

Minutes

Planning Committee

19th March 2019



Present

Councillors	Present	Councillors	Present
K Bowers	Yes	Lady Newton	Yes (until 10.40pm)
Mrs L Bowers-Flint	Yes	Mrs I Parker	Yes
T Cunningham	Apologies	F Ricci	Yes
P Horner	Yes	Mrs W Scattergood (Chairman)	Yes
H Johnson	Yes	Mrs G Spray	Yes
S Kirby	Yes	Vacancy	
D Mann	Yes		

Councillors P Barlow, J Goodman, Mrs A Kilmartin, R Ramage, W Rose and Mrs S Wilson were also in attendance (until 8.48pm).

125 **DECLARATIONS OF INTEREST**

INFORMATION: The following interests were declared:-

On behalf of Members of the Committee, Councillor Mrs W Scattergood, the Chairman of the Planning Committee, declared a joint non-pecuniary interest in Application No. 18/02010/FUL - Gimsos, Kings Chase, Witham as Councillor Michael Lager, who was speaking on behalf of Witham Town Council during Question Time, was known to some of them.

Councillor K Bowers declared a non-pecuniary interest in Application No. 18/02048/FUL - Freeport Village, Charter Way, Braintree as the Manager of Freeport Braintree was known to him. Councillor Bowers stated that he had not discussed the application with the Manager.

Councillor Mrs L Bowers-Flint declared a non-pecuniary interest in Agenda Item No. 4 – Public Question Time as Councillor Nick Unsworth, who was speaking on behalf of Coggeshall Parish Council during Question Time about a local incinerator, was known to her in his capacity as Chairman of the Parish Council. Councillor Mrs Bowers-Flint stated that she had discussed the incinerator with Councillor Unsworth in the past, but she had not spoken to him about his statement/question to the Planning Committee.

Councillor Mrs I Parker declared a non-pecuniary interest in Application No. 15/00565/OUT - Stafford Park, Liston Road, Liston as Mr Bill Binks (for Liston Residents Association) and Councillor Tony Clayton (for Foxearth and Liston Parish Council), who were speaking during Question Time, were known to her. Councillor Mrs Parker stated that she had not discussed the application with Mr Binks or Councillor Clayton.

Councillor Mrs I Parker declared a non-pecuniary interest also in Application No. 18/02184/FUL - land adjacent to 67 Little Yeldham Road, Little Yeldham as Mr Colin Attenborough (Objector) and Councillor Peter Gentry (for Little Yeldham, Tilbury Juxta Clare and Ovington Parish Council), who were speaking during Question Time, were known to her. Councillor Mrs Parker stated that she had not discussed the application with Mr Attenborough or Councillor Gentry.

Councillor F Ricci declared a non-pecuniary interest in Application No. 18/02048/FUL - Freeport Village, Charter Way, Braintree as the Manager of Freeport Braintree was known to him. Councillor Ricci stated that he had not discussed the application with the Manager.

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.

126 **MINUTES**

DECISION: That the Minutes of the meeting of the Planning Committee held on 12th March 2019 be approved as a correct record and signed by the Chairman.

127 **QUESTION TIME**

INFORMATION: There were nineteen statements made about the following matters. Those people who had registered to speak about a planning application spoke immediately prior to the consideration of the application:-

Agenda Item No. 4 – Public Question Time - General statement and question by Councillor Nick Unsworth representing Coggeshall Parish Council about a local incinerator and Braintree District Council's stance. (The Chairman of the Planning Committee stated that a written response would be provided to the question).

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

Application No. 15/00565/OUT - Stafford Park, Liston Road, Liston

Application No. 18/01751/REM - Land off Western Road, Silver End

Application No. 18/02048/FUL - Freeport Village, Charter Way, Braintree

Application No. 18/02184/FUL - Land adjacent to 67 Little Yeldham Road, Little Yeldham

Application No. 18/02291/FUL - Bradwell Service Station, Coggeshall Road, Bradwell

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

128 **PLANNING APPLICATIONS APPROVED**

Planning Application No. 18/02224/FUL - Morelands Farm, Bures Road, White Colne was determined en bloc.

DECISION: That the undermentioned planning applications 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 these planning applications are contained in the Register of Planning Applications.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*18/01550/FUL (APPROVED)	Halstead	Mrs Dena Leek	Conversion from a single dwellinghouse to 2 x 1 bed and 3 x 2 bed flats (5 units), erection of 2 dormer roof extensions to front roof slope, together with associated parking, cycle parking, refuse storage and landscaping, Bartholomew House, Colchester Road.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*18/01751/REM (APPROVED)	Silver End	Redrow Homes Ltd	Application for approval of Reserved Matters (appearance, landscaping, layout and scale) following the grant of outline planning permission ref: 15/00280/OUT - Erection of 350 dwellings (including 40% affordable housing), creation of internal roads, footpaths, open space, SuDS features, a sub-station, a pumping station and groundworks, land off Western Road.

The Committee was advised that this application for the approval of Reserved Matters included site access arrangements.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*18/02048/FUL (APPROVED)	Braintree	C/o Agent (Agent - Mr Kieron Gregson, Carter Jonas)	The formation of a new slip road and associated access improvements off Millennium Way / B1018 (including enhancements of the Millennium Way / B1018 roundabout); extension to the existing northern car park to create up to 400 additional car parking spaces; amendments to the southern car park entrance and exit; and associated landscaping improvements, Freeport Village, Charter Way.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*18/02184/FUL (APPROVED)	Little Yeldham	Mr Andrew Temperton Wild Boar Properties Ltd	Demolition of existing commercial storage building and construction of new dwelling and garage, land adjacent to 67 Little Yeldham Road.

Councillor Peter Gentry, representing Little Yeldham, Tilbury Juxta Clare and Ovington Parish Council, attended the meeting and spoke against this application.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*18/02224/FUL (APPROVED)	White Colne	Mr and Mrs S Snowling	Erection of a part two, part single storey rear extension, alterations to the roof of the existing single-storey extension and erection of a

new front porch, Morelands Farm, Bures Road.

129 **SECTION 106 AGREEMENT**

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*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 Country Planning Act 1990 (as amended) to cover the following Heads of Terms:

Affordable Housing: 23 units comprising tenure of 15 x affordable rent and 8 shared ownership.

Public Open Space: On-site provision of public open space. Management Company to be appointed for the maintenance of the proposed open space and tree buffer zone. 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 - Provision/improvements of Outdoor Sports facilities at Sauls Bridge Sports Ground for signage markers, and other schemes at Sauls Bridge Sports Ground and/or the provision of practice cricket nets at Witham Hockey and Cricket Club which are still being explored. Possible additional financial contribution (in addition to the £72,499.52) towards practice netting at Sauls Bridge, or Witham Hockey and Cricket Club, if appropriate.
- Above contributions to be paid prior to first occupation of the development as appropriate.

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.

Footpath/Cycleway Improvements: £48,500 to improve a large section of the River Walk and £7,500 to improve a section of the footpath in Witham Town Park.

Cricket Netting: Financial contribution and/or full provision for ball stopping netting and a financial contribution to the maintenance cost of the netting.

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.

The Committee approved this application, subject to the Head of Term of the legal agreement relating to Public Open Space being amended; the Head of Term relating to the River Walk being deleted; and two new Heads of Term being added regarding Footpath/Cycleway Improvements and Cricket Netting; and to the amendment of an Approved Plan; and the amendment of Condition Nos. 3, 4, 8, 9, 18 and 19 as follows:-

Amended Head of Term

Public Open Space: On-site provision of public open space. Management Company to be appointed for the maintenance of the proposed open space and tree buffer zone. 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 - Provision/improvements of Outdoor Sports facilities at Sauls Bridge Sports Ground for signage markers, and other schemes at Sauls Bridge Sports Ground and/or the provision of practice cricket nets at Witham Hockey and Cricket Club which are still being explored. Possible additional financial contribution (in addition to the £72,499.52) towards practice netting at Sauls Bridge, or Witham Hockey and Cricket Club, if appropriate.
- Above contributions to be paid prior to first occupation of the development as appropriate.

Deleted Head of Term

River Walk: £48,500 financial contribution to widen River Walk to 3.5m and resurface for a stretch of 495m from Newland Street to the proposed road into the site.

Additional Heads of Term

Footpath/Cycleway Improvements: £48,500 to improve a large section of the River Walk and £7,500 to improve a section of the footpath in Witham Town Park.

Cricket Netting: Financial contribution and/or full provision for ball stopping netting and a financial contribution to the maintenance cost of the netting.

Amended Approved Plan

Proposed Phasing Plan reference 857-PL-19 superseded by Proposed Phasing Plan reference 857-PL-19 B.

Amended Conditions

3. Prior to first occupation of each respective phase of the development hereby approved (as shown on Phasing Plan reference 857-PL-19 B), the development shall be carried out in accordance with the approved hard and soft landscape plan reference PR135-01 and thereafter retained as such.

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.

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.

4. No above ground development in phase 2 in its entirety (Approved Plan ref: 857-PL-19 B) shall commence unless and until samples of the materials to be used on the external finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.
8. Prior to the commencement of development on phase 1 (Approved Plan ref: 857-PL-19 B with the exception of site clearance and demolition), 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'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. 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.

The developer shall give one month's advance notice in writing to the Local Planning Authority of the impending completion of the remediation works. Within four weeks of completion of the remediation works, a validation report undertaken by a competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' 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. Prior to the commencement of development on phase 2 in its entirety (Approved Plan ref: 857-PL-19 B with the exception of site clearance and demolition), 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'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. 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.

The developer shall give one month's advance notice in writing to the Local Planning Authority of the impending completion of the remediation works. Within four weeks of completion of the remediation works, a validation report undertaken by a competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' 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.

18. No above ground development shall commence in phase 1 (Approved Plan ref: 857-PL-19 B) unless and until the following (including an implementation timetable) has been submitted to and approved in writing by the Local Planning Authority:

- (a) details of any proposed external lighting to phase 1 including a strategy to protect bats

The development shall be constructed in accordance with the approved details/specification and thereafter so retained.

19. No above ground development shall commence in phase 2 in its entirety (Approved Plan ref: 857-PL-19 B) unless and until the following (including an implementation timetable) has been submitted to and approved in writing by the Local Planning Authority:

- (a) details of any proposed external lighting to phase 2 including a strategy to protect bats
- (b) details of the location and design of refuse bin and recycling materials storage areas (for internal and external separation) and collection points

The development shall be constructed in accordance with the approved details/specification and thereafter so retained.

Councillor Michael Lager, representing Witham Town Council, attended the meeting and spoke against this application.

Councillor Mrs Angela Kilmartin, Braintree District Ward Councillor for Witham Central, attended the meeting and spoke against this application.

Councillor Mrs Susan Wilson, Braintree District Ward Councillor for Witham Central, attended the meeting and spoke against this application.

130 **PLANNING APPLICATIONS REFUSED**

DECISION: That the undermentioned planning applications be refused for the reasons contained in the Planning Development Manager's report, as amended below. Details of these planning applications are contained in the Register of Planning Applications.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*15/00565/OUT (REFUSED)	Liston	Bonnington Investments Ltd	Outline planning application (with all matters reserved except for access) for the proposed development of up to 100 dwellings and the change of use of existing buildings to create up to 22 apartments and a community centre, to enable the remediation of the adjoining licensed landfill site to the north. Proposals to also include the demolition of the other existing buildings, associated works to remediate the land on the application site, flood attenuation measures, reinstatement of the River Stour to include the removal of the sluice gate and the creation of a series of rock riffle weirs and associated infrastructure improvements, landscaping and provision of public open space, Stafford Park, Liston Road.

The Committee refused this application against the Planning Development Manager's recommendation for approval subject to a Section 106 Agreement, for the following Reasons:-

Reasons for Refusal

1. The site is located in the countryside, outside any defined village envelope as identified in the adopted Local Plan Review and adopted Core Strategy. The site is disconnected and remote from any existing settlement and the services and facilities that residents would require for day to day living, such as shops, schools, health services and places of employment. The nearest village centre with these facilities is Long Melford and although improvements are proposed the reality is that there would be limited opportunities for walking or cycling and limited access to public transport, all of which would place a reliance on travel by private car. Furthermore the network of roads that would be used to access the properties is constrained, and includes a road that is designated as a Protected Lane in the adopted Local Plan Review.

The site is therefore considered to be in an unsustainable location and this would result in a significant harm which would weigh heavily against the proposed development. The Council has considered the potential public benefits that would arise from the scheme. It is accepted that the benefits would include the remediation of the application site and adjoining land, but would only attach limited weight to this benefit as there is a statutory process that the authorities can follow to require remediation of contaminated land. Due to the costs of remediating the site and adjoining land the applicant has only proposed that a reduced level of Affordable Housing is provided, below the level required by Policy CS2 of the adopted Core Strategy. Whilst the Council does not disagree with the viability assessment, the reduced level of Affordable Housing provision weighs against the proposed development when undertaking the planning balance.

Having considered the potential benefits of the scheme and weighed these against the harm that would arise from the development, the Council considers that the adverse impacts of granting permission here would significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework taken as a whole. The development is thereby contrary to the provisions of the National Planning Policy Framework; Policies RLP2, RLP9, RLP80 and RLP90 of the Braintree District Local Plan Review (2005); Policies CS2, CS5 and CS7 of the Braintree District Core Strategy (2011) and Policies SP1, LPP1, LPP55 and LPP71 of the Braintree District Publication Draft Local Plan (2017).

2. In accordance with Section 14 of the National Planning Policy Framework and Policy CS8 of the adopted Core Strategy, the Council will minimise exposure of people and property to the risks of flooding by applying the sequential test which seeks to steer new development to areas with the lowest probability of flooding, ensuring that areas with little or no risk of flooding are developed in preference to areas of higher risk. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

In this case it is considered the application does not pass the sequential test as the site is currently designated as being within the Environment Agency's Flood Zone 3a and alternative sites are available for residential use within the District.

The Council acknowledges that it is proposed that ground levels within the development area will be increased and that the levels that will be achieved would initially reduce the flood risk on the development site to less than 1 in 1,000 annual probability of flooding – the same risk as land designated by the Environment Agency as Flood Zone 1. However, when allowances are made for climate change the flood modelling shows that ground levels within parts of the site will mean that the risk of flooding will increase resulting in parts of the site falling back into Flood Zone 2 within the life of the development.

Whilst the Council acknowledges that the proposed development would provide public benefits through the remediation of land that could be designated as contaminated land, the weight that can be attached to this public benefit is reduced as the contamination could be dealt with through statutory process, applying the 'polluter pays principle'. As a result the Council considers that the site fails to pass the sequential test and redevelopment of the site for residential use is contrary to the afore-mentioned planning policies.

Mr Rob Williams, representing Long Melford Parish Council, attended the meeting and spoke against this application.

Councillor Tony Clayton, representing Foxearth and Liston Parish Council, attended the meeting and spoke against this application.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*18/02291/FUL (REFUSED)	Bradwell	Mr L Trevellyan	Proposed landscaped extension to the forecourt to provide parking area with electric vehicle charging, Bradwell Service Station, Coggeshall Road.

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 was adjourned at 10.40pm for a short break and it reconvened at 10.50pm.

The meeting closed at 12.12am.

Councillor Mrs W Scattergood
(Chairman)