

Planning Committee

Town Hall, Colchester
29 July 2010 at 6.00pm

This committee deals with

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

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

Information for Members of the Public

Access to information and meetings

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

Have Your Say!

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

Private Sessions

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

Mobile phones, pagers, cameras, audio recorders

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

Access

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

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A vending machine selling hot and cold drinks is located on the first floor and ground floor.

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Material Planning Considerations

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

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

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

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

Human Rights Implications

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

Community Safety Implications

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

Equality and Diversity Implications

All applications are considered against a background of the Council's Equality Impact Assessment (EIA) Framework in order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination in relation to gender disability, sexual orientation, religion or belief, age, race or ethnicity. The legal context for this framework is for the most part set out in the Race Relations (RRA) and Disability Discrimination (DDA) legislation.

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
29 July 2010 at 6:00pm**

Members

Chairman : Councillor Ray Gamble.
Deputy Chairman : Councillor Theresa Higgins.
Councillors Andrew Ellis, Stephen Ford, Philip Oxford,
Peter Chillingworth, Helen Chuah, John Elliott,
Jackie Maclean, Jon Manning, Ann Quarrie and Laura Sykes.

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

Agenda - Part A

(open to the public including the media)

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

An Amendment Sheet is circulated at the meeting and is available on the council's website by 4.30pm on the day of the meeting (see Planning and Building, Planning Committee, Latest News). Members of the public should check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm on the day before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Pages

1. Welcome and Announcements

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

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

- action in the event of an emergency;
- mobile phones switched off or to silent;

- location of toilets;
- introduction of members of the meeting.

2. Have Your Say!

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

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

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

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

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

public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

6. Minutes

1 - 22

To confirm as a correct record the minutes of the meetings held on 1 July 2010 and 15 July 2010.

7. Planning Applications

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

1. 100394 121A London Road, Marks Tey, CO6 1EB
(Marks Tey) **23 - 30**

Proposed workshop building for touring caravan maintenance.
2. 100646 Tubswick, Mill Road, Colchester, CO4 5LD
(Mile End) **31 - 39**

Demolition of the remainder of severely fire damaged dwelling and associated garage.
3. 101124 Unit K1, Salmons Lane, Colchester, CO6 1RZ
(Great Tey) **40 - 44**

Change of use of Shed K1 from agricultural use to storage B1 office.
4. 101231 6 Columbine Mews, Stanway, CO3 0SG
(Stanway) **45 - 51**

Proposed single storey front extension.
5. 100735 Shepherds Lodge, Coles Oak Lane, Dedham, CO7 6DR
(Dedham and Langham) **52 - 57**

Removal of Condition 03 of application number COL/679/87 limiting occupation to persons wholly or mainly employed in agriculture.
6. 101079 Toad Hall, Colchester Road, Chappel, CO6 2AE
(Great Tey) **58 - 63**

Proposed rear extension and new roof over property to form

additional rooms within roof space. Resubmission of 100712.

8. Exclusion of the Public

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

PLANNING COMMITTEE

1 JULY 2010

Present :- Councillor Ray Gamble* (Chairman)
Councillor Helen Chuah* (Deputy Mayor)
Councillors Peter Chillingworth*, John Elliott*,
Andrew Ellis, Stephen Ford, Theresa Higgins*,
Jackie Maclean*, Jon Manning*, Philip Oxford* and
Laura Sykes*

Substitute Members :- Councillor Barrie Cook for Councillor Helen Chuah*
Councillor Wyn Foster for Councillor Ann Quarrie*

Also in Attendance :- Councillor Mike Hardy
Councillor Sonia Lewis
Councillor Terry Sutton
Councillor Julie Young
Councillor Tim Young

(* Committee members who attended the formal site visit.
Councillor Manning was present only at the site visit for
minute no. 37.)

29. Minutes

The minutes of the meetings held on 3 June and 17 June 2010 were confirmed as a correct record, subject to Councillor L. Sykes being noted as present at the site visits on 3 June 2010.

30. 100183 Land rear of D'Arcy Road, Colchester, CO2 8BA

The Committee considered an application for minor amendments to the size and design of a pair of semi detached dwelling houses granted permission under 071668 together with parking facilities as previously approved. The minor amendments comprised an 'L' shaped footprint in place of the approved rectangular footprint which involved extending the dwellings into the front gardens by approximately two to three metres and a new window proposed in the side elevation. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that –

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

Councillor John Elliott (in respect of his former acquaintance with the applicant) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

31. 100704 Bluebells, Drakes Corner, Great Wigborough, CO5 7SA

The Committee considered a retrospective application for a stable block/hay store on land to the rear of the dwelling. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. Reference was made to concerns which had been expressed regarding the resident of Teal Cottage and her allergy to horses and a letter confirming the significant allergy had been received from the resident's doctor. The stable building had been measured on site at three metres from the boundary of Teal Cottage and it had been suggested by the neighbour that the stable be relocated further from the boundary. A fence from the stable to the boundary of Teal Cottage could be used to exclude horses from the area between the stable and the boundary of the cottage. The authorised use of the land was unclear as it had possibly been used as a garden since the 1980s and a paddock since 1994 and in that situation the stable building would be considered to be permitted development.

Peter Headford addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the neighbour having suffered an extremely acute allergy to horses for all of her life and there was the strong likelihood that she could have an anaphylactic shock which could be fatal. The neighbour had been in treatment at Addenbrookes Hospital for many years and her youngest daughter had also begun to show similar signs which was under investigation. However, they did not want to stop Mr Taylor from keeping a horse but requested that he move the stable; failure to accede to this request could result in the neighbour and her daughter having to move house. They had sought legal advice in respect of Human Rights and disability discrimination issues.

Chris Tivey addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. When he was purchased the stables there was no existing boundary. Mr Taylor had erected the stable within the lawful curtilage. If the stable had been erected further west it would have been permitted development and would have been closer to the cottage; this was the alternative position when considering the application. On a recent hot day no smells, odour or mess was apparent and since the manure had been removed the nuisance had ceased. There was no minimum distance between the stable and any related dwelling but Teal Cottage was 43 metres from the stable. The applicant's granddaughter also suffers from a similar health issue therefore they are mindful of the position.

It was explained that health and safety was a material consideration but there was no

specific guidance or legislation in this respect. In determining the application consideration of normal criteria would be appropriate, for example the distance of the stable from the property. An investigation of other authorities' websites made reference to a distance of 30 metres from a residential property to a stable and this situation met that requirement. Horses can be kept on land without planning permission. There was nothing specific in Human Rights legislation to take account of this situation.

Members of the Committee were made aware that the letter from the doctor made it clear that the neighbour suffered from a significant allergy to horses and they considered that the stable was too close to that boundary and should have been sited as far away as possible. There was a view that it should be moved or refused, although it was recognised that the stable may not in fact need permission. Some members wanted more medical information whilst others considered that the best solution was to use fencing to prevent horses from getting close to the neighbouring garden. They were aware that retrospective applications had to be considered in the same way as fresh ones. It was suggested that some discussions be held with the applicant to try and accommodate the neighbour's needs in the light of the extraordinary circumstances.

RESOLVED (UNANIMOUSLY) that consideration of the application be deferred for discussions with the applicant on relocating the stable further away from Teal Cottage.

32. 100809 449 Ipswich Road, Colchester, CO4 0HF

The Committee considered an application for the relocation of an approved dwelling on plot 8 of planning approval 090150 dated 12 May 2009. The application proposed the relocation of the four bedroom dwelling on plot 8 three metres closer to the Evergreen Drive frontage which will have the effect of increasing the private amenity area for this property from 130 square metres to 170 square metres. The design, size, parking provision and details otherwise remain as originally approved. 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.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. In response to queries from members of the Committee, she confirmed that the parking provision was in accordance with the Council's standards and that the Tree Officer had confirmed that there would be no impact upon the roots of the remaining sycamore tree.

RESOLVED (MAJORITY voted FOR) that –

(a) Consideration of the application be deferred for completion of a supplementary Legal Agreement under Section 106 of the Town and Country Planning Act 1990, linking this planning permission to the contribution previously paid in respect of application 090150.

(b) Upon receipt of a satisfactory supplementary Legal Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

33. 100886 6 East Mersea Road, West Mersea, CO5 8SJ

The Committee considered an application for the construction of a single storey outbuilding for holiday let accommodation. The proposal comprises the erection of a building located within the front garden area of the Old Forge House. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Councillor Ray Gamble (in respect of his acquaintance with the agent, Gordon Parker) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

34. 100915 St Ives Farm, St Ives Road, Peldon, CO5 7QD

The Committee considered a retrospective application for the removal of Condition 2 of permission attached to 072151 for building 2 on the site. This building has been subdivided into two Units, 1 and 2, which are currently occupied by two tenants carrying out two different uses. Condition 2 restricts the use within the building to “the overhaul and repair, sale and maintenance of contractors plant, sale of associated spare parts and associated offices, all as stated in the application and for no other purpose in Class B1”. The requested use is to permit the sale of packaging tape, bubble wrap, shrink wrap and stock boxes and the manufacture of bespoke cardboard boxes. If Members were minded to approve this application it was recommended that Condition 2 should be replaced by a condition restricting the use to that applied for. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred to await the views of the Highway Authority.

(b) Upon receipt of confirmation from the Highways Authority that their recommendation is for approval, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

Councillor Ray Gamble (in respect of his acquaintance with the agent, Gordon Parker) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

35. 100940 St Ives Farm, St Ives Road, Peldon, CO5 7QD

The Committee considered a retrospective application for the removal of Condition 2 attached to permission 072151 for building 2 on the site. Building 2 has been subdivided into two Units, 1 and 2, which are currently occupied by two tenants carrying out two different uses. Condition 2 restricts the use within the building to “the overhaul and repair, sale and maintenance of contractors plant, sale of associated spare parts and associated offices, all as stated in the application and for no other purpose in Class B1”. The requested use for this Unit is to permit the continued use by Swift Boats. Their business involves the repair and maintenance of wooden boats and sale of ancillary equipment. If Members were minded to approve this application it is recommended that a "personal" consent to Swift Boats be given. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. It was not anticipated that the Highway Authority would object to this proposal. He also explained that the hours of use differed from the previous application for another unit in the same building because they responded to the differing needs of the relevant companies.

Gordon Parker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The existing approval was for an agricultural engineer and plant business. He commented that if all four buildings had to retain the current use it would result in an increase of large lorries visiting the site. The proposals for the two uses were both tied to specific operators and they operated with small vehicles which were mainly staff cars and bicycles.

Councillor Sutton attended and, with the consent of the Chairman, addressed the Committee. He referred to the two units in the building having different permitted hours of use and asked that the hours of use for both units to be consistent and for this application the hours of use be amended to those for Unit 1, the previous application on this agenda.

Members of the Committee were in agreement that the hours of use for both units within the building should be consistent.

RESOLVED (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred to await the views of the Highway Authority.
- (b) Upon receipt of confirmation from the Highways Authority that their recommendation is for approval, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, subject to confirmation from the agent that the applicant is in agreement for the hours of

use to be amended to those permitted for application 100915.

(c) In the event that the agent does not agree to the amended hours of use, the application to be reconsidered by the Committee.

Councillor Peter Chillingworth (in respect of being employed on occasions by the same planning practice as the agent, Peter Le Grys) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7 (3)

36. 101011 Hill House Farm, Colchester Road, West Bergholt, CO6 3JQ

The Committee considered an application for a change of use of farm buildings to a trampoline activity centre for those with physical disabilities and special learning needs. This application was a resubmission of application 100134 which had been refused under delegated powers and was now the subject of an as yet undetermined appeal. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit to the application site and to the applicant's current premises in Smeaton Close, Colchester, in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the application site.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mark Pollitt addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. His main objections were that the proposal was contrary to current council policies, that the proposed development was outside the village envelope, adjacent to listed buildings and only accessible via a private drive leading onto a new farm track, and that the buildings would need heating, lighting and other facilities for the proposed use which would be a commercial business use and may lead onto other things.

Alderman David Cannon addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application on the basis that Bounceability provided an essential facility with beneficial effects for members of society with a range of difficulties and from all age groups. This is the only trampoline facility in Great Britain providing for those with special needs; ninety percent of users of the facility were disabled, more than twenty-four care homes and special needs schools used the facility as well as many private family clients and those with no special needs. If the building was in full agricultural use far larger vehicles would visit the site.

Members of the Committee had mixed opinions on the application. Some members considered that this was a valid case for farm diversification which was supported by PS7 in respect of redundant buildings which this appeared to be. Diversification normally required an acceptable use with no harm caused to the landscape or other

rural considerations, and whilst this site did lead onto a busy road the Highway Authority had not submitted objections. If the Committee were to approve the application it should be for this use and personal to the applicant. Other members of the Committee were concerned that the site was outside the village envelope and that the facility would require facilities such as toilets, water, lighting and storage. It was suggested that consideration of the application be deferred for a sequential test and if it was a departure from the Core Strategy then a business plan should be submitted. The objector referred to a second access which was not apparent on the site visit but it was noted that some of the farm buildings had been given permission for residential use.

It was noted that the application was a resubmission of an earlier application which was substantially the same as the earlier one but accompanied by some endorsement and support from other agencies. It was confirmed that these buildings were definitely redundant and diversification in the form of an alternative use for redundant buildings is generally supported to supplement a viable agricultural business; however, although these were new buildings which had been used for storage there was a strong officer view that the buildings should be in agricultural use. The first principal of development in rural areas is that the use must be one which has to take place in a rural area. If there were no alternative sites in Colchester then refusal was the correct decision. The use proposed would generally incur visits mainly by minibus and the buildings were served by a farm track which merged into a joint access from the highway. If any further information was required the application should be deferred.

In addition it was explained that the Government advice on personal conditions was that they should be used sparingly, particularly where capital money was expended, a business plan could demonstrate that it was a viable proposition and in that circumstance a personal use might be appropriate. A business case could be put forward to satisfy members concerns targeted at a worthy cause. If a sequential test was required it would highlight that there will be a building within the urban area suitable for this use.

RESOLVED (MAJORITY voted FOR) that the application be approved with any conditions and informatives that the Head of Environmental and Protective Services requires including a condition limiting the use for that specified and a further condition limiting the use to the applicant.

Councillor Stephen Ford (in respect of his acquaintance with the agent) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

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

37. 091325 140 High Street, Wivenhoe, CO7 9AF

The Committee considered an application for amendments to an approved scheme F/COL/06/0799 which comprised the construction of an extended cellar, the provision of outside seating including the removal of Highway Rights, minor elevational amendments and the retention of existing store buildings in connection with F/COL/06/0799. The application was considered at the Committee's meeting on 21 January 2010 and deferred in order to carry out consultation with the Highway Authority. As a result of subsequent discussions between the agent, planning and highway officers, amended drawings have been submitted. The Committee had before it a report which detailed the amendments to the original approved scheme, 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.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to the response to the amended drawings from the Highway Authority which were set out on the Amendment Sheet. This is a busy junction and the main concern was in respect of the width of the pedestrian footway particularly along Belle Vue Road, but also along the frontage on the High Street. In the original scheme along the Belle Vue frontage soft landscaping was proposed but following discussions between the planning and highway officers and the agent it was now proposed to be left open with a gravel surface.

Andrea Vaughan, Wivenhoe Town Councillor, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Her main concern was in respect of the high rights which had been removed over the footway. She held the view that this would endanger pedestrian safety. She was also concerned that there would not be sufficient parking for the occupants of the flats and that the solid wall along the High Street frontage would affect visibility at the junction. The Town Council had an agreement in principle for a zebra crossing, but identifying a safe place to site the crossing could become problematic because of the solid wall impairing visibility. The width of the footway could also impair pedestrian safety. Wivenhoe Town Council supported the development and the business but because of their concerns she asked the Committee to deny permission because of reduced pedestrian safety.

Tim Snow addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This application was an attempt at addressing issues resulting from the previous scheme. There were issues regarding delivery vehicles, but they had always been present and the continued use of this building did not create any issues that did not already exist. They had held discussions with the Highway Authority and the Town Council and believed they had an agreement to the revisions to the High Street elevation but that seemed not to be the case. The footway widths had been maintained to those that had existed formerly and he was confident that highway rights did not exist. The footway on the frontage had been widened and it would be handed over to the Highway Authority to be held in perpetuity.

Members of the Committee were of the view that this was a gateway building in a Conservation Area and was much improved and in keeping with the streetscape; it was

considered a very good scheme. However it was a complex junction and reassurance was sought that the width of the Belle Vue Road footway was sufficient so that pedestrians would not have to walk in the road.

It was explained that the status quo had been maintained in terms of Belle Vue Road and the proposal was to keep the length of the path adjacent to the building open. At the corner there was 1.5 metres between the pedestrian safety barrier and the wall which enclosed the outside seating area. Whilst there was a significant width of footway between the barrier and the kerb it was requested that the Highway Authority be asked if the barrier could be moved to create a slightly wider footway.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet, subject to the Highway Authority being requested to giving consideration to the relocation of the pedestrian barrier at the High Street/Belle Vue Road junction in favour of pedestrians.

38. 100780 12 St Clare Road, Colchester, CO3 3SZ

The Committee considered an application for two storey extensions to the south and rear elevations, with rooms in the roofspace and the replacement of the existing roof. Also included is an open swimming pool to the rear and a pergola-style car port to the north elevation to the front of an existing garage. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. Amended plans had been received which addressed many of the concerns expressed. The boarding and flat roof were very contemporary. An additional condition was proposed on the Amendment Sheet to prevent the use of the terrace as a balcony.

Mrs Carbiner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. They had applied for the extension to improve and upgrade the house to a comfortable standard. The plans had been discussed with planning officers and with the majority of the neighbours who have given positive feedback. The balcony in the original plans has been removed to protect the privacy of neighbours. Access to the flat roof is for maintenance. The contemporary feature at the back of the house will not be seen. She confirmed that there was no intention to use the studio as a dentists studio.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. There have been a number of objections on this application but they should not be seen as confrontational in this area of special character and for neighbourly privacy and harmony. All fronting onto St Clare Road has been satisfactorily addressed as have the colour of the tiles, the large black roof and the overlooking into no. 10. There remain concerns about the car port and its proximity to the vertical posts to her fence and any interference with the footings of the fence and access for future maintenance. The elevation of timber boarding was also an issue.

The Mayor, Councillor Sonia Lewis, attended and, with the consent of the Chairman, addressed the Committee. She was pleased to hear Mrs Carbiner's confirmation about the intended use of the studio. She requested a condition restricting the use to residential only. She thanked officers and the applicant for all the work they had done and subject to responses to questions raised by Councillor Hardy and the addition of the condition for residential use only she was content.

It was explained that the pergola was a very basic timber frame bolted to the ground and not attached to the fence. It is a modern addition to a traditional building. A3 use would enable the householder to operate any form of medical services from his property, but it is restricted to householders only. It would be possible to add a condition for the property to be for residential use only.

RESOLVED (UNANIMOUSLY) that, subject to the receipt of satisfactory amended drawings, the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet together with an additional condition to restrict the use to residential only.

Councillor Stephen Ford (in respect of his acquaintance with the agent) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

39. 100481 Le Talbooth Hotel, Gun Hill, Dedham, CO7 6HP

The Committee considered an application for the removal of an existing compound containing storage containers and a portable toilet unit and its replacement with a new service building at the western edge of the hotel containing customer toilets, a wash up facility and an attic storage area. The Committee had before it a report in which all information was set out.

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

Councillor Jon Manning (in respect of being a student at, and employed by, the University of Essex) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

40. 091357 Avon Way House, Avon Way, Colchester, CO4 3TZ

The Committee considered an application for two blocks, A and B, of new student accommodation forming a total of thirty-eight new student bedrooms in nine cluster flats. The proposal provided two blocks each of three storeys facing onto the Avon Way House site and two storeys where they face the dwellings in Pickford Walk. The Committee had before it a report in which all information was set out, see also

Amendment Sheet.

Vincent Pearce, Planning Service Manager, attended to assist the Committee in its deliberations. He explained that the issue of parking and its impact was the main outstanding issue. Since the last meeting the applicant had agreed to increase number of parking spaces within the development to 57 spaces which would be 18 spaces below what would be required across the entire Avon Way House site if it was in single ownership. The parking policy for student accommodation is one space for every five units. The pre-existing units comprise 254 bedrooms requiring 51 parking spaces, the additional units, blocks C to F recently given permission comprise 81 bedrooms requiring 16 parking spaces; and blocks A and B, the subject of this application, comprise 38 bedrooms requiring 8 spaces, making a total of 75 parking spaces. However, he explained that the planning system could not require an applicant to make up a shortfall on an earlier scheme and there are adequate parking spaces for blocks A and B. He was of the view that it would be unreasonable to require the applicant to make up the shortfall because the applicant's ownership does not extend to the land occupied by the pre-existing units. It was noted that the Highway Authority had previously recommended refusal on the basis of parking in surrounding streets, however, they had lifted their objection subject to 57 spaces being provided and being available without charge to occupiers. Students are currently charged £50 per year for a parking space which may be increased to £354 per year. However, the owners have suggested that they would agree to the fee being removed to encourage student parking if required to do so.

Margaret Shipley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The two blocks were two storeys high at the front and three storeys high at the rear and would be constructed on ground higher than the dwellings in Pickford Walk. She quoted from the Essex Design Guide that upstairs flats can cause problems and should be no closer than thirty-five metres. This applies to blocks A and B, and a fifteen metre gap is insufficient. The report made no mention of the noise and disruption during construction. During term time the surrounding roads would be used for parking. She appreciated that the Mansion Group have increased the number of parking spaces, but the revised number would be inadequate for the additional number of students. Families with children live in Avon Way and the parking situation on this site would make Avon Way dangerous for people who would have to cross the road between parked cars.

Cyril Ogunmakin addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This application exceeds all of the Design Guide requirements. It is student only accommodation certified by a national body. There were numerous tenants who live around the property. He highlighted road accident statistics for March 2007 when there were six car accidents due to cars parked in Avon Way, two years before students were brought on to this site. They have done all they can to re-designed the layout and increase the car parking. Legal advice was clear that car parking cannot be imposed retrospectively. This proposal will contribute towards the growth of Colchester and is the right decision for the people of Colchester.

Councillor J. Young attended and, with the consent of the Chairman, addressed the

Committee. She considered the diagram on the supplementary agenda very helpful. The planning officer referred to blocks A and B, currently being used as parking sites, which will no longer be available when built. She considered it entirely unreasonable to allow two blocks of flats to be built knowing the parking provision was inadequate. She considered it unfair, unreasonable and unjust for Mr Groves to have to live with three storey flats a few metres away from his front door. Mansion House had claimed there was no waiting list for parking on site but it appeared that they were charging students for the right to park. The Highway Authority had responded that they would be objecting to the proposal. She believed that there were people other than students living on the site and she wanted a condition to restrict the new accommodation to student occupation only. She asked if such a condition applied to the existing flats and noted that the density can be increased if students are the intended occupants. She was disappointed that there had been no changes made in terms of adaptations for people with disabilities.

Councillor T. Young attended and, with the consent of the Chairman, addressed the Committee. He believed that if there had been six car accidents in 2007 local councillors would be aware of them. He had asked officers if there were any non-students living on the site. He believed that there would be undue pressure on surrounding streets as a result of on-street parking and considered that Mansion House wanted the maximum density and to charge students for parking. He was concerned that residents would be affected by overlooking and loss of amenity. He reported that the Student Union consider the density on this site is too great.

The Chairman referred to a statement made by Mr Ogunmakin relating to objectors having misled the Committee and to a planning officer being labelled as corrupt. He stated that these views were personal to Mr Ogunmakin, and invited Vincent Pearce, Planning Service Manager, to comment. He explained that there had been an investigation into the allegation that money had been paid to the Council so the application would go through. Planning officers, the applicant and his advisers and the party making the allegation had been interviewed and he had found no instance of any wrong doing on anyone's part. However, he had discovered there was confusion about Section 106 planning gain, in that it was believed by the complainant that the payment of a financial contribution via a Section 106 Agreement was in some way buying a permission, whereas Section 106 payments were used to mitigate any adverse impacts of the development on the area.

Vincent Pearce explained that the flats would be higher than the houses in Pickford Walk. Blocks A and B have been moved back and the three storey element was now on the inside of the scheme only. Since blocks A and B had been moved back, this scheme complies with existing standards. Mrs Shipley referred to thirty-five metres distance in terms of flats which applies to a view from a living room at the rear of a flat, but this is a front elevation not a rear elevation and it complies with all the standards. He went on to explain how the council's separation standards and daylighting standards are applied. No representations had been received from the Student Union. The applicant has gone a fair way to amend the scheme to satisfy standards and has made a commitment to reduce the parking fee but the difficulty in the shortfall of parking spaces remains. His view was as earlier stated that it would be unreasonable to ask for more spaces. In respect of the accident record for Avon Way, accidents occurring in

2007 would not necessarily indicate the potential for accidents in 2010 and he did not know whether the cars belonged to students or otherwise. Compliance with DDA legislation was a matter for building regulations not for planning.

There were no conditions which applied to the earlier 1970s blocks for their occupation only by students but he had no reason to suspect that they are occupied by anyone other than students based on evidence provided by the applicants. The body responsible for regulating and checking student accommodation have accepted that this is good accommodation. Noise from construction can be controlled by a condition on the hours of working. The parking ratio of one space per five units of accommodation incorporates any visitor parking which is the same situation for residential standards. The applicants have given a commitment to removing parking charges if it was felt to be beneficial and this can be included in the Section 106 agreement together with the management plan on the parking to ensure allocation is made available to students. This scheme could be controlled by a badge system which could be checked for abuse; the applicants would take their own action.

Members of the Committee remained concerned substantially about the arrangements for car parking on the site. It appeared that the whole Avon Way House site was in a single ownership when the 1970s blocks of flats had been built. At that time the occupants of the 1970s blocks of flats had been used to parking their cars within the site on areas which comprise the current application site which has more recently been sold off to the applicants, The Mansion Group. The proposed new blocks of flats are located on the former car parking areas thus reducing the area available for car parking. The Committee's concern was that there would not be sufficient car parking spaces within the entire site for the use of students in all the blocks of flats, new and pre-existing, thus forcing students to park their cars in streets around Avon Way causing obstruction and nuisance to road users and a danger to pedestrians crossing the roads. Insufficient car parking for disabled car users was also mentioned as an issue. Members were aware that if the application went to appeal an Inspector would not look at historical aspects of parking but only at whether appropriate standards were proposed for this application. The car parking provision for the whole site would be one space for five units which equates to 75 spaces, whereas 57 are now proposed in this revised scheme which is 18 spaces too few across the whole site. If blocks A and B were removed from the scheme there would be sufficient parking on the entire site. Members were disappointed that the new blocks were being built on parking areas for the pre-existing blocks. It was recognised that the applicant had complied with most of the policies.

Other issues mentioned by the Committee concerned the density on the whole site after the proposed new blocks of flats were built which would leave very little amenity area. Landscaping of car parking areas was also an issue. There remained concerns that some of the 1970s accommodation may not be occupied by students and the density required for residential non-student accommodation was much lower than the ultimate density on the whole site would be. They questioned whether this application would enhance the area.

Vincent Pearce explained that the applicants had given a commitment to remove parking charges if it was felt to be beneficial and this could be included in the Section

106 agreement together with a management plan on parking to ensure the allocations are made to students. It was acknowledged that there was very little amenity space within the whole site, but across the cycleway is a large area of open space for recreation and leisure, so it would be difficult to justify a refusal based on the lack of public amenity space. The scheme, however, was deficient in private amenity space. It could be said that when viewing the site from the nature reserve the development may have a detrimental impact on the countryside and on Pickford Walk and does comprise over development. Although a high density will have been created across the entire site when completed, it is close to the University and provides much needed student accommodation.

RESOLVED (MAJORITY voted FOR) that the application be refused on the following grounds:-

- Overdevelopment;
- lack of amenity space on site; and
- inadequate car parking resulting in overflow parking in surrounding streets to the detriment of highway safety and residents' amenity.

41. Enforcement Report // Home Farm, Mersea Road, Peldon, CO5 7QG

The Head of Environmental and Protective Services submitted a report on proposed listed building enforcement action requiring the removal of the UPVC windows, which are inappropriate and adversely affect the special interest of the listed building, and the installation of wooden windows more appropriate to the building with a compliance period of eight months. The windows which were removed, although of timber rather than UPVC, were not themselves of historic merit or appropriate to the building. It is not considered appropriate to prosecute in this case, as no historic fabric has been lost. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that an enforcement notice be served at Home Farm, Mersea Road, Peldon, CO5 7QG requiring the removal of the UPVC windows and the installation of wooden windows more appropriate to the building with a compliance period of eight months.

42. Enforcement Report // Annex Building at 43 Peppers Lane, Boxted, CO4 5HL

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the cessation of use of the former storage area as a separate unit of accommodation and removal of kitchen and bathroom which facilitate the unauthorised use; the cessation of use of the annex accommodation as a separate unit of accommodation; and the removal of fencing affording a private garden to the annex building, facilitating the unauthorised use, all with a compliance period of four months. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that –

(a) The owner be permitted a period of time to demonstrate that the breach as reported has ceased.

(b) In the event that the breach has not ceased, the Head of Environmental and Protective Services be authorised to serve an enforcement notice at 43 Peppers Lane, Boxted, CO4 5HL requiring the cessation of use of the former storage area as a separate unit of accommodation and removal of kitchen and bathroom which facilitate the unauthorised use; the cessation of use of the annex accommodation as a separate unit of accommodation; and the removal of fencing affording a private garden to the annex building, facilitating the unauthorised use, all with a compliance period of four months.

43. Revised Planning Service Enforcement Strategy

The Head of Environmental and Protective Services submitted a report on a proposed revised enforcement strategy. The Committee were requested to agree and adopt the revised Planning Service Enforcement Strategy reproduced as an appendix to the report, and to authorise the Head of Environmental and Protective Services to review the Planning Service Enforcement Strategy annually and amend it where appropriate in the light of such a review.

Members were advised that the Legal Services Manager has confirmed that these are matters which rightfully sit with the Planning Committee to determine. The Committee had before it a report in which all information was set out.

Vincent Pearce, Planning Service Manager, and Geoff Kirby, Major Applications Support and Enforcement Manager, attended to assist the Committee in its deliberations.

RESOLVED (UNANIMOUSLY) that –

(a) The revised Planning Service Enforcement Strategy be agreed and adopted as appended to the report by the Head of Environmental and Protective Services.

(b) The Head of Environmental and Protective Services be authorised to review the Planning Service Enforcement Strategy annually and amend it where appropriate in the light of such a review.

PLANNING COMMITTEE
15 JULY 2010

Present :- Councillor Ray Gamble* (Chairman)
Councillor Helen Chuah* (Deputy Mayor)
Councillors Peter Chillingworth*, John Elliott*,
Andrew Ellis*, Stephen Ford, Jackie Maclean,
Jon Manning*, Philip Oxford*, Ann Quarrie* and
Laura Sykes*

Substitute Member :- Councillor Peter Higgins for Councillor Theresa Higgins

Also in Attendance :- Councillor Sue Lissimore

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

Councillor Ray Gamble (in respect of being a School Governor of St Johns C of E Primary School) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) He made representations on the application in accordance with Paragraph 12 (2) of the Code of Conduct for Members and then left the meeting during its consideration and determination.

44. 100610 St Johns C of E Primary School, Clay Lane Grove, Colchester, CO4 0HH

The Committee considered an application for the proposed construction of a single storey extension to form an enlarged office suite and reception, a proposed construction of a single storey extension to form an enlarged staff room, the associated internal alterations and the erection of new entrance gates and fencing to improve site security with associated external works. The Committee had before it a report in which all information was set out.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations.

Councillor Gamble addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. There was unanimous acceptance of the need for the additional space this proposed construction would bring, but some residents had expressed various concerns about the erection of the new entrance gates. Following discussions between residents and school staff their reservations had primarily been allayed. Councillor Gamble asked that the Committee consider an extra condition that whilst work was ongoing, materials and construction vehicles must be retained on site.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, together with an additional condition that all materials and construction vehicles would be retained on site for the full duration of the

construction works.

45. 100684 International Farm Camp, Hall Road, Tiptree, CO5 0QS

The Committee considered an application for an increase in the number of mobile homes from 30 to 55, the provision of access to Hall Road, service access roads, bases for 55 mobile homes, outdoor recreation, open space and amenity planting. Permission is also requested for occupancy of the mobile homes between February to November each year in order to meet the needs of the extended growing period. The Committee had before it a report in which all information was set out.

Nick McKeever, Planning Officer, attended to assist the Committee in its deliberations.

Mr. Allwork addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He said the camp changes significantly at different times of the year and was an inappropriate site that adversely affected property values and sales. Mr. Allwork said the new entrance created a dangerous exit and would not be used, with motorists preferring to use Hall Road as their main access. Allowing the new entrance appeared to contravene a 2004 planning application, the construction of four bungalows at the site of the new entrance, rejected due to concerns of traffic and safety.

Members of the Committee appreciated that the new site entrance would be dangerous and were concerned that Tiptree's Sewage Works, which they were being told by Anglia Water was full to capacity, would not cope with the additional use.

It was explained that the Highway Authority are satisfied with the application based on the level of usage information provided by the applicant, and Anglian Water had confirmed there is sufficient water resources and foul sewage network to accommodate this additional use.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report, with an additional condition regarding drainage, with officers to liaise with Anglian Water to provide a definitive statement of water resources and foul sewage network capability and capacity.

46. 101046 Block E, Cowdray Centre, Mason Road, Colchester, CO1 1BP

The Committee considered a retrospective application for a change of use from A1 to D2 (Assembly and Leisure) to run a full time martial arts club. The Committee had before it a report in which all information was set out.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr. Reynolds addressed the Committee pursuant to the provisions of Planning

Committee Procedure Rule 8 in opposition to the application. Mr. Reynolds opposed the application on the grounds of health and safety due to visitors to the building having possible exposure to asbestos dust from the potential asbestos in the 1940s constructed building and the excessive fumes created by the Auto Trader business adjacent to the application site.

It was explained that whether the building was fit for purpose in regards to asbestos was covered by other legislation, not a matter of planning consideration, but for the Health and Safety Executive to determine.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions as set out in the report with an additional informative note to the applicant drawing their attention to the potential of asbestos in the building and the need to ensure this does not represent a health and safety issue.

47. 101062 Lorkin Daniel Playing Field, Lexden Road, West Bergholt

The Committee considered a Variation on Condition 09 of Planning Permission F/COL/00/1277 to vary hours of use on a permanent basis. The Committee had before it a report in which all information was set out.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mrs. McSwenney addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Mrs. McSwenney, who lived opposite Lorkin Daniel Playing Field had no complaints about the facility that is very well managed. With no restriction on the use of times, Mrs. McSwenney was concerned that noise will become a problem during late evenings and asked that the hours of use be restricted to 10.00 p.m.

Mr. Gili-Ross, West Bergholt Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application, saying this was one of three main recreational areas managed by the Parish Council including playing fields, facilities and the Community Hall. Mr. Gili-Ross said the Parish Council has shown their capability for managing these facilities over many years and it would be illogical for the Parish not to manage the playing field.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions as set out in the report, with an added condition relating to the overall hours of use being between 8.00 a.m. and 10.00 p.m.

Councillor Ray Gamble (in respect of being a former member of the Board of Governors of Friars Grove Junior and Infants School) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

48. 101086 Friars Grove Junior and Infants School, Upland Drive, Colchester, CO4 0PZ

The Committee considered an application for the installation of one pair of metal framed gates within the existing perimeter fencing to provide access for maintenance vehicles etc. for Chalfont Road on the existing school playing field, and the construction of the associated crossover and standing area. The Committee had before it a report in which all information was set out.

Nick McKeever, Planning Officer, attended to assist the Committee in its deliberations.

Mr. Bidwell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Mr. Bidwell was concerned about the vagueness within the original planning application in regards to information on the access to the site both during and after completion of the works, with clarification needed on restrictions on certain types of vehicles and details of supervisory control.

Mr. Green addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application, saying it was necessary to enable the linking of the schools. There was no intention that the gates would be used by pupils or parents, but that the gates would remain locked with restricted access given by the school supervisors.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions as set out in the report, with the following additional conditions;

- i) The new gated access hereby permitted shall not be used in addition to the existing access currently used to maintain the school playing field and shall not be brought into use until such time as the existing access used to maintain the school playing field can no longer be used as a result of any proposals to extend the school, such as detailed in the submitted Design and Access Statement.
- ii) All construction vehicles and materials to be parked and/or stored on site.

49. 091539 Land to rear of 185 Shrub End Road, Colchester, CO3 4RG

The Committee considered an application for the change of use of log cabin from ancillary residential use to training room in connection with child care nursery. 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.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr. Shah, whose property is adjacent to land on which the cabin is sited, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Given the close proximity of his property to the cabin, he had major concerns on three issues, the possible misuse of the cabin the times of usage and the noise generated by the proposed training facility.

Mr. Stemp addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application, emphasising that the application is solely for the change of use of the log cabin, and that the conditions attached to the application would impose restrictions, which was not the case at present. Mr. Stemp said it was the intention that the cabin would only be used between the hours of 8.30 a.m. and 6.00 p.m. Monday to Friday.

Councillor Sue Lissimore attended and, with the consent of the Chairman, addressed the Committee. Councillor Lissimore said concerns about the use of this auxiliary building had been dragging on for many years, with its use bringing business much closer to the residents. Councillor Lissimore was also concerned that the students, fourteen to eighteen year olds, would be difficult to control during break times, causing disturbance to all residents in close vicinity to the cabin. Councillor Lissimore said that should the application be given temporary approval, could an extra condition be included to restrict the hours of use from 9.00 a.m. to 5.00 p.m. Monday to Friday.

Following discussions with officers, Members of the Committee remained concerned about the appropriateness of the cabin for its intended use, whether it was fit for purpose and large enough for up to 20 students at any one time. Members mentioned many areas of concern including, which of the two entrances to the cabin was the main entrance, ventilation, air cooling, sanitation arrangements, control of students during break times and hours of use. Officers advised that a deferral, in order to seek further clarification on the issues raised was an appropriate way forward.

RESOLVED (UNANIMOUSLY) that the application was deferred in order for officers to clarify the following:-

- The precise size of classes (Officer to note that Members consider 20 students to be too great and have suggested there should be no more than 15).
- The hours of use including an explanation as to why it is considered necessary to operate until 6.00 p.m.
- Access arrangements to the building including footpath improvements and lighting arrangements.
- How students are to be managed during breaks and where they will take them – e.g. will they be allowed to congregate immediately around the building or will they be required to go to another part of the site.
- Confirmation that the building is fit for purpose for a teaching establishment – including heating arrangements, ventilation arrangements, sanitation arrangements and work station requirements. Confirmation is required from Ofsted (or the appropriate authority) that the building is acceptable for teaching.
- Access arrangements to the building including the possibility of closing the door immediately opposite the neighbours fence for general use.
- Provide revised drawings showing the building as built.

- Provide highway comments.

50. 100832 61 Empress Avenue, West Mersea, CO5 8BL

The Committee considered an application for the change of use from dwelling house to a Bed and Breakfast house (C1) with three letting rooms. 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.

51. Enforcement Action // The Chicken Shed, Meeting Lane, East Mersea

The Head of Environmental and Protective Services submitted a report on proposed enforcement action in respect of the unauthorised residential use of part of an agricultural building should cease and the kitchen, bathroom fittings and all domestic belongings, together with the septic tank should be removed. The Committee had before it a report in which all information was set out.

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

Mr. Richardson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of enforcement action. Mr. Richardson, who occupies land on two sides of the Chicken Shed property said the building in question had developed from a Chicken Shed to a building for various industrial uses over the last ten years, and trying unlawfully to make this a place of residential use was a common 'Chicken Shed ploy'.

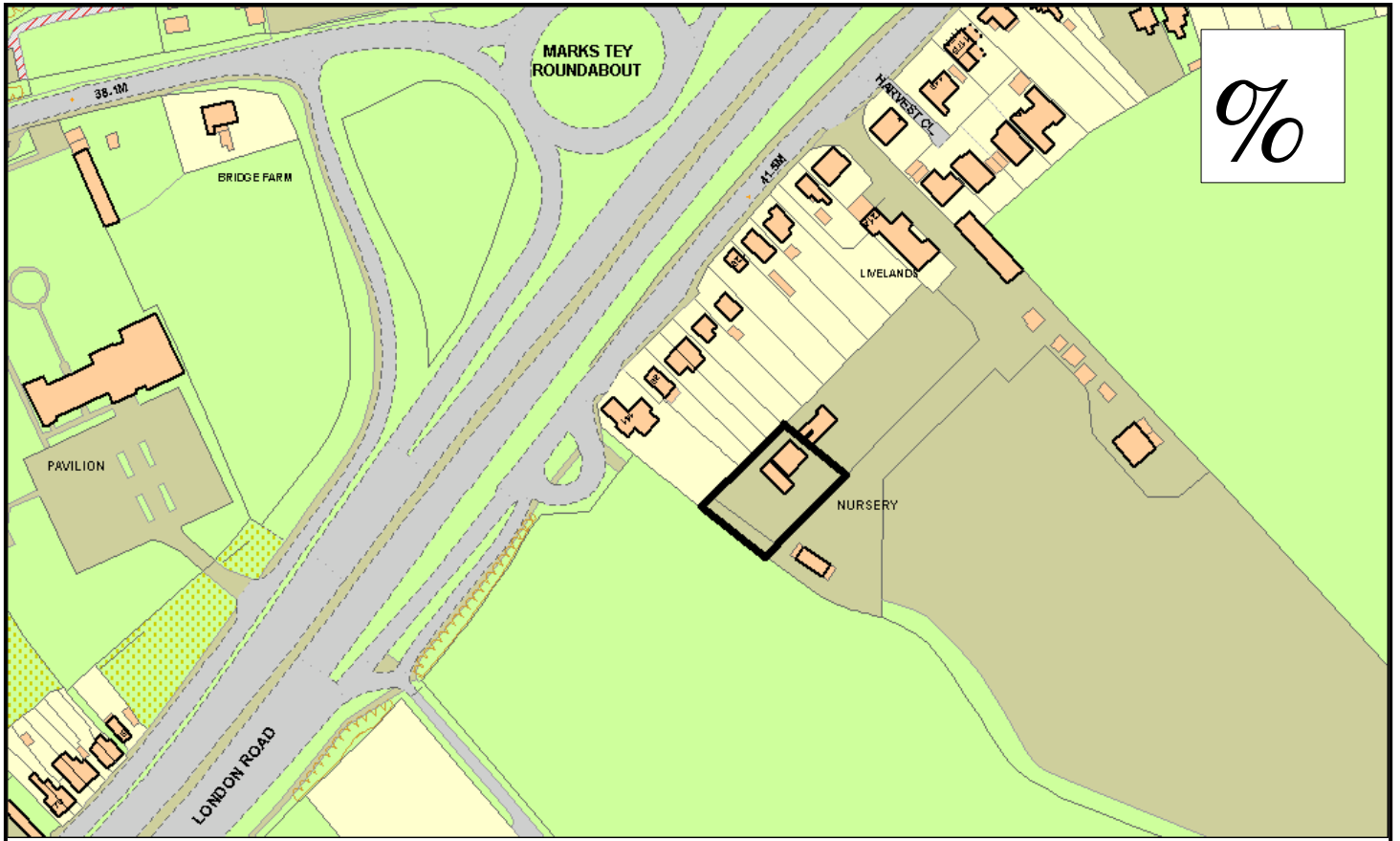
RESOLVED (UNANIMOUSLY) that an enforcement notice be served at the Chicken Shed, Meeting Lane, East Mersea requiring the cessation of unauthorised residential use of part of the agricultural building, and the kitchen, bathroom fittings and all domestic belongings together with the septic tank are removed from the building, all with a compliance period of six months.

52. Enforcement Action // Plant Hire Site, Church Lane, East Mersea

The Head of Environmental and Protective Services submitted a report on proposed enforcement action in respect of the unauthorised material change from storage of plant and machinery to a mixed use for storage and repair of plant and machinery. The Committee had before it a report in which all information was set out.

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

RESOLVED (UNANIMOUSLY) that an enforcement notice be served at the Plant Hire Site, Church Lane, East Mersea requiring the cessation of the unauthorised mixed use of the building for storage and repair of plant and machinery, with a compliance period of six months.



Application No: 100394

Location: 121A London Road, Marks Tey, Colchester, CO6 1EB

Scale (approx): 1:1250

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Committee Report

Agenda item **7**

To the meeting of **Planning Committee**
on: **29 July 2010**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

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

7.1 Case Officer: Andrew Huntley

MINOR

Site: 121A London Road, Marks Tey, Colchester, CO6 1EB
Application No: 100394
Date Received: 3 March 2010
Agent: Clive Richardson
Applicant: Mr S Hernaman
Development: Proposed workshop building for touring caravan maintenance.
Ward: Marks Tey

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

- 1.1 This application is referred to the Planning Committee because the proposal is a non-householder application, there has been an objection to the proposal, which cannot be overcome by condition and the officer recommendation is for an approval.

2.0 Synopsis

2.1 The following report outlines the proposal for a new maintenance building and details the main planning issues relating to this case, which are the proposal's design, its impact on the character of the area and its impact on neighbouring residential amenity. The report will also consider the objections raised to this proposal and the additional information received by the applicant's agent. After these considerations, the report will recommend that the proposal be given approval.

3.0 Site Description and Context

3.1 The application site is located on the southern side of London Road and comprises a rectangular parcel of land at the northern end of the Livelands Nursery site. This portion of the site is adjacent to the rear gardens of nos. 121 to 141 London Road, and is separated from those properties by a row of conifer trees approximately 7 metres in height.

3.2 This portion of the site currently an open yard area, is adjacent to the existing maintenance and office building. Planning permission has previously been granted for the storage of 400 unoccupied touring caravans on much of the Nursery site and a service maintenance building which replaced a glasshouse.

4.0 Description of the Proposal

4.1 The application proposal is for a new workshop building for the maintenance of caravans stored on the site. The workshop building is to be sited at the north western corner of the caravan storage site, adjacent to the existing maintenance building. The building is roughly L-shaped and measures 15 metres wide by 16 metres long at its maximum points and would stand 6 metres high. The building is of a steel framed construction and would be clad in pressed steel, painted pacific blue.

5.0 Land Use Allocation

5.1 The entrance to the site is in the village envelope. The bulk of the site lies outside it with no specific designation (white land).

6.0 Relevant Planning History

6.1 T/COL/001392 - Change of use to allow temporary storage of unoccupied caravans, approved October 2000 and subsequently granted permanent approval by COL/03/0261 in May 2003.

6.2 COL/03/262 - Change of use to allow storage of unoccupied caravans granted temporary approval to May 2005.

6.3 COL/03/1372 - Retention of use of land for secure storage of unoccupied caravans and erection of earth bund on south and west boundaries approved November 2003.

6.4 COL/04/1764 - Extension of site used for secure storage of unoccupied caravans approved November 2004.

DC0901MW 01/02

6.5 COL/04/2303 - Change of use of redundant nursery buildings to Class B1 purposes approved March 2005.

6.6 COL/05/0692 – Change of use from two horticultural glasshouses, servicing and parking to open storage of unoccupied touring caravans and change of use from nursery service area to maintenance, repair, cleaning and valeting of unoccupied touring caravans

7.0 Principal Policies

7.1 The following policies from the adopted Colchester Borough Review Local Plan (March 2004) are relevant to the consideration of this application:

DC1- Development Control considerations

UEA11 – Design

EMP4 - Employment Uses in the Countryside

P1 and P2 - Pollution

7.2 In addition, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are also relevant:

SD1 - Sustainable Development Locations

UR2 - Built Design and Character

8.0 Consultations

8.1 Environmental Control: Awaiting response (to be reported in full on the Amendment Sheet).

8.2 ECC Highways: Does not wish to raise an objection to this proposal.

In addition to the details reported above, the full text of all consultations responses are available to view on the Council's website.

9.0 Parish Council's Views

9.1 No objections raised, other than to express concern over the noise levels to adjoining properties.

10.0 Representations

10.1 The number of people who have expressed their support for this application is zero and the number of objections received is one. The summary of the objection received is as follows:

- The site is outside the village envelope for permitted development.
- Excessive size, particularly in height. Existing permission excludes anything over 4m in height.
- Proposal is alongside public footpath
- There is no reference in the application or plan as to the site currently housing 480 caravans within the countryside.
- Noise

- The trees on the application plans are not in the ownership of the applicant and could be removed at any time.
- The site is in breach of its permitted operating hours and incorporates external lighting.
- The Council refused planning permission on a much smaller scale on existing buildings on an adjoining site by reason of too much profit and that the site would attract “alien beings”. By way of consistency, those same aspects apply.

11.0 Report

11.1 The main determining issues in this application are considered to be as follows:

- Design, Layout and Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Highway Matters
- Other Matters

Design, Layout and Impact on the Surrounding Area

11.2 This application seeks approval for an additional servicing building. This is proposed within the northwest portion of the site, to the rear of nos. 135 to 141 London Road. The facility is intended solely for works to caravans stored at the site. The design of the building is industrial in nature but is not out of keeping with the caravan storage use at this location and its siting adjacent to the existing maintenance building is considered appropriate. While the building is quite large, it is considered that it would not have a detrimental impact on the character of the area, due to the earth bund along the western boundary and the substantial soft landscaping along the boundaries of this part of the site.

11.3 Overall, it is considered that the design, layout and impact on the surrounding area is acceptable in this instance and accords with development plan policy.

Impact on Neighbouring Properties

11.4 It is considered that the building although quite large, would not have a detrimental impact on neighbouring amenity due to its siting, distance from neighbouring properties and the amount of soft landscaping along the northern boundary of the site.

11.5 The site already has a maintenance building for the servicing of caravans on the site and the Council’s Environmental Control department has not received any complaints in regard to the maintenance use. The use and activity associated with this new building will be the same as what currently occurs on the site. As such, it is considered that the proposal would be unlikely to cause any significant impact on neighbouring residential amenity providing the conditions attached to the previous consent for the existing maintenance building are replicated. The comments from Environmental Control should be available by the time of the committee.

11.6 Therefore, subject to the observations of the Environmental Control Team, no objections are raised in terms of the proposal’s impact on neighbouring residential amenity.

Highway Issues

- 11.7 This proposal does not raise any highways issues and the Highway Authority has not raised any objections.

Other Matters Raised in Representations

- 11.8 The proposals impact on residential amenity and the character of the area has already been considered earlier in the report. The application site forms part of a large caravan storage yard with 400 caravans. With the maintenance requirements of these caravans it is not considered unreasonable to have adequate servicing facilities. In regard to the other points raised within the objection letter, the fact the application site falls outside the village envelope does not necessarily mean that development cannot take place. The buildings height is considered acceptable in this location and the 4m restriction related to the storage of materials, goods plant and machinery etc within the storage area. The fact that there is a public footpath nearby does not mean that this proposal is unacceptable. The supporting statement does make reference to the caravan storage use but does not introduce a reason to refuse the application. The noise issues raised seem to be from the existing use of the site with people coming and going and playing their car radios. This is not a consideration for the proposed maintenance building on the site. While the trees may not be in the ownership of the applicant, there is no evidence that these are likely to be removed. Points seven and eight relate to the claim that the applicant is breaching permitted operating hours and the fact that the Council refused planning permission on an adjacent site. These are not material considerations that can be considered within this application. No information is given in regard to what application was refused and what the proposal was. In any case, each application needs to be considered on its own merits.
- 11.9 Therefore, in this instance, the objections raised by the neighbour do not warrant the refusal of this application.

12.0 Conclusion

- 12.1 Overall, it is considered that the proposal is acceptable in terms of its design, impact on the character of the area and neighbouring amenity. Therefore, it is recommended that the proposal be approved.

13.0 Background Papers

- 13.1 ARC; Core Strategy; HH; 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 - Non-Standard Condition

The maintenance and servicing facility hereby permitted shall be limited only to caravans being stored at the Livelands Nursery site.

Reason: For the avoidance of doubt as to the effect of this permission and in the interest of local amenity.

3 - Non-Standard Condition

The use hereby permitted for the maintenance and servicing of the caravans shall not take place at any time outside the hours of 0900 to 1800 Mondays to Fridays, 0900 to 1300 Saturdays, nor at any time on Sundays and Bank or Public Holidays.

Reason: To safeguard the amenities of neighbouring residential properties.

4 - Non-Standard Condition

The rating level of noise emitted from the site shall not exceed 5dBA above the background. The assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises

Reason: To safeguard the amenities of neighbouring residential properties.

5 - Non-Standard Condition

Any plant, equipment or machinery being used on the application site shall be installed, used and maintained so as to comply with condition no. 4 above. The noise generated by such equipment shall not have any noise frequency component that exceeds more than 5dB above the background frequency levels as measured at all boundaries near to noise-sensitive premises.

Reason: To safeguard the amenities of neighbouring residential properties.

6 - Non-Standard Condition

There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways.

Reason: To prevent pollution of the water environment.

7 - Non-Standard Condition

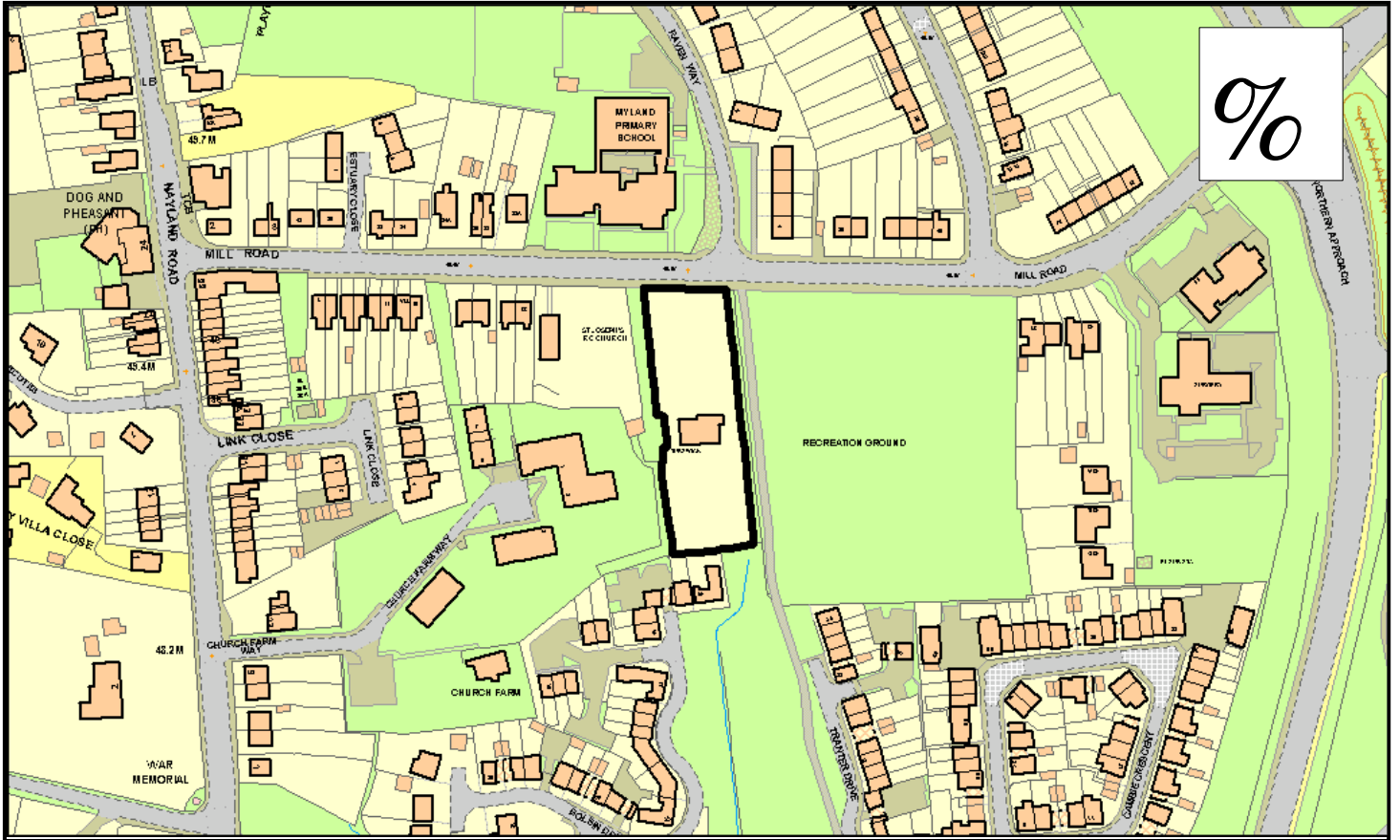
No external lighting fixtures for any purpose shall be constructed or installed until details of all external lighting proposals including floodlight or security lighting have been submitted to and approved by the Local Planning Authority; and no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To protect the amenity of the area from undesirable light pollution.

8 - Non-Standard Condition

Prior to being discharged into any watercourse, surface water sewer or soakaway all surface water drainage shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment.



Application No: 100646

Location: Tubswick, Mill Road, Mile End, Colchester, CO4 5LD

Scale (approx): 1:1250

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7.2 Case Officer: Alistair Day

MINOR

Site: Tubswick, Mill Road, Mile End, Colchester, CO4 5LD

Application No: 100646

Date Received: 6 April 2010

Agent: Linda S Russell Limited

Applicant: Mr & Mrs Richardson

Development: Demolition of the remainder of severely fire damaged dwelling and associated garage.

Ward: Mile End

Summary of Recommendation: Members endorse the recommendation to allow the demolition of Tubswick – Application referred to Secretary of State for ratification

1.0 Planning Report Introduction

- 1.1 This application has been brought to the attention of the Committee as objections have been received to the proposed demolition of a listed building known as Tubswick. Cllr Martin Goss has also requested that the Planning Committee consider this application.
- 1.2 It is recommended that Members visit the site in order to gain a true appreciation of the extensive fire damage that was caused to this building in December 2009.

2.0 Site Description

- 2.1 Tubswick is situated towards the rear of a relatively large plot of land on the south side of Mill Road. To the north of the site is Myland Primary School and residential development of mixed age and character. To the west of the site is St Joseph's RC Church. Housing is located to the south and south west of the site. To the east of the site are playing fields.
- 2.2 Tubswick was listed grade II for its special architectural and historic interest on 14 December 2001. The List describes the building as follows:

House. c. 1750. Red brick laid in Flemish Bond: plain tiled and slate roofs. PLAN: Lobby-entrance. EXTERIOR: south front of 2 storeys; 5-window range. Symmetrical. 6-pannelled central door, the upper 2 panels glazed, set within timber doorcase with flat hood. One blind window either side under segmental arches and one 8/8 unhorned sash to each of outer window bays. First floor alternates between 3 6/6 unhorned sashes and 2 blind windows. Coved and plastered eaves cornice. Central ridge stack. One brick (left of first-floor west

window) inscribed HDF/1752 (Hannah De Foe). North elevations presents 2 projections, that to east gabled with a slate roof, that to west hipped with machine tiled roof. East projection with single-storey outshut to east side. North front with one plank door, one 2/2 unhorned sash and one 2/2 horizontally sliding sash. One segmental-headed casement to attic with glazing bars. West projection recessed: plank door to east of an 8/8 unhorned sash under a segmental gauged skewback arch. First floor rebuilt c. 1920 in stretcher bond brick reusing a 6/6 unhorned sash. Stack on main wall plane, rebuilt C20. West return with one 6/6 unhorned sash to each floor. INTERIOR: 4-panelled doors throughout. East ground-floor room with 2 chamfered bridging beams with tongue stops. Late C19 marble chimneypiece in north wall. Passage west of stack leads to service rooms. Winder staircase north of stack. Similar bridging beams in passage and ground floor west room, the latter with a second late C19 marble chimneypiece. Kitchen (north-west extension) with tall fire opening for a range. Opposite is a pantry. North-east extension with an early C20 boiler. First floor rooms plain, with spine beams as before. Roof timbers plastered. HISTORICAL NOTE: The house was leased by Daniel Defoe on 6 August 1772 at £120 per annum for 99 years, and subsequently rebuilt for his daughter Molly Defoe. SOURCE: Philip Morant, The History and Antiquities of Colchester, 1768, Book 11, p 734 Intact Mid-C18, lobby entrance house with all features intact and historical association with Daniel Defoe.

3.0 Proposal

- 3.1 Listed building consent is sought for the complete demolition of Tubswick, formerly a good mid 18th century house with associations with Daniel Defoe and now largely destroyed by fire.

4.0 Land Use Allocation

- 4.1 Predominantly residential

5.0 Relevant Planning History

- 5.1 None

6.0 Principal Policies

- 6.1 Adopted Review Borough Local Plan
UEA4 - Demolition of listed buildings
UEA5 - Altering listed buildings
- 6.2 Adopted Core Strategy
UR2 - Built design and character
- 6.3 PPS5: Planning for the Historic Environment – notably policies HE 8 & 9

7.0 Consultations

English Heritage

- 7.1 The comments made by English Heritage in their letter of 30 April 2010 can be summarised as follows:

Consent for demolition of the house is being sought following a fire in late 2009 that left the building severely damaged. Notwithstanding such damage as the fire may have done, it is clear that the demolition of the house would result in the total loss of the building's special interest and the application should therefore be determined with regard to policy HE9.1 and HE9.2 of PPS 5.

Two considerations will be fundamental. Is the building capable of repair and were it to be repaired would it remain of sufficient significance to justify its repair? PPS 5 require a proportional approach to be taken to the conservation of historic buildings; in this case, it is clear that the special interest of the 18th century building has been severely damaged by the fire, above all because the interior that was described as being largely intact when the building was listed has now been substantially destroyed. On the other hand the walls of the building survive and much of its architectural quality lies in the front elevation.

This assessment leads to a complex conclusion. Sufficient interest of the building may have already have been lost to throw doubt on the appropriateness of the building's listed status and the damage already done would be compounded by the works necessary to repair and reconstruct the house. On the other hand, the preservation of the brick carcass – and above all its frontage – would appear to leave a building that retained some distinct architectural and historic interest. In accordance with the spirit of policy HE8.1, it should be considered whether the resulting building might properly be considered to be a heritage asset of local interest, the preservation of which would be material consideration.

The letter of 30 April 2010 concludes by recommending that, in accordance with the policies of PPS 5, the Council should assess the likely residual interest of Tubswick and consider how its repair and reconstruction might be achieved in order to determine whether the significance of the building once repaired and reconstructed would merit the efforts necessary to secure this end.

- 7.2 Following the submission of additional information, English Heritage provided further comments (via email) in respect of the application for the demolition of Tubswick. These comments are set out below:

“Thank you for re-sending the additional information you have received in respect of the proposed demolition of Tubswick.

In my initial comments on this application, I noted, first, that the house had suffered sufficient damage to have been robbed of the greater part of the special architectural and historic interest that merited its listed status, and second, that the brick carcass survived in large part and might be of sufficient quality to be considered of local interest; and I recommended that your Council consider both whether this was the case and, if so, whether there was any means to secure the survival and reinstatement of the building proportionate to this interest.

The further assessment of the building made by Nicholas Jacob Architects throws additional light on the case. It would seem that less of the carcass of the building would survive than might have been thought on the basis of the earlier report, in part because parts of the carcass had already been rebuilt. Although the question of whether additional development might fund the repair and reinstatement of the house has not been answered, the report provides reasonable grounds upon which to conclude that so little of the interest of the building would survive any attempt to repair and reinstate it that the result would be neither of national nor of local interest. It follows from this conclusion that your Council should grant listed building consent for the demolition of what remains of the house”.

7.3 The Georgian Group

“Further to our recent site visit to the above address and following presentation of the proposals to The Group’s Casework Panel on Tuesday 25th June The Group’s position is as follows.

Whilst we would naturally support any proposal that seeks to retain the remaining historic fabric as part of a rebuilding scheme we do not have, given the condition of the structure, any objection to the proposed demolition of the former house at Tubswick.

Should you wish to discuss The Group’s position further please feel free to give me a call on the number below.

Thank you for consulting The Georgian Group”

8.0 **Parish Council's Views**

8.1 Objection is raised to this application on the grounds that it is contrary to national and local planning policies.

9.0 **Representations**

9.1 The application has triggered a number of letters of objection from local residents. Their comments can be summarised as follows:

1. The building should be restored due to its history and significance.
2. The historic interest of this building is that much more important than the surviving original fabric.
3. The building has been left to deteriorate as the owner wishes to sell the site for development.
4. The Council should seek further independent advice regarding the condition of the building and its surviving special interest.

9.2 One resident has made more detailed comments referring specifically to the policies set out in PPS 5. This letter can be summarised as follows:

1. Applications for the demolition of listed buildings are rare and there is a policy presumption against the demolition of such buildings.
2. Policy HE9.1 of PPS 5 states that the loss affecting any designated assets requires clear and convincing justification and their loss should be exceptional.

3. Policy HE9.2 states that the LPA should refuse consent unless it can be demonstrated that substantial public benefit outweighs the harm of that loss or the presence of the asset prevents the reuse of the site; this does not apply to this application which is a simple attempt to clear the site for a profitable housing development.
4. If the applicant is unwilling to undertake the repair of the building Policy HE9.3 requires the applicant to provide evidence that other potential owners or users of the site have been sought through marketing. The market testing of the building must be applied before any thought can be given to its demolition.
5. The claimed loss of special interest is not a decision for the applicant or the Planning Committee to take; English Heritage make this decision.
6. It is unacceptable for officers to engage in discussions regarding housing development on this site in advance of the determination of this application.

Officer comment: Points 1-5 are addressed in the main body of the report. With regard to point 6, officers can confirm that no discussions have been held with the owner or agent in respect of the redevelopment of this site since the fire at Tubswick.

9.3 Bob Russell MP has objected to this application, making the following comments:

- The application illustrates to owners of other listed buildings that they can allow them to deteriorate, suffer fire damage and then present an application to the Council for demolition so that they have a cleared site for development. Listed buildings need to be protected.
- Tubswick is one of the oldest buildings in Myland and was occupied by Daniel Defoe, an author of national importance.
- Neglect is not a sufficient reason to allow its demolition.
- The application should be refused and the applicant should “engage an architect of merit who can provide a scheme whereby the surviving remains of the building are restored as a part of whatever development is eventually allowed”.

The full content of all letters and other correspondence received in respect of this application are available to view on the Council’s website.

10.0 Report

- 10.1 Tubswick dates from about 1750 and is - or did – represent a good example of a house from this period. The front façade of the building was thoughtfully composed with a classical door case flanked by sash and blind windows with a plaster cove beneath the eaves. It is understood that the interior retained a lobby entrance plan and much original joinery at the time of listing. Tubswick was listed in 2001 as it was considered to represent a good example of a mid 18th century house; the association with Daniel Defoe provided added historical interest.
- 10.2 Tubswick had been vacant for some time prior to the fire and had been identified by the Council as a Building at Risk. In view of this, contact had been made with the owner’s agent and discussions had commenced about securing the repair of the listed building, the cost of which would be offset by allowing some modest development within the grounds of house.

10.3 In December 2009 Tubswick was the subject of a fire which has caused substantial damage to the building. The damage to the principal Georgian range of the building can be summarised as follows:

- The roof of the house has been completely destroyed by the fire and is not salvageable.
- The main chimney has suffered partial collapses.
- Much of the interior (floor structure, ceilings, stairs, internal stud walls and doors) has been completely destroyed.
- On the front elevation, the five sash windows and entrance door case and lining have been completely destroyed by the fire as have sash windows to the east and west gable ends of the property. The coving detail at eaves level on the front elevation has also been destroyed.
- The external walls (and internal brick cross wall) are the only elements of the main house that remain substantially in their original form but even here there has been fire damage.

Front elevation: The wall plate to the front elevation of the house is severely damaged and will require 100% replacement. At the west end of the front elevation around the ground floor window, the brick wall has partially collapsed and there is substantial bowing of the brick wall both at the ground and first floors which will require substantial rebuilding. The brickwork surrounding the window and door openings will also require rebuilding.

East elevation: The triangle of the gable appears to have been rebuilt in the 19th Century; this gable has suffered settlement damage and has previously been underpinned with the south east corner and central section being previously rebuilt. Movement continues in the wall with further rebuilding required. Overall, about 50% of the 18th Century brickwork to this elevation has previously been replaced.

West Elevation: The triangle of the gable, which was rebuilt in 1987, has collapsed and needs rebuilding; the section of brickwork between the ground and first floor window has also been damaged by the fire and this will require rebuilding along with the resetting of the windows arches. Stitch repairs will be required across the vertical cracks in order to stabilise the wall along with general repointing.

North wall: this wall remains reasonably intact with some rebuilding required particularly around eaves level and around several large openings where timbers lintels have collapsed.

- 10.4 Policy HE6.1 of PPS 5 requires an applicant to undertake an assessment of significance of the building and that this assessment should be to a level of thoroughness proportionate to the relative importance of the building. The current application is supported by a structural engineers report detailing the condition of Tubswick and an architect's report providing an assessment of the building's surviving architectural and historic interest. Both of these reports have been undertaken by competent professionals with considerable experience of dealing with the repair and restoration of historic buildings; in view of this, it is not considered necessary for the Council to commission its own assessment report as suggested by a number of the objectors.
- 10.5 The application for the demolition of Tubswick needs to be determined with regard to the policies set in PPS 5 (notably HE9.1 and HE9.2) and local plan policies UEA 4 and 5 . Regard also needs to be taken of the advice set out in the PPS 5 companion document "Historic Environment Planning Practice Guide" which was published concurrently with PPS 5 by the government and English Heritage.
- 10.6 The fundamental considerations in reaching a decision in respect of this application are: is Tubswick capable of repair and, if so, would it remain of sufficient interest to justify these works?
- 10.7 Both reports submitted with the application accept that it would technically be possible to reconstruct the house around the surviving walls and, therefore, re-create its overall form and external appearance. Having established this, the PPS practices guide states that, in determining whether restoration is appropriate following catastrophic damage (for example from fire), the practicality of restoration should be established by its remaining significance – i.e. would the building retain sufficient interest to justify these works.
- 10.8 In the case of Tubswick, the interior of the building has been totally destroyed by the fire and, as such, its reconstruction can at best only be an exercise in approximate or conjectural restoration. With regard to the exterior of the building, the substantial reconstruction, re-facing and repairs required would in result, at best in a building of a patchwork appearance and at worst a facsimile of the original house. The scale of the fire damage at Tubswick is so great that the historic fabric and the character referred to in the List description has either been lost or significantly compromised. It is the considered view of the conservation professional that so little of the interest of the building would survive any attempt to repair and reinstate it that the result would be neither of national nor of local interest.
- 10.9 Policy HE9.3 of PPS 5 states that to be confident that no appropriate and viable use can be found for a redundant building, local authorities should require the applicant to provide evidence that other potential owners have been sought through appropriate marketing and reasonable endeavour have been made to seek grant funding. Tubswick has not been marketed for sale prior to the submission of this application and this has been highlighted as a shortcoming by one of the objectors. Officers do not share this view; Tubswick has been extensively and substantially damaged by fire so that little of building's interest survives and any attempt to repair and reinstate the house would result in a building that is not of special architectural or historic interest. Policy HE6 of PPS 5 requires the level of detail to be submitted with an application to be proportionate to the importance of the heritage asset and no more than is sufficient

to understand the effect of the proposal on the significance of the heritage asset. Given that it is considered that the special interest of the building has been lost as a result of the fire and can not be reinstated by its reconstruction, it is not considered necessary or appropriate for the applicant to embark on a marketing exercise; after all, even if an other owner wished to reconstruct Tubswick, it would not alter the fact that the building has lost its special architectural or historic interest.

10.10 Many of the objection comments relate to Tubswick's association with Daniel Defoe (1660-731). While historical records show that Defoe lived in Essex, it is unclear from the available evidence whether he ever lived at Tubswick. The statutory List states Defoe took the lease for in 1722 and the house was subsequently rebuilt for his daughter Molly. According to the List description the main range of the house (the principal reason for the building being listed) was constructed in about 1750; Defoe died in 1731 and he could therefore never have stayed in this house. It is possible that part of the rear range predates the main Georgian building, however these elements have been extensively altered (for example a first floor was added in the 1920s) and have also suffered substantial damage as a result of the recent fire. It is suggested by some that Defoe wrote Moll Flanders whilst living at Tubswick. The agent states that this is not possible as historical records show the Moll Flanders was published in January 1722, while the lease for Tubswick was signed in August of that year. Notwithstanding the uncertainty about whether Daniel Defoe lived at Tubswick or not, there does not seem to be a dispute that he is associated with site and that this adds historical interest to the building. That said, it needs to be remembered that the principal reason for listing the building was because it represented a good example of a mid 18th century lobby entrance house whose internal features remained substantially intact. The fire at Tubswick has destroyed the elements that compromised the special interest of the building and hence its reason for being listed.

11.0 Conclusions

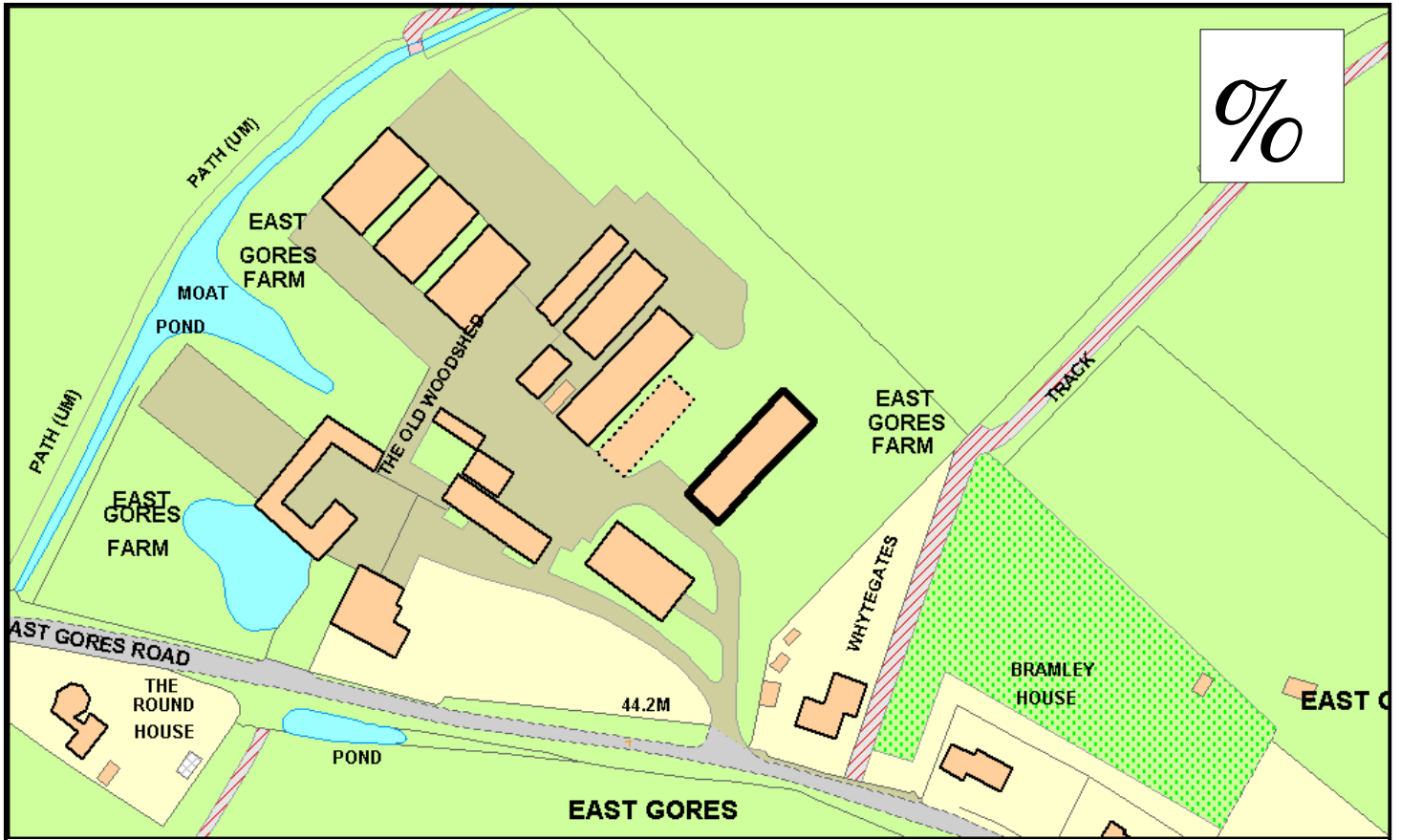
11.1 In view of the extensive damage that has been caused to Tubswick, it is recommended that this application is approved.

12.0 Background Papers

12.1 ARC; Core Strategy; EH; GG; NLR; OTH; PTC

Recommendation

Members endorse the recommendation to allow the demolition of Tubswick and that this application is referred to the Secretary of State for ratification.



Application No: 101124

Location: East Gores Farm Buildings, Unit K1, Salmons Lane, Coggeshall, Colchester, CO6 1RZ

Scale (approx): 1:1250

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7.3 Case Officer: Mark Russell

EXPIRY DATE: 02/08/2010

OTHER

Site: Unit K1, Salmons Lane, Coggeshall, Colchester, CO6 1RZ

Application No: 101124

Date Received: 7 June 2010

Applicant: Mr William Sunnucks

Development: Change of use of Shed K1 from agricultural use to storage B1 office.

Ward: Great Tey

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This Planning application is before Members as it is a non-householder application, objections have been received, and the Officer recommendation is for approval.

2.0 Report Summary

2.1 The following report outlines the proposal to change the use of a farm building at East Gores Farm from agricultural to B1 (office). The report details consultation replies and objections from some residents on the grounds of traffic-related disturbance. Responses are given to each of these and, finally, conditional approval is recommended.

3.0 Site Description

3.1 The site comprises a derelict farm building, set amongst other buildings, approximately 50 metres from Salmons Lane, 40 metres from the neighbouring dwellinghouse "Whytegates" and with agricultural land to the rear. Salmons Lane is a country road which links the A120 Coggeshall Road with Great Tey.

4.0 Proposal

4.1 The proposal is to change the use of this agricultural building to B1 (office), with relatively minor physical alterations comprising double-glazed upvc windows, lighting and insulation, and a cement and pea shingle hardstanding.

5.0 Land Use Allocation

5.1 No notation

6.0 Relevant Planning History

- 6.1 C/COL/02/0001 - Change of use from chicken broiler houses to B1 use (Business, including light industry, office and research and development) APPROVED
- 6.2 C/COL/05/1706 - Change of use of shed from agricultural to workshop/storage. APPROVED
- 6.3 C/COL/06/0195 - Change of use for shed D from agricultural to storage of flowers and decorations and preparation of flower arrangements. APPROVED
- 6.4 C/COL/06/1444 - Change of use from part shed D2 from flowers to B1 office/workshop. APPROVED
- 6.5 F/COL/07/0135 - Proposed conversion of former workshop to smaller workshop, 3 bay car parking and hot tub/amenity room. APPROVED
- 6.6 072274 – Change of use from storage/workshop to office B1. APPROVED
- 6.7 090367 – Shed D - Change of use from B1/B8 to B1(a) Shed E - Change of Use from redundant agricultural to B1/B8. APPROVED
- 6.8 091639 - Change of use of shed N from B1/B8(office/storage) use to office (B1). APPROVED

7.0 Principal Policies

- 7.1 Adopted Review Colchester Local Plan:
 - DC1- Development Control considerations;
 - CO10 – Agricultural Diversification
 - P1 – Pollution
 - EMP1 - Employment
- 7.2 Core Strategy:
 - ENV1 - Environment
 - ENV 2 – Rural Communities
 - CE1 – Employment Hierarchy

8.0 Consultations

- 8.1 The Highway Authority has not objected.
- 8.2 Planning Policy has stated that it has “concerns with regards to the cumulative impact of the recent applications and the further loss of agricultural buildings on the site which may have a detrimental impact on the viability of East Gores Farm” but has not objected.

9.0 Parish Council's Views

- 9.1 The Parish Council commented as follows: “No objection subject to neighbours' views.”

10.0 Representations

10.1 Five letters of objection have been received from nearby residential properties. These generally covered the same points as listed below:

- Concerns over the increase in traffic, through what use to be a quiet country lane (25 to 40 movements twice per day, plus delivery vehicles). When is the road deemed to be at full capacity?;
- Increase in traffic near to a hazardous junction on to the A120;
- Increased danger to pedestrians, including ramblers walking the Essex Way who cross the road at this point;
- Rubbish from cars

11.0 Report

11.1 The main issues in this application are considered to be as follows:

- Traffic and its effect on residential amenity and highway safety.
- Principle of use.

Traffic and its effect on residential amenity and highway safety.

11.2 The comments from nearby residents are noted. However, the proposed use is for a very small building with potential for only a small operator with 3 members of staff to set up base. The increased effect on residential amenity, notwithstanding any existing problems which may already occur, is likely to be negligible. On a similar vein, the Highway Authority has not objected due to the likely small increase in traffic. Parking provision is sufficient with 3 proposed spaces.

Principle of Use

11.3 This site has a long history of agricultural diversification and re-use of old farm buildings for B1 and B8 use (eight previous permissions).

11.4 Whilst the proposal, if looked at on a stand alone basis, would appear to be in conflict with the aims of sustainable development and employment hierarchy, the increase in activity is very small, and does not affect the overall existing situation to any great degree.

12.0 Conclusion

12.1 The proposal is seen as being acceptable in principle. Whilst the issues of residential amenity and highway safety are noted, these are not held to be serious enough to refuse the application. Approval is, therefore, recommended.

13.0 Background Papers

13.1 ARC; Core Strategy; 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

Unless otherwise agreed in writing by the Local Planning Authority, the office use hereby permitted shall not take place other than between the hours of 07:00 – 19:00 Monday to Saturday and at no time on Sundays or Bank/Public holidays.

Reason: In the interests of the residential and rural amenity of the area.

3 – Non Standard Condition

A minimum of three parking spaces shall be available for use at all times for the unit hereby approved.

Reason: In the interests of sufficient car parking, and to avoid unsightly indiscriminate parking or carriageway parking.

4 - C3.1 Materials (general)

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

Reason: In the interests of the visual amenity of the area.

5 – Non Standard Condition

Prior to the commencement of development, the applicant shall submit drawings illustrating the proposed doors to the unit hereby approved, referred to in section 9 of the application form as “upvc double-glazed doors”. These details shall be agreed in writing and shall be implemented as such and retained thereafter.

Reason: In the interests of the visual amenity of the area, and because the submitted application contains insufficient information.

6 – Non Standard Condition

No outside storage shall take place at this unit.

Reason: In the interests of the visual amenity of the area.

7 – Non Standard Condition

No external illuminations shall be put in place on, or in the curtilage of, the unit subject to this permission, without the prior written permission of the Local Planning Authority in the form of a discharge of condition.

Reason: In the interests of the rural amenity of the area and to avoid unnecessary light pollution.



Application No: 101231

Location: 6 Columbine Mews, Stanway, Colchester, CO3 0SG

Scale (approx): 1:1250

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7.4 Case Officer: Mark Russell

EXPIRY DATE: 13/08/2010

OTHER

Site: 6 Columbine Mews, Stanway, Colchester, CO3 0SG

Application No: 101231

Date Received: 18 June 2010

Agent: Mark Perkins Partnership

Applicant: Mr Gary P Miller

Development: Proposed single storey front extension

Ward: Stanway

Summary of Recommendation: Refusal

1.0 Planning Report Introduction

- 1.1 This householder Planning application has been called in to Committee by Councillor Colin Sykes.
- 1.2 The application is an identical resubmission of application 100564 which was set to be refused, but was withdrawn in May of this year.
- 1.3 Officer recommendation is for refusal on design grounds.
- 1.4 Cllr Sykes' reasons for call in are as follows:

"The application uses much of the property's already modestly sized front garden and, though there would be little garden remaining, few of the other five properties in the Mews have much front garden either. There are also properties nearby in the main estate road, Cornflower Close, that have very little front garden. Some appear to have been built upon. Considering the general street scene of the area I do not think that this proposed extension will have a visually detrimental effect.

The immediate neighbour in Columbine Mews, no.5, is separated from the applicant property by the width of two drives and the side path of no.6. I suggest, therefore, that the proposed extension will cause no loss of light, no overshadowing and no unacceptable loss of privacy to its immediately neighbouring property in the Mews. The other immediate neighbour is in Cornflower Close and that property is separated by the length of its rear garden from the applicant property. Again, there will be no loss of light, no overshadowing and no loss of privacy to the neighbour in Cornflower Close.

In my view this is a perfectly reasonable application and should be consented."

2.0 Report Summary

2.1 The following report outlines the proposal to erect a front extension to 6 Columbine Mews. The report details consultation replies and an objection from a neighbouring resident on the grounds of design, residential amenity and highway safety. Responses are then given to each of these concerns, and to Councillor Sykes' reasons for call in and, finally, refusal is recommended.

3.0 Site Description

3.1 The site comprises a "link detached" house built in the 1980s amongst many other houses of a similar design. To the front of the house is a lawn and planted garden of approximately 4.8 metres in depth. Columbine Mews itself is a small cul-de-sac of half a dozen houses, off of Cornflower Close which is the main spine road for this estate.

4.0 Proposal

4.1 The proposal is to erect a single storey extension on the front garden of 6 Columbine Mews. This would be to a depth of 3.375 metres, and would be 5.85 metres long with a 20 degree roof pitch taking a 2.4 metres eave height up to 3.3 metres. Materials would match the existing. Velux windows are proposed for the roof of this extension.

4.2 It is also proposed to replace the existing kitchen door with a window to serve the new dining room. An external door to the new kitchen would be placed on the southern aspect, facing towards number 4.

5.0 Land Use Allocation

5.1 Residential

6.0 Relevant Planning History

6.1 100564 - Single Storey Front Extension. Withdrawn 12th May 2010.

7.0 Principal Policies

7.1 Adopted Review Colchester Local Plan:
DC1- Development Control considerations;
UEA11 - Design
UEA13 – Built Design and amenity

7.2 Core Strategy:
UR2 – Built Design and Character

7.3 Supplementary Planning Documents:
Essex Design Guide.

8.0 Consultations

8.1 None

9.0 Parish Council's Views

9.1 Stanway Parish Council has no objections.

10.0 Representations

10.1 One letter of objection was received from a firm of solicitors representing the interests of the neighbouring 5 Columbine Mews.

“We are instructed to submit a letter of objection in respect of the above planning application. The proposal is for a single storey front extension that runs along the entire frontage of the property. The proposal would, in our view, be disproportionate and appear incongruous in the context of the application site, resulting in an adverse impact on the character of the existing street scene.

When the original estate layout was designed careful consideration must have been given to the relationship of the properties with each other, and in allowing the single storey lean-to extensions on properties within the Mews thought must have been given to their setback position.

The application proposal does not enjoy the same setback position and an extension on the front of 6 Columbine Mews would have an adverse impact on the properties at numbers 4 and 5 Columbine Mews because of their relationship with each other. The existing density is high, and number 5 Columbine Mews is already set back into a corner with very limited frontage. The proposal would, in our view, appear cramped and disrupt the existing street scene to a significant degree, contrary to policy H7, insofar as it will adversely affect the existing pattern and character of development, and fails to harmonise with, or reinforce, the local distinctiveness and sense of place.

The proposal is also considered to be contrary to policy UEA11, which requires good standards of townscape in terms of harmonious groups of buildings and the spaces between them. The proposal does not reflect this. Policy UEA13 does not permit extensions where there will be a creation of a cramped appearance, such as the proposed application.

Overall, the design and scale of the proposal will result in something that will appear overbearing and dominant in the street scene, create an unacceptable relationship with the neighbouring dwellings, resulting in a cramped appearance which is out of character with the existing street scene.

The proposal will also, in our view, potentially create a traffic hazard because visibility, when exiting the driveway of 5 and 6 Columbine Mews, will be obscured by the proposed extension.

The proposal also provides for the replacement of an existing door with a window, which will potentially cause overlooking to the properties at 4 and 5 Columbine Mews. This directly impacts on the residential amenity of these properties through loss of privacy, where, because of the open plan nature of the estate and the extremely small front gardens, it would be extremely difficult to mitigate this with any landscape planting, screen or boundary wall.

The personal circumstances of the applicant are not a material planning consideration. We consider that the proposal is contrary to planning policy. “

11.0 Report

11.1 The main issues in this application are considered to be as follows:

- Design
- Residential amenity
- Possible Highways impact.

Design

- 11.2 Columbine Mews comprises two distinct halves. The eastern half (numbers 1 and 2) comprises generous front gardens (in fact driveways) with number 3 set very near to the highway. It appears that this latter element is due to the presence of the mature trees to the rear which form a buffer to the A12. To the west, number 4 is set further back, with number 5 pushed some way in to the corner and number 6 closer to the highway than the houses opposite. Thus the cul-de-sac has been built, owing to constraints, in a somewhat lop-sided manner. What is true for all houses, however, excluding number 3, is that a reasonable amount of private space exists between the buildings and the highway (between 7 and 10 metres for numbers 1 and 2, approximately 6 metres or so for number 4, 12 metres or so for number 5).
- 11.3 The proposal would remove much of this space and would leave approximately 1.4 metres of between the front face of the extension and the highway. This is even less than the previously quoted number 3 which is up to 2 metres from the highway. It is noted that the houses of Cornflower Close which form a gateway to the Close are respectively hard on to (number 39) and 4.4 metres from (number 41) the highway.
- 11.4 It is also noted that numbers 1 and 2 Columbine Mews have front lean-to extensions. However, these were integral to the original houses and are of a minimal depth (approximately two metres).
- 11.5 In consideration of all of the above, the proposal is seen as being cramped and incongruous in its context and failing to respect the prevailing pattern of development in the area.
- 11.6 Regarding more detailed matters: The roof of the proposed lean-to, with a pitch of 20 degrees, is very shallow compared to the more traditional 35 degrees on the main roof. This is as a result of the depth of the proposed extension and the desire to avoid clashing with the first floor windows.
- 11.7 Finally, the extension is proposed to be flush with the existing house, and thus with no articulation at all. This is poor in design terms, and contrary to the aims of the Essex Design Guide which seeks an “additive” form of development where extensions are read as new elements.
- 11.8 Whilst it is accepted that examples of any of these design shortcomings can be found elsewhere, and potentially in the vicinity, this does not override the general points of concern which have been raised.

Residential Amenity

- 11.9 Whilst the comments about residential amenity are noted, and the extension would undoubtedly alter the outlook both from number 5 and number 4, it is at least 12 metres distant at the nearest point, and does not infringe a 45 degree line in elevation. It is therefore not contrary to any policy or guidance in that sense. The extension would be to the north of the aforementioned properties, and thus would not lead to a loss of direct light. In terms of privacy, it is noted that a new window would be inserted for the proposed dining room (currently part of the kitchen). This would be 13 metres from the front of number 4, and have no outlook at all on to number 5. Number 41 Cornflower Close is also 11 metres from the extension, with an intervening garden fence. Whilst there will potentially be some loss of light, this will be negligible given the presence of the existing fence and trees and the fact that the extension is single storey. Issues of residential amenity, therefore, are not considered to warrant a reason for refusal.

Highways Matters

- 11.10 In terms of any effect on the highway, the affected property and its parking space are situated near to the hammerhead of a small cul-de-sac, and thus issues of passing traffic are minimal. Notwithstanding that the field of view would be more restricted, this is not considered to be a reason for refusal either.

12.0 Conclusion

- 12.1 The proposal is therefore seen as being cramped and incongruous in its context and failing to respect the prevailing pattern of development in the area.
- 12.2 The roof of the proposed lean-to is too shallow compared with the existing house, and the lack of articulation is also seen as a negative design aspect.
- 12.3 Residential amenity and highway issues are not held to be reasons for refusal in this instance, but due to the above-mentioned design issues refusal is recommended.

13.0 Background Papers

- 13.1 ARC; Core Strategy; PTC; NLR

Recommendation - Refusal

Reasons for Refusal

1 - Non-Standard Refusal Reason

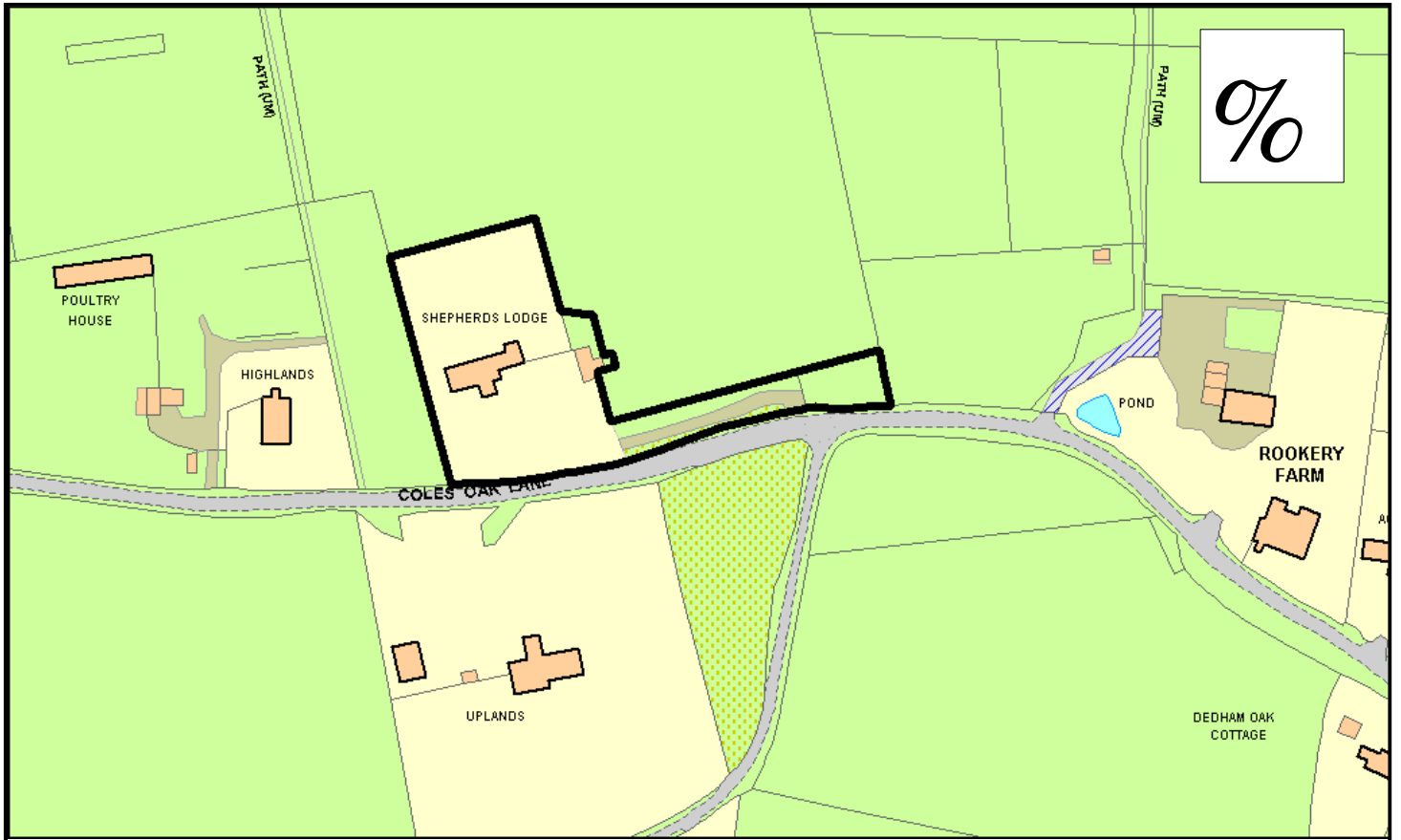
The proposed design is cramped and incongruous in its context, leaving insufficient room to the front and failing to respect the prevailing pattern of development in the area.

2 – Non Standard Refusal Reason

Reason: The roof of the proposed lean-to is too shallow compared with the existing house and the traditional pitch of 35 degrees.

3 - Non-Standard Refusal Reason

The lack of articulation is a negative design aspect and fails to promote the “additive form”.



Application No: 100735

Location: Shepherds Lodge, Coles Oak Lane, Dedham, Colchester, CO7 6DR

Scale (approx): 1:1250

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7.5 Case Officer: Simon Osborn

OTHER

Site: Shepherds Lodge, Coles Oak Lane, Dedham, Colchester, CO7 6DR

Application No: 100735

Date Received: 16 April 2010

Agent: Mr Hector Wykes-Sneyd

Applicant: Mrs E Harris

Development: Removal of Condition 03 of application number COL/679/87 limiting occupation to persons wholly or mainly employed or last employed in agriculture

Ward: Dedham & Langham

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application is brought to Committee in view of the representations received against the proposal to remove the agricultural occupancy condition from the property. The application is recommended for approval.

2.0 Site Description

2.1 The application site comprises a substantial 3-bedroom property and garden, with 2 stables and a small chicken shed situated in Coles Oak Lane, approximately 1 mile west of Dedham village. The house comprises a dining room, drawing room, a large kitchen/ breakfast room, study, office, 3 bedrooms and 2 bathrooms (one en-suite).

3.0 Proposal

3.1 The application seeks the removal of condition no. 3 imposed on planning permission COL/697/87, which granted planning permission for the erection of an agricultural worker's dwelling. Condition no. 3 stated:

"The occupation of the dwelling hereby permitted shall be limited to persons wholly or mainly employed or last employed locally in agriculture as defined in Section 290 (1) of the Town and Country Planning Act 1971 or in forestry, or a dependent residing with such a person, including a widow or widower of the former occupier."

Reason: This Council would not be prepared to permit the erection of a dwelling house on this site unconnected with the use of the land or neighbouring land for agricultural purposes.

3.2 As part of the application, the applicant has submitted evidence of the property having been marketed for rent to a suitable tenant qualifying under the occupancy restriction. The property has been advertised on a regular basis since May 2009 with the East Anglian Daily Times and the Essex County Standard. During the 10 months of advertising only two enquiries were received from interested parties, neither of which fulfilled the occupancy criteria detailed in the planning permission.

3.3 A letter from the NFU was also submitted in support of the application. This states the property was originally built to house a shepherd when the applicant kept a large flock of sheep. The business then diversified into the keeping of rare breeds. At this time it was important to employ an experienced Livestock Keeper but for a number of reasons the Dedham Rare Breeds business ceased 10 years ago and subsequently all the land, with the exception of 9 acres, has been sold. There is now no need for an agricultural employee to reside in the property. More recently the applicant has advertised the property extensively in an attempt to attract another occupant associated with agriculture. Not only have the applicant's personal circumstances changed but also in farming in general.

4.0 Land Use Allocation

4.1 The application site is within the Dedham Vale Area of Outstanding Natural Beauty and within a Countryside Conservation Area.

5.0 Relevant Planning History

5.1 COL/697/87 – erection of agricultural workers dwelling, approved August 1987; the details of the dwelling were approved under COL/697/87A in July 1988

5.2 COL/99/0198 – transfer of agricultural occupancy condition, withdrawn 1999.

6.0 Principal Policies

6.1 Adopted Review Colchester Borough Local Plan Saved Policies-March 2004
DC1- Development Control Considerations
H11 Removal of Agricultural Occupancy Conditions

6.2 Adopted LDF Core Strategy- December 2008
ENV1 - Environment

7.0 Consultations

7.1 The Council's Estates Section confirmed that the rental of £1,200pcm is fairly reasonable based on the size and location of the property and also taking into account the agricultural occupancy condition. The applicant also seems to have demonstrated that they have marketed the property widely. Reasons why there has been no interest so far may be due to the size of the property which is very large for an agricultural dwelling. Therefore it is unlikely that an agricultural worker would be able to afford to pay this level of rent.

- 7.2 Dedham Vale Society – The original condition would have been imposed to ensure that it remained available for those working in the sector. The countryside requires a mix of properties available to all in the community. The Council is urged not to set aside such conditions and thereby support a vibrant rural housing stock.

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

8.0 Parish Council's Views

- 8.1 The application should be refused as the primary reason for condition 3 is:

'This Council would not be prepared to permit the erection of a dwelling house on this site unconnected with the use of the land or neighbouring land for agricultural purposes.' The property would, if being considered now as a private residence (in the AONB) be seriously contested and certainly refused in the light of current and proposed LDF policies. The facts as presented in the DAS are indicators that either the rent asked is too high for people working in the local agricultural industry or that the basic wages and conditions are not commensurate with the properties offered. The Parish Council are also mindful of the fact that if condition 3 was removed and the property sold, what would happen if the surrounding land was sold and one again the new farmer required somewhere to live.

9.0 Representations

- 9.1 Two representations were received against the proposal from local residents. These raised the following matters:

1. This would set a precedent for others to get agricultural worker dwellings, then selling off the land, with a view to being able to sell the property on the open market and so enhancing the value of the property.;
2. Would not ordinarily get planning permission for a new dwelling in a location such as this. Granting permission could set a precedent for new residential development elsewhere in Coles Oak Lane.
3. Why was Shepherds Lodge not sold with the land as a working farm situation.
4. The rental price of £1,200pcm appears over-optimistic, when considering the minimum rates of pay for farm workers. The Agricultural Wages Board indicates farm workers usually earn at least £7,158 a year at age 16 rising to £14,986 a year over 19. Experienced farm workers may earn up to £19,000.

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

10.0 Report

10.1 Policy H11 of the Local Plan states a proposal for removing a restrictive agricultural worker occupancy condition on a dwelling in the countryside will be permitted only if there is:

- (a) proof that the original need for the dwelling no longer exists;
- (b) proper evidence that the availability of the property has been publicised to other relevant interests in the area at a price to reflect the occupancy condition, and confirmation of a lack of interest.

The condition will not be removed within 10 years of the completion of the dwelling.

10.2 Paragraphs 13.55 and 13.56 further state that changes in the scale and character of the farming and forestry industries may well affect the longer-term requirement for dwellings in the countryside where these were made subject to an “agricultural worker occupancy” condition at the time of granting planning permission. In such cases, the Council recognises that it would be wrong to keep such dwellings vacant, or that existing occupiers should be obliged to remain in occupation simply by virtue of a planning condition that has outlived its usefulness. Nevertheless, the Council will expect applicants wishing for the removal of the occupancy condition to demonstrate convincingly that the original need for the dwelling no longer exists.

10.3 The letter from the NFU in support of the application makes clear that there is no longer a need for the dwelling on the holding. The property was originally built for a shepherd who kept a large flock of sheep on land adjacent to the dwelling and was also employed as a livestock keeper for the Dedham Rare Breeds centre. This business has ceased and much of the land has been sold away, with the exception of 9 acres.

10.4 Policy H11 requires that evidence is provided that the property has been marketed at a price to reflect the occupancy condition to establish whether there is still an agricultural need for the property in the district. This has been done and the Council’s Estates section has confirmed that the marketed rent level is reasonable taking the occupancy condition into account. In particular, the size of the dwelling means that it is likely to be beyond the affordability of most agricultural workers.

10.5 Policy H11 also states that agricultural occupancy conditions will not be removed within the first 10 years. In this instance, the original condition was imposed in 1987. This is clearly well in excess of 10 years and appears to suggest a genuine change in circumstances over time, rather than an attempt to manipulate the planning system in order to get a new house in a location where one would not normally be permitted.

10.6 It is recognised that the release of an agricultural occupancy condition is clearly emotive. Nonetheless, there is also a danger that if it is not released it will remain empty, or will be occupied in breach of the condition.

10.7 Coles Oak Lane is outside the village envelopes of Dedham and new market housing here would be contrary to the Council’s adopted policies. Granting planning permission for the release of this occupancy condition would not set a precedent for allowing new market housing in locations such as these.

11.0 Conclusions

11.1 The dwelling subject of this agricultural occupancy condition is no longer needed for agricultural purposes for this holding. The size of the property is very large for an agricultural dwelling and an appropriate rent level is likely to be out of reach of most agricultural workers. Evidence has been submitted which shows a lack of interest for this property within the agricultural community. The occupancy condition has been imposed for well over 10 years and in the circumstances it is considered appropriate to release it.

11.2 The application is recommended for approval.

12.0 Background Papers

12.1 ARC; Core Strategy; Estates Section; DVS; PTC; NLR

Recommendation - Conditional Approval

Conditions

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

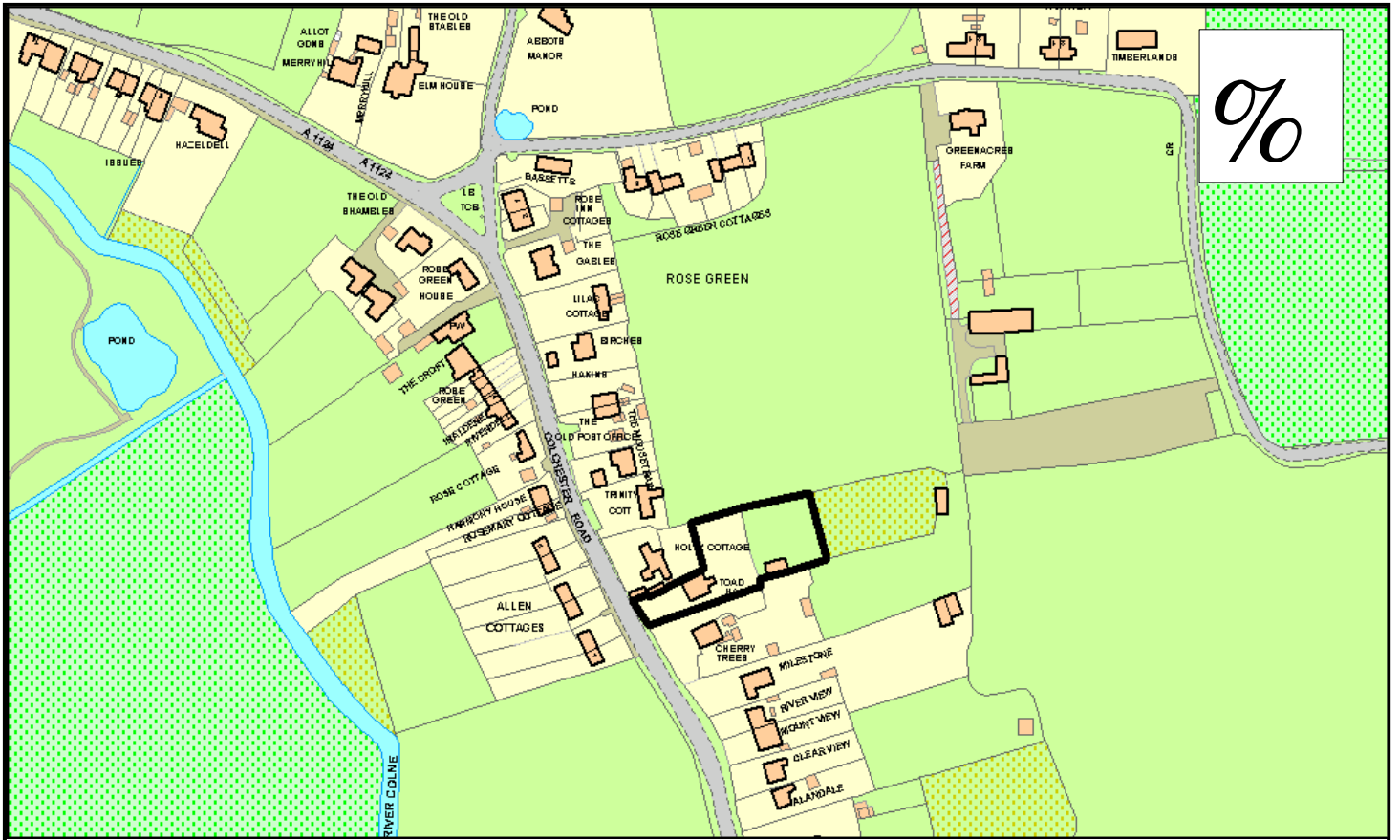
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

This permission relates to the removal of condition no. 3 of the original planning permission COL/679/87. All other terms and conditions of COL/679/87 otherwise remain applicable, in force and extant.

Reason: For the avoidance of doubt.



Application No: 101079

Location: Toad Hall, Colchester Road, Chappel, Colchester, CO6 2AE

Scale (approx): 1:1250

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7.6 Case Officer: David Whybrow

OTHER

Site: Toad Hall, Colchester Road, Chappel, Colchester, CO6 2AE

Application No: 101079

Date Received: 2 June 2010

Agent: Mr Chris Robards

Applicant: Mr P Martin

Development: Proposed rear extension and new roof over property to form additional rooms within roof space. Resubmission of 100712

Ward: Great Tey

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This is a resubmission of an earlier application withdrawn by the applicant on the basis that design issues had not been overcome. The application has attracted representations by the Parish Council, Councillor Chillingworth and neighbours.

2.0 Site Description

2.1 Toad Hall is a modest 2 bedroomed bungalow in brick and tile finish which falls to the north of Colchester Road (A1124) in a ribbon of residential development within the village envelope for Chappel and Wakes Colne. It has a large L shaped plot which is largely open to the property to the south-east, Cherry Trees. To the north-west Holly Cottage lies at a lower level than the application site. Conifer trees on the site boundary have recently been trimmed and Holly Cottage is undergoing refurbishment.

3.0 Description of Proposal

3.1 The proposal is to create first floor accommodation and extend to the rear, all in one and half storey form, in order to create 3 upper floor bedrooms with bathroom, dressing room and office accommodation. Dormers are proposed to both flank elevations.

3.2 External finishes are to be painted weatherboarding above a red brick plinth with clay plain tile roof. An open eaves detail is also proposed with exposed rafter feet. An articulation break has been formed to the rear of the bungalow's existing footprint with lower roofline and recessed flank wall on the rear (south facing) extended portion. The works involve an increase of height of 1m at eaves level and 3m to ridge.

4.0 Land Use Allocation

- 4.1 Village Envelope
Countryside Conservation Area

5.0 Relevant Planning History

- 5.1 100712 - Proposed rear extension and roof over property to form additional accommodation - Withdrawn
- 5.2 F/COL/06/0148 - Demolition of bungalow and erection of detached dwelling - Withdrawn February 2006
- 5.3 F/COL/06/0859 - Demolition of bungalow and erection of detached dwelling - Approved July 2006

6.0 Principal Policies

- 6.1 Adopted Review Borough Local Plan
DC1 – General Development Control considerations
UEA11-13 - Design and residential amenity considerations
CO3 - Countryside Conservation Areas.
- 6.2 Adopted Core Strategy
UR2 - Building and Environment
ENV1 - Environment

7.0 Consultations

- 7.1 None

8.0 Parish Council's Views

- 8.1 Chappel Parish Council comment as follows:-

"Chappel Parish Council would like to express concerns on the misleading proposals of this planning application. It would appear that Toad Hall already stands considerably higher than its neighbouring property Holly Cottage and with an increase in the height of both the eaves and ridge height would cause significant loss of natural light. In addition, Application F/COL/06/0859 submitted in May 2006 was for demolition of existing dwelling (Toad Hall) and erection of a new detached dwelling using existing access, resubmission of F/COL/06/0148. Please can you confirm that this application has expired and a new property will now no longer be built on this plot?

On behalf of the residents of Chappel, the Parish Council is agreed in its decision to RAISE THE ABOVE CONCERNS in respect of this planning application and we look forward to a response."

9.0 Representations

- 9.1 The neighbour at Holly Cottage confirms they are concerned only at loss of sunlight to their lower-lying property having regard to the increase in height of the building.

- 9.2 They confirm that they raise no objection to the rear addition or have any concerns relating to overlooking.
- 9.3 Councillor Chillingworth supports the Parish Council and neighbour's concerns and notes that their site is 5-6 feet lower than Toad Hall. An extra 3m in height with dormers overlooking will seriously affect southern light and reduce sunlight. He considers the ridge height should be reduced and rooflights used in lieu of the dormers.

10.0 Report

- 10.1 Toad Hall lies within the village envelope and there is no objection in land use terms to additions to the dwelling provided that there is no detrimental impact on neighbouring residents. This report will return to this key matter. The site is also within a Countryside Conservation Area (CCA) where special protection is given from any development likely to be prejudicial to its scenic, cultural or other qualities. In terms of its appearance and use of improved external materials this scheme is not considered to conflict with the area's CCA status. In particular the finishes selected are compatible with those used at Cherry Trees and buildings to the rear.
- 10.2 In the case of the impact of the proposals on Holly Cottage the key factors are:-
1. Toad Hall is approximately 5m from the site boundary.
 2. The overall height of the building will be increased by 3m and eaves height raised by 1m.
 3. Upper floor rooms served by dormers are landing, bathroom and ensuite, all of which can be obscure glazed.
 4. At the time of the previous application the boundary between Holly Cottage and Toad Hall was screened by a substantial conifer hedge. Negotiations at the time were concerned solely with design issues and specifically the creation of an articulation break between the forward and rear parts of the building as extended. The conifers have been reduced in height, to approximately 3m, in connection with the current renovation of the building.
 5. There is not a direct side-by-side relationship between the 2 dwellings, but rather Toad Hall lies to the rear of Holly Cottage, situated approximately 10m to the south-east. A weeping willow tree fills in the intervening space.
- 10.3 In the light of this unusual juxtaposition of dwellings and the existence of substantial trees and hedge on and adjacent to the site boundary, notwithstanding the difference in ground level between the sites, it is not considered that 45 degree (daylight) or 25 degree (sunlight) zones are applicable in this case. The orientation of the buildings is such that the increase in height of the roof will have an effect on morning light to the adjoining garden, but not to the extent that the refusal of planning permission would be justified.
- 10.4 For Members' information the 2006 permission, which expired last July, proposed a 2 storey replacement dwelling located to the rear of Toad Hall with an L-shaped plan extending around the corner of the plot of Holly Cottage.

11.0 Conclusion

11.1 The proposals are generally considered to be beneficial to the appearance of the property and its setting. Concerns over loss of light and amenity to the neighbouring dwelling are understood but having regard to the relative positions of the 2 buildings and the wooded nature of the intervening space it is not considered that these matters are sufficient grounds to warrant refusal in this case.

12.0 Background Papers

12.1 ARC; Core Strategy; 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 - C3.1 Materials (general)

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

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

3 - A2.1 Development to Accord With Approved Plans

The development hereby permitted shall be implemented in all respects strictly in accordance with the approved plans returned stamped approved with this decision.

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

4 - C10.18 Tree and Hedgerow Protection: General

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

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows and to protect the privacy and amenity of neighbouring residents.

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

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

Reason: In the interests of residential amenity and to secure the privacy of adjoining occupiers.

6 – Non-Standard Condition

The 3 dormer windows in the north elevation of the dwelling as extended shall be glazed in obscure glass equivalent to Scale 4 or 5 in the Pilkington Glass Scale of Obscuration and shall be maintained as such at all times.

Reason: In the interests of residential amenity and to secure the privacy of adjoining occupiers.

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.

INDEX TO PLANNING APPLICATIONS CODES

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

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

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

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

INTERNAL CONSULTEES

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

REPRESENTATIONS ETC

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

EXTERNAL CONSULTEES (2 character codes)

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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