix 1 to the report and as modified following consultation, will be submitted to full Council on 7th December 2020 for approval.

PLEASE NOTE: The full list of standard conditions and reasons can be viewed at the office of the Planning Development Manager, Council Offices, Causeway House, Bocking End, Braintree, Essex CM7 9HB.

(Where applications are marked with an \* this denotes that representations were received and considered by the Committee).

During the course of their discussions, Members moved, seconded and agreed, as required by the Constitution, that the meeting be extended beyond 10.15pm to enable all business on the Agenda to be transacted.

The meeting closed at 10.28pm.

Councillor Mrs W Scattergood  
(Chairman)