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## Item No: 7.2

**Application:** 170170

**Applicant:** Mr & Mrs Ken Metcalf

**Agent:** Mr Gary Williams

**Proposal:** Erection of 3 bedroom house

**Location:** Land Adjacent, Colnehaven, Phillip Road, Wivenhoe, Colchester, CO7 9BA

**Ward:** Wivenhoe

**Officer:** Eleanor Moss

**Recommendation:** Refusal

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

- 1.1 This application is referred to the Planning Committee because Cllr Scott has called it in for the following reason;

*“WTC have cited over development and privacy issues by neighbours. The owner feels that they have addressed these issues. The design is considered inappropriate by WTC planning committee.”*

- 1.2 OFFICER COMMENT – Your Officers concur with Wivenhoe Town Council with regard to design.

- 1.3 The following reason for call-in has also been provided by Councillor Scott;

*“The applicant feels he has evidence that the risks of flooding are not high and the design and proportions are acceptable.”*

- 1.4 OFFICER COMMENT - The Environment Agency as statutory consultee relating to flood matters has objected in principle to the proposal as it has not been sequentially justified.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the impact of a new residential dwelling upon the character and appearance of the Conservation Area and Flood zone 3. Objections have been received from the Environment Agency and the Historic Buildings and Areas Officer.

- 2.2 The dwelling is considered to fail to enhance or preserve the Conservation Area and fails to demonstrate that the development will be safe and will not increase flood risk elsewhere.

- 2.2 The application is subsequently recommended for refusal.

## **3.0 Site Description and Context**

- 3.1 The application site is located at the western end of Philip Road, which is located within the Conservation Area. Phillip Road is not a through route and has very few buildings along it, although it does contain the attractive red brick Victorian Board School, now converted to a Medical Centre. This is a relatively quiet street which is bordered by the railway.

- 3.2 The proposed property is in the last plot along Philip Road from High Street. To the West, are the rear gardens of properties along Paget Road of simple rendered and brickwork, with traditionally-pitched roofs and the red brick Victorian terraced buildings of Queen Street to the North.

- 3.3 The application site is currently a large side garden in association with Colnehaven. The site is adjacent to the Town Drain, with the majority of the application site located within Flood Zone 3.

#### **4.0 Description of the Proposal**

- 4.1 The proposal seeks planning permission for a large detached three-bedroom house, with a detached garage.

#### **5.0 Land Use Allocation**

- 5.1 Predominantly Residential.

#### **6.0 Relevant Planning History**

- 6.1 150983 – Application for a new dwelling. Withdrawn

#### **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 be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
UR2 - Built Design and Character  
TA5 - Parking  
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity  
DP12 Dwelling Standards  
DP14 Historic Environment Assets  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage

- 7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

N/A

- 7.5 The Wivenhoe Town Plan and Executive Summary is also relevant. This forms part of the Development Plan in this area of the Borough.
- 7.6 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Backland and Infill  
Sustainable Construction  
Sustainable Drainage Systems Design Guide  
Wivenhoe Town Plan and Executive Summary

## **8.0 Consultations**

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

### **8.2 Environment Agency – Objection**

Our maps show the site lies within fluvial Flood Zone 3a, defined by the ‘Planning Practice Guidance: Flood Risk and Coastal Change’ as having a high probability of flooding. The proposal is a new dwelling, which is classified as a ‘more vulnerable’ development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance (PPG). Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA). We have not seen evidence that you have applied the Sequential and Exception Tests. This is your responsibly and we recommend you consider them before the applicants review their FRA. We have reviewed the following submitted documents:

- Flood Risk Assessment (FRA), referenced Colnehaven, Phillip Road, Wivenhoe, Essex, CO7 9BA and dated November 2016
- Flood Risk Assessment Addendum (FRAA) referenced Colnehaven, Phillip Road, Wivenhoe, Essex, CO7 9BA and dated March 2017
- Flood Risk Assessment (FRA), titled: Land adjacent 58 Queens Road, Wivenhoe, Essex, C07 9JJ referenced CE11/003/HJ and dated October 2011
- Appendix H Amazi Hydraulic Modelling Report, referenced AMA162 R2 Rev0 and dated May 2011

- 8.3 We consider they do not comply with the requirements set out in the Planning Practice Guidance, Flood Risk and Coastal Change, Reference ID: 7-030-

20140306. It does not, therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

8.4 In particular, the submitted FRA fails to:

1. Assess the impact of climate change using appropriate climate change allowances. In this instance, according to 'Flood risk assessments: climate change allowances', the allowances that should be assessed are the Higher Central of 35% and the Upper End of 65%.
2. Provide Finished Floor Levels above the design level with climate change including a 35% allowance
3. Provide a topographic survey in order to correctly calculate the expected flood depths on site
4. Provide calculations to demonstrate adequate flood storage compensation for the proposed development
5. Provide details with regards to the proposed gabion baskets.

8.5 Conservation and Historic Buildings Officer – **Objection**

Until cavity wall construction became the norm in the early to mid 20C, building design was dictated as much by material availability and material properties as by legislative restrictions and taste. For example roofs were designed to a pitch that would hold the materials that would cover the roof, window pane sizes were generally based on availability of glass/type of glass available, and the depth of window reveals dictated by the Acts.

8.6 Given advances in building technologies and materials, we can now build almost anything in any way. The main constraints nowadays are different. They include the price of products, design of off the peg products, the need to comply with building control, and the desire to create buildings that preserve or enhance the character or appearance of conservation areas.

8.7 With this freedom and these limitations, the architect's role is to design a building that fits into its environment and which hopefully has architectural integrity. Unfortunately the building as proposed appears to not preserve or enhance the character or appearance of the conservation area nor does it in and of itself does have design integrity. It appears to tick too many boxes and as such ticks none.

8.8 The applicant appears to have taken a few design cues from the wider Essex vernacular – pitched and slate roofs and jettied first floor, and to have designed a house based around these two design elements. However as they are not detailed correctly the final result is one of pastiche.

8.9 **Detailed design:** The detailed design fails to preserve or enhance the character or appearance of the area as there are so many competing materials and shapes that the overall impression appears over busy and fails to create a sense of completion.

8.10 The windows are of themselves a complete mix of different designs and none of them relates to any other. As such one cannot read the building as complete.

- 8.11 To the southern elevation, at first floor level, the windows to the larger gable for example are wholly uncharacteristic of windows in a gable end although they are found in mid-20th century and onwards in suburbia – where we are not. The smaller gable has a very large window divided into squares - not an aesthetically pleasing proportion on its own, but perhaps acceptable if part of a larger window arrangement. The larger gable has a narrow, vertically proportioned window located in a subdivided, rendered part of the gable adjacent to a large, horizontally proportioned window which sits slightly lower than the western window and is further disjointed from it by the use of another material: vertical weatherboarding. In order to further confuse any possible sense of order the window to the west has a brick lintel and that to the east, no lintel. This mismatch of styles, shapes and types is disconcerting.
- 8.12 At ground floor level, we have two “modernist” undivided windows which are wholly alien in a building which ostensibly has a house form almost characteristic of mid-20th century and onwards suburbia – definitely more akin to Upper Wivenhoe rather than Lower Wivenhoe. Here, a horizontal window divided into four panes sits slightly off centre to the gable above which creates a sense of ‘contrived tension’. It is also not clear how this window will open to be in any way aesthetically pleasing.
- 8.13 Given the lack of ‘frieze’ space above the windows and the bottom on the first floor, means that the lintel essentially creates the bottom of the floor above and as such the ground floor appears squat. This configuration is characteristic of some cottages but if it is to be used it should be used as part of an entire aesthetic of apparently diminished floor to ceiling heights.
- 8.14 Similar concerns are raised in relation to the north elevation with a mismatch in the design of windows and doors. Notable is that the first floor, again has no ‘frieze’ space between the lintels and the eaves. Whilst this architectural solution is unfortunately a characteristic of later 20C “developer” architecture, and found in Upper Wivenhoe, it is an unattractive detail and best avoided.
- 8.15 **Materials:** Whilst the applicant has made efforts to use materials that are characteristic of the area, which is welcomed as their use to some degree reinforces the character of the area, they have been used in a rather chequerboard and haphazard fashion. A more reduced materials palette or a reconfigured materials palette would be appropriate.
- 8.16 **Way forward:** I believe the applicant has two options. Either to get its design inspiration from the neighbouring streets as per my initial comments, or to propose a contemporary building using traditional materials. The current designs have so many different design inspirations and so many different window types, windows to wall proportions and different roof pitches that it lacks design integrity or cohesiveness.
- 8.17 I have looked at the applicant’s architect’s website ([gawdesign.co.uk](http://gawdesign.co.uk)) and am not convinced that a contemporary house using traditional materials may not be suitable on this site. ‘Moderniste’ architecture appears to be the expertise of this particular architectural practice. A contemporary building with clean lines may

be suitable here given the relatively isolated plot. The design and materials would need, in some way, perhaps via wall to window proportions or materials, to complement the character of the conservation area.

#### 8.18 Urban Designer – Objection

I would object to the revised application, with revisions not responding to core design concerns I'd previously raised, e.g. with regard to form, massing, fenestration and detailing. In general the scheme appears distinctly inappropriate in response to the positive conservation area character. I'd suggest a rethink in approach is required, which perhaps might be best informed by context analysis (i.e. how might this translate and inspire), images of the type/s of architecture desired by the client and a pre-application meeting.

#### 8.19 National Rail

The developer/applicant must ensure that their proposal, both during construction and after completion of works on site, does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- damage the company's infrastructure
- place additional load on cuttings
- undermine its support zone
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future.

*Network Rail also gave lengthy comments relating to Future maintenance, drainage, plant & materials, scaffolding, piling, fencing, lighting, noise and vibration and landscaping. These comments can be viewed on the website.*

### 10.0 Representations from Notified Parties

10.1 The application resulted in 12 objections being received from interested third parties including neighboring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below:

- Concerns regarding overlooking
- Concerns regarding flood risk
- Implications of Network Rail land
- Loss of light to neighboring properties
- Unattractive proposal
- Concerns regarding rubbish disposal
- Concerns regarding sewerage
- Loss of trees
- Loss of green amenity space

### 11.0 Parking Provision

11.1 The proposal is considered to be in compliance with car parking standards.

## **12.0 Open Space Provisions**

12.1 N/A

## **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 Planning Obligations**

14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

## **15.0 Report**

### **15.1 Background**

The application site has been looked at on a number of occasions and subject to much pre-application advice via the Council's pre-application procedure. Two meetings were also undertaken in order to provide advice on a residential dwelling within this site. On all occasions Your Officers advised against the design of the proposals.

15.2 It is also worth noting that flood risk on site has been previously been addressed within earlier pre-application advice (140342) and stressed the importance of addressing flood risk in accordance with the National Planning Policy Framework tests, this is detailed as follows:

*“The Flood Risk Assessment (FRA) does not justify the dwelling in flood risk terms. It attempts to demonstrate that a flood proofed dwelling can be erected on site but does not detail why this site should be considered at all. It does not deal with the issue of sequentially preferable sites within the settlement limits that are not at risk of flooding from the river or sea.*

*The sequential test as set out in the NPPF is explained in detail in the recent National Planning Practice Guidance (still in Beta form but soon to be fully published). With regards to the sequential approach it states:*



*“What is the sequential, risk-based approach to the location of development? This general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3 and other areas affected by other sources of flooding) where possible”.*

*The National Planning Practice Guidance is a very useful resource when assessing a scheme in terms of flood risk (as well as many of the other facets of the NPPF). It deals with the sequential test and the exception test in detail and it is therefore strongly suggested that you assess the scheme in light of the new guidance prior any application being made.*

*In simple terms, this scheme constitutes a new dwelling in the area at risk of flooding from rivers and sea. Building a new dwelling here would put another family at risk in the event of flood. The Council would need to weigh up the benefits of the scheme – namely the small addition to the housing supply in the area - with the additional flood risk that does not currently exist on site.*

*I am aware that there has been development approved in Wivenhoe and across the Borough that sit in areas at risk of flooding. These have generally been larger schemes that make a significant contribution to the Borough’s housing supply and have also brought about other wider reaching benefits such as extensive works to the public realm and the provision of affordable housing, the latter being a Council priority.*

*I do not see that this scheme can be justified in flood risk terms as there is no overriding need for the dwelling to be located on this site. This issue is exacerbated if the only way around the flood issue to propose a contrived design in the Conservation Area.”*

- 15.3 The position of your Officers is, thus, crystal clear – they will not support any dwelling in this location which creates a harmful impact upon the Conservation Area and cannot be justified in terms of flood risk. This position has been reached after many hours of consideration, meetings and discussion.

Impact upon Conservation Area:

- 15.4 In the exercise of Planning functions, the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The objectives of Development Policy DP14 are consistent with this test.

- 15.5 The National Planning Policy Framework provides for detailed guidance on this Paragraph 126 of the Framework advises, amongst other matters, that the conservation of the historic environment can bring wide social, cultural, economic and environmental benefits. It also identifies that heritage assets are irreplaceable resources. Paragraph 132 advises that, when considering the impact of a proposed development on the significance of a designated heritage asset such as a Conservation Area, great weight should be given to the asset's conservation.
- 15.6 The application site is located within the Conservation Area of Lower Wivenhoe. The key building within Philip Road is the attractively detailed old school with its decorative brickwork and gabled elevations. Another traditional building along Philip Road is Wycliffe, a small turn of the C19/C20 painted property.
- 15.7 The predominant building type is red brick Victorian or rendered timber frame. The mid 20C building adjacent to the application site (Colnehaven) is the exception to this and design cues should not be inspired by Colnehaven. Colnehaven is more characteristic of Upper Wivenhoe than Lower Wivenhoe. Any new buildings should preserve and enhance the character of Lower Wivenhoe in which the plot is firmly planted respecting the character of the Paget Street and Queen Street houses.
- 15.8 In this instance, the proposal fails to preserve or enhance the character or appearance of the Conservation Area as there are so many competing materials and shapes that the overall impression appears over busy and fails to create a sense of completion. The proposal is considered to be a radical departure from the Conservation Area and fails the statutory test.
- 15.9 The proposal does not provide a materials palette which complements the Conservation Area and as the proposed materials are expressed in a chequerboard and haphazard manner. The windows are of themselves a complete mix of different designs and none of them relate to each other. The overall impression of the dwelling appears to be to be incongruous and out of keeping with the Conservation Area.
- 15.10 Because of its design, the proposal appears as uncoordinated and visually confusing with weakly expressed architectural merit, the resultant incongruous impact of the application building would therefore be to harmful the character and appearance of the Conservation Area.

Flooding:

- 15.11 As discussed above, there is a fundamental objection to placing a dwelling house in this location. The NPPF and the NPPG are clear that for residential development in Flood Zone 3 the applicant must conduct a sequential test to show that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. If the sequential test can be passed then an exception test must also be passed to demonstrate that the development provides wider sustainability benefits to the community that outweigh flood risk and that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk overall.
- 15.12 The Framework is an important material consideration. Paragraph 101 of the Framework states that *development should not be permitted if the Sequential Test demonstrates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding*. The Sequential Test should therefore be applied to all proposals for new development.
- 15.13 The applicant has not submitted information in relation to either a sequential test or the exception test. Furthermore, as the proposal is for a single open market dwelling it is considered very unlikely that the applicant would be able to demonstrate that there are no other reasonably available sites elsewhere in the borough that could accommodate the development. The fact that the applicant does not own other sites cannot be considered relevant in the application of a sequential test. As such, it is considered that there is no reasonable prospect of the development passing a sequential test, let alone the exception test, even if the applicant was to make such an attempt.
- 15.14 The Environment Agency has raised an objection to the scheme as the proposal does not comply with the requirements set out in the “Planning Practice Guidance, Flood Risk and Coastal Change”. It does not, therefore, provide a suitable basis for an assessment to be made of the flood risks arising from the proposed development.
- 15.15 It must, therefore, be concluded that the scheme has not properly assessed the development in terms of flood risk arising and is it considered the development will not be safe and could increase flood risk elsewhere.

### Impact on amenity

- 15.16 Guidance in Supplementary Planning document 'The Essex Design Guide' is that a 45-degree angle from the mid-point of windows is required in order to preserve outlook. This SPD requires a combined plan and elevation 45 degree zone of protection to be preserved. This proposal complies with both those tests. A number of concerns from neighbouring residents have been received regarding the impact upon residential amenity.
- 15.17 There are no first floor windows on the side elevations (east and west) and as such there would be no loss of light, outlook or privacy to Colnehaven or Paget Road. The back-to-back distances between the proposed dwelling and the rear dwellings of Queen's Road are in excess of 25 metres and as such comply with the aforementioned SPD. The west-facing side elevation contains one small window which faces toward Paget Road, however this window is to serve a stairway and as such is unlikely to generate any overlooking.
- 15.18 In summary, it is not considered that there would be any harm upon outlook or loss of light to the neighbouring properties and any impact upon residential amenity would be negligible. However, this does not outweigh the harm identified above and the proposal is thus recommended for refusal.

### Trees

- 15.19 Whilst there are various small garden trees and hedges bordering the site, none are such that they could not be easily replaced with others of similar or better quality.
- 15.20 The proposal will result in the loss of trees within the application, however these trees are not of a high enough quality to resist their removal. The Arboricultural Planning Officer has assessed the scheme and the submitted Tree Survey and is happy that the scheme can be built subject to tree protection measures being conditioned. On balance, the removal of trees on site is considered to be acceptable.

## **16.0 Conclusion**

- 16.1 To summarise, the proposal is considered to be fundamentally unacceptable in terms of flood risk and would create a harmful impact upon the Conservation Area.

## **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for REFUSAL of planning permission for the reasons set out below:

### **1. Flood Risk**

The NPPF and the NPPG are clear that for residential development in Flood Zone 3 the applicant must conduct a sequential test to show that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. If the sequential test can be passed then an exception test must also be passed to demonstrate that the development provides wider sustainability benefits to the community that outweigh flood risk and that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk overall.

Paragraph 101 of the NPPF states that development should not be permitted if the Sequential Test demonstrates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Sequential Test should therefore be applied to all proposals for new development.

The applicant has not submitted information in relation to either a sequential test or the exception test. Furthermore, as the proposal is for a single open market dwelling it is considered very unlikely that the applicant would be able to demonstrate that there are no other reasonably available sites elsewhere in the borough that accommodate the development. The fact that the applicant does not own other sites cannot be considered relevant in the application of a sequential test. As such, it is considered that there is no reasonable prospect of the development passing a sequential test, let alone the exception test, even if the applicant was to make such an attempt.

For all of these reasons the proposed development would fail to minimise flood risk by locating new housing development in an area of higher flood risk contrary to the Sequential Test. As a consequence, it would be contrary to policy DP20 of the Development Policy (Adopted 2010; Revised 2014) of Colchester Borough Council's Local Development Framework and also contrary to the National Planning Policy Framework.

### **2. Impact on Conservation Area**

The detailed design fails to preserve or enhance the character or appearance of the area as there are so many competing materials and shapes that the overall impression appears over busy and fails to create a sense of completion. The windows are of themselves a complete mix of different designs and none of them relate to each other. As such one cannot read the building as complete.

To the southern elevation, at first floor level, the windows to the larger gable are wholly uncharacteristic of the area. The smaller gable has a very large window divided into squares which appears to be very suburban in appearance and not characteristic of the area. The larger gable contains a narrow, vertically proportioned window. This is located in a subdivided, rendered part of the gable adjacent to a large, horizontally-proportioned window which sits slightly lower than the western window and is further at odds due to vertical weatherboarding. The overall appearance of this gable is chaotic and is exacerbated further by the disorganised approach to the use of lintels. The overall effect of the mismatch of styles, shapes and types appears jarring and disorganised.

At ground floor level, there are two “modernist” undivided windows which are wholly alien in a building which ostensibly has a house form almost characteristic of mid-20th century and onwards suburbia – more akin to Upper Wivenhoe rather than Lower Wivenhoe. Here, a horizontal window divided into four panes sits slightly off centre to the gable above which creates a sense of ‘contrived tension’. It is also not clear how this window will open to be in any way aesthetically pleasing.

Similar concerns are raised in relation to the north elevation with a mismatch in the design of windows and doors. Similarly, the first floor has no ‘frieze’ space between the lintels and the eaves. Whilst this architectural solution is a characteristic of later 20C architecture, and found in Upper Wivenhoe, it is an unattractive detail and not characteristic of Lower Wivenhoe and the Conservation Area.

The proposal fails to express a strong architectural approach. A number of materials have been proposed for the dwelling, and a selection of these could be suitable for the Conservation Area, however the three different types of finishing material are excessive. The proposed materials have been used in a rather chequer board and haphazard fashion, the overall affect is an incongruous feature that is alien to the local area and harmful to the character of the Conservation Area.

For these reasons, the proposed development fails to enhance and protect the conservation area by providing a dwelling which appears incongruous within its setting. Consequently, the proposal is contrary to Local Development Framework Core Strategy Policy UR2, Development Policy DP1 and Development Policy DP14 the provisions of which seek to protect the Council’s Conservation Areas from inappropriate development and seek to ensure that developments respect and enhance their site, context and surroundings.

## **18.0      Informatives**

18.1      The following informatives are also recommended:

### **ZTB - Informative on Any Application With a Site Notice**

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.