

# Planning Committee

**Council Chamber, Town Hall  
4 September 2008 at 6:00pm**

## **This committee deals with**

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

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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 September 2008 at 6:00pm**

**Members**

Chairman : Councillor Gamble.  
Deputy Chairman : Councillor Ford.  
Councillors Chillingworth, Blandon, Chapman, Chuah, Cory, Elliott, Foster, Hall, Lewis and Offen.

**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 Arnold, Barlow, Barton, Bentley, Bouckley, Cook, Dopson, Fairley-Crowe, P. Higgins, T. Higgins, Hunt, Lilley, Lissimore, Maclean, Manning, Martin, Pyman, Quarrie, Sykes, Tod, Turrell and Young.

**Agenda - Part A**

(open to the public including the media)

Amendments sheets are circulated at the meeting and members of the public should ask a member of staff 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 to 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**

To confirm as a correct record the minutes of the meeting held on 7 August 2008.

## **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. 081333 London Road, Stanway, Colchester** **6 - 14**  
(Copford and West Stanway)  
  
Erection of 12 no. business units and ancilliary car parking and outbuildings.
  
- 2. 081264 67 Collingwood Road, Colchester** **15 - 19**  
(Lexden)  
  
Change of use from Residential (C3) to Non-Residential Institution (D1) - day centre.
  
- 3. 081279 17-19 Church Walk, Colchester** **20 - 24**  
(Castle)  
  
Change of use to internet cafe being mixed use of providing internet facilities to the public and the sale of food and drink for consumption on the premises.
  
- 4. 080513 17 East Road, West Mersea** **25 - 31**  
(West Mersea)  
  
Re-roof existing bungalow providing rooms in roof. Rear extension and relocation of existing garage.

## **8. Exclusion of the Public**

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

# PLANNING COMMITTEE

## 7 AUGUST 2008

*Present:-* Councillor Gamble (Chairman)  
Councillors Chapman\*, Chillingworth\*, Chuah\*, Cory\*,  
Ford\*, Elliott\*, Foster\*, Hall\*, Lewis\* and Offen\*.

*Substitute Member:-* Councillor P. Higgins for Councillor Blandon.

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

### 91. Minutes

The minutes of the meeting held on 24 July 2008 were confirmed as a correct record subject to the inclusion of Cllr Lewis' declaration of interest on minute 88 as follows:-

Councillor Lewis (in respect of her acquaintance with objectors to the proposal) declared her personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

### 92. 081070 Tey Gardens Nursery, Church Lane, Little Tey, Colchester, CO6 1HX

The Committee considered an application for the demolition of existing glasshouses and change of use from commercial horticultural nursery to storage of hard landscaping materials, formation of area of hardstanding, provision of balancing pond, provision of staff car park and associated landscape planting revisions to planning permission 073133. A late amendment to this earlier approval was the provision of a balancing pond within the south-east corner of the site, which was a requirement of the Environment Agency. This application was a resubmission of the earlier application, but with the balancing pond moved to a position to the north-east of the main storage area, with the alternative position of the balancing pond, the south-east corner of the site was now shown as part of the storage area for hard landscaping products. The Committee had before it a report in which all information was set out.

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

### 93. 081100 West End Cottage, High Street, Dedham, CO7 6HJ

The Committee considered an application for the construction of two 2 bedroom terraced houses and one 1 bedroom flat above a workshop, to replace an existing two bedroom cottage with an adjacent workshop. The Committee had before it a report in which all information was set out together with further information on the amendment sheet.

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

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Davison addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The application did not conform with the Local Plan, the Essex Design Guide or the Dedham Design Statement. It would cause a loss of late afternoon sunlight to Wordley Cottage. The Essex Design Guide stressed the importance of amenity and sitting out areas; the provision of amenity space in this proposal was completely inadequate. It also did not comply with the distance guidelines in the Essex Design Guide and the proposal would impact on the privacy of Wordley Cottage. An historic skyline would be lost and parking problems would be exacerbated.

Mr Sedgely addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The scheme, which had been developed in consultation with officers, would improve the setting of the street and create a useful workshop. No problems of overlooking or overshadowing would arise. Roof heights and sky line had been designed to improve the setting of the adjacent "White House". Parking issues had been resolved and the access moved away from the bend. There was local support for the scheme.

It was explained that, following further consideration by the officers, condition 7 on the amendment sheet should not be imposed, given the impact such a sight splay would have on the design of the building.

Members of the Committee discussed the concerns expressed about loss of light to Wordley Cottage and whether the provision of a hipped roof on the development would improve matters, but it was explained that this would not be an appropriate roof form in this street scene. There was general support for the scheme which the Committee considered would enhance the street scene.

*RESOLVED* that the application be approved with conditions and informatives as set out in the report and on the amendment sheet with the exception of condition 7 on the amendment sheet.

#### **94. 081208 261 Straight Road, Colchester, CO3 9EQ**

The Committee considered an application for a new separate vehicular access off Dugard Avenue to serve no. 261 Straight Road. The Committee had before it a report in which all information was set out.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Gittins, agent for the applicant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. No objections to the application had been received during the consultation period. The proposal would not result in a reduction in the overall amenity area of the two properties. The new entrance would be some distance from the Dugard Avenue/Straight Road junction, and although there was a bus stop between the proposed entrance and the junction, the services using the stop were infrequent and did not operate at peak times. Traffic speeds in the area were low. The Highways Authority had raised no objection to the application.

Councillor Lissimore attended and, with the consent of the Chairman, addressed the Committee on behalf of residents of Dugard Avenue. The proposal would create a new exit very close to a busy junction. It would be in close proximity to traffic islands used by



pedestrians to cross Dugard Avenue and would be approximately two metres from a bus stop, so visibility would be blocked when buses were using the stop. There was nothing to prevent more than one car using the exit which would mean cars would not be able to turn and would therefore reverse out of the entrance. The proposal would generate more congestion and increase the risk of accidents and should therefore be refused.

It was explained that parking area would be large enough for two cars to park and still be able to turn and exit in forward gear.

Members of the Committee expressed concern about the increased risk to highway safety by the creation of a new access at this point. However it was noted that a number of properties on opposite sides of the road had accesses directly onto Dugard Avenue and that traffic speeds were low. The Committee also noted that the Highways Authority had not raised any objection and therefore it would be difficult to justify any refusal on highway safety grounds.

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

**95. 072956 East Street, Wivenhoe, CO7 9BW**

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

**96. 081003 Coast Road, West Mersea**

The Committee considered a retrospective application for a bund of granite stone to be built along the western side of Packing Shed Island to protect the island and the shed from further erosion. The Committee had before it a report in which all information was set out.

*RESOLVED* that the application be approved.

**Councillor Lewis (in respect of her acquaintance with Mr Dodgson) declared her personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).**

**97. 081154 13 Park Road, Colchester, CO3 3UL**

The Committee considered an application for a single storey extension providing an additional bedroom and a change of use of the property from a residential home to a nursing home for people with physical or mental difficulties. This application was a resubmission of 080777. The Committee had before it a report in which all information was set out together with further information on the amendment sheet.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Dodgson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He expressed concern that the proposal would exacerbate existing noise disturbance issues. The home generated considerable noise, such as the playing of radios, games and activities in the garden and shouting by staff. One patient in particular made considerable noise as a result of their medical condition. The noise generated by the use impacted on the amenity of local residents, who had complained a number of times. One particular problem was the noise from the laundry, located only 3 metres from a neighbour's dining room. He did not believe that the home was well managed.

Mr Brain addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The application was for an extension to provide an additional bedroom. The extra space that would result from the extension would improve the amenity of the residents, but the additional bedroom meant that that the class of the home would need to change. Whilst he noted the issues raised by neighbours, these were social rather than planning issues and many of these problems could arise from a family home. One additional room should not generate additional noise. However, he would look at what could be done to reduce noise from the laundry and also look at management strategies to reduce noise from the home.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. The application lacked clarity and transparency. It was not clear what the home's client base was or what the future plans for the home were. The proposal did not conform with policy H2 in that it did not provide for "harmonious integration" with surrounding development.

Members of the Committee expressed a number of concerns about the existing use of the site which could be exacerbated if the application were approved. Concern was expressed about the noise issues raised by neighbours, about the apparent lack of stimulation for the residents of the home and whether there was sufficient amenity space for the number of residents. Also given the security fence, it could not be argued there was easy access to local facilities. Members also explored the issue of potential conflict with policy H2.

It was explained that this element of policy H2 was aimed at issues of design and appearance, rather than amenity issues arising from the use. In addition the client base of the home was clarified. Whilst the existing residents were between the ages of 30 and 60, a new resident could be of any age between 18 and 65.

Members of the Committee noted that a number of the issues raised were not material planning considerations and that there were no grounds in planning terms for the application to be refused. However, the Committee asked that an additional condition be imposed requiring the submission of a scheme for the sound proofing of the laundry and a note be sent to the applicant asking them to look at the management of the home particularly in regard to noise issues and the lack of facilities and stimulation to the residents.

*RESOLVED* that the application be approved with conditions and informatives as set out in the report together with an additional condition requiring the submission of a scheme for the sound proofing of the laundry and a note to be sent to the applicant asking them to look at the management of the home particularly in regard to noise issues and the lack of facilities and stimulation to the residents.

**Councillors Chapman, Chillingworth, Elliott, Foster, and Lewis (in respect of their acquaintance with the applicant) declared their individual personal interests in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).**

**98. 081237 Brickhouse Farm, Lower Road, Peldon, Colchester, CO5 7QR**

The Committee considered a listed building application for internal and external alterations to this Grade II listed building. The Committee had before it a report in which all information was set out.

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

**Councillor Chapman (in respect of his support for the scheme in his former role as Portfolio Holder for Customer Services and Sustainability in the previous municipal year) declared his personal interest in the following item which was also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and left the meeting during its consideration and determination.**

**99. 081291 The Cemetery, Mersea Road, Colchester, CO2 8RU**

The Committee considered an application for a change of use from a non-conformist chapel to a florists. The Committee had before it a report in which all information was set out together with further information on the amendment sheet.

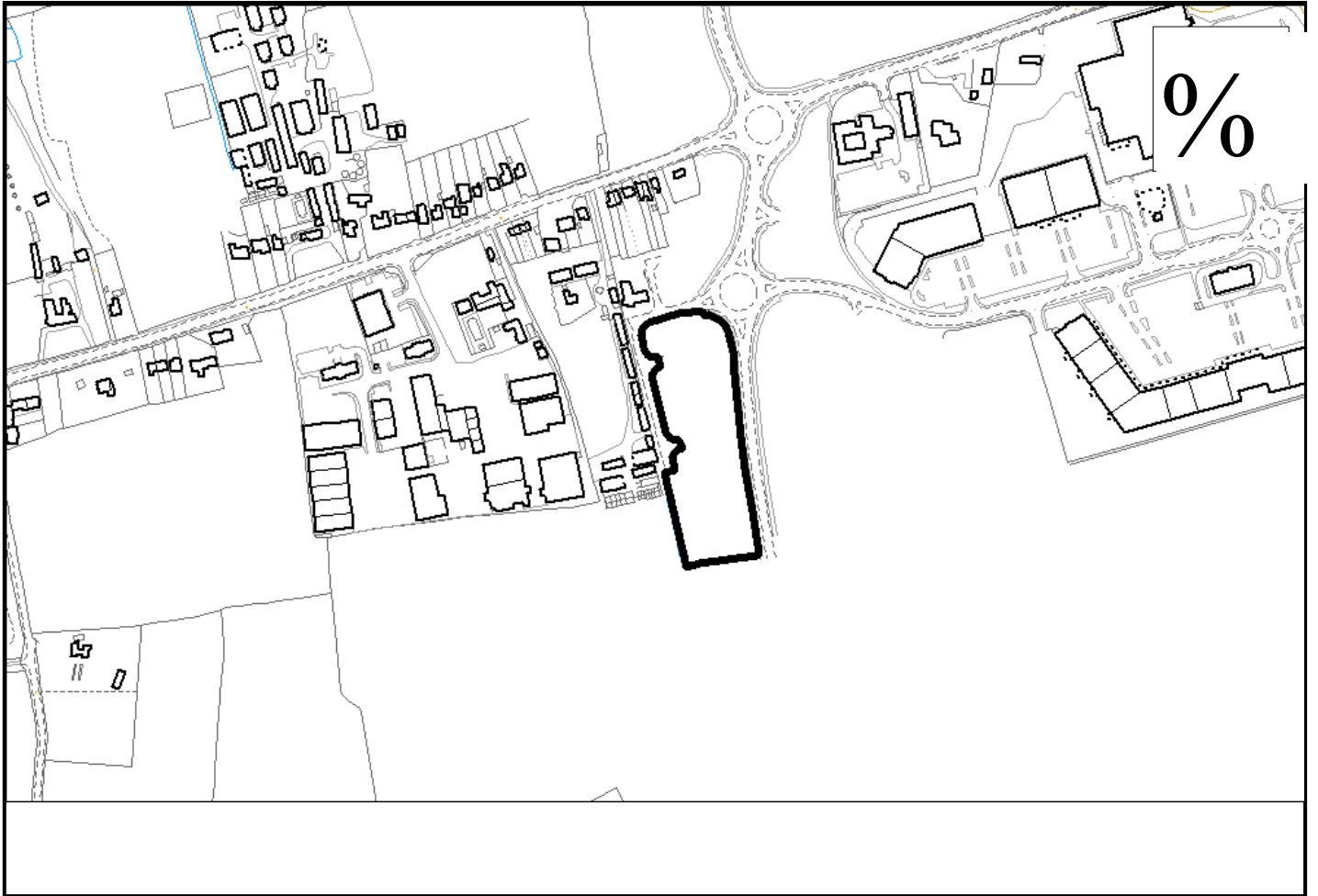
Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

Councillor Harris attended and, with the consent of the Chairman, addressed the Committee. Whilst he supported the application he asked that the Committee help ensure that delivery lorries should be driven in a respectful manner, given the sensitive nature of the location. Whilst a one way system operated informally on the site, it was still possible for vehicles to enter the cemetery adjacent to Dudley Close. He asked the Committee to support efforts to create separate access and egress arrangements for the cemetery. Whilst he appreciated these were not matters that could be enforced by condition, the Committee's support on these matters would be very welcome.

Members of the Committee supported the proposal and also endorsed the suggestions made by Councillor Harris.

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

- The officer to write to the Cemetery Manager (copied to the Portfolio Holder) requesting that serious consideration be given to the creation of separate access and egress arrangements in order to avoid potential conflict between florist delivery vehicles and other vehicles;
- A note be added to the decision notice, advising the applicant that all delivery vehicles should be driven in a respectful manner, given the sensitive nature of the location.



**Application No:** 081333

**Location:** Land at Floral Acres/Tollgate West, London Road, Stanway, Colchester

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

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## Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **4 September 2008**  
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**

**EXPIRY DATE: 11/10/2008**

**MAJOR**

**Site:** London Road, Stanway, Colchester

**Application No:** 081333

**Date Received:** 11<sup>th</sup> July 2008

**Agent:** Peter Emptage Architects

**Applicant:** Tollgate Partnership Limited

**Development:** Erection of 12 no. business units and ancillary car parking and outbuildings.

**Ward:** Copford & West Stanway

**Summary of Recommendation:** Conditional Approval subject to the completion of a S106 Agreement

### 1.0 Planning Report Introduction

1.1 This report concerns a proposed commercial development on land at Tollgate West, Stanway, known as Floral Acres.

### 2.0 Site Description

2.1 Planning permission is sought for the erection of a development consisting of 12 no. business units, together with ancillary car parking and outbuildings.

- 2.2 The form of development proposed consists of a 'crescent' building located at the northern end of the site which would contain 7 no. units. Individual buildings would occupy the middle section and southern part. The remainder of the site area would be given over to parking/servicing areas, together with linear landscaping areas. Access would take place via Tollgate West.
- 2.3 The design of the buildings would be contemporary in character and materials would include standing seam roofs, brickwork, render and louvred cladding.
- 2.4 The proposed range of uses for the units would fall within the categories of B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution).
- 2.4 The application is accompanied by a Design and Access Statement which is available to view on the Council's website.

### **3.0 Land Use Allocation**

- 3.1 The site for this proposal is located in an Employment Zone as allocated in the Adopted Review Colchester Borough Local Plan – March 2004.

### **4.0 Relevant Planning History**

- 4.1 070390 – Erection of two storey offices, circulation areas, car parking, covered cycle parking, landscaping and access. Application approved subject to completion of S106 Agreement.
- 4.2 071087 – Erection of two storey offices, circulation areas, car parking, landscaping and access. Application approved subject to completion of S106 Agreement.
- 4.3 F/COL/05/1031 – Proposed A2/B1 office development and ancillary car parking and access. Approved – 26<sup>th</sup> August 2005.

### **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Borough Local Plan  
DC1 – General Development Control Considerations  
EMP1 – Employment Allocations and Zones  
STA2 – Land between Essex Yeomanry Way and south of Church Lane

### **6.0 Consultations**

- 6.1 The Highway Authority has no objection subject to the securing of a legal agreement and the imposition of conditions/informatives.
- 6.2 The Environmental Control Division would require the imposition of conditions and informatives on any grant of planning permission.

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

Stanway Parish Council comments as follows:

"Stanway Parish Council raises NO OBJECTION in principal. However, Section 19 of the application is a little open as regard to use and the Parish Council would wish to ensure that the business units do not become retail outlets."

Officer comment:

The range of uses intended (as stated on the application forms) fall within the B1, B2 and B8 categories. A1 (Retail) uses are not proposed. This could be controlled by the imposition of an appropriately worded condition.

## **8.0 Representations**

8.1 None.

## **9.0 Report**

- 9.1 Members will recall that a 'suite' of applications at Tollgate, recently presented to Committee, included proposed development on part of the land identified under this current application. The previous schemes were for B1 office developments (please refer to the Planning History section of this report). This scheme proposes a comprehensive development that could be utilised for a range of uses in the B1, B2 and B8 categories. Clearly in terms of use the development would accord with the land use allocation in the Local Plan and the principle of this type of development is therefore considered to be acceptable.
- 9.2 As regards design, the proposal is contemporary in nature, incorporating a range of references including curved roofs, panels, etc. Although this design does not reflect existing architecture in the vicinity which is, arguably, more tradition in nature, the juxtaposition of styles is not considered to represent a detriment to visual amenity. The fact that a number of development sites have been 'released' as a result of the construction of the northern section of the Western Bypass means that, to a significant extent, the character of the area will be created by the development that takes place on either side of the road. Members will recall that a variety of designs were proposed for the schemes previously submitted for determination by Committee - some more contemporary than others. In the case of this current proposal it is felt that a comprehensive development on a significant area of land would help to establish the future character of this part of Tollgate.
- 9.3 Another key consideration in planning terms is the visual relationship the development would have with the nearby, recently-constructed northern leg of the Western Bypass. In this regard, the main element of built form, i.e. the seven units at the northern end of the site is considered to relate well to the road and the roundabout junction: the remainder of the development would also address the main road. An appropriate level of enclosure is therefore achieved.

9.4 It is noted that the application has not given rise to objection from consultees, neighbours or the Parish Council and this is probably due to the fact that the application site has a history of commercial development proposals and is also allocated for employment purposes in the Adopted Local Plan. As the Highway Authority's requirements included the completion of a S106 Agreement, it is necessary under the agreed scheme of delegation to present this application to Committee for determination.

## 10.0 Background Papers

10.1 ARC; PTC; HH; HA.

**Recommendation – Conditional Approval** subject to the completion of a S106 Agreement:

- a) That the application be deferred in order that a Section 106 Agreement can be completed that secures the following:
- A contribution of £25,000 towards transport improvements to be triggered by the first of the developments to be occupied relating to the following applications – 070390, 070391, 071087, 071932, 080640, 080642 and 081333 (Note: A £25,000 payment is not payable on each of the aforementioned developments).
  - The payment of a £3,000 Travel Plan monitoring fee.
  - The setting aside of land for possible future alterations to the Western Bypass, as required by the Head of Planning, Protection and Licensing.
- b) Upon completion of the S106 Agreement, the Head of Planning, Protection and Licensing be authorised to issue a planning permission for the development subject to the imposition of 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 - A4.12 No Open Storage

There shall be no outdoor storage of any materials, goods, equipment, plant, machinery or vehicles of any description on any part of the site without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and for the avoidance of doubt as to the scope of the permission hereby granted.

3 - Non-Standard Condition

The premises hereby permitted shall be used for B1 (Business), B2 (General Industry) and/or B8 (Storage and Distribution) purposes only as defined in the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

Reason: To avoid doubt as to the scope of the permission hereby granted.



#### 4 - Non-Standard Condition

The use of the buildings hereby approved shall only be carried out between the hours of 0800 hours and 1800 hours Monday to Saturday with no working taking place on Sundays and Public/Bank Holidays.

Reason: In the interest of protecting the amenity of the area.

#### 5 - 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: The application has insufficient detail for approval to be given to the external materials; and (to ensure that the development does not prejudice the appearance of the locality/to ensure that the development has a satisfactory appearance in order to protect and enhance the visual amenity of the area).

#### 6 - 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 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.

#### 7 - 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.

#### 8 - Non-Standard Condition

A competent person shall ensure that the rating level of noise emitted from the site plant, equipment, machinery shall not exceed 5dBA above the background prior to the buildings hereby approved coming into beneficial use. The assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the Local Planning Authority prior to the building hereby approved coming into beneficial use. All subsequent noise conditions shall comply with this standard.

Reason: In order to ensure that the amenity of the area is protected from noise nuisance.

#### 9 - Non-Standard Condition

Any plant, equipment or machinery on the premises shall be constructed, installed and maintained as to comply with the initial noise condition (08). The noise generated by such equipment shall not have any noise frequency component that exceeds more than 5dB above the background frequency levels as measured at all boundaries near to noise-sensitive premises.

Reason: In order to ensure that the amenity of the area is protected from noise nuisance.

#### 10 - Non-Standard Condition

The building hereby permitted shall not come into beneficial use until there has been submitted to and approved in writing by the Local Planning Authority a scheme devised by a competent person for the control of fumes, odours, dust and smell. Such control measures as shall have been approved shall be installed prior to the building hereby permitted coming into beneficial use and thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that the permitted development does not prejudice the local environment and/or amenities of the area by reason of air pollution/odours/dust/smell.

#### 11 - Non-Standard Condition

No development shall take place until a scheme for the control of light pollution has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be devised by a competent person and fully comply with the Code of Practice for the Reduction of Light Pollution issued by the Institution of Lighting Engineers, the DETR document 'Lighting the Countryside: Towards Good Practice' and all current official guidance. Such light pollution control measures as shall have been approved shall be installed prior to the building hereby permitted coming into beneficial use and thereafter be retained and maintained to the agreed specification and working order.

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

#### 12 - Non-Standard Condition

Notwithstanding the details shown on the drawings hereby approved, there shall be a pedestrian/cycle link directly between the proposal site and the Western Bypass.

Reason: In the interests of highway safety.

#### 13 - Non-Standard Condition

Measures shall be provided to ensure no mud and/or debris is deposited on the public highway by any vehicle associated with construction of the proposal. Details shall be agreed with the Local Planning Authority.

Reason: In the interests of highway safety.

#### 14 - Non-Standard Condition

Prior to the commencement of development, amended plans shall be submitted to and approved in writing by the Local Planning Authority showing the provision of the following:

- Dedicated service vehicle parking for Units 1-7 otherwise service vehicles would have to manoeuvre and park within the proposed car parking areas and 'Tollgate West' to the detriment of their efficient use and their user's convenience and safety.
- Covered and secure cycle parking located immediately in front of each proposed unit.

The proposal shall be constructed in accordance with the amended approved plans.

Reason: In the interests of highway safety.

### 15 - Non-Standard Condition

No occupation of the development shall take place until such time as the following have been provided or completed to the satisfaction of the Local Planning Authority:

- The relocation of existing or provision of new bus stops in the vicinity of the proposal site (details to be agreed with the local bus service operators and Highway Authority).
- A travel plan to include a £3,000 fee to cover the cost of reviewing and monitoring the Travel Plan.

Reason: In the interests of highway safety.

### 16 - Non-Standard Condition

No retail or wholesale sales/trade/business use(s) shall be carried out on site at any time without the permission of the Council in writing.

Reason: The site for this proposal is in a defined Employment Zone (with the Adopted Review Borough Local Plan) and the Council would wish to control the use of the site in order to avoid the provision of unnecessary retail development on an unallocated site.

## Informatives

### Non-Standard Informative

1. In relation to Condition 08:

A competent person is defined as someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience.

### Non-Standard Informative

2. In relation to Condition 10:

A competent person is defined as someone who holds an appropriate qualification and/or can demonstrate relevant experience.

### Non-Standard Informative

3. The developer is referred to the attached advisory note for the avoidance of pollution during the demolition and construction phases. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the development.

### Non-Standard Informative

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

In making this recommendation the Highway Authority has assumed the proposal site internal layout and 'Tollgate West' (as identified on the application drawings) will not be laid out and constructed to adoptable standards and that the applicant does not intend to offer it to the Highway Authority for adoption.

Prior to any works taking place in the public highway the developer shall enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.

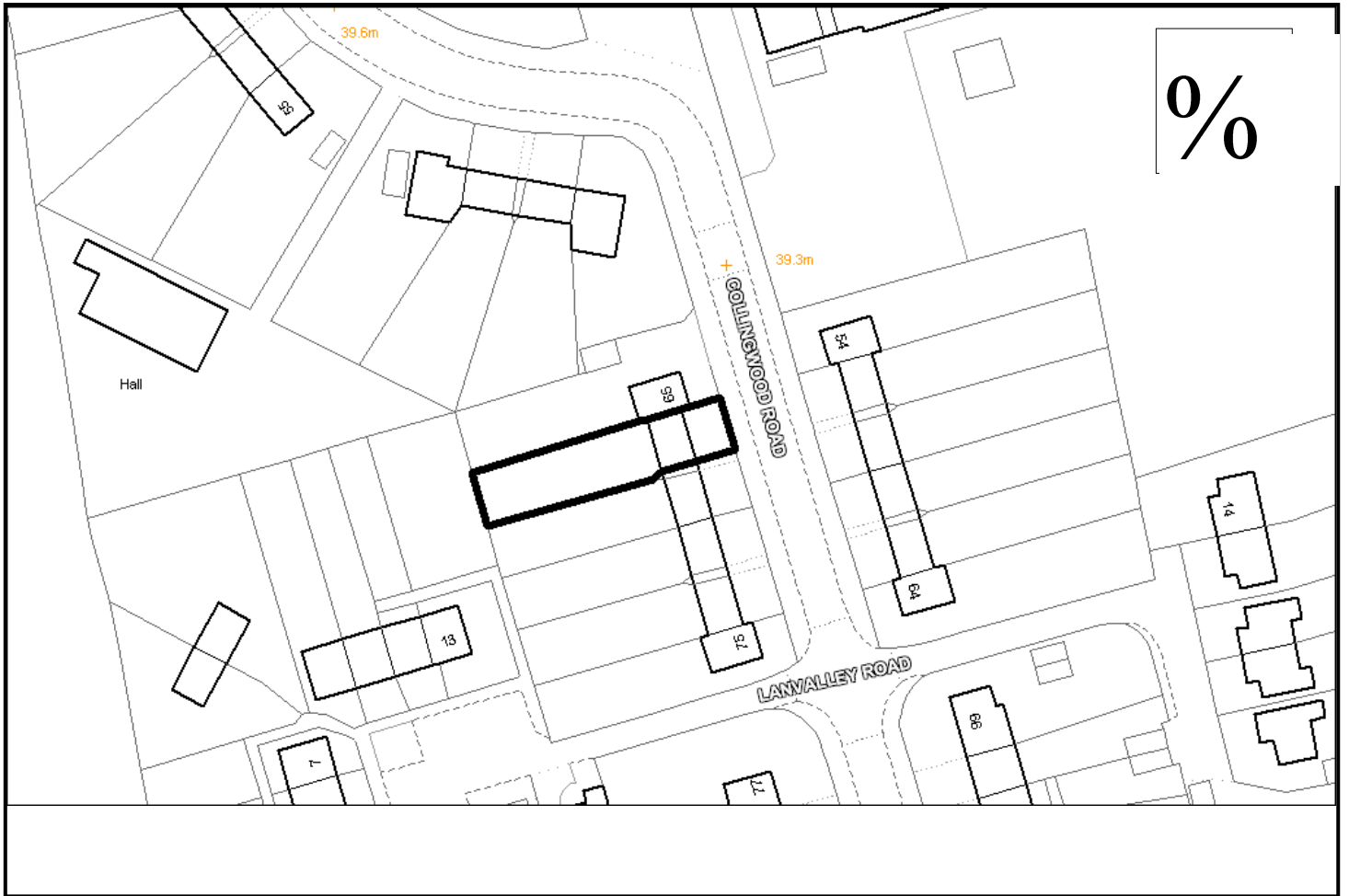
All highway related details shall be agreed with the Highway Authority.

The number of parking spaces, including disabled, cycle and motorcycle shall be in accordance with those standards set down within Essex Planning Officers Association, Vehicle Parking Standards, August 2001. Further all cycle and motorcycle parking shall be convenient, covered and secure.

Any proposed traffic calming shall be laid out and constructed having consulted the emergency services and bus operators.

#### Non-Standard Informative

5. 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:** 081264

**Location:** 67 Collingwood Road, Colchester, CO3 9AY

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

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**7.2 Case Officer: Simon Osborn**

**EXPIRY DATE: 13/09/2008**

**OTHER**

**Site:** 67 Collingwood Road, Colchester, CO3 9AY

**Application No:** 081264

**Date Received:** 18<sup>th</sup> July 2008

**Applicant:** Mr Brain Middleton

**Development:** Change of use from Residential (C3) to Non Residential Institution (D1)-day centre.

**Ward:** Lexden

**Summary of Recommendation:** Approve Conditional

### **1.0 Site Description**

1.1 The application site comprises a mid-terraced property, within a predominantly residential area.

### **2.0 Description of Proposal**

2.1 The application seeks change of use from a Class C3 dwelling to a Class D1 non-residential day-centre for people with learning disabilities. The applicants, who live close to the application site, are a qualified social worker and a registered nurse and have previously rented-out the application property to residential tenants. The supporting statement indicates that the applicants will run the service themselves and will offer it to approx five people on any given day. Days of operation are indicated as Monday to Friday, with core hours from 9.00am to 5.00pm. However, a rider is added that emergency respite care may be offered from 5.00pm to 9.00pm in the evenings and throughout the weekend period from Friday evening to Monday morning. The house will be used as a base for making trips into the wider community, or for activities such as board games and watching films. The applicants intend to pick-up and drop-off the individuals to reduce car movements to the premises.

### **3.0 Land Use Allocation**

3.1 Residential.

### **4.0 Relevant Planning History**

4.1 None.

## **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Borough Local Plan - 2004  
DC1 - Development Control Considerations  
P1 - Pollution

## **6.0 Consultations**

- 6.1 Environmental Control had no objection to the proposal.
- 6.2 Comments of Highway Authority to be reported.

## **7.0 Representations**

- 7.1 A letter of objection with a petition of signatures from 18 properties in the vicinity and letters from one other resident were received, which raised the following objections to the proposal:

1. The property is only suitable as a family home.
2. This is a terraced house with no soundproofing.
3. Concerned at prospective evening and weekend use; emergency use may become more frequent once permission is granted.
4. The property is poorly maintained - fencing not replaced and a bees nest not removed.

## **8.0 Report**

- 8.1 The premises are situated within a predominantly residential area, and the responses received clearly indicate a concern that a commercial use would not be appropriate to the area. Whilst it is likely that many commercial uses would result in an intensity of use that would not be appropriate to a close-knit residential area, other commercial uses need not necessarily intensify the use above that from the use of a property as a family house.
- 8.2 The supporting statement that accompanies the application indicates that the core hours of this facility will be Monday to Friday, between the hours of 9.00am and 5.00pm, with clients collected and returned by the applicants each day. It is considered that this level of use is not sufficiently different from the level of use of a family dwelling and is also during the hours when many residents would be at work.
- 8.3 A level of uncertainty has been raised by the statement that the premises could be used for emergency respite care during evenings and weekends. These are the times when most residents would expect to enjoy peace and quiet in their homes. The lack of clarity as to how the premises will be used at these times is an understandable cause of concern. The applicant has since clarified that this facility would be offered for a maximum of one client with one carer. It is considered that such use would not be significantly different from use of the property as a family home.

8.4 The application is recommended for approval subject to conditions that it be for a maximum of five clients during core hours and one client outside these times. It is also recommended that the permission is made personal to the applicant and granted for a temporary period initially of 1 year in order that the impact of the use on neighbour amenity can be considered further if a further application is submitted.

## **9.0 Background Papers**

9.1 ARC; SDD; PTC; NLR; HA; HH.

### **Recommendation – Approve Conditional.**

#### **Conditions**

##### **1 - Non-Standard Condition**

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 use hereby permitted shall be discontinued one year after it commences, unless a further application is submitted to and approved by the Local Planning Authority.

Reason: To enable the Local Planning Authority to judge the effect of the use on local amenities.

##### **3 - Non-Standard Condition**

The premises shall be used only for the purposes described within the documents submitted with the application (as a centre for up to a maximum of five persons with learning disabilities) and not for any other purpose (including any other purpose within Class D1 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification).

Reason: For the avoidance of doubt as to the scope of this permission and to protect the amenities of the surrounding area.

##### **4 - Non-Standard Condition**

The use hereby permitted shall be carried out only by the applicant and his wife.

Reason: For the avoidance of doubt as to the scope of this permission and to protect the amenities of the surrounding area.

##### **5 - Non-Standard Condition**

The use hereby permitted (as a centre for up to a maximum of five persons with learning disabilities) shall only be carried out during the times of 9.00am to 5.00pm on Mondays to Fridays, except that outside of these times the premises may also be used to provide respite care for one person only with a learning disability.

Reason: For the avoidance of doubt as to the scope of this permission and to protect the amenities of the surrounding area.



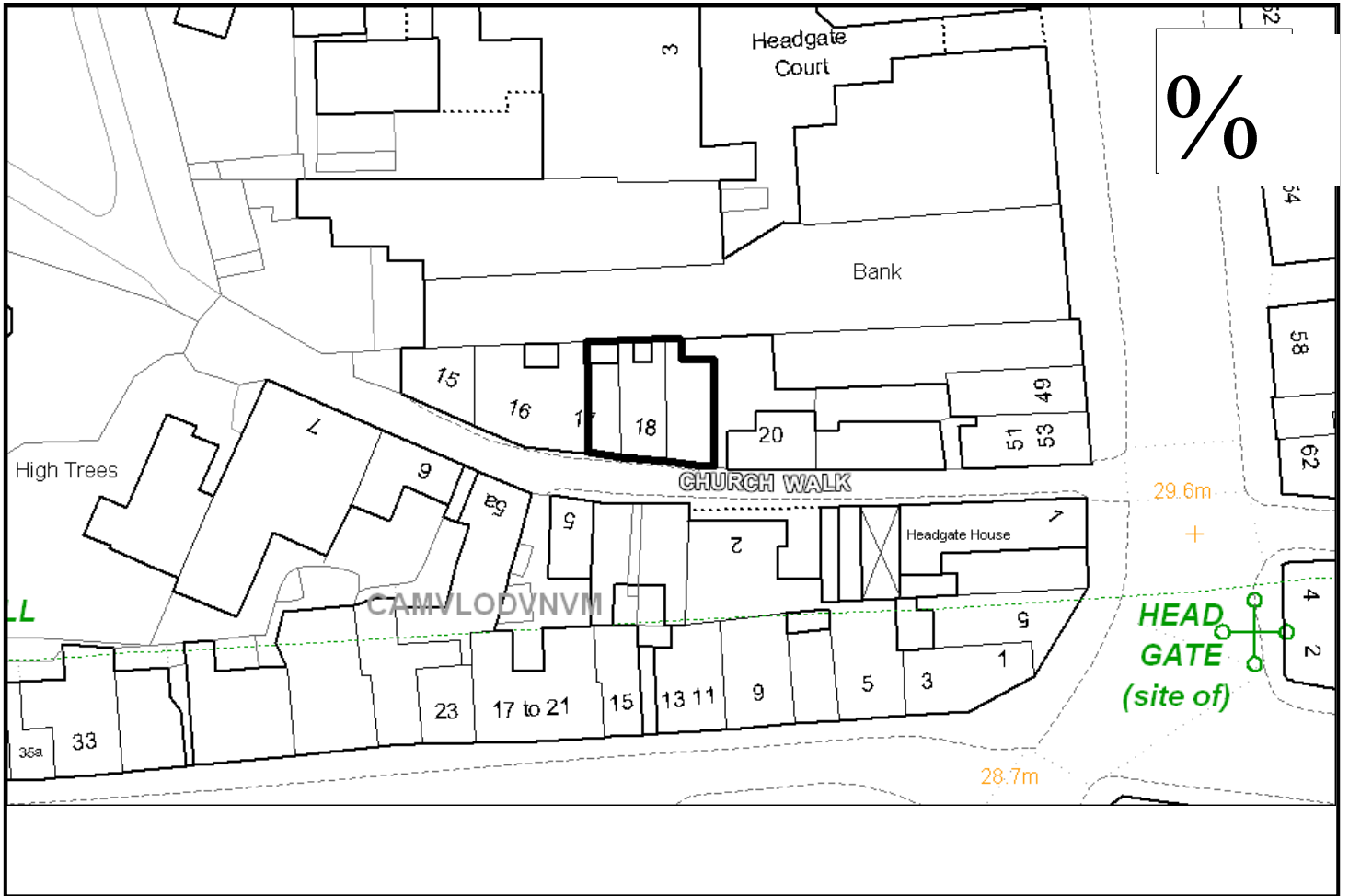
## **Informatives**

### **Non-Standard Informative**

1. In respect of Condition No. 2 above, should the applicant's wish to submit a renewal application one year after the commencement of the use, the Local Planning Authority will be able to assess whether or not it is appropriate to grant permanent planning permission on the basis of how the centre has operated in its first year. The applicant is requested to notify the Local Planning Authority in writing when the use is commenced.

### **Non-Standard Informative**

2. 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:** 081279

**Location:** 17-19 Church Walk, Colchester, CO1 1NS

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

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**7.3 Case Officer: Mark Russell**

**EXPIRY DATE: 04/09/2008**

**OTHER**

**Site:** 17-19 Church Walk, Colchester, CO1 1NS

**Application No:** 081279

**Date Received:** 9<sup>th</sup> July 2008

**Agent:** Birkett Long

**Applicant:** The Ling Trust Limited

**Development:** Change of use to internet cafe being mixed use of providing internet facilities to the public and the sale of food and drink for consumption on the premises.

**Ward:** Castle

**Summary of Recommendation:** Approve Conditional

## **1.0 Site Description**

1.1 The site comprises a collection of single storey, glass-fronted buildings on the western side of Church Walk off Head Street. Church Walk has a mixture of uses, including residential, and also forms part of Colchester Conservation Area 1.

## **2.0 Description of Proposal**

2.1 The proposal is for use as an A1 Internet Café, also with sale of food and drink for consumption on the premises.

## **3.0 Land Use Allocation**

3.1 Mixed Use Area A.

## **4.0 Relevant Planning History**

4.1 C/COL/03/0040 - Change of use from A1 (Retail) to A3 (Food and Drink) Internet Cafe. Refused 3<sup>rd</sup> April 2003.

4.2 C/COL/03/1166 - Change of use from A1 to A3 (Resubmission of Application Ref. COL/03/0741). Approved 4<sup>th</sup> September 2003.

4.3 F/COL/04/0168 - Variation to Planning Consent Ref: C/COL/03/1166 to extend hours of operation until 23.00 hours on Thursday, Friday and Saturday evenings. PLEASE NOTE: THE HOURS OF OPENING APPROVED BY CONDITION VARY FROM THE DESCRIPTION ABOVE. THEY ARE 08.30-20.00 HOURS MONDAY TO FRIDAY AND 10.00-22.00 HOURS ON SATURDAYS AND 10.00-20.00 HOURS ON SUNDAYS AND BANK HOLIDAYS. Approved 23rd March 2004.

- 4.4 F/COL/05/0249 - Variation of Condition 2 of C/COL/03/1166. Approved 3<sup>rd</sup> May 2005.
- 4.5 F/COL/06/1517 - Variation of Condition 1 on Application COL/05/0249 to change hours of opening to 08.30-20.00 Monday – Thursday, 08.30-23.00 Friday – Saturday, 10.00-16.00 Sunday, Christmas period – the ability to open in conjunction with Christmas shopping times. 20<sup>th</sup> October 2006.

## **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Borough Local Plan  
DC1 - Development Control Considerations  
UEA1 - Character of Conservation Areas  
TCS5 - Mixed Use Area 5

## **6.0 Consultations**

- 6.1 The Highway Authority has not objected.
- 6.2 Licensing has welcomed the proposal due to the diversity of use which it would introduce to the town centre.

## **7.0 Representations**

- 7.1 At the time of writing no representations had been received, but these were anticipated prior to Committee on the basis of residential amenity issues. The delay in receipt of these objections was due to clarification being sought from the applicants as to the proposed use.

## **8.0 Report**

- 8.1 The history of this site, and the proposal itself present a very confusing picture of activity at number 17-19 Church Walk.
- 8.2 Of importance is the extant permission which allows opening of a café/ bar until 23:00 on some days, allied to an A1 use of Number 17. This use first came about under permission C/COL/03/1166 with the Cabaret Voltaire running an art gallery with the café element linked to it. In later years the hours of use have been extended by subsequent permissions, and the supposed art gallery element appears to have diminished somewhat.
- 8.3 Strictly speaking, as described, a change of use to Internet Café (which is an A1 use) does not require planning permission. The application, however, gives Colchester Borough Council a chance to clear the slate and to grant a fresh, mixed use, permission.
- 8.4 The application as stated spoke of a mixture of Internet café, training facility for people with disabilities as well as the wider public, and café/restaurant. Clarification has been sought from the applicant and they have replied as follows:

*"In response to your query about the type of training to be offered at the premises, the applicant stresses that there will be no formal training courses offered to the public. The five disabled employees will be trained in the use of computers to as high a standard as they can individually reach, and they in turn will offer training and support on a one to one basis to any members of the public who come into the café but require assistance in using the computers. It is envisaged that many customers will also have disabilities, and any training and support will be given on a very informal basis.*

*This "training" element is very much ancillary to the provision of the internet café, and the applicant believes that the application is correctly framed as an application for a mixed use of an internet café and the sale of food and drink for consumption on the premises.*

*The layout of the proposed activities will be as follows. The rear part of Number 17 will continue to be used as a kitchen. The front half of Number 17 will initially have a desk in it for administration purposes. There will be tables and seating in Number 18. The computers will initially be located in Number 19, probably around the walls, with additional tables in the middle of the room."*

8.5 This being the case, the "training" element is described as an ancillary activity. If the Internet café is available for public use at all times when the café/restaurant is open, then this small-scale activity can be treated as *de minimus*.

8.6 The hours of opening at the Internet Café/Restaurant are also identical to those granted under F/COL/06/1517, namely 08.30-20.00 Monday – Thursday, 08.30-23.00 Friday – Saturday, 10.00-16.00 Sunday.

8.7 It is noted that there have been several complaints between 2005 and 2008 relating to late night noise nuisance, but these have been due to noise which has been made outside of permitted hours of use. 23:00 is seen as the beginning of night-time, and provided the premises are closed at this time, then night nuisance should not be an issue.

## **9.0 Conclusion**

9.1 In conclusion the principle of this development is not opposed, the scheme is considered to be acceptable, provided the Internet café facility remains in place as a major activity on site, and is not diminished or abandoned to such an extent that the café/restaurant is the dominant activity.

## **10.0 Background Papers**

10.1 ADRBLP; HA; HH; NLR.

## **Recommendation – Approve Conditional.**

### **Conditions**

Conditions to follow on Amendment Sheet.

## **Informatives**

### **Non-Standard Informative**

1. 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:** 080513

**Location:** 17 East Road, West Mersea, Colchester, CO5 8EB

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

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## 7.4 Case Officer: Nicola George

**OTHER**

**Site:** 17 East Road, West Mersea, Colchester, CO5 8EB

**Application No:** 080513

**Date Received:** 14<sup>th</sup> March 2008

**Agent:** Mrs J Newland

**Applicant:** Mr J Tilbrook

**Development:** Re-roof existing bungalow providing rooms in roof. Rear extension and relocation of existing garage.

**Ward:** West Mersea

**Summary of Recommendation:** Conditional Approval

### 1.0 Planning Report Introduction

1.1 The application is being referred to Planning Committee for determination because the objector is a Council employee.

### 2.0 Site Description

2.1 No. 17 East Road, West Mersea is a small, pre-war bungalow, with bungalows on either side. It has a small front garden area with a driveway to the left side of the property leading to a garage to the rear and a rear garden. The property is part way through an extension approved under application F/COL/04/1830.

### 3.0 Description of Proposal

3.1 The proposal involves increasing the height of the bungalow roof by 1.6 metres to accommodate additional rooms in the roof, and a rear extension extending a distance of 5.5m from the existing rear wall of the property. The proposal includes the insertion of four gabled dormers into the roof space, providing secondary lighting to 3 of the proposed new bedrooms and the bathroom.

3.2 The proposal also includes a replacement single garage set further back on the property and a hard standing behind this.

### 4.0 Land Use Allocation

4.1 Residential.



## **5.0 Relevant Planning History**

### **17 East Street**

- 5.1 78/1107 - Erection of rear living room and dining room extension and concrete garage - Approved with condition 16 October 1978.
- 5.2 F/COL/03/1136 - Re-roofing of existing bungalow to provide rooms in roof. New 2 storey rear extension. Re-locating existing garage in garden. Refused 22 September 2003.
- 5.3 F/COL/03/2141- Re-roof at steeper pitch with 2 dormers rear extension. Re-build garage. (Resubmission of F/COL/03/1136). Refused 20 April 2003.
- 5.4 F/COL/04/1380 - Re-roofing of existing bungalow at steeper pitch including extension to rear, internal alterations, and garage rebuilt and relocated. Approved with Conditions 7 September 2004.

### **15 East Street**

- 5.5 072492 - Rear extension and alterations - Approved with Condition on 2 October 2007.

## **6.0 Principal Policies**

- 6.1 Adopted Review Colchester Local Plan  
DC1 - Development Control considerations  
UEA11 - Design  
UEA13 - Development, including extension, adjoining existing or proposed residential property

## **7.0 Consultations**

- 7.1 The Highway Authority comments as follows:

"The Highway Authority does not wish to object to the proposal as submitted. It is noted that no new or altered means of access is proposed."

## **8.0 Parish Council's Views**

- 8.1 West Mersea Town Council comment:

"Following discussion it was agreed to recommend REFUSAL be granted in respect of this application for the following reasons:

1. Destroys the amenity of neighbouring properties
2. Overbearing impact on adjacent properties and out of keeping with the street scene"

## 9.0 Representations

9.1 One letter of objection has been received, summarised as follows:

- This is similar to Application F/COL/03/2141 which was refused planning permission.
- We object to this application for the same reason - unacceptable loss of amenity.
- Wish to re-submit previous objection which stressed the loss of daylight from the kitchen window, one of the main living areas was unacceptable.

## 10.0 Report

10.1 This application is identical to that refused under application F/COL/03/1136, in July 2003 which was refused for the following reasons:

1. Policy UEA12(f) in the Colchester Borough Local Plan 2<sup>nd</sup> Deposit Draft states inter alia: 'There shall be a high standard of design in the layout of an area and of a building itself, the design and layout of the buildings should ensure that the amenity of adjacent property is not affected.'
2. Policy UEA14 (a) and (e) in the Colchester Borough Local Plan 2<sup>nd</sup> Deposit Draft also states inter alia: 'An extension to a building or a new building adjoining existing or proposed residential building will not be permitted where, the development would be poorly designed or out of character with the appearance of the original building. The proposal leads to undue overlooking of neighbouring properties.'
3. The development proposed which involves an increase in roof height together with two large side dormer windows will result in both overlooking and loss of light to the adjacent properties thereby creating an adverse impact on their amenity contrary to the policies set above.

10.2 Since this refusal in July 2003 two further revised applications were submitted and considered by Planning Committee. The first F/COL/03/2141 which was refused while the later F/COL/04/1380 was approved and is currently under construction.

10.3 Since this refusal the adopted review of the local plan has been formally adopted (2004), while some of the policy reference numbers have changed the thrust and intention of the policies remain the same.

10.4 The key issues for consideration remain:

- The design of the extension in relation to the character of the existing property and impact on street scene.
- The impact of the proposed extension on the neighbouring properties.
- Any material change in circumstances since the earlier application was turned down.

### Design of the extension

- 10.5 The existing property is a small and simple bungalow. The proposal respects the existing proportions, with an increase in the ridge height of 1.6 metres. The proposed dormers are of good proportion and set back from the front of the property so not to be over dominant.
- 10.6 The proposed rear extension is set in, and therefore slightly narrower than the width of the existing property creating a break between old and new. The proposed dormers in the roof of the extension are proposed to be obscurely glazed to prevent any direct overlooking. These provide a secondary form of light to the rear bedroom which also has windows in the gable end.
- 10.7 It is therefore not considered that the proposed extension is out of keeping with the existing property.
- 10.8 The design and position of the replacement garage is also acceptable.
- 10.9 The proposed extension is proposed as an alternative to the current one partly constructed the design of which has a low, awkward hipped roof arrangement.
- 10.10 East Road contains a mixture of a properties varying from bungalows to dwellings of various ages and design. It is not considered that this proposal would have a detrimental impact on the overall street scene.

### Impact on the neighbouring properties

- 10.11 The main concern is the impact of the proposed extension on No. 15 East Street, and in particular the impact on the kitchen. The kitchen is located at the side of the property facing the boundary with No. 17 East Road, and the conservatory to the rear of the property; at this point the boundary fence between the two properties increases in height to 2 metres.

### Material change in circumstances

- 10.12 Since refusal of this application in 2003, planning permission has been granted for a rear extension and alterations at No. 15 East Street. Whilst this permission has yet to be implemented, its existence is a material consideration (as defined by case law) and a change in circumstances that needs to be taken into account.
- 10.13 The extant planning permission allows for a rear extension projecting a distance of 4.8m (adjacent the application site) and 5.4m on the other side, from the original rear wall of the property, replacing the existing conservatory. This results in the original kitchen becoming a utility room and the new kitchen at the rear of the property is serviced by a large window in the rear elevation. The alterations also accommodate additional rooms in the roof.
- 10.14 No. 15 East Street also has a large garage structure in the rear garden adjacent to the boundary with No. 17.

10.15 The implementation of this permission would largely override the objections to this proposal. It is acknowledged that this has not yet happened, but nevertheless it is appropriate for this to be taken into account in determining the application at 17 East Road.

10.16 In terms of size comparison:

17 East Road

F/COL/01/1136 and 080513

Ground floor area = 37.4 square metres

Overall volume measured externally (excluding dormers) is 155 cubic metres

15 East Road

072492

Ground floor area = 35.5 square metres

Overall volume measured externally (excluding front dormer and roof over doors to rear) = 161 cubic metres.

## 11.0 Conclusion

11.1 It is considered that the existence of the extant planning permission on the neighbouring property is a material change in circumstance and should be taken into account in determining this application. The implementation of this permission would mitigate any impact the proposal would have in terms of loss of light to the existing kitchen window. Whilst this permission has yet to be implemented, it is still capable of being implemented and the submission of the application demonstrates an intention to do so and therefore this is a reasonable assumption.

11.2 If not implemented, the proposed extension to No. 17 East Road would result in a loss of light to the kitchen, however given the orientation of the building and existing 2 metre boundary fence, it is not considered sufficient justification to warrant refusal of this application.

11.3 The proposal in terms of design and impact on the street scene is entirely acceptable; therefore the recommendation is one of approval.

## 12.0 Background Papers

12.1 ARC; HA; PTC; NLR

### **Recommendation – Approve with 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 - C3.5 Materials to Match Existing

The external materials and finishes to be used for the approved development, shall be of the same type and colour as those of the existing building unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development [harmonises with/does not detract from] the appearance of the existing building and the character of the area.

### **Informatives**

#### Non-Standard Informative

1. 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.

Our vision is for Colchester to develop as a prestigious regional centre

Our goal is to be a high performing Council

Our corporate objectives for 2006-2009 are:



e-mail: [democratic.services@colchester.gov.uk](mailto:democratic.services@colchester.gov.uk)  
website: [www.colchester.gov.uk](http://www.colchester.gov.uk)