

Planning Committee

Town Hall, Colchester
18 February 2010 at 6.00pm

This committee deals with

planning applications, planning enforcement, public rights of way and certain highway matters.

If you wish to come to the meeting please arrive in good time. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices and at www.colchester.gov.uk

Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off before the meeting begins and note that photography or audio recording is not permitted.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

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Material Planning Considerations

The following are issues which the Planning Committee can take into consideration in reaching a decision:-

- planning policy such as local and structure plans, other local planning policies, government guidance, case law, previous decisions of the Council
- design, appearance and layout
- impact on visual or residential amenity including potential loss of daylight or sunlight or overshadowing, loss of privacy, noise disturbance, smell or nuisance
- impact on trees, listed buildings or a conservation area
- highway safety and traffic
- health and safety
- crime and fear of crime
- economic impact – job creation, employment market and prosperity

The following are **not** relevant planning issues and the Planning Committee cannot take these issues into account in reaching a decision:-

- land ownership issues including private property rights, boundary or access disputes, restrictive covenants, rights of way, ancient rights to light
- effects on property values
- loss of a private view
- identity of the applicant, their personality, or a developer's motives
- competition
- the possibility of a "better" site or "better" use
- anything covered by other types of legislation

Human Rights Implications

All applications are considered against a background of the Human Rights Act 1998 and in accordance with Article 22(1) of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003 there is a requirement to give reasons for the grant of planning permission. Reasons always have to be given where planning permission is refused. These reasons are always set out on the decision notice. Unless any report specifically indicates otherwise all decisions of this Committee will accord with the requirements of the above Act and Order.

Community Safety Implications

All applications are considered against a background of the implications of the Crime and Disorder Act 1998 and in particular Section 17. Where necessary, consultations have taken place with the Crime Prevention Officer and any comments received are referred to in the reports under the heading Consultations.

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
18 February 2010 at 6:00pm**

Members

Chairman : Councillor Ray Gamble.
Deputy Chairman : Councillor Stephen Ford.
Councillors Mary Blandon, Helen Chuah, Mark Cory,
John Elliott, Andrew Ellis, Theresa Higgins, Sonia Lewis,
Jackie Maclean, Jon Manning and Ann Quarrie.

Substitute Members : All members of the Council who are not members of this Committee or the Local Development Framework Committee. The following members have undertaken planning training which meets the criteria:-
Councillors Christopher Arnold, Nick Barlow, Lyn Barton, John Bouckley, Nigel Chapman, Peter Chillingworth, Barrie Cook, Beverly Davies, Wyn Foster, Mike Hardy, Pauline Hazell, Peter Higgins, Martin Hunt, Michael Lilley, Sue Lissimore, Richard Martin, Nigel Offen, Lesley Scott-Boutell, Laura Sykes, Jill Tod, Anne Turrell and Julie Young.

Agenda - Part A

(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief and agenda items may be considered in a different order if appropriate.

An Amendment Sheet is circulated at the meeting and members of the public should ask for a copy to check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm on the day before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Pages

1. Welcome and Announcements

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Have Your Say!

The Chairman to invite members of the public to indicate if they wish to speak or present a petition on any of items included on the agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

3. Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

4. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

5. Declarations of Interest

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General

Procedure Rules for further guidance.

6. Minutes **1 - 12**

To confirm as a correct record the minutes of the meeting held on 4 February 2010.

7. Planning Applications

In considering the planning applications listed below, the Committee may chose to take an en bloc decision to agree the recommendations made in respect of all applications for which no member of the Committee or member of the public wishes to address the Committee.

1. 091379 Church Lane/Warren Lane, Stanway **13 - 22**
(Stanway)

Extension of time application for the construction of part of western relief road between Warren Lane and the northern boundary of the site (LPA Ref: F/COL/94/0890).

2. 091260 Edward Marke Drive, Langenhoe, CO5 7LP **23 - 30**
(Pyefleet)

Proposed residential development of two detached dwellings (resubmission of 090268).

3. 091580 Collins Green, School Road, Messing, CO5 9TH **31 - 39**
(Birch and Winstree)

Retention of Plots 1 and 2 with proposed material and component amendments.

4. 091595 5 Broomhills Road, West Mersea, CO5 8AP **40 - 47**
(West Mersea)

Proposed severance of garden to rear of 5 Broomhills Road and erection of 1no. 2 bedroomed bungalow with detached garage.

5. 100006 13 Coast Road, West Mersea, CO5 8LH **48 - 53**
(West Mersea)

Modifications to existing property, including new fenestration, removal of existing roof and erection of new second floor, erection of pool enclosure.

6. 100026 145 Shrub End Road, Colchester, CO3 4RE **54 - 59**
(Prettygate)

Proposed single and two storey rear extension to provide 4 new

bedrooms (net 2 additional bed spaces) and support facilities.
Resubmission of 090693.

7. 091297 342 London Road, Stanway, CO3 8LT
(Stanway)

60 - 65

Change of use of building under construction from proposed indoor adventure play area to retail unit for the sale of outdoor sports and activity equipment and clothing.

8. Exclusion of the Public

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

**PLANNING COMMITTEE
4 FEBRUARY 2010**

- Present :-* Councillor Ray Gamble* (Chairman)
Councillor Sonia Lewis (Deputy Mayor)
Councillors Mary Blandon*, Helen Chuah,
Andrew Ellis, Stephen Ford, Theresa Higgins,
Jackie Maclean*, Jon Manning* and Ann Quarrie
- Substitute Members :-* Councillor Barrie Cook for Councillor Mark Cory*
Councillor Richard Martin
for Councillor John Elliott*
- Also in Attendance :-* Councillor Sue Lissimore
Councillor Mike Hardy

(* Committee members who attended the formal site visit.)

170. Minutes

The minutes of the meeting held on 21 January 2010 were confirmed as a correct record.

171. 091357 Avon Way House, Avon Way, Colchester, CO4 3TZ

This application was withdrawn from consideration at this meeting by the Head of Environmental and Protective Services.

172. 090504 Tile House Farm, Great Horkesley

The Committee considered an application for a residential development of five single storey, two bedroom dwellings on land located to the rear of properties fronting the A134 Nayland Road. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

The ward councillor had conveyed his concern in respect of there being no formalised facility for the collection of waste and recycling materials.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. In response to the ward councillor's concern in respect of

the location of a refuse and recycling collection point, it was explained that an extra condition could be added to require details of a waste and recycling facility to be submitted for approval on the basis of size and appearance.

RESOLVED (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.
- (b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, on the Amendment Sheet and an additional condition to require details of the design and size of the refuse/recycling collection point to be agreed by the Local Planning Authority.

173. 091068 33 North Hill, Colchester, CO1 1QR

The Committee considered an application for the proposed conversion of existing offices/counselling rooms on the eastern side of North Hill to two residential flats. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.
- (b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

Councillor Ray Gamble (in respect of being acquainted with an objector through membership of the same club) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Richard Martin (in respect of being acquainted with residents who

live further along Parsons Hill and on the opposite side of the road) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Sonia Lewis (in respect of the applicant being known to her and a close family relative living in Prettygate Road) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

174. 091426 Mythian, 4 Parsons Hill, Colchester, CO3 4DT

The Committee considered an application for a proposed development to provide nine apartments on land to the south of the junction of Parsons Hill and Church Lane, Prettygate. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. He made reference to the planning history on the site and drew the Committee's attention to certain variations between this scheme and the previous scheme: this scheme being 1 metre higher and the accommodation being provided over four floors with underground parking provided at 150%. He explained how the reasons for refusal on the previous scheme had now been more fully explained or dealt with to the satisfaction of the case officer. Officers were satisfied that the topography provided a satisfactory mitigation to overcome the overlooking issues.

Major Murray-Bligh addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He believed that the report contained errors and omissions of fact. There had been 114 objections submitted, not 'in excess of 90', and 716 signatures on the petition, not 176 as stated. This scheme is similar to the previous scheme with the same number of bedrooms in fewer apartments and the proposal remains inappropriate for this prominent site and could lead to similar proposals elsewhere. He clarified that there would be a loss of privacy to both his dining room and breakfast room both of which have north facing windows which are main windows not secondary windows. The survey giving details of excavation submitted with this application and noted as meeting all the criteria, was the same survey submitted with the previous application; one of the reasons for refusal was that the survey did not provide sufficient information. The contraventions of the previous Local Plan have been ignored. The junction was dangerous and new parking standards

have not been complied with. This is a totally inappropriate and unwanted development and the same reasons for refusal on the previous scheme apply to this one; it should be rejected.

Mr Sumner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Historically this area had been woodland, before it was sold for one house with 3 ½ acres and in 1971 it was acquired for the current development. In 2006 principles were agreed with planning officers and the current scheme, recommended for approval, is the result of dialogue with planning officers. There are no objections on the grounds of arboriculture and highways. Natural England endorses the scheme, and an environmental survey has demonstrated there are no endangered species and no bats on the site. The engineering survey with regard to the basement has demonstrated no problems. A management plan for the woodland has been approved by Essex County Council. Previous tree work was restorative for which advance notice was given to neighbours. Colours and materials will be chosen to match with the woodland, and replacement trees would be native species.

Councillor Lissimore, Prettygate ward councillor, attended and, with the consent of the Chairman, addressed the Committee. There had been 114 objections and a petition containing 716 signatures. The development would have a detrimental effect and neighbours on the boundaries would be especially affected. The site had been opened up due to the removal and pollarding of trees and with the removal of more trees it would remain open. The area comprised bungalows, family houses and parkland. This proposal is larger than the existing house. Neighbours will be affected by building work, by a loss of privacy and by the development's overbearing nature. The two metre high fences would be ineffective. Windows regarded as secondary are not secondary windows. There would be overlooking into many neighbouring windows. The mound would have to be dug out requiring many movements of vehicles and once building work was completed there would be fans to aerate the underground parking area. She estimated there would be forty-two extra cars from the occupants. Two speed-activated signs had been erected in Church Lane to reduce traffic speeds and this development will worsen this situation. She asserted that the Committee could refuse the application on highways grounds even though highways no longer object to the scheme. Many native species take shelter in the woodland and the loss of two trees could not be mitigated by planting because of the time for trees to grow. The roots of remaining trees would be damaged and the stability of the hill would be at risk. No stability survey has been conducted. She mentioned a number of national and local policies that this application contravened including UEA1 UEA2, UEA12, UEA13, UEA15 and UEA21 as well as a number of other policies.

Councillor Hardy, Lexden ward councillor, attended and, with the consent of the Chairman, addressed the Committee. He fully supported objections by residents and Councillor Lissimore. This site was on the Prettygate/Lexden boundary. Many more residents of Home Farm overlook the site than those on Parsons Hill. He referred to an application in the town centre where the planning officer explained that because of the diversity of this part of town it did not matter that the cottage did not match its neighbours. In contrast on Parsons Hill there was no diversity comprising only bungalows, modern detached houses, mixed modern detached and semi-detached and older, larger, detached houses. Most of these are owner occupied. This proposal for buildings in multiple occupation is a gross invasion of the established ambiance of this area which will set a precedent and further such developments will follow. He asked the Committee to reject the application.

In response to Major Murray-Bligh's comments the planning officer explained that the proposal had been assessed for overlooking impact on neighbours and had concluded that the fence was at a high level which would afford screening. In assessing any overbearing impacts the case officer had taken the view that whilst the property at No. 6 has windows facing the site it also has windows east and west facing which serve the same rooms. Policy states that when considering any impact less regard could be given to side windows which are not principal windows. The outstanding information required in respect of excavation is true for refusal reason one which related to the impact on trees. They were not seeking information on excavation in respect to subsidence, etc. The primary overlooking impacts are to properties immediately to the south, in other respects the development is in a spacious area with distance between it and other properties. In respect to the site context, in the previous report the planning officer gave consideration to urban greenery. This proposal is two buildings rather than a single building and the development in that respect was not going to be harmful to the character and green appearance of the area.

Members of the Committee made a number of comments including:-

- this development is out of keeping with the area and at odds with PPS1. It does nothing to enhance the area and will do real harm in this location by virtue of the impact on the adjacent Conservation Area. PPS1 states that "good planning ensures the right development in the right place at the right time making a positive difference and will protect and enhance the natural and historic environment. Good design should contribute positively for making spaces better for people this fails to enhance the area and would do real harm. This scheme is inappropriate in its context and should be refused;
- Church Lane and Parson's Hill is more in tune with a country lane;
- there is a potential danger involving school traffic where school children

on their bicycles cross Church Road and Parson's Hill, the two speed activated signs in Church Lane are indicative of this problem. It was queried whether the Highway Authority had looked at this proposal in the context of Safe Routes to School;

- a portfolio holder decision was taken recently on a Council Tree Policy because there had been no formal approach on the management of trees in the borough which could reduce the quality of the landscape character and this could reduce the quality of the landscape character. Retaining a species-rich urban woodland and trees of all ages is essential for tree succession. The pressure on urban trees is increasing and the likelihood of trees reaching maturity is diminishing. If the development was a smaller building trees would not be lost;
- parking standards: sixteen spaces is too few with no provision for visitors. There is nothing in the design and access statement; if this scheme is for older people there are no wider doorways and lifts so the proposal does not fit the intended occupiers. There were no disabled parking bays;
- this is a fresh application and members of this committee, a number of whom were not on the committee when the previous application was refused, should not be fettered by the previous reasons for refusal. The previous reasons for refusal have been addressed and in fairness it was appreciated that the applicant has done that;
- concerns about the design and layout and possibility of a succession of other such applications; opposing views were expressed that this was perfectly good design but it does not sit comfortably in this location;
- this scheme is over one metre higher.

The planning officer responded that the report stated that the design and layout was satisfactory. The building is slightly larger than previous, but it was considered that the impact on the Conservation Area was not detrimental. Design impacts were not issues raised as reasons for refusal in previous scheme. He reminded the committee of the planning history of the site. This is an application to address previous concerns as the other scheme was in all other respects acceptable, i.e. design, appearance and layout: he queried whether a smaller building be acceptable if it was the height and scale which were causing the committee difficulties. The proposal complies with the Essex Design Guide but the committee may be concerned with the scale, footprint and massing impact on the area, in particular on the site of the adjoining Conservation Area, and the impact on trees.

The Committee were advised not to introduce new reasons for refusal as costs may be awarded against the council if there is an appeal. The Inspector will not take account of the change in membership of the Committee. The decision made by the Committee is and was a Colchester

Borough Council decision and the Inspector will judge the new decision against the history on that basis, regardless of committee membership changes in the intervening time. However, if the Committee were minded to refuse the application then it was recommended that the reasons for refusal should refer to the bulk, form and massing of the building rather than design per se, and that the decision should include the Committee's reference from PPS1 regarding securing the right development in the right place at the right time and PPS1 and PPS3 reference regarding not accepting development that is inappropriate in its context as part of the reason for refusal.

RESOLVED (ELEVEN voted FOR, ONE voted AGAINST) that the application be refused on the following grounds –

1. The development is contrary to PPS1: “getting the right development in the right place at the right time”.
2. The development is contrary to PPS1 and PPS3: “should not accept development that is inappropriate in its context”.
3. The development is considered to be unacceptable in terms of its bulk, form and massing in an area that is primarily of a suburban residential character and scale, making the development inappropriate in its context, especially given its ability to harm the character and setting of the adjacent Conservation Area.

Councillor Stephen Ford (in respect of having met the agent, Mr Snow, on a number of occasions) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Jon Manning (in respect of his acquaintance with an objector) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

175. 091608 89 High Street, Wivenhoe, CO7 9AB

The Committee considered an application for new dormer windows, cladding of elevations, extension and alterations, including additions to the rear and comprise a single and two storey extension. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet.

176. 091635 28 Cape Close, Colchester, CO3 4LX

The Committee considered an application for a two storey side extension front porch and internal alterations. The application is a resubmission of 081939. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that the application be refused on the grounds set out in the report on the basis that the proposal would be disproportionate and a dominant feature on the side of the dwelling, significantly reducing the spacious character of the street scene to an extent that would be materially detrimental.

Councillor Helen Chuah (in respect of her acquaintance with the applicant) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7 (10) and she left the meeting during its consideration and determination.

177. 090959 26 St Botolph's Street, Colchester, CO2 7EA

The Committee considered an application for a change of use from retail A1 to restaurant A3 use. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Andrew Huntley, Planning Officer, attended to assist the Committee in its deliberations.

Mr D. Cookson addressed the Committee on behalf of a prospective user of the premises pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the designation of the area in the Local Plan being TCS9 which is not a regeneration area but a mixed use area. The most important element of the policy being the issue of the notation of the local shopping centre. The calculation of percentage of retail frontage uses will be slightly below the designation. He referred to the stated need to retain local shopping use in this street and to a submission by the Senior Enterprise Officer which raised a number of issues. There was some uncertainty about the designation of the cultural quarter; there were issues about the impact of other retail uses in the vicinity; there was an issue about the benefit to the building of a restaurant because any occupier could improve the building for the benefit of the area; and the overall issues of the retail use in St Botolph's Street; there was no profound need for a

specialised restaurant such as this.

Mr Mark Porter addressed the Committee on behalf of the applicant pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This is an application for a distinctive and quality restaurant. The applicant had considerable experience and with this restaurant wished to make a contribution to the town as a destination. He has made the highest open market bid. Objections to this application have been received from a rival bidder but full support has been received from the planning officer. The applicant currently has approval for A3 use elsewhere in the street but he would prefer to use this premises and will relinquish the other approval in exchange for this one. There will be a significant contribution to the regeneration and vitality of the town. This will be a specialised restaurant unique to the town; it is not a takeaway but will be a window on another culture.

Members of the Committee expressed a concern that the train station is not open on a Sunday so people would need to use the car on Sunday. There was also a concern that this proposal would tip the retail usage below the standard for this street; and a query regarding extractor fans.

The planning officer explained that the current policy, DCS9, requires 60% retail frontage in this area with not more than two consecutive A1 uses. If the restaurant useage at no. 30 was extinguished the retail A1 frontage would be approximately 58.6% which is very slightly below the current standard. The proposed future standard for this street is 50% with no more than three consecutive A1 uses, which is a reduction in the current standard. The preference for A1 useage is not a valid reason for refusal.

RESOLVED (TEN voted FOR and ONE ABSTAINED from voting) that –

- (a) Consideration of the application be deferred to secure the revocation of the extant permission for an A3 use at no. 30 St Botolph's Street.
- (b) Upon the satisfactory revocation of the extant permission for an A3 use at no. 30 St. Botolph's Street, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

Councillor Andrew Ellis and Councillor Richard Martin (in respect of each having used the services of the agent, Mr E. Gittins) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

178. 091307 Church Road, Boxted, CO4 5TG

The Committee considered an application for a change of use primary school including alterations and an extension to form a single detached dwelling. The Committee had before it a report in which all information was set out, see Amendment Sheet.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet.

Councillor Theresa Higgins (in respect of being a Colchester Borough Council Tourist Guide) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

179. 091328 St Botolph's Churchyard, Colchester

The Committee considered an application to relocate a war memorial from its location between St Botolph's Church and the Priory to a location in the northwest corner of the churchyard, together with tree removal in the churchyard, minor ground contouring to the eastern area of open space and the relocation of the former Britannia Works crankshaft feature to a location adjacent to St Botolph's Church Hall. The application forms part of a wider scheme of improvements to the grounds of St. Botolph's Churchyard and the grounds of the Priory. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Reg Patterson, Colchester Borough Council Regeneration Project Lead, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This scheme had been put forward by the Regeneration Team and forms part of the St Botolph's Quarter regeneration scheme which went through an extensive consultation period during 2008. The proposals have been received well and supported by those commenting. They have worked closely with the British Legion, the Colchester Engineering Society, The Church Commissioners, English Heritage and the Diocese. The proposal will be implemented and funded by a Haven Gateway grant and will make a contribution towards improving the use and access in this area including visitors who may be reluctant to go to the Priory ruins.

Members of the Committee were concerned that the Britannia Works crankshaft feature was being moved from a location where people pass it every day and on the site of the entrance to the former works, to one where it will be out of context and no-one will see it. There was a suggestion that the feature should remain where it is until such time as the area is regenerated and a better site is found for it.

The planning officer explained that the intended position of the feature would be a landscape setting. It was considered to be marginalised in its present position whereas in the new location it would be seen from a network of paths. The Committee could add the comment that in relocating the feature there should be an interpretation of its context in its new location. Alternative solutions suggested were to defer and authorise officers to secure the deletion of this element from the proposal, or to exclude this element from any permission with a request that it be the subject of a further application, or to issue a split decision which would refuse the relocation of the feature but approve the remaining elements of the application.

RESOLVED (UNANIMOUSLY) that –

(a) With the exception of the relocation of the Britannia Works crankshaft feature, all other elements of the application be approved with any conditions and informatives which the Head of Environmental and Protective Services considers appropriate.

(b) The relocation of the crankshaft feature be not approved on the grounds that the feature would be removed from a prominent position at the site of the entrance to the former works.

180. 091580 Collins Green, School Road, Messing, Colchester, CO5 9TH

This application was withdrawn from consideration at this meeting by the Head of Environmental and Protective Services.

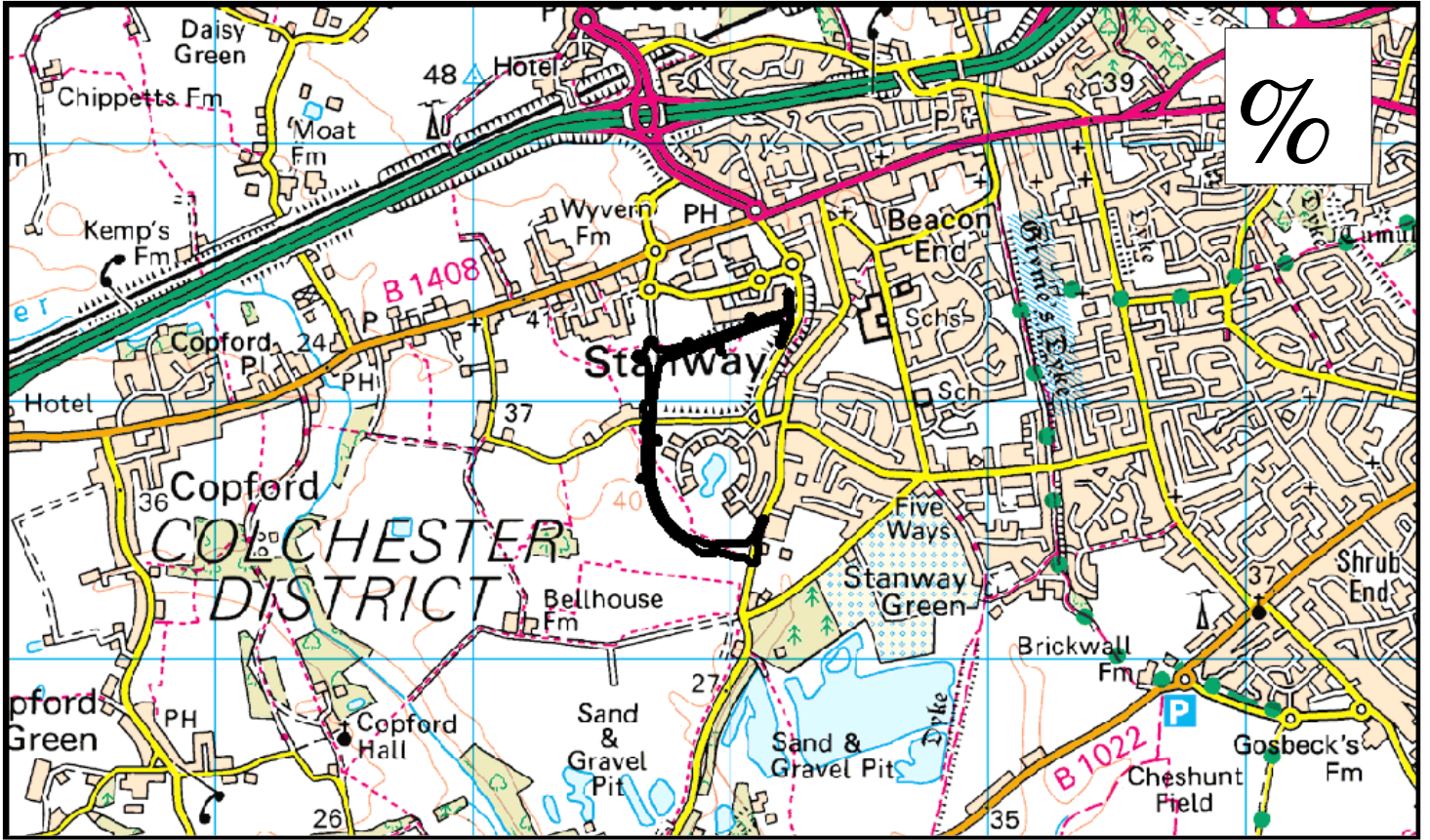
181. Enforcement Action // Land at 5 Inverness Close, Colchester, CO1 2SA

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the permanent removal of a metal/glass railing, an external spiral staircase and wooden decking.

Andrew Tyrrell, Development Manager, attended to assist the Committee in its deliberations.

RESOLVED (UNANIMOUSLY) that an enforcement notice be served at 5 Inverness Close, Colchester requiring the permanent removal of a metal/glass railing, an external spiral staircase and wooden decking with a compliance period of 4 weeks.

. **Amendment Sheet**



Application No: 091379

Location: Arc Stanway Pit, Church Lane/Warren Lane, Stanway, Colchester

Scale (approx): 1:1250

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Committee Report

Agenda item **7**

To the meeting of **Planning Committee**
on: **18 February 2010**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

Relevant planning policy documents and all representations at the time this report was printed are recorded as BACKGROUND PAPERS within each item. An index to the codes is provided at the end of the Schedule.

7.1 Case Officer: John More

MAJOR

Site: Church Lane/Warren Lane, Stanway, Colchester

Application No: 091379

Date Received: 27 October 2009

Agent: Terence O'Rourke Ltd

Applicant: Mr David Reavell

Development: Extension of time application for the construction of part of western relief road between warren lane and the northern boundary of the site (LPA Ref:F/COL/94/0890)

Ward: Stanway

Summary of Recommendation: Conditional Approval subject to signing of Deed of Agreement

1.0 Planning Report Introduction

1.1 This is an application for a new planning permission to replace an extant planning permission, in order to extend the time limit for implementation, what used to be termed a renewal. However, while the Council is essentially being asking to extend the time limit of the existing permission, any permission granted would be a new planning permission so all conditions secured under the original consent must be repeated along with any legal obligation.

DC0901MW 01/02

- 1.2 Below is a quick summary of the interim guidance in respect of this type of application, for member's information.
- 1.3 Applicants cannot under this provision seek to make any changes to the terms of the planning permission as granted other than an extension of the time allowed for implementation. While the outcome of a successful application will be a new permission with a new time limit attached, the description of the development and all other conditions must remain the same. As most s.106 agreements/unilateral undertakings are linked to a named planning application, there may well be a need to consider a supplementary deed or a fresh obligation so that the new permission will be bound by the same provisions. The guidance set out in Circular 05/2005 should be followed.
- 1.4 The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date. While these applications should, of course, be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, local planning authorities should, in making their decisions, focus their attention on national and development plan policies and other material considerations which may have changed significantly since the original grant of permission.

2.0 Site Description

- 2.1 The site extends in a westerly direction from Warren Lane in the south, wrapping round to the south and west of Lakelands phase 1 residential development, crossing Church Lane to join up with the existing section of the western bypass at the northern extent of the site near the Tollgate Retail Park. The land is a former quarry which is currently grass and scrub land.
- 2.2 Two public footpaths cross the site, Footpath 5 crosses the site along the north-western and eastern boundaries while footpath 11 crosses the southern section from the south east boundary up to Church Lane.

3.0 Description of Proposal

- 3.1 Extension of time application for the construction of part of the western relief road between Warren Lane and the northern boundary of the site (LPA Ref: F/COL/94/0890).

4.0 Land Use Allocation

- 4.1 Residential
Employment Zone
Open Space
Western By-Pass

5.0 Relevant Planning History

- 5.1 Outline planning permission (COL/90/1904) was granted in 1995 for a mix of uses, including residential (500 units), employment and leisure. Subsequent planning permissions were granted to enable the development of phase 1 comprising 200 dwellings. These applications were accompanied by a legal agreement which was amended in 1998, under which the remainder of the site could not be developed until the western bypass had been completed.
- 5.2 COL/94/0890 granted consent for construction of the part of the western relief road between Warren Lane and London Road.
- 5.3 Planning permission (COL/01/0976) amended condition 03 of COL/90/1904 to allow an extension of the time period for submission of reserved matters.
- 5.4 The original outline permission envisaged the construction of 500 dwellings across the site. Following changes to Government Guidance on density and efficient use of land a further outline permission was granted for an additional 300 residential units, increasing overall capacity to 800 dwellings (COL/02/0980). The revised master plan made provision for new community infrastructure, including a site for a new primary school, country park and the western bypass.
- 5.5 Applications COL/98/1339 and COL/03/1802 related to the stabilisation of the existing embankment between the site and the adjacent landfill site.
- 5.6 It should be noted that the commitment to construct the said western relief road is tied to the relevant section 106 agreements. This will be explained further later in the report.

6.0 Principal Policies

- 6.1 Local Development Framework
Core Strategy:
SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA4 - Roads and Traffic
ENV1 - Environment
- 6.2 Adopted Review Colchester Local Plan 2004 saved policies:
DC1- Development Control considerations
CE1 - The Open and Undeveloped Countryside
CO1- Rural resources
CO3 - Countryside Conservation Area
CO5 - Habitats
CO6 - Protected Species
CF1 - Infrastructure and Community Facilities Provision
EMP1 - Employment Allocations and Zones
STA2 – Land between Essex Yeomanry Way and South of Church Lane

7.0 Consultations

- 7.1 Essex County Council as the Highway Authority does not wish to raise an objection to the above application. If the Local Planning Authority is minded to grant planning permission, in making this recommendation the Highway Authority has assumed the Local Planning Authority will attach all requirements of the original permission F/COL/0890.

Officer Comment:

The original conditions (bar the time limit) are repeated in the recommendation.

- 7.2 Natural England does not wish to object in principle to an extension of time to the application. However, they recommend that the local planning authority consider whether or not any extension of time before work commences will require updated survey information.

8.0 Parish Council's Views

- 8.1 Stanway Parish Council raises no objection to this application.

9.0 Representations

- 9.1 One letter of objection has been received which objects to any more planning applications in the area until all relevant issues on this estate are solved, including the roads and drainage. The house in Wren Close, with its back completely broken in some type of subsidence is an extreme cause for concern. That house is virtually directly in line with the back of Warren Lane and any further encouragement of traffic in the vicinity would be liable to cause dramatic problems to other homes in the area. No further development should occur until a full investigation into the land and suitability is carried out.
- 9.2 Full text of all consultations and representations are available to view on the Council's web-site.

10.0 Report

- 10.1 As previously stated, the guidance for this type of application states the development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date. While these applications should, of course, be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, local planning authorities should, in making their decisions, focus their attention on national and development plan policies and other material considerations which may have changed significantly since the original grant of permission.

Policy changes

- 10.2 Since the original grant of permission for COL/94/0890 on the 1st December 2006 the Core Strategy has been adopted. This document indicates that in the Stanway Growth Area the existing allocations for both employment and housing will continue to be developed during the plan period. This development will facilitate delivery of public open space and road improvements which will improve the highway network to the south and west of the town.

DC0901MW 01/02

- 10.3 Saved Policies in the Local Plan include those relating to Stanway and this development. It is a fundamental requirement of Local Plan policies for Stanway that new housing and industrial development in the area be linked to the provision of the western bypass linking Warren Lane and London Road and taking traffic and environmental pressure off Warren Lane and Tollgate Road.
- 10.4 The Bypass remains critical to further development in the Stanway Growth area while taking pressure off Warren Lane and Tollgate Road.

Other material considerations

- 10.5 The applicant has undertaken a recent field survey of the site to reassess the findings of the 2007 NVC ecological Survey. This concludes that the field work commissioned in 2007 remains representative of the current conditions on the site and that there is little merit in undertaking any further work to up-date the previous surveys as the findings are unlikely to differ significantly from the existing baseline work.
- 10.6 The application has been considered by the Council's Development Team. It was resolved that the period for commencement of development should be no more than a 2 years, as opposed to the standard 3 year commencement period, to ensure provision of the relief road is not delayed any further. This was discussed with the applicants who have agreed to this timescale. The standard three year time limit permission has therefore been altered to reflect this.

106 Matters

- 10.7 The original planning permission F/COL/94/0890 did not have a stand alone legal agreement associated with it, however, it is referred to in the various agreements which cover the wider development.
- 10.8 The history of the various legal agreements associated with this development is as complex as the planning history. The original planning permission for the relief road was granted permission on the 1st December 2006. A S106 Agreement known as the Further Planning Agreement was also entered into together with a Supplemental Planning Agreement which amended an earlier Planning Agreement of the 1st February 1995. That Agreement had itself already been amended on the 26th March 1998. A Highway Agreement was also entered into.
- 10.9 As any permission granted by this application is effectively a new planning permission which will replace the existing relief road planning permission any references in the existing agreements which refer to the original relief road planning permission need to be amended to refer to any new permission granted. A short Deed of Amendment made under s.106A and all other powers is therefore required. This Deed of Amendment would state that the Agreements are to be read as though references to the relief road permission, express or implied, are applicable to the new planning permission.

10.10 Some of the “highlights” of the legal agreements in respect of the relief road are as follows:

3.1 Bypass Highway Works

3.1.1 Not to commence the construction of dwellings in Phases 2 & 3 prior to depositing with the County Council the Bypass Highway Works Bond.

3.1.2 Not to commence the construction of dwellings in Phases 2 & 3 until such time as it has obtained any necessary stopping up or diversion order for Footpaths 11 and 5 Stanway so far as the same are affected by the Bypass Highway Works under the 1990 Act the 1980 Act or any other available legislation.

3.1.3 Not to carry out or allow permit or cause to be carried out any development permitted by the 2006 Permission or Extension Permission on the Purple Land prior to the Commencement of the Bypass Highway Works

3.1.4 Not to commence the construction of dwellings in Phases 2 & 3 prior to Commencement of the Bypass Highway Works

3.1.5.1 To complete the Bypass Highway Works so that the Certificate of Completion can be issued within two years and six months of Commencement of the Bypass Highway Works subject always to clause 9.12

3.1.5.2 Not to Occupy more than 179 of the residential dwellings to be provided on Phases 2 & 3 prior to the issue of the Certificate of Completion in respect of the Bypass Highway Works subject always to clause 9.12.

10.10 The applicant’s Solicitor is currently drafting the Deed of Amendment for scrutiny by the Council’s Solicitor.

11.0 Conclusion

11.1 The provision of the western relief road remains critical to future development in the Stanway Growth area while taking pressure off Warren Lane and Tollgate Road. It is not considered that there have been any changes in policy or other material considerations which would justify a different outcome to the previous approval granted.

12.0 Background Papers

12.1 ARC; Core Strategy; HA; NE; PTC; NLR

Recommendation

The Head of Environmental and Protective Services be given authority to APPROVE the application subject to the signing of the Deed of Amendment referred to above and the conditions attached to the original permission set out below.

Conditions

1 - A1.5 Full Perms (time limit for commencement of Development)

The development hereby permitted shall be begun before the expiration of two years from the date of this permission.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 - Non-Standard Condition

No vehicle connected with the works shall arrive on site before 07.30 or leave after 19.00 (except in the case of emergency). Working hours shall be restricted between the hours of 08.00 and 18.00 Monday to Saturday (finishing at 13.00 on Saturday). No working of any kind is permitted on Sundays, Saturdays after 13.00 hours or on any Public/Bank Holiday days.

Reason: To safeguard the amenities of nearby residential properties.

3 - Non-Standard Condition

All waste arising from the ground clearance and construction processes is to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies. In addition to this:- 1. No fires are to be lit on site at any time during construction. 2. A wheel-wash facility shall be provided for the duration of the construction works to ensure levels of soil on roadways near the site are minimised. 3. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Reason: To safeguard the amenities of nearby residential properties.

4 - Non-Standard Condition

Any road lighting shall be located, designed or screened so it does not cause avoidable intrusion into nearby residential properties or cause unnecessary light pollution. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

Reason: To reduce the undesirable effects of light pollution on the amenity of neighbouring residential properties.

5 - Non-Standard Condition

Details, including samples, of finishes and materials to be used on all roads, paths and cycleways shall be submitted to and approved by the Local Planning Authority prior to the laying down of any road, path or cycleway surfaces. The road works shall be implemented fully in accordance with the approved details.

Reason: To ensure that the proposed development is visually (satisfactory/attractive) and enhances the appearance of the locality.

6 - Non-Standard Condition

Pedestrian crossing facilities to be located as broadly indicated on Plan 20149/SK101 Rev. M shall be provided across the by-pass prior to commencement of its use in accordance with details of their location and design which shall have been previously submitted to and agreed in writing by the Local Planning Authority in conjunction with the County Highway Authority.

Reason: In order to ensure that satisfactory crossing facilities for pedestrians are provided.

7 -Non-Standard Condition

Before any works commence on site, details of all existing trees with a stem diameter of 75mm or greater at 1.5m above ground level, shall be submitted to and agreed in writing by the local Planning Authority and shall include, as appropriate, a Tree Survey, Categorisation and Constraints Plan in accordance with BS 5837.

Reason: To enable proper attention to be given to the impact of the proposed development on existing trees.

8 - Non-Standard Condition

No work shall commence on site until all trees, shrubs and other natural features not scheduled for removal on the approved plans, are safeguarded behind protective fencing to a standard to be agreed by the Local planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. No access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

9 - C10.16 Tree & Natural Feature Protection: Entire Site

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

10 - Non-Standard Condition

Landscaping in the form of avenue tree planting or alternative planting as agreed with the Local Planning Authority shall be provided along both sides of the line of the new relief road within the first planting season following completion of the road and in accordance with details which shall have previously been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory townscape and in order to soften the impact of the road and associated development when viewed from the open countryside.

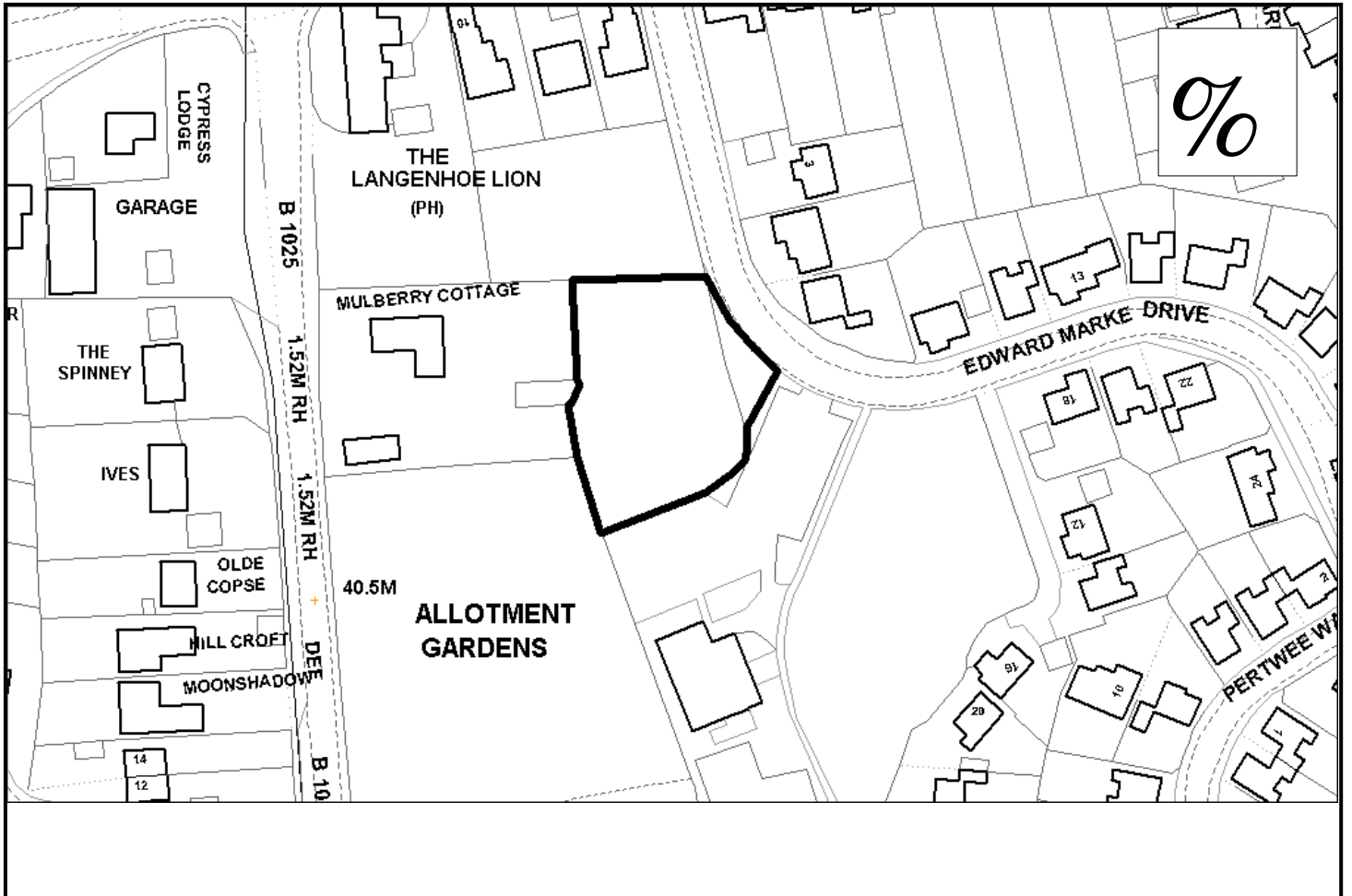
11 - Non-Standard Condition

Detailed drawings showing the horizontal and vertical alignment of the by-pass in comparison with existing land levels shall be submitted to and approved by the Local Planning Authority prior to the commencement of works.

Reason: In order to ensure that the detailed alignment of the road is satisfactory.

Informatives

The Local Planning Authority expects the By-pass and Truncated Western Relief Road link or Spur to have a Stone Mastic Asphalt or other similar noise attenuating surface throughout in order to reduce the impact of road traffic noise.



Application No: 091260

Location: Land Fronting, Edward Marke Drive, Langenhoe, Colchester, CO5 7LP

Scale (approx): 1:1250

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7.2 Case Officer: Nick McKeever

MINOR

Site: Edward Marke Drive, Langenhoe, Colchester, CO5 7LP

Application No: 091260

Date Received: 2 December 2009

Agent: Mr Stuart Moncur

Applicant: Mr D Dearden

Development: Proposed residential development of two detached dwellings (resubmission of 090268)

Ward: Pyefleet

Summary of Recommendation: Conditional Approval subject to Unilateral Undertaking

1.0 Planning Report Introduction

1.1 This application proposes the erection of two detached, two storey dwellings with integral garages on a 0.1508 ha plot of land fronting onto Edward Marke Drive, Langenhoe. The external materials are a mix of clay plain tiles, render and red facing bricks. Plot 1 has a habitable floor area of just under 238 sq.m, whilst Plot 2 is approximately 250 sq.m. The ridge heights are just over 9 metres. Both new dwellings have five bedrooms.

1.2 Both plots have separate vehicular access points off Edward Marke Drive, with hardstanding and vehicular turning provision on the site frontages.

1.3 The application is supported by a Design and Access Statement and a Tree Survey/Arboricultural Assessment. These can be viewed in full on the Council website.

2.0 Site Description

2.1 Edward Marke Drive comes off the Fingringhoe Road, Langenhoe and serves an established residential area. There are two storey dwellings immediately opposite the site; the Village Hall and car park immediately to the south of plot 2, and allotments to the south west of plot 2. To the north is the garden of the Langenhoe Lion Public House and beyond this are the dwellings Nos 10 to 14 Fingringhoe Road.

2.2 The site is formed from part of the rear garden of Mulberry Cottage, which lies immediately to the west of the rear garden of plot 1.

2.3 The front of the site is presently enclosed by a 1.8m high close boarded fence.

3.0 Land Use Allocation

3.1 Countryside Conservation Area/Village Envelope.

4.0 Relevant Planning History

4.1 090268 – Proposed residential development of three detached dwellings. Withdrawn 19 May 2009.

5.0 Principal Policies

5.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Design – UEA11
Impact upon existing dwellings – UEA13
CO3 – Countryside Conservation Areas
ENV1 - Countryside

5.2 Core Strategy
UR2 – Built Design and Character

6.0 Consultations

6.1 The Highway Authority has no objection subject to conditions.

6.2 Spatial Policy comment as follows:

"Planning Policy provided comments on the original application 090268 and outlined that the application site was outside of the Langenhoe settlement boundary as identified in the 2004 Local plan.

As part of the Colchester LDF the Planning Policy Team has undertaken a systematic and comprehensive review of the Local Plan settlement boundaries and this review has informed the Site Allocations DPD and the Submission Proposals Map which were published for consultation in September 2009. The Settlement Boundary review looked to rectify obvious drafting errors and include recent developments rather than allocate additional sites for housing. The Core Strategy identifies that the need for housing within the rural areas is to be delivered on sites within the existing settlement boundaries or on rural exception sites. The Submission Proposals Map for Langenhoe shows no changes to the settlement boundary and this will be subject to public examination in the spring 2010 and then subsequently adopted later in 2010 if found to be sound. Until that time the Local Plan Proposals Map is to be used in the decision making process.

Core Strategy Policies SD1, ENV and ENV2 do not support residential development outside of village envelopes but Policy H4 allows affordable housing development on rural exception sites contiguous with village settlement boundaries. The proposal is for two detached open market dwellings which is contrary to policies within the Core Strategy. If the application proposed dwellings which were considered to be affordable and delivered in partnership with a Housing Association the principal of development could be supported by the Planning Policy team.

The policy of limiting development of sites outside of the existing settlement boundaries is along established and although this site is central to the village it is still considered to be contrary to policy and therefore Planning Policy are unable to support this application."

6.3 Environmental Control recommends the inclusion of the standard notes for demolition & construction.

6.4 The application has been advertised in the local press as a departure from the Local Plan. The consultation period expires on 5 March 2010.

7.0 Parish Council's Views

7.1 Abberton & Langenhoe Parish Council has no objection.

8.0 Representations

8.1 One objection has been received on the grounds that the access is close to a blind bend and parking within the road will exacerbate existing traffic related concerns.

9.0 Report

9.1 This application has been re-submitted following discussions with your Officers and seeks to overcome the original objection to the erection of three dwellings on this parcel of land.

9.2 The Adopted Review Colchester Borough Local Plan March 2004 – Abberton & Langenhoe C1 inset to the Proposals Map shows that this parcel of land is excluded from the designated village envelope. It is also within the CCA designated as part of this Local Plan. The map reproduced as Appendix 1 is the C1 Langenhoe Inset where the designated village envelope is shown marked by a bold, black line. This plan shows that, with the exception of a small triangular part of the site immediately adjacent to Edward Marke Drive, the remainder of the site is outside of this envelope.

9.3 The current Local Development Framework Submission Proposals Map for Langenhoe shows that this situation is to remain unchanged. Hence the comments submitted by Spatial Policy.

9.4 Clearly this land designation and the pertinent saved Local Plan and LDF Core Strategy policies are a significant and material consideration and considerable weight must be given to them. It is considered, however, that there are exceptional circumstances and other considerations that should also be taken into account and weighed in the balance.

9.5 The first of these considerations is the fact that this garden area lies immediately adjacent to existing established residential development. It borders onto the Langenhoe Lion P.H. with three dwellings adjacent to this P.H. It also fronts onto Edward Marke Drive forming part of an established residential estate. Immediately adjacent to the southern boundary of the site is the Langenhoe Village Hall and its associated car park. Immediately adjacent to the south western corner of the site are established allotments.

- 9.6 In this context it is considered that this can reasonably be considered as infill development, which on the face of it can not be considered to cause any significant or demonstrable harm to the character or appearance of this particular setting.
- 9.7 Members will be aware that it is also current advice that best use should be made of available land where this does not result in 'town cramming' or any loss of visual or residential amenity.
- 9.8 When considered entirely upon its own particular merits it is considered that this scheme will not set any undesirable precedent. A refusal of permission based solely upon the fact that the site lies outside of the designated development area, albeit immediately contiguous with it, is not considered to be sustainable.
- 9.9 There is no disputing that these are relatively large, executive style, dwellings and that their bulk is increased by the steeply pitched roofs (i.e. approximately 50 degrees). However, the individual plots are of a generous size such that the dwellings can be accommodated within them without appearing cramped in their setting. In this context the development also complies with the Council's spatial and car parking standards.
- 9.10 The development has no significant impact upon the amenity of any nearby properties, given that the land to the north is the gardens of the Langenhoe Lion P.H. and the land to the south is the Village Hall and car park. Only Plot 1 backs onto an existing dwelling, Mulberry Cottage, which is owned by the Applicants. The house on Plot 1 is also set at an oblique angle to this existing dwelling.
- 9.11 The submitted objection on highway related matters is acknowledged. It is noted, however, that the Highway Authority raise no objections to the proposed development.
- 9.12 The Arboricultural Assessment identifies four individual trees, two areas of trees and three hedges that have been surveyed. There are no Category 'A' or 'B' trees on or immediately adjacent to the site. It is necessary to fell one leaning tree of limited visual impact and longevity. One tree requires minor crown reduction. The Assessment concludes that, due to the lack of impact upon significant trees and landscape features within the immediate vicinity, together with the detailed tree protection measures, the trees should not be considered a constraint on the proposed development.

10.0 Conclusion

- 10.1 The site lies outside of the village envelope for Abberton and Langenhoe, as designated in the inset C1 to the Adopted Review Colchester Borough Local Plan. There are no proposals to amend this envelope as part of the LDF Submission Proposals Map, which is subject to public examination in the spring of this year.
- 10.2 Notwithstanding this designation it is considered that there are circumstances which should be also weighed in the balance. Having regard to these circumstances it is considered that this development can reasonably be considered as infill development and thus as an exception to policy. Considered upon its own particular merits this scheme is acceptable in terms of its scale and design and in terms of any impact upon visual or residential amenity.

11.0 Background Papers

11.1 ARC; HA; HH; PP; PTC; NLR

Recommendation

The application be deferred pending the expiry of the additional consultation period. In the event that no objections are received within this period or raise no new material considerations, delegated authority be given to the Head of Environmental and Protective Services to approve the development, subject to the satisfactory completion of the submitted Unilateral Undertaking for a contribution towards the provision of Open Space and Community Facilities, and subject to the following conditions:-

Conditions

1 - A1.5 Full Perms (time limit for commencement of Development)

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 - C3.2 Materials as Stated in Application

The external materials and finishes to be used shall be as stated on the application form and as indicated on the approved plans and schedule returned herewith, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity and helps to reinforce local character and identity.

3 - C12.3 Details of Walls and Fences as Plans

The boundary/screen/walls/fences/railings/hedges etc as indicated on the approved plans returned herewith shall be erected/planted before the occupation of any building and shall be retained thereafter.

Reason: To ensure a satisfactory form of development and in the interests of visual amenity.

4 - Non-Standard Condition

Prior to the occupation of any of the proposed dwellings, the proposed private drives shall be constructed to a width of 2.4m at right angles to the highway boundary and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

Reason: To ensure that all vehicles using the private drive accesses do so in a controlled manner, in the interests of highway safety.

5 - Non-Standard Condition

Prior to the proposed accesses being brought into use, a 1.5m x 1.5m pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of each access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. These splays must not form part of the vehicular surface of the access.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and pedestrians in the adjoining highway, in the interests of highway safety.

6 - Non-Standard Condition

Prior to the proposed accesses being brought into use, vehicular visibility splays of 43m northward by 2.4m by 43m south-easterly, as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of each access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

7 -Non-Standard Condition

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

8 - Non-Standard Condition

Double garages shall have minimum internal dimensions of 7m x 6m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety.

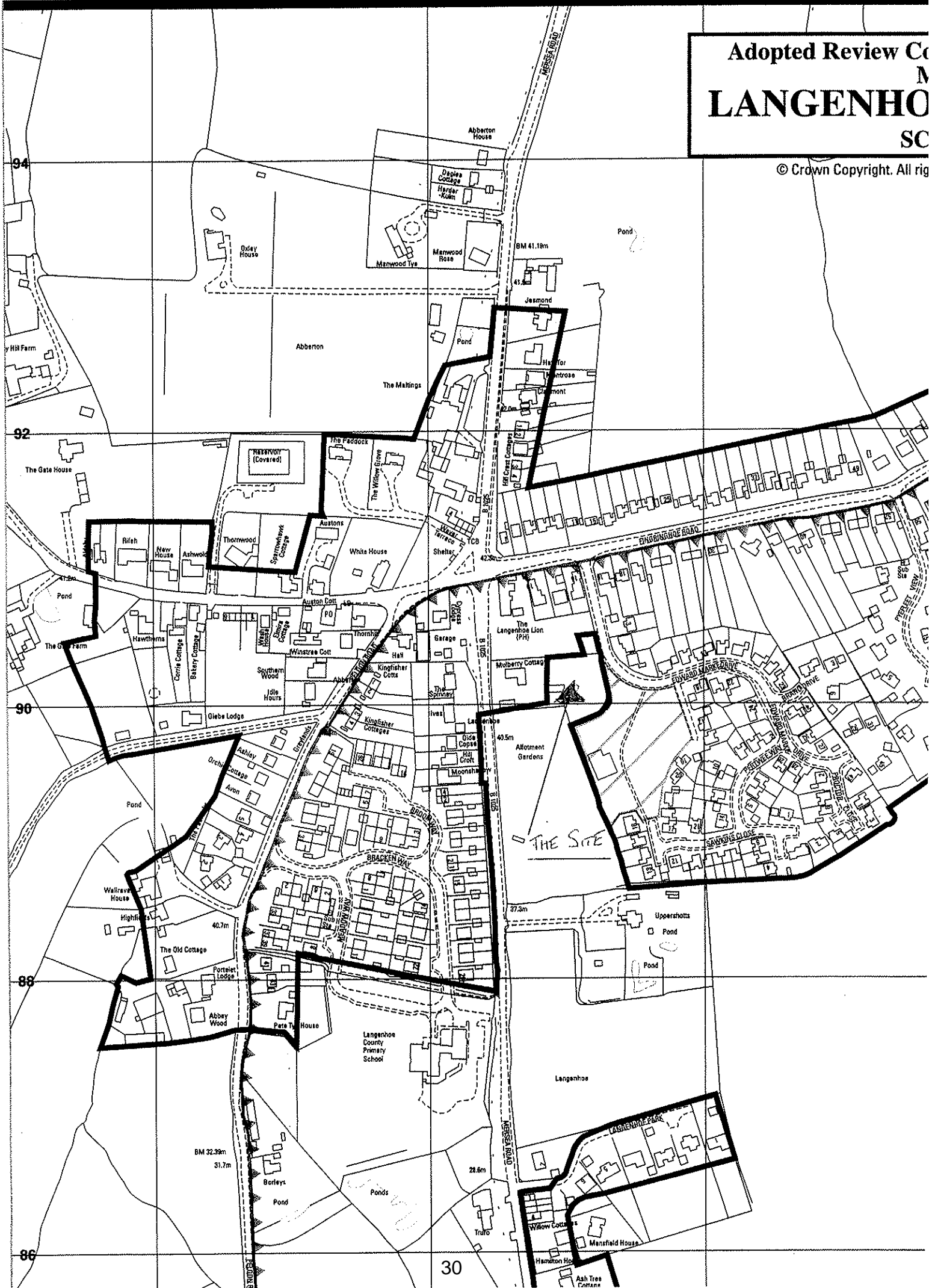
Informatives

All works affecting the highway shall 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 initially by telephoning on 01206 838696 or by e mail on www.highways.eastarea@essex.gov.uk.

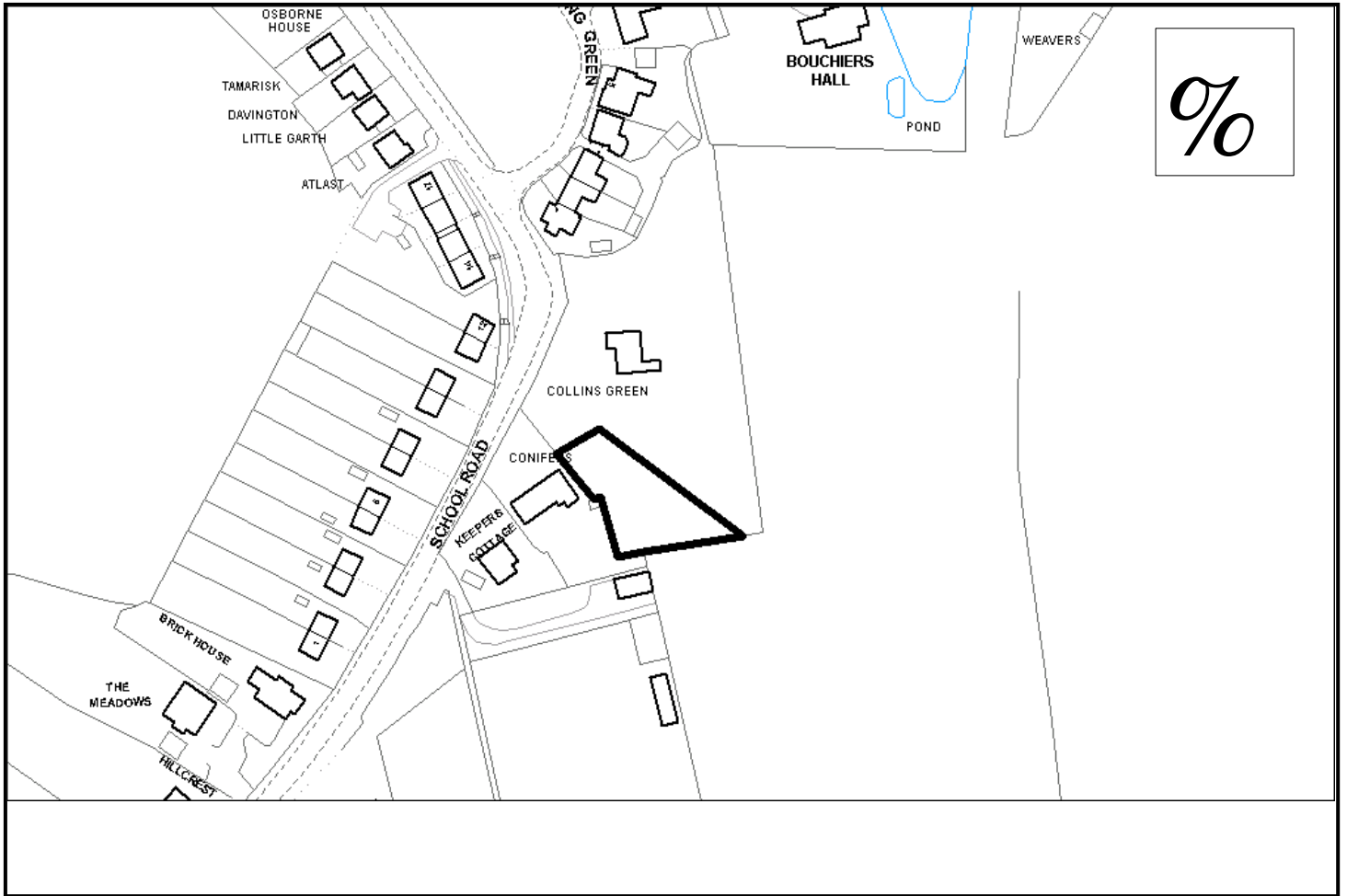
The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction and Demolition Works for the avoidance of pollution during the demolition and construction of works. Should the applicant require any further guidance they should contact Environmental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

Adopted Review Co
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THE SITE



Application No: 091580

Location: Plots 1 & 2, Collins Green, School Road, Messing, Colchester, CO5 9TH

Scale (approx): 1:1250

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7.3 Case Officer: Nick McKeever

MINOR

Site: Collins Green, School Road, Messing, Colchester, CO5 9TH

Application No: 091580

Date Received: 4 December 2009

Agent: Bdg Design (South) Ltd

Applicant: Harding Homes

Development: Retention of plots 1 & 2 with proposed material and component amendments

Ward: Birch & Winstree

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application is for the retention of the 4 bedroom dwellings on Plots 1 & 2 of a residential redevelopment of a site in School Road, Messing. The houses were originally approved under 071734 on 14th September 2007.

1.2 The dwellings were, however, not built in accordance with the approved drawings. They were built as two-and-a half storey, with a fourth bedroom being provided within the roof void. This has resulted in the eaves being built 900mm higher than the approved plans with a proportional increase in the overall height.

1.3 This current application seeks approval for the retention of these buildings at their finished height but with the inclusion of a number of changes to the elevations:-

- Timber dentil cornice below the eaves
- Existing UPVC windows to be replaced with double glazed timber windows
- Brickwork to have a painted colour finish with smooth rendered plinth
- Existing GRP porches replaced with timber moulded pilasters and flat arch canopy
- Existing GRP front doors replaced with 6 no. panel timber painted doors
- Railings added to the front steps

2.0 Site Description

2.1 The site lies within the village envelope of Messing. There are established residential properties to the west along the opposite side of School Road; immediately to the north is a more recent residential development fronting onto an area of village green. Other properties lie to the south whilst to the east lies open countryside.

2.2 The site is approximately 0.5ha with planning permission (reference F/COL/07/0826) for the erection of 7 dwellings:-

2 x 3 bed semi-detached houses on Plots 1 & 2
2 x 4 bed semi-detached houses on Plots 3 & 4
2 x 5 bed detached houses
1 x 6 bed detached house.

2.3 The dwellings on Plots 1 to 4 have been constructed. The construction of the remaining units within this development is currently underway.

3.0 Land Use Allocation

3.1 Part village envelope/part Countryside Conservation Area

4.0 Relevant Planning History

4.1 071059 - 7 No residential properties and associated garages - Withdrawn 18 May 2007

4.2 071734 - Demolition of existing bungalow and workshops, construction of 7 no. residential properties and associated garages and new access (resubmission of 071059) Approved 14 September 2007

4.3 081574 - Revised entrance position (for 7 dwellings approved under Ref: 071734).

4.4 090211 - Retrospective application for minor elevational changes to Plots 1 & 2 - Refused 7 April 2009

4.5 82/1321 - Erection of 60ft telescopic, tilt-over aerial mast - Approved 24 January 1983

4.6 F/COL/03/1479 - Erection of 7 houses (4 x 3 bed, 2 x 4 bed, 1 x 5 bed), construction of replacement access road and associated hard and soft landscaping. Demolition of existing buildings - Withdrawn 29 April 2004

4.7 F/COL/04/0826 - Erection of 7 houses consisting of 4 x 3 bed, 2 x 4 bed, 1 x 5 bed houses, construction of replacement access road and associated hard and soft landscaping. Demolition of existing buildings (revised application) - Approved 9 August 2004

4.8 F/COL/05/1104 - Erection of 14 no. houses, access road, garages, cartlodge parking and associated landscaping. Demolition of existing buildings - Refused 12 August 2005

5.0 Principal Policies

5.1 Adopted Review Colchester Borough Local Plan
Development Control Considerations - DC1
Design – UEA11
Impact upon existing adjacent dwellings – UEA13

5.2 Adopted Core Strategy
UR2 – Urban renaissance

6.0 Consultations

6.1 No responses to the Local Planning Authority have been received from consultations except from members of the public, which are detail in the representations section below.

6.2 It is understood from various sources, including Borough and Parish Councillors, that a survey of local opinion has been conducted. The findings were said to have concluded that 70% or more of the village residents were in favour of retaining the buildings as detailed in the submitted plans. However, this has not been confirmed in writing with the case officer. Should details be received before the committee meeting then this will be added via the amendments sheet. However, there is no cause for doubt at this time.

7.0 Parish Council's Views

7.1 Messing cum Inworth Parish Council have no objection to this proposal

8.0 Representations

8.1 5 letters of objection have been received. The objections are summarised as follows:-

- The height of the two buildings remains, contrary to the planning permission, and to the authorised enforcement action. At this height the buildings remain intrusive, and overpower the adjoining, existing dwellings.
- The improvements to the external appearance are cosmetic and should not be at the expense of realising the approved building heights.
- Possible precedent for the enlargement of the other dwellings with increase in the numbers of bedrooms

8.2 One letter of support has been received.

9.0 Report

9.1 Members will be aware that a previous application 090211 for the retention of these two dwellings as they were constructed in breach of the planning permission 071734, was refused, and enforcement action sought to reduce the height of the buildings together with the restoration of stone cills and other decorative detail.

9.2 The ownership of the site has now changed and the current owners have had meetings and discussions with your Officers in order to clarify the situation and to negotiate improvements not only to Plots 1 and 2, but also to the remaining dwellings.

9.3 A report setting out in some detail the unauthorised changes, and setting a recommended course of action by the Council, was submitted to the Planning Committee on 9 July 2009. A copy of this report is reproduced as Appendix 1 to this current report.

- 9.4 The proposals put forward as part of this current application does not include the removal of the brick-on-edge lintel detail, or the insertion of decorative stone lintels nor the quoin detail. It is considered, however, that the proposal to finish the exterior with a masonry paint would negate the use of stone lintels or quoin detail. It is accepted that a painted finish is acceptable in terms of the Council's adopted SPD "External Materials in New Development" in that it provides an attractive alternative to smooth render where a coloured façade is required.
- 9.5 The proposed remedial works do, however, address the recommended removal of the plastic pedimented door hoods as well as the provision of a decorative cornice detail below the eaves. It is also noted that the applicant proposes the replacement of the UVPC windows with painted, double glazed, timber windows.
- 9.6 The applicant has also provided written confirmation that provision of swept metal railing detail to the front doors of Plot 1 & 2 is acceptable, as recommended in part (f) of the 9 July Committee Report. It is hoped to have amended/additional drawings showing this detail for presentation at the Committee Meeting.
- 9.7 The approach that has been taken has been to view the development as a whole and to undertake various amendments to the elevations and changes to the external materials. These changes have improved and enhanced the scheme as a complete entity. This is demonstrated on the coloured Proposed Street Elevation Drawing No. 09.087/164.
- 9.8 The Design and Access Statement submitted with the application states that a presentation of improvements to the development at Collins Green was made to members of the Parish Council and residents in October 2009. This Statement also states that it was understood that the majority of the public and Parish Councillors found the proposals favourable and would support any formal submission.
- 9.9 Whilst the applicants propose the retention of Plots 1 & 2 at the height constructed, it is considered that, when considered as a complete package, these two dwellings do not appear as incongruous or out of keeping. The resulting street elevation is considered to be varied attractively and creates added visual interest through the use of more traditional materials and features. The applicant has provided written confirmation that no changes have been made to the ground levels.
- 9.10 It is on this basis that the amendments to Plots 1 & 2 are acceptable and successfully address your Officer's previous concerns.
- 9.11 Full details of any recommended conditions will be made available at the Committee Meeting.

10.0 Background Papers

10.1 ARC; PTC; NLR

Recommendation - Conditional Approval

Any applicable conditions necessary to secure the development as detailed will be added to the Amendment Sheet and made available for Committee Members.



Planning Committee

Item

9 July 2009

Report of	Head of Environmental and Protective Services	Author	Vincent Pearce 01206 282452
Title	Plots 1 & 2 and 3 & 4, Collins Green, School Road, Messing		
Wards affected	Birch & Winstree		

This report concerns the unauthorised material changes made to the external appearance and scale of the nearly completed units 1&2 and 3&4 within this small infill development

1. Decision(s) Required

- 1.1 Members are requested to consider the information contained in this report and authorise the issuance and service of an Enforcement Notice requiring:-
- a. the removal (by cutting out) of the currently unauthorised brick on edge lintel detailing to all windows on the front elevations **and**
 - b. the insertion of new decorative stone (or reconstituted stone if appropriate in appearance) lintels of a type to be agreed in writing and in advance with the local planning authority **and**
 - c. the removal of unauthorised plastic cills and the cutting in of decorative stone (or reconstituted stone if appropriate in appearance) cills of a type to be agreed in writing and in advance with the local planning authority **and**
 - d. The addition of quoin detailing on the front elevations as shown on the approved drawings. (The use of stone slips of a type to be agreed in writing and in advance with the local planning authority is likely to acceptable subject to appearance and convincing profile) **and**
 - e. The removal of the unauthorised plastic pedimented door hoods and replacement with simple timber lead covered flat hoods with timber pilasters of a type and appearance to be agreed in writing and in advance with the local planning authority **and**
 - f. The installation of swept metal railing detail to the front door of plots 1 & 2. This detailing to be of a type and appearance to be agreed in writing and in advance with the local planning authority **and**
 - g. The addition of decorative cornice detailing below eaves on the front elevations to plots 1 & 2 of a type and appearance to be agreed in writing and in advance with the local planning authority **and**

h. The proper making good of any brickwork damaged by the removal of unauthorised elements.

1.2 In terms of the period allowed for compliance it is recommended that 1 month be allowed after the 28 day period after which the Notice takes effect.

1.3 **It is highly recommended that Members make a ‘joint’ site visit prior to the meeting, if at all possible, in order to have a reasonable understanding of the topography and context of the site as well as having had the benefit of seeing the houses as built bearing in mind the potential severity of other options open to the Council in this case.**

2.0 Reason for Decision

2.1 The development as built does not accord with the details of the planning permission granted 14th September 2007 (CBC. reference 071734) and the required alterations are required to improve the external appearance of the buildings to a level that is considered acceptable in this pretty rural location.

2.2 Furthermore the applicant has carried out unauthorised building work particularly in respect of the dwellings on plots 1 & 2 which have significantly increased the height and mass of the buildings with consequent harm to the visual appearance of the buildings. The required remedial works (beyond those approved by the relevant planning permission) have been designed to disguise the otherwise unacceptable and ungainly proportions of the front elevations to plots 1 & 2. This disturbing to the eye ungainliness is as a result of excess brick to void ratios and the unnatural amount of brickwork above the head of first floor windows and below the eaves.

2.3 Failure to undertake these works, considered to be the minimum possible to achieve some level of restoration of balance and harmony in the elevations, would render the development unacceptable and such as would not have received planning permission.

3.0 Alternative options

3.1 The **Do nothing option** is no longer relevant since the retrospective planning application to regularise the unauthorised works was refused planning permission on 7th April 2009. (CBC reference 090211).

The reason for refusal of the retrospective application was cited as;-

“Plots 1 & 2 as constructed represent significant changes from the approved plans including the insertion of additional brickwork, different levels and lack of architectural details. The resultant building has an aesthetically unpleasant appearance that will detract from the appearance and character of the development as approved under the permission 071734 and detracts from their setting within the established village street scene. In this respect the development is contrary to the Adopted Review Colchester Borough Local Plan – March 2004 Policy UEA11 and to the advice contained within planning Policy statement 1 (PPS1)”

3.2 The **part demolition option** is potentially a reasonable option if members disagree with the weight given by your officer to what has been described as the likely beneficial impact that the suggested remedial works will have. If members take that view then the minimum demolition necessary to rectify the harmful visual impact caused by the unauthorised increase in height is:-

- Removal of the entire roof and the removal of some 800mm of brickwork below the current eaves level. The subsequent replacement of the roof. This will also have a significant impact on the building's rear elevation where the two storey extension has also been built too high. It will also mean the loss of the room in the roof. These alterations would do nothing to restore the missing architectural detail to the front elevations

4.0 Supporting information

4.1 Since the refusal of the retrospective application back in April 2009 your officers have been attempting to negotiate with the developer a possible way forward that will prove acceptable to the Council.

4.2 Those negotiations whilst amicable have been slow because of the time it has take to gain access to the site, the need to take accurate measurements and assess all the discrepancies that have occurred and because the developer has been reluctant to agree to carry out any remedial work until recently.

4.3 There has been a dispute between parties as to what materials were or were not agreed with the Council. There is no dispute that Ibstock Leicester red bricks were approved. The issue revolves around whether the Council agreed to the dropping of the quoin detailing. There has never been any agreement to the wholesale raising of brickwork.

4.4 The developer has explained that when setting out plots 1 & 2 and 3 & 4 it became apparent that he had to make changes as the slope within the site was greater than expected. In order to get a sensible garden slope and level access to rear/side doors & paths (having had to cut into the slope) for Building regulation approval (with the NHBC not the Council's Building Control service – as was his prerogative). In effect this meant that plots 1 & 2 ended up with finished floor levels lower than envisaged on the submitted and approved drawings. Indeed the relationship between plots 1 & 2 and 3 & 4 changed such that the developer has suggested that he needed to raise the brickwork on plots 1 & 2 in order that the ridge heights between the two pairs of plots remained harmonious rather than stepped in an exaggerated manner. The fact that it also meant that a room could be fitted into the roof cannot easily be overlooked. It doesn't easily account for the fact that the rear gabled additions on plots 1 & 2 were also raised higher than approved and that boarding was used in places.

4.5 It should be noted however that much of the front elevation to these properties will be concealed from public view from the road by two significant boarded and pitched roofed garages to be built on the sites frontage.

- 4.6 It should also be noted that the dwellings on plots 3 & 4 were permitted with the unusually high brickwork above first floor window head level. Here however the exaggerated proportions are disguised by the introduction of approved dormer windows in the roof which help to restore the visual balance and prevent a 'top heaviness' from occurring.
- 4.7 It is intended to present a range of imagery at the Planning Committee meeting to fully describe the nature of the unauthorised discrepancies and explain the consequent harm. A mock up of the recommended remedial measures has also been prepared by the Service to illustrate their impact.

5.0 Conclusion

- 5.1 It is considered expedient to take the enforcement action described in section 1 of this report in order to ensure that the harm currently being caused to the appearance and character of these buildings is suitably mitigated and the quality of appearance originally envisaged is achieved.

6.0 Strategic Plan references

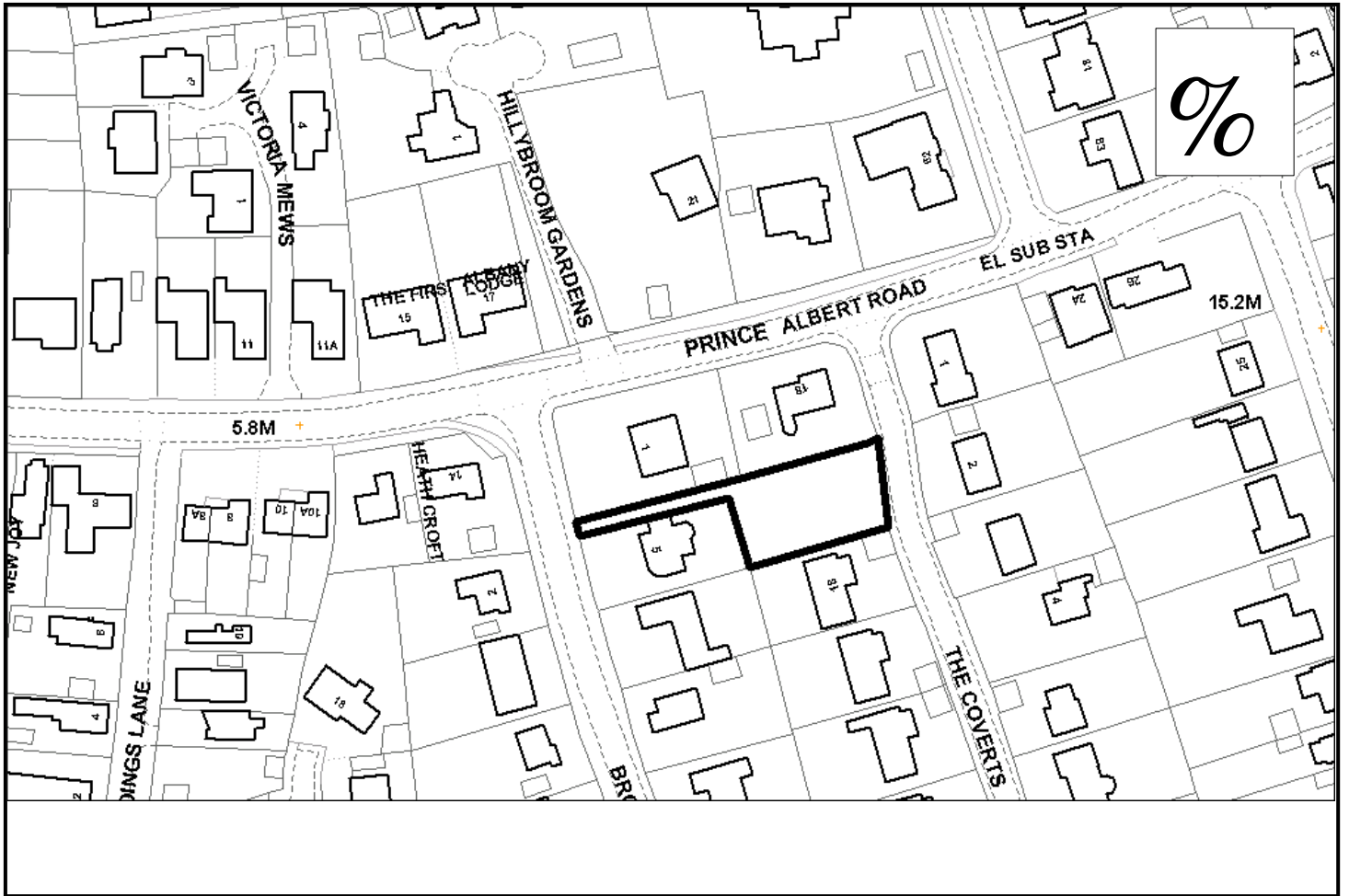
- 6.1 No direct link to the 9 key objectives.

7.0 Standard references

- 7.1 This matter does raise human rights issues in respect of the developer's right to make a living. However it should be noted that if he had implemented the permission as approved there would have been no threat of enforcement action to face. The recommended enforcement action is designed to ensure that no lasting visual harm is caused in the common interest.

8.0 Background papers

ARCBLP March 2004
UEA 11



Application No: 091595

Location: Land rear of, 5 Broomhills Road, West Mersea, Colchester, CO5 8AP

Scale (approx): 1:1250

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7.4 Case Officer: **Bradly Heffer**

MINOR

Site: 5 Broomhills Road, West Mersea, Colchester, CO5 8AP

Application No: 091595

Date Received: 11 December 2009

Agent: Mr M L Bowler

Applicant: Mr Martin Cock

Development: Proposed severance of garden to rear of 5 Broomhills Road and erection of 1 no. 2 bedroomed bungalow with detached garage.

Ward: West Mersea

Summary of Recommendation: Conditional Approval subject to Unilateral Undertaking

1.0 **Planning Report Introduction**

1.1 This report relates to a proposal to erect a new dwelling within the rear garden of a dwelling at 5 Broomhills Road, West Mersea.

2.0 **Site Description**

2.1 No.5 Broomhills Road, West Mersea is a detached two storey dwelling within an established residential area. The site slopes from east to west and has two road frontages, one on to Broomhills Road and one on to The Coverts, a cul-de-sac to the east of the site. The existing detached dwelling fronts on to Broomhills Road and is currently served by an in and out vehicular access. Boundaries of the site are defined by a combination of hedging and walls and the site contains some trees.

3.0 **Description of Proposal**

3.1 Under this full application, planning permission is sought for the erection of a detached two bedroom bungalow towards the eastern end of the site (land currently forming part of the rear garden of the existing dwelling). The submitted plans show that vehicular access to the site would take place via a private drive leading off Broomhills Road. The building itself would be constructed using a combination of red brick and concrete interlocking tiles. The orientation of the dwelling would be such that its front entrance would face west and the rear elevation would face towards The Coverts. The submitted plans also show the provision of a detached double garage to serve the new dwelling and the existing property, as well as a pedestrian access being created on to The Coverts. At the time that your officer visited the site the pedestrian gate had been inserted into the site boundary with The Coverts.

- 3.2 As part of the planning application the applicant's agent has submitted a Design and Access statement that is available to view on the Council's website. The following extract is included to explain the design rationale behind the submitted scheme:

'The design concept has been to create a single-storey building in a traditional form. No attempt has been made to replicate design of the properties in The Coverts since these are considered to be rather contrived in their external appearance with false timbers being planted over the external wall faces to create a now quite dated mock timber-framed effect...It is proposed that the new bungalow will be finished externally with concrete interlocking roof tiles similar to those of the properties in The Coverts, with a red facing brick and white pvcu windows.'

4.0 Land Use Allocation

- 4.1 Residential as allocated in the adopted Review Colchester Borough Local Plan.

5.0 Relevant Planning History

- 5.1 None

6.0 Principal Policies

- 6.1 Adopted Review Colchester Borough Local Plan
DC1 – General Development Control criteria
UEA11 – Design
UEA12 – Design character
UEA13 – Development including extensions adjoining existing or proposed residential property.
- 6.2 LDF Core Strategy Policies
H1 – Housing delivery
H2 – Housing Density
SD1 – Sustainable Development Locations
UR2 – Built Design and Character
ENV2 – Rural Communities
- 6.3 Colchester Borough Council Supplementary Planning Document 'Backland and Infill Development' adopted September 2009.

7.0 Consultations

- 7.1 The Highway Authority has confirmed that it has no objection to the proposal subject to the imposition of conditions.

8.0 Town Council's Views

- 8.1 The following comment has been received from West Mersea Town Council:

'Following discussion it was agreed to recommend REFUSAL in respect of this application for the following reason:
Very poor access (unless access from the rear could be arranged).'

9.0 Representations

9.1 As a result of neighbour notification two letters have been received commenting on the proposed development. The following comprises a summary of the comments and the full text is available to read on the Council's website:

- In the first representation concerns are expressed regarding the current access, parking, loading and turning problems that are experienced in The Coverts. It is requested that the existing boundary treatment remains.
- The second representation asks that the new dwelling should be visually in keeping with the design of the dwellings in The Coverts, no higher than the roof of No.18 and access to the site should take place off this road and not Broomhills Road. It is requested that the existing boundary treatment to The Coverts should be changed to match the picket fencing found elsewhere in the cul-de-sac. Existing trees on the site should also remain. It is also requested that building works are properly controlled in order to avoid disruption to local residents.

10.0 Report

10.1 Bearing in mind that this site does fall within a defined residential area, the principle at least of building a dwelling in this location is acceptable. That said, clearly any proposal has to be judged in the light of relevant material considerations.

10.2 In this case the fact that the application site benefits from two road frontages is a key consideration. This would enable a dwelling built at the rear of No.5 to have a visual relationship with The Coverts, notwithstanding fact that vehicular access would not be taken from this road. With regard to the issue of vehicular access it is noted that the layout drawing submitted with the application identifies a 'ransom strip' of land between the application site boundary with The Coverts and the highway. This explains the reason for seeking to adapt the vehicular access serving the existing dwelling off Broomhills Road.

10.3 As Members will be aware, to take an access to serve a new dwelling to the side of an existing dwelling, and develop in the rear garden, can often lead to a visually unsatisfactory backland form of development. In your officer's view this situation is avoided in this case due to the fact that the site does have two road frontages. Furthermore the works to adapt the current access arrangements on the Broomhills Road frontage are not considered to be visually inappropriate or harmful to visual amenity in this case. In order to create an access to serve the existing and proposed dwellings the attached garage to the side of the existing dwelling would have to be demolished and a drive of minimum 5.5 metres width for the first 6 metres into the site provided, tapering in width past this point. This would allow a vehicle to wait clear of the highway whilst another vehicle exited the site. The provision of a shared turning facility is also a requirement in order to allow vehicles to leave the site in forward gear. It should be noted that the current access arrangement has resulted in a substantial area of the front garden of No. 5 being given over to vehicular manoeuvring and parking space and this current proposal would not radically alter the visual character of this part of the site. The loss of the attached garage facility would be mitigated by a replacement facility further into the site. It is noted that the Highway Authority is content with the access arrangements to serve the dwelling.

- 10.4 As regards the design of the dwelling this does not match the design found elsewhere in The Coverts. The enclave of dwellings found here do have a specific design character (including an applied timber framing detail) which gives an overall visual cohesion to the development. That said, the fact that the proposed bungalow does not follow this design is not considered to be a sound reason to reject the development. It would be constructed using a palette of materials that are appropriate to the location i.e. red bricks and concrete tiles. Furthermore the new dwelling would read as being of its time – just as the existing dwellings do – and it is felt that the provision of this new element in the street would not harm the overall character of The Coverts. In terms of amenity provision it is demonstrated on the submitted plan that the proposed dwelling and, importantly, the existing dwelling, would be served by private amenity space in excess of the Council’s adopted standards.
- 10.5 The comments received from the local residents are fully acknowledged and appreciated. Responses to some of the points raised have been made previously in this report. With regard to the issue of taking vehicular access off The Coverts, this would seem to be the most practical solution to developing the application site. However, as noted previously, a ‘ransom strip’ situation exists that precludes access being taken off The Coverts. The Council has been asked to consider the scheme with the provision of an alternative means of access, and your officer’s view is that this could be successfully accommodated without harm to visual amenity. In practical terms it is likely that day to day access for services such as waste collection would take place on The Coverts side of the application site, acknowledging the presence of the pedestrian gateway. Similarly in the unfortunate event of a fire the firefighters could properly access the site via The Coverts frontage gateway. However, the design of the access would enable cars to visit and, importantly, park clear of the highway.
- 10.6 As an adjunct to this, the means of access to the site has meant that the orientation of the proposal results in the private garden area being between the new dwelling and The Coverts. On this basis it is recommended that should Members be willing to approve the submitted scheme a condition should be put in place that controls the provision of outbuildings etc. in the rear garden. This would mean that ongoing control was exercised over sheds etc. and the Council could consider their prominence in the street scene.
- 10.7 On the basis of the above it is recommended that a conditional planning permission for the proposed development could reasonably be granted in this case. Members should note that the planning submission is accompanied by a Unilateral Undertaking that would secure the required open space and recreation contribution in accordance with the Council’s adopted supplementary planning guidance document.

11.0 Background Papers

11. ARC; Core Strategy; HA; PTC; NLR

Recommendation

Permission is recommended subject to the satisfactory completion of the submitted Unilateral Undertaking for a contribution towards the provision of Open Space and Community Facilities, and subject to the following conditions:-

Conditions

1 - A1.5 Full Perms (time limit for commencement of Development)

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 - A7.3 Rem of Perm Devel Rights-residential

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment)(No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) no enlargement of the dwellinghouse(s) nor development within its curtilage as permitted by Classes A-H of Part 1 and Classes A-C of Part 2 of that Order shall be carried out without express planning permission from the Local Planning Authority.

Reason: To safeguard the visual amenity of the area, to protect the amenity of adjoining residents and to prevent the overdevelopment of the site.

3 - A7.8 Limits to Loft Conversions

The building hereby permitted shall only be single storey in height with no habitable accommodation provided within the roofspace.

Reason: In order to avoid doubt as to the scope of the permission hereby granted and to protect the amenities of adjoining residents.

4 - C3.1 Materials (general)

Before the development hereby permitted commences, the external materials and finishes to be used, shall be agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with agreed details.

Reason: To ensure a satisfactory appearance in the interests of visual amenity.

5 - C3.20 Surfacing Materials to be Agreed

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable access ways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: To ensure a satisfactory appearance in the interests of visual amenity.

6 -C10.18 Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained, unless shown to be removed on the approved drawing. All trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its guidance notes and the relevant British Standard. All existing trees shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that any trees and/or hedgerows (or their replacements) die, are removed, destroyed, 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. Any tree works agreed to shall be carried out in accordance with BS 3998.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.

7 - C11.14 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.

8 - C12.3 Details of Walls and Fences as Plans

The boundary/screen/walls/fences/railings/hedges etc as indicated on the approved plans returned herewith shall be erected/planted before the occupation of any building and shall be retained thereafter.

Reason: To ensure a satisfactory form of development and in the interests of visual amenity.

9 - Non-Standard Condition

Prior to the occupation of the proposed dwelling, the proposed private drive shall be constructed to a width of 5.5m for at least the first 6.0m and then taper down one sided to any lesser width thereafter within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

10 - Non-Standard Condition

Prior to the proposed access being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of that access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. These splays must not form part of the vehicular surface of the access.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and pedestrians in the adjoining highway, in the interests of highway safety.

11 - Non-Standard Condition

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m. of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

12 - Non-Standard Condition

The gradient of the proposed vehicular access /garage drive/ hardstanding shall be not steeper than 4% (1 in 25) for at least the first 6m. from the highway boundary and not steeper than 8% (1 in 12.5) thereafter.

Reason: To ensure that vehicles using the access both enter and leave the highway in a controlled manner, in the interests of highway safety.

13 - Non-Standard Condition

Prior to occupation of the proposed development turning facilities shall be provided within the site (as shown endorsed red on the amended plan) constructed, surfaced and made available for use and thereafter retained for that sole purpose.

Reason: To ensure appropriate turning facilities are provided so that vehicles can enter and exit Broomhills Road in a safe and controlled manner in accordance with Essex Local Transport Plan 2006 / 2011 Appendix G: Development Control Policy 7 Vehicle Parking Standards.

14 - B7.4 Fencing Around Site

Neither demolition nor any other site works shall commence until the frontage of the site has been enclosed by a continuous solid fence in accordance with details to be agreed in writing by the Local Planning Authority. Such fencing shall remain in place until clearance/building works have been completed.

Reason: To protect the amenities of the locality.

15 - B7.5 Hours of Work

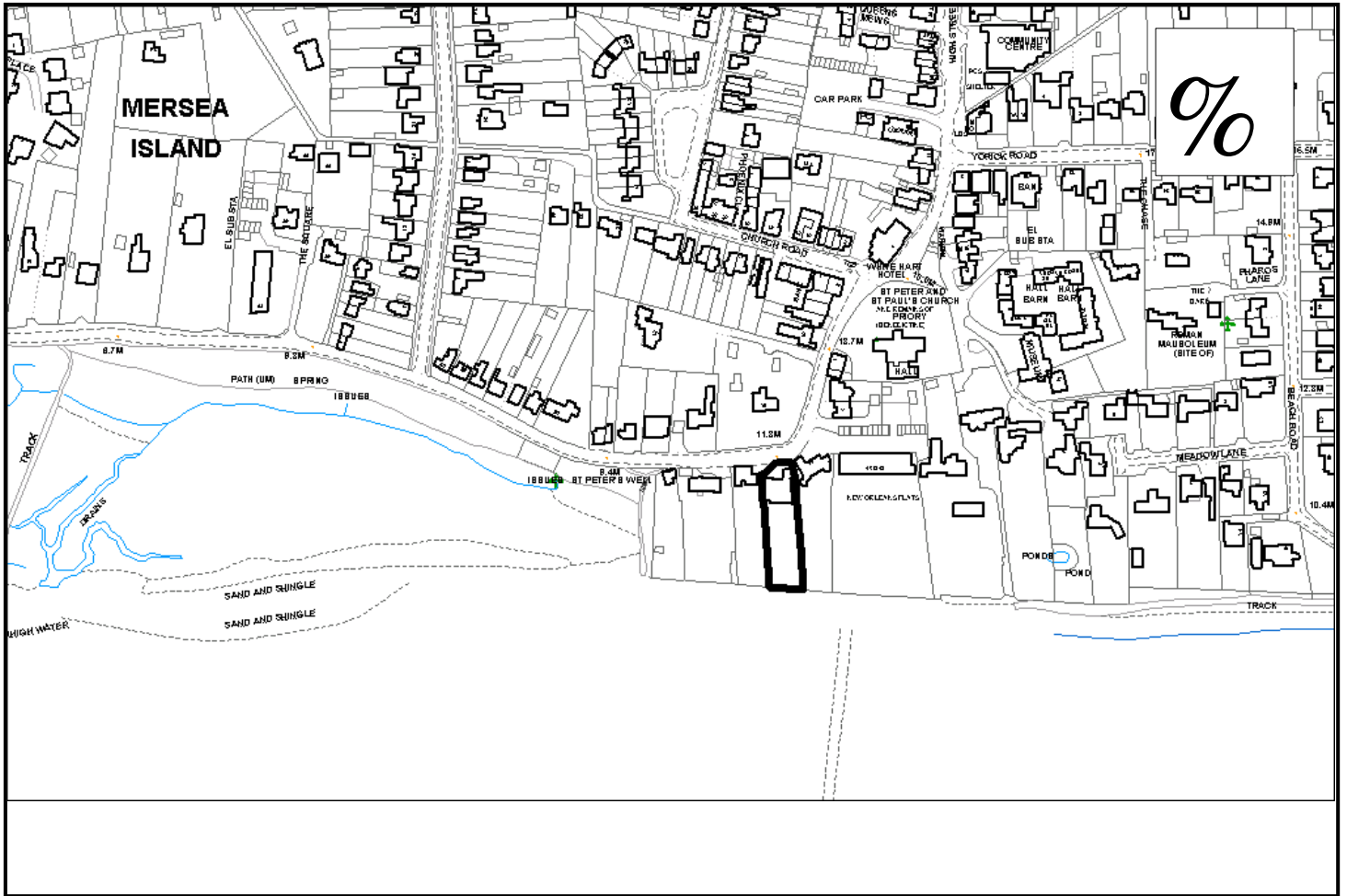
No construction work relating to this permission shall be carried out on any Sunday or Public/Bank Holidays nor before 0730 hours or after 1800 hours on any weekday or before 0800 hours or after 1300 on Saturdays.

Reason: In order to protect the amenities of the area from potential disturbance and nuisance resulting from the construction process.

Informatives

All works affecting the highway to 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 initially by phone on 01206 838696 or by email on www.highways.eastarea@essex.gov.uk.

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



Application No: 100006

Location: 13 Coast Road, West Mersea, Colchester, CO5 8LH

Scale (approx): 1:1250

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7.5 Case Officer: Andrew Tyrrell

EXPIRY DATE: 01/03/2010

OTHER

Site: 13 Coast Road, West Mersea, Colchester, CO5 8LH

Application No: 100006

Date Received: 4 January 2010

Agent: Western Design

Applicant: Mr Gerry Wiggins

Development: Modifications to existing property, including new fenestration, removal of existing roof and erection of new second floor, erection of pool enclosure.

Ward: West Mersea

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This planning application is referred to the Planning Committee due to a call-in by Councillor Jowers. No planning reason has been given for calling in this application.

2.0 Site Description

2.1 The site is located on Coast Road, West Mersea. The property is a single dwelling on the south side of Coast Road and its rear garden backs onto the sea front. It is situated on a curve in the road and therefore acts as a visual termination of the vista. There is a mixture of property types in this locality, but a similar feature is the steeply sloping rear gardens. These properties back onto the sea, so viewing points from rear windows, balconies and terraces are important.

3.0 Description of the Proposal

3.1 The proposal is for an extension to the dwelling to provide an additional floor. The works also include alterations to the cosmetic appearance and features such as a balcony and architectural details such as timber louvres.

4.0 Land Use Allocation

4.1 The land is allocated as residential use.

5.0 Relevant Planning History

5.1 There is no relevant planning history for this site. However, there is a recent approval for a swimming pool building (091269) at the adjacent property, number 11. This was granted in November 2009.

6.0 Principal Policies

6.1 The following adopted Local Plan policies are relevant:

- DC1 – Development Control Considerations
- UEA11 – Design
- UEA13 - Development, Including Extensions, Adjoining Existing or Proposed Residential Property

6.2 The following adopted Core Strategy policies are also relevant:

- H3 – Housing Diversity
- UR2 – Built Design and Character

7.0 Consultations

7.1 The Environment Agency assesses the application as having low environmental risk.

7.2 Urban Designers were involved in the design of the development and are therefore satisfied that this is an appropriately detailed contemporary dwelling design.

8.0 Parish Council's Views

8.1 The Town Council recommend that consent be granted for this development, however they would like the side facing windows to be obscure glazed and the balcony to have side screens to protect the neighbours' privacy.

9.0 Representations

9.1 2 objections have been received. The issues raised are overshadowing, overlooking, overbearing, and the contemporary design being out of keeping. These concerns are addressed in the main report.

9.2 The objecting resident at 11 Coast Road has also appointed a planning consultant (Ransome and Company) to pursue some of these issues and a detailed letter of objection was received from them. The issues raised herein can be seen in detail on the file or website, but include those set out above, as well as cramming, contemporary design/flat roof being out of character with Mersea, the DAS being inadequate, views and failing to satisfy the Council's own adopted policies/SPD.

9.3 In response to the above letter from Ransome and Company, the agent for the applicant has completed a detailed response including diagrams rebutting the claims that the development fails to meet adopted policy on overbearing, overlooking and overshadowing. This can also be viewed on the file or website.

10.0 Report

Overshadowing

- 10.1 The development adds an additional floor to the existing dwelling at 13 Coast Road. The properties that adjoin the site lie to the east and the west; therefore there is some potential for overshadowing to occur at the start and end of the day due to the orientation of the site.
- 10.2 Although the orientation of the site is south facing, it is considered herein that there is no significant impact on light to either neighbour. The property at 11 Coast Road has been under specific scrutiny, with the case officer having met the owner and visited his property. The concern here revolved around impact to the neighbour's side windows, but these are significantly distanced from the proposed extension to avoid failing the Essex Design Guide standards on light. They are also not the only light serving windows, with the south facing windows providing more direct sunlight.
- 10.3 Other concerns were the impact of light loss to the garden, but the area in question is beyond the 3m sitting out area that is protected. General garden areas are not protected from overshadowing, thus this is also acceptable. It should be noted that the garden area is significantly lower due to the changes in ground levels on these coastal properties.

Overlooking

- 10.4 The original plans had side facing windows behind timber louvre detailing which faced sideways over the neighbour's terrace. These windows have now been altered to obscure glazing and can be controlled by condition. Therefore, there is no concern regarding overlooking to the neighbours via the windows.
- 10.5 Attention then turns to the balcony, which is also the subject of some objections. The agent's plans indicate that the angle of outlook from the balcony will be obstructed by the host dwelling. However, this would only be safeguarded via the use of conditions. It is proposed that a condition be used to state that the balcony must have side panels to screen views east and west unless otherwise agreed in writing by the Local Planning Authority. Thus, once it is built, should the owners be able to demonstrate that there is no overlooking the screens could be removed with the Council's agreement. However, should an officer visit the site and be able to see into the neighbours' windows or gardens then the screen would remain in situ thereafter as originally conditioned. This means that there are no concerns regarding potential overlooking that can not be controlled through planning conditions.

Overbearing

- 10.6 To be considered overbearing the extension would need to be within a combined 45 degree plan and elevation line drawn out from the nearest rear facing windows. This is as set out in the Essex Design Guide.
- 10.7 No part of the extension falls within this combined plan and elevation line. Therefore, the proposal is not considered to be an overbearing development.

The Design and Context

- 10.8 The design is one which was submitted as a preliminary enquiry prior to the submission of the application. At that time, it was discussed with Urban Designers, a matter which is detailed on the application forms. Some minor amendments were requested but the submitted scheme is as agreed.
- 10.9 It is considered that the design of the proposal is perfectly acceptable on its own merits. In terms of its impact on the surrounding area, the area has a mix of design typologies. Although most of these are more traditional, the buildings in this locality are reflective of the era in which they were built. No strong character can be found, therefore there is no argument to prohibit contemporary design in the area. It should also be remembered that it is not the role of planning to impose personal tastes in architecture.

11.0 Conclusion

- 11.1 In summary, the application meets the adopted standards in terms of impacts on neighbours. Where there is some potential for problems, via the windows and balcony, there are adequate conditions that can be used to limit any overlooking or loss of privacy. Therefore, the case officer recommends approval.

12.0 Background Papers

- 12.1 ARC; Core Strategy; NR; Design and Heritage Unit; PTC; NLR

Recommendation - Conditional Approval

Conditions

- 1 - A1.5 Full Perms (time limit for commencement of Development)

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 - C3.2 Materials as Stated in Application

The external materials and finishes to be used shall be as stated on the application form and as indicated on the approved plans and schedule returned herewith, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposed development is visually [satisfactory/attractive] and enhances the appearance of the locality.

- 3 - C3.16 Walls to be Smooth Rendered

The walls of the building hereby approved, where they are to be rendered, shall have a smooth finish unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposed development is visually [satisfactory/attractive] and enhances the appearance of the locality.

4 - B4.2 Windows to be Obscure Glazed (1)

The windows marked as obscure glazed on the flank elevations of the development hereby approved shall be glazed in obscure glass with an obscuration level equivalent to scale 4 or 5 of the Pilkington Texture Glass scale of obscuration and shall be retained as such at all times thereafter.

Reason: In order to safeguard the privacy of adjoining occupiers.

5 - B4.5 No Additional Windows in Walls/Roof Slope

No new window or other openings shall be inserted above ground floor level in the side facing elevations of the dwelling without the prior approval, in writing, of the Local Planning Authority.

Reason: In order to safeguard the privacy of adjoining occupiers.

6 - Non-Standard Condition

Notwithstanding the details shown on the submitted plans, unless otherwise agreed in writing by the Local Planning Authority the balcony shown on the approved plans shall be fitted with 1.8m high obscure glazed screens to both sides prior to its first use, and the obscure glazed screens shall be retained at all times thereafter.

Reason: In order to allow the Local Planning Authority to assess the removal of the screens once the balcony is completed and safeguard the privacy of adjoining occupiers should the removal of the screens be considered unacceptable.



Application No: 100026

Location: Lychgate House, 145 Shrub End Road, Colchester, CO3 4RE

Scale (approx): 1:1250

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7.6 Case Officer: Jane Seeley

EXPIRY DATE: 03/03/2010

OTHER

Site: 145 Shrub End Road, Colchester, CO3 4RE

Application No: 100026

Date Received: 6 January 2010

Agent: Paul Newbold

Applicant: Doobay Care Limited

Development: Proposed single and two storey rear extension to provide 4 new bedrooms (net 2 additional bed spaces) and support facilities. Resubmission of 090693.

Ward: Prettygate

Summary of Recommendation: Conditional Approval subject to satisfactory comments being received from the Arboricultural Officer

1.0 Site Description

- 1.1 Lychgate House is a residential care home for adults between the ages of 18 to 65 caring for clients with mental health issues. It is located on the North West side of Shrub End Road, opposite Walnut Tree House and close to the junctions with Pond Chase, Plume Avenue and Walnut Tree Way. The site currently supports a early 20th Century detached building that has been extended since its change of use to a care home in the early 1990's. There is a large shed close to the rear boundary
- 1.2 To either side of the site there is housing; both 2 storey and bungalows. Pond Chase, a private lane, runs along the rear of the site and there is housing on the opposite side of the lane to the application site. Hedging, varying in height between 2/3 metres, provides screening along the north and west boundaries and the east boundary is more open but there is a group of trees/planting in the garden which is a fairly effective screen. The front boundary has trees and planting. A hard surfaced area is provided in the front garden for car parking.
- 1.3 The application proposes a part two storey, part single storey extension to provide 4 bedrooms, 2 at ground floor and 2 at first floor, a kitchen and office space. Currently the home cares for 12 adults, the extension will allow for 2 additional residents. Two additional parking spaces are to be provided in the front garden.

2.0 Land Use Allocation

- 2.1 Predominantly Residential

3.0 Relevant Planning History

- 3.1 91/1233 Change of use to residential care home for physically/mentally handicapped. Alterations and extension – Approved
- 3.2 91/1415 Internal alterations and two storey rear extension – Approved (Not implemented)
- 3.3 92/1047 Two storey extension (amended roof form) and alterations including link from garage to house, provision staff sleeping accommodation – Approved
- 3.4 01/1912 Single storey side extension – Approved
- 3.5 090693 Proposed single storey rear extension to provided 5 new bedrooms, bathroom and day room - Withdrawn

4.0 Principal Policies

- 4.1 Local Plan
 - DC1 - Development Control considerations
 - UEA11 - Design
 - UEA12 - Backland development
 - UEA13 - Development, including extensions, adjoining existing or proposed residential property
 - CO4 - Landscape Features
- 4.2 Core Strategy
 - UR2 - Built Design and Character
 - H3 - Housing Diversity

5.0 Consultations

- 5.1 Trees and Landscaping: Views awaited
- 5.2 ECC Highways: No objection, suggested standard informative

6.0 Representations

- 6.1 Two letters commenting:
 - Third application to enlarge the property; the complex has grown piecemeal and it will be extremely large for a residential dwelling dominating the adjacent residential properties.
 - Relocation of the shed will require removal of small trees/vegetation which is intertwined with boundary hedge; this work needs to be done carefully to prevent damage to the hedge.
 - Boundary hedge should be retained at current height. It has become rather thin at one point and requires improvement. The hedge provides privacy and a secure boundary for the vulnerable residents.

- There is inadequate emergency access to the rear of the premises. The Fire Brigade should examine the drawings
- The development would impact on bio diversity. The area enjoys a variety of bird life and there may be an impact on the environment as more water will be drained.
- More residents may lead to more noise; noise from the site is manageable at the moment, this may change.
- There are several similar care homes in the vicinity.
- Access for building works will be problematic. Pond Chase to the rear is unsuitable and has no public right of way.

7.0 Report

- 7.1 Core Strategy Policy H3 supports the provision of specialist residential accommodation for persons with special needs. It is appropriate to ensure that there is sufficient open space within the curtilage of the unit and that care facilities are in close proximity to community facilities, such as shops, or readily accessible public transport. The proposed extension will encroach on to a lawned area to the rear of the dwelling. A previous application in 2009 proposed a single storey extension which would have resulted in the lawned area being almost totally replaced by building, this was one of the reasons why your Officer's were unhappy with the proposal and the application was withdrawn. The scheme, as now proposed, does retain a lawned area and there are patio areas and gardens to the rear and side of the dwelling which can be utilised as amenity space. On the originally submitted drawing a large shed in the rear garden was shown for relocation, however the applicants have decided that it should be retained. The removal of the shed, or its relocation elsewhere on the site would significantly increase the amenity space immediately adjacent to the extension. A condition to require its removal is desirable. Its relocation, if required, can be discussed at a future date.
- 7.2 The care home is close to shops and there are a variety of community facilities within reasonable walking distance. There is a bus stop immediately outside the site with a regular bus service.
- 7.3 The design of the extension is influenced by the need to reduce the bulk of the 2 storey element as far as is practicable and to limit any residential amenity issues. The extension has been assessed using the criteria set out in SPD 'Extending your house'. It is in general accordance. The projection of the single storey extension is significantly greater than the rear walls of the adjacent dwellings but due to the good separation of the extension from the site boundaries, the screening and the existing extensions the impact is not unreasonable. The site has been viewed from a bungalow on the west side which has a rear boundary onto the back garden of Lychgate House. A couple of trees on the site and the hedge row provided effective screening.
- 7.4 The front elevation of the house to the rear of the site, located in Pond Chase, has 3 first floor windows. Two of these are obscurely glazed. It is acknowledged that the 2 storey extension has 2 windows facing this property. There is already some mutual overlooking between these 2 properties due to existing first floor windows. In a tight knit suburban residential situation some overlooking is inevitable. The new windows will look towards the front elevation rather than private amenity space. On balance it is not considered that a refusal is justified.

- 7.5 If the flat roof area of the single storey extension was utilised as a balcony/terrace this would be likely to result in an adverse impact on amenity; therefore a condition to prevent such use is suggested.
- 7.6 The boundary hedge/planting and trees within the site are significant as screening for the development and should be retained. Comments/conditions from the Council's Arboricultural Officer will be significant in the decision making process. They are anticipated prior to Committee. The applicants' have advised in the DAS that they are prepared to augment the boundary hedge along the west boundary.
- 7.7 The 2 proposed new parking spaces accord with the currently adopted Parking Standards. These are tandem spaces; however information provided by the applicant indicates that visits to the site by vehicles are low and therefore it is considered that this type of parking arrangement is acceptable.
- 7.8 Access to the site by emergency vehicles will be considered at the building regulations stage. How the site will be accessed by building contractors is not a material planning consideration, however, the applicants are referred to our guidance on demolition and construction on building sites.

8.0 Background Papers

8.1 ARC; TL; HA; NLR

Recommendation - Conditional Approval subject to satisfactory comments being received from the Arboricultural Officer.

Conditions

1 - A1.5 Full Perms (time limit for commencement of Development)

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2 - Non-Standard Condition

The hereby approved extension shall not result in the care home being occupied by more than 14 persons (ie only 2 additional persons over that allowed by Condition 02 of Planning permission COL/92/1047).

Reason: For the avoidance of doubt and in the interest of residential amenity.

3 - C3.2 Materials as Stated in Application

The external materials and finishes to be used shall be as stated on the application form and as indicated on the approved plans and schedule returned herewith, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not prejudice the appearance of the locality.

4 - Non-Standard Condition

No railings, fencing or other means of enclosure shall be erected on the roof of the single storey rear extension' no part of this roof area shall not be used as a balcony or terrace and no access to this roofing are shall be created.

Reason: For the avoidance of doubt and in the interests of residential amenity.

5 - Non-Standard Condition

Prior to the commencement of the hereby approved development the shed in the rear garden of the site shall be removed from the site.

Reason: In order to ensure adequate amenity space for the residents.

6 - Non-Standard Condition

Prior to the commence of the development details for the augmentation of the boundary hedging, were this is with in the applicant's control, shall be submitted for the agreement of the Local Planning Authority and the approved scheme shall be implemented as approved.

Reason: To ensure adequate screening in the interest of residential amenity

7 -Non-Standard Condition

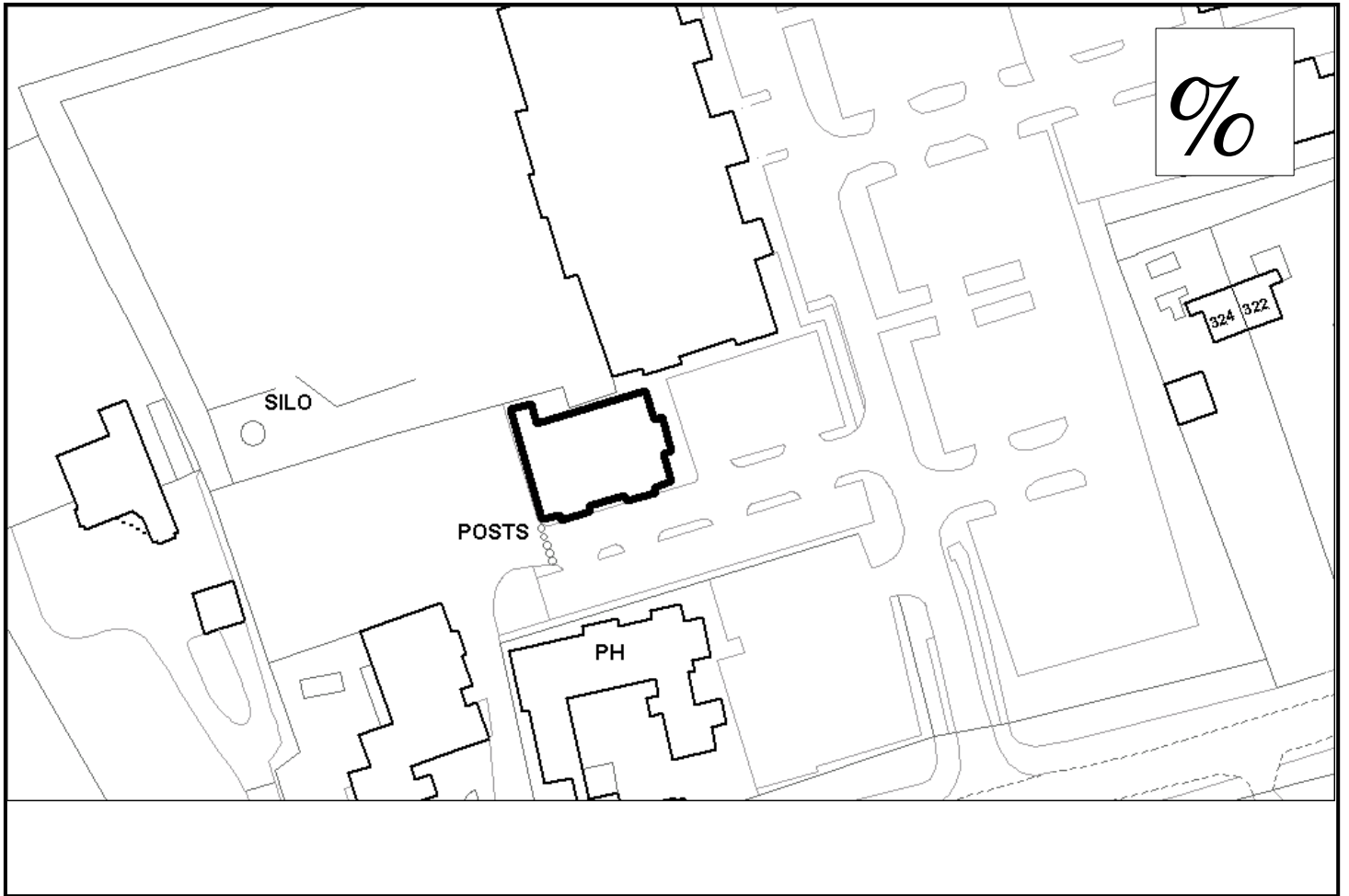
As may be recommended by the Trees and Landscapes Officer

Informatives

Your attention is drawn to the attached advisory guidelines relating to the control of pollution during demolition/building.

The relocation of the shed required to be removed by Condition 04 will require planning permission.

Any works affecting the highway being carries out by prior arrangement with, and to the requirement and satisfaction of the Highway Authority and application for the necessary works should be made initially by phone on 01206 838696 or by email on www.highways.eastarea@essex.gov.uk.



Application No: 091297

Location: Stanway Garden Centre, 324 London Road, Stanway, Colchester, CO3 8LT

Scale (approx): 1:1250

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7.7 Case Officer: John More

OTHER

Site: 324 London Road, Stanway, Colchester, CO3 8LT

Application No: 091297

Date Received: 5 October 2009

Agent: Mr P Johnson

Applicant: Mr & Mrs R.F & E.S West

Development: Change of use of building under construction from proposed indoor adventure play area to retail unit for the sale of outdoor sports and activity equipment and clothing.

Ward: Copford & West Stanway

Summary of Recommendation: Conditional Approval subject to signing of Deed of Variation

1.0 Site Description

1.1 The application site lies within the Stanway Garden Centre in the village of Stanway. Other occupiers of the site include Wyvale Garden Centre, Just Learning Children's Nursery, First Strokes Swimming School and Banquet 1408 Chinese Restaurant. The site is adjacent to the White Hart Toby Carvery which fronts onto London Road.

2.0 Description of Proposal

2.1 The application proposes the change of use of a building under construction from an indoor adventure play area to retail unit for the sale of outdoor sports and activity equipment and clothing under the banner of 'The Outdoor Activity Centre'. The proposed retail use would cater specifically for walking, climbing, mountaineering, camping, skiing, canoeing, kayaking, cycling, fishing and equestrian activity covering goods at the bulky end of the market.

2.2 In addition to the retail activity it is proposed for there to be a small climbing wall within the premises for the Outdoor Adventure Centre team to demonstrate technical equipment to customers and enable them to try the kit before they buy. This climbing wall requires a ceiling height of 4.5m. The Outdoor Activity Centre would also incorporate a specialist mountain bike service centre.

3.0 Land Use Allocation

3.1 White Land (unallocated)

4.0 Relevant Planning History

- 4.1 In 1995 conditional approval was granted (COL/95/0392) to refurbish the existing garden centre to permit the sale of plants, shrubs, trees, tools, sundries, pets, pet food, conservatories and associated garden products, fish aquatics and a tea room. The permission was subject to a legal agreement which listed a schedule of items which could be sold from the site.
- 4.2 A revised application (COL/97/1650) was approved in 1998 with a revised building design but the same restrictive legal agreement attached.
- 4.3 The building the subject of this change of use application was approved in 2004 (F/COL/03/1211) for use as an indoor adventure play area including kitchen, toilets, parent lounge, party rooms.
- 4.4 In 2006 planning permission was granted to extend the Wyvale Garden Centre by 1,300 square metres including 650 square metres of retail space. This is also covered by the restrictions on the original legal agreement which restricts retail activity.
- 4.5 A subsequent application (F/COL/06/0967) to extend the partly constructed indoor adventure play area was approved in 2006.

5.0 Principal Policies

- 5.1 Local Development Framework
Core Strategy:
SD1 - Sustainable Development Locations
CE1 - Centres and Employment Classification and Hierarchy
CE2 - Mixed Use Centres
CE3 - Employment Zones
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
- 5.2 Adopted Review Colchester Local Plan 2004 saved policies:
DC1- Development Control considerations
- 5.3 Planning Policy Statement 4
Planning Policy Statement 6

6.0 Consultations

- 6.1 Planning Policy team initially objected to the proposal on the basis of the information originally submitted. Following the submission of a sequential assessment which considers sequentially preferable sites Planning Policy has removed their objection to the proposal.
- 6.2 The Highway Authority does not wish to object to the proposals as submitted.

6.3 Environmental Control has no comments to make.

4.0 Parish Council's Views

4.1 Stanway Parish Council objects to the precedent of a retail unit on this site, but if Colchester Borough is minded to consent the application, Stanway Parish Council requests that, if possible, conditions be imposed restricting retail sales to items associated with sports and leisure activities.

4.2 Full text of all consultations and representations are available to view on the Council's web-site.

5.0 Representations

5.1 None received

6.0 Report

Policy

6.1 In accordance with PPS6, the adopted Core Strategy identifies retail as a town centre use. Policies CE1 and CE2 explain that Colchester Town Centre should be the primary location for new retail uses. The sequential approach should then be applied, with retail uses then being directed to sites in the town centre fringe (within 300m of the town centre core). New retail development may also be accepted, particularly within identified centres (Urban District Centres, Rural District Centres and Neighbourhood Centres) where it meets identified local needs and does not compete with the Town Centre. Policy TA1 further directs new development towards the most sustainable locations in order to encourage access by non-car based modes of transport.

6.2 The application site does not lie within any of these identified centres and is outside of any settlement boundary. The proposal is for a comparison retail (town centre) use rather than one to serve an identified local catchment. As such, on initial assessment the proposal would appear contrary to the aforementioned policies in the adopted Core Strategy.

6.3 The proposal lies within a commercial centre containing a mixture of uses, including retail garden centre, restaurant, and day nursery. The centre is not designated as an Urban District Centre in the Core Strategy, reflecting its relatively small size and location on the outskirts of the built-up area of Colchester. The site is accordingly not in a sequentially preferable location for retail development. PPS4 provides that planning applications for main town centre uses that are not in a centre and not in accordance with an up to date development plan should be considered based upon a sequential approach that entails all in-centre options have been thoroughly assessed before less central sites are considered.

6.4 The applicants have submitted a sequential assessment which considers sequentially preferable sites and is considered to satisfactorily discount alternative sites currently being marketed. The number of potential alternative sites was constrained by the requirement for sufficient space for a wide range of outdoor retail and activity elements.

- 6.5 An important consideration here is that the site already has permission for an indoor adventure play area. The two uses are not considered to have a significantly greater/different impact on the functioning of the site and its traffic generation, although it is recognized that the play area proposal does not contain a retail element.
- 6.6 On the basis of the above considerations it is not considered an objection to the proposal could be sustained on policy grounds.

Other material considerations

- 6.7 In terms of employment the proposed retail outlet would employ five full-time staff and two part-time staff.
- 6.8 In terms of accessibility, the site is located on a main road, with good public transport links available on the 70, 71 and 83 services.

S106 Matters

- 6.9 The Design and Access Statement suggests that the goods to be sold would be covered by the S106 agreement covering the site and that, if permission is granted for this proposal, an earlier planning permission for more retail space will not be implemented. However, officers consider the range of goods to be sold from the proposed facility (walking, climbing, mountaineering, etc.) do not appear within the schedule of goods in Appendix V of the legal agreement, nor do they appear “appropriate and ancillary to garden use” as specified by clause 2 (c) of the Agreement.
- 6.10 In view of this, any consent granted would need to be accompanied by a variation or amendment to the legal agreement to list the goods which could be sold from this unit only. This would cover bulky items for camping, skiing, canoeing, kayaking, cycling, equestrian activities, walking, climbing, mountaineering and other ancillary outdoor activity items. This would need to site specific within the wider site to prevent other such retail units from opening.

7.0 Conclusion

- 7.1 In summary, while the site is not in a sequentially preferable location for retail development the applicants have submitted a sequential assessment which overcomes policy objection to the proposal. In this particular case for the specific type of retail proposed it is not considered the proposed change of use would harm vitality or viability of the town or district centres. Nor would it have a significantly greater/different impact on the functioning of the site and its traffic generation. The proposal is therefore recommended for approval subject to controlling conditions and the variation to the legal agreement discussed above.

8.0 Background Papers

- 8.1 Core Strategy, Local Plan, PPS6, PPS4, PP; HA; HH; PTC

Recommendation

That the Head of Environmental and Protective Services be authorised to grant permission subject the signing of an appropriate deed of variation to the original legal agreement to allow the retail of items listed below and subject to the controlling conditions set out below.

Additional permitted retail items from within the building outlined red on the submitted site plan:

camping, skiing, canoeing, kayaking, cycling, equestrian, walking, climbing and mountaineering equipment and ancillary outdoor activity items associated with these activities.

Conditions

1 - A1.5 Full Perms (time limit for commencement of Development)

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 - Non-Standard Condition

The premises shall only be used for the sale of outdoor sports and activity equipment and clothing under the banner of 'The Outdoor Activity Centre' including the sale of walking, climbing, mountaineering, camping, skiing, canoeing, kayaking, cycling, fishing and equestrian equipment and for no other retail purpose (including any other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: For the avoidance of doubt as to the scope of the permission.

3 - Non-Standard Condition

The use shall not take place other than between the hours of:-

0830 - 2000, Mondays - Saturdays

1030 - 1630 Sundays and public holidays.

Reason: In order to safeguard the amenity of the area.

INDEX TO PLANNING APPLICATIONS CODES

A	Advertisements	K	Certificate of Lawfulness
AG	Agricultural Determination	LB	Listed Building
C	Change of Use	M	County Matter
CA	Conservation Area	O	Outline
CBC	Colchester Borough Council	PA	Prior Approval
CC	Essex County Council	RM	Reserved Matters
F	Full	S	Electricity Consultation (Overhead Lines)
G	Government Dept. Consultation	T	Renewal of Temporary Permission
J	Alternative Development	X	Demolition in Conservation Area

INDEX TO BACKGROUND DOCUMENTS/REPORTS CODES (UPDATED OCTOBER 2000)

Note: Any Document or Consultee not included in these lists will be specified in full.

ARC	Adopted Review Colchester Borough Local Plan March 2004
BOT	St Botolphs Development Brief
CHD	Colne Harbour Urban Design Framework SPG - Nov. 2000
CPS	Cycle Parking Standards
ERP	Essex and Southend on Sea Replacement County Structure
GAP	Gosbecks Archaeological Park Draft Management Plan
HCP	High Woods Country Park Management Plan
MSP	Essex County Council - Minerals Subject Plan
VEM	East Mersea Village Appraisal - 19 February 1996
VFC	Village Facilities Survey 1995
VFD	Fordham Village Appraisal - 31 August 1994
VFG	Fingringhoe Village Appraisal - 1 September 1993
VGT	Great Tey Village Appraisal - 19 July 1993
VLG	Langham Village Appraisal - 6 April 1994
VPL	Peldon Village Appraisal - 4 June 1994
VRH	Rowhedge Village Appraisal - 20 November 1995
VWG	West Bergholt Village Appraisal - 30 August 1995
WMW	West Mersea Waterside Study

INTERNAL CONSULTEES

BC	Building Control Manager
CD	Conservation & Design Manager
CF	Financial Services
CU	Head of Street and Leisure Services
DO	Disability Access Officer
HA	Highway Authority (ECC)
HD	Housing Development Officer
HH	Environmental Protection (Env. Control)
MR	General Manager (Museum Archaeological)
PP	Head of Housing & Environmental Policy
SE	Head of Enterprise and Communities
SL	Legal Services
TL	Trees & Landscapes Officer - Planning Services

REPRESENTATIONS ETC

CAA	Correspondence with applicant/agent
CBC	Colchester Borough Councillor(s)
LAS	Other Local Amenity Society(ies) (not listed elsewhere)
NLR	Neighbours or Local Resident(s)
OTH	Other correspondence
PTC	Parish & Town Council(s)

EXTERNAL CONSULTEES (2 character codes)

AB	Soc Protection Ancient Buildings	HG	English Heritage - Historic Gardens
AM	Ancient Monuments Society	HM	English Heritage (Hist. Mon. Section)(England)
AR	Ardleigh Reservoir Committee	HO	The Home Office
AT	Colchester Archaeological Trust	HS	Health & Safety Executive
AV	Civil Aviation Authority	IR	Inland Revenue (Valuation)
AW	Anglian Water Services Limited	LF	Environment Agency (Waste Regs)
BA	Council for British Archaeology	MD	Defence Estates (East)
BD	Braintree District Council	MH	NEE Mental Health Services Trust
BG	Transco (B Gas)	MN	Maldon District Council
BH	Babergh District Council	MS	Marine Safety Agency
BO	Blackwater Oystermans' Association	NC	English Nature
BT	British Telecom	NE	North Essex Health Authority
BW	Essex Bridleways Association	NF	National Farmers Union
CA	Cmsn for Architecture & Built Environment	NI	HM Nuclear Installations Inspectorate
CB	Churches Conservation Trust	NP	New Possibilities Healthcare Trust
CE	County Education Department (ECC)	NR	Environment Agency
CH	Country Highways (Surveyor ECC)	NT	The National Trust
CS	Colchester Civic Society	PD	Ports Division (DETR)
CY	Colchester Cycling Campaign	PT	Petroleum Officer (ECC Trading Standards)
DS	Department of Social Security	RA	Ramblers Association
DT	Route Manager - Highways Agency	RD	The Rural Development Commission
DV	Dedham Vale Society	RE	Council Protection Rural Essex
DW	Dedham Vale & Stour Valley Project	RF	Royal Fine Art Commission
EB	Essex Badger Protection Group	RP	Rowhedge Protection Group
EE	Eastern Electricity – E-On	RR	Roman River Valley Society
EH	English Heritage	RS	RSPB
EI	HM Explosive Inspectorate	RT	Railtrack East Anglia
EN	Essex Wildlife Trust	RY	Royal Yachting Association
EP	Essex Police	SB	Save Britain's Heritage
EQ	Colchester Police	SD	MAFF Fisheries Office/Shellfish Division
ER	Essex Rivers Healthcare Trust	SK	Suffolk County Council
ET	Fair Trading (ECC Trading Standards)	SR	The Sports Council – Eastern Region
EU	University of Essex	ST	Colne Stour Countryside Association
EV	Environmental Health (ECC - Env. Services)	TB	Tollesbury Parish Council
EW	Essex & Suffolk Water Company	TG	Tendring District Council
FA	Essex Police - Fire Arms Officer	TI	Department of Trade and Industry
FB	Essex Fire & Rescue Service	TK	Tolleshunt Knights Parish Council
FC	Forestry Commission	TW	20 th Century Society
FE	Feering Parish Council	VI	Vehicle Inspectorate (GVTS)
GA	Colchester Garrison HQ	VS	Victorian Society
GE	Government Office for the East of England	WS	The Wivenhoe Society
GU	HM Coast Guard	WT	Wivenhoe Town Football Club
HB	House Builders Federation	WA	Wormingford Airfield (Gliding Club)
HE	British Horse Society	WW	Society Protection Ancient Buildings (Wind & Watermill Section)



Colchester Borough Council Environmental Control

Advisory Notes for the Control of Pollution during Construction & Demolition Works

The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.

Best Practice for Construction Sites

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

Noise Control

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

Emission Control

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Best Practice for Demolition Sites

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

Noise Control

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

Emission Control

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.