

Planning Committee

**Council Chamber, Town Hall
18 December 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

Access to information and meetings

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

Have Your Say!

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

Private Sessions

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

Mobile phones, pagers, cameras, audio recorders

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

Access

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

Facilities

Toilets are located on the second floor of the Town Hall, access via the lift. A vending machine selling hot and cold drinks is located on the ground floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

Colchester Borough Council, Angel Court, High Street, Colchester
telephone (01206) 282222 or
textphone 18001 followed by the full number that you wish to call
e-mail: democratic.services@colchester.gov.uk
www.colchester.gov.uk

Material Planning Considerations

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

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

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

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

Human Rights Implications

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

Community Safety Implications

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

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
18 December 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)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief. An amendment sheet is 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 4 December 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. 081848 Halstead Road, Eight Ash Green** **5 - 14**
(West Bergholt and Eight Ash Green)

Reserved matters for Plots 13, 14 and 15.

- 2. 081889 Hallfields Farm, Manningtree Road, Dedham** **15 - 20**
(Dedham and Langham)

Conversion of redundant farm office/workshop to single storey dwelling.

- 3. 081794 Former Day Nursery, Brook Street, Colchester, CO1 2WA** **21 - 28**
(New Town)

New vehicular/pedestrian junction to Brook Street to provide future access to residential development.

- 4. 081915 Unit 4 Haven Road, Colchester, CO2 8HT** **29 - 32**
(Harbour)

Proposed change of use from storage area to 3 bedroom residential apartment - resubmission of application 081610.

- 5. 081924 7-9 High Street, Wivenhoe, CO7 9BE** **33 - 39**
(Wivenhoe Quay)

Change of use from a vacated retail premises (A1) to a Gourmet grocer/coffee shop/gallery mixed A1/A3 use.

- 6. 081934 Colchester Royal Grammar School, 6 Lexden Road, Colchester, CO3 3ND** **40 - 43**
(Christ Church)

Access ramp to swimming pool.

- 7. 081942 Little Acorns, Abbotts Lane, Eight Ash Green, CO6 3QL** **44 - 47**
(West Bergholt and Eight Ash Green)

Variation of Condition 10 of planning permission O/COL/06/0917.
Remove dead and dying trees and replant trees and hedges.

- 8. 081597 Smithfields, Peldon Road, Abberton, CO5 7PB** **48 - 54**
(Pyefleet)

Retrospective application to rebuild derelict structure for use as farm accommodation and artists studio.

- 9. 081677 The Food Company, 86 London Road, Marks Tey, CO6 1ED** **55 - 60**
(Marks Tey)

Change of use of ancillary store to pharmacy.

- 8. O/COL/01/0009 Garrison Urban Village // Deed of Variation** **61 - 65**
(Berechurch)
(Christ Church)
(New Town)
(Shrub End)

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

4 DECEMBER 2008

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

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

165. Minutes

The minutes of the meetings held on 11 and 20 November 2008 were confirmed as a correct record.

166. 080690 Middle Mill Depot, Middle Mill Road, Colchester, CO1 1XL

The Committee considered an application for the erection of seven dwellings. This application was a resubmission of planning application 071726. The Committee had before it a report in which all information was set out, see also Amendment Sheet. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained that there was a first floor window in an adjacent property which would suffer a loss of daylight and outlook as a result of the development. However, the developer had offered to provide a new window at the rear of the property subject to the owner being willing.

Dimitri Murray, representing the Dutch Quarter Association and local residents, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He had expected any buildings to be designed sympathetically with the area which he considered these did not; the main objection being the three storey elements which affected the adjacent, early 18th century listed cottages. The photo montage shown during the presentation had favoured the development because of the angle and viewpoint it depicted. The dwellings have been substantially raised to reduce the likelihood of flooding. He considered the site to be only sufficient for five dwellings. He was disappointed with the tree report and wanted any replacement trees to be young trees, rather than saplings.

It was explained that photographs from the 1950s showed the former mill to be further north of this site. The photo montage was considered to provide a reasonably accurate representation of the development. The first new dwelling had been designed to be sympathetic to its neighbour at no. 5 Middle Mill by virtue of a double pile roof on the elevation adjacent to the existing dwelling. The density and garden sizes proposed were considered to be acceptable because of the location of the site close to the centre of Colchester town and its proximity to the Castle Park open space. Much consideration had been spent on assessing the risk of flooding with the full involvement of the Environment Agency and they were satisfied with the strategy adopted which complied with PPS25.

Members of the Committee were grateful to the public speaker and the association he represented for its continued interest in protecting the area. This was a valuable part of the Conservation Area and the design was crucial to the area. It was disappointing that the Dutch Quarter Association did not find the proposal suitable. It was considered that the mix of two and three storeys worked well; the centre section of the frontage onto Middle Mill Road appeared similar to a mill. The line of the roofs was similar to that at no. 5 Middle Mill and the proposal reflected the scale of the area. It was considered that the new development would disguise the former sorting office at the rear of the site. There was, however, some dissatisfaction at the overshadowing of the side window of no. 5 Middle Mill Road and that it was proposed to make adjustments to that property rather than adjust the proposed adjacent new property.

The decking provided an escape route in the event of a flood, but there was nothing to prevent owners of the dwellings in the future from not maintaining or removing the decking. This was an important element and a means should be found to ensure its retention. There was the likelihood of foxes in the area occupying the space beneath the decking and a side board to the decking should be included to prevent this from occurring.

There was a concern at the possibility of the loss of trees in view of there being so few in the Dutch Quarter and any replacement trees should be fairly substantial. The trees in the park added to the scene but those currently on the frontage of the site were in poor condition. The tree on the river bank, outside the boundary of the site, should be retained as it was important for the environment. It was explained that as this tree was within the Conservation Area which conferred on it protection status, so that any lopping or topping would need to have prior approval.

RESOLVED (MAJORITY voted FOR) that –

(a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.

(b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the Amendment Sheet, together with additional informatives for the retention of the wooden decking and the provision of a means to prevent foxes entering underneath.

Councillor Elliott (in respect of his acquaintance with the owner of the company making the application) declared his personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

167. 081758 19 Cherry Chase, Tiptree, CO5 0AE

The Committee considered an application for a variation of planning condition 4 and 5 of planning approval 081069 to remove an existing Horse Chestnut tree and replace it with four specimen trees and a row of apple tree cordons, and a variation to planning approval 081069 to provide a rear conservatory to the proposed dwelling. 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 as set out in the report.

168. 081891 Plots 5-12 Waterside Place, East Street, Colchester

The Committee considered an application to vary condition 23 on application F/COL/04/11273 to delay the construction of eighteen garages for a year. Eighteen car parking spaces will be constructed and a boundary fence. The Committee had before it a report in which all information was set out.

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

169. 081640 At Last, Mill Lane, Birch, CO2 0NH

The Committee considered an application for a proposed extension and alterations. The Committee had before it a report in which all information was set out. 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.

David Whybrow, Development Manager, attended to assist the Committee in its deliberations. It was explained that other properties in the area had extensions up to the boundary which predated the current policy. It was considered that in general terms the street would not suffer unduly as a result of this proposal.

John Angel addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Mr Angel had moved into the property the day before this meeting. He had chosen the property as it provided a place to sit outdoors and an alternative sitting area inside. The rear part of the proposed extension would eclipse the sunlight from the kitchen and dining room from September to April. He was concerned about the side extension above the garage being two storeys because the agreed guidelines did not permit this. However, it was not the case that he did not want them to have an extension but he wanted them to be more neighbourly and to allow as much sun into his dining room as possible. His extension is nearly 3 metres away from the boundary so it does not block direct sunlight to their dining room and was not so overpowering. He asked that it be moved 2 metres from the boundary line to permit more sunlight, and instead of the roofline continuing up to the gable end it should be amended at the front so it does not come out as far. This would also help with the loss of sunlight.

Mrs Atkins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She refuted the assertion that the proposal would blight the neighbour's new home. She quoted from the document 'Extending Your Home' , "Planning Considerations – it is not possible to produce a few simple rules and guidance against which all proposals can be assessed". She hoped that the Committee would agree with the case officer's recommendation as they had tried to meet every requirement for the application which was reflected in the report.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. This is a difficult situation with the two new neighbours and he had visited both dwellings. Currently many people are looking to extend their homes especially if they have a large family. He was in support of the application and drew attention to how much the applicants have worked with the planning department. As a result of negotiations the applicants have agreed to requests from the planning department resulting in the plans today. It is important that all neighbours concerns are listened to but in this case it is a common sense recommendation.

The parish council has no objection to the proposal, it fits all the criteria and the extension is recommended by the planning department.

It was explained that the application had been amended to take account of both the outlook and the 45 degree rule. In respect of the 45 degree rule, a line projected at 45 degrees from the centre of the window should not strike the extension; neither should a 45 degree line taken off the corner of the dwelling strike the extension. The scheme, including the two storey element, had been amended to meet both these requirements. By way of confirmation, the properties have a northeast aspect to the rear.

Members of the Committee emphasised the importance of the 45 degree rule in this case. It has been explained that in this case the 45 degree rule, which is to ensure that light can get into the neighbour's living room, has been met. In addition, there was a very large extension to the objector's property with a large window looking out into the garden so in respect of light to the property, it did not appear that there would be a significant amount of harm to the amenity of the property. In respect of the boundary rule, this should be judged as fitting in with other similar developments in the road; so it is judged that this development would not change the street scene.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions as set out in the report together with the standard informative relating to demolition and construction works.

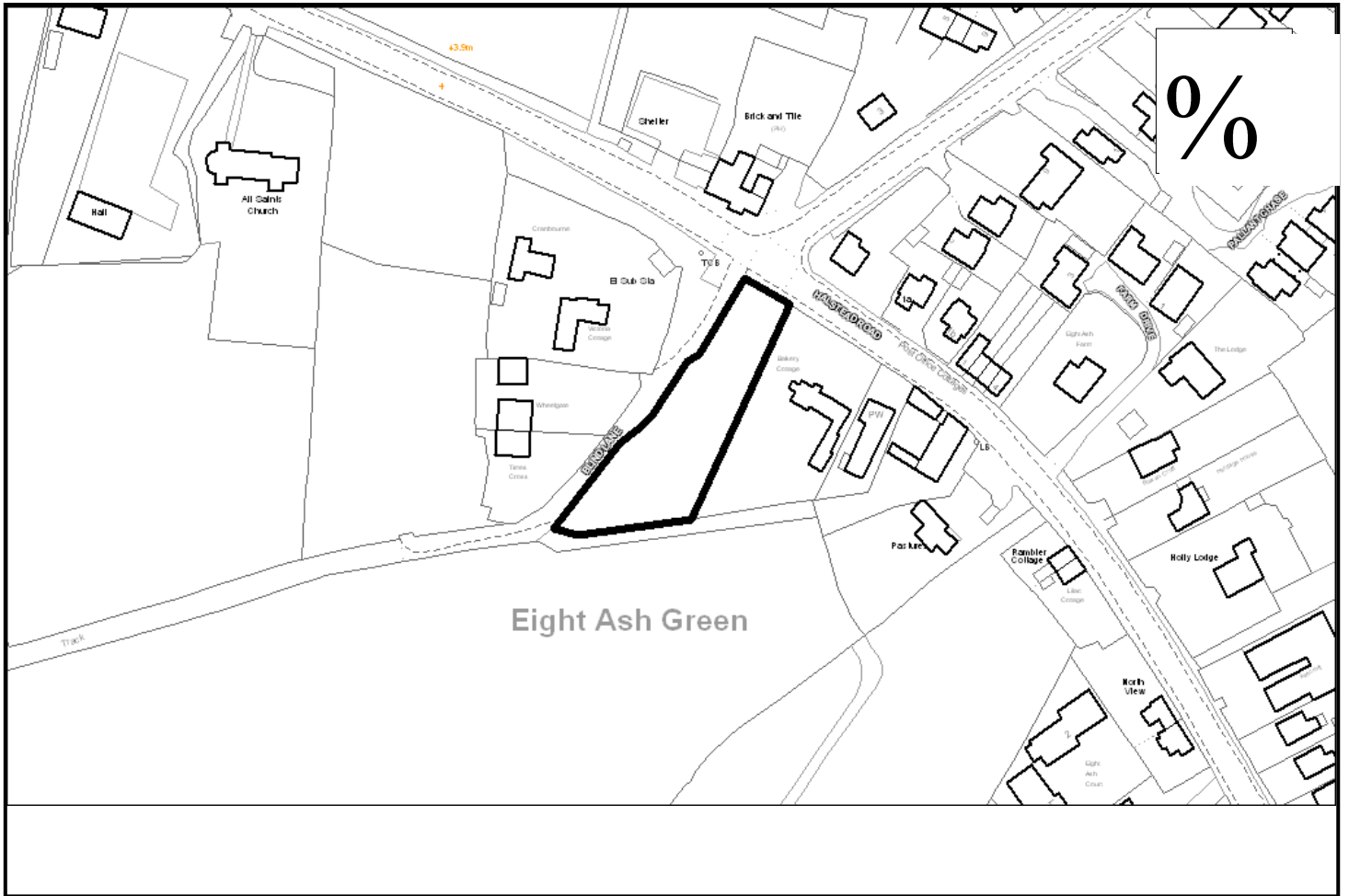
170. Garrison Urban Village // Affordable housing tenure review

The Head of Environmental and Protective Services submitted a report requesting that the Committee endorse the deed of variation which reflects the outcome of the affordable housing tenure review required as part of the 299A legal agreement dated 30 June 2003 and signed as a part of the outline planning permission O/COL/01/0009 for the Garrison Urban Village development.

As part of the outline permission the Council secured 25% of the total number of dwellings to be provided as affordable housing units. The legal agreement requires 25% of the first 361 dwellings to be provided as affordable rented units; these units have now been provided. The legal agreement further requires the Council and the developer to review and determine the tenure mix of the remaining affordable housing units in order that a deed of variation to the 299A legal agreement can be entered into to secure the outcome of the negotiated affordable housing tenure review. The review has been undertaken taking into consideration current central and local government planning policies, the provisions of the Council's adopted Supplementary Planning Guidance on Affordable Housing, the availability of funding for the provision of affordable housing and the economics of such provision. The recommended mix for the development as a whole is a minimum of 80% affordable rented units and a maximum of 20% shared equity units.

David Whybrow, Development Manager, attended to assist the Committee in its deliberations.

RESOLVED (UNANIMOUSLY) that the provision of a minimum of 80% affordable rented units and a maximum of 20% shared equity units for the Garrison Urban Village development be endorsed.



Application No: 081848

Location: Land Adjacent All Saints Church, Halstead Road, Eight Ash Green, Colchester

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority.

Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Crown Copyright 100023706 2008



Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **18 December 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: Mark Russell

EXPIRY DATE: 24/12/2008

OTHER

Site: Halstead Road, Eight Ash Green, Colchester

Application No: 081848

Date Received: 28th October 2008

Agent: Anthony G James

Applicant: N P Powell Developments Limited

Development: Reserved matters for plots 13 14 & 15

Ward: W. Bergholt & Eight Ash Green

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The site is on the edge of, but entirely within, Eight Ash Green Village Envelope and consists of the former garden of a now demolished bungalow. This fronts on to Halstead Road which is the main road through Eight Ash Green to the north, and its long axis to the west borders "Blind Lane" which is an unmade track with a long history of vehicular use. Across this are three existing dwellings, to the east is the bungalow Bakery Cottage, and to the south is a track which forms the boundary of the Village Envelope and serves Bakery Cottage, across this track is agricultural land.

2.0 Description of Proposal

- 2.1 The proposal is for the reserved matters of Outline permission O/COL/02/0306 for plots 13 14 & 15 of a development which also incorporates twelve further units in land to the west (which was dealt with by a separate Reserved Matters application RM/COL/06/2099). This application is for three two-storey, four bedroom dwellings with garaging. It is proposed that the buildings form a frontage to Blind Lane.
- 2.2 The dwellings are individually designed as follows: Plot 13 is an offset “T” plan with front and side gables, windows are accommodated low in the roof. The materials are red brick and vertical tile hanging to the walls, with plain tiles to the roof. A detached double garage is proposed in red brick and slate; Plot 14 is a traditional “T” plan with the smaller of the cross wings having a mansarded section to the right hand side as seen from the front, again, most windows are accommodated low in the roof. The principal wing is also mansarded. Materials are render to the walls with red brick to the plinth and chimney and plain tiles to the roof. This has a cart lodge with parking for two vehicles and has a red brick plinth with cream weatherboarding and slate roof; Plot 15 is a “L” plan with two ranges of roof and a side facing gable. It is sloped at first floor level and, once again, most windows are accommodated low in the roof. Materials are identical to those of plot 14. This also has a cart lodge with parking for two vehicles, and materials for this are as per the cart lodge at plot 14.

3.0 Land Use Allocation

- 3.1 Residential in a Village Envelope

4.0 Relevant Planning History

- 4.1 96/1049 - Outline application for erection of 15 no. 2, 3 and 4 bedroom Dwellings. Approved 18th December 1998;
- 4.2 O/COL/02/0306 - Outline application for erection of 15 no. dwellings with access road (renewal of COL/96/1049). Approved 31st October 2006;
- 4.3 RM/COL/06/2099 - Reserved matters for 12 dwellings relating to outline permission O/COL/02/0306 for 15 dwellings with access road. Approved 22nd February 2007.

5.0 Principal Policies

Adopted Review Colchester Local Plan:
DC1- Development Control considerations;
UEA11 - Design;
UEA12 - Infilling and Backland Development;
UEA13 - Development, including Extensions, Adjoining Existing or Proposed;
P1 – Pollution;

6.0 Consultations

- 6.1 The Highway Authority did not ultimately object to the Outline application, but its formal comments on this Reserved matters application are awaited.
- 6.2 Environmental Control did not object, but requested a standard demolition and construction advisory note. Our Contaminated Land Officer responded as follows:

“There was a potential for contamination to be present at this site and Contaminated Land conditions were applied to the earlier application for the whole site (F/COL/02/0306). Sufficient site investigation has now been undertaken for these three plots under this permission.

However, there remains the potential for unexpected contamination from an anthrax-infected carcass that was buried in the vicinity, but its exact location unknown.

Consequently, should permission be granted for this application, the Contaminated Land Officer recommends inclusion of the following condition.”

(This condition is included at the foot of this report).

7.0 Parish Council's Views

- 7.1 Eight Ash Green Parish Council responded as follows on 24th November 2008:

“At the Eight Ash Green Parish Council meeting held on Wednesday 12th November 2008 it was resolved to object very strongly to this application.

Blind Lane is an unmade-up bridle lane with hedges and trees alongside and overlooking it. The proposal shows large two story houses with a building line within inches of the lane. This is unacceptable and is totally prejudicial to the rural character of the area.

As they will dominate the street scene and restrict the amount of parking available to the proposed properties.

The lane is very narrow and currently provides access to various properties that have acquired a presumed right of way. This will be lost to those residents as it is inevitable that overflow cars from the new development will be left outside their properties. Such parking will not only make access to existing properties difficult if not impossible, it will also prevent legitimate use of the right of way by pedestrians and other authorised users.

This site originally held one small bungalow. To attempt to put three large four bed roomed houses on it is gross over development. Additionally the original proposal as approved for the combined sites of this and the adjacent larger development was for mixed housing including social housing. This has clearly not been undertaken in the re-arranged dual application technique.

As Blind Lane is a public right of way there are permissive rights of access to the existing properties but the new development has never had access rights. We had previously received assurances from the planning department that access between the new road on the adjacent site and Blind Lane would be blocked and we request clarification that this is still the case as the plans submitted to us for comment were unclear of this.

In the previous application we objected strongly to vehicles having access onto Blind Lane and we noted that permission may be granted for pedestrian access.

This is why Colchester Borough Council revised the positioning of the garages for plots 10 and 11. The Highways Department objected to these properties accessing the new road for safety reasons. This was overcome by the dual application strategy but we believe that even on its own, this application represents a clear road hazard as traffic seeks to leave Blind Lane onto the main A1124 Colchester to Halstead road.

Finally, as the original bungalow on this site did not have an access on to Blind Lane, we believe that such an access bearing in mind the current status of lane would be illegal.”

8.0 Representations

8.1 Two letters of objection were received from neighbouring dwellings.

8.2 The occupiers of Wheelgates, Blind Lane, pointed out that they had not been correctly notified (the name of a previous site-user was on the Council's database, this has now been corrected and the occupiers of Wheelgates have now been consulted). Concerns here related to possible conditions of danger on Blind Lane, insufficient parking, overdevelopment, loss of hedging, proximity of dwellings to the lane, and the overpowering nature of Plot 14.

8.3 The occupiers of Times Cross, Blind Lane, objected stating that Blind Lane was not a public right of way and raised concerns over extra traffic using it.

9.0 Report

9.1 Members are reminded that this is a Reserved Matters application, and the principle of three dwellings on this site has already been granted permission. The points for discussion in this Reserved Matters application are access, siting and design.

9.2 The issue of access on to Blind Lane does need some explanation. The history of this lane is long and complicated, as is the question of its status. Ultimately the Inspector has concluded (in 2005) that it is not a highway available for public vehicular use, this being the case it is not possible from a legal stand point to bring about its stopping up. Therefore, whilst use of the lane is discouraged due to visibility issues, it is impossible to insist upon this. Colchester Borough Council is aware that there may still be a dispute as to whether the occupiers of the new dwellings have a legal right to vehicular access over Blind Lane, but this legal issue should not prevent the determination of a planning application.

9.3 The Highway Authority did not ultimately object to the Outline application, and its response to this Reserved Matters application is awaited.

9.4 Regarding the siting, the shape of the land does partially dictate this. The decision to “front” the highway (Halstead Road as well as Blind Lane itself) comes about from issues of amenity of existing residents as well as good design and townscape. Our Urban Designer has explained this as follows:

“As there are no overlooking issues for this site there is an opportunity to create more spatially efficient development on two storeys. Bungalows are neither traditional nor appropriate in a rural context. The architectural expression available in a bungalow is limited and often makes a poor contribution to townscape or streetscape. Given that the outline permission had established the principle of development on this site it was within the reserved matters that the best contribution to townscape was sought.”

9.5 In terms of design, which has been described at length at paragraph 2., pre-application discussions between Colchester Borough Council and the applicant have produced the scheme before Members today. It introduces a variety of styles as explained by our Urban Designer: “The three dwellings were initially designed a single form repeated. This would typify ‘executive’ style developments. The approach agreed with development control was to create three individual homes that make a positive contribution to the village and reflect the better elements of its character and traditional more rural forms. This dictated a more organic and individual styling of each unit.”

9.6 Regarding the remaining objections, responses are below:

- *Insufficient parking*: The parking is above standard at 2 per dwelling;
- *Overdevelopment*: The amount of dwellings has already been agreed at outline, and the density, with three dwellings at 1597m², equates to fewer than 20 dwellings per hectare;
- *Loss of hedging*: The section facing Halstead Road, and the initial return length of approximately 4 to 5 metres, is to be retained. A condition can be imposed for replanting on part of the remaining length of Blind Lane. This is not possible for the whole length due to vehicular access to the properties;
- *Plot 14 is overpowering*: Whilst this, and the other two dwellings have a presence, they are not considered to be overpowering or overbearing, and certainly do not seem to overbear on neighbouring properties;
- *Overflow parking will make access to existing properties difficult, and prevent legitimate use of the right of way by pedestrians and other authorised users*: This can not be ruled out, but blocking the lane would be an offence. Parking provision is above current standards, and more space exists for lengthways parking in front of the cart-lodges for visitors. In addition, two spaces exist at the entrance to Blind Lane for occasional parking. In total it is held that there is a wide offering of parking places which should alleviate concerns over Blind Lane being blocked.
- *The original proposal as approved for the combined sites of this and the adjacent larger development was for mixed housing including social housing*. The total number of dwellings on both sites (fifteen) falls below the threshold for affordable housing.
- *The new development has never had access rights*. This legal matter is outside of Planning.

- *We had previously received assurances from the planning department that access between the new road on the adjacent site and Blind Lane would be blocked.*
To do this would be to formalise an intensification of use of the sub-standard Blind Lane access onto Halstead Road. By keeping the track between the proposed dwellings and the new road open, occupiers of the new dwellings would be able to use the safer junction which serves the main site.
- *This application represents a clear road hazard as traffic seeks to leave Blind Lane onto the main A1124 Colchester to Halstead Road.* The principle of three dwellings on this site has been allowed at Outline, and Blind Lane cannot be blocked for legal reasons.

10. Conclusion

- 10.1 In conclusion, the principle of this development has already been given planning permission, the scheme is considered to be acceptable in scale and design, and does not unacceptably affect the amenity of any nearby residents or other users.
- 10.2 Whilst the objections are noted, and whilst it is acknowledged that this site is important to the residents of Eight Ash Green, the application is held to be acceptable in this location, and is recommended for approval.

11.0 Background Papers

- 11.1 ARC; HA; HH; PTC; NLR

Recommendation - Conditional Approval

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 - 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 does not prejudice the appearance of the locality.

- 3 - C 11.2 Landscape Works Implementation

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 approved features shall be provided as approved prior to the commencement of the use hereby approved and shall be retained thereafter.

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

4 - Non-Standard Condition

Before any works commence on site, details of tree and/or shrub planting and an implementation timetable shall be submitted to and approved in writing by the local Planning Authority. This shall include hedge-planting along the entire length of plot 15 as far as the driveway access, and also on the north-western corner of plot 14 as far as its pedestrian access. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the local Planning Authority.

Reason: In the interests of visual amenity and to soften the appearance of the development as seen from Halstead Road.

5 - Non-Standard Condition

Prior to the commencement of development, an external colour scheme shall be agreed, in writing, by the Local Planning Authority. The development shall be completed in accordance with the agreed scheme as such and shall remain so at all times.

Reason: To ensure that the development preserves and enhances the character and or appearance/visual amenity of the Area.

6 - 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.

7 -Non-Standard Condition

No new windows shall be inserted at any time above ground floor level in any wall or roof-slope unless agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and privacy of surrounding properties.

8 - C 10.5 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.

9 - C 10.6 Tree & Natural Feature Protection: Entire Site

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

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

10 - C 10.8 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.

11 - 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 development does not prejudice the appearance of the locality.

12 – 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, 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,

- archeological 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'*.

Where remediation is necessary 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.

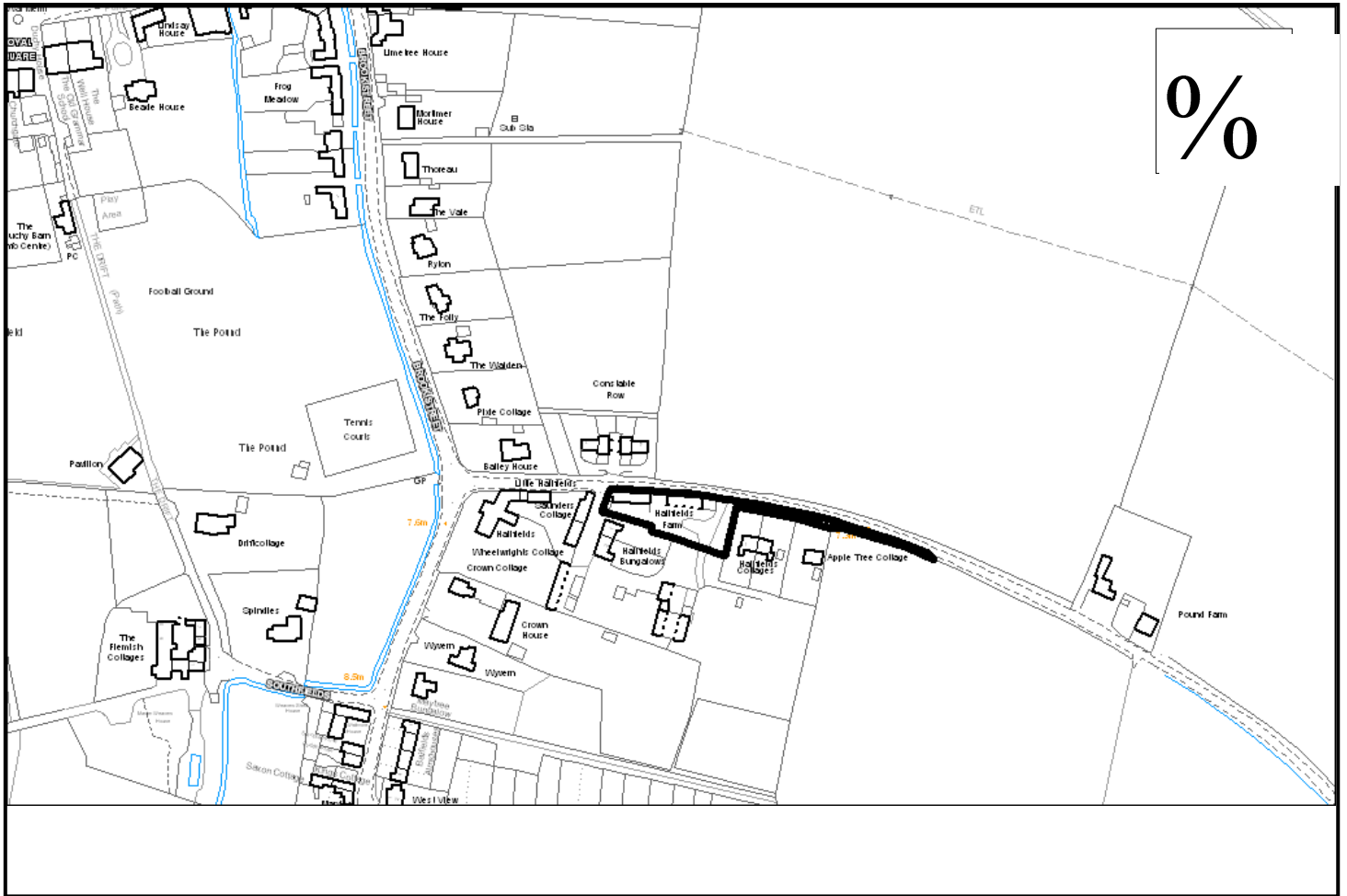
The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written 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 the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

Informatives

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: 081889

Location: Hallfields Farm, Manningtree Road, Dedham, Colchester

Scale (approx): NOT TO SCALE

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority.

Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Crown Copyright 100023706 2008

7.2 Case Officer: Andrew Tyrrell

EXPIRY DATE: 25/12/2008

MINOR

Site: Hallfields Farm, Manningtree Road, Dedham, Colchester

Application No: 081889

Date Received: 29th October 2008

Agent: Clive Richardson And Associates

Development: Conversion of redundant farm office/workshop to single storey dwelling

Ward: Dedham & Langham

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application is referred to the Committee for the following reasons:

1. There is an objection from a neighbour and the recommendation is to approve;
2. The previous application to which this relates was approved via committee; and
3. The site lies outside the village envelope and the application is for residential accommodation.

2.0 Site Description

2.1 Planning permission is sought for the conversion of a redundant farm building to single storey dwelling. The building is located adjacent a number of existing residential properties along an existing part made driveway at Manningtree Road. A number of the existing structures adjacent the application site (to the west) were possibly originally used in agriculture although site history does not confirm this. The dwellings to the south namely Hallfields Bungalows are of modest size forming part of Hallfields Farm.

2.2 The building forming part of this application is located hard up to the highway on the north side (Manningtree Road). No substantial additions are proposed with the prominent north elevation remaining untouched regarding alteration. The building is single storey red brick structure with tiled roof with weatherboarding to the south elevation. The application also includes the provision of a new driveway to the east side of Manningtree Road.

3.0 Land Use Allocation

3.1 Countryside Conservation Area
Area of Outstanding Natural Beauty

4.0 Relevant Planning History

4.1 This application is a resubmission of approval F/COL/05/0902, which expires in April 2009. This permission could be implemented at the current time.

5.0 Principal Policies

Adopted Review Borough Local Plan
DC1 - Development Control considerations
CO1 - Rural resources
CO2 - Dedham Vale Area of Natural Beauty
CO3 - Countryside Conservation Areas
CO4 - Landscape Features
UEA11 - Design

6.0 Consultations

6.1 The Highway Authority have no objections to the proposal subject to conditions regarding a pedestrian visibility splay as standard, a turning area within the site as standard, no unbound materials being used within 6m of the highway as standard, and a vehicle visibility splay of 2. x 60m to the west and 2. x 90m to the east.

7.0 Parish Council's Views

7.1 Dedham Parish Council have no objection as a result of the previous approval. However, a landscaping scheme would be an improvement.

7.2 In response to this, it is standard practice that landscaping be agreed for all new development where appropriate so a landscaping condition can be added to any approval as recommended below.

8.0 Representations

8.1 There has been one objection from a neighbour. Their objections are that:

1. The site can be seen from 11 of their 16 windows;
2. They do not want to overlook a building site and then a dwelling; and
3. They have their property on the market and won't be able to sell it.

8.2 In response to this, your officer's opinion is that:

1. Planning does not protect views and so this argument can not be given much weight;
2. The building is to be converted so the appearance will not change dramatically, and again, planning does not protect views; and
3. This is not a planning consideration.

Therefore, there are no significant planning arguments raised by the objector that would warrant the refusal of planning permission in this instance.

9.0 Report

- 9.1 This application is a resubmission of a 2005 application which is still valid and does not expire until April 2009. Consequently, if this application were to be refused the applicant could still commence development under the existing permission. This is important to our fall back position.
- 9.2 Similarly, it would be inconsistent to refuse the application in light of our previous approval. The Local Plan policies have not changed since the previous decision and the emphasis of national and regional policy is unchanged since this time.
- 9.3 The site does lie in an area technically designated as countryside where new dwellings will not normally be permitted. However, this proposal re-uses an existing building and the site is immediately adjacent the village envelope boundary and is located adjacent to other existing residential properties. This means that it is a natural infill that would not have a wider impact on the open countryside. For these reasons, the application was seen as reasonable at the time of the 2005 decision.
- 9.4 Similarly, it was noted that the site does not lend itself naturally to employment/community use given the immediate adjacent properties' amenity needs to be protected and the new access. Any employment/community use could lead to a level of intensification beyond the application site's capabilities although appropriate conditions could be applied.
- 9.5 Given the history, the proposal is seen as reasonable and approval is recommended.

10.0 Background Papers

- 10.1 ARC; HA; PTC: NLR

Recommendation - Conditional Approval

Conditions

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

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

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

- 2 - C3.2 Materials as Stated in Application

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

Reason: To harmonise with the character of existing development in the area.

3 - C4.1 Large Scale Drawings

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 area and for consistency with the requirements of the previous approval F/COL/05/0902.

4 - Non-Standard Condition

Prior to the first occupation of the permitted dwelling visibility splays of 2.4m x 60m to the west and 2.4m x 90m to the east as measured from the nearside edge of the carriageway shall be provided on both sides of the access. The area within each splay shall be maintained free from any obstruction above 600mm in height at all times thereafter.

Reason: To provide adequate inter-visibility in the interests of highway safety and for the convenience of pedestrians and motorists.

5 - Non-Standard Condition

No unbound materials shall be used within the first 6 metres of the highway boundary.

Reason: To ensure that there are no loose materials that can be displaced into the highway that would inhibit the safe passage of pedestrians or vehicles.

6 - Non-Standard Condition

Prior to the first occupation of the dwelling hereby permitted a turning space enabling vehicles to enter and exit the site in a forward gear shall be provided to details that will have been previously agreed in writing by the Local Planning Authority and shall be maintained free from obstruction in the approved form for that purpose thereafter.

Reason: In the interests of highway safety and for the convenience of pedestrians and motorists.

7 -D1.9 Visibility Splays

A 1.5 metre x 1.5 metre pedestrian visibility sight splay, free of obstruction above a height of 600mm, and relative to the back of the footway / overhang margin, shall be provided on both sides of all vehicular accesses prior to their operational use and thereafter retained.

Reason: In the interests of highway safety and for the convenience of pedestrians and motorists.

8 - C 11.1 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 - C 11.2 Landscape Works Implementation

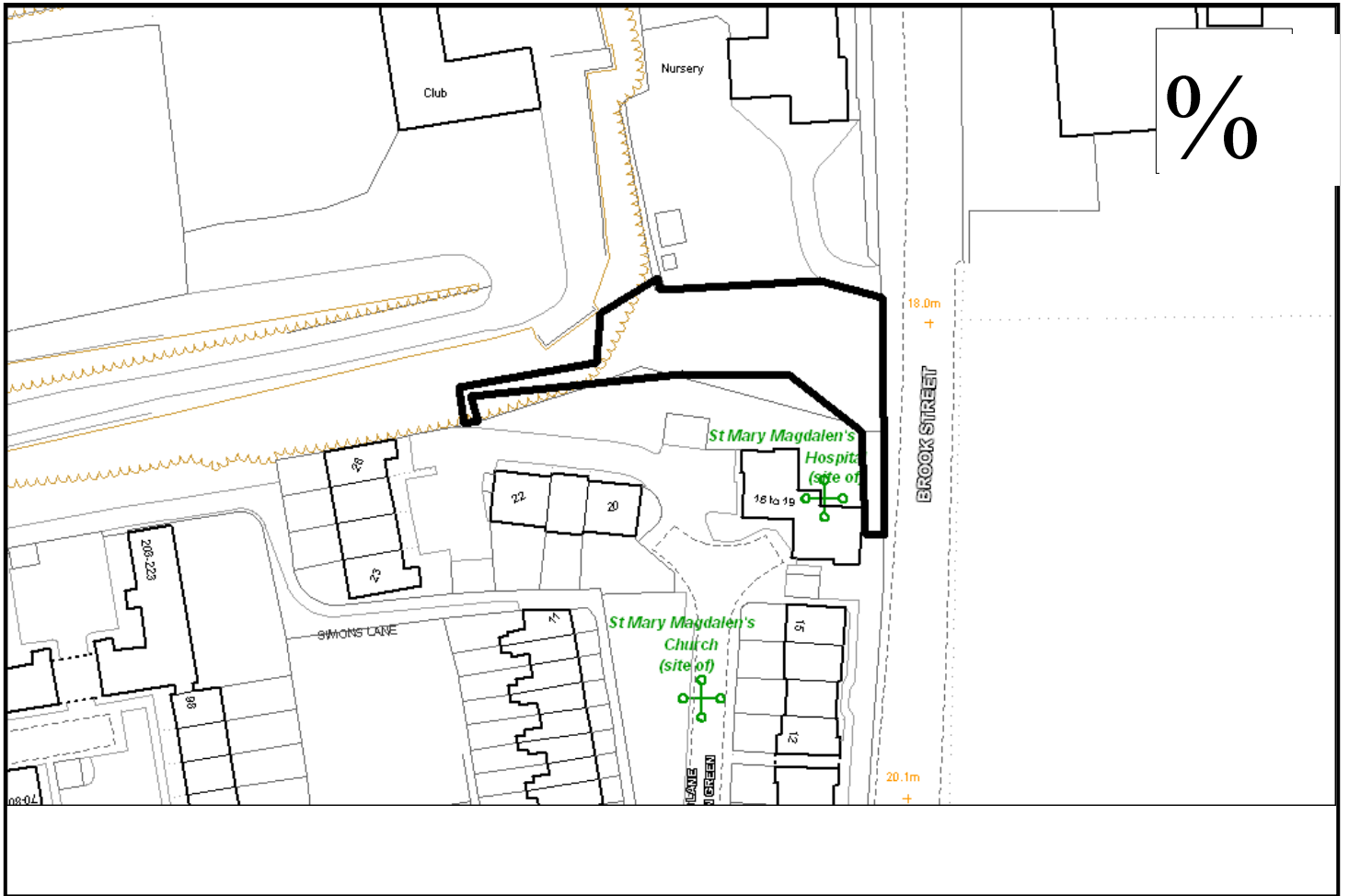
All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and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

Informatives

The applicant is referred to the attached advisory note for the avoidance of pollution during demolition and construction phases.

All works affecting the highway should be carried out with prior arrangement and to the requirements and satisfaction of the Highways Authority. Application for the necessary works should initially be made by telephoning 01206 838600.



Application No: 081794

Location: Land Between 16-19 Magdalen Green &, Former Day Nursery, Brook Street, Colchester, CO1 2WA

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority.

Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Crown Copyright 100023706 2008

7.3 Case Officer: Bradly Heffer

EXPIRY DATE: 03/01/2009

OTHER

Site: Former Day Nursery, Brook Street, Colchester, CO1 2WA

Application No: 081794

Date Received: 7th November 2008

Agent: Mr Clive Richardson

Applicant: Brb (Residuary) Limited

Development: New Vehicular/pedestrian junction to Brook Street, to provide future access to residential development.

Ward: New Town

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This planning application relates to a proposal to create a new vehicular and pedestrian access leading off Brook Street Colchester.

2.0 Site Description

2.1 This planning application seeks permission for the construction of a vehicular/pedestrian access on land at Brook Street Colchester, in order to provide access to future residential development on land directly to the west.

2.2 Specifically, the site for this proposal falls between the redeveloped former St Mary Magdalen Church site (at the corner of Magdalen Street and Brook Street) and the former ECC Day Nursery site in Brook Street. The land itself is at a higher level than Brook Street and currently contains tree and shrub planting. The submitted scheme shows the provision of a double mini-roundabout within Brook Street itself, with a western spur leading off the northern-most roundabout, through the application site. The scheme would also include the provision of a retaining wall along the southern section of the spur - required as a result of changes in land level. The retaining wall varies from 2 metres to 3 metres in height. The northern side of the road would be contained by an earth embankment. A Design and Access statement that accompanied the planning submission is available to view on the Council's website.

3.0 Land Use Allocation

3.1 The site for this proposal lies in a residential area, as allocated in the adopted Review Colchester Borough Local Plan - March 2004. The land (former railway sidings) immediately to the west of the application site is allocated for proposed residential development.

4.0 Relevant Planning History

- 4.1 O/COL/05/0241 - Provision of new road/pedestrian junction to Brook Street for future residential development of former railway sidings. Application approved 12th October 2005.

5.0 Principal Policies

- 5.1 Adopted Review Borough Local Plan
DC1 - general development control criteria
H4 - affordable housing
ECH 8 - housing allocations (north of Magdalen Street)
ECH 9 - mixed development (Magdalen Street Special Policy Area (C))

6.0 Consultations

- 6.1 The views of the Highway Authority were not available at the time this report was drafted. It is anticipated that its comments would be similar to those made under the previous planning application. However, the comments on this latest proposal will be reported at the Committee meeting.
- 6.2 Environmental Control has recommended a series of planning conditions be imposed, should planning permission be granted for this development. These, in the main, relate to investigation/mitigation of any contamination of land.

7.0 Representations

- 7.1 Colchester Civic Society comments as follows:

"Colchester Civic Society is concerned that no more traffic should be allowed on to Brook Street, which is already a very busy pedestrian route, until proper footpaths are in place on both sides of the road. Could this not be required as part of a section 106 agreement? We also consider that an archaeological watching brief is necessary."

8.0 Report

- 8.1 This access is required to serve land that is allocated for residential development in the adopted Local Plan. It is identified as such within a Development Brief that has been formally adopted as supplementary planning guidance.
- 8.2 Notwithstanding the objection received from the Civic Society it is anticipated that the Highway Authority would not have an objection to the proposal. Furthermore, the submitted plans do show the provision of footpaths on the western spur of the mini-roundabout, linking to footpaths along Brook Street.

9.0 Background Papers

- 9.1 HA; HH; Colchester Civic Society; O/COL/05/0241

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 - C 11.1 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.

3 - C 11.2 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.

4 - C 11.6 Earthworks

No development shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with approved details.

Reason: To ensure proper consideration and approval of any effects of change in topography on landscape features.

5 - C 12.1 Comprehensive Boundary Scheme

A scheme of environmental works including construction of walls/fences/railings/planting of hedges etc and other structures on or adjacent to the boundary of the site with the highway/means of access shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The approved scheme shall be completed prior to the development being brought into use and shall be retained thereafter.

Reason: These bricks have an unfinished return face that produces a very poor appearance and if used for this purpose would be detrimental to the visual amenity of the area.

6 - Non-Standard Condition

Prior to the commencement of the development hereby permitted details of all materials to be used for hard surfaced areas within the site 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: To ensure that the proposed development is visually attractive and enhances the appearance of the locality.

7 -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 8 to 11 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 11 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 in accordance with policy P4 of the adopted Review Colchester Borough Local Plan - March 2004.

8 - 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 of 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: (1) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos (2) an assessment of the potential risks to: i. human health ii. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes iii. adjoining land iv. groundwaters and surface waters v. ecological systems vi. archaeological sites and ancient monuments; (3) 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 in accordance with policy P4 of the adopted Review Colchester Borough Local Plan - March 2004.

9 - 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 historic 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 in accordance with policy P4 of the adopted Review Colchester Borough Local Plan - March 2004.

10 - 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 PPS 23 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 in accordance with policy P4 of the adopted Review Colchester Borough Local Plan - March 2004.

11 - 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 8 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 9 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 10.

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 in accordance with policy P4 of the adopted Review Colchester Borough Local Plan - March 2004.

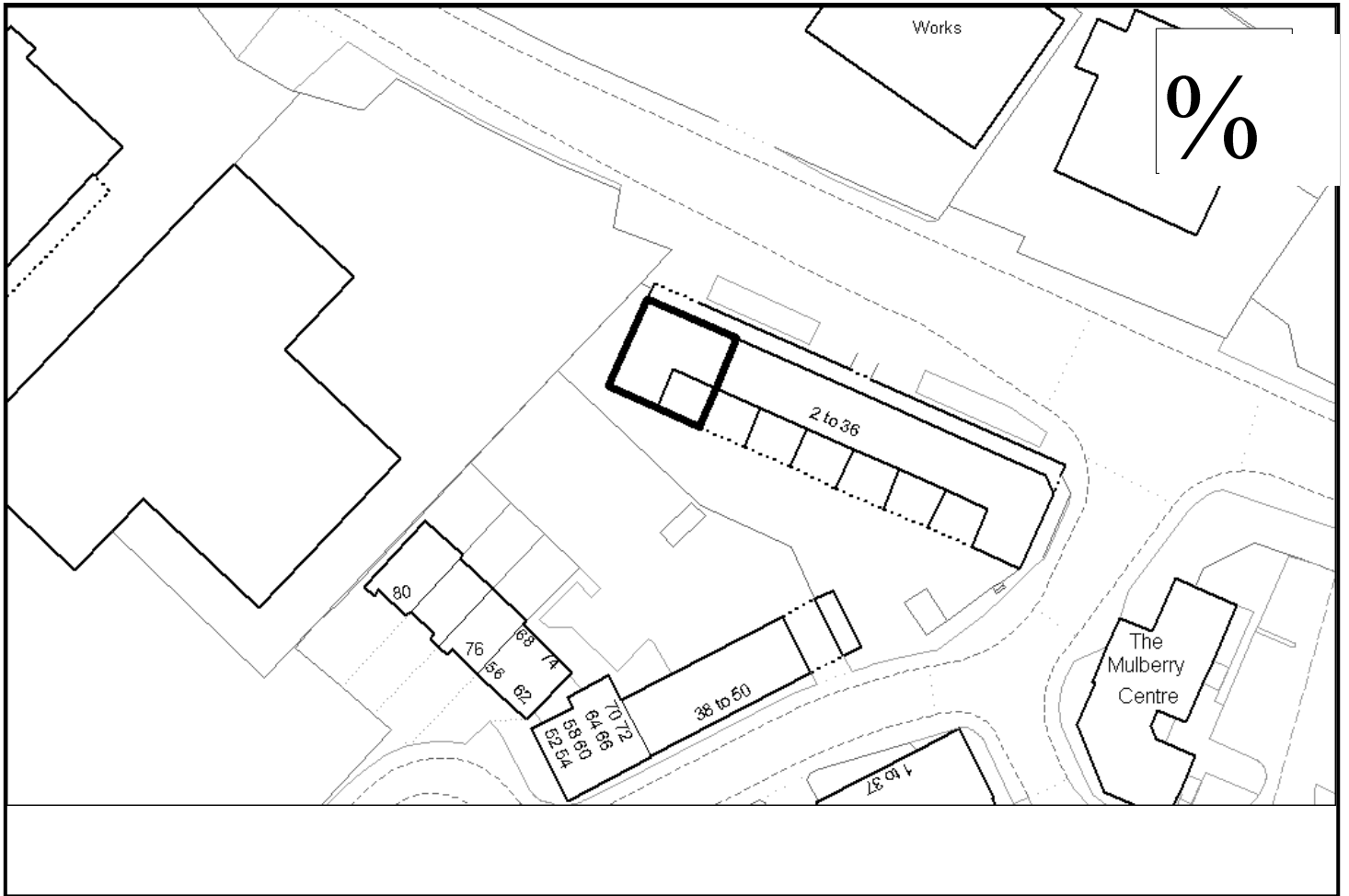
12 - Non-Standard Condition

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 9.

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 in accordance with policy P4 of the adopted Review Colchester Borough Local Plan - March 2004.

Informatives

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 works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.



Application No: 081915

Location: Albany Gardens Fish and Chips, Unit 4, Haven Road, Colchester, CO2 8HT

Scale (approx): NOT TO SCALE

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority.

Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Crown Copyright 100023706 2008

7.4 Case Officer: Andrew Huntley

EXPIRY DATE: 30/12/2008

OTHER

Site: Unit 4, Haven Road, Colchester, CO2 8HT

Application No: 081915

Date Received: 3rd November 2008

Agent: Mr R A Bain

Applicant: Mr & Mrs B Singh

Development: Proposed change of use from storage area to 3 bedroom residential apartment - resubmission of application 081610

Ward: Harbour

Summary of Recommendation: Approve subject to the variation of existing legal agreement

1.0 Site Description

1.1 The site is located on the south western side of Haven Road, and forms part of the major redevelopment scheme for the area. The area is mixed use in nature with residential, commercial and industrial uses in the vicinity. The unit itself currently has a commercial use (fish & chip shop) on the ground floor with a storage area on the first floor. Above the unit are residential flats.

2.0 Description of Proposal

2.1 Proposed change of use from storage area to 3 bedroom residential apartment.

3.0 Land Use Allocation

3.1 Regen Area, Floodzone 2/3

4.0 Relevant Planning History

4.1 F/COL/02/1306 – Mixed use development comprising 200 dwellings (including 9 live/work units, 9 work space units, enterprise centre (class B1), neighbourhood store, commercial units (classes A1, A2, A3 and B1), vehicular access, road and ancillary works.

4.2 F/COL/04/0500 – amendment to F/COL/02/1306 to replace the 9 live work units with separate residential and commercial units - Approved 21 June 2004.

4.3 081610 – Withdrawn application for a change of use from storage area to 3 bedroom residential apartment

5.0 Principal Policies

- 5.1 Adopted Review Colchester Local Plan:
DC1- Development Control Considerations.
UEA11 – Design.
L5 – Open Space Provision Within New Residential Development.
P4 – Contaminated Land

Planning Policy Statement 1

Planning Policy Statement 3

6.0 Consultations

- 6.1 Environmental Control: No comment.

7.0 Representations

- 7.1 No representations have been received.

8.0 Report

Introduction

- 8.1 The main considerations with this application are:

- Policy
- Residential Amenity
- Highways
- Other Considerations

Policy

- 8.2 The site lies within the urban area so the principle of residential accommodation is acceptable. However, the acceptability of any proposal will depend on the merits of the case. Currently, the unit is used as a fish and chip shop with a storage area on the floor above. It has been proposed through a variation to an existing s.106 legal agreement that the occupation of the proposed apartment would be tied to the existing ground floor commercial use (fish and chip shop). This agreement is currently being drafted. While the proposal would remove the commercial units main storage area, this in itself would not warrant the refusal of planning permission as the occupancy of the proposed apartment would be tied to the existing ground floor commercial use.
- 8.3 Overall, there are no policy objections to the proposed change of use of the first floor storage area to a residential apartment.

Residential Amenity

- 8.4 Environmental Control has raised no objections to the proposal. It is considered that the use of the storage area as a residential apartment would not have a detrimental impact on neighbouring amenity in terms of noise and disturbance. Therefore, no objections are raised in terms of residential amenity.

Highways

- 8.5 The Highway Authority has not yet responded to this application but their comments should be available for the time of the committee.

Other Considerations

- 8.6 No objections have been received. It has been proposed that the variation of the existing legal agreement would also include provision of £4669.00 to cover the additional open space contribution.

Conclusion

- 8.7 In conclusion, the proposal is acceptable on its merits subject to the variation of the existing legal agreement covering the site be amended to ensure that the occupation of the flat is tied to the commercial unit below.

Background Papers

ARC; HH

Recommendation

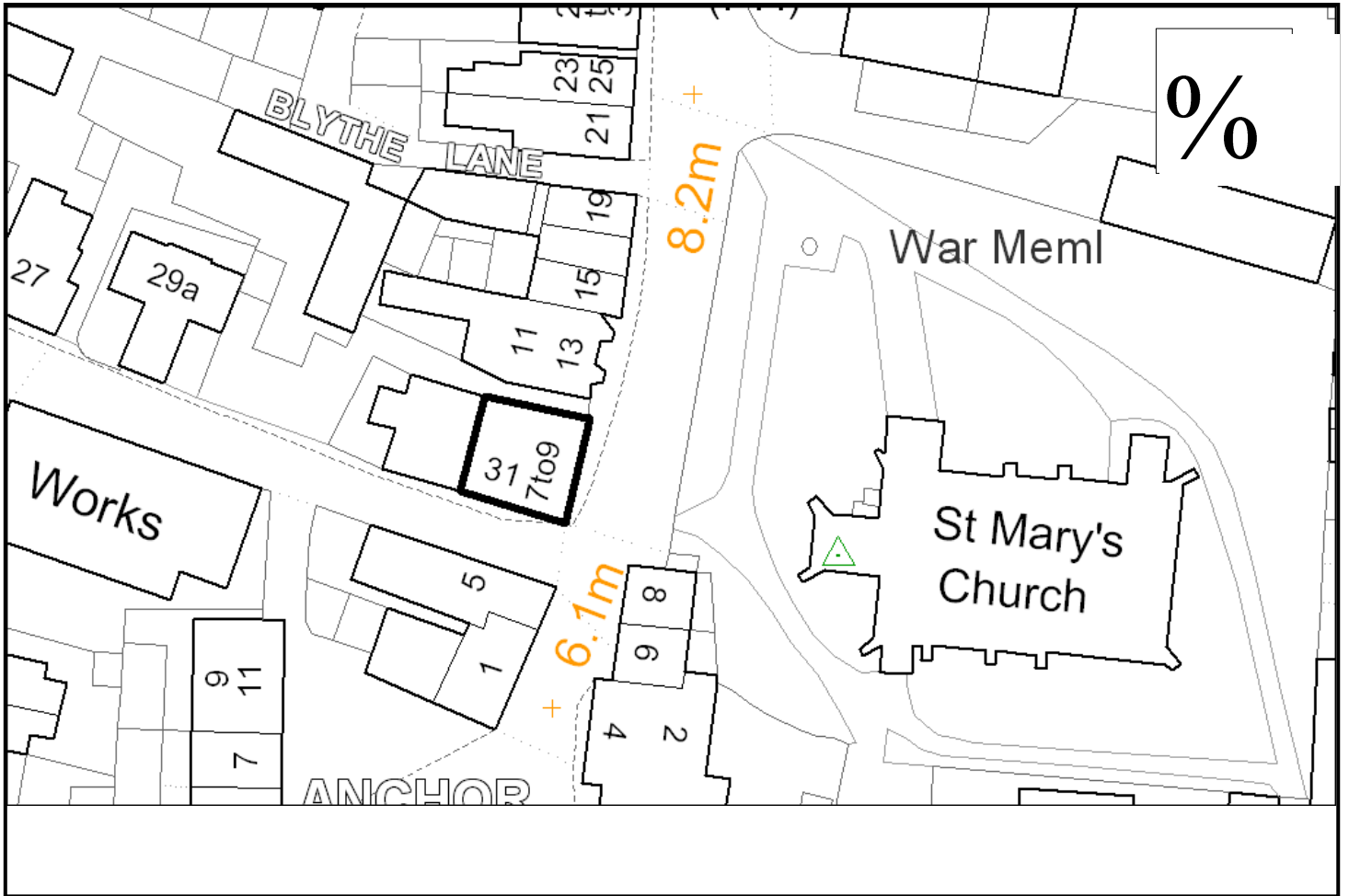
Approve subject to the variation of the existing legal agreement to ensure that the occupation of the apartment is tied to the ground floor commercial use and to secure the open space contribution.

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



Application No: 081924

Location: 7-9 High Street, Wivenhoe, Colchester, CO7 9BE

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority.

Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Crown Copyright 100023706 2008

7.5 Case Officer: Nick McKeever

EXPIRY DATE: 07/01/2009

OTHER

Site: 7-9 High Street, Wivenhoe, Colchester, CO7 9BE

Application No: 081924

Date Received: 11th November 2008

Applicant: Mr Nigel Stratton

Development: Change of use from a vacated retail premises (A1), to a gourmet grocer/coffee shop/gallery mixed A1/A3 use

Ward: Wivenhoe Quay

Summary of Recommendation: Conditional Approval

1.0 Site Description

- 1.1 This is a two and a half storey, Grade II Listed Building located on the High Street at the junction with West Street, Wivenhoe. The site is within the area designated in the Adopted Local Plan as a Local Shopping Centre. It also falls within the conservation area.
- 1.2 There are commercial properties to the immediate north, south and to the south-east. Opposite the site is St. Mary's Church.
- 1.3 The property is currently vacant. The application proposes a mix of A1 and A3 uses with no increase in the floor area and no alterations to the exterior of the building. Floor plans have been submitted that show the proposed ground and first floor layout. The gross internal floorspace is given as being 66.42 square metres.
- 1.4 The A1 & A3 uses will operate between 07:00 – 20:00 hours Monday to Friday, 08:00 – 20:00 hours Saturdays, Sundays and Bank Holidays. A total of 2 full-time and 3 part-time staff will be employed.

2.0 Land Use Allocation

- 2.1 Local Shopping Centre/Conservation Area/ Grade II listed building.

3.0 Relevant Planning History

- 3.1 None

4.0 Principal Policies

- 4.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Listed Buildings - UEA5
Core Strategy Local Shopping Centres - CE2c

5.0 Consultations

- 5.1 The Highway Authority has no objections
- 5.2 Environmental Control recommend conditions relating to:-
- Site boundary noise levels – details to be submitted and agreed prior to commencement of the use
 - Sound insulation of external Plant, Equipment & Machinery
 - Control of fumes & odours
 - Light pollution
 - Provision of grease traps
 - Refuse storage facilities

6.0 Town Council's Views

- 6.1 Wivenhoe Town Council has no material planning observations.

7.0 Representations

- 7.1 2 letters have been received from local occupiers raising the following objections:-
- There is already a delicatessen & tearooms directly opposite
 - The population base is not large enough to support these two similar businesses
 - The local demand is in decline
- 7.3 The proprietors of The Tudor Tea Rooms & Village delicatessen, 2 – 4 High Street, Wivenhoe, raise the following objections, based upon perceived 'best practice' for new businesses and diversity to ensure that all businesses thrive:-
- They were not notified of the submission
 - Competition will be detrimental rather than beneficial, particularly given the current economic situation. The spirit of Wivenhoe's Town Plan is diversification rather than duplication.
 - Customers with mobility issues would not be able to access their facilities on the first floor.
 - British Standards BS6465(Part 1) specifies the need for toilet facilities
 - No specific provision for the storage of refuse
 - The application refers to hot and cold foods but no mention is made of any cooking or appropriate extraction facilities

7.4 16 letters supporting the application have been received. The reasons for supporting the use are summarised as follows:-

- Alternative venue to the mostly pub-based culture. Complement the art & culture interest of Wivenhoe by providing exhibition space for local artists
- It will provide an outlet for quality locally-sourced products
- The current vacant retail premises has a negative effect when trying to attract shoppers

8.0 Report

8.1 Wivenhoe is described in both the Adopted Review Colchester Borough Local Plan and the Local Development Framework Core Strategy as being a Rural District Centre (RDC). The relevant Local Plan policy TCS12 (Local Shopping Centres) has now been superseded by the Core Strategy policies CE2b (District Centres) and CE2c (Local Centres).

8.2 Under CE2b RDC's will be protected and enhanced to provide shops, services, community facilities and employment to meet the needs of local communities Under this policy the Council seeks to deliver improved retail provision within this RDC of 126 sq. m (net). Policy Under CE2c the provision of local shops and services throughout the Borough will be safeguarded to provide for the needs of local residents.

8.3 In overall terms these policies seek to provide a mix of uses to serve local residents and the surrounding countryside. In this context the proposal seeks to provide a mix of uses, but perhaps of more importance, to retain an A1 retail use. On this basis it is not in itself likely to have an adverse impact upon the vitality of this Centre. It is more likely that it will enhance the role of the Centre as an attraction for visitors.

8.4 It is considered, however, that this mix of uses should be regulated by condition rather than allow an unrestricted A3 use on this site. This is in the interests of the continued primary retail function of the RDC.

8.5 At the present time this Grade II listed building is vacant. It is the interests of the preservation of this building of historic and architectural importance to encourage its continued use. The current proposal seeks to do so and without any alterations to the fabric of the building. The Applicant has advised that there is no requirement for any external odour extraction system. This should be a condition of any permission in the interests of the appearance and character of this listed building and the amenity of the area in general.

8.6 The site is located in close proximity to other existing commercial premises. Having regard to these circumstances the proposed opening hours appear reasonable and should be conditioned accordingly.

9.0 Background Papers

9.1 ARC; HA; HH; PTC; NLR

Recommendation - Conditional Approval

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

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 use hereby permitted commencing. The assessment shall be made in accordance with the current version of BS 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 use hereby permitted commencing. All subsequent conditions shall comply with this standard.

Reason: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

3 - Non-Standard Condition

Any plant, equipment or machinery on the premises shall be constructed, installed and maintained so as to comply with the initial noise condition. The noise generated by such equipment shall not have any one 1/3 octave band which exceeds the two adjacent bands by more than 5dB as measured at all boundaries to noise-sensitive premises.

Reason: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

4 - Non-Standard Condition

The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local authority, in consultation with Environmental Control, a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to the use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

Reason: To protect the amenities of adjoining residents.

5 - 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.

6 - A5.2 Restaurants, Clubs etc

The use hereby permitted shall not be open to customers outside the following times 07:00 – 20:00 hours Mondays to Fridays, 08:00 – 20:00 hours Saturdays, Sundays and Bank Holidays.

Reason: To safeguard the amenities of nearby residential properties.

7 -Non-Standard Condition

Foul water drains serving the kitchen shall be fitted with grease traps maintained in accordance with the manufacturer's instructions prior to the use hereby permitted commencing. Such equipment as shall have been installed shall be retained and maintained to the agreed specification and in good working order.

Reason: To prevent blockage of the drainage system.

8 – Non Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current '*Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light*'. 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 use hereby permitted commencing 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.

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

9 – Non Standard Condition

The permission hereby granted is for a mixed A1/A3 use only. The A3 use shall not be the sole or predominant use.

Reason: To avoid doubt as to the scope of the consent hereby granted as a sole A3 use would require further consideration by the Council.

10 – Non Standard Condition

The A3 use shall be restricted to those parts of the ground and first floors as shown hatched in green on the approved drawings unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the A3 use is not the predominant use of the premises.

11 – Non Standard Condition

No flues or other extraction equipment for the control of fumes and odours shall be installed on or within the premises.

Reason: For the avoidance of doubt as to the scope of the permission hereby granted. The installation of the aforementioned equipment would require further consideration by the Council.

Informatives

In granting permission for the mixed A1 & A3 use, the Local Planning Authority has had due regard to the lack of need for any external odour and fume extraction system as advised by the Applicant. The installation of any such equipment would require an application for Listed Building Consent and in the consideration of such an application the Local Planning Authority would have to give due consideration to the obligation to protect the appearance and character of this Grade II listed building.



Application No: 081934

Location: Colchester Royal Grammar School, 6 Lexden Road, Colchester, CO3 3ND

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority.

Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Crown Copyright 100023706 2008

7.6 Case Officer: Mark Russell

EXPIRY DATE: 06/01/2009

OTHER

Site: 6 Lexden Road, Colchester, CO3 3ND

Application No: 081934

Date Received: 10th November 2008

Agent: Mr G Belsham

Applicant: Colchester Royal Grammar School

Development: Access ramp to swimming pool.

Ward: Christ Church

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The site in question is actually off of Creffield Road opposite the junction with Inglis Road. Currently this is hedged, and between a residential outbuilding and a sub-station. This is within the Article 4 area Colchester Conservation Area 2, and is predominantly residential.

2.0 Description of Proposal

2.1 The proposal is to remove a short section of the hedge and to insert a new matchboard gate with a yale lock and concrete posts to afford access to the swimming pool for people with disabilities. Within the site itself a ramp with handrails is proposed, along with a 2.0 metre high chain link fence and cycle parking.

3.0 Land Use Allocation

3.1 Educational, within a Conservation Area.

4.0 Relevant Planning History

4.1 081172 - Construction of new accessible changing room and glazed atrium to the existing gymnasium. New disabled access ramp into the Humanities and Modern Languages block located externally in the "Small Close". New disabled toilet and refurbishment to existing female toilet. Approved 29th July 2008.

4.2 081171 - Construction of new accessible changing room and glazed atrium to the existing gymnasium. New disabled access ramp into the Humanities and Modern Languages block located externally in the "Small Close". New disabled toilet and refurbishment to existing female toilet (Listed Building Application). Consent 29th July 2008.

5.0 Principal Policies

- 5.1 Adopted Review Colchester Local Plan:
DC1- Development Control considerations;
UEA1 – Conservation Areas;
UEA2 – Alterations to buildings in Conservation Areas;

6.0 Consultations

- 6.1 No consultations were required.

7.0 Representations

- 7.1 One letters of objection was received from an immediate neighbour to the proposal (at 13 Beverley Road). The owners of this house had concerns about their security as the access would be adjacent to their garden. They asked whether the bicycle parking would be covered (thus potentially giving an access to their property) and what height the gate would be. Also, they wanted to know why bicycle parking was needed if the access was for people with disabilities, why this application had been submitted so soon after the previous one, and asked who would have access to the gate.

8.0 Report

- 8.1 The proposal is relatively minor, and is necessary to address shortcomings in terms of access for people with disabilities.
- 8.2 The owners of 13 Beverley Road have been written to, with the following response:

“It does not appear that the cycle rack is to be covered, certainly the website does not show it to have any cover, and there are no elevations to show any.
The height of the matchboard gate would be as per the original planning permission 081364, that is to say 2 metres, plus an additional 0.1 metres for the concrete posts.
The gate would have a Yale lock, presumably with keys held by the school.
As to why the bicycle rack is necessary, we would be supportive of cycle parking facilities, and thus I feel that this is entirely acceptable.”

- 8.3 It is hoped that the above responds to the concerns of that property. A condition to agree a finish to the proposed gate, and an informative instructing the school that a roof on the cycle rack would require planning permission and should, if covered, be positioned elsewhere, are proposed to ensure a satisfactory form of development.

9.0 Conclusion

- 9.1 Whilst the letter of concern it noted, it is held that these concerns have been dealt with, and the proposal is acceptable. It is thus recommended for approval.

10.0 Background Papers

- 10.1 ARC; NLR

Recommendation - Conditional Approval

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

Prior to the commencement of development, the applicant shall submit details in writing, which shall be agreed in writing, by the Local Planning Authority, for the colour and finish of the proposed gate on to Creffield Road. The gate shall be installed as such, and retained as such at all times thereafter.

Reason: In the interests of the visual amenity of this Article 4 Conservation Area.

Informatives

The applicant is reminded that the proposed cycle parking shows no cover. Any cover would require planning permission and the applicant is advised that the cycle parking may, in that eventuality, need to be relocated.



Application No: 081942

Location: Little Acorns, Abbotts Lane, Eight Ash Green, Colchester, CO6 3QL

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority.

Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Crown Copyright 100023706 2008

7.7 Case Officer: John Davies

EXPIRY DATE: 08/01/2009

OTHER

Site: Little Acorns, Abbots Lane, Eight Ash Green, Colchester, CO6 3QL

Application No: 081942

Date Received: 12th November 2008

Applicant: Mr. J Heath

Development: Variation of condition 10 of planning permission O/COL/06/0917. Remove dead & dying trees and replant trees and hedges.

Ward: W. Bergholt & Eight Ash Green

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The application site is a bungalow and its grounds known as Little Acorns situated behind a dwelling known as Allerton on Abbots Lane. The application concerns a row of trees (8 no) to the rear of the garden which adjoin a large field which is accessed from Halstead Road. The trees comprise 5 oaks, 2 elm and an ash. The trees are not visible from either Abbots Lane nor Halstead Road.

2.0 Description of Proposal

2.1 The application is for works to the trees comprising the complete removal of three trees (2 elms and an ash) , the removal of a stem to one of the oaks and works of crown lift, coppicing or removal of dead wood to the other four oak trees. There are also proposals for replacement tree planting and improvement to the hedgerow.

3.0 Land Use Allocation

3.1 Village Envelope

4.0 Relevant Planning History

4.1 O/COL/06/0917-Erection of a single storey dwelling, garage and access drive together with accommodation works to Allerton including the erection of a new garage - Approved 28 July 2006

4.2 071297- Reserved Matters application- Erection of single storey dwelling, garage and access drive with accommodation works to Allerton, including the erection of a new garage. Approved 14 June 2007

4.3 081570- Variation of Condition 10 of planning permission O/COL/06/0917 (works to trees) - Refused 9 October 1998

5.0 Principal Policies

5.1 Adopted Review Colchester Borough Local Plan-March 2004

DC1- Development Control considerations

CO4- Landscape Features

Core Strategy

ENV1- Environment

6.0 Consultations

6.1 Tree Officer comments as follows:-

“I’m in agreement to the recommendations made within the proposal. These trees are of limited public amenity and would therefore not be subject to TPO.

They have been previously badly managed and do need work to make them safer.

The proposal also states that whilst trees are being removed and cut back additional hedging is also being put in.”

7.0 Parish Council's Views

7.1 Comments to be reported.

8.0 Representations

8.1 Three letters of objection received from neighbours on following grounds:

- Trees are protected by condition on outline consent for bungalow- no justification for any works
- Applicants were aware of tree condition when purchased and should accept their retention
- Trees are on land belonging to the owner of the field to the rear
- Works to trees would reduce their visual impact
- Coppicing an oak tree will not allow it to grow back as a tree again and it will only issue shoots from the base
- Trees should be protected to counteract global warming
- Ditch has been filled in by applicant

8.2 Applicant has responded to the points raised with following comments:

- Boundary of garden was established when bungalow was approved planning permission and prior to my purchase
- Ditch was dug over to plant shrubs and trees
- Only ivy to be removed from hedge
- Trees T1, T2, T3 (elms and ash) are dead and decaying. The lower limb of Tree T8 (oak) to be removed as it is dangerous.
- Expect right to sunlight like other neighbours but they have longer gardens and less affected by trees.

9.0 Report

- 9.1 This application concerns proposals to carry out works to trees, which are the subject of a tree protection condition imposed on the original outline consent for the erection of the bungalow.
- 9.2 The previous application for similar works was refused on the grounds that there was insufficient clarity in the submission and information to justify the works. The Tree Officer has since visited the site to carry out a more detailed inspection which has informed his consultation comments.
- 9.3 With regard to the issue of the ownership of the land the applicant has provided evidence of title to support his application. Whilst neighbours contend that the trees are not on land belonging to the applicant no contrary evidence has been submitted to support such assertions not least from the owner of the field itself. Officers are therefore satisfied that the application has been validly made in respect of the signing of the correct ownership certificate. In any event the grant of planning permission does not give any person the legal right to carry out works on another person's land.
- 9.4 The proposed tree works appear to be partly motivated in order to remove dead/dying trees and dead work from healthy trees as well as to provide more light into the rear garden on the property. There is no objection to the removal of dead trees and their re-planting and the other works of crown lifting and removal of dead wood are considered to be justified on grounds of good tree management practice.

10.0 Background Papers

- 10.1 ARC; TL; PTC; NLR

Recommendation - Conditional Approval

Conditions

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

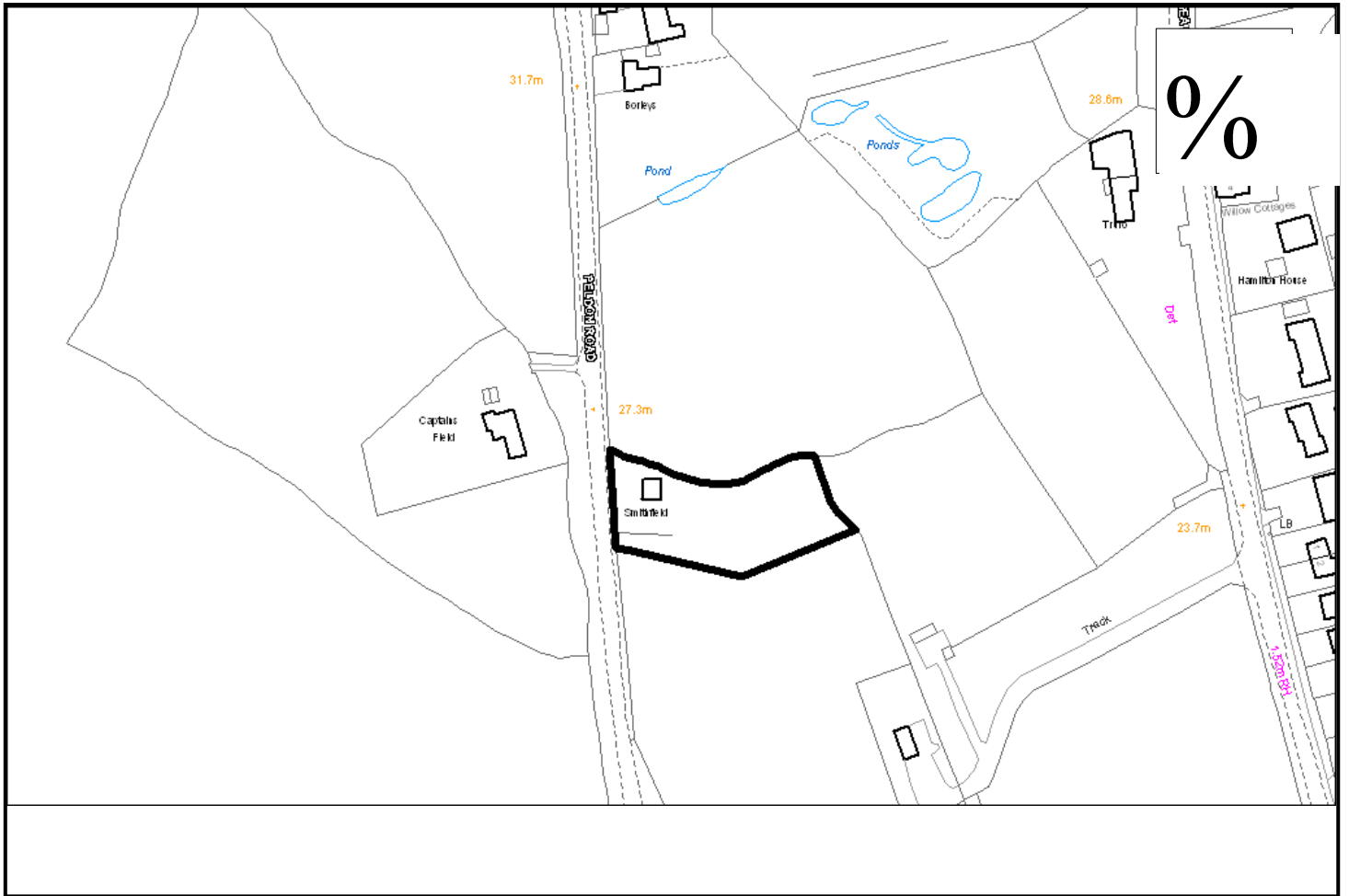
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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 - C 11.4 Tree / Shrub Planting

Before any works commence on site, details of tree and/or shrub planting and an implementation timetable shall be submitted to and approved in writing by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.



Application No: 081597

Location: Smithfields, Peldon Road, Abberton, Colchester, CO5 7PB

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority.

Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Crown Copyright 100023706 2008

7.8 Case Officer: Andrew Tyrrell

OTHER

Site: Peldon Road, Abberton, Colchester, CO5 7PB

Application No: 081597

Date Received: 10th October 2008

Agent: Ben Powell Architects

Applicant: Ms E Randall

Development: Retrospective application to rebuild derelict structure for use as farm accommodation and artists studio.

Ward: Pyefleet

Summary of Recommendation: Conditional Approval

1.0 Site Description

- 1.1 This full application proposes the re-use of an existing building on the site for students who stay at the site as temporary agricultural workers at Smithfields, Abberton. The site for the dwelling is within the farm holding, near to the western boundary. It would be accessed past the main dwelling at the site through a shared access. The access to the Peldon Road has already been closed off.
- 1.2 There is also a farm shop and post office operated by the applicants and the farm buildings used to breed goats and processing of milk, cheese etc.

2.0 Land Use Allocation

- 2.1 Countryside Conservation Area

3.0 Relevant Planning History

- 3.1 In 2005, application F/COL/05/0535 granted permission for an agricultural dwelling, which has been constructed. Prior to that, in 2004, application F/COL/04/1683 for agricultural dwelling was refused due to unacceptable design and the excessive size of the dwelling. There are several other refusals predating this going back to the 1960s.
- 3.2 In 2003, T/COL/03/1982 renewed permission for temporary mobile home. This had originally been granted in 2000, through F/COL/00/1796.
- 3.3 F/COL/03/1664 (also 2003) gave planning permission for change of use of part farm shop to post office. This is related to F/COL/03/0219, where planning permission was granted for the erection of a farm shop.

4.0 Principal Policies

- 4.1 Adopted Review Borough Local Plan
 - DC1 - Development Control Considerations
 - UEA11 - Design
 - C01 - Rural resources
 - CO4 - Landscape Features
 - H10 - Agricultural and forestry worker dwellings

5.0 Consultations

- 5.1 ECC Highways – No objection subject to the building being used only ancillary to the main dwelling, a turning space being provided, and all access being from Mersea Road.
- 5.2 CBC Strategic Policy and Regeneration – Originally objected subject to received amendments. The business has continually expanded and is successful, to the wider benefit of the area. As long as the access to Peldon Road is closed permanently, the access is taken through the main holding and it was made impossible for the holding to be separated and sold off in future then this application meets CBC policy. Regeneration would then fully support the application.

6.0 Parish Council's Views

- 6.1 The Parish Council has not responded to date.

7.0 Representations

- 7.1 A nearby resident has objected. Their arguments are that:
 - 1. The structure has already been built;
 - 2. the development is outside the village envelope;
 - 3. six previous attempts to develop this site were refused;
 - 4. the site as a whole has had a dwelling, farm shop, farm buildings and turbine granted already; and
 - 5. Accommodation should be in the existing farmhouse or a mobile home.

8.0 Report

- 8.1 In recent years this farm holdings has been successful and consequently expanded. Permission has been granted for an agricultural workers dwelling, farm building extensions and a farm shop which has since safeguarded a post office facility within the village (run by the applicants as part of the shop use).
- 8.2 The goat kidding element of the farm brings about 200 new born goats a year. These are born between January and July in any calendar year and need to be bottle fed for 4-6 weeks. This is required every 4 hours when first born, which is a manually intensive operation that can not be carried out by the two occupants of the farm holding alongside their other farm operations and the opening of the farm shop and post office. For this reason they use the services of students looking to learn about agricultural operations.

- 8.3 The building proposed for occupation by these students has been on the site for some time and it is believed that it was occupied for residential use until the 1970s. Since this time it has not been in use and fell into a state of disrepair. Recently the asbestos cladding and roof was removed and the timber frame was repaired and re-clad in timber and tiles. The inside is still open and no works has taken place in here. It retains the original chimney.
- 8.4 The proposal is to refurbish the inside to provide very basic accommodation for student use. It is recommended that any such se be limited by condition to the months of January to August to limit occupation of the building to the months when feeding is required. This also helps limit permanent residential use. A further condition would be needed to limit the occupation to persons working on the farm for this specific purpose. Finally, it is also recommended that the link to the main farm and dwelling be secured so that it is clear that the use can not be operated as a separate entity to the main holding and sold off.
- 8.5 The access has been amended to show a shared access from the main dwelling and farm holding. Conditions would be needed to secure details of the materials for this access, to gain a turning area, to ensure the access to the Peldon Road remains closed to vehicles and to secure better landscaping on the western boundary. It is noted that ECC Highways have asked for the access to Peldon Road to also be closed to pedestrians, however this farm spreads to the other side of the road and animals are moved between the two sides of Peldon Road. Therefore, such a condition is not conducive to the operations of the farm and would not be linked to the exact development proposed herein (making it contrary to the six tests for conditions).
- 8.6 The most relevant planning policy is H10 which states:-
- “Permission for a new agricultural or forestry worker dwellings in the countryside will be granted only where:
- (a) there is a proven longer-term need, in terms of both a “functional” and “financial” test, for one or more full-time workers to reside at the site of the enterprise concerned;
 - (b) there is no suitable available accommodation for such workers at or in close proximity to the holding;
 - (c) the proposed dwelling will be in harmony with its rural setting and in its relationship to other existing farm buildings;
 - (d) the size of the proposed dwelling is closely related to the essential requirements of the agricultural enterprise.”
- 8.7 The agricultural consultant from Strategic Policy and Regeneration has advised us that they support the application subject to the necessary conditions to ensure that the building is never separated from the main farm. They are satisfied with the need for the accommodation, the size is limited and it is an existing building that harmonises with the context of the site.

9.0 Background Papers

- 9.1 ARC; HA; PP; 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 permitted building shall not be occupied at any time other than for purposes ancillary to the principal uses of the main dwellinghouse and farm holding at Smithfields and the planning unit shall not be subdivided, separated or altered so as to create a new unit.

Reason: To ensure that the site is not separated from the main use of the site as this is a rural area where only the specific circumstances of the case have made this development acceptable and new dwellings would not be permitted.

3 - Non-Standard Condition

The building shall only be occupied between 15 January and August 31 in any one calendar year and at no time outside this period.

Reason: Permanent occupation would not be acceptable in this rural area as this would be tantamount to a new dwelling in the countryside and there is no proven need for additional agricultural workers to be residing on the site outside the peak times of goat kidding.

4 - Non-Standard Condition

The building hereby permitted shall only be occupied by persons working on the site known as Smithfield's in connection with the existing goat breeding and feeding operation, and that person shall only occupy the building for the duration of the period of time where they are working on the farm for this purpose, allowing occupation for one calendar day before their work commences and one calendar day after their work ceases.

Reason: The use of the building has been approved on the basis that it is essential for the work on site, and should therefore be limited to periods when the workers are required as residential uses would not normally be acceptable in this rural location.

5 - Non-Standard Condition

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

Reason: To ensure that the development does not detract from the appearance of the existing building and the character of the area.

6 - Non-Standard Condition

All external elevation walls and joinery shall be painted black, unless otherwise agreed in writing by the Local Planning Authority.

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

7 -Non-Standard Condition

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 - C 11.2R 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 - Non-Standard Condition

There shall be no vehicular access to the site whatsoever from Peldon Road.

Reason: In the interests of highway safety as there is no adequate visibility, and to ensure that the building has ancillary access arrangements to the main farm.

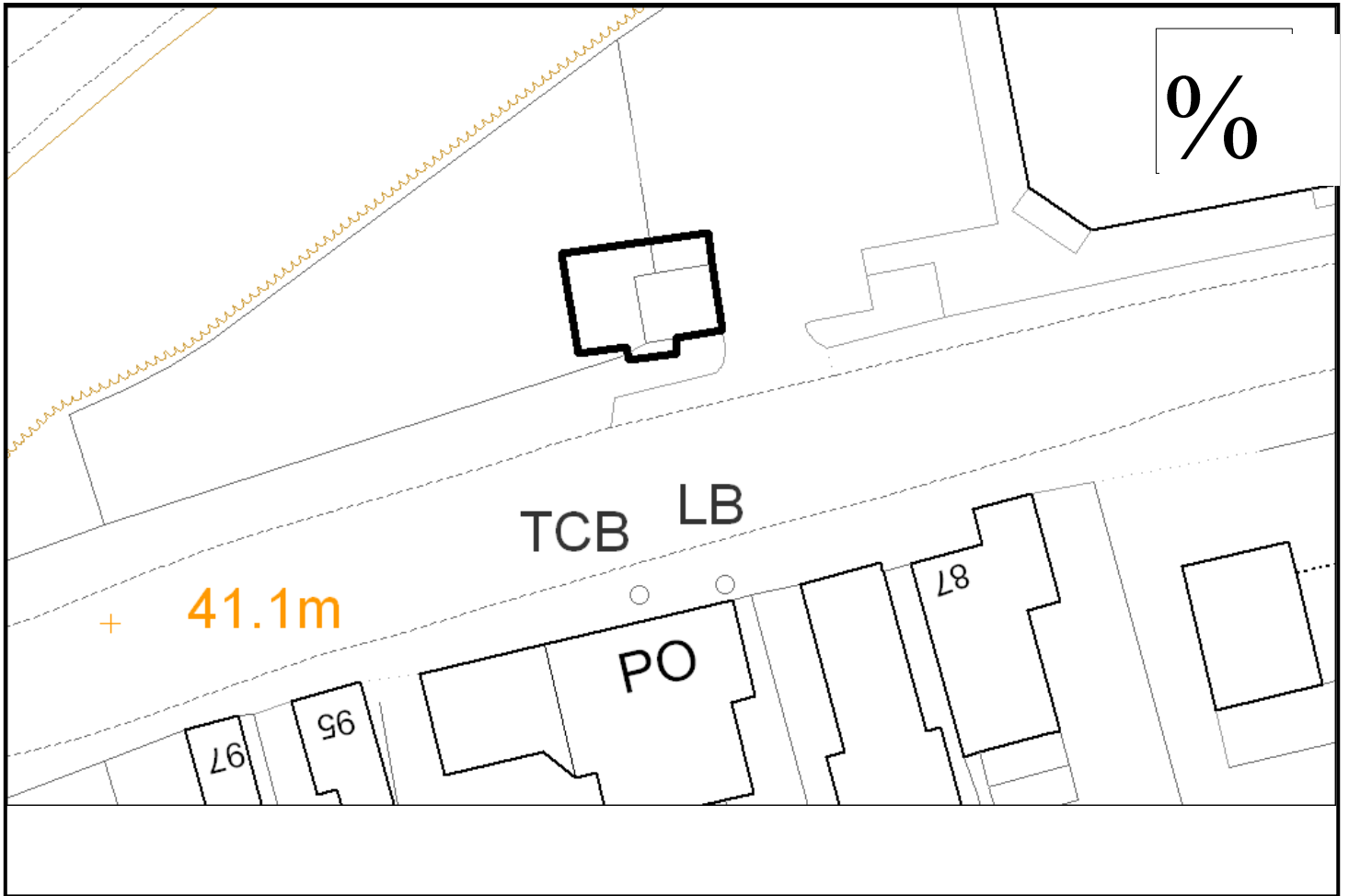
10 - Non-Standard Condition

Prior to the first occupation of the development hereby permitted a turning space shall be constructed, surfaced and made available for use within the site to the satisfaction and requirements of the Local Planning Authority. The agreed turning space shall then be maintained free from obstruction for that sole purpose thereafter.

Reason: To ensure that there are appropriate turning facilities to enable a vehicle to enter and exit the site in a forward gear, and a safe and controlled manner.

Informatives

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: 081677

Location: The Food Company, 86 London Road, Marks Tey, Colchester, CO6 1ED

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority.

Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Crown Copyright 100023706 2008

7.9 Case Officer: Simon Osborn

OTHER

Site: 86 London Road, Marks Tey, Colchester, CO6 1ED

Application No: 081677

Date Received: 15th September 2008

Agent: Ronald Cross

Applicant: The Food Company

Development: Change of use of ancillary store to pharmacy.

Ward: Marks Tey

Summary of Recommendation: Refusal

1.0 Planning Report Introduction

1.1 This application was called in by Councillor Blundell.

2.0 Site Description

2.1 The application site relates to The Food Company premises on the north side of the London Road in Marks Tey.

2.0 Description of Proposal

2.1 The application proposes a new building on the footprint of an existing storage building (size 30 sqm), which is to be demolished. The new building will have dimensions of 10.m x 6.m (footprint 68m) x 6.m (maximum roof height). The proposed use of the building is as a pharmacy. The building is physically separate from the retail building and immediately adjacent to the parking area associated with the store. The building has been designed with the appearance of single storey, with hips and a gable projection on the London Road frontage to provide some interest to the visual design; provision is made for storage space within the roof form. Public entrance to the building is from the northeast corner of the building adjacent to the car park, rather than direct from the London Road.

2.2 A letter of support has been received for the proposal from the Director of Marks Tey Pharmacy, who currently operate from premises on the south side of the London Road. The point is made that the pharmacy only benefits from a 3-month rollover lease; whereas the Food Hall site will provide secure long-term tenure for this facility.

3.0 Land Use Allocation

3.1 No notation

4.0 Relevant Planning History

- 4.1 F/COL/99/0617 – demolition of PH and erection of food hall and coffee shop (A1 and A3 uses) with customer and local shoppers car park – approved 1999
- 4.1 C/COL/00/1748 – creation of car park – approved 2001
- 4.2 071004 provision of public footway and extension to car park – approved 2007
- 4.3 081318 – change of use of ancillary store to pharmacy – withdrawn September 2008.

5.0 Principal Policies

- 5.1 Adopted Review Colchester Borough Local Plan – 2004
 - DC1 – Development Control Considerations
 - CO1 – Countryside
 - UEA11- Design Considerations
 - H7 – Village Envelopes
 - TCS13 – Shopping in Villages and the Countryside

6.0 Consultations

- 6.1 Highway Authority recommended refusal for the following reasons:-

“The B1408 London Road in this location is classed as a Strategic Route in the Functional Route Hierarchy as detailed in appendix G to the Local Transport Plan 2006/2011. Policy 1.1 in appendix G states: Direct access from these roads will be prohibited. Any development proposal which seeks to create a new access or to increase or change the use of an existing access will attract a recommendation of refusal from the highway authority.”

- 6.2 Environmental Control made no comments.

- 6.3 Planning Policy made the following comments:

“The site is outside of the existing Marks Tey village envelope as shown on the Local Plan Proposals Map but is considered to be well related to the existing services and facilities in this part of the Borough. The site is within the existing car park of the Food Company and across the road from the current pharmacy building which is subject to a temporary lease and therefore the applicant does not consider the pharmacy’s future secure.

Local Plan Policy CF4 is still active and a pharmacy is considered to be a key community facility. As a pharmacy is likely to play a vital role in the community, Planning Policy is in support of retaining the use in this area. Core Strategy Policy SD3 also outlines the Council’s position regarding community facilities and is to be taken into account in the decision making process.

Ideally Planning Policy would prefer the pharmacy to relocate to a site within the village envelope and in close proximity to the existing site and the other services and facilities which currently operate in the area. If this is not possible and no other opportunities exist then relocating the facility to a site across the road may be appropriate. The Council, however will need to be satisfied that realistic alternatives in the area have been considered prior to submission of the application.

From the design and access statement included with the application it is not clear which alternatives have been considered which is of slight concern to Planning Policy at this stage.

Replacing the existing store in the car park of the Food Company with a larger building could have a large impact with regards to traffic generation and access on the site.

London Road is busy and provides access onto the A12 so it will be important for the County Council to be satisfied that the proposal is acceptable.

Planning Policy is satisfied that the relocation of the pharmacy will have a minimal impact on the character of the area and secures the continued provision of services and facilities in Marks Tey.”

7.0 Parish Council's Views

7.1 Marks Tey Parish Council stated no objection to this application.

8.0 Representations

8.1 One letter of support from the existing pharmacist made the following points:

1. the proposal will secure long-term tenure for a pharmacy;
2. persons walking from the main village who cross the pedestrian bridge over the A12 will not have to cross the busy London Road twice (as at present);
3. the Food Hall car park is easier and safer to exit for drivers than the existing premises, where buses and parked cars can obscure views.

9.0 Report

9.1 The case for the applicant is made on the basis that the proposal will secure the retention of a pharmacy within the vicinity; the existing pharmacy on the other side of the London Road operates from premises, where there is only a 3-month rollover lease.

9.2 The proposed pharmacy building is located within a shallow triangular portion of land that serves as part of the car park for The Food Hall. Although the site is outside of the village envelope and therefore technically defined in the Local Plan as “countryside”, in physical terms it appears to be part of the village. Thus whilst, a new building could not normally be supported outside of a village envelope, there are mitigating circumstances in this instance, as follows:

- The proposal replaces an existing building
- The proposal is located within an existing car park, and does not physically resemble countryside
- The proposal is on the opposite side of the street from an existing shopping parade
- The proposal would appear to secure the long term future of the local pharmacy.

In general land use terms, the proposal is not considered to be unacceptable.

Design

- 9.3 The building is generally modest in form and has been designed with the appearance of single storey with hipped-ends. The building turns away from the street by having its public entrance adjacent to the car park rather than fronting onto the London Road. This was done to discourage vehicles stopping in the London Road to access the proposed facility. To provide visual interest to the building from a public perspective, a gable projection has been added to the front of the building. It is considered that the design could be improved further if a triangular window was formed within the top of the apex to the gabled element.

Other Material Considerations

- 9.4 The Highway Authority has objected to the proposal on the basis that this part of London Road is a strategic route and the proposal will result in intensification in the use of the access by vehicles, which will lead to extra turning and slowing movements and obstruction to through traffic contrary to the interests of highway safety and the free flow of traffic. The Highway Authority has also stated its concern that the proposal will result in additional crossing movements of the London Road (from the main parade of shops) in an area where no formal pedestrian crossing facility exists.

Conclusion

- 9.5 On the basis of the Highway Authority's comments, the application is recommended for refusal. It is recognised, however, that some Members may wish to support the proposal; if it is the case that Members wish to overturn the recommendation it is suggested that appropriate conditions should include the following: limiting the use of the premises to that of a pharmacy only; amendments to the design to include a triangular window within the apex of the gable fronting London Road.
- 9.6 It is recommended that Members undertake a site visit in respect of this proposal.

10.0 Background Papers

- 10.1 ARC; HA; HH; PP; PTC; NLR

Recommendation - Refusal

Reasons for Refusal

1 - Non-Standard Refusal Reason

Policy DC1 (d) of the Adopted Review Colchester Borough Local Plan, March 2004 states that proposals for development will be permitted only if the highway network will be able to accommodate safely the extra traffic the proposal will generate. Policy 1..1 in Appendix G to the Essex County Council Local Transport Plan 2006/2011 indicates that any development proposal which seeks to increase or change the use of an existing access on a Strategic Route will attract a recommendation of refusal from the highway authority. In this instance, the proposed pharmacy will be on the north side of the B1408 London Road, which in this location is classed as a Strategic Route in the Functional Route Hierarchy, and would lead to additional movements through the existing access leading to extra slowing and turning movements and obstruction to through traffic contrary to the interests of highway safety and efficiency. The proposal furthermore would lead to extra pedestrian flows across the road where no formal crossing facility exists. As such the proposal is contrary to the aforementioned policies.

Planning Committee

Item
8

18 December 2008

Report of	Head of Environmental & Protective Services	Author	Alistair Day ☎ 01206 282479
Title	Application O/COL/01/0009 – A new Urban Village comprising residential development (up to approximately 2600 dwellings) mixed uses including retail, leisure and employment, public open space, community facilities, landscaping, new highways, transport improvements and associated and ancillary development in accordance with and subject to the provisions of the master plan drawing reference 98.018/42		
Wards affected	Christchurch, Shrub End, New Town, Berechurch		

Report seeking Members' endorsement for the redistribution of affordable housing throughout the Garrison Urban Village development; the reallocation of parking spaces between the two (proposed) public car parks in Napier Road and the alteration of the delivery time for one of the LEAPs (play area) required within the Le Cateau and Cavalry Barracks development area.

1. Decision Required

- 1.1 Members are asked to endorse the proposed deed of variation to the original Section 299a Agreement for:
- the redistribution of affordable housing throughout the Garrison Urban Village development;
 - the redistribution of parking spaces between the two public car parks in Napier Road; and
 - the alteration of the timeframe for the delivery of one of the LEAP's (play area) required within the Le Cateau and Cavalry Barracks development area.

2. Reasons for Decision(s)

- 2.1 The authorisation of Members is required for the alteration of the Section 299a legal agreement.

3. Supporting Information

3.1 Redistribution of affordable housing

- 3.2 The S299a legal agreement requires 650 affordable housing units to be provided as a part of the Garrison Urban Village development; this equates to approximately 25% of the total number of dwellings permitted by this permission (2608). It should be noted that the aforementioned numbers include 50 dwellings allocated to the Abro site, of which 13 units are to be provided as affordable housing units.

- 3.3 The legal agreement currently requires a specific numbers of affordable units to be provided within identified areas of the Garrison Urban Village development. Areas of the garrison site that have thus far been constructed or are in the process of being constructed (Areas S1, O, Q, J1 & C2) have provided affordable housing units in accordance with the provisions of the existing legal agreement. Proportionately on these areas there has been an ‘under provision’ of affordable housing – i.e. less than 25% of the dwellings are affordable units. This ‘under provision’ will be further compounded by the fact that on a number of the future development areas the constraints are such (historic buildings and/or scheduled monuments) that it will not be possible to provide the number of affordable units allocated to these areas. For example, the S299a agreement currently requires 28 affordable units to be provided on Area B1a, however the retention of existing historic buildings and the St John’s Abbey Scheduled Monument mean that it is only possible to provide 11 dwellings on this site.
- 3.4 In order to ensure that the correct number of affordable units is provided as part of the Garrison Urban Village development (excluding the Abro site as this now unlikely to come forward for development in the near future) Taylor Wimpey and the Council have reviewed the distribution of affordable housing units (see Appendix 1). The areas allocated with a sliding scale of affordable housing provides the developer and the Council with the flexibility required to ensure that the right number of affordable housing units is provided and that these units are evenly distributed throughout the remaining phases of this development. The total number of affordable housing units to be provided is secured by the deed of variation (640 units) which reflects the provisions of the original Garrison agreement.
- 3.5 The proposed amendment to the redistribution of affordable housing essentially constitutes a ‘check and balancing’ exercise and does not adversely affect the overall provision of affordable housing secured as a part of the original outline planning permission. Members are asked to endorse the proposed redistribution of affordable housing as described.
- 3.6 Open Space and Landscaping
- 3.7 The S299a legal agreement requires two LEAPS, one NEAP and a 11 Plus Play Area to be provided as a part of the redevelopment of the Le Cateau and Cavalry Barracks site (Areas J1, J2, H, K1, K2, C1 and the Abro site). The legal agreement requires the play areas to be provided prior to the occupation of 75% of the residential dwellings within this development area.
- 3.8 Locations have been identified and agreed for the above play area: the NEAP and 11 Plus Play Area are being provided on the north side of Abbey Field (near the athletics track); one LEAP is to be provided at the south west end of Area J2 and one LEAP is to be provided on Area C1.
- 3.9 Taylor Wimpey’s Project Office is currently located on Area C1 and they have requested that the timeframe for delivering the LEAP proposed on this site is amended so that they have the potential to operate from their existing offices for the duration of this part of the Garrison development.

3.10 It is proposed to amend the timeframe for the delivery of the LEAP proposed for C1 from the occupation of 75% of the dwellings in Areas J1, J2, H, K1, K2, C1 and the Abro site to 95% occupation of the residential units in Areas J1, J2 and H. This provides Taylor Wimpey with the flexibility that they desire, relates the provision of the play facility to the implementation of the immediate residential development areas and omits the Abro site from the equation as this site is now unlikely to come forward for development. Through negotiations, officers have secured the whole of C1 as public open space (the play area only occupies a small part of this site) and an increase in the commuted sum for maintenance of the LEAP.

3.11 Given the above, and the fact that officers have previously negotiated the early delivery of the NEAP and 11 Plus Play Area on Abbey Field (it is currently under construction), the proposed amendment to the timeframe for delivering the LEAP on C1 is considered acceptable; Members are asked to endorse this proposal. (The provision of the second LEAP will be delivered in accordance with the requirement of the original 299a legal agreement).

3.12 Reallocation of public car parking spaces

3.13 The S229a legal agreement requires three public car parks to be provided as a part of the Garrison Urban Village development. These are as follows:

- 150 space car park in the general vicinity of the existing Butt Road car park;.
- 80 space public car park at the junction of Napier Road and Mersea Road; and
- 40 space public car park on Napier Road between C2 and the cricket ground

3.14 As Members are aware, the Roman Circus was discovered during the course of the archaeological investigations required by the outline planning approval. The Circus was designated a scheduled ancient monument in November 2007.

3.15 Part of the Roman Circus is located under the site identified for the 40 space public car park. Following the discovery of the Circus, Keith Nicholson, the former Head of Leisure Services, asked if consideration could be given to reducing the number of spaces in this car park to allow for the enhancement of the setting of the Circus with the 'lost' spaces being made-up within in the proposed 80 space car park. There is no objection to this proposal, however because the S299a legal agreement identifies specific numbers for each of the car parks it is necessary to seek a deed of variation to the original agreement. Members should note that the proposed deed of variation relates to the redistribution of parking spaces only; the terms of the existing legal agreement requires the Council to obtain the relevant permissions and that the detailed designs for the car park have yet to be worked-up. The Roman Circus Management Plan accepts the provision of a car park in this location.

4. **Strategic Plan References**

4.1 The redevelopment of the Garrison site, the provision of affordable homes and the protections of the Borough's heritage are important corporate objectives within the Strategic Plan.

5.0 Consultation

- 5.1 The Housing Development Officer has confirmed that he has no objection with the proposed redistribution of affordable housing and supports the proposed deed of variation.
- 5.2 The Parks and Recreation Manager has confirmed that he has no objection to the proposed amendment to the timeframe for the delivery of the Leap proposed for Area C1.
- 5.3 The Car Park Manager has no objection to the redistribution of parking spaces between the two Napier Road public car parks.
- 5.4 Legal Service have raised no objection to the proposed deed of variation

6.0 Publicity Considerations

- 6.1 None

7.0 Financial Implications

- 7.1 There are no additional financial implications for this Council arising from this report.

8.0 Equality, Diversity and Human Rights Implications

- 8.1 None directly arising from this report.

9.0 Community Safety Implications

- 9.1 None directly arising from this report.

10.0 Health and Safety Implications

- 10.1 None directly arising from this report.

11.0 Risk Management Implications

- 11.1 None directly arising from this report.

APPENDIX 1

Area	No. of affordable units required by the existing 299a agreement	No. of affordable units required by the deed of variation
O	40	40 (actual)
S1	50	50 (actual)
J1	66	66 (actual)
Q	45	45 (actual)
S2(South)	31	49 (agreed by planning approval)
H	15	13 (agreed by pending planning approval)
J2	33	33 (actual)
B1a	28	0 (agreed by pending planning approval)
B1b	0	41 (agreed by pending planning approval)
A1	161	25%-35% of the total number of units comprised in residential permission for Area A1
L&N	82	25%-35% of the total number of units comprised in residential permission for Area
K1-K2	19	Not less than 14 or more than 20
P1	20	Nil on the assumption that Area P1 will be utilised for the provision of a care home save that if a residential permission is issued for Area P1 then 25%-35% of the total number of units comprising that residential permission
P2	0	Nil save that if any residential permission is issued for Area P2 comprises in excess of 25 residential units then 25%-35% of the total number of units comprising that residential permission
S2(North)	47	25%-35% of the total number of units comprised in residential permission for Area S2(North)
Abro	13	13

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
website: www.colchester.gov.uk