

**COLCHESTER BOROUGH COUNCIL  
PLANNING COMMITTEE  
17 June 2010 at 6:00pm**

**SUPPLEMENTARY AGENDA**

**Part A**

(open to the public including the media)

**Pages**

**10. Enforcement Action // Gun Hill Garage Site, Ipswich Road,  
Dedham**

**58 - 64**

The Chairman has agreed pursuant to the provisions of Section 100B(4) (b) of the Local Government Act 1972 to consider the following item at this meeting as a matter of urgency to enable an enforcement notice and/or stop notice to be served in respect of an unauthorised new building on the site, the occupation of which may be imminent.

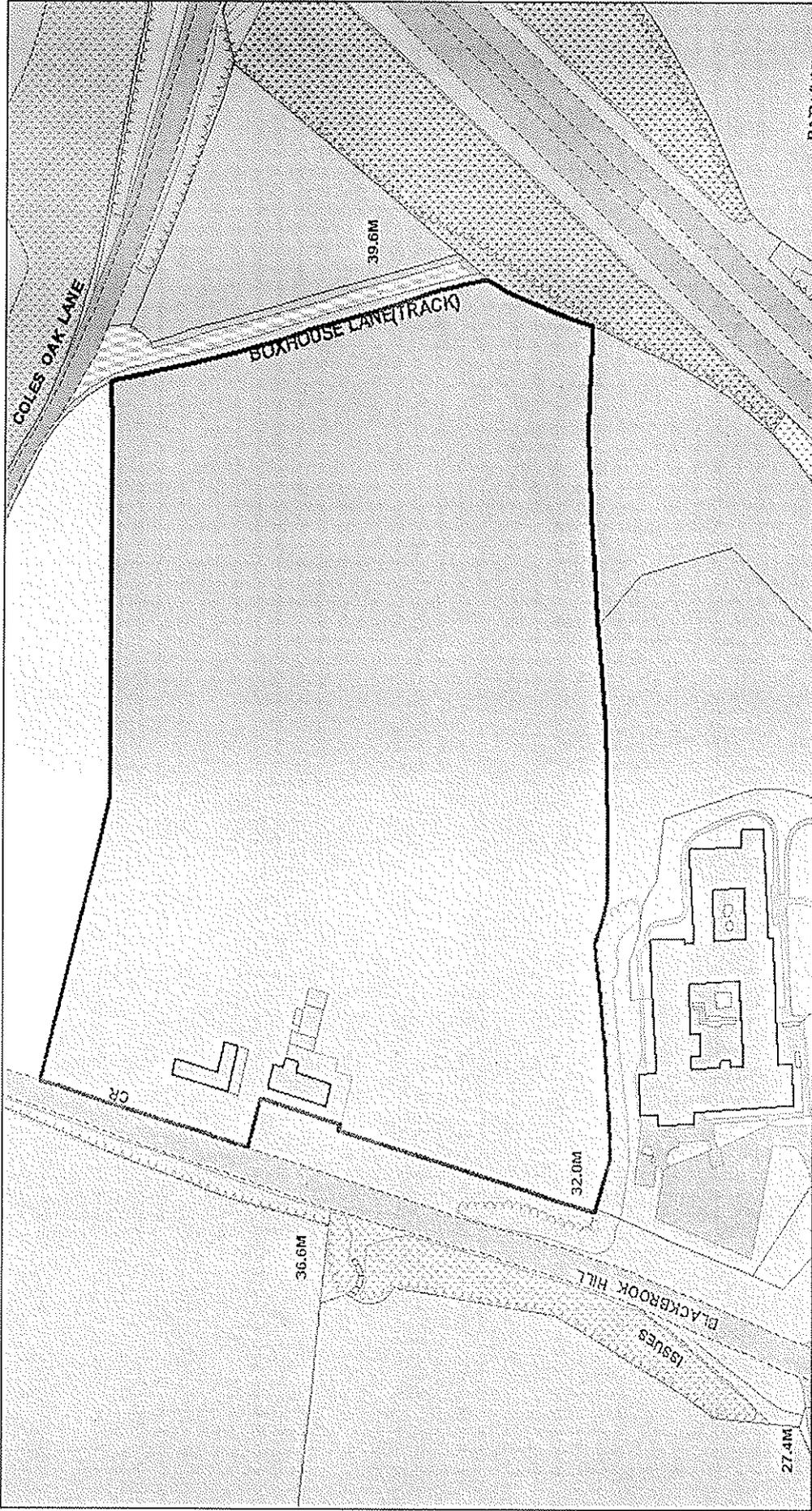
See report by the Head of Environmental and Protective Services (attached).

**11. Amendment Sheet**

**65 - 69**

See Amendment Sheet (attached).





## Site Location Plan – NOT TO SCALE

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Application Reference: 002927

Site Location Address: Gun Hill Garage Site, Ipswich Road, Dedham, Colchester

Date Produced: 17 June 2010



## Planning Committee

Item  
**9**

17 June 2010

<b>Report of</b>	<b>Head of Environmental &amp; Protective Services</b>	<b>Author</b>	<b>David Whybrow</b> ☎ 01206 282444
<b>Title</b>	<b>Gun Hill Garage Site, Ipswich Road, Dedham – Ref: 002927</b>		
<b>Wards affected</b>	<b>Dedham &amp; Langham</b>		

**This report seeks authorisation for the service of a stop notice and enforcement notice in respect of an unauthorised office building on the above site.**

### 1.0 Decision(s) Required

- 1.1 Members are requested to authorise the service of an enforcement notice requiring the removal of the unauthorised office building.
- 1.2 Members are requested to consider the information contained in this report and to authorise that a Stop Notice and Enforcement Notice be issued requiring the removal from the site of this unauthorised modular office building, and return the site to a neat and tidy condition. The building as it stands does not benefit from any form of planning consent and is considered to be detrimental to the Dedham Vale AONB setting and an inappropriate form of development in this attractive rural setting.

### 2.0 Reason for Decision

- 2.1 The building subject of this report has been erected at the Gun Hill Garage site for the purposes of office accommodation. The construction of this building involves development which would have required planning permission but no planning application has been submitted. The building is of modular form with shallow pitched roof and is finished in grey panelling with blue trim. It is considered expedient to take action to remove the building given the location in attractive countryside in the Dedham Vale AONB and its unsympathetic design and external materials which is considered detrimental to the rural qualities of its surroundings.

### 3.0 Alternative Options

- 3.1 If nothing is done, the building will, over time, become lawful, at clear conflict with established rural conservation and landscape protection policies as described below.

## **4.0 Supporting Information**

- 4.1 Members will be aware of the general thrust of rural restraint policies. In particular ARCBLP policy DC1(b) and (e) requires that development will be well designed and based on a proper assessment of the surrounding built and natural environment and promote local distinctiveness. It should not lead to the loss or degradation of important ecological or rural resources. UEA 11 requires, amongst other things, that new developments are well designed in themselves and have regard to their setting, use materials of a good quality and are sympathetic to the particular character of their setting.
- 4.2 In this case the site lies within the AONB and Stour Valley countryside conservation area, CCA. In addition to the general commitment to the protection of the open countryside from adverse impacts on landscape character and traditional rural qualities as expressed in policy CO1, policies CO2 and CO3 seek to give special protection to the AONB and CCA. In the adopted Core Strategy policy ENV 1 goes on to require the conservation & enhancement of Colchester's natural environment and countryside. In particular, developments that have an adverse impact on the Dedham Vale AONB will not be supported.
- 4.3 For Members' information the following additional observations have been provided by the Landscape Planning Officer :
1. The development within the AONB, given the landscape's recognised national importance and protection should have been assessed for its landscape & visual impact in accordance with LP Policy No. DC1b. Any such assessment would have had to have been drawn up in accordance with the national guidelines, as detailed in 'Guidelines for Landscape and Visual Impact Assessment' by the Landscape Institute. It should be particularly noted that it is the development's impact on the protected landscape itself that would need full assessment, not just its visual impact, i.e. even if the development cannot be clearly seen from public viewpoints it's potential for degrading the landscape itself should have been assessed.
  2. The impact of the building within the AONB would appear to also need to be assessed against Core Strategy Policies ENV1 & possibly ENV2, Local Plan Policies CO2, CO3 & possibly UEA11b, Policies SP2 & SP7 within the Dedham Vale AONB and Stour Valley Management Plan and Character Area A7 of the Colchester Borough Landscape Character Assessment.

## **5.0 Proposals**

- 5.1 That a stop notice and enforcement notice be served requiring the removal of the unauthorised building from the land and reinstatement of the site to a neat and tidy condition.

## **6.0 Equality and Diversity Implications**

- 6.1 The Council's Equality and Diversity impact statement can be found on the Council's website. The pathway to the EIA on the website: Council and Democracy> Policies, Strategies and Performance> Diversity and Equality> Equality Impact Assessments> Planning - Enforcement

## **7.0 Standard References**

- 7.1 There are no particular references to the Strategic Plan; publicity or consultation considerations; or financial; human rights; community safety; health and safety or risk management implications.

**For the urgent attention of  
Mr Geoff Kirby**  
Planning Enforcement Manager  
Colchester Borough Council  
Rowan House  
22 Sheepden Road  
Colchester  
ESSEX  
CO3 3WG

Date: 17 June 2010

Our Ref: JVG/KMM

katherine.mcgoohan@semplefraser.co.uk  
Direct Dial: 0141 270 2236

Your Ref:

Dear Sir

### **Gunhill Garage, Dedham ("the Site")**

We act for Trapoc Limited, owners of the Site, and for D Hales Limited trading as Copart UK, the operators of Site ("our clients"). Trapoc acquired the Site just last month.

We refer to our telephone conversation yesterday afternoon with your colleague Mr Andrew Tyrrell and your conversation today with our clients' planning consultant, Nigel Cant. It is our understanding that you are intending to seek Committee authority this evening to serve an Enforcement Notice requiring removal of the recently-erected pre-fabricated building at the Site ("the Building") which you consider to be unauthorised development and a Temporary Stop Notice ("TSN") requiring cessation of work on the Building.

### **Background**

We are instructed that the Building was erected without planning permission being obtained as a result of a former employee erroneously advising our clients that no such permission was needed. It is most unfortunate that this occurred at a time when the Site was in the process of being transferred. We must stress to you that it was in no way an intentional breach or disregard of planning control. The Building was erected partly to ensure compliance with Disability Discrimination legislation, and was built in good faith and in accordance with building regulations. Works on the Building are now complete.

### **Expediency of taking enforcement action**

While our clients appreciate that planning permission should have been obtained for the Building, we do not consider it appropriate for enforcement action to be taken at this stage. We understand that you only became aware of the Building yesterday and we and our clients consider it to be unreasonable for formal enforcement steps to be taken as a first, rather than a last, resort. We would draw your attention to the Council's own enforcement charter in this regard.



The Council's website information (published March 2010) clearly states that in cases of breaches of planning control (i.e. in this case the unauthorised operational development):

- If the development is in line with planning policies, the Council will invite a retrospective planning application;
- If permission is unlikely to be granted the Council will ask for the unauthorised development to be removed **voluntarily** and that a suitable period of time will be allowed depending on what needs to be done; and that
- **As a last resort** formal notices can be issued.

Further the Council's "Strategy for enforcing planning control" (also published on your website) states that the Council is committed to principles including "proportionality – taking appropriate action when it is expedient".

It also states that when resolving a breach of planning control:

*"The Investigating Officer will explain, and then confirm in writing, what the person has done wrong and ask them to put it right either by stopping, rectifying the matter or if an assessment is made that the permission would be granted, by inviting a retrospective application".*

It continues:

*"If the negotiated approach fails or is not feasible, it may then be necessary to move towards enforcement action."*

None of this guidance has been followed in this case and in our view the proposed action is a wholly inappropriate and disproportionate way to deal with this development and is, in any event, premature. As mentioned above, the Building is now complete, so the service of a TSN requiring cessation of works is inappropriate.

We therefore urge you to withdraw this matter from the evening's Committee agenda to allow an effective dialogue with our clients' Planning Consultant and to allow the steps set out in the Council's own policies to be taken. Our clients do wish to resolve this issue in cooperation with the Council. Their on-site representative did ask your colleague Dale Keeble yesterday to contact their head office but unfortunately no such contact was made. However, if the Council

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does serve an Enforcement Notice, then it will be appealed, and our clients will consider all other options open to them including applying for Judicial Review of any TSN which may be served.

Kindly acknowledge receipt of this letter and confirm what action you will be taking.

We look forward to hearing from you as soon as possible.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Andrew Weavers', with a long horizontal line extending to the left.

for and on behalf of  
Semple Fraser LLP

c.c. Andrew Weavers – Head of Legal  
Vincent Pearce – Head of Planning



# **AMENDMENT SHEET**

**Planning Committee  
17 June 2010**

## **AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED**

### **LATE AMENDMENTS HAVE BEEN INCORPORATED INTO THIS AMENDMENT SHEET AND ARE SHOWN AS EMBOLDENED**

#### 7.1 100660 – 2 Margaret Road, Colchester

2 letters/emails have been received regarding the revised drawings (1 from an original objector and 1 from another resident):

- Original objections remain.
- Despite the new house having one less window the building will still overlook sitting room and block sunlight.
- Remains an overdevelopment and will stretch parking, other services and impact on health.
- The dwelling will change the outlook of the entrance to Margaret Road and impact the surrounding properties.
- Cramped development with little green space surrounding.
- Loss of on street parking

Highways comment as follows:-

- No objection subject to conditions.
- The access is close to a junction, however having regard has been given to the amount of traffic using the road and the fact that vehicles will be slowing down to the use the junction.

Additional Conditions, as recommended by HW:

1. Prior to the occupation of the development, the access at its central line shall be provided with visibility splays, with no obstruction over 0.6m in height, with dimensions of 2.4 metres by 33 metres to the west, south and east, as far as is achievable within the site as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction over 0.6m in height at all times.  
Reason: To provide inter-visibility between vehicles using the access and those in the existing public highway in the interests of highway safety to ensure accordance with Policy 1.1 of the highways and Transportation Development Control Policies.
2. Prior to the occupation of the development a 1.5m x 1.5m pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both side of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.  
Reason: To provide inter-visibility between the users of the access and pedestrian in the adjoining public highway in the interest of highway safety to ensure accordance with Policy 1.1 of the highways and Transportation Development Control Policies.
3. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.  
Reason: To avoid displacement of loose material onto the highway in the interests of highway safety to ensure accordance with Policy 1.1 of the highways and Transportation Development Control Policies.
4. The vehicular hard standings shall have minimum dimensions of 5.8m x 5.5m (each parking space being 2.9m x5.5m).  
Reason: To ensure adequate space for parking off the highway is provided in the interests of highway safety in accordance with Policy 7 accordance highways and Transportation Development Control Policies.

## 7.2 100805 – Long Acre Bungalow, Colchester Road, Wakes Colne

Parish Council object:

- Unsuitable in respect of style, design and footprint to plot size ratios of adjacent and nearby properties. It would appear squeezed into a small area creating overdevelopment of the site.
- Out of character and over large for the street
- A ridge line level of approx halfway between the adjacent properties ridge levels is inadequate.
- The close proximity of the proposed development has no regard for the neighbour properties and would block natural daylight and sunlight and encroach of their privacy.
- A substandard access has been created without planning permission and with insufficient visibility splays. This will exacerbate safety issues on a dangerous road.

Urban Design;

Comments on revised scheme:

- Removal of garage has created a more appropriate relationship and sense of space between the development and the dwelling to the east.
- Reduction in roof height has resulted in the proposed dwelling have a more rural appearance which is more satisfactory in its context.
- Condition required that details of joinery and materials are approved by LPA.

2 additional emails from occupier of Highview House (full text is available on the Council's website):

- Reiterates concerns expressed in previous correspondence relating to the adverse impact on Highview – i.e. loss of natural light and sunlight and over bearing impact.
- Revised scheme addresses the issue of the access and the tree adjacent to Highview House's garage - they only partly address the relationship of the proposed house and Highview.

1 joint letter from the occupiers of both adjacent properties commenting on the Committee Report (officer comments are in italics :

- Description still refers to garage (*this has now been amended accordingly*).
- Millbank was built interwar not 1950's.
- Para 3.1 states that the original application was considered unacceptable, the design remains unchanged except for size and cosmetic appearance so now can it be considered appropriate?

- Residents and PC has responded by given dates so why are their comments not available in the Report (*they were not available at the time of drafting of report; they have been included on this amendment sheet*)
- Para 9.1 refers to a local resident – it is not noted that this resident is an architect
- Para 10.1 states that the design and size of the dwelling has been amended, the lowering of the ridge line can not affect footprint (*the comment in this paragraph refers to changes in the dwelling since the previous application – the footprint, bulk and design of the current application is different from the previous submission*)
- Para 10.3 indicates that the deletion of the garage removes concerns expressed by Millbank, this is not the case (*the original letter from Millbank commented on the impact of the garage, it is these concerns that are referred to in the paragraph; it is not intend to suggest that that the occupiers other concerns have been removed*)
- Contradiction in Para's 10.4 and 10.5 regarding impact on Highview House ( *para 10.4 considers the development in relation to the criteria in SPD; para 10.5 goes on to consider the occupier's comments further particularly in relation to the patio area*)
- Whilst acknowledging the development is significantly larger than the bungalow no comment is made that it will be overbearing which it must be given the size.
- Comments regarding the planting in the garden adjacent to Highview House's garage are dismissive.
- Condition regarding no extensions etc seems open to interpretation.
- Overdevelopment is subjective – this application in the writers and PC's view is overdevelopment.

**7.5 100781 – 9 Braiswick, Colchester**

The Landscape Officer comments state agreement to the landscape aspect of the application subject to a proposed condition relating to details of tree and shrub planting.

**Recommend additional condition:-**

**11.14 – Tree/Shrub Planting**

Before any works commence on site, details of tree and/or shrub planting and an implementation timetable shall be submitted to and approved in writing by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

**Reason:** To ensure an appropriate visual amenity in the local area.

**7.7 100830 – 1 The Bungalows, Land rear of Brook Cottage and Huxtables Lane, Fordham**

**Extra Condition:**

No development shall take place until cross sections of the site and adjoining land, including details of existing ground and buildings levels around the building hereby approved and any changes in levels proposed together with the proposed floor levels within the building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with those approved cross sections and specified levels.

**Reason:** To enable the local planning authority to exercise proper and considered control over the development as whole and to protect the amenity of occupiers of adjacent properties.

**COLCHESTER BOROUGH COUNCIL  
PLANNING COMMITTEE  
17 June 2010 at 6:00pm**

**SUPPLEMENTARY AGENDA**

**Part B**

(not open to the public or the media)

**Pages**

**There are no Section B Items**