

Planning Committee

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

This committee deals with

If you wish to come to the meeting please arrive in good time. Attendance between 5:30pm and 5:45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

Information for Members of the Public

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Material Planning Considerations

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

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

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

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

Human Rights Implications

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

Community Safety Implications

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

COLCHESTER BOROUGH COUNCIL PLANNING COMMITTEE 4 December 2008 at 6:00pm

Members

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

Substitute Members : All members of the Council who are not members of this Committee or the Local Development Framework Committee. The following members have undertaken planning training which meets the criteria:-
Councillors Arnold, Barlow, Barton, Bentley, Bouckley, Cook, Dopson, Fairley-Crowe, P. Higgins, T. Higgins, Hunt, Lilley, Lissimore, Maclean, Manning, Martin, Pyman, Quarrie, Sykes, Tod, Turrell and Young.

Agenda - Part A

(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief. An amendment sheet is circulated at the meeting and members of the public should ask a member of staff for a copy to check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm on the day before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Pages

1. Welcome and Announcements

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

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

- action in the event of an emergency;
- mobile phones switched to off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Have Your Say!

The Chairman to invite members of the public to indicate if they wish to

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

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

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

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

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

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

6. Minutes

To confirm as a correct record the minutes of the meetings held on 11 November and 20 November 2008.

7. Planning Applications

In considering the planning applications listed below, the Committee may choose 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. 080690 Middle Mill Depot, Middle Mill Road, Colchester (Castle) 20 - 32

Erection of 7 dwellings (resubmission of 071726).

2. 081758 19 Cherry Chase, Tiptree (Tiptree) 33 - 37

Variation of planning condition 4 & 5 of planning approval 081069 to remove existing Horse Chestnut tree and replace with 4no. specimen trees and a row of apple tree cordons and variation to planning approval 081069 to provide rear conservatory to proposed dwelling.

3. 081891 Waterside Place, East Street, Colchester (Castle) 38 - 41

Application to vary condition 23 on application F/COL/04/1273 to delay the construction of 18 garages for a year, 18 car parking spaces will be constructed and a boundary fence.

4. 081640 At Last, Mill Lane, Birch (Birch and Winstree) 42 - 46

Proposed extension and alterations.

8. Application O/COL/01/0009 New Urban Village // Affordable housing tenure review 47 - 49

See report by the Head of Environmental and Protective Services

9. Exclusion of the Public

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

and Schedule 12A of the Local Government Act 1972).

PLANNING COMMITTEE

11 NOVEMBER 2008

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

(* Committee members who attended the formal site visit)

Councillors Chapman (in respect of being the borough council representative on the Dedham Vale AONB and Stour Valley Project Joint Advisory Committee), Chillingworth (in respect of his role as Vice Chairman of the Essex Branch of the CPRE) and Offen (in respect of his membership of Essex Wildlife Trust) each declared their individual personal interests in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

154. 080194 Abberton Reservoir Scheme, Peldon Road, Abberton, Colchester

The Committee considered an application for the construction of a new Wormingford Pumping Station (WPS), a new pipeline from the WPS to Abberton Reservoir, expansion of Abberton Reservoir and works to the B1026. The application included an Environmental Statement.

The Committee made a site visit in order to assess the impact of the proposals upon the localities and the suitability of the proposals for the sites.

Sue Jackson, Principal Planning Officer, and David Whybrow, Development Manager, attended to assist the Committee in its deliberations.

In her presentation of the application to the Committee and public in attendance, Sue Jackson initially explained that Northumbrian Water Limited, the applicant who was also the statutory water provider for a large part of South Essex, has produced a Water Resource Plan to demonstrate that sufficient water supplies are available to meet the projected demands from its customers for the next 25 years. The Environment Agency and Ofwat have accepted the Plan and the justification of need for additional water supplies. She then described in general terms the whole scheme from the River Ely Ouse in Norfolk to the Abberton Reservoir, and then in more detail that part of the scheme which affected Colchester borough, from a new pumping station in the north of the borough to the expansion of the reservoir in the south, all as set out in the report.

Water is abstracted from the River Ely Ouse in Norfolk and transferred via a series of sluices and other structures, pipelines and rivers to the headwaters of the River Stour and from there in pipelines across the borough to Abberton Reservoir. A new pumping station is required on the River Stour and its location close to Wormingford was determined by the avoidance of Dedham Vale AONB to the east and Bures to the west. The current transfer system across the borough to the reservoir is inadequate for the volumes of water required to meet predicted demand and an analysis of routes across the west of the built up area of Colchester has been undertaken and a route determined for the pipeline from Mount Bures to a break pressure tank

in Wormingford and on through Fordham, Eight Ash Green, Stanway, Copford, Birch and Layer de la Haye to the reservoir. The water level in the Main Reservoir, to the east of the B1026 causeway, will be raised by 3.2metres to 21metres above Ordnance Datum and where the B1026 crosses the reservoir a 2.2 metre earth bund is proposed on the Main Reservoir side to retain the raised water. Other proposed works to the Main Reservoir include:-

- the removal of the majority of the existing concrete edge to the reservoir and the creation of a gently sloping profile,
- new col dams on the south side,
- the main dam raised by just over 3 metres,
- a new off-take pumping station,
- the diversion of the section of the B1026 which will be flooded by the raised water level between St John the Baptist Church, Layer de la Haye and the existing road in the south close to the causeway,
- new public access paths around the reservoir, and
- the relocation of the Essex Wildlife Trust centre and reserve.

In addition there are proposed temporary pipe storage areas at Wormingford Airfield and Layer de la Haye Water Treatment Works, work compounds at key points along the route of the pipeline, two proposed borrow pits and diversions to gas and electricity supply and new electrical supplies.

Councillor Mark Jones, Layer de la Haye Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the some elements of the application. Whilst the Parish Council were supportive of the aims of the scheme and understood the need for water supplies, there would be a major impact on Layer de la Haye. Some of their comments had already been addressed, however there remained the following residual issues:-

- additional traffic – residents were sceptical at the levels and believe that NWL should be made responsible. They had no objections to the Traffic Management Plan but required effective observation and financial penalties if there were any breaches;
- safety – the B1026 has no pedestrian pavements in places. The Parish Council had made a number of suggestions many of which had been taken up including a ban at school times, but they had made other suggestions which they wish to be included, for example lowering the speed limit;
- damage to roads – the B1026 was likely to be damaged with the additional traffic. Reassurance was sought that the road would be repaired and resurfaced when the project was completed;
- noise – they were pleased to see some of their concerns addressed in the report, however, they sought reassurance that conditions would be monitored and enforced;
- Community Fund – the establishment of the Community Fund to mitigate against disruption was welcomed, but if the totals were all that was available they would be disappointed. Part of the village hall was becoming increasingly expensive to maintain and would have to be replaced. They requested that NWL replace the hall for the benefit of residents;
- a number of other issues had been identified and the provision of funds was considered to be an appropriate response to the impact on the community for many years to come, but they doubted that the Community Fund would provide a lasting legacy.

Councillor Phil Gladwin, Winstred Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Parish Council had held many meetings and residents had been consulted. There had been very few objections to increasing the reservoir even though some parts would be flooded. Also very few residents had objected to the design of the causeway on the B1026. However, whilst the Parish Council had expressed a number of concerns most of which had been dealt with by the Planning Team, there remained a number of matters which the Parish Council considered to be important and should be considered in addition to the matters in the recommendations:-

- speed limits on the B1026 causeway – it was appreciated that the Highway Authority would be monitoring the causeway, but it would be a matter of time before residents required speed limits because it would be a fast stretch of road;
- parking on Birch causeway was chaotic and it should be improved by removing the plastic green fence on the eastern side and efforts made to enforce parking only on the western side. Additional parking will be required on the Birch causeway when parking is suspended on B1026 during its re-construction;
- parking for horseboxes – there is no provision for parking horseboxes where bridleways start or end. The landowner or the applicant could provide these;
- missing footpath link – the link between Peldon and Great Wigborough could be accommodated on existing land if properly screened and fenced and will be no closer to the waters edge than other existing paths. He requested that it be made a condition;
- village halls – Peldon village hall was well used but far too small and deteriorating;
- the sum of £150,000 for footpaths, cycleways and bridleways was inadequate. He hoped these were only preliminary negotiations since this represented only 1% of the project. The scale of development would impact on residents, vast sums had been allocated for wildlife and they wanted a local legacy for the benefit of residents.

Councillor Gordon Davies, Abberton and Langenhoe Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application.

- B1026 causeway – in spite of the potential inconvenience the causeway should be raised along its entire length to be functional, an enhancement of the environment in the long term and enable the community to retain the amenity currently enjoyed. The current proposal was the cheapest option and no attempt has been made to provide a more practical and vista-sensitive construction. People look at the views, feed and watch birds from their cars or coaches which will not be possible with the bund. The proposed car parks at either end and access arrangements along the length of the bund will not benefit those with physical difficulties as a raised causeway would;
- footpaths – new public paths are to be permissive paths which can be closed at short notice. They strongly requested that they be designated public rights of way with guaranteed access at all times and maintained to national standards;
- The £1 million financial contribution should be under the control of Colchester Borough Council;
- canoeing and sailing facilities with a car park should be provided in designated areas of the enlarged reservoir. He urged the Committee to fully examine these proposals for more recreational pursuits that would be an asset for future generations.

Andrew Ellis addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. This project would impact upon the community and it should be no different from any other project which brings mitigation measures. Referring to the £300,000 of footpath/bridleway improvements and £700,000 for

Essex Wildlife Trust, he stated that the latter was required because of the existing tenancy. There was an additional £1million in the Community Fund which was insufficient to provide a legacy for the surrounding villages and fell short of the request made by the Parish Council on behalf of the local residents who would be affected by the project. Whilst this project addresses a need for adequate water supplies, it would also lead to enhanced profits for the company and he requested that the Committee require officers to negotiate an improved package at a minimum of double the current offer, which should be ring fenced.

Tim Oxtan addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. There were two groups of visitors to the reservoir; those from remote parts of the country and those who enjoy watching birds from cars or buses. They were in general frail, elderly, disabled or unwilling to be exposed to the rain or wind. He considered the current proposal for the bund to be inadequate and preferred the entire causeway to be raised with a road along the top. Whilst this might be more expensive and the B1026 would be closed for a period, such a causeway would be something to be proud of. He also requested that measures be put in place to reduce the speed at which motorists travel across the causeway so that speeding could not be an objection to the wide road along the top of the causeway.

Councillor Lewis left the meeting at this point and did not return.

John Devall, Northumbrian Water Limited (NWL), addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the importance of the scheme, particularly as it was a key scheme to comply with growth aspirations in the spatial strategy. NWL had been working on it since 1993 and in detail since 1998. Without it one million people throughout Essex would have a significant deficit on demand. The scheme was key to adaption to climate change and would take water in times of plenty and storing it for times of need thus meeting sustainability aspirations. He wanted to reassure members and the public that NWL fully intend to ensure that traffic is managed properly. There would be a robust traffic plan and they were prepared to accept variations. In respect of some of the comments made in terms of escalation, this was a really important factor and he hoped to reassure people. In respect of access and footpaths, there would be an increase within the proposal of 14km of footpaths plus a further 2km in the Essex Wildlife Trust centre. Since then they had been encouraged to provide more if it can be obtained through landholder agreements etc. One of the speakers had indicated that the footpath with a missing section could be completed using NWL land. However, Natural England do not support this footpath so close to the reservoir and the landowner was unwilling to allow it on his land. NWL would continue to work with CBC to see if a link can be provided, possibly by using existing highway. In respect of the causeway the proposal put forward was not the cheapest option; cost was not an issue. There were two options put to them and during the assessment process which encompassed issues of noise, safety, road safety, community amenity and consultations, it became clear that this proposal was the only one which satisfied all the issues. It would be an asset and enable people to get away from the road and have a safe environment to view the wildlife. In respect of increasing the package of mitigation measures, he stated that the proposal could not be compared to a development opportunity. This proposal was related to infrastructure not a development, in much the same way as a new road is; the sums talked about would not come to pass. What is being offered is in perpetuity and any use of monies was to be related to the scheme. He was concerned at the suggestion that monies could be used to replace village halls. This was a very sustainable project to provide water resources for Essex. The figures quoted will be embodied in the Section 106 agreement. A further £1.8million was being put into the Essex Wildlife Trust and a like for like replacement visitor centre at a cost of £700,000 which would be a showpiece for the community.

Professor David Hill, David Hill Ecology & Environment, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application in respect of ecology and environmental support. The EU had designated the area as a SPA by virtue of its waterfowl assemblage including wading birds which come in from far away. The reservoir is important in that it provides not only the habitat they require for certain times of the year but also a number of habitat types with none or limited disturbance; birdlife in the reservoir is extraordinary. The permissive nature of the footpath network will enable any adjustment to the line of paths in the future if any birds are being disturbed. Finally, this scheme is an incredible enhancement of about 500 acres of land which will become a wetland for birds and an amazing resource.

Jim Jenkins, Northumbrian Water Limited, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. A scheme of this size will generate traffic, but the aim of NWL from the outset has been to limit traffic, for example by the reuse of materials on site and from the borrow pit. NWL have done everything possible to limit lorry movements together with the traffic plan. There are no objections to speed ramps, but it is not within the remit of NWL to put in speed ramps. Extra car parks have been provided to get traffic off the roads and there will be a layby on the causeway. The cost of this causeway scheme is marginally more expensive the alternative option which would have been narrower and with no possibility of providing a car park.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. NWL have been extremely co-operative and have held public meetings therefore very few people will speak against this application. He had concerns about the money being made available for distribution to the villages. He considered there should be an extra contribution to cover the long term as well as the short term including providing ongoing maintenance to village halls and the footpaths. He wanted roads such as the B1026 to be resurfaced at the end of the work as the traffic will have impacted upon them. £1million is welcome but it could be doubled and even taken to £5million which would represent £1million for each year of construction work. Other schemes have benefited communities to similar levels. He asked if the community fund could be administered by a special trust which would reduce administration costs or alternatively the Borough Council should determine where grants should be spent. He also asked that the hours of working on the borrow pits be strictly enforced and the Rye Farm borrow pit to be returned to agricultural use. He wanted no lighting around the borrow pit so as not to cause any light pollution and no access to Field Farm Road. There should be an agreed transport programme through all affected villages not just where schools exist and at any time of the day. Finally, constituents should have access to a fast and efficient dedicated complaints telephone line and complaints to be with within 24 hours or immediately. He looked forward to the benefits arising from this exciting project.

Planning Officer's response to comments made by public speakers and the councillor

It was explained that traffic management plans will be agreed with Essex County Council (ECC) Highways. The possibility of financial penalties was not a matter that ECC Highways specifically referred to but if it was considered appropriate and was something implemented on other large sites, it could be investigated with colleagues in ECC Highways. A financial bond will be put in place to repair any damage to roads. During consultation a comment had been received in respect of speed limits in High Road and Church Road, Layer de la Haye and ECC Highways did not think it appropriate in this particular case. In respect of the B1026 causeway, ECC Highways would monitor the situation once the new causeway is in place to see if traffic restrictions were necessary. The proposed works to the causeway and access from car parks to the path on top of the bund would need to fully comply with the Disability Discrimination Act legislation.

Highways had concerns about the existing causeway and wanted it to be narrowed. If the raised causeway option had been chosen the road would need to be narrower so in that respect there was no difference whichever option had been chosen. The raised road option was not chosen because the applicants' consultants had concluded that in terms of noise, safety, road safety, and amenity it would have a more detrimental impact.

In respect of parking restrictions on Birch causeway, this has also been discussed with ECC Highways but their view was that the existing parking situation was not so detrimental to highway safety that they would want parking restrictions in that area.

ECC Highways had commented that any additional traffic in Lodge Lane would be unacceptable to them because of the way Lodge Lane joined the main highway, so parking for bridleways and horseboxes was not appropriate at this location. The area at Pete Tye Common was not within the applicant's ownership and it was not possible for horseboxes to be parked there either.

The Community Fund had been discussed and agreed with the applicants on the basis that it would compensate for any adverse effects of the scheme taking place over a long period of time. It was not intended for the improvement of village halls; Section 106 contributions have to be relevant and appropriate to the scheme. For all major applications the Development Team consider what financial contributions are appropriate and in their consideration of this scheme their decision was that no financial contribution was required as they considered that replacement of the visitor centre and nature reserve and some additional public access provided an acceptable package of improvements to the community as a whole.

Officers had sought a package of contributions which were of benefit to the wider community in the borough as a whole as well as to the immediate community. The greater public access and the new visitor centre were additional to the financial contributions. Indeed funding of the centre was a separate part of the application and the cost was not included in the Section 106 obligations.

If the applicant considered that the Borough Council managing the Community Fund was appropriate, it could be written into the legal agreement. Councillor Bentley had mentioned that the Borough Council representative should be an elected member to which suggestion NWL were in agreement.

In respect of disturbance to residents in Malting Green Road, the borrow pit was sufficiently distant from the residents for there to be no undue disturbance and the material removed would be used in the reservoir and not in Malting Green Road. In response to the query regarding lighting at the borrow pit, it was explained that there was a standard condition on each and every contract for every part of the scheme requiring all lighting schemes to be agreed with the planning authority prior to installation and in executing this requirement the planning team would liaise with Environmental Control on any lighting proposals. No consent would be given for permanent lighting left on outside of construction times.

Mr Davies had mentioned the wish for canoeing to be permitted on the reservoir on which proposal Natural England had been consulted. Their response was that because of the SPA designation canoeing was not possible at any time of the year on any part of the reservoir.

In respect of permissive paths, once the works to expand the reservoir have been completed a new range of surveys on wildlife and birdlife would be undertaken and the SPA boundary would be redesignated. The preference therefore was for any new paths to be permissive to enable any adjustments required to be made following the surveys of the use of the reservoir

by birds. The legal agreement will require that all paths or alternative paths are to be provided in perpetuity, albeit in a slightly different position. Natural England might allow a footpath to be provided at the moment to link up the two sections of footpaths to the south of the reservoir, but it would need to be so heavily screened and fenced that it would not provide a suitable route nor would it provide a complete route from Peldon to Great Wigborough. The alternative was for a more open path linking the two villages and if this solution was not acceptable the legal agreement allows other alternatives to be looked at which could be a link closer to the reservoir. Highways were taking a sum of money to use for investigations into what options there might be and provision of any agreed route.

Comments from the Committee

Members of the Committee expressed support for The Abberton Scheme and offered their congratulations to those who had worked hard to overcome many of the initial objections. This was a large scheme which will take 5 years to complete and it had been developed with relatively few problems.

However there were some funding issues raised. The Section 106 money has to be related to the infrastructure from the development and there was some doubt about whether the amounts proposed were sufficient for this purpose over the duration of the construction works. The pumping station, the reservoir, the pipeline and all other facilities needed to transfer the water were a relatively small part of this, but the communities through which this scheme would impinge may find over a period of time that there are problems. Some parish councils near to the reservoir had made representations in this respect but there may be other affected parishes whose parish council has not attended the Committee's meeting but which may wish to be able to make a claim against the fund. It was queried whether the £750,000 Community Fund was sufficient to cover what may be needed over the 5 years, particularly for communities around the reservoir but also other communities further away. There was a view that the fund might be somewhat insufficient to resolve problems that might arise anywhere along the route from Mount Bures to the reservoir and NWL was requested to have a further look to see if that money could be increased, not for village halls, but for matters for which the fund was properly intended. There was support for the borough council to hold and administer the community fund as it does for other Section 106 money.

There were a number of comments on various other matters:-

- the question of safety on the causeway and the possibility railings at least on one side;
- provision for those who are disabled to have a view over the 1.1 metre wave wall, and the suggestion of one or two raised areas where there can be viewing or possibly a glass wall or portholes for disabled and young people for all to have equal access;
- a request that the reuse of concrete waste material from the removal of the existing concrete road and sloped edge of the reservoir be a condition instead of an informative;
- a query in regard to any roads to be repaired or resurfaced. Will this be in addition to the Section 106 monies and who is responsible for budgeting for this;
- the road through Fordham was not very good and it was anticipated that it would deteriorate during construction. There was a request that it be carefully monitored and repaired as required during construction as well as at the end of construction;
- a request for a wheel washing facility for heavy vehicles so the public highway is kept in good condition and clear of mud at the access points;
- a request that efforts be made to ensure that residents, parish councils and ward councillors were thoroughly acquainted with the complaint procedure so all are familiar with what needs to be done to bring issues to the contractors' attention;

- whilst it was appreciated that NWL were not bound to help villages but there was a repeated request for assistance with maintenance of village halls;
- whether there was the ability to bring requests for reductions in speed limits to the attention of EC Highways for implementation at the earliest opportunity, particularly mentioned was the causeway, and also the suggestion of sight screens on the causeway to prevent motorists' attention from wandering;
- the importance of switching off any lights when they are not required;
- a request that a percentage of renewable energy, solar or wind power, be used as part of the considerable energy required at the pumping station in addition to the wind turbine at the EWT centre;
- the recognition that the proposed transferred EWT visitor centre would be a wonderful facility for visitors. Already 25,000 trees have been planted to produce a woodland and it was appreciated that the size and scope for wildlife was being increased along with educational facilities.

Planning Officer's response to comments made by the Committee

It was explained that any issues arising from the construction of the pipeline could be dealt with by conditions. The main impact would be the delivery of pipes and conditions were in place regarding the timing of deliveries. There would be 17 km of pipeline passing through six or seven parishes. The construction of the pipeline would be undertaken during a 6 month period from April to September. The noisiest activity would impact for 3 months, a relatively short period of time, and the impact could be fully addressed by conditions so it was considered unnecessary to provide any financial contributions.

Access to the pathway on the causeway would be fully compliant with the DDA and if a handrail is required it can be incorporated. There is a condition requiring full details to be submitted and agreed with the Authority. Similarly with raised sections or glass viewing areas for the disabled. Whether it would be possible to provide these was unknown, but a condition could be imposed requiring alternatives to be investigated and if accepted they can be incorporated into the design of the scheme.

A condition could be imposed requiring the concrete removed from the road and edge around the reservoir to be recycled. It was recognised that the scheme included the use of solar powered venting panels and it may be possible to impose a condition requiring the applicants to consider using renewable/sustainable energy techniques elsewhere within the scheme.

The situation regarding any financial assistance with village hall maintenance was reiterated that Section 106 money had to be used for matters which were relevant to the application. In the event that there was an unforeseen impact upon a village as a result of the construction of any part of the scheme, it was recommended that an application should be made for a grant from the Community Fund. In respect of the management of the Community Fund by the Borough Council, it was considered that this was something that NWL would not object to and the legal agreement could be worded to achieve that.

ECC Highways have taken a sum of money to hold in addition to the Section 106 financial obligations specifically for the repair of roads. The traffic management plan will be strictly monitored by the Borough Council and will require commitments from NWL regarding delivery times and routes. A robust mechanism would be in place to require parish councils and residents to be informed about the complaints procedure and a Community Liaison Officer would be appointed to deal with complaints in a satisfactory manner. Regular meetings between NWL and affected parish councils would be held to assist with communication.

Speeding vehicles is an ECC Highways matter and whilst they have indicated concern about speeding this concern does not seem to have transferred into the imposition of speed limits. This matter can be included as an informative or instruction to ECC Highways to reconsider and any advice received reported back to the Committee.

Wheel washing facilities will be a condition of all parts of the different contracts at the access and egress and reservoir and compounds adjacent to the reservoir and Eight Ash Green.

Following a further request for the Development Team to reconsider the £750,000 Community Fund it was explained that the Fund was not a figure that resulted from an estimate of instances of concerns which might arise nor was it a matter that emanated from the Development Team. The Team had not required any financial contribution. It would be possible to undertake further discussions with the applicant to establish if they would be willing to increase the fund but any response would be final.

RESOLVED (UNANIMOUSLY) that –

(a) The Committee accepted that the project, the Abberton Scheme, with all the agreed mitigation, management measures and planning conditions, will not affect the integrity of the Special Protection Area, either alone or in combination with other plans or projects.

(b) Having regard to the requirements of the Habitats Regulations and given consideration to the Environmental Information submitted in respect of the application, and the policies of the development plan and all other material considerations including the need for the raising of Abberton Reservoir and the enhancement of the Reservoir for biodiversity, the Head of Environmental and Protective Services be authorised to grant planning permission subject to the signing of a Legal Agreement to secure the following matters and to conditions as set out in the report together with further conditions set out in (c) below:-

ABBERTON LIAISON GROUP

- Northumbrian Water Limited (NWL) will establish the Abberton Liaison Group (ALG). The ALG will comprise a representative from Colchester Borough Council, Abberton/Langenhoe, Winstred Hundred, Layer de la Haye and Layer Breton parish councils, Essex County Council Highways, Essex Wildlife Trust, Natural England, Ramblers Association, NWL and the RSPB. The ALG will have two main functions:-
 1. The ALG will meet regularly to discuss issues relating to the construction, progress of construction, forthcoming activities, notification of the local communities and set up a procedure for dealing with complaints and a community liaison officer.
 2. To operate and administer the Community Fund, NWL will make a financial contribution of £750,000 to the Community Fund. This fund is to mitigate any unforeseen effects of raising the reservoir which cannot be mitigated by condition and/or the Section 106. Applications for grants will be allowed from the 4 most affected parishes Abberton/Langenhoe, Winstred Hundred, Layer de la Haye and Layer Breton. The representatives of Colchester Borough Council and the 4 parish councils on the ALG will determine the grant applications.

PATHS/BRIDLEWAYS

- NWL will provide the permissive rights of way shown on the application drawings in perpetuity.
- NWL will make a financial contribution, the precise amount to be agreed with EC Highways, for the provision of a footway from Layer Church to the crossroads at the Fox Public House.
- NWL will make a financial contribution, the precise amount to be agreed with EC Highways, for the provision of 2 bus stops adjacent to the new Essex Wildlife Trust Visitor Centre.
- NWL will establish a Rights of Way Committee – this will comprise representatives from NWL, Colchester Borough Council (CBC), Essex County Council (ECC), Natural England, Abberton/Langenhoe, Layer de la Haye, Winstred Hundred and Layer Breton Parish Councils, Ramblers Association and the British Horse Society. Its main function will be to commission the further survey work, liaise with the wider community and determine the additional public/permissive rights of way and/or upgrading. NWL will make a financial contribution of £150,000 to fund the study and provide the new/upgraded permissive and public rights of way.

EDUCATION

NWL will establish an Abberton Reservoir Education Committee, this will comprise representatives of CBC, EC Education, EWT and NWL. Its main functions will be:-

1. To commission and oversee an Education Study to determine the need for additional education facilities for the purposes of educating school children and other groups.
2. NWL will contribute £100,000 to complete the above study and establish and operate the education centre. NWL will provide a building to be used as the education centre.
3. In addition to the £100,000 NWL will make 6 annual payments of £35,000 to enhance the education use of the reservoir.

ECOLOGY MANAGEMENT PLAN AND ECOLOGY ADVISORY GROUP

- NWL will submit the Ecology Management Plan to CBC.
- NWL will establish the Abberton Reservoir Ecology Advisory Group comprising NWL, RSPB, EWT, CBC, NWL and Natural England. The function of the Group will be to monitor the delivery of the management plan.

Summary of financial contributions

- Community Fund £750,000
- Education Fund £100,000 (and building) plus £210,000 (6 x £35,000).
- Paths/bridleways shown on the application £150,000 (estimated cost)
- Additional paths/bridleways £150,000
- Footpath to Layer crossroads, amount to be agreed with EC Highways.
- Two bus stops at the EWT visitor centre - amount to be agreed with EC Highways

Total £1,360,000

Amendment to the Section 106 agreement: Colchester Borough Council to be responsible for holding and managing the Community Fund.

(c) Additional conditions

- To be added to part 7. Prior to the commencement of the works to the B1026 causeway detailed drawings of the earth bund, path, access steps and wave wall shall be submitted to and approved in writing by the local planning authority. The wave wall and path shall include works to allow disabled visitors to view the main reservoir. The works shall include for example, glazed viewing areas within the wave wall and raised sections along the bund path plus any other facilities considered appropriate. The drawings shall include details to demonstrate that the earth bund, path and steps are fully compliant with the Disability Discrimination Act. The development shall be completed in accordance with the approved drawings prior to these facilities being available for public use.

Reason: To ensure that satisfactory and safe provision is made for access to the bund path.

- To be added to part 2. Prior to the commencement of development of the Wormingford pumping station details demonstrating how sustainable construction and sustainable energy methods will be incorporated shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason. To ensure a sustainable development.

Amend condition 5 add a bullet point:

- Details of all demolition including the perimeter road and concrete reservoir edge, and agreement to recycle these materials and re-use them on site unless otherwise agreed in writing by the local planning authority.

Members agreed that any minor amendments to the wording of conditions to be submitted to the Committee Chairman, Deputy and Group Spokepersons for agreement. Any major changes to be agreed by the Planning Committee.

(d) Officers to continue negotiations with NWL to increase the contribution to the Community Fund. (Note: If these negotiations are unsuccessful there is no requirement to report the application back to Members).

Officers to write to Essex County Highways and ask them to:-

- reconsider temporary speed limits along the roads affected by construction and delivery traffic. This includes the routes through Eight Ash Green, Fordham and Layer de la Haye.
- consider imposing speed restrictions along the new causeway and the causeway at Layer Breton.
- impose financial penalties if the Traffic Management Plans are not adhered to.

PLANNING COMMITTEE 20 NOVEMBER 2008

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

Substitute Members:- Councillor Lilley for Councillor Ford
Councillor Martin for Councillor Lewis

(* Committee members who attended the formal site visit.
Councillor Hall was not present at the site visit for minute
no. 158.)

155. Minutes

The minutes of the meeting held on 6 November 2008 were confirmed as a correct record subject to the addition of personal interests declared for application at minute no. 141 as set out below:-

Councillors Chapman, Chillingworth, Elliott and Foster (in respect of their association with Councillor Jill Tod, resident at Seven Arches Farm, Chitts Hill, Colchester) each declared their individual personal interests in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

Councillor Chapman (in respect of having spent his working life in the licensing trade) declared his personal and prejudicial interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(10) and left the meeting during its consideration and determination.

156. 081789 21 Osborne Street, Colchester, CO2 7DA

The Committee considered an application for a change of use of the premises from use class A1/B1, retail, to use class A4, wine bar. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Robert Pomery, planning consultant representing the freehold owner of the land, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The condition limiting the permission to temporary for 3 years was unacceptable to his client because there was no justification for the limitation. There was no explanation as to how the objective of the Vineyard Area regeneration would be so undermined by the change of use, and there is no planning permission or scheme in place in this area. The only material impact would be the long term value of the premises. If this

change of use permission had expired by the time the building was required for the regeneration scheme, the value of the building for compulsory purchase order purposes would be reduced. In these circumstances he considered it unreasonable to impose a 3 year temporary condition and requested that this condition be removed.

Members of the Committee expressed agreement with the views of the public speaker.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report, subject to the removal of Condition 1.

Councillor Gamble (in respect of having previously declared his opposition to the application) declared his personal and prejudicial interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(10). He made representations to the Committee in accordance with Paragraph 12(2) of the Code of Conduct for Members and then left the meeting during the Committee's consideration and determination of the application.

157. 081808 Land adjacent to Eastwood Service Station, Ipswich Road, Colchester, CO4 0EX

The Committee considered an application for prior approval for the erection of a 10 metre replica telegraph pole mast supporting a shrouded antennae unit containing three antennae, an overall height including antennae support of 10 metres, radio equipment housing and ancillary development. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

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

Councillor Ray Gamble addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application for a telecommunication mast and equipment boxes on the grounds of impact on amenity because of the cumulative effect on the street scene. He believed this mast was not needed because he had been informed by a local mobile phone shop that there was already good 3G coverage in the area, which he had also confirmed on the website. Residents were sceptical about the company's efforts to find alternative sites. The requirement to take into account the proximity to schools which was not a requirement to avoid schools and could therefore be ignored. Siting a mast on the highway costs the operator nothing. On the grounds of amenity, it is the cumulative impact of two masts in one area along the residential street which is unacceptable. He asked that the Committee throw this out.

Councillor Gerard Oxford attended and, with the consent of the Chairman, addressed the Committee. The application is in Highwoods Ward but is on the boundary and affects both wards. He believed it was needed to cover Parsons Heath area which is a distance away. He had attempted to find out why the company was not looking in the Bromley Road area which was in the middle of the area needing to be covered. This will be sited 20 metres away from an existing mast and he was concerned it might double the emissions. It was in close proximity to St John's Church of England School and the area was already. He wanted to know if the Certificate of Conformity took into account the doubling of emissions from two masts close together. In searching for other sites, the operators recognised there was a need

for sensitivity near a school; if this is allowed there will be two close to a school which seemed to be a nonsense. He had enquired and been told by mobile phone shops that they seem satisfied with 3G coverage in the area so there was no perception of need in the area.

Members of the Committee were sympathetic with concerns voiced by the speakers and residents. However many people use mobile phones and want the latest technology so there is a conflict between what is wanted and having one close to homes. The operator can decide whether or not this site is suitable from a functional point of view and officers look at siting and design. There is an existing monopole a few yards away and the view was that the suitability of the siting of that pole must be a material planning consideration. There were some concerns about whether the emissions from two poles would be significantly greater but other members of the Committee did not consider that this pole would make things worse in terms of street scheme. As people acquire equipment in their homes there will be a need for additional capacity. Companies would not incur expenditure unless there was a need.

It was explained that in the past the Borough Council had resisted applications for masts and the Council had lost all of those appeals. The Council's delivery grant was reduced about 3 years ago because of a poor appeals record and that poor record was as a result of the refusals of applications for masts. Having regard to previous appeal decisions is a material consideration. Phone operators are more conscious in siting masts near schools, however, this is one more structure which has been designed to look like a telegraph pole.

RESOLVED (MAJORITY voted FOR) that prior approval be given as recommended in the report.

158. 081553 The Victory, 92 Coast Road, West Mersea, CO5 8LS

The application was withdrawn from consideration at this Planning Committee by the applicant.

159. 081611 Ranges Service Station, 154 Mersea Road, Colchester, CO2 8PU

The Committee considered an application for alterations and redevelopment of the existing petrol filling station to provide a new forecourt and canopy, extensions to the sales building and underground tanks. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

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

John Bridge, resident in a property adjacent to the application site, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was not concerned with the refurbishment but he was concerned that the area at the rear of the site was insufficient to accommodate car parking spaces, the air and vacuuming area and cars using the car wash facility. Also the exit was an informal arrangement which did not provide users with a clear view when leaving the forecourt. The wall between the petrol filling station and his property has been breached three times so he was concerned that there may not be enough room when lorries emerge from the pumps and turn to exit the forecourt.

Councillor Dave Harris attended and, with the consent of the Chairman, addressed the Committee. The improvements on this site were welcomed. However, lorries making deliveries create noise and disturb those living in the flats and he requested that deliveries be prevented from taking place too early or too late. He was concerned that the raised canopy might interfere with cables. The higher canopy would allow larger vehicles to use the petrol filling area but this could cause delivery containers to have to wait before they can get access to the unloading area which in turn could cause an obstruction on the pedestrian crossing. In this instance a means of protecting the public needs to be devised. The wall of the house has been breached three times and although no-one has been hurt, there was a near miss on one occasion so an upgrade to the metal protecting barrier is required. He also mentioned the poor visibility at the exit, and the desirability of regular meetings between residents and owners which would be helpful.

It was explained that there is an access and egress arrangement. Gaining entry at the point near the house is discouraged. There is sufficient room for lorries going in and out. There are bollards along the left side of the site and it would be possible to require a similar arrangement along the right side to protect the wall. At the back there is a minimum distance of 6 metres between the parking and vacuuming areas permitting access to the car wash. The canopy will be one metre higher. The views of the power company have been sought but nothing has been received, however it is believed there is more than enough room to accommodate the canopy. Liaison between residents and owners of the garage could be added as an informative to include neighbour liaison during construction and demolition phases. A condition suggested on the amendment sheet includes business and delivery times but separate conditions are possible.

Members of the Committee agreed that the improvement was badly needed but there were a number of issues that needed attention:- the street frontage needs to be decluttered to improve visibility at the exit particularly because the exit is straight onto the roundabout; improved signage of the exit; a means of protecting the wall to no. 152 Mersea Road, possibly using bollards or another solution; the hours of delivery of supplies of fuel or goods should be different from the opening hours; a liaison group should be encouraged between the operators and local residents; and there were concerns regarding the sale of alcohol to those who were under aged and the possibility of restricting evening opening hours.

It was explained that a condition could be imposed for a visibility splay to the right of the exit but it may be difficult to achieve a visibility splay to the left of the exit. A scheme to protect the wall could be delegated to officers to agree. Operating times for the petrol filling station were conditioned at 6am to 10pm and delivery times suggested were 8am to 8pm.

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

1. Additional condition on the provision of visibility splay at the egress onto Mersea Road.
2. Additional condition on the hours of delivery of supplies of fuel and goods to be between 8.00am and 8.00pm
3. Additional condition for a scheme to be agreed prior to commencement of development to protect the boundary wall between the application site and no. 152 Mersea Road.
4. Amended additional condition on amendment sheet:
The premises shall not be open for business outside the hours of 0600 – 2200 hours each day. Any forecourt lighting shall not be in use outside of these times.

Reason: To ensure that the use does not cause harm to the amenity of the surrounding area.

5. An Informative to be added to decision notice encouraging the applicant company to liaise with local residents during demolition and construction phases of the development and also on a bi-annual basis once the development is completed.

160. 081628 Gun Hill Garage, Ipswich Road, Dedham, CO7 6HR

The Committee considered an application for an extension to an existing industrial building, use of land for stationing of two portacabins and one shipping container, partly retrospective. The Committee had before it a report in which all information was set out.

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

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

Ted Gittins addressed the Committee on behalf of Dedham West Residents Association pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Residents Association did not wish to put obstacles in the path. Their main concern was that if this Committee was having to make decisions partly on development to regularise unauthorised development and partly to accept new development. He wanted the Committee to be assured that any permission was based on a sound basis of the lawful use of the site. No legal determination existed of what the site is currently used for compared with what it was used for 14 years ago. The lawful use does not contain the words "storage" at all and that has been replaced by sales. He was unsure if it was an argument for future use or if it was an addition to the use of the site, or in conformity with the lawful use. He believed that the Committee should get a solicitors' opinion as to the conformity of the current use which is car sales and part sales with the Certificate of Lawful Use. He requested a delay to clarify this point as part of this decision.

Councillor Christopher Garnett attended and, with the consent of the Chairman, addressed the Committee. He was aware of other applications for this site in the pipeline; this one must be taken by itself and the others may come in due course. The letters of objection, however, covered all three applications not just this one which did not raise any great problems for the local residents. The site had been in use for forty years and predated the AONB. He welcomed the opportunity to regularise the use on this site. If the matter was not to be deferred, he asked that the Committee consider one or two alternatives to the conditions. The portacabins should be single storey only, if they became double storey they would be clearly seen from the AONB, from the A12 and from other footpaths. He wanted a clearer condition that the one suggested to prevent the proliferation of containers and portacabins on this site. He noted the condition on the amendment sheet that this be a 5 year temporary use and asked if in this circumstance it was reasonable to defer a decision for a solicitors' opinion as suggested.

Members of the Committee were mindful that this was a temporary application and could be granted without regard to other future applications. It was noted that the site was much improved and the view into the site was now obscured from Gun Hill. It appeared now to be run on a professional basis which the Committee were keen to encourage. The breakers yard element of the operation does assume a degree of retail trade. This site was visually important and the tiering of portacabins should be avoided.

It was explained that if there was an increase in the volume of sales and if that was a change of use it should be the subject of a further planning application. This application was for the portacabins which are already in situ and for the workshop which has been extended. The design and access statement was seeking temporary use only of the building because they wanted to put in an application for a permanent structure. It was confirmed that it would be possible to get a legal opinion on whether the current lawful use included sales or part sales, and for this to be investigated before the other applications come to Committee, but in the meantime it may be helpful in terms of Condition 1 to substitute the words "lawful use certificate for the site for use as a car breakers yard and scrap yard, for the storage of damaged vehicles and spare parts associated with the car-breaking activities" for the word "principal" and in the light of a legal opinion to come to a view on whether there has been a change or intensification of the use.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, subject to the additional condition and informative on the Amendment Sheet and Condition 1 being amended as set out below:-

Condition 1

The permitted development shall not be subdivided from, or occupied at any time other than for purposes ancillary to, the lawful use of the site for use as a car breakers yard and scrapyards for the storage of damaged vehicles and spare parts associated with car breaking activities of the site known as Gun Hill Garage, Ipswich Road, Dedham.

Reason: For the avoidance of doubt as to the scope of this permission as a new use at the site would need to be given further consideration, especially if the principal use of the whole site ceased and these buildings became redundant.

161. 081733 41 London Road, Marks Tey, CO6 1DZ

The Committee considered an application for the erection of a canopy and use of the site as a car wash facility and for car sales. The Committee had before it a report in which all information was set out.

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

162. 081740 Rosaville, White Hart Lane, West Bergholt, CO6 3DB

The Committee considered an application for a proposed change of use of land to accommodate an extension of a domestic garden. The Committee had before it a report in which all information was set out.

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

163. 081758 19 Cherry Chase, Tiptree, CO5 0AE

The application was withdrawn from consideration at this Planning Committee meeting by the Head of Environmental and Protective Services in order that additional information may be obtained regarding the health of the horse chestnut tree.

164. Performance Monitoring Report // Planning applications determined for the period 1 April to 31 October 2008; an appeals analysis update for the period 1 July to 30 September 2008; and a planning agreement performance update for the period 1 April to 31 October 2008

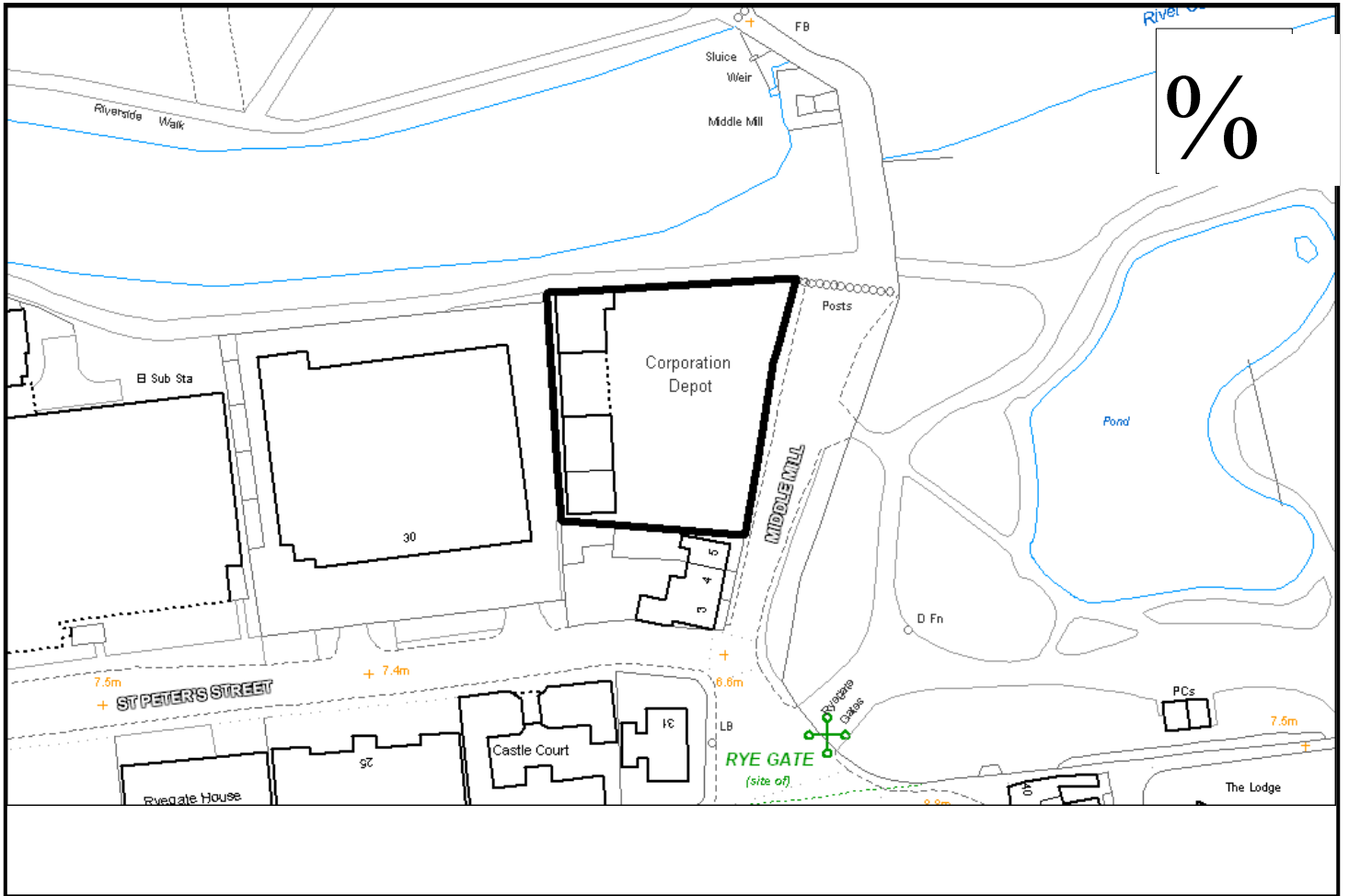
The Head of Environmental and Protective Services submitted a report setting out the achievement levels for planning applications determined, an appeals analysis update and a planning agreement performance update for various period of time in 2008.

Vincent Pearce, Planning Service Manager, attended to assist the Committee in its deliberations. He explained that major applications, minor applications and other applications have all met their targets for speed of decisions for the periods above. There were, however, a number of older applications and once they had come through that would impact on the achievement of the targets.

He also explained that the number of applications had gone down, and colleagues in other service areas were short of resources. It was intended that some planning officers would be seconded to other teams in planning policy, housing, corporate and regeneration for varying period of time during the next 12 months. There would still however, be a need to ensure that performance did not fall.

Members of the Committee offered their congratulations to all officers in the service for moving performance to this level and particular attention was drawn to the achievement of successfully defending 100% of appeals which was considered to be outstanding.

RESOLVED that the report be noted.



Application No: 080690

Location: Middle Mill Depot, Middle Mill Road, Colchester, CO1 1XL

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **4 December 2008**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

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

7.1 Case Officer: John Davies

MINOR

Site: Middle Mill Depot, Middle Mill Road, Colchester, CO1 1XL

Application No: 080690

Date Received: 4th April 2008

Agent: Anthony G James

Applicant: N R Powell Developments Ltd

Development: Erection of 7 dwellings (resubmission of 071726)

Ward: Castle

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

1.0 Site Description

1.1 The existing site comprises a large shed positioned along the west boundary in front of which is a large open yard area. The site was formerly occupied as Council-owned premises known as Middle Mill Depot which ceased to be used about 2-3 years ago and is now vacant. The site was subsequently sold by the Council to the applicants for redevelopment.

- 1.2 In terms of surrounding uses, there is a large building to the west known as Colne Bank House which is/was occupied as a Post Office depot/office and whose windows on the east side overlook the site. Immediately to the south are a pair of two storey cottages which are statutorily Listed Grade II.
- 1.3 To the east of the site and across from Middle Mill is Lower Castle Park and to the north is the River Colne and with the Park beyond this.
- 1.4 The site is within the Town Conservation Area.
- 1.5 The site along with much of the riverside falls within Flood Zone 3a as defined under the Environment Agency Flood Risk maps and PPS25.
- 1.6 The site is enclosed by a privet hedge on the north and part west sides with fencing to the rest of the boundary. There are 10 trees situated on the north and east boundaries comprising predominantly common limes and some silver birch trees. There is also a large grey poplar tree to the north of the riverside way whose crown overhangs the site.

2.0 Description of Proposal

- 2.1 The proposal is for the erection of seven terraced houses on the site varying between 2 and 3 storeys and in a layout with frontages to the north and west facing the park and river respectively. Each unit would have rear gardens and parking served from a single access from Middle Mill. Plots 1 and 5 are two storeys, Plots 3, 4, 6 and 7 are two storeys with accommodation in the roof space and Plot 2 is three storeys. Plot 1 is closest to the listed cottages.
- 2.2 The application was submitted with a supporting DAS, Tree Survey, Arboricultural Impact Assessment and Landscape Scheme and Flood Risk Assessment. In addition, a Sequential Test assessment has been undertaken by the applicants.

3.0 Land Use Allocation

- 3.1 Residential zoning
Flood Risk Zones 2/3
Conservation Area

4.0 Relevant Planning History

- 4.1 071726 - Erection of 7 dwellings- Withdrawn 14 August 2007

5.0 Principal Policies

- 5.1 Adopted Review Colchester Borough Local Plan-March 2004
 - DC1- Development Control considerations
 - UEA1-3- Policies for Conservation Areas
 - UEA5- Works affecting setting of a listed building
 - UEA11- Design policy
 - UEA13- Residential development
 - H13- Density
 - P3- Development in floodplains
 - CO4- Landscape Features

6.0 Consultations

- 6.1 Highways Authority raise no objection subject to imposition of a condition requiring that the access and turning area be provided prior to occupation and permanently maintained thereafter.
- 6.2 The Trees and Landscape Officer is satisfied with the submitted tree survey and arboricultural impact assessment and no objection is raised to development subject to conditions.
- 6.3 Environmental Control recommends only the standard demolition/construction informative.
- 6.4 Environment Agency is satisfied with Flood Risk Assessment and drainage proposals. Have also confirmed that they are satisfied with the Sequential Test Analysis.
- 6.5 Museum Curator- no further comments following negative results of archaeological evaluation.
- 6.6 Essex County Fire and Rescue Service - access for fire service purposes is considered satisfactory and has no statutory duty to comment on flood risk matters. Recommend informative on ensuring adequate water supplies for fire fighting.

7.0 Representations

- 7.1 Dutch Quarter Association object to proposal on grounds that flood risk to the site has been under-estimated and housing design. Area is particularly prone to flooding and during such events large parts of Lower Castle Park and access road to Middle Mill depot have been submerged.
- 7.2 Development of the site should make some design reference to mill buildings that existed on the site up until the 1950s when they were demolished. A mill may have been sited here since Saxon times.

- 7.3 3 storeys make the roofline too high and over-shadow the adjacent listed cottages. Bob Russell MP objects to application on grounds that it is inappropriate residential development in the vicinity of Castle Park. Important consideration is the height of adjoining historic cottages in Middle Mill. Support Dutch Quarter Association comments. 3 storey housing is out of scale and keeping with the existing cottages and the setting of Lower Castle Park and the river. Height will be exacerbated by need to resolve flooding issues.
- 7.4 Occupiers of Middle Mill Cottages object to development on grounds of excessive number of units and height. Overlooking of rear garden is likely. 3 storeys are out of keeping with area and would wish to see as a minimum only a two storey house next to them. Concern about development worsening problem of existing lorry traffic along St Peters Street trying to reach town centre and having to reverse. Need more signage to alert drivers.

8.0 Report

Principle of development

- 8.1 This site is allocated in the adopted Local Plan for housing development and given previous uses on the site and its run-down appearance is clearly an inner urban brown field site in need of regeneration.

Design issues

- 8.2 This is a highly sensitive site for development reflected in its prominent position close to the River and Castle Park and its inclusion within the Conservation Area. In addition, it is close to two listed buildings in Middle Mill whose setting must be respected and which have significant implications on key views of the site both from the town side, Castle Park and the river side. A very high standard of urban design is therefore expected in accordance with the above referenced policies. At the time of the disposal of the site Officers prepared informal design guidelines for the site which promoted its development for houses fronting the river and park and with parking contained within the site. The submitted scheme is in accordance with those guidelines.

Density

- 8.3 The scheme has a density of 53 dwellings per hectare (dph) which is marginally above the average range for new residential development of between 30-50 dph as set out under Policy H13. However, the Policy states that densities higher than 50 dph will be encouraged in the Town Centre. Although the site is just outside the defined Town Centre in the Local Plan it can be considered as sharing many of the characteristics of the town centre and the proposed density is therefore acceptable.

Layout and Design

- 8.4 The proposed layout meets established design principals as set out in the Essex Design Guide (EDG) and, in particular, the provision of mostly continuous built frontage onto the northern and eastern sides of the site facing the River and Park respectively together with variation in building height, building form and use of varied vernacular facing materials. These include one of brickwork, render, boarding to walls and clay tiles or slate to roofs. The scheme is considered to be in accord with EDG standards and to be consistent with the character of the area.

Building heights

- 8.5 Influences on building height are the taller buildings fronting the river to the west of the site and the fact that this site is in a prominent position facing the Park, both of which factors can be used to justify taller development. However, an important constraint on height are the Listed cottages which are two storeys with No.5 (adjacent the application site) being particularly small. The development has therefore had to have adequate regard for the setting of these listed buildings. As such the height of Plot 1 is two storeys; however, it will be 1 metres higher than no.5 due to increased headroom and other modern construction requirements. The applicants have sought to provide a satisfactory transition between the old and the new. This can be seen in the proposed elevations and a photo-montage, which was prepared to show how the development would appear on the site.

Garden sizes

- 8.6 The proposed dwellings are all 3-4 bedroom in size with private rear gardens and parking provided in garages. Garden sizes range between 50 sq.m. to 107 sq.m. and are mostly below Design Guide standards, which is largely a consequence of the provision of on site parking. It is also the case that in the town centre where higher densities are expected it is more difficult to meet amenity space standards. In this location close to both the town centre and on the 'door-step' of Castle Park it is considered that the proposed level of amenity space is not unreasonable.

Highway issues

- 8.7 The site and Middle Mill itself are at the end of a cul-de-sac accessed from the west via St. Peters Street. Traffic levels are therefore limited and it is not considered that the development would give rise to unreasonable traffic generation or congestion. Access into the site is proposed at a similar position to existing. Subject to provision of satisfactory access and turning space within the site the Highway Authority raise no objection.
- 8.8 Parking provision comprises one garage per dwelling, which close to the centre of town is considered reasonable and consistent with parking standards.

Landscape Issues

- 8.9 None of the trees on the site are identified in the Tree Survey as being of greater than Moderate quality and value and varying in condition from poor to good. Whilst retention of trees was considered highly desirable in the interests of visual amenity it is evident that the redevelopment of the site imposes significant constraints on the ability to retain most of these trees. Trees on the east side frontage will have to be removed in order to provide a new site access and to allow for development up to the site frontage. Two Lime trees on the north boundary can be maintained and the Grey Poplar tree would need to be crown reduced where it overhangs the site. There is scope for re-planting of more compact crown trees on the frontage in order to soften the front elevation. The safeguarding of retained trees and proposals for new replacement planting are covered by planning conditions.

Impacts on neighbours

- 8.10 The only residential neighbours to the site are in the terrace of properties at 3-5 Middle Mill on the corner of St Peters Street. Concerns raised as noted above relate to overlooking and impact on outlook resulting from the scale of the development.
- 8.11 The proposed dwelling closest to the Cottages is Plot 1, which is a proposed two storey house with a gabled front and double piled roof with ridges running parallel to the road. It is accepted that it would still be taller than its neighbour as shown on the proposed elevation by some 1 metres measured to the ridge. The difference in levels is somewhat alleviated by the gap of around 2. metres between the properties. The proposed dwelling extends back further than No.5, however the relationship between the rear building lines does not infringe the standard 45 degree test. In addition, apart from a first floor landing window there are no windows to habitable rooms on the flank elevation of Plot 1.

Flood risk issues

- 8.12 The application was submitted with a Flood Risk Assessment (FRA) and Drainage scheme in line with the requirements of PPS25, both of which have been agreed by the Environment Agency. The FRA states that current topographical levels on the site range between 5.5 and 7.0 m AOD with the land sloping down from west to east. The 1:100 year flood level is currently estimated as 6.2mAOD which is expected to increase to 7.1mAOD with the effects of climate change. The 1:1000 year flood level is currently estimated as 8.4m AOD. The FRA points out that the site lies immediately behind flood defences including a brick wall and earth embankment and is therefore seen as well defended from fluvial (river) flooding and therefore considered to be of low significance. However, the report indicates that the risk of breaching of the adjacent fluvial defences at the 1;100 year level (with allowance for climate change) are considered to be moderate-high significance and therefore the development has been designed to respond to this risk. Therefore the finished residential floor levels in all the dwellings have been raised to 7.m AOD, which is 300mm above the 1:100 year flood level allowing for climate change. In addition it is proposed to maintain an access/egress route out of the site and away from the source of flooding for the life time of the development by means of a raised wooden walkway at a level no lower than 7.50m AOD. The details of these structures and their permanent retention are covered by condition. It is also important that these raised structures do not give rise to privacy issues especially to existing neighbours. The condition therefore includes a requirement that the privacy of neighbours is not

DC0901MW 01/02

unreasonably affected. This may mean that privacy screens or additional boundary screening may need to be incorporated.

Conclusions

8.13 The site is allocated for residential development in the Local Plan and your Officers considered that the most appropriate form of development would be terraced houses providing built enclosure fronting the park. Sited so close to the river has raised major concerns over flood risk, to which considerable work has been carried out by the applicant's consultants to demonstrate that development on the site complies with PPS25. This has, however, resulted in design implications in respect to building height and the requirement to maintain raised escape routes in the gardens. Officers consider that the setting of the listed cottages are not detrimentally affected and that the design of the development would enhance the Conservation Area. Accordingly approval is recommended subject to a contribution to Open Space, Sport and Recreation and conditions as set out below.

9.0 Background Papers

9.1 ARC; HA; TL; HH; NR; AT; ECC; NLR

Recommendation

APPROVE subject to the prior submission of a satisfactory Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 for the purpose of securing a contribution to Open Space, Sport and Recreation provision in the Borough. The Head of Environmental and Protective Services to be authorised to issue the decision subject to the following conditions:

Conditions

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

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

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

2 - C3.3 Samples to be Submitted

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

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

3 - C3.13 External Joinery to be Painted Timber

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

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

4 - A7.4 Removal of ALL Perm Devel Rights (residential

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification), no development within Classes A to E of Part 1 of the Schedule of the Order (any extension, outbuilding, garage or enclosure) shall take place without the prior written permission of the Local Planning Authority.

Reason: To safeguard the visual amenity of the area, to protect the amenity of adjoining residents and to prevent the overdevelopment of the site by controlling future extensions, alterations and associated development.

5 - Non-Standard Condition

The development shall be implemented strictly in accordance with the elevations and floor levels as shown on Elevation Plan 208/08 and in particular the ridge and eaves height of Plot 1 in relation to Middle Mill Cottages shall be as indicated on the plan unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the height of the development is satisfactory in the context of the Conservation Area and does not detract from the setting of nearby listed buildings.

6 - Non-Standard Condition

Details of the extent and height of rear garden decking and flood safety routes shall be submitted to and approved by Local Planning Authority before works commence and shall include measures to ensure that the privacy of neighbours is not unreasonably affected. The works shall be carried out in accordance with the approved details and thereafter retained in perpetuity.

Reason: In order to ensure that measures are provided to ensure safe access from the dwellings in case of flood and which do not give rise to a loss of amenity to existing neighbours.

7 -C 10.5 Tree & Natural Feature Protection: Protected

No work shall commence on site until all trees, shrubs and other natural features not scheduled for removal on the approved plans, are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. No access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

8 - C 10.6 Tree & Natural Feature Protection: Entire S

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.

9 - C 10.8 Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained, unless shown to be removed on the

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

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

10 - C 11.1 Landscape Design Proposals

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

These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard signage, lighting).

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals. Implementation timetables.

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

11 - Non-Standard Condition

The hereby approved vehicular access into the site and turning area shall be provided prior to occupation of any dwellings on the site and shall thereafter be permanently retained.

Reason: In the interests of highway safety.

12 – Non Standard Condition

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) An assessment of the potential risks to:
 - Human health;
 - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - Adjoining land;
 - Groundwaters and surface waters;
 - Ecological systems;
 - Archaeological sites and ancient monuments.
- (iii) An appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors (in accordance with Policy P4 of the adopted Local Plan March 2004).

13 – 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 P4 of the adopted Local Plan March 2004).

14 – 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 P4 of the adopted Local Plan March 2004).

15 – 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 12 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition 13, 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 14.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors (in accordance with Policy P4 of the adopted Local Plan March 2004).

16 – 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 15 above.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors (in accordance with Policy P4 of the adopted Local Plan March 2004).

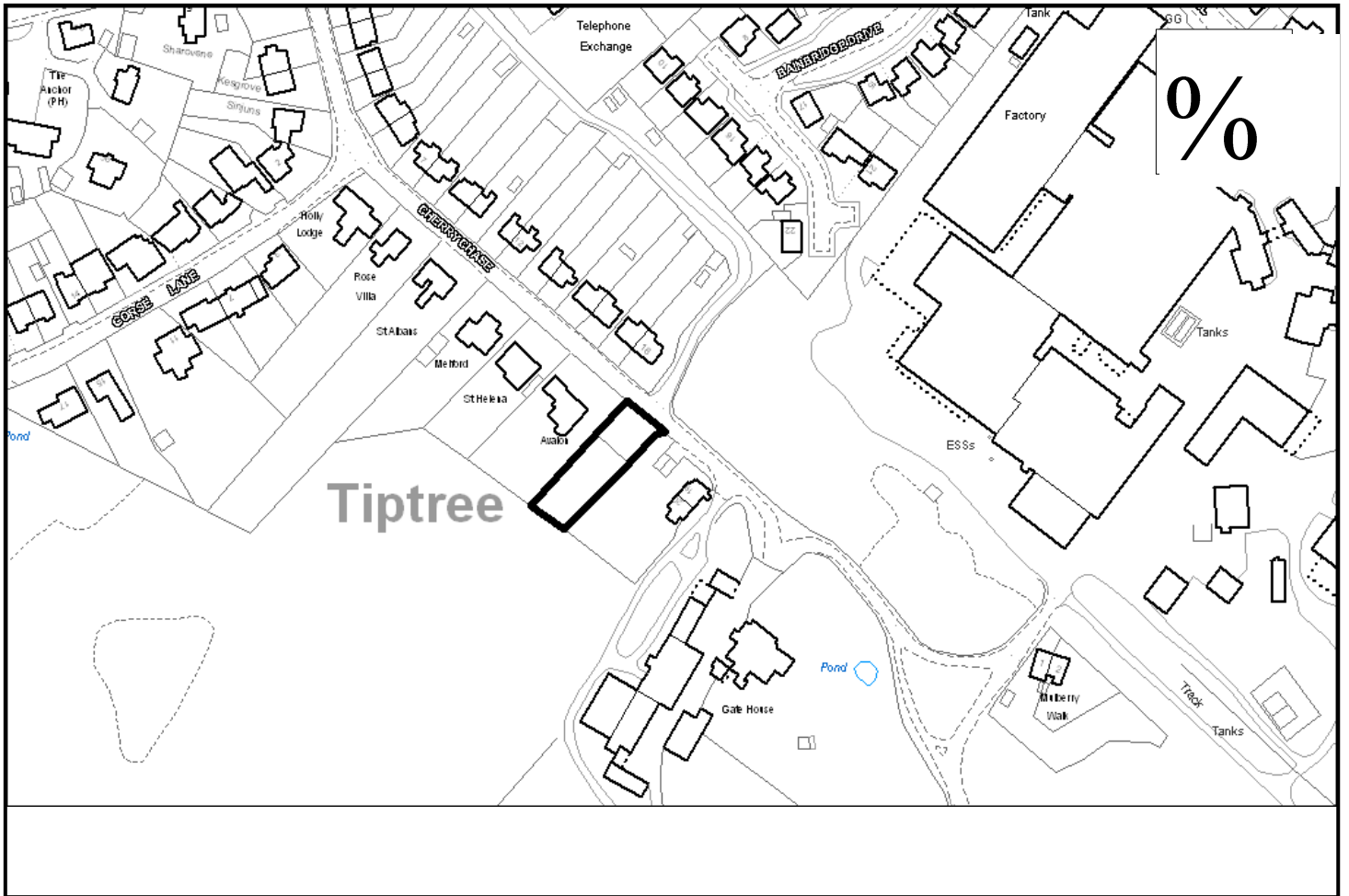
Informatives

1. The Highway Authority is aware of the applicant's interests in modifying the character of Middle Mill and would welcome the opportunity to consider further plans that reflect more appropriate design guidance.

2. All works affecting the highway will require an appropriate agreement and shall be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600.

3. Under the terms of the Water Resources Act 1991 and Land Drainage Byelaws, any works in, over, under, or within 9 metres of the River Colne will require formal written consent from us prior to any works taking place. Consent must be sought regardless of any planning permission which may be granted, and any application can take up to eight weeks to be determined.

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



Application No: 081758

Location: Land adj, 19 Cherry Chase, Tiptree, Colchester, CO5 0AE

Scale (approx): 1:1250

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7.2 Case Officer: Nick McKeever

EXPIRY DATE: 10/12/2008

OTHER

Site: 19 Cherry Chase, Tiptree, Colchester, CO5 0AE

Application No: 081758

Date Received: 14th October 2008

Agent: Vaughan & Blyth Group

Applicant: Wilkin & Sons Ltd

Development: Variation of planning condition 4 & 5 of planning approval 081069 to remove existing Horse Chestnut tree and replace with 4no. specimen trees and a row of apple tree cordons and variation to planning approval 081069 to provide rear conservatory to proposed dwelling.

Ward: Tiptree

Summary of Recommendation : Conditional Approval

1.0 Planning Report Introduction

1.1 Members will recall that this application was withdrawn from the Committee Agenda for the 4 November meeting by the Head of Environmental and Protective Services.

1.2 The reason for the withdrawal was in order for the applicant to submit more details of the condition of the tree and hence the justification for its removal.

1.3 It is hoped to have this information available for presentation to Members. However, the determination date for this application is 10 December 2008. In the event that the required information is not made available at the Committee meeting, it is requested that delegated powers be granted to the Head of Environmental and Protective Services to refuse the application on the grounds of the loss of visual amenity afforded by this tree.

2.0 Site Description

- 2.1 The site is a vacant plot of land (approximately 0.07 ha in area) located towards the end of Cherry Chase, Tiptree. The Chase is a private road owned by Wilkin & Sons of Tiptree. The existing dwellings along Cherry Chase are of varying ages and styles. The semi-detached, two storey dwellings fronting onto the north side of the Chase are owned by Wilkin & Son and are occupied by past and present employees of the company. 19 Cherry Chase is also in their ownership. The property, Avalon, on the north west side of the proposed building plot is privately owned. Further to the south east is a large, detached two storey dwelling known as "Gate House".
- 2.2 To the east is a factory owned and run by Wilkin & Sons Ltd. Immediately to the north west of this factory are more dwellings.
- 2.3 The plot has a frontage of 15.250m and an average depth of 46.0m. It is enclosed on the north west and south east boundaries by a brick wall, fences and hedges, which form the boundaries of 'Avalon' and 19 Cherry Chase. The western boundary is not enclosed and opens out onto agricultural land.
- 2.4 There is large, mature Horse Chestnut tree immediately adjacent to Cherry Chase on the eastern boundary.
- 2.5 This application proposes the addition of a conservatory to the rear of a dwelling approved under planning permission 081069
- 2.6 It is also proposed to remove the mature Horse Chestnut tree on the site frontage. The retention of this tree was secured under the aforementioned permission. It is intended to replace this tree with four specimen trees planted as extra heavy standards, which give a girth of 16-18 cms and will stand between 4 – 5 metres high.

3.0 Land Use Allocation

- 3.1 No notation. The village envelope for Tiptree is drawn along the south-east boundary of the adjoining dwelling "Avalon".

4.0 Relevant Planning History

- 4.1 081069 – Proposed detached dwelling with detached garage - Approved

5.0 Principal Policies

- 5.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Design - UEA11& UEA13
Landscape Features – C04

6.0 Consultations

- 6.1 The Highway Authority has no objections.

6.2 The Arboricultural Officer is in agreement with the removal of this tree on the basis that it appears to be in decline, and its replacement by the four trees proposed.

7.0 Parish Council's Views

7.1 Tiptree Parish Council wish to object to this application for the following reasons - to safeguard the continuity of amenity afforded by the existing tree. The Parish Council would wish to see the terms of application 081069 upheld.

8.0 Representations

8.1 The occupier of St. Helena, Cherry Chase, have no objections to the proposed conservatory but raise objection to the removal of the tree. The objections are summarised as follows:-

- The tree provides a focal point.
- Detrimental to the wildlife that benefit from the presence of this tree
- Whilst it is noted that one of the replacement trees is to be a Horse Chestnut, the planting of a small tree to the rear of the site will not compensate for the unnecessary loss of the existing tree.

9.0 Report

9.1 The preservation of this Horse Chestnut tree was considered necessary due the contribution it makes to the visual amenity and character of this rural location outside of the designated development area of Tiptree.

9.2 The Applicant has, however, submitted a statement by Hayden's Arboricultural Consultants. The contents of this Statement are reproduced as follows:-

"As you are aware, the Horse Chestnut in question was to be retained as part of the planning permission 081089. However, my client having considered the permission and the fact that the tree is infected with Chestnut leaf miner, wishes to remove the tree and replace it with 6 new trees, mainly:

1 x Indian Horse Chestnut (*Aesculus indica*) to replace the Horse Chestnut;

3 x Silver Birch (*Betula pendula*) on the southern aspect of the dwelling;

1 x Manna Ash (*Fraxinus ornus*) in front of the new garage;

and 1 x English Oak (*Quercus robur*) in the western corner of the rear garden.

All these trees will be planted as 14-16cm girth container growth specimens, with the exception of the Silver Birch which will be planted as 12-14cm girth container grown specimen. Whilst the initial removal will have a significant affect on the immediate visual amenity of the site, it will secure the long-term tree cover within the site and surrounding area."

9.3 Further discussions have taken place between the Arboricultural Officer and the Applicant subsequent to the submission of this Statement. Amended plans have been submitted accordingly. These plans now propose 4 trees as follows:-

- Indian Horse Chestnut – 14 – 16 cm girth in a similar position to the existing
- Silver Birch – 12 – 14 cm girth on the opposite side of the site frontage to the Indian Horse Chestnut
- Flowering Cherry – 14 – 16 cm girth at the rear of the site
- English Oak – 14 – 16 cm girth at the rear of the site.

9.4 It is recognised that the existing tree makes a positive contribution to this area and in this respect it is unfortunate that it is diseased. The proposed new trees will take time to establish themselves and during this time the loss will be significant. The Arboricultural Officer is, however, satisfied that the proposed new trees will, in the course of time, make a positive contribution to the visual amenity of this area. It is on this basis that permission is recommended.

9.5 The proposed conservatory represents a very small addition to the approved dwelling, projecting approximately 1.45m beyond the rear elevation. It will have no adverse impact upon visual or residential amenity.

10.0 Background Papers

10.1 ARC; HA; TL; PTC; NLR

Recommendation - Conditional Approval

Conditions

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

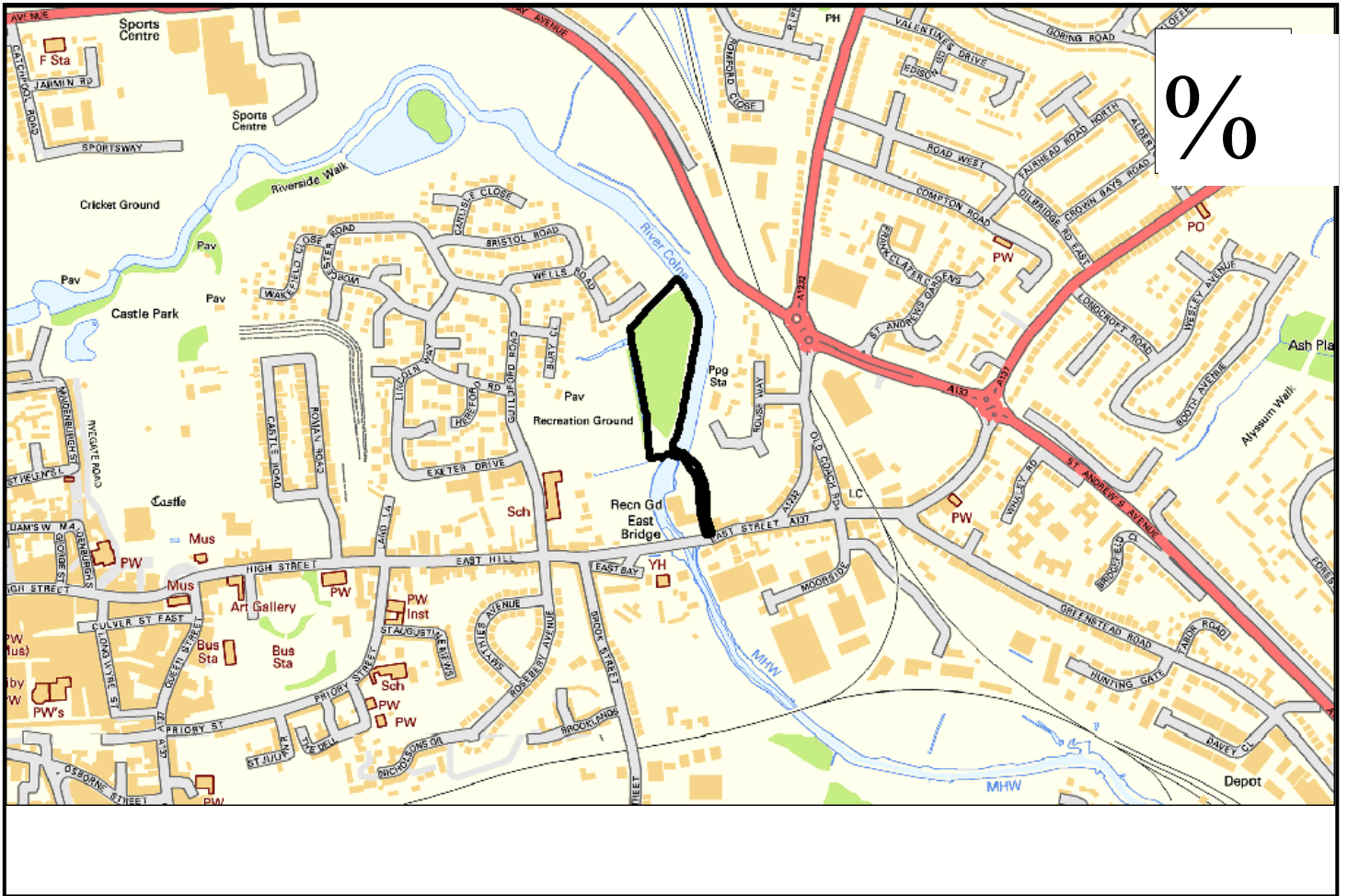
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2 – Non-Standard Condition

The permission hereby granted shall relate only to the variation of conditions 04 & 05 of the planning permission number 081069 and to the addition of a conservatory to the dwelling approved under the aforementioned permission.

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



Application No: 081891

Location: Plots 5-12, Waterside Place, East Street, Colchester

Scale (approx): 1:1250

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7.3 Case Officer: Sue Jackson

EXPIRY DATE: 26/12/2008

OTHER

Site: Waterside Place, East Street, Colchester

Application No: 081891

Date Received: 30th October 2008

Agent: Klh Architects

Applicant: Harding Homes

Development: Application to vary condition 23 on application F/COL/04/1273 to delay the construction of 18 garages for a year, 18 car parking spaces will be constructed and a boundary fence.

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 This application relates to the Waterside Place residential development to the rear of East Street. The planning permission for the development includes a condition which requires the garages to be erected prior to the occupation of the residential units. This application seeks to vary the condition to delay the construction of the garaging provision for Plots 5-12 for 1 year. Parking spaces will be provided and temporary boundary fencing.

2.0 Land Use Allocation

2.1 Residential

3.0 Relevant Planning History

3.1 F/COL/04/1273 - Erection of 23 town houses and garages - Approved 12 May 2006

4.0 Principal Policies

4.1 Adopted Review Colchester Borough Local Plan
DC1 - Development Control considerations
TA5 & ENV1 within Local Development Framework

5.0 Consultations

5.1 None

6.0 Representations

6.1 Two letters from residents have been received:

1. Object to the creation of these properties which would obstruct views and reduce the value of properties.
Officer Comment: The original description of the proposal was misleading and suggested 23 new properties were to be erected.
2. Will the Council ensure adequate parking facilities that are provided?
There is adequate access for emergency and other service vehicles. Replacement tree planting is not affected and all partially built properties are adequate secured and not at risk from vandalism.

7.0 Report

7.1 The applicant has provided the following information:-

"The site is currently under construction, Plots 1, 2, 3, 4 and 4A are completed, including garaging. Plots 5-12 are nearing completion, Plots 13-18 are under construction (but works have ceased with walls up to second storey). Plots 19-23 have been constructed to ground floor slab level.

Due to the current economic climate and the housing market slump, Harding Homes have decided to stop construction on Plots 13-18 and 19-23 until there is an improvement in the situation. It is intended that Plots 5-12 will be completed and put on the rental market to generate an income.

It is the garaging provision for Plot 5-12 that are under consideration for this application; it is intended to delay the construction for these garages, to contain total expenditure on the site, until such time that market conditions improve.

When viewed in context of the whole development, the garages are a significant structure to the rear access road and provide a sense of enclosure to the rear of the Maltings block. The garage block restricts views of the Maltings block, from the playing field opposite the site."

7.2 No objection is raised to the application subject to the erection of the parking spaces and temporary fencing.

7.3 The access arrangements and tree parking will be unaffected by this proposal.

8.0 Background Papers

8.1 ARC; LDF; NLR

Recommendation - Conditional Approval

Conditions

1 - Non-Standard Condition

Condition 23 on Planning Permission F/COL/04/1273 is varied as follows:-

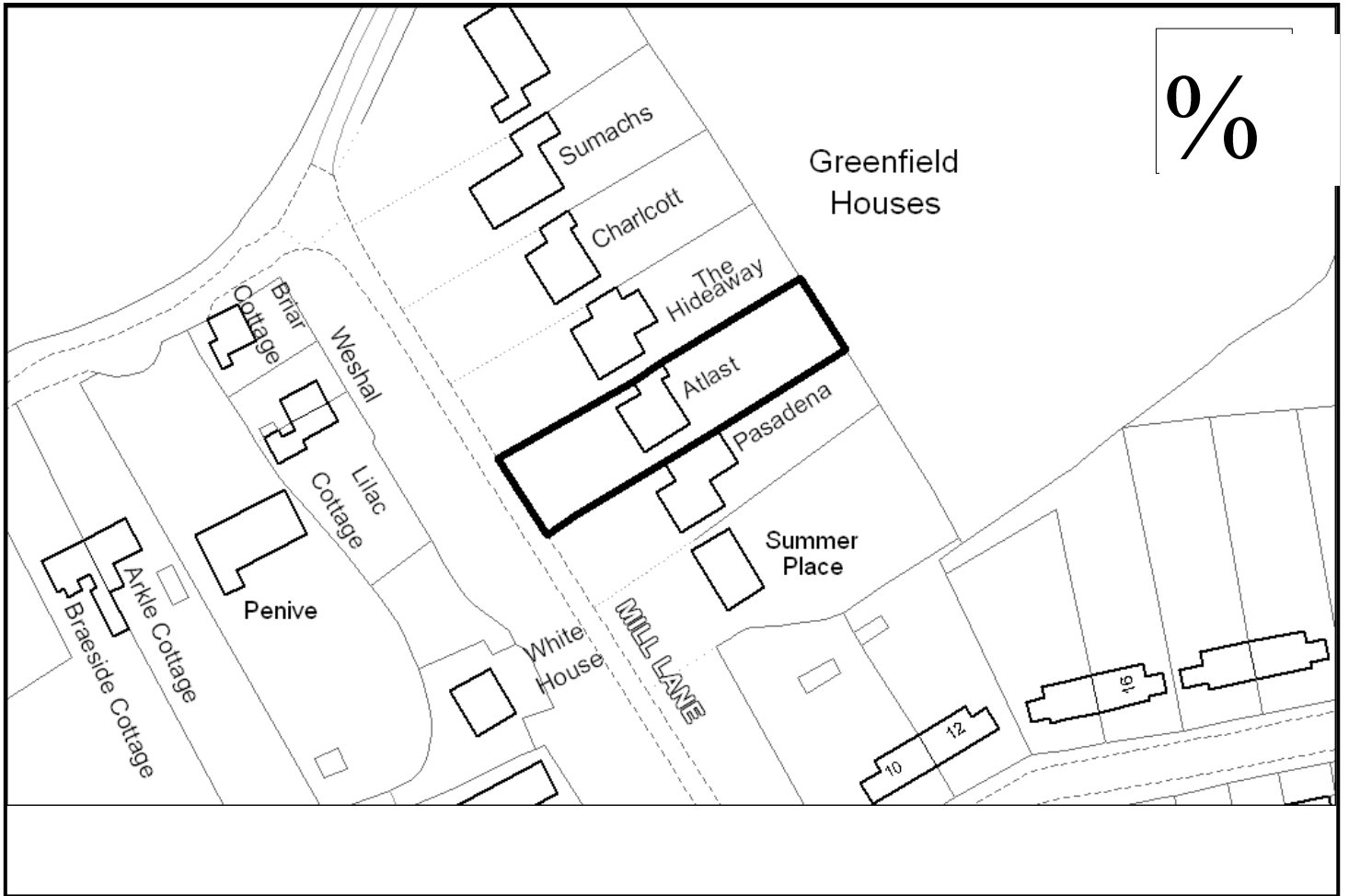
The approved garages for plots 5-12 shall be constructed within 1 year from the date of this permission.

Reason: The erection of the garage is an essential feature in the street scene.

2 - Non-Standard Condition

The parking spaces and temporary fencing shall be erected to the satisfaction of the Local Planning Authority prior to the occupation of any of the residential units on Plots 5-12 or within 28 days from the date of this permission whichever is the sooner.

Reason: To ensure satisfactory temporary parking provision and screening.



Application No: 081640

Location: At Last, Mill Lane, Birch, Colchester, CO2 0NH

Scale (approx): 1:1250

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7.4 Case Officer: Nick McKeever

OTHER

Site: At Last, Mill Lane, Birch, Colchester, CO2 0NH

Application No: 081640

Date Received: 17th September 2008

Applicant: Mr S Atkins

Development: Proposed extension and alterations

Ward: Birch & Winstree

Summary of Recommendation: Conditional Approval

1.0 Site Description

- 1.1 The property is a 1960's detached chalet style dwelling located within a cluster of predominantly detached dwellings fronting on to Mill Lane, within the village envelope of Birch.
- 1.2 The dwelling immediately to the North is similar style detached property, set approximately 2 metres from the boundary with the site. The dwelling immediately to the South was originally a similar property but was extended in accordance with the planning permission in 1974.
- 1.3 The application proposes the following extensions:-
- Two storey extension to the front elevation
 - First floor extension over part of an existing flat roof, single storey rear extension
 - First floor extension over an existing flat roof garage on the side boundary with the neighbouring dwelling, 'The Hideaway'.
- 1.4 The works will effectively convert the dwelling into a full, two- storey dwellinghouse, enlarging and increasing the existing four bedrooms into five bedrooms.
- 1.5 The original plans have been amended to inset the rear extension approximately one metre from the boundary with The Hideaway and to reduce the depth by approximately 1.2 metres.

2.0 Land Use Allocation

2.1 Residential

3.0 Relevant Planning History

3.1 None

4.0 Principal Policies

- 4.1 Adopted Review Borough Local Plan
DC1 - Development Control considerations
UEA11 & 13 - Design

5.0 Consultations

- 5.1 None

6.0 Parish Council Comments

- 6.1 Birch Parish Council comment as follows:-

'From the Parish standpoint we have no reason to object to the application as it does not contravene anything that will affect the parish. The Council has discussed this application and as it falls well within the Village Envelope and does not contravene any planning regulations as far as can be determined by the Parish Council.'

7.0 Representations

- 7.1 The occupiers of The Hideaway objected to the original drawings on the basis that:-

1. The loss of daylight & sunlight to their kitchen & dining room
2. The first floor extension over the garage will result in a large, overbearing wall 2.5 metres from their rear door.

- 7.2 The Hideaway is currently for sale. The potential purchaser has submitted objections to the original and the amended plans as follows:-

'As I will be the new owner of the house next door called The Hideaway, from mid November 2008, I wish to object to the proposed plans that next door have submitted called At Last for the following reasons laid out in the Council document 'Extending Your House'.

Planning considerations page 2, paragraph 2 - They are not un-neighbourly so they do not overlook, overshadow or produce an overbearing effect on adjoining property.

Page 3 last paragraph - The new extension cannot be built on the boundary line.

Page 7, Paragraph 2 - Impact on neighbours. Sections 1, 2 and 3 all apply as I feel it will have an overbearing impact, would overshadow and reduce our privacy not just in the kitchen, dining room but the patio area as mentioned in the last paragraph.

Page 8 - All paragraphs on this page are relevant as the 45 degree rule applies which is further mentioned on page 1- due to our main wall being set back as per paragraph 1 bottom left sketch.

Page 10, Paragraph 2 - Our main side wall, which incorporates the kitchen door is only 2.6 metres away from the boundary and not 5 metres plus to allow a 3 metre rear extension.

Page 11 - Overshadowing - As the proposed extension is two storeys to the side and rear this would mean a considerable loss of both direct sunlight and ambient light to both our kitchen and dining room windows and patio area, and again the 45 degree rule will be broken. As the orientation of the proposed extension is due south east of our property, both paragraphs of page 12 also applies.

Page 14 paragraph 1.2 storey extensions are not permitted to be built up and on the boundary line.

With all the above mentioned I oppose these plans in full as I feel it would blight our new house and the dream of our new house when we move in will be ruined.'

8.0 Report

8.1 The concerns expressed by the existing and the potential future occupiers of The Hideaway are acknowledged. It is in response to these objections that the Applicant has submitted the amended plans. These demonstrate that the rear and side extensions comply with the Local Plan policy UEA13, where this policy relates to any overbearing impact or loss of sunlight and daylight to habitable rooms, whereas the original scheme did not.

8.2 The proposal does however propose a first floor addition over the existing flat roof garage which abuts the common side boundary with the dwelling The Hideaway. The policy UEA13 (b) does not permit any extension where this would lead to the creation of a cramped appearance or terracing effect. The Adopted SPG 'Extending your house?' explains that it is important to retain a visual gap, particularly at first floor level. In areas of detached and semi-detached housing a minimum separation of one metre from the boundary at first floor level is 'often considered appropriate', although a greater distance may be required depending upon the character of a street.

8.3 In this particular case there will not be any separation between the first floor extension over the garage and the boundary. The first floor addition will be built right up to the boundary. There are, however, mitigating circumstances which should be taken into account as to whether the advisory metre gap should be applied rigidly:-

1. There is currently a gap of approximately 2 metres between the existing buildings at the site and The Hideaway. This gap will remain.
2. The other adjoining dwelling 'Passadena' immediately to the South, has also been extended up to the common boundary with the site. It is acknowledged that this extension was approved prior to the adoption of the current policy UEA13. Nonetheless the desire to prevent development appearing cramped or give rise to a terracing effect, is a long established planning policy. The decision maker at the time of the relevant permission clearly did not perceive that the proposed development would cause such effects.

8.4 Having weighed these considerations in the balance it is deemed that the proposed development, as amended, is acceptable in terms of its impact upon visual and residential amenity.

9.0 Background Papers

9.1 ARC; PTC: NLR

Recommendation - Conditional Approval

Conditions

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

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

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

4 December 2008

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

Report seeking Members' endorsement for the affordable housing tenure review required by the Section 299A Agreement that was agreed as a part of the above planning application

1. Decision Required

- 1.1 Members are asked to endorse the outcome of the affordable housing tenure review that is required as a part of the 299A legal agreement dated 30 June 2003 and signed as a part of the outline planning permission for the Garrison Urban Village development.

2. Reasons for Decision(s)

- 2.1 The endorsement of Members is required before a deed of variation to the 299A legal agreement can be entered into to secure the outcome of the negotiated affordable housing tenure review.

3. Supporting Information

- 3.1 As a part of the outline planning permission for the Garrison Urban Village development, the Council secured 25% of the total number of dwellings as affordable housing units.
- 3.2 The Garrison Agreement requires 25% of the first 361 dwellings to be constructed as a part of the development (90 units) to be provided as affordable rented units; these units have now been provided. The agreement requires the Council and the developer (Taylor Wimpey) to undertake a review of the remaining affordable housing units so as to determine their tenure mix. This review does not affect the number of affordable housing units that are to be provided as a part of the redevelopment of the Garrison. Members should also note, that because this is an extant planning permission, there is not the opportunity to change the percentage of affordable units (from 25% to 35%) that are to be provided as part of the Garrison development.
- 3.3 The 299A legal agreement requires the review to take into consideration the following factors: housing needs within Colchester, current government guidance, relevant local plan policies, supplementary guidance and the availability of funding for the provisions of affordable housing and the economics of such provision.

- 3.4 Following lengthy negotiations with the lead Garrison developer (Taylor Wimpey) agreement has been reached whereby the affordable housing tenure mix for the Garrison development as a whole will comprise a minimum of 80% affordable rented units and a maximum 20% shared equity units. This agreement reflects both current central and local government planning policies and the provisions of the Council's adopted Supplementary Planning Guidance on Affordable Housing. The affordable housing tenure review also needs to take into account the availability of funding for the provision of affordable housing and the economic of such provision; when these factors are taken into account, the negotiated affordable housing tenure mix is considered to represent a particularly good deal for this Council.
- 3.5 In order to secure the delivery of the negotiated affordable housing tenure review, Legal Services have advised that it will be necessary to enter into a deed of variation to the main Garrison legal agreement. Following the signing of the deed of variation for the Garrison affordable housing tenure review, the review process will be complete – i.e. it will not be necessary to undertake a further review of the affordable housing tenure mix.
- 3.6 The negotiated 80/20 (rented / shared-equity) affordable housing tenure mix split is considered to represents favourable outcome to the tenure review process and Members are asked to endorse the proposed deed of variation.

6. Strategic Plan References

- 6.1 The redevelopment of the Garrison site and the provision of affordable homes are important corporate objectives within the Strategic Plan.

7. Consultation

- 7.1 The Affordable Housing Development Officer has confirmed that he very pleased with negotiated outcome of the affordable housing tenure review and supports the proposed deed of variation.
- 7.2 Legal Service have raised no objection to the proposed deed of variation

8. Publicity Considerations

- 8.1 None.

9. Financial Implications

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

10. Equality, Diversity and Human Rights Implications

- 10.1 None directly arising from this report.

11. Community Safety Implications

- 11.1 None directly arising from this report.

12. Health and Safety Implications

12.1 None directly arising from this report.

13. Risk Management Implications

13.1 None directly arising from this report.

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

Our goal is to be a high performing Council

Our corporate objectives for 2006-2009 are:



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website: www.colchester.gov.uk