

ALTERATIONS AND ADDITIONS TO PLANNING COMMITTEE

15th January 2019

AGENDA ITEM 6

18/01631/FUL – SITE AT 140 MILL ROAD, STOCK, INGATESTONE

REPORT

Page 7.

Para 6.14 – 1.5m should read 0.5m.

RECOMMENDATION

A signed unilateral undertaking, to fund the carrying out of interim habitat mitigation projects in advance of the adoption and implementation of the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), has been received from the applicant.

The recommendation is therefore amended to read:

The application be APPROVED subject to the following conditions.

AGENDA ITEM 7

18/01514/FUL – BEAULIEU PARK, WHITE HART LANE, SPRINGFIELD, CHELMSFORD

AMENDMENTS TO REPORT

Page 3.

5. Summary of Consultations

The committee report should read:

Boreham Parish Council – Objections.

The Parish Council's comments and objections are set out in full within the Consultations section of the committee report.

Page 5

Paragraph 6.12

Site Wide Play Strategy – Included within the Beaulieu s106 Agreement dated 7th March 2014

The paragraph should read:

The Site Wide Play Strategy was considered by the local planning authority and the applicant during consideration of the outline planning application; this included indicative locations for NEAP's, LEAP's, informal kickabout areas, LLAP's, youth facilities and formal sports pitches. The Strategy formed an appendix to the Planning Statement for the reserved matters for the North-South Greenway; 17/02006/REM refers. A plan detailing the distribution of open spaces forms an appendix to the Beaulieu s106 Agreement entered on 7th March 2014.

CONSULTATION RESPONSES

ECC Highways

The Highway Authority has advised as follows:

The Highway Authority is aware of the objections relating this planning application and of a desire from New Hall School to reopen access through the wall adjoining the proposed Community Gardens (known as the Western Gate). The estate road in the adjoining Zone E (nearest road to the Community Garden) is approved and being built as a shared surface with a width of 4.8m. The width of this road is not appropriate to accommodate traffic other than that related to the houses along the route and is of insufficient width to safely and efficiently accommodate any additional traffic related to school drop off and pick up. A condition, for this reason, is necessary preventing vehicle or pedestrian access to/from the Western Gate from being provided over the Community Garden Land.

New Hall School is being provided with an additional access point to the north of their site via the Beaulieu development as well as utilising their existing southern access. A network of paths (planned if not constructed yet) exists within the Beaulieu development which enable excellent, direct access to the school from the north and south for those wishing to walk or cycle to/from the school.

Due to the objections raised by New Hall School, and those connected to it, the Highway Authority met with the school to understand their concerns. The school's desire to use the Western Gate as a foot and cycle access is understood but does not form part of the Community Gardens application. Should they wish to use the Western Gate as a pedestrian and cycle access to the school, they have been advised to submit a separate planning application, which outlines how the access would work and details what mechanisms will be put in place to prevent additional vehicle movements associated with the school site in the neighbouring residential development.

The Highway Authority's consultation response is summarised within the committee report.

Historic England

Historic England has submitted a further letter, in response to the Birketts letter on behalf of New Hall School, in which it states that its position has been misrepresented by Birketts and the school. Historic England has advised as follows:

Birketts argue that the Planning Committee 'will not gain the clear response it might wish for in the English Heritage response of 19th December 2018'; this is not a view with which Historic

England concur. Historic England (before 2015 English Heritage) have been consistent in their comments to the authority in relation to the Beaulieu development, and have expressed its support for appropriate landscaping measures to protect New Hall and its setting.

Birketts Solicitors also raise the School Principal Mrs Jeffrey's recollections of her meeting with Historic England staff on 29th November 2018; as was explained to the School Principal, and subsequently in a telephone call, the meeting on 29th November 2018 was a 'fact-finding' one. Historic England advise that it was true that the current application was not initially recognised as one which needed further investigation, resulting in a non-intervention, this was subsequently withdrawn to allow for the site visit which informed Historic England's letter of 19th December 2018. The suggestion of broader errors is mistaken. Birketts Solicitors note that a minute was taken of the 29th November 2018 meeting, but Historic England have not had sight of any such minute for agreement.

The Gardens Trust

The Gardens Trust has commented as follows:

New Hall, Boreham is a Grade I Tudor mansion, now a school, set in a Grade II Registered landscape with many layers of history, from the Middle Ages to the 17th Century. To the west of it, there is now the Beaulieu neighbourhood development, which takes its name from that given to Henry VIII's palace at New Hall.

The application is for community gardens as provided for in the approved Landscape Design & Management Plan. The gardens would occupy a long narrow meandering north-south strip of land to the west of New Hall and the registered landscape, separating them from the new development; as a buffer between the development and the heritage assets, this is to be welcomed. The Gardens Trust considers that there are aspects of the proposed design of the gardens, which could be more appropriate. The scheme is ambitious in attempting to include a great many different elements into a relatively small area. A simpler approach, with fewer formal areas, intending to create the impression of an open parkland space, with the planting of more parkland trees, would seem more in keeping with the setting of New Hall. Whilst in the Green Link North, there would be a belt of trees separating the gardens from New Hall; further south there is only a fence and hedge; instead, in this area there seems to be more concern to create visual separation between the gardens and the new development, than between them and New Hall. The more formal spaces all seem to be nearer the New Hall boundary than that of the new development. The acknowledgement of the existence of the lime kiln with a low mound is welcome, but a higher mound would have been a landscape feature known from Tudor times, and potentially of more interest and enjoyment for people and children using the open space.

Comments

The scheme was the subject of detailed discussion at pre-application stage and has been comprehensively reviewed by the Council's Heritage Officer and Historic England; their responses are contained within the Planning Committee report. The matter of providing a higher mound, as acknowledgement of the existence of the lime kiln was considered but discounted, due to there being insufficient space between the swale and the hardstanding. The applicant also expressed concerns about the ability to protect the archaeological remains during the construction of higher mound.

REPRESENTATIONS

A further letter of representation has been submitted on behalf of New Hall School which makes the following points:

1. Outline Planning Permission – Recognised that (i) permission was granted in 2014 (09/01314/EIA refers) and the reserved matters do not seek to challenge or ‘go behind’ the ambit of that decision and (ii) that by Condition 10, any reserved matters is to demonstrate compliance with the Parameter Plans which identify land to the west of the School as either ‘Community Gardens’ or ‘Local Parks’ suitable for informal ball games.
2. Setting of Grade I Listed Building – Determination of the reserved matters remains a matter of considerable importance and sensitivity. Detail of the application, which is reserved, is important to get right to ensure the setting of the Grade I listed building, New Hall, and its Grade II listed grounds are not further, and irretrievably eroded. Reference made to Historic England consultation response.
3. Reserved Matters: Landscaping & Layout – Local planning authority by reserving matters of landscaping and layout, has retained the means to control the critical buffer between new residential development and the school and its grounds. Planning Committee must address determination of the reserved matters with an open mind having regard to all material considerations, particularly planning policies and the statutory duties which protect the setting of the listed building and its grounds. Handling of the application can make the difference in planning terms, between what is acceptable, and a legacy of missed opportunity and an awkward jarring of old and new. Planning Committee is not constrained by the indicative layout provided in support of the outline planning application.
4. Independent Historic Advice – Advice provided by Michael Sutherill, a Historic Landscape Advisor. Scheme lacks any discernible attempt to blend or harmonise the space with the setting of New Hall. Grant of approval would be an error of planning judgement and amount to a failure to have proper regard to the statutory duty to preserve the setting of a listed building. Committee urged to refuse the reserved matters so that the applicant is forced to better consider the juxtaposition of development with the School.
5. Woodland Buffer Planting – LDMP sets out a requirement for a 15-20m woodland buffer on the western boundary of New Hall, particularly around the sports facilities. Trees should be planted at least 5-10m from the historic wall, to prevent any damage to the wall. A 1.25m iron railing is required, to define the boundary of the Estate Parkland mixed with a native hedge on its western side. Community Gardens fail to deliver these essential elements. New Hall School application (submitted 21.12.18) honours these requirements for a woodland buffer, gives proper regard for the heritage setting, whilst still delivering the Community Gardens.
6. Community Gardens – Scheme leaves much of the area without a design; unacceptable given the impact on the setting of a Grade I listed building and as the area was specifically chosen as one of the compensatory measures. Significant material detail is missing. Inappropriate to delegate landscape design without any further planning controls.
7. The Gardens Trust – Report incorrect as it states no response from The Gardens Trust.
8. Agent Letter 09.01.19 – Letter gives an inaccurate and misleading list regarding responses from statutory consultees. Historic England listed twice, and objections made by Boreham Parish Council, The Gardens Trust and Essex Police are listed.
9. Scope of Reserved Matters Consideration – Reference to Article 2 of the Town & Country Planning (Development Management Procedure) (England) Order 2015; limits reserved

matters to access, appearance, landscaping, layout and scale. No obligation to follow indicative landscape layouts submitted for illustrative purposes. Committee reminded under the Openness of Local Government Bodies Regulations 2014, that a written record of the reserved matters decision and reasons will need to be made available. Reserved matters are also amenable to judicial review – (see *Pearl, R (on the application of) v Maldon DC 2018 EWHC 212 Admin 09 Feb*)

10. Importance of Setting – Special regard to be given to the desirability of preserving listed buildings or their settings; special regard give rise to a strong presumption in favour of preservation. Should development harm the setting of a listed building, there must be something of sufficient strength in the merits of the development to outweigh that harm. NPPF treats listed buildings as heritage assets; reference to paragraphs 193, 194 and 200. Planning Committee to be particularly alert to the importance of setting given New Hall is one of only two designated Grade I listed buildings in Chelmsford. Setting should be best protected within the constraints of an application for approval of a layout under reserved matters.
11. Development Plan – Reference to NCAAP (reiteration of points made in the New Hall School letters of representation in relation to land allocation).
12. Historic England’s Position – Historic England response unclear in its reasoning and application of the statutory duty. Response advises that the application meets the requirements of paragraphs 184 and 193 of the NPPF but cautions that the local planning authority should bear in mind the statutory duty of s66 (1) of the Planning (Listed Building & Conservation Areas) Act 1990. Historic England appears to offer no assistance as to how the committee should apply the application of this statutory duty and the conclusion it should draw. Different indications were given to the School Principal by Historic England; it acknowledged that the absence of an objection to the outline application in 2012 and 2014 was an oversight due to no one at Historic England with appropriate authority having reviewed the proposals; outline application would have been opposed. Indication given before a meeting on 29th November 2018 that Historic England would withdraw its ‘no comment’ response and replace with an ‘objection’; added that development around New Hall was ‘deeply concerning’ and the building was a top priority nationally.
13. Access to Western Gate – Applicant failed to recognise the existence of a substantial gate in the western boundary wall; inconsistent with previous discussions where CZ representatives acknowledged the importance of a pedestrian and cyclist link through the gate. School owns 5m of land west of the gate; land beyond sold to the applicant by the former owners. Western Gate relevant as the boundary of the school’s land is directly adjacent the Beaulieu Community Gardens. Boundary fencing in place does not respect the historic setting, inappropriately blocks the historic link between the estate and open land and does not comply with the LDMP requirement for a 1.25m iron railing.
14. Determination – Application should not be treated as already determined at outline stage. Detail provided is not good enough; important and necessary detail is missing. Failure to show any proper regard to, or relationship with the setting of the listed New Hall building and grounds. Shortcomings contained within the independent historic advice. Incumbent upon the local planning authority to demand good and sympathetic design and that the exceptionally valuable historical asset of international importance is not further diminished. Jarring incongruities. Redesign is requested which appreciates the setting of New Hall.

The letter has been accompanied by an independent assessment of the reserved matters which considers the impact on the setting of New Hall School. The assessment sets out the background

(NCAAP), provides a summary of the historical development of New Hall, describes the setting of New Hall, its survival and significance, outlines the current and proposed setting and provides a summary of the significance and protection measures.

The assessment refers to the NCAAP, which highlights the significance of New Hall as a heritage asset of outstanding national importance and one with a highly significant presence in the landscape of North Chelmsford and Boreham. Development of NE Chelmsford is unacceptable without the satisfactory, comprehensive delivery of the compensatory measures. The assessment refers to the requirements of Site Allocation 7 to provide a substantial woodland buffer around the western side of the school grounds to resolve the relationship between new development and the existing open, rural context valued by the school. The LDMP recognises the primacy of NCAAP and details specific proposals to protect the setting of New Hall, specifically the creation of a Parkland setting to the south. Reference is made to Strategy E1, E4 and Section 1a: New Hall Western Boundary, which details specific proposals to protect the 15-20m high woodland screening and shrubs outside the New Hall boundary along its western side. Trees are specified in the LDMP and include English Oak; not included within the Beaulieu Community Gardens scheme.

The assessment states that the greatest impact has been the Beaulieu development; new housing is extremely visible from the extension to the Nun's Cemetery to the west of the Wilderness. The stark nature of the built edge formed by the development contrasts sharply with the rural openness of the surrounding fields. Development appears unduly prominent when viewed from the New and its grounds and the impact of housing is undoubtedly greater due to the lack of any trees on agricultural land to the west of the Avenue, and any significant vegetation on the Beaulieu boundary.

The scheme critiques the proposal for a community garden as follows:

15. Community Gardens – NCAAP and LDMP advocated the need for a substantial woodland buffer to protect the setting of New Hall and to provide a screen which visually segregates it from the neighbouring development, which the scheme fails to deliver. Scheme does not fulfil the aspirations of the NCAAP and LDMP to create new places deriving their identity from the landscape and heritage and places which respond to history and landscape. Design philosophy projects the design ethos of the urban estate up the boundary of the Grade II Registered Park and Gardens. No transitional space provided. Proposal, as advocated by the NCAAP, does not derive its identity from landscape and heritage nor does it respond to history, or the landscape of New Hall.
16. Setting of New Hall – Overriding character of New Hall is one of a large woodland expanse across the skyline. Current scheme creates an open area with low level planting and a series of buildings and parking spaces creating a fragmented appearance within the immediate area not in keeping with the character of the New Hall gardens.
17. Community Garden Buildings – NCAAP states no buildings are to be constructed on the boundary of New Hall. Buildings are off-the-shelf and appear not to derive their identity from the landscape and heritage. Proposal should seek to avoid, minimise or mitigate their impact on the setting of New Hall as outline in the NPPF.
18. Alternative Design – City Council asked to seek a design which (i) ensures landscape is one of the principal influences shaping development, (ii) recognises the significance of New Hall as a heritage asset of outstanding national importance, (iii) respects the design vision in the

NCAAP and LDMP, (iv) secures a design; the form, scale and appearance of which respects the setting of New Hall and (v) in accordance with the NCAAP landscape strategy, secures a margin of land free of building, next to the school boundary with woodland buffer planting. Guidance in NCAAP and LDMP should be understood and utilised. Visual separation of the Beaulieu Estate from New Hall, by a woodland buffer, is a key element of the NCAAP and LDMP vision and one which will protect the setting of New Hall and provide a sense of a private enclosed domain.

19. Determination – The City Council has a duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving a listed building, or its setting, or any features of architectural or historic interest, which it possesses.

Comments

- 1-4. The application is consistent with the approved Parameter Plans. The scheme was the subject of detailed discussion at pre-application stage and has been comprehensively reviewed by the Council's Heritage Officer and Historic England; their responses are contained within the Planning Committee report. The scheme would form part of the compensatory measures to limit, and mitigate, the impact on New Hall School, protect the setting of the Wilderness and preserve the open setting of Old Lodge Farm and Old Lodge Court.
5. Page 7 of the LDMP details a key plan for the Estate Parkland; this shows estate railing running along the southern side of Footpath 22 and extending down through the Estate Parkland, dividing the area that will be publicly accessible and the Estate Parkland. The line corresponds with the dividing line between public open space and the Estate Parkland on the Parameter Plans. The estate railing will be delivered by the applicant when the area is laid; the trigger for this is 750 occupations. An existing hedge provides a strong immediate boundary to the south of the Community Gardens and the orchard; a further iron railing would not be appropriate.
6. The land adjacent the communal buildings which serve the Community Gardens would be developed in consultation with The Land Trust and the community which would include New Hall School and the new Beaulieu Park School. The detail would need to be agreed by means of a discharge of conditions application in relation to Conditions 38 and 39 of the outline planning permission.
7. The consultation response from The Gardens Trust has been summarised above and was received after the agenda was published.
8. The consultation responses are all fully summarised in the committee report with updates / amendments as contained within this update paper.
9. Noted. The reserved matters have been carefully considered – see points 1-4 above.
10. The relevant paragraphs, as contained within the NPPF, have been referenced in the Planning Committee report.
11. Noted.
12. See Historic England response above.
13. The existence of the Western Gate is fully acknowledged and addressed in the Planning Committee report however the gate is located outside the red line application site boundary and consequently outside the current reserved matters application red line.
14. The current lawful planning land use allocations are confirmed by the approved Parameter Plans. The application is considered to meet the requirements of the NPPF, particularly

paragraphs 184 and 193 – see points 1-4 above. Officers in recommending approval of the reserved matters have taken full account of the statutory duty of section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting, or any features of special architectural or historic interest which they possess.

A generous green link and landscaping belt is proposed adjacent to the school playing fields. The area extends to principally 15m in width, in accordance with the LDMP. Delivery of planting to this width would not be possible in a few short sections but this is justified on drainage grounds where necessary drainage features create pinch points adjacent to the strategic footpath/cyclepath.

15-19. See points 1-4 above.

AGENDA ITEM 8

18/01171/FUL – LAND AT THE BELL, 126 MAIN ROAD, DANBURY

RECOMMENDATION

Condition 8

Reason to be amended: Addition at end ‘and to safeguard the amenities of occupiers of neighbouring residential properties in accordance with policy DC4.’

Condition 21

Condition to be amended: Add at end ‘ and thereafter shall continue to take place in accordance with the agreed Plan unless otherwise agreed in writing by the local planning authority.’