

# Planning Committee

Town Hall, Colchester  
4 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](http://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](http://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

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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 4 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 - 2**

To confirm as a correct record the minutes of the meeting held on 21 January 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. 091357 Avon Way House, Avon Way, Colchester, CO4 3TZ **3 - 22**  
(St Andrew's)

New student accommodation in 2 blocks A and B forming a total of 38 new student bedrooms in 9 cluster flats. Each bedroom is en-suite and shares kitchen and lounge facilities with other bedrooms within a cluster flat.

2. 090504 Tile House Farm, Great Horkesley **23 - 32**  
(Fordham and Stour)

Residential development of five single storey, two bedroom dwellings (resubmission of 081926).

3. 091068 33 North Hill, Colchester, CO1 1QR **33 - 37**  
(Castle)

Proposed conversion of existing offices/counselling rooms to 2 no. residential flats.

4. 091426 Mythian, 4 Parsons Hill, Colchester, CO3 4DT **38 - 75**  
(Prettygate)

Proposed development to provide 9 apartments.

5. 091608 89 High Street, Wivenhoe, CO7 9AB **76 - 80**  
(Wivenhoe Quay)

New dormer windows, cladding of elevations, extension and alterations.

6. 091635 28 Cape Close, Colchester, CO3 4LX **81 - 86**  
(Prettygate)

Two storey side extension, front porch and internal alterations (resubmission of planning application 081939).

7. 090959 26 St Botolph's Street, Colchester, CO2 7EA (Castle) **87 - 92**

Change of use to A3 restaurant (Napalese - specialist cuisine).

8. 091307 Church Road, Boxted, CO4 5TG (Fordham and Stour) **93 - 101**

Change of use, alteration and extension of former primary school to form single detached dwelling.

9. 091328 St Botolph's Churchyard, Colchester (Castle) **102 - 111**

Relocate war memorial from between St Botolph's Church and the Priory to north west corner of churchyard, carry out tree removal in churchyard, minor ground contouring to eastern area of open space, relocate former Britannia Works crankshaft feature to location adjacent St Botolph's Church Hall.

10. 091580 Collins Green, School Road, Messing, Colchester, CO5 9TH (Birch and Winstree) **112 - 116**

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

- 8. Enforcement Action // Land at 5 Inverness Close, Colchester, CO1 2SA** **117 - 120**

See report by the Head of Environmental and Protective Services.

## **9. 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  
21 JANUARY 2010**

*Present :-* Councillor Ray Gamble (Chairman)  
Councillor Sonia Lewis (Deputy Mayor)  
Councillors Mary Blandon, Helen Chuah,  
John Elliott, Andrew Ellis, Stephen Ford,  
Theresa Higgins, Jackie Maclean, Jon Manning  
and Ann Quarrie

*Substitute Member :-* Councillor Laura Sykes for Councillor Mark Cory

(The Committee did not undertake any formal site visits.)

**166. Minutes**

The minutes of the meeting held on 7 January 2010 were confirmed as a correct record.

**167. 091568 3-6 Baileys Cottages, Water Lane, Little Horkesley, CO6 4DG**

The Committee considered an application for a change of use from a sewage treatment works to garden land. The treatment works had been removed by the Council and it was proposed that the land, which had not been used for agricultural use for many years, should become garden land for the properties. It was also proposed that permitted development rights for the land be withdrawn. The Committee had before it a report in which all information was set out.

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

**168. 091325 140 High Street, Wivenhoe, CO7 9AF**

This application was withdrawn from consideration at this meeting by the Head of Environmental and Protective Services because the Highway Authority had indicated that they required further time to consider their response.

**169. 091443 11 Spring Road, Tiptree, CO5 0BD**

The Committee considered an application for a variation of condition no.17 of application 090897 to substitute a chalet style dwelling on plot 3 with a two storey dwelling with an increase to five bedrooms. 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, with the exception of the deletion of Condition 20 and Condition 17 being amended to read as follows:-

"Notwithstanding the detail shown on the drawings hereby approved, the main volume of the replacement dwelling shall be finished entirely in render with a brick plinth. The two storey rear wing shall remain in brickwork unless otherwise agreed in writing by the local planning authority.

Reason: The local planning authority is concerned that the partial render as shown on the submitted drawing does not reflect the vernacular.





# Committee Report

Agenda item **7**

To the meeting of **Planning Committee**  
on: **4 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: **Bradly Heffer**

**MAJOR**

**Site:** Avon Way House, Avon Way, Colchester, CO4 3TZ

**Application No:** 091357

**Date Received:** 29 October 2009

**Agent:** Mr Mike Brearley

**Applicant:** Mr Owain Thomas

**Development:** New student accommodation in 2 blocks A and B forming a total of 38 new student bedrooms in 9 cluster flats. Each bedroom is en-suite and shares kitchen and lounge facilities with other bedrooms within a cluster flat.

**Ward:** St Andrews

**Summary of Recommendation:** Conditional Approval subject to the signing of a Section 106 Agreement

## 1.0 Site Description

1.1 Members will recall that this site has been the subject of a previous application to erect student accommodation.

- 1.2 This current proposals seeks permission for the erection of a further two blocks of accommodation, identified as A and B on the submitted plans. The submitted scheme identifies an area of land (approximately 1315 square metres in size) located to the north-east of the existing buildings on the site. It is bounded to the north-west by Avon Way and to the north-east by Pickford Walk, which is fronted by a series of established semi-detached properties facing towards the application site. Immediately to the south east of the site is a hardened area currently utilised for vehicular parking. Under the previously-considered scheme this part of the existing site would be occupied by a new accommodation building. To the south west of the site are existing blocks of accommodation that comprise the existing Avon Way House site.
- 1.3 The submitted plans show the provision of two blocks that are of three storey height where they face on to the Avon Way House site and two storey height where they face the dwellings in Pickford Walk. The buildings would be constructed using a combination of red brick, cladding and render walls, single ply membrane roofs and aluminium polyester powder coated windows. In terms of accommodation proposed, Block A would provide 2 x 4 bed flats and 1 x 2 bed flat. Block B would provide 1 x 6 bed flats, 3 x 5 bed flats, 1 x 4 bed flat and 1 x 3 bed flat.
- 1.4 As stated previously this site has been the subject of an application to provide residential accommodation for students (ref: 090498). The currently-proposed blocks did form part of the original submission but were withdrawn from the application that was finally presented for determination to Committee.
- 1.5 As part of the current submission a Design and Access Statement has been included in support of the scheme. This may be viewed in full on the Council's website.

## **2.0 Land Use Allocation**

- 2.1 Residential

## **3.0 Relevant Planning History**

- 3.1 090498 - 81 new student bedrooms in 20 flats. Each room has its own ensuite and each flat has a shared kitchen/dining room. The new development is split into 4 separate blocks C, D, E and F. This application was approved, subject to the completion of a Section 106 Agreement. Members should note that at the time this report was produced the Agreement had not been completed. The permission is therefore not issued by the Council.

## **4.0 Principal Policies**

- 4.1 Adopted Review Colchester Borough Local Plan  
DC1 - General Development Control Criteria  
UEA11 - Design  
UEA13 - Development including extensions adjoining existing or proposed residential property.

- 4.2 Local Development Framework Core Strategy (December 2008).  
H2 - Housing Density  
UR2 - Built design and character  
PR1 - Open Space  
TA2 - Walking and Cycling  
TA5 - Parking

## 5.0 Consultations

5.1 The Highway Authority has no objection to the proposal, subject to the imposition of conditions that would relate to a scheme to encourage bus travel, details of bicycle/motorcycle parking and provision of footpath works.

5.2 The Council's Spatial Policy Team comments as follows:-

"This application appears to relate to amendments to accommodate the redesign of Blocks A and B, which were withdrawn prior to the determination of application 090498 for 4 other blocks, and which was delegated for approval subject to the completion of a Section 106 Agreement. The revisions raise no substantive new issues of a policy nature. If planning permission is granted for this development, it is recommended that occupancy is tied to student accommodation.

Consideration should be given towards a planning contribution in line with adopted SPD."

5.3 The Council's Landscape Planning Officer would require the imposition of three conditions on the grant of any planning permission.

5.4 The Environment Agency requires the imposition of a condition to secure a scheme for the implementation of water, energy and resource efficiency measures.

## 6.0 Representations

6.1 As a result of neighbour notification, 7 letters of objection have been received. The comments may be summarised as follows:-

1. The proposal will give rise to further parking in the surrounding roads and associated traffic problems as there will be inadequate facilities provided on site. It would not be possible to stop occupiers bringing cars to Colchester, even if parking on site were to be controlled.
2. The provision of the development would be overpowering and create a loss of privacy and light for occupiers of dwellings in Pickford Walk. Furthermore, this development, in combination with the previous submission, will create unacceptable noise nuisance. The difference in land levels between the application site and Pickford Walk should be properly appreciated.

6.2 One letter has been received that identifies the need for secure cycle parking and provision of cycle routes, were permission to be granted.

6.3 Letters of objection have been received from the MP for Colchester, Mr Russell, and also Ward Councillors for St Andrews. These representations are produced as appendices to this report. Responses to these representations made on behalf of the developers are also included as appendices.

## 7.0 Report

7.1 In considering this current application, it is necessary to briefly summarise the planning situation in relation to this site. The blocks identified as A and B were originally part of the development proposed under the first application submission, (Ref: 090498). However, this aspect of the development was withdrawn from the application finally approved by Members. This followed initial consideration of the proposal in its entirety by Committee (i.e. for Blocks A to F) when the application was deferred in order that the following issue, inter alia, could be reconsidered:

"The proximity of Blocks A and B with properties in Pickford Walk, including siting, reduction in heights, lowering of slab levels, infilling between existing blocks and proposed blocks along the south east boundary to remove the need for new blocks adjacent to Pickford Walk."

7.2 Clearly therefore Members were concerned about the potential impact of the proposed accommodation blocks A and B on the amenity of the occupiers of houses in Pickford Walk. On this basis the developer withdrew Blocks A and B from the proposals in order that further consideration could be given to Members' concerns.

7.3 This current submission is the developers' response to Members' concerns. To this end, the key changes with regard to impact on Pickford Walk dwellings are summarised below - this information is taken from the developers' addendum to the Design and Access Statement, submitted as part of this current planning application:-

"The two blocks have been redesigned to take into account the comments made at planning stage. The amendments made are as follows:-

### Site Layout

The road design has been realigned to create more space between Blocks A and B and the neighbouring houses on Pickford Walk.

### Block A

- The building has been rotated to follow the new road alignment. This has significantly improved the distance between this block and properties No. 48, 46 and 44 as can be seen on the proposed site plan drawing no 01 and the site sections drawing no 08.
- Furthermore, it is proposed to hand the entrance to that shown on the previously submitted scheme. This enables the entrance to the Block to be a significantly lower level to that shown on the previous scheme.

### Block B

- The building has been rotated to follow the new road alignment. This has improved the distance between this block and properties nos 38, 40 and 42.
- The block has been redesigned as split level taking advantage of the natural sloping topography. This significantly helps in reducing the overall mass of the block and break down the monolithic appearance.

### Materials and Massing

The materials are in keeping with those shown on the previous application with brick and render at ground and first floor and cladding at second floor. The roof finish will be a single ply membrane with standing seams. The massing of the blocks follows the principles set out in the previous application."

- 7.4 Members will note the changes are illustrated on the currently submitted plans. The key elements are the realignment of the internal road (to enable relocation of the blocks, further away from the nearest properties in Pickford Walk) and revisions to the building design to reflect the topography of the site. As a planning judgement it is considered that the position of the proposed accommodation blocks in relation to the dwellings in Pickford Walk would not be of such detrimental impact to support a refusal of the proposal on this basis. The plans illustrate that there would, at the closest point, be a distance of 15 metres between properties (existing and proposed) which exceeds distances found elsewhere in new residential areas, build under Essex Design Guide Standards. The Guide identifies a 10 metre spacing in order to afford proper penetration of daylight etc. This scheme comfortably exceeds this level at its nearest point. The fact that the proposed blocks are designed in order to drop to a two-storey height where they face Pickford Walk would further mitigate their overall impact on these properties.
- 7.5 A second significant issue is that of parking provision on the site. This current scheme would result in the loss of a further 7 spaces, therefore reducing the overall number to 30 spaces (including 4 disabled spaces).
- 7.6 Members will also be aware that the Council has recently adopted new minimum parking standards. However, this application was submitted prior to the formal adoption. Notwithstanding this situation, the applicable standard requires that 1 space should be provided per full time equivalent staff plus 1 space per 5 students.
- 7.7 The total number of bedrooms that would be created by the previous scheme (090498) and this current proposal would total 102. Therefore the development in its entirety would generate a need for 21 spaces (rounded up figure). 30 spaces are offered so the development as proposed complies with this standard. Additionally, although not strictly a planning matter, it is noted that the particular tenancy agreement that the developer has with occupiers '...actively discourages...' students from bringing their own cars. Furthermore, the provision of bus tickets and cycle/footpath links would help to encourage other modes of transport to access the Essex University campus. Notwithstanding the above, it is fully appreciated that the issue of problems created by on-street parking in the vicinity of the application site have given rise to strong objections being made by respondents and Ward Councillors. The matter of parking generation in relation to this proposed development was still being considered by the Highway Authority at the time this report was written, and any further comments received from that Authority will be reported to Members at the meeting.
- 7.8 In summary, the revised scheme that is put forward for consideration by Members is considered to be a reasonable attempt to address Members' previous concerns about the potential impact of the development on the amenity of neighbouring dwellings in Pickford Walk.

## 8.0 Background Papers

8.1 ARC; Core Strategy; HA; PP; TL; NR; NLR; Ward Councillors, MP; 090498

### Recommendation

- (A) That the application is deferred in order that a Section 106 Agreement may be secured, which includes the following elements:-
- The pedestrian/cycle links from the site to the cycle and footpath network at the south of the site.
- (B) Upon satisfactory completion of the agreement as described above, the Head of Environmental and Protective Services be authorised to issue a planning permission for the submitted development, 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 - B6.6 Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

### 3 - B6.8 Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

### 4 - B6.9 Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

#### 5 - B6.10 Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 2, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 3, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

#### 6 - B6.13 Validation Certificate

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 5 above.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

#### 7 -B7.3 Programme to be Agreed

No demolition whatsoever shall take place until such time as a programme has been submitted to, and agreed in writing by the Local Planning Authority stipulating the extent and timing of such operations.

Reason: In order to safeguard amenity in this location.

#### 8 - 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.

### 9 - B9.1 Refuse Bins

Prior to the development hereby approved being brought into use, refuse storage facilities shall be provided in a visually satisfactory manner and in accordance with a scheme which shall have previously been submitted to and approved in writing by the Local Planning Authority. Such facilities shall thereafter be retained to serve the development.

Reason: To ensure that adequate facilities are provided for refuse storage and collection.

### 10 - B9.2 Recycling Facilities

Prior to the development hereby approved being brought into use, facilities for the collection of recyclable materials shall be provided on the site and thereafter retained in accordance with a scheme submitted to and agreed by the Local Planning Authority.

Reason: To ensure that adequate facilities are provided for the collection of recyclable materials.

### 11 - 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.

### 12 - C3.21 Hard Surfacing

Prior to the commencement of the development hereby permitted details of all materials to be used for hard surfaced areas within the site including [roads/driveways/car parking areas/courtyards/etc] shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: In the interests of visual amenity and to provide a satisfactory form of development.

### 13 - C11.11 Landscape Design Proposals

No works or development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the Local Planning Authority (see BS 1192: part 4). These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting).

Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

Written specifications (including cultivation and other operations associated with plant and grass establishment).

Schedules of plants, noting species, plant size and proposed numbers/densities.

Planting area protection or decompaction proposals. Implementation timetables.

Reason: To safeguard the provision of amenity afforded by appropriate landscape design.

#### 14 - C11.12 Landscape Works Implementation

All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded 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 the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

#### 15 - C11.17 Landscape Management Plan

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to any occupation of the development (or any relevant phase of the development) for its permitted use.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by the landscape.

#### 16 - C12.2 Details of Walls or Fences

Prior to the commencement of the development details of [screen walls/fences/railings /means of enclosure etc] shall be submitted to and approved in writing by the Local Planning Authority. The details shall include [the position/height/design and materials] to be used. The [fences/walls] shall be provided as approved prior to the [occupation of any building/commencement of the use hereby approved] and shall be retained thereafter.

Reason: In the interests of visual amenity and to provide a satisfactory form of development.

#### 17 - Non-Standard Condition

The occupation of the buildings hereby approved shall be limited solely to persons attending the University of Essex as students.

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

#### 18 - Non-Standard Condition

The Developer shall be responsible for the provision and implementation of a Transport Information and Marketing Scheme for sustainable transport, approved by the Local Planning Authority, to include vouchers for 12 months free bus travel within the inner zone for each eligible member of every new bedroom, valid for exchange during the first 6 months following occupation of the individual dwellings. Details of the uptake of the vouchers shall be provided to the Essex County Council's Travel Plan Team on a 6 monthly basis.

Reason: In the interests of promoting sustainable development and transport in accordance with Policy No. 4 in Appendix G to the Local Transport Plan 2006/20112 as refreshed by Cabinet Member decision dated 19 October 2007.

#### 19 - Non-Standard Condition

Prior to commencement of the proposed development, details of the provision for parking of powered two wheelers and bicycles, of a design which shall be approved in writing with the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To promote the use of sustainable means of transport with EPOA Vehicle parking Standards and Policy No. 4 in Appendix G to the Local Transport Plan 2006/20112 as refreshed by Cabinet Member decision dated 19 October 2007.

#### 20 - Non-Standard Condition

Prior to commencement of development details of the provision of two suitable cycleway/footway links to the existing network south of the site shall be approved in writing with the Local Planning Authority and prior to occupation of the development these links shall be provided within the site and shall be maintained free from obstruction at all times for that purpose.

Reason: To promote the use of sustainable means of transport with EPOA Vehicle parking Standards and Policy No. 4 in Appendix G to the Local Transport Plan 2006/20112 as refreshed by Cabinet Member decision dated 19 October 2007.

#### 21 - Non-Standard Condition

Prior to the commencement of development a scheme for the provision and implementation of water, energy and resource efficiency measures, during the construction and occupational phases of the development shall be submitted to and agreed, in writing, with the Local Planning Authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the construction and occupancy of the development. The scheme shall be constructed and the measures provided and made available for use in accordance with such timetables as may be agreed.

Reason: To enhance the sustainability of the development through better use of water, energy and materials.

### **Informatives**

It should be borne in mind that, unless otherwise stated, the base for Conditions 18-20 is Policy 1.1 in Appendix G to the Local Transport Plan, 2006/2011 as refreshed by Cabinet Members decision dated 19 October 2007.

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 phone on 01206 838696 or by email on [www.highways.eastarea@essex.gov.uk](mailto: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.

091357

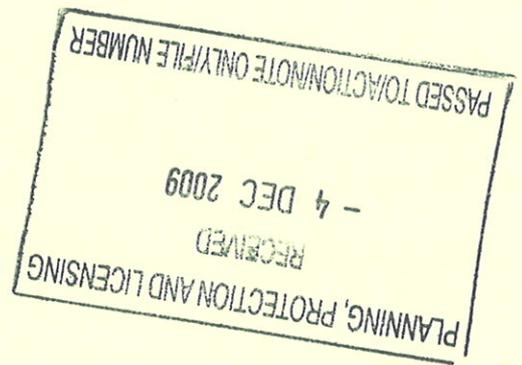
SCANNED

0 8 DEC 2009



HOUSE OF COMMONS

LONDON SW1A 0AA



Head of Planning  
Colchester Borough Council  
Town Hall - High Street  
Colchester CO1 1FR

M.V.M

2nd December 2009

Dear Head of Planning,

### Application for student accommodation - Avon Way House

I wrote a letter of objection to the previous Application at the above site. I wish that my objections in that earlier letter be further considered in respect of the current Application.

The developers, quite wisely, withdraw Blocks "A" and "B" when it dawned on them that the Planning Committee was likely to reject the entire Application. I consider their approach, with the new Application, to show that their behaviour on the previous occasion was somewhat devious - a deliberate attempt with a piece-meal approach to secure approval.

The objections to Blocks "A" and "B" remain the same. The height of the Blocks was not the only consideration last time; it was their location within the site - and that remains the same in terms of the serious impact they will have on the residential dwellings fronting Pickford Walk.

It should be fully understood that Pickford Walk was designed so that dwellings did not face other buildings. As the name suggests, the houses are served by a "walk" - not a road. Therefore their proximity to the site of Block "A" in particular spoils what the original design of Pickford Walk and Avon Way House intended.

I hope the Committee will reject the current Application. However, as a compromise, perhaps an alternative would be for Block "B" to be approved but for a height of 2-floors only, with the second floor preferably with a

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PLEASE REPLY TO: Magdalen Hall, Wimpole Road, Colchester CO1 2DE  
TELEPHONE: 01206 506600 - FAX: 01206 506610 - EMAIL: [brooksse@parliament.uk](mailto:brooksse@parliament.uk)

**DATA PROTECTION ACT**

Whilst Bob Russell MP will treat as confidential any personal information you pass on, he will allow staff and authorised volunteers to see if this is needed to help and advise you. He may also pass on all or some of this information to agencies such as Government Departments, the Inland Revenue or the local Council if this is necessary to help you with your case. Bob Russell MP may wish to write to you from time to time to keep you informed on issues that you may find of interest. Please let him know if you do wish to be contacted for this purpose

SCANNED

08 DEC 2009



HOUSE OF COMMONS

LONDON SW1A 0AA

mansard roof; that Block "A" be refused and the site planted with trees to improve the appearance of both Avon Way and the setting of Avon Way House.

Thank you.

Yours sincerely,

A handwritten signature in blue ink that reads "Bob Russell".

Bob Russell,  
MP for Colchester

Copy: Local residents

---

PLEASE REPLY TO: Magdalen Hall, Wimpole Road, Colchester CO1 2DE  
TELEPHONE: 01206 506600 - FAX: 01206 506610 - EMAIL: [brooksse@parliament.uk](mailto:brooksse@parliament.uk)

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25 NOV 2009

Avon way house

The ward councillors would like to express their objections to these revised plans. Councillors will remember the discussions regarding the original plans and the concern raised around the height of the buildings and the imposing impact that these two blocks will have, especially on the residents of Pickford walk. We would argue that the revised plans still present huge structures which will be over bearing on residents and will deny neighbouring properties daylight and the quiet enjoyment of their home. We would argue that the plans represent over development of the site and as such will exacerbate noise nuisance already suffered by neighbours of this student accommodation. We reject the concept expressed in the original report that this level of density is acceptable for students and firmly believe that students should be treated equally and not subject to cramped living conditions. The issue of student parking is a long standing problem and the proposal to cut parking provision on this site by 50% is seriously flawed and residents will have to live with the full effects of this in years to come. Avon way has recently been assessed by Highway officers and confirmed to meet the criteria for traffic calming measures. More and more student cars are finding there way on to Avon way, creating problems with residents being able to cross safely at this site. You will note that the developers have failed to sink the land level to cut height as suggested and have failed to bring forward plans for infill development which might have been more acceptable. All they have done is to slightly re position the blocks to put them at an angle which provides a slightly bigger gap between the block and neighbours properties in Pickford walk. Our view is that this does not make the blocks any more acceptable than the original plans and we would ask you to reject this application.

18 JAN 2010

12<sup>th</sup> January 2010

Bob Russell MP  
Magdalen Hall  
Wimpole Road  
Colchester  
Essex  
CO1 2DE

By Email to: [brooksse@parliament.uk](mailto:brooksse@parliament.uk) and Post

Dear Mr Russell

**Proposed Student Accommodation at Avon Way House, Avon Way, Colchester.  
Application No: 091357**

I wanted to write to you today in response to the letter of objection you have submitted regarding the above planning application. I fully understand that the proposed application for Blocks A & B is a matter of concern for you, but I also believe it is equally important to address some errors in your objection letter.

Your letter of 2<sup>nd</sup> December to the Head of Planning at Colchester Borough Council indicates that you consider the Mansion Group's approach in withdrawing Blocks A & B from the original application determined in August 2009 and then submitting a separate application as "*somewhat devious – a deliberate attempt with a piece-meal approach to secure approval*".

I have to admit that I find this statement surprising. You were in attendance at the Planning Committee meeting in August and will recall that Owain Thomas, the Project Manager, stated very clearly to the Committee that the Mansion Group would indeed be submitting a separate application for Blocks A & B, and that the approach undertaken was specifically in order to address concerns raised about these Blocks in particular. Therefore, I do not believe that we could have been any clearer about our intentions. We sincerely believe that the proposed new student accommodation, in its entirety, represents an appropriate form of development and, indeed, would deliver much needed specialist student accommodation of the highest standard without having a detrimental impact on neighbouring properties. Our intention, clearly stated, in removing Blocks A & B from the original application was to provide a further opportunity to address concerns about these blocks in particular and then submit a revised application, which is exactly what we have done.

18 JAN 2010

You note that your objections to Blocks A & B remain the same – namely in relation to the height of the buildings and their proximity to the neighbouring properties on Pickford Way. However, no reference is made to the fact that the proposed buildings in the current application have been relocated to be as far from the neighbouring buildings as the site's physical constraints allow and that we have substantially reduced the comparative height of Blocks A & B by excavating to reduce the ground floor level (please see the enclosed architectural drawing for reference).

We have genuinely sought to address neighbours' worries about Blocks A & B and the new application addresses these concerns to the fullest extent given the site's physical constraints. It is worth noting that the original application fully accorded with Colchester Council's planning rules regarding the physical relationship between residential buildings and the current plans further exceed these requirements.

As I said at the outset, I do appreciate that you have concerns about the application and that you are also speaking on behalf of some of your constituents who are also concerned, but I hope you will agree that it is important to ensure that any planning application is determined based on a factually accurate appraisal of the issues. I realise that, in this most busy of years with a general election on the horizon, your diary is exceptionally busy. Nevertheless, I would like to re-extend our offer to meet with you at any time that would be convenient for you – we are more than happy to visit your constituency or Westminster Offices – to discuss the plans in more detail. I sincerely believe that the benefits this development would bring, in providing new, high quality and purpose built student accommodation for young people wishing to live and study in Colchester are very substantial indeed and worthy of your consideration.

Thank you very much for taking the time to read this letter. If you have any additional queries please do not hesitate to contact me directly on 07955 153865 at any time or via email to our dedicated project address; [avonhouse.consultation@googlemail.com](mailto:avonhouse.consultation@googlemail.com).

Yours sincerely

David Madden  
Office of the Project Manager  
Enc.

cc. Bradly Heffer, Case Officer  
Cllr Lyn Barton, Cabinet Member for Planning, Sustainability and Environment  
Cllr Tim and Cllr Julie Young

18 JAN 2010

12<sup>th</sup> January 2010

Cllrs Julie and Tim Young  
34 Mascot Square  
Colchester  
CO4 3GA

by Email to: [cldr.julie.young@colchester.gov.uk](mailto:cldr.julie.young@colchester.gov.uk), [cldr.tim.young@colchester.gov.uk](mailto:cldr.tim.young@colchester.gov.uk) and Post

Dear Cllrs Young

**Proposed Student Accommodation at Avon Way House, Avon Way, Colchester.  
Application No: 091357**

I wanted to write to you today to discuss the objection reasons you have cited in relation to the above-mentioned planning application. I appreciate that these are matters of real concern to you and I wanted to address each of your concerns as clearly as possible.

**1. Building height and relationship to properties at Pickford Walk**

As advised in previous correspondence, we have taken the opportunity to relocate the proposed blocks as far from the neighbouring properties at Pickford Walk as the site's physical constraints allow. We have also substantially reduced the comparative height of the two buildings, by excavating to reduce the ground floor level, as shown by the enclosed architectural drawings. Also, of equal importance, the proposed buildings fully comply with all Council requirements regarding relationships between residential buildings.

**2. Impact on neighbouring properties' daylight**

A detailed sunlight/daylight/overshadowing assessment has been undertaken and submitted as part of the planning application. This assessment clearly demonstrates that the proposed buildings would not have a detrimental impact on neighbouring properties. I would be more than happy to provide you with a copy of the assessment if you wish.

**3. Impact on residents' amenity – noise disturbance**

Avon Way House has a full management team on-site to ensure that student residents adhere to good neighbour requirements. Should residents ever wish to make contact, the Hospitality Office is manned with a full-time staff during normal weekly working hours and with student wardens beyond these hours. The completed proposals will be constructed in accordance with statutory and building regulation requirements to ensure acoustic separation and privacy for both our students and local residents.

18 JAN 2010

**4. Development density and 'cramped living conditions' for students**

The proposed development density fully accords with Colchester's requirements. Also, as your Senior Planning Officer explained in August of this year, it is inaccurate to refer to the proposals as 'cramped' or 'substandard'. Our proposals provide students with the option to share purpose built high quality flats with other like minded students, and there is a clear demand for this open market product. Colchester already offers a vast amount of larger residential properties on the open market, whereas our proposals offer an affordable and regulation compliant option designed to meet the specific needs of students. This also accords with the proposed condition that use will be restricted to University students only.

**5. Student Parking**

You will be aware as of the previous Planning Committee meeting that we have entered into a formal Section 106 agreement with the Council limiting students within their tenancy agreements not to bring their cars to site without valid parking permits. In addition, we are providing substantially improved pedestrian and cycle access links to the University campus and have adopted a number of other initiatives, including a 'human train' to actively encourage sustainable means of getting to and from college.

**6. Failure to sink the level of the buildings**

As the enclosed drawing demonstrates, this assertion is incorrect. We have significantly increased excavation to reduce the overall height of the proposed buildings quite substantially.

**7. Failure to pursue 'infill' development**

You will recall from the previous Planning Committee meeting that The Mansion Group do not own the infill areas of the Avon Way site, meaning it is not possible for us to pursue this option. We had retained an option to develop one section, which you may recall formed a part of the previous application for Blocks C to F.

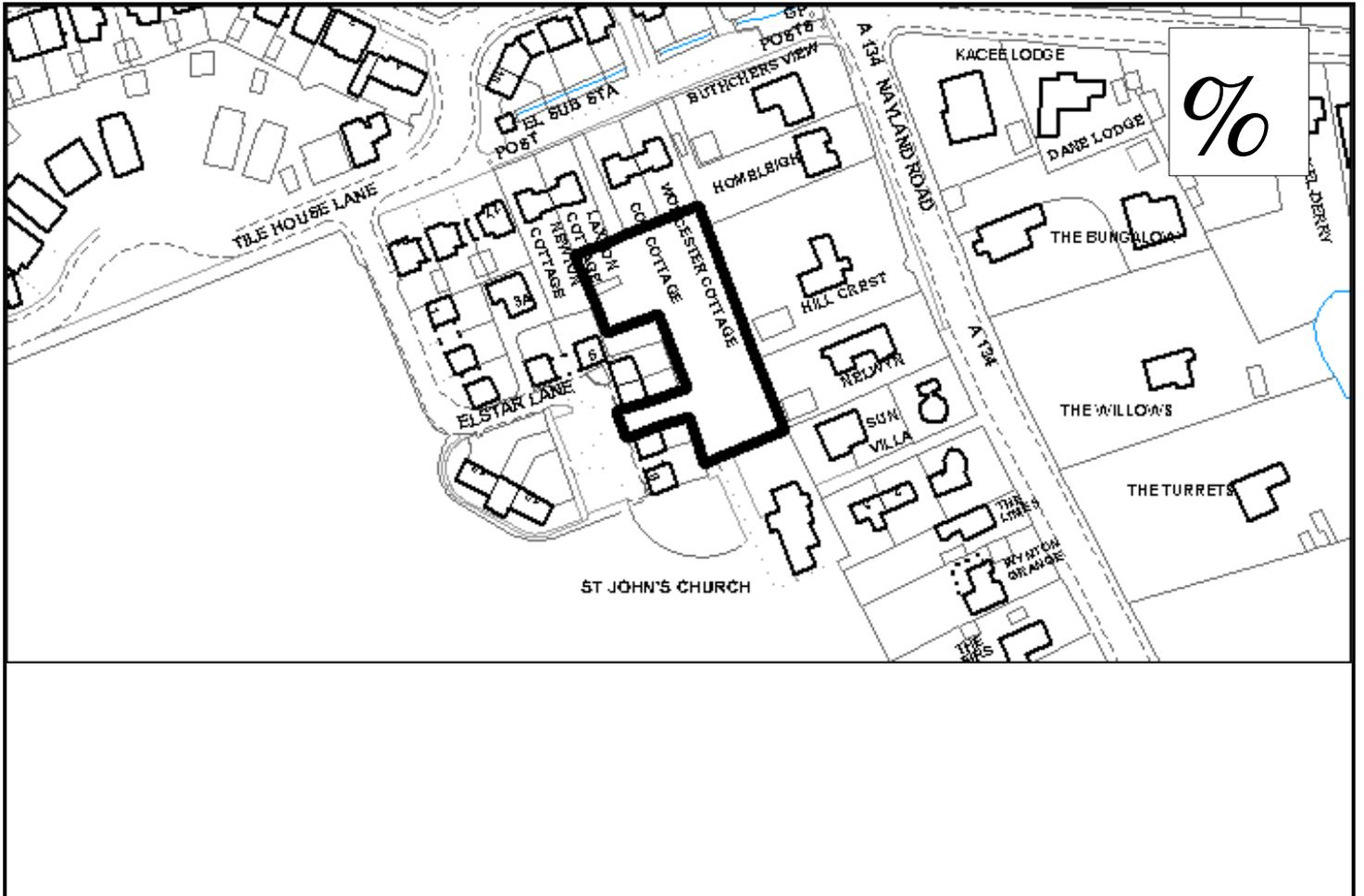
I sincerely hope that the information above goes some way towards addressing your concerns. I do appreciate that you have an obligation to represent the views of those of your constituents who object to this application, but I do believe that the benefits this development would bring - in providing new, high quality and purpose built student accommodation for young people wishing to live and study in Colchester; in providing new full-time jobs on-site; and in providing additional employment opportunities for local contractors servicing the apartments - are very substantial indeed and worthy of your consideration.

Thank you very much for taking the time to read this letter. If you have any additional queries please do not hesitate to contact me directly on 07955 153865 at any time or via email to our dedicated project address; [avonhouse.consultation@googlemail.com](mailto:avonhouse.consultation@googlemail.com).

Yours sincerely

David Madden  
Office of the Project Manager  
Enc.

cc. Bradly Heffer, Case Officer  
Cllr Lyn Barton, Cabinet Member for Planning, Sustainability and Environment  
Mr Bob Russell MP



**Application No:** 090504

**Location:** Land Adjacent To Horkesley Green, Tile House Lane, Great Horkesley, Colchester

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

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## 7.2 Case Officer: John Davies

**MINOR**

**Site:** Tile House Lane, Great Horkesley, Colchester

**Application No:** 090504

**Date Received:** 4 June 2009

**Agent:** Adp Limited

**Applicant:** Mps Trust

**Development:** Residential development of five single storey, two bedroom dwellings (resubmission of 081926).

**Ward:** Fordham & Stour

**Summary of Recommendation:** Conditional Approval subject to Unilateral Undertaking

### 1.0 Site Description

- 1.1 The application site comprises a roughly rectangular shaped parcel of land located to the rear of properties fronting the A134 Nayland Road to the east, properties fronting Tile House Lane to the north, and the recently constructed Horkesley Green residential development to the west and St John's Church grounds to the south.
- 1.2 The site falls within the Great Horkesley Village Envelope and was formerly the rear gardens the Tile House Lane properties to the north. The site is enclosed by fencing and has been cleared of vegetation. It is served by an access to the west leading from Elstar Lane within the Horkesley Green development.
- 1.3 The site area is 0.15ha. There are no trees on the site; however, there are trees in the gardens of adjoining sites close to the site boundary.

### 2.0 Description of Proposal

- 2.1 The original proposal was for the erection of 6 two bedroom dwellings comprising two pairs of semi-detached units (plots 1-4), a single house and a bungalow. This has been amended to a development of 5 single storey dwellings, which is the subject of this report.
- 2.2 The application is accompanied by a signed Unilateral Undertaking for the provision of a contribution to Open Space, Sport and Recreation. The application is also supported by a DAS and an Arboricultural Impact Report.

### 3.0 Land Use Allocation

- 3.1 Village Envelope

#### **4.0 Relevant Planning History**

- 4.1 081926 - Residential development of six two bedroomed dwellings and associated garages. Withdrawn 13 February 2009

#### **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Borough Local Plan-March 2004  
DC1- Development Control considerations  
UEA11-13- Housing development  
CO4- Landscape Features  
H7- Rural housing

- 5.2 Core Strategy December 2008  
UR2- Built design and character  
ENV2- Rural Communities

- 5.3 Adopted Infill and Backland Development SPD

#### **6.0 Consultations**

- 6.1 Highways Authority raised no objection to original scheme subject to conditions to achieve the following:

- Provision of pedestrian visibility splays at access
- Provision of estate roads at least to base level prior to occupation
- Provision of vehicle turning and parking facilities

Any comments on the revised plans will be reported to Committee.

- 6.2 Tree Officer made the following comments on the original scheme:

- Proposed tree protection measures as set out in the report are satisfactory.
- Leyland Cyprus Trees T7 and T8 are close to rear of proposed units 1 and 2 raising concerns about possible complaint under High hedges legislation in future.
- Garage block is very close to Ash tree T6 raising concern about impact on RPA of this tree.
- Norway maple tree T4 is close to proposed units 3 and 4. This is currently a young tree but has potential to grow up to 20m with spreading crown which will affect the adjacent properties in the future.

- 6.3 Response received from applicant's tree consultant responding as follows:

- All the dwellings are outside the RPAs of the trees and no principal windows face the relevant trees.
- Impact of the cart lodge on the RPA would be minimal and equivalent to digging for fence posts. Construction of the cart lodge would have minimal ground disturbance within the RPA by the use of concreted post foundations and hand dig excavation.

- High hedges complaints, if submitted, may not be sustainable given there are no principal windows on this side and the trees would not cause shading by reason of the orientation of the units in relation to the path of the sun. Potential purchasers will be aware of trees when buying either of these units.
- The Norway maple has the potential to grow as high as 20m and 15-20 m in crown spread. However, in a garden boundary setting the tree is normally managed to cope with its surrounding environment.

*Officer comment - the amended proposals have deleted the cart lodge and instead of Units 1 and 2 there is a single unit which is further from the boundary and with a larger garden. Therefore the perceived future adverse impacts on existing trees are much reduced.*

- 6.4 Landscape Officer comments that the proposed planting within the centre of the site does not comply with relevant BS and would be impractical in terms of vehicle movements. Suggest 4 are removed leaving two. There is no/ limited potential for planting tree screening behind the proposed units. Validity of off site screening needs to be assessed through a tree survey. If acceptable recommends standard landscape design and implementation conditions.
- 6.5 The applicant's response to these comments are that the scheme can be amended to reduce proposed tree planting and they point out that the scheme does not rely on the trees for good design or privacy.

## **7.0 Parish Council's Views**

- 7.1 The Parish Council's views on the amended scheme are as follows.

"My Parish Council remains concerned about this development – the reduction to bungalow type dwellings does not detract from the basic difficulty of a very cramped and difficult to access site. My Parish Council asks you to take on board concerns over access in general, but in particular for service vehicles (which have enough problems on the THF development as it is), emergency vehicles, oil tankers etc. (have in mind there is no gas in Gt. Horkesley and the predominant heating supplier is by oil tanker with a 200ft. hose limit). If CBC is minded to grant this application, then my PC would ask you to consider a ban in perpetuity of any second story (upward) extensions. This seems to be the issue of most concern to neighbouring (existing) properties."

## **8.0 Representations**

- 8.1 Responses objecting to the original proposals have been received from three neighbours in properties on the A134. The comments are summarised as follows:
- Hill Crest objected for following reasons:
    - Increase in separation to boundary from 1m to 2.5m and reduction in height of Plots 3/4 by 0.75m do not overcome previous objections on grounds of:
    - Over-bearing impact- contrary to Policy UEA13c
    - Perceived overlooking created by window openings in the roof notwithstanding design not to cause actual overlooking
    - Shading of rear garden- loss of sunlight to garden especially in the Winter contrary to Policy UEA13d

- Surface water flooding- concern about raised ground levels and possible movement of surface water eastwards into gardens.

8.2 Homeleigh objected on the following grounds:

- Plans give incorrect impression that development would be screened from houses to the east by existing planting- there is only intermittent shrubs and trees
- Plans don't show need to raise ground levels by 1-1.5m for drainage purposes resulting in flooding to east
- Adverse impact on sunlight to gardens

8.3 Newlyn objected as follows:

- Likelihood of flooding if ground levels are raised
- Impact on light to property and increased noise and nuisance
- Out of keeping with the surrounding area.

All neighbours have been re-consulted on the amended plans and any responses will be reported to Committee.

## 9.0 Report

9.1 The main issues raised by the application are as follows:

- Principle of residential development
- Layout and design
- Highways issues
- Impacts on neighbours
- Trees and landscape issues
- Flood risk
- Conclusions

### Principle of residential development

9.2 The site falls within the Great Horkesley Village Envelope and, therefore, residential development is acceptable in principle subject to compliance with other relevant planning policies and standards. As described earlier in the report, the site is located in a backland setting and backs onto gardens of existing houses on the west, north and east boundaries. These constraints along with others on the site are discussed in the next section. The proposed development of 5 residential units would have a density of 33 dwellings per hectare and is therefore within the normal density range for sites such as this of 30-50 dph.

### Layout and design

- 9.3 A previous application for 6 houses on the site was withdrawn following Officers' and neighbours' concerns over impacts of the development on the amenity of neighbours together with concerns raised about ground levels and impact on trees. The scheme, in particular, had two storey units close to the north-east boundary with the gardens of three houses on Nayland Road (Hill Crest, Homeleigh and Newlyn). Officers advised the applicants to create a layout which provided a more enclosed central space onto which proposed houses could face and therefore provide a greater sense of place.
- 9.4 Officers requested that the proposed dwellings, compared to the original proposals, be lowered in height and set further into the site to reduce their impact on neighbour's gardens. It was also felt important in the interests of good townscape to have a building facing the entrance into the site to provide a visual 'stop' and similarly have a building positioned at the end of the access road at the northern end of the site for the same purpose. The latter was designed as single storey to reduce its impact on the gardens of houses to the rear. Within the context of predominantly two storey buildings around the site the proposed units were therefore a mix of dwellings with one and one and a half storeys in height. Following further objections from neighbours to the scale of the proposed development, the scheme has been amended so that all the units are now single storey. This has also resulted in the loss of one unit and the re-arrangement of the layout based on a fully private drive.
- 9.5 The design of the units is in a rural cottage style with the use of red/orange facing brickwork and slate roofs. Each unit has attractive detailing including brick plinths, voussoir window arches, chimneys and or finials, stone cills, etc. It is acknowledged that the design contrasts with more standardised two storey houses types on the Horkesley Green development, post-war semi detached housing fronting the Tile House Lane and larger, more spacious detached houses on Nayland Road. Given this variety in surrounding established development it is not considered that the proposed form of development is necessarily inappropriate. Recently adopted SPD on backland development resists new development which is out of character with its surroundings and is particularly directed against tandem development and proposals which do not create a satisfactory sense of place or local character. Whilst a development of single storey dwellings in an area where two storey houses are the main building type can be argued to be out of context, in this case given the site constraints (including neighbour amenity, trees, access point) it is considered that the proposal represents an appropriate design solution.

### Highways issues

- 9.6 The proposed access layout comprises an adoptable drive and turning area immediately within the site. The proposed scheme provides 2 parking spaces per dwelling. The Highway Authority raised no objection to the original scheme subject to conditions covering pedestrian visibility splays at the access, construction of the carriageway prior to house development and provision and retention of vehicle turning space within site. Each unit has two parking spaces. Comments on the revised scheme are awaited from Highways.

### Impacts on neighbours

- 9.7 The main issues, as summarised earlier in the report, relate to the impact of the proposed units on the amenity of neighbours in terms of potential for overlooking, garden shading and overbearing impacts. Concerns over these impacts from neighbours have been taken on board by Officers and the amended proposals are now for single storey units. It is commonly accepted that single storey units do not give rise to material harm to the amenity of neighbours in respect of any of the above matters.

### Trees and landscape issues

- 9.8 There are no existing trees on the site but there are trees in neighbouring gardens close to the boundary. In recognition of this a Tree survey and arboricultural impact assessment has been submitted, which the Tree officer has considered and finds acceptable.
- 9.9 The amended scheme has resolved the outstanding tree issues insofar as there is now greater separation between the dwellings and the eastern boundary. Pressure to prune/lop trees in adjoining gardens is therefore less and in any event the role of trees as screening is much less important given the new development is only of single storey scale.

### Flood risk

- 9.10 Neighbours living on Nayland Road have raised concerns about flood risk associated with the development based on the fear that ground levels would be raised to similar levels as at the Horkesley Green development which be likely to lead to surface water run-off eastwards into neighbouring gardens with a potential for flooding. In response to this concern, which was also raised in the previous application, the applicants have confirmed in their DAS that the design stage layout prepared by a specialist consultant confirms that the drainage serving the proposal can be accommodated without the need to raise ground levels. In addition, cross- sections have been provided across the site with spot levels and which confirm this. For the avoidance of doubt conditions on ground levels are recommended which will seek to enforce the requirement for no raising of ground levels.

## **10.0 Conclusions**

- 10.1 It would have been better for this plot to have been developed along with the Horkesley Green development in order to secure a more comprehensive and integrated layout. However, this did not happen and this plot now represents an area where development needs to happen if it is not to become an eyesore and piece of land which no one looks after properly and is a potential source of nuisance to neighbours. A satisfactory access exists and the proposals whilst seeking on the one hand to maximise its residential potential also have had regard to considerations of neighbour amenity, tree protection and urban design. The proposals are therefore recommended for approval.

## **11.0 Background Papers**

11.1 ARC; Core Strategy; HA; TL; PTC; NLR

### **Recommendation**

Subject to the dating of a Unilateral Undertaking in respect of a contribution to Open Space, Sport and Recreation the application be approved 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 - A7.4 Removal of ALL 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 development within Classes A to E of Part 1 of the Schedule of the Order (any extension, outbuilding, garage or enclosure) shall take place without the prior written permission of 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 by controlling future extensions, alterations and associated development.

3 - C3.4 Samples of Traditional Materials

Samples of all materials to be used in the external construction and finishes of all parts of the proposed development, shall be selected from the local range of traditional vernacular building and finishing materials and shall be submitted to and agreed in writing by the Local Planning Authority before the development commences. The development shall be implemented in accordance with agreed details.

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

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

No new window or other openings shall be inserted above ground floor level in the any of the roof slopes of the proposed building without the prior approval in writing of the Local Planning Authority.

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

#### 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 that the proposed development is visually satisfactory and enhances the appearance of the locality.

#### 6 - C12.2 Details of Walls or Fences

Prior to the commencement of the development details of screen walls/fences/railings /means of enclosure etc shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the position/height/design and materials to be used. The fences/walls shall be provided as approved prior to 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.

#### 7 - Non-Standard Condition

Prior to any works commencing on site plans and cross-sectional drawings shall be submitted to and approved in writing by the Local Planning Authority showing existing and proposed ground levels and proposed finished floor levels within the site and existing ground levels at least 1 metre within the boundaries of adjacent properties. The development shall be carried out in accordance with the approved levels.

Reason: In order to ensure that the development is carried out at existing ground levels as the raising of levels would be likely to give rise to loss of amenity to neighbouring residents.

#### 8 - 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 the access and shall be maintained in perpetuity free from obstruction. These splays must not form part of the vehicular surface of the access.

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

#### 9 - Non-Standard Condition

The carriageway of the proposed estate road shall be constructed up to and including at least road base level prior to the commencement of the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has properly consolidated and surfaced carriageway and footway between the dwelling and the existing highway. Until final surfacing is completed the footway base course shall be provided in a manner to avoid any up-stands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways, and paths in front of each dwelling shall be completed with the final surfacing within 12 months from the first occupation of such dwelling.

Reason: To ensure that roads and footways are constructed to an acceptable standard in the interests of highway safety.

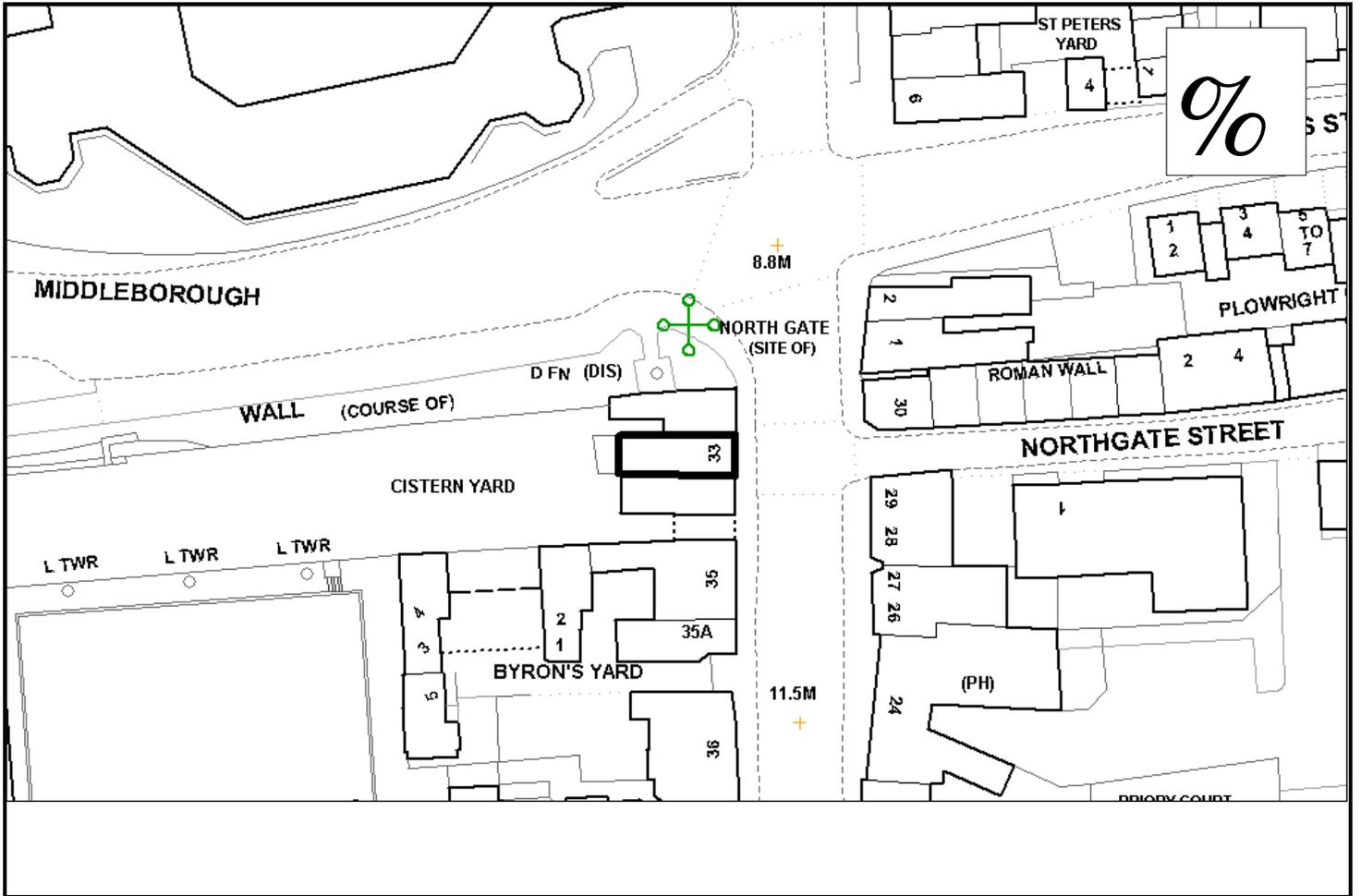
#### 10 - Non-Standard Condition

Prior to the commencement of the proposed development the vehicular turning and parking facilities as shown on the submitted plans shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear in the interests of highway safety.

#### **Informatives**

Your attention is drawn to the attached Advisory Notes on the Control of Demolition and Construction work on site.



**Application No:** 091068

**Location:** 33 North Hill, Colchester, CO1 1QR

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

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### 7.3 Case Officer: Andrew Huntley

**OTHER**

**Site:** 33 North Hill, Colchester, CO1 1QR

**Application No:** 091068

**Date Received:** 23 September 2009

**Agent:** Whymark & Moulton Ltd

**Applicant:** Charles Day And Co

**Development:** Proposed conversion of existing offices/counselling rooms to 2 no. residential flats

**Ward:** Castle

**Summary of recommendation:** Conditional Approval subject to Unilateral Undertaking

#### 1.0 Site Description

1.1 The site is located on the eastern side of North Hill, at its southern end. The area is mixed use in character with commercial uses at ground floor level. The property on the application site is two-storey late Victorian red brick building with the remains of an historic shop front surround.

#### 2.0 Description of Proposal

2.1 Proposed conversion of existing offices/counselling rooms to 2 no. residential flats.

#### 3.0 Land Use Allocation

3.1 Conservation Area  
Mixed Use Areas 'B'

#### 4.0 Relevant Planning History

4.1 C/COL/02/1935 - Change of use from office to use for counselling/training purposes. Approved subject to conditions.

#### 5.0 Principal Policies

5.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations  
UEA1 – Character of Conservation Areas  
UEA2 – Building within Conservation Areas  
UEA11 – Design  
UEA13 – Development  
TCS6 – Mixed Use Areas 'B'

5.2 Core Strategy  
SD1 – Sustainable Development Location  
UR2 – Built Design & Character

5.3 Planning Policy Statement 1  
Planning Policy Statement 6  
Planning Policy Guidance 15

## 6.0 Consultations

6.1 ECC Highways: Does not wish to object to this proposal

6.2 Design and Heritage Unit: No objection from a conservation standpoint.

## 7.0 Representations

7.1 One objection has been received relating to this proposal. The objection relates to the following:

- The building is in a short terrace devoted to business use.
- There is a demand for office space as shown by the high take up along North Hill.
- The building is not in a favourable location for residential use and is close to a busy junction with adverse safety implications and traffic noise.
- The proposed flats would lack privacy by passers by and the rooms would be small.
- Residential use would be undesirable as it would be lo-standard accommodation.
- Car parking and inadequate loading and unloading space.
- The proposed front elevation represents no improvement except for the front door and it would be better if the painted bricks at the front were cleaned off.

## 8.0 Report

### Introduction

8.1 The main considerations with this application are:

- Policy
- Design and Character
- Other Considerations

### Policy

8.2 Policy TCS6 in the adopted Local Plan states that there will be a presumption in favour of residential, shopping, office and appropriate leisure uses providing they would not adversely affect the character and function of these streets and that any alterations to the front elevation are in character with the building and streetscene.

8.3 The area is mixed use in character with a wide range of uses and as such the proposed change of use accords with Policy TCS6, which supports residential uses.

## Design and Character

- 8.4 The only external alterations proposed are for a new door and front window. The existing door and shop window are of a modern construction and contribute little to the historic character of this building. The proposal to change these with more traditional styles and materials would improve the appearance of this building. To ensure the detailing is correct, a condition requesting further details of the new door and window would be required.
- 8.5 Overall, the proposed changes to the front elevation would improve the buildings appearance and therefore improve the character and appearance of the Conservation Area.

## Other Considerations

- 8.6 The highway authority has not objected to the proposal. The proposal shows a shared parking and amenity area to the rear, which is considered acceptable in this edge of town centre location. In regard to the issues raised in the objections letter, these do not warrant the refusal of planning permission. The fact that there may be demand for office space is not a reason to refuse this proposal when it accords with development plan policy. Nor is the fact that this is a busy location and the rooms would be small a reason for refusal. This would be a matter for the potential occupiers to consider. As the Highway Authority has not objected to this proposal then it is not considered that parking issues warrant a refusal. All the matters raised within the objection carry limited or no weight and do not warrant the refusal of this application.

## **9.0 Conclusion**

- 9.1 The proposed change of use to two residential flats is acceptable in this location and should be approved subject to the dating of a Unilateral Undertaking to ensure provision of the required open space contribution.

## **10.0 Background Papers**

- 10.1 ARC; Core Strategy; HA; DHU; NLR

**Recommendation** - Conditional Approval subject to a Unilateral Undertaking for a contribution to Open Space and Community Facilities.

### **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

Additional drawings that show details of proposed new windows and doors to be used, by section and elevation, at a scale between 1:20 and 1:1 as appropriate, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works. The development shall thereafter be carried out in accordance with such details.

Reason: To protect the character of the building and the contribution it makes to the appearance and character of the Conservation area.



**Application No:** 091426

**Location:** Mythian, 4 Parsons Hill, Colchester, CO3 4DT

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

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#### 7.4 Case Officer: Nick McKeever

**MINOR**

**Site:** Mythian, 4 Parsons Hill, Colchester, CO3 4DT

**Application No:** 091426

**Date Received:** 6 November 2009

**Agent:** Mr Bob Tyrrell

**Applicant:** Mr Roger Sumner

**Development:** Proposed development to provide 9 apartments.

**Ward:** Prettygate

**Summary of Recommendation:** Conditional Approval subject to signing of Unilateral Undertaking

#### 1.0 Planning Report Introduction

1.1 This application is a resubmission of 081325, which was refused by the Planning Committee on 9th October 2008 in accordance with the recommendation set out within the Committee Report.

#### 2.0 Site Description

2.1 The site is a 0.2 ha triangular shaped plot of land located to the south of the junction of Parsons Hill and Church Lane, Prettygate. It lies within, and forms part, of an established residential area.

2.2 The existing residential development in the immediate vicinity includes detached dwellings to the south and the south east fronting onto Parsons Hill and detached houses along Beech Hill, together with detached houses to the south west facing onto Church Lane. To the immediate north and north west are detached dwellings fronting onto Church Lane.

2.3 4 Parsons Hill is currently occupied by a 1960's style detached, three storey dwelling house located close to the southern boundary of the site. Access is onto Parsons Hill, via a steep, winding drive.

- 2.4 The land rises steeply from the Church Road & Parsons Hill frontage, with a steep bank approximately 3 metres in height along the boundary with Church Lane. The existing dwelling is located at the top of the plot, within an area of lawn. A flint retaining wall separates the house and associated lawns with the remainder of the site. Along the western boundary with Church Lane is a woodland area with mature trees whilst the front boundary is enclosed by a row of Lawson Cypress trees. This woodland area was subject to a Tree Preservation Area, which covered approximately one third of the site area. This TPO has been revised recently to incorporate most of the site (reference TPO 06/08).
- 2.5 The land to the north east of Parsons Hill forms part of a conservation area.
- 2.6 The proposed development of this site is for 9 flats to be located within that part of the site currently occupied by the existing dwelling.
- 2.7 The flats are to be contained within two separate buildings. The front block facing Parsons Hill is of 2.5 storeys, with accommodation within the roof void, and will accommodate 6 flats. The block fronting Church Lane is also 2.5 storeys with accommodation within the roof area. This building will provide 3 flats. The buildings are shown as being constructed using the vernacular palette of materials.
- 2.8 16 parking spaces are to be provided within an excavated basement area beneath the two buildings, together with refuse & recycling areas.
- 2.9 The existing vehicular access onto Parsons Hill is to be closed. A new vehicular access onto Parsons Hill is to be created further to the south of this existing access.

### **3.0 Land Use Allocation**

- 3.1 Residential

### **4.0 Relevant Planning History**

- 4.1 16411/15 - House and garage. Approved 16 November 1962.
- 4.2 88/1085 - Replacement of flat roof with pitched roof and provisions of rooms in roof space. Approved 18 July 1988.
- 4.3 080502 - Demolition of existing 5 bedroom house and redevelopment of site to provide 13 Nos x 2 bedroom flats and 1 No x 1 bedroom flat over semi-basement parking. Withdrawn
- 4.4 081325 – Demolition of existing house and erection of 10 x 2 bedroom and 1 x 1 bedroom flats in two small blocks with semi basement parking. Resubmission of 080502. Refused 9th October 2009.

## 5.0 Principal Policies

- 5.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
Design - UEA11& UEA13  
CO4 - Landscape Features  
Conservation Areas - UEA1 & UEA2  
Car Parking - T9

## 6.0 Consultations

- 6.1 The Highway Authority has no objection subject to conditions.
- 6.2 The Council's Arboricultural Officer comments as follows:-

"With reference to aforementioned application I would like to make the following comments:

### Survey and Analysis

Regarding Tree Survey & Arboricultural Implication Assessment submitted:

Generally I am in agreement with the conclusions and recommendations made within the report by DF Clark Bionomique Ltd but draw the following points to your attention:

The site is significantly constrained by a number of mature individual and groups of trees. However, it should be kept in mind that it is as a group that the trees hold amenity value to the public. The proposed development would require the removal of a number of trees both due to the poor quality of the trees or in the case of 4 trees as a result of the proposed development.

As mentioned above the majority of the trees recommended for removal are given the category of C or R from BS 5837: 2005 Trees in Relation to Construction – Recommendations.

I am in agreement with this categorisation of these trees due to their general vigour and defects noted during a number of site visits that I have undertaken. As these trees are categorised in this manner they cannot be used to constrain any proposed development.

The exceptions to the above are Sweet Chestnut T73 & T82 and Lawsons Cypress T67, T71 & T72. It is undoubted that Sweet Chestnuts T73 and T82 are good specimens and do contribute to the group as a whole, however, as it is also without doubt that the amenity value of the trees is as a group the loss of these two trees could be mitigated by remedial plating as part of the landscaping proposals. With regard to the Lawsons Cypress, whilst these trees are categorised as B2 from BS5837:2005 they are non native trees and are not in keeping with the overall and historic context of the group and so could be considered for removal and replacement with native species as recommended.

Therefore it is my opinion that these trees should not be used to constrain the proposed development.

It is noted that Tree of Heaven T8 is 'likely to constrain the development area. Can be felled' – this is both correct and incorrect. The tree does constrain the development area as it has a root protection area (RPA) radius of 6m. This RPA can be offset by a maximum of 1.2m as per BS5837:2005. I am advised that some drawings relating to this proposal do not reflect this RPA correctly – this must be amended and adhered to. Group G4 has been recommended for removal as a result of the fact that it is dead/dying. As noted within the report this is likely to be as a result of Dutch Elm

Disease. They do present a risk to the highway if left to deteriorate and require removal regardless of the outcome of the planning application.

I note the comments with regard to G5 which comprises of 33 Leyland Cypress and a Purple Leaf Plum trees. These trees do present much the same argument as mentioned previously except in this instance they have been left to grow relatively unchecked for a great many years. I consider that if the proposal were to be given permission these trees should be retained in the short term to provide a screen from Church Lane but as part of the ongoing maintenance of the site they are considered as part of the landscape proposal for removal after good quality Holm Oak or native evergreen replacements are planted.

Regardless of the outcome of the planning application after the decision is made regarding this site the good quality trees on the site will be subject to a new CBC preservation order such that the historic woodland area is retained.

Finally, we do require confirmation that if planning permission is given, that an Arboricultural Consultant will be retained and will provide monthly written reports regarding the protective fencing and any tree management required during the demolition/construction phases. We will also require the Arboricultural Consultant to be present during any operations that will affect trees.

#### Conclusion

In conclusion, I am satisfied with the arboricultural content of the proposal subject to the above.

#### Recommendation

Agreement to the Arboricultural aspect of the application subject to condition

Additional Condition:

The construction shall take place solely in accordance with the terms of the Methodology Statement received which forms part of this permission, and no other works shall take place that would effect the trees unless otherwise agreed in writing by the Local Planning Authority."

6.3 Environmental Control recommends conditions controlling light pollution and the establishment of a management company for responsibility of the maintenance of any communal refuse/recycling storage areas.

6.4 Natural England comments that:-

"Natural England advises the proposals as presented may have the potential to affect species protected under European or UK legislation. We advise that you consider whether parts of the existing building(s) or mature trees may be used by bats as seasonal or temporary roost sites.

The Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats &c) Regulations 1994 protect bats and their roosts from intentional or reckless harm or disturbance. The legislation also specifies that advice should be sought from Natural England on any works that might affect them."

## 7.0 Representations

7.1 A letter has been submitted on behalf of the Lexden Conservation Group raising the following objections:-

- Out of character
- Removal of trees. The current arboricultural landscape has a character that is worth keeping
- Increased car parking on Parsons Hill
- Additional traffic using Church Lane should be discouraged due to the hazardous junction and pedestrians crossing at the staggered junction with Shakespeare Road.

7.2 In excess of 90 objections have been received. These representations are summarised as follows:-

- Whilst this is a slightly reduced version of the previous two applications 080502 & 081325, it is not materially different and the effects upon the area will be exactly the same. It remains unacceptable and should be refused as being contrary to the same policies as applied to the previous refused application.
- The location is immediately adjacent to a conservation area. The scale of the development linked to the destruction of trees and resulting loss of amenity will have detrimental impact upon the conservation area, contrary to the Local Plan policy UEA1 & UEA2.
- The development is too large and intrusive. A large multiple occupancy building is out of character and contrary to Local Plan policy UEA13. Development should be restricted to two moderate sized houses.
- Adverse impact upon the local character & amenity. Parsons Hill is part of the 'green lung' of Lexden, with the mature trees and shrubs providing habitats for birds and wildlife and respite from urbanisation.
- Destruction of trees. This contravenes the current Tree Preservation Order (TPO)
- Highway issues. Increased traffic hazard with the driveway being close to the Parsons Hill/Church Lane & Shakespeare Road junction. Insufficient on-site car parking and likely increase in cars being parked on Parsons Hill.
- Contravention of Human Rights Act. Part 1, Article 8 refers to the right of every person to respect for their family life and their home. Part II, Article 1 refers to every person being entitled to the peaceful enjoyment of their possessions. The Council has a legal obligation to provide relevant convention rights when considering planning applications.
- Drains have been installed to try and prevent flooding that caused huge problems a few years ago. The loss of gardens & trees and their replacement with concrete will cause environmental problems. Is the infrastructure in place to accommodate the development.
- Loss of privacy with gardens being overlooked.

7.3 Councillor Wyn Foster has written to support the objections relating to the development being out of character, impact upon trees, loss of privacy and highway safety & traffic problems.

7.4 The occupiers of 6 Parsons Hill, which is immediately adjacent to the site, has submitted a letter of objection raising issues relating to the excavation works, loss of privacy, impact upon trees and highway safety. This letter is reproduced in full as an Appendix 1.

7.5 Bob Russell MP has written to object on the basis that:-

- The development is out of keeping and out-of-scale for the area and would destroy the special character of a well-wooded part of Colchester.
- It is an over-development of the site.
- Concerns about the road safety implications in the immediate vicinity which is characterised as having something of a “rural country lane” appearance rather than an urban residential setting.

7.6 A petition containing 176 signatures has been submitting raising objection to the proposed development.

## **8.0 Report**

8.1 This current application seeks to address the previous stated reasons for refusal and has evolved through discussions with the Agent, your Officers and Essex County Council Highways Department.

8.2 The previous reasons for refusal are as follows:-

1. The Adopted Review Colchester Borough Local Plan March 2004 Policy DC1 (e) will permit development only if it will not lead to the loss of degradation of important, cultural, historic, ecological or rural resources, unless alternative compensatory provision acceptable to the Council is to be provided. Furthermore the Local Plan Policy C04 requires that development schemes should protect existing landscape features such as trees, hedges, ponds, woods, wherever possible. Where this is not possible compensatory provision will be required. The site is subject to a Tree Preservation Order and the development will result in the removal of protected trees.

In addition, the application as submitted contains insufficient information to enable the Council to satisfactorily assess the full impact of the development, and in particular the impact of the excavation and alterations to the existing ground levels, associated with the development.

Furthermore the proposed buildings are to be located in close proximity to the existing and protected trees within the site. This proximity is likely to have a significant impact upon the amenity of the future occupiers of the development to the extent that this is likely to give rise to pressure to lop and/or fell these trees.

The site occupies a prominent and sensitive location within this established residential area. It contains the remnants of an ancient woodland, together with other trees within the vicinity, which contribute significantly to the particular character and visual amenity of this otherwise suburban landscape. Having regard to all of the aforementioned circumstances the Council consider that the development is likely to have a significant and adverse impact upon the established and protected trees within the site to the detriment of the appearance and character of this leafy residential area. The application is therefore contrary to the aforementioned policies.

2. The Local Plan policy CO6, in common with Planning Policy Statement 9 (PPS9), recognises that development proposals may potentially harm or interfere with protected species or their habitats, for example bat roosts. Developers are required to carry out site surveys prior to submitting development proposals where these might adversely affect protected species. The application as submitted, however, contains insufficient survey information to demonstrate whether or not the development would have an adverse effect on legally protected species and is therefore contrary to the above Local Plan policy and guidance in PPS9.
3. The Local Plan Policy DC1 (c) and (d) require that developments shall provide for safe facilities for cyclists and pedestrians and that the highway network is able to accommodate safely the extra traffic generated by proposed development. Policy CF1 requires developments to make appropriate infrastructure contribution. Essex County Council as the Highway Authority has recommended that a developer contribution of £2000 to be held for a period of 5 years to pay for any traffic regulation order is needed to control inappropriate vehicle parking in Parsons Hill caused as a result of this development. The proposal does not include a mechanism to secure this contribution. The application is therefore contrary to the aforementioned policies.
4. The proposal has not secured an appropriate planning obligation that makes provision for the costs of the development in terms of a contribution towards open space, sports and recreation facilities in accordance with Policies CF1 and L5 of the Adopted Review Colchester Borough Local Plan March 2004 and adopted SPD.
5. The proposed development incorporates upper storey living room accommodation overlooking habitable rooms within an immediately adjoining dwelling house thereby resulting in a loss of privacy to this dwelling contrary to policy UEA13 of the Adopted Review Colchester Borough Council Local Plan March 2004 and adopted supplementary planning guidance.

#### Informative

Whilst not forming a reason for refusal the applicant should be aware that the Highway Authority require footway improvements to Church Lane/Parsons Hill as shown on the returned plan.

- 8.3 It is clear from this decision that the principal reason for the refusal was based upon the potential adverse impact of the development, in terms of the excavation works and the proximity of the buildings, upon the existing trees within this site. These trees, which were the subject of a TPO (Essex County Council), and contribute significantly to the almost sylvan character of this part of Parsons Hill and Church Road. This reason was based upon the recommendation made by the Council's Arboricultural Officer. In order to provide Members with the necessary background to these circumstances the report that accompanied this previous submission to the Committee, is reproduced as Appendix 2.
- 8.4 This report will now consider these circumstances and set out the current position.
- 8.5 The application is supported by an Arboricultural Impact Assessment, full details of which are available on the Council website. This Assessment describes the difference in ground levels within the site and states that it is the lower part of the site that contains most of the mature trees and coppice, the subject of an old Essex County Council TPO. This has now been revoked. Whilst the TPO is the subject of ongoing renewal, there is now no current confirmed TPO on the site.
- 8.6 The report states that there are 82 individual trees, 5 group areas and 1 specific hedge that have been surveyed and constrain the development. The principal standard trees are a mixture of original landscape standard sweet chestnut and oak with self seeded sycamores along with an understorey of holly and yew. The remnant wooded copse is part of a larger ancient semi-natural woodland. The remaining trees are a mix of ornamental trees and Lawson's cypress. The cypress trees are planted along the northern boundary of the site with Church Road and screen the site. There are no outstanding trees apart from the Tree of Heaven, which is on the adjoining property and is described in the Assessment as being Class A1 due to its good form, shape and condition.
- 8.7 In terms of the impact of the development upon the trees the Assessment states:-

"The arboricultural impact: Most of the best condition and visually important trees and group areas on site will be retained as part of the proposed development proposals. Those trees and groups that will need to be replaced, because of their poor condition, or incompatibility with the proposed scheme, will be done so by a replacement tree planting programme as mitigation for planned losses. At least five trees and one group, G4, are classified as R?? and need to be replaced for existing arboricultural reasons because of their poor form, structural defects or a useful life expectancy of less than the years. These are:-

T2, purple plum - poor specimen in decline

T39, elm - dead tree

T43, tree no longer standing, stump only

T47, elm - dead/dying tree

T57, sycamore - suppressed and etiolated specimen

G4, elms - dead/dying specimens due to Dutch elm disease.

General retained tree protection methods are described within this report for all the remaining trees able to be retained. The development of the site has the advantage of introducing the management of the individual standard trees and enrichment of the wooded areas and increase the number of new individual trees but has the potential to impact upon their rooting zones during the demolition and construction build works.

We do not believe that the proposed development will have a negative impact on the surrounding trees in terms of the number of principle trees impacted by the proposed layout. These are relatively few in number, only two mature sweet chestnuts growing on a single trunk in average to good condition, T75 and T82, growing on the upper lawned plateau around the house. T82, of which is growing immediately adjacent to the retaining wall causing potential damage to it. The remaining trees are discussed in more detail within the arboricultural impact assessment section of this report.

The potential for RPA compaction on this site is possible but we believe as long as anti-compaction measures are taken as recommended in this report then the proposals will not have a detrimental impact on the RPA's of retained trees. The retaining wall is proposed to be removed reducing the site levels to those of the lower wooded plateau.

Excavations and removal of the wall within adjacent retained tree RPA's will need to be undertaken by detailed method statement and under supervision of the consultant arboriculturalist. More detailed site specific method statements (SSMS) will need to be produced and developed as a condition of any planning consent for the site."

- 8.8 This Arboricultural Impact Assessment concludes that if all the recommended works are undertaken within this report then the tree protection policies of the Council will be successfully discharged during the development.
- 8.9 It is on this basis that the Council's Arboricultural Officer has submitted his recommendation that he is satisfied with the arboricultural aspect of the application. In view of this recommendation the Agent has submitted amended drawings showing compliance with the recommended root protection (i.e. 6.00 metres). Confirmation has also been provided that an Arboricultural Consultant will be retained and will provide regular written reports regarding the protective fencing and any tree management required during the demolition/construction phases. The Consultant will also be present during any operations that will affect trees. This is in accordance with the stated requirements of the Council's Arboricultural Officer.
- 8.10 The recommendation made by the Council's Arboricultural Officer follows on from amendments to the location and size of the two buildings, together with the associated excavations, as compared to the previous submission. In essence the footprint of the buildings has been reduced and the buildings moved further away from the trees that lie to the north of the existing dwelling. This has meant that the development now falls outside of the recommended RPA and that there will be less of a potential need for the occupiers of the new flats to seek to have the trees lopped.
- 8.11 With regard to the excavation works that are proposed, the application is supported by a document titled 'Basement, Construction and Waterproofing'. This document sets out the requirements and construction techniques'. In addition the application includes a report carried out by MLM Consulting Engineers – 'Sub-Structure/Retaining Walls Feasibility Assessment'. Whilst this latter Assessment can be viewed in full on the Council website, the conclusions are as follows:-

"In summary we conclude the following:-

- 4.1** The ground conditions are likely to comprise sands overlying London Clay at depth. Ground water is unlikely to be encountered but the possibility of a seasonally variable perched water table cannot be excluded.
- 4.2** Due to the proximity of the adjacent houses, face support will be required to the excavation necessary for the undercroft construction.

- 4.3 A detailed design appraisal may be able to demonstrate that the use of partial face support and partial battered excavation may be sufficient but this has not been considered in detail at this stage.
  - 4.4 The use of full face support has been considered and options exist for this technique including the use of interlocking sheet piles, contiguous bored piles or secant piles.
  - 4.5 Marked up copies of the architects cross section in Appendix A show indicative details for a pile wall solution.
  - 4.6 A brief summary of the contiguous bored piles or secant pile solution is given in Appendix B.
  - 4.7 Interlocking or contiguous or bore piled walls are a proven technology and well suited to this sort of construction.
- 
- 8.12 These works will be the subject of separate approval and control under the Building Regulations or NHBC. As such it is not considered appropriate that additional regulation is required by the imposition of any planning conditions.
  - 8.13 The third reason for refusal relates to the requirement of ECC Highways for an appropriate contribution towards any traffic regulation order needed to control inappropriate vehicle parking in Parsons Hill. The new submission has addressed this issue by the provision of an agreed financial contribution to be secured via a planning obligation.
  - 8.14 Whilst the concerns expressed by local residents in relation to increased traffic and associated hazards to local residents, members will note that the Highway Authority no raise no objection to the proposal subject to appropriate conditions, requiring improvements to pram crossing facilities, the removal of the existing traffic island and construction of a new pedestrian refuge (Shakespeare Road) and the widening of the footway where abutted by highway verge (Church Road. .
  - 8.15 The application includes the provision of 16 parking spaces, contained within an excavated basement area. This 150% provision accords with the Council's adopted parking standards applicable at the date of the submission of the application (6th November 2009). Members will be aware that revised car parking standards have been adopted by the Council. Whilst these standards would require a total of 21 spaces, the date of the adoption of these revised standards was the 12<sup>th</sup> November 2009.
  - 8.16 The only other reason cited in the Notice of Planning Decision dated 9th October 2008 relates to overlooking from upper storey living room accommodation. This report will now consider this issue amongst other considerations relating to the siting, scale and design of the proposed development.
  - 8.17 There are two properties immediately adjacent to the site, No 6 Parsons Hill and No.31 Church Lane (Summer Lands). The new buildings contain windows at ground floor and first floor levels within the south facing elevations. There are also balconies at ground floor and first floor levels which are west and east facing (i.e facing onto Parsons Hill and Church Lane). These windows and balconies serve habitable rooms. The south facing windows are all small openings and provide secondary sources of light to living rooms and bedrooms.

- 8.18 As the development involves excavations to provide a basement parking area, the buildings are set at relatively low levels in relation to the dwellings at No.6 Parsons Hill and Summer Lands. The relevant elevational drawing number 09:11 shows this relationship and clearly demonstrates that, with the erection of 2m high fences along the common boundary, there will be no effective overlooking from these south facing windows. This also applies to the balconies. The property at No.31 Church Lane has no windows within the flank wall adjacent to the site and there is an attached garage which is located in close proximity to the southern boundary of the site, which provides some screening to this property.
- 8.19 There are also existing trees and hedges along this common boundary.
- 8.20 Having regard to these considerations, it is considered that the development will not prejudice the privacy currently enjoyed by these two adjacent dwellings.
- 8.21 The Local Plan Policy UEA13, and associated SPD 'Extending your house', also include criteria to assess any overbearing impact and loss of daylight/sunlight to habitable rooms upon existing dwellings which adjoin a development site.
- 8.22 With regard to any overbearing impact, UEA13 requires that no development should project rearwards beyond an imaginary plan line drawn at a 45 degree line taken from the nearest corner of adjoining dwellings. The SPD demonstrates this in the context of a two storey rear extension to a dwelling house immediately adjacent to an existing dwelling. When applied to No.6 Parsons Hill it is clear that the building immediately adjacent does not lie within this line. The building to the rear, which fronts Church Lane, does cut across this line. However in this particular case the impact is mitigated by the distance between the No.6 Parsons Hill and this building. This distance, when scaled from the submitted drawings, is approximately 10m.
- 8.23 With regard to No.31 Church Lane (Summer Lands), the dwelling itself is separated from the new building fronting Church lane by the garage. The distance between the rear corner of this garage and the new building is also approximately 10m.
- 8.24 UEA13 requires that new development should not result in the centre of the main window of a habitable room in an adjoining dwelling being within a combined plan and section 45 degree overshadowing zone. As there are no windows within the north facing flank elevation of No.31 Church Lane, this policy consideration does not apply.
- 8.25 No.6 Parsons Hill has two windows within the north facing elevation. These windows appear to be secondary windows, the principal windows being in the west and east facing elevations. UEA13 only protects main (rather than secondary) windows serving a habitable room.
- 8.26 The design and scale of the two buildings in general terms remains similar to that of the previous submission. As such the comments set out in the Report that accompanied this application to the previous Committee remain pertinent. Members are referred to paragraphs 8.2 – 8.14 this previous Report (Appendix 2 in this agenda)

8.27 The Councils adopted SPD require that all new residential development should provide for financial contributions towards the provision and future maintenance of Open Space, Sport, Leisure and Community Facilities within the Borough. The application is accompanied by a letter from the Agent, Mercury Planning, to the effect that, whilst the Open Space contribution is considered to be at an unjustified level, the Applicant is willing to pay the required contributions if the Planning Committee resolves to grant planning permission. In the event that the application is refused this letter states that the matter will if necessary be disputed at appeal.

8.28 With regard to the required Open Space and Community facilities contributions, the Parks and Leisure manager has provided the following comment:-

“The SPD is based on what is considered a reasonable assumption that a 2 bed apartment will be occupied by 2 people and a 3 bed apartment will be occupied by 3 people.

The calculations according to the above assumption are as follows:

6 x 2 bed = 6 @ £2,950.86 = £17,705.16

3 x 3 bed = 3 @ £5,163.93 = £15,491.79

Total = £33,196.95

An alternative means of calculating the contribution would be on the basis of a contribution per dwelling (calculated on the average occupancy of 2.4 as set out in the SPD.) and confirmed in the Annual Monitoring Report December 2009.

The calculations according to the above assumption are as follows:

9 x £3,540.98 = £31,868.82

It is not clear whether this application is being recommended for approval but I have no reason to deviate from the adopted SPD but would be prepared to accept the contribution based on the “per dwelling” contribution at £31,868.82.”

## **9.0 Conclusion**

9.1 This revised scheme has sought to address the reasons for the refusal of the previous application 081325. In this respect the Council’s Aboricultural Officer is now satisfied that the application contains sufficient and satisfactory details to address this principal ground for refusal.

9.2 The Highway Authority is also satisfied with the revised scheme, subject to conditions and the provision of a contribution towards works within the highway. Car parking is provided in accordance with the standard applicable at the date of submission of the application.

9.3 The application also contains full details of a survey of potential protected species within the site and concludes that the development is acceptable subject to appropriate mitigation measures.

9.4 The previous reason for refusal also included the loss of privacy to the adjoining dwellings. The revised scheme clarifies this situation and the submitted drawings show that there will be no overlooking, and subsequent loss of privacy, to the two dwellings which are immediately adjacent to the site.

- 9.5 The development is acceptable in terms of its layout and detailed design and satisfies the relevant Local Plan Policy UEA13.
- 9.6 Having regard to all of the aforementioned matters, it is considered that the development is acceptable and that permission is recommended subject to the satisfactory completion of a Unilateral Undertaking to secure the aforementioned contribution towards the provision and future maintenance Open Space, Sport, Recreation and Community Facilities within the Borough, as well as the £2000 contribution required by the Highway Authority.

## **10.0 Background Papers**

10.1 ARC; HA; TL; HH; HA; NE; NLR

### **Recommendation**

Permission is recommended subject to the satisfactory completion of a Unilateral Undertaking for the required contribution towards the provision of Open Space, Sport, Recreation and Community Facilities and a Transport Contribution, 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 - C3.3 Samples to be Submitted

Samples of the materials to be used on the external finishes shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The development shall only be carried out using the approved materials.

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 - C10.15 Tree & Natural Feature Protection: Protected

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.

#### 4 - 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.

#### 5 - 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.

#### 6 – Non-Standard Condition

The construction shall take place solely in accordance with the terms of the Methodology Statement received which forms part of this permission, and no other works shall take place that would effect the trees unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission and to safeguard the amenity afforded by the existing trees and hedgerows.

#### 7 -C11.11 Landscape Design Proposals

No works or development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the Local Planning Authority (see BS 1192: part 4). These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting).

Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

Written specifications (including cultivation and other operations associated with plant and grass establishment).

Schedules of plants, noting species, plant size and proposed numbers/densities.

Planting area protection or decompaction proposals.

Implementation timetables.

Reason: To safeguard the provision of amenity afforded by appropriate landscape design.

#### 8 - C11.12 Landscape Works Implementation

All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded 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 the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

#### 9 - C12.2 Details of Walls or Fences

Prior to the commencement of the development details of screen walls/fences/railings /means of enclosure etc shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the position/height/design and materials to be used. The fences/walls shall be provided as approved prior to the occupation of any building hereby approved and shall be retained thereafter.

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

#### 10 - Non-Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light' for zone - see note below). This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to the building hereby permitted coming into beneficial use a validation report undertaken by competent persons that demonstrates compliance with the above shall be submitted to the planning authority for approval. Having been approved any installation shall thereafter be retained and maintained to the standard agreed.

(Zones: E1 – national parks, outstanding beauty; E2 – rural, small villages or dark urban areas; E3 – small town centres or urban locations; E4 – town/city centres with high levels of night time activity. If on boundary of two areas opt for darkest).

Reason: In order to safeguard the amenity of neighbouring residential properties by controlling the undesirable, disruptive and disturbing effects of light pollution.

#### 11 - Non-Standard Condition

Prior to the development hereby approved being brought into use, refuse storage and recycling facilities shall be provided in accordance with a scheme which shall have previously been submitted to and approved in writing by the local planning authority. In the case of communal storage areas, a management company shall be made responsible for the maintenance of such areas. Such detail as shall have been installed shall be retained and maintained in good working order. The developer shall notify the local planning authority of the management company contact details as soon as these are known.

Reason: To ensure that adequate facilities are provided for refuse storage and collection.

#### 12 - 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. 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.

#### 13 - Non-Standard Condition

Prior to commencement of the proposed development, the parking and vehicular turning facility, as shown on the submitted plan, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

#### 14 - 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.

#### 15 - Non-Standard Condition

The existing access at point 'X' shown on the returned plan shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the re-instatement to full height of the highway verge/footway/kerbing to the satisfaction of the Highway Authority, immediately the proposed new access is brought into use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

#### 16 - Non-Standard Condition

The gradient of the proposed vehicular access 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.

#### 17 - Non-Standard Condition

Prior to commencement of the proposed development, details showing the proposed means of preventing the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway, in the interests of highway safety.

#### 18 - Non-Standard Condition

Prior to commencement of the proposed development, details of the provision for parking of powered two wheelers and bicycles, of a design which shall be approved in writing with the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To promote the use of sustainable means of transport in accordance with EPOA Vehicle Parking Standards and Policy 4 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member decision dated 19 October 2007.

#### 19 - Non-Standard Condition

No works in connection with the proposed development shall commence until such time as the following have been provided entirely at the applicant/developer's expense:-

1. Pram crossings consisting of 2 dropped kerbs, ramp kerbs either side and tactile paving across both sides of Church Lane.
2. Improvement to the existing pram crossing across Parsons Hill.
3. Pram crossing across both sides of Shakespeare Road, removal of the existing traffic island and construction of a new pedestrian refuge.
4. Widening of the footway where abutted by highway verge, from the new access point to the new pram crossing across Church Road.

Reason: To make adequate provision for the additional traffic generated as a result of the proposed development in accordance with Policy 3.4 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member decision dated 19 October 2007.

#### 20 – Non Standard Condition

Details of the proposed disposal of foul and surface water drainage, using sustainable drainage methods, of the site shall be submitted to and agreed in writing by the Local Planning Authority. The scheme as agreed shall be completed prior to the occupation of any of the dwellings hereby approved.

Reason: To ensure the satisfactory disposal of foul and surface water drainage.

#### **Informatives**

The above is required to ensure the proposal complies with the County Council's Highways and Transportation Development Control Policies as originally contained in Appendix G to the Local Transport Plan 2006/2011 and refreshed by Cabinet Member decision dated 19 October 2007.

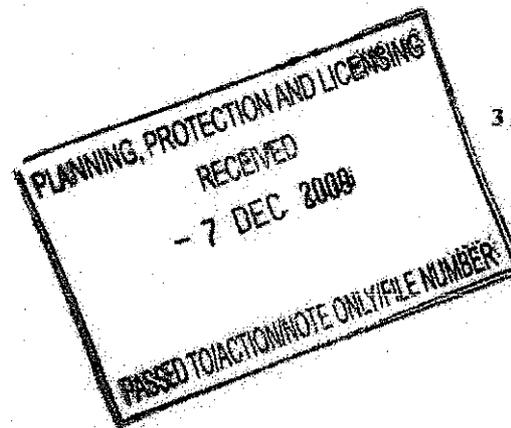
All works affecting the highway shall be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made initially by telephone on 01206 838696 or by e mail on [www.highways.eastarea@essex.gov.uk](mailto:www.highways.eastarea@essex.gov.uk).

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.

Major (Retd) P D Murray-Bligh  
 North View  
 6 Parsons Hill  
 Lexden  
 Colchester  
 CO3 4DT

3 December 2009

Mr N McKeever  
 Planning Officer  
 Environmental & Protective Services  
 Colchester Borough Council  
 Po Box 889  
 Town Hall  
 Colchester  
 CO1 1FL



Dear Mr McKeever

**Objections To Planning Application No. 091426**  
**Proposal To Demolish Existing Detached Home At 4 Parsons Hill And Erect Two Blocks Of Flats To Provide 9 Flats And Sub-Basement Car Park**

I have studied the Colchester Borough Council Adopted Local Plan dated March 2004. It appears to me on reading this document that planning application No. 091426 contravenes the Council's laid-down planning policy on a number of aspects which I list below. For your convenience I have taken relevant passages from the Council's Adopted Local Plan (shown in italics) and below each have written my comments as to how, in my opinion, the application is in breach of the Council's policy.

**LOCAL PLAN STRATEGY**  
**GROWTH AND THE ENVIRONMENT**

M.V.M

*2.3 But the Council must balance these needs – and other pressures for development – against conserving its environment and history. This is especially so because some of its most important environmental and cultural features are irreplaceable and of national or international importance.*

*2.4 This new Plan continues to give great weight to the environment and the area's heritage. In addition, through its corporate plan, the Council aim to pursue a number of initiatives seeking to benefit the area's environment and to conserve its heritage and cultural identity.*

**COMMENT** – The trees in the grounds of No 4 are part of semi-natural ancient woodland. They are an important, irreplaceable feature of the area. The developer has already cut down a large number of these trees. It will take very many years for these trees to recover. The remaining trees on the site must be protected from any further damage.

**Plan Strategy**

*2.10 The Council sees this plan as being an important opportunity on the way to creating a more sustainable pattern of development.*

*2.11 The new Plan is therefore environmentally led. This does not mean that the Council are seeking to resist all development, particularly as the Borough's exceptional environment attracts new investment and therefore jobs. It does mean, however, that it wishes to propose levels of development that safeguard and enhance the area's environment and will seek to resist those development pressures that could destroy valued local features. It will be seeking to make the optimum use of existing developed areas, so as to safeguard the open countryside, but without destroying the character of those developed areas and losing valuable urban open spaces. It will also be seeking to provide for local housing and employment needs.*

**COMMENT** - The Council's plan is environmentally led. The Council wishes to safeguard and enhance the area's environment and safeguard the character of the area. The cutting down of so many trees which has already taken place with the approval of Essex County Council (and the removal of many more beautiful trees if

the Planning Application is approved) to build two blocks of flats, which are totally out of keeping with the neighbourhood, clearly contravenes this policy. If the application is allowed it will do nothing to safeguard the key environmental features of the area.

#### OVERALL DEVELOPMENT CONTROL POLICY DC1

*d) The highway network, either as existing or to be developed within the county road hierarchy, will be able to accommodate safely the extra traffic the proposal will generate.*

**COMMENT** – The 9 proposed flats would generate a large increase in the number of motor vehicles using Parsons Hill. Although the car park is shown to provide 16 parking spaces, inevitably some residents will park their cars on the side of the road on Parsons Hill. Visitors, delivery and service vehicles will also park on Parsons Hill. As has been pointed out by almost all the objectors, to this and the previous proposal, it will seriously add to the dangerous hazards that already exist at the junction of Parsons Hill with Church Lane.

#### URBAN ENVIRONMENT & ARCHAEOLOGY OBJECTIVES

*(b) To ensure that the layout and design of new housing retains local distinctiveness; meets the highest standards in terms of visual appearance, treatment of the external environment and personal safety and security; and respects or enhances local character;*

**COMMENT** – Although this part of Lexden is not within the designated Conservation Area, never the less the Council recognizes the important part it plays in the charm of Colchester. The area is made up of good quality detached houses. The proposed two blocks of flats will 'stick out like a sore thumb' and will detract rather than enhance the character of the area. This is a view shared by the overwhelming majority of local residents.

*(e) To retain and enhance green wedges and greenlinks and incidental areas of value as far as possible.*

**COMMENT** – The cutting down of so many trees that has already taken place and the prospect of the removal of so many more of these magnificent trees, if the application is approved, would be in direct contravention of the Council's objectives.

*(a) To promote or reinforce local distinctiveness;*

*(d) To attain a form of development in harmony with adjoining established buildings and uses;*

**COMMENT** – As I have already pointed out, the two proposed blocks of flats would be totally out of harmony with the adjoining detached houses that help to give the area its distinctive character.

*(e) To make sure there are no significantly increased problems arising from new traffic movements into and out of the development site in question;*

**COMMENT** – There will, unquestionably, be a marked increase in traffic and parking problems that the 9 proposed flats will generate. In particular, the already dangerous junction of Parsons Hill and Church Lane will be seriously affected and become even more dangerous. Cars leaving the underground car park enter Parsons Hill a few yards from a blind bend as Parsons Hill curves to the right as it climbs the hill. A very dangerous situation will be created.

*(g) To have regard to crime prevention, energy conservation and nature conservation, including the scope for habitat creation.*

**COMMENT** – My previous remarks concerning the destruction of trees is very relevant as considerable damage has already been done by the developer. The effect this has caused and will cause to wildlife and to insect life (this includes stag beetles, which are a protected species under European law), must be enormous. We have already noticed a marked reduction of birds in our garden – no doubt due to the loss in habitat.

#### UEA 12

*ii) There is no significant loss of amenity to neighbouring residential property by virtue of overlooking or from overshadowing*

*iii) There is no significant loss of amenity to adjoining residential property by virtue of noise and disturbance*

caused by traffic generated.

**COMMENT** – Elevation / section DD of drawing No 09:11 together with drawings 09:04A of the proposed development clearly shows windows on the right-hand block of flats that will look directly into my dining room and into my garden.

6.58 A direct impact on neighbouring occupiers can occur as a result of a loss of natural daylight or sunlight, a loss of privacy or the bulk of a new development being oppressive and overbearing. Minimum requirements to prevent an unreasonable loss to residents' amenity as a result of these factors are outlined in Policy UEA13. With regard to loss of privacy, the window-separation distances stipulated in the "Essex Design Guide" to avoid overlooking between windows of new residential properties will be applied to include extensions to existing properties as well as non-residential buildings adjoining residential property.

**COMMENT** – The prospect of looking at a massive expanse of brick wall so close to my kitchen/breakfast room and dining-room will be oppressive and overbearing to say the least.

6.59 Although most suburban gardens are already overlooked to some degree, where the adjoining residential property has an existing private garden area it would be expected to retain an area of that garden which is not overlooked at close distances by any new development. Proposed balconies, including the use of flat roofs, will be refused planning permission unless it can be shown that problems of loss of privacy do not and will not occur.

**COMMENT** – Drawings 09:04A and 09:11 show verandas protruding from the first floor of the right-hand block of flats. This veranda will directly overlook my dining room and front garden. The first floor windows of the left-hand block will look into my back garden and overlook the gardens and houses on the other side of the service road to my house.

#### **GREENLINKS**

6.62 On the question of the value to wildlife, it is becoming increasingly clear from recent research commissioned by English Nature that a linked network of sites of importance to wildlife is much more sustainable and of higher nature conservation value than a situation in which such sites are isolated islands in a sea of urban or intensively cultivated agricultural land. Wildlife corridors can therefore assist with the movement and spread of plants and animals. Some of the greenlinks use existing sites of nature conservation value, and with good management others may also achieve such a formal status.

**COMMENT** – The remaining trees in the grounds of No 4 are part of extensive stretches of woodland wildlife corridors and habitat in the area. As such they should be preserved from further damage by the developer.

6.65 By encouraging the retention of existing trees, hedgerows and shrubs, and also by encouraging the planting of others to enhance the value of greenlinks, they can assist in reducing CO<sub>2</sub> emissions – an increasingly important aspect of local planning.

**COMMENT** – The granting of permission by Essex County Council to 'manage' the trees in the grounds of No 4 and the way in which the developer has carried out this work are contrary to the Borough Council's stated policy 'to encourage and retain existing trees'. I am at present enquiring of Essex County Council as to why such permission was given. I still await a satisfactory reply.

UEA 15 Within the urban areas, all those small incidental areas of open land and important natural features which contribute to the character of existing residential neighbourhoods will be safeguarded.

**COMMENT** – The magnificent, healthy, mature trees do, without doubt, give this part of Lexden its charming character. This is very much appreciated by the vast majority of people living in the area and those who pass through it. This is clearly demonstrated by the outrage of so many people at the prospect of this project and at the brutal way in which the developer has gone about things so far. You can judge this by the numerous letters and e-mails of objection against the proposal and some 600 signatures on the petition against it.

### AREAS OF SPECIAL CHARACTER

6.77 There are four areas within the Borough which are not of Conservation Area status but nevertheless have a particular character which it is desirable to keep. These are Lexden, Fitzwalter and St Clare Roads, Lexden, as shown on the Proposals Map; Welshwood Park; part of West Mersea; and Starway Green. The Plan proposes that their special character should be safeguarded.

UEA 21 Within an Area of Special Character, all those spaces around buildings, trees, open spaces and other aspects of the environment which create the area's character will be protected. Development that will lead to the loss of character will be refused.

**COMMENT** – This says it all. No further comment is necessary other than to heartily endorse the Colchester Borough Council's views and policies in this matter. We trust that these views and policies will be vigorously upheld.

### CONCLUSION

I strongly object to this project on the grounds that Planning Application No 091426 contravenes so many aspects of the Borough Council's adopted Local Plan. This application should be rejected. This is the view of an overwhelming number of the citizens of Colchester living in the area who do not wish to see further destruction inflicted on the character of Lexden and Prettygate and indeed on the whole of Colchester. If this Planning Application is approved it will, in my opinion, make a mockery of the Colchester Borough Council's Local Adopted Plan.

The Planning Committee rejected the previous very similar plan. Many of the reasons for this rejection still have not been addressed. The Council thus has every good reason to reject this new planning application and they should do so.

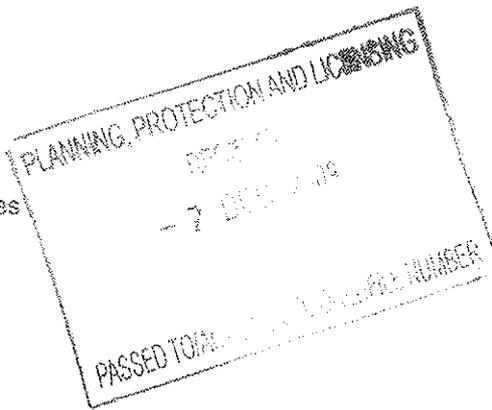
Yours sincerely



Major (Retd) P. D. Murray-Bligh

Major (Retd) & Mrs P D Murray-Bligh  
North View  
6 Parsons Hill  
Lexden  
Colchester  
CO3 4DT  
2 December 2008

Mr M Mc Keever  
Planning Officer  
Environmental & Protective Services  
PO Box 889  
Town Hall  
Colchester  
CO1 1FL



Dear Mr McKeever

Objections to Planning Application No. 0091426 at Mythian, 4 Parsons Hill, Lexden, Colchester

As the owners of the property immediately next door to the proposed build of two large blocks of flats with an underground car park dug deep into the hillside on the site of No: 4 Parsons Hill, we wish to make the very strongest objections to this new Planning Application.

The new plans differ but little from the previous application ( No: 081325) which was rejected by the Borough Planning Committee on 2 October 2008. The Developer claims to have addressed all the objections in his new application. This is quite clearly not the case.

M.V.M.

1) Excavation for underground car park

The previous plans were rejected by the Committee on the following grounds:

**In addition, the application as submitted contains insufficient information to enable the Council to satisfactorily assess the full impact of the development, and in particular the impact of the excavation and alterations to the existing ground levels, associated with the development.**

The new Planning Application simply includes the previous assessment on the proposed excavation (it even mentions 14 flats). The document is merely a deliberation on various methods that could be employed to shore up an excavation against landslip.

It comes to no conclusions as to what method would in fact be employed. AS SUCH IT IS TOTALLY INADEQUATE.

The application fails to address very many problems such as:

- a) What method would be used to stabilize the excavation? Would it be Pile drive, sunken concrete pillars etc or what?
- b) How deep would such protective system have to be dug to ensure stability? The retaining wall shown in Section GG in Drawing 09:13 is inadequate and must be at least 9 feet deeper, if not deeper still.
- c) What types of heavy plant would have to be employed on site? E.g. Pile Drivers, Mechanical Delves, Concrete Mixers, Excavators, Bull Dozers Earth Removing Trucks etc, etc.
- d) How much earth would have to be removed from the hillside for the new foundations and the car park?
- e) What circular route would the Heavy Earth Moving Trucks take through the surrounding residential area?
- f) Are these roads strong enough and suitable to take such heavy traffic?
- g) As Parsons Hill is used by schoolchildren walking to and from school each day (there is no feasible alternative) what constraints would be placed on working hours on the site to ensure the children's safety?
- h) What degree of vibration /noise would we and our neighbours be subject to whilst work is in progress? I am sure Human Rights Legislation gives us some protection to enjoy peace and tranquility in our own homes.
- i) How long is it estimated the work / disturbance would last?
- j) What guaranteed assurances can the developer give to us and the other near neighbours against the very real likelihood of damage to our houses and property from vibration and subsidence, both in the short term and the long term?
- k) What warranties are in place to ensure that, if Planning Permission is granted and the existing house

is demolished and excavation work commences, that it is not abandoned for whatever reason? To be left with a derelict site with a massive hole in the hillside is the very worst nightmare for all local residents. THIS EVENTUALITY MUST BE PROPERLY ADDRESSED.

As it stands, this Application should again be refused by the Borough Council. We trust that they will do so.

### 2) Loss of Privacy

The previous plans were rejected by the Council on the following grounds:

**The proposed development incorporates upper storey living room accommodation overlooking habitable rooms within an immediately adjoining dwelling house thereby resulting in a loss of privacy to this dwelling contrary to policy UEA13 of the Adopted Review Colchester Borough Council Local Plan march 2004 and adopted supplementary planning guidance.**

The First Floor Plans in Drawing 09:04A and Elevation DD in Drawing 09:11 show large windows and a verandah of the right hand block of flats looking directly into our dining room window. Even with the 2 metre fence this is **TOTALLY UNACCEPTABLE.**

The two bedroom windows on the South facing wall of the Right hand block of flats look into our kitchen window. This is **TOTALLY UNACCEPTABLE.**

The First Floor Plans in Drawing 09:04A and Elevation DD in Drawing 09:11 show a large bedroom window in the Left hand block of flats looking directly into our back garden. This window together with the two smaller living room windows and verandah look into my neighbour's property. This is **TOTALLY UNACCEPTABLE.**

We can see no South facing windows in the second floor Plans of both blocks in Drawing 09:05 and no windows at all in the Mezzanine Plan in Drawing 09:06. Are these windows to be added later?

On the grounds of loss of Privacy to ours and the neighbouring properties, the Borough Council should reject this planning application. We trust that they will do so.

### 3) Protection of Trees

The previous plans were rejected by the Council on the following grounds:

**The site occupies a prominent and sensitive location within this established residential area. It contains the remnants of an ancient woodland, together with other trees within the vicinity, which contribute significantly to the particular character and visual amenity of this otherwise suburban landscape. Having regard to all of the aforementioned circumstances the Council consider that the development is likely to have a significant and adverse impact upon the established and protected trees within the site to the detriment of the appearance and character of this leafy residential area. The application is therefore contrary to the aforementioned policies.**

The Tree of Heaven (*Ailanthus Altissima*) in our garden is marked as T8 in the Arboricultural Impact Assessment produced for this development by D F Clark, Bionomique Ltd on 28/10/09. This report grades out tree as A1. Commenting on this tree the report states:

T8	Tree of Heaven	A1	A large offsite tree located in the garden of the residential property south of the development site. The tree has high visual amenity value and due to its location close to Parsons Hill, significantly contributes to the street tree scene. The RPA for the tree, although calculated from an estimated trunk diameter, still extends 6m into the site.  Arboricultural Impact Assessment: Likely to constrain to the development area. Can be felled if required.
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We are outraged by this statement. We certainly will not give our consent for our tree to be felled and

sincerely trust the Borough council will do everything in their power to protect this important tree.

On the grounds that the development would cause the loss of even more trees which at present contribute significantly to the particular character and visual amenity of the area, the Council should reject this planning application. We trust that they will do so.

#### 4) Increased Risk to Public Safety

The staggered junction of Parsons Hill and Shakespeare Road with Church Lane together with the blind approaches to the junction from both directions of Church Lane makes this a very dangerous crossroads as all local residents, without exception, will tell you.

The added problems with heavy plant has already been mentioned. After construction a number of the residents of the flats will undoubtedly park their cars on the road as will visitors, service and delivery vehicles. All this will help to further impede traffic on Parsons Hill from either direction.

The proposed exit from the underground car park onto Parsons Hill is just a few yards from a blind bend as the road curves to the right as it climbs the hill. Traffic coming down the road will not see cars coming from the flats until the very last minute. This is potentially very dangerous.

Essex Highways Authority cannot possibly believe that this development will have no impact on the highways as this goes against common sense, logic and experience. The Authority must now reassess the situation very seriously and adjust their conclusions or fully justify to the Borough council and the local residents why they still believe there is no problem.

#### 5) Local Residents' Opposition

Last year there was massive local opposition to the two earlier and similar proposals to build two large blocks of flats on this site. Once again, the residents of Lexden and Prettygate have shown their disapproval at this new Planning application. This can be judged by the number of letters and emails objecting to the plans sent to the Town Hall. Despite (indeed encouraged by) the shameful attempt by the architect to intimidate people from signing the petition published in the local paper, many hundreds of residents of all ages have signed. The people of Lexden and Prettygate have sent as clear a message as they can that they do not want these flats to be built in this location.

#### 6) Conclusion

The developer has manifestly failed to address the objections to the previous and very similar planning application. The Borough council has thus every good reason to refuse this new application and they should do so once again.

Yours sincerely



PD & MJ MURRAY-BLIGH

Copy to:

ESSEX COUNTY HIGHWAYS AUTHORITY

**Case Officer: Nick McKeever**

**EXPIRY DATE: 14/10/2008**

**MINOR**

**Site:** Mythian, 4 Parsons Hill, Colchester, CO3 4DT

**Application No:** 081325

**Date Received:** 14th July 2008

**Agent:** Development Design Consultants

**Applicant:** Mr R Sumner

**Development:** Demolition of existing house and erection of 10 x 2 bedroom and 1 x 1 bedroom flats in two small blocks with semi basement parking. Resubmission of 080502.

**Ward:** Prettygate

**Summary of Recommendation:** Refusal

## **1.0 Planning Report Introduction**

1.1 This application has been "called-in" by Councillor Sue Lissimore on behalf of the Prettygate ward Councillors.

## **2.0 Site Description**

2.1 The site is a 0.2145 ha triangular shaped plot of land located to the south of the junction of Parsons Hill and Church Lane, Prettygate. It lies within, and forms part, of an established residential area.

2.2 The existing residential development in the immediate vicinity includes detached dwellings to the south and the south east fronting onto Parsons Hill and detached houses along Beech Hill, together with detached houses to the South West facing onto Church Lane. To the immediate north and north west are detached dwellings fronting onto Church Lane.

2.3 4 Parsons Hill is currently occupied by a 1960's style detached, three storey dwelling house located close to the southern boundary of the site. Access is onto Parsons Hill, via a steep, winding drive.

- 2.4 The land rises steeply from the Church Road & Parsons Hill frontage, with a steep bank approximately 3 metres in height along the boundary with Church Lane. The existing dwelling is located at the top of the plot, within an area of lawn. A flint retaining wall separates the house and associated lawns with the remainder of the site. Along the western boundary with Church Lane is a woodland area with mature trees whilst the front boundary is enclosed by a row of Lawson Cypress trees. This woodland area was subject to a Tree Preservation Area, which covered approximately one third of the site area. This TPO has been revised recently to incorporate most of the site (reference TPO 06/08).
- 2.5 The land to the north east of Parsons Hill forms part of a conservation area.
- 2.6 The proposed development of this site is for 10 No. x 2 bed and 1 No. x 1 bedroom apartments to be located within that part of the site currently occupied by the existing dwelling.
- 2.7 The apartments are to be contained within two separate buildings, one containing 5 apartments and the other containing the remaining 6 apartments. The front block has accommodation in the ground floor, first floor and second floor. The block fronting Church Lane also has accommodation within these floors but also includes 2 bedrooms with en-suite within the roof void (mezzanine floor). The buildings are shown as being constructed using the vernacular palette of materials.
- 2.8 18 parking spaces are to be provided within the basement area of the two buildings. A new vehicular access onto Parsons Hill is to be created further to the south of the existing access.

### **3.0 Land Use Allocation**

- 3.1 Predominantly residential.  
Tree Preservation Order No. 01/73.

### **4.0 Relevant Planning History**

- 4.1 16411/15 - House and garage. Approved 16 November 1962.
- 4.2 88/1085 - Replacement of flat roof with pitched roof and provisions of rooms in roof space. Approved 18 July 1988.
- 4.3 080502 - Demolition of existing 5 bedroom house and redevelopment of site to provide 13 Nos x 2 bedroom flats and 1 No x 1 bedroom flat over semi-basement parking. Withdrawn

## **5.0 Principal Policies**

- 5.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
Design - UEA11  
Development, including extensions, adjoining existing or proposed residential property - UEA13  
CO4 - Landscape Features  
Conservation Areas - UEA1 & UEA2  
Car Parking - T9

## **6.0 Consultations**

- 6.1 The Highway Authority has no objection subject to the following conditions:-
- The provision of a travel marketing pack for each new household, which, for the avoidance of doubt, should include the provision of a six month season ticket for all residents, timetable information for all relevant services and details of cycle and walking links to the development. The exact details of the pack to be agreed with the Highway Authority prior to occupation.
  - Prior to any works commencing on the site arrangements are secured to ensure the provision at no cost to the public purse of a public 2.0 metre wide footway between the southern-most limit of the site on Church Lane and the existing footway on Parsons Hill.
  - The new footway crossing is constructed and the unwanted crossing reinstated as full height kerb footway, prior to occupation.
  - The first 6 metres of driveway from the rear of the footway is no steeper than 4% and surfaced in clean, stable and free-draining materials.
  - No surface water from the site draining over the footway.
  - Prior to use 1.5 x 1.5 metres visibility splays are provided to each side of the access drive where it meets the footway and are thereafter maintained free of any obstruction exceeding 600mm in height.
  - A turning facility is maintained within the site.
  - Secure cycle parking is maintained in accordance with the Council's current standards.
- 6.2 Environmental Control recommends conditions controlling light pollution and the establishment of a management company for responsibility of the maintenance of any communal storage areas.
- 6.3 Natural England objects to the development on the basis that the application contains insufficient survey information to demonstrate whether or not the development would have an adverse effect on legally protected species. The concerns relate specifically to the likely impact upon bats that may use parts of the existing building as a roost site.

6.4 The consultation response from Natural England is reproduced in full as Appendix. This consultation draws the attention of the Council to the presence of protected species as a material planning consideration (reference paragraphs 15 -16 of Planning Policy Statement 9 [PPS9] ). If protected species are suspected or present on a proposed development site then the following information should be provided by the Applicant, usually in the form of an ecological survey by an appropriately qualified consultant, prior to the planning application being determined:-

- a. What is the species concerned?
- b. Population level at the site or affected by the development
- c. Likely impact upon the species
- d. Mitigation measures
- e. Is the impact necessary or acceptable?
- f. Is a licence required from Natural England/Defra?

6.5 Natural England objects to the development until the above information is provided following a survey undertaken at an appropriate time of year. Their recommendation is that the Local Planning Authority should refuse planning permission on the grounds that the application contains insufficient survey information to demonstrate whether or not the development would have an adverse effect on legally protected species.

6.6 Natural England is satisfied that legislative issues with regard to nesting birds, great crested newts and slow worms appear to be adequately addressed, provided the mitigation as outlined in the supporting report is incorporated into a permission or part of a suitably worded agreement or planning condition.

6.7 The Council's Arboricultural Officer comments are reproduced as follows:-

"Regarding the Tree Survey submitted by Westover Woodlands and Arboricultural Consultation No: 113/08/CON

The comments are predominantly the same as in the previous consultation with further and more detailed information being required.

However, it should be noted that the TPO has been revoked and reserved with TPO 06/08. Of the trees noted for removal in the report a number are considered by the developers consultant as being both A and B category trees within BS5837:2005 - these trees would be desirable to retain given the previous and new TPO and I am not in agreement with their loss.

It is also worthy of note that within the required information special attention should be paid to the direct conflict between the built form and the trees surrounding, this information should also comment on any issues with light into the building.

2.0 Conclusion

2.1 The above considerations need to be addressed before a full assessment of the proposed developments effect on the local landscape can be made or suitability of design confirmed.

Recommendation

3.1 Refusal as currently proposed."

## 7.0 Representations

- 7.1 There are in excess of 170 representations listed on the computer record. These representations are summarised as follows:-
1. Out of character. The area consists of good quality, detached family houses. Development is contrary to the Local Plan policies UEA11(b)/(d) & UEA12(ii)
  2. Adverse impact upon the character of the area. The site is the last remnants of semi-natural ancient woodland. They are an important, irreplaceable feature of the area. The development will result in the removal of existing trees and may prejudice other trees within the site.
  3. Highway issues.
  4. Loss of privacy
  5. Problems of subsidence due to the excavations for the semi-basement parking
  6. Noise and disturbance caused by the demolition & construction, contrary to the Human Rights Act
  7. Damage to the sub-surface archaeology
  8. Increased pressure upon parking at the nearby local facilities
  9. Adverse impact upon wildlife
  10. Exacerbate existing drainage problems
- 7.2 Bob Russell MP has forwarded a letter that the occupier of 6 Parsons Hill has written to the Head of Environmental Planning, Essex County Council. This letter relates to works to the existing trees within the site that have taken place prior to the submission of any planning application for the redevelopment of this site. The site was the subject of an Essex county Council TPO 01/73.
- 7.3 The occupier of 6 Parsons Hill has also submitted a petition against the proposed development containing a total of 582 signatures.
- 7.4 Lexden Conservation Group objects on the following grounds:-
1. Out of character with the existing landscape of villas and cottages
  2. Removal of existing trees, which are an important characteristic of the area
  3. The parking does not take into account visitors cars that are likely to park within Parsons Hill close to the junction.
  4. Parsons Hill/ Church Lane junction is a dangerous junction and is particularly hazardous for pedestrians. This attractive, semi-rural lane should not be marred by more traffic signs and road markings.
- 7.5 Mr Jeremy Lucas has submitted an objection as the local County Councillor and as a Cabinet Member for Heritage, Culture and the Arts and as Essex Heritage Champion. His objections are that the area retains a "village" feel which should be retained; there is a surplus of flats in the town; there are already considerable accident risks on Church Lane and the junction and the introduction of more traffic will add to the hazard.

## 8.0 Report

- 8.1 This site lies within a predominantly residential area such that the proposed residential redevelopment of the site is acceptable in terms of land use. The principal planning issues are, therefore, whether the development is appropriate in terms of its character, scale and design relative to its setting, the impact upon the existing trees within the site, and their contribution to the visual amenity of this established residential area, the impact upon the amenity of the existing nearby dwellings, the impact upon any known or suspected protected species and highway related matters.

### The Site and its Setting

- 8.2 The site is important in terms of its location in a prominent position at the junction of Parsons Hill and Church Lane. It can almost be regarded as a 'gateway' into the Prettygate residential area. The prominence is strengthened by the topography, with the site being located on a substantially elevated position relative to the junction of these two roads, and the presence of a significant number of established trees.
- 8.3 At the present time the site contains one, detached, three storey dwelling house, built in the 1960's. This dwelling is located at the highest part of the site, the remainder of the land contains the majority of the existing trees. This dwelling appears as an almost subservient element in the street scene otherwise dominated by the trees and other planting.
- 8.4 The overall impression that this site contributes to is that of an established, residential area, which is almost sylvan in character. The existing dwellings to the south and to the west tend to be detached and set within relatively generous size plots with trees and planting forming an important visual element. In this respect the established pattern of development is in contrast to the more dense and suburban character of the development to the north and further to the south and to the west
- 8.5 In addition the site is contiguous with the Colchester Conservation Area 3. The south western boundary of this Conservation Area sits on the opposite side of Parsons Hill.
- 8.6 In this context the Local Plan policy CO2 requires that any new development should have due regard to the setting of Conservation Areas. Policy UEA11 states that development should reflect the predominant form and character of the surrounding area, where that form and character makes a positive contribution to the appearance of the area.
- 8.7 The submitted Design & Access Statement (DAS) refers to a previous submission for a larger single building and that this form of development did not follow the existing urban grain as required by your Officers. The DAS, however, considers that the revised application now before Members, with two detached buildings, is in character with this existing urban grain. This is demonstrated by the two drawings referred to in the DAS as 'Existing Urban Grain' and 'Proposed Urban Grain'.
- 8.8 Relative to the existing urban grain, the Applicant was advised that any application should show the building (s) as having a foot print similar to the adjacent buildings. Clearly the footprint of the one building originally proposed for the site did not comply with this requirement. The footprints of the two buildings, as shown on the

aforementioned Urban Grain drawings are more in keeping, although it must be acknowledged that they appear on the drawing 'Proposed Urban Grain' as having larger footprints than the adjacent dwellings. This, however, in its self is not considered to be sufficient justification to withhold planning permission for the proposed development.

- 8.9 The main body of DAS is given over to consideration of the relationship of the two new buildings to the established street scene and upon the visual amenity of the area. This is achieved through a series of drawings and photographs with supporting text. Whilst the whole of this document can be viewed on the Council website, the following extract is a short summary of the potential impact upon the visual amenity:-

#### Design Assessment

The proposed development will have little visual impact on the majority of the area because of the topography and the mature woodland which creates a natural screen on all three sides. Only the properties on the opposite side in Parson Hill and to the south of the site will appreciate minor changes. The new buildings will be lower than the existing house, the two separate blocks are designed to look like two large detached houses, both in massing and urban grain terms.

The smaller block of just 5 flats will front Parsons Hill, the development is set into the hillside, allowing the parking to be hidden from Parsons Hill. The proposed development is 1000m (3'3") lower than the existing house and a majority of the built form will be further away from adjacent property. The proposed development is to the north of existing houses and will not cause any overshadowing or loss of light."

- 8.10 One of the rationales that underpins the Local Plan policies UEA11 and UEA12 is to ensure a high standard of design and to ensure that a development is in harmony with adjoining established buildings and uses. This has also to be balanced to need to make the optimum use of urban land for development.
- 8.11 The existing development within Parsons Hill, Church Lane and Beech Hill, to which this site will relate ,consists mainly of detached two storey dwellings but of various ages, and sizes and displaying a variety of architectural styles. In general these existing dwellings sit within relatively generous plots. The existing development to the north and west is further from the site and displays more cohesiveness and uniformity in scale form and design.
- 8.12 Having regard to this situation it is difficult to argue that the design and external appearance the proposed two new buildings would be out of character.
- 8.13 The matter of the height and scale of the new buildings and their relationship to the existing dwellings is a separate and distinct issue.
- 8.14 The predominant scale and height of the existing dwellings in the vicinity is that of 2 storey. Whilst the proposed development is effectively 3 storey, the applicant has taken advantage of the difference in ground levels together with the proposed excavation. The submitted drawing 08:27 shows the relationship of the proposed buildings relative to the neighbouring dwelling. Whilst the buildings contain apartments rather than being individual dwellings, the overall relationship is, therefore, not out of keeping.

- 8.15 A factor that is critical to the scheme is the existence and retention of the existing trees within and around the site. These trees give considerable screening and thus help to mitigate the potential impact of the development upon the visual amenity of this leafy residential area. It is considered that without this screening the development will be unduly prominent given the local topography.

#### Existing Trees and their Contribution to Visual Amenity

- 8.16 It was stated previously within this report that this particular part of the Prettygate area has an almost sylvan character due to the presence of the trees within the site, which form the remnants of an ancient woodland, and also within the gardens of the nearby dwellings. Given that this site is on an elevated and prominent position, there is no doubt, therefore, that these trees contribute very significantly to the appearance and character of this area.
- 8.17 The trees within the northern edge of the site were made the subject of a TPO by Essex County Council back in 1973. In 2008, however, this TPO was revoked and replaced by a new Order which has the effect of protecting the majority of the trees within the site as a whole. The reasoning behind the new TPO was to consolidate the trees protected by ECC and to include additional trees that also have a high amenity value as part of the extended group in the area.
- 8.18 Given that the new TPO 06/08 includes trees which are proposed for removal and were not previously protected, it is considered the view of the Council's Arboricultural Officer that the development would have an unacceptable and adverse impact upon these trees and consequently upon the visual amenity of the area.
- 8.19 Members are advised that the Applicant is currently contesting the validity of this new TPO on the grounds that notice of the Order was not served upon him. Notwithstanding this particular matter, it remains the view of the Arboricultural Officer that the trees should be safeguarded due to their contribution of high amenity value of the trees as a group.
- 8.20 It is noted that the Highway Authority require the provision of a 2 metre wide footway along the site boundary with Church Lane. There is, however, a difference between the ground level of the site, which is significantly higher, than the level of the Lane. In order to accommodate this footway it is likely that structural works will be required with a potential adverse impact upon the trees along this boundary.
- 8.21 The application as submitted does not however consider or address this particular matter.

#### Highway Related Matters

- 8.22 The representations from affected or interested parties highlight the impact of the proposed development upon the local highway network and upon the safety of the public. Given that the development will undoubtedly result in an increase in vehicular activity, these concerns are appreciated.

- 8.23 The Local Plan policy DC1 (c ) and (d) requires the Council to have due regard to the impact of a development upon the highway network and to ensure that any development does not prejudice highway safety and to provide comprehensive and safe facilities for pedestrians and agents.
- 8.24 In this context it is noted that the Highway Authority has considered these matters but have not recommended that the application should be refused. It has recommended consent subject to appropriate conditions. Having regard to this recommendation it is considered that a refusal of planning permission on ground of highway safety could not be sustained.

#### Biological Diversification & Protected Species

- 8.25 This report to the Planning Committee has highlighted the concerns expressed by Natural England to the impact of the development upon the site as a potential habitat for protected species. This reflects concerns expressed by local residents.

- 8.26 The relevant Local Plan policy CO6 states that:-

"When examining proposals for development, and where such proposals would adversely affect protected species, planning permission will be refused where the habitat is of key importance to the species. At other locations, in the event of planning permission being given, the development scheme will provide for the full integration and accommodation of the habitat within the proposal building or site. Failing this, the relocation of the threatened habitat from the proposal site to another safe location will be required only as a final option before development commences.

Where relevant, planning permissions will contain a condition to ensure that implementation of the approved development scheme will be phased so as to avoid interference with the annual breeding season"

- 8.27 It is noted that Natural England's principal concern relates to the protection of bats within the site. In this context paragraph 5.25 of the supporting justification for this policy states that:-

"In the case of bats, planning permission may be refused where the affected site is one of key importance to the species. In other instances, the Council may impose a condition on a planning permission stating that the development in question should not be carried out until the bats are no longer at roost in the proposal building. In other situations, there will need to be safeguards allowing the bat colony to be removed to an alternative sanctuary before development commences".

- 8.28 Unfortunately the application as submitted does not address this particular matter to the satisfaction of Natural England. Their recommendation that the application should be refused accordingly is acknowledged and members of the Planning Committee are requested to reject the application on this basis.

## Residential Amenity

- 8.29 Amongst the objections raised to the development is the impact upon the amenity of the adjoining dwellings, and in particular, the loss of privacy.
- 8.30 The Local Plan policy UEA13, together with adopted Supplementary Planning Guidance, sets out the criteria used to assess the impact of a proposed development upon existing dwellings. The submitted drawings attempt to illustrate the relationship of the new buildings upon the neighbouring two properties in the context of this policy. These drawings show that the development complies in terms of the loss of daylight/sunlight and potential overbearing. Building 2 (facing Church Lane) is shown as being in excess of 17 metres from the rear wall of the adjoining dwelling, 6 Parsons Hill. Given this separation it is not considered to be unduly overbearing.
- 8.31 With regard to privacy, the building on the Parsons Hill frontage has windows that are orientated west east (i.e. they face onto Parsons Hill or onto Church Lane). There are no windows serving habitable rooms that look out onto the neighbouring dwelling. The dwellings on the opposite side of Parsons Hill are sufficiently remote from the this new building.

## Other Considerations.

- 8.32 The main windows within Building 2 (facing onto Church Lane) also face west-east. There are 4 windows within the south facing elevation which look out onto 'Summer Lands', Church Lane. These serve living rooms, but are secondary light sources. They do not directly overlook the garden area or main windows serving habitable rooms within 'Summer Lands'. There is also a single storey building built up to the boundary which provides an element of screening to the garden of this property.
- 8.33 Residents have expressed concerns as to possible impact upon their property of the proposed excavation required to accommodate the basement car parking. In order to address this matter the Applicant commissioned a structural consultant. The report produced by this consultant has been submitted as part of the application.
- 8.34 As with other documents relating to this application, this report is available to view on the Council website. The conclusion is, however, reproduced as follows:-

In summary we conclude the following:

- 4.1 The ground conditions are likely to comprise sands overlying London Clay at depth. Ground water is unlikely to be encountered but the possibility of a seasonally variable perched water table cannot be excluded;
- 4.2 Due to the proximity of the adjacent houses, face support will be required to the excavation necessary for the undercroft construction;
- 4.3 A detailed design appraisal may be able to demonstrate that the use of partial face support and partial battered excavation may be sufficient but this has not been considered in detail at this stage;
- 4.4 The use of full face support has been considered and options exist for this technique including the use of interlocking sheet piles, contiguous bored piles or secant piles;
- 4.5 Marked up copies of the architect's cross section show indicative details for a piled wall solution;

4.6 Interlocking or contiguous or bore piled walls are a proven technology and well suited to this sort of construction.

8.35 This report comments that the issue of noise during construction will need to be addressed although it would not be any worse than normal siting operations.

## **9.0 Conclusion**

9.1 The application now before Members is a resubmission of a previous application (080502) that was withdrawn. Unlike the previous submission, the current proposal is for 2 buildings which relate to the existing character of the residential development in the immediate vicinity. No objections are raised to the design and external appearance of these 2 buildings on the basis that the development within Parsons Hill is of varied character and architectural styles.

9.2 The site contains a large number of trees which contribute in a significant and positive way to the almost sylvan character of Parsons Hill. The development is likely to have a significant and adverse impact upon this character and a subsequent loss to the visual amenity.

9.3 Whilst the application is supported by information relating to the protection of existing wildlife, it is the view of Natural England that this information is insufficient to overcome their recommendation that the application should be refused.

9.4 Members are requested to refuse this application accordingly.

## **10.0 background Papers**

10.1 ARC; HA; NLR; TL; NC

### **Recommendation - Refusal**

#### **1 - Non-Standard Refusal Reason**

The Adopted Review Colchester Borough Local Plan March 2004 policy DC1(e) will permit development only if will not lead to the loss or degradation of important cultural, historic, ecological or rural resources, unless alternative compensatory provision acceptable to the Council is to be provided. Furthermore the Local Plan policy CO4 requires that development schemes should protect existing landscape features such as trees, hedges, ponds, woods, wherever possible. Where this is not possible compensatory provision will be required.

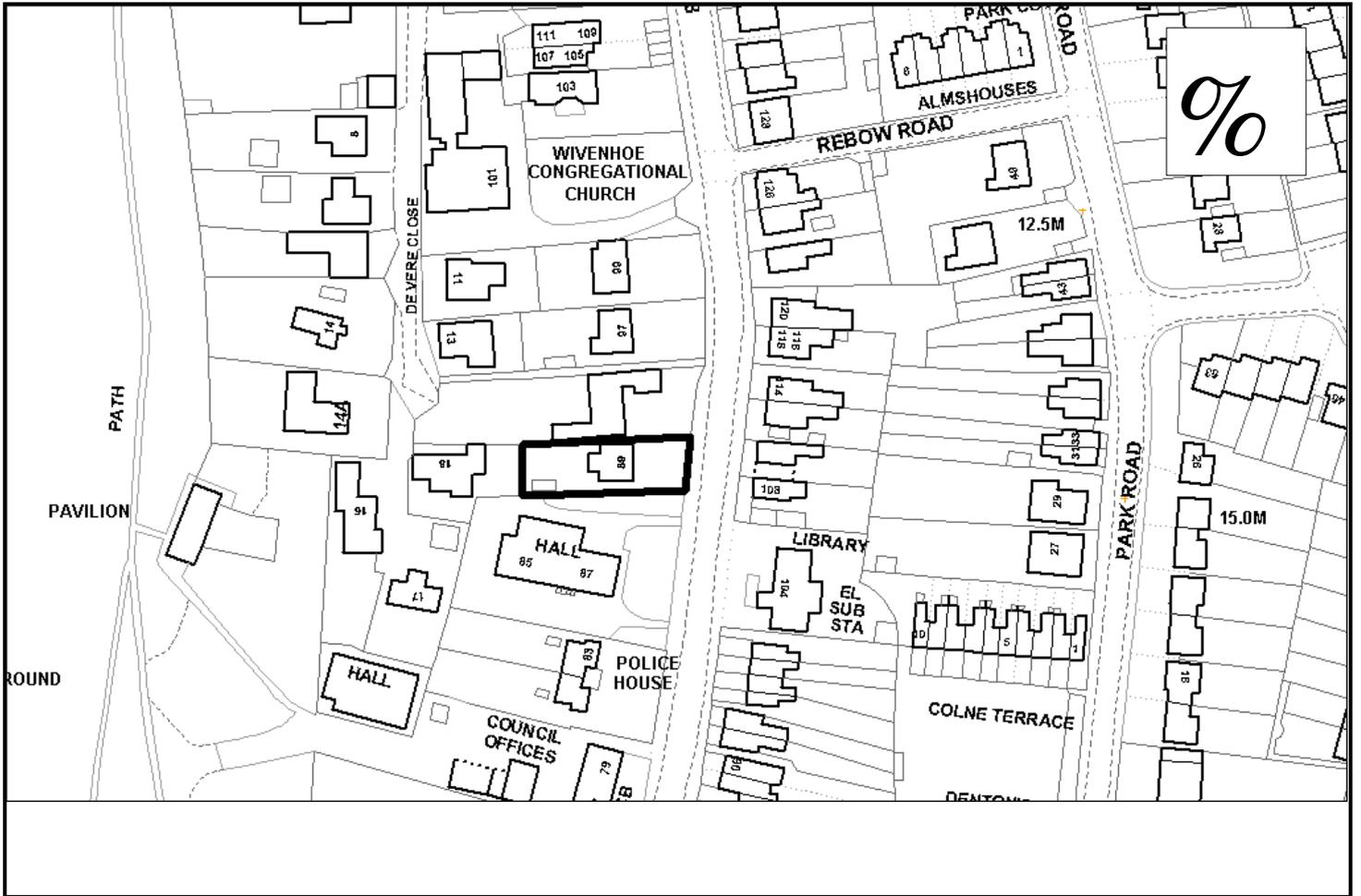
The site occupies a prominent and sensitive location within this established residential area. It contains the remnants of an ancient woodland, together with other trees within the vicinity, which contribute significantly to the particular character and visual amenity of this otherwise suburban landscape. The development is likely to have an adverse impact upon the established and protected trees within the site to the detriment of the appearance and character of this leafy residential area. The application is, therefore, contrary to the aforementioned policies.

### 2 - Non-Standard Refusal Reason

The provision of a 2 metre wide footway, as required by the Highway Authority in the interests of the safety of residents of this residential area, is likely to be prejudicial to the existing trees on the site. The application as submitted does not provide adequate or sufficient information to address this particular matter to the satisfaction of the Council. As a consequence the potential loss of protected trees will be detrimental to the visual amenity of this pleasant residential landscape.

### 3 - Non-Standard Refusal Reason

The Local Plan policy CO6, in common with Planning Policy Statement 9 (PPS9), recognises that development proposals may potentially harm or interfere with protected species or their habitats, for example bat roosts. Developers are required to carry out site surveys prior to submitting development proposals where these might adversely affect protected species. The application as submitted , however, contains insufficient survey information to demonstrate whether or not the development would have an adverse effect on legally protected species.



**Application No:** 091608

**Location:** 89 High Street, Wivenhoe, Colchester, CO7 9AB

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

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**7.5 Case Officer: Corine Walsh**

**EXPIRY DATE: 05/02/2010**

**OTHER**

**Site:** 89 High Street, Wivenhoe, Colchester, CO7 9AB

**Application No:** 091608

**Date Received:** 11 December 2009

**Agent:** Tim Snow Architects Ltd

**Applicant:** Mr & Mrs Wheatley

**Development:** New dormer windows, cladding of elevations, extension and alterations.

**Ward:** Wivenhoe Quay

**Summary of Recommendation:** Conditional Approval

### **1.0 Planning Report Introduction**

1.1 This application is referred to committee at the request of a Ward Councillor.

### **2.0 Site Description**

2.1 The application site is on the west side of Wivenhoe High Street, flanked by residential property and a library to the north, east and to the west. To the south is the William Loveless Hall. The site lies within the Wivenhoe Conservation Area. The existing property is a modest bungalow and the proposals involve additions to the rear and comprise a single and two storey extension. A dormer window is also proposed to the front of the property and the existing and proposed elevations of the dwelling are to be clad in weatherboarding.

### **3.0 Land Use Allocation**

3.1 Residential

### **4.0 Relevant Planning History**

4.1 None

### **5.0 Principal Policies**

5.1 The following policies of the Adopted Review Colchester Borough Local Plan are relevant:

DC1 - Development Control considerations

UEA13 - Development, including extensions, adjoining existing or proposed residential property

UEA1 - Character of Conservation Areas

5.2 In addition Government Guidance is set out in:-  
Planning Policy Statement 1 and  
Planning Policy Guidance Note 15.

## **6.0 Consultations**

6.1 The observations of Environmental Health were not available at the time of writing this report and will be reported verbally or via the Amendment Sheet.

## **7.0 Town Council's Views**

7.1 The observations of Wivenhoe Town Council were not available at the time of writing this report and will be reported verbally or via the Amendment Sheet.

## **8.0 Representations**

8.1 The application has attracted two letters of representation, containing both objections and observations requiring additional information of the applicant.

## **9.0 Report**

### Introduction

9.1 The material planning issues are considered to be

- Design and character in relation to Wivenhoe Conservation Area
- The amenity of neighbouring residents.
- Other considerations

### Design and Character

9.2 Local plan policy UEA1 and advice in PPG 15 require development in conservation areas to preserve or enhance the special character and appearance of the conservation area. Policy UEA 13 seeks to ensure that extensions to property are of a high quality and relate to the existing building and its surroundings and do not adversely affect the amenity of neighbouring property.

9.3 These proposals are sited to the rear of the existing property and have been designed to be to be subservient to the host dwelling and as a result, it is considered that they relate well to the existing property and preserve the special character of the conservation area. Accordingly the proposals meet the requirements of UEA1.

### Residential Amenity

9.4 The property has a residential dwelling adjacent to the north and immediately to the west and it is these properties that are likely to be the most affected by the proposals. The property to the north has an existing single storey rear projection which extends beyond the rear flank wall of the proposed extension. This projection provides enclosure to the neighbouring properties private outdoor space as well as protecting its occupants from any loss of outlook from the proposals. It is considered that the proposals will not adversely affect the living conditions of the property to the north.

- 9.5 With regard to the dwelling to the west, the proposal, once erected would result in a back to back distance of 25.7m between properties. This distance exceeds that required by the councils adopted standards. The scale, siting and degree of separation between the proposal and the neighbouring property is such that it will not result in any significant adverse impact

### Objections

- 9.6 The objections principally relate to overdevelopment, appearance, lack of privacy, boundary treatments and parking. It is considered that the proposals will not result in overdevelopment. The resultant development will sit within a plot which is adequate in accommodating the proposals, whilst leaving more than 100sqm of amenity space. In addition there will be a sufficient degree of separation to the side boundaries.
- 9.7 The proposals include the application of weatherboarding to the principal elevations of the existing dwelling and its extensions. This material is proposed, as it is said that a matching brick to that used in the existing property is not available. The weatherboarding will help unify the appearance of the existing property with its extensions. Concerns have been raised as to the suitability of weatherboarding in the context of the site; however it is a material found in the locality and subject to its type and colour, which is to be the subject of a condition, is a material which forms part of the local vernacular.
- 9.8 The distances and orientation of the property, relative to its neighbours is considered to be acceptable in relation to ensuring that privacy will be maintained as outlined above. Those boundary treatments that are in the applicants control are to be maintained in their existing positions and condition, with the exception of the front boundary wall, which is in poor condition and constructed on concrete blocks. This wall is to be replaced with a new red brick wall constructed to a similar height as that which it replaces. The proposal provides off street parking for two cars as this is not subject to change as a result of the development. The parking provision is consistent with adopted standards.

### Neighbouring observations

- 9.9 Included in the letters of representation were a number of queries relating to the accuracy of the submitted plans, mainly in relation to distances between the proposals and the site boundary. The applicant's architect has provided additional drawings and officers are satisfied that the additional information meets the concerns expressed. Concerns were also raised in relation to storage of materials, asbestos and hours of working. These matters are to be the subject of conditions or are dealt with under other legislation.

## **10.0 Conclusion**

- 10.1 The comments made in relation to the proposals have been considered and are understood, however they do not raise matters that can be justified in a refusal of this application. The proposals are considered to be proportionate extensions to the host dwelling, which are capable of preserving the character and appearance of the conservation area and accordingly approval is recommended subject to conditions.

## **11.0 Background Papers**

11.1 ARC; HH; 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 - Non-Standard Condition

Prior to works commencing details shall be submitted to and approved by the Local Planning Authority providing the type, profile and colour of the external materials to be used in the development. Once approved the materials shall be used unless previously agreed in writing by the Local Planning Authority.

Reason: In the interest of visual amenity and to preserve the character and appearance of the conservation area.

3 - Non-Standard Condition

A method statement for the storage, delivery of building materials shall be submitted and approved in writing by the Local Planning Authority, prior to any works commencing on site. The agreed method statement shall be implemented and maintained during the construction of the development.

Reason: In order to safeguard the amenity of neighbouring residents.

4 - 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 residential amenity.



**7.6 Case Officer: Andrew Huntley**

**EXPIRY DATE: 11/02/2010**

**OTHER**

**Site:** 28 Cape Close, Colchester, CO3 4LX

**Application No:** 091635

**Date Received:** 17 December 2009

**Agent:** Pps Ltd

**Applicant:** Mr J Maller

**Development:** Two storey side extension front porch and internal alterations (resubmission of planning application 081939)

**Ward:** Prettygate

**Summary of Recommendation:** Refusal

## **1.0 Planning Report Introduction**

1.1 This application has been called in for the consideration of the Planning Committee by the Ward Councillor.

## **2.0 Site Description**

2.1 The site is located on the north western end of Cape Close. The area is residential in character and the property on the application site forms part of a wider estate of similarly designed properties. The property on the application site is a semi-detached two storey dwelling with an existing single storey rear extension and a detached single garage. The property is accessed from Cape Close by a footpath. Vehicular access is from Jeffery Close. The site has a large side garden but narrow rear garden. The site is bounded by substantial hedging.

## **2.0 Description of Proposal**

2.1 Two storey side extension, front porch and internal alterations (resubmission of planning application 081939)

## **3.0 Land Use Allocation**

3.1 None

## **4.0 Relevant Planning History**

4.1 081939: Two storey side extension and first floor rear extension – Refused 08 January 2009. Appeal dismissed 01 September 2009.

## **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Local Plan:  
DC1– Development Control Considerations.  
UEA11 – Design  
UEA13 – Development including extensions, adjoining existing or proposed residential property.
- 5.2 Core Strategy:  
SD1 – Sustainable Development Locations  
UR2 – Built Design and Character
- 5.3 Planning Policy Statement 1

## **6.0 Consultations**

- 6.1 None

## **7.0 Representations**

- 7.1 Four letters of objection have been received and a petition with 21 signatures has also been received. The objections relate to the following issues:
- Size and design
  - Materials
  - Impact on daylight, sunlight and privacy
  - Parking problems

## **8.0 Report**

### Introduction

- 8.1 This application is a resubmission of application 081939, which sought permission for a first floor rear extension and a two storey side extension. There were similar objections to the previous application as there are with this current proposal. The previous application was refused permission by the Planning Committee contrary to officer recommendation. The reasons of refusal related to the use of render and the increased overlooking to rear garden areas. This refusal was then subsequently appealed but was dismissed by the Planning Inspectorate. The issues that need to be considered within this application are the impact of the proposal on neighbouring residential amenity and the character and appearance on the wider street scene.

### Residential Amenity

- 8.2 The two-storey side extension would not have an impact on sunlight or daylight due to its positioning and distance from neighbouring properties. Nor would the proposal result in any detrimental overlooking as there are no windows proposed on the rear elevation at first floor level. The only window at first floor level is at the front and overlooks the public domain and front gardens which are open in character. Therefore it is considered that this proposal overcomes the reasons for the appeal dismissal in regard to overlooking.
- 8.3 The proposed side extension is 1.1 metres wider than the previous proposal but has been stepped in at first floor level so as to provide a greater separation distance to No.56 Rudsdale Way. The Inspector's decision stated that the side extension in combination with the proposed rear extension, would appear unacceptably overbearing and dominant in relation to No.56 and as such, would have adversely affected their outlook. This proposal does not include a rear extension and the first floor element to the side extension is set further back away from No. 56 and has a lower ridge line. Notwithstanding the fact that the side extension is wider, it is considered that on balance, this proposal overcomes the Inspector's concerns in regard to the impact on outlook from No. 56.
- 8.4 Therefore, it is considered that this proposal would not have a material impact on neighbouring residential amenity.

### Design and Character

- 8.5 The property is visible from public viewpoints from Jeffery Close and notwithstanding the reduced ridge height, it is considered that the width of the proposed extension at 4.3 metres would result in it being a visually dominant and overbearing addition, not well related to the host dwelling to the detriment of the streetscene. While the appeal Inspector considered that the width and proportionate design of the previous application proposal had an acceptable impact on the spacious character of the area, it is considered that the increase in width by over one metre brings the two storey extension too close to the boundary and materially harms this spaciousness. The fact that this property is publicly visible from Jeffery Close only exacerbates the harm caused. The front porch, while on the large side, is not considered so harmful as to warrant a reason for refusal.
- 8.6 The use of render would provide a contrast to the existing property and a refusal on these grounds would likely not stand up at appeal. This is a view agreed with by the Inspectors appeal decision.
- 8.7 Therefore, the proposed side extension is unacceptable in regard to its overbearing width and its resultant impact on the spacious character of the area to the detriment of the streetscene.

## Other Considerations

8.8 Four letters of objection have been received and one petition with 21 signatures has also been received. The representations relate to the following:

- Size and design
- Materials
- Impact on daylight, sunlight and privacy
- Parking problems

8.9 Most of the issues raised have already been covered earlier in the report. With regard to parking and access problems, this proposal is for a side extension and front porch, with no evidence that this would lead to any greater parking requirements than presently exist. A refusal on parking grounds would be unreasonable, especially as the appeal Inspector did not raise this issue as one that warranted a refusal. There may be existing parking problems in the area but this is not a reason to refuse planning permission for this proposal. Having regard to all the representations made, they do not in this instance, outweigh national and local policy.

## **9.0 Conclusion**

9.1 This proposal has, on balance, overcome the reasons the appeal Inspector gave in dismissing the previous appeal for application 081939. However, in increasing the width of the two storey side extension by over a metre, the proposal would be a disproportionate and dominant feature on the side of the dwelling, significantly reducing the spacious character of the streetscene to an extent that would be materially detrimental.

## **10.0 Background Papers**

10.1 ARC; Core Strategy; NLR

### **Recommendation - Refusal**

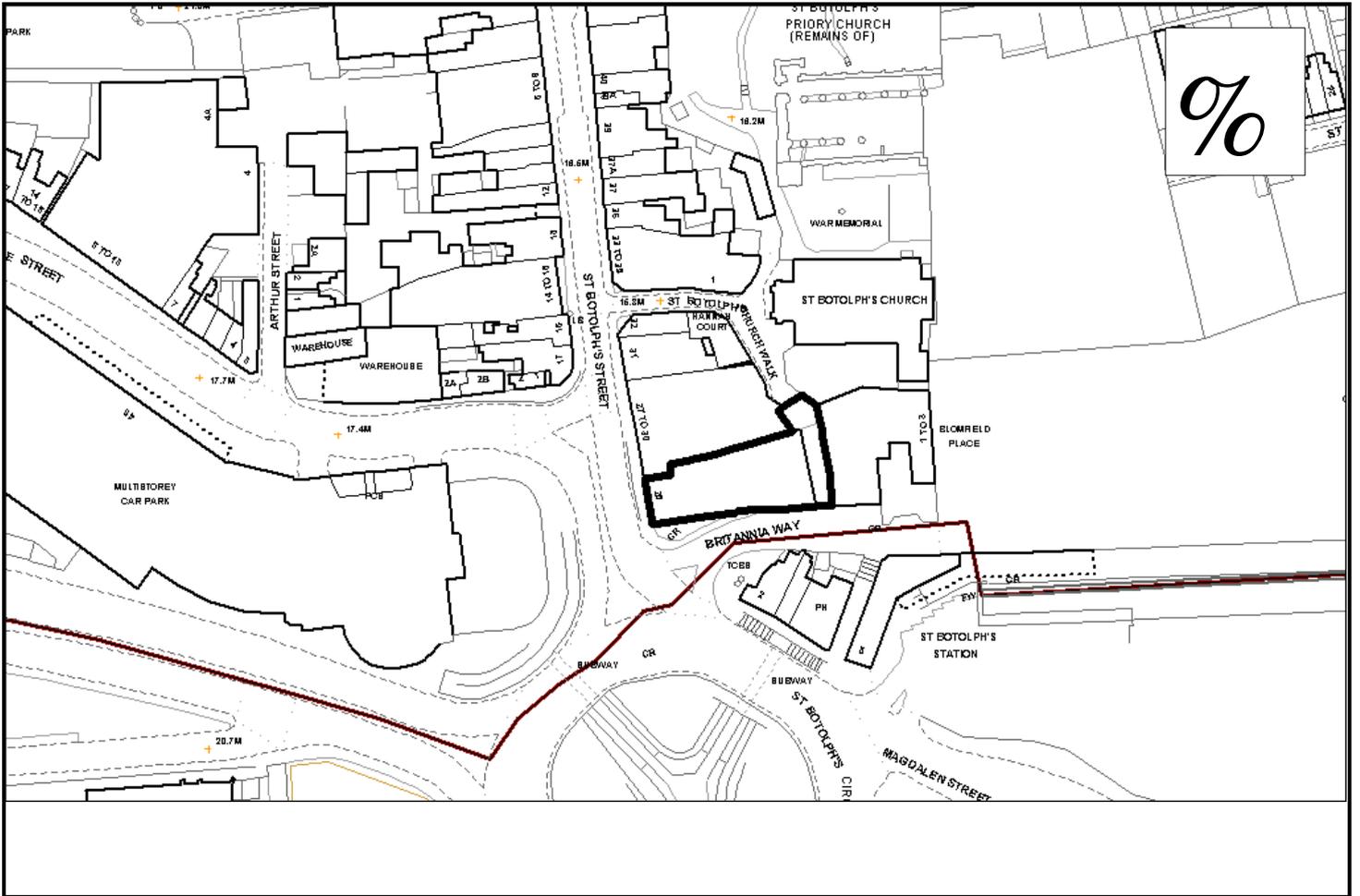
#### **Conditions**

1 - Non-Standard Refusal Reason

The adopted Colchester Borough Replacement Local Plan (2004) Policy DC1 states that all proposals for development must be well designed, having regard to local building traditions, and should be based on a proper assessment of the surrounding built environment. Policy UEA11 also states that there shall be a high standard of design, with adequate regard to setting so that good standards of townscape are achieved. Policy UEA 13 of the Adopted Review Colchester Borough Local Plan resists extensions which are poorly designed or out of character with the appearance of the original building and which would result in cramped appearance. This is backed by policies SD1 and UR2 of the Core Strategy. Planning Policy Statement 1 (2005) states that "Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted".

In this instance, the proposed extension would appear as visually disproportionate and dominant feature on the side of the dwelling by reason of its width at 4.3 metres. This large addition would take up a large proportion of the side garden, significantly reducing the spacious character of the streetscene to an extent that it would be materially detrimental. The fact that this property is publicly visible from Jeffery Close only exacerbates the harm caused.

Accordingly the development would be in harmful conflict with Local Plan policies DC1, UEA11 and UEA13 and policies SD1 and UR2 of the adopted Core Strategy. PPS1 states in its first key objective that “Good planning ensures that we get the right development, in the right place and at the right time”. As this is not considered to be the optimum solution for this development, it can not be accepted.



**Application No:** 090959

**Location:** 26 St. Botolphs Street, Colchester, CO2 7EA

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

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## 7.7 Case Officer: Andrew Huntley

**OTHER**

**Site:** 26 St. Botolphs Street, Colchester, CO2 7EA

**Application No:** 090959

**Date Received:** 10 November 2009

**Applicant:** Mr Harka B Sewa

**Development:** Change of use to A3 restaurant (Nepalese - specialist cuisine)

**Ward:** Castle

**Summary of Recommendation:** Conditional approval subject to revocation of extant permission

### 1.0 Site Description

1.1 The site is located on the eastern side of St Botolphs Street, at its southern end adjacent to the car park entrance and roundabout. The area is mixed use in character with commercial uses at ground floor level. The property on the application site is two-storey flat roofed building of a 1960's design, which had a shop at ground floor level but is now vacant.

### 2.0 Description of Proposal

2.1 Change of use from vacant shop unit (formerly T/A 'Pete's Treats') to a restaurant (A1 use to A3 use).

### 3.0 Land Use Allocation

3.1 Conservation Area

### 4.0 Relevant Planning History

4.1 None

### 5.0 Principal Policies

5.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations  
UEA1 – Character of Conservation Areas  
TCS9 – Proposed Regeneration Areas

- 5.2 Core Strategy
  - SD1 – Sustainable Development Location
  - UR2 – Built Design & Character
  - CE2 – Mixed Use Centres
  - CE2a – Town Centre
  - TA1 – Accessibility and Changing Travel Behaviour
  - TA2 – Walking and Cycling

- 5.3 Planning Policy Statement 1
- Planning Policy Statement 6
- Planning Policy Guidance 15

## 6.0 Consultations

- 6.1 Policy comment:

"Policy TCS9 in the adopted Local Plan states that a minimum A1 retail content of 60% will be maintained in St Botolphs Street (both sides). Also, a proposal should not result in continuous frontage of more than 2 non-A1 uses.

The existing A1 frontage within St Botolphs Street is pretty much on the limit of 60% (Note: This calculation is made on the assumption that No. 30 has A3 use, which was previously granted planning permission but has not yet been implemented). If planning permission is granted for the change of use of No. 26 to A3 use it would reduce the A1 frontage to well below 60% (approx. 55.5%).

The application form appears to indicate a willingness to exchange the A3 planning permission on No. 26, if planning permission is granted for No. 30. No. 26 has a broader frontage than No. 30 (approx 9m as compared with 6m). A direct "swop" is not wholly straightforward therefore in planning policy terms, as this would still result in the A1 retail frontage dipping below 60% (to approx 58.6%). However, it is noted that if No. 30 was to be brought back into A1 use, it would break-up a continuous frontage consisting of 3 non-A1 uses (i.e. Le Patisserie, No. 30, and Fai's), which could improve the attractiveness of this end of the street to shoppers."

- 6.2 ECC Highways: Does not wish to object to this proposal

- 6.3 Environmental Control: No objections subject to a condition regarding the extraction system.

## 7.0 Representations

- 7.1 Three representations have been received with one objection, one letter of support and one neutral.

The objection related to:

- Not in accordance with policy.
- The unit would be better served as a cycle shop, which would promote sustainable transport.
- It can not be demonstrated that there is a need for such a restaurant
- There is an alternative viable A1 use waiting to move in.

## 8.0 Report

### Introduction

8.1 The main considerations with this application are:

- Policy
- Other Considerations

### Policy

- 8.2 Policy TCS9 in the adopted Local Plan states that a minimum A1 retail content of 60% will be maintained in St Botolphs Street (both sides). Also, a proposal should not result in continuous frontage of more than 2 non-A1 uses.
- 8.3 The existing A1 frontage within St Botolphs Street is pretty much on the limit of 60% (Note: This calculation is made on the assumption that No. 30 has A3 use, which was previously granted planning permission but has not yet been implemented). If planning permission is granted for the change of use of No. 26 to A3 use it would reduce the A1 frontage to well below 60% (approx. 55.5%).
- 8.4 The application form appears to indicate a willingness to exchange the A3 planning permission on No. 26, if planning permission is granted for No. 30. No. 26 has a broader frontage than No. 30 (approx 9m as compared with 6m). A direct “swop” is not wholly straightforward therefore in planning policy terms, as this would still result in the A1 retail frontage dipping below 60% (to approx 58.6%). However, it is noted that if No. 30 was to be brought back into A1 use, it would break-up a continuous frontage consisting of 3 non-A1 uses (i.e. Le Patisserie, No. 30, and Fai’s), which could improve the attractiveness of this end of the street to shoppers.
- 8.5 In addition, the adopted Core Strategy policy CE2 states that the Council will promote a mix of development types in accordance with the Centres and Employment Classification and Hierarchy. This site is located within the Outer Core and Policy DP 6 is similar to TCS9 but seeks to ensure 50% retail frontage and not more than three consecutive non-retail uses. At present very little weight can be attached to this as this policy as it has yet to be found sound by a Planning Inspector.
- 8.6 Therefore, the policy grounds in respect of this application are not therefore wholly straightforward. Having considered the comments from the Council’s Planning Policy team and the objection received, it is considered that, on balance, the proposal would be acceptable on policy grounds providing that the permission for No.30 was withdrawn and brought back into A1 use.

## Other Considerations

8.7 The Council's Environmental Control Department has no objections to the proposal subject to a condition regarding extraction equipment. The objection received stated that the proposed change of use was contrary to development plan policy, the unit would be better served as a cycle shop, which would promote sustainable transport, it can not be demonstrated that there is a need for such a restaurant and there is an alternative viable A1 use waiting to move in. The objection relating to planning policy has already been considered earlier in the report apart from Policies TA1 and TA2 of the adopted Core Strategy. These promote sustainable travel patterns and accessibility. The application site is on the edge of the town centre, near to the train station and bus stops. Therefore the application proposal is entirely in accordance with these policies. The other issues raised within this application such as need and the fact there is an alternative A1 use wanting to rent the unit are not planning considerations in the determination of this application. It is not for the planning system to control markets or pick preferences. This application has to be determined on the planning merits of the case. Therefore, the objections raised do not warrant the refusal of planning permission.

## **9.0 Conclusion**

9.1 On balance, the proposed change of use is acceptable in this instance, subject to the revocation of the permission for an A3 use at No. 30 St. Botolphs Street.

## **10.0 Background Papers**

10.1 ARC; Core Strategy; PP; HA; HH; NLR

## **Recommendation**

Delegated approval subject to the following condition and also subject to the revocation of the extant permission for an A3 use at No. 30 St Botolphs Street. If for any reason, the revocation of the permission for an A3 use at No. 30 St Botolphs Street can not be accomplished to the satisfaction of the Local Planning Authority, then a delegated refusal on policy grounds can be issued.

## **Conditions**

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

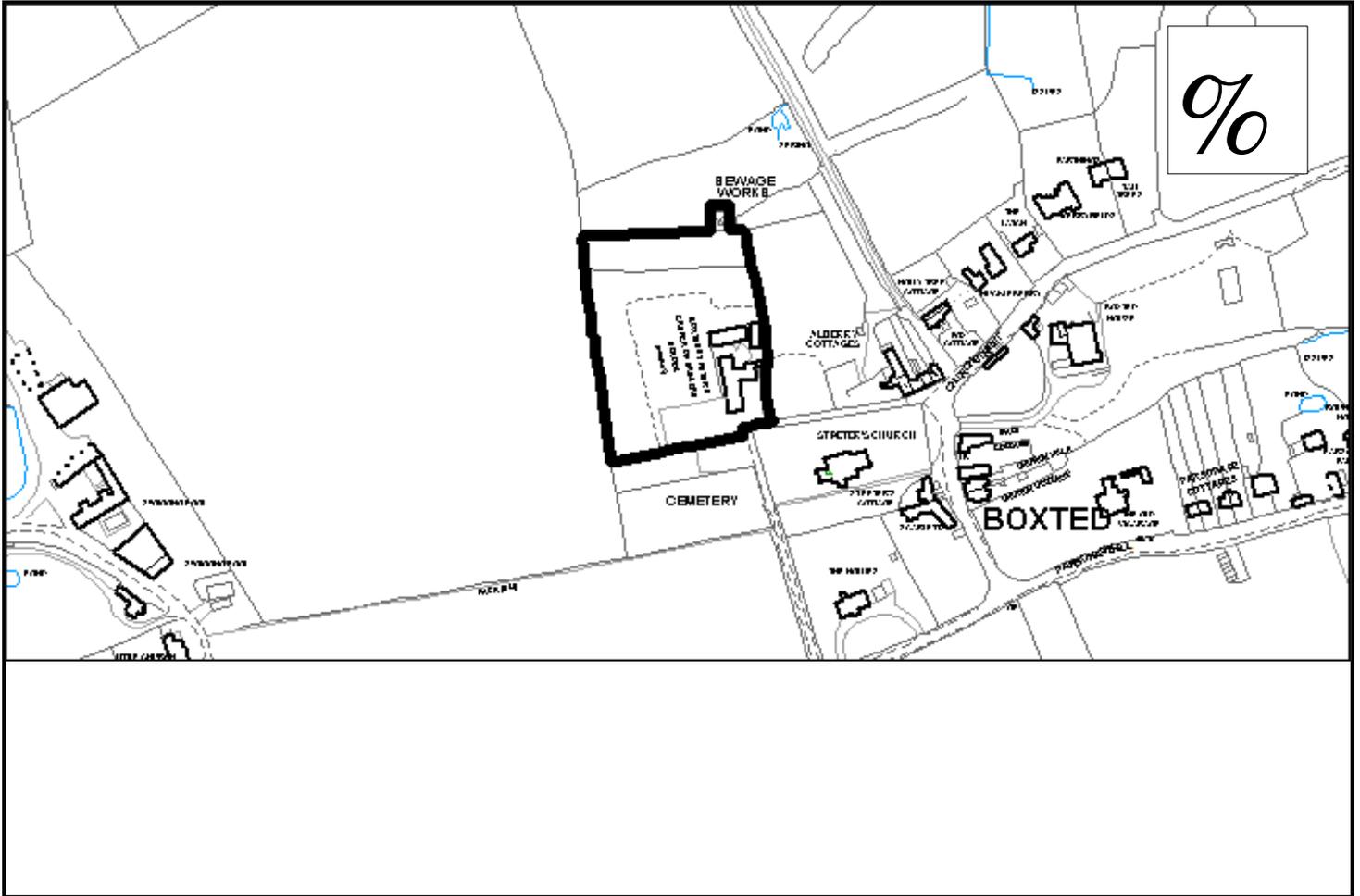
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

No development shall take place until there has been submitted to and approved in writing by the local planning authority (in consultation with the Director of Environmental Services) full details of equipment to be installed for the extraction and control of fumes and odours together with a code of practice for the future operation of that equipment. The use hereby permitted shall not take place other than in accordance with these approved details.

Reason: To ensure that the permitted development does not harm the local environment and the amenities of the area by reason of air pollution, odours and smell.



**Application No:** 091307

**Location:** Boxted C of E Primary School, Church Road, Boxted, Colchester, CO4 5TG

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

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**7.8 Case Officer: Andrew Huntley**

**EXPIRY DATE: 01/12/2009**

**Site:** Church Road, Boxted, Colchester, CO4 5TG

**Application No:** 091307

**Date Received:** 6 October 2009

**Agent:** Edward Gittins & Associates

**Applicant:** Mr & Mrs D Smith

**Development:** Change of use, alteration and extension of former primary school to form single detached dwelling.

**Ward:** Fordham & Stour

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

1.1 The application site is located off Church Lane and was previously used as a primary school. The site extends to approximately 1 hectare and contains the school building, which comprises of a hall, two classrooms, cloakroom and ancillary facilities. To the front of the site lies a large tarmaced playground with playing fields to the rear. The site has substantial landscaping on the western and northern edges while the rest of the site is overgrown and scruffy. The site lies within the Boxted Conservation Area and the Dedham Vale Area of Outstanding Natural Beauty (AONB).

## **2.0 Description of Proposal**

2.1 Change of use, alteration and extension of former primary school to form single detached dwelling.

## **3.0 Land Use Allocation**

3.1 Conservation Area  
AONB

## **4.0 Relevant Planning History**

4.1 None

## **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Local Plan:
  - DC1 – Development Control Considerations.
  - CO2 – Dedham Vale of Outstanding Natural Beauty.
  - UEA1 – Character of Conservation Areas.
  - UEA2 – Building within Conservation Areas.
  - UEA11 – Design.
  - UEA13 – Development including extensions, adjoining existing or proposed residential property.
  - CF5 – Re-Using Surplus Educational Facilities.
- 5.2 Core Strategy:
  - SD1 – Sustainable Development Locations.
  - UR2 – Built Design and Character.
  - ENV2 – Rural Communities.
- 5.3 Planning Policy Statement 1  
Planning Policy Statement 3  
Planning Policy Statement 7  
Planning Policy Guidance 15

## **6.0 Consultations**

- 6.1 ECC Highways:
  - No objections subject to pedestrian visibility splays and a turning area being provided.
- 6.2 Environmental Control:
  - No objections.
- 6.3 Planning Policy comment:

"The proposal relates to a site which is outside of any village envelope and is also a surplus educational facility. As such Local Plan Policy CF5 (a saved policy) is particularly relevant to this proposal. CF5 states that the re-use of a surplus educational facility will only be permitted for an alternative community use or where facilities of equal or greater benefit are made elsewhere.

In this instance it is noted that an alternative school facility has been provided in Boxted Cross. Nonetheless, in line with saved Local Plan Policy CF5, it would have been helpful if a statement had been provided with the application from the Education Authority and/or the Church of England to demonstrate that the building is surplus to their requirements and/or no alternative and appropriate community use could be found.

The re-use of the property for residential purposes, if this is accepted, would be as an exception to the usual policy of restraint regarding new dwellings in the countryside. In this regard, it is noted that Boxted Parish Council consider the existing access to be poor and ill-suited for an alternative community or employment re-use.

The site is within a Conservation Area and an AONB. If the principle of residential conversion is accepted and the proposed scheme of conversion is considered appropriate, it is recommended that this should be limited to a single dwelling and that consideration be given to restricting the size of the garden and the removal of PD rights."

6.4 Design & Heritage Unit comment:

"I have received the revised drawings for Boxted School. I am happy with the changes which have taken into consideration my initial concerns about the overall design. I am happy with the entry layout and the treatment of the garage outbuilding. The porch and loggia have been successfully scaled down, and the side wings have been simplified to reinforce the hierarchy and the prominence of the main buildings. The introduction of a window in the new gable end which uses the proportions and style of the windows in the original hall is welcome – it compliments the hall and lightens the gable. The architects have reassured me that their notes explaining the design approach will be included in the Design and Access statement. I am happy to accept the design and recommend approval."

6.5 Tree Officer:

No objection subject to conditions in regard to the phased removal of trees and an implementation program.

6.6 Environment Agency:

No objection.

6.7 Natural England:

This application proposal does not meet the consultation threshold for providing advice but they have provided some advice in regard to bats and nesting birds.

6.8 Building Control:

Consideration needs to be given to fire brigade access and the means of escape from some of the proposed rooms.

## 7.0 Parish Council's Views

7.1 Boxted Parish Council have made the following comments:

1. Short of demolishing the building and leaving a vacant site, residential is probably the best use.
2. Access is not good and vehicular use is likely to be less than a low key community or commercial use.
3. It should be noted that very little of the school building will remain. We think that there will be a larger footprint or floor area than before.
4. We feel that the dovecote would be better suited on the ridge of the old hall and more appropriate for a school building.
5. All new brickwork should be laid in a Flemish bond in lime mortar. In addition, all external works should be subject to conditions which should include external lighting, arials, air conditioning, security devices etc.
6. No trees other than those referred to in the application to be lopped or felled without prior approval.

7. In terms of the Conservation Area, the proposals are neutral in that they neither add nor detract from the immediate area although we are surprised at the garage block and new extension, neither of which are vernacular, Victorian or contemporary in style and make no attempt to complement the good detailing of the restored schoolhouse.

## **8.0 Representations**

- 8.1 None received

## **9.0 Report**

### Introduction

- 9.1 The main considerations within this proposal are:

- Planning Policy
- Design and Character
- Other Considerations

### Planning Policy

- 9.2 The proposal relates to a site which is outside of any village envelope and is also a surplus educational facility. As such Local Plan Policy CF5 (a saved policy) is particularly relevant to this proposal. CF5 states that the re-use of a surplus educational facility will only be permitted for an alternative community use or where facilities of equal or greater benefit are made elsewhere. In this instance there is an alternative replacement school facility at Boxted Cross.
- 9.3 The re-use of the property for residential purposes, would be an exception to the usual policy of restraint regarding new dwellings in the countryside. In this regard, it is noted that Boxted Parish Council consider the existing access to be poor and ill-suited for an alternative community or employment re-use.
- 9.4 While the policy requirements do prefer an alternative employment or community use, regard has to be had to the nature and location of the site. It is considered that the site's location, poor access and the form of the existing buildings would make any economic and beneficial economic/community use unlikely to occur. This application seeks to retain the old school hall and visually improve the appearance of the whole site. Therefore, it is considered that the re-use of this redundant school for residential purposes is a sensitive solution and the best alternative use of this site.
- 9.5 Therefore, while allowing a new dwelling in the countryside is contrary to Government Guidance, it is considered that the above reasons lend material weight to allowing this proposal in policy terms subject to considerations of detail.

## Design and Character

- 9.6 The proposed designs have been amended considerably following consultation with the applicant as the initial designs were considered to be inadequate. Following the submission of the amended plans, the Council's Urban Designer has stated that the designs of the proposal are now acceptable. It is considered that the amended designs are a considerable improvement and although quite large, now respect the character of the old school and the wider Conservation Area.
- 9.7 The acceptable design of the extension and the proposed hard and soft landscaping proposals would improve the appearance of this slightly neglected site and would enhance the character and appearance of the Conservation Area. The proposal would not have an adverse impact on the AONB.

## Other Considerations

- 9.8 The proposed change of use and extension would not have a detrimental impact on neighbouring properties and no objections have been received. All other consultation responses have not provided any reasons to warrant refusal.

## **10.0 Conclusion**

- 10.1 The proposed change of use is on balance, acceptable, and is considered to be the best use of this site. The design and its impact on the character of the area are considered acceptable. Therefore, it is recommended that approval be granted subject to conditions.

## **11.0 Background Papers**

- 11.1 ARC: Core Strategy; HA; HH; PP; Design & Heritage Unit; TL; NR; BC; PTC

## **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 - Non-Standard Condition

The development hereby permitted shall be implemented in all respects strictly in accordance with the revised drawings received by email on the 21st December 2009.

Reason: For the avoidance of doubt as to the scope of this consent.

### 3 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no development within Classes A to E of Part 1 of Schedule 2 of the Order (any extension, outbuilding, garage or enclosure) shall take place without the prior written permission of the Local Planning Authority.

Reason: To safeguard and have control over the visual amenity of the Conservation Area and Area of Outstanding Natural Beauty.

### 4 - Non-Standard Condition

Additional drawings that show details of proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at a scale between 1:20 and 1:1 as appropriate, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works. The development shall thereafter be carried out in accordance with such details.

Reason: To ensure that the windows have an appearance appropriate to the character of the building and the surrounding Conservation Area.

### 5 - Non-Standard Condition

All external joinery shall be of painted timber, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the windows have an appearance appropriate to the character of the building and the surrounding Conservation Area.

### 6 - Non-Standard Condition

Samples of all materials to be used in the external construction and finishes of all parts of the proposed development, shall be selected from the local range of traditional vernacular building and finishing materials and shall be submitted to and agreed in writing by the Local Planning Authority before the development commences. The development shall be implemented in accordance with agreed details.

Reason: To ensure the use of an appropriate choice of materials having regard to the importance of this scheme in the Conservation Area to ensure that the choice of materials will harmonise with the character and appearance of other buildings and development in the area.

### 7 -Non-Standard Condition

Prior to the commencement of the development, full details of all new brickwork, including the bond, mortar mix and joint profile shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed details.

Reason: To ensure the use of an appropriate choice of materials having regard to the importance of this scheme in the Conservation Area to ensure that the choice of materials will harmonise with the character and appearance of other buildings and development in the area.

## 8 - Non-Standard Condition

All new rainwater goods shall be of cast iron, or cast aluminium and painted black unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the use of an appropriate choice of materials having regard to the importance of this scheme in the Conservation Area to ensure that the choice of materials will harmonise with the character and appearance of other buildings and development in the area.

## 9 - Non-Standard Condition

The rooflights shall be selected from the Conservation range, the precise details/make to be agreed in writing with the Local Planning Authority prior to the commencement of development. The development shall be completed in accordance with the approved details and retained thereafter.

Reason: To ensure the use of an appropriate choice of materials having regard to the importance of this scheme in the Conservation Area to ensure that the choice of materials will harmonise with the character and appearance of other buildings and development in the area.

## 10 - C11.11 Landscape Design Proposals

No works or development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the local Planning Authority (see BS 1192: part 4). These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting).

Soft landscape details shall include:

Planting plans.

Written specifications (including cultivation and other operations associated with plant and grass establishment).

Schedules of plants, noting species, plant size and proposed numbers/densities.

Planting area protection or decompaction proposals.

Reason: To safeguard the provision of amenity afforded by appropriate landscape design.

## 11 - C11.12 Landscape Works Implementation

All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded 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 the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

### 12 - 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. 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.

### 13 - Non-Standard Condition

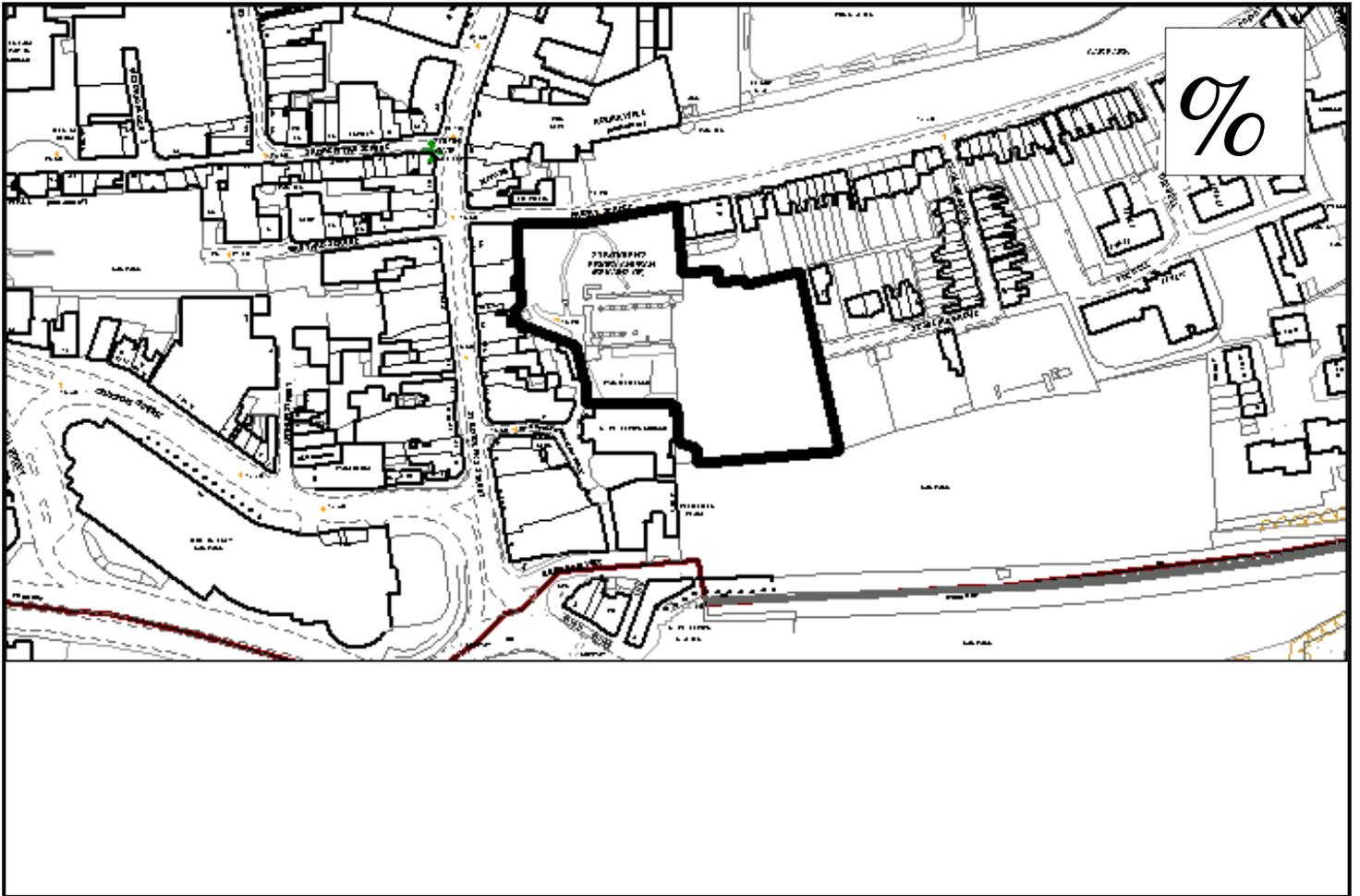
Prior to the first occupation of the proposed development, the vehicular turning facility, as shown on submitted plan numbered 772/05, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

### **Informatives**

Please find attached the consultation comments from Natural England for your information.

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:** 091328

**Location:** Land around St. Botolph's Priory & St. Botolph's Churchyard, Colchester

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

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## 7.9 Case Officer: John More

**OTHER**

**Site:** St. Botolph's Churchyard, Colchester

**Application No:** 091328

**Date Received:** 14 October 2009

**Applicant:** Mr R Patterson

**Development:** Relocate war memorial from between St. Botolph's Church and the Priory to north west corner of churchyard, carry out tree removal in churchyard, minor ground contouring to eastern area of open space, relocate former Britannia Works crankshaft feature to location adjacent St. Botolph's Church Hall.

**Ward:** Castle

**Summary of Recommendation:** Conditional Approval

### 1.0 Site Description

- 1.1 The site contains the remains of St Botolph's Priory which is a Scheduled Ancient Monument (SAM), St Botolph's Church Yard and an area of open space which was formerly the Britannia Works iron foundry. To the south of the site is St Botolph's Church (grade 2 listed) and the Britannia Car Park. To the north is Priory Street, to the east are residential properties on St Julian Grove while to the west St Botolph's Church Walk and rear of the properties which front St Botolph's Street.
- 1.2 The site has a total area of approximately 0.65ha and slopes in the general direction of north/west to south/east with a fall of approximately 5m across the site. Across the eastern half of the site there is a steep bank dropping approximately 1m left by the removal of the iron foundry.

### 2.0 Description of Proposal

- 2.1 This application forms part of a wider scheme of improvements to the grounds of St Botolph's Church Yard and the grounds of the Priory. The works specifically covered by this application are as follows:
- The relocation of the war memorial from between St. Botolph's Church and the Priory to north west corner of churchyard.
  - Minor ground contouring to eastern area of open space.
  - Relocation of the former Britannia Works crankshaft feature to the location shown on the plans submitted adjacent St. Botolph's church hall.
  - Tree removal and management

2.2 Scheduled Monument Consent has already been granted from English Heritage for the works proposed.

### **3.0 Land Use Allocation**

3.1 The western part of the site falls within the Town Centre Conservation Area. St Botolph's Priory is a Scheduled Ancient Monument (SAM) St Botolph's Church to the south of the site is a grade 2 listed building. The site is identified in the Local Plan as an area for culture, leisure and tourism.

### **4.0 Relevant Planning History**

4.1 New railings and gates were erected in the Priory grounds in 2000. New gate posts were erected St Botolph's Church in 2002.

### **5.0 Principal Policies**

5.1 Local Development Framework  
Core Strategy:  
UR1 - Regeneration Areas  
UR2 - Built Design and Character  
PR1 - Open Space  
PR2 - People-friendly Streets

5.2 Adopted Review Colchester Local Plan 2004 saved policies:  
DC1- Development Control considerations  
UEA1 - Character of Conservation Areas  
UEA5 - Altering Listed Buildings  
UEA7 – Scheduled Ancient Monuments  
UEA11 - Design

### **6.0 Consultations**

6.1 Environmental Control indicate that the land contamination desk study report has identified that there are potential pollutant linkages on the site for the proposed use and that these will require further intrusive investigation and subsequent review of the conceptual site model. Consequently (unless the works are undertaken prior to decision), should permission be granted for this application the full suite of contaminated land conditions be applied.

*Officer Comment:*

*These conditions have been attached to the recommendation.*

6.2 The Landscape Officer is satisfied with the landscape content of the proposals and recommends agreement of the landscape aspect subject to conditions.

*Officer Comment:*

*These conditions have been attached to the recommendation.*

- 6.3 English Heritage supports the general principles of the scheme and subject to CBC obtaining scheduled monument consent they have no objection to planning consent being granted.

*Officer Comment: Scheduled monument consent has now been granted by English Heritage.*

- 6.4 The Archaeological Officer comments that it is unfortunate that so much cut and fill is proposed on a site that is a scheduled ancient monument, as well as tree removal. The views of English Heritage are paramount but recommend that a standard archaeological watching brief condition is imposed if consent is granted.

*Officer Comment:  
Watching brief condition is attached to the recommendation. The amount of dig in the cut and fill operation has been reduced in revised proposals received following these comments and initial comments from English Heritage.*

## **7.0 Representations**

- 7.1 A comment indicating relief that the Mulberry tree will be kept and hoping the new line of trees along the southern boundary will not be conifers has been received. The comment also states the residents of The Dell will be delighted to have a path across the site.

- 7.2 A lengthy comment objecting to the proposal has been received and can be summarised thus. Concern is expressed that the scheme is insensitive and damaging to the church yard which is the only surviving fragment of the parish church yard. The church yard is a cemetery, a consecrated and special place where people are buried, not an open space. It is within the conservation area and should be protected as a cemetery. The existing church yard is not part of St Botolph's Priory, but relates to St Botolph's Church. The churchyard should not be disfigured by the modern clutter of bins, seats, signage and paths. The borough's own Conservation Area policies protect the character and appearance of such places. Pedestrians should be directed down St Julian Grove and into the Priory through that entrance. They raise 9 specific points including: the war memorial should be left where it was erected; the Britannia Works crankshaft should be left where it is at the entrance to the former works and not moved into the cemetery where it would be wholly inappropriate; objections to the various tree removals and works which would harm the character of the church yard; The new path should not be constructed as it would be too intrusive in this small urban cemetery. Church yards are living sanctuaries providing a refuge for a rich diversity of plants and animals as well as being important places for archaeology and history. On a positive note, the planting of trees on land to the south of the priory ruins will be a great improvement and particularly appropriate as there used to be many trees in this area. However, the other works in this area are excessive and unnecessary and represent further urbanisation of what should be a quiet green retreat.

*Officer Comment:  
Following receipt of this comment the applicant wrote to the objector to answer the points raised. A copy of this email is available to view on the Council's website.*

- 7.3 Following this reply a further response was received from the objector, summarised thus.

I still object to the proposed alterations in principle and in detail as previously set out. It seems that no historical or wildlife assessments have been carried out. The online documents do not include consultations with local historians or specialists in church yards. No photographic survey submitted. I am concerned with the treatment of the war memorial and the lack of consultation with the war memorials trust. Church yards are consecrated by bishops and are sacred, misbehaviour in them is punishable by law. The trees and shrubs planted in them are living symbols. The letter then repeats advice from the War Memorials Trust website.

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

## **8.0 Report**

- 8.1 This application relates specifically to the relocation of the war memorial and the Britannia works crank shaft, the tree removal and maintenance works and the ground contouring works, although these should be viewed in the context of the wider improvements proposed.
- 8.2 The main issues raised by the works proposed are the impact on the character and appearance of the conservation area, the scheduled monument, and the setting of the listed buildings.

### Policy context

- 8.3 The Core Strategy like the Local Plan seeks to regenerate the St Botolph's Quarter as does the Council's Strategic Plan and Colchester 2020, the Community Strategy.
- 8.4 Conservation Area policies seek to preserve and enhance the character and appearance of the Conservation Area. Listed building policies seek to protect the special interest of the buildings and their settings. There is a presumption against development which would adversely affect Scheduled Ancient Monuments and their settings.
- 8.5 The relocation of the war memorial and the Britannia works crank shaft would have a neutral impact on the character and appearance of the conservation area and would not adversely affect the scheduled monument.
- 8.6 The revised proposals for the ground contouring works propose less dig in the cut and fill works to minimise disturbance and have the approval of English Heritage. The proposed works would improve the appearance of the site along with accessibility. With the imposition of an appropriate archaeological watching brief condition it is not considered there could be any objection to the works proposed.
- 8.7 In terms of archaeology, the archaeological watching brief condition would ensure that any archaeological remains disturbed would be properly recorded and dealt with.

- 8.8 The tree removal and maintenance works proposed, combined with the new planting proposed would ensure the long term amenity afforded by the landscape features of this site. By opening up views into the site to allow more light and improve natural surveillance it is hoped to make it more appealing for visitors to appreciate.
- 8.9 The site suffers from a poor reputation in terms of being used by people with drink, drug and antisocial behaviour problems which can deter some visitors to the site. This proposal seeks to improve the site to make it more accessible to all who wish to use it while creating a friendlier and more inviting environment for people to enjoy this town centre heritage asset.
- 8.10 While the concerns of the objector are noted and acknowledged, it is not considered there is any planning reason to refuse this application. The intention is not to turn the site into a public park, but to make the church yard and priory grounds safer, more inviting and accessible to all who wish to visit. The applicant has undertaken extensive consultation with interested parties and including the British Legion, the Chelmsford Diocese, Colchester Engineering Society and St Botolph's Church, who consider the war memorial would sit better with other memorials in the churchyard.

## **9.0 Conclusion**

- 9.1 In summary, the proposal is considered to be in line with the policy regeneration aims and would improve this valuable heritage asset without causing harm to the character or appearance of the conservation area, the setting of the listed buildings or the scheduled monument. It is noted that scheduled monument consent has already been granted by English Heritage. Approval is therefore recommended subject to necessary controlling conditions referred to in the body of the report.

## **10.0 Background Papers**

- 10.1 ARC: Core Strategy; HH; TL; EH; AO; 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 - Non-Standard Condition

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 2 to 5 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 5 has been complied with in relation to that contamination.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

## 3 - Non-Standard Condition

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### 4 - Non-Standard Condition

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### 5 - Non-Standard Condition

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### 6 - Non-Standard Condition

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 2 "Site Characterisation", and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 3 "Submission of Remediation Scheme", which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4 "Implementation of Approved Remediation Scheme".

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

## 7 -Non-Standard Condition

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 3 "Submission of Remediation Scheme" above.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

## 8 - C11.11 Landscape Design Proposals

No works or development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the Local Planning Authority (see BS 1192: part 4). These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting).

Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

Written specifications (including cultivation and other operations associated with plant and grass establishment).

Schedules of plants, noting species, plant size and proposed numbers/densities.

Planting area protection or decompaction proposals.

Implementation timetables.

Reason: To safeguard the provision of amenity afforded by appropriate landscape design.

## 9 - C11.12 Landscape Works Implementation

All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded 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 the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

#### 10 - C11.17 Landscape Management Plan

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to any occupation of the development (or any relevant phase of the development) for its permitted use.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by the landscape.

#### 11 - Non-Standard Condition

No works or development shall be carried out until an Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved in writing by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

#### 12 - C2.1 Watching Brief

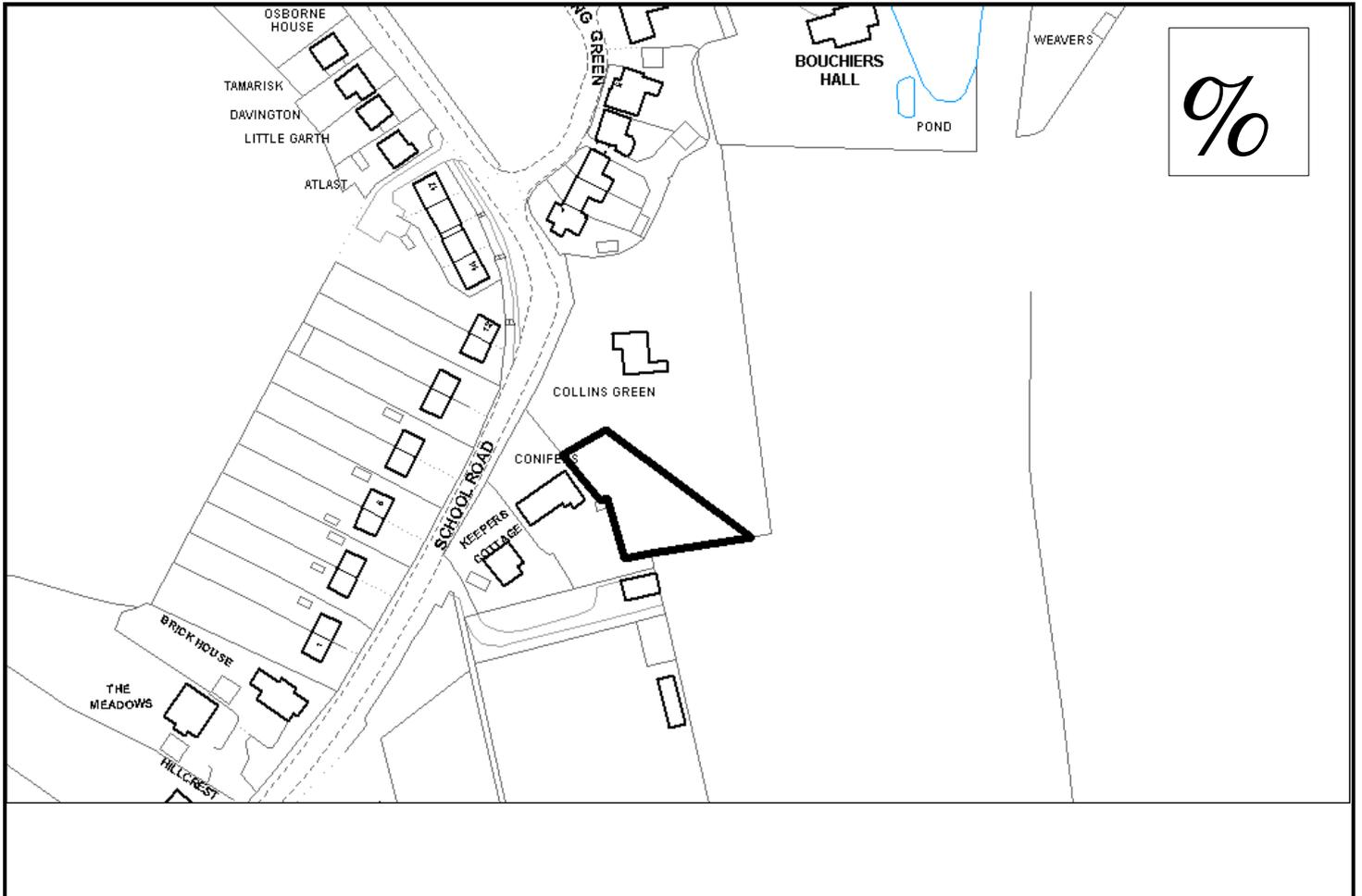
The applicant shall commission a professional archaeological contractor to observe the excavations and show sufficient time for the recording of any features and finds of interest.

Reason: To ensure that any remains of archaeological importance are properly recorded.

#### **Informatives**

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

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 by initially telephoning 01206 838600.



**Application No:** 091580

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

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

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**7.10 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

**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 None

## **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 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.

9.4 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.

9.5 It is on this basis that the amendments to Plots 1 & 2 are acceptable and successfully address your Officer's previous concerns.

## **10.0 Background Papers**

### 10.1 ARC; 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 - Non-Standard Condition

The colour of the painted brickwork shall be agreed in writing by the local planning authority prior to the commencement of any further works to these approved dwellings.

Reason: To ensure a satisfactory visual appearance.

##### 3 - Non-Standard Condition

The existing PVCU windows and doors and porch shall be removed and replaced with timber with a gloss painted finish to be agreed in writing by the local planning authority, within a period of 3 months of the date of this permission unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is completed in accordance with the approved application.



## Site Location Plan

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**Complaint Reference:** 132904/002662  
**Site Location Address:** 5 Inverness Close, Colchester, CO1 2SA  
**Date Produced:** 27 January 2010

(MAP NOT TO SCALE)

4 February 2010

<b>Report of</b>	<b>Head of Environmental and Protective Services</b>	<b>Author</b>	<b>Cheryl Headford</b> ☎ 01206 282422
<b>Title</b>	<b>Land at 5 Inverness Close, Colchester</b>		
<b>Wards affected</b>	<b>Castle</b>		

**This report concerns the unauthorised addition of a metal/glass railing, wooden decking and an external spiral staircase to a rear flat roof extension**

### 1. Decision(s) Required

1.1 Members are requested to consider the information contained in this report and to authorise an Enforcement Notice requiring the permanent removal of:

- Metal/glass railing
- External spiral staircase
- Wooden decking

1.2 In terms of the period allowed for compliance, it is recommended that 4 weeks be allowed.

### 2. Reasons for Decision(s)

2.1 The dwelling is a 1960's style semi detached house with extensions to the rear, which have been added over the years. At the back of the property is a public walkway running between the back garden and the back gardens of the properties in Lincoln Way. The addition of the railing and staircase allows for the flat roof to be used as a balcony, affecting the privacy of neighbouring properties to the rear, as well as the houses either side of the site.

Whilst we cannot restrict the owner using the flat roof we can control fittings which would facilitate the use of this area as a balcony. This development would be contrary to policies UEA11 and UEA13 of the Adopted Review Colchester Borough Local Plan 2004 in particular where it seeks to protect undue overlooking of neighbouring properties

### 3. Alternative Options

3.1 Members could chose not to pursue enforcement action, however this would result in consent by default and would be contrary to the above policy.

#### **4. Supporting Information**

- 4.1 The addition of the railings, staircase and decking was first brought to our attention in June 2009. At the time of our visit to inspect the roof area the decking was not fixed, however, it is included in the notice as it is the opinion of the Council that it facilitates the use of the flat roof as a balcony. Building Regulations will require the decking to be fixed and therefore it is expedient to require its removal now rather than under enforce, which may result in it gaining consent by default.
- 4.2 On 11 June a letter was sent to the occupier requesting an appointment to view the area, however, the owner phoned to say that the appointment was not convenient and no works had been undertaken, apart from laying down decking. He did have railings on order and was advised that he needed planning consent to fit these. A letter was sent the same day to the owner confirming details of the conversation and reiterating that any works which would provide for a balcony would need planning consent.
- 4.3 The following day (16 June) a further phone call was received from the owner advising that the railing was ready and he wished to install it. He was advised that the Council could not stop him from doing so, but that he would need planning permission. During this conversation he also stated that he did not use the roof, or have any tables or chairs on it and that the decking was just for aesthetic reasons. He also stated that he would install a screen to prevent any overlooking issues on neighbouring properties, but was again told that this would need consent.
- 4.4 Photos taken at the start of the investigation in June show the flat roof has items of garden furniture on it. A further photo taken in July when the railing had been installed show chairs, a table and pot plants giving the impression that the flat roof is used.
- 4.5 During the telephone conversation of 16 June the owner was also advised that he may need Building Regulations as there should be a barrier in front of the patio doors accessing to the flat roof. He agreed he would make contact with a Building Control Officer to arrange a visit.
- 4.6 No contact was made with any officer in Building Control and therefore, following reports that a staircase had been erected, a Planning Contravention Notice was served on 3 September 2009. This was promptly completed and returned and a meeting was arranged for an Enforcement Officer and Building Control Officer to visit.
- 4.7 A site visit finally took place on 1 October 2009. The area was clear of garden furniture and other items at the time of our meeting, the railing was fixed and a spiral staircase allowed access to the roof area. The owner was advised that both these items required planning consent, but that an application may not be considered favourably. As the decking was not fixed the owner was informed that it did not require planning consent and could remain if he decided to remove the unauthorised works.
- 4.8 During the visit the owner was further advised by Building Control that the patio doors leading onto the flat roof required some form of barrier. If this was fixed across the doorway planning permission would not be needed, but if it was to go around the roof area consent would be needed, but not likely to be considered favourably. The wooden decking and the spiral staircase also did not comply with building regulations.

- 4.9 On 23 October an email was sent to the owner requesting either submission of an application, if he wished to try and retain the works, by 20 December 2009, or the unauthorised works should be removed. A letter from Building Control was also included in this email advising on items requiring building regulations.
- 4.10 To date no planning application has been received and the railings and staircase remain. Also no response has been received by Building Control to their matters.
- 4.11 On 11 January 2010 a letter was sent (and emailed) to the owner advising that the Council would be reporting to the Planning Committee for authorisation to serve an Enforcement Notice. At the time of writing this report no further correspondence has been received.

## **5. Proposals**

- 5.1 It is considered expedient to serve an Enforcement Notice requiring the removal of the wooden decking, railing and staircase which facilitate the use of the flat roof as a balcony.

## **6. Strategic Plan References**

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

## **Background Papers**

Adopted Review Colchester Borough Local Plan – March 2004  
Policy UEA11  
Policy UEA13

## INDEX TO PLANNING APPLICATIONS CODES

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

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

## INTERNAL CONSULTEES

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

## REPRESENTATIONS ETC

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

## EXTERNAL CONSULTEES (2 character codes)

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