

Planning Committee

Council Chamber, Town Hall
20 November 2008 at 6:00pm

This committee deals with

planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

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

Information for Members of the Public

Access to information and meetings

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

Have Your Say!

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

Private Sessions

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

Mobile phones, pagers, cameras, audio recorders

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

Access

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

Facilities

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

Evacuation Procedures

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

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

Material Planning Considerations

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

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

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

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

Human Rights Implications

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

Community Safety Implications

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

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
20 November 2008 at 6:00pm**

Members

Chairman : Councillor Ray Gamble.
Deputy Chairman : Councillor Stephen Ford.
Councillors Peter Chillingworth, Mary Blandon,
Nigel Chapman, Helen Chuah, Mark Cory, John Elliott,
Wyn Foster, Chris Hall, Sonia Lewis and Nigel 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:-

Agenda - Part A

(open to the public including the media)

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

Pages

1. Welcome and Announcements

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

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

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

2. Have Your Say!

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

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

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

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

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

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

6. Minutes

To confirm as a correct record the minutes of the meeting held on 6 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. 081789 21 Osborne Street, Colchester
(Castle)

Change of use from A1/B1 use to Wine Bar (Class A4).

2. 081808 Land adjacent to Eastwood Service Station, Ipswich Road, Colchester
(Highwoods)

Prior Approval application for erection of 10 metre replica telegraph pole mast supporting a shrouded antennae unit containing 3 antennae (overall height including antennae support: 10 metre), radio equipment housing and ancillary development.

3. 081553 92 Coast Road, West Mersea
(West Mersea)

Change of use from store buildings to four ensuite bedrooms and 2 No. pavillions for outside dining.

4. 081611 154 Mersea Road, Colchester
(Berechurch)

Alteration and redevelopment of existing petrol filling station to provide new forecourt and canopy, extensions to the sales building and underground tanks.

5. 081628 Ipswich Road, Dedham
(Dedham and Langham)

Extension to existing industrial building, use of land for stationing of 2 portacabins and 1 Shipping Container (part retrospective).

6. 081733 41 London Road, Marks Tey
(Marks Tey)

Erection of a canopy and use of site as a car wash facility and for car sales.

7. 081740 Rosaville, White Hart Lane, West Bergholt
(West Bergholt and Eight Ash Green)

Proposed change of use of land to accommodate extension of domestic garden.

8. 081758 19 Cherry Chase, Tiptree
(Tiptree)

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.

8. Performance Monitoring Report // Planning applications for the period 1 April to 31 October 2008, 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 **11 - 18**

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).

10. Amendment Sheet **19 - 23**

See Final Amendment Sheet.

11. supplementary item **24 - 28**

PLANNING COMMITTEE 6 NOVEMBER 2008

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

Substitute Members:- Councillor Sykes* for Councillor Cory
Councillor J. Young for Councillor Ford

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

Councillor Chapman was not present for the consideration and determination of all applications agreed en bloc, minute nos. 139, 140, 142, 143, 145, and 147 to 150, refer.

137. Minutes

The minutes of the meeting held on 16 October 2008 were confirmed as a correct record, and in connection with minute no. 134, the Committee confirmed that the fencing to be erected on site was to be 6' high.

138. 081520 Tesco Stores, Church Road, Tiptree, CO5 1AA

The Committee considered an application for the installation of a combined heat and power (CHP) unit to provide a sustainable method of powering the store. The Committee had before it a report in which all information was set out.

John More, Principal Planning Officer, attended to assist the Committee in its deliberations.

Members of the Committee sought confirmation that the noise level of 5dBA would be enforced. Concern was expressed that residential houses were closer to this store than is the case at Highwoods and there were no trees to shelter residents from the units. It was explained that the Environmental Control Team had been consulted on the proposal and if there were any concerns a recommendation of refusal would have been made.

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

139. 081676 The Coffee Exchange, 33A Church Road, Tiptree, CO5 0SU

The Committee considered an application for a variation of conditions 1 and 2 of planning permission 071202 to allow a permanent consent and to change the opening times to 9.00am to 11.30pm Mondays to Saturdays and 9.30am to 6.00pm Sundays and Bank/Public Holidays. 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.

140. 081732 The Coffee Exchange, 33A Church Road, Tiptree, CO5 0SU

The Committee considered an application for a new shop front with a new glazed door, fixed glazed section and three folding glazed doors. The new door entrance was to replace the existing entrance, to the right hand return, which was only accessible via the shop front forecourt of the adjoining shop. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Councillors Chapman, Chillingworth, Elliott and Foster (in respect of their association with Councillor Jill Tod, resident at Seven Arches Farm, Chitts Hill), Gamble (in respect of having attended a meeting at a premises within the curtilage of the application site) and Lewis (in respect of being a close acquaintance of the family residing at Seven Arches Farm, Chitts Hill) each declared their individual personal interests in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3) which, in the case of Councillor Lewis, was also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and she left the meeting during its consideration and determination. Councillor Lewis took no part in the site visit.

141. 081702 Land west of Fairfields, 74 Chitts Hill, Colchester, CO3 5SX

The Committee considered an application for the construction of a new 3.5 metre wide domestic access drive approximately 500 metres long. The application was a resubmission of 081107 in which a width of 4.5 metres had been proposed. The Committee had before it a report in which all information was set out. The proposed access would run through a small wooded copse at its south-eastern end and in this regard an Arboricultural Impact Assessment was also submitted.

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

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. The present access involved negotiating two gates. There would be an impact on neighbouring properties in Chitts Hill, but there was some separation between the proposed road and gardens. On balance it was officers' view that the development was non-essential in the countryside.

Ted Gittins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The present access was difficult and the only planning reason for refusal rests on the fact that it is non-essential development in the

countryside which was not normally sufficient for refusal on its own. The key test was whether the development was harmful. The two consultees on the perspective of harm, the Landscape Officer and the Tree Officer, comment only that they required particular conditions, and neither defined any harm to the countryside itself. He hoped that in looking at other material considerations, the balance might shift more to the perspective of the convenience of the proposed access road which would be 300metres shorter and more straightforward for the occupants of Fairfields. He would support any condition to enable the development to be integrated into the landscape without harm.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. He supported the representations made by the residents in Chitts Hill as described in the report and urged the Committee to accept the recommendation and refuse the application.

Members of the Committee expressed a variety of views. When the A12 by-pass was built the Highway Authority closed the former access to the house and over the years the occupiers had accepted the situation. It was difficult to see how a new drive would be a visual problem as residents in Chitts Hill would not see the road and there would not be much change to the land. The current situation of the long, bumpy drive was difficult and some members found it difficult to see the harm that would be caused by the proposal, others were content to follow the recommendations for refusal.

The residents in Chitts Hill considered that the new access would be a problem; one of their concerns being the possibility of crime. There was a concern about a business being conducted from the house in which case the traffic movements could be considerable. However, it was explained that conditions to restrict the number of movements in a day or to prevent the use of the property and the area around it for commercial purposes, other than for office use, would not be possible because the property had residential use rights. If in the future there was an increase in traffic generated from a change of use of the dwelling the new situation would have to be considered. The hedge mentioned by the Landscape Officer would impact on the distant views.

RESOLVED that (MAJORITY voted FOR) the application be approved with any conditions considered appropriate by the Head of Environmental and Protective Services.

Councillor Lewis (in respect of the agent having undertaken work for her spouse in the past which has now concluded) declared her personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

142. 081727 Westview Cottage, Long Road West, Dedham, CO7 6EH

The Committee considered an application for the demolition of an existing house and outbuildings and their replacement with a five bedroom detached house and double garage. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Councillor Chapman (in respect of having approved the management plan for Colchester cemetery and crematorium gardens in his former role as Portfolio Holder for Customer Services and Sustainability) declared his personal interest in the following item which was also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and left the meeting during its consideration and determination.

143. 081729 Colchester Crematorium, Mersea Road, Colchester, CO2 8RU

The Committee considered an application for the removal and replacement of existing paving and the construction of an open sided timber structure with a plain tiled roof to be constructed over the centre of the existing Floral Tribute Area. The building is shown as being 9.5m in length, 4.8m wide and 4.5m in height. The Committee had before it a report in which all information was set out.

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

Councillor Gamble (in respect of having been a customer of Papas Fish Shop) declared his personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

144. 072956 Papas Fish Shop, East Street, Wivenhoe, CO7 9BW

The Committee considered an application for two flats to be added to the upper floor of the single storey fish shop with a remodelled shop front to Papas Fish Shop. The application was a resubmission of 071034. The Committee had before it a report in which all information was set out, see also Amendment Sheet. The proposal was to build a garage to the side of the existing shop on the ground floor and to create two residential flats on the first floor above the newly created garage and the existing shop which would itself be remodelled.

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

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations.

Revd David Thomas addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He represented the Church and local residents, including 79 people who had written to object. The pictures show that the proposal would obscure views of the church and he took issue with the view being subservient. He objected to additional car parking on street for loading purposes and increased litter. The present building needed improvement, however, he agreed with the fundamental criticism that the scheme was disappointing and his preference was to seek better proposals for a smaller building more in keeping with its surroundings. He considered this to be the wrong building in the wrong place and the wrong time.

David Stenning, architect, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. His concern with the shop dated from 1990 when the Conservation Area in Wivenhoe was designated. The issue of height and bulk seems relatively irrelevant, completely rebuilding with a single storey flat is uneconomic. He would object to anything which would damage the setting. Parish churches, enclosed and partially enclosed, are typical of England. This site was occupied by bulky buildings. The

enhancement is a significant town planning objective. The proposal would be a 21st century building which would respect the location. All views had been taken into account. The site is situated in a pedestrian character area where passers-by would pass slowly.

Councillor Ford attended and, with the consent of the Chairman, addressed the Committee. He referred to UEA1 and 6.14 of the Colchester Local Plan in his arguments against the application. Paragraph 6.14 of the Colchester Local Plan states that "an established change of use which would detract or be detrimental to visual amenity will not be permitted". Before and after photographs were produced by Stuart Allen. Mr Allen lives in a house immediately in front of the application site and he is content with the proposal. Mr Allen has shown that the size of the proposal will be 3½ times larger and 2½ times higher than what currently exists – a 93% increase in footprint. Anyone standing in East Street will not be able to see much of the church. The best course of action would be to design a new building, shallow in plan, and neither too bulky nor too high. Visual amenity gives communities a strong sense of identity. This is not just a view of a church it is a church which has stood in this location for 700 years. It is a focal point of the ward and a community church. The view gives continuity to the community and a strong sense of community. He believed that this proposal was overdevelopment leading to a loss of visual amenity, the loss of a view which provided a strong sense of community.

Some members of the Committee were concerned that the proposal was over development with detrimental views of the church. There was no room for waiting areas, only one space for residents parking and nowhere for delivery lorries to park. The street was very narrow and the proposed garage would open onto the street. Traffic was increased in this street because Queens Road was closed off. The application should be refused on the basis of over development of the site and the loss of amenity.

Other members of the Committee expressed alternative views. The Conservation Area is one of the gems of the borough and it is the Committee's responsibility to get the decision right. Residents see this proposal as a bulky building spoiling a good view of the church and making a narrow street even narrower. However, photographs of houses formerly on this site show that they were higher than this proposal. This site currently presents as a gap and a low, badly designed building. The proposal is supported by Conservation Officers. The Committee have visited the site twice and it is clear that this site in the Conservation Area needs to be improved and another, better scheme may not be forthcoming. The current building does not fit in with the Conservation Area and on balance this scheme would be an improvement, although not perfect.

It was explained that the current building has a wide span and with the additional floor will increase the height. The applicants had tried to articulate the building above the ground floor which would read as three elements instead of one big building, thus capable of assimilation into the townscape. There were no habitable rooms at the rear of the proposal so there would not be any overlooking of the church. UEA1 is concerned with protecting the character of the area and elements which contribute towards that character. This proposal is a response to an acknowledged problem in the area which can only be dealt with by some sort of development; demolition was not an option. This scheme is perceived as an enhancement of the area and will respect its character. The bulk of the church comes into view at the top of Rose Lane and that view will not change. The proposal has a higher ridge line than the building to the east and there is some variation in roofline. The view of the tower is not seen as critical to this scheme. The view above the flat roof area will be lost but the main view of the church will remain. The element of the church which will be obscured by the proposal is currently the

tarmac parking area, the tower would remain in view. The garage doors had been designed not to open out into the street. With respect to smells, Condition 9 required details of a scheme to deal with noise and smells to be submitted prior to the commencement of development.

RESOLVED (MAJORITY voted FOR) that –

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

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

145. 081313 21 Church Street, Rowhedge, CO5 7EY

The Committee considered an application for a new dwelling on land which was part of the garden of 21 Church Street. The application site is within the Rowhedge Conservation Area. 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.

RESOLVED (UNANIMOUSLY) that –

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

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

146. 081421 Adhere Industrial Tapes, Unit 3 Whitehall Road, Colchester, CO2 8JH

The Committee considered an application for a new storage building. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

John More, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Coulson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The proposed building was within an area for industrial development and the design of the building was similar to surrounding buildings. An existing hedge and trees were to be retained and additional planting would be included to maintain a screen. The proposed building was required for additional storage because of the success of the business and would lead to the creation of two additional full time jobs and one

or two part time jobs. Additional traffic would be minimal.

Members of the Committee expressed concern about the screening and asked for additional trees because of the large size of the building and its visibility from Whitehall Close. It was explained that there was a landscaping condition which could be amended to include additional screening planting.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet together with additional screen planting to Whitehall Close.

147. 081643 118 Straight Road, Colchester, CO3 9DJ

The Committee considered an application for a change of use of an existing bungalow to a dental practice comprising two consulting rooms, a staff room/storage area, a reception desk and a waiting room. The practice would have a maximum of two full time and two part time staff. It was not proposed to do any works to the external appearance of the building. 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 and on the Amendment Sheet.

148. 081691 105 Nayland Road, Colchester, CO4 5EW

The Committee considered a retrospective application for a change of use of the front part of the building from retail (Class A1) use to office (Class B1) use and for its use to be in connection with the established use of the rear part of the building for workshop and storage purposes. The Committee had before it a report in which all information was set out.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations.

Brian Rowe addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. It is the business which is the source of problems, this application for a change of use is not a problem. The available parking was insufficient for the number of vehicles. The business operates five vehicles of their own and all the vans. Those who work in the vans leave their vehicles outside all week, 24 hours a day. Vehicles are double parked outside Myland Parish Council offices. He requested that restrictions be applied where vehicles are parked and also on the number of vehicles that operate out of the premises.

Alfred Baker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The business has been operating for many years. After Mr Baker retired in 2005 Mr Milton took over the business and now runs a property maintenance business. He has five spaces for staff who collect job tickets and materials in the mornings. There are no parking restrictions. Nayland Road is not just a residential road; it has been a business road for many years. The road became a no through road when the NAR was opened. Residents find it more convenient to park on the road. Mr Milton apologises for any inconvenience which is only for short periods.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. This site has had issues over the years. Vehicles double park which prevents buses getting through; drivers stand with doors open which prevents people getting through and is a

constant issue. The Highway Authority does not propose to issue a formal recommendation in this case. Employees do park all week which pushes parking further up the road near the bus gate. Employment is welcome to the area and it is good for the economy but there are serious concerns about parking. Essex County Council intend to implement some parking restrictions in a years' time for Leeches Lane. He welcomed the business contribution to the economy but not the vans and cars which are causing problems on the road. He asked that only five vehicles use the premises.

Members of the Committee expressed their concerns at the issues presented by the speakers but were at a loss to know what the Committee could do to alleviate the situation; this was more about being a good neighbour. It was suggested that the operator be asked to make the best use of the space available for on site parking and to consider their neighbours. It was also suggested that the situation be conveyed to the Highway Authority and Street Services to see what could be done to improve the situation.

It was explained that there was limited space for manoeuvre and the office use would have less impact than the retail use. If there were conditions to regulate parking and traffic they would have been included in the report, but there was no ability to impose conditions or limitations on vehicle parking or regulating any aspect of the use as this was a retrospective application. The best that could be done in the circumstances was to add a suitably worded informative and to request the parking enforcement team if it is possible for them to give any assistance.

RESOLVED (UNANIMOUSLY) that the application be approved with a strongly worded informative to draw the applicant's attention to the problems caused by vehicles associated with the business on site – parking on street causing obstruction and congestion without consideration to neighbours and other road users, not making best use of existing on-site parking facilities. The matter be referred back to the Highway Authority and Street Services for concerted actions to try and alleviate the parking problems.

149. 081704 Joyclare, Boxted Road, Colchester, CO4 5HF

The Committee considered an application for a permanent use of the premises as an occupational therapy annexe to St Paul's Hospital following temporary planning permission under COL/07/0128. Information regarding the use of the annexe has been provided in a supporting statement. The Committee had before it a report in which all information was set out; an amendment to the hours of operation in Condition 1 was set out on the Amendment Sheet.

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

150. 081483 61-63 Albion Street, Rowhedge, CO5 7ER

The Committee considered an application for full planning permission for a replacement front entrance porch at a property which is within the Rowhedge Conservation Area. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that the application for full planning permission be approved with conditions and informatives as set out in the report and on the Amendment Sheet.

151. 081484 47 St Botolph's Street, Colchester, CO2 7EB

The Committee considered an application for a change of use from vacant shop unit (Class A1), formerly trading as Pete's Treats, to a restaurant (Class A3) use. The Committee had before it a report in which all information was set out.

John More, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Alan James, owner of the property, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He was proposing to open an up-market restaurant not a burger and chips establishment.

Members of the Committee expressed the view that any permission would have a major impact on the Cultural Quarter. There was some anxiety that if permission was granted there could be the possibility of a takeaway on this site which was not wanted, but a high quality restaurant would be a focus in the area. It was explained that A3 use class was for a restaurant which was not a food takeaway which was A5 use class, for which a change of use would be required.

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

152. Enforcement Action // Land in garden of Berryfields, Coggeshall Road, Dedham, CO7 6ET

The Head of Environmental and Protective Services submitted a report regarding the status of building works to erect a new house on land to the south of an existing property on the site. Appropriate action was recommended in order to remedy a breach of planning control. The Committee had before it a report in which all information was set out.

The building works were considered to be not in accordance with the approved plans and furthermore the variations were considered to be material changes. It was intended that negotiations be undertaken with the developer to secure compliance with the original approved scheme or the submission of an alternative acceptable scheme. In the event that no agreement could be reached the Committee was requested to authorise the Planning Services Manager to take enforcement action or other legal action as appropriate.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations.

Parish Councillor Robert Cannon addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the action proposed. The new dwelling was higher than any other structure in the road. It bore no relationship to the approved plans and the parish council expected the Committee to stand by its decision. If enforcement action was not taken it would give a green light to others in Dedham Vale. He considered that gross negligence had taken place. A mature hedge was removed in May 2008 against a condition of the approval. He wanted any forthcoming application or amendment to be refused, only accepting that the property be built in accordance with the approval.

It was explained that the recommendation is to take enforcement action and in the process to clarify the extent of the divergence from the approved plans. Any application submitted in response to the variations will be dealt with following the usual procedure. The Council will take enforcement action if necessary.

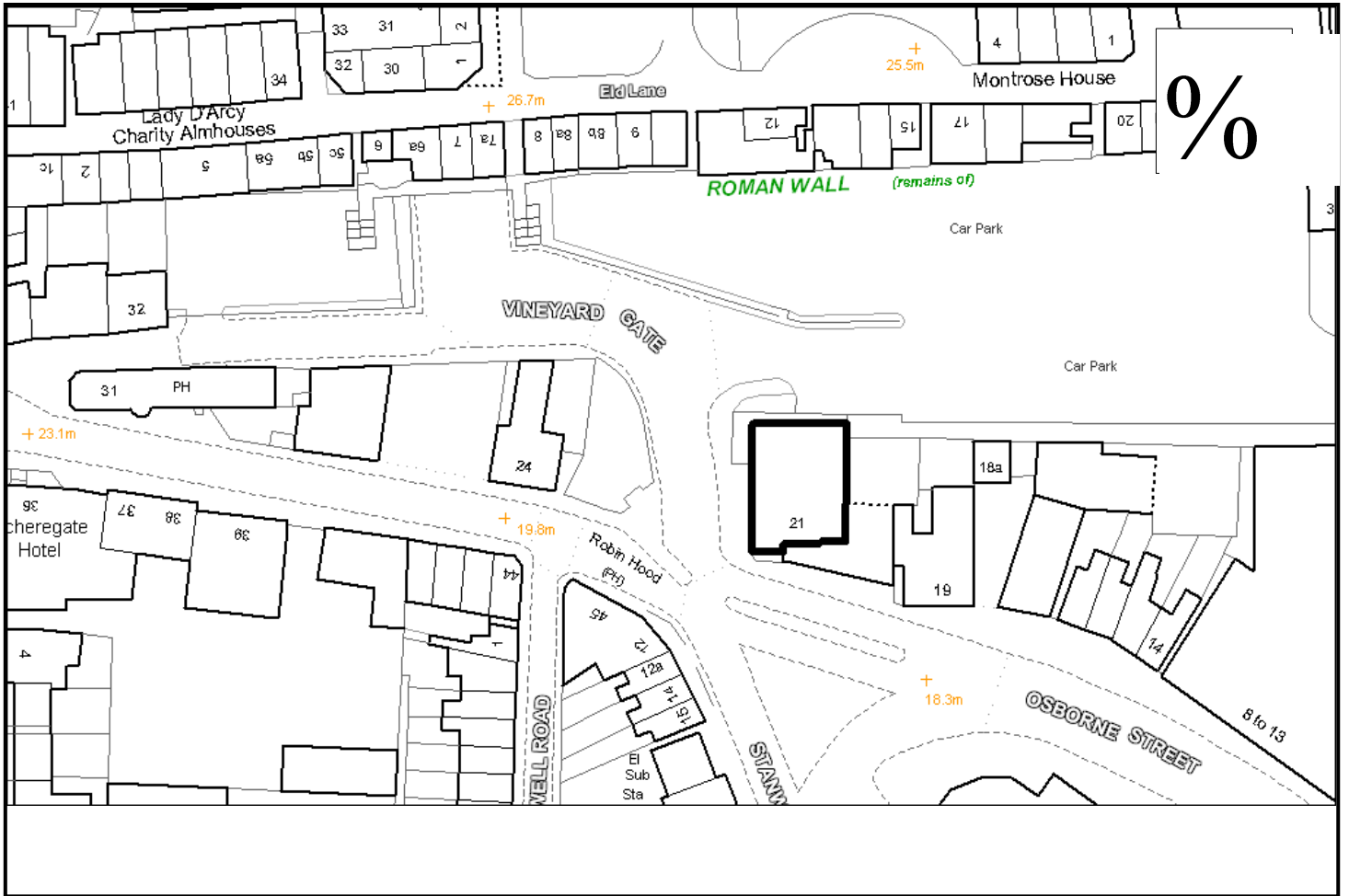
Members of the Committee supported the suggested course of action stressing that the Council must be strong in ensuring that developers do adhere to the permission and there should not be any movement in another direction.

RESOLVED (UNANIMOUSLY) that the Planning Services Manager be authorised to take enforcement action or other legal action as appropriate against unauthorised building works taking place at the site, subject to any negotiations with the developer to secure compliance with the original approved scheme or the submission of an alternative acceptable scheme.

153. Enforcement Action // 99D Winnock Road, Colchester, CO1 2BQ

The Head of Environmental and Protective Services submitted a report seeking authorisation to take enforcement action requiring the removal of a timber deck and balcony with a compliance period of two months. The Committee had before it a report in which all information was set out. The deck and balcony had been installed on an existing flat roof of a property which had been subdivided into flats. Following the refusal of planning permission for the retention of the timber deck and balcony, an appeal had been submitted and the refusal had upheld.

RESOLVED (UNANIMOUSLY) that an enforcement notice be served with a compliance period of two months requiring the removal of the timber deck and balcony.



Application No: 081789

Location: 21 Osborne Street, Colchester, CO2 7DA

Scale (approx): 1:1250

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

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

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

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

Crown Copyright 100023706 2008



Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **20 November 2008**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

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

7.1 Case Officer: Mark Russell

EXPIRY DATE: 04/12/2008

OTHER

Site: 21 Osborne Street, Colchester, CO2 7DA

Application No: 081789

Date Received: 8th October 2008

Agent: Mr P Johnson

Applicant: Mr Brundell

Development: Change of use from A1/B1 use to Wine Bar (Class A4)

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The site comprises a single-storey, double-piled former office/warehouse building with white render and slate roofs. This is on the corner of Osborne Street and the Vineyard Gate entrance to the Vineyard Street surface car park, and has a mixed history as an office/warehouse, dance/workout studio, night-club and retail outlet.

2.0 Description of Proposal

2.1 The proposal is to change the use of the building to a wine bar with a kitchen, bar, seating area lobby and toilets.

3.0 Land Use Allocation

3.1 St. Botolphs Regeneration Area, Colchester Conservation Area 1.

4.0 Relevant Planning History

4.1 82/1456 - Change of use from office/warehouse to dance/workout studio. Approved 24th January 1983;

4.2 85/1388 - Change of use to Licensed Club with entertainment facilities and dance and recording studio. Approved 25th November 1985;

4.3 87/1796 - Erection of conservatory for entrance lobby and retail showroom area. Approved 9th December 1987;

4.4 88/1562 - Change of use from nightclub to retail shop with associated internal works and new shop-front. Approved 10th September 1988;

4.5 F/COL/05/0350 - Erection of mixed use building comprising 9 no. residential flats and 170 sq m of A1 (retail) or A3 (restaurant) use. Non-determination 25th May 2005. Appeal dismissed 12th July 2005;

4.6 X/COL/05/0530 – Full demolition. Withdrawn 9th May 2007.

5.0 Principal Policies

5.1 Adopted Review Colchester Local Plan:
DC1- Development Control considerations;
UEA1 – Conservation Area
TCS10 – Seasonal Usage
TCS24 – Regeneration
P1 - Pollution

6.0 Consultations

6.1 The Regeneration Officer has not opposed the scheme provided it is on a temporary basis only so as not to undermine the objectives of the Vineyard Street Regeneration Area.

6.2 Planning Policy has confirmed that the site is within a Regeneration Area and is not covered by a street frontage policy.

6.3 Environmental Control has offered no objections, stating that issues surrounding noise would be dealt with via the Licensing process.

6.4 Licensing replied as follows:

“The documents accompanying the application appear to be quite sparse in advising the use that the premises will be put to, aside from saying that it is the applicant’s intention to turn the premises into a wine bar in the evening and have cake and coffee on offer for shoppers during the day.

I have no comment to make on the proposed daytime activity as neither of these uses would appear to fall into a category of being a licensable activity in accordance with the Licensing Act 2003.

In relation to the proposed night time use of the premises, i.e. a wine bar, the stated hours of operation are modest in terms of the flexibility of opening hours that the new Licensing Act 2003 can permit.

I’m afraid that the application is completely silent though on whether or not there is any intention for the premises to provide regulated entertainment for its customers (e.g. live or recorded music and dancing).

It is therefore very difficult for me to make any sort of assessment in Licensing terms on how the Planning application might impact on nearby residents and the locality in general and in particular, how it might impact on the four licensing objectives, which are the Prevention of Crime and Disorder, the Prevention of Public Nuisance, Public Safety and the Protection of Children from Harm, without knowing whether or not the applicant intends to provide regulated entertainment for his customers.

The hours and type of entertainment offered can potentially have a huge impact on the age group of the customers that might be attracted to a premises and therefore the overall social awareness and social responsibilities of that age group, particularly in terms of problems associated with the licensing objectives for the Prevention of Crime and Disorder and the Prevention of Public Nuisance.

This is especially pertinent given the premises close proximity to the stress area of Queen Street and St Botolphs Street, as defined within the Councils Statement of Licensing Policy.”

7.0 Representations

7.1 One letter of objection was received, this covered the following points:

- 1) The proposed wine bar is in a mixed use area and is covered by Policy TCS5 which seeks to secure a minimum of 50% of A1 retail within any define frontage.
- 2) The proposal would increase the frontage of non A1 uses to over 65%, which is clearly not in accordance with Policy TCS5.
- 3) The proposal would unacceptably erode the retail frontage to the detriment of the attractiveness, variety, character and economic viability of the locality.
- 4) The proposal would jeopardise regeneration plans for this area as detailed in the St. Botolph’s Master Plan.

7.2 Colchester Civic Society commented as follows:

“Colchester Civic Society is not attracted to the idea of another bar in the town centre, particularly near an identified stress area.

However, although the proposal may result in loss of retail frontage, we accept that the premises may not be ideal for retail use, being isolated from mainstream retail areas.

Also, we would not wish any approval given which would obstruct or delay the renovation of the area as part of Vineyard Gate.”

8.0 Report

8.1 Planning Policy has confirmed that this Site is not covered by any street frontage policies which would limit the amount of non-A1 (retail) activities in this location.

It is worth noting that a recent application at nearby 22 Vineyard Street was refused as it fell foul of such street frontage policies. The difference between the refused site and the application site is that it is within a Regeneration Area and has no such restrictions. Thus the principle of this change of use can be entertained.

8.2 The St. Botolphs Project Officer has indicated that a temporary permission of three years is acceptable for this site without undermining the longer term objectives for the site.

8.3 Residential amenity, does need to be considered. Whilst there are residential properties nearby, these are not in the immediate vicinity of the site, and are either across the road on Stanwell Street which is a main thoroughfare for traffic, or on Whitewell Road which until recently had the Robin Hood Public House on one side and a take-away on the other. In addition, there is a Mexican take-away adjacent to the site as well as several other drinking or eating establishments close by, thus the introduction of a food or drink establishment near to these residences in what is after all a town centre location would not appear to be unacceptable in terms of possible noise nuisance. The Local Planning Authority (LPA), if agreeing a permission, would not be able to dictate which type of drinking establishment this would be, i.e. a wine bar or a public house, nor which clientele would be present, nor what type of entertainment, if any, would be on site.

8.4 The LPA is, however, in a position to impose some conditions which would ameliorate any potential nuisance. The most powerful of these would appear to be that of restricting hours of use.

8.5 On the application form, the applicant has offered the following hours of use:

Monday to Friday – 11:00 – 23:30; Saturday 11:00 – 24:00, Sunday/Bank Holiday 11:00 – 24:00.

These would seem to be, in general, acceptable hours, which almost reflect the traditional drinking hours under the old Licensing regime. This would seem to be largely acceptable and not beyond the existing general level of noise and activity in this location. Your Officer would, however, suggest an earlier finish on Sundays, and for this reason a separation of Sundays from Bank Holidays is suggested by condition at the foot of this report. Given the geographical proximity of some of the houses across Stanwell Street the LPA would be keen for these limited hours to be adhered to and would oppose a Licensing application to increase the hours.

Conclusion

8.6 In conclusion the proposed change of use is held to be acceptable on a temporary basis, and permission is therefore recommended.

9.0 Background Papers

9.1 ARC; NLR, PP; Regen; Licensing

Recommendation - Conditional Approval

Conditions

1 - Non-Standard Condition

The use hereby permitted shall cease no later than 4th December 2011 unless the applicant has been granted a further extension of time by the Local Planning Authority.

Reason: This permission has been granted to give this building a beneficial use up until such a time as the regeneration of the area commences.

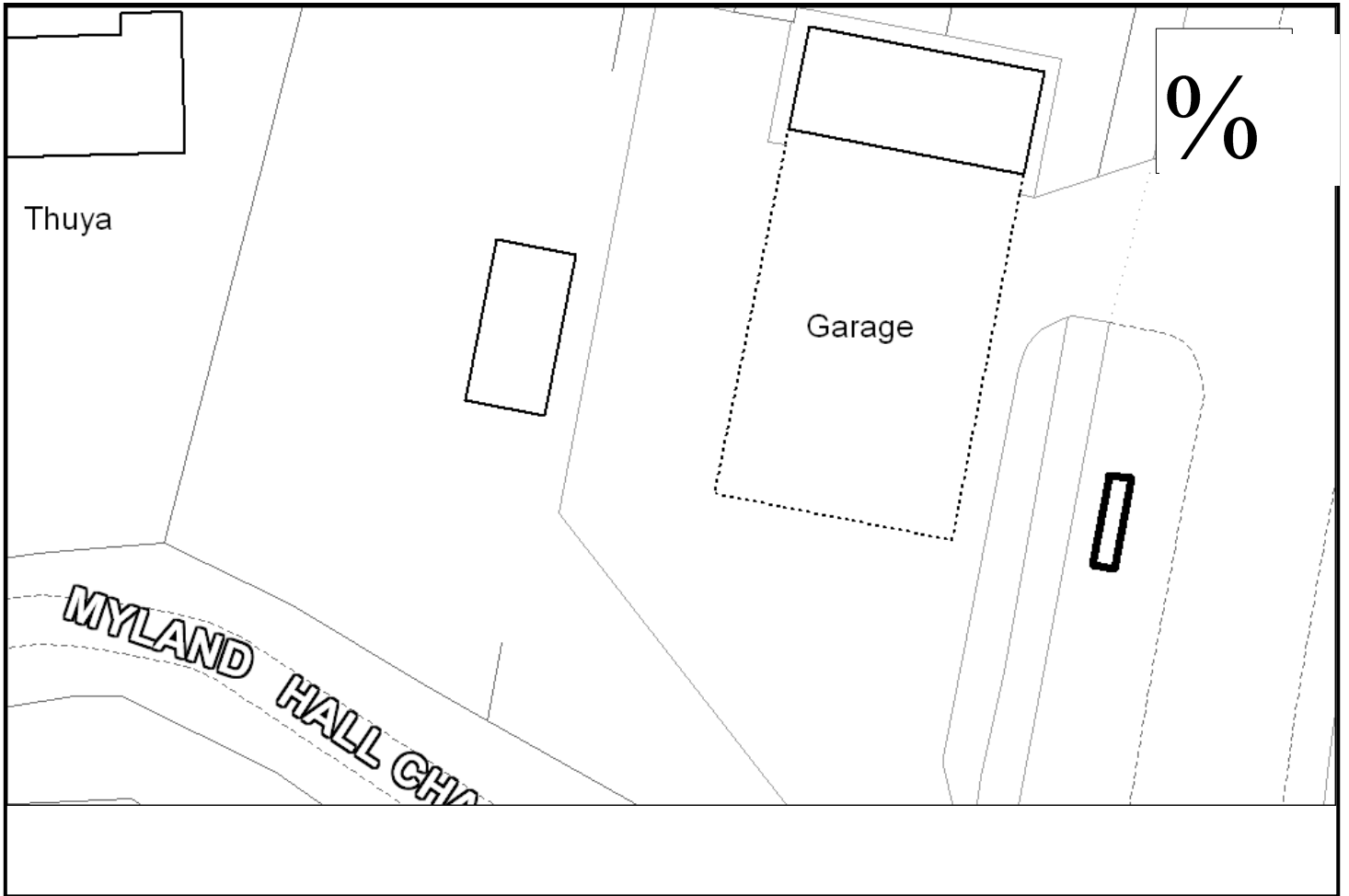
2 - Non-Standard Condition

The use hereby permitted shall not be open to customers outside of the following times: Monday to Friday: 11:00 – 23:30; Saturday 11:00 – 24:00; Sundays (excluding Easter Sunday) 11:00 – 23:00; Bank Holidays (including Easter Sunday) 11:00 – 24:00.

Reason: In the interests of residential amenity.

Informatives

The applicant is advised that the Local Planning Authority would resist any application to the Licensing Authority for later opening hours.



Application No: 081808

Location: Land adj Eastwood Service Station, Ipswich Road, Colchester, CO4 0EX

Scale (approx): 1:1250

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

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

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

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

Crown Copyright 100023706 2008

7.2 Case Officer: Simon Osborn

EXPIRY DATE: 05/12/2008

OTHER

Site: Ipswich Road, Colchester, CO4 0EX

Application No: 081808

Date Received: 9th October 2008

Agent: Savills

Applicant: O2 (Uk) Ltd

Development: Prior Approval application for erection of 10 metre replica telegraph pole mast supporting a shrouded antennae unit containing 3 antennae (overall height including antennae support:10 metre), radio equipment housing and ancillary development.

Ward: Highwoods

Summary of Recommendation: Prior Approval Required (Agreed)

1.0 Planning Report Introduction

1.1 The application seeks prior approval for a telecommunication mast and it is not an application for full planning permission. As such the Council can only consider matters of siting and design. In accordance with the Regulations, the applicant must receive the Council's decision within 56 days of the application being lodged (ie. before 3rd December), otherwise the development may go ahead as proposed.

2.0 Site Description

2.1 The site proposed for the mast is within the highway verge of the Ipswich Road, adjacent to the Eastwood Service Station. The site proposed lies 25 metres to the south of an existing '3' mast, which also takes the form of a 10m high replica telegraph pole.

3.0 Description of Proposal

3.1 The application relates to the erection of a 10m high replica telegraph pole mast supporting a shrouded antennae unit containing 3 antennae, and an equipment cabinet of dimensions 1.8m x 0.352m x 1.m (height).

4.0 Land Use Allocation

4.1 The site is located within a predominantly residential area.

5.0 Relevant Planning History

- 5.1 PA/COL/02/2015 - application for prior approval for the erection of a 10m high mock telegraph pole shrouding 3 no. antennae and equipment cabinet – refused by Council but allowed on appeal 11th September 2003.

6.0 Principal Policies

- 6.1 Adopted Review Colchester Borough Local Plan – 2004
DC1 – Development Control Considerations
UT4 – Telecommunications Development

7.0 Consultations

- 7.1 Environmental Control made no comment
- 7.2 The Highway Authority stated no objection to the proposal as submitted but recommended an informative.

8.0 Representations

- 8.1 Objections were received from the occupiers of 9 properties; 7 of these properties were in Ipswich Road in the near vicinity of the proposed site, 2 were other addresses on the Highwoods estate.

The following points were raised:

1. There is overdevelopment in the area from telegraph poles, lampposts, signage for the petrol station and another antenna;
2. There is no requirement for an O2 antenna in this area as they already have high coverage for reception (including 3G phones);
3. The incidence of health risk for people living nearby has not been proven; but neither has the safety of these installations;
4. Property values affected by possible health implications of the masts;
5. Potential impact on TV reception;
6. Proposal is unsightly;
7. It should be sited in a less conspicuous area; It would best be sited on Severalls Industrial Estate; The Council has not suggested alternative locations; Other sites were discounted because of trees – why is the number of trees at this location not considered a problem?;
8. Some locations have been discounted because they are too close to schools, however, children also live in close proximity to this site;
9. There is a potential risk from transmitter masts sited close to petrol filling stations.

9.0 Report

The Need

- 9.1 The information submitted with the application indicates that O2 (UK) has an existing 2G network in operation that provides voice, text and simple multi media services to customers' mobile telephones. O2 are seeking to provide more inclusive network coverage for 3G purposes (this network will provide video, internet and high data transfer capabilities to mobile phone customers). Network coverage maps were submitted, which show that a mast in the location proposed will improve coverage facilities for an area with a radius of approx 400m, by improving coverage from one suitable for on-street and hand-held-in-car coverage to that also suitable to provide suburban-in-building coverage.
- 9.2 Representations received to the application queried the need and indicating they believed 3G coverage was already provided for the Parsons Heath area. These representations cited the O2 website, which shows all of this part of Colchester with 'High On-Street' coverage (suitable for Video calls and News).
- 9.3 The applicant has responded that there must be confusion between 2G coverage and 3G coverage. 3G allows for a far faster rate of information to be transferred remotely, allowing people to work at home by using their mobile phones as an interface to use a computer or download information be it for leisure or work. This supports remote working. More products and services are constantly being engineered and promoted for the benefit of 3G customers. O2 have a licensed obligation to roll out the network in accordance with the 3G licence purchased from the government.
- 9.4 The effective coverage area also shrinks the greater the usage of handsets. This is called cell shrinkage and has to be built in to provide an efficient network.
- 9.5 Building and integrating a base station is very expensive and would not be undertaken lightly by O2 without a genuine need.

Previous History: Application PA/COL/02/2015

- 9.6 There is an existing 10m high monopole for another telecommunications operator sited 25m to the north of the proposed O2 mast. This was allowed on appeal after the Council refused prior approval of the details. Sections of that decision are reproduced here, as they are pertinent to the consideration of this application:

"In my view the street scene is typical of a suburban main road, pleasant but with no distinctive or special visual quality (paragraph. 6) ... The mast's simple, plain form, with no projecting antenna would ensure that it did not appear an unusual feature in the street scene (paragraph. 7) ... I recognise that the proposal is essentially of a functional and utilitarian design but in my view its simple, plain form and timber clad appearance represents good design in the context of this road and the technical requirements of telecommunication development.

Given the variety of existing street furniture, I consider that the development would not significantly add to visual clutter.

In my view, the development would not materially detract from the street scene (paragraph. 9) ... The pole would not be directly outside any dwelling but it would be readily visible from the front rooms of the houses on the opposite side of the Ipswich Road ... I consider that it would only be a minor feature in the outlook of these residents and sufficiently distant not to be intrusive or overbearing (paragraph 10) ... PPG8 indicates that the planning system is not the place for determining health safeguards.

It goes on to state that if a proposed mobile phone base station meets the ICNIRP guidelines, it should not be necessary to consider further the health aspects of the development and concerns about them (paragraph 13).”

Eastwood Service Station Site: Proposed O2 Mast

- 9.7 The site put forward by the operator for the proposed mast is within the highway verge of the Ipswich Road adjacent to the garage/petrol filling station. The garage site has a road frontage of approx 60m and the pole is proposed roughly at the mid point of this and to the frontage of the forecourt canopy. The nearest dwellings are sited approx 40m away.
- 9.8 This part of the Ipswich Road is characterised by having wide highway verges and relatively tall existing street furniture. Elsewhere along the frontage to the garage/petrol filling station site are two 10m high lampposts, one 6m high telegraph pole, an existing 10m high monopole and the totem pole sign advertising the petrol filling station. There are also three small green electrical cabinets and one slightly larger brown cabinet existing within this frontage.
- 9.9 The proposed monopole is of similar height to the existing monopole and two lampposts within the near vicinity. It will not therefore appear markedly different from other street furniture within the vicinity, which is a significant factor if it is to blend in. Consideration has also to be given as to whether the additional pole and equipment cabinet would create street clutter. The Appeal Inspector did not consider the then proposal amounted to street clutter. The current application would of course add a second monopole and associated equipment cabinet within this stretch of Ipswich Road. The resulting level of street furniture along this 60m strip is not unreasonable within a suburban area, particularly as the verges are comparatively wide. It is considered that the proposal will not significantly affect the character and visual amenity of this part of the Ipswich Road.
- 9.10 The applicant has provided a Certificate of Conformity with the ICNIRP requirements to indicate full compliance on the limitation of exposure to the general public to EMF emissions.

Alternative Sites Considered

- 9.11 Prior to the application being submitted, the applicant held pre-application discussions with the Council to consider alternative sites, to that now proposed. Details of these sites were set out in the documentation submitted with the application. These included a 15m mast in the Chanterelle Car Park within Highwoods Country Park and a 15m pole at the junction of St Johns Road with St Johns Close. Whilst masts could have been provided at both sites without being unduly conspicuous, both were on the margins of the search area and neither site would have provided the network coverage desired.

- 9.12 Another option was considered adjacent to the cycleway on the east side of the Ipswich Road approx 100m to the south of the Eastwood Service Station. A 12m high pole would provide a similar level of coverage to the site subject of this application. However, the mast would have been much closer to the nearest residential properties (approx 5m away) and the surrounding streetworks are also lower in height than those near to the Eastwood Service Station. This explains why the latter site was not put forward in preference to the Eastwood Service Station site.
- 9.13 Other options considered included a site close to St Christopher Road shops, the junction of Upland Drive with the Ipswich Road and the Ipswich Road/St Johns Road roundabout junction. The first of these already has an 8m high monopole serving Orange; it is not technically shareable and another mast could not be positioned so as provide coverage to the north. The second of these would have been in too close proximity to tall mature trees at the rear of the site. The third was less than 100m from a school; whilst base stations close to schools are not necessarily inappropriate, telecommunication operators generally recognise there is a public sensitivity for siting masts close to schools.
- 9.14 Telecommunication operators are encouraged to consider mast sharing opportunities. However, the nearby monopole previously allowed on appeal cannot be shared in its current form; to allow sharing a much bulkier pole or a lattice mast would have to be deployed to be structurally capable of supporting the additional equipment. Operators also need at least 1 metre vertical separation between their respective antennae; this would necessitate an increase in the height of the structure. If the existing structure was swapped and redeveloped, the resulting base station would be taller (approx 12m height) and bulkier. This would be out of keeping with existing street furniture and thus would look out of place.
- 9.15 The area where improved coverage is required is almost entirely residential in character; this makes it difficult to place a 10m height monopole without it appearing out of place. Ipswich Road within the vicinity of Eastwood Service Station is characterised by having wide highway verges and tall lamppost structures, in contrast with much of the required coverage area where lampposts are of lower height and the verges less wide. Alternative locations were explored with the Council prior to the submission of the application; these did not appear suitable and hence the applicant has put forward this site as their preferred option.

Conclusion

- 9.16 This application seeks prior approval for the design and siting of the proposed mast and associated electrical cabinet.
- 9.17 The mast subject will take the form of a replica telegraph pole and the simple utilitarian nature of both the pole and the cabinet means it is considered appropriate in design terms. The pole furthermore is of a similar height to an existing monopole and to two lampposts, which also front the Eastwood Service Station site and so will not appear unduly incongruous in relation to the existing street furniture.

9.18 It is clearly recognised that mobile phone masts are contentious and that most householders would not wish to have one located near them. Nonetheless they are required to foster telecommunications development in the country and they need to be sited close to the areas that they seek to serve.

9.19 The 2003 appeal decision considered the general location of the Eastwood Service Station to be an appropriate site for a mast. It is considered that a second mast, 25m from the first, would not amount to street clutter and would not materially detract from the street scene. The application is therefore recommended for approval.

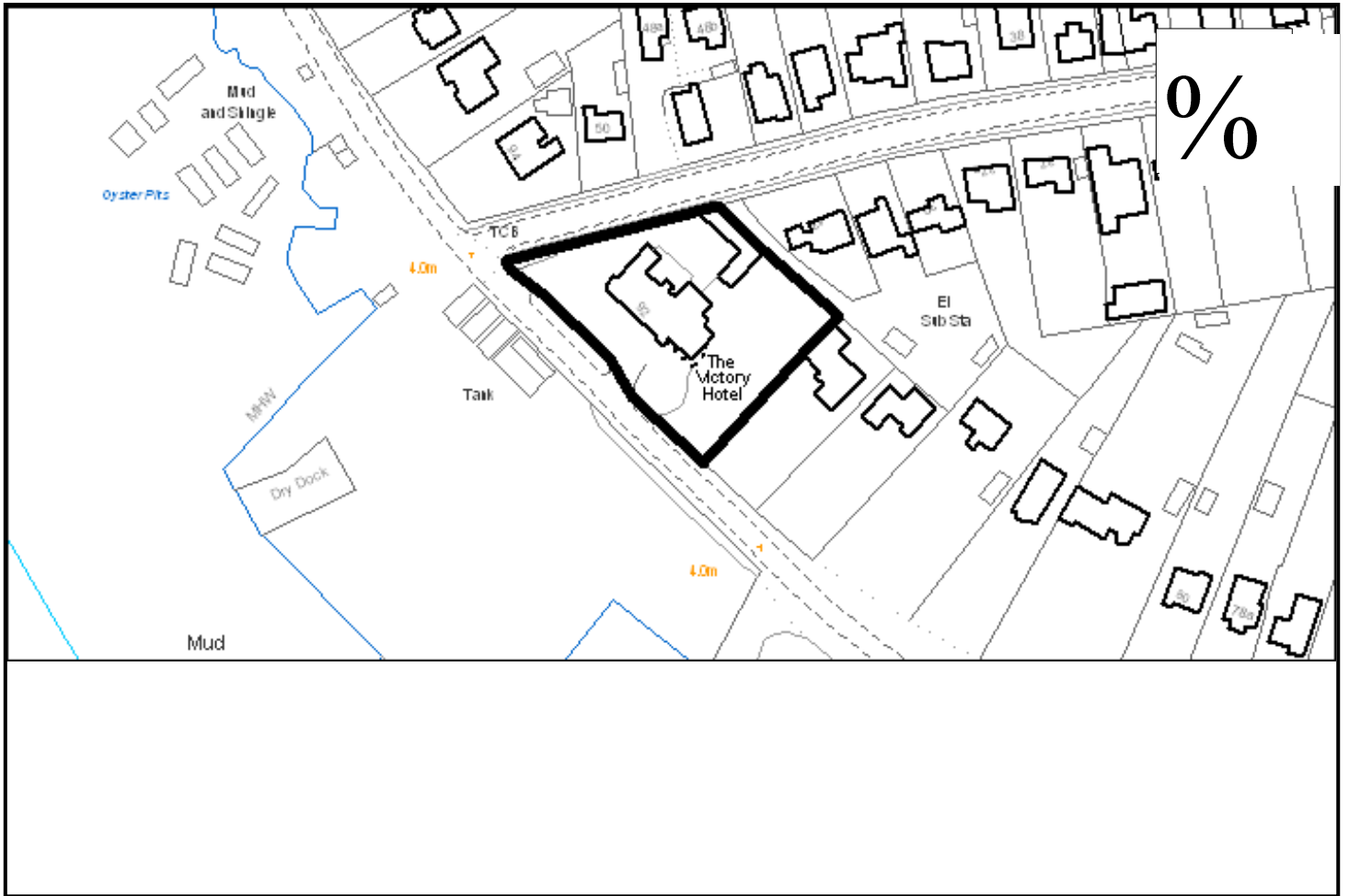
10.0 Background Papers

10.1 ARC; HH; HA; NLR

Recommendation - Prior Approval Required (Approved)

Informatives

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



Application No: 081553

Location: The Victory, 92 Coast Road, West Mersea, Colchester, CO5 8LS

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Colchester Borough Council 100023706 2008

7.3 Case Officer: Nick McKeever

EXPIRY DATE: 27/11/2008

OTHER

Site: 92 Coast Road, West Mersea, Colchester, CO5 8LS

Application No: 081553

Date Received: 1st October 2008

Agent: Mr Russell Gook

Applicant: Mr. Peter Tydie

Development: Change of use from store buildings to four ensuite bedrooms and 2no. pavillions for outside dining.

Ward: West Mersea

Summary of Recommendation: Conditional Approval

1.0 Site Description

- 1.1 The Victory Public House sits on a 0.27 ha plot of land fronting onto Coast Road, West Mersea. The property is bounded on the northern, western and south- eastern sides by residential properties fronting onto Coast Road and Victory Road.
- 1.2 The application proposes the refurbishment and conversion of a group of outbuildings located along the north- eastern boundaries. These buildings form an "L-shape" and are single storey except for a two storey building forming the link between the two arms of the "L-shape". Immediately adjacent is a private drive leading to an electricity sub-station and a bungalow. Immediately beyond this access drive lies No.43 Victory Road.
- 1.3 These existing out buildings used for storage are to be converted into 4 additional bedrooms with en-suite facilities for letting. The new bedroom facilities will have access through the rear of the host building to dining facilities. New PVCu windows and doors are to be inserted.
- 1.4 Parking is available along the existing forecourt area. The application states that there is currently space to park 40 vehicles. This provision is not to change. No additional staff are to be employed.
- 1.5 In addition two new pavilions are to be attached to the existing restaurant area to be used for al fresco dining during the summer months. These pavilions will be canvas covered structures and will be removed during the winter months.

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
Development Control Considerations - DC1
Design - UEA11& UEA13
T9 - Parking
P1 - Pollution (General)

5.0 Consultations

5.1 The Highway Authority would not wish to object to the proposals were detailed plans to be submitted indicating how the 40 space car park is to be laid out and access, and how delivery and service vehicles will park and turn clear of the highway.

6.0 Town Council's Views

6.1 West Mersea Parish Council recommend consent.

7.0 Representations

7.1 The occupiers of Nos. 48, 48A & 48B Victory Road object on the basis that there are problems with parking within Victory Road at the weekends for the visitors to the Victory PH. Brewery delivery vehicles crack out into their driveway and damage the surface of the drive. The development is likely to exacerbate these existing problems.

8.0 Report

8.1 The existing outbuildings appear to have a rather neglected appearance. The renovation and conversion will improve their appearance and give them a beneficial use without any detriment to the neighbouring dwellings, particularly with regard to the additional doors and windows. The only additional windows and doors face into the courtyard and the gardens of the Victory Public House.

8.2 The main issue, therefore, is the provision of on-site car parking and servicing facilities. The Applicant has been advised of the comments raised by the Highway Authority and asked to submit an additional drawing to show these facilities. It is hoped to have this drawing, together with further comment from the Highway Authority, available for presentation to the Committee.

9.0 Background Papers

9.1 ARC; HA; NLR

Recommendation - Conditional Approval

Conditions

1 – A1.5 (Time Limit Condition)

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

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

2 – Non Standard Condition

The use of the existing buildings hereby permitted shall not commence until details of the car parking provision, together with facilities for parking and turning of delivery vehicles within the site, have been submitted in writing to the Local Planning Authority and agreed in consultation with the Highway Authority.

Reason: To ensure that the convenience and safety of pedestrians and other road users is not prejudiced.

3 – D4.4 Bicycle Parking (satisfactory arrangements)

The building/s or land subject to this permission shall not be brought into use for the purposes hereby approved until satisfactory arrangements for the provision of bicycle parking have been agreed in writing and implemented to the satisfaction of the Local Planning Authority.

Reason: To ensure proper provision for cyclists, including parking in accordance with the Local Planning Authority's standards.



Application No: 081611

Location: Ranges Service Station, 154 Mersea Road, Colchester, CO2 8PU

Scale (approx): 1:1250

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

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

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

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

Crown Copyright 100023706 2008

7.4 Case Officer: Andrew Huntley

EXPIRY DATE: 02/12/2008

MINOR

Site: 154 Mersea Road, Colchester, CO2 8PU

Application No: 081611

Date Received: 6th October 2008

Agent: Brian Barber Associates

Applicant: Bp Oil Uk Limited

Development: Alteration and redevelopment of existing petrol filling station to provide new forecourt and canopy, extensions to the sales building and underground tanks.

Ward: Berechurch

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The site is located on the western side of Mersea Road, at the junction with Abbots Road. The area is predominantly residential in nature allow there is agricultural land to the south east.

2.0 Description of Proposal

2.1 Alteration and redevelopment of existing petrol filling station to provide new forecourt and canopy, extensions to the sales building and underground tanks.

3.0 Use Allocation

3.1 Local Shopping

4.0 Relevant Planning History

4.1 18780/4/H - Approved with conditions for a petrol service station.

4.2 18780/4/N - Approved with conditions for a self service petrol service station.

4.3 74/0748 - Approved with conditions for a car wash and new store building.

4.4 84/0305 - Approved with conditions for a retail extension.

4.5 85/0814 - Approved with conditions for the re-siting of the car wash.

4.6 85/0815 - Approved with conditions for an extension to the retail area.

- 4.7 86/0064 - Refusal for illuminated signage.
- 4.8 90/1441 - Refusal for illuminated signage.
- 4.9 90/1442 - Refusal for illuminated signage.
- 4.10 F/COL/00/1619 - Refusal for the installation of jet wash facility including associated floodlight.

5.0 Principal Policies

- 5.1 Adopted Review Colchester Local Plan:
 - DC1- Development Control considerations.
 - UEA11 – Design.
 - UEA13 – Development, including extensions, adjoining existing or proposed residential property.
 - EMP2 – Development outside employment zones.
 - P4 – Contaminated Land

Planning Policy Statement 1
Planning Policy Statement 23

6.0 Consultations

- 6.1 The Highway Authority does not wish to object to the proposals as submitted.

7.0 Representations

- 7.1 Three letters of concern/observation have been received. These relate to noise and disturbance from unloading vehicles, delivery times, highway concerns, the overhead power cables, damage to the dividing wall, hours of operation, use of an out of date contamination report, contamination, light disturbance and a request that there are meeting with the managers of the site and local residents on a periodical basis in the interest of good relations.

8.0 Report

Introduction

- 8.1 The main considerations with this application are:

- Design & Character
- Residential Amenity
- Highways
- Other Considerations

Design & Character

- 8.2 The site is in a relatively poor state and is not visually attractive. The proposed extension to the existing retail building would not harm the character or appearance of the area. It is considered the design of the extension is acceptable in this location.

- 8.3 The main visual change would be the new canopy, which would stand 1metre higher than the existing canopy. The proposed modern canopy would be an improvement over the existing canopy which is in a visually dilapidated state. It is considered that the new canopy would be acceptable in design terms and would not harm the character or appearance of the area.
- 8.4 Other works include new forecourt kerbing, relocation of the air/vac bay and new underground tanks and the removal of the diesel pump at the front of the site. These are acceptable. New floodlighting is also proposed. Further details are required in terms of their design and impact on amenity. This can be conditioned.

Residential Amenity

- 8.5 Environmental Control has raised no objections to the proposal subject to contamination conditions. The proposal is not likely to have a greater impact on neighbouring residential amenity than the existing petrol station. While concerns have been raised in terms of deliveries and hours of operation of the petrol station. The existing petrol station has no planning conditions attached to the previous consents to limit the hours of operation or deliveries. To place such restrictions now could be seen as unreasonable due to the planning history of the site. As Environmental Control have not requested hours of operation conditions to any approval then such conditions could also be considered unnecessary. Details of the floodlighting proposed will need a condition to ensure they do not have a detrimental impact on neighbouring amenity.

Highways

- 8.6 The Highway Authority has not objected to the application. While local residents have raised highway concerns in terms of the manoeuvring of HGV's as well as cars and pedestrians within the site, without a highway objection such a reason for refusal could not be sustained at appeal. This also applies to the egress of vehicles (large or small) entering and exiting the site. As such, no objections are raised in terms of highway safety.

Other Considerations

- 8.7 Three letters of concern/observation have been received. These relate to noise and disturbance from unloading vehicles, delivery times, highway concerns, the overhead power cables, damage to the dividing wall, hours of operation, use of an out of date contamination report, contamination, light disturbance and a request that there are meeting with the managers of the site and local residents on a periodical basis in the interest of good relations.
- 8.8 Most of these issues have already been considered earlier in the report. In terms of light disturbance, this can be dealt with through Environmental Control powers for statutory nuisance. A condition is attached for the details of the flood lighting in any event. In terms of the overhead cables, we have consulted the electricity company and hope to have a response in time for the Committee meeting. It would be up to the local residents and the site managers to arrange meetings. This is not a planning matter and can not be considered within this application.

Conclusion

8.9 In conclusion, the proposal is acceptable on its merits and would improve the appearance of this site.

9.0 Background Papers

9.1 ARC; HA

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

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; (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, CLR 11'.

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

Non-Standard Condition

3. 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 the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

4 - 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 the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

5 - 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 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, 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 3.

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

6 - Non-Standard Condition

Prior to the first use of the extended sales building and new underground tanks 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 2 above. This certificate is attached to the planning notification.

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

7 -Non-Standard Condition

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

Reason: To ensure that the development does not prejudice the appearance of the locality.

8 - Non-Standard Condition

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

- Existing and proposed finished contours and levels.
- Means of enclosure.
- Car parking layout.
- Other vehicle and pedestrian access and circulation areas.

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

Soft landscape details shall include:

- Planting plans.
- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- Schedules of plants, noting species, plant size and proposed numbers/densities.
- Planting area protection or decompaction proposals.
- Implementation timetables.

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

9 – Non-Standard Condition

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

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

10 – Non Standard Condition

The planning permission hereby granted requires that from the commencement of the use, all doors allowing access and egress to the premises shall be self-closing and that these be maintained as such thereafter.

Reason: To ensure that the proposal does not have a detrimental impact on neighbouring properties.

11 – Non Standard Condition

No external lighting fixtures for any purpose shall be constructed or installed until details of all external lighting proposals have been submitted to and approved by the local planning authority; and no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To protect the amenities of adjoining residents.

12 – Non Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light.' This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to [the building hereby permitted coming into beneficial use/the use hereby permitted commencing] a validation report undertaken by competent persons that demonstrates compliance with the above shall be submitted to the planning authority for approval. Having been approved any installation shall thereafter be retained and maintained to the standard agreed.

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

Informatives

LAND CONTAMINATION ADVISORY NOTE

THE SITE IS (KNOWN TO BE) CONTAMINATED. PLEASE BE AWARE THAT THE RESPONSIBILITY FOR THE SAFE DEVELOPMENT AND SECURE OCCUPANCY OF THE SITE RESTS WITH THE DEVELOPER.

a) Tiered risk assessment shall be carried out in accordance with the procedural guidance and UK policy relating to the contaminated land regime and should be in accordance with Planning Policy Statement 23 and CLR report series 1- 11.

b) Submission of reports should also be made to the Environment Agency for comment with regard to their remit to protect ground and surface waters from pollution and their obligations relating to contaminated land.

c) The Local Planning Authority will determine the application on the basis of the information made available to it. Please be aware that should a risk of harm from contamination remain post-development and that the applicant had prior knowledge of the contamination, the applicant is likely to be liable for this under Part IIA of the Environmental Protection Act 1990 and as such become an "Appropriate Person". In this event the applicant will be lawfully responsible to remove the risk posed by the contamination.

d) Equally if during any site works a pathway for any contaminant on site is created and humans, waters, property or ecological systems are exposed to this the applicant or those acting on his behalf will be liable under Part 11A of the Environmental Protection Act 1990 if the risks are not adequately addressed during the site redevelopment.

e) During investigation and remediation works the applicant and those acting on behalf of the applicant must ensure that site workers, public, property and the environment are protected against noise, dust, odour and fumes.

f) The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site, the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of at an appropriately licensed landfill site. g) The Local Planning Authority will provide a Validation Certificate mentioned in Condition --- for completion by the applicant/developer. This certificate will not only provide confidence in the site for the local authority in terms of development control and the Part IIA regime but will help discharge conditions applied by

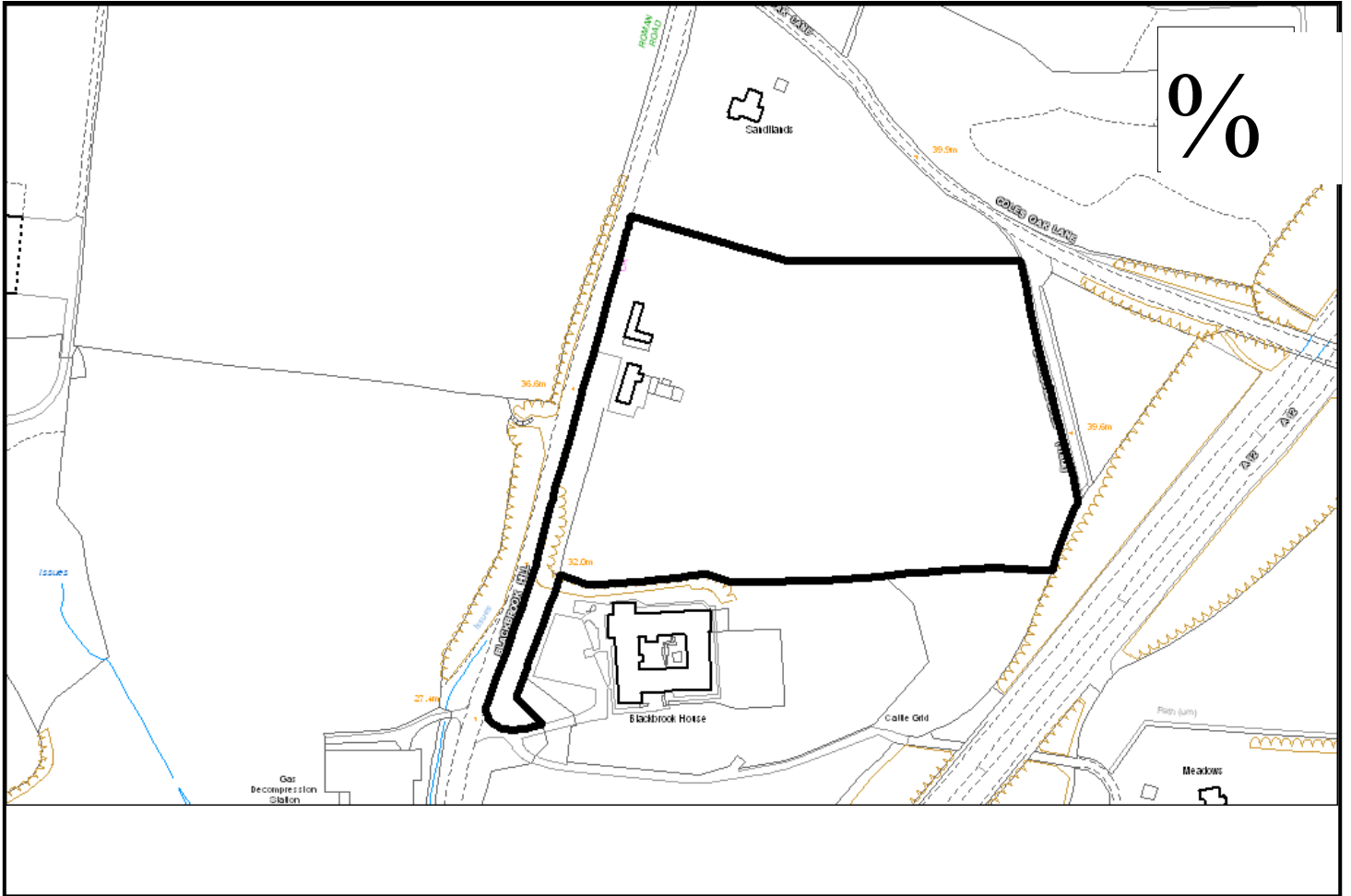
the approved inspector and also provide confidence for solicitors and homebuyers in the conveyancing process.

Non Standard Informative

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

Non Standard Informative

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



Application No: 081628

Location: Gun Hill Garage, Ipswich Road, Dedham, Colchester, CO7 6HR

Scale (approx): 1:1250

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

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

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

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

Crown Copyright 100023706 2008

7.5 Case Officer: Andrew Tyrrell

EXPIRY DATE: 21/11/2008

MINOR

Site: Ipswich Road, Dedham, Colchester, CO7 6HR

Application No: 081628

Date Received: 25th September 2008

Agent: Nigel Cant Planning

Applicant: D Hales Limited

Development: Extension to existing industrial building, use of land for stationing of 2 portacabins & 1 Shipping Container(part retrospective).

Ward: Dedham & Langham

Summary of Recommendation: Conditional Approval

1.0 Site Description

- 1.1 Gun Hill Garage is located at the top of Gun Hill, outside of the village of Dedham, adjacent to the A12. To the north is the protected Coles Oak Lane and one dwelling, Ipswich Road is to the west. The A12 is to the east of the site whilst there is a residential care home to the south.
- 1.2 The garage recently changed hands and the new owners undertook a series of works without planning permission. These works included the replacement of the perimeter fencing, landscaping, new office buildings, and the installation of 3 storey "racking" to store damaged vehicles. These works were the subject of enforcement investigation. This has resulted in this retrospective application to regularise this element of the unauthorised development.

2.0 Description of Proposal

- 2.1 The proposal is an extension to the existing industrial building on the site, and for the stationing of two portacabins and a shipping container. These are all found on the site at present.
- 2.2 Any other development that has taken place on this site is being considered separately and does not form part of this application. This proposal should be determined on its own individual merits.

3.0 Land Use Allocation

- 3.1 The site lies within the Dedham Vale Area of Outstanding Natural Beauty (AONB). It is also designated as part of a Countryside Conservation Area (CCA). Nearby, to the south west, is a Site of Importance for Nature Conservation (SINC) and immediately north of the site boundary is a protected lane, Coles Oak Lane.

4.0 Relevant Planning History

4.1 The site is a historic site. Consequently there are no conditions on the site and a lack of planning controls. Most recently, on 9 January 1995, the Council granted a 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. As this was a Certificate of Lawfulness there are no conditions attached to this, and the description is vague.

5.0 Principal Policies

5.1 Adopted Review Local Plan
DC1 – Development Control Considerations
CO2 – Dedham Vale Area of Outstanding Natural Beauty
CO3 – Countryside Conservation Areas
CO4 – Landscape Features
CO5 - Habitats
CO7 – Protected Lanes
UEA11 - Design
P1 – Pollution (general)
P2 – Light Pollution
P4 – Contaminated Land
EMP4 – Employment Uses in the Countryside

6.0 Consultations

6.1 Environmental Control have no comments to make.

7.0 Parish Council's Views

7.1 Dedham Parish Council notes on site and from photographs that the pristine condition is not conducive to the AONB and CCA. There must be an attempt to blend the development in with the environment. We wish a condition to be placed on the portacabins and in particular the shipping container that temporary permission be granted to be reviewed. The reason being that the situation on the site is regularly monitored to maintain current accommodation and minimise secure storage.

8.0 Representations

8.1 Ten letters of objection were received from local residents, Dedham West residents Association and the Dedham Vale Society. Many of the objections that people have sent in blanket objections to all three applications currently under consideration. The result is that there are several objection comments that have specific relevance to only one of the three proposals. Removing comments not directly related to the matters at hand, the relevant planning issues raised include that:

1. There would be a harmful impact on the AONB.
2. There is no overriding need for the development.
3. In accordance with Policy CO2, there are alternative sites within the Borough which should be explored first rather than develop within the AONB.
4. The height, massing and area of this proposal together with its industrial nature will have an adverse impact on its surrounding neighbours and the countryside.

5. The proposal is out of character and unsympathetic to the AONB.
6. There are questions over whether the new use is still within the granted lawful use because there are more car and parts sales rather than breaking.
7. It is important to safeguard views into the site from surrounding vantage points including Dedham Footpath 2 and Coles Oak Lane.
8. Landscaping is required around the perimeter.
9. The quantity of buildings on this site should be limited as should their use.
10. The portacabins should be painted to blend in.
11. The site should be vacated and redeveloped for high quality housing of less than 5 dwellings per hectare.

9.0 Report

Design and Appearance

- 9.1 The design of the portacabins is standard and the units are very much of an “off the shelf” nature. They are single storey units, as is the extension to the existing building. The container is also a typical shipping container.
- 9.2 The limited height and size of the portacabins and extension means that they do not have a significant visual impact beyond the site boundary. Indeed, from the majority of vantage points they are entirely screened and not publicly visible. If there are public vantage points from which these portacabins can be seen then the rest of the site, which is established historically, would have a far greater visual impact. Therefore, grounds for refusal on the basis that the design and appearance are harmful to the wider AONB area would be unlikely to withstand an appeal in your officer’s opinion.

Amount and Scale

- 9.3 The amount of physical structures being placed on the site is not disproportionate to the size of the site and main use as a whole. There was previously a larger permanent building at the front of the site which has been demolished. Also, there was a portacabin used on the site as an office. This remains on the site in a dilapidated state and is not used at present. On this basis, the amount of new development is not considered to be excessive.
- 9.4 It is considered that the redundant portacabin seen at the site visit should be removed to ensure that any unnecessary physical structures are removed from the site. There is also a shipping container in the north-east corner which does not appear to be used, although this is not known for sure. The removal of redundant structures requires a condition to secure this, and as the application is retrospective it will need to have a time limit for removing unnecessary structures. The suggested time limit is within 28 days. Should any additional accommodation ever be needed then a new application will be required at that time.

Use

- 9.5 The use of the portacabins is for office and storage space associated with the existing use on the site. There is no separate business operation proposed nor is it feasible that these portacabins would be subdivided into a separate business entity within the heart of this industrial site. Should a separate use ever be proposed in a future date then this should be determined on its merits at that time, as any change of use from an ancillary use to the rest of the site would require planning permission.

Other Matters

- 9.6 The comments of the objectors need to be addressed. These are discussed in turn below. It is important to understand that the wider objections in principle to the existence of this site should not be merged into the planning consideration of this proposal as it seems that some of the objectors have offered blanket objections unrelated to the specific proposal at hand. There are also two other applications that were submitted at the same time as this application for other development on the site, however these have been made invalid as a consequence of a site visit by Tree and Landscaping Officers who require an arboricultural impact assessment. These applications will now follow to committee in due course.
- 9.7 As stated above it is not considered that two portacabins, one shipping container and the extension to the existing building will have an adverse impact beyond the site boundaries. They have limited height and massing which forms a very small part of the whole site and use. As such, the harm caused is not significant enough to warrant the refusal of this application (which should be considered on its own merits). The objections against the portacabins and extension that state this are believed to be more applicable to the other parts of the unauthorised development not being considered herein.
- 9.8 Policy CO2 requires development within the AONB to demonstrate a need to be sited in that area, with the objective of placing new development outside the AONB where there is less potential for harm. However, this is not a new use or site. The site is established and thus, the relevance of this policy to a refusal of this application is contrived. The policy was not written to be applied in this manner to further development on existing sites and using it in such a way would be oversimplifying or misinterpreting its use in light of other material planning considerations.
- 9.9 For similar reasons to the above, it is not considered that these modest buildings will be significantly out of character and unsympathetic to the AONB. Their impact is very limited.
- 9.10 The next point of question is whether the new use is still within the use granted lawful use because there are more car and parts sales rather than breaking. Whilst it is true that the nature of the operation changed when the site fell into new ownership, the basic nature is not significantly different. The site is still predominantly used for the storage of damaged cars. Of the cars inspected by enforcement and planning officers prior to the applications being made all of the cars on the site were damaged. There is still a breaking operation on the site and it is understood that the percentage of breaking will increase as the Environment Agency licences related to oil traps and other issues are reviewed. The Environment Agency were present at an earlier site

visit and this was discussed at the time. New licences were required for the new owners. However, to avoid digressing too far, the simple answer is that car breakers yards, by their very nature, sell items from the site. Therefore, the lawful use must, by common sense and default, have accepted that there would be a retail element to the use. This has certainly grown since the change of ownership; however, the fundamental nature of the use has not changed. Growth does not constitute development in these planning terms.

- 9.11 The point has also been made that if the use has changed then the Council should seek a regularisation application. On the basis outlined above, there would be a weak argument against granting this, and as such the Enforcement team has concluded that it would not be worthwhile pursuing this point of investigation if it were felt necessary in the first instance (which it is not). The crux of the matter is that this site predates any designation as an AONB and has not been subject to planning control in the past, which significantly hinders planning controls in the current age. Unfortunately, this means that there is an established industrial use at a site where we would not nowadays allow a new development to be sited.
- 9.12 The vantage points around the site, including Dedham Footpath number 2 and Coles Oak Lane, should not be detrimentally affected by this specific development.
- 9.13 Landscaping can not be required around the perimeter as a consequence of the impact of these four structures, which have no impact outside the perimeter. Screening can only reasonably be required where it is needed as a direct result of the proposal.
- 9.14 The quantity of buildings on this site is limited in that any other buildings would need a new application. The use of the buildings can be conditioned.
- 9.15 Because of the lack of visual impact it is not reasonable to request that the portacabins should be painted to blend in. This type of condition would not pass the six relevant tests for conditions.
- 9.16 Finally, the notion that the site should be redeveloped for housing has no relevance to determining this application.

10.0 Background Papers

10.1 ARC; HH; PTC: NLR

Recommendation - Conditional Approval

Conditions

1 - Non-Standard Condition

The permitted development shall not be subdivided from, or occupied at any time other than for purposes ancillary to, the principal use 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.

2 - Non-Standard Condition

The individual portacabins and container as detailed in the submitted application and hereby permitted shall be removed as soon as reasonably practical after that portacabins or container is no longer needed for purposes ancillary to the principal use of the site known as Gun Hill Garage, Ipswich Road, Dedham.

Reason: To ensure that no unnecessary buildings remained on the site after their use ceased, as the site lies within an Area of Outstanding natural Beauty and outside of any development boundary.

3 - Non-Standard Condition

Any redundant portacabins, containers or other buildings or structures shall be removed from the site within 28 days, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the permitted development does not unnecessarily add to the amount of built development within this rural site and that unnecessary buildings that have been seen at the site, such as the old portacabins, are removed from the site.

Informatives

PLEASE NOTE that is observed that other unauthorised works, including the creation of a second access from Ipswich Road, have taken place recently and that these require a planning application to be submitted or for the relevant unauthorised development to be restored to its previous state.



Application No: 081733

Location: 41 London Road, Marks Tey, Colchester, CO6 1DZ

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Colchester Borough Council 100023706 2008

7.6 Case Officer: Sue Fenghour

EXPIRY DATE: 22/11/2008

OTHER

Site: 41 London Road, Marks Tey, Colchester, CO6 1DZ

Application No: 081733

Date Received: 26th September 2008

Agent: Mr Raymond Stemp

Applicant: Mr P Hiller

Development: Erection of a canopy and use of site as a car wash facility and for car sales.

Ward: Marks Tey

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application is being put for Committee consideration as an objection has been received from a local resident.

2.0 Site Description

2.1 This is a retrospective application for the erection of a canopy in connection with the use of the site as a car wash facility and for car sales at 41 London Road, Marks Tey.

2.2 The site had previously been fully occupied as a car sales forecourt under planning approval ref: COL/05/1161 with a portacabin to the rear used as an office. Two businesses now operate from the site. On the frontage to London Road there remains a small area for car sales for approximately 12 vehicles whilst the remainder of the site is now used as a car wash. A canopy has been erected in front of the portacabin, which continues to be used as an ancillary office. Access to the site is unchanged, from London Road and Mill Road.

(Note: A separate advertisement application has also been submitted).

3.0 Land Use Allocation

3.1 Village Envelope

4.0 Relevant Planning History

4.1 COL/94/1255 - Temporary permission originally granted for the use of the land for the sale of cars and the stationing of a portacabin (office) on 30 March 1995.

4.2 COL/00/0940 - A further renewal of temporary permission was granted on 22 October 2000.

4.3 COL/05/11612 - A permanent permission was granted for car sales on 31 January 2006.

5.0 Principal Policies

5.1 Adopted Review Borough Local Plan
DC1 - General
P1 - Pollution
EMP4 - Employment in Village Envelopes

6.0 Consultations

6.1 The Highway Authority does not wish to object to the proposals as submitted.

6.2 Environmental Control comments as follows:-

“This appears to be a very low key operation and not likely to give cause for complaints. Environmental Control would wish to be consulted again if the operation were to be intensified at this site. We therefore recommend that only hand held pressure washers or other equipment is used.

Environmental Control also request details on the disposal of the waste water which will be contaminated with detergent and a degree of oil.

These details should also be approved by the Environment Agency. We would recommend that the hours of operation be limited to Monday-Friday 08.30 - 18.00 hours and Sundays and Public/Bank Holidays to 09.00 - 17.30 hours to minimise the impact on local residents.”

6.3 The views of the Environment Agency are awaited.

7.0 Parish Council's Views

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

8.0 Representations Received

8.1 One objection has been received from a resident who lives to the rear of the site. Whilst accepting the car wash use concern is expressed about possible problems of noise and the potentially dangerous exit onto Mill Road.

9.0 Report

9.1 The site has a long established use for car sales and lies within an area of mixed character where there has historically been a number of business uses along the road frontage. There is residential development to the rear and Members will recall that at Committee in October planning permission was granted for the redevelopment of the adjacent site at

33-37 London Road for 32 residential units. However, whilst the Council has always been committed to the comprehensive redevelopment of the area, in the absence of any such scheme for this site it is considered that the current dual usage is relatively low-key in comparison with the previous use of the whole of the site for car sales.

9.2 Furthermore, the Highway Authority has raised no objections to the proposed use and there is room to accommodate waiting vehicles within the site itself. On the issue of noise nuisance, the use of hand-held pressure hoses should present few problems and hours of operation will be restricted to day time working.

10.0 Background Papers

10.1 ARC; HH; HA; NR; PTC; NLR

Recommendation - Conditional Approval

Conditions

1 – A1.5 (Time limit condition)

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

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

2 – Non Standard Condition

The use hereby permitted shall not be carried out otherwise than between the hours of 8.30 a.m. and 6.00 p.m. on Monday to Saturdays and 9.00 a.m. - 5.30 p.m. Sundays and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenity of nearby residential properties.

3 – Non Standard Condition

The car wash facility hereby approved shall only use hand held pressure hoses.

Reason: To safeguard the amenities of nearby residential properties.

4 – Non Standard Condition

Within 1 month of the date of this approval a scheme shall be submitted to the Local Planning Authority giving details of the disposal of waste water. The scheme as approved by the Local Planning Authority shall be implemented to its satisfaction within a previously agreed timescale.

Reason: In order to prevent the contamination of the groundwater.

5 – Non Standard Condition

No bunting or other decorative embellishment shall be displayed on any part of any building or any part of the site without the prior written approval of the Local Planning Authority.

Reason: In the interest of visual amenity.

6 – Non Standard Condition

No vehicles shall be repaired, serviced, or maintained on any part of the premises.

Reason: In the interests of highway safety and to avoid doubt as to the scope of the permission hereby granted.

7 – Non Standard Condition

The access arrangements shown on the approved drawing no. 08/6014/01 shall be retained.

Reason: In the interest of highway safety.

8 – Non Standard Condition

No gates shall be erected without the prior written approval of the Local Planning Authority.

Reason: In the interests of highway safety and visual amenity.

9 – Non Standard Condition

No alterations shall be made to the existing means of enclosure to the site, without the prior written approval of the Local Planning Authority.

Reason: To safeguard the amenity of nearby residential properties.

10 – Non Standard Condition

Any lighting of the development shall be located, designed and directed or screened so that it does not cause avoidable intrusion to adjacent residential properties, nor constitute a traffic hazard, nor cause unnecessary light pollution outside the site boundary. Avoidable intrusion means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Highway Engineers.

Reason: To avoid unnecessary light pollution and in the interest of local amenity.

11 – Non Standard Condition

Prior to being discharged into any watercourse, surface water sewer or soakaway, all surface water shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. No roof water shall pass through the interceptor.

Reason: To prevent pollution of the water environment.

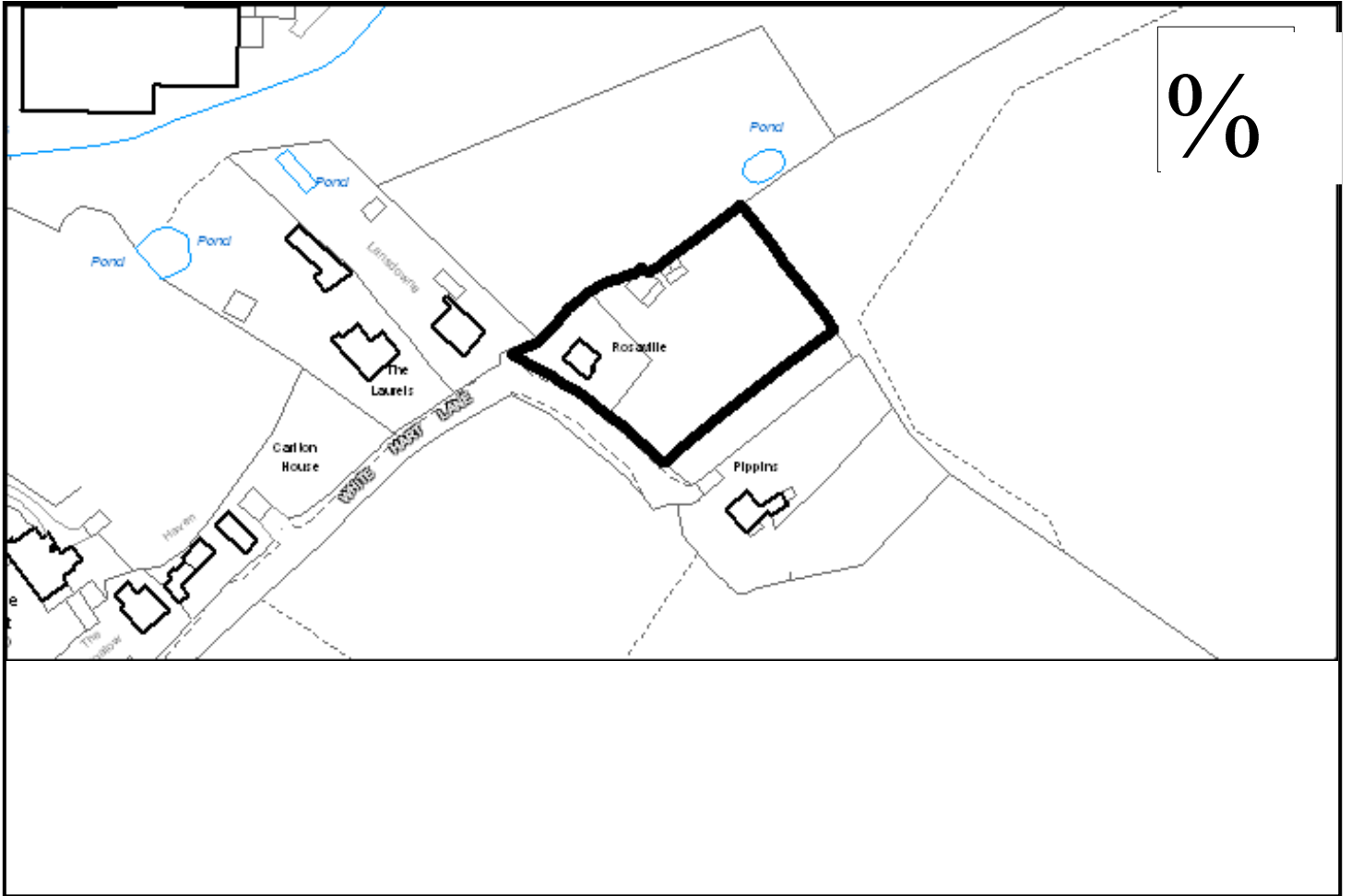
Informatives

1 – Non Standard Informative

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.

2 – Non Standard Informative

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



Application No: 081740

Location: Rosaville, White Hart Lane, West Bergholt, Colchester, CO6 3DB

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Colchester Borough Council 100023706 2008

7.7 Case Officer: Jane Seeley

EXPIRY DATE: 25/11/2008

Site: Rosaville, White Hart Lane, West Bergholt, Colchester, CO6 3DB

Application No: 081740

Date Received: 29th September 2008

Agent: Adp Limited

Applicant: Mrs C Fluck-Offord

Development: Proposed change of use of land to accommodate extension of domestic garden

Ward: W. Bergholt & Eight Ash Green

Summary of Recommendation: Conditional Approval

1.0 Site Description

- 1.1 The application site is in the countryside outside the Village Envelope. The site, together with the land immediately to the north which supports the dwelling house, is likely to have been used at some time as a small holding; there is extensive land and a variety of run down agricultural type buildings. The OS plan suggests a limited curtilage for the dwelling however for the most part there are no features to mark a residential boundary. Land to the north of the dwelling, also in the applicant's ownership, has a number of trees.
- 1.2 The site frontage with White Hart Lane (a private road) is part open part hedged. The southern boundary of the site has a recently erected 1.8 close boarded fence. The rear and north boundaries have established tree planting and hedging.
- 1.3 There have been a number of applications for a replacement dwelling culminating in the grant of planning permission in July this year for a replacement dwelling on the site of the existing house. This permission has not been implemented. Submitted plans identified a curtilage for the replacement dwelling and a condition is imposed to require boundary treatment along this boundary.
- 1.4 This application proposes the use of land to the south and west of the dwelling and outside the previously defined curtilage as an extension to the domestic garden.

2.0 Land Use Allocation

- 2.1 No notation

3.0 Relevant Planning History

3.1 071811 Replacement Dwelling - Refused (02 August 2007)

3.2 073062 Replacement Dwelling - Withdrawn

3.3 081018 Replacement Dwelling - Approved (04 July 2008)

4.0 Principal Policies

4.1 Adopted Review Borough Local Plan
DC1 - Development Control considerations
H12 - Extending gardens into open countryside
CO1 - Rural Resources
CO4 - Landscape features

5.0 Consultations

5.1 None

6.0 Parish Council's Views

6.1 No comments received

7.0 Representations

7.1 Three emails commenting:

- 1) The land subject of this application was cultivated by previous occupiers as garden land for flowers and vegetables.
- 2) Concerned that the grant of this does not lead to additional housing in White Hart Lane
- 3) Permission has been granted for the erection of a dwelling to replace Rosaville, if this application is granted there may be a new application to build a replacement dwelling in a different location on the site and the plot may be subdivided and permission for an additional house submitted.
- 4) This application could set a precedent that will lead to a raft of applications for change of use on adjacent and surrounding land followed by a host of planning applications for houses.

8.0 Report

8.1 Due to the undefined nature of the residential curtilage for Rosaville a drawing was submitted during the determination of the application for a replacement dwelling earlier this year to establish a curtilage for the proposed dwelling. The land the subject of this application seeks to extend the curtilage of the dwelling to the south and east and must be considered in relation to Policy H12. This Policy has 3 criteria:

- a) that there is no material adverse impact on the surrounding countryside,
- b) it would not lead to a loss of good agricultural land or seriously interfere with a neighbouring agricultural enterprise
- c) it would not set a precedent for unacceptable extensions to gardens at one or more neighbouring properties.

8.2 White Hart Lane has residential development along the north and east sides and culminates with a dwelling (Pippins) at the end of the lane. On the opposite side of the lane to the dwellings is agricultural land. A strip of land unrelated with any dwelling remains between the application site and Pippins immediately to the south of the application site. This land was previously associated with Rosaville. The garden of Pippins is a similar depth to that proposed for Rosaville. Given the residential nature of this side of White Hart Lane and the fact that there is another dwelling (Pippins) beyond the site it is not considered that the change of use would have any adverse impact on the surrounding countryside.

8.3 The site may have been used for horticultural/agricultural in the past but this use has long ceased. It is not considered that there is any loss of agricultural land and its change of use would not appear to interfere with any agricultural use of adjacent land. Other than the strip of land to the south there is no land on this side of the Lane which is likely to be proposed for change of use. Accordingly it is not considered that the proposal is contrary to Policy H12.

8.4 Neighbour's concerns relate to the change of use leading to the repositioning of the replacement dwelling or the possibility of additional development along White Hart Lane. The application site and surrounding land is outside the West Bergholt Village Envelope and is therefore protected from new residential development other than replacement dwellings or dwellings required to support agricultural enterprises. This position would not be altered by the grant of planning permission for change of use to garden land. If there was an application for the relocation of the replacement dwelling this would need to be assessed on its own merits in relation to the replacement dwelling Policy H9.

8.5 A condition to control buildings on the extended garden is suggested.

9.0 Background Papers

9.1 ARC; 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 – C10.18 (Tree and Hedgerow Protection: General)

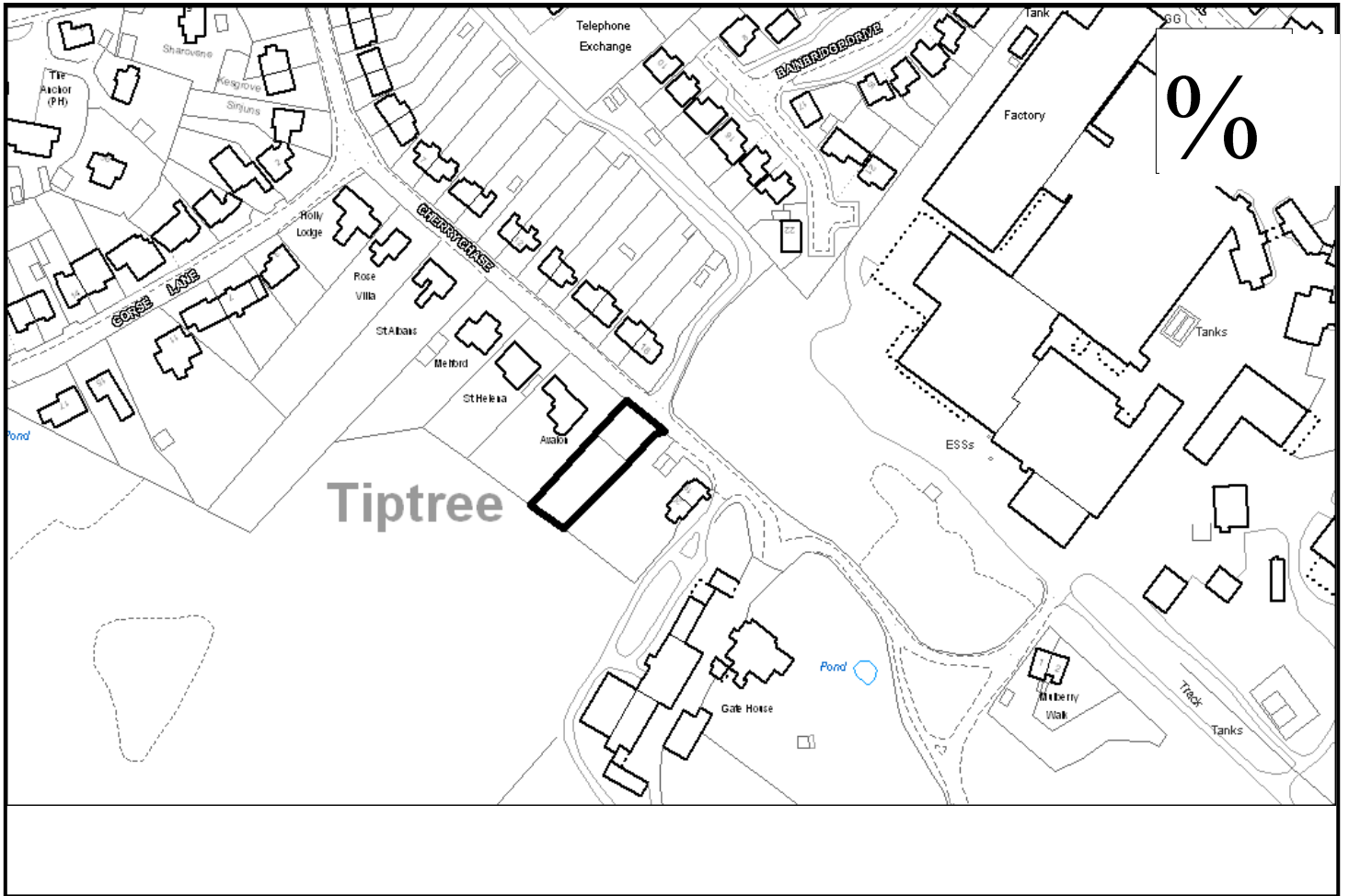
All existing trees and hedgerows shall be retained, unless shown to be removed on the approved drawing. All trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its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

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

3 – Non Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any Order revoking and re-enacting that Order with or without modification), no freestanding buildings shall be erected on any part of the site and no accesses or hardstandings created without the prior written permission of the local planning authority.

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



Application No: 081758

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

Scale (approx): 1:1250

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

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

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

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

Crown Copyright 100023706 2008

7.8 Case Officer: Nick McKeever

EXPIRY DATE: 10/12/2008

MINOR

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 Site Description

- 1.1 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".
- 1.2 To the east is a factory owned and run by Wilkin & Sons Ltd. Immediately to the north west of this factory are more dwellings.
- 1.3 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.
- 1.4 There is large, mature Horse Chestnut tree immediately adjacent to Cherry Chase on the eastern boundary.
- 1.5 This application proposes the addition of a conservatory to the rear of a dwelling approved under planning permission 081069

1.6 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.

2.0 Land Use Allocation

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

3.0 Relevant Planning History

3.1 081069 – Proposed detached dwelling with detached garage - Approved

4.0 Principal Policies

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

5.0 Consultations

5.1 The Highway Authority has no objections.

5.2 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.

6.0 Parish Council's Views

6.1 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.

7.0 Representations

7.1 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.

8.0 Report

8.1 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.

8.2 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."

8.3 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.

8.4 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.

8.5 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.

9.0 Background Papers

9.1 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.

20 November 2008

Report of	Head of Environmental and Protective Services	Author	Vincent Pearce ☎ 282452
Title	Planning application determination performance monitoring for the period (1 April – 31 October 2008), an appeals analysis update (1 July – 30 September 2008) and a planning agreement performance update (1 April – 31 October 2008)		
Wards affected	Not applicable		

This report provides details of the performance of the Planning Service. It highlights the welcomed fact that performance in all 3 categories of National Indicator 157 (speed of decision) exceeded the Government's specified targets.

1.0 Decision Required

1.1 Members to note excellent performance record of the Planning Committee and Planning Service.

2.0 Summary of performance report (Headlines)

- ◆ 'Major' performance) exceeded the Government target in the period 1 April 2008 - 31 October 2008. 😊
- ◆ 'Minor' and 'other' performance also significantly exceeded the relevant Government targets in the same period. 😊
- ◆ The number of planning applications received has dropped 😞
- ◆ Appeals record outstanding (formerly BV204) 😊
- ◆ Delegated decision rate is excellent 😊
- ◆ £6.9 millions received in S106 financial contributions so far in the current financial/municipal year. (1 April 2008 – 31 October 2008) 😊

3.0 Reasons for Decision

3.1 This report is presented as part of the Service's ongoing commitment to comprehensive performance management and in response to Members' desires to monitor the performance of the Planning Service as judged against key National Indicators. (NI's)

4.0 Alternative Options

4.1 Not applicable

5.0 Supporting Information

5.1 None

6.0 Performance Assessment

6.1 This report will review performance against the following performance indicators

- NI157 (8 and 13 week performance)
- Former BV188 (delegated decisions)
- Former BV204 (appeals upheld)

■ NI 157 (8 and 13 week performance)

6.2 Key performance levels over the period were as described below:-

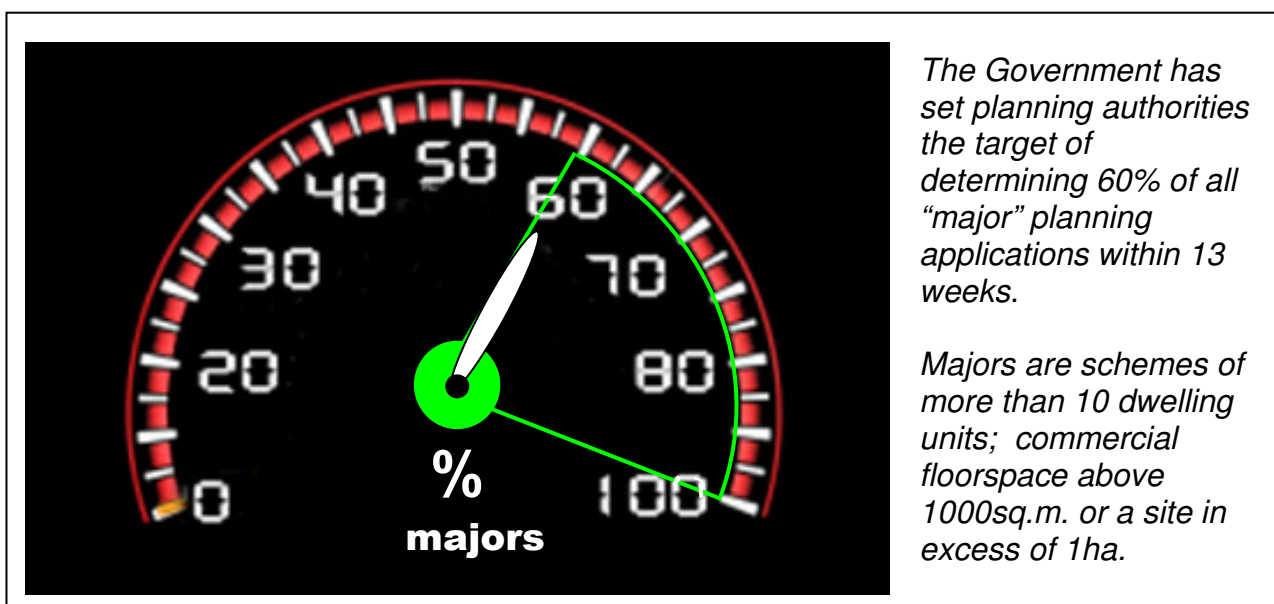


Figure 1: NI 157 “majors” performance 1st April 2008 – 31st October 2008

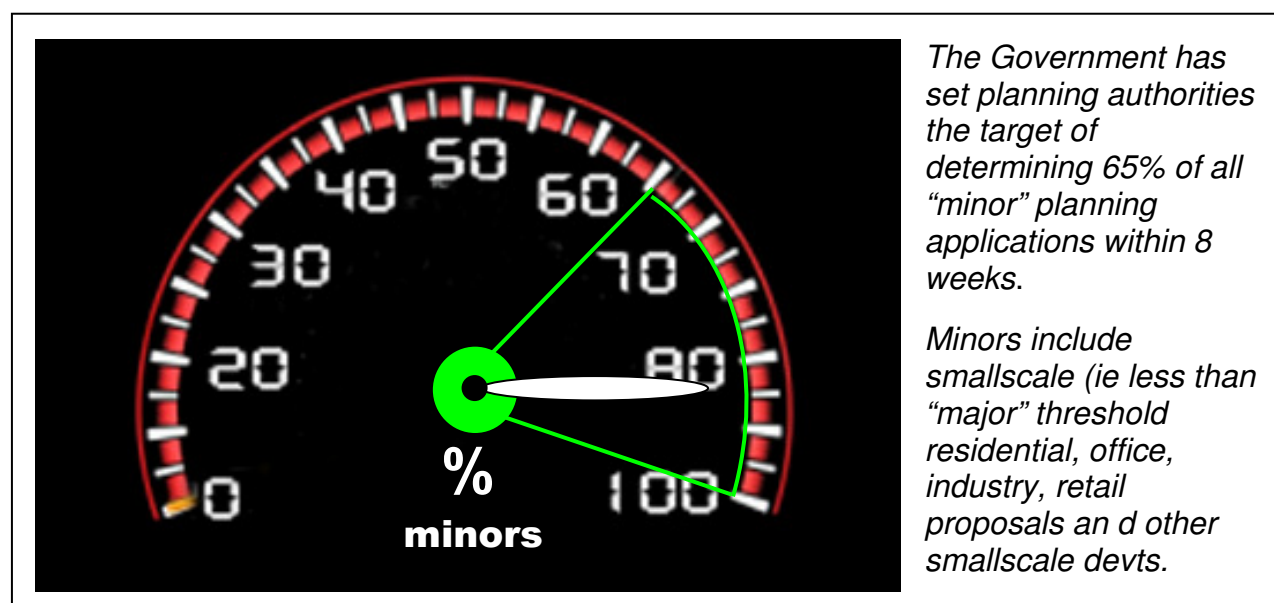


Figure 2: NI 157 “minors” performance 1st April 2008 – 31st October 2008

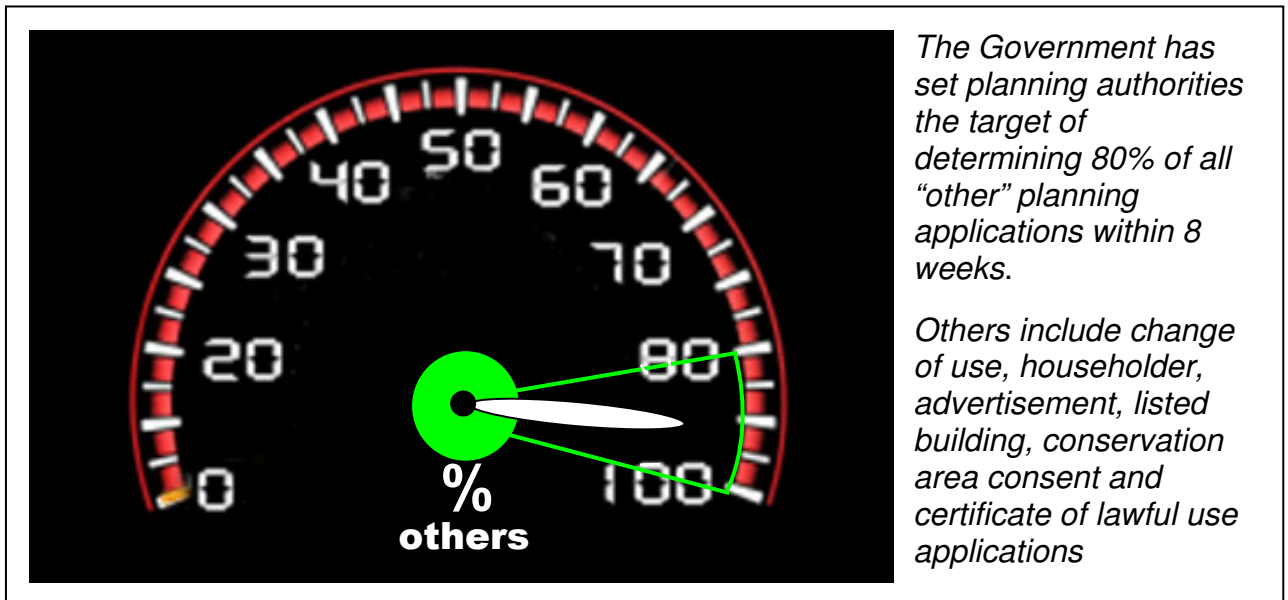


Figure 3: NI 157 "others" performance 1st April 2008 – 31st October 2008

- 6.3 The most welcomed aspect of the Planning Service's improved performance is the significant rise in "major" performance. In the late spring and summer of 2008 major performance levels dipped just below and at some points dropped well below the 60% level . Performance in the other two key areas continues to go from strength to strength and unparalleled levels of performance are now being achieved. Householder application performance now stands at 96.3%. Whilst "householder" performance measurements do not figure specifically as a National 157 Indicator, Members will be aware that householder applications form the largest group of applications handled by the Council. (variously between 60 and 70% of the total). As performance edges closer and closer to 100% it is suggested that more and more residents wishing to extend their properties are getting a quick decision. As the vast majority of these decisions are ultimately favourable it is hoped that the planning process is not delaying realisation of householders' dreams and projects.
- 6.4 This improvement has been brought about in a number of ways and by the combined action of a number of factors. These include:-
- A reduction in the number of new applications being received. This has created the capacity to deal with current workloads more efficiently
 - Increased performance management within the Service
 - Recovery of capacity after the summer holiday period
- 6.5 Members should note that in the coming month a number of complex draft S106 Agreements on older applications are expected to be successfully concluded. Consequently the associated planning permissions will be issued and these 'bad statistics' will have an immediate and detrimental impact on 'major' performance.
- 6.6 It is expected that it will be difficult to recover fully from this adverse impact as the number of new "majors" being received has been steadily reducing as a result of the credit crunch and the associated economic downturn. This means that there will be a reducing opportunity to off-set poor performance figures with good ones for the foreseeable future (12 months).

6.7 This collective downturn in fortunes is being experienced nationally and local planning authorities across England are finding it difficult to sustain above target “major” performance levels where they have a backlog of older more complex S106 Agreements going through the system.

■ **former BV. 188 (Delegated decisions)**

6.8 During the period 1st July 2008 – 30th September 2008 the overall level of delegated decision making was 89.6%. The Government’s target is 90% and so performance sits comfortably at a level which the Government deems to indicate effective and efficient decision making.

■ **trends in application numbers received**

6.9 The number of planning applications being received has been declining since April 2008 and this reflects the slow down in the housing market and all the economic effects associated with what is now described in common parlance as the “credit crunch”

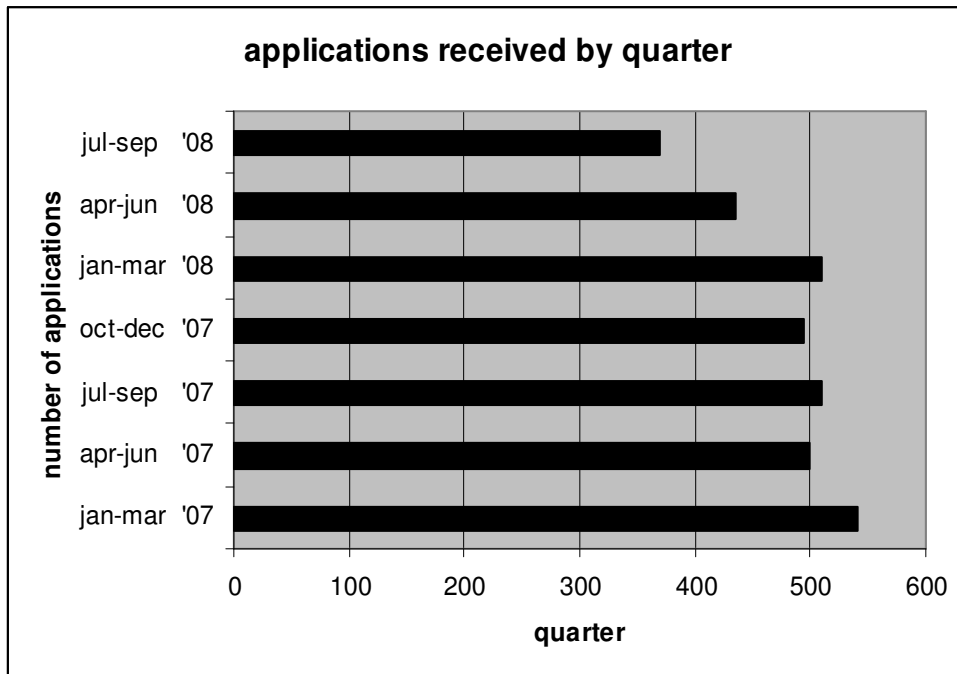


Figure 4: Applications received 1st April 2008 – 30th September 2008

■ **Planning Service response to the slow down**

6.10 It has been agreed that some planning officers from the Planning Service will be temporarily seconded to work on Planning Policy projects associated with the Core Strategy and other key initiatives where required in order to assist in the delivery of key pieces of major policy work. Many of these ordinarily would have necessitated bringing in additional resource within the Policy Service. However by utilising skills already available within the Planning Service best use of existing resources can be achieved.

6.11 Members of the Committee will be pleased to be given the assurance that delivering excellent performance and service remains the priority for the Planning Service. Any secondments will be carefully managed in both services.

■ Committee business

6.12 The Planning Committee workload since 1st April 2008 has been as follows:-

Date of Committee	No. of Applications	No of Apps deferred by Committee	No of Apps overturned at Committee	No of Apps called in by Councillors
24 April 2008	18	1	0	0
15 May 2008	18	0	0	0
29 May 2008	13	1	0	0
12 June 2008	5	1	0	0
26 June 2008	9	0	0	0
10 July 2008	12	0	0	1
24 July 2008	13	1	1	2
7 Aug 2008	8	0	0	3
21 Aug 2008	Cancelled due to lack of applications			
4 Sept 2008	4	2	0	0
18 Sept 2008	8	1	0	1
2 Oct 2008	14	0	0	1
16 Oct 2008	14	2	1	2

Figure 5: Committee activity 1st April 2008 – 30th September 2008

6.13 The length of the Planning Committee agendas in October rose significantly compared to those in August and are now the longest since May 2008. Unfortunately it is not likely that this indicates an encouraging underlying improving trend in the buoyancy of the local economy. It is more likely that it reflects the fact that planning officers created capacity by clearing applications before their summer holidays and then ensured that cases did not go out of time after their return to the office. (hence an October hiatus.)

■ former BV. 204 (Appeals ‘Upheld’) (between 1st July 2008 and 30th Sept. 2008

6.14 In the period 1st July 2008 – 30th September 2008 seven planning appeal decisions were received.

6.15 All seven were dismissed (i.e. the Council’s case was supported and the decision to refuse was endorsed by the Inspector). **The Council’s success rate was therefore 100%. This is significantly better than the national average which tends to sit in the mid 60’s%.**

6.16 Performance indicator (former BV204) measures the number of ‘upheld’ appeals against the total number of appeal decisions expressed as a percentage. The Government is seeking to ensure that planning authorities do not raise their NI157 performance simply by unreasonably refusing applications within the target time of 8 or 13 weeks.

6.17 **Our ‘upheld’ rate (ie where the Council loses the appeal) of. 20% over the year 1st April 2008 – 30th September 2008 is excellent. This means that so far this financial/municipal year the Council is winning on average 4 out of every 5 appeals. The national average for losing appeals is approximately 36%.**

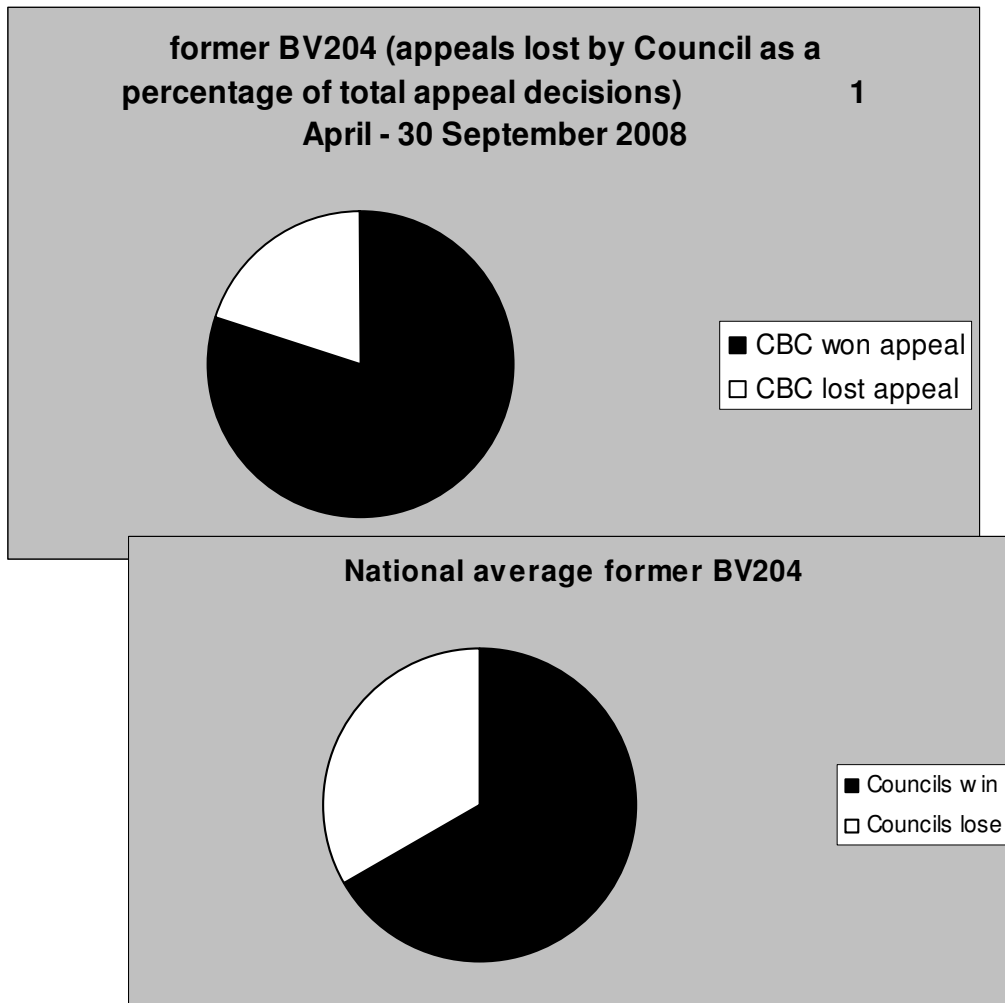


Figure 6: former Bv204 comparison with national average

■ former BV. 204 (Appeals ‘Upheld’) (between 1st July and 30th September 2008

6.18 For the first time ever no analysis is required for the quarter because of the 100% success rate.

7.0 News

7.1 As of 1st October 2008 the new General Permitted Development Order (GPDO) changes came into force. These are intended to reduce the planning restrictions for house owners and increase the range of development that can be built without the need for planning permission. (known as “permitted development”).

7.2 On 1st October 2008 the Planning Service moved into its post -‘Service Review’ structure. The former ‘Fastrack’, ‘Regen’ and ‘C&D’ (Conservation & Design) Teams have been dissolved and the Service now has two Development Management Teams which deal with all applications no matter the size or complexity. The two teams are NW and SE. (A map showing the boundaries is included at the end of this report). It also has a Design & Heritage Unit (DHU) which contains the specialist functions of the Service. (Conservation, Urban Design, Trees, Landscape and Countryside Projects).

7.3 Use of the National Planning Application form (1APP) is now well embedded in the Service's procedural regime and applicants and agents seem to have accommodated the changes relatively easily although the new forms are more complex.

7.4 The Council's Submitted Core Strategy has been found to be sound and by the end of this year it is expected that it will become a key material consideration in the determination of planning applications.

8.0 Section 106 Agreement monitoring

8.1 **£6,857,462 (£6.9million)** was received through development via from S106 contributions triggered during the period 1 April 2008 – 31st October 2008.

8.2 **£4,206,324 (£4.2million)** of S106 contributions were spent over the same period.

8.3 Members will of course understand that there tends to be a lag between receipt and expenditure because of factors such as:-

- Long project implementation lead-in times
- The need to match-fund or build up funds on major projects over time

9.0 Financial implications

9.1 The £6.9m of S106 financial contributions will continue to have a significant impact on the Borough Council's and County Council's ability to deliver infrastructure for the people of Colchester.

9.2 **Not unexpectedly those engaged in the development industry in Colchester are, like those anywhere else in the country, anxious that the 'credit crunch' is having a detrimental impact on the buoyancy of the residential market. The present slow down in the build-out rate will slow down the rate of receipt of S106 payments as it will take longer for developers to reach key trigger dates.**

(eg: for the sake of this example assume a developer is required to make a £1million community hall contribution payment on occupation of the 100th residential unit in a 300 unit development. If the market is buoyant and it only takes 1 year for the developer to build and sell 100 units and for them to be occupied the Council and local community would expect the £1million contribution to be received within 12 months of commencement of the development. If however the market slows right down and the developer is only able to sell 34 units per year then the Council and local community would have to wait 3 years for the same contribution).

10.0 Strategic Plan References

10.1 Improving the performance of the Planning Service (Development Control) is identified as a priority within the Strategic Plan and the Service's performance contributes, amongst other things, to the broad objectives of raising the performance/reputation of the Council, contributing towards making the Borough clean and green, promoting economic prosperity, tackling deprivation and making Colchester the prestige town of East Anglia.

11.0 Risk Management

11.1 There are no risk management issues to report this quarter.

12.0 Publicity Considerations

12.1 None

13.0 Human Rights Implications

13.1 None.

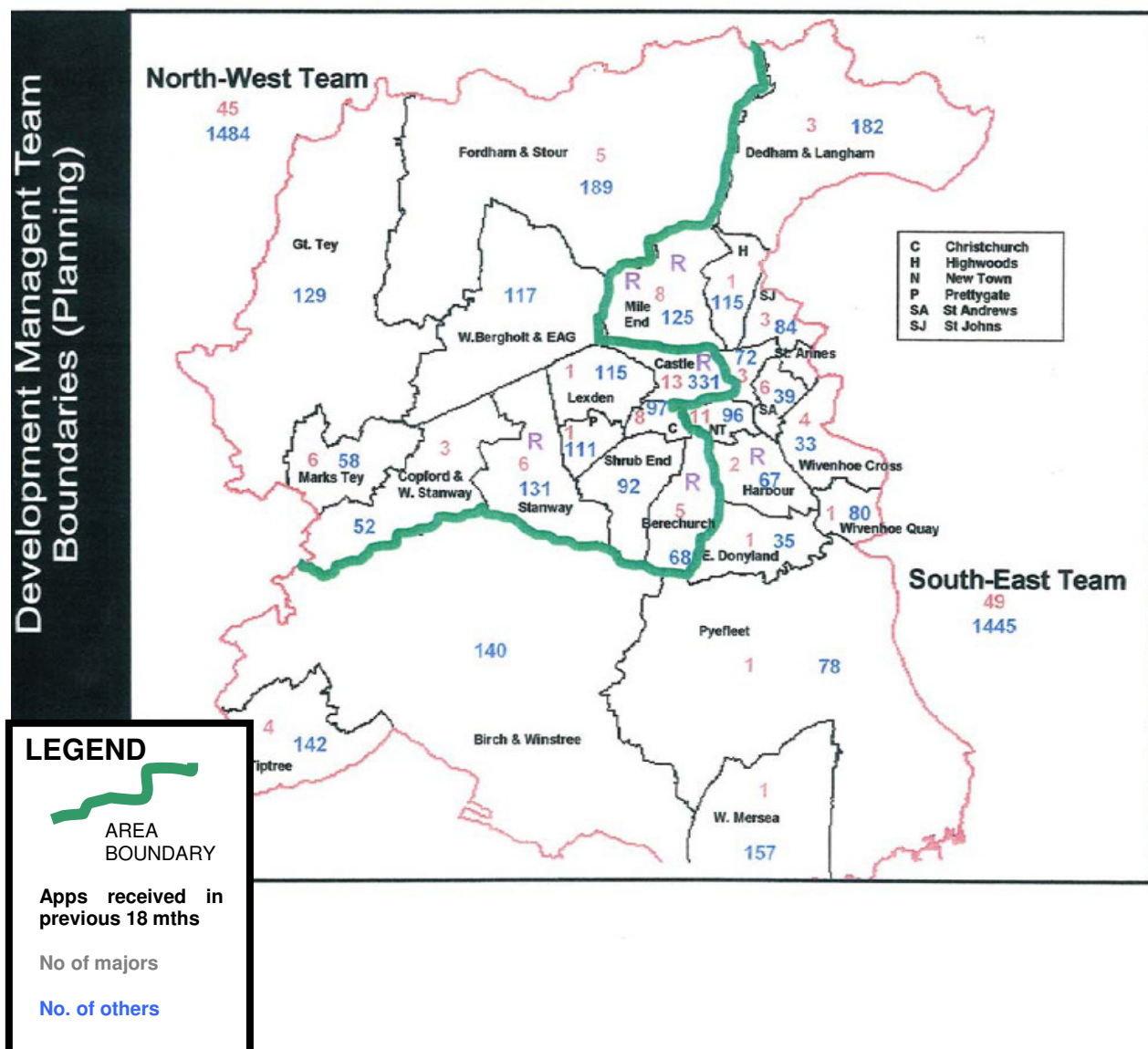
14.0 Community Safety Implications

14.1 None.

15.0 Health and Safety Implications

15.1 None.

Figure 7: MAP SHOWING NEW DEVELOPMENT MANAGEMENT TEAM AREAS



AMENDMENT SHEET

Planning Committee
20 November 2008

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

**LATE AMENDMENTS HAVE BEEN INCORPORATED INTO THIS
AMENDMENT SHEET AND ARE SHOWN AS EMBOLDENED**

7.1 081789 – 21 Osborne Street, Colchester

A very late letter of representation has been received from the planning agent “Andrew Martin Associates” regarding this application (this letter is included below). It is unclear why this has occurred so late on, given that these matters were discussed with the applicant’s original agent “The Johnson Dennehy Planning Partnership” two weeks ago.

“I refer to the matter above, which is due to come before you at the meeting of the Planning Committee on 20 November 2008. The proposal is for the change of use of the premises from retail use as a wine bar. The Officers support the proposal and recommend planning permission, which is entirely appropriate, as the proposal fully complies with the policies of the Local Plan. However, Officers are recommending that the permission is made temporary, for a period of three years., The reason for this, as set out in the Officer’s report is to ensure that the use of the premises does not undermine the objectives of the Vineyard Street Regeneration Area.

When imposing planning conditions, a planning authority is required to set out its reason for imposing the condition. In this case, the reason given is:

‘This Permission has been granted to give this building a beneficial use, up until such a time as the regeneration of the area commences’;

To impose such a condition for the reasons stated is entirely inappropriate and has not been properly justified in planning terms. The reason given suggests that the Officers know, with some degree of certainty that the regeneration works will commence in three years time. The Officers have no basis for such certainty. There is presently no planning approval in place for the Vineyard area. The land involved still needs to be assembled and acquired, presumably via a Compulsory Purchase Order, before any works can formally commence. The timetable for these works is unknown.

The building concerned presently exists; it has been empty for a year and has been actively marketed. It can lawfully be used as a shop or business premises without further consent. Were it to be used in either of these uses, then it would still need to be acquired at some point in the future for the regeneration proposals to be implemented. Even if it remained vacant, the building and land would still need to be acquired. Therefore, what possible reason could there be for the Council to be concerned that the use as wine bar, would pose a material threat to the objectives of the St Botolphs Regeneration Proposals. In what way would the use of the building present a difficulty?

It is the Officer's intention to engineer a situation where the building can be acquired in a vacant condition, i.e. once the temporary permission has expired; simply to reduce its market value when compulsory purchase takes place, then the planning authority will be acting in a commercial capacity, rather than as the planning authority. Acting in this way would exceed the authority's planning powers and the decision would not be firmly based on the material planning considerations that presently prevail.

Without a planning permission for the regeneration of the area, there is no planning case for a temporary permission. Furthermore, the Officers have not fully explained in their report to Members, why the permanent use as a wine bar, will undermine the Council's objectives for the area; what is the evidence for this concern. To take a decision with this level of information would make the eventual consent vulnerable to legal challenge.

The prospective operator of the wine bar itself will need to invest some £100,000 to convert the building for trade. It is unreasonable to expect someone to make such an investment for a trading opportunity of only three years. Were the temporary permission to be issued, then the building is likely to remain empty, which is harmful to the character and appearance of this part of the town centre. Surely, the Council is seeking to encourage such investment rather than discourage it.

For the reasons set out above, may I request that the Members of the Planning Committee give this matter careful consideration and allow the Change of Use to a wine bar as recommended, however, as a permanent consent and strike out the planning condition restricting the permission to a life of three years.

A copy of this letter has been sent to the Planning Manager and the Head of Legal Services."

7.2 081808 – Land adjacent to Eastwood Service Station, Ipswich Road, Colchester

One of the points raised by the representations was that there is a potential risk from transmitter masts sited close to petrol filling stations, resulting from a vulnerable zone within which a potential hazard could arise if it were within a flammable area.

The agent has responded with some “*technical details with regards to any potential risk of ignition and or an explosion. Firstly Radio Frequency (RF) energy does not in itself cause ignition. The ignition mechanism is not the RF energy itself but where there are two conductors (or a single conductor with a discontinuity) and there is the possibility of arc between them which then ignites the explosive atoms here. So basically for ignition to occur there has to be the following conditions*

- (a) *a metallic object with a discontinuity sufficiently close to the antenna***
- (b) *a sufficient RF field strength to create an arc - such a field strength will only exist very close to the antenna.***
- (c) *a flammable atmosphere in the vicinity. Such a flammable atmosphere only exists within approx 25cm of the filling nozzle”***

In this instance the proposed mast is approximately 6m from the nearest point of the forecourt and on highway verge.

The HSE were consulted and whilst no formal response has been received, they have stated over the telephone that they would have no comments to make and do not have an issue with telecommunication masts.

7.3 081553 – 92 Coast Road, West Mersea

The application has been withdrawn at the request of the applicant.

7.4 081553 – 154 Mersea Road, Colchester

Additional Condition:

The permission shall not be open for business, nor shall supplies of fuel or goods be delivered thereto 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.

Additional Information:

- 1. One of the letters received relating to the application was from Ward Councillor Dave Harris.**
- 2. No response has been received from the electricity company. However, it is considered unlikely that this proposal would have any impact on the overhead power lines.**

7.5 081628 – Ipswich Road, Dedham

Since the report was written an additional comment has been received. This comment was as set out below:

“With reference to the above application which is due to be heard on the 20.11.2008, I understand that there will be a request to defer the hearing of this application in order that two other matters, namely the placing of tiers of stacked motor vehicles and a perimeter fence and possibly to include the second access from Ipswich Road, are heard jointly. Hearing the applications singularly and not as a whole will detract from the overall affect of these applications unless they are seen in the context of their effect together on this site. The sub planning committee of Dedham Parish Council fully support this request.”

In response to this comment, your officers would advise against deferring the application. There should be no confusion that this application does not affect the outcome of either of the other applications which will also be considered on their own merits at such a time as a decision is due. At present the Council has made these invalid on the grounds that they did require landscaping surveys which have not been provided. It would not be appropriate to defer this application because of concerns over the impact of the car racking or perimeter fence, which will be dealt with separately in due course once the requested information for these applications has been received and they are made valid again. If deferment is considered it should be for the correct planning reasons, no to allow consideration alongside the other applications. It is noted that a site visit has already taken place.

Further to the conditions on the agenda, an additional condition is recommended for this application.

Non-Standard Condition (Temporary Permission)

The two portacabins and shipping container hereby permitted shall be removed on or before 21 November 2013 and the land restored to a condition in accordance with a scheme of work submitted to, and approved in writing by, the local planning authority.

Non-Standard Reason: This is the basis upon which the application was submitted, as indicated by the supporting information, and to ensure that further consideration can be given to more suitable structures if these were proposed on a permanent basis in due course.

7.8 081758 – 19 Cherry Chase, Tiptree

Item withdrawn from the agenda by Head of Environmental and Protective Services in order that additional information may be obtained regarding the health of the horse chestnut tree.



Application No: 071859

Location: The Sportman Club, 2A Grove Road, Tiptree, Colchester, CO5 0JP

Scale (approx): Not to scale

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Colchester Borough Council 100023706 2006

7.9 Case Officer: Sue Fenghour

Site: 2A Grove Road, Tiptree, Colchester, CO5 0JP

Application No: 071859

Date Received: 9th July 2007

Agent: Mr L Hunnaball

Applicant: The Sportman Club

Development: Retrospective application for two windows onto enclosed patio.

Ward: Tiptree

Planning Report Introduction

This retrospective application for 2 windows onto a screened patio results from complaints received relating to noise and privacy issues from a private members sports and social club operating at 2A Grove Road, Tiptree.

Site Description

The premises are located at first floor above a small group of shops and are bounded on the southern side by 3 flats. Following new smoking legislation an adjacent patio area was brought into greater use and enclosed by a screen (planning approval COL/06/1152). The resultant building works and a number of unauthorised changes to the exterior of the building, together with a change of ownership have resulted in problems of noise and loss of privacy to adjacent flat dwellers.

Land Use Allocation

Rural District Centre
Tiptree Central Area Enhancement

Relevant Planning History

93/0812 - Change of use from warehousing to social and sports club - Approved 5 August 1993.

COL/06/1152 - Erection of privacy enclosure - Approved 21 August 2006.

072184 - Variation of opening hours - Refused 17 October 2007

072623 - Variation of Condition 2 of COL/05/1456 relating to ownership - Approved December 2007

Principal Policies

Adopted Review Borough Local Plan
DC1 - Overall Development Control Policy
P1 - Pollution issues

Human Rights Implications

In the consideration of this developments impact on Human Rights particularly, but not exclusively, to:

Article 8 - The right to respect for private and family life,

Article 1 of The First Protocol (Protection of Property) - The right to peaceful enjoyment of possessions,

it is considered that:

The proposal would have an impact on an individual's human rights, but having considered the level of impact and in the general interest of the public and in accordance with planning law, the proposal is considered to be reasonable.

Community Safety Implications

Help to reduce the fear of crime
Help to reduce the occurrence of crime

Positive	Negative	Nil Effect
		3
		3

The development would be expected to achieve 'secured by design' in terms of its layout

Yes	No	Not Applicable
		3

Consultations

Environmental Control comment as follows:-

Complaints have been received about noise nuisance from these windows and doors. They are in close proximity to bedroom windows of flats that are in the same level. A comprehensive list of conditions are recommended to control the problem.

Parish Council's Views

Tiptree Parish Council raises no objections.

Representations

Complaints have been received from two of the neighbouring flats (both also lodged the original complaints leading to the submission of the current application) objecting on grounds of noise from the windows, pollution from smoke, the ineffectiveness of the tinted glass screen and loss of privacy and a loss of property value.

Report

The Social Club operated for many years under the auspices of Anchor Press without any real problem. The current situation stems largely from a change in ownership and operating patterns and associated works to the patio area. Two new windows and repositioned entrance doors onto the patio have caused an increase in noise together with an ineffective link to the screening resulting in privacy issues.

Revised plans have been received which largely resolve the problems. The windows will be changed to be of a non-opening design and the double doors will be fitted with hydraulic door closers. The privacy screen has already been changed to present a completely opaque finish.

Inevitably there will be some increase in noise levels with the greater use of the patio, but it is considered that the above measures, together with maintenance of the existing opening hours (072184), should ensure these are kept to an acceptable level. Furthermore, the problems of privacy are now also resolved.

Background Papers

ARC; HH; CAA; NLR; PTC

Recommendation - Approve conditional

Conditions

1 - A2.2 Development to Accord With Revised Plans

The development hereby permitted shall be implemented in all respects strictly in accordance with the revised drawings, dated/received 30 January 2008.

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

2 - Non-Standard Condition

The windows marked in blue on the returned approved plan shall be changed to be of a non-opening type within one month of the date of this approval and retained as such thereafter.

Reason: To safeguard the amenities of nearby residential properties.

3 - Non-Standard Condition

The doors marked in green on the returned approved plan shall be fitted with hydraulic door closers, within one month of the date of this approval and retained as such thereafter.

Reason: To safeguard the amenities of nearby residential properties.

4 - Non-Standard Condition

The opaque finish to the privacy screen, marked in yellow on the returned approved plan, shall be maintained in perpetuity.

Reason: To safeguard the amenities of nearby residential properties.

5 - Non-Standard Condition

The open patio area shall not be used for live or amplified music.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and unacceptable disturbance.

6 - Non-Standard Condition

The open patio area shall not be used for the consumption of alcohol after 23.00 hours on any day.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and unacceptable disturbance.

7 - Non-Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light'. This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to the use hereby permitted commencing a validation report undertaken by competent persons that demonstrates compliance with the above shall be submitted to the Local Planning Authority for approval. Having been approved any installation shall thereafter be retained and maintained to the standard agreed.

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

8 - Non-Standard Condition

In order for the use hereby permitted to operate the level of internal amplified sound shall be restricted by the installation and use of a noise-limiting device. Details of the device shall be submitted to and approved by the Local Planning Authority and thereafter installed in compliance with the agreed details prior to the commencement of any activities involving the emission of amplified sound. Thereafter such devices shall be retained and operated in accordance with the approved specification and working order.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and unacceptable disturbance.

