

# Planning Committee

Town Hall, Colchester  
16 February 2012 at 6.00pm

## **This committee deals with**

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

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

# Information for Members of the Public

## Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.colchester.gov.uk](http://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 refer to Attending Meetings and "Have Your Say" at [www.colchester.gov.uk](http://www.colchester.gov.uk)

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

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## **Material Planning Considerations**

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

- planning policy such as adopted Local Development Framework documents, for example the Core Strategy, Development Plan Documents (DPDs) and the Site Allocations DPD, Government guidance, case law, previous decisions of the Council
- design, appearance and layout
- impact on visual or residential amenity including potential loss of daylight or sunlight or overshadowing, loss of privacy, noise disturbance, smell or nuisance
- impact on trees, listed buildings or a conservation area
- highway safety and traffic
- health and safety
- crime and fear of crime
- economic impact – job creation, employment market and prosperity

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

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

## **Human Rights Implications**

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

## **Community Safety Implications**

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

## **Equality and Diversity Implications**

All applications are considered against a background of the Council's Equality Impact Assessment (EIA) Framework in order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination. The legal context for this framework is for the most part set out in the Equality Act 2010.

# COLCHESTER BOROUGH COUNCIL PLANNING COMMITTEE 16 February 2012 at 6:00pm

## Members

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

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

## Agenda - Part A

(open to the public including the media)

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

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

## Pages

### 1. Welcome and Announcements

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

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

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

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

## **2. Have Your Say!**

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

## **3. Substitutions**

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

## **4. Urgent Items**

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

## **5. Declarations of Interest**

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

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

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

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

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

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

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

public interest.

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

## **6. Minutes**

**1 - 5**

To confirm as a correct record the minutes of the meeting held on 19 January 2012.

## **7. Planning Applications**

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

1. 112480 14 Honeywood Road, Colchester, CO3 3AS  
(Christ Church) **6 - 16**

Minor material amendment to permission 111842 (erection of a detached dwelling house with associated parking facilities) to permit the addition of a single storey garden room.
2. 111415 10 Williams Walk, Colchester, CO1 1TS  
(Castle) **17 - 45**

Application for a new planning permission to replace an extant planning permission ref: 081053 in order to extend the time limit for implementation for a further 3 years. Resubmission of 110817.
3. 111725 13 Park Road, Colchester, CO3 3UL  
(Lexden) **46 - 54**

Proposed single storey extension providing additional bedroom and change of use from dwelling house (C3) to nursing home for people with physical or mental difficulties (C2). (Resubmission of application number 081154 after expiration).
4. 112266 Kingsford Business Park, Layer Road, Layer de la Haye,  
CO2 0HT  
(Shrub End) **55 - 61**

Change of use of Unit C (No.7) from B1 Office use to D2 Assembly and Leisure use by Roman River Valley Nature Photography and the erection of a hide.
5. 112321 Papillon House, Balkerne Gardens, Colchester, CO1 1PR  
(Castle) **62 - 78**

Listed building application for removal of single glazed sliding sash windows to south elevation of Papillon House and replacing with new conservation style double glazed sliding sash windows in white painted timber. Replacement of white painted single glazed doors fitted in 1980/81 with new white painted timber double glazed doors all using 'Slenderglaze' double glazing units.

6. 112430 16 Rosetta Close, Wivenhoe, CO7 9RX  
(Wivenhoe Cross)

**79 - 84**

Proposed first floor extension and associated alterations.

**8. Revocation of Deemed Consent // Storage of hazardous substances at Rowhedge Wharf**

**85 - 87**

See report by the Head of Environmental and Protective Services.

**9. Exclusion of the Public**

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





## PLANNING COMMITTEE 19 JANUARY 2012

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

*Substitute Member :-* Councillor Nigel Chapman  
for Councillor Christopher Arnold

*Also in Attendance :-* Councillor Mike Hardy

(\* No formal site visits were undertaken for this Committee.)

### 105. Minutes

The minutes of the meeting held on 5 January 2012 were confirmed as a correct record.

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

### 106. 110953 Church Lane, East Mersea

The Committee considered an application for the conversion of existing barns and stables to form eighteen self-catering holiday accommodation units and the erection of fourteen new holiday cottages. The Committee had before it a report in which all information was set out.

Nick McKeever, Planning Officer, and Andrew Tyrrell, Development Manager, attended to assist the Committee in its deliberations.

Councillor Sutton attended and, with the consent of the Chairman, addressed the Committee. He was concerned that the additional dwellings in a community with only 100 dwellings would provide no planning gain for the community because of their designation as holiday accommodation, and this situation could be repeated elsewhere. He also considered that the inclusion of the school bus in the travel plan did not accord with the objective to inform potential users of the accommodation about alternative forms of transport available.

Members of the Committee expressed disappointment that only one cycle parking space per five pitches was provided and queried whether there were any designated parking spaces for disabled users. They sought confirmation that the accommodation would comply with the requirements of the Disability Discrimination Act (DDA) and

would be built to environmentally sustainable standards. Reference was made to the potential for the new Community Infrastructure Levy to provide some benefit to the community as a result of developments. Holiday accommodation was outside the scope of Section 106 contributions and members requested that the Spatial Policy Team review the current policy.

The Planning Officer explained that there was no indication on the plans of any disabled parking spaces for this accommodation, but within the entire site there were three disabled parking spaces; an amended plan showing disabled parking spaces could be requested. In terms of the DDA issue, details of access to the accommodation by wheelchair users could be required by condition. In terms of the travel plan, although it was likely that people would travel to the site by car, there was a bus service accessible in West Mersea which was within walking distance and cycle facilities were available on site. In respect of any environmental credentials, it was explained that this was an issue for building regulations.

*RESOLVED* (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for the submission of an amended plan showing the provision of a minimum of three disabled parking spaces and for confirmation that the holiday accommodation would be DDA compliant.
- (b) Upon receipt of the required amended plan and confirmation of DDA compliance, the Head of Environmental and Protective Services be authorised to approve the application with conditions and informatives as set out in the report together with an additional informative to advise the applicant to ensure that the development complies with 'green' standards.
- (c) A note be passed to the Spatial Policy Team to ensure that consideration be given to holiday accommodation being included in the Local Development Framework and the Community Infrastructure Levy regarding any financial contributions and benefits to the community.

#### **107. 111981 Colchester Town Station, St Botolph's Circus, Colchester, CO2 7EF**

The Committee considered an application for the development of the Colchester Town Station approach area including the removal of the parking area, to form a new pedestrian space. Works to include new paving, lighting and bespoke artwork for seating, guarding/gates and feature rails inset within the paving. The Committee had before it a report in which all information was set out.

John More, Planning Officer, and Andrew Tyrrell, Development Manager, attended to assist the Committee in its deliberations.

The planning officer responded to the Committee's concerns expressed at the meeting on 15 December 2011. He explained that funding for additional cycle racks had been identified they could be located on a piece of land currently occupied by the

Paxman's crank shaft. The crank shaft could be relocated to a suitable place within the new Town Station Square and secured by condition, subject to the consent of the Engineers' Society and with the agreement of the landowner. Functional seating would be provided within the new square in place of the granite blocks, the design subject to agreement with the railway authority and secured by condition. In respect of the drop off point, the Highway Authority had advised that it would not be possible to provide a drop off point adjacent to the Town Station Square at this stage. The provision of a drop off point would be considered within any future updating of the layout of the roundabout and members requested that they be consulted on any such updating. As an interim measure, a drop off point could be provided within Britannia Car Park with appropriate signage provided from the Town Station.

In addition, the planning officer explained that the Colchester oyster had been the inspiration for the design of the floor of the square in shape, pattern, texture and colour and members requested that an interpretation board be erected to explain this connection.

*RESOLVED* (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for submission to the Secretary of State to determine whether the application would be called in.

(b) Upon receipt of confirmation that the Secretary of State did not wish to call in the application, the Head of Environmental and Protective Services be authorised to approve the application with conditions and informatives as set out in the report together with additional conditions to confirm the relocation of the crank shaft and in respect of functional seating. Conditions 10 and 11 to become informatives with an additional informative requiring an investigation into an interpretation board to explain the design concept of the square.

#### **108. 111725 13 Park Road, Colchester, CO3 3UL**

The Committee considered an application for a proposed single storey extension to provide an additional bedroom and a change of use from dwelling house (C3) to nursing home for people with physical or mental difficulties (C2). This application was a resubmission of an extant permission 081154 which had expired. The Committee had before it a report in which all information was set out.

John More, Planning Officer, attended to assist the Committee in its deliberations. He corrected an error within the report in respect of five letters of objection which had been received and not three as stated. He referred to an objection by one of the local secondary schools.

Mrs Shirley Martin addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Her primary concerns were in respect of noise and nuisance emanating from the nursing home. Specifically she was disturbed by thumping noises and flooding across her drive emanating from the laundry room which was in operation at evenings and weekends. She wanted

there to be separate sewage systems. She also suffered from screaming noises at any time and car engines and radios at night when staff were being dropped off and collected. The area had once been a quiet residential area but she found the noise, nuisance and disturbance from the nursing home unbearable and she did not want any increase in capacity to be approved. She also referred to issues in connection with security fences, gates and their maintenance.

Robert Brain addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He proposed that they commission a visual inspection of the drains and add a condition for sound proofing the laundry room. The application included a larger en suite room for someone who required a hoist as they were bed-bound. The application would also provide improved kitchen and office facilities for the manager and would improve the appearance of the building.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. He referred to the impact on residential amenity caused by noise and disturbance; the family home having a change of use to a residential home in 1996. He referred to the history of noise emanating from the building and believed the solution should be available from Environmental Control. He was aware that nothing could be done regarding the behaviour of residents. He believed that the borough council had a responsibility to provide this group of the community with appropriate accommodation. However, whilst some groups could fit into a residential area others may not. He asked that the application be refused because it was the only way to limit the disturbance to neighbours.

The planning officer explained that this application would trigger a change of use because of the additional bedroom. The noise issues had been raised in 2008 but the dwelling could be occupied by a large family with similar issues. A condition to secure sound proofing of the laundry room as offered by the applicant was supported. He explained that it was only when matters had gone above and beyond what could be tolerated that powers were available to take action to control late night noise from staff arriving and leaving. The sewage system was not an area that this council could control because it was a private road with a private sewage system, but it was considered unlikely that one additional resident would make the situation significantly worse. The suggestion that a visual inspection of the sewer be undertaken was supported and could be added as a condition.

Members of the Committee established that there would be a total of three toilets for all the residents and staff, and concerns were voiced that the care home lacked adequate facilities for their patients. There appeared to be no clarification on the specific needs of residents. Some members considered the use to be inappropriate for a residential area, the amenity space to be insufficient for the number of residents, and disputed the facility being in close proximity to a bus corridor. Noise from a large family was not comparable to the continuous noise which was currently occurring from this property. Complaints from neighbouring residents about the sewage system and soapy water flooding out had been known about for a number of years and members were concerned that nothing had been done about this situation by those who were responsible for the facility; it appeared that they were not taking the neighbour's

concerns seriously. There were concerns regarding the impact on amenity and harm to the human rights of residents. Members hoped the applicant would take this opportunity to build a relationship with the neighbours.

Some members of the Committee did not believe that this application would result in a significant deterioration in the conditions for neighbours. The two measures referred to were supported and could improve the situation but nothing could be done to change the behaviour of the residents. Reference was made to inspection visits made by the Care Quality Commission and it was suggested that Mrs Martin could record any disturbances as evidence and pass it onto the Commission.

The Development Manager agreed that there were some areas where further clarification was needed and suggested that the application be deferred to obtain such clarification so that any decision could be based on full and accurate information; there were some differences between a care home, a nursing home and a home in multiple occupation, and the nature of the use required clarification. He believed there might be scope for Environmental Control to legislate over the noise issues.

Members suggested that as part of the clarification exercise, an approach be made to agencies who deal with such institutions in connection to the standards required.

*RESOLVED* (UNANIMOUSLY) that the application be deferred for additional information regarding drainage, noise and use types.

**Councillor Laura Sykes (in respect of the agent for the applicant being her neighbour) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**109. 112155 21 Parkfield Street, Rowhedge, CO5 7EL**

The Committee considered an application for the removal of an existing single storey rear extension and a replacement single storey rear flat roof extension. 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.



**Application No:** 112480

**Location:** 14 Honywood Road, Colchester, CO3 3AS

**Scale (approx):** 1:1250

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# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **16 February 2012**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

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

**7.1 Case Officer: Mark Russell**

**Due Date: 24/02/2012**

**MINOR**

**Site:** 14 Honywood Road, Colchester, CO3 3AS

**Application No:** 112480

**Date Received:** 30 December 2011

**Agent:** Mr Steve Norman

**Applicant:** Mr William Anthony

**Development:** Minor material amendment to permission 111842 (erection of a detached dwelling house with associated parking facilities) to permit the addition of a single storey garden room.

**Ward:** Christ Church

**Summary of Recommendation:** Conditional Approval subject to prior completion of Legal Agreement

## 1.0 Introduction

1.1 This application has been called in to the Planning Committee by Councillor Hunt with the following explanation:

'I am very reluctant to have to do this so soon after the committee passed the original plan, but I feel I must as the applicant is taking liberties with the system. I therefore ask for the application to be called in on the following grounds.

The revised plan increases the footprint of the building by something like 25% - from 80m<sup>2</sup> to 100m<sup>2</sup>. Clearly, this is not a minor amendment but an attempt to get a larger house as originally proposed. The effect of increasing the footprint is to reduce further the garden from 160 to 140m<sup>2</sup>, which is way out of kilter with the size of garden in surrounding properties. The extension would require the removal of more large shrubs and/or trees that currently afford a measure of amenity and privacy to the neighbours at 4 Ireton Road. The immediate (almost instant!) request for an amendment to an approved plan, which could and should have been considered as a whole by the Planning Committee, could be seen as a blatant attempt to manipulate the planning process. ‘

- 1.2 Whilst the application is described as a ‘Minor material amendment’ procedurally it is a fresh application in which the entire proposal must be considered and conditioned if Members are approving it. In reality, Members will need to recall that the scheme was substantively agreed to in November 2011, and it is just the amended items which require consideration.

## **2.0 Synopsis**

- 2.1 The following report describes an application to erect a dwelling on a corner plot. Specific to this application, the proposal for a ground floor addition as well as some other small adjustments, is looked at. Objections are detailed and discussed; these relate to the principle, design, character of the area, trees and residential amenity.

An amendment to the scheme, following a site visit to the only affected neighbour, and discussions with the Planning agent, is then described, and it is concluded that the development is acceptable in the light of adopted policy.

## **3.0 Site Description and Context**

- 3.1 The site comprises part of the existing garden of 14 Honywood Road as it turns the outside of a corner onto Ireton Road. This area, whilst outside of any Conservation Area and not containing any Listed Buildings, is of a high architectural quality with a mixture of spacious late Victorian/Edwardian properties, many of which are of the Arts and Crafts style. The site is at the brow of the land which rises markedly from Maldon Road and also gently along Ireton Road.
- 3.2 Since the granting of permission under application 111842, the site has been cleared and fenced off from the host dwelling, and a connection made to the sewer. Two small trees have also been removed.

## **4.0 Description of the Proposal**

- 4.1 The proposal is to erect a four bedroom house on the western half of the site. The style of this would reflect that around it, with a double bayed frontage addressing Ireton Road. Parking for the new dwelling would be via a new access on Honywood Road, parking for the host dwelling being via the existing access, also on Honywood Road.
- 4.2 The new proposal is to place a new sitting room extension on the southern corner of the building. Also originally proposed was a door to the north-eastern aspect.



4.3 After initial representations, a site visit to the neighbouring property which could be affected by the proposal, and discussions with the agent, the proposal has been altered and reduced, with additional boundary treatment and planting also being offered.

## **5.0 Land Use Allocation**

5.1 Residential

## **6.0 Relevant Planning History**

6.1 17135 – Dwelling. Refused 16<sup>th</sup> October 2062;

6.2 17135/1 - Erection of single dwelling. Refused, allowed on appeal 14<sup>th</sup> March 1974;

6.3 110165 - Erection of detached dwelling house with an associated garage and parking facilities. Withdrawn 17<sup>th</sup> March 2011;

6.4 111842 - Erection of detached dwelling house with an associated parking facilities. Resubmission of 110165. Approved 18<sup>th</sup> November 2011.

## **7.0 Principal Policies**

7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
SD1 - Sustainable Development Locations  
H1 - Housing Delivery  
H2 - Housing Density  
UR2 - Built Design and Character  
TA5 - Parking  
ENV1 - Environment

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP12 Dwelling Standards  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP19 Parking Standards

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

## **8.0 Consultations**

- 8.1 Highway Authority: No objection, subject to condition.
- 8.2 Environmental Control was not consulted on this application, but its comments from application 111842 have been carried forward – namely no objection, but a request for a standard demolition and construction advisory note.
- 8.4 Museums was not consulted on this application, but its comments from application 111842 have been carried forward, namely: ‘This site lies within a known Roman cemetery area. A Roman burial is recorded only 36 metres to the north of this plot of land. I would recommend that our standard archaeological watching brief condition be imposed if consent is granted. The watching brief to be commissioned by the applicant from a professional archaeological contractor.’
- 8.5 Trees & Landscape was not consulted on this application, but its comments from application 111842 have been carried forward, namely: ‘Agreement to the landscape aspect of the application subject to condition.’

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

## **9.0 Representations**

- 9.1 Three letters from nearby residents have been received in objection to the application.
- 9.2 Objections covered the following points:
- Loss of privacy to 4 Ireton Road.
  - Loss of more trees/shrubs.
  - The changes proposed are not minor; they include an additional external door and window as well as over 20% increase in ground floor area;
  - The application could and should have been made as part of the previous application which was put to the Planning Committee only 6 weeks before.
  - Other changes (changes to windows, and so on) have been sneaked in to the application.
  - The proposed design is poor.
  - The application is of a poor quality and has discrepancies within it.
  - Reduced garden space.
- 9.3 A further consultation is taking place with the amended drawings, and the results of this will be reported on the amendment sheet.

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

## **10.0 Parking Provision**

- 10.1 The proposal offers two parking spaces per dwelling, which complies with adopted standards.

## 11.0 Open Space Provisions

11.1 N/A

## 12.0 Report

### Design and Layout

- 12.1 The proposal is to place the dwelling on the western half of the site, with the main axis along Ireton Road and a rear cross-wing articulated 0.2 metres in from the Honywood Road aspect and occupying approximately one half of the length of the main section.
- 12.2 The principle elevation would face Ireton Road with a double-bayed design and an arched doorway between these bays. The tops of these bays, in the form of gablets, have roof pitches within five degrees of those on the main gable to the neighbouring property 4 Ireton Road, and are identical to those of the neighbouring garage (45 degrees). Between the sets of windows on the bayed sections would be panelling of a material and colour to be agreed by the Local Planning Authority.
- 12.3 The side (Honywood Road) facing elevation would comprise a flat frontage with flat brick arches over windows and boarding to the gable.
- 12.4 Whilst most of the architectural features have been reasonably well detailed in the submitted drawings, any permission will contain conditions requiring additional, larger-scaled drawings which accurately convey the detailing of verges, cills, reveals and so on.
- 12.5 Regarding the alignment of the proposed house, building lines and so on, the building is close to both of these lines, but does not tally exactly with them. The shape of the corner (which is not 90 degrees, and thus not square) means that this would not be possible without a contrived form of building and complex roof-form.
- 12.6 The subject of height has also been raised. At 8.7 metres there is a slightly higher elevation than those next to it. However, as a corner building this is not an unusual streetscape feature and is not considered to be reason for refusal.
- 12.7 In specific relation to the proposed sun room, it appears as a minor addition and is virtually invisible from the public domain. Pitched at a similar angle to the main roof and with sympathetic materials it is considered to be acceptable.

### Impacts on Neighbouring Properties

- 12.8 4 Ireton Road is the property which is the most likely to be affected. It has a picture window serving its landing, and also a small kitchen window, both of which face towards the proposed site of the new dwelling. The new building would be about seven metres away from these windows, but it must be remembered that in the case of the kitchen, there is already a garage between it and the site. Also, in the case of the landing window the garage fills out a certain amount of the view. Vitally, the development is to the north of these windows, and thus the loss of light is negligible. There are no issues of loss of privacy.

12.9 In relation to the proposed sun room, and following a site visit to 4 Ireton Road, it has been suggested that a re-orientated sun room with windows mainly facing towards the garage and shed of that property would be more acceptable. There remains a small gap between these two outbuildings which could offer some glimpse to the side passage of number 4, but the applicants have offered to wall that section to remove any chance of loss of privacy. In terms of the doors on the east-southeast aspect of the sunroom, there is still some chance of incidental overlooking of some of the garden of 4 Ireton Road, but the applicants have agreed to a new fence of 1.8 metres in height and replacement planting for the two fruit trees which have been removed.

#### Amenity Space

12.10 Regarding the provision of garden space, the host and proposed dwelling comply with the standards of a minimum of 100m<sup>2</sup>. In the case of the new dwelling the gross garden space is 265m<sup>2</sup>. However, the truly private rear space of approximately 143m<sup>2</sup>, to which could be added a section next to the parking spaces which is about 42m<sup>2</sup>, thus giving a total of about 185m<sup>2</sup>. Regarding the host dwelling, its offering is 130m<sup>2</sup>, of which approximately 20m<sup>2</sup> is a small area to the side which is contiguous to the main garden.

12.11 The proposed sun room inevitably eats in to this provision. Initially the extended section measured about 20 metres, thus leaving approximately 165m<sup>2</sup> for the new dwelling. The amended proposal takes this down to just under 10 metres, and thus leaves 175m<sup>2</sup> of private rear garden space.

12.12 Whilst these gardens may comply with standard, it is worth noting that these sizes do not reflect with those in the vicinity. Neighbouring 4 Ireton Road has 300m<sup>2</sup>; number 6 375m<sup>2</sup>; the nearby houses on Honywood Road have about 160m<sup>2</sup>; gardens the other side of Ireton Road are in excess of 400m<sup>2</sup>, and those on the far side of Honywood Road in excess of 350m<sup>2</sup>.

#### Highway Matters

12.13 There are no outstanding highway matters.

#### Other Matters

12.14 Comment has been made about the amount of vegetation/planting which would be present in the new scheme. Such concerns are overcome by using the same set of conditions and drawing references from application 111842. Similarly the same habitat and archaeological conditions will apply.

12.15 Finally, regarding repeated criticisms of the application, drawings, and DAS, the standard of the application and all supporting documents was of an acceptably high level to validate the application and to evaluate the proposal on its merits.

### **13.0 Conclusion**

13.1 In conclusion, whilst the garden size would be slightly diminished all matters regarding design, layout and parking are considered to be satisfactorily dealt with.

13.2 Whilst the objections are noted, the only property affected by this application is 4 Ireton Road, and the amendments in place are held to satisfactorily mitigate any effects.

## **14.0 Background Paperw**

14.1 PPS; Core Strategy; CBDP; PPG; HA; DHU; HH; MU; TL; NLR

## **15.0 Recommendation**

APPROVE subject to the prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990. The Head of Environmental and Protective Services to be authorised to complete the agreement to provide the following:

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

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

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

3 - Non-Standard Condition

No new windows shall be inserted above ground floor level of the house hereby approved unless agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

4 - C11.14 Tree / Shrub Planting

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

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

#### 5 - Non-Standard Condition

Prior to the commencement of development, detailed drawings, at scales 1:5 - 1:20 as applicable, shall be submitted to the Local Planning Authority. These drawings shall include details of proposed joinery and brickwork features such as flat gauged arches, the front door arch and wooden bay window panelling as well as other elements that are insufficiently described in the application drawings.

Reason: The finer details of the proposal need to be scrutinised by the Local Planning Authority in the interests of the visual amenity of the area.

#### 6 - C3.1 Materials (general)

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

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

#### 7 -C3.21 Hard Surfacing

Prior to the commencement of the development hereby permitted details of all materials to be used for hard surfaced areas within the site including [roads/driveways/car parking areas/courtyards/etc] shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

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

#### 8 - C2.1 Watching Brief

Prior to the commencement of development, details of a watching brief to be carried out by a suitably qualified archaeologist during construction works shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out strictly in accordance with these agreed details. In the event that any important archaeological features or remains are discovered which are beyond the scope of the watching brief and require a fuller rescue excavation the construction work shall cease immediately and shall not recommence until a revised programme of archaeological work including a scheme of investigation has been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To ensure that any remains of archaeological importance are properly recorded.

#### 9 - Non-Standard Condition

No work shall commence on site until all trees, shrubs and other natural features shown to be retained on the approved plans to application 111842 are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. No access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

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

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

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

#### 11 - Non-Standard Condition

All trees and hedgerows on and immediately adjoining the site shown on the approved plans to application 111842 to be retained shall be protected from damage as a result of works on site, to the satisfaction of the local Planning Authority in accordance with its guidance notes and the relevant British Standard. All existing trees to be retained shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that these trees and/or hedgerows (or their replacements) die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

#### 12 - C10.14 Ecological Survey

An ecological survey of the site shall be undertaken with a detailed assessment of the impact of the proposed development thereon. The survey together with any intended remedial measures, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with such agreed details.

Reason: To allow proper consideration of the impact of the development on the contribution of nature conservation interests to the amenity of the area.

#### 13 - Non-Standard Condition

The construction shall take place solely in accordance with the terms of the Methodology Statement received, which forms part of this permission, and no other works shall take place that would effect the trees unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the protection and well-being of nearby trees.

#### 14 - Non-Standard Condition

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

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

#### 15 - Non-Standard Condition

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

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

#### 16 - Non-Standard Condition

The development hereby approved shall comply in all respects with the amended drawings WA/1A REV A, WA.2A REV A and WA.3A REV A , unless otherwise agreed in writing by the Local Planning Authority.

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

#### 17 - Non-Standard Condition

Prior to the commencement of development, the applicants shall submit a proposed scheme of boundary treatment which shall include a walled section to the south-western boundary with 4 Ireton Road near to the sun room, and a fence of 1.8 metres along the rest of this boundary. The development shall be implemented in accordance with the agreed detail and prior to the occupation of the house.

Reason: To ensure the privacy of the occupiers of 4 Ireton Road, in the interests of residential amenity.

### **Informatives**

(1) The applicants are advised that they will need to amend the parking order for the residents parking scheme if they are to be able to use their parking spaces and prevent parking across their access.

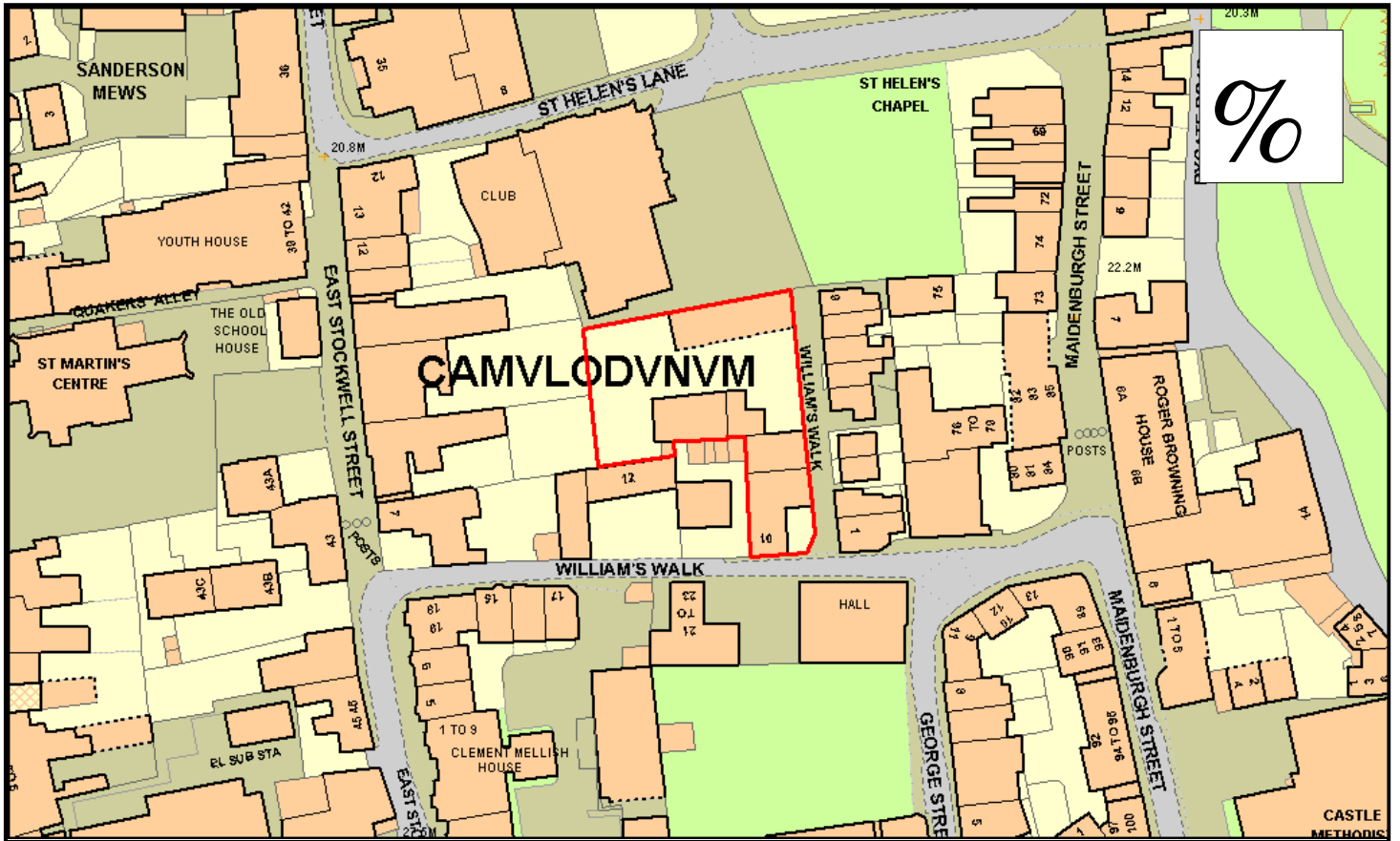
(2) The developer is referred to the attached advisory note 'Advisory Notes for the Control of Pollution during Construction & Demolition Works' for the avoidance of pollution during demolition and construction works. Should the applicant require any further guidance they should contact Environmental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

(3) It should be noted that any technical interpretation of these detailed requirements by the applicant or their agent should be sought externally from/through the relevant professional (i.e. Arboricultural consultant – details of local practices available through Arboricultural Officer on 01206 282469 (am only).

(4) In the interest of efficiency any clarification of technical requirement should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the Applicant's Arboricultural Consultant and the Council's Arboricultural Officer.

(5) The applicants are advised that they will need to amend the parking order for the residents parking scheme in this area. If this is not done then the order will still allow people to park across the proposed access.





**Application No:** 111415  
**Location:** 10 Williams Walk, Colchester, CO1 1TS  
**Scale (approx):** 1:1250

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## 7.2 Case Officer: Mr John More

**OTHER**

**Site:** 10 Williams Walk, Colchester, CO1 1TS

**Application No:** 111415

**Date Received:** 31 August 2011

**Agent:** Mark Perkins

**Applicant:** Barber And Sons

**Development:** Application for a new planning permission to replace an extant planning permission ref:081053 in order to extend the time limit for implementation for a further 3 years. Resubmission of 110817.

**Ward:** Castle

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

### 1.0 Introduction

- 1.1 This application is referred to the Planning Committee because the applicant is the spouse of a serving Councillor.
- 1.2 The application is for a new planning permission to replace an existing permission (081053) which is in danger of lapsing, in order to obtain a longer period in which to begin the development.
- 1.3 Government guidance contained in 'Greater Flexibility for Planning Permissions' (2009) states that the development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date. While these applications should, of course, be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities should, in making their decisions, focus their attention on development plan policies and other material considerations (including national policies on matters such as climate change) which may have changed significantly since the original grant of permission. This report will therefore focus on the development plan policies and other material considerations which have changed since planning permission was granted in 2008.
- 1.4 The original committee report, amendment sheet and results sheet for 081053 is attached as an annex to this report for ease of reference.

## **2.0 Synopsis**

- 2.1 The report sets out the context in which the application is made, the site and surroundings, current policy context, the consultation responses received in respect of this application and an assessment of the proposal in light of the above. No objections have been received and the application is recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The application site is approximately 1080.52 square metres of land located in the heart of the Dutch Quarter, north of the town centre, within Castle ward. The existing builders and joinery business has been situated at this site since 1928 and is accessed from Williams Walk, which runs parallel to the High Street and connects George Street and East Stockwell Street. The site is occupied by the builders yard, storage buildings, workshops and offices. Number 10 Williams Walk, at the front of the site, is a four bedroom dwelling.
- 3.2 The site is essentially a backland and infill site, which is "L" shaped and is surrounded by existing properties in Williams Walk, St Helen's Lane and East Stockwell Street. These are predominantly residential, although the property immediately north of the site in St. Helens lane is an NHS building. The properties that front onto the narrower section of Williams Walk, adjacent to the east boundary of the application site, are two-storey dwellings, with no front amenity area separating them from the access road.

## **4.0 Description of the Proposal**

- 4.1 The application is for a new planning permission to replace an existing permission (081053) in order to obtain a longer period in which to begin the development. A description of the original approved development is set out below.
- 4.2 The proposal is for 4 flats (2 from a converted existing property, and 2 new builds) and 4 new dwellinghouses. These would replace the existing buildings on the site related to Barber & Sons Ltd, thus the use of the land also changes by default as a consequence of any approval.
- 4.3 Number 10 Williams Walk, to be converted into two flats, would remain in situ at the access entrance to the site although an attached flat roof building adjacent to number 10 would be demolished. This, along with the demolition of a small section of wall, allows the access entrance road to be widened. Within the main part of the site there are several single and two storey buildings of poor condition and little architectural merit that would also be demolished to clear the site for the new residential development and access, parking and turning areas.
- 4.4 The access road is shown to be to an adoptable standard (as confirmed by ECC Highways) with a standard size 3 turning head and suitable junction radial widths etc. There is a provision of 8 car parking spaces. Amenity spaces are provided to some of these new units.

## **5.0 Land Use Allocation**

5.1 The site is within an area allocated as predominantly residential.

## **6.0 Relevant Planning History**

6.1 In terms of planning history relevant to this application, planning application 081053 for the Demolition of existing office extension and outbuildings, conversion of existing dwelling into 2 no. flats and erection of 6 no. dwellings (resubmission of 071560) was approved by the planning committee in 2008.

## **7.0 Principal Policies**

7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing  
Planning Policy Statement 5: Planning for the Historic Environment  
Planning Policy Guidance 13: Transport

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

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
SD3 - Community Facilities  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
H4 - Affordable Housing  
UR2 - Built Design and Character  
TA1 - Accessibility and Changing Travel Behaviour  
TA5 - Parking  
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity  
DP3 Planning Obligations and the Community Infrastructure Levy  
DP11 Flat Conversions  
DP12 Dwelling Standards  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP14 Historic Environment Assets  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP25 Renewable Energy

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

## **8.0 Consultations**

### **8.1 Conservation Officer**

The Conservation Officer states that it is understood that current application is for the 'renewal' of the extant planning permission 081053. Given this, all significant conservation issues should have been fully considered / addressed prior to the determination of application 081053. In view of the above, I do not intend to make any observations in respect of the current application unless otherwise specifically requested to do so by the case officer.

### **8.2 Environmental Health**

Environmental Health has no additional comments to those made previously. They previously suggested one condition (regarding unexpected contamination) and an informative (on demolition and construction).

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

## **9.0 Representations**

- 9.1 The consultation exercise has not resulted in any representations being received.

## **10.0 Parking Provision**

- 10.1 Since planning permission was originally granted, the adopted parking standards have been updated and Core Strategy Policy TA5 and Development Policy DP19 have been adopted.
- 10.2 The Essex Planning Officers Association (EPOA) Vehicle Parking Standards were adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009. These standards have increased the minimum vehicle parking bay sizes and changed the parking requirement for residential properties to a minimum standard.

- 10.3 Policy DP19 indicates that the level of parking provision required will depend on the location, type and intensity of use. It states for residential uses, 2 car parking spaces are required for each dwelling of 2 or more bedrooms in addition to 0.25 spaces per dwelling for visitors. However, it acknowledges that a lower standard may be acceptable or required where it can be clearly demonstrated that there is a high level of access to services, such as a town centre location. This reflects Core Strategy Policy TA5 which states that Car free and low car development will be encouraged in the Town Centre. Cycle parking will be required for all developments.
- 10.4 The car parking provision is to the rear of the site, at the west end. This ensures that car parking is in the least visually prominent area, although it does bring the car parking close to other existing properties, or at least their rear gardens.
- 10.5 In terms of parking provision, there are 8 vehicular spaces and 16 cycle spaces for the 8 dwelling units. This equates to 1 car parking space and 2 cycle parking spaces per dwelling unit. In view of the central location with a high level of access to services and public transport, the number of parking spaces is considered acceptable in this case.
- 10.6 In terms of vehicle bay size, the vehicle parking spaces are set at the previous standard of 4.8m x 2.4m minimum width, with 6m of turning and manoeuvring area between them and the built forms. In the north east corner of the site a tree has been removed, with consent. The result is space which could be used to increase the vehicle parking bay size to achieve the new minimum bay size of 5m x 2.5m. This would result in spaces lining almost the entire length of the western boundary. Given the location of the parking this is considered acceptable in this case. This could be achieved by a condition requiring a revised hard and soft landscaping layout to be submitted to and approved in writing by the local planning authority.

## **11.0 Open Space Provisions**

- 11.1 No public open space is provided within the site due to the restricted site area. A new signed Unilateral Undertaking was submitted with the application to ensure the development contributes towards the provision within the Borough of open space, sports and recreation facilities and community facilities, in accordance with adopted policies and SPD's.

## **12.0 Report**

- 12.1 The report focuses on policy changes since planning permission was last granted. Parking provision and open space has already covered above. Below we look at density, amenity space and sustainable design and construction.

## Density

- 12.2 In terms of density, the scheme is for 8 residential units in total. The site area is approximately 0.108 Hectares. The density of this scheme is therefore 74 dwellings per hectare. Core strategy policy H2 indicates that the town centre and urban gateways are more suited to higher density development, noting that a flexible approach will be important to ensure that densities are compatible with the surrounding townscape. Table H2a – ‘Indicative Housing Densities’ suggests an appropriate density for the town centre would be over 75 dwelling units per hectare. A density of 74 dwellings per hectare is still considered to be acceptable in principle and in keeping with the surrounding townscape.

## Amenity Space

- 12.3 Development Policy DP16 requires all new residential development to provide private amenity space to a high standard, where the siting, orientation, size and layout make for a secure and usable space, which has an inviting appearance for residents and is appropriate to the surrounding context. For the most accessible developments where, in accordance with Policy H2 in the Core Strategy, a density of over 75 dwellings per hectare may be appropriate, as is the case here, a minimum of 25m<sup>2</sup> of useable private amenity space shall be provided for each home (either as gardens, balconies or roof gardens/terraces). For flats, a minimum of 25m<sup>2</sup> per flat provided communally (where balconies are provided the space provided may be taken off the communal requirement). The policy acknowledges that a higher standard of private amenity space may be required for small infill (including backland) schemes, to reflect the character of the surrounding area, in accordance with the adopted ‘Backland and Infill Development’ SPD.
- 12.4 Provision is made for private amenity space within the development which is a favourable element for a high density town centre development such as this. The area available for garden spaces is limited because of the location and the provision of parking within the development. However the level of amenity space is still considered to be acceptable for such a central location and contextual in terms of the surrounding pattern of development. As stated above, there is a Unilateral Undertaking provided for a contribution to public open space and the amenity provision is supplemented by the nearby Castle Park.

## Sustainable Design and Construction

- 12.5 Core Strategy Policy ER1 sets out the Councils commitment to carbon reduction and the promotion of efficient use of energy and resources, alongside waste minimisation and recycling. The Sustainable Design and Construction SPD was adopted in and requires new residential development to achieve a minimum rating level of code 3 of the Code for Sustainable Homes standard. This could be achieved by way of an additional condition.

## **13.0 Conclusion**

13.1 In summary, subject to the addition of conditions to cover the revised parking layout and the requirement to achieve the minimum rating of code 3 of the Code for Sustainable Homes standard, it is not considered that development plan policies and other material considerations have changed so significantly since the original grant of permission to warrant reaching a different decision. Approval is therefore recommended subject to the dating of the submitted Unilateral Undertaking.

## **14.0 Background Papers**

14.1 PPS; ABCP; PPG; Core Strategy; Conservation Officer; HH

## **15.0 Recommendation**

APPROVE subject to the dating of the submitted Unilateral Undertaking and the conditions set out below:

### **Conditions**

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

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

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

2 – Non-Standard Condition

The development hereby approved shall not be occupied until the means of vehicular access has been constructed in accordance with the approved plans and the vehicular access shall be retained in the approved form thereafter unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that safe and convenient vehicle access to the site is available at all times.

3 - C3.1 Materials (general)

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

Reason: The application has insufficient detail for approval to be given to the external materials to ensure that the development has a satisfactory appearance in order to protect the visual amenity of the Conservation Area.

4 - C12.2 Details of Walls or Fences

Prior to the commencement of the development details of screen walls/fences/railings /means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the position, height, design and materials to be used. The fences or walls shall be provided as approved prior to the occupation of any building hereby approved and shall be retained thereafter.

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



#### 5 - C3.11 Rainwater Goods to be Cast Iron/Aluminium

All new rainwater goods shall be of cast iron, or cast aluminium and painted [black] unless otherwise agreed in writing by the Local Planning Authority.

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

#### 6 - C3.13 External Joinery to be Painted Timber

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

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

#### 7 –Non-Standard Condition

No works or development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the local Planning Authority (see BS 1192: part 4). These details shall include a revised parking layout to achieve a minimum vehicle bay size of 5m long x 2.5m wide. Furthermore the details shall also include, as appropriate:

- Existing and proposed finished contours and levels.
  - Vehicle and pedestrian access and circulation areas.
  - Hard surfacing materials.
  - Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting).
  - Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).
- 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 and to ensure the vehicle parking bay sizes meet current standards.

#### 8 - C11.12 Landscape Works Implementation

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

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

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

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

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

#### 10 – C10.18 Tree and Hedgerow Protection: General

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 to be retained shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that these trees and/or hedgerows (or their replacements) die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

#### 11 - Non-Standard Condition

The construction shall take place solely in accordance with the terms of the Arboricultural Methodology Statement dated 10 July 2008, which forms part of this permission, and no other works shall take place that would affect the trees unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and to ensure that the works are conducted in a satisfactory manner.

#### 12 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no development within Classes A to E of Part 1 of Schedule 2 of the Order (i.e. any extension, outbuilding, garage or enclosure) shall take place without the prior written permission of the local planning authority.

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

#### 13 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no windows or other openings other than those expressly authorised by this permission shall be constructed in the south facing wall of plots 1 and 2 as identified on the plans hereby approved.

Reason: To protect the amenities and privacy of adjoining residents.

#### 14 - Non-Standard Condition

The windows used in the development shall be exactly as detailed on the approved amended drawing 602/03B and all external window joinery shall be formed in softwood and shall have a white painted finish, unless otherwise agreed in writing by the local planning authority.

Reason: To protect the amenities and privacy of adjoining residents.

#### 15 - D2.1 Car Parking Available Before Use (Approved Plans)

No dwelling shall be occupied until space has been laid out within the site, in accordance with the hard landscaping plan to be approved in writing by the local planning authority, for 8 cars to be parked and for vehicles to turn so that they may enter and leave in forward gear, and thereafter such space shall be retained for that purpose only.

Reason: To ensure that vehicles visiting the site can park off the highway.

#### 16 - D4.5 Bicycle Parking (as approved plan)

The bicycle parking facilities indicated on the approved plans returned herewith, shall be provided and made available to serve the development hereby approved before that development becomes operational. These facilities shall thereafter be retained as such.

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

#### 17 - B9.3 Refuse Storage in Accordance With Approved Plans

The refuse storage facilities indicated on the approved plans returned herewith, shall be provided and made available to serve the proposed development/use hereby approved before the development/use is occupied or becomes operational. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority.

Reason: To ensure that adequate facilities are provided for refuse storage and collection.

#### 18 - Non-Standard Condition

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

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

#### 19 - Non-Standard Condition

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

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

## 20 – ANS - Development in Accord with Approved Plans (Non-Std. Wording)

The development shall be implemented in all respects strictly in accordance with the submitted plans Drawing Nos. 602/04, 602/01A, 602/02B and 602/03B hereby approved, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

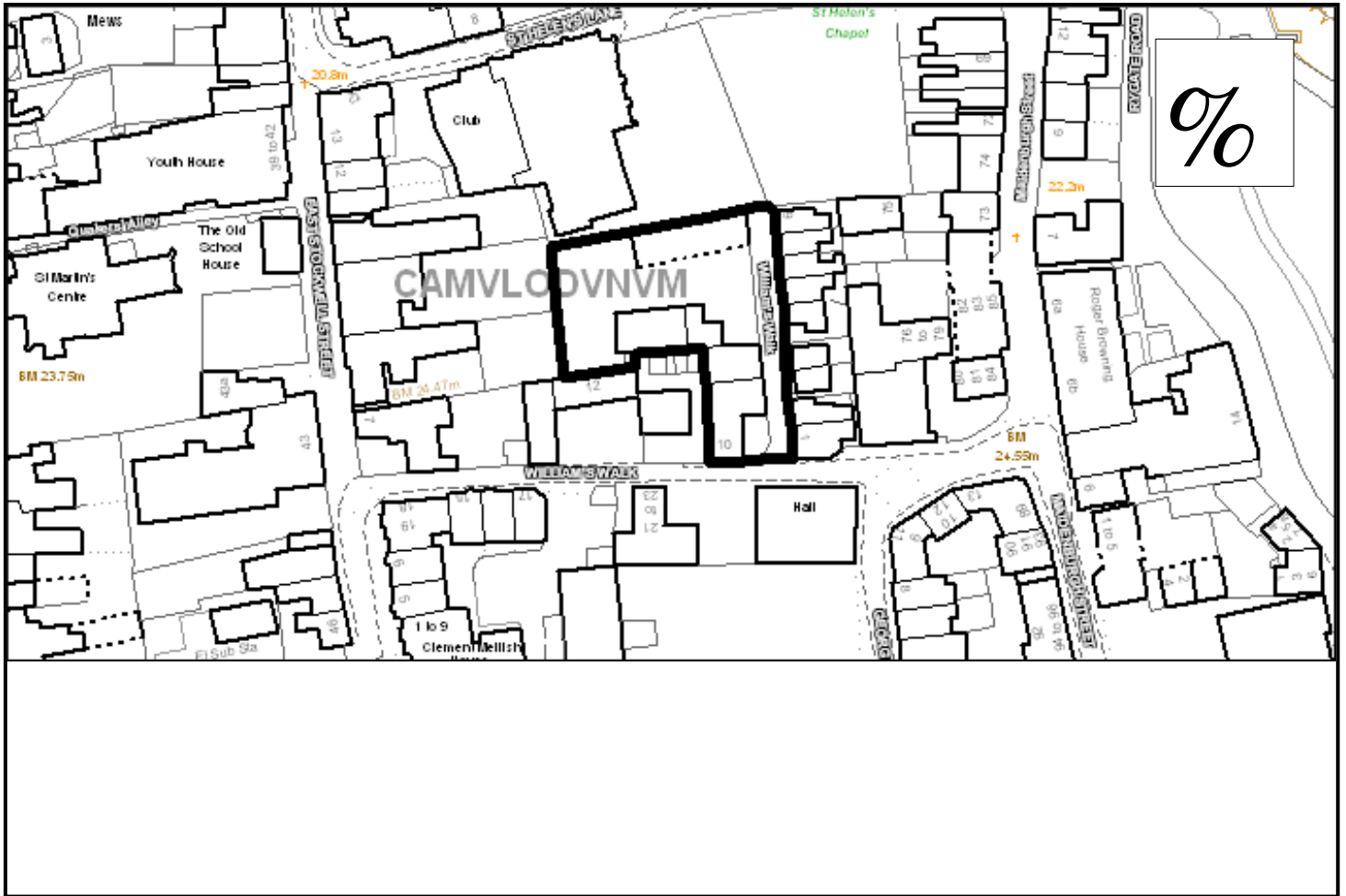
### **Informatives**

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

(2) PLEASE NOTE that any technical interpretation of these detailed requirements by the applicant or agent should be sought externally from the relevant professional (i.e. arboricultural consultant – details of local practices are available without prejudice through Arboricultural Officers on 01206 282469 on weekday mornings only)

(3) PLEASE NOTE that in the interests of efficiency any clarification of technical requirements should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the applicants arboricultural consultant and the Council's Arboricultural Officer.

(4) PLEASE NOTE that the adoption of any road is a matter that should be discussed with the Highways Authority and will require the dedication of land as highway. All works affecting the highway should only be carried out with prior arrangement and to the requirements and satisfaction of the Highway Authority. Application for the necessary works can be made initially by telephoning 01206 838600.



**Application No:** 081053

**Location:** 10 Williams Walk, Colchester, CO1 1TS

**Scale (approx):** 1:1250

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**7.8 Case Officer: Andrew Tyrrell**

**EXPIRY DATE: 04/10/2008**

**MINOR**

**Site:** 10 Williams Walk, Colchester, CO1 1TS

**Application No:** 081053

**Date Received:** 8th August 2008

**Agent:** Mark Perkins Partnership

**Applicant:** A Barber & Son (Colchester) Ltd

**Development:** Demolition of existing office extension and outbuildings, conversion of existing dwelling into 2 no. flats and erection of 6 no. dwellings (resubmission of 071560)

**Ward:** Castle

**Summary of Recommendation:** Conditional Approval subject to the signing of a Unilateral Undertaking

## **1.0 Planning Report Introduction**

1.1 This application is referred to the Planning Committee because objections have been received and the recommendation is for approval. The application is associated with a Conservation Area Consent application which is also referred to committee and the two applications should be considered together. The applications are both covered by the content in this report, although the recommended conditions have been recorded separately to avoid confusion over which conditions should be applied to the Conservation Area Consent and the Full Planning Permission respectively.

## **2.0 Site Description**

2.1 The application site is approximately 1080.52 square metres of land located in the heart of the Dutch Quarter, north of the town centre, within Castle ward. The existing builders and joinery business has been situated at this site since 1928 and is accessed from Williams Walk, which runs parallel to the High Street and connects George Street and East Stockwell Street. The site is occupied by the builders yard, storage buildings, workshops and offices. Number 10 Williams Walk, at the front of the site, is a four bedroom dwelling.

2.2 The site is essentially a backland and infill site, which is "L" shaped and is surrounded by existing properties in Williams Walk, St Helen's Lane and East Stockwell Street. These are predominantly residential, although the property immediately north of the site in St. Helens lane is an NHS building. The properties that front onto the narrower section of Williams Walk, adjacent to the east boundary of the application site, are two-storey dwellings, with no front amenity area separating them from the access road.

### **3.0 Description of the Proposal**

- 3.1 The proposal is for 4 flats (2 from a converted existing property, and 2 new builds) and 4 new dwellinghouses. These would replace the existing buildings on the site related to Barber & Sons Ltd, thus the use of the land also changes by default as a consequence of any approval.
- 3.2 Number 10 Williams Walk, to be converted into two flats, would remain in situ at the access entrance to the site although an attached flat roof building adjacent to number 10 would be demolished. This, along with the demolition of a small section of wall, allows the access entrance road to be widened. Within the main part of the site there are several single and two storey buildings of poor condition and little architectural merit that would also be demolished to clear the site for the new residential development and access, parking and turning areas.
- 3.3 The access road is shown to be to an adoptable standard (as confirmed by ECC Highways) with a standard size 3 turning head and suitable junction radial widths etc. There is a provision of 8 car parking spaces. Amenity spaces are provided to some of these new units.

### **4.0 Proposed Mix and Tenure**

- 4.1 As stated above the application is for 8 residential units in total. The mix consists of 4 flats and 4 dwelling units. 2 of the 4 flats would be converted from the existing property at number 10 Williams Walk, which fronts the most publicly prominent part of the site. There are also 2 new flats. All 4 flats are 2 bedroom units. The 4 dwellings are also 2 bedroom units.
- 4.2 The tenure would be entirely private as the scheme does not contain enough units to require an affordable housing contribution or on site provision.

### **5.0 Land Use Allocation**

- 5.1 The site is allocated in the adopted Local Plan as being within a "predominantly residential" area. The principle of residential development is therefore acceptable.

### **6.0 Relevant Planning History**

- 6.1 These applications are for a similar proposal to a scheme submitted last year, however the previous applications were withdrawn because they were missing the necessary information regarding contamination and archaeology. There was also no Unilateral Undertaking with the previous submission. There is no other history of particular relevance to this scheme.

## **7.0 Principal Policies**

- 7.1 Adopted Review Borough Local Plan
  - DC1 - Development Control Considerations
  - CO4 - Landscape Features
  - UEA1 - Character of Conservation Areas
  - UEA2 - Building within Conservation Areas
  - UEA3 - Demolitions within Conservation Areas
  - UEA11 - Design
  - UEA12 - Backland Development
  - UEA13 - Development, including Extensions, Adjoining Existing or Proposed Residential Property
  - P1 - Pollution (General)
  - P2 - Light Pollution
  - T2 - Cycle Parking Requirements
  - H13 - Housing Density

## **8.0 Consultations**

- 8.1 In terms of internal consultations, comments have been sought from Environmental Control, the Tree Officer, Archaeological Officer, Conservation Officer and Urban Designer.
- 8.2 Environmental Control have suggested one condition (regarding unexpected contamination) and an informative (on demolition and construction). The Tree Officer has stated that the findings of the arboricultural report submitted with the application are satisfactory, and proposed that 4 landscaping conditions be applied to any permission granted. The Archaeological Officer has confirmed that the archaeological evaluation produced negative results and no further recommendation is to be made. The Conservation Officer and Urban Designer had suggested amendments to the detailing of the scheme prior to submission and were both satisfied with the application.
- 8.3 In terms of external consultations, comments have been sought from the Dutch Quarter Association and ECC Highways. The comments are summarised below:

The Dutch Quarter Association has stated that they have no objection to the application, but they do not want the density or height of buildings to increase in future. They have requested that a wooden fence on the western boundary be replaced with a brick wall, and that future residents be excluded from applying for annual parking permits. They also enquire about securing CCTV through a S106 Agreement.
- 8.4 ECC Highways have stated that they do not wish to object to the proposal. Their recommendation is subject to two conditions; that an adoptable road is constructed prior to occupation of the dwellings and maintained as such thereafter, and that cycle facilities are provided in a safe and convenient location.
- 8.5 Consultation has also taken place with neighbours with a common boundary with the site. The associated Conservation Area Consent was also advertised in the newspaper. Representations received are set out below.



## 9.0 Representations

9.1 One objection letter has been received. The concerns raised are as follows:

- (a) The proposal is a high density development in the heart of the Dutch Quarter, not on the periphery like other developments, and all the units are two-bedroom properties that make little provision for family accommodation in this area. A lower density with larger homes would be better.
- (b) There is concern about overlooking from the elevation facing Oyster Court and the elevation facing towards back gardens in East Stockwell Street, especially after the felling of the mature Copper Beech tree on the site (which is still shown as being in situ on the submitted plans). Overlooking will affect both property values and property enjoyment.
- (c) The number of parking spaces is inadequate and no provision is made for visitors. There are no visitor spaces in the Dutch Quarter and any visitors park in the resident spaces leaving residents with nowhere to park themselves. Visitor spaces should be provided on site, perhaps where the tree has been felled. More parking should be achievable with a lower density development.
- (d) The development should include period details like timber windows, cast iron rainwater goods, and cast iron stacks to remain in keeping with the surrounding conservation area.

## 10.0 Report

### Density

- 10.1 The scheme is for 8 residential units in total. The site area is approximately 0.108 Hectares. The density of this scheme is therefore 74 dwellings per hectare.
- 10.2 Policy H13 sets out the density thresholds that the Council promotes. This policy states that a density of 30-50 dwellings per hectare will normally be sought, but states that there are circumstances when higher densities will be accepted. These include locations that are highly accessible and town centres. This also accords with Government guidance on density requirements set out of Planning Policy Statement 3. On this basis, a density of 74 dwellings per hectare is considered to be acceptable in principle.
- 10.3 A higher density would also be in keeping with the local context. The Dutch Quarter is a high density area consisting of a closely knit built fabric. This is typical of historic areas of this nature and also of town centres in general.

## Design and Appearance

- 10.4 The Design and Access Statement (DAS) sets out the principles behind the design approach. The DAS states that the design draws on local architectural detailing to create traditional style dwellings. Local vernacular materials would be used as appropriate so that the development is integrated into the conservation area. These will include clay plain tiles, natural slates, clay bricks, rendering and weatherboarding. The windows will also be timber sash or casement windows. The materials would need to be subject of a condition to ensure that these could be controlled to the Council's satisfaction.
- 10.5 The conversion of number 10 Williams Walk means that the front and side elevations of the main dwelling remain predominantly unchanged, although the attached office building will be removed and replaced with a porch entrance (east side) and new building to the rear (north). The porch will be a subtle addition and is a great visual improvement over the bulky flat roofed office building that currently detracts from the qualities of this frontage building. To the rear, 10 Williams Walk will be physically linked to a new dwelling that forms a focal point on the corner.
- 10.6 The main new development takes place in the form of the second block in the centre of the site and along the eastern access road. This building is essentially broken up into three aspects of the eastern elevation, the corner section, and the southern facing elevation in the heart of the site.
- 10.7 The eastern elevation has a simple and traditional terraced dwelling house appearance. The northern end unit is a straightforward "two-up, two-down" dwelling with little articulation providing a flat front with limited detailing. There is a chimney, sash windows, and the use of soldier course brickwork above the windows to reaffirm this simplistic traditional design. These themes are carried through in the adjacent flats units to produce an east elevation that compliments, but does not copy, the Victorian terraces opposite. The finer details of this elevation would need to be secured through the proposed conditions.
- 10.8 The central section of this block provides a building that addresses the corner. This is the focal point on approach into the site. The corner has a bay window element running from ground floor through to the roof. This helps to address the corner in an appropriate manner.
- 10.9 Within the main part of the site on the north side of the access road the building takes on the appearance of one large domestic property, although in reality on the north side of the access road the internal division is different (and there are two front doors). The materials change from brick to render with an overhanging gable at first floor level that is typical of the Dutch Quarter. Again, there is the provision of a chimney.

## Layout

- 10.10 The DAS states that the layout has been carefully sited around the existing tree roots. The built frontages have been orientated to face onto the back edge of Williams Walk and to contain new car parking spaces within a less prominent part of the site to the west. The plan form shows traditional layouts with narrow depths resulting in suitable narrow gable spans, roof plans and pitches.

- 10.11 The proposed buildings essentially form two blocks of built development. The first of these "blocks" includes the existing dwelling at 10 Williams Walk, which is being converted into 2 flats, and some new development to the rear of this dwelling. The second "block" is a right angled "L" shaped block that runs opposite to the adjacent Victorian terraces before turning into the centre of the site. The space between the Victorian properties and the new development allows the access road to be widened, whilst the gap between the two blocks described above provides the access into the main part of the site.
- 10.12 The car parking provision is to the rear of the site, at the west end. This ensures that car parking is in the least visually prominent area, although it does bring the car parking close to other existing properties, or at least their rear gardens. The spaces are the required 4.8m x 2.4m minimum width and have 6m of turning and manoeuvring area between them and the built forms. Refuse and cycle provision are also located off the access and turning area. There is 1 car parking space and 2 cycle parking spaces per dwelling unit.
- 10.13 Private amenity provision is made, which is a favourable element for a town centre development. However, the area available for garden spaces is limited because of the location. This is considered to be acceptable for such a central location, especially given the historic nature of the surrounding and the close-knit building form in the wider area. There is a Unilateral Undertaking provided for a contribution to public open space and the amenity provision is supplemented by the nearby Castle Park.

#### Scale

- 10.14 The DAS states that the traditional plan forms sought in the design have resulted in the proposed heights of the dwelling. These roof heights are of similar ridge heights to surrounding properties with a maximum roof height of two storeys being in keeping with the adjacent Victorian terraces already found in Williams Walk.
- 10.15 These principles are well founded and help to provide buildings of a complimentary scale to their surroundings. The two-storey height limitation is the appropriate height for buildings in this area. The site should not appear overly dominant in its context, should sit comfortably against the residential scale of surrounding properties and be reasonably well confined in terms of views from other public locations.

#### Residential Amenities

- 10.16 This proposal has been assessed in terms of its impact on light and on privacy of proposed and existing occupiers. In terms of its impact on light, the buildings would not have any adverse impacts on levels of light as protected by the standards adopted by the Council through the Essex Design Guide (EDG). To the west the early morning sun is not obstructed due to distance between new buildings and the existing properties. To the north, the buildings are not predominantly residential, so the impact on light is less vulnerable, but the distances also ensure that the standards are met. To the east, the adjacent Victorian terrace properties are closer to the development than other buildings. The distance from the properties means that a 45 degree line drawn from the development would intersect the lower parts of the ground floor wall, but that the windows should not suffer an unacceptable amount of overshadowing.

- 10.17 The objection received from a local resident explains that overlooking is the main issue of concern with regard to amenities. They state that this is more of an issue now that a mature Copper Beech tree has been removed and questioned whether or not this was authorised because the tree is still shown on the plans. The answer to this is that the felling of the tree was authorised, as an exemption, by the Council because it was diseased and dangerous to surrounding properties.
- 10.18 With regard to any adverse loss of privacy, to the north and west the distances to the nearest windows are adequate to satisfy the EDG standards. These standards require that any new windows do not overlook any sitting out area or residential windows within a distance of 25m. This distance is more than satisfactorily met in relation to these standards so that the properties in East Stockwell Street will not be adversely affected. To the east the new development is separated from the existing Victorian terraces by the road, reflecting the typical front-to-front window orientation that is commonplace. With front-to-front windows there are not the same privacy issues and this is also considered to be acceptable.
- 10.19 To the south the properties proposed closest to the existing properties in William Walk are shown with no windows in their south facing elevations. However, the main bedroom windows of plots 1 and 2 as shown on the plans further north within the site are only 12m away from the rear windows of 11 Williams Walk. This distance is not adequate to ensure that the rear garden and rear windows of the existing property are not adversely overlooked. Plot 4 is also closer than would be preferable, namely the prescribed 15m distance, but outlook would be more obscurely angled from any habitable rooms here.
- 10.20 To address the issue of overlooking from plots 1 and 2, the application shows the three offending bedroom windows as being obscure glazed in their bottom halves. However, to ensure that the obscure glazing was sufficient it would need to be to a level of 1.8m above the adjacent floor level internally, which means that obscuring only the bottom half would not be adequate and the whole window would need to be obscured. This raises concerns whether obscure glazing to bedroom windows provides satisfactory living conditions if views and outlook are restricted. However, this would not entirely solve the problem if the windows were to be opened. It is not possible to condition them to be fixed shut as this would remove any fire escape route required for bedrooms by Building Control. Therefore, the issue of overlooking remains as problematic if windows were opened as if they were not obscure glazed. The minimum fire escape height must be 450mm, so it would be possible to limit the opening of the windows to bottom opening only and to an open height of no more than 450mm without causing practical problems in implementation.
- 10.21 Another argument for consideration is that the windows serve a bedroom which, although a habitable room, is not as comparable as main living rooms in terms of the amount of time that future residents are likely to spend looking out from their windows, where a degree of privacy would usually be desired by the future residents in the bedroom themselves, and where the primary purpose of a bedroom (sleeping) would normally entail closing curtains to provide darkness in any case. Thus, the degree of actual overlooking that can be expected has to be considered on balance. Although an element of overlooking could occur, and if this permission were granted, it could not be subject to further controls in the future, the development can be limited by conditions securing minimal opening windows with obscure glazing to minimise the occurrence of overlooking as far as is reasonably possible.

## Access, Parking and Turning

- 10.22 Vehicular access will be from the existing access routes, albeit with the benefit of a widened road shared with the adjacent Victorian terraces. At present this road is cramped and the widening of the road to an adoptable standard will help alleviate access problems for these properties as well as providing a suitable access for the new development. The entrance to the main part of the site is through a size 3 turning head which accords with the requirements of Essex County Council, and which can be suitably blended into the surroundings through appropriate materials and landscaping. Pedestrian visibility splays are also shown on the plans at the junction with the main section of William Walk and can be achieved with the removal of a small section of wall.
- 10.23 Pedestrian access to the site is along the existing traffic routes, with the improved width of the access road helping with existing pedestrian-vehicle conflict. The improvement to the road should also assist less able bodied persons and the DAS states that there will be level thresholds to assist disabled access.
- 10.24 ECC Highways have requested that a condition be used to ensure that the road is constructed to an adoptable standard and maintained as such thereafter. They have explained that they have no intention at present of entering into a Section 38 Agreement to adopt the road, but that they wish to keep this possibility open in due course. Whilst this is not a common practice and their reasons given might be questionable, the retention of a suitable road is beneficial to the scheme and a trigger point is needed to ensure that it is implemented. Therefore a condition to this effect can be justified against the six Government tests that conditions face.
- 10.25 In terms of parking provision, there are 8 vehicular spaces and 16 cycle spaces for the 8 dwelling units. This level of provision accords with the current adopted Essex Planning Officers Association Parking Standards. It is noted that by providing spaces on-site the units will normally be excluded from applying for resident parking permits. However, this is a matter outside of planning controls and monitored by a separate service within the Council.
- 10.26 In the north east corner of the site a tree has been removed, making extra room available for parking. It has been suggested that this would allow further spaces to be provided. It might be possible to provide one extra space with a revised layout but the 6m depth on approach to spaces must be retained. This would result in spaces lining the entire length of the western boundary. However, as the standards for parking are met, revisions to the number of spaces would not be required and no negotiations have occurred regarding this matter.

## Other Material Considerations

- 10.27 The objection received raised several concerns. Overlooking, the removal of the diseased Copper Beach tree, density, and parking standards have all been addressed above. With regard to the fact that all the units are two-bedroom properties that make little provision for family accommodation in this area, this is not considered to be a strong reason for warranting a refusal. The properties could be used for people with a child with the provision of 2 bedrooms per unit. Given the need to “make the most efficient use of land” (Planning Policy Statements 1 and 3) lower density schemes and larger housing units are not considered to be more appropriate in this central infill location. The contextual limited amenity provision is also a reason why larger family housing is also rare in such central locations.
- 10.28 The objector also states that the development should include period details like timber windows, cast iron rainwater goods, and cast iron stacks to remain in keeping with the surrounding Conservation Area. This can be secured by condition where appropriate.
- 10.29 ECC Highways have suggested that they would prefer the cycle parking facilities to be more accessibly located within the scheme. However, looking at the access requirements that they have required it is considered that there is not a more accessible location to place the cycle parking spaces in practice.

## Conclusion

- 10.30 To conclude, the design and scale of the properties is considered to be acceptable and would visually enhance this site within the Conservation Area. The layout is satisfactory and provides an improved access, refuse facilities, cycle parking and vehicular parking spaces in accordance with adopted policy standards. The main concern is that there are three windows (that serve two separate bedrooms) that are only 12m from an existing property and this is contrary to the prescribed distances for ensuring that there is not a loss of privacy to the rear amenity space and rear windows of this dwelling.
- 10.31 To remedy this concern it is suggested that the offending windows be totally obscure glazed and restricting to an opening width of 450mm only at the bottom section of the sash windows. Thus, the crux of the matter is really whether or not these restrictions are considered to be adequate enough to protect the amenities of the residents of 11 Williams Walk. These residents have not objected to the plans. This is however at the expense of the outlook/amenity of Plots 1 and 2. The conditions, however, leave open the possibility of an alternative scheme being submitted to deal with overlooking (e.g by projecting oriel-type windows) that would avoid use of obscure glazing only.

10.32 Overall, the case officer considers (on balance) that the scheme will enhance the conservation area and that this issue outweighs the remaining level of concern over loss of privacy to 11 Williams Walk as long as this is restricted by the conditions outlined above. For the reasons set out in this report the recommendation is to overrule the guidance standards in the Essex Design Guidance in this area, where the context of the conservation area means that any development at this site would be likely to have some impact on neighbours but that this scheme has minimal impact. It is also noted that the level of privacy and distances from overlooking windows (which would be restricted view anyway) reduced by this development is not less than numerous other properties in the Dutch Quarter which have no existing privacy historically because of the nature of the evolution of this area.

### Section 106 matters

10.33 A Unilateral Undertaking for a contribution for Public Open Space has been supplied.

## **11.0 Background Papers**

11.1 ARC; CPS; BC; CD; HA; HH; MR; TL; CAA; LAS; NLR

### **Recommendation**

The application be deferred in order that a Unilateral Undertaking is completed whereby a contribution to Open Space, Sport and Leisure is made in accordance with the Council's Supplementary Planning Document. Once completed, the Head of Environmental and Protective Services be authorised to grant planning permission for the proposed development, subject to the following conditions:-

### **Conditions**

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

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

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

2 - Non-Standard Condition

The development hereby approved shall not be occupied until the means of vehicular access has been constructed in accordance with the approved plans and the vehicular access shall be retained in the approved form thereafter unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that safe and convenient vehicle access to the site is available at all times.

3 - C3.1 Materials (general)

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

Reason: The application has insufficient detail for approval to be given to the external materials to ensure that the development has a satisfactory appearance in order to protect the visual amenity of the Conservation Area.

#### 4 - C12.2 Details of Walls or Fences

Prior to the commencement of the development details of screen walls/fences/railings /means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the position, height, design and materials to be used.

The fences or walls shall be provided as approved prior to the occupation of any building hereby approved and shall be retained thereafter.

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

#### 5 - C3.11 Rainwater Goods to be Cast Iron/Aluminium

All new rainwater goods shall be of cast iron, or cast aluminium and painted [black] unless otherwise agreed in writing by the Local Planning Authority.

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

#### 6 - C3.13 External Joinery to be Painted Timber

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

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

#### 7 - Non-Standard Condition

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

These details shall include, as appropriate:

- Existing and proposed finished contours and levels.
- Vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting).
- Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).

Soft landscape details shall include:

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

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

#### 8 - C11.12 Landscape Works Implementation

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

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



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

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

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

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

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

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

11 - 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.

12 - Non-Standard Condition

The construction shall take place solely in accordance with the terms of the Methodology Statement received, which forms part of this permission, and no other works shall take place that would affect the trees unless otherwise agreed in writing by the Local planning Authority.

Reason: For the avoidance of doubt and to ensure that the works are conducted in a satisfactory manner.

13 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no development within Classes A to E of Part 1 of Schedule 2 of the Order (i.e. any extension, outbuilding, garage or enclosure) shall take place without the prior written permission of the local planning authority.

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

14 - Non-Standard Condition

The windows to be provided above ground floor level in the south facing elevations of plots 1 and 2 as shown on the submitted plans shall be glazed in obscure glass of a type agreed in writing by the Local Planning Authority and shall be retained as such at all times thereafter. This shall be the case unless the Local Planning Authority agrees an alternative scheme in writing to restrict overlooking from Plots 1 and 2, which shall be implemented as approved and retained permanently thereafter.

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

#### 15 - Non-Standard Condition

The windows to be provided above ground floor level in the south facing elevations of plots 1 and 2 as shown on the submitted plans shall only open upwards from the bottom of the window and shall not open to form a gap of more than 450mm, and shall be retained as such at all times thereafter. This shall be the case unless the Local Planning Authority agrees an alternative scheme in writing to restrict overlooking from Plots 1 and 2, which shall be implemented as approved and retained permanently thereafter.

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

#### 16 - D2.1 Car Parking Available Before Use (Approved Plans)

No dwelling shall be occupied until space has been laid out within the site in accordance with the approved plan attached for 8 cars to be parked and for vehicles to turn so that they may enter and leave in forward gear, and thereafter such space shall be retained for that purpose only.

Reason: To ensure that vehicles visiting the site can park off the highway.

#### 17 - D4.5 Bicycle Parking (as approved plan)

The bicycle parking facilities indicated on the approved plans returned herewith, shall be provided and made available to serve the [use hereby approved before that [use/development] becomes operational. These facilities shall thereafter be retained as such.

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

#### 18 - B9.3 Refuse Storage in Accordance With Approved Plans

The refuse storage facilities indicated on the approved plans returned herewith, shall be provided and made available to serve the proposed development/use hereby approved before the development/use is occupied or becomes operational. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority.

Reason: To ensure that adequate facilities are provided for refuse storage and collection.

### **Informatives**

#### Non-Standard Informative

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

#### Non-Standard Informative

2. PLEASE NOTE that any technical interpretation of these detailed requirements by the applicant or agent should be sought externally from the relevant professional (i.e. arboricultural consultant - details of local practices are available without prejudice through Arboricultural Officers on 01206 282469 on weekday mornings only)

#### Non-Standard Informative

3. PLEASE NOTE that in the interests of efficiency any clarification of technical requirements should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the applicants arboricultural consultant and the Council's Arboricultural Officer.

Non-Standard Informative

4. PLEASE NOTE that the adoption of any road is a matter that should be discussed with the Highways Authority and will require the dedication of land as highway. All works affecting the highway should only be carried out with prior arrangement and to the requirements and satisfaction of the Highway Authority. Application for the necessary works can be made initially by telephoning 01206 838600.

# **AMENDMENT SHEET**

**Planning Committee  
2 October 2008**

## **AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED**

### **7.8 081053 – 10 Williams Walk, Colchester**

**The committee report details issues related to overlooking from 3 south-facing first floor windows on plots 1 and 2. Since the report was written amendments have been sought to address this situation in a more appropriate manner. It is now proposed that the bedroom in plot 1 have one high-level window and one blind window on the front elevation as the bedroom is served by a side window in any case. For plot 2, it is proposed that the front window be replaced with a three-part bay window, with the central section facing directly towards the neighbour being obscure glazed. The side facing sections of glass would then be plain glass as these face out at 45 degree angles.**

**PLANNING COMMITTEE – 2 OCTOBER 2008  
RESULTS SHEET**

7.8 081053  
10 Williams Walk  
Colchester

AT Approved as per recommendation subject to the signing of a Unilateral Undertaking

In terms of the conditions, these changes mean that conditions 14 and 15 should be removed. Instead, the following condition should take their place:

**Condition 14: A7.11 No New Windows**

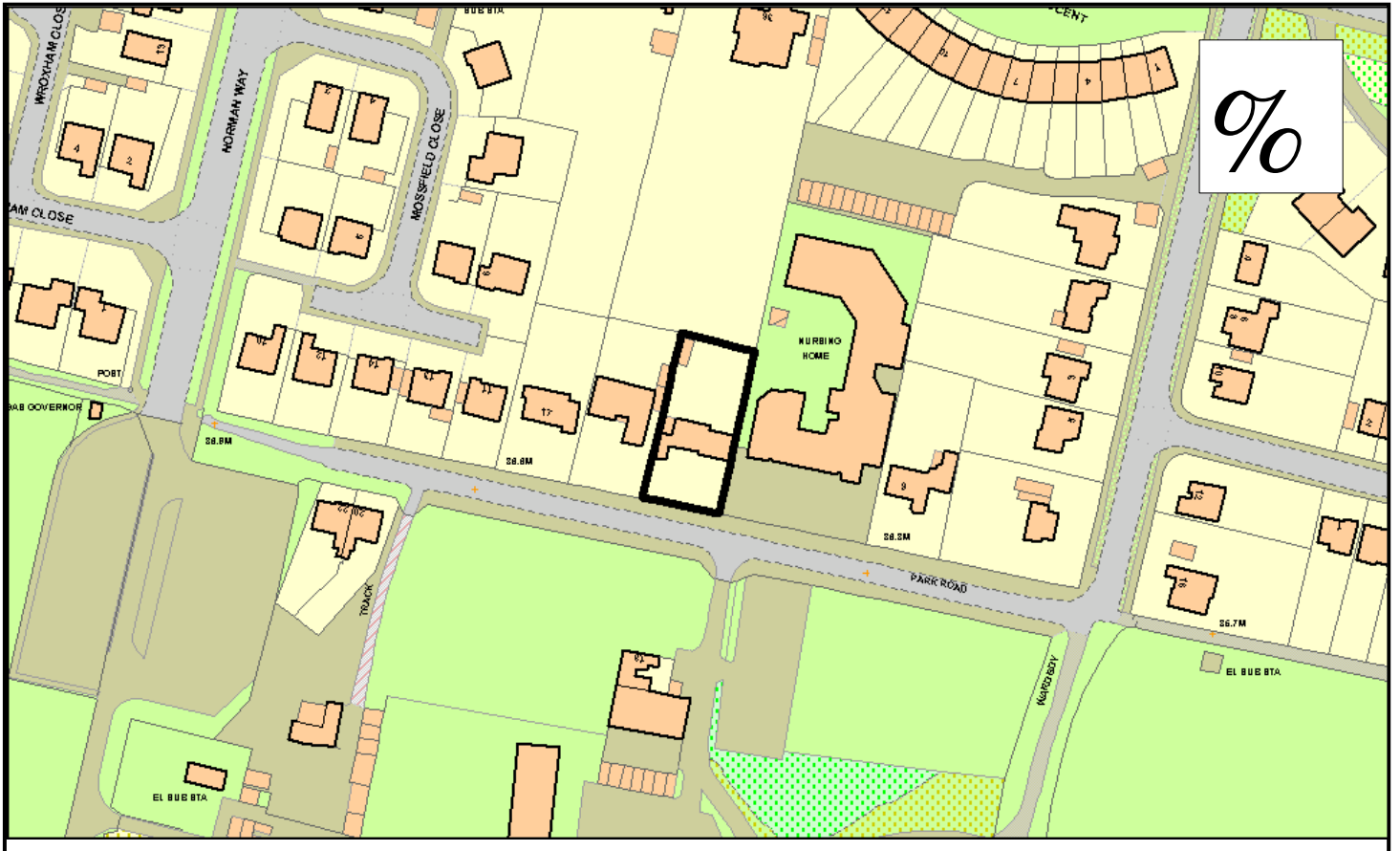
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no windows or other openings other than those expressly authorised by this permission shall be constructed in the south facing wall of plots 1 and 2 as identified on the plans hereby approved.

Reason: To protect the amenities and privacy of adjoining residents.

**Condition 15: C1.4 Details of New Windows**

The windows used in the development shall be exactly as detailed on the approved amended drawing 602/03B and all external window joinery shall be formed in softwood and shall have a white painted finish, unless otherwise agreed in writing by the local planning authority.

Reason: To protect the amenities and privacy of adjoining residents.



**Application No:** 111725

**Location:** Parkdale, 13 Park Road, Colchester, Essex, Essex, CO3 3UL

**Scale (approx):** 1:1250

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**7.3 Case Officer: Mark Russell**

**OTHER**

**Site:** 13 Park Road, Colchester, Essex, Essex, CO3 3UL

**Application No:** 111725

**Date Received:** 21 September 2011

**Agent:** Homa Cherry

**Applicant:** Mr M Patel

**Development:** Proposed single storey extension providing additional bedroom and change of use from dwelling house (C3) to nursing home for people with physical or mental difficulties (C2). (Resubmission of application number 081154 after expiration).

**Ward:** Lexden

**Summary of Recommendation:** Conditional Approval

**1.0 Introduction**

1.1 This application has been called in to the Planning Committee by Councillor Hardy for the following reason:

‘This is a resubmission of 081154, permission for which expired on 8 August 2011, and in my view it should be treated as a fresh application. I have objections on the grounds of impact on residential amenity because of noise disturbance. There are multiple objections from residents.’

1.2 The application at hand is identical to that of 2008, which was approved at Committee, but which has now lapsed.

1.3 **This item was deferred from the Committee of 3<sup>rd</sup> November 2011 in order for an up-to-date tree survey to be submitted and considered. This has now been done and our Tree Officer has commented as follows:**

**‘I am in agreement with the conclusions and recommendations made within the report.**

**The development will require the reduction of the Beech hedge adjacent. Whilst this work is permissible given the encroachment within the boundary (and would some work would be required regardless of the development) the applicant should be reminded that if the trees are killed as a result of these actions then the owner of these trees may seek recourse.’**

1.4 The item was then further deferred on 19<sup>th</sup> January 2012 primarily for additional information regarding drainage and noise, as well as for other matters including internal layout and the proposed type of use.

**1.5 Your Officers have sought clarification from the applicant regarding these matters, and the following information has been gleaned.**

- **Two carers are on site from 08:00 to 17:00, another two arrive at 17:00 and leave at 22:00. Therefore, there is a time of handover where four people will be parked at the site. At 22:00 a night carer sleeps over (that is to say, they are present but in their own room and asleep unless care is required). There is no call system in the rooms.**
- **The drainage problems at the site were caused by a blocked gully. An offending piece of plastic has now been removed. There has only been one flood in the last three years. The drains were all clear as were the pipes.**
- **Noise – there is a no radios policy for staff. Therefore, there are no radios in the laundry room or the staff room. In terms of the washing machines, there are two domestic machines which are no louder than a machine which would be found in any household. (There have been two recorded complaints about noise – one in March 2000, the other in December 2011). Issues of noise can be more adequately controlled by Environmental Control legislation. A planning condition to cover noise generated by the above would not be considered reasonable or enforceable.**
- **There are three toilets (one of which is en-suite and two of which are communal toilets).**
- **Staff ratios are 1:4 so two staff could care for up to eight people. Parking needs to be considered in this light. This is covered at paragraph 12.5, and it is apparent that sufficient parking pertains to this use.**
- **Essex County Council (ECC) has undertaken an inspection, as has the Commission for Social Care Inspection (CSCI). The CSCI report is a public document and is on their website. Members are reminded that the management of the home is not a material planning consideration *per se*.**

1.5 There are no remaining issues, and the remainder of this report reads as before.

## **2.0 Synopsis**

2.1 The following report describes the proposal for a change of use and the erection of an additional room to the front of 13 Park Road. Objections are then listed and considered and the conclusion now, as in 2008, is that the proposal is acceptable.

## **3.0 Site Description and Context**

3.1 The application site comprises a single-storey dwelling with a frontage of 19m and a depth of 41m. The site has access onto the unadopted part of Park Road via a private drive, which serves a number of properties in the vicinity. The surrounding area is predominantly residential in character, with offices and premises currently in the ownership of Essex County Council, opposite. There are three mature trees at the front of the site.



## **4.0 Description of the Proposal**

- 4.1 The existing premises comprises a residential dwelling with six bedrooms utilised by persons with learning disabilities. The proposal, for an extension at the front of the property, will increase the number of bedrooms to seven and provide an "office". This requires change of use from Class C3 dwelling house to Class C2 residential institution. The premises will provide employment for a total of 8 persons, working in shifts, with no more than 3 employees in any given shift (except during handover).

## **5.0 Land Use Allocation**

- 5.1 Residential

## **6.0 Relevant Planning History**

- 6.1 The original bungalow and garage was permitted in 1962 (Ref 15314/3) and additions were approved in 1971 (Ref 15314/4) and 1996 (Ref 96/1112).
- 6.2 Application 080777 - for a single storey extension providing additional bedroom and change of use to nursing home for people with physical or mental difficulties, was withdrawn by the applicant in June 2008. This was to allow the preparation of an arboricultural assessment and to make alterations to the design/external appearance to the proposal.
- 6.3 Application 081154 - Proposed single storey extension providing additional bedroom and change of use from residential home to nursing home for people with physical or mental difficulties. Resubmission of 080777.

## **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing  
Planning Policy Statement 12: Local Spatial Planning  
Planning Policy Statement 23: Planning and Pollution Control  
Planning Policy Guidance 24: Planning and Noise
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
SD1 - Sustainable Development Locations  
H1 - Housing Delivery  
H3 - Housing Diversity  
UR2 - Built Design and Character  
TA5 - Parking
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP12 Dwelling Standards  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP19 Parking Standards

- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:  
Community Facilities  
Vehicle Parking Standards  
Sustainable Construction  
Extending your House  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

- 8.1 The Highway Authority repeated its response from 081154, namely:

'The Highway Authority stated it does not wish to object to the proposal as submitted. A note was added that the public's right and ease of passage over Public Footpath No. 201 (Lexden) be maintained free and unobstructed at all times, and no construction plant, vehicles or materials to be left on the public right of way.'

- 8.2 Environmental Control did not object and asked for a standard demolition and construction advisory note to be added to any permission.
- 8.3 Your Arboricultural Officer has been consulted regarding the submitted tree report, and his conclusions will be reported on the amendment sheet. At the time of 081154 he was satisfied with the landscape/arboricultural aspect of the proposal, subject to appropriate conditions.

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

## **9.0 Representations**

- 9.1 Three letters of objection have been received, these echo concerns raised in 2008 and raised the following issues:

- The Land Registry title indicates the dwelling shall not be used for any purpose other than as a private dwelling house.
- The sewage and drainage facilities are already overloaded.
- Cannot be certain that the works will not damage the lime tree at No. 15, which is a protected tree.
- Inadequate parking situation will be worsened.
- Screaming and shouting from patients is disturbing.
- Lack of clarity as to whether the scheme is for people with mental difficulties.
- Use not appropriate within a residential area.

## **10.0 Parking Provision**

- 10.1 See Paragraph 12.5

## 11.0 Open Space Provisions

11.1 N/A

## 12.0 Report

### Design and Layout:

12.1 The existing building is an original single-storey bungalow, which has been added to in the past. These additions include a flat-roofed front extension and a Mediterranean-style enclosed patio, also at the front. The proposal involves the demolition of the latter feature and the construction of two pitched roof, gabled projections, with a somewhat larger footprint than the Mediterranean-style patio. These projections extend 550mm forward of the flat-roofed front extension, thus providing an articulation and helping the flat-roofed area to appear subservient. These additions provide a larger kitchen and bathroom, a new (7th) bedroom, and a new office. In overall terms, the design is considered an acceptable addition to the street scene.

### Other issues:

12.2 The prime issue raised by this application is the principle of the change of use. It is understood that the existing premises has operated as a home for persons with physical and learning disabilities for six persons. Under planning law, it is generally recognised that up to six people may live together in a dwelling (including persons with physical and learning difficulties), but once this number is exceeded, planning permission is required for change of use. Thus the proposed addition to create a 7th bedroom requires change of use from Class C3 (dwellinghouse) to Class C2 (residential institution).

12.3 The objectors refer to a covenant on the land that the dwelling shall not be used for any purposes other than as a private dwelling house. Clearly, the proposal will change this. However, this is a private covenant, which was imposed between the vendors and the purchasers of the land back in 1892. It is not the role of the Local Planning Authority to administer compliance with private covenants.

12.4 Our Development Plan policies state that proposals for the provision of specialist residential accommodation for vulnerable groups in the community, including the mentally ill and disabled people, will be granted planning permission, provided that there is sufficient open amenity space within the curtilage of the unit; and, there is good access to a reasonable range of shops, services and job opportunities, or these are readily accessible by public transport. In this instance, there is a rear garden of approximately 300 square metres in size and the site is within easy walking distance of the Lexden Road bus corridor. It is also noted that the adjacent premises at 11, Park Road operates as a nursing home.

12.5 The Essex Planning Officers Association Vehicle Parking Standards recommends in the instance of Class C2 uses, provision of 1 space per resident staff and 1 space per 3 bed spaces. There are no permanent resident staff (although there is one employee giving overnight standby care) and 7 bed spaces, which equates to a standard of 2.3 spaces (which is expressed as a maximum). There is sufficient space on the frontage to comply with this standard and the addition of one extra bedroom is unlikely to lead to a significant change to existing requirements.

12.6 Concern has also been expressed about sewage capacity. This is the responsibility of Anglian Water, but in any case, as with the parking situation referred to above, the addition of one extra bedroom is unlikely to lead to a significant change to existing requirements.

### **13.0 Conclusion**

13.1 In accordance with relevant policy the area in which the application site is located is considered suitable for a residential institution such as the one proposed. The physical extensions to the property are considered to be acceptable in design terms. The additions to create a 7th bedroom do entail a change of use of the premises from Class C3 to Class C2; however, the addition to create a 7th bedroom will not significantly change the way the way in which the premises are being used. In planning terms, therefore, the proposal is considered acceptable and is recommended for approval.

### **14.0 Background Papers**

14.1 PPS; Core Strategy; CBDP; SPG; HA; HH; AO; NLR

### **15.0 Recommendation – Conditional Approval**

#### **Conditions**

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

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

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

2 - C3.5 Materials to Match Existing

The external materials and finishes to be used for the approved development, shall be of the same type and colour as those of the existing building unless otherwise agreed in writing by the Local Planning Authority.

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

### 3 - C10.15 Tree & Natural Feature Protection: Protected

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

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

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

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

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

### 5 - C10.18 Tree and Hedgerow Protection: General

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

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

### 6 – Non-Standard Condition

The construction shall take place solely in accordance with the terms of the Methodology Statement received on 12th June 2008, which forms part of this permission, and no other works shall take place that would affect the trees unless otherwise agreed in writing by the Local Planning Authority.

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

### 7 – Non Standard Condition

Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1995 (as amended), the use hereby permitted is restricted to a nursing home for people with physical or mental difficulties.

Reason: The Local Planning Authority would wish to control the specific use of the site in the interests of residential amenity.

### 8 – Non Standard Condition

The development hereby approved shall comply in all respects with the submitted drawings 139-01-05 and 139-01-06 as hereby approved unless agreed in writing by the Local Planning Authority.

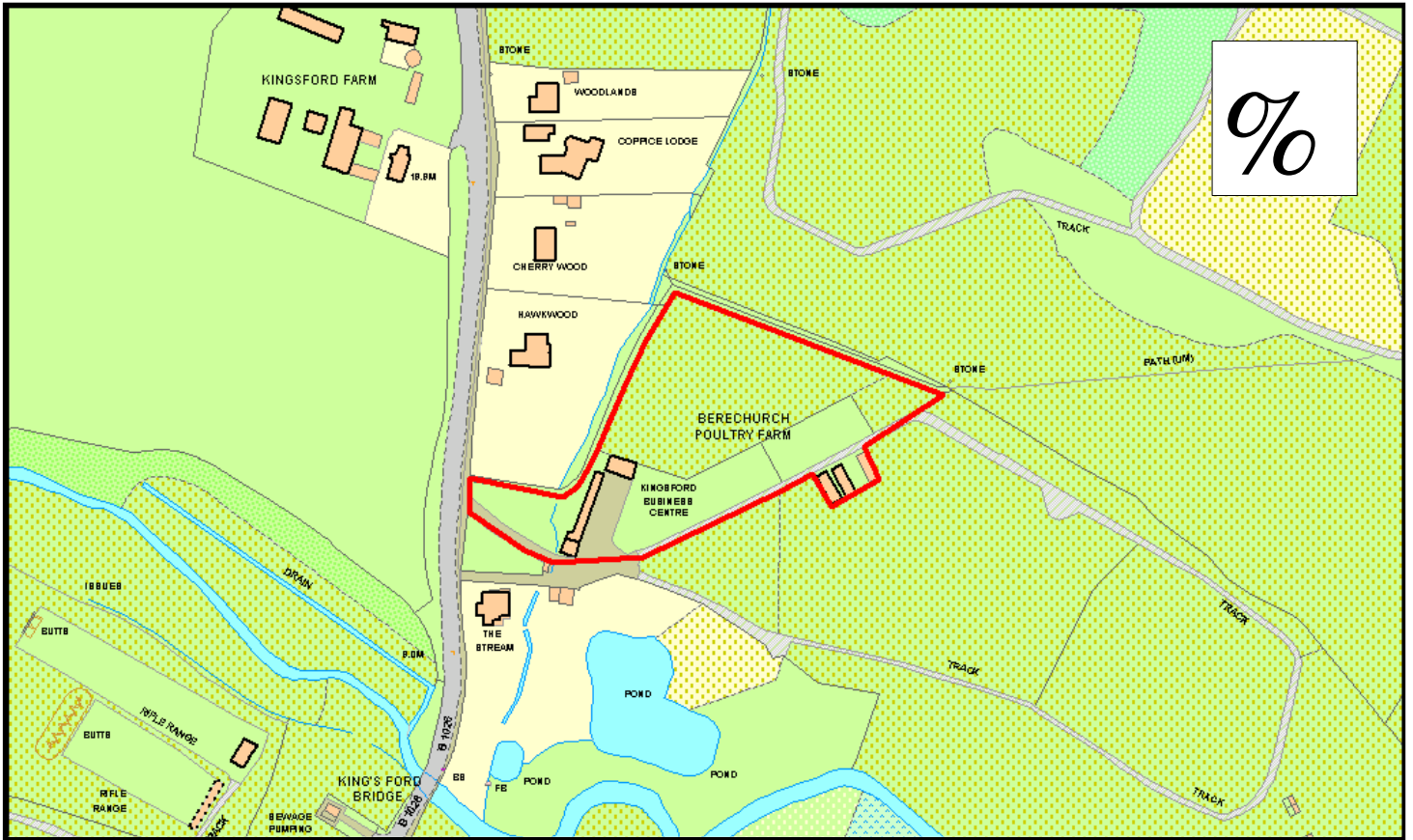
Reason: For the avoidance of doubt as to the scope of this consent.

## **Informatives**

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

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

(3) The applicant is reminded that if trees are killed as a result of the required actions then the owner of these trees may seek recourse.



**Application No:** 112266

**Location:** Kingsford Business Park, Layer Road, Layer De La Haye, Colchester CO2 0HT

**Scale (approx):** 1:1250

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#### 7.4 Case Officer: Mr David Whybrow

**OTHER**

**Site:** Kingsford Business Park, Layer Road, Layer De La Haye, Colchester, CO2 0HT

**Application No:** 112266

**Date Received:** 14 December 2011

**Applicant:** Mr Michael Wheeler

**Development:** Change of use of Unit C (No.7) from B1 office use to D2 Assembly and Leisure use by Roman River Valley Nature Photography and the erection of a hide.

**Ward:** Shrub End

**Summary of Recommendation:** Conditional Approval subject to no objections being received by the Highway Authority or the Environmental Control Team

#### 1.0 Introduction

1.1 This application has been called in by Councillor Offen with the following explanation:-

1. Planning application 110067 was approved only last June (2011) for reserved matters for the WHOLE business centre.

Condition 04 stated:-

“The remainder of the site (that is to say the area outlined in blue on the submitted application plan) shall not be used for any commercial activity.”

The area of the site where it is proposed to locate a bird hide is on this land coloured blue and as such contravenes this planning condition. It is a countryside conservation area.

2. Planning application 081951 relates to the refusal of planning permission in 2008 for 3 containers on land outside the business park curtilage and was the subject of enforcement action as it was considered structures in this locality were contrary to Policy CO1 of the ARCBLP and the appearance would detract from the enjoyment of the countryside. This same policy is being ignored in this current application. It is argued the application contravenes Policy CO1 of the local plan.
3. The nature of the operation adjacent to residential properties introducing a further business use and weekend operational hours outside of those permitted for the units in the business park will cause disturbance and loss of privacy to occupiers of adjacent properties.



4. Essex County Council Highways have maintained objections on highway safety grounds to previous applications and have insisted on improvements to the junction of the entrance of the business park with Layer Road. These improvements have not been implemented and Essex County Council have not been consulted on this current application to which it is thought they may object also.

## **2.0 Synopsis**

- 2.1 The following report will consider the grounds for the call in together with matters raised by the representations. It will describe the site and its setting and the proposal itself before assessing the planning merits of the case.
- 2.2 It will be concluded that the proposals are acceptable as submitted and a conditional approval will be recommended.

## **3.0 Site Description and Context**

- 3.1 Kingsford Business Park comprises a series of single storey units in white render, red brick and concrete pantiles in a rural location to the east of Layer Road. A number of dwellings front Layer Road to the north-west and south-west of these units while the site itself extends to the north-east into a roughly triangular wooded area on rising ground.
- 3.2 There are extant outline and reserved matters approvals for erection of additional units at the site to replace units A1-A3 uses (see site history).

## **4.0 Description of Proposal**

- 4.1 The proposal is to change the use of the most southerly unit, closest to the site entrance, from B1 office to use by the Roman River Valley Nature Photography Group for the purposes of bird and wildlife photography, discussions and slide viewing. It is also proposed to erect a small hide of approximately dimensions 3m x 2m in the woodland area for the observing and photography of wildlife. Such activity would fall within Use Class D2 (Assembly & Leisure).
- 4.2 In response to the request for further information the applicant has indicated:-
  - It is intended that the use will take place at 08.00 – 17.00 hours on any day.
  - At each session there would be a maximum of 4 guests plus Mr Harrison who runs the sessions.
  - Only one session would take place on any day consisting of 2 hours lecturing and discussion in Unit C, 1 hour in the hide for observation and photography and a further 2 hours in the unit in the afternoon. The group would then typically depart for Fingringhoe where they have another site, possibly returning to pick up a couple of cars at 17.00 hours.
  - Sessions will run from 1<sup>st</sup> March – 30<sup>th</sup> June and from September to the end of November with no sessions in July, August, December or January.
  - Parking spaces are used communally and additional overflow parking is available if required.

- The hide will be orientated so that it will face away from the houses and gardens to the west.

## **5.0 Land Use Allocation**

5.1 Rural – without notation (formerly part of the Roman River Valley Countryside Conservation Area)

## **6.0 Relevant Planning History**

6.1 F/COL/04/0854 – Continuation of use of Units A1, A3 and B for Class B1 (light industry) use and Unit C for Class B1 (office) – Approved June 2004

6.2 071866 – Outline application for Rural Business Centre and relocated car park as replacement for 3 units to be demolished (A1-A3) – Approved April 2008

6.3 081591 – Temporary siting (12 months) of storage containers – Refused October 2008.

6.4 101685 – Resiting of storage container – Refused October 2010

6.5 110067 – Reserved matters pursuant to 071866 – Approved June 2011

6.6 111195 – Variation of condition 2 of F/COL/04/0854 to permit B8 in addition to B1 uses – Approved November 2011.

## **7.0 Principal Policies**

7.1 The following national policies are relevant to this application:  
 Planning Policy Statement 1: Delivering Sustainable Development  
 Planning Policy Statement 7: Sustainable Development in Rural Areas

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
 CE1 - Centres and Employment Classification and Hierarchy  
 UR2 - Built Design and Character  
 TA5 - Parking  
 ENV1 - Environment  
 ENV2 - Rural Communities

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
 DP1 Design and Amenity  
 DP9 Employment Uses in the Countryside  
 DP10 Tourism, Leisure and Culture  
 DP19 Parking Standards

## **8.0 Consultations**

8.1 None; the views of the Highway Authority and Environmental Control have been requested and will be reported at the meeting.

## **9.0 Representations**

9.1 Four neighbouring residents have made representations and their comments may be viewed on-line. The following is a summary of the concerns they express:-

- Possible overlooking of gardens as a result of use of optical equipment in hide.
- Extended hours of opening at weekend beyond those permitted in respect of B1 units.
- Parking not addressed in terms of number of spaces and location of overflow space.
- D2 usage too broad ranging and introduces a new commercial activity to site.
- Previous highway concerns over suitability of access.
- Hide is of inappropriate appearance for setting and outside the area permitted for commercial activity.

## **10.0 Parking Provision**

10.1 Although there is no specified area of car parking associated with this unit, communal space is available with overflow facilities readily and conveniently available. An absolute maximum of five car parking spaces will be required with weekend sessions taking place when other units are not in operation.

## **11.0 Open Space Provision**

11.1 N/a

## **12.0 Report**

12.1 The 2004 approval specifically authorised light industrial use for the majority of units at the site but specified office use (to be carried out by the applicant, Mr Wheeler, only) for Unit C. The reason was to protect the amenities of the rural area, part of the Roman River Countryside Conservation Area.

12.2 Outline application 071866 (and, through it, Reserved Matters application 110067) is tied to a legal agreement whereby if the permission is implemented, units A1-A3 are to be removed and the area returned to lawn in the further interests of visual amenity and rural conservation.

12.3 In this case, Members will have to determine if the proposed leisure use, involving wildlife study and photography would conflict with the aims of rural conservation. In your officer's view this is a low key use of a type encouraged by Policy DP10 insofar as it will help to support local community services and be compatible with the rural character of the surrounding area. It will involve a limited number of people per session (5) with most vehicle movements confined to the beginning and end of sessions.

- 12.4 It is considered that design and amenity concerns as raised by Policies UR2 and DP1 and particularly relating to the orientation and colour finish of the proposed bird hide can be satisfactorily regulated by conditions, as can tree protection issues arising from its siting and construction in woodland. Although parallels have been drawn to the siting of containers as refused on this part of the site, the very modest hide will not have the same visual impact.
- 12.5 It is also considered expedient to impose a condition seeking clearer information regarding the siting of any overflow car parking in order to ensure its location is not harmful to the outlook or amenity of adjoining residents.

### **13.0 Conclusion**

- 13.1 Subject to the imposition of the conditions identified in the foregoing report and subject to no adverse comments being received from the Highway Authority and Environmental Control teams, it is considered that the submitted proposals represent a generally low-key use, compatible with its rural surroundings and without detriment to local residential amenity. Appropriate conditions will mitigate those concerns expressed by local people in their representations.

### **14.0 Background Papers**

- 14.1 ARC; DPD; HA; HH; NLR

### **15.0 Recommendation**

- 15.1 Upon receiving confirmation that no objections are raised by the Highway Authority or the Environmental Control Team it is recommended that permission be granted subject to the conditions set out below:-

#### **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 use for bird and wildlife photography discussions and slide viewing as hereby permitted shall be carried out only in accordance with the additional details as set out in e mail by Michael Wheeler dated 5/1/12.

Specifically:

- sessions shall include no more than 4 guests plus Mr Harrison
- hours of operation shall be 08.00 – 17.00 hours on any day
- sessions shall take place only from March 1st to June 30th and September 1st to December 31st in any year
- no sessions shall take place on Saturdays in July, August, December or January.

Reason: For the avoidance of doubt as to the scope of the planning permission and in order to safeguard local amenity.

### 3 - Non-Standard Condition

The proposed bird hide shall be finished in a dark colour and orientated so that any windows or openings face away from the dwellings in Layer Road to the West.

Reason: In the interests of visual amenity and to protect the outlook and privacy of neighbouring residents.

### 4 - Non-Standard Condition

Space for all vehicles visiting the site in connection with the approved use shall be maintained at all times within the site and further details of the siting and numbers of "overflow" parking shall be submitted to and agreed in writing by the Local Planning Authority before the permitted use is commenced. Such spaces shall be maintained as approved at all times.

Reason: In order to ensure that adequate on site parking facilities are maintained at all times.

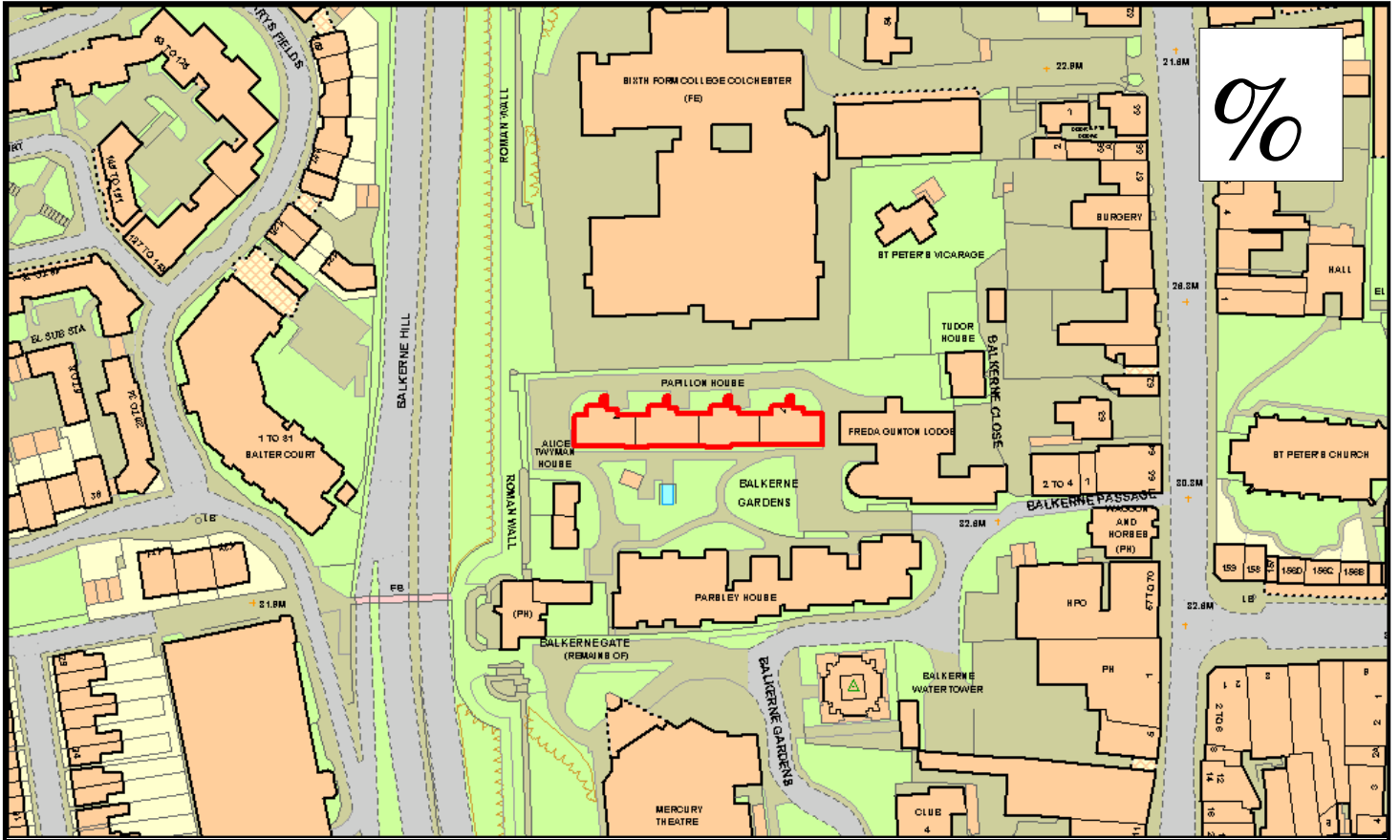
### 5 - Non-Standard Condition

The proposed bird hide shall be located and constructed so that it has no adverse effect on trees in accordance with further details which shall have been submitted to and agreed in writing by the Local Planning Authority prior to its erection. The development shall only be carried out in accordance with the details as agreed.

Reason: To safeguard the health of woodland trees to be retained in the interest of local amenity.

### **Informatives**

Your attention is drawn to a legal agreement in respect of the Business Centre. This requires, amongst other things, the removal of buildings A1 and A3 as shown on the submitted location plan.



**Application No:** 112321

**Location:** Papillon House, Balcerne Gardens, Colchester, CO1 1PR

**Scale (approx):** 1:1250

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## 7.5 Case Officer: Alistair Day

**OTHER**

**Site:** Papillon House, Balkerne Gardens, Colchester, CO1 1PR

**Application No:** 112321

**Date Received:** 6 December 2011

**Agent:** Roff Marsh Partnership

**Applicant:** Balkerne Gardens Trust Ltd

**Development:** Listed building application for removal of single glazed sliding sash windows to south elevation of Papillon House and replacing with new conservation style double glazed sliding sash windows in white painted timber. Replacement of white painted single glazed doors fitted in 1980/1981 with new white painted timber double glazed doors all using 'Slenderglaze' double glazing units.

**Ward:** Castle

**Summary of Application:** Refusal

### 1.0 Introduction

1.1 This listed building application has been called-in by Councillor Henry Spyvee for the following reason:

“The question of what, if any, double glazing is allowable in a Listed Building is a matter of principle going beyond this case. From the information I have, their proposal seems acceptable and I support it. However, it is a real issue which does need to be addressed.”

### 2.0 Synopsis

2.1 The proposal is for the replacement of the existing windows and doors to the southern elevation of Papillon House with painted timber framed double glazed windows. The justification put forward is to improve the operational use of the windows and their energy efficiency. In determining a listed building application the decision-maker must have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The current proposal would result in the loss of significant historic fabric and the insertion of new windows that do not match the original windows in terms of their design detailing. The proposal is considered to have an adverse impact on the special interest of this grade II listed building and, as such, the character and appearance of the conservation area. The public benefit of improving the energy efficiency of the windows is not considered to outweigh the statutory requirement to preserve the special interest of this listed building or that of the conservation area and, as such, the proposal is recommended for refusal.

### **3.0 Site Description and Context**

3.1 Papillon House is located to the west of Balcerne Passage and is accessed via a large arched gateway with side pedestrian arches. The arch provides views through to a green courtyard around which buildings are arranged. On the north side of the courtyard is a row of listed almshouses built in c.1837; more modern buildings (ranging in date from the 1950s to 2007) frame the other sides of the courtyard. The site is located within the Colchester Conservation Area No.1.

3.2 The almshouses - now called Papillon House (but listed as Provident Place) - are constructed of gault brick with a pitched slate roof and are designed in a classical style. The original building contained five blocks and is now a terrace of 16 flats for older people. At the east of the terrace is a modern extension built in a sympathetic style to the original building. The block was remodelled in the early 1980s when new bathrooms, kitchens and staircases were built to the rear (north) of the building.

### **4.0 Description of the Proposal**

4.1 The proposal is for the replacement of the existing doors and windows to the southern elevation of Papillon House with painted timber framed double glazed windows.

### **5.0 Land Use Allocation**

5.1 Town Centre Uses

### **6.0 Relevant Planning History**

6.1 102171 - Removal of existing single glazed sliding sash windows to south elevation and replacing with new double glazed sliding sash windows in white painted softwood. Replacement of white painted single glazed doors fitted in 1980/81 with new white painted softwood double glazed doors. – Refused 5 January 2011

F/COL/05/1391 - Demolition of Mercury Flats, construction of new 3 storey building comprising 18 1/2 person flats, laundry room and 2 guest/staff bedrooms - Approved 17 November 2005

### **7.0 Principal Policies**

7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 5: Planning for the Historic Environment

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
UR2 - Built Design and Character  
ENV1 - Environment

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



## 8.0 Consultations

### 8.1 English Heritage has provided the following advice:

Papillon House forms the north side of the space at Balkerne Gardens, within Colchester's central conservation area. It is listed grade II and comprises a two storey classically styled white brick range built in 1837 as almshouses.

It was extended to the east in the 1950s with two replica bays under a continuous parapet; otherwise the south front is symmetrical, with two forward projecting bays with pediments. Conversion to flats and a remodelling in the 1980s led to a considerable amount of internal change and the complete re-ordering of the north elevation. The south front therefore is the only elevation, which truly reflects the original late Georgian almshouse group in terms of its wall materials, the detailing of openings, pilasters and parapets and importantly the original design of the fenestration. Unfortunately the original front doors have been replaced.

The current proposal is to remove all the sash windows on the south front including the surviving originals and replace them with new double-glazed "Slenderglaze" timber units.

A short heritage statement has been included in the design and access statement and a drawing (L130/02A) has been submitted to indicate the extent of renewal of the windows in the nineteenth century openings. Although the drawing is titled "Existing condition" no detailed assessment of the state of the timber and other window components is indicated.

I therefore suggest that there is a lack of "a description of the significance of the heritage assets affected and the contribution of their setting to that significance", which is required by policy HE6.1 of Planning Policy Statement 5.

Not all of the double hung vertical sashes date from 1837. At the east end of the building on the 1950s extension there are six authentic replica box sashes with thin glazing bar profiles.

The original south front of Papillon House has twenty upper windows. Only five have been completely replaced, five have had one sash replaced, and six have had both sashes renewed. However, four windows remain as original. Of the ten lower windows seven are intact originals, some having old glass (as indeed may survive on early first floor units). The three remaining are almost intact, but with one or more of their sashes having been renewed. This indicates that a considerable amount, certainly more than fifty per cent, of the historic fabric within the openings survives intact. This fabric would be lost if the proposal were approved.

The proposed works have been justified by the desire to upgrade the thermal performance of the windows, however English Heritage considers the loss of these windows would harm the significance of this listed building.

Paragraph 152 of the Planning Practice Guide accompanying PPS5 stresses that "doors and windows are frequently key to the significance of a building. Change is therefore advisable only where the original is beyond repair, it minimises the loss of historic fabric and matches the original in detail."

The proposed “Slenderglaze” units would not be identical to the originals. They require deeper glazing bar profiles in order to accommodate the sealed units and this adds a thickness to the section of the sashes and the overall frame, which would result in them not sitting in the existing openings as the existing frames do. The added weight would I understand increase the box dimensions. In the case of some of the ground floor windows there would be an increased internal projection, which in some cases would stand proud of the existing internal linings. The deeper glazing bars and double-glazing would be visually discernable.

PPS 5 Policy HE1.2 states that where proposals that are promoted for their contribution to mitigating climate change have a potentially negative effect on heritage assets, local planning authorities should, prior to determination, and ideally during pre-application discussions, help the applicant to identify feasible solutions that deliver similar climate change mitigation but with less or no harm to the significance of the heritage asset and its setting. Policy HE1.3 notes that where conflict between climate change objectives and the conservation of heritage assets is unavoidable, the public benefit of mitigating the effects of climate change should be weighed against any harm to the significance of heritage assets.

PPS 5 Policy HE9.1 stresses the presumption in favour of the conservation of designated heritage assets and that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification.

In the design and access statement the windows are described as “draughty, ill-fitting, inefficient and difficult to operate”. In most cases this defect is straightforward to remedy and involves adopting the appropriate programme of maintenance, including easing the sashes and renewal of cords to make the use of the windows convenient for the occupants of these flats. An appropriate standard of decoration will ensure that paint does not cause “sticking”.

English Heritage sympathises with the objective of making the windows as simple to use as possible. However I advise that your council satisfies itself that the windows are not capable of repair and refurbishment as appeared to be the case on a recent site visit.

As long ago as 1994 English Heritage guidance advised that only about twenty per cent of heat loss is through windows, and most of that escapes through gaps rather than glass. Where there are draughts due to distortion or ill-fitting sashes proprietary draught proofing systems such as “Ventrolla” can fill these gaps.

More recently we have published Research into the Thermal Performance of Traditional Windows: timber sash windows (2009). The summary document in section 6 concludes “by combining repair with draught proofed secondary glazing, total heat loss could be reduced to one quarter of that of the window in its original state.... thus it is certainly not essential to replace existing windows to obtain levels of improvement in thermal performance that make traditional timber sash windows comparable with standard modern windows”.

We would urge that all these options be explored before options involving the loss of historic fabric and details are granted consent.

This advice is consistent with recent appeal decisions such as Gull Farm, Hasketon (Suffolk Coastal District, 2011) where the inspector concluded that certain windows on the front elevation of the listed building “while in need of some repairs are not in such poor condition that total replacement is indicated as being necessary or reasonable. Replacement would result in loss of historic fabric”.

With regard to the proposed replacement doors, we understand that these units are all units that date from the 1980s. They do not therefore contain any historic fabric. Moreover, they do not appear to replicate either the earlier doors that once existed in these openings or traditional glazed doors that would be compatible with the façade. We appear to have no details of the proposed replacements, but suggest that an acceptable design, improving the appearance and performance of the existing doors, could be agreed.

#### English Heritage Recommendation

Accordingly we recommend further investigation into alternative methods of improving the thermal performance, operation and reduction of condensation of the existing traditional windows. We consider that the current proposal involves an inappropriate loss of historic fabric and change in detailing that would cause substantial harm to the significance of this listed building and that it should not be permitted.

Notwithstanding our advice, you propose to approve the scheme in its present form, please advise us of the date of the committee and send us a copy of your report at the earliest opportunity.”

#### 8.2 Georgian Group comments can be summarised as follows:

“The Group’s casework team has reviewed the application in full and objects to the current scheme, in principle. We have had the benefit of viewing the letter submitted to your council by English Heritage and The Group wholly agrees with and supports their position.

Recommendation: The Group objects to application 112321 in principle and recommends that it be refused on the grounds that it will be damaging to the architectural significance of Papillon House and the wider conservation area.”

#### 8.3 The Society for the Protection of Ancient Buildings made the following comments:

“We would ask that you consider the following views in your decision process:

Recently, Historic Scotland and English Heritage carried out research into how to make traditional windows more thermally efficient. The research document published is called 'Technical Paper 1 - Thermal Performance of Traditional Windows' and is free to download at: [www.historicscotland.gov.uk/thermal-windows.pdf](http://www.historicscotland.gov.uk/thermal-windows.pdf) . The conclusion states that the most efficient way of retaining heat with regard to windows is to keep the single glazed units, draught proof the frames, fit secondary glazing and fit wooden insulated shutters. Not only are these additions reversible but with maintenance, will last a lifetime. Also by taking this approach a 78% reduction in heat loss on a standard single glazed window is achieved rather than 48% reduction in heat loss from using the double glazing option. Furthermore, when dealing with existing historic windows not only is the timber saved but the historic plain glass too.

The SPAB would always suggest the repair of existing windows rather than changing single glazed panes for unsustainable slim-style double glazed alternatives for to the following reasons:

- Double glazed units will only have a lifespan of 20 to 30 years maximum, before the rubber/plastic seals breakdown leading to condensation forming between the glass sheets - they can be repaired at a cost but this will only be a stop gap before the units will need to be thrown away as land fill (currently you can not recycle double glazing because of the plastic seals).
- Double glazed units are heavier and more bulky than single glazed panes and therefore the mullions and transoms need to be adjusted to allow the thicker pane. Sash boxes will need to be increased to cope with larger weights or pulley mechanisms. All these increases in size reduce a windows original.

In this case, we recognize that, at present, the existing windows are not performing well due to their current state of disrepair. We feel that the existing windows should be repaired and alternative measures such as secondary glazing should be considered. In summary, we do not feel that the proposal to remove the existing sash windows from the south front of the building and to replace them with 'slender-glaze' units has been justified and thus, we believe that the application should be refused consent."

#### 8.4 Ancient Monuments Society made the following comments:

"We commend the detailed emails on this application from English Heritage and SPAB.

It is clear that the retention of historic fabric, and character, and improving the amenities of the elderly occupants need not be mutually exclusive.

This could well become a test case and we urge parties to consult with each other to produce a scheme that satisfies all parties."

#### 8.5 The Victorian Society made the following comments:

"We **object** to proposals to remove original windows and replace them with double-glazed units. Papillon House is an important building and a significant element of the central conservation area. This proposal would see the complete removal and replacement of the principal façade's windows, a move which would substantially harm the significance of this listed building. Any removal of historic fabric requires strong justifications, justification lacking from this application. What alternatives have been considered?

Contrary to the documentation provided, the slimline units would not closely imitate their historic counterparts. They are inevitably thicker and bulkier than the single glazed units and therefore would have a profound influence on the overall character of the façade.

By contrast to timber windows, double-glazed units have a limited life-span and in this sense are by no means a sustainable, long-term solution. In 2009, Historic Scotland and English Heritage published a paper on the thermal performance of historic windows ([http://www.historic-scotland.gov.uk/gcu-technical\\_thermal-efficiency-traditional-windows.pdf](http://www.historic-scotland.gov.uk/gcu-technical_thermal-efficiency-traditional-windows.pdf)). This report contains suggestions for how to improve the thermal efficiency of historic windows in ways which preserve their significance and fabric. Suggestions include such simple recourses as curtains, blinds, shutters and secondary glazing. Given the application's lack of sufficient justification and the

number of acceptable and alternative solutions, I urge the council to **refuse** consent for this damaging proposal.”

## 9.0 Representations

9.1 At the time of writing this report no. 19 letters of support have been received in respect of this application. The comments made can be summarised as follows:

- The existing windows are cold and draughty and difficult to open.
- Condensation is a problem.
- Residents do not like asking staff to open / close the windows – it reduces their independence.
- The application should be supported as energy bills are rising.
- The windows have deteriorated so that their refurbishment would be impractical and costly
- Priority should be given to the residents rather than conservation
- The works are required to ensure that the building is fit for purpose – namely to provide warmth and cost effective heating in winter and adequate ventilation in the summer.
- The works have been designed to minimise the impact on the listed building and will not alter the appearance or substantially harm the historic integrity of Papillon House. Any impact is off set by the benefits to provide modern energy efficient accommodation for residents.
- If a building is not fit for purpose it is not viable

9.2 Cllr Henry Spyvee has written in support of this application and the comments made can be summarised as follows:

- This work is essential to the welfare of a group of people in their eighties and nineties. At this age, it is not just their quality of life that is at risk, but their very lives themselves.
- This Council takes seriously the threat of climate change. A scheme which will reduce the amount of carbon expended deserves serious concern. It will also save residents cash but I am sure that, as Planners, you will rightly attach less weight to that.
- The Design and Access Statement with the Application refers to the Energy Bill (now Act) 2011. As I understand it, this legislation will give Councils powers, when approached by tenants, to compel landlords to carry out modifications to increase energy efficiency. These powers do not come into force until April, 2016. However, from that date residents at Balkerne Gardens could approach the Council to get us to tell the Balkerne Gardens Trust to carry out the very works they are now seeking to do. I would expect this Council to be ahead of the game and allow works which it does not yet have power to compel.
- It is true that this is a Listed Building and it is right that our planners should give consideration to the effect of these proposed modifications on the visual effect they would have on a fine building. The solution which the Trust and their advisors are advancing, Slendergaze windows, seems to have squared a tricky circle. Your professional expertise here is crucial. What I would not want is a situation where no work can be done because of the effect it would have on the appearance of the building.

- I will be submitting a Call in Form on this proposal with the effect of taking it to Committee in the event of you being minded to reject this Application. There is a principle here and members of the Planning Committee need to be clear what is and is not acceptable in cases like these involving Listed Buildings where their owners wish to upgrade them

## **10.0 Parking Provision and Open Space**

10.1 N/A

## **11.0 Report**

### Policy Context

- 11.1 In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. The PPS policies are material considerations to planning applications that affect heritage assets, either by proposing direct change to them or by development within their setting. A planning application has not been submitted for the replacement of the windows at Papillion House.
- 11.2 The above statutory provision does not apply to applications for listed building and/or conservation area consents, but the public benefits of any proposal as set out in PPS 5 HE9.2 and HE9.4 are likely to be closely aligned with the objectives of the development plan.
- 11.3 In respect of decisions concerning listed buildings and conservation areas, there are legal provisions that impinge upon decision-making that must be taken into account and which therefore overlap with the decision-making policies of the PPS:
- (i) in considering whether to grant planning permission for development that affects a listed building or its setting or whether to grant listed building consent, the local planning authority shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses (Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990); and,
  - (ii) in considering whether to grant planning permission with respect to any buildings or other land in a conservation area, the local planning authority shall pay special attention to the desirability of preserving or enhancing the character or appearance of that area (Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990).

11.4 The development plan includes the LDF Core Strategy (adopted December 2008), the LDF Development Plan Policies (adopted 2010), Site Allocations (adopted 2010) and Proposals Maps (adopted 2010). The development plan policies ENV1 and DP14 reflect the duties imposed by Sections 16(2), 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 with regard to listed buildings and conservation areas. Also relevant is Planning Policy Statement 5 – Planning for the Historic Environment and the accompanying Historic Environment Practice Guide (PPS5 PG). Development plan policies UR2 and DP1 (which seek to secure development of a high standard) and ER1 and DP25 (in relation to energy conservation) are consistent with the overriding objective of safeguarding the special interest of listed buildings and the character and appearance of conservation areas.

### The Main Issue

11.5 The main issues to be considered in determining this application is the effect that the proposed alteration works will have on the special architectural and historic interest of the Papillion House and whether the works would preserve or enhance the character and appearance of the Colchester Conservation Area No.1.

### Conservation and the Special Interest

- 11.6 Listed buildings are considered ‘heritage assets’ within the context of PPS 5 and the Government’s overarching aim is that “the historic environment and its heritage assets should be conserved and enjoyed for the quality of life they bring to this and future generations” (PPS 5, Paragraph 7). In order to achieve this, the Government describes how heritage assets should be regarded to be a “non-renewable resource” with intrinsic social, cultural, economic and environmental benefits, advising that any change to them should be “intelligently managed” (PPS 5, Paragraph 7).
- 11.7 PPS 5 Policy HE9.1 stresses the presumption in favour of the conservation of designated heritage assets and that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification.
- 11.8 Policy HE9.4 of PPS 5 states that where a proposal has a harmful impact on the significance of a designated heritage asset which is less than substantial harm, in all cases planning authorities should:
- (i) weigh the public benefit of the proposal (for example, that it helps to secure the optimum viable use of the heritage asset in the interests of its long-term conservation) against the harm; and
  - (ii) recognise that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss.

- 11.9 The Listing describes Papillon House as dating from 1837. It is considered that the significance and the special architectural and historic interest of this designated heritage asset relate to its age, materials, design and detailing. The slate roofs, chimneys, corniced parapets, pediments, pilasters and window design (on the south elevation) all make an important contribution to the design and special architectural and historic interest of this listed building. The windows, their timber material, joinery detailing and their placement within the wall, are important features contributing significantly to the proportions and appearance of Papillon House.
- 11.10 The original south front of Papillon House has twenty upper windows. According to the information submitted by the applicant (ref drawing L130/02A), four of these windows remain as original; six have had one sash replaced; six have had both sashes renewed; only five have been completely replaced. Of the ten lower windows, seven are intact originals and some having old glass (as indeed may survive on early first floor units). The three remaining are almost intact, but with one or more of their sashes having been renewed. As English Heritage notes, a considerable amount of the historic fabric within the openings survives intact; this fabric would be lost if the current application were to be approved.
- 11.11 The agent puts forward the argument in the Design and Access Statement that many of the windows have been completely been replaced and that the amount of fabric that would remain after refurbishment would be limited and randomly distributed throughout the building. The agent goes onto argue that the renewal of the windows and doors would give a uniform appearance which would closely match the originals.
- 11.12 There is a strong presumption in favour of the conservation of designated heritage assets and, in particular, those features that contribute to its special interest or significance. Paragraph 152 of the PPS5 Planning Guide (PG) stresses that “doors and windows are frequently key to the significance of a building. Change is therefore advisable only where the original is beyond repair, it minimises the loss of historic fabric and matches the original in detail.” Paragraph 160 of PPS5 PG states that restoration is only likely to be acceptable if the significance of the elements that would be restored decisively outweigh the significance of those that would be lost. PPS5 PG advises that restoration works are intended to reveal or recover something of the significance that has been eroded, obscured or previously removed; this is not the case in respect of this application.
- 11.13 The existing windows make an important contribution to the historic character of Papillon House and their design, which follows a design that is appropriate to the age and authenticity of this building, play a vital part in establishing the building’s special interest. PPS 5 stresses the presumption in favour of the conservation of designated heritage assets; a sympathetic approach to altering a listed building would ensure the use of appropriate methods of repair and the retention of as much historic fabric as possible. The windows in this case, although showing some signs of decay are not considered to be beyond repair. The current proposal does not follow good conservation practice as it involves the wholesale replacement of historic windows. The loss of the existing fabric would harm the significance and special interest of this building; this view is shared by English Heritage and the amenity societies. The installation of a propriety draught system combined with secondary glazing or double glazed shutters would allow



retention of the historic windows and could be installed with minimal impact on the fabric or appearance of the listed building

- 11.14 As illustrated by the detailed drawings provided, the design of the proposed “Slenderglaze” units would not match the original detailing of the mid C19 windows; the timber sections and profiles would need to be deeper in order to accommodate the sealed units, which will add a thickness to the section of the sashes and the overall frame. In the case of some of the ground floor windows there would be an increased internal projection, which would stand proud of the existing internal linings. The proposed replacement windows would not be historically accurate in their detailing and, as such, would fail to respect the historic asset causing harm to its significance. The glass to the double glazed units will also have a different reflective quality which is out of character with the appearance of traditional glazing. It should also be noted that in the 3 College Street, Bury St Edmunds appeal (referred to later in the report), the Planning Inspector considered that, by modifying the historic windows to suit modern double glazing units, the casual observer may be misled into thinking that they were original and that this would further erode the asset’s significance.
- 11.15 It is understood that the existing doors date from the 1980s and, therefore, they do not contain any historic fabric. Moreover, the doors do not appear to replicate either the earlier doors that once existed in these openings or traditional glazed doors that would be compatible with the façade. No details have been submitted in respect of the proposed replacement doors. The proposed replacement of the existing doors provide an opportunity for improving the appearance of the doors and their energy performance.

#### Conservation and Sustainability

- 11.16 The principle reasons put forward for the replacement of the existing windows is that they are draughty, ill-fitting and difficult to open. The agent also states that the proposed double glazed windows will more energy efficient.
- 11.17 PPS 5 Policy HE1.2 states that where proposals that are promoted for their contribution to mitigating climate change have a potentially negative effect on heritage assets, local planning authorities should, prior to determination, and ideally during pre-application discussions, help the applicant to identify feasible solutions that deliver similar climate change mitigation but with less or no harm to the significance of the heritage asset and its setting. Policy HE1.3 notes that where conflict between climate change objectives and the conservation of heritage assets is unavoidable, the public benefit of mitigating the effects of climate change should be weighed against any harm to the significance of heritage assets.
- 11.18 The adoption of an appropriate programme of maintenance (including easing the sashes, renewal of cords and weights would be relatively straightforward and would remedy the current problems of associated with opening the windows. The installation of a propriety draught system would virtually eliminate draughts. This approach has previously been suggested to the agent. Secondary glazing or double glazed shutters could also be installed.

- 11.19 PPS 5 does give some weight to the public benefit that can be gained in mitigating the effects of climate change, but it also advises that only in cases where conflict between climate change objectives and the conservation of heritage assets is unavoidable and justifiable is it appropriate for the two objectives to be weighed against each other. The evidence provided by the agent does not show that this conflict is unavoidable; neither is a sound case made for the justification of the harm caused to the listed building.
- 11.20 Core Strategy policy ER1 promotes energy efficiency and supports the implementation of the code for sustain homes through the Building Regulations. Development Plan policy DP25 supports the proposals for renewal energy provided they are not out of character with their surroundings. The Sustainable construction SDP provides guidance on the implementation of these policies.
- 11.21 English Heritage published research in 2009 on the Thermal Performance of Traditional Windows. The summary in Section 6 of this document states that “by combining repair with draught proofed secondary glazing, total heat loss could be reduced to one quarter of that of the window in its original state.... thus it is certainly not essential to replace existing windows to obtain levels of improvement in thermal performance that make traditional timber sash windows comparable with standard modern windows”.
- 11.22 English Heritage’s guidance document “Energy Efficiency in Historic Buildings: Secondary Glazing for Windows” notes that “older windows can often be draughty as over time they distort as joints become weakened and that excessive air leakage through windows wastes heat and is uncomfortable for occupants”. This advice document goes on to state that “the benefits of double glazing over other methods of window upgrading are often overestimated. Much of the comfort and energy efficiency benefits of new double glazing come from the reduction of draughts that will result from well-fitted window frames with integral draught-proofing. These benefits are also available through repair and draught-proofing of the existing windows or from fitting secondary glazing”.
- 11.23 The Building Regulations are the primary statutory vehicle for improving the energy efficiency of buildings. Part L “Conservation of Fuel and Power” is the relevant approved document that covers the replacement of windows. This document states that special considerations apply if the building on which the work is to be carried out has “special historic or architectural value and compliance with the energy efficiency requirements would unacceptably alter the character or appearance of the historic building”. The Building Regulations advise that when undertaking work on or in connection with a listed building, the aim should be to improve energy efficiency as far as is reasonably practical, however this work should not prejudice the character of the host building or increase the risk of long-term deterioration of the building fabric or fittings. Part L of the Building Regulations advises that the guidance given by English Heritage should be taken into account in determining appropriate energy performance standards for work in historic buildings.

11.24 English Heritage guidance on secondary glazing notes that there are no specific requirements for this form of glazing within the Building Regulations. The Part L Approved Documents set U-value standards for windows but these will only apply to existing buildings:

if the windows are beyond repair and there is no alternative but to replace them

or

if the building is undergoing a 'change of use'

The aforementioned English Heritage guidance document notes that the Part L Approved Document for windows is 2.2/m<sup>2</sup>K and that this performance figure can be achieved when secondary glazing with low E glass is used in combination with the primary window. Secondary glazing offers the opportunity to improve the energy efficiency of an older building whilst retaining its historic appearance and significance. Installing secondary glazing to the primary windows can be useful in assisting a compromise to be reached when trying to upgrade the thermal performance of a historic building.

11.25 The sustainability implications of undertaking the proposed works, as opposed to the repair of the existing windows, also need to be considered. The embodied energy of new work is an important consideration where the primary objective is to reduce CO<sub>2</sub> or energy use. If the energy saving measures (such as double glazing) require a significant amount of energy in their production, this could offset the energy that the product would save once installed, thus defeating the primary objective. No detailed information has been submitted in respect of this matter.

11.26 The longevity of the windows also needs to be considered. It is understood that the proposed Slenderglass windows have a five year guarantee. As with all double glazing the key issues is the longevity of the seal. This becomes particularly important when there are inert gases (or a vacuum) in the cavity as these are key to the thermal efficiency of the unit(s). Once this seal fails, the thermal performance will be reduced, and additional problems such as internal condensation and moisture build-up are likely to occur. Such problems cannot readily be resolved, making total replacement the most viable option.

11.27 The comments made in respect of the Energy Act and the powers afforded by this Act to enable improvements to be made to buildings in respect of their energy efficiency are noted. It is understood that these powers have not come into effect and, that they do not override the existing statutory requirement in respect of listed buildings. It should also be noted that improving the energy efficiency of the building would not rule out the repair of the existing windows, the insertion of a proprietary weather proofing strip and/or secondary glazing / shutters.

### Appeal Decisions

11.28 Members' attention is drawn to four recent listed appeal decisions (all dismissed) relating to the replacement of single glazed windows with double glazed units of a 'slim-line' design.

- 11.29 The replacement of original windows with double glazed windows was refused at The Esplanade, Plymouth, a grade II listed building (reference AP/N1160/E/10/2119921). In this appeal the Inspector stated that “there are fine judgements to be made on the most appropriate way of achieving thermal efficiency without causing physical or visual harm to such a significant historic building”. The Inspector considered that there was no technical justification for the thermal efficiency delivered by double glazing in comparison to single glazing and that the justification provided by the appellant was not sufficient to outweigh the harm the proposal would cause. The Inspector also took issue with the differing detail between proposed and existing windows and stated that “there is plenty of published evidence to show that single-glazed wooden windows, especially if they are properly fitting and weather stripped, can have good thermal performance”.
- 11.30 A second appeal which considered the replacement of windows to a grade two listed property was at Gull Farm, Hasketon, Woodbridge (appeal reference APP/J3530/E/11/2145226). The inspector took the view that the existing windows contributed to the design and special architectural and historic interest of the building and commented that “it is not appropriate to sacrifice old work simply to accommodate new”.
- 11.31 The replacement of single glazed windows with double glazed windows was proposed at Chapel Cottage, Atherington, Umberleigh, Devon. In the appeal (Ref: APP/X1118/E/11/2157186) the Inspector noted that PPS 5 PG states that changing windows is advisable only where the original is beyond repair. Secondary glazing is usually more appropriate than double-glazing where the window itself is of significance. In this case, the Inspector noted that although the windows showed signs of decay particularly on the cills he saw no evidence to suggest that the windows were beyond repair. The Inspector also considered that secondary glazing would allow retention of the historic windows and that this could be installed with minimal impact on the fabric or appearance of the listed building. The Inspector went on to comment that in view of the possibility of installing temporary, reversible secondary glazing, the improved thermal performance provided by the proposed scheme would not justify irrevocable harm to the heritage asset arising both from the loss of the historic windows and the installation of inappropriate window replacements.
- 11.32 In a further appeal decision involving the insertion of double glazing to a listed building - College Street, Bury St Edmunds, Suffolk (Appeal Ref: APP/E3525/E/11/2161466) – the inspector noted that the introduction of double glazing, even of the ‘Slimlite’ type would reflect unfavourably, in a small but nevertheless material way, on the timber sections and profiles that need to be adopted to allow for double glazing to be fitted into a traditional window design. The Inspector considered that the proposed windows would not be historically accurate in their detailing and would therefore fail to respect the historic asset causing harm to its significance. Further, by trying to adopt a traditional design, but modifying it to suit modern double glazing units, the casual observer may be misled into thinking that they were original thereby further denuding the asset’s significance.

11.33 Each historic building is unique and, as such, each proposal must be determined on its individual merits. The above appeal decisions do however clearly reveal that the Planning Inspectorate is adopting a consistent approach when making decisions in respect of the installation of double glazing in listed buildings and their interpretation of central and local planning policies. It is also important to note that English Heritage, the appointed advisor to the Secretary of State on heritage matters has made a specific judgement in this case as to the acceptability of the windows proposed. It believes the installation of these windows will cause harm to the significance of this grade II listed building.

## **12.0 Conclusion**

12.1 For the reasons given above, it is considered that the proposal to replace the existing windows on the south elevation at Papillon House with double glazed units would cause material harm to the special interest of this grade II listed building and, as such, fail to preserve the character and appearance of this part of the town centre conservation area. It has also not been adequately demonstrated that substantial public benefit brought by improving the energy efficiency of the building is sufficient to outweigh the substantial harm caused to the heritage asset by this proposal. The proposal to replace the existing windows with double glazed windows would conflict with the duties imposed by sections 16 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the guidance in PPS5 and the practice guide and the objectives of Policy ENV1 and UR2 of the Local Development Framework Core Strategy December (adopted 2008) and DP1 and DP14 of the Development Policies (adopted October 2010).

## **13.0 Background Papers**

13.1 PPS5 and Practice Guide; Core Strategy; Development Plan Policies; Planning (Listed Building and Conservation Areas) Act 1990; English Heritage Guidance Documents

## **13.0 Recommendation - Refusal**

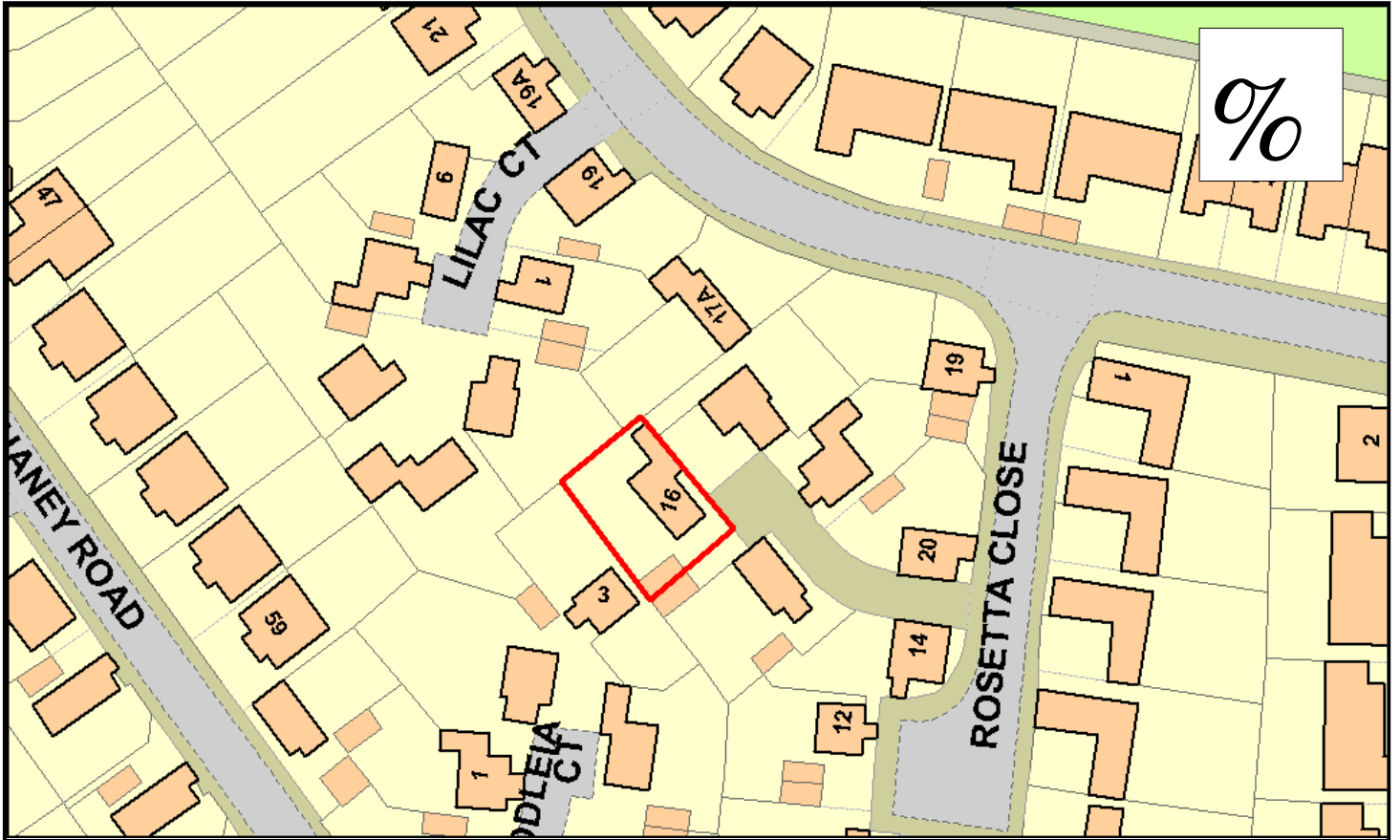
### **1 - Non-Standard Refusal Reason**

Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses; Section 72 of the same Act requires the local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of that Conservation Area. HE6 of Planning Policy Statement 5 requires an applicant to assess the significance of the heritage asset and the impact that the proposed works would have on the special interest of the building. Policy HE 9 states that there is a presumption in favour of the conservation of a designated heritage asset. Paragraph 152 of the PPS5 Practice Guide (PPS 5 PG) states that “doors and windows are frequently key to the significance of a building. Change is therefore advisable only where the original is beyond repair, it minimises the loss of historic fabric and matches the original in detail.” Paragraph 160 of PPS5 PG states that restoration is only likely to be acceptable if the significance of the elements that would be restored decisively outweigh the significance of those that would be lost. PPS5 PG advises that restoration works are intended to reveal or recover something of the significance that has been eroded, obscured or previously

removed. Development plan policies ENV1 and DP14 reflect the above statutory provisions and national planning policy guidance. Development plan policies UR2 and DP1 (which seek to secure development of a high standard) and ER1 and DP25 in relation to energy conservation are consistent with the overriding objective of safeguarding the special interest of listed buildings and the character and appearance of conservation areas.

The condition survey prepared by Roff Marsh Partnership notes the extent of existing window replacement; the more detailed condition survey prepared by the Sash Window Consultancy notes that many of the windows are painted shut or are unbalanced or difficult to slide. The proposed wholesale replacement of the existing windows would result in a significant loss of historic fabric. The more detailed schedule of works notes that, in the majority of cases, only relatively minor repairs are required to the existing windows while the windows are in need of some repair they are not in such a poor conditions that their total replacement is considered necessary or reasonable. It is not good conservation practice to sacrifice old work simply to accommodate new work.

The introduction of double glazing, even of the slenderglaze type would reflect unfavourably in a small but nevertheless material way, on the timber sections and profiles that need to be adopted to allow for double glazing to be fitted into a traditional window design. The proposed windows would not be historically accurate in their detailing and therefore fail to respect the heritage asset causing harm to its significance. Restoration work, such as that proposed by this application, is intended to reveal or recover something that has been eroded, obscured or previously removed; this is not the case in respect of this application. The public benefit of improving the energy efficiency of the building by replacing the existing windows with double glazed windows is not considered to outweigh the statutory requirement to preserve the special interest of this listed building or the character and appearance of the conservation area. The proposal also conflicts with national and local planning policies as set out in PPS 5, PPS PG or the development plan.



**Application No:** 112430

**Location:** 16 Rosetta Close, Wivenhoe, Colchester, Colchester, CO7 9RX

**Scale (approx):** 1:1250

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**7.6 Case Officer: Corine Walsh**

**HOUSEHOLDER**

**Site:** 16 Rosetta Close, Wivenhoe, Colchester, CO7 9RX

**Application No:** 112430

**Date Received:** 22 December 2011

**Agent:** Mr Michael Bowler

**Applicant:** Mr & Mrs Jodie Battersby

**Development:** Proposed first floor extension and associated alterations.

**Ward:** Wivenhoe Cross

**Summary of Recommendation:** Conditional Approval

## **1.0 Introduction**

1.1 This application is referred to the Planning Committee on the request of Councillor Cory under the call-in procedure with the following explanation.

“I would like to call in the application 112430; I believe it needs further attention for the primary reason of it causing overlooking and considerable negative impact upon the adjoining property which is of a significantly lower land level. I feel it needs a site visit from the Committee to truly decide the impact of this development. I would like the officers to advise the applicant on a more suitable development if that is possible.”

## **2.0 Synopsis**

2.1 The report will describe the proposal, the material planning considerations and the views expressed by neighbouring residents. The recommendation is to approve the application, however in making this recommendation, Officers will detail the reasons why the scheme as proposed complies with the relevant planning policy framework.

## **3.0 Site Description and Context**

3.1 The application site is located at the end of a private drive serving four detached dwellings. The drive is served from Rosetta Close, Wivenhoe, which is one of a number of higher density residential streets and cul-de-sacs in the north east corner of Wivenhoe. The site itself is relatively small and accommodates a modest 3 bedroom house and a shared garage. The application property is two storey and has an existing single storey extension.

3.2 The site does not contain any notable landscape features and is generally level. Beyond the site to the north the levels change and neighbouring gardens (north) are approximately 500mm lower.



## **4.0 Description of the Proposal**

- 4.1 The proposal involves a first floor extension proposed to be constructed over an existing single storey extension, which will accommodate an addition bedroom. The extension is to have a hipped roof and is articulated on one side and its ridgeline is slightly below that of the host dwelling. Due to the existence of properties, which surround the site, openings at first floor level are limited to the north east elevation. Additional light is to be provided by four high level roof lights. The window proposed on the northeast elevation is noted on the submitted plans as being obscure glazed and fixed shut to prevent overlooking of neighbouring gardens. On the south west elevation, a “blind window” is proposed. This of course is not actually a window at all; it is an architectural device where the brickwork is inset in place of an actual opening, which relieves an otherwise monotonous section of blank brickwork.

## **5.0 Land Use Allocation**

- 5.1 The application site is shown on the Proposals Map as being Predominantly Residential.

## **6.0 Relevant Planning History**

- 6.1 The site has no relevant planning application history.

## **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
SD1 - Sustainable Development Locations  
UR2 - Built Design and Character  
TA5 - Parking
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP12 Dwelling Standards  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP19 Parking Standards
- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:  
Vehicle Parking Standards  
Extending your House  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

- 8.1 Environmental Health Officers have been consulted, but raise no objections to the proposals.

## **9.0 Town Council Response**

- 9.1 Wivenhoe Town Council comments as follows:-

“Concern that the proposal will be overbearing in regard to the properties at the rear, especially No. 2 Lilac Court which is on a lower ground level. The windows of the extension will directly overlook this property contrary to Colchester’s Adopted Development Policy DP1 and Policy DP13 which states that residential alterations will be supported where they meet other policy requirements, including the adopted SPD “Extending your House”? The SPD indicates that neighbouring residents should be given a reasonable amount of protection from new development that reduces their privacy and indicates that the area immediately behind the house requires the greatest protection. The differing ground levels need to be taken into consideration as the proposal would be unacceptably overbearing on the private amenity space at the rear of No. 2 Lilac Court.”

## **10.0 Representations**

- 10.1 Two letters of objection to the proposals have been received from neighbouring residents, whose comments can be summarised as the proposal will intrude on privacy due to the windows proposed, loss of sunlight and overshadowing due to the relative height between properties.

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

## **11.0 Parking Provision**

- 11.1 Vehicle parking exists within the site and will not be affected by the proposal.

## **12.0 Open Space Provision**

- 12.1 N/A

## **13.0 Report**

- 13.1 The objections received against this proposal from neighbouring residents and those of the Town Council are very similar and relate to a concern in relation to a loss of privacy from proposed windows, an overbearing impact on neighbouring property and a loss of light. These objections are acknowledged, however they are not shared by Officers.

- 13.2 In relation to a perceived loss of privacy, the proposal does not involve the inclusion of any new windows to the property, which will allow direct views from the application site across neighbouring gardens or private spaces. There is one new window in the north east elevation, this window is notated on the submitted drawing as being finished in obscure glass and is to be fixed shut. The window will simply provide light to the bedroom it serves but views from it will not be possible. Members will be familiar with this treatment of windows, where overlooking may result if such measures are not taken. It is common in higher density development and is entirely enforceable via appropriately worded planning conditions.
- 13.3 Four roof lights are also proposed, these will also allow light and provide ventilation. On the north west elevation, the window is blind, thus it is not a window in the conventional sense and will not threaten neighbouring privacy. It is quite possible that the objectors may have misunderstood or missed the notations on the submitted plans.
- 13.4 Officers are satisfied that the proposal will not lead to a loss of privacy.
- 13.5 The concerns relating to an overbearing impact on neighbours focus on the difference in levels between properties. Whilst a difference in level is evident from a site visit, the level change is modest at approximately 500mm. To compensate for this, the ridge height of the extension has been lowered and the roof has been hipped. The combination of these factors and the relative distances between properties is such that officers do not consider that the proposal will be unduly overbearing on its neighbours. Given the relationship of the properties in the cul-de-sac and those around it, the provisions and tests provided in the Council's Extending Your House SPD which are used to assess overbearing development are met by the proposals.
- 13.6 The same considerations can be applied to the concerns relating to overshadowing and again, the proposals meet the tests. Whilst there may be some additional shadow from the extension, it is not considered to be of a level where a refusal could be justified.

## **14.0 Conclusion**

- 14.1 In conclusion, the design, scale, height and massing of the proposal are considered acceptable and would meet policy criteria and SPD guidance. As such approval is recommended subject to conditions, in particular, a condition to ensure that the fixed and obscure glazed windows are of a suitable level of obscurity and one will remain fixed in perpetuity.

## **15.0 Background Papers**

- 15.1 PPS; CBDP; SPG; HH; PTC: NLR

## **15.0 Recommendation – Approval subject to the following conditions:-**

### **Conditions**

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

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

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

#### **2 - Development in Accord with Approved Plans (Non-Std. Wording)**

The development shall be implemented in all respects strictly in accordance with the submitted drawing no 5298/11/2 dated November 2011 and hereby approved, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

#### **3 - Non-Standard Householder Condition (Matching Materials)**

Notwithstanding Condition 2 above, the external materials and finishes to be used for the approved development shall be the same type and colour as those used on the existing building unless otherwise agreed, in writing by the local Planning Authority.

Reason: To ensure that the materials used on the development are of a satisfactory visual appearance that respects the character of the existing property.

#### **4 - B4.1 No Additional Windows in Flank Walls**

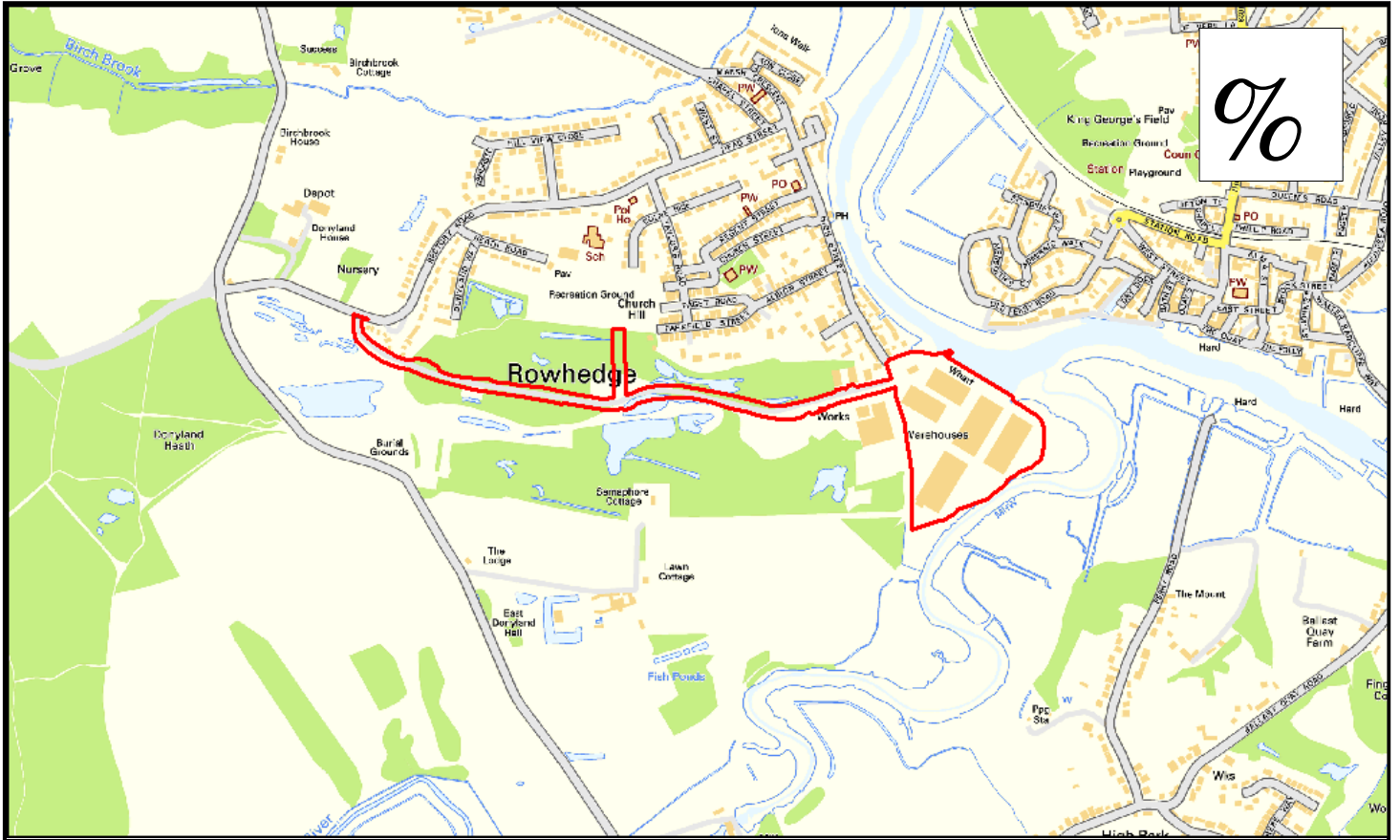
No windows, doors, voids or openings of any kind shall be inserted, placed or formed in either the front, rear or flank walls of the first floor side extension hereby permitted and these walls shall remain imperforate at all times unless otherwise agreed in writing by the Local Planning Authority.

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

#### **5 - Non-Standard Condition**

Prior to works commencing in relation to the development hereby approved, details of the new window within the front (north east) elevation serving the master bedroom shall be submitted to and approved in writing by the Local Planning Authority, which details the level of obscure glass to be fitted and the method by which the window will be fixed shut. Once approved the windows as agreed shall be incorporated into the north east elevation of the proposed extension and maintained as such thereafter.

Reason: In order to safeguard the privacy of adjoining occupiers.



**Location:** Rowhedge Wharf, High Street, Rowhedge, Colchester CO5 7ET

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## Planning Committee

Item

8

16 February 2012

<b>Report of</b>	<b>Head of Environmental &amp; Protective Services</b>	<b>Author</b>	<b>Sue Jackson</b> ☎ 01206 282450
<b>Title</b>	<b>Revocation of Deemed Consent to store hazardous substances at Rowhedge Wharf</b>		
<b>Wards affected</b>	<b>East Donyland</b>		

**This report concerns the revocation of a Deemed Consent to store hazardous substances at Rowhedge Wharf**

### 1.0 Decision(s) Required

1.1 Members are asked to agree this report.

### 2.0 Reasons for Decision(s)

2.1 Rowhedge Wharf is the subject of a development brief for redevelopment to residential and mixed uses.

2.2 An outline application has been submitted and is currently under consideration, it will be reported to the Planning Committee in due course. The application proposes the redevelopment of part of the former port to provide 170 dwellings, including nine 'Polyfunctional' dwellings with parts of their ground floors to be used for business purposes, a building for a health centre Use Class D1 and /or business use Class B1A; public waterfront area incorporating dinghy park, car park, viewing tower, public facilities and new slipway; upgrade to access road from Rectory Road; footpath from access road to existing recreation ground; internal roads, open space.

2.3 As the site has a Deemed Consent under the Planning (Hazardous Substances) Act to store ammonium nitrate the Health and Safety Executive (HSE) has to be consulted on the application. The HSE has objected to the application as the Deemed Consent to store ammonium nitrate is still in place.

2.4 Legal Services have therefore been instructed to revoke the Deemed Consent and this report seeks the approval of the Planning Committee for this to happen.

### 3.0 Alternative Options

3.1 The Planning Committee could decide not to revoke the Deemed Consent but this would frustrate the redevelopment of the site. It would also leave open the possibility that the storage of substances could be recommended.

## **4.0 Supporting Information**

- 4.1 Under the Planning (Hazardous Substances) Act 1990 Colchester Borough Council is the Hazardous Substances Authority for the area. In 1992 Colchester Dock Transit claimed from the Authority a Deemed Consent for the discharge and loading of various commodities to and from vessels along side and road-going vehicles, the storage of these commodities in purpose built warehousing in the case of certain commodities mainly dry bulk materials (fertilisers and animal feedstuffs) and the processing of these materials to customers' requirements. The estimated quantities of chemicals were 2500 tonnes and 1000 tonnes. The Authority registered the Deemed Consent in July 1992.
- 4.2 The site has not been used as a port for several years, the buildings have been demolished and the site has been sold. Ammonium nitrate has not been stored at the site for at least the last 10 years.
- 4.3 The HSE has confirmed they have no objection to the revocation of the Deemed Consent.

## **5.0 Financial Implications**

- 5.1 None

## **6.0 Strategic Plan References**

- 6.1 The redevelopment of the site accords with Strategic Plan objectives.

## **7.0 Risk Management**

- 7.1 There are no risk management issues.

## **8.0 Publicity Considerations**

- 8.1 None

## **9.0 Human Rights Implications**

- 9.1 None

## **10.0 Community Safety Implications**

- 10.1 None

## **11.0 Health and Safety Implications**

- 11.1 None



## **Colchester Borough Council Development Control**

### **Advisory Note on Parking Standards**

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

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

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

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

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





## Colchester Borough Council Environmental Control

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

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

#### **Best Practice for Construction Sites**

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

#### **Noise Control**

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

#### **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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