

<b>Reference:</b>	20/00823/BC3M
<b>Application Type:</b>	Borough Council Regulation 3-Major
<b>Ward:</b>	Shoeburyness
<b>Proposal:</b>	Temporary storage of soil at New Barge Pier Road
<b>Address:</b>	Land South of Campfield Road, Shoeburyness
<b>Applicant:</b>	Southend Borough Council
<b>Agent:</b>	Mr Neil Hoskins of Southend Borough Council
<b>Consultation Expiry:</b>	16 <sup>th</sup> September 2020
<b>Expiry Date:</b>	6 <sup>th</sup> November 2020
<b>Case Officer:</b>	Charlotte White
<b>Plan Nos:</b>	<b>Spoil Retention Plan, CB/4563/27 Rev: 0, Site Location Plan, Flood Risk Assessment</b>
<b>Recommendation:</b>	<b>Members are recommended to GRANT PLANNING PERMISSION</b>



## **1 Site and Surroundings**

- 1.1 The application site is a roughly rectangular parcel of land located to the south of Campfield Road and west of New Barge Pier Road. The site currently contains a spoil heap. To the north-west and west of the site is a telephone exchange and residential dwellings in Ness Road. The land to the south of the site is undeveloped. To the immediate north planning permission has recently been granted to construct a food store (reference 19/00834/FULM). The Hinguar School is located to the east of the site and further east of the site are commercial premises and residential dwellings.
- 1.2 The site has no specific allocation within the Development Management Document's Proposals Map but is identified as an industrial/employment area within the Core Strategy Key Diagram. The site is located within flood zone 3. The Shoebury Garrison Conservation Area is located to the east of the site, beginning at the end of Westgate and New Garrison Road.

## **2 The Proposal**

- 2.1 Planning permission is sought for the temporary storage of soil on the site. It is sought to store the soil on the site for a period of 3 years and the works have been carried out.
- 2.2 Planning permission has previously been granted on a temporary basis for the storage of soil within/adjacent to the site under references 12/01198/BC3M and 14/01495/BC3M. The soil originated from the Western Esplanade Cliff Stabilisation Project.
- 2.3 The information submitted with the application indicates that the soil was previously also stored on the site to the immediate north but has been relocated due to the food store development on this site. It is stated that the stockpiled area does not exceed the previous height, with a maximum height of 3.5m.

## **3 Relevant Planning History**

- 3.1 14/01495/BC3M - Temporary storage of soil and install wheel cleaning apparatus at New Barge Pier Road – Planning permission granted.
- 3.2 12/01198/BC3M – Temporary storage of soil and install wheel cleaning apparatus at New Barge Pier Road – planning permission granted.
- 3.3 19/00834/FULM - Remove existing spoil heap, erect retail food store and part culverting of existing drainage ditch, layout parking, hard and soft landscaping and associated access – Planning permission granted.
- 3.4 18/01975/FUL – Re-grading and retention of existing on-site spoil heap, erect 9 commercial units (use Class B1/B8) with ancillary Trade Counter, 1 Retail Unit (unit 8) (Use Class A1) and 1 Unit (Use Class Sui Generis) for use as Vets (Unit 1), layout car parking spaces and cycle parking, construction of vehicular and pedestrian accesses from existing roundabout and layout soft landscaping – planning permission granted.
- 3.5 15/02053/OUTM – Erect 172 dwellinghouses and 14,130sqm of offices (Class B1(a) and Health Centre (Class D1) (outline application) (Amended proposal) – planning permission granted.

- 3.6 14/00566/OUTM – Erect 172 dwellinghouses and 1500sqm of Offices (Class B1) (outline application) – refused.
- 3.7 10/01829/FULM – Erect three storey building for use as Primary Care Centre (Class D1) incorporating entrance ramp with steps and balustrade to north boundary, layout associated parking for 171 cars, 78 cycle spaces, ambulance bay and service yard, hard and soft landscaping, erect sub-station to east elevation and erect 1.1m high mesh fencing to boundary on land adjacent to Barge Pier Road – planning permission granted.
- 3.8 06/00543/RES – Form wetland area/balancing pond, new ditches and associated headwall structures, secondary flood defence bund with footway/cycleway and associated works (approval of reserved matters following grant of outline planning permission SOS 00/00777/OUTdated 06/02/04) (retrospective) – reserved matters granted.

## **4 Representation Summary**

### **4.1 Public Consultation**

16 neighbouring properties were consulted, a site notice displayed and the application was advertised in the press. No letters of representation have been received.

### **4.2 Environmental Health**

The Environment Agency must be consulted on this matter as it is likely that the applicant will require a permit under the Environmental Permitting Regulations 2016.

A condition is recommended requiring a construction management plan in order to prevent nuisance and risk of harm from contaminated soils. Informatives are recommended relating to construction outside normal working hours, the Environmental Protection Act 1990 and Food Safety at work.

*[Officer comment: A condition requiring a construction management plan is not considered necessary or reasonable in this instance as the soil is already in situ.]*

### **4.3 Highways Team**

No objections.

### **4.4 Parks Team**

No comments.

### **4.5 Council's SuDS and Drainage Engineers**

No objections. Satisfied with the FRA. Flood risk as it currently stands has been addressed.

### **4.6 Environment Agency**

Flood risk - No objections providing you have taking into account flood risk considerations.

Waste permitting – additional information is required.

*[Officer comment: this can be included as an informative]*

## **5 Planning Policy Summary**

- 5.1 The National Planning Policy Framework (NPPF) (2019)
- 5.2 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generating Development), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance), CP5 (Minerals and Resources)
- 5.3 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM5 (Southend-on-Sea's Historic Environment), DM10 (Employment Sectors), DM11 (Employment Areas), DM14 (Environmental Protection), DM15 (Sustainable Transport Management)
- 5.4 Design & Townscape Guide (2009)
- 5.5 CIL Charging Schedule (2015)

## **6 Planning Considerations**

- 6.1 The main considerations in relation to this application are the principle of the development, design and impact on the character of the area, including the nearby Conservation Area, traffic and transportation, impact on residential amenity, flood risk and ecology. The planning history of the site is a material consideration in the determination of this application.

## **7 Appraisal**

### **Principle of Development**

- 7.1 Paragraph 117 of the NPPF states *'Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.'*
- 7.2 Paragraph 180 of the NPPF states *'Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.'*
- 7.3 Policy CP5 of the Core Strategy requires the need for sustainable use of soil and mineral resources, any sites permitted for such a use should ensure that there will be no material adverse impact on the environment.
- 7.4 Temporary permission has already been granted for the storage of the soil within/adjacent to the application site and the soil came from the Western Esplanade Cliff Stabilisation Project and is not hazardous material. The proposed temporary storage of the soil is acceptable and policy compliant in principle and no objection is raised on this basis.

## **Design and Impact on the Character of the Area**

- 7.5 In determining this application the Council has a statutory duty under section 16(2) 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 and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character and appearance of Conservation Areas.
- 7.6 Paragraph 124 of the NPPF states *'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'*.
- 7.7 The importance of good design is reflected in Policies KP2 and CP4 of the Core Strategy and also in Policies DM1 and DM3 of the Development Management Document. These policies seek to maintain and enhance the amenities, appeal and character of residential areas.
- 7.8 Policy DM1 seeks development that adds to the overall quality of the area and respects the character of the site, its local context and surroundings in terms of its architectural approach. Policy DM3 seeks development that responds positively to local context.
- 7.9 Policy DM5 seeks to protect the character and significance of the Borough's heritage assets including listed buildings and Conservation Areas.
- 7.10 The Design and Townscape Guide also states that *"the Borough Council is committed to good design and will seek to create attractive, high-quality living environments"*.
- 7.11 The proposed soil has a maximum height of some 3.5m. The open nature of the site is retained and the nature of the proposal is such that, whilst the soil is visible from the surrounding context, it is considered that the development would not appear unusual or materially out of keeping with the area. It is also noted that the permission is for a temporary period only. Given the limited height of the development and its location, removed from the Conservation Area, it is found that the development would preserve the character and setting of the Garrison Conservation Area.
- 7.12 The development is acceptable and policy compliant in the above regards.

## **Impact on Residential Amenity**

- 7.13 Paragraph 127 of the NPPF states that planning decisions should *'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future user.'*
- 7.14 Policy DM1 of the Development Management Document states that development should, *"protect the amenity of the site, immediate neighbours and surrounding area, having regard for privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution and daylight and sunlight."*

- 7.15 Given that the soil is already in situ it is considered that the proposal would not result in any material harm to nearby residents in terms of noise and disturbance.
- 7.16 The nearest residential dwellings are located to the west of the site in Ness Road. The soil would be located a minimum of some 10m from the rear boundaries of the dwellings in Ness Road. As such, it is considered that the development, given its overall height, nature and position would not result in any material harm to adjoining and nearby residents in terms of dominance, an overbearing impact, loss of light and outlook, overshadowing, a material sense of enclosure or overlooking and loss of privacy.
- 7.17 The development is acceptable and policy compliant in the above regards.

### **Traffic and Transportation Issues**

- 7.18 Policy DM15 of the Development Management Document states *'Development will be allowed where there is, or is can be demonstrated that there will be, physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner.'*
- 7.19 The soil is already in situ and no changes are proposed to the access to the site. As such, the development would not result in any adverse parking or highway impacts. The development is acceptable and policy compliant in these regards.

### **Flood Risk**

- 7.20 Paragraph 155 of the NPPF states *'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.'*
- 7.21 The site is located within Flood Zone 3a. The Environment Agency have raised no objection to the proposal, subject to the LPA taking into account the flood risk considerations. The application has been submitted with a flood risk assessment which concludes that *'The proposed temporary application is not thought to have a detrimental impact on flood risk and surface water drainage locally; no residential or business properties are present in the immediate area. This statement demonstrates the proposed application should be supported.'* The Council's Engineers have not raised any objections to the proposal and consider that the flood risk issues have been addressed. It is also noted that no objection on flood risk grounds was previously raised. The proposal is found to be acceptable and policy compliant in flood risk terms.

### **Ecology**

- 7.22 Paragraph 170 of the NPPF states *'Planning policies and decisions should contribute to and enhance the natural and local environment...'*

- 7.23 Given that the soil is already in situ, given that planning permission was previously granted to store soil on/adjacent to the site and given that previously an Extended Phase 1 Habitat Survey was submitted and considered acceptable, it is considered that the development would not result in any material harm in terms of ecology or biodiversity. It is also noted that the grant of planning permission would not override the applicant's responsibilities and duties under other legislation to protect certain species and habitats, such as those under the Wildlife and Countryside Act 1981. The development is considered acceptable and policy compliant in this regard.

### **Community Infrastructure Levy (CIL)**

- 7.24 The development equates to no new floor space, as such the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

## **8 Conclusion**

- 8.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The proposal is acceptable in principle and would have an acceptable impact on the amenities of neighbouring occupiers and the character and appearance of the application site, street scene and the locality more widely. The proposal would preserve the character and setting of the Shoebury Garrison Conservation Area. There would be no materially adverse traffic, parking or highways impacts caused by the proposed development. The application is acceptable in terms of flood risk and ecology. This application is therefore recommended for approval subject to conditions.

## **9 Recommendation**

- 9.1 MEMBERS ARE RECOMMENDED TO GRANT PLANNING PERMISSION subject to the following conditions:**

- 01 The development hereby permitted shall be for a limited period of 3 years from the date of this decision. At the end of this period the development hereby permitted shall cease and all material and equipment brought on to, or erected on the land, or works undertaken to it in connection with the development hereby approved, shall be removed and the land restored to its condition before the development took place. Details of the use of the material following its removal from the site shall be submitted to and approved in writing by the local planning authority before the end of the 3 year period.**

**Reason: For the avoidance of doubt and in the interests of amenity in accordance with the National Planning Policy Framework (2019) and Policies KP1 and KP2 of the Core Strategy (2007).**

- 02 The development hereby permitted shall be carried out in accordance with the following approved plans: Spoil Retention Plan, Site Location Plan**

**Reason: To ensure that the development is carried out in accordance with the provisions of the Development Plan.**

**The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.**

**Informatives:**

- 01 You are advised that as the proposed extension(s) to your property equates to less than 100sqm of new floorspace the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See [www.southend.gov.uk/cil](http://www.southend.gov.uk/cil) for further details about CIL.**
- 02 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the borough.**
- 03 The applicant is reminded that this permission does not bestow compliance with other regulatory frameworks. In particular, your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended) and the noise provisions within the Control of Pollution Act 1974. Applicants should contact the Council's Regulatory Services Officer in Environmental Protection for more advice on 01702 215005 or at Regulatory Services, Southend-on-Sea Borough Council, Civic Centre, Victoria Avenue, Southend SS2 6ER'.**
- 04 In terms of waste permitting, the Environment Agency require further information. An exemption might cover the process, depending on tonnages and timescales. Alternatively a permit might be required for deposit or recover unless you can comply with the conditions listed at: <https://www.gov.uk/government/collections/waste-exemptions-using-waste> and <https://www.gov.uk/guidance/waste-recovery-plans-and-permits#waste-recovery-activities>.**