

Planning Committee

Town Hall, Colchester
29 March 2012 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.

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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 refer to Attending Meetings and "Have Your Say" at www.colchester.gov.uk

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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.

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Material Planning Considerations

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

- planning policy such as adopted Local Development Framework documents, for example the Core Strategy, Development Plan Documents (DPDs) and the Site Allocations DPD, 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 among the most common issues that 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
- effects on property values
- restrictive covenants
- loss of a private view
- identity of the applicant, their personality or previous history, or a developer's motives
- competition
- the possibility of a "better" site or "better" use
- anything covered by other 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. The legal context for this framework is for the most part set out in the Equality Act 2010.

COLCHESTER BOROUGH COUNCIL PLANNING COMMITTEE 29 March 2012 at 6:00pm

Members

Chairman : Councillor Ray Gamble.
Deputy Chairman : Councillor Theresa Higgins.
Councillors Christopher Arnold, Peter Chillingworth,
John Elliott, Stephen Ford, Peter Higgins, Sonia Lewis,
Jackie Maclean, Jon Manning, Philip Oxford and
Laura Sykes.

Substitute Members : All members of the Council who are not members of this Committee or the Local Development Framework Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-
Councillors Nick Barlow, Lyn Barton, Mary Blandon,
John Bouckley, Nigel Chapman, Barrie Cook, Nick Cope,
Annie Feltham, Bill Frame, Mike Hardy, Marcus Harrington,
Pauline Hazell, Michael Lilley, Sue Lissimore, Nigel Offen,
Ann Quarrie, Will Quince, Paul Smith, Terry Sutton,
Dennis Willetts 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 - 9

To confirm as a correct record the minutes of the meeting held on 15 March 2012.

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. 111529 Barratts Farm, East Lane, Dedham, CO7 6BE
(Dedham and Langham) **10 - 23**

Proposed training centre for horses for recreational carriage driving and livery, with manager's accommodation.
2. 112183 Jarmin Road Industrial Units, Jarmin Road, Colchester, CO1 1XW
(Castle) **24 - 49**

Erection of 57no residential units, consisting of 45no houses and 12no flats and the construction of a 55no space public car park.
3. 112297 14 Church Lane, Colchester, CO3 4AF
(Prettygate) **50 - 54**

New step outside front door of veterinary practice with hand rail both sides (for disabled and infirm clients).
4. 100927 Land to the rear of 19 and 21 Empress Avenue, West Mersea
(West Mersea) **55 - 61**

Extension of time for the implementation of outline planning permission O/COL/05/1024 for proposed new bungalow with detached garage on plot 1.
5. 111999 57 Rectory Road, Rowhedge, CO5 7HX
(East Donyland) **62 - 77**

Alterations to 57 Rectory Road and erection of two four-bedroom dwellings.

6. 120012 St Johns Ambulance Site, Chapel Road, Wivenhoe, CO7 9DX (Wivenhoe Quay) **78 - 95**

Demolition of the superstructure of existing St Johns Ambulance building and erection of two storey building of mixed use C3 Residential and D1 Gallery/Studio (resubmission of 110608).

7. 120013 St Johns Ambulance Site, Chapel Road, Wivenhoe, CO7 9DX (Wivenhoe Quay) **96 - 101**

Demolition of the superstructure of existing St Johns Ambulance building and erection of two storey building of mixed use C3 Residential and D1 Gallery/Studio (resubmission of 110609).

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
15 MARCH 2012

Present :- Councillor Ray Gamble* (Chairman)
Councillors Peter Chillingworth*, John Elliott*,
Stephen Ford, Peter Higgins*, Theresa Higgins*,
Sonia Lewis, Jackie Maclean*, Jon Manning,
Philip Oxford and Laura Sykes*
Substitute Member :- Councillor John Bouckley
for Councillor Christopher Arnold*

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

121. Minutes

The minutes of the meeting held on 1 March 2012 were confirmed as a correct record.

122. 120208 1 Clara Reeve Close, Colchester, CO3 9XD

The Committee considered an application for alterations and subdivision of an existing dwelling/use of an existing extension as a separate two bedroom dwelling. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.
- (b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, subject to the word "No" at the beginning of Condition 9 being replaced by the word "The".

123. 091282 Pattens Yard, Nayland Road, West Bergholt, CO6 3DQ

The Committee considered an application for a change of use from agricultural land to a landscape contractors yard and scaffolder's yard and open storage of caravans, B8 and Sui Generis Uses for part of the site known as Pattens Yard. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Jane Seeley, Planning Officer, attended to assist the Committee in its deliberations. In her introduction she referred to the various areas within the site and adjacent to the site, together with their past, present and future intended uses. The site had been

used for more than ten years and under those circumstances, if an application was made, a Certificate for Lawful Use would be granted. She also referred to complaints from residents opposite the site. The applicants had indicated their willingness to enter into a legal agreement for the whole of the site in respect of hours of use, the storage of caravans and the provision of a hard surface to the access, subject to this application being granted permission. A fence and landscaping along the western edge of the site would be required to improve the long views and prevent ad hoc spillage onto the adjacent field.

Joseph Greenhow, Agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This was a long standing application which sought to regularise the various uses, some of which had been established over time but did not benefit from consent. Consequently, there were no limits on hours or activities and this was causing nuisance to residents. A planning permission would include a unilateral undertaking which would secure a hedge along the western boundary; a hard surface at the site entrance; a restriction on hours of use and the restriction of caravan storage to a specific area. The statutory bodies were now content with the scheme and the concerns of the Parish Council had been addressed.

Councillor Harrington attended and, with the consent of the Chairman, addressed the Committee. He was satisfied with what had been said and endorsed the recommendation but he did not want the conditions to be softened in any way. In this regard he noted that the movement of lorries, lighting and the fencing were each covered by a condition, whereas the requirement for a hard surface at the entrance was not covered by a condition. His other query was in regard to Condition 7 and the need for its amendment in respect of the insertion of the word 'not' between the words 'shall' and 'exceed'.

The planning officer explained that the reason for the apparent omission of a condition was that the conditions related to the application site, whereas the surfacing within the established site was outside the scope of this application, hence it was only referred to in the legal agreement. It was considered that the legal agreement was adequate to ensure its provision. The amendment to Condition 7 was accepted and she also proposed an amendment to Condition 3 so that it read "The use hereby permitted should be carried out..".

Members of the Committee acknowledged that some industrial sites in the countryside had a tendency to grow and could become difficult to control. This application had provided an opportunity to put controls in place to address such concerns on this site. Members were content with the proposals.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a Section 106 Legal Agreement to provide for the following matters:-

1. Restrictions on the hours of operation of the Local Employment Zone part of the site to: Monday to Friday 0700 to 1800, Saturdays 0800 to 1300, with no

- activities or vehicle movements on Sundays and Bank/Public Holidays.
2. The hardsurfacing of the vehicular access to the Local Employment Zone.
 3. The restriction of caravan storage to an identified area and no further use of the field to the west of the site for caravan storage.

(b) Upon receipt of a satisfactory Section 106 Legal Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report together with the following amendments:-

- Condition 3: to start “The use hereby permitted should be carried out.....”
- Condition 7: the insertion of the word "not" after the word “shall”.

Councillor Peter Chillingworth (in respect of his membership of the Council for the Protection of Rural Essex) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

124. 101541 and 101543 Lower Park, Colchester Road, Dedham, CO7 6HG

The Committee considered planning application 101541 for a change of use of parkland to mixed use, including agriculture and the keeping of up to three horses by residents of Lower Park, excluding riding or exercising within the parkland, together with the erection of a stable block with storage, a storage building and associated access, and the construction of a swimming pool. Also submitted in association with the planning application was application 101543 for conservation area consent for the removal of the remains of a concrete block detached outbuilding. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Simon Osborn, Planning Officer, attended to assist the Committee in its deliberations. He described the application and referred to the external materials and to the stable block and storage building now being genuinely single storey.

Ted Gittins addressed the Committee on behalf of the objectors, Mr and Mrs Muscote-Morris of Lower Park Cottage, pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He did not propose to object if this could be achieved without harm to the siting of the building and parkland. He referred to the requirements of DP14, Historic Environment Assets, to DP24, Equestrian Activities, and to a report by Purcell Miller Tritton which estimated the impact on the house and parkland to score 7 on a scale rising to 8, the second most harmful. The development fell far short of complying and conflicted with the area and setting of a listed building. A smaller proposal on the north side of the tennis court was preferred and he asked that the Committee withhold permission for this scheme.

Anne Fletcher, applicant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This application was the culmination of four years work. She referred to the unanimous approval for the previous application. They had no desire to compromise the character of Dedham nor their property, in which they had made a substantial investment. English

Heritage had not been in support of the earlier proposals and she explained that the document referred to by Mr. Gittins related to the previous proposal, not this one. The applicant had redesigned the site, lowered the building and changed the materials and were pleased with advice received from English Heritage. Their view was supported by four adjoining neighbours, the Parish Council, professional staff and the Planning Committee last year. She understood the concerns about the Dedham Vale Area of Outstanding Natural Beauty (AONB).

Councillor Garnett attended and, with the consent of the Chairman, addressed the Committee. The main objector felt that the size of the storage barn was too large at 1,800 square feet, which would be a reasonably sized bungalow; a smaller loose box would be better. He did accept that the new scheme was more in sympathy with the house and provided a considerable amount of protection from the Essex Way and Pennypot Lane. He considered a tarmac surfacing would be out of keeping and was surprised that gravel was not the preferred material. He believed a refusal would not be appropriate because this was a far better arrangement than that presented four years ago and he welcomed the removal of the remnant of a building which had outgrown its usefulness. He wondered if the buildings could be moved 30-40 metres further down to benefit from screening.

The planning officer confirmed that the Purcell Miller Tritton document referred to the previous scheme and English Heritage had agreed with those comments. That scheme had been revised and English Heritage now considered this scheme to be an improvement. Moving the building 30-40 metres further north would locate it further into the parkland and closer to the belt of trees. The intended location would enhance the site and was the best position for the setting of the parkland. The size of the building was not considered to be unreasonable. He noted that Condition 11 required details of surface treatment for the roadway to be submitted for approval.

Members of the Committee considered this scheme to be a significant improvement on the previous scheme and noted that it was supported by English Heritage and conservation officers. They did not consider the size of the building to be unreasonable. However there were concerns regarding the prevention of jumping and hacking within the parkland. It was considered that only jumping needed to be prevented on the grounds that it would not be unusual to see hacking in an AONB. It was suggested that Condition 16 be amended to reflect this concession.

Although the prohibition of jumping and hacking within the parkland had been suggested by the applicant, the planning officer did not object to the amendment of Condition 16 to permit hacking only. The Development Manager also suggested an amendment to the wording of Condition 6 restricting the use of the building for the use of horses and equipment to recognise that it also allows the changing room use for the pool.

RESOLVED (UNANIMOUSLY) that –

(a) Planning application 101541 be approved with conditions and informatives as set out in the report, subject to Condition 6 being amended by the insertion of the word 'stable' after 'The' at the start of the condition; and Condition 16 to be reworded

to allow hacking.

(b) Conservation area 101543 consent be granted with conditions and informatives as set out in the report.

125. 111468 Fishponds Field, Shop Lane, East Mersea

The Committee considered an application for a change of use of land from agricultural to mixed use land comprising agriculture and private equestrian use, together with the erection of an agricultural barn for the storage of hay and agricultural machinery. 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. He referred to the application being a Major application by virtue of the area of the site. The application had been supported by an agricultural consultant and the use of the barn was considered to be justified for the purpose of hay storage.

Alex Richardson addressed the Committee on behalf of himself and his neighbours pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application on the grounds of various sources of nuisance and in contravention of planning policies. He referred to instances of a pervading smell of horse manure, and a variety of cars visiting the site and parking in the lane causing a traffic nuisance. There was uncertainty in relation to the owner of the site, the use of which had grown to an equestrian centre. Previous applications for a barn and hay store had been refused by virtue of being contrary to policy. He contended that this application was eight times larger than the aforementioned hay store, and to indicate that it was 57% smaller was misleading. He doubted the building was justified on agricultural grounds. A significant amount of investment was proposed to secure equipment and buildings for the supply and storage of hay, which he believed could be obtained for a fraction of the cost by leasing nearby barns. He referred to the beautiful setting, restrictions on development and no letters of support. He warned of the possibility of the agricultural building being converted into a house.

Joseph Greenhow addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This proposal follows an earlier refused application and a prior notification proposal. The initial planning application was refused due to the impact on the character of the coastline regarding scale and design and insufficient justification. The latter reason had been addressed through prior notification of the scheme. Following lengthy discussions with officers the grazing of horses did not meet the requirements of an agricultural need which reduced the agricultural element to below 5 hectares. This application comprised a reduction in scale, massing, design and appearance. The impact had been assessed and supplementary planting would be provided. The application now met the test for an agricultural building.

Members of the Committee required clarification on what area of land would be served by the building and the purpose for which the land was to be used. Members recognised that this was not typical of a commercial building and that people were

prepared to spend more on an equestrian enterprise and needed a level of security. It was considered that this was an agricultural type business/activity which was acceptable in the countryside. Members questioned whether any further conditions should be added in regard to horseriders jumping on site and whether there were any lighting issues.

The planning officer referred to comments made by the council's spatial policy team in respect of the use of grazing and the building being acceptable in terms of policies DP24, Equestrian Activities, DP8, Agricultural Development and Diversification, and DP9, Employment Uses in the Countryside. He did not consider it possible to sustain an objection on policy grounds. It would be possible to add a condition to control the storage of manure if the Committee required such a condition. In respect of the areas of land for various uses, the total area was 6.5 hectares of which 2 hectares was for grazing and the remaining 4.5 hectares was for hay production. The siting, design and size of the building was considered to be appropriate for the enterprise. He referred to a belt of trees providing a buffer. The application was accompanied by a landscape impact assessment and the landscape officer required that any gaps in the hedge be filled in with hawthorn and oak trees to ensure that the impact on the coastal protection belt would be minimal.

The Development Manager suggested that Condition 3 be replaced by an appropriately worded condition and referred to Condition 15 on page 40 as a guide, an additional condition to prevent the subdivision of the barn from the agricultural use of the site, together with additional conditions on storage of manure, restrictions on lighting and prevention of jumping but allowing hacking.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report together with additional conditions listed below:-

- a condition to restrict use of the land for mixed use comprising agriculture/keeping of horses (see Condition 15 on page 40 of the agenda, as a guide;
- a condition to prevent the subdivision of the barn from the agricultural use;
- a condition to require appropriate storage of manure;
- a condition to control lighting;
- a condition to allow hacking.

126. 120158 Fieldings, School Road, Little Horkesley, CO6 4DJ

The Committee considered an application for the demolition of a double garage and the erection of a new double garage of larger plan size, but being the same depth and height. 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.

Mark Russell, Principal Planning Officer, attended to assist the Committee in its

deliberations. In his presentation he described the changes to the footprint and roof of the proposed garage and referred to the reduction of light to the neighbour's ground floor window and total obscuration of the neighbour's first floor window. Although both the existing and proposed garage would provide parking spaces which were/would be below the standard size, the Highway Authority had not objected to the application because there was sufficient space elsewhere within the site for two standard parking spaces.

Roger Drury, Clerk to Little Horkeley Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the original position of the garage as shown on the locational map in the agenda which had no impact on the neighbour and to the existing double garage being within 900cm of the neighbour's property. He referred to this rebuild being governed by the 1996 Party Wall Act. Light and privacy objections had not been accepted because of the planning approval for the existing garage. He believed the structure would be enlarged by 25% and that it would exclude light from the gable end window simply to allow easier parking. The Parish Council had recommended refusal on the basis of planning policy and the Village Design Statement (VDS) which stated that any extension should be sympathetic to adjacent properties in respect of scale, design and materials. The VDS had been approved by the council and he was disappointed that it was being ignored. He requested that the Committee refuse the application.

Chris Exley, agent, resident of Little Horkeley and member of the Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He stated that the application was primarily due to a structural failure of the existing garage which thereby presented an opportunity to overcome difficulties in manoeuvring cars into the garage. Contrary to the views of the Parish Council, he was of the view that the proposals were in accordance with the VDS. This application was to replace an approved existing garage by one or two feet longer at each end. The location had gained local authority approval as evidenced by the existing garage. The Parish Council's preference that the garage be moved to the west boundary would result in damage to or loss of trees. This proposal retained the roof pitch and height. However, the applicant was sensitive to the neighbour's windows and was prepared to adjust the location by one or two feet towards the road. If the Committee wished, he was agreeable to the use of render instead of a black boarding finish, and although he preferred to retain tiles on the roof which matched those on the house, he would be prepared to change them if the Committee had a strong preference otherwise. He was also willing to lower the roof slightly if the Committee wished.

Councillor Nigel Chapman attended and, with the consent of the Chairman, addressed the Committee. He believed this was an on balance decision, and one where it appeared possible to take it back for negotiation because there was clearly some movement on the issues raised. He asked that the Committee make up its mind on the basis of what they had heard and seen.

In response to the issues raised, the planning officer explained that if the Committee wished the garage to be located on the other side of the garden it would constitute a

change in what had been applied for and would require this application to be refused because there was an existing approval for a garage on the eastern side of the garden. The proposed roof would be no higher than at present but there would be an increase in roof area because of the increased footprint. The Party Wall Act was other legislation and could not be used to obstruct this application. The gable end window was a secondary window and the main south facing window serving the room was not affected. He acknowledged that the locational plan in the agenda was out of date. He considered it most helpful that the agent had thought about the objector's comments and was looking at alternative ways to help. In terms of materials he believed that render in a lighter colour would assist with reflected light and be in keeping with the host dwelling. Similarly, tiles on both the garage and house would match other buildings.

Having heard from the agent that the applicant was prepared to be flexible on various aspects of the replacement garage, the Committee came to a consensus that planning officers be required to facilitate negotiations to find a solution agreeable to the neighbour and the applicant based on the applicant's offer to make some adjustments on the wall and, possibly, roof materials, a small change of location, and roof height.

RESOLVED (UNANIMOUSLY) that consideration of the application be deferred for officers to negotiate an amended scheme. The revised application to be submitted to Committee for determination.

127. Endorsement to change the cascade mechanism for the delivery of affordable housing proposed as part of the approved planning application 091563 // Area S2Sw of the Colchester Garrison Urban Village Development

The Head of Environmental and Protective Services submitted a report on a new cascade mechanism for the delivery of affordable housing on Area S2SW of Colchester Garrison Urban Village Development, as set out in paragraph 3.2 of the Head of Environmental and Protective Services' report. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Members of the Committee enquired about whether there was a time limit by which the commuted sum must be spent on housing, and whether the sum was ring fenced for new social housing or ring fenced for social housing.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained that there was no time limit on when the sum needed to be spent and it was the intention to ring fence it for the provision of new affordable housing.

RESOLVED (UNANIMOUSLY) that the cascade mechanism for the delivery of proposed affordable housing be amended as follows:-

- The developer is responsible for the construction of the 5 shared equity units

(same as before).

- The Council is responsible for the nomination of perspective purchases (same as before). The 'nomination pool' has however been widened to increase the potential for finding suitable families; the qualifying families now include amongst others existing Council tenants and Housing Association tenants.
- After six months, if any of the five shared equity houses remain unsold, the unsold units are to be offered at the discounted rate to the Council and Housing Associations (new provision).
- After nine months, if

(a) none of the shared equity units have been sold, the developer shall transfer two of the units to a housing association and the remaining three units can be sold on the open market (no change);

however, if

(b) one or more of the shared equity units has been sold, the developer shall pay to the Council a commuted sum for each of the unsold units that equates to 33% of their open market value. (The commuted sum is for the provision of off site affordable housing provision). Following payment of the commuted sum, the developer can sell the units on the open market and is released from the requirement to provide any further affordable housing on this site (new provision).



Application No: 111529

Location: Barratts Farm, East Lane, Dedham, Colchester CO7 6BE

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **29 March 2012**
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: Nick McKeever

MAJOR

Site: Barratts Farm, East Lane, Dedham, Colchester CO7 6BE
Application No: 111529
Date Received: 14 September 2011
Agent: Mr Edward Gittins
Applicant: Mr & Mrs P Mills
Development: Proposed Training Centre for horses for recreational carriage driving and livery, with Managers accommodation.
Ward: Dedham & Langham
Summary of Recommendation: Conditional Approval subject to signing of Unilateral Undertaking

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because of an objection which refers to the original application F/COL/06/0470, which was allowed on appeal.

2.0 Synopsis

- 2.1 The previous approval established the principle of this use as well as the functional need for the residential accommodation (the Manager's accommodation) within this site. However, the permission was for a temporary period of 3 years in order to assess the financial viability of the enterprise and whether or not this was capable of supporting the residential accommodation. This original permission lapsed and this current application seeks full planning permission for the training centre and the Managers accommodation as originally approved but on a permanent basis. The following report will consider these issues and in the light of the evidence submitted, it will recommend that a permanent permission is now acceptable.

3.0 Site Description and Context

- 3.1 The site is located in East Lane to the south-east of the centre of Dedham and consists of paddock areas to the south of East Lane, together with a large building which is converted into residential accommodation but also incorporates stables, a storage area and a tack room. The main part of this building is clad in black weatherboarding with a dark coloured profile sheet roof.
- 3.2 The submitted plans show that the residential element as having one bedroom, lounge, dining room, kitchen, office, a small cloak room and a bathroom. There is a patio area immediately adjoining the rear (south) elevation.
- 3.3 The storage area, stables and tack/tool room are located on the east facing elevation of this residential accommodation, within a larger barn type building. There are isolated dwellings to the north, west and to the east. The main part of the existing residential development is in the form of ribbon development along East Lane but to the west of the site.
- 3.4 The land was formerly part of Barratts Farm House to the east of the site, which is now in separate ownership. As such there was originally no residential accommodation associated with the site.

4.0 Description of the Proposal

- 4.1 This application seeks permanent permission for the existing training centre for horses for recreational carriage driving and livery, together with the existing Manager's accommodation.
- 4.2 The carriage driving training centre was established following the appeal decision in September 2007. According to the submitted Design and Access Statement, the barn on this site used for feed and straw storage was destroyed by a fire in August 2008. This was subsequently rebuilt and the residential component was implemented in the Autumn of 2008.
- 4.3 In addition to the residential accommodation, there are currently four boxes to accommodate the horses in the main barn and three boxes in an existing lean-to element on this barn. The tack room/tool store is contained within the northern wing of the main barn.

4.4 The following minor changes have been carried out to the buildings:-

- Changes to the fenestration in the north facing elevation whereby the windows are now positioned either side of the doorway;
- Two windows on the south elevation instead of the original three windows;
- Provision of one bedroom instead of three;
- Inclusion of an office to replace that displaced by a repositioning of the stable boxes;
- Internal stairway to a loft/attic; and
- The removal of one of the horse boxes in the lean-to element.

5.0 Land Use Allocation

5.1 Dedham Vale AONB

6.0 Relevant Planning History

6.1 F/COL/06/0470 - Proposed training centre for horses for recreational carriage driving Approved (After Appeal) - 27/09/2007

6.2 F/COL/05/1282 - Training centre for horses for recreational carriage driving & livery Refuse - 18/11/2005

6.3 94/0134 - Erection of dwelling and demolition of adjacent barn. Refuse - 31/03/1994

7.0 Principal Policies

7.1 The following national policies are relevant to this application:
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Guidance 2: Green Belts
Planning Policy Statement 3: Housing
Planning Policy Statement 4: Planning for Sustainable Economic Growth
Planning Policy Statement 7: Sustainable Development in Rural Areas

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
- DP1 Design and Amenity
 - DP3 Planning Obligations and the Community Infrastructure Levy
 - DP4 Community Facilities
 - DP9 Employment Uses in the Countryside
 - DP12 Dwelling Standards
 - DP13 Dwelling Alterations, Extensions and Replacement Dwellings
 - DP19 Parking Standards
 - DP20 Flood Risk and Management of Surface Water Drainage
 - DP21 Nature Conservation and Protected Lanes
 - DP22 Dedham Vale Area of Outstanding Natural Beauty
 - DP24 Equestrian Activities

- 7.4 Further to the above, the adopted Site Allocations (2010) policies set out below should also be taken into account in the decision making process:

None Applicable.

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
- Backland and Infill
 - Community Facilities
 - Vehicle Parking Standards
 - Sustainable Construction
 - Open Space, Sport and Recreation
 - Extending your House
 - The Essex Design Guide
 - External Materials in New Developments

8.0 Consultations

- 8.1 Should planning permission be granted Environmental Control wish to make the following comments:-

- 1 - The storage of all animal feed and waste materials should be carried out in accordance with the DEFRA (previously MAFF) codes of practice for protection of air and water.
- 2 - Manure shall not be burnt at any time.

- 8.2 Spatial Policy comment that the proposal for permanent use of the premises for equestrian use along with residential accommodation follows on from a 3-year temporary permission granted after an appeal. The principle of the use is accordingly considered to have been established through the original application. The primary issue under consideration is therefore whether the applicants have demonstrated that they are carrying out a viable business which needs to be supported by residential accommodation. It is recommended that advice on this technical area is sought from the Council's Estates team, given that permission of the residential use should only be on the basis that it is tied to a viable equestrian use.

- 8.3 The Highway Authority does not raise any objection.

8.4 The Council's Financial Services, Resource Management, have been asked to undertake an review of the Independent Appraisal submitted in support of the case for the permanent Manager's accommodation. The review sets out the following matters:-

"The 3 years accounts provided are not full accounts but appear to have been provided ad-hoc to accompany the application. No balance sheet is enclosed.

The business trains horses which are not owned by Mr and Mrs Mills.

It may well be the case that the horse and carriage business operated by Mr and Mrs Mills is run as a profit making enterprise in association with the simultaneous operation of a farm.

No carriages were purchased at the commencement of the business as Mr and Mrs Mills already owned carriages. It follows that if the carriage business failed then the carriages would be retained for personal use by Mr and Mrs Mills.

The accounts do not show specific costs associated with carriage repair. These may be included within Purchases or Repair and Renewals.

The business is growing and work done (turnover) in 2011 amounted to £34,080. Net profit for 2011 was £24,255.

In the years of operation to date it appears that Mrs Mills has provided the labour in the business.

There is no provision within the accounts to provide for the future replacement of carriages.

Employing a carriage driver or livery stables person should still allow a profit to be made at current or increased turnover.

The cost of providing the residential, converted barn – to be used as a dwelling for the carriage driver – has not been included in the accounts at all.

Conclusion.

These are not full accounts in the traditional sense.

However they illustrate that the carriage business is growing, especially with the proposed appointment of a carriage driver at extra cost to the business.

The business is farm diversification".

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

9.0 Parish Council Response

9.1 Dedham Parish Council has stated that the business has been operating for approximately three years with no impact on the local residents and no reported problems with neighbours. The Parish Council has no objections and can find no planning grounds for refusal. With regard to the accounts, they are not aware of any salaries being paid and question whether a salary is being taken from the final profit figure each year or no salary is being taken at this time.

10.0 Representations

10.1 Two letters have been received from local residents.

10.2 One of these refers to previous planning applications and that the comments made are applicable:-

“The current application is the latest relating to development of the site and I would therefore appreciate the under-mentioned referenced documents being considered in relation to this Application:-

Letter dated 27 July 1998 exhibited to Application No. COL/98/1015

Letter dated 9 August 2005 exhibited to Application No. F/COL/05/1282

Both documents are on the public file and everything expressed therein remains relevant to the current application and is still factually correct.

The current application seeks to turn a temporary permission into full permission based on the premise that a viable business is being conducted as is shown by two years full accounts (see Robinson & Hall Appraisal document). Those accounts are not available on the public file so I am unable to reach any personal conclusion as to the validity of the conclusions reached by Robinson & Hall. Accordingly, I would enquire of you whether it is your intention to independently validate the statement and would remind you that Fenn Wright were commissioned in 2006 to report to you on the matter and furthermore were the authors of the 2007 Viability Statement.

The Applicant's current use, save for certain good practise hiccups which I have separately addressed, is not of immediate concern to me provided it is within the realms of and complies with current planning law.

However, I was and remain concerned about onward sale of the property should full permission be granted and the reasons for this are fully articulated in the earlier Fenn Wright documents”.

10.3 The other letter states:-

- “1. The statement dated August 2011 states that the on-site business has traded profitably for two years, but this is not substantiated by any accompanying accounts. I would respectfully question the long term viability of such a small operation and therefore the implication of either future expansion, the possible sale of the business or change of use in order to maintain that viability.
2. Does the business rely on the availability of the Dedham Rides which are privately owned and could be withdrawn from public use?
3. I would suggest there is insufficient grazing on site for the number of horses in livery.
4. Whilst the level of heavy road traffic to the Training Centre has been tolerable over the last two years, I would raise concerns about any future increase.
5. Would there be any intention for any substantial level of temporary on-site overnight accommodation in horseboxes?
6. There has in the past been an issue with the burning of horse manure/bedding creating unpleasant and lingering smells, but I am pleased to see that this is now a condition of the permission being granted.

I would conclude by saying that I have enjoyed the spectacle of the carriage driving, which not only affords an agreeable addition to the Dedham landscape but is also an attractive and effective form of traffic calming. I therefore support, subject to the above points, the Appellants application and would wish them every success with their venture”.

The full text of all of the representations received is available to view on the Council’s website.

11.0 Parking Provision

11.1 The appeal decision only required that a suitable vehicular turning facility should be provided prior to the commencement of development. However the D& AS advises that provision is made for the parking of four cars, two of which serve the residential unit. The provision of two spaces for the one bedroom dwelling is acceptable in terms of the Council’s current standards. Notwithstanding this, there appears to be more space available within the site to accommodate additional parking should it be required.

12.0 Open Space Provisions

12.1 There is more than adequate space to provide the minimum requirement of 50 sq. metres private amenity space to serve the residential unit.

13.0 Air Quality

13.1 Not applicable

14.0 Report

Design and Layout, Scale, Height and Massing

14.1 Whilst this application seeks a new permission for the use and the residential building, the design, layout, scale, height and massing remains very much as previously approved under the appeal decision. The previous permission was subject to a condition requiring the approval of the external materials. These materials were agreed in writing and the condition subsequently discharged. The building as currently erected has been built using the approved materials.

Impact on the Surrounding Area and Impacts on Neighbouring Properties

14.2 It is noted that Dedham Parish Council has stated in its consultation response that this use does not appear to have given rise to any complaints from local residents or had any detrimental impact. It is also acknowledged that the use is carried out on a site that was once an equestrian establishment (The Heavy Horse centre), and that this was a point considered in the appeal.

It is on this basis that no objections area raised.

Amenity Provisions

- 14.3 The provision of amenity space to serve the residential use is not considered to be an issue, given the area that is available within the site.

Highway Issues

- 14.4 Whilst the objection relating to increased traffic is acknowledged, it is noted that the Highway Authority has not raised any objections to the proposal and that Dedham Parish Council does not raise this as being a local issue. The appeal decision referred to the provision of an on-site vehicular turning facility as being required in the interests of highway safety and that this was easily capable of implementation. A condition was imposed accordingly.

Other Matters

- 14.5 The concern expressed in the letter from a local resident regarding the provision of insufficient area of grazing land is noted. However, this is not a material planning consideration, although the use appears to be carried out successfully within this site and associated land for the grazing of the horses.
- 14.6 The reference in the submitted letter from a local resident to the previous applications 98/1015 and 05/1282 is acknowledged. The 2005 reference relates to the existence of a restrictive covenant imposed upon the sale of the land forming the application site, to the disposal of animal waste, drainage and the need for any commercial enterprise not to cause traffic problems as well as acceptable working hours. The restrictive covenant is not a planning matter. Environmental Control has recommended conditions relating to the storage/disposal of animal feed and waste. It is noted that the original permission did not restrict the hours that the business can be carried out nor has Environmental Control required any such restriction.
- 14.7 The principle of the use of this site as a proposed training centre for horses for recreational carriage driving and livery was established by the permission granted in 2007. As far as can be ascertained, this use has been carried out within this site without any significant adverse impact upon residential amenity, or the setting within the Dedham Vale AONB. In addition it is within a sustainable location and can be supported on the basis of being an appropriate rural enterprise, and as such can be supported in terms of the LDF policy ENV2. Under this policy the Council will favourably consider small-scale rural business that are appropriate to local employment needs and harmonise with the local character and surrounding natural environment.
- 14.8 The original consent was granted having been established that a case was made on functional grounds for the provision of on-site residential accommodation, as required under PPS7. However, there was some doubt as to whether the small scale of the development could support this accommodation and thereby satisfy the financial test set out in PPS7. It was on this basis that the permission was granted for a temporary period of three years.

14.9 It is acknowledged that the business has been carried on without the benefit of planning permission since the original permission expired in September 2010. However this in itself is not considered to be a sustainable reason to refuse the current application. It has however, enabled the Applicants to provide further financial accounts for the years 2009- 2010 and 2010- 2011.

14.10 These accounts have been the subject of an independent appraisal by Robinson & Hall LLP, Land and Property Consultants. This appraisal concludes that:-

“The Applicants have established the business in accordance with their proposals as submitted in the 2006 application and have shown this to be successful and profitable, sufficient to support both the income of a Farm Worker and the cost of providing the residence.

In practice the provision of a new dwelling of a similar size may well have been cheaper than the £130,000 actually expended on the conversion, but given the fact that the income is sufficient to support the matter involved there seems little point in reworking figures in respect of a notional property which may never be built.

Annexe A of PPS7 has been satisfied and given both the Council and as the Inspector found no reason to oppose the business proposals submitted in 2006 there seems no reason why the same business now in operation should be opposed in respect of the current application, given that the planning policies are unchanged”.

14.11 The Council’s own review of the business accounts does not dispute that this is a growing and profitable business. This review comment takes into account a letter from Robinson & Hall LLP, dated 25 January 2012, which was submitted in order to address initial comments made by the Council’s Financial Services. It provides clarification of the accounts, costs (fee and bedding/carriage repairs), staff costs (this addresses the comments made by Dedham Parish Council) and the costs associated with the new residential accommodation. A copy of this letter is reproduced at Appendix 1 for Members’ information.

14.12 On this basis it is concluded that the application satisfies the functional and the financial tests set out in Annex A to PPS7, and that permanent permission should now be granted for the use and the associated residential accommodation, subject to the original condition restricting the occupancy to a person or persons employed in connection with the carriage driving training and livery business being carried on at the site.

15.0 Conclusion

15.1 On the basis of the aforementioned considerations it is concluded that the application satisfies the functional and the financial tests set out in Annex A to PPS7, and that permanent permission should now be granted for the use and the associated residential accommodation, subject to the original condition restricting the occupancy to a person or persons employed in connection with the carriage driving training and livery business being carried on at the site.

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

Conditions

1 - Non-Standard Condition

The development shall be carried out in accordance with the approved drawing number 119-05-01B, unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

2 - Non-Standard Condition

The dwelling hereby permitted shall be limited to occupation by a person or persons employed in connection with the carriage driving training and livery stables business being carried on at the site or by a person or persons solely or mainly working in the locality in agriculture or forestry, and the dwelling shall not be occupied independently from those activities.

Reason: The site lies within a rural area where development other than for agricultural purposes is not normally permitted.

3 - Non-Standard Condition

A vehicular turning facility shall be maintained within the site.

Reason: In the interests of highway safety.

4 - Non-Standard Condition

Details of on-site parking facilities for the residential and business uses shall be submitted in writing to the Local Planning Authority within two months of the date of this permission, together with a programme for their provision. The approved parking shall be provided in accordance with the agreed details and shall thereafter be maintained to serve the development.

Reason: In the interests of the amenity of the area within the Dedham Vale AONB and in the interests of highway safety.

5 - Non-Standard Condition

The storage of all animal feed and waste materials should be carried out in accordance with the DEFRA (previously MAFF) codes of practice for protection of air and water.

Reason: To ensure that appropriate arrangements are made for the storage of these materials in the interests of the amenity of the area.

6 - Non-Standard Condition

Manure shall not be burnt at any time.

Reason: In the interests of the amenity of nearby residential properties.

Informatives

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

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

Your Reference:

Please Quote: DB/DEW/39945

Date: 25 January 2012



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Dear Mr Gittins

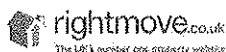
Application 111529 – Barratts Farm, East Lane, Dedham

Further to Nick McKeever's email to you of 20 December 2011 I am pleased to respond to his seven questions as follows:

- 1 The accounts are those provided for the business of Mr P L & Mrs G M A Mills which is a separate business and are those which have been submitted to HMRC. There is no balance sheet enclosed or attached as none is required for HMRC purposes
- 2 The business for which the application is made is the Training of Horses for Recreational Carriage Driving and Delivery and as such no horses are required to be owned by the Mills since other people bring their horses for training and delivery. Mr & Mrs Mills owned carriages prior to the establishment of this business and it is these carriages which have been used. Needless to say, they were part of the capital introduced into the business at its commencement.
- 3 All costs relating to the business are shown within the accounts although not specifically itemised.

As an initial deduction from the gross income and called "Purchases" the deduction in that respect is for feed and bedding. Other costs associated with the horses are paid for separately by the horse owners. Any carriage repair costs is shown later under "Repairs and Renewals".
- 4 Staff costs are not included because the business is run and carried out by Mrs Mills herself. Her income comes out of the net profit for the year.
- 5 The accounts have no provision for the replacement of horses because horses are not owned by the business. Horses belong to others who require them to be trained and they are brought to the business for training purposes only but remain the property of the original owner. The carriages are owned by Mr & Mrs Mills but appreciate in value although any repairs are included under "Repairs and Renewals" within the accounts.
- 6 The cost of providing the dwelling comes out of the net profit for the year as does Mrs Mills' income. This is dealt with in the Independent Appraisal.

Partners*: S W Home Ltd D J Jones Ltd A J Capel Ltd R J Franklin Ltd D P Brooks Ltd C J Leney Ltd A H Barr Ltd
Local Partners*: S R Patrick BSc MRICS D J Sawford BSc MRICS Consultant Partner: P W Goakes Ltd
Associates: S R W Smith BSc MRICS FAAV A R Toussaint A B R Jenkinson BSc MRICS FAAV Offices at Bedford, Buckingham and Ipswich
Robinson & Hall LLP is a limited liability partnership, registered in England, number: OC310546 Registered office: 118 Bromham Road, Bedford, MK40 2QN
*The term partner is used to refer to a member of the LLP, a director of a corporate member of the LLP or a person of equivalent standing Regulated by RICS



27...39945
 E Gittins Esq.
 25 January 2012

- 7 The business is a farm diversification scheme and is profitable. The Independent Appraisal clearly shows under the headings "Business Viability" and "The Dwelling" that the cost of a worker and the cost of funding the dwelling can be accommodated within the profit generated by the business.

For the avoidance of doubt and to briefly summarise the Independent Appraisal, the business was affected by a barn being destroyed by fire in August 2008 which impacts upon the business in that year and the next. As a result, the accounts for the year ending April 2010 are truly representative of the business and not affected by the fire. The April 2010 net profit of £20,228, ignores any income for Mrs Mills or the cost of providing the dwelling and allows for a basic farm workers income at approximately £15,000 plus interest on a notional loan to provide the dwelling of a further £6,500 resulting in a slight loss that year, but for the year ending 5 April 2011 the profitability of £24,255 after a £2,000 payment for additional stabling would give a true profit of £26,255 being ample to allow for the £15,000 per annum farm worker's wage and £6,500 per annum interest on the notional loan to provide the dwelling.

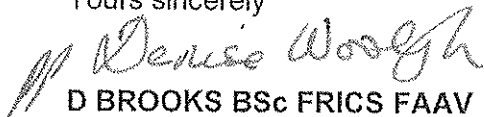
PPS7 requires the business to be financially viable or to show that it will become financially viable within an initial 3 year period. This business shows that it is financially viable after deductions for wages and interest on the cost of the dwelling.

Furthermore, PPS7 Annex A – Paragraph 3 sets out the five criteria that must be satisfied in order for a permanent occupational dwelling to be allowed. All of these requirements have been demonstrated to have been met in this case either as a result of the earlier Appeal Decision, in the current Application or in the supplementary information provided within this letter.

Lastly, question No. 7 suggests that the business is subsidised. It is not. It owns no horses because it needs none. All horses brought in for training remain the property of their owners. Carriages that are used were added to the business as capital introduced at the commencement. There is no other form of income other than exists from the use of the premises for training horses and livery and its net profit clearly shows it is viable and in no way treated as a hobby.

I trust the questions raised by Mr McKeever have been adequately answered but if you need any further detail do get back to me.

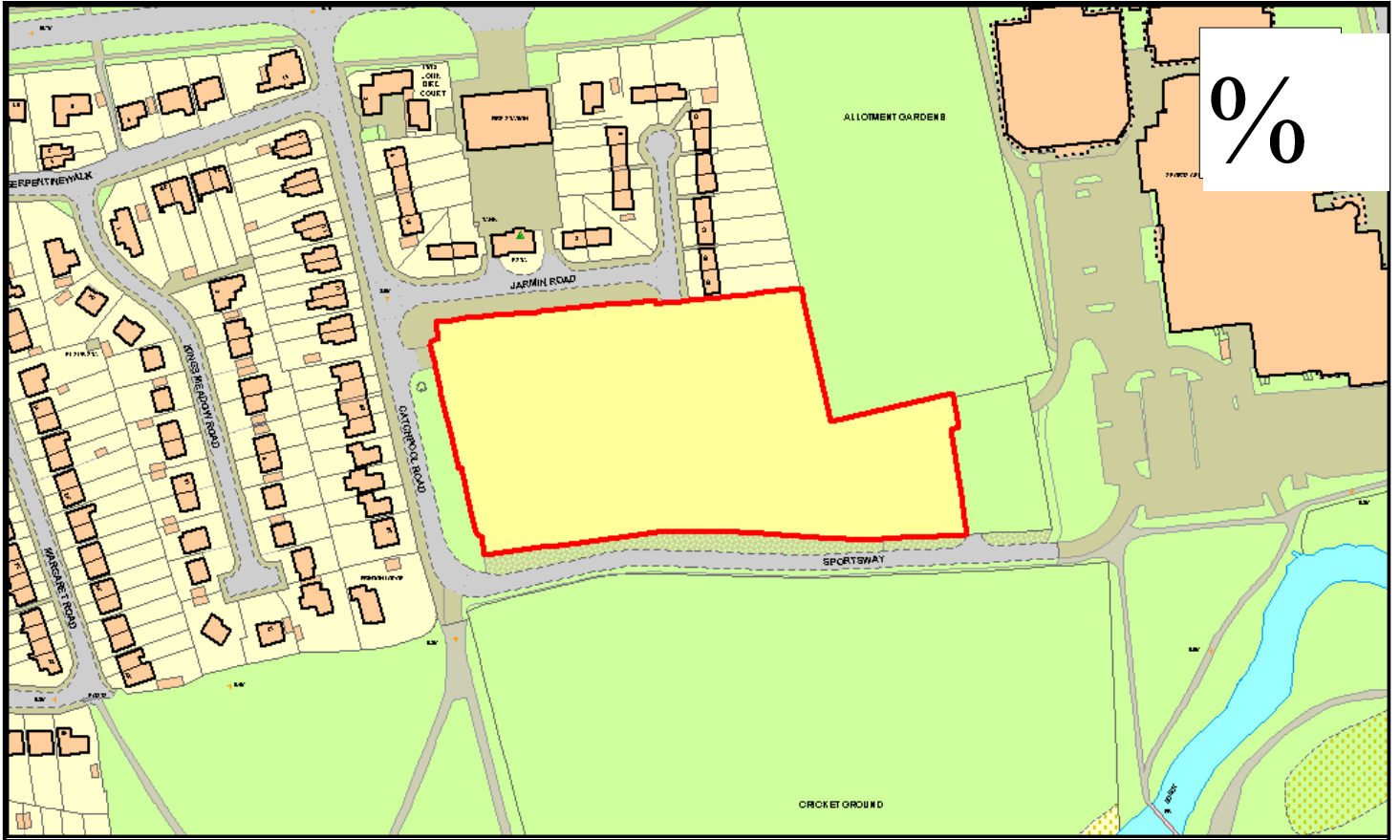
Yours sincerely



D BROOKS BSc FRICS FAAV
 For and on behalf of Robinson & Hall LLP

Direct Dial: 01473 835250
 Mobile: 07795 623066
 Email: db@robinsonandhall.co.uk

Copy: Mrs G Mills by email:



Application No: 112183

Location: Jarmin Road Industrial Units, Jarmin Road, Colchester, CO1 1XW

Scale (approx): 1:1250

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7.2 Case Officer: Mr Lee Smith-Evans**MAJOR****Site:** Jarmin Road Industrial Units, Jarmin Road, Colchester, CO1 1XW**Application No:** 112183**Date Received:** 17 November 2011**Agent:** Mr Robert Pomery**Applicant:** Knight Developments Limited**Development:** Erection of 57 Residential Units, consisting of 45no houses and 12no flats and the construction of a 55no space Public Car Park**Ward:** Castle**Summary of Recommendation:** Conditional Approval subject to Section 106 Agreement**1.0 Introduction**

1.1 This application is referred to the Planning Committee because it has been called in by Councillor Frame, and because it is a major development to which a number of objections have been received. The application is also referred because it requires a Section 106 Agreement.

1.2 The application has been called in By Ward Councillor Frame for the following reasons:

“I object to this application on the grounds that it is contrary to the Councils planning blueprint for this site. In particular the greensward and trees which were earmarked for retention have now been excluded. Further the building on the corner of Jarmin Road and Catchpool Road is completely out of character with the neighborhood.”

2.0 Synopsis

2.1 The report below will set out main issues of this application, with regard to its contextual design response, the section 106 contribution required by the Development team, the responses to the consultation exercise and the protection of the existing landscape features. Each issues is dealt with within the main body of the report for Councillors to consider upon their merits. To the end, the report concludes with an officer recommendation that the proposal be considered for approval.

3.0 Site Description and Context

- 3.1 The site is a former Borough Council depot which had an access on to each of the three adjoining streets. The original buildings have now been demolished and the site is therefore relatively clear. There is currently a public pay and display car park that occupies the southern edge of the site. There are rows of established trees that edge the site to both Catchpool Road and Jarmin Road frontages, behind which a secure fence has remained for some time.
- 3.2 The immediate area is of suburban character and is typically a mix of late Edwardian semi detached houses and terracing. At the southern end of Catchpool road are mid twentieth century, detached houses. A small estate of 1930/50s council built housing makes up the most of Jarmin Road with the inclusion of the back of the Fire Station. This period of house building has a strong and widely recognised character typical of many of the nations towns and cities and common throughout Colchester. The Jarmin Road estate has the most consistent character, being all built at the same time but the whole area has a relatively constant domestic scale.
- 3.3 The southern aspect of the site faces the Cricket Ground across Sportsway. To the east the site is adjacent to allotment gardens and the overspill car park for the Leisure World facilities. Therefore, it is within the transition from residential area to other uses.

4.0 Description of the Proposal

- 4.1 The proposal consists of 57 Residential Units and the construction of a 55 space Public Car Park. The residential unit break down consists of 45 houses and 12 flats. These are arranged in perimeter blocks, with the dwellings addressing the public realm with frontages and provide enclosed private gardens.
- 4.2 As part of the development, it is proposed that the Sportsway public car park is relocated into a parcel of land that will be accessed from Leisure World. This would require phasing controls to ensure that there was no temporary loss of public parking caused as a consequence of the development, but because this also involves a land transfer it is proposed to include this within the legal agreement rather than by condition.
- 4.3 The layout of housing retains the trees which line both Catchpool and Jarmin Roads. This will also require control.

5.0 Land Use Allocation

- 5.1 The site is allocated in the LDF proposals maps 2010 for predominantly residential use.

6.0 Relevant Planning History

- 6.1 070937 – Residential development comprising 87 private units and 29 affordable. Withdrawn

6.2 072877 Resubmission of 070937. A resolution to grant permission has been given pending the completion of a 106 agreement. However, this application is likely to be withdrawn in the event that this application is approved.

7.0 Principal Policies

7.1 It is expected that by the time of the Committee Meeting the National Planning Policy Framework shall have been published. However, at the time of writing the following national policies are relevant to this application:

Planning Policy Statement 1: Delivering Sustainable Development

Planning Policy Statement 3: Housing

Planning Policy Statement 10: Planning for Sustainable Waste Management

Planning Policy Statement 22: Renewable Energy

Planning Policy Statement 25: Development and Flood Risk

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

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR2 - Built Design and Character

PR2 - People-friendly Streets

TA2 - Walking and Cycling

TA3 - Public Transport

TA4 - Roads and Traffic

TA5 - Parking

ER1 - Energy, Resources, Waste, Water and Recycling

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):

DP1 Design and Amenity

DP2 Health Assessments

DP3 Planning Obligations and the Community Infrastructure Levy

DP4 Community Facilities

DP12 Dwelling Standards

DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP17 Accessibility and Access

DP19 Parking Standards

DP20 Flood Risk and Management of Surface Water Drainage

DP25 Renewable Energy

7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:

Community Facilities

Vehicle Parking Standards

Sustainable Construction Open Space, Sport and Recreation

The Essex Design Guide

External Materials in New Developments

Affordable Housing

8.0 Consultations

8.1 The Highway Authority has no objection to the scheme subject to the provision of conditions which have been included in this report. The conditions relate to adequate sight splays on private drives, adequate clearance from parking bays, stopping up Sportsway to vehicular traffic and providing a size 3 turning head in Sportsway. The highway authority also seeks two speed tables in Jarmin Road and Residential Travel Packs for all future residents. Two other conditions require the provision of wheel cleaning facilities for construction traffic and the constraints imposed on the placement of new trees in the highway.

8.2 The Environment Agency are satisfied with the proposals with regard to flood risk subject to the conditions attached to this report that relate to the construction of ground floor slabs at the appropriate height above datum

The Environment Agency are satisfied with the proposals to remediate contamination of the site and the protection of controlled waters subject to the conditions attached to this report. These conditions require an appropriate methodology for assessment of contamination and its remediation, that longer term monitoring requirements are properly identified and carried out.

The Environment Agency have also placed a condition for provision and implementation of water, energy and resource efficiency during construction and occupation of the site

8.3 The Arboricultural Officer has no objection provided that their requested conditions are attached to the permission, the conditions require the protection of trees from the construction process through adherence to recommended procedures and no dig construction of driveways over root structures of existing trees

8.4 The Landscape Officer is satisfied with the proposals subject to the conditions included within this report and recommendation.

8.5 The Contamination Land Officer is satisfied with the proposals for remediation subject to the conditions attached to this report.

8.6 Street Services have requested that the roads are constructed to an appropriate standard for a 26 tonne waste collection vehicle. That bin stores for flats are equipped with the correct size of bins for different types of waste. That a recycling litter bin is supplied by the developer and placed in the public realm adjacent to the new public car park and existing cycle way and that this bin is maintained by the developer for 5 years. That the developer provides Recycling boxes, bags and sacks for each household. They have also requested that parking restrictions are in place across the site to prevent cars obstructing waste collection and that visitor spaces are required to further the clear ways required for waste collection.

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

9.0 Parish Council Response

9.1 The site is not located within a Parish.

10.0 Representations

10.1 Ward Councillor William Frame raised the objection previously stated above, within Paragraph 1.2 of this report.

10.2 14 other objections have been received, the main issues raised can be summarised as below:

1. Plot 1 obscures views of the 'greensward' from the northern end of Catchpool Road;
2. The implications of new housing are detrimental to the existing parking situation for current residents;
3. The impact of a new residential estate is detrimental to the cycle route along Sportsway;
4. There are concerns regarding the protection of the new development from flooding;
5. There is a perceived need for new junction arrangements on Cowdray Avenue, Kings Meadow, Serpentine Road and Mason Road;
6. It is suggested that there is a loss of amenity to immediate neighbours;
7. There is a perceived need for a 20 mph control for Catchpool Road and Jarmin Road and raised tables at all junctions;
8. Improvements are sought to the boundary of the Cricket Ground;
9. There is potential of bright reflections on windows affecting cricket games,
10. There is concern over any loss of trees; and
11. It is suggested that there is a lack of public cycle parking.

The full text of each response to the neighbour consultation process can be seen on the Council' website.

11.0 Parking Provision

11.1 The application provides a minimum of two spaces for each unit to comply with the adopted vehicle parking standards. Visitor parking is less than standard. This is discussed in the report at paragraph 14.16.

12.0 Open Space Provisions

12.1 No public open space is provided on site because the site affords immediate access to Kings Meadow and Castle Park. This is compliant with reduced on site provision requirements within the central urban area and located so close to the existing large-scale provisions nearby in accordance with Development Policy 16 .

13.0 Air Quality

13.1 A Scoping Opinion was sought from the Council as to whether an Air Quality Report was required. The site and proposed development is not thought to have an impact on the Town Centre Air Quality Management Area meaning that a full report has not been required.

14.0 Report

Design and Layout

- 14.1 The proposed development creates a layout of articulated terraced houses, linked with garages and private drives between the main dwellings. The arrangement is of traditional perimeter blocks with enclosed rear gardens and small public front gardens. The principle character of the adjoining streets is reflected and maintained by the retention of the deep verges and established trees which echoes the depth of front gardens in Catchpool and Jarmin Road.
- 14.2 The layout has been the subject of two amendments which are both in response to objections from local residents and concern the placement of plot 1. In the first submission plot number 1 obscured the view from the northern end of Catchpool Road to the verge and trees on the western boundary of the site. The amended layout now shows that a clear line of sight has been established to the verge and the trees. There is no public open space provided within the site because of the proximity of King's Meadow and Castle Park. In accordance with the policy a commuted sum has been provided as part of the Section 106 package.
- 14.3 The architectural theme or character is a mix of contemporary fenestration patterns with an articulated mix of materials on principle elevations. This decorative approach sits under conventional roof structures which are varied across the development as plain roofs, hipped roofs and gables facing the street. Although of individual design the approach is not dissimilar to the detached houses in lower Catchpool Road.
- 14.4 The layout provides for the physical requirements suggested in the Street Services consultation paper. Related to this issue, the issues regarding financial commitments for street service collections are discussed under the Section 106 section of this report below.

Scale, Height and Massing

- 14.5 The majority of the units provided are two storey family houses. The terraces are well articulated which breaks down the massing so that the appearance is not overbearing against the existing other sides of Catchpool and Jarmin Road there are two blocks of flats on the site, providing 6 apartments in each block. Amendments have been received to articulate the roofs of these units which has sufficiently broken down the visual mass. Members should recall the previous application which contained a much higher amount of three and three and a half storey development.

Impact on the Surrounding Area

- 14.6 The layout and arrangement makes a positive contribution to the location. Replacing the vacant and overgrown site with a development of sympathetic scale and considered character. The replacement car park will no longer be accessed from Catchpool Road which should be seen as a further positive contribution. Destination parking from cars using Catchpool Road only for the public car park will cease which should establish a stronger and more consistent residential environment. This will enhance the typical pre and post-war character of the existing residential streets.

- 14.7 The proposed scheme presents predominantly two storey development to Sportsway. It is not anticipated that two storey buildings will adversely affect the cricket ground with regard to reflections of sunlight and this would not be a reason to refuse planning permission that could withstand challenge at appeal. The previous scheme (which should be withdrawn after any approval given herein) has a resolution to grant permission and was also such a cause of concern because of the four storey development proposed in the same location could create reflections which extended into the pitch.

Impacts on Neighbouring Properties

- 14.8 There are generally no adverse affects on the neighbouring properties. The most affected neighbour is No. 19 Jarmin Road. Whilst a three storey block is proposed adjacent to this property there is sufficient respect towards overlooking and overshadowing. Number 19 retains privacy in the important “sitting out area” of their garden space adjacent to the rear of the house. Sunlight to the garden is affected in the late afternoon, but this is not considered to be unacceptably harmful when considered against our adopted standards for assessing impact on light.

Existing trees

- 14.9 The existing trees on the Jarmin Road and Catchpool Road boundaries have been retained which preserves the character of these streets. The verges in which the trees have grown will become open front gardens and will be protected from personalisation and enclosures with a planning condition. This will secure the open character in perpetuity. The private drives that cross the verges are not considered to adversely affect the character of the area or the roots of the trees. These drives have been designed with a ‘no dig’ design that the arboriculture officer has approved.
- 14.10 There may appear to be a contradiction between the Landscape and Arboriculture consultations regarding the retained trees on Jarmin and Catchpool Roads. The contradiction relates to the distance of proposed dwellings to existing trees. The Landscape officer has identified that generically there is a set distance to allow for the full growth of the crown of these tree species. However, the Arboricultural Planning Officer has assessed the trees and stated that they are already as mature as they will become and therefore will not develop larger crowns as would usually be expected. This later assessment overrides the need for an increase in the setback of houses and explains this disparity between the comments.

Amenity Provisions

- 14.11 Generally the garden sizes meet the standards of Development Policy DP16. Some slightly smaller gardens have been considered acceptable where amendments to the layout have responded to neighbours concerns over views of the trees and verges. On any larger site such as this it is often accepted that a small minority of gardens may be balanced against other consideration in order to provide a more generally acceptable layout provided that these instances are rare and a very small minority with good justification.

- 14.12 The flats have been provided with an area of communal open space per flat. The size of this is not compliant with policy. The flats do have access to Castle Park and this is considered acceptable mitigation in this central location for the smaller amount of communal amenity space.

Provision of The Replacement Public Car Park

- 14.13 The developer has agreed to provide a functional and fully equipped extension to the Leisure World car park as mitigation for the loss of the Sportsway public car park. To avoid displacement and loss of public car parking by phasing, a control mechanism needs to be incorporated into the legal agreement to ensure that the public always maintains the existing provision of spaces and the new spaces are consequently available prior to any loss of the existing spaces.

Highway Issues

- 14.14 Essex County Council Highway Authority has no objection to the scheme subject to the conditions attached to this report. The Highway Authority has recognised that there will be a need to control parking on the new streets of this application and amend the current Traffic Regulation Orders that exist for the immediate area. They further acknowledge that the developer cannot be obligated to fund these improvements.
- 14.15 The relocation of Sportsway car park requires the developer to seek the removal of Highway rights over the part of the site on which the public car park is currently sited. Whilst this process is external to the planning process the developer has commenced the removal with Essex County Highways. The removal of highway rights will be dependant on the grant of planning permission.
- 14.16 Car parking is provided to the current standard across the whole site. In the dwellings that front Catchpool Road a garage and two spaces for each dwelling has been provided. Elsewhere the parking has been provided on plot, on street and in three small parking courts, one for each block of apartments and for the first five houses in Jarmin Road. Visitor Parking has been provided in 8 designated spaces, this is below standard for visitor parking but as this is a central site with good public parking provision being provided adjacent to the development it is considered that this is not a significant issue.

Contaminated Land

- 14.17 The former use of this site has contaminated the land but both the Environment Agency and the Council's Contaminated Land Officer have agreed that the proposals for remediation are acceptable. The conditions on development proposed by both parties are considered to adequately secure protection for the proposed use of the site and Controlled Waters as defined by the Environment Agency. The recommended conditions have been included in the recommendation below.

Health impact

- 14.18 The development proposal has been assessed for the need for a Health Impact Assessment as required by Development Policy DP2. The impacts of the proposed development are not considered negative and a full Health Impact Assessment is not required.

Air Quality Management Area

- 14.19 The proposed development is not within the Air Quality Management Area, a screening opinion was given to the developer regarding the impacts of the scheme which has determined that the impacts are not detrimental to the air quality management area.

Flood Zone

- 14.20 The majority of the site falls within Flood Zone 1, sections of the southern portion of the site fall within Flood Zone 2 at risk from the extreme 1 in 1000 year flood event and technically classifying the site as being in Flood Zone 2. The limit of the Zone 3 flood plain, with a risk of flooding in a 1 in 100 year event, lies just outside the southern boundary of the site in Sportsway. The Environment Agency has raised no objection to the proposed scheme but has asked that planning conditions are attached to any grant of planning permission the council may wish to grant. These conditions have been included in the report.

Section 106 Planning Obligations

- 14.21 The viability of the scheme has been tested via a “3 Dragons”, financial viability report submitted by the developer and subsequently tested by an independent third party. The appraisal was discussed by the Council’s development team resulting in agreement with the viability appraisal and a subsequent redistribution of the available s106 contribution to provide four affordable units on the site with the remaining part of the contribution paid to Parks and Recreation for the provision of new public facilities within Castle Park.
- 14.22 The affordable units are provided within the new frontages on Jarmin Road on Plots 22, 23, 24 and 225.
- 14.23 The comments from Street Services concerning the provision and maintenance of bins are noted, however, national policy limits the extent to which planning obligations can add to a developer’s financial obligations. The Council is in the process of developing a Street Services SPD which will seek to guide policy in this area, but it is not yet adopted. The Council can accordingly make recommendations to developers on ensuring adequate refuse facilities as an integral part of high-quality design, but additional Section 106 requirements for this would be difficult to justify. It should be noted that the Councils Development Team has accepted that a limited 106 contribution is a viable offer and that this offer has been prioritised for affordable housing.

Changes from previous resolution to grant permission.

- 14.24 In comparison to the last scheme submitted by the developer this proposal is for a much reduced density, the previous scheme having 116 units. The new proposal has less than half the number of units previously proposed. The layout is substantially different from the previous scheme in order to accommodate the new parking standards. The new standards have created more parking spaces per dwelling and now favour the provision of on plot and on street parking, whereas the previous standards allowed for large rear parking courts with no requirements for visitor parking spaces.
- 14.25 The increase in parking standards has not resulted in an increase in the number of spaces compared to the previous scheme. The provision of on plot parking to the Catchpool Road frontage has resulted in 6 private drives across the verge/greensward where the previous application had a single access to the rear parking court. The provision of the new scheme equates to one more vehicle space served from Catchpool Road than the previous scheme but it should be noted that the on plot provision is more likely to be used than the previous rear parking courts. This was established by the research conducted for adopted parking standards of 2009 which demonstrated that rear parking courts are the least used type of parking, resulting in car owners finding less legitimate places to park their vehicles.
- 14.26 Some objectors have commented that the additional driveways on Catchpool Road are detrimental to the aesthetic attraction of the greensward but it should be considered whether the provision of driveways is detrimental to the overall character when it is how the rest of the existing street is provided with parking. The views along Catchpool Road will still capture the essence of the open grass and tree lined character. Conditions attached to this report will secure the open character in perpetuity against enclosure and the Arboriculture Officer has recommended conditions to protect the trees which are also attached to this report.

14.0 Conclusion

- 14.1 The scheme has been designed to a high standard which, subject to the conditions attached to this report will make a positive contribution to the area, without unduly affecting the amenity of neighbours. The replacement public car park will reduce traffic in Catchpool Road whilst still providing revenue and public parking close to the facilities that the Sportsway car park facilitated. Whilst the proposed scheme offers a limited but accepted 106 contribution, the Council's officers and development team have rationalised the provision to favour affordable housing. On balance, when considering the material planning considerations against adopted policy, it is considered that the scheme does not raise any concerns that would warrant the refusal of planning permission.

15.0 Recommendation

- (1) APPROVE subject to the prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990. The Head of Environmental and Protective Services to be authorised to complete the agreement to provide the following:
 - Four affordable houses provided as 3 x 3bedroom units and 1 x 4 bedroom unit
 - A fully functional, marked out and fully equipped public car park given over to the Council prior to occupation.
 - A contribution towards facilities within Castle Park.
- (2) On completion of the legal agreement, the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

Conditions

1 - Non-Standard Condition

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2 - Non-Standard Condition

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Issue Register as submitted on 15 March 2012 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3 - Non-Standard Condition

Prior to the commencement of development, precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction shall have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

4 - Non-Standard Condition

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway (including a footpath or bridleway) unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

5 - Non-Standard Condition

The garages forming part of the development shall be retained for parking motor vehicles at all times and shall not be adapted to be used for any other purpose unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: To retain adequate on-site parking provision in the interest of highway safety.

6 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level within the North elevation and roof faces of plots 4, 19, 41 to 46, the south elevations and roof faces of plots 9, 14, 32, 37, 51 of the dwellings hereby permitted unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

7 - Non-Standard Condition

Prior to the commencement of development, a scheme for the phasing of construction work shall have been submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved phasing scheme

Reason: To limit the local impact of construction work in the interests of the amenities of the surrounding area.

8 - Non-Standard Condition

Prior to the commencement of development, including any works of demolition, a Construction Method Statement shall have been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

- The parking of vehicles of site operatives and visitors;
- Hours of deliveries and hours of work;
- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Minimisation of noise and vibration

- Measures to control the emission of dust and dirt during construction; and
- A scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

9 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

10 - C11.12 Landscape Works Implementation

All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

11 - C11.17 Landscape Management Plan

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

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

12 - Non-Standard Condition

Finished ground floor levels shall be set at a minimum level of 6.0 metres AODN, as discussed in section 4.1.4 of the FRA

Reason: To ensure that the buildings are built above the design flood level.

13 - Non-Standard Condition

Prior to the commencement of development, a scheme for the provision and implementation of surface water drainage shall be submitted and agreed, in writing, with the Local Planning Authority. The scheme shall be constructed and completed before occupancy of any part of the proposed development.

Reason: To ensure a satisfactory method of surface water drainage.

14 - Non-Standard Condition

Prior to the commencement of the development approved by this planning permission (or such other date or stage in the development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1. A preliminary risk assessment which has identified;
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To ensure that the proposed development does not cause pollution of Controlled Waters and that development complies with approved details in the interests of protection of Controlled Waters.

15 - Non-Standard Condition

Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a 'long-term monitoring and maintenance plan') for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure that the proposed development does not cause pollution of Controlled Waters and that development complies with approved details in the interests of protection of Controlled Waters.

16 - Non-Standard Condition

Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not cause pollution of Controlled Waters and that development complies with approved details in the interests of protection of Controlled Waters.

17 - Non-Standard Condition

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved

Reason: To ensure that the proposed development does not cause pollution of Controlled Waters and that development complies with approved details in the interests of protection of Controlled Waters.

18 - Non-Standard Condition

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

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

19 - Non-Standard Condition

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

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

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DP1 of the Development Policies adopted 2010.

20 - Non-Standard Condition

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DP1 of the Development Policies adopted 2010.

21 - Non-Standard Condition

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DP1 of the Development Policies adopted 2010.

22 - Non-Standard Condition

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 19 'Site Characterisation', and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 20 'Submission of Remediation Scheme', which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 21 'Implementation of Approved Remediation Scheme'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DP1 of the Development Policies adopted 2010.

23 - Non-Standard Condition

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 20 'Submission of Remediation Scheme' above. This certificate is attached to the planning notification.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DP1 of the Development Policies adopted 2010.

24 - Non-Standard Condition

A noise survey for proposed residential properties shall have been undertaken by a competent person and subsequently approved, in writing, by the Local Planning Authority. The survey shall meet the requirements of Planning Policy Guidance Note 24 (PPG24) and include periods for daytime 0700-2300 hours and night-time 2300-0700 hours and shall identify appropriate noise mitigation measures. In addition, all residential units shall be designed so as not to exceed the noise criteria based on figures by the World Health Authority Community Noise Guideline Values given below:

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Outdoor living area in day time: 55 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAmax)
- Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LAmax) Such detail as shall have been agreed in writing by the Local Planning Authority based on the submitted and approved survey and appropriate consequential noise mitigation measures shall be implemented prior to occupation of any building on the site and thereafter maintained.

Reason: To safeguard the amenity of residents.

25 - Non-Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light' for zone E3 . This shall include sky glow, light trespass into windows of any property, source intensity and building luminance.

Reason: To ensure there is no undue light pollution.

26 - Non-Standard Condition

No demolition or construction work shall take outside of the following times;

- Weekdays: 8am till 6pm - Saturdays:
- 8am till 1pm - Sundays and Bank Holidays:
- No working Sundays or Bank Holidays

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

27 - Non-Standard Condition

No construction deliveries to or from the site, worker vehicle movements, or construction work shall take outside of the following times;

- Weekdays: 7.30am till 7pm - Saturdays:
- 7.30am till 1pm - Sundays and Bank Holidays:
- No deliveries Sundays or Bank Holidays

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

28 - Non-Standard Condition

Prior to the first occupation of development, a 1.8 metre high screen boundary treatment that shall have previously have been approved, in writing, by the Local Planning Authority, shall be erected along the bounday of plots 41 to 46 and including rear car park. The screen boundary treatment shall thereafter be retained as approved.

Reason: To protect the amenities and privacy of occupiers of the adjoining property.

29 - Non-Standard Condition

Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment.

30 - C10.15 Tree & Natural Feature Protection: Protected

No work shall commence on site until all trees, shrubs and other natural features shown to be retained on the approved plans, (including those referred to in condition/s XXX) are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. No access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

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

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

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

32 - C10.18 Tree and Hedgerow Protection: General

All trees and hedgerows on and immediately adjoining the site shown on the approved plans to be retained 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 to be retained shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that these 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.

33 - Non-Standard Condition

The construction shall take place solely in accordance with the terms of the current Arboricultural reports provided, which form part of this permission, and no other works shall take place that would effect the trees unless otherwise agreed in writing by the Local Planning Authority

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

34 - Non-Standard Condition

No works or development shall take place until a scheme of supervision for the arboricultural protection measures has been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and will include details of:

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the Local Planning Authority.

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

35 - Non-Standard Condition

Prior to the commencement of development, evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage or Interim Code Certificate demonstrating that the development will achieve Code Level 3 or higher for all dwellings shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the development is designed to be sustainable and will make efficient use of energy, water and materials.

36 - Non-Standard Condition

Prior to the first occupation of any dwelling hereby approved, a post-construction Final Code Certificate issued by an accreditation body confirming that dwelling has achieved a Code for Sustainable Homes rating of Code Level 3 or higher shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

37 - Non-Standard Condition

The residential units shall not be occupied until their identified parking areas and associated turning areas as shown on the approved plans have been hard surfaced, sealed and marked out. The car parking area shall thereafter be retained for this purpose.

Reason: In the interest of highway safety and to secure a satisfactory form of development

38 - Non-Standard Condition

Prior to commencement of the development, the planning application drawings, in particular ARCADY drawing number 10/21/01 Rev C dated 3 January 2012, shall be amended and submitted to and approved in writing by the Local Planning Authority to show the following:

- A minimum 6 metres clear to ground behind or in front of all parking spaces
- A minimum 1 metre overhang around the type 3 turning head in Sportsway
- All visibility splays clear of trees

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

39 - Non-Standard Condition

No occupation of the development shall take place until such time as the following have been provided:

- Sportsway stopped up to vehicular traffic
- In Sportsway, a size 3 turning head and foot/cyclepath between the turning head and the foot/cyclepath adjacent to the Leisure World/Ten Pin Bowling car park
- Two speed tables in Jarmin Road
- Residential Travel Information Packs to each of the proposed residential units

With the exception of the Residential Travel Information Packs, as shown in principle on planning application drawing number 10/21/01 Rev C dated 3 January 2012

Reason: To protect highway efficiency of movement and safety as well as to ensure the proposal site is accessible by public transport, cycle and foot in accordance with policy DM1 and DM9 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

40 - Non-Standard Condition

Prior to occupation of each residential unit, each vehicular access shall be provided on both sides with a 1.5 x 1.5 metre pedestrian visibility splay as measured from existing or proposed highway. There shall be no obstruction above a height of 600mm as measured from the finished surface of the access within the area of the visibility sight splays and shall be maintained thereafter.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

41 - Non-Standard Condition

No unbound material shall be used in the surface finish of a driveway within 6 metres of existing or proposed highway.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

42 - Non-Standard Condition

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

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

43 - Non-Standard Condition

Any trees proposed within existing or proposed highway shall be sited clear of all underground services and laid out to compliment existing or proposed street lighting. All proposed trees shall be supported by a commuted sum to cover the cost of future maintenance (to be agreed with the Highway Authority).

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

44 - Non-Standard Condition

Prior to commencement of the development details of a wheel cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The wheel cleaning facility shall be provided prior to commencement of the development and maintained during the period of construction.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Informatives

Highway Informative

- The above is required to ensure the proposal complies with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.
- Prior to commencement of the development the removal of highway rights over land along Sportsway is required.
- All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority.

- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate.
- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- All highway related details should be agreed with the Highway Authority.
- The number of spaces and how these are laid out should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009. This applies to all vehicular parking spaces including disabled as well as cycle and motorcycle parking.
- Any proposed traffic calming should be laid out and constructed having consulted the emergency services and bus operators.
- Prior to occupation, each residential unit shall be served by a system of operational street lighting between the unit and existing highway, which shall thereafter be maintained in good repair.
- Steps should be taken to ensure sufficient turning and off loading facilities for delivery vehicles, together with an adequate parking area for those employed in developing the site, are provided within the site.

Demolition/Construction Informative

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 Holidays.

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.
- 5) All necessary measures shall be taken to minimise dust, including damping down and the use of barriers.

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

- 1) 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.
- 2) 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

- 1) 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.

Landscape Informative

- 1) It should be noted that any technical interpretation of these detailed requirements by the applicant or their agent should be sought externally from/through the relevant professional.
- 2) In the interest of efficiency any clarification of technical requirement should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the Applicant's Landscape Consultant and the Council's Landscape Planning Officer.
- 3) Please refer to planning application number when responding to this consultation.

Environment Agency Informative

Where soakaways or other infiltration systems are proposed for the disposal of surface water, we would comment as follows:

Soakaways or other infiltration systems shall only be used in areas on site where they will not present a risk to groundwater, with the depth of soakaway kept to a minimum to ensure that the maximum possible depth of unsaturated material remains between the base of the soakaway and the top of the water table, ensuring that a direct discharge of surface water into groundwater is prevented. Soakaways shall not be constructed in land affected by leachable contamination, where they may promote the mobilisation of contaminants and give rise to contamination of groundwater.

Informative/Advice to Applicant

If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility. The Duty of Care regulations for dealing with waste materials are applicable for any off-site movements of wastes. The developer as waste producer therefore has a duty of care to ensure all materials removed go to an appropriate licensed disposal site and all relevant documentation is completed and kept in line with regulations. If any waste is to be used on site, the applicant will be required to obtain the appropriate exemption or authorisation from us. We are unable to specify what exactly would be required if anything, due to the limited amount of information provided.

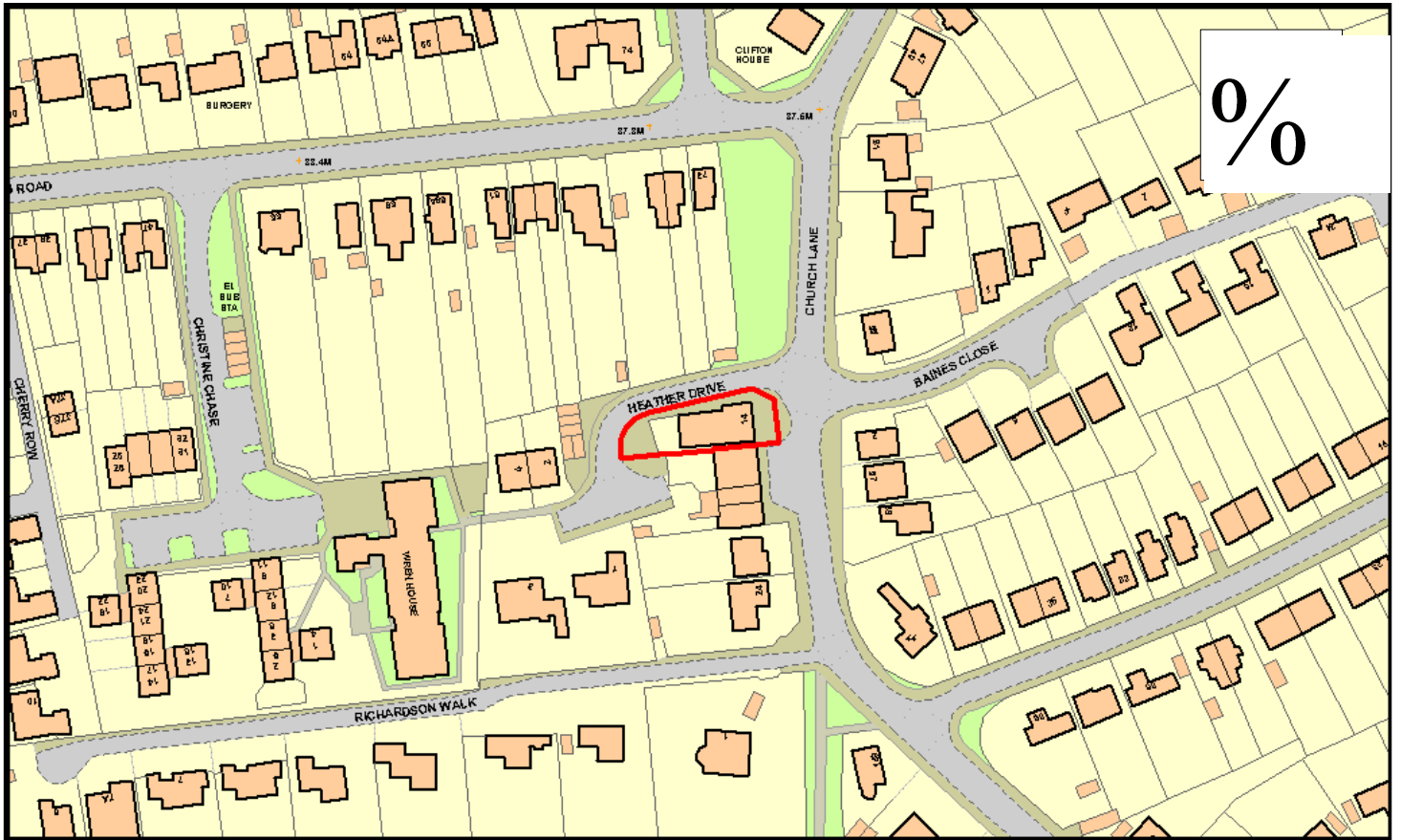
Informative on Works in the Highway

All works affecting the highway shall be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made to the Essex County Council Highway Authority on 0845 603 7631.

Informative on Section 106 Agreements

This application is the subject of a Section 106 legal agreement and this decision should only be read in conjunction with this agreement.

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it.



Application No: 112297

Location: Ark Veterinary Surgeons, 14 Church Lane, Colchester, CO3 4AF

Scale (approx): 1:1250

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7.3 Case Officer: Lucy Mondon

Due Date: 06/04/2012

MINOR

Site: 14 Church Lane, Colchester, CO3 4AF

Application No: 112297

Date Received: 10 February 2012

Applicant: Mr M G Harrington

Development: New step outside front door of veterinary practice with hand rail both sides (for disabled and infirm clients).

Ward: Prettygate

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the applicant is an elected member of the Council.

2.0 Synopsis

2.1 The proposal is for the construction of a step and erection of hand rails outside the front door of Ark Veterinary Centre, Church Lane Colchester.

2.2 The report describes the proposal and sets the planning policy context. The main planning considerations are the impact of the proposal upon the character of the building and the visual amenity of the street scene. There have been no objections to the proposal.

2.3 Having considered these matters, the report concludes that the proposed step and railing would have a minimal impact on the character of the building and the surrounding area and the recommendation is to grant planning permission.

3.0 Site Description and Context

3.1 Ark Veterinary Centre is a detached two-storey building located within a built up residential area. The property is part of a small parade of commercial properties, sited to the south of the site. The site is open to the road and there is a small area of parking to the front of the building.

3.2 There are no planning constraints upon the site.

4.0 Description of the Proposal

- 4.1 The proposal is for a step and the erection of hand rails outside the front door of Ark Veterinary Centre. The front door is on the east elevation of the building, facing onto Church Lane.
- 4.2 The proposed works are considered to be development as they would materially affect the external appearance of the building and planning permission is required because veterinary surgeries do not benefit from permitted development rights under the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
- 4.3 The step would be constructed in engineering bricks, topped with non-slip slabs. The hand rails would be spray coated tubular stainless steel.

5.0 Land Use Allocation

- 5.1 Predominantly residential.

6.0 Relevant Planning History

- 6.1 There is no planning history that is relevant to the proposal.

7.0 Principal Policies

- 7.1 The following national policies are relevant to this application:
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 25: Development and Flood Risk
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:
UR2 - Built Design and Character
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP7 Local Centres and Individual Shops
DP19 Parking Standards
- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
Vehicle Parking Standards

8.0 Consultations

- 8.1 No consultation responses have been received at the time of writing.

9.0 Parish Council Response

- 9.1 N/A

10.0 Representations

10.1 No letters of representation have been received at the time of writing.

11.0 Parking Provision

11.1 The proposal does not restrict the current parking arrangement to the front of the building.

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

13.1 N/A

14.0 Report

14.1 The main planning considerations are the impact of the proposal upon the character of the host building and the impact upon the visual amenity of the street scene and the surrounding area.

14.2 The proposal is for the construction of a step and the erection of hand rails outside the front door of the building. Although the step and handrails would be noticeable to the front of the building, they would be modest in scale and would not have a significant impact on the character of the building. In turn, the step and handrails would not have a significant impact on the character of the surrounding area.

14.3 It is considered necessary to apply a condition to require that the handrails are finished in white so that they sit comfortably with the host building, complementing the existing white fenestration on the building.

15.0 Conclusion

15.1 The proposal is considered to be acceptable in terms of its siting, scale, and design and would not have a harmful impact on the character or appearance of the host building or the surrounding area.

16.0 Recommendation - APPROVE subject to the following conditions

Conditions

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

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

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

2 - A2.1 Development to Accord With Approved Plans

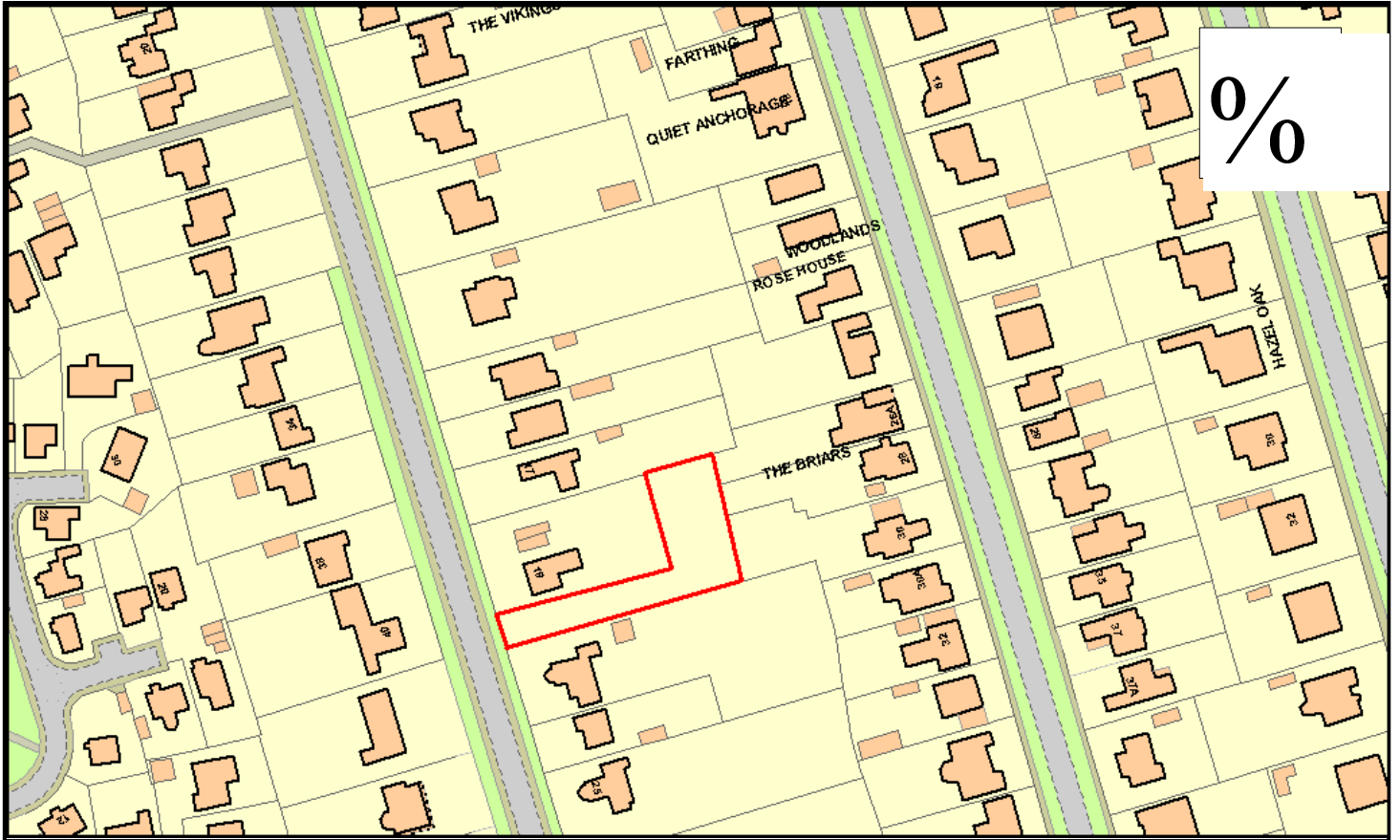
The development hereby permitted shall be implemented in all respects strictly in accordance with the approved plans received on 10th February 2012.

Reason: To ensure the development will be carried out as approved and because any changes must be agreed in advance in writing by the local planning authority.

3 - Non-Standard Condition

Notwithstanding the submitted details, the handrails hereby approved shall be finished in white, unless otherwise agreed, in writing, by the Local Planning Authority.

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



Application No: 100927

Location: Land to the rear of 19 & 21 Empress Avenue, West Mersea, Colchester

Scale (approx): 1:1250

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7.4 Case Officer: Nick McKeever**MINOR****Site:** Land to the rear of 19 & 21 Empress Avenue, West Mersea, Colchester**Application No:** 100927**Date Received:** 29 July 2010**Agent:** Mr Lewis Cook**Applicant:** Mr J Wagstaff**Development:** Extension of time for the implementation of outline planning permission O/COL/05/1024 for proposed new bungalow with detached garage on plot 1**Ward:** West Mersea**Summary of Recommendation:** Conditional Approval**1.0 Reason for Referral to the Planning Committee**

1.1 This application is referred to the Planning Committee because there is an objection from a local resident and by West Mersea Town Council. The application was submitted prior to the adoption of the current Scheme of Delegation to Officers. Unlike the current scheme of delegation, an application of this type had to be referred to the Committee where there were any objections.

2.0 Synopsis

2.1 The site specific circumstances have not changed since the original outline permission was granted. It is in this context that the recommendation is for permission.

3.0 Site Description and Context

3.1 The site lies to the rear of Nos 19 – 21 Empress Avenue. These two existing properties are relatively large, two storey houses set within substantial plots. The west side of Empress Avenue is characterised by similar house types. Fairhaven Avenue to the east of the site is largely characterised by bungalows and one-and-half storey dwellings. The site is bounded on the north, south and east by residential properties. The northern boundary has substantial planting and mature trees, as is the boundary to the south.

4.0 Description of the Proposal

- 4.1 Outline planning permission for the erection of two detached bungalows was granted under reference O/COL/05/1024. The approved plans showed one bungalow located to the rear of number 19 (Plot 1) and the other to the rear of number 21 Empress Avenue (plot 2). These properties were accessed via a 3.7 metre wide private drive located adjacent to number 19 Empress Drive.
- 4.2 On the 7th September 2007 a reserved matters application (Scale. External Appearance and Landscaping) was approved in respect of Plot 1 (reference 07197).
- 4.3 The current application was registered by the Council on the 29th July 2010 and sought permission to extend the life of the original outline permission, in as far as this relates to Plot 1, which was approved on the 2nd August 2005 and was due to expire on the 2nd August 2010.
- 4.4 This current application seeks to extend the period for the implementation of the 2005 outline permission.

5.0 Land Use Allocation

- 5.1 SSSI CONSULTATION ZONE Around Mersea Island & /Abberton Reservoir/Tree Preservation Orders/ Bradwell Safeguarding Zone 2/Residential

6.0 Relevant Planning History

- 6.1 O/COL/05/1024 - Residential development to rear of 19 & 21 Empress Avenue. Approve Conditional - 02/08/2005
- 6.2 O/COL/05/0499 - Residential development to rear of 19 & 21 Empress Avenue. Withdrawn - 10/05/2005
- 6.3 071015 - New bungalow with detached garage. Withdrawn.
- 6.4 071917 - Approval for reserved matters of Plot 1. Approved 07/09/2007.

7.0 Principal Policies

- 7.1 The following national policies are relevant to this application:
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 3: Housing
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:
SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
SD3 - Community Facilities
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character

PR1 - Open Space
TA5 - Parking
ENV1 - Environment
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards
DP25 Renewable Energy

- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
Backland and Infill
Community Facilities
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
Extending your House
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

- 8.1 The Highway Authority has not raised any objections.

The full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 The Parish Council has stated that the application should be refused as outline planning permission is no longer acceptable.

10.0 Representations

- 10.1 The occupier of 30A Fairhaven Avenue objects due to the change in government guide lines on garden development and the fact that the original permission has expired.

- 10.2 The occupier of 19 Empress Avenue has raised issues with the ownership of the land, and in particular the access drive which is partly in her ownership. Whilst the Applicants have a legal right of way over her land to access the plot, this is not an exclusive right of way. The access way is already ornamentally planted with long established trees, shrubs and bulbs, and is much admired by passers-by. The planting of it is her ultimate responsibility. The applicants and their successors should be directed to rectify at their expense any accidental damage they might cause in consultation. No extended planning consent should be granted until condition 4 is amended to include her ownership of the access way.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

- 11.1 The approved plan showing the siting of the dwellings demonstrates that parking can be provided for two vehicles within Plot 1 (a single garage and hardstanding in front of this garage). Whilst the specified size of a garage and parking space has since been increased, there appears to be ample space available to provide a garage and parking space to the current specifications as well as an additional space for visitor parking.

12.0 Open Space Provisions

- 12.1 Private amenity space can be provided to the required standard i.e. a minimum of 60 sq.m for a three bedroom dwelling.

13.0 Air Quality

- 13.1 Not applicable

14.0 Report

- 14.1 The original outline planning permission established the principle of the development of this site for two detached dwellings. This consent was only for the siting of the buildings and the means of access. All other matters were reserved (i.e. external appearance and landscaping). A subsequent application for approval of reserved matters relating to Plot 1 (scale, external appearance and landscaping) was granted permission in September 2007 under reference 071917. Whilst this permission has not yet been implemented the site specific context remains as per the 2004 and the 2007 permissions.
- 14.2 In the period since these previous permissions were granted there have been two important changes to policy at the national level and the local level.
- 14.3 In June 2010 PPS 3: Housing, was amended to delete the reference to garden land within the definition of "previously developed land", thereby removing the presumption in favour of the development of gardens ("garden grabbing"). It is important to note however that this does not automatically mean that such development is unacceptable, as seems to be implied within the submitted objections, but that it should be considered upon its own particular merits. In the case of the application site, this development has already been deemed to be acceptable.

- 14.4 At the Local level, the Council has adopted SPD relating to Infill & Backland Development. Notwithstanding this, the basic principles and concepts that underpin this SPD would have been applied during the determination of the reserved matters application, and in so doing it was deemed to be acceptable.
- 14.5 The issue of the ownership of the access, and associated rights over this land, has been resolved, in that the access is now shown as being in the ownership or control of the Applicant (i.e. coloured blue) but with the appropriate Certificate of Ownership (Certificate B) having been submitted instead of the original Certificate A.
- 14.6 The other concern relating to the landscaping is acknowledged. However, the landscaping has previously been agreed and approved as part of the reserved matters application approved in 2007.

15.0 Conclusion

- 15.1 The development of this site was considered to be acceptable in principle and the subsequent reserved matters agreed with the 2005 permission. On the basis that there does not to have been any change in the site specific circumstances in the intervening period, it is considered that the application to extend the implementation period of the outline permission O/COL/05/1024, where this relates to Plot 1, is acceptable.

16.0 Recommendation - APPROVE subject to the following conditions

Conditions

1 - Non-Standard Condition

The permission hereby granted shall relate only to the extension of time for the implementation of the Outline Planning Permission O/COL/05/1024 for the proposed bungalow with detached garage on Plot 1, in accordance with the application as submitted.

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

2 - Non-Standard Condition

The development shall be begun before the 2 August 2013 (i.e. three years from the date of the expiration of three years of the permission O/COL/05/1024).

Reason: In order to comply with Section 91(1) and (2) of the Town and Country Planning Act 1990 as amended by Section 57 of the Planning and Compulsory Purchase Act 2004.

3 - Non-Standard Condition

Notwithstanding Condition 6 of the permission O/COL/05/1024, the drawing reference 05014/002b shall be superseded and replaced by drawing number 05014/002d.

Informatives

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

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.



Application No: 111999

Location: 57 Rectory Road, Rowhedge, Colchester CO5 7HX

Scale (approx): 1:1250

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7.5 Case Officer: Lucy Mondon

MINOR

Site: 57 Rectory Road, Rowhedge, Colchester CO5 7HX

Application No: 111999

Date Received: 14 November 2011

Agent: Miss Viktoria Oakley

Applicant: Ms S. Sadler

Development: Alterations to 57 Rectory Road and erection of two four bedroom dwellings.

Ward: East Donyland

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee at the request of Councillor Lilley for the following reasons:

- Highway safety and traffic;
- Overshadowing and loss of privacy;
- Design, appearance, and layout; and
- Lack of parking.

2.0 Synopsis

2.1 The application seeks planning permission for the erection of 2 No. dwellings, with associated shared access. An existing dwelling on the site (No. 57 Rectory Road) will be retained and extended, resulting in three properties on site in total.

2.2 The following report considers the matters raised by the Local Ward Member, as well as other material planning matters together with issues raised in representations. The report describes the site and its setting, the proposal itself, and the consultation responses received.

2.3 The planning merits of the case will be assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 The application site is located within the built up area of Rowhedge in an area that is identified as being predominantly residential in the Colchester Borough Council Local Development Framework (LDF). Surrounding development is mixed in character, with detached and semi-detached bungalows (those in Hillview Close to the north, east, and west of the site), semi-detached houses (to the south and east of the site along Rectory Road), terraced houses (No's 42-52a Rectory Road), and detached houses (No's 55 and 57 Rectory Road) being evident.
- 3.2 The properties along Rectory Road do not conform to a particular building pattern in terms of their proximity to the road and the spacing between properties. There is also a variety of plot sizes.
- 3.3 No. 57 Rectory Road is a large property that is situated within a large plot. The property is set back from the road, behind a 1.8 metre fence and high planting. The site slopes down from Rectory Road, resulting in No. 57 being set lower than the road and the garden sloping down to the bungalows on Hillview Close.
- 3.4 The site is within the 2km SSSI consultation Zone, being 51 metres from a SSSI.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for the erection of 2 No. dwellings and a two-storey rear extension to No. 57 Rectory Road (existing side and rear extensions to be demolished).
- 4.2 The new dwellings would be 2½ storeys in height and would have four bedrooms each. The dwellings would be approximately 8.4 metres high, have a frontage width of 5.4 metres and a depth of 11.2 metres.
- 4.3 The two-storey rear extension to No. 57 Rectory Road would project 3.9 metres from the rear wall of the dwelling and would be seven metres in height (rising to 7.2 metres as the garden slopes down). The extension would provide a kitchen/breakfast room at ground-floor and two bedrooms at first-floor, giving a total of four bedrooms.
- 4.4 The materials to be used in construction are stated as being: red brick, grey slate tiles, white pvc windows and doors.
- 4.5 A shared access would serve all three properties. The access would be to the centre of the front boundary. The existing vehicular access would be blocked up.
- 4.6 A total of six parking spaces are to be provided, with a shared gravel driveway providing a turning and manoeuvring area.
- 4.7 The proposal was amended on 6th February 2012. The amendments included lowering ground levels (to lower the overall height of the new dwellings) and revised landscaping details. Further revisions were made to the landscaping plan on 15th March 2012 in order to accord with the proposed site plan originally submitted.

5.0 Land Use Allocation

5.1 Predominantly residential.

6.0 Relevant Planning History

6.1 Outline and Reserved Matters Planning Permission for the erection of a dwelling at No. 57 Rectory Road were approved on 30th July 1990 and 24th June 1991 respectively (ref: 90/0947 and 90/0947/A). The approved dwelling is now known as No. 55 Rectory Road.

7.0 Principal Policies

- 7.1 The following national policies are relevant to this application:
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 3: Housing
Planning Policy Statement 9: Biodiversity and Geological Conservation
Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation
Planning Policy Statement 23: Planning and Pollution Control
Planning Policy Statement 25: Development and Flood Risk
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:
SD1 - Sustainable Development Locations
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character
PR1 - Open Space
ENV1 - Environment
ENV2 - Rural Communities
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards
DP21 Nature Conservation and Protected Lanes
- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
Backland and Infill
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments

8.0 Consultations

- 8.1 Highway Authority: No objections, subject to conditions.
- 8.2 Natural England: No objections, in accordance with standing advice.
- 8.3 Landscape Officer: No objections, subject to conditions.
- 8.4 Arboricultural Officer: No objections, subject to conditions.
- 8.5 Design and Heritage Unit: No harm to street scene.

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

9.0 Parish Council Response

- 9.1 No comments have been received from the Parish Council at the time of writing.

10.0 Representations

- 10.1 Following an initial consultation on the application, four letters of objection were received from three objectors. The comments received are summarised as follows:

- Insufficient parking;
- Additional residents will put pressure on existing services and amenities;
- The size of the dwellings are not in keeping with the surrounding area;
- Issues during construction (traffic etc);
- Greenfield site should not be developed;
- Density is inappropriate;
- Overshadowing to the terraced area serving No. 55 Rectory Road;
- Overlooking to No. 55 Rectory Road and No. 28 Hillview Close;
- Highway safety concerns (dangerous access, manoeuvring on site);
- Parking to front of site is an eyesore;
- Plot 3 is 1 metre from boundary with No. 55, giving an 'estate' appearance;
- Plot size not in keeping with area;
- No local employment for new residents;
- No bin storage provided;
- Badger sett to front of site will be affected;
- Four bedroom properties are not in demand;
- Tree on rear boundary needs replacing;
- Need to replace fence on rear boundary with No. 28 Hillview Close.

10.2 Following amendments to the proposal, a further consultation was carried out, whereby seven letters of objection were received from six objectors. The comments received are summarised as follows:

- Density of development is too high;
- The new dwellings will dominate the skyline when viewed from Hillview Close;
- There is insufficient parking and turning on site;
- Highway safety concerns (single lane traffic at this point due to on-street parking, lack of visibility, school children using pavement in front of access);
- Impact on badger sett;
- Strain on services and amenities;
- Disruption during construction;
- Potential to restrict access to No. 36 Rectory Road;
- Overlooking to No. 55 Rectory Road and No. 28 Hillview Close;
- Not in keeping with surrounding development (too high);
- The development would impair the front aspect of No. 12 Ashurst Close;
- Greenfield site should not be developed;
- Overshadowing to the terrace serving No. 55 Rectory Road;
- No bin storage provided;
- Proximity to boundary with No. 55 Rectory Road.

10.3 A petition has been received with twenty-three signatures. The objections to the proposal are summarised as follows:

- Overcrowding of plot;
- Parking and road safety issues;
- Visual impact; and
- Over development of the village.

10.4 North-East Essex Badger Group: The badger sett at the front of the site has been monitored since 2007. The sett is considered to be an ancillary sett and is not in permanent use, being used at certain times during the year. If the sett is to be demolished it should be done properly under licence.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

11.1 The parking standards require that a minimum of two vehicular parking spaces and one cycle space is provided for properties with two or more bedrooms, plus visitor parking. The submitted scheme provides two parking spaces per dwelling. There is room on site for the provision of cycle parking.

11.2 The Highway Authority has not objected to the scheme. Conditions recommended by the Highway Authority will ensure that spaces are of satisfactory dimensions and access is laid out in a safe and convenient manner.

12.0 Open Space Provisions

12.1 The application is accompanied by a draft Unilateral Undertaking in respect of recreation and open space contributions.

13.0 Air Quality

13.1 N/A

14.0 Report

14.1 The main planning considerations in this case are:

- Design, Layout, and Impact on the Character of the Area
- Impacts on Neighbouring Properties
- Amenity Provisions
- Highway Issues
- Landscaping
- Biodiversity and Protected Species
- Flood Risk

Design, Layout, and Impact on the Character of the Area

14.2 The new dwellings have been designed so as to reflect the design of No. 57 Rectory Road in terms of its architectural features and materials. Although the new dwellings are of a different orientation to No. 57 (with the gable-end facing the road) and have a steeper roof pitch, the uniformity in the detailed design (fenestration details and materials) allows the properties to sit comfortably together. In terms of the wider area, Rectory Road has a wide variety of building types and styles, ranging from period properties to modern houses and flats. The design of the new dwellings is therefore not considered to appear incongruous in relation to surrounding development in consideration of its mixed character.

14.3 The new dwellings would be 2½-storeys in height. Properties in the surrounding area are generally single-storey or two-storey in height. The height of the new dwellings is set so that they are no higher than the two-storey flats to the west of the site, which are at a higher level, or No. 55 Rectory Road to the east. Although the new dwellings would be 2½-storey they would not appear overly dominant or out of place in terms of their height in relation to surrounding development.

14.4 In terms of layout, the proposal would result in three dwellings being present on a site where currently one resides. The proposal would therefore have a significant impact on the character of the street scene. The new dwellings would be set back from the road to accord with the character of the area. The dwellings would be closely positioned, but they would still allow for clear visual gaps between properties and they would not appear unduly cramped when read in context with surrounding development, particularly the terraced housing No's 42-52a Rectory Road.

- 14.5 The car parking to the front of the site would not be overly prominent when read in the street scene as the front garden of the site is set at a lower level to the road and the parking would be behind a front boundary wall and hedge.
- 14.6 The two-storey rear extension to No. 57 Rectory Road is considered to be acceptable in terms of its design. Whilst being a large extension, the extension would be sited to the rear of the dwelling and would not detract from its character when seen from public vantage points. The extension would be read as a clear addition to the property and, subject to appropriate materials being used which can be secured by condition, the extension would harmonise with the host dwelling in terms of its detailed design.

Impact on Neighbouring Properties:

- 14.7 The application site is set within existing residential development and, therefore, has the potential to have an impact on neighbouring amenity. Objections have been received from local residents regarding overlooking and overshadowing.
- 14.8 The proposal would not include any side windows above first-floor level that would overlook the properties to the east and west of the site.
- 14.9 The proposal would include rear windows at first and second floor level that would look northwards towards the bungalows at Hillview Close (No's 22-28 evens). The windows would serve bedrooms and bathrooms, although the bathroom windows would be obscure glazed. The Essex Design Guide states that, when rear facing habitable rooms face opposite houses, a minimum of 25 metres between the backs of houses may be acceptable to avoid overlooking. Where new development backs onto the rear of existing housing, existing residents are entitled to a greater degree of privacy to their rear garden boundary and, therefore, the rear of new houses should not encroach any closer than 15 metres to an existing rear boundary even if a 25 metre gap between houses is achieved. The rear facing windows would be at least 60 metres from the rear of No's 22-28 Hillview Close and would be between 33-34 metres from the rear boundary. The first and second floor windows are likely to be visible from the gardens of No's 22-28 Hillview Close. However, due to the distances between No's 22-28 Hillview Close and the proposed dwellings the proposal is not considered to result in harmful levels of overlooking to these properties. The retention of trees along the rear boundary of the site also helps to avoid any perception of overlooking from the occupants of No's 22-28 Hillview Close as the proposed dwellings and No. 57 Rectory Road would be obscured from view.
- 14.10 The proposal would not have a harmful impact upon No. 55 Rectory Road in terms of overshadowing or overbearing. The proposal would not restrict the amount of sunlight that would reach No. 55 as the new dwellings would be sited to the west of the property. Plot 3 of the proposal would be sited 1.8 metres from the boundary with No. 55 and would be 4.3 metres from the side wall of the property (decreasing to 1 metre and 3.5 metres respectively as Plot 3 extends back into the site). The proximity of Plot 3 to the western side of No. 55 would restrict the amount of daylight that would reach this part of the site. However, this part of the site is restrictive in terms of its size and has not been considered as a primary amenity area. The overshadowing that would occur to this part of the site is not, therefore, considered to be significantly detrimental to the present and future occupiers' enjoyment of the property.

- 14.11 There is a first-floor window on the western elevation of No. 55 which is likely to lose some natural daylight as a result of the proposal. However, the window serves a bathroom which is not considered to be a habitable room. The loss of daylight to this room is not, therefore, considered to have a detrimental impact on the level of amenity currently enjoyed by the occupants of the property.
- 14.12 The proposal is situated to the east of No. 59 and 61 Rectory Road and Plot 1 is likely to affect some sunlight that reaches the rear of these properties. However, the area to the rear of No. 59 and 61 is used for car parking and turning and the loss of some sunlight to this area is not considered to have a harmful impact on amenity. The rear windows of No's 59 and 61 are not overshadowed by the proposal as the height and position of Plot 1 in relation to No's 59 and 61 avoids a 45 degree overshadow to the rear windows. Therefore the proposal passes the sunlight and daylight test as set out in the Essex Design Guide.
- 14.13 No. 59 Rectory Road has a ground-floor and first-floor window on the east elevation facing Plot 1. Although some morning sunlight will be restricted to these windows, the distance between No. 59 and Plot 1 allows for sufficient daylight to enter the windows.
- 14.14 The proposal would not have an impact upon the amenity of properties in Ashurst Close due to the distance between the application site and Ashurst Close as well as intervening development.

Amenity Provisions:

- 14.15 The submitted scheme provides for amenity space provision which exceeds the adopted garden size standard of 100 sq metres for four bedroom houses as set out in Policy DP16. The proposal is therefore considered to provide sufficient amenity space for all three dwellings.

Highway Issues:

- 14.16 The proposal includes the provision of a new vehicular access and parking spaces to serve all three dwellings. The Highway Authority has no objections to the proposals, subject to conditions relating to (inter alia) visibility splays, parking space dimensions, materials, and surface water drainage.
- 14.17 Local residents have expressed concern that the vehicular access would not allow suitable visibility for cars travelling at high speeds, the buses that use the road, or children using the adjacent pavement; as well as concerns that the level of parking provided is insufficient. Whilst these concerns have been taken into consideration it has been concluded that the vehicular access provides suitable visibility for road users and pedestrians on a 30mph road and the level of parking provided accords with the recommended number of parking spaces set out in the adopted Vehicular Parking Standards SPD. The Highway Authority has not objected to the proposal and there is no justifiable reason to object to the proposal on highway safety grounds.
- 14.18 The issue of road users travelling at fast speeds, ignoring the speed limit, and parking at points in the road which restrict visibility for other road users cannot be controlled through the planning process.

Landscaping:

- 14.19 The proposal includes landscaping details for the site. The front boundary of the site is proposed to have a low brick wall, with hedge planting behind. The front boundary wall is considered to reflect surrounding development, whilst the hedge planting will soften the appearance of the site, which will have a positive affect on the street scene.
- 14.20 The trees to be retained on site are the subject of an Arboricultural Impact Assessment, which is intended to be conditioned to ensure that the trees are safeguarded.

Biodiversity and Protected Species:

- 14.21 In assessing this application due regard has been given to the provisions of the Natural Environment and Rural Communities Act, 2006, insofar as it is applicable to the proposal and the provisions of Conservation of Habitats and Species Regulations (2010) in relation to protected species. The proposal has been assessed in accordance with Natural England Standing Advice and the provisions of PPS9.
- 14.22 The presence of a badger sett to the front of the site was identified from the site visit and from comments received from neighbouring residents. The badger survey subsequently submitted by the applicant concluded that the sett was not in use by badgers. However, the survey was only undertaken on one day and Natural England standing advice states that it may take a long time to establish whether a sett is in regular or sporadic use. Later reports from the North East Essex Badger Group stated that the sett is used at certain times of the year as an ancillary sett. The Badger Group confirmed that they would have no objections to its removal provided done so under licence. No objections have been received from Natural England with regards to the removal of the sett.
- 14.23 Natural England standing advice states that a licence is required for works that affect a badger sett and that mitigation methods should be put in place. The removal of the badger sett would need to be done under licence, which is not part of the planning process. However, in the interests of safeguarding any badgers that may be using the sett during the construction phase of development, a mitigation strategy is requested by condition.
- 14.24 Natural England have no objections to the proposal with regards to its impact upon the SSSI.

Flood Risk:

- 14.25 The site is located within Flood Zone 1 and the application has been assessed in line with PPS25 and Environment Agency Standing Advice. As a Flood Zone 1, the site is unlikely to be susceptible to flooding and the development would not contribute to surface water flooding. No mitigation is required.

Other Matters:

- 14.26 Comments have been received from local residents regarding development on Greenfield land, the pressures that new development will bring upon existing amenities and services, the lack of employment within Rowhedge, disruption during construction, the rear boundary treatment, and the lack of demand for four bedroom dwellings.
- 14.27 Recent changes to Planning Policy Statement 3: Housing (PPS3) deleting gardens from the classification of previously developed land have led to a change of emphasis which is relevant to this application. The application site no longer falls within that category and advice given in paragraphs 40 and 41 of PPS3, stressing the importance of re-using previously developed land, does not apply in this case. This allows greater weight to be given to the policies of the Colchester Borough Council Core Strategy and Development Plan which collectively aim to ensure that development is of a high quality and informed by its context and local distinctiveness.
- 14.28 The proposed development would put additional pressure on existing amenities and services in Rowhedge. In order to offset the impact of the proposal upon existing amenities and services, an open space contribution is required for the new dwellings. A legal agreement setting out the contribution has been submitted by the applicant.
- 14.29 New and existing residents in Rowhedge that are not employed in Rowhedge itself will have access to other nearby villages and towns by public transport as well as by cycling or private car.
- 14.30 The disruption caused during construction phases of development, such as noise and traffic movements, is not a material planning consideration that would justify refusal of planning permission.
- 14.31 The rear boundary treatment is proposed to be a 1.8 metre fence. The trees to the rear of the site are to be retained and are of benefit in terms of privacy to and from the site. Works to the trees are not required as part of the planning application, although protection measures are required to ensure that the tree does not suffer damage during the construction phase of the development. Further works to the trees (in terms of pruning and so on) do not require specific planning permission or consent and are at the discretion of the land owner.
- 14.32 Policy H3 of the Core Strategy states that Colchester Borough Council intends to secure a range of housing types and tenures on developments across the Borough in order to create inclusive and sustainable communities. The mix of housing types is guided by Table H3a of the Core Strategy which indicates that four bedroom properties are appropriate in areas with high, moderate or low accessibility. It is therefore considered that four bedroom properties in Rowhedge are acceptable.

15.0 Conclusion

- 15.1 In conclusion, the proposal is considered to be acceptable, subject to conditions, in terms of its scale, design, layout and impact on the character of the surrounding area. The proposal is also acceptable, subject to conditions, in terms of highway safety, biodiversity, and flood risk.
- 15.2 Whilst the proposal may have some impact on the amount of sunlight and daylight that reaches No's 55 and 59 Rectory Road, the impact is not so significant so as to justify the refusal of planning permission.

16.0 Recommendation - APPROVE subject to the following conditions:

Conditions

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

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

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

2 - A2.2 Development to Accord With Revised Plans

The development hereby permitted shall be implemented in all respects strictly in accordance with the revised drawings numbers 269/02A, 269/04A, and 869/04A, received on 6th February 2012.

Reason: To ensure the development will be carried out as approved and because any changes must be agreed in advance in writing by the local planning authority.

3 - C3.3 Samples to be Submitted

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

Reason: The application has insufficient detail for approval to be given to the external materials; and to ensure that the development does not prejudice the appearance of the locality.

4 - Non-Standard Condition

The landscape works detailed under drawing No. DFCC 038-1 Rev A, received on 20th February 2012, will be carried out in accordance with the relevant British Standards and will be implemented during the first planting season following substantial completion of the development hereby approved. Any trees or shrubs which, within a period of five years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason: To ensure the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

5 - C10.15 Tree & Natural Feature Protection: Protected

No work shall commence on site until all trees, shrubs and other natural features shown to be retained on the approved plans, (including those referred to in condition 7) are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. No access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

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

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

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

7 -C10.18 Tree and Hedgerow Protection: General

All trees and hedgerows on and immediately adjoining the site shown on the approved plans to be retained (including those referred to in condition 5) 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 to be retained shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that these 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.

8 - Non-Standard Condition

The construction shall take place solely in accordance with the terms of the Methodology Statement of Arboricultural Impact Assessment DFC 1149, dated 24th September 2011 and received on 14th November 2011, which forms part of this permission, and no other works shall take place that would effect the trees unless otherwise agreed in writing by the Local Planning Authority.

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

9 - Non-Standard Condition

No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by conditions 5, 6, and 7 above has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of:

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

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

10 - Non-Standard Condition

Prior to the access first being used by vehicular traffic, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2 metres by 43 metres to the east and 2 metres by 43 metres to the west, as measured from and along the nearside edge of the carriageway. The vehicular visibility splays shall be retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between the users of the access and the existing public highway for the safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

11 - Non-Standard Condition

Prior to occupation of the development hereby approved a 1.5 metre x 1.5 metre pedestrian visibility sight splay as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free from any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between users of the access and pedestrians in the adjoining public highway in the interests of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

12 - Non-Standard Condition

Prior to occupation of the development hereby approved, the vehicular parking and turning facilities, as shown on the approved plans, shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interests of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

13 - Non-Standard Condition

No unbound material shall be used in the surface treatment of the vehicular access within six metres of the highway boundary of the site.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety and in accordance with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

14 - Non-Standard Condition

Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interests of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

15 - Non-Standard Condition

The vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety to accord with policy DM8 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

16 - Non-Standard Condition

Prior to occupation of the development hereby approved, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

17 - Non-Standard Condition

No development shall be commenced until a Badger Mitigation Strategy is submitted to and agreed in writing by the Local Planning Authority. Thereafter, the approved mitigation strategy shall be fully implemented and adhered to unless the Local Planning Authority agrees in writing to a variation of the mitigation strategy.

Reason: In order to safeguard protected wildlife species and their habitats.

18.0 Informatives

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

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631. All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made to the Area Highways Manager (01206 838600).

(3) The Badger Mitigation Strategy required by Condition 17 of this permission shall include details of the construction phase of development (schedule of works, start date, and anticipated completion date), surveys and badger activity monitoring as necessary, details of protection areas, details of how disturbance to badgers will be minimised, details of where machinery and materials will be stored on site during the construction period, and details of any badger gates or artificial setts proposed.

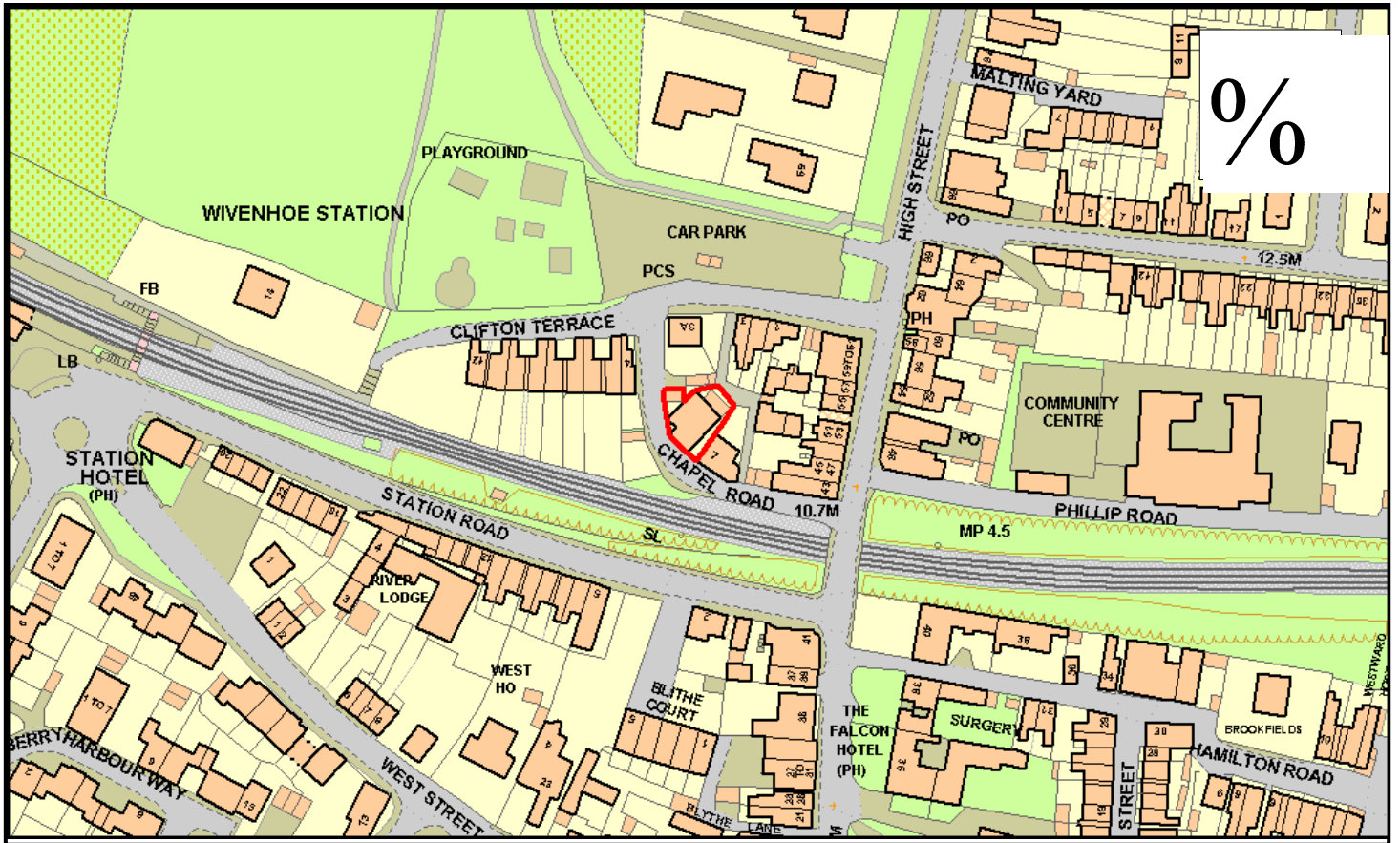
(4) The Protection of Badgers Act 1992 was introduced in recognition of the additional threats that badgers face from illegal badger digging and baiting. Under the Act, it is an offence inter alia to: Wilfully kill, injure or take a badger, or to attempt to do so; Cruelly ill-treat a badger; or Intentionally or recklessly interfere with a badger sett by

- (a) damaging a sett or any part of one;
- (b) destroying a sett;
- (c) obstructing access to or any entrance of a sett;
- (d) causing a dog to enter a sett; or
- (e) disturbing a badger when it is occupying a sett.

Where interference with an active sett cannot be avoided during a development, a licence should be sought from Natural England. However, it should be noted that any such interference should only be considered as a last resort and that Natural England places restrictions on both the timing and methodology of any works affecting a badger sett. The following should be considered:

- Sett interference should be avoided in the breeding season between the beginning of December and the end of June. Badgers are particularly vulnerable at this time of year and sett interference can result in dependant cubs being left on their own; and
- The law does not permit licences to capture badgers for development purposes, so physically moving them out of the way of development is not an option.

Further information regarding licencing can be found on the Natural England website: www.naturalengland.org.uk.



Application No: 120012

Location: Chapel Road, Wivenhoe, Colchester CO7 9DX

Scale (approx): 1:1250

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7.6 Case Officer: Simon Osborn

MINOR

Site: Chapel Road, Wivenhoe, Colchester CO7 9DX

Application No: 120012

Date Received: 19 January 2012

Agent: Mr Robert Pomery

Applicant: Mrs Pru Green

Development: Demolition of the superstructure of existing St Johns Ambulance building and erection of two storey building of mixed use C3 Residential and D1 Gallery/Studio (resubmission of 110608)

Ward: Wivenhoe Quay

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application was called-in by Cllr. Stephen Ford if the recommendation was approval on the grounds of loss of a community facility, adverse impact on residential amenity, the loss of an historic building and the impact on the tree. The application is recommended for approval; however it is recognised that this is a very finely balanced recommendation.
- 1.2 A previous application (reference 110608) was brought to Committee on 6th October 2011 and was subject of a Committee site visit. That application was refused in line with the Officer recommendation. A number of changes have since been made, which are outlined in paragraph 4.3.
- 1.3 An application for conservation area consent to demolish the existing building has also been submitted and is subject of the following committee report.

2.0 Synopsis

- 2.1 The application has generated a large number of representations both for and against the proposal, with a clear difference of opinion as to the value of the existing building as an architectural structure, a building of local historic significance and as a community asset, and the architectural merits and use of the proposed replacement building. The report considers the application in the light of Policy DP4 (which seeks to protect community buildings from change of use); design policies such as Policy UR2 (which do not exclude contemporary design within Conservation Areas) and DP14 (which seeks to protect heritage assets); and, Policy DP1 (which seeks to protect existing residential amenity). It is concluded that there is merit to the proposed replacement building in architectural terms and its impact on the Conservation Area.

3.0 Site Description and Context

- 3.1 The application site is an irregular shaped parcel of land, fronting onto an unadopted road, in close juxtaposition to a number of residential properties and within the Wivenhoe Conservation Area. The property is close to the heart of the town and although within a predominantly residential area, is also near to commercial outlets along the High Street, which form part of the Rural District Centre designation.
- 3.2 The application site is largely occupied by a rectangular-shaped hall of utilitarian form and appearance. A small corrugated-metal garage is located within the north-west part of the site. Part of the site is overhung by a mature tree, the trunk of which is positioned immediately to the north of the application site.

4.0 Description of the Proposal

- 4.1 The application looks to remove the existing buildings on the site and to create a new 2-storey building of modern design and appearance, comprising a ground floor with a potter's studio, gallery, office and kiln room, with 2-bedroom residential accommodation on the first floor.
- 4.2 The documentation submitted with the application includes a DAS with 3D views of the proposal accompanying the text and a Heritage Statement.
- 4.3 A number of changes have been made to the scheme previously submitted. These include: a reduction in the depth of the first floor element of the proposal by 1 metre; the provision of a privacy screen to the first floor balcony; the provision of a Tree Survey.

5.0 Land Use Allocation

- 5.1 Conservation Area
Predominantly Residential Area
Draft Wivenhoe Local List

6.0 Relevant Planning History

- 6.1 WIV/10/48 – change of use of church hall to furniture store and showroom, approved 1948;
- 6.2 WIV/3/57 – change of use from furniture showroom to builders yard, approved 1957;
- 6.3 WIV/14/60 – change of use from builders workshop to St Johns Ambulance HQ and store, approved 1960;
- 6.4 WIV/26/60 – additions to provide storage, kitchen and toilet accommodation, approved 1960;

- 6.5 110608 – proposed demolition of the superstructure of the existing St John Ambulance Hall. Proposed erection of a 2-storey, flat-roofed building comprising an artist’s studio on the ground floor and two-bedroom dwelling on the first floor. This application was refused on 11th October 2011 for the following reason:

“The LDF Development Policies Document was adopted by the Council in October 2010. Policy DP4 seeks to protect community buildings from inappropriate change of use. Policy DP1 seeks to ensure all development is of a high standard, which respects and enhances the character of the site, its context and surroundings, including the landscape setting, and protects existing residential amenity.

In this respect, the existing building appears to have previously been used, in part, for community purposes and, it is considered that the application has not demonstrated to the satisfaction of the Council that the replacement building would be a genuine community facility and that it would not be economically viable to retain the existing building for community use (or could not be operated by an alternative occupier for community purposes), nor has it provided an adequate assessment to demonstrate there is an excess of such provision in the vicinity. As such the proposal cannot be supported in accordance with Policy DP4.

The proposed replacement building will furthermore result in adverse impacts on existing residential amenity, including an overbearing impact to 7 Chapel Road and overlooking to the private amenity area of 4 Clifton Terrace. The proposal as such is contrary to Policy DP1 and to adopted SPD (including the Essex Design Guide and Extending Your House).

Finally, the construction of the proposed building would result in the severe pruning of the Sycamore tree to the rear of the site and would give rise to future pressures for its continued pruning and/or removal, as the tree is only semi-mature. The proposal as such will be detrimental to visual amenity and contrary to Policy DP1.”

- 6.6 110609 – proposed demolition of the superstructure of the existing St John Ambulance Hall. This application was refused on 11th October 2011 for the following reason:

“In the absence of planning permission for a suitable replacement building, the Council cannot support the demolition of an existing Victorian building, as this would punch a hole within the existing urban fabric and have a detrimental impact upon the character and appearance of the Conservation Area. As such the proposal is contrary to Policy UR2 in the LDF Core Strategy adopted December 2008 and Policy DP14 in the LDF Development Policies Document adopted October 2010.”

7.0 Principal Policies

- 7.1 The following national policies are relevant to this application:
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 3: Housing
Planning Policy Statement 4: Planning for Sustainable Economic Growth
Planning Policy Statement 5: Planning for the Historic Environment

- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:
 SD1 - Sustainable Development Locations
 SD3 - Community Facilities
 H1 - Housing Delivery
 H2 - Housing Density
 H3 - Housing Diversity
 UR2 - Built Design and Character
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
 DP1 Design and Amenity
 DP4 Community Facilities
 DP12 Dwelling Standards
 DP14 Historic Environment Assets
 DP16 Private Amenity Space and Open Space Provision for New Residential Development
 DP17 Accessibility and Access
 DP19 Parking Standards
- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:
 Backland and Infill
 Community Facilities
 Vehicle Parking Standards
 Sustainable Construction Open Space, Sport and Recreation
 Extending your House
 The Essex Design Guide
 External Materials in New Developments
 Cycling Delivery Strategy
 Wivenhoe Town Plan 2008

8.0 Consultations

8.1 ECC Highways stated:

“Whilst it is noted the parking provision on site is substandard this Authority does not feel that the proposed use of the site will alter the trips associated with the building. It is assumed that the current building could be reopened and used by the public for the function of the St John Ambulance without further recourse to the planning process. In this regard the Highway Authority would not wish to raise an objection to the proposal”.

8.2 Network Rail stated:

No objection in principle to the development however due to its close proximity to the embankment and Network Rail infrastructure Network Rail strongly advises that the developer contact Asset Protection 6 weeks prior to the commencement of development. Network Rail’s asset protection team can be contacted on AssetProtectionEastAnglia&Wessex@networkrail.co.uk.”

8.3 Environmental Control advised that on the basis of the information previously submitted regarding the extraction/ventilation system for the kilns they had no objection and simply recommended the standard Demolition and Construction informative.

8.4 Planning Policy stated:

“The Policy comments to the previous application recognised that from the many representations of support and objection to the proposal there is a clear difference of opinion as to whether the building is used for community purposes. Policy stated that it appears from the representations to this application that numerous members of the community value the importance of this building as a community facility. As no evidence had been submitted by the applicant to demonstrate that the building had not been used for community purposes and some local residents put together a chronology of the use of the building indicating that it had been used for numerous community events over recent years Policy took the view that policy DP4 (Community Facilities) of the Development Policies DPD should apply.

Representations to this application are also split in terms of whether residents view the building as a community use. A letter has been submitted from St John Ambulance, the owners of the building, confirming that there may have been some occasional or casual use autonomously arranged by the key holder but this was never authorised by St John Ambulance and no fees were paid. Policy considers that on balance the evidence suggests that whilst there may be potential for the building to be used as a community hall and it may have been used occasionally and unofficially within the past few years it does not appear to be the case that it is currently or last used for community purposes and therefore policy DP4 does not apply.

The last use of the building was a training centre for St John Ambulance, this use falls within Use Class D1, as does the proposed gallery. The application states that the gallery will be open to the public and a condition should be attached if consent is granted to ensure that this occurs. For example, stating the amount of floorspace that will remain as a gallery and minimum opening hours of the gallery to the public. This will ensure that the building remains in use, in part, for D1 uses and change of use solely to a dwellinghouse does not occur.

Whilst Policy considers that policy DP4 should not apply for the reasons given it is necessary to note that this application does provide evidence that the building has been marketed for six years and that during this time whilst some local groups have expressed an interest in purchasing the building this has not progressed to a sale. It is also noted that many enquiries about the building have been for conversion to solely residential use. This suggests that using the building for community purposes is not economically viable.

Policy CE1 of the Core Strategy states that the Council will encourage economic diversity and business development to facilitate SME. This proposal would allow the expansion of a small local business, which is something that Policy supports. The building is designed to be highly sustainable and the DACS states that it is aspiring to achieve level 5 of the Code for Sustainable Homes. Policy ER1 of the Core Strategy encourages the use of sustainable design and construction measures and the attainment of a minimum of level 3 of the Code for Sustainable Homes. Level 5 is welcomed and in accordance with the Sustainable Design and Construction SPD a condition should be attached if consent is granted requiring a minimum of level 3 of the Code for Sustainable Homes to be met. Planning policy is concerned that no garden is provided, although it is accepted that there is a large park nearby. Policy DP16 requires a minimum of 25m² per flat communally.”

8.5 The Design and Heritage Unit recommended approval of the application and made the following comments:

“The proposed design is a minor amendment to Planning application 110608 to which I gave recommendation for approval, subject to additional information on boundary treatment to the front of the property. I am satisfied with the 1m high fence in western red cedar to match elevations. I have no further comments on the design amendments.”

The original comments were:

“The building is situated in the Conservation Area of Wivenhoe, with a number of listed buildings and buildings of townscape value in the immediate vicinity. The building itself was a timber framed late 19th Century parish hall, but its original appearance has now much changed, to the detriment of its appearance and the overall appearance of the sensitive conservation area. Original detailing on the gable end and main entrance, the symmetry of openings has been lost, and unsympathetic extensions visible from Chapel Road further detract from townscape quality.

The proposal is for a modest scale contemporary building of simple, but bespoke design. The design form utilises the existing footprint and relates well to the constrained site. The setback of the studio area and entrance from the street provides a better relation to the public realm than the existing situation.

The proposed use for potter’s studio and gallery open to members of the public, as well as a living space provides richness and interest and will be a positive asset to the image of Wivenhoe as an ‘artist’s colony’.

There are some distant views to the site from across the rail line, currently largely obscured by vegetation on the sloping rail sidings. The proposed building addresses these views well, with an active and interesting frontage. An active frontage follows the curve in Chapel Road, providing an improved townscape and interesting short views.

The Council is not against contemporary methods and materials and encourages high quality, creative design and showcases of (sic) innovative sustainable construction methods – this is well formulated in the Core Strategy, Policy UR2. The Council is equally committed to enhancing the historic built character with well built, distinctive developments that are both innovative and sympathetic to local character.

The contemporary architectural approach, although in contrast to the traditional forms in the Conservation area, is refreshingly different and contemporary, while the massing, scale and proportion achieves a domestic feel sympathetic to the surrounding area.

The building demonstrates good proportions and balanced openings, and provides visual interest from all sides. The use of two contrasting materials is successful, reflecting the contemporary form of the building, while attention to detail will provide aesthetic quality. The palette adds to the variety of forms and finishes already present in the conservation area.

The building is of its time, it is considered that it will improve what has become an unsightly corner and will enhance the character of Wivenhoe as a whole.

It is unclear from the plan where the 1.8m high fence (shown on SW elevation drawing) would be positioned – this is acceptable as a rear boundary treatment, but not at the frontage to Chapel Road. All boundary treatment should be indicated on the plans”.

8.6 The Tree Officer’s comments are as follows:-

“In general I am not in agreement with the proposal as it will ultimately require the large Sycamore to be reduced on an annual basis. This is likely to result in ongoing issues between neighbours should the property ever be sold on by the current owners. However, the comments by the applicant are entirely accurate in that subject to a Conservation Area Notice being submitted they would be able to reduce this tree back to the property boundary as this tree is not one that would merit protection by a tree preservation order.

In conclusion whilst it is my opinion that the proposal being given permission may result in dispute between neighbours in the long run this should not be used as a reason to refuse the planning permission given the status under the CA/TPO legislation and common law principles.”

In addition to the details reported above, the full text of all consultation responses is available to view on the Council’s website.

9.0 Town Council Response

9.1 Wivenhoe Town Council have stated that:-

“Wivenhoe Town Council has not changed with regard to this application. The Town Council would support the design scheme in a different location. However, with reference to DP4, *that seeks to protect community buildings from inappropriate use*, the demolition of this building will result in a loss of a community building. In the applicants ‘Planning Statement’ section 4.32 there is a claim that the site has been abandoned. Wivenhoe Town Council does not believe this to be the case, and knows of at least two community groups that use the hall on a regular basis. The current poor state of the internal facilities and out of date electrics are the reason for low usage. However, there is evidence that a community group, with funding, can address these issues if they have an opportunity to buy the property.

The demand for public use of such a facility has been researched and proven. Our community has only one other openly community building in the WLH, which is much bigger but with poor acoustics and is often unavailable for hire because it is already booked.

In the Planning Statement provided by the applicant it states: ‘The marketing attracted few potential purchasers, the majority of which enquired with the aim of demolishing the building and replacing it with a dwelling.’ For information Wivenhoe Town Council and Wivenhoe Cinema Group made formal offers and both had surveys done with a view to restoring it for community use. Wivenhoe Town Council’s offer was refused.

The suggestion that the Gallery would replace this community use was inapplicable because unless the gallery had commercial classification it would only be able to open for a limited number of days a year, and then with a reduced area, and only for a specific interest group.

This building was built and used before class classification was implemented, however having been used in the capacity of D2 our understanding is that a change of use to D1 is necessary. It is the belief of Wivenhoe Town Council that this is unworkable on this site particularly with the consideration of future occupants. For example a day nursery would need a facility for safe and concentrated drop offs for a number of small children where no immediate parking is available on an unmade up road. The ground floor of the proposal is more close to a B1 or B2 classification, which has not been applied for.

Wivenhoe Town Council also have grave concerns with regard to noise and toxic omission, due to the nature of the proposal.

Regarding overshadowing and overlooking issues, Wivenhoe Town Council would like clarification from Colchester Borough Council that they are satisfied these issues have been fully addressed.

With regard to the tree survey we understand that the tree will need constant pruning and reshaping by the neighbour on whose land it is situated on.”

10.0 Representations

10.1 80 representations objecting to the proposal were received and 25 representations in support of the proposal.

10.2 The following issues were raised by the objectors:

1. Loss of a community asset. There is a desperate shortage of community buildings in Wivenhoe. The building is structurally sound. There are funds available to bring it back into appropriate and viable community use.
2. The Hall is a simple nineteenth-century building which makes a contribution to the character and appearance of the Conservation Area. The building has religious and social significance in Wivenhoe’s history and is on the draft Local List.
3. Insufficient garden space and parking in accordance with the Council’s standards for the occupants of the proposed building.
4. Overbearing impact on adjacent properties (particularly Clifton House and 2 Clifton Terrace). Loss of sunlight and ambient daylight to house and gardens of neighbours. Increased height of building compared with existing.
5. Overlooking of Clifton Terrace properties.
6. 2 kilns in close proximity to neighbouring residential properties likely to result in noxious fumes.
7. Flat roof design and general appearance out of keeping with sloping roof designs of new and old surrounding buildings.
8. Use of dark zinc cladding on the side out of keeping and oppressive
9. Mature sycamore will suffer damage.
10. Overhanging upper storey could be dangerous to high-sided vehicles.

10.3 The following points were made by supporters of the proposal:

- A. The existing building has no merit and is gradually falling into greater dereliction.
- B. The proposed building is of good modern design and will be a refreshing change to the street scene.
- C. The proposed use will cause less noise and disturbance than an alternative community facility.
- D. The building is not viable as a community facility. The building has been on the market since 2007 and only the Wivenhoe Cinema Project has taken a serious interest until this application. The cinema project would have required a virtual rebuild at an unacceptably high cost.
- E. The applicant is an artist of international stature and the proposal will enhance Wivenhoe's reputation.

11.0 Parking Provision

11.1 The proposal makes provision for 1 car parking space. This is below the standard recommended by the adopted Parking Standards SPD (spaces for a 2-bedroom dwelling and 1 space per 30 square metres for a Class B1 commercial proposal). However, the existing site makes no provision for off-street parking.

12.0 Open Space Provisions

12.1 The proposal does not generate a requirement to provide on-site public open space. However, a Unilateral Undertaking has been submitted to provide a contribution towards public open space, sports and recreation facilities (and community facilities) in accordance with the Council's adopted standards. There is also a requirement for private amenity space – this is discussed within the main body of the report.

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impact upon the zones.

14.0 Report

Principle of Redevelopment for Non-Community Use

14.1 From the many representations of support and objection to this application there is a clear difference of opinion as to whether the building is a community building. Policy DP4 of the Development Policies DPD seeks to protect community buildings from change of use.

- 14.2 From the representations received, it would appear that the building was originally constructed in 1871 as a Wesleyan Chapel and sold around 1901 to St Mary's Church as a church hall. During WWII, it was used as an overflow school for evacuees. In 1948 its use changed to a furniture/antique showroom, until 1958 when it was sold to a Wivenhoe builder. From around 1960 the building was used by St John Ambulance (SJA) as a Training Centre. It has also been suggested that during this period it was used for safety training for Sailing Club cadets and various local activities, including occasional weddings and family occasions, and the Gilbert and Sullivan Society for designing and painting their scenery and rehearsals in connection with their annual production. In December 2007, the site was put on the market by the SJA organisation and they vacated the building. Since then with the permission of SJA, it is suggested the hall has been used by the local Gilbert and Sullivan Society for several months a year for designing and painting their scenery and to the In Accord Sacred Music group for weekly rehearsals.
- 14.3 The Planning Statement submitted with the application considers that the use of the building by the St Johns Ambulance would fall somewhere between a B1 (light industrial/ office use) and a D1 use (non-residential institution), although as it was used to train its members, it is fair to perhaps consider it a D1 use. The Planning Statement goes on to say this is not to be confused with a D2 use (assembly and leisure), for which a change of use would have been required. The submission further states the gallery space and studio associated with the proposal should also be considered a D1 use and the loss of floor space to D1 use amounts to 10% of the existing floorspace. The submission further contests that the D1 use has been abandoned by the owners of the land as the SJA vacated the building in 2006 with no intention to re-use.
- 14.4 There is strong question mark over whether the proposed use would be considered a D1 (community use). For example, an artists studio would normally be considered a B1 use, a pottery dealers office would be B1, pottery manufacturing B2, a sculptor's studio is sui generis. An art gallery would be a D1 use, but only where sales would not be the main use. The gallery forms only a small part of the proposed floor area and it has to be questioned if this is to be considered the main use or simply an ancillary one. Likewise there is a question mark over whether or not the previous use by the SJA should be considered as abandoned. A letter from the SJA supports the notion that the organisation has no intention to re-use the building owing to the amount of investment required to bring it up to modern standards. However, there is an extant planning permission for the use, the building remains, and the lapse in use of just 6 years makes it awkward to agree that the former use has been abandoned.
- 14.5 Policy DP4 states support will be given to the retention of existing community facilities where these positively contribute to the quality of local community life. The Council's Policy Team has accepted that whilst there has been occasional use of the building for community purposes, it does not appear to be the case that it is currently or last used for community purposes and therefore Policy DP4 does not apply. The Community Projects Officer was also unaware that the SJA was available for public use. Whilst there may be some potential for the building to be used for assembly and leisure/ community purposes, this would need planning permission in its own right. The advice of the Policy Team is that an objection on the grounds of Policy DP4 cannot be supported.

Impact on Character of Area

- 14.6 Policy UR2 in the Core Strategy and DP14 in the Development Policies promote high quality design, particularly where it would impact on heritage assets such as Conservation Areas. There is a clear difference of opinion from the representations received as to whether or not the proposal is harmful or beneficial to the character of the surrounding area, which is in fact part of the Wivenhoe Conservation Area. The proposal will result in the loss of an existing building dating to the Victorian period (and a small dilapidated corrugated metal garage/shed). The proposed replacement structure is of modern design and differs in terms of the form of the building and the palette of materials proposed; in particular, the proposed flat roof form contrasts with the pitched roof forms of buildings within the surrounding area.
- 14.7 The Council's DHU recommends approval of the application in design terms. This response suggests the original appearance of the existing building has now much changed, to the detriment of the building and its contribution to the overall appearance of the sensitive Conservation Area. Original detailing on the gable end and main entrance, the symmetry of openings has been lost, and unsympathetic extensions visible from Chapel Road further detract from townscape quality. The contemporary architectural approach, although in contrast to the traditional forms in the Conservation Area, is refreshingly different and contemporary, while the massing, scale and proportion achieves a domestic feel sympathetic to the surrounding area. The building demonstrates good proportions and balanced openings, and provides visual interest from all sides. The use of two contrasting materials is successful, reflecting the contemporary form of the building, while attention to detail will provide aesthetic quality. The palette adds to the variety of forms and finishes already present in the Conservation Area.
- 14.8 The SJA building has been included on the draft Wivenhoe Local List on the basis of good historic value. This List is to be taken to the LDF Committee on 26 March 2012. Policy DP14 seeks to protect heritage assets, which normally refers to Conservation Areas and Listed Buildings. Paragraph 6.4 states the Council will prepare a Local List of buildings which are considered to be of particular historic or architectural merit; this will be used to ensure that when assessing applications for planning permission their particular character is considered. These buildings do not have a statutory basis for protection, but are generally considered to have a distinctive historical or architectural character that it is considered desirable to keep. Inclusion on the list requires that the Council fully consider the implications for the loss of the building.
- 14.9 The building is on the Local List because of its historic value to the community. It was built in 1871 and was first used as a Wesleyan Methodist Chapel. Around 1900 the chapel came into use as a Church Hall for St Marys Church. It was sold to a Wivenhoe builder in 1958 before passing into the ownership of the St Johns Ambulance Brigade in the 1960's.

- 14.10 It is clear that the St Johns Ambulance Brigade has no intention to re-use the building as its condition requires significant investment to bring up to modern standards. The agent report states the slate roof coverings need complete renewal and the structural tie bars are overstressed. The timber wall plates have rotted away. The roofs of later additions are asbestos and the walls single skin masonry needing major upgrading to be water tight and thermally efficient. The internal fabric is poor and the toilets need improvements if the building were to be reused. A study was carried out on behalf of a Cinema Group and found that major alterations would be required to comply with current building regulations, fire regulations and health and safety. It was concluded a virtual rebuild would be necessary and the costs were prohibitive at an estimated £400,000. The building has been on the market since April 2006 and although there has been interest and some offers from community groups, none has resulted in a sale. A firm offer was received from the current applicant in April 2011, subject to planning and have St Johns Ambulance have a legal obligation to give the proposed purchaser full opportunity to obtain planning consent.
- 14.11 The DHU has stated the original building has now much changed, to the detriment of its appearance and the overall appearance of the Conservation Area. Original detailing on the gable end and main entrance, the symmetry of openings has been lost, and unsympathetic extensions visible from Chapel Road further detract from townscape quality. The Wivenhoe Conservation Area Appraisal was published in July 2008, although it has not been adopted by the Council. It includes a townscape analysis and shows Listed Buildings as well as buildings assessed to have townscape value. The SJA building is not shown on this appraisal as a building of townscape value. Paragraph 7.24.1 has a brief description on Chapel Road and in respect of this building states: "The St John Ambulance Brigade building is less positive in its current rather neglected state".
- 14.12 There is a clear difference of opinion between those that value the building particularly for its historic associations and those who consider it to have an adverse impact on the character and appearance of the Conservation Area. The response from the Council's DHU Team has supported the proposal and the it is considered the proposed new building will be appropriate to the character of the Conservation Area.

Impacts on Neighbouring Properties

- 14.13 The previous application was refused partly on the grounds of loss of neighbour amenity. The new proposal has made some changes to the scheme; in particular, a reduction in the depth of the first floor element by approximately 1 metre and the provision of a privacy screen to the balcony area. It is also noted that 7 Chapel Road have added a small rear extension to the back of their property. The occupants describe this as a back porch with a glass roof, so as not to deprive that side of the house of light – nonetheless for the purpose of the tests in the Council's SPD Document 'Extending Your House', this extension now counts as the rear of the house. The changes are all fairly minor but do require the application to be reconsidered.

14.14 Policy DP1 seeks to protect existing residential amenity and adopted SPD ('Backland and Infill Development', Essex Design Guide and 'Extending Your House') provide further guidance on the consideration of issues such as overbearing impacts, overshadowing and overlooking. 'Extending Your House' states that to prevent an extension being unacceptably overbearing it should fulfil the following criteria:

- Two storey projections should not infringe a 45 degree plan line drawn from the nearest corner of the main part of the adjoining dwelling
- Both two storey and single storey rear projections on the boundary should not exceed three metres beyond the main rear wall of the adjoining property plus one metre for each metre of isolation from the boundary.

Both the Essex Design Guide and 'Extending Your House' also suggest that obstruction of light and outlook from an existing window is avoided if the extension does not result in the centre of an existing window being within a combined plan and section 45 degree overshadowing zone.

14.15 The existing building is of similar overall height to the proposed replacement building; however, whilst the eaves level of the existing building is relatively high at 3.3m, the pitched roof form means it slopes away from the adjacent property. The proposed replacement building has sought to compensate for the 2-storey form by proposing a flat roof and setting the rear part of the first floor structure further in from the nearest neighbour boundary (at 7 Chapel Road).

14.16 The revised plans do show that the proposed development will not obstruct a combined plan and section 45 degree angle from the mid-point of the nearest ground floor window of 7 Chapel Road. The sectional drawing submitted by the agent to illustrate this in actual fact shows the situation conservatively as the mid-point of the glazing is further from the new building than depicted. This is an important consideration as the Essex Design Guide suggests that if this is not obstructed interior daylight and loss of outlook is not significant.

14.17 Nonetheless, it is still possible for a building that complies with the above rule to have an overbearing impact upon the garden/outdoor space of a neighbouring property. In this case, the tests referred to in paragraph 14.11 are not satisfied because the 2-storey element projects beyond a 45 degree line drawn from the corner of the neighbour's rear extension and because the ground floor projects 5.7m beyond the rear of the neighbour's extension and is only 0.75m from the site boundary at the rear. This is certainly an indication that the application could be refused on grounds of overbearing impact. However, the existing building also has an overbearing impact upon the adjoining residential property. Many properties in this part of Wivenhoe have small, constrained gardens, but it has to be considered whether or not the additional bulk of the replacement building will have a significantly greater impact. In this respect it is noted that the first floor part of the building projecting beyond a 45 degree line is 1.5m deep and is set 2.77m away from the boundary and the ground floor of the existing building projects a similar distance back as that now proposed. This part of the building lies generally to the north-west of the garden of 7 Chapel Road so will not cause any significant overshadowing. It does fail the overbearing tests referred to in 'Extending Your House', but it is considered on balance this will not be significantly more overbearing than the existing building.

- 14.18 The Committee report in respect of the earlier application also referred to potential amenity impact on the property at 2 Clifton Terrace. This has a rear decked amenity area to the north-east of the proposed building. The nearest point of this decked area to the existing building is 5.3m and it will be at least 6.5m from the first floor element to the proposal. It is likely that there will be some overshadowing to this decked amenity area, particularly in the afternoons around the March and September equinoxes. However, this will be for a relatively small percentage of the time over a day and in the year as a whole. It is considered that an objection on grounds of overshadowing impact to this property could not be supported.
- 14.19 Policy DP1 and the associated SPD also seek to protect the amenity of existing residential property from unreasonable overlooking. Although the proposed building generally avoids overlooking from first floor windows, the proposal includes a first floor sitting-out area above the south-west part of the ground floor. This sitting-out area forms the main amenity area for the new studio dwelling. It is positioned approx 6m from the rear garden of 4 Clifton Terrace and just above the level of the boundary wall to this property. The latest proposal indicates an upper section privacy screen is to be placed on the side of the balcony area to prevent direct overlooking to the immediate area behind the dwelling. No objection has been received from the occupants of this property.
- 14.20 Representations have also been received in respect of potential odour and waste water concerns regarding the operation of the kilns. The Environmental Control section advised they have no objection to the proposal on the basis of information previously supplied with the original application.

Amenity Provisions

- 14.21 Policy DP16 requires a minimum of 50 square metres (sqm) of private amenity space for 1 and 2-bedroom houses, or 25 sqm for flats, as a secure and useable space. The proposal includes a balcony/ first-floor sitting out area of approx 10 sqm, but little other useable amenity space. This is clearly well below the Council's adopted minimum standards. However, in mitigation, the site is very close to a large area of parkland and the proposal is within an area of Wivenhoe where many of the dwellings have very small gardens.

Highway Issues

- 14.22 The proposal makes provision for 1 car parking space. This is below the standard recommended by the adopted Parking Standards SPD (spaces for a 2-bedroom dwelling and 1 space per 30 sqm for a Class B1 commercial proposal = requirement for 4 extra spaces). However, the existing site makes no provision for off-street parking and an alternative use of the site for community purposes would also generate a requirement for off-street parking. The Highway Authority has not objected to the proposal on these grounds. The proposed use is in effect a live-work unit, and the provision of 1 space is not considered unacceptable in the circumstances.

Trees

- 14.23 The proposal is in very close proximity to a semi-mature tree, with its trunk just north of the application site and a crown spread overhangs the existing building. The Council's Tree Officer agreed it was possible to build the proposed structure if the sycamore tree is sufficiently protected. However, the tree is semi mature and is going to get much, much bigger and whilst it may be possible to carry out pruning operations every year, once this tree actually gets to a full grown size it will dwarf the building, which will then mean that the owners of the building will want the owners of the tree to remove it.
- 14.24 However, the comments by the applicant are entirely accurate in that subject to a Conservation Area Notice being submitted they would be able to reduce this tree back to the property boundary as this tree is not one that would merit protection by a tree preservation order. In conclusion the Tree Officer concludes that while granting permission may result in dispute between neighbours in the long run this should not be used as a reason to refuse the planning permission given the status under the CA/TPO legislation and common law principles.

15.0 Conclusion

- 15.1 The previous application was recommended for refusal on the basis of:
- (a) the objection from the Planning Policy Team to the potential loss of a community facility;
 - (b) adverse amenity impacts, particularly an overbearing impact upon 7 Chapel Road and overlooking to 4 Clifton Terrace; and
 - (c) lack of a Tree Survey.
- 15.2 On the first of these issues, the Planning Policy Team has concluded has accepted that whilst there has been occasional use of the building for community purposes, it does not appear to be the case that it is currently or last used for community purposes and therefore Policy DP4 does not apply. On the second issue, minor adjustments have been made to the proposal. It is accepted that the proposal does not satisfy the overbearing tests in the 'Extending Your House' SPD; however, neither does the existing building and the additional impact caused is not considered so significant as to warrant refusal. On the third issue, a Tree Survey has been submitted which demonstrates the proposal can be constructed without loss of the tree. It will however require regular pruning of the tree, but is not worthy of a TPO and therefore should not form the basis for refusal.
- 15.3 The likely inclusion of the existing building on an adopted Wivenhoe Local List also requires the consideration of the Council. Representations to the earlier proposal clearly showed a split between those in the community who valued the building for its historic significance and those in support of the proposal to demolish the building and provide with a modern replacement. The advice of the DHU Team is the existing building detracts from the appearance of the Conservation Area and the proposed new building is an acceptable replacement.
- 15.3 It is considered that this is a finely balanced application, but the Officer recommendation is that the scheme can now be supported.

16.0 Recommendation – Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

The development hereby permitted shall be constructed strictly in accordance with the approved drawings, unless otherwise agreed in writing by the Local Planning Authority. The approved drawings include 163-01A (dated Oct 2011), 163-02A (dated Sep 2011), 163-03D (dated 21.12.11), 163-04A (dated December 2011), 163-05B (dated 19.9.11), 163-07B (dated December 2011), 163-08C (dated 7/10/11) and 163-30B (dated 29.10.11).

Reason: For the avoidance of doubt as to the effect of this permission.

3 - C3.3 Samples to be Submitted

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

Reason: To ensure that the development preserves and enhances the character and appearance of the Conservation Area.

4 - Non-Standard Condition

The use hereby permitted is for a first floor residential flat and a ground floor potters studio and gallery only and no alternative use of either floor shall be made without the prior approval in writing of the Local Planning Authority.

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

5 - Non-Standard Condition

The ground floor gallery shown on drawing 163002A shall be open to the public.

Reason: This forms part of the justification for the proposal put forward by the application submission.

6 - Non-Standard Condition

Prior to the commencement of development, evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage or Interim Code Certificate demonstrating that the development will achieve Code Level 3 or higher for all dwellings shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the development is designed to be sustainable and will make efficient use of energy, water and materials.

7 -Non-Standard Condition

Prior to the first occupation of any dwelling hereby approved, a post-construction Final Code Certificate issued by an accreditation body confirming that dwelling has achieved a Code for Sustainable Homes rating of Code Level 3 or higher shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

8 - A7.11 No New Windows

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed in the building hereby approved.

Reason: To protect the amenities and privacy of adjoining residents and to ensure the building has an appearance appropriate to the character of the Conservation Area.

9 - Non-Standard Condition

Prior to the commencement of the development hereby permitted full details of the proposed glazing screen (shown in principle on drawing 160-30B), including the depth of the upper privacy section shall be submitted to and agreed in writing by the Local Planning Authority. The upper privacy section should give an obscuration level equivalent to scale 4 or 5 of the Pilkington texture Glass scale of obscuration, unless otherwise agreed in writing by the Local Planning Authority. The details as approved shall be installed prior to the first occupation of the flat and thereafter retained at all times.

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

10 - Non-Standard Condition

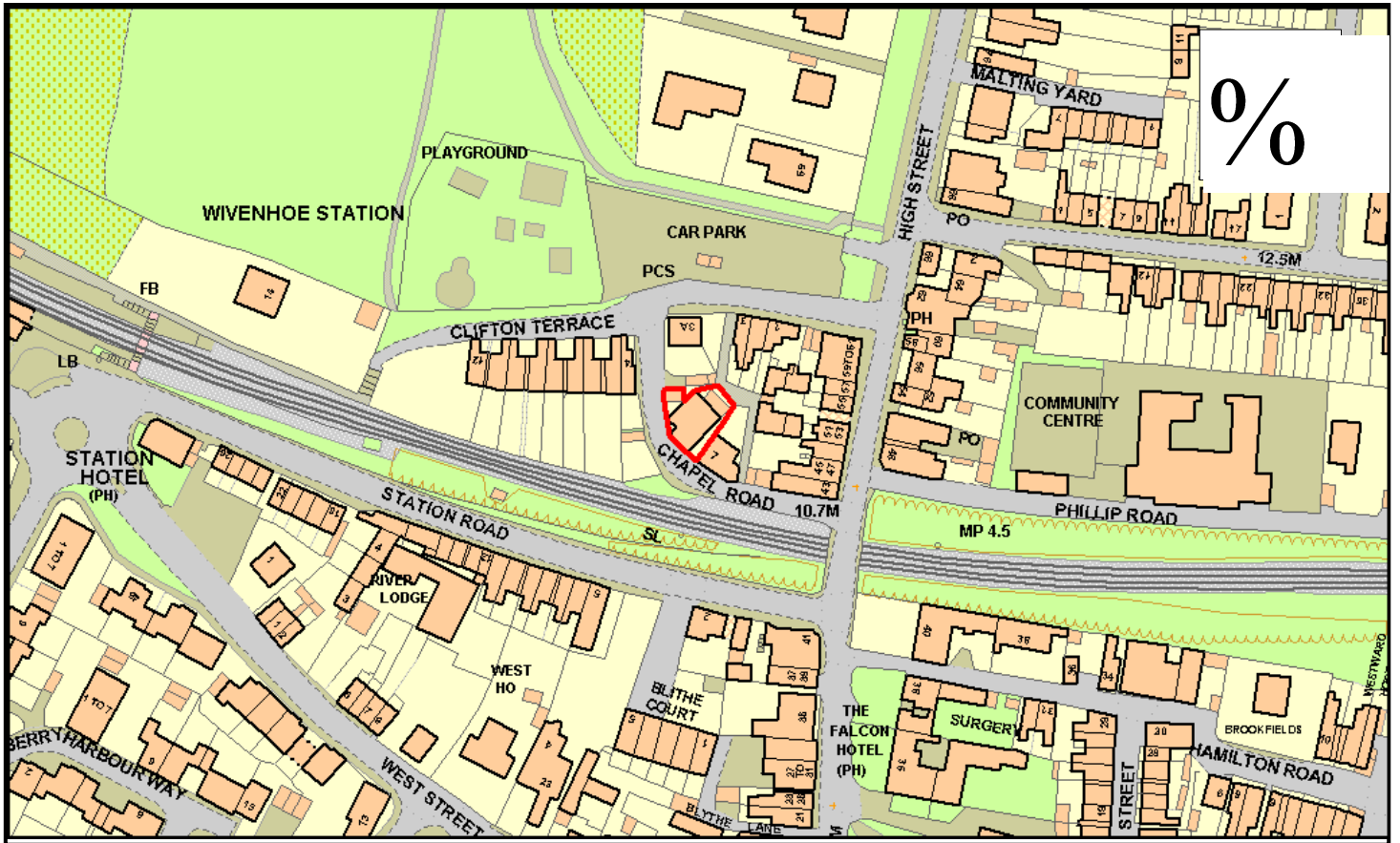
The kiln shall be operated in accordance with the Ventilation /Extraction Statement by Libra Services dated 22 September 2011.

Reason: In the interest of local amenity.

Informatives

(1) The developer is advised to contact Network Rails asset protection team 6 weeks prior to the commencement of development due to the close proximity of the proposal to the embankment and Network Rail infrastructure. The team can be contacted on AssetProtectionEastAnglia&Wessex@networkrail.co.uk

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



Application No: 120013

Location: St Johns Ambulance Site, Chapel Road, Wivenhoe, Colchester CO7 9DX

Scale (approx): 1:1250

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7.7 Case Officer: Simon Osborn

MINOR

Site: Chapel Road, Wivenhoe, Colchester CO7 9DX

Application No: 120013

Date Received: 19 January 2012

Agent: Mr Robert Pomery

Applicant: Mrs Pru Green

Development: Demolition of the superstructure of existing St Johns Ambulance building and erection of two storey building of mixed use C3 Residential and D1 Gallery/Studio (resubmission of 110609)

Ward: Wivenhoe Quay

Summary of Recommendation: Conditional Approval

1.1 This application is referred to the Planning Committee because it accompanies the planning application (subject of the previous report), which was called-in by Cllr Stephen Ford.

2.0 Synopsis

2.1 The previous report in respect of the planning application considered the planning issues surrounding the proposed replacement building. ***In the absence of a suitable replacement building, the Council cannot support the demolition of an existing Victorian building, as this would have a detrimental impact upon the character and appearance of the Conservation Area.***

3.0 Site Description and Context

3.1 The application site is an irregular shaped parcel of land, fronting onto an unadopted road, in close juxtaposition to a number of residential properties and within the Wivenhoe Conservation Area. The property is close to the heart of the town and although within a predominantly residential area, is also to commercial outlets along the High Street, which form part of the Rural District Centre designation.

3.2 The application site is largely occupied by a rectangular-shaped hall of utilitarian form and appearance. A small corrugated-metal garage is located within the NW part of the site. Part of the site is overhung by a mature tree, the trunk of which is positioned immediately to the north of the application site.

4.0 Description of the Proposal

- 4.1 The Conservation Area consent application looks to remove the existing buildings on the site.

5.0 Land Use Allocation

- 5.1 Conservation Area
Predominantly Residential Area
Draft Wivenhoe Local List

6.0 Relevant Planning History

- 6.1 WIV/10/48 – change of use of church hall to furniture store and showroom, approved 1948;
- 6.2 WIV/3/57 – change of use from furniture showroom to builders yard, approved 1957;
- 6.3 WIV/14/60 – change of use from builders workshop to St Johns Ambulance HQ and store, approved 1960;
- 6.4 WIV/26/60 – additions to provide storage, kitchen and toilet accommodation, approved 1960;
- 6.5 110608 – proposed demolition of the superstructure of the existing St John Ambulance hall, and erection of a two-storey, flat-roofed building comprising an artist’s studio on the ground floor and 2-bedroom dwelling on the first floor, refused.
- 6.6 110609– proposed demolition of the superstructure of the existing St John Ambulance Hall. This application was refused on 11th October 2011 for the following reason:

“In the absence of planning permission for a suitable replacement building, the Council cannot support the demolition of an existing Victorian building, as this would punch a hole within the existing urban fabric and have a detrimental impact upon the character and appearance of the Conservation Area. As such the proposal is contrary to Policy UR2 in the LDF Core Strategy adopted December 2008 and Policy DP14 in the LDF Development Policies Document adopted October 2010.”

7.0 Principal Policies

- 7.1 The following national policies are relevant to this application:
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 5: Planning for the Historic Environment
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:
UR2 - Built Design and Character

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP14 Historic Environment Assets

8.0 Consultations

8.1 Network Rail stated:

“No objection against the principal of the application however due to the close proximity of the proposal it is useful to inform railway personal of development occurring adjacent to the railway therefore Network Rail would like the following informative to be inserted into the decision notice: *Prior to the commencement of any works on site, developers must contact Network Rail to inform them of their intention to commence works. This must be undertaken a minimum of 6 weeks prior to the proposed date of commencement*”.

8.2 The Design and Heritage Unit commented:

“The building is situated in the Conservation Area of Wivenhoe, with a number of listed buildings and buildings of townscape value in the immediate vicinity. The building itself was a timber framed late 19th Century parish hall, but its original appearance has now much changed, to the detriment of its appearance and the overall appearance of the sensitive Conservation Area. Original detailing on the gable end and main entrance, the symmetry of openings has been lost, and unsympathetic extensions visible from Chapel Road further detract from townscape quality”.

8.3 Environmental Control recommended the Demolition and Construction Informative.

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

9.0 Town Council Response

9.1 Wivenhoe Town Council stated:

“Wivenhoe Town Council has not changed with regard to this application. The Town Council would support the design scheme in a different location. However, with reference to DP4, *that seeks to protect community buildings from inappropriate use*, the demolition of this building will result in a loss of a community building. In the applicants 'Planning Statement' section 4.32 there is a claim that the site has been abandoned. Wivenhoe Town Council does not believe this to be the case, and knows of at least two community groups that use the hall on a regular basis. The current poor state of the internal facilities and out of date electrics are the reason for low usage. However, there is evidence that a community group, with funding, can address these issues if they have an opportunity to buy the property.

The demand for public use of such a facility has been researched and proven. Our community has only one other openly community building in the WLH, which is much bigger but with poor acoustics and is often unavailable for hire because it is already booked.

In the Planning Statement provided by the applicant it states: 'The marketing attracted few potential purchasers, the majority of which enquired with the aim of demolishing the building and replacing it with a dwelling.' For information Wivenhoe Town Council and Wivenhoe Cinema Group made formal offers and both had surveys done with a view to restoring it for community use. Wivenhoe Town Council's offer was refused.

The suggestion that the Gallery would replace this community use was inapplicable because unless the gallery had commercial classification it would only be able to open for a limited number of days a year, and then with a reduced area, and only for a specific interest group.

This building was built and used before class classification was implemented, however having been used in the capacity of D2 our understanding is that a change of use to D1 is necessary. It is the belief of Wivenhoe Town Council that this is unworkable on this site particularly with the consideration of future occupants. For example a day nursery would need a facility for safe and concentrated drop offs for a number of small children where no immediate parking is available on an unmade up road. The ground floor of the proposal is more close to a B1 or B2 classification, which has not been applied for.

Wivenhoe Town Council also have grave concerns with regard to noise and toxic omission, due to the nature of the proposal.

Regarding overshadowing and overlooking issues, Wivenhoe Town Council would like clarification from Colchester Borough Council that they are satisfied these issues have been fully addressed.

With regard to the tree survey we understand that the tree will need constant pruning and reshaping by the neighbour on whose land it is situated on."

10.0 Representations

10.1 Most of the representations received in respect of this proposal (134 objecting, 55 in favour) relate more specifically to the application for planning permission 110608 for this site. The following comments related more specifically to this application:

1. Loss of a community asset. There is a desperate shortage of community buildings in Wivenhoe. The building is structurally sound. There are funds available to bring it back into appropriate and viable community use.
2. The Hall is a simple nineteenth-century building which makes a contribution to the character and appearance of the Conservation Area. The building has religious and social significance in Wivenhoe's history. The building is on the draft Local List
3. The existing building has no merit and is gradually falling into greater dereliction.

11.0 Parking Provision

11.1 The proposal to demolish the existing buildings raises no parking issues.

12.0 Open Space Provisions

12.1 The proposal to demolish the existing buildings raises no open space provision issues.

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impact upon the zones.

14.0 Report

14.1 Paragraphs 14.6 through to 14.12 in the previous report considered the impact of the loss of the existing building and its replacement with the new one proposed. This report accepted that on balance, the proposed planning application for a replacement building was acceptable. On the basis of that report being accepted, it is considered that there will be an acceptable replacement building and there is therefore no objection to the demolition of the existing building.

15.0 Conclusion

15.1 There is no objection to the demolition of the building subject to its replacement with the building subject of planning application 120013.

16.0 Recommendation – Conditional Approval

Conditions

1 - A1.6 LBs & Con Area Consents-time lim for comm of development

The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: In order to comply with the requirements of Section 18(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990, as amended by the Planning & Compulsory Purchase Act 2004.

2 - Non-Standard Condition

No part of the building shall be altered by way of demolition until:

- (i) a binding contract for the full implementation of the scheme of redevelopment granted planning permission under reference number 120012 has been entered into; and
- (ii) all necessary permissions and consents have been obtained; and
- (iii) evidence thereof shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: In order to ensure that the demolition is necessary as the works would not be acceptable on their own, without a replacement scheme.

Informatives

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

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.



Colchester Borough Council Development Control

Advisory Note on Parking Standards

The following information is intended as guidance for applicants/developers.

A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.

The residential parking standard for two bedroom flats and houses is two spaces per unit. The residential parking standard for one bedroom units is one space per unit. One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development.



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.