



**Application No:** 150669

**Location:** 99-105 London Road, Copford, Colchester, CO6 1LG

**Scale (approx):** 1:1250

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**7.2 Case Officer: Sue Jackson      Due Date: 25/05/2015**

**MINOR**

**Site:**                    **99-105 London Road, Copford, Colchester, CO6 1LG**

**Application No:**   **150669**

**Date Received:**   30 March 2015

**Agent:**                Pomery Planning Consultants Ltd

**Applicant:**          Oak Home Developments Ltd

**Development:**      Application for removal or variation of condition following grant of planning permission (144976) condition 17 which requires delivery and construction traffic to be from London Road and not Allendale Drive.

**Ward:**                 Copford & West Stanway

**Summary of Recommendation:** Conditional Approval

## **1.0      Reason for Referral to the Planning Committee**

- 1.1      This application is referred to the Planning Committee because the application relates to the rewording of a condition which was imposed by the Planning Committee, objections have been received and the recommendation is to grant planning permission.

## **2.0      Synopsis**

- 2.1      The key issues explored below are whether the original condition was reasonable and enforceable, the proposed rewording, the proposals for delivery and construction vehicles and the impact on adjacent neighbours.

## **3.0      Site Description and Context**

- 3.1      The application site comprised the curtilage of a large detached house with swimming pool and detached outbuilding/car port, as well as a commercial workshop previously used in connection with a coach business. Both the house and the non-residential building are now partially demolished and the site cleared. The site is at the end of Allendale Drive. The red line of the application site includes a narrow strip of land which provides access to London Road.

## 4.0 Description of the Proposal

- 4.1 At the planning committee meeting on November 6th 2014 full planning permission was granted for the erection of 8 dwellings subject to a number of conditions, condition 17 requires the submission of, and agreement to a Construction Management Plan. At the meeting Members were concerned at delivery and construction vehicles using Allendale Drive and condition 17 was amended to require all construction and delivery vehicles to use the track from London Road.
- 4.2 During the meeting the case officer was informed via the Planning Manager that the agent had indicated it was possible for all these vehicles to use the London Road access. This was explained to the Committee hence the wording of the condition.
- 4.3 The information submitted to discharge the condition indicated that all delivery and construction traffic would use Allendale Drive; the discharge of the condition was refused. The case officer explained that an application to vary the wording of the condition was required and that resulted in the submission of the application.
- 4.4 The following supporting information provides an explanation and details of the proposal:-

*"Please accept this letter and its enclosures as an addendum to that Planning Statement. This additional information hopefully provides more precise details in relation to the separation of vehicle movements between the site access onto London Road and that onto Allendale Drive. It also rounds up one or two other matters.*

### *Background*

*When I addressed the Planning Committee, I did say that the applicant could not control the use of Allendale Drive, which he would need to use for some larger vehicles, but everything else would use the London Road access. It seems that one way or another this became translated into all vehicles must use London Road. I accept that immediately following the grant of consent, this prospect appeared to the applicant that it might be feasible, however on reflection it is not. In preparing his Construction Method Statement to discharge Condition 17, the applicant was advised by his Health & Safety Consultant that larger delivery/construction vehicles could not access the site via the London Road access. The reasons for this are set out in the Planning Statement, however in short; it is of insufficient width causing health and safety risks and represents a highway danger.*

*On further examination, it was evident that the imposition of the Condition, which prevents any use of Allendale Drive for construction access was perhaps imposed in haste. It is fair to say that neither the applicant nor the Officers/committee gave any detailed consideration to the feasibility or practicality of the condition. A good illustration of this is no better evidenced by the reason for the condition, which states:-*

*"In order to ensure that the construction takes place in a sustainable manner and to ensure that amenities of existing residents are protected as far as reasonable".*

Clearly, the intention was to protect the residents who live on Allendale Drive by routing all vehicles onto London Road. However, the London Road access is also lined with residential properties, which are immediately adjacent to the access track. A plan illustrating these properties is attached. Clearly, it was not Committee's intention to protect some, but not all local residents. The unintended consequences of the condition are now materialising, as a letter of support for the variance of the condition, has been received by the Council from a resident adjacent to the London Road Access.

#### *Programme*

The applicant simply wants to get on and build what is a small and uncomplicated development.

Quite reasonably, he wishes to use the most appropriate and safest access to the site, to suit the vehicle concerned. Enclosed with this letter is an updated Construction Method Statement, which details the separation of vehicles between the two access points.

The statement also gives a considered estimate of the amount of vehicle visits, which will need to access the site via Allendale Drive. These are as follows:-

Concrete Lorries – 35 visits

Skip Lorries – 20 visits

Muck Away Lorries – 30 visits

In addition, there will be deliveries from Builders Merchants at an estimated two per week.

These deliveries will be between the hours of 9am and 2 pm. Construction is likely to run for approximately 12 months.

The regularity of lorries using Allendale Drive will be condensed within the first few months of construction. It will begin with the removal of demolition material and spoil dug from foundations (Muck Away). Typically, foundations are dug in one day and the spoil taken away.

The following day the concrete is poured and so on. It takes approximately 3 concrete deliveries to complete each foundation. Once demolition is complete and the foundations are poured for each unit, the majority of the concrete and skip lorry movements will cease. For the remaining construction period there will be on average two Builders Merchants deliveries each week, visiting between 9.00am and 2.00pm.

All other movements will be directed to London Road, these will include all construction staff who will park on the site in the area marked on the enclosed plan.

The applicant is also the Contractor, he is very much alive to the concerns of residents and has written to them to provide contact details should they need to complain or bring matters to his attention. The applicant company is also signed up to the Considerate Contractor Scheme.

Comments on the representations made.

- The applicant knew about the restriction ? – As mentioned above, the prohibition on the use of Allendale Drive only became apparent at the Committee meeting and the limitations of the London Road access only became known, once the Health and Safety assessment was done. The purpose of the condition is in part to protect amenity. Being forced to solely use London Road does not achieve this purpose, as there are residential properties adjacent. Those who have made representations fail to acknowledge this important point.
- All previous applications have failed on access ? It should be noted the site has planning approval for 7 residential units to which there is no restriction on the use of Allendale Drive.

- *The applicant says that the required sized vehicles will be able to access the site from Allendale Drive, evidenced by those servicing an extension to one of the properties in the Drive. There is no comparison between the proposal and the small extension in question? The point the applicant makes is that the road is capable of accepting a delivery lorry or skip lorry, as one currently uses the road. It is accepted that there will be many more visits to the application site, but the point is the road is of sufficient width. Attached is a copy of a delivery in the road, taken on or around the 7th April 2015. It can be seen that the road is quite clear of parked cars.*
- *There will be endless 18 wheeler vehicles queuing to get to the site? – Firstly, there will no need for 18 wheeled lorries to visit the site. Deliveries will be typically by 18 tonne, 6 wheeled flat bed trucks, as seen in the attached photo. The regularity of visits will be as above, but it is most unlikely that they will never need to queue.*
- *The road is too narrow caused by parked cars, it will be dangerous for pedestrians for lorries to use the road ? - If parked cars block the highway, an offence will have been committed and action should and can be taken. However, the applicant's experience is that the road is rarely so busy with parked cars that it becomes impassable. In some ways, some parked cars will slow vehicles down in the road, thus making it safer for pedestrians.*
- *To date there has been no formal implementation of the development on the site. The works that have taken place are the removal of asbestos by an accredited contractor from the existing buildings on the site. In addition, UK Power Networks have visited the site to disconnect the power supplies. Site Hoarding has been erected and site huts and some marking out has and is being done in readiness of construction commencing.*
- *It is appreciated that the residents of Allendale Drive have had to contend with a lot of development in the area in recent years and it is understandable that they have concerns. However, the road is a public highway and of adequate dimensions to accommodate the scale and frequency of vehicles required to use it to carry out this development. If there are any doubts about this, then the planning authority should take advice from the highway authority. If there were a safe and suitable alternative available to the applicant then it would be used, however there is not. The applicant proposes to do all he can to minimise the movement of vehicles in Allendale Drive. The Council refuse vehicle visits the site each week and other vehicles of similar scale are already managing. It is hoped that with the additional information provided in this letter, the residents will at least be able to put matters into some perspective”.*

## **5.0 Land Use Allocation**

- 5.1 The majority of the site is within the settlement boundary but a part is outside. Planning permission has been granted for the development.

## **6.0 Relevant Planning History**

- 6.1 144976 Demolition of dwelling and workshop building and erection of 8 no. residential units and extension to car park to neighbouring employment units. Planning Permission was agreed at the committee meeting on the 6<sup>th</sup> November 2014.

## **7.0 Principal Policies**

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
PR2 - People-friendly Streets  
TA4 - Roads and Traffic  
TA5 - Parking

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity  
DP17 Accessibility and Access  
DP19 Parking Standards

7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Backland and Infill  
Vehicle Parking Standards

## **8.0 Consultations**

8.1 The Highway Authority has been consulted and their response will be reported on the amendment sheet.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

## **9.0 Parish Council Response**

9.1 No comments received

## 10.0 Representations

10.1 1 support/ 4 objection

### OBJECTION

- One of the specific concerns of the residents of Allendale Drive was the movement of traffic to this site on the very narrow and hugely congested Allendale Drive. We were subsequently reassured on attending a planning meeting when we received confirmation that this would not happen and that all deliveries and construction traffic to this site would use London Road.
- Why has Health and Safety only now becomes an issue? The Developers were well aware of the restriction when they acquired the site from the previous developer. If Health and Safety is a concern due to the narrow access to this property I think the council will find that when cars are parked on both sides of Allendale Drive, which they are on a daily basis. Subsequently the Health and Safety of the residents of Allendale Drive will also become an issue. At least the lane will have no residents trying to access properties. No children walking to school, no cyclists going to the station etc. etc. Furthermore the access point suggested in Allendale Drive for this site has driveways immediately in front of it; surely this is a major Health and Safety issue for those residents. I enclose photographs of vehicles already visiting this site from Allendale Drive.
- The developer points out that Allendale Drive is a public highway and as such he cannot be stopped from using it. He is right Allendale Drive is a public highway which allows the residents that LIVE in it to pass and re-pass; it does not however give access to 99-105 LONDON ROAD which has NEVER had commercial or residential access from Allendale Drive
- Previous applications for this site have failed on the grounds of access. F/COL/06/0149 which was refused went to appeal and was decided in November 2006. The refusal was upheld. Issues raised then were that the proposed houses were outside of the village envelope and that the extra traffic created would cause major problems with parking demand, congestion and free flow of traffic in Allendale Drive.
- The developer suggests that construction traffic can easily access the site as proven by an extension currently taking place in the road. I How can he possibly compare a 3m extension on the side of an existing house taking approximately 6 weeks to complete to the construction of an 8house development of predominately 4/5 bedroom properties which in his own admission will take approximately 52 weeks to complete!
- There will be endless 18 wheeled lorries both removing the enormous amount of demolition material and earth as well as delivering thousands of bricks and roofing materials, drainage materials, cement lorries etc. etc., possibly all forming a line in Allendale Drive whilst awaiting entry to the site. Of course that's if they can actually get down Allendale Drive due to the parked.
- Just because Health and Safety say the developer is not to use the lane from London Road as it is too narrow does not change the situation on Allendale Drive. Our concerns still apply the road is too narrow to allow works traffic. The road is too busy for residents to move their vehicles and there is nowhere else for residents to park.

- Last year the council spent thousands of pounds rebuilding and resurfacing the pavements of these two roads and now it is considering allowing heavy goods vehicles access! I just don't understand this!
- By his own admission in his application the developer cannot be monitoring the arrival of deliveries on a permanent basis and seems to almost be excusing any breaches of conditions before he even has permission.
- What is the point in having planning rules and regulations if developers can just run rough shod over the resident and council.
- The residents of these two streets were treated appallingly by the developer of the old night club site, they turned to the Planning Office to protect them, and nothing was done

## **SUPPORT**

- My property borders the track that leads to the building site. It is far too narrow for large vans and lorries to use .On March 17th at 0740 a large van and trailer knocked part of my wall down as they were trying to exit onto London road. I am very worried that next time my home will be damaged. The original access was to be via the industrial area on London Road, this seems a safer option, even though an underused car park now occupies the access.

The full text of all of the representations received is available to view on the Council's website.

## **11.0 Parking Provision**

11.1 The approved development meets the adopted parking standards.

## **12.0 Open Space Provisions**

12.1 The approved development meets adopted amenity standards.

## **13.0 Air Quality**

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

## **14.0 Development Team and Planning Obligations**

14.1 N/A

## **15.0 Report**

15.1 The revised wording to condition 17 the Construction Management Plan, requiring all construction and delivery traffic to access the site via London Road, was added at the committee meeting. At the time the case officer understood the planning agent had indicated this was possible.



- 15.2 The applicant is correct in saying his client has a right to use the public highway. The site abuts Allendale Drive and can be used for vehicular access indeed the occupants of the dwellings will use Allendale Drive. Rights to use a public highway can only be removed by a Traffic Order. A routing plan for vehicles for a major development is sometimes agreed with an applicant. In all cases compliance with such a condition relies on best endeavours on the part of the developer. A contractor or delivery vehicle might be unaware of an approved route and it would not be sensible for that vehicle to be denied access to a site and required to use the approved route.
- 15.3 It is considered the condition could not be enforced and is also unreasonable as the applicant has a right to use the public highway.
- 15.4 It may not have been appreciated at the Committee meeting that the London Road access passes very close to the boundary of other dwellings. There is no footway and this unmade track abuts the residential boundaries. The track is long and narrow only 3 metres wide. It is also 3 metres wide at its junction with London Road where visibility is poor.
- 15.5 Construction of the dwellings has not commenced so there is no breach of condition. The work carried out relates to removal of asbestos, site clearance, disconnection of utilities and erection of site hoardings which are not covered by the condition.
- 15.6 The applicant has provided details of the vehicles that will need to access the site via Allendale Drive
- Concrete Lorries – 35 visits
  - Skip Lorries – 20 visits
  - Muck Away Lorries – 30 visits
  - Deliveries from Builders Merchants at an estimated two per week.
- 15.7 These deliveries are indicated as between the hours of 9am and 2 pm with construction likely to take approximately 12 months.
- 15.8 The case officer has sought clarification whether the Concrete, Skip and Muck Away lorries are included in the deliveries restricted to between 9am and 2pm. It has been clarified that the timing of everything except concrete delivery can be controlled. *“Concrete deliveries are dependent on building control officer inspections. Therefore we could agree everything being done between 9.00 and 2.00, except concrete, which will need to be 9.00 and 5.00. In reality, 4.00 might do it, but they need a bit of leeway to allow for traffic or weather etc”.*
- 15.9 The information indicates the majority of lorries using Allendale Drive will be condensed within the first few months of construction involved with the removal of demolition material and spoil dug from foundations, then concrete deliveries for the foundations with approx. 3 vehicles per foundation. Once demolition is complete and the foundations are poured for each unit, the majority of the concrete and skip lorry movements will cease. For the remaining construction period it is indicated there will be on average two Builders Merchants deliveries each week, visiting between 9.00am and 2.00pm.

15.10 All other movements will be directed to London Road, these will include all construction staff who will park on the site in a specific defined area.

15.11 The Construction Method Statement also includes the following information

- A bowser or mains water supply suppression will be used during the demolition phase of the contract to ensure dust is kept to a minimum at all times.
- All deliveries to the site will be booked in with the A C Construction (Colchester) Ltd Site Manager in advance of the materials arriving to site. Vehicles will be planned to arrive between the hours of 9.00am and 2.00pm to avoid peak pedestrian and vehicular times.
- Vehicles will be instructed to contact the site manager prior to arrival where they will be met by a competent, trained Banksman, who will control the vehicles entering the site. When leaving the site, the vehicle will be escorted back onto Allendale Drive by a competent trained Banksman
- A wheel washing facility will be provided at the site entrance on Allendale Drive which will be utilised to prevent mud/debris entering Allendale Drive. The highway will be monitored after each vehicle movement to ensure no debris is left in Allendale Drive at any time.
- SITE WORKING HOURS The site working hours will be within the hours of 8.00am to 5.00pm Monday to Friday. Any work outside these hours will not be carried out without prior approval from A C Construction (Colchester) Ltd.
- SITE PARKING All car parking will be restricted to the entrance track from London Road to the site, which will also serve as the pedestrian access to the site. Vehicles entering London Road from the track will be guided out by a competent banksman.

15.12 The main issues raised in the representations from residents of Allendale Drive are that cars are parked along the road blocking access for large vehicles and that the road is used by school children and commuters on bicycles. It is also indicated that Allendale Drive has not to be used to provide access to the site.

15.13 A representation has also been received from a resident whose property is adjacent to the London Road access raising concerns about noise and damage.

15.14 Whilst officers are aware of the concerns raised by Members at the committee meeting it is considered the proposal under consideration regarding the timing of deliveries and routing of vehicles between Allendale Drive and London Road is acceptable. The times suggested are when there are likely to be less parked cars and would also be outside main commuter and school times.

15.15 An appeal decision is referred to this related to the erection of 16 dwellings and whilst the Inspector was concerned at additional traffic this was in respect of the traffic generated by the dwellings and not construction traffic.

## **16.0 Conclusion**

- 16.1 As condition 17 as currently worded is considered to be both unenforceable and unreasonable the proposed rewording and the use of Allendale Drive and London Road for construction and delivery vehicles as set out in the Construction Method Statement are considered acceptable. It is recommended the condition is reworded so Allendale Drive is used for some deliveries and the Construction Management Plan is approved in discharge of the condition.

## **17.0 Recommendation**

- 17.1 APPROVE subject to the following conditions

## **18.0 Positivity Statement**

- 18.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

## **19.0 Conditions**

### **1 - Non-Standard Condition/Reason**

With the exception of condition 17 of Planning Permission 144976 which is hereby varied, the requirements of all other conditions imposed upon planning permission 144976 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

### **2 – Non Standard Condition/Reason**

Condition 17 of Planning permission 144976 is hereby varied as follows:-Prior to the commencement of development, including any works of demolition, a Construction Method Statement shall have been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details of:

- which delivery and construction vehicles associated with the construction phase of the development will access the site via London Road and which vehicles will use Allendale Drive;
- prior notification of residents of delivery dates and times;
- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;

- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

## 20.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation** PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.