

Planning Committee

Town Hall, Colchester
23 July 2009 at 6.00pm

This committee deals with

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

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

Information for Members of the Public

Access to information and meetings

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

Have Your Say!

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

Private Sessions

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

Mobile phones, pagers, cameras, audio recorders

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

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

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Material Planning Considerations

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

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

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

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

Human Rights Implications

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

Community Safety Implications

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

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
23 July 2009 at 6:00pm**

Members

Chairman : Councillor Ray Gamble.
Deputy Chairman : Councillor Stephen Ford.
Councillors Mary Blandon, Helen Chuah, Mark Cory,
John Elliott, Andrew Ellis, Theresa Higgins, Sonia Lewis,
Jackie Maclean, Jon Manning and Ann Quarrie.

Substitute Members : All members of the Council who are not members of this Committee or the Local Development Framework Committee. The following members have undertaken planning training which meets the criteria:-
Councillors Nick Barlow, Lyn Barton, Kevin Bentley, John Bouckley, Nigel Chapman, Peter Chillingworth, Barrie Cook, Beverly Davies, Wyn Foster, Mike Hardy, Peter Higgins, Martin Hunt, Michael Lilley, Richard Martin, Nigel Offen, Laura Sykes, Jill Tod, Anne Turrell and Julie Young.

Agenda - Part A

(open to the public including the media)

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

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

Pages

1. Welcome and Announcements

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

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

- action in the event of an emergency;
- mobile phones switched 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 - 11

To confirm as a correct record the minutes of the meeting held on 9 July 2009.

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. 090498 Avon Way House, Avon Way, Colchester (St Andrew's) 12 - 28

Erection of 133 new student bedrooms in 30 flats split into 6no. separate buildings.

2. 080665 Maldon Road, Tiptree (Tiptree) 29 - 50

Proposed residential development comprising of 3 no.2 bed apartments, 1 no.3 bed houses, 2 no.4 bed houses, 6 no.5 bed houses.

3. 090395 8 Hall Road, West Bergholt (West Bergholt and Eight Ash Green) 51 - 58

New build two storey dwelling with proposed parking.

4. 090519 53 London Road, Copford (Copford and West Stanway) 59 - 67

Proposed dwelling and detached garage on land adjacent to 53 London Road, Copford. Variation of 072961.

5. 090749 Land adjacent (south of) Rushmere Close, West Mersea (West Mersea) 68 - 75

Proposed office/storage unit (B1, B2 and B8 use).

6. 090433 81-82 London Road, Colchester (Lexden) 76 - 85

Change of use of upper floor of former MFI premises from Class A1 (Retail) to Class A1 (Retail) and Class D1 (Church) in the

alternative, including modifications to the roof and fenestration, insertion of fire doors on ground floor and provision of bicycle parking areas.

7. 090434 80-82 London Road, Colchester (Lexden) **86 - 89**

Application to delete Condition 5 of planning permission 081079 (No retail sales shall take place from the first floor of the building).

8. 090669 22 Whittaker Way, West Mersea (West Mersea) **90 - 93**

Proposed new boundary fence.

9. 090704 High Street, Rowhedge (East Donyland) **94 - 98**

Renewal of planning permission 071120 for the continued use of the Heritage Trust Hut.

- 8. Enforcement Report // Land at Church Lane, East Mersea 99 - 102**

See report by the Head of Environmental and Protective Services.

- 9. Failure to comply with Section 106 // 34 East Hill, Colchester 103 - 105**

See report by the Head of Environmental and Protective Services.

- 10. Performance Report // 1 April 2009 to 30 June 2009 106 - 111**

See report by the Head of Environmental and Protective Services.

- 11. 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
9 JULY 2009**

Present :- Councillor Ray Gamble* (Chairman)
Councillor Sonia Lewis* (Deputy Mayor)
Councillors Mary Blandon*, Helen Chuah*,
Mark Cory*, Andrew Ellis*, Stephen Ford,
Theresa Higgins, Jackie Maclean* and
Jon Manning*

Substitute Members :- Councillor Richard Martin
for Councillor John Elliott*
Councillor Jill Tod for Councillor Ann Quarrie*

(* Committee members who attended the formal site visit.
Councillor Ellis was not present at the site visit referred
to in minute no.48)

41. Minutes

Subject to the following amendments, the minutes of the meeting held on 25 June 2009 were confirmed as a correct record:-

- (a) Councillor Manning being recorded as having attended the site visits;
- (b) In the fourth paragraph of minute no. 33, the deletion of the phrase "Minibeast surveys had been undertaken and" and the insertion of the phrase "A dedicated minibus service". The insertion of a new sentence "One pitch would be a community sports pitch which would fulfil a recognised need for local clubs."

As a consequence of these amendments the text from the word "Minibeast" to the phrase "to be provided" to be amended to read:- "One pitch would be a community sports pitch which would fulfil a recognised need for local clubs. All trees and hedgerows would be retained. A dedicated minibus service and pedestrian and cycle links are to be provided." and the last two sentences of that paragraph to follow on with no amendments.

Councillor Sonia Lewis (in respect of her former acquaintance at school with the public speaker, Mr Parker) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Ray Gamble (in respect of his acquaintance with the public speaker, Mr Parker) declared a personal interest in the following item

pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Richard Martin (in respect of his former acquaintance at school with the public speaker, Mr Parker) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

42. 090398 Swift Construction Group Limited, North Lane, Marks Tey

The Committee considered an application for the proposed demolition of an existing building and the construction of a two bedroom dwelling adjacent to North Lane, a new headquarter office building (B1A use), a new nursery crescent building providing seven units for B1c light industrial use, and one unit retaining the existing B8 storage and/or distribution use. A proportion of the existing hardstanding area is to be retained and the access road reconfigured together with associated parking, and hard and soft landscaping. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

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

Mr Gordon Parker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The application is set against the permitted development rights for open storage; the authority of the rights has not been questioned and was first validated on 17 April. The inclusion of all the rear storage area within the red line is unacceptable to his client because it removes one third of the storage area which is vitally important to his core business for the provision of scaffolding. The condition if imposed would probably jeopardise the whole scheme and he asked that Condition 23 be deleted. He asserted that this was an excellently designed scheme which provided the opportunity to remove the unrestricted hours of use element, created a more acceptable entrance, removed an asbestos clad building and improved employment opportunities. This scheme includes suggestions and recommendations from local residents. He hoped members would be minded to grant approval and requested that Condition 23 be omitted.

Whilst some members of the Committee were keen to see part of the rear area retained in landscape form for the benefit of existing ecology there was an opposing view that the rear of the site was surrounded by countryside and a railway embankment and as such there would be no great impact. It was

also recognised that with the current usage the grassed area could be covered with scaffolding.

It was explained that although the Council had a desire to retain some land in landscape form it was acknowledged that members may give consideration to employment in this instance. A scheme for hard and soft landscaping was required and it would be possible to ensure that the existing landscape treatment on the boundary is enhanced through the discharge of that condition.

RESOLVED (MAJORITY voted FOR) that –

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

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

43. 090416 Lordswood Road, Colchester

The Committee considered an application for amendments to part of a residential development approved under F/COL/04/1998 to replace fourteen flats and fourteen houses with eight two bedroom houses, seventeen three bedroom houses, and three four bedroom houses, minor amendments to the garden area of plot 22R, external works, parking areas and open space. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a Deed of Variation to link this application to the original Section 106 Agreement.

(b) Upon receipt of a satisfactory Deed of Variation, the Head of Environmental and Protective Services be authorised to grant consent with suitably worded conditions to cover the matters indicated to in the report and informatives as set out in the report.

Councillor Andrew Ellis (in respect of having employed the services of the public speaker, Mr Gittins) declared a personal interest in the following item

pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Richard Martin (in respect of his acquaintance with the public speaker, Mr Gittins) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

44. 090688 Willow Grove, Grove Hill, Langham

The Committee considered an application for the demolition of an existing bungalow and erection of a four/five bedroom barn style property with a detached triple bay garage and temporary siting of a mobile home. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Mr T. Gittins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The proposed dwelling was designed to reflect the rural setting and makes a contribution to the character of the countryside and the lane. This proposal creates a cluster of farm buildings with those opposite. The enhanced scale is not felt to be harmful to the countryside and the barn style is not out of place in the landscape. There will be additional vegetation and surrounding trees and hedges. The impact on the AONB and Blackbrook Valley has been evaluated and there is no visual harm to the area. The building will blend into the setting and the design respects the character of the area.

Members of the Committee considered that this was exactly what would be expected of a barn conversion. It is reflective of rural forms and will make a positive contribution. The borough should encourage the construction of listed buildings of the future. The new condition for sustainability was noted and 28 days was considered a more appropriate time frame for the removal of the caravan/mobile home from the site.

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

45. 082055 Marks Tey Railway Station, Station Road, Marks Tey

This application was withdrawn from this meeting by the Head of Environmental and Protective Services so that further consideration can be

given to alternative access arrangements, landscaping and noise and disturbance issues.

46. 090471 Gwynlian, Kelvedon Road, Tiptree

The Committee considered an application for a change of use of land from agriculture to private gypsy caravan site including hard standings for four caravans, the erection of a communal dayroom/utility building and the formation of a new access. This application is a resubmission of 082030. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. The Amendment Sheet contained additional conditions for controls of the maximum number of caravans; any permission to be personal to the applicant; the extent of the use of the day room; no commercial activities to be permitted on site; and further details of the drainage scheme required.

Mr Joseph Greenhow, Gittins Associates, addressed the Committee on behalf of the applicant pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The applicant is from a bona fide gypsy family having lived in the area for some time and the application is for a permanent site for two sons of the Taylor family and their four children between the ages of 3 and 10 years, who attend local schools. This proposal represents an addition to a well kept gypsy site within Tiptree. As a result of negotiations there are no outstanding objections. The two existing access points have been replaced with one central access. The applicant wishes to stress that the protected ancient hedgerow was removed by the previous landowner. The new hedge will be thickened and maintained to the satisfaction of the local Highway Authority and Planning Authority.

Members of the Committee voiced concerns about the lack of clarity regarding the area of the site to be occupied. There appeared to be a difference between the site which was divided by a fence to form a front area mostly covered in hardstanding material and a rear grassed paddock area divided with a wooden fence, and the plans as submitted which appeared to include a portion of the paddock with the front area. The site on the ground mirrored the adjacent plot to the northwest, also occupied by the Taylor family, on which none of the rear paddock area of that site was occupied by caravans. The front part of the site the subject of this application appeared to allow adequate

space for four caravans. There was some concern that if the larger area, including part of the paddock, was given permission it could lead to an increase in the number of caravans on the site, possibly from other areas. Two mobile caravans and two touring caravans for two families were considered to be satisfactory for the site. The gateway in the centre of the plot is satisfactory but a means of securing the gate was requested to keep the site secured when unoccupied.

It was explained that the plan shown on the screen covers a larger area than the site as it exists on the ground. Most of the buildings will be set back which gives an area of planting along the frontage. It was suggested that the item be deferred to consider the layout and arrangement of the dayroom and caravans on the smaller area and await submission of a suitable plan.

RESOLVED (MAJORITY voted FOR) that consideration of the application be deferred for clarification of the area of the site to be used and for the receipt of revised plans to be submitted showing the caravan layout and details of a new lockable gate. The application to come back to Committee as soon as possible.

47. 090551 Former Dairy Depot, Wimpole Road, Colchester

The Chairman has agreed pursuant to the provisions of Section 100B(4) (b) of the Local Government Act 1972 to consider the following item at this meeting as a matter of urgency to enable the application to be considered within the 13 week period for determination of major applications.

The Committee considered an application for a single building close to the road frontage comprising a small convenience retail store on the ground floor and six two-bedroom flats on the first floor and the roof area, together with associated car parking and alterations to the existing access. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

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

Mr Ricks addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The scheme has reduced in scale from the previous permission and is more compatible with the

street scene. The 'L' shape creates an urban square. The scheme includes cycle parking, landscaping and seating; it incorporates a mixed development and supports policy objectives. Whilst the issue regarding a gate has not been raised previously, he suspected that there would be some form of security. He believed that the Section 106 agreement related to contributions towards play space and affordable housing the principle of which had been agreed, subject to appropriate wording. He asked that the opening time be brought forward to 7am as there were other retailers which opened at that time. He also asked that the start time for deliveries of goods be applied to deliveries by HGVs so that the delivery of goods by light vans, bread and newspapers specifically, could be made earlier.

Members of the Committee were aware that there had been a retail operation on the site previously. It was considered that the detailing of the frontage would add to the character of the street. Confirmation was sought that six of the parking spaces would be designated for sole use by the occupiers of the flats. The view was expressed that the Section 106 agreement should be for this site together with the site to the rear otherwise some benefit may be lost. There were opinions in favour of and against the installation of gates across the entrance to provide security when the convenience store was closed.

It was explained that there were no specific parking spaces allocated for residents but this could be achieved by condition. The Section 106 agreement has been advised on the application as submitted and the mitigation achieved would be for this application not for the parcel of land to the rear of this site. If the proposed condition on the hours of working and the hours of opening were felt to be inappropriate the recommendation could be amended. There was no indication of gates on the plans but if considered necessary that too could be achieved by condition. There were no objections to the time of opening commencing at 7am, however the applicant would be able to make a subsequent application to revise the time of opening.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a Section 106 Agreement by 22 July 2009 to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.

(b) Upon receipt of a satisfactory Section 106 Agreement by 22 July 2009, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, see also Amendment Sheet, together with an amendment to the car parking condition to ensure that six spaces are reserved solely for the occupiers of the flats in perpetuity, and an informative be added advising that occupiers of

the flats are unlikely to receive favourable consideration for application for residents parking permits.

(c) In the event that a satisfactory Section 106 Agreement is not received by 22 July 2009, the application to be refused due to the lack of a legal agreement.

Councillor Andrew Ellis (in respect of having made representations in opposition to the application in his role as ward councillor at the meeting on 2 April 2009) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and left the meeting during its consideration and determination.

48. Enforcement Action // Plots 1, 2, 3 and 4 Collins Green, School Road, Messing

The Head of Environmental and Protective Services submitted a report on proposed enforcement action regarding unauthorised material changes made to the external appearance and scale of the nearly completed units 1, 2, 3 and 4 of this small infill development. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. Enforcement action to lower the building may not be successful. It was considered that the best course of action was to achieve the cosmetic changes which would improve the appearance of the dwellings so they better fitted into their setting.

David Hooker addressed the Committee on behalf of Messing Parish Council and other residents pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the proposed enforcement action. Residents objected to the dwellings on plots 1 and 2 on the basis of their increased bulk created by the height of the brickwork and the raised roofline. The dwellings lacked architectural design and were out of character and out of keeping with the village. They are bland and give a barrack-like appearance which dominates and overwhelms their setting. The developer argues that the added height and the lowering of the floor were necessary, but at no time was the datum level of the floor slab identified so he cannot argue that he lowered the building. The issue of the height and size remain. In his marketing of the

properties they were described as town houses not village properties. The developer has ignored the terms of the planning permission and created additional bedrooms. All the options set out in the report should be included; the reduction of the roof on plots 1 and 2 and the facades of plots 1 to 4.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. Messing welcomes new residents and new homes in the village, but not these ones. This is a missed opportunity for beautiful cottage style housing. The best option is to take them down and start again. The real issue is the height of the buildings which clearly contravenes the planning permission. References to the unauthorised building included the height. He asked members to accept all the remedial works in paragraph 1.1 of the report and to include the part demolition identified in paragraph 3.2. If the Committee really want to keep the style and character of the village they must fit in and these do not. His preference was for the dwellings to be demolished and rebuilt.

Members of the Committee agreed that it was probably unreasonable to require the dwellings to be demolished and rebuilt in accordance with the plans. However, the Committee would not have approved the dwellings as built which were essentially town houses and out of keeping in the village setting. When the application was first considered, the Committee had asked officers to negotiate with the developer for something more in keeping with the village. It was understood that the developer had held an exhibition in the village hall and residents had discussed the plans with the developer and the Committee had approved the resulting design. The Committee were minded to agree to the action outlined in paragraph 1 (a) to (h) and to the removal of courses of brickwork outlined in paragraph 3.2 of the report. Had the developer attended the Committee they would have been able to hear the rationale behind the changes and may have understood better. The Committee also supported Condition 3 for the removal of permitted development rights so any increase in bedrooms would require prior permission.

RESOLVED (UNANIMOUSLY) that enforcement action be authorised to require the matters detailed in paragraph 1.1 (a) to (h) and in paragraph 3.2 of the report by the Head of Environmental and Protective Services to be completed with a compliance period of 1 month after the 28 day period after which the Notice takes effect.

49. Tree Preservation Order 22/77 // Application to fell Mature Oak Tree

The Head of Environmental and Protective Services submitted a report on an application to fell a large mature oak tree in the small to medium sized rear

garden of a domestic suburban property. A number of background documents containing exempt information were provided separately for information on the confidential part of the agenda. The Committee had before it a report in which all information was set out.

The Committee made a site visit in order to assess the impact of the application upon the locality.

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

Ian Holdbrook addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He thanked Councillors Turrell and Goss for their assistance over the past few months. He had not taken the matter lightly and confirmed that he was aware that the tree was protected when he purchased the house. However, at that time they were often out so the tree did not impact on their lives. They now have a family and in the summer the garden is in shade most of the weekend and in total shade from 4pm in the afternoon. He would like to move but the current economic climate prevents him. The tree is one of the factors affecting his health and now he was seeking to improve the quality of life for himself and his family. He had wanted to extend his house but a structural engineer had suggested that he would need to deep pile which would be expensive. He appreciated the value of the tree and had offered to plant a replacement Oak tree which could be enjoyed by the community.

Councillor Turrell attended and, with the consent of the Chairman, addressed the Committee. The tree has caused his family anxiety, there should be a priority and people are more important than a tree. If a resident's quality of life has been reduced the tree should be removed. He has offered to replace the tree with two others which will provide a better environment for future generations. This road backs on to Highwoods Country Park; felling the tree might change the skyline but will not spoil the skyline. The applicant's circumstances have changed since he bought the house. He could have taken the tree down without permission but he has been an honest resident and applied for permission. The assessment on the tree is border line scoring an 11 and just about defensible; it was an on balance decision. The applicant deserves the support of the Committee.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. He was concerned about the way the resident had been advised. In general, he did not agree with felling trees, but the evidence in this instance is clear. Not far from this property the Council is removing fir trees on its own land because they are too big. The applicant's garden is too shaded. When suffering from stress light is a healer. The applicant is willing

to provide two replacement trees for Stammers Road. A TPO is based on one person's opinion. He considered this TPO to be border line. In summary, he asked that the Committee take into account the two replacement trees being offered in response to the tree being removed and to bear in mind the tree felling being done by the Council.

Members of the Committee were very sympathetic towards the applicant, and had regard to the following matters: the border line nature of the assessment; the lack of evidence to support the application; the ecological value of the oak tree; the impact of felling a mature tree; the amount of crown reduction the tree had already undergone and the visual impact of further reduction; the scoring for the original TPO and what makes a tree worthy of a TPO; the danger of setting a precedent by acceding to the request; and the offer for replacement trees to be planted in Stammers Road. The Committee understood the need for evidence and did not consider they had sufficient evidence to determine the matter.

It was explained that the Council does not prevent tree works where the tree is causing an active nuisance, but there has been no supporting information submitted to justify such works. Numerous applications are submitted on the basis that it affects life or health but it is for the applicant to provide appropriate evidence. Evidence could be in relation to the tree, any damage being done by the roots or the impact on the applicant's health, but any evidence should be provided by a qualified practitioner in the respective disciplines. There is a need to clarify the scoring mechanism. Generally the Council would accept replacement trees to be replanted in the vicinity to the original tree. Personal circumstances should not be grounds for felling the tree but a reduction in the canopy would be acceptable. It was suggested that it might be better for the application to be withdrawn and re-submitted with a suite of evidence.

RESOLVED (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred to enable the applicant to withdraw the application and resubmit a new application including additional information demonstrating the harm that the tree causes.
- (b) If the application is not withdrawn within the statutory time frame, the application to be refused. Any new application to be referred to Committee for consideration.



Application No: 090498

Location: Avon Way House, Avon Way, Colchester, CO4 3TZ

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **23 July 2009**
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: Bradly Heffer

EXPIRY DATE: 27/07/2009

MAJOR

Site: Avon Way House, Avon Way, Colchester, CO4 3TZ

Application No: 090498

Date Received: 27 April 2009

Agent: Mr Mark Lister

Applicant: Mr Owain Thomas

Development: Erection of 133 new student bedrooms in 30 flats split into 6no. separate buildings.

Ward: St Andrews

Summary of Recommendation: Conditional Approval subject to signing of Section 106 Agreement

1.0 Site Description

1.1 This planning application seeks permission for the erection of new student accommodation on a site known as Avon Way House, Avon Way, Colchester.

- 1.2 The originally submitted proposal was for the erection of 6 No. buildings containing a total of 30 flats, that could accommodate 133 student bedrooms. Since the submission revised plans have been submitted that reduces the number of flats to 29, and the overall number of bed spaces to 119. The number of buildings i.e. 6 remains unchanged. This revision results from a relocation of units away from a mains easement and established vegetation on the site.
- 1.3 The submitted plans (as amended) show the provision of three new blocks located on the north-eastern boundary of the site with dwellings in Pickford Walk.
- 1.4 A further two blocks would be located at the south-eastern end of the site adjacent to CBC-owned open space. The final building would be provided as an extension to an existing building, again towards the north-eastern end of the site.
- 1.5 In terms of design the submitted scheme proposes a contemporary approach, but utilising traditional design references in terms of materials (including brick and render). The majority of the site for this proposal is currently occupied by three storey apartment buildings, whilst the eastern end of the site is occupied by a bungalow and an electricity sub-station. Vehicular access is taken via an existing access point on to Avon Way. The site is bounded to the north-east, north-west and south-west by established residential development while to the south lies open land.
- 1.6 The application is accompanied by supporting documentation, including a Design and Access Statement, which may be viewed on the Council's website.

2.0 Land Use Allocation

- 2.1 Residential

3.0 Relevant Planning History

- 3.1 None

4.0 Principal Policies

- 4.1 Adopted Review Colchester Borough Local Plan
 - DC1 - General Development Control Criteria
 - UEA11 - Design
 - UEA13 - Development including extension adjoining existing or proposed residential property
- 4.2 Local Development Framework Core Strategy (December 2008)
 - H2 - Housing Density
 - UR2 - Built Design and Character
 - PR1 - Open Space
 - TA2 - Walking and cycling
 - TA5 - Parking

5.0 Consultations

- 5.1 The Highway Authority raises no objections, subject to the imposition of conditions on a grant of planning permission.
- 5.2 The comments of the Planning Policy section on the originally submitted scheme were as follows:-

"The proposal is to erect 133 student bedrooms (in 30 flats, each comprising a number of bedrooms with ensuite facilities and a shared kitchen/diner) around the NE margins of the site, which was formerly used as parking and ancillary areas. According to the application details, the existing built development (shown within the blue line) comprises 74 flats; however, the total number of bedrooms has not been stated.

This is an unusual application in that although it is intended as student accommodation it is built off-site from the University of Essex, within a predominantly residential area of Colchester (approximately 1500m walk from the heart of the campus and approximately 1000m walk from Hythe Station; an Urban Gateway). Neither the Core Strategy nor the Local Plan contains policies specifically related to student accommodation.

Relevant considerations will include: whether or not the proposal is appropriate to the character and amenity of the surrounding area; the appearance of the development and whether or not it creates a safe and attractive environment for its users; and, the accessibility of the site to the University and other facilities (including parking provision). Policies relating to these matters include DC1 and UEA11 to 13 in the adopted Local Plan and TA1, TA2, TA5, PR1 and UR2 in the adopted Core Strategy.

With regard to parking provision, it is noted that number of parking spaces is set to be reduced for the whole of the Avon Way House site from 100 existing spaces to 55 spaces. Current standards are set out in the EPOA Vehicle Parking Standards as maximum standards. On the basis of these units being considered Class C3 (residents living together as a single household), a standard of 1 space per dwelling is recommended as appropriate for main urban areas where access to public transport is good. The provision of 55 spaces for 104 units is clearly well-below this standard. The application states that one of the objectives is to minimise car use and increase walking and cycling as a result of the location in relation to the University and other amenities. In this respect the provision of an extra 20 bicycle spaces appears low and is also well below the recommended EPOA minimum standards. The application also states that the use of public transport will be actively promoted, but does not provide any details of how this is to be achieved.

The site is on the fringe of the area indicated as having High Accessibility in the Core Strategy (defined as within 800m of an Urban Gateway), where indicative densities of over 50 dwelling units per hectare are supported in the Core Strategy H2 (but outside of the area of Very High accessibility where indicative densities of over 75 dwelling units per hectare as supported). In terms of the number of flats (rather than the number of bedrooms) the density appears to be approx 70 flats per hectare within the red-lined application site; whereas, over the whole Avon Way House site, the density appears to set to increase from approx 62 to approx 87 flats per hectare. If this development were intended as housing for persons on the open market, a case for refusal could be made on the basis that the location does not justify the intensity of development proposed.

However, on the basis of the accommodation being intended solely for students, the application can be considered on its merits. It is legitimate to ask whether appropriate provision is made for walking and cycling and how use of public transport is to be promoted, in order to discourage the use and ownership of cars by occupants of the development.

If planning permission is granted for this development it is recommended that occupancy is tied to student accommodation.

Consideration should be given to a contribution towards public open space, sports and recreation facilities in accordance with the adopted SPD."

Any comments received on the amended proposals will be reported to Committee.

5.3 Environmental Control has no objection to the proposals, subject to the imposition of conditions and an informative.

5.4 The Council's Landscape Officer would require the imposition of conditions and recommends the following minor revisions to the submitted scheme:-

1. In order to help soften the street scene the proposed tree cover needs to be increased along the main access into the site, be included to the Avon Road frontage through inter-planting between existing stock and included as a linear feature leading down to the Buffet Way access.
2. The hedge bounding the south-eastern boundary of the site needs to be strengthened though gapping up the weak open area to the southern corner of the site where it abuts the adjacent footpath.
3. Block C needs to be drawn back a minimum of 5m from the south-eastern boundary in order to safeguard the boundary hedge whilst allowing sufficient light to enter the proposed building.

5.5 The Environment Agency has commented and requires the provision of a condition on any approval that secures a scheme for the provision and implementation of water, energy and resource efficiency measures during the construction and occupational phases of the development.

6.0 Representations

6.1 As a result of neighbour notification six letters of objection have been received from Local residents. The points of objection can be summarised as follows:-

1. The proposal will give rise to parking problems in the highway.
2. The development is extremely close to properties in Pickford Walk and will deprive these properties of light and privacy. The buildings would appear overbearing and therefore detrimental to the amenity of the occupiers.
3. The occupants will cause noise disturbance for surrounding residents.
4. The variation in land level means that the buildings would appear particularly overbearing to occupiers of dwellings in Pickford Walk.
5. The blocks identified as A and B are particularly overbearing and should not be built.
6. The University has large areas of undeveloped land and this should be utilised instead of this site.

7. The building will detrimentally affect the living conditions and parking facilities of those living on the site at present.

6.2 The following comment has been received from Mr Russell MP:-

"I have been contacted by residents of Pickford Walk who are most concerned about the effect that this development would have on their private homes.

There is serious concern regarding the proposed blocks A and B in view of the much shorter distances which they have from Pickford walk as compared to Block C.

The scale of development and the height of three storeys would have a very significant impact upon the occupants of numbers 38 to 48 Pickford Walk due to the close proximity to their homes.

From my constituents' long experience of the normal student lifestyles at Avon Way House, and the inevitable consequent noise and late hours, they do feel that life would be made unpleasant for them if this overdevelopment were allowed to take place.

There are good reasons therefore to refuse Blocks A and B on the grounds of overdevelopment and impact on the nearest dwellings in Pickford Walk.

I would appreciate confirmation that my constituents' views will be taken on board in judging the application please."

6.3 Furthermore, e-mail correspondence confirms that Ward Councillors also object to the proposal.

6.4 The following comment has been received from Colchester Civic Society:-

"Colchester Civic Society considers the design visually unpleasant. Parking policy at other student accommodation has led to on-street parking to the detriment of neighbouring residents and businesses.

This application should not be approved unless the Council are happy that the proposed dwellings will not lead to more on-street parking in this area."

7.0 Report

7.1 Members will note that the site for this proposal is located in a residential area, as allocated in the adopted Local Plan and, therefore, the principle of residential development taking place on the site is considered to accord with the relevant land use allocation. Clearly, however, there are a number of issues that need to be examined in some detail as part of the proper consideration of this planning proposal.

- 7.2 With regard to the design and layout, examination of the site and its surroundings reveals that the majority of building forms follow a traditional approach i.e. mainly brick structures with pitched tiled roofs. The character of the area is of an established residential estate, located on the periphery of the eastern side of the town. Members will note that the proposed design of the buildings does not follow the established dwelling design in this location. Nevertheless, it is felt as a planning judgement that the location could accommodate a different architectural approach without causing harm to visual amenity. The size of the buildings is similar to those formed in the surrounding area (which is generally a mix of two and three storey development). Additionally the contemporary design does incorporate traditional finishes such as brick and render which are also found elsewhere on the estate. Whilst the elevational treatment of the proposed buildings is different from that existing, it is felt that this proposal would represent an opportunity to introduce visual interest into the area while not appearing incongruous.
- 7.3 As regards the position of the buildings it will be noted by Members that the majority of built form would be located along the north-eastern boundary in Pickford Walk. It is fully appreciated that the development would impact on the amenity of these dwellings but it is considered that this impact would not be unacceptably detrimental. The new buildings would face towards the fronts of dwellings in Pickford Walk, and therefore private garden areas would not be overlooked. Additionally, at the nearest point the proposed buildings would be 13 metres distant from the frontage of the Pickford Walk dwellings. This distance exceeds the 10 metre minimum distance identified in the Essex Design Guide that is required to allow sufficient daylight between dwellings. Members are advised that the Design and Access Statement submitted with the application includes a Daylight/Sunlight Assessment.
- 7.4 In terms of difference in land levels, it is acknowledged that the buildings on the application site will sit higher than the dwellings in Pickford Walk. For example, at its highest point, the block located nearest Avon Way would be approximately 8.8 metres high. However, the design of the building incorporates a curved roof feature that results in an eaves height (where the building faces Pickford Walk) of approximately 5.6 metres for the main roof and 6.8 metres for a flat roofed projection. This is not considered to be excessive in relation to the houses in Pickford Walk, which have an eaves height of approximately 5 metres. The overall height difference (to the highest part of the roof) between the northernmost dwelling in Pickford Walk and the building identified as Block A is approximately 2 metres. The remaining proposed blocks would not, it is felt, impinge on the amenity of the surrounding dwellings due to their relative remoteness.
- 7.5 Members will also note that one of the key concerns expressed by local residents is the potential for parking problems if the proposed scheme were to go ahead. The submitted scheme does result in a significant reduction in the amount of on site parking that could be available.
- 7.6 The submitted planning application forms indicate that the current number of car parking spaces would reduce from 100 to 55. Currently the number of disabled spaces would increase from 0 to 4 and cycle parking would increase from 20 to 40 spaces.

7.7 By way of further explanation of the parking provision, the following information has been received from the applicant company:-

"I refer you to the above referenced planning application and recent objections concerning the provision of on and off site car parking. The foundation of this objection is, first and foremost, based on the assumption that there will be inadequate parking provision for students for the duration of the construction works and thereafter, together with the impact that this will have on the local area.

Although the construction work will reduce the number of car parking spaces available to students, we do not feel that this will offset Avon Way House students parking on the surrounding streets, causing a disruption to the local neighbourhood.

In the 2008/2009 Academic Tenancy Period, the maximum number of car parking licences issued at any one time was 23, this in spite of the fact that the building had at various points in the year been at near-maximum occupancy. Pre-sales of car parking licenses for the upcoming Academic Year have thus far totalled 2 cars; these figures certainly suggest that demand is to be no higher than it has been previously and, despite the building works, we are able to offer parking to circa 25 student cars in addition to offering emergency vehicle access and parking, staff parking and delivery and refused collection access.

Access to the car park still be strictly controlled and only those customers who have booked and signed to a licence agreement to park at Avon Way House will be given right of entry, any other cars found parking at Avon Way House without permission will be clamped or removed without notice.

With this in mind, Mansion Student intends to advise all of our resident customers that should they not be in possession of a valid parking licence for the site then they will be unable to park and will be strongly encouraged to leave cars at home.

In addition, one of the major benefits for choosing to live at Avon Way House is the building's location and, in particular, its proximity to the University. Using the public footpath, the main Wivenhoe campus of Essex University can be reached in approximately 10 minutes. Should a resident wish to use public transport to travel; there is a regular bus service that stops directly outside this building; this bus then stops at a connecting stop for both Colchester Town Centre and all major 'Educational Establishments and Campus.'

As far as construction works are concerned, whilst we acknowledge that students and local residents may be concerned about potential disturbances, I assure you that we are actively investigating every means possible to minimise any disruption to either local residents and students during the works. As an added measure, should any student, booked for 2009/10 have any genuine and irreconcilable issues pertaining to the works, we are committed to meet and discuss any issues on an individual basis.

I trust that this information consolidates our car parking methodology, both during the works and thereafter, supported by our expectation for more sustainable and carbon friendly travel."

7.8 It is acknowledged that a significant reduction in car parking spaces would result from the development but it is also important to note that the occupancy of the dwellings would be by students attending Essex University. The scheme as presented to Members includes provision of cycle/footpath links to the existing network to the south of the application site, in order to encourage students to walk or cycle to the Campus.

- 7.9 It is also noted that the Highway Authority would require the provision of travel packs as a condition of permission being granted - in order to encourage travel by bus. It is considered that the combination of these elements, plus the restrictions to be imposed by the applicant company (as discussed above) would adequately address the overall loss of vehicular parking spaces. Additionally, specific conditions would require submission of further details of cycle parking, to be agreed with the Council.
- 7.10 The comments received from local residents, the Ward Members and MP are fully acknowledged and appreciated. However, it is felt that the scheme can be accommodated on the application site without harm being caused. Dealing with the individual issues raised, as listed previously in this report, the following comments are made:-
1. The issue of car parking provision has been discussed previously in this report.
 2. The proximity of the new development to those existing dwellings in Pickford Walk is acknowledged, but in overall impact terms is considered reasonable for the reasons previously mentioned in this report.
 3. The potential for noise nuisance caused by the future occupiers of the building is a matter for Environmental Control to address, if this issue should arise.
 4. The variation in height level is acknowledged but the overall distances between dwellings, and the design of the buildings would, it is felt, successfully mitigate the overall impact in visual terms.
 5. Blocks A and B are the closest, physically, to the dwellings in Pickford Walk and therefore the impact of these buildings on residential amenity is a key planning consideration. The occupiers of the dwellings in Pickford Walk will undoubtedly experience significant change as a result of the development taking place. However, it is felt that the impact of this change would not be overly detrimental. The new development would face on to the front of these properties, and the distance between existing and proposed buildings is similar to that found in suburban situations elsewhere.
 6. The fact that the University owns large areas of land is acknowledged. However, this application stands to be determined on its own merits.
- 7.11 Members are advised that the application was reported to the Council's Development Team. The finally agreed package of mitigation to be secured under a S106 Agreement includes a contribution to open space and recreation, and provision of links from the site to the foot and cycle path to the south, in order to encourage non-car travel to the University from the application site. This package has been agreed with the applicant company and a draft agreement is being produced by the Council's solicitor.

8.0 Background Papers

- 8.1 ARC; Core Strategy; PP; HH; HA; TL; NR; NLR; CC; OTH

Recommendation

That the application is deferred in order that a S106 Agreement can be secured, which includes the following elements:-

1. A contribution of £78,540 to open space, sport and recreation as required by the Council's SPD and
2. two pedestrian/cycle links from the site to the cycle and footpath network at the south of the site.

Upon satisfactory completion of the agreement as described above, the Head of Environmental and Protective Services be authorised to issue a planning permission for the submitted 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 shall accord with the amended drawings hereby returned stamped approved.

Reason: To avoid doubt as to the scope of the permission hereby granted.

3 - B6.6 Site Characterisation

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

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

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

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

4 - B6.8 Submission of Remediation Scheme

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

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

5 - B6.9 Implementation of Approved Remediation Scheme

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

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

6 - B6.10 Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 3, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 5.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

7 -B6.13 Validation Certificate

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed above.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

8 - B7.3 Programme to be Agreed

No demolition whatsoever shall take place until such time as a programme has been submitted to, and agreed in writing by the Local Planning Authority stipulating the extent and timing of such operations.

Reason: In order to safeguard amenity in this location.

9 - B7.4 Fencing Around Site

Neither demolition nor any other site works shall commence until the frontage of the site has been enclosed by a continuous solid fence in accordance with details to be agreed in writing by the Local Planning Authority. Such fencing shall remain in place until clearance/building works have been completed.

Reason: To protect the amenities of the locality.

10 - B9.1 Refuse Bins

Prior to the development hereby approved being brought into use, refuse storage facilities shall be provided in a visually satisfactory manner and in accordance with a scheme which shall have previously been submitted to and approved in writing by the Local Planning Authority. Such facilities shall thereafter be retained to serve the development.

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

11 - B9.2 Recycling Facilities

Prior to the development hereby approved being brought into use, facilities for the collection of recyclable materials shall be provided on the site and thereafter retained in accordance with a scheme submitted to and agreed by the Local Planning Authority.

Reason: To ensure that adequate facilities are provided for the collection of recyclable materials.

12 - 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 a satisfactory appearance in the interests of visual amenity.

13 - 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: In the interests of visual amenity and to ensure a satisfactory form of development.

14 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.
Implementation timetables.

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

15 - 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.

16 - C11.17 Landscape Management Plan

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

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

17 - C12.2 Details of Walls or Fences

Prior to the commencement of the development details of screen walls/fences/railings /means of enclosure etc 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/walls shall be provided as approved prior to the occupation of any building and shall be retained thereafter.

Reason: In the interests of visual amenity and to ensure a satisfactory form of development.

18 - Non-Standard Condition

The Developer shall be responsible for the provision and implementation of a Transport Information and Marketing Scheme for sustainable transport, approved by the Local Planning Authority, to include vouchers for 12 months free bus travel within the inner zone for each eligible member of every new bedroom, valid for exchange during the first 6 months following occupation of the individual dwellings. Details of the uptake of the vouchers shall be provided to the Essex County Council's Travel Plan Team on a 6 monthly basis.

Reason: In the interests of promoting sustainable development and transport in accordance with Policy No. 4 in Appendix G to the Local Transport Plan 2006/20112 as refreshed by Cabinet Member decision dated 19 October 2007.

19 - Non-Standard Condition

Prior to commencement of the proposed development, details of the provision for parking of powered two wheelers and bicycles, of a design which shall be approved in writing with the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To promote the use of sustainable means of transport with EPOA Vehicle parking Standards and Policy No. 4 in Appendix G to the Local Transport Plan 2006/20112 as refreshed by Cabinet Member decision dated 19 October 2007.

20 - Non-Standard Condition

Prior to commencement of development details of the provision of two suitable cycleway/footway links to the existing network south of the site shall be approved in writing with the Local Planning Authority and prior to occupation of the development these links shall be provided within the site and shall be maintained free from obstruction at all times for that purpose.

Reason: To promote the use of sustainable means of transport with EPOA Vehicle parking Standards and Policy No. 4 in Appendix G to the Local Transport Plan 2006/20112 as refreshed by Cabinet Member decision dated 19 October 2007.

21 - Non-Standard Condition

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

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

22 - Non-Standard Condition

The occupation of the buildings hereby approved shall be limited solely to persons attending the University of Essex as students.

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

Informatives

The applicant is advised that it is a requirement of the Building Act 1984 that you must serve a demolition notice upon the Council prior to carrying out any demolition of buildings. Further advice may be obtained from the Building Control Section on 01206 282436.

It should be borne in mind that, unless otherwise stated, the base for Conditions 18-21 is Policy 1.1 in Appendix G to the Local Transport Plan, 2006/2011 as refreshed by Cabinet Members decision dated 19 October 2007.

All works affecting the highway shall be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made initially by phone on 01206 838696 or by email on www.highways.eastarea@essex.gov.uk.

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

Informatives requested by Anglian Water Authority:-

1. There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted:-

"Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the applicant will need to ask for the assets to be diverted under Section 185 of the Water Industry Act 1991, or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence."

2. There is sufficient water resource capacity to supply this development. However, in line with national and regional government policy Anglian Water would wish to see measures taken by the developer to ensure that buildings are constructed to high water efficiency standards. This can be achieved through the design of efficient plumbing systems and the installation of water efficient fixtures and appliances in line with the Code of Sustainable Homes. This will minimise the growth in demand for water from the new development and help to ensure the sustainable use of our regions water resources.

3. The development can be supplied from the network system that at present has adequate capacity. The developer may submit a formal requisition for a water supply main under Section 41 of the Water Industry 1991 or enter into an agreement to lay the water main ready for adoption by us under Section 51a of the Act.

4. The foul flows from the development can be accommodated within the foul sewerage network system that at present has adequate capacity. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

5. The development can be accommodated within the public surface water network system which at present has sufficient capacity on a like for like basis. The developer should notify Anglian Water of its intention to connect to the public surface water sewer under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection and the maximum rate of discharge which should be made. Attenuation may be required and this could affect the site layout.

6. The foul drainage from this development will be treated at Colchester Sewage Treatment works that at present has available capacity for these flows.



Application No: 080665

Location: 20, 22 & Bokhara, Maldon Road, Tiptree, Colchester, CO5 0LL

Scale (approx): 1:1250

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7.2 Case Officer: Nick McKeever

MAJOR

Site: Maldon Road, Tiptree, Colchester, CO5 OLL

Application No: 080665

Date Received: 2nd April 2008

Agent: The Owen Partnership

Applicant: Mr & Mrs Maxwell , Mr & Mrs Field, Mr & Mrs Case

Development: Proposed residential development comprising of 3 no.2 bed apartments, 1 no.3 bed houses , 2 no.4 bed houses, 6 no.5 bed houses.

Ward: Tiptree

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

1.0 Planning Report Introduction

1.1 This application was submitted to the Planning Committee Meeting of 12th June 2008. At this Meeting Members deferred the application for your Officers to negotiate the following matters:-

- **Reduction in the numbers of the 5 bedroom houses; and**
- **Amendments to the height and design of the proposed 2.5 storey dwellings with particular emphasis of reducing the size of the roofs; and**
- **The reduction in the height of the block of flats to 2 storey.**

1.2 The Agent has now submitted a revised scheme, including an amended Design and Access Statement (DAS). Whilst full details of this amended DAS can be viewed on the Council website the following salient points are reproduced as follows:-

“In spite of the original application meeting CBC’s planning policy and having been fully supported by the Planning Department the applicant agreed to further changes to meet the Committee’s concerns and subsequently tabled further revised drawings. These drawings exceeded the reduction in height and simplification suggested in the sketches supplied by Vincent Pearce.

The amended scheme incorporates the following revisions:-

Units 3-6, 10 & 11

Simplification of the front facades with removal of articulation and 2.5 storey gables.

Unit 3 – A reduction in height to 2 storeys

The removal of a bedroom to 4 bedrooms

Alteration in the roof design with fully hipped low pitch slate roof which will finish some 2 metres below the level of the adjoining 12 Queensway.

Unit 6

A reduction in height to 2 storeys

The removal of a bedroom to 4 bedrooms

Units 7-9 –

Alterations of accommodation from 3 no 2 bed units to 1 nos. 2 bed and 2 no. 1 bed units

Reduction in height to 2 storeys

Other minor amendments were adopted.

Vincent Pearce and the Planning team of CBC confirmed their full support for the revised proposals.

Revised accommodation to consist of:-

2 No. 1 bedroom apartments

1 No. 2 bedroom apartment

1 No. 3 bedroom house

4 No. 4 bedroom houses

4 No. 5 bedroom houses

1.3 The original report submitted to the Planning Committee on 12th June 2008 is reproduced as follows.

2.0 Site Description

2.1 This 0.4 hectare site is comprised of three dwellings 20, 22 & Bokhara, Maldon Road, Tiptree. Number 20 & 22 are a pair of semi-detached, two storey dwellinghouses whilst Bokhara is a relatively large 5 bedroom bungalow. The site lies within a predominantly residential area of Tiptree to the south of the junction of the Maldon Road, Kelvedon Road, Church Road and Maypole Road.

2.2 The site is bounded on four sides with existing residential development forming Windmill View (North East), Queensway (North West), Vine Road (South) and Maldon Road itself (South East). The rear gardens of the three existing dwellings on the site all back onto Queensway.

2.3 The properties in Queensway are located at a higher ground level of up to 2 metres. The Agent has stated that this difference in ground level appears to be due to the use as a borrow pit some time in its history.

2.4 The properties Nos. 20 & 22 Maldon Road currently have a shared access from the Maldon Road, whilst Bokhara has its own independent vehicular access off the Maldon Road running parallel to the access to 20 & 22 Maldon Road.

2.5 The main part of the site is formed from the garden of Bokhara, which contains a number of trees and a small pond adjacent to the south western boundary. The remainder of the site, formed from the curtilages of 20 & 22 Maldon Road also contain a number of trees, mostly located along the northern Boundary.

- 2.6 The application proposes the demolition of the three existing dwellings and the erection of 12 residential units comprising:-
- 3 x 2 bed apartments
 - 1 x 3 bed house
 - 2 x 4 bed houses
 - 6 x 5 bed houses
- 2.7 This gives an overall density of 30 dwellings per hectare, which is at the lower end of the density range until recently advocated by Planning Policy Statement 3 (i.e. between 30 - 50 dwellings per hectare).
- 2.8 The majority of these dwellings are grouped around a public square. Off this square a mews leads to three other units. The Design & Access Statement describes the units enclosing the square as being 2 storey with rooms in the roof. The units within the mews are smaller.
- 2.9 A new 4.8 metre wide access off the Maldon Road is to be formed, enclosed by brick walls with railings and piers and new planting behind. It will be surfaced with permeable concrete block paving thereby providing water for the existing trees as well as surface water drainage. A Type 3 turning head is to be provided at the proposed square. On site car parking is provided at 200%.
- 2.10 The application is accompanied by an Arboricultural Report containing a Tree Survey, a Tree Constraints Plan, and a Tree Protection Plan. Details are available on the Council website.
- 2.11 The current application is a re-submission following the withdrawal of application 080041 immediately prior to the current application being submitted.

3.0 Land Use Allocation

- 3.1 Residential

4.0 Relevant Planning History

- 4.1 080041 - Proposed residential development comprising of 3 No. 3 bed apartments, 1 No. 3 bed house, 2 No. 4 bed houses, 6 No. 5 bed houses. Withdrawn 2 April 2008.

5.0 Principal Policies

- 5.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Design - UEA11& UEA13
Landscape Features - CO4

6.0 Consultations

6.1 The previous application was submitted to the Development Team which considered the following contributions would be required:-

1. £74,036 towards the provision of Open Space. This sum excludes any discount from the three existing properties; and
2. Community Facilities - £10,000 towards the Village Hall.
3. The provision of Travel Packs.

No contribution is required for the provision of educational facilities as the scheme falls below the relevant threshold, having due regard to the three existing dwellings on the site.

6.2 The Arboricultural Officer considers the submitted report to be satisfactory and is in agreement with the recommendations made therein. A full schedule of implementation and monitoring should be submitted. This requirement can be made a condition of any permission.

6.3 The Highway Authority has no objection subject to conditions. This recommendation is made without prejudice to the views of the Building Control service and Essex Fire and Rescue Service.

6.4 The Essex Fire and Rescue Service has been consulted and it is hoped to have their comments for presentation to the Committee.

6.5 Environmental Control recommends the inclusion of the standard advisory notes for the control of Pollution during construction & demolition works.

7.0 Parish Council's Views

7.1 Tiptree Parish Council objects on the grounds of overdevelopment, loss of amenity to existing residents, traffic impact on Maldon Road, contrary to Local Plan (Housing Section) and possibility of flooding. The Parish Council would also like to request that an ecological survey be undertaken to protect local wildlife.

7.2 Feering Parish Council objects on the basis of the potential increase in traffic from Tiptree through Feering and Kelvedon.

8.0 Representations

8.1 The following comments are a summary of the objections set out within letters from the occupiers of 5 Windmill View. This correspondence can be viewed in its entirety on the Council website along with the other letters received.

1. The development fails to meet many of the objectives and criteria of the Colchester Borough Local Plan:-
 - Local Plan strategy - promotes a balanced approach to transport (priority to pedestrians & cyclists). This is not evident given that there will be at least 27 vehicles at the development and site is within 100m of a busy double roundabout and virtually opposite Ransom Road, which is used as a "rat-run".
 - Contrary to overall development policy DC1 as it does not satisfy criteria (a), (b), (c), (d) & (g) in that the houses are not in keeping (3 storey), increased traffic and related highway safety issues & no indication of what services and amenities are to be provided in order to ease the existing demands on stretched services.
 - Contrary to UEA11 - Infill development, which the Council is anxious to avoid. The dwellings do not have adequate regard to their setting and the development does not preserve the spatial characteristics of the area. Application does not address issues relating to impact upon residential amenity (i.e. loss of daylight/sunlight due to oppressive and overbearing development and overlooking of private gardens).
 - Policy CF7 [Community facilities & infrastructure provision]. Community facilities are already stretched within Tiptree and the application does not address these existing problems but will only add to the existing pressures.
 - Housing development within villages. Development is acceptable in principle within village envelopes but should integrate well into the existing environment. Development does not satisfy this policy as the three storey units are not in keeping.
 - Tiptree policy. Policy of not allocating any further major housing sites due to existing problems of lack of public open space and playing fields. This policy has not been adhered to with housing developments at Windmill Green and the former Young's Garage site.
 - Green Space. Tiptree has seen a significant reduction in its green space areas most noticeably to the Grove Road development.

8.2 In addition 14 letters have been received from local occupiers. The objections contained therein are summarised as follows:-

1. Overdevelopment
2. Existence of two wells within the rear gardens of Nos. 20 & 22 Maldon Road and problems of flooding within the site and surface water runoff down the access. Ditches have been filled in over the years.
3. Site is a refuge for wildlife.
4. Three storey dwellings are not in keeping and will dominate the area, affect daylight and result in overshadowing.

5. The occupiers of Nos.10 & 12 Queensway (whose back gardens adjoin the rear of the site) are concerned about the difference in the ground levels, whereby the properties within Queensway are up to 2 metres higher. Their back gardens are contained by the existing bank and tree roots. The removal of the existing trees could cause further erosion of this bank. The developer should be required to construct a reinforced retaining wall. The impact upon the bank and existing hedge/trees is not addressed in the submitted tree survey.
6. Concerns as to the impact of more housing development within Tiptree and the lack of additional services, together with the lack of public transport or improvements to the local road network.
7. Lack of on-site car parking for the number of vehicles this development will attract.
8. Additional risks to highway safety given the already high volume of traffic that uses Maldon Road.
9. The relatively minor changes to the original scheme do not change the original objections.

8.3 A petition containing 62 signatures has been received. The petition does not stipulate the grounds for the objection to the proposed development.

9.0 Report

- 9.1 This site is located within the predominantly residential area of Tiptree as defined in the Adopted Review Colchester Borough Council Local Plan - Proposals Map Tiptree Inset. It does not form part of any Private or Public Open Space as shown on the Tiptree Inset to the Adopted Colchester Borough Local Plan nor is it of any other special designation. On this basis, and in accordance with current central government advice to make the best possible use of existing developed land within the built up areas, there can be no objection in terms of land use to the re-development of this 0.4 hectare site.
- 9.2 The development must, however, accord with the relevant Local Plan policies as set out in this report. In this context there have been numerous meetings between the Agent and your Urban Design Officer and Development Control Officer. As a result of these successive meetings the Council produced a Design Brief specifically for the future development of this site. A requirement of such a Brief is to set out and give due consideration to the relevant national and local policies and adopted supplementary guidance (i.e. Essex Design Guide, External Materials Guide for new development, Open Space, Sport & Leisure, Towards Better Street Design).
- 9.3 This Brief sets out the Site Context, its constraints, the development opportunities, the required financial contributions and the possible (i.e. Illustrative) layout for the development of the site.

9.4 The application that is now before Members has been submitted a result of the consideration of all the aforementioned matters. In terms of the overall density and layout the proposed development accords with the Brief. The density is at the lower threshold advocated within Planning Policy Statement 3 (i.e a range of between 30 to 50 dwellings per hectare). This density is generally in keeping with the established residential development within the immediate vicinity. A higher density would not be appropriate, both in terms of the character of the site itself and the existing trees but also in terms of its impact upon the adjoining dwellings within Queensway, Vine Road and Maldon Road.

9.5 Overall the scheme manages to achieve its own sense of place, with the majority of the dwellings facing onto, and enclosing, a public square. The central square provides for a landscaped, shared amenity space. It also accommodates circulation space for emergency vehicles and visitor parking.

9.6 The development as originally submitted, deviated from the Brief in that:-

- (a) The Brief, in line with adopted guidance, advocates well proportioned structures with attention to building depth, roof pitch and a maximum building height of 2 1/2 storeys. The exception would be a focal architectural feature. The "architectural feature" in this instance is provided by the 3 storey building located at the entrance to the buildings and containing apartments. This 3 storey building serves to terminate the main access into the site.

The majority of the individual dwellings (Plots 3, 4,5,6, 10 11) however, tended to have wide spans in excess of 8 metres. These forms are not typical, or vernacular, to this part of Essex. Furthermore they result in the buildings having very high roofs, thereby effectively creating a full three storey range of dwellings.

In this respect, even allowing for the differences in the local topography, the dwellings were not in keeping with the dwellings that effectively enclose the site, the majority of these not being over two storey in height. The concerns expressed by local residents are thus acknowledged and appreciated.

9.7 In order to address this particular matter the application as now submitted has reduced the overall spans of the dwellings on the aforementioned plots to a maximum of 7 metres. As a consequence the overall ridge height of these buildings has been reduced from approximately 10.6 metres to a maximum of 9.55 metres. In the Essex Design Guide for Residential and Mixed Use Areas (EDG) two and a half storey type housing is around 9.6 metres in height. This takes into account the steep roof pitches in excess of 45 degrees that are typical of Essex vernacular. In this respect the scale and form of these particular dwellings accord with the indicative house types contained within the EDG and with the advice and recommendations of the Urban Design Officer.

9.8 The private amenity provision for the dwellings complies with, and generally exceeds, the Council's adopted standard of 100sq. m for three or more bedroom dwellings. In addition to this requirement, the dwellings all have adequate space around the buildings. The accepted minimum distance between a two storey building and its side boundary is one metre.

- 9.9 In the context of the low density, the compliance with the Council's required spatial standards, the scheme cannot be regarded as being an unacceptable over development of this 0.4 hectare site.
- 9.10 The Development Brief advocates a mix of dwelling types from 2 bed apartments to 4 bedroomed dwellinghouses. The submitted scheme provides a mix of units ranging from 3 no. 2 bedroom apartments, 1 no. 3 bedroom house, 2 no. 4 bed houses, but it also includes 6 no. 5 bedroom dwellings, of which there are a total of five. In this respect it is not strictly in accordance with the Design Brief. In general, however, this mix is considered to be acceptable.
- 9.11 It is, however, not within the remit of this brief to give detailed consideration of the amenity issues and material considerations raised as a result of the publicity of the application. This report will now proceed to consider these matters.

Highway Considerations

- 9.12 A concern common to all the objections, and in particular from the occupiers of 5 Windmill View, is the issue of the traffic generated by the development and the associated matters of highway safety.
- 9.13 Whilst these concerns are acknowledged, it is noted that the Highway Authority have recommended to this Authority that permission should be granted subject to appropriate conditions. These conditions are to ensure that the development is laid and completed in accordance with the current highway standards. Having regard to this recommendation it is considered that any objections made in terms of matters of highway safety could not be sustained.
- 9.14 Car parking provision is 2 spaces per unit with additional spaces for visitors. This level of provision accords with the Design Brief and is considered to be acceptable given the current requirement for minimum parking provision. Some other relatively recent housing schemes within the Tiptree area, and within the Borough in general, have less than the average 1.5 spaces per dwelling.
- 9.15 In general terms proposals for housing schemes that involve 10 or more units will require the provision of travel packs. The Highway Authority recommendation is conditional upon this provision.

Community Facilities

- 9.16 The relevant Local Plan policy CF1 states:-
- "Planning permission will not be granted for any development unless provision is secured for all community benefits and other infrastructure which are directly related to the development proposal and where such provision is fairly and reasonably related in scale and kind to it".
- 9.17 In the context of this policy it is necessary to consider whether the required contribution is fairly and reasonably related in scale and kind to the proposed development and is reasonable in all other respects.

- 9.18 In order to put this proposed development in its context reference is made to other planning permissions that have been granted for major developments (i.e. over ten units). Particular reference is made to the Grove Road scheme of approximately 400 units. The Developers were not under any legal obligation to provide or fund any additional community facilities other than open space, cemetery extension and a contribution towards a village hall. A more recent scheme on the site of the former Kings Head P.H., Kelvedon Road, for 14 units allowed on appeal did not require any community facilities other than towards the provision of open space.
- 9.19 It is also noted that when the Development Team considered the previous scheme the only community contribution that was required was towards the provision of the community hall.
- 9.20 The concerns set out in the written representations are acknowledged and appreciated. It is considered, however, that any contributions towards the provision of community facilities other than that currently requested would not relate fairly or reasonably to the scale of the proposed development, particularly as the total net increase, taking into account the loss of the three existing dwellings, is only 9 units.

Housing Allocation

- 9.21 The supporting text to the Tiptree chapter within the Local Plan states that no new major housing site allocations in Tiptree other than previously committed (i.e. Grove Road & the former Gaffney's site in Newbridge Road). The site before Members is not one that has been allocated but represents a "windfall" site and as such should be considered upon its own particular merits. Furthermore, as it is effectively for only 9 additional dwellings, it may be deemed to fall beneath the 10 units that constitutes a major development.

Amenity issues

- 9.22 The Council's current adopted amenity standards are as contained within the Essex Design Guide for Residential and Mixed Use Areas (EDG) and the Local Plan policy UEA13, which is supported by the SPD "Extending your house? A Householder's Guide to the Residential Extensions Planning Policies and Standards of Colchester Borough Council.
- 9.23 The Essex Design Guide sets out the spatial standards that are required in order to protect the privacy of rear garden areas of existing dwellings. Where proposed dwellings are to be located parallel to the rear elevations of existing dwellings, privacy is safeguarded by:
1. A minimum "back to back" distance of 25 metres is required;
and
 2. The rear of new houses may not encroach any closer than 15 metres to an existing rear boundary.

These considerations would apply to Units 4, 5, 10, 11 & 12.

- 9.24 With the exception of Unit 4, all of the two/two and a half storey elements of the above units are located 15 metres or more from the rear boundaries. Unit 4 is shown as being 14 metres from the rear boundary. However the property to the rear of this plot (19 Stores Lane) is located in excess of 28 metres from the rear boundary. As such this relatively minor infringement of the 15 metre distance is not considered to significantly prejudice the amenity of the dwelling in question. There is some scope to move Unit 4 approximately one metre further from the rear boundary although this would affect the outlook from the front ground floor windows of this new dwelling.
- 9.25 All of the above units are situated more than 25 metres from the rear elevations of the existing dwellings where these are approximately parallel to the new units.
- 9.26 The Local Plan policy UEA13 and the SPD “Extending your house?” set out a number of spatial standards to prevent any new development from being overbearing upon, or result in a significant loss of daylight/sunlight to, adjoining dwellings. The proposed scheme has been designed to take account of, and complies with, these policy requirements.
- 9.27 Concern has been expressed as to the relationship of the house on Unit 3 to the adjoining dwellings in Queensway, and No.12 in particular. The Unit 3 does not face onto the rear elevation of 12 Queensway but is side onto it. All windows serving habitable rooms within the new dwelling face north-east and south-west and as such there are no privacy issues.
- 9.28 The EDG states that where new houses are at right angles to an existing dwelling, there are no windows in the flank end, the proximity can decrease down to one metre from the boundary. Unit 3 is approximately 5 metres from the boundary, whilst the dwelling at 12 Queensway is approximately 6 metres from its rear boundary. The physical separation between the two dwellings will, therefore, be in the region of 11 metres at the closest point.
- 9.29 The Agent has advised that, given the difference in land levels between the properties in Queensway adjacent to the site, the eaves height is approximately 2 metres lower than that of 12 Queensway. The ridge height is likely to be approximately 500mm higher but this is counter balanced by the hipped roof form.
- 9.30 The rear gardens of the properties in Queensway immediately adjacent to the site are East facing. Given all of the above considerations it is not considered that any significant overshadowing of the rear gardens of these existing dwellings such as to justify a refusal of planning permission.

Other considerations

- 9.31 The concerns of some of the residents of Queensway regarding the impact upon the stability of the trees and earth bank forming the western boundary are appreciated, given that the difference in ground level is approximately 2 metres. In order to ensure that development does not have any adverse impact upon the stability of this bank it is recommended that, if Members are minded to approve the development, it should be conditional upon the submission and approval of a detailed survey of the bank and the provision of all appropriate measures to ensure its future stability. The Agent has been advised accordingly and is prepared to accept such a condition.

- 9.32 The Agent has been advised by the pond owner and Applicant that there are only Common Newts that use this pond, and that this use does not occur every year. Common Newts are not a protected species. There is no evidence or reason to suspect that the site currently provides a habitat for other protected species.
- 9.33 Reference has been made to drainage problems and the presence of two wells on this site. The Agent has advised that it is the intention to confirm the position of the piped ditch prior to construction and any divergence that may be required should be subject to approval by the Council. The Applicant is prepared to accept a condition to this effect.
- 9.34 It is recommended that full details of the proposed drainage of the site should be submitted to and approved by the Council prior to the commencement of the development.
- 9.35 Local concerns relating to the existing trees within and around the site are appreciated. The application is accompanied a full tree survey in accordance with the Council's requirements for the site. The Arboricultural Officer has considered this report and his comments are acknowledged. Any consent should be subject to the conditions set out in his recommendation.

10.0 Conclusion

- 10.1 This site has to be regarded as a previously developed area of land within a predominantly residential part of Tiptree. Whilst it can be regarded as a backland development it is noted that a similar, albeit smaller scale, development exists immediately adjacent at Windmill View. This is a development of relatively large detached two storey dwellings.
- 10.2 The existing development within the area has no particular cohesive form to it but is rather more of an eclectic mix of dwelling types.
- 10.3 The proposed development is set at the lower end of the recommended density thresholds. In this respect it is compatible with the existing pattern of development. A higher density on this site would not be acceptable.
- 10.4 The scheme has been designed and laid out to reflect the principles enshrined within the Essex Design Guide and manages to achieve its own sense of place.
- 10.5 In terms of the built forms and their relationship to the existing and adjacent dwellings, the scheme has been designed to satisfy the Council's adopted spatial and amenity related policies.
- 10.6 Whilst the concerns of residents regarding parking and highway related matters are fully appreciated, the Highway Authority is satisfied that this development complies with current highway standards.
- 10.7 Overall the development complies with the Design Brief drawn up by the Council to ensure that the development of the site meets the relevant national and local standards and policies and associated Supplementary Planning Guidance/Documents.

11.0 ADDITIONAL REPORT

- 11.1 The amended scheme that is now before Members has evolved through on-going negotiations with your Officers and has addressed the matters requested by Members of the Planning Committee. Incorporated in the scheme are significant changes to the design of some of the dwellinghouses.
- 11.2 The height of the Units 7 – 9 containing the flats, has been reduced from previous maximum of approximately 10.5m to 7.6 m (as scaled from the 1:100 scale drawings). Whilst this building was intended to be a ‘landmark’ building, the reduction in the height from three storey to 2 storey will reduce the overall visual impact of the development and is more in keeping with the character of the overall development and the existing nearby dwellings.
- 11.3 The height of Unit 3 has been reduced from approximately 9.7m to 7.6m (approx). This reduction in height of Unit 3, together with the change to a fully hipped roof, will reduce any possible impact upon the adjoining dwelling at No.12 Queensway. This relationship is clarified on the submitted drawing Unit 3 – SITE SECTION 2006 – 09/29. The overall design of this Unit has also been simplified.
- 11.4 The dwelling at Unit 6 has also been reduced from the previous height of approximately 9.5m to a maximum ridge height of 8m (approx). The dormer windows have been omitted and the main façade has been simplified through the deletion of the ornate porch feature and bay window. It now includes a plain weatherboarded front gable.
- 11.5 The total number of the five bedroom units has now been reduced from the original 6 units to 4 units. The breakdown of the numbers of units and the number of bedrooms is as follows:-

Original application as submitted to the Committee

3 x 2 bed apartments

1 x 3 bed house

2 x 4 bed houses

6 x 5 bed houses

Amended Scheme

2 x 1 bed apartment

1 x 2 bed apartment

1 x 3 bed house

4 x 4 bed houses

4 x 4 bed houses

- 11.6 The Agent has also submitted a signed Unilateral Undertaking in respect of the required contribution for Open Space.

12.0 ADDITIONAL REPRESENTATIONS

- 12.1 Additional publicity has been undertaken in respect of the amended plans. This has resulted in the submission of further objections to the development.
- 12.2 Tiptree Parish Council maintains its objection to the proposal on the basis that the previous objections have not been addressed. The Parish Council is particularly concerned about minimum visibility splays not being met, increased risk of flooding, unacceptable increase in traffic movements close to the junction, insufficient parking & loss of amenity to existing residents.

- 12.3** Feering Parish Council maintain their objection of the potential increase in traffic through Feering and Kelvedon.
- 12.4** Six individual letters have been received from local residents. These objections raise matters set out within the original report, apart from the comment that the slight adjustments made by the developers has made no difference to the overall plan and the problems relating to the site.
- 12.5** 96 copies of a duplicated letter of objection, each signed by individual occupiers of residential properties within the Tiptree area, elsewhere within the Borough (Straight Road & Kirk Road, Colchester, and outside of the Borough (e.g. Chelmsford). Whilst this letter can be viewed on the Council website, it is reproduced in full as Appendix 1).
- 12.6** The matters raised within this duplicated letter of objection were, in the main, covered by the previous report. With regard to the density, the layout and the scale/design of the development, Members were concerned, however, that the number of the 5 bedroom units should be reduced, the height of the 2.5 storey dwellings reduced and the flats reduced to 2 storey. The application has now been brought back before Members of the Planning Committee in order to set out the changes that have been undertaken in order to address these particular matters. In this respect it is the view of your Officers that the changes that have been made are considered to be satisfactory.
- 12.7** The previous Report addressed the relevant highway and parking considerations and in this respect members did not request any changes to the layout/parking provision. Whilst suggested changes to the current adopted minimum parking standards are the subject of on-going consultations, at this point in time the Council's adopted parking standards remain unaltered.
- 12.8** The Agent has re-affirmed that the Applicants are willing to agree to a condition that the earth bank to the western boundary of the site is to be surveyed and that a suitable engineered retaining wall constructed.
- 13.0 CONCLUSION**
- 13.1** The Applicants have sought to address the matters asked of them by Members of the Planning Committee on 12th June last year. On this basis the amended scheme is put forward with a recommendation for approval, subject to the conditions set out within the previous report, together with an additional condition restricting the consent to the amended drawings.
- 14.0 Background Papers**
- 14.1** ARC; Development Team; TL; HA; Essex Fire and Rescue Service; HH; PTC; FE; NLR

Recommendation

Permission is recommended subject to the satisfactory completion of a Unilateral Undertaking requiring the following contributions and the following conditions:-

- | | | |
|----|----------------------|---|
| 1. | Open Space | £ 54,693.14 |
| 2. | Community Facilities | £10,000 towards the provision of the Tiptree Community/Village Hall |

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 - C3.4 Samples of Traditional Materials

Samples of all materials to be used in the external construction and finishes of all parts of the proposed development, shall be selected from the local range of traditional vernacular building and finishing materials and shall be submitted to and agreed in writing by the Local Planning Authority before the development commences. The development shall be implemented in accordance with agreed details.

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

3 - C12.3 Details of Walls and Fences as Plans

The [boundary/screen/walls/fences/railings/hedges etc] as indicated on the approved plans [ref no dated/returned herewith] shall be [erected/planted] before the [occupation of any building/ commencement of the use hereby approved] and shall be retained thereafter.

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

4 - B8.1 Drainage Scheme Prior to Commencement of Work

Prior to the commencement of any work on site, a scheme of surface water and foul drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out prior to the occupation of the building/s hereby permitted.

Reason: To ensure satisfactory arrangements are made for the disposal of surface water drainage.

5 - Non-Standard Condition

The details to be submitted pursuant to condition 04 shall include details of any existing drainage ditches and piping thereof, together with details of any divergence to any of these existing ditches.

Reason: To ensure that the drainage takes into account any existing drainage features.

6 - 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.

7 - 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.

8 - 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.

9 - 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.

10 - C11.11 Landscape Design Proposals

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

These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas. Hard signage, lighting).

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

11 - 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.

12 - Non-Standard Condition

The details to be submitted pursuant to Conditions 10 and 11 shall include the details set out in paragraph 1.5 of the Landscape Consultation No. 133/08/CON dated 4th April 2008, a copy of which is attached to the permission, unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission and to ensure that the Landscape details are satisfactory in the interest of visual amenity.

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

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 (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

Prior to the commencement of the development hereby approved a full survey shall be carried out to the existing earth bank that forms the western boundary with the dwellings in Queensway, Tiptree, in order to assess the structural stability and the potential impact of the development upon this earth bank. Any remedial works that may be required as a result of this survey shall be carried out prior to the commencement of the development to the full satisfaction of the Council.

Reason: In order to assess the impact of the development upon the local environment and upon the amenity of the existing residential properties.

15 - Non-Standard Condition

The entry feature, 1.8m high walls and associated calming feature shall be provided in accordance with the detail shown on the approved drawings, unless otherwise agreed in writing by the Local Authority, prior to the occupation of any of the approved dwellings and shall thereafter be maintained to the satisfaction of this Authority.

Reason: In the interests of highway safety.

16 - Non-Standard Condition

1.5 metres x 1.5 metres visibility splays to each side of the junction with a line not less than 2 metres from the kerb line of Maldon Road, free of any obstruction exceeding a height of 600mm, shall be provided prior to the occupation of any of the approved dwellings and thereafter maintained.

Reason: In the interests of highway safety.

17 - Non-Standard Condition

A refuse bin collection point shall be provided and thereafter maintained within 25 metres of a highway.

Reason: In the interests of highway safety.

18 - Non-Standard Condition

A size 3 Turning Head shall be provided, and thereafter maintained, within the site prior to the occupation of any of the approved dwellings.

Reason: In the interests of highway safety.

19 - 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 before any of the dwellings are occupied. These facilities shall thereafter be retained as such.

Reason: To ensure that adequate provision is made for cycle parking in accordance with both local and national policy to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

Informatives

Non-Standard Informative

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

Name: ANN GREEN 02 JUL 2009

Address: 5 WINDMILL VIEW
TIPTREE
COLCHESTER
ESSEX CO5 0PLSigned: 

Date: 30/6/09

M.V.M

Mr. N. McKeever
 Planning Officer
 Colchester Borough Council (CBC)
 PO Box 889
 Town Hall
 Colchester
 Essex CO1 1FL

Dear Mr McKeever,

Planning Application: 080665
Location: 20, 22 & Bokhara, Maldon Rd, Tiptree, Essex, CO5 0LL
Proposal: Proposed residential development comprising 3no. 2 bed apartments, 1no. 3 bed houses, 2no. 4 bed houses, 6no. 5 bed houses – AMENDED PLANS



Further to your letter dated 11th June 2009, I write formally to **object** to the above proposed development.

Councillors' Requests

The changes that have been put forward are minimal and do not fully reflect the requests of the Councillors. The virtual unanimous sentiment of the Councillors at the 12th June 2008 Planning Committee was that the overbearing nature of the 3 storey units be reduced through the removal of one floor and the reduction in roof height.

This has not been actioned.

Design and Layout

The proposal is still out of character with the surrounding properties. None are higher than 2 storey and those to the south along Vine Rd are bungalows. Units 4, 5, 10 and 11 are clearly 3 storey town houses. These units will look directly into the gardens and properties that are adjacent to them. This overbearing nature has been acknowledged as existing by CBC in an e-mail dated 10th July 2008.

Although the density is in line with guidelines it is not appropriate for this area. The neighbouring Windmill View site is of very similar size yet it only accommodates 6 x 4 bedroom detached houses. It would appear that the rationale for this level of density is based upon the viability to the clients as per the Design & Access Statement from The Owen Partnership to CBC dated 28th October 2008,

"It was important to our clients that the type of units were of a substantial nature as well as of a minimum number to achieve a viable solution. This was based on advice provided by their agent who stated that low density was not an option".

Justification for a development of any density should be the benefit to the settlement in which it is being proposed, not whether the applicant can maximise their income.

- The erection of 3 storey buildings which are alien to this area
- The erection of 12 properties that will generate at least 27 vehicles based on provided parking provision and could be even more accounting for bedrooms and visitors.

Local Development Plan Section 6 Urban Environment

Infill development, including extensions, should not appear artificially cramped and should preserve the spatial characteristics of the locality.

The land for the proposed development currently contains a large bungalow and two semi-detached properties surrounded by green space. Contrary to the Plan the proposed development does not preserve the spatial characteristics of the locality

Local Development Plan - Section 6 Urban Environment

A direct impact on neighbouring occupiers can occur as a result of a loss of natural daylight or sunlight, a loss of privacy or the bulk of a new development being oppressive and overbearing. Although most suburban gardens are already overlooked to some degree, where the adjoining residential property has an existing private garden area it would be expected to retain an area of that garden which is not overlooked at close distances by any new development.

With the layout of the development as it is and the type of properties proposed it is clear neighbouring properties will be severely overlooked resulting in loss of privacy and tranquillity.

Local Development Plan – Community Facilities and Infrastructure

The Plan seeks to concentrate development in larger settlements where facilities are, or can be expected to be, adequate to meet the needs of that development.

It is well known that services in Tiptree such as the medical centre, chemist, schools as well as the sewerage system are already stretched to breaking point.

Local Development Plan – Community Facilities and Infrastructure

A proposal for residential development will not be permitted in a location where existing community-centre or village-hall facilities are either lacking or inadequate to meet the additional needs that would be generated.

This development should not be permitted as Tiptree does not currently have a community-centre or village hall. The Unilateral Undertaking pittance of £10,000 will not guarantee the construction of such a building.

Local Development Plan – Housing (Development within Village Envelopes)

It is clearly acceptable in principle to develop land for housing within village envelopes, but proposals for individual schemes must integrate well into the existing built and natural environments. Proposals for residential development, including replacement dwellings and extensions to existing dwellings, within village envelopes will be permitted provided that development:-

- (a) will not result in the development of a gap, where this would lead to the loss of important natural or built features in the street scene;
- (b) will not adversely affect the existing pattern and character of development;
- (c) harmonises with, and reinforces, local distinctiveness and sense of place

The proposed development does not meet the above Plan requirements as the proposed properties are not in character with the surrounding existing buildings. A number are 3 storeys whereas none of those surrounding the proposed development are higher than 2 storeys and many are in fact bungalows.

This proposal, as would any other on this site, is unsafe due to the inability to provide adequate visibility, the increased volume of traffic, the proximity to Windmill View, Maldon Rd properties (especially Acorns), the Off Licence, the Bus Stop opposite and this being a route for children attending Thurstable.

Local Development Plan Overall Development Policy DC1

All proposals for development, including changes of use, will be permitted only if they satisfactorily meet the following criteria where relevant:

- Developments will be located and designed to provide for comprehensive and safe facilities for cyclists and pedestrians, linking to existing routes where possible;
- The highway network, either as existing or to be developed within the county road hierarchy, will be able to accommodate safely the extra traffic the proposal will generate;

With the inability to provide adequate visibility, the increased volume of traffic, the proximity to Windmill View, Maldon Rd properties (especially Acorns), the Off Licence, the Bus Stop opposite and this being a route for children attending Thurstable, it is clear that this proposal fails to meet this LDP policy.

Local Development Plan -Section 6 Urban Environment - Design

To make sure there are no significantly increased problems arising from new traffic movements into and out of the development site in question.

With the proposal for 12 units with 27 parking spaces, plus visitors, traffic movements in, out and around the development will significantly increase. Thereby increasing the risk to pedestrians and cyclists, and of a road accident occurring.

Local Development Plan -Section 6 Urban Environment – UEA11

The buildings or building groups shall be well designed in themselves and have adequate regard to their setting.

The density and style of the properties does not have regard to their setting.

Local Development Plan - Section 6 Urban Environment

One of the major factors disruptive of existing good character in residential areas in both town and village is the insertion of minor new development of an unsympathetic design and layout. Even where the existing residential character is of a lower quality, the Council will still expect new development to be designed to a high standard. Backland development is a particular issue with infill development and creates three principal problems:-

- (a) Poor townscape in terms of the approach to the development – often down a long driveway flanked with high fences;
- (b) Loss of privacy and amenity caused by overlooking and the distance between existing and proposed dwellings – a problem that can be overcome in some instances through the use of bungalows;
- (c) Noise and disturbance and hence loss of amenity caused by vehicles from the new development passing close to the existing properties and their gardens.

This application is clearly in relation to an infill development which the Council is keen to avoid. Not only does the development fail to address any of the above problems but actively seeks to create them through the following:-

- The erection of brick walls and fencing around the development which are not in keeping with the predominantly hedge boundaries that currently exist

- The erection of 3 storey buildings which are alien to this area
- The erection of 12 properties that will generate at least 27 vehicles based on provided parking provision and could be even more accounting for bedrooms and visitors.

Local Development Plan Section 6 Urban Environment

Infill development, including extensions, should not appear artificially cramped and should preserve the spatial characteristics of the locality.

The land for the proposed development currently contains a large bungalow and two semi-detached properties surrounded by green space. Contrary to the Plan the proposed development does not preserve the spatial characteristics of the locality

Local Development Plan - Section 6 Urban Environment

A direct impact on neighbouring occupiers can occur as a result of a loss of natural daylight or sunlight, a loss of privacy or the bulk of a new development being oppressive and overbearing. Although most suburban gardens are already overlooked to some degree, where the adjoining residential property has an existing private garden area it would be expected to retain an area of that garden which is not overlooked at close distances by any new development.

With the layout of the development as it is and the type of properties proposed it is clear neighbouring properties will be severely overlooked resulting in loss of privacy and tranquillity.

Local Development Plan – Community Facilities and Infrastructure

The Plan seeks to concentrate development in larger settlements where facilities are, or can be expected to be, adequate to meet the needs of that development.

It is well known that services in Tiptree such as the medical centre, chemist, schools as well as the sewerage system are already stretched to breaking point.

Local Development Plan – Community Facilities and Infrastructure

A proposal for residential development will not be permitted in a location where existing community-centre or village-hall facilities are either lacking or inadequate to meet the additional needs that would be generated.

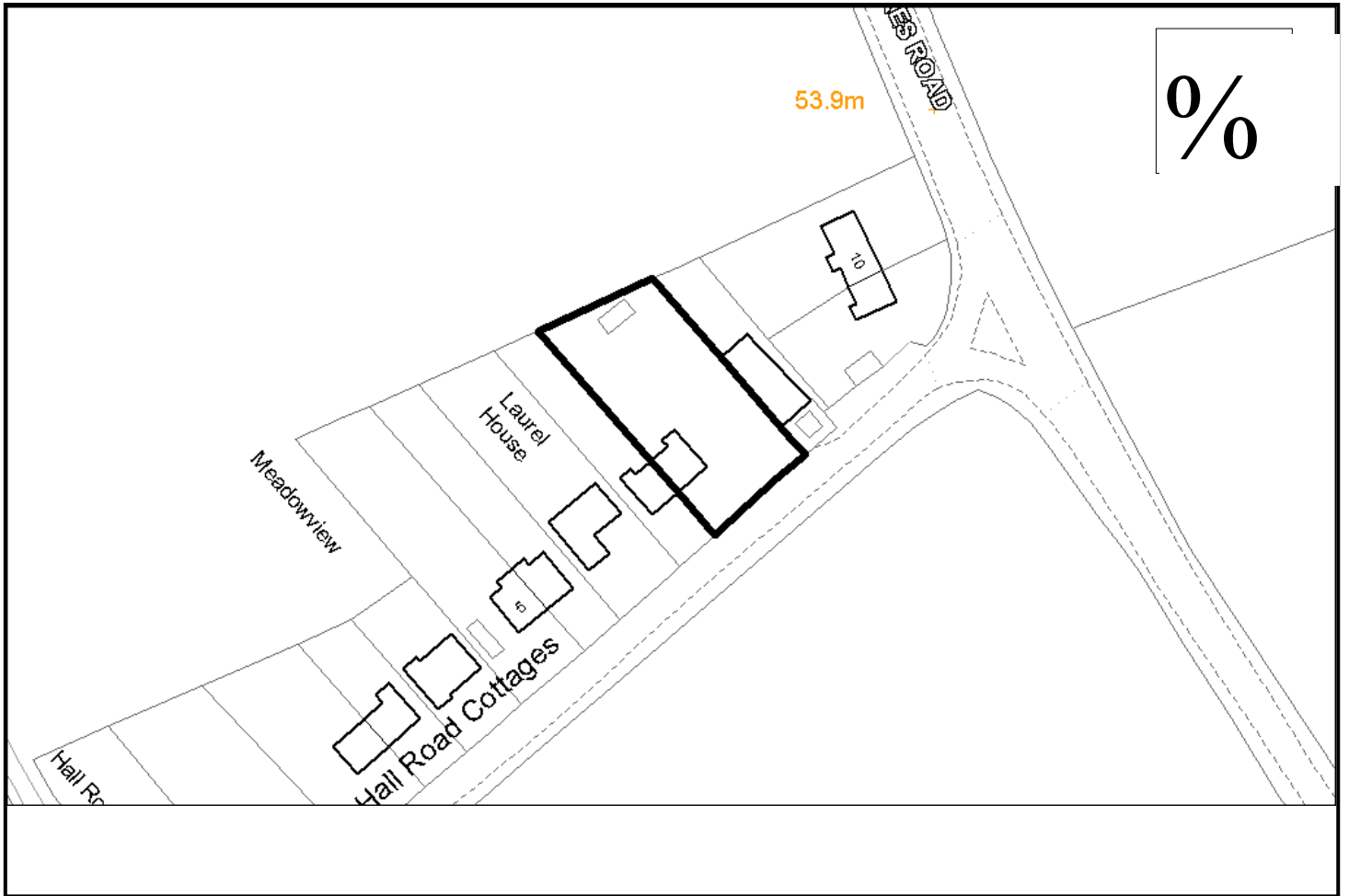
This development should not be permitted as Tiptree does not currently have a community-centre or village hall. The Unilateral Undertaking pittance of £10,000 will not guarantee the construction of such a building.

Local Development Plan – Housing (Development within Village Envelopes)

It is clearly acceptable in principle to develop land for housing within village envelopes, but proposals for individual schemes must integrate well into the existing built and natural environments. Proposals for residential development, including replacement dwellings and extensions to existing dwellings, within village envelopes will be permitted provided that development:-

- (a) will not result in the development of a gap, where this would lead to the loss of important natural or built features in the street scene;
- (b) will not adversely affect the existing pattern and character of development;
- (c) harmonises with, and reinforces, local distinctiveness and sense of place

The proposed development does not meet the above Plan requirements as the proposed properties are not in character with the surrounding existing buildings. A number are 3 storeys whereas none of those surrounding the proposed development are higher than 2 storeys and many are in fact bungalows.



Application No: 090395

Location: Part Garden Of, 8 Hall Road, West Bergholt, Colchester, CO6 3DS

Scale (approx): 1:1250

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7.3 Case Officer: Jane Seeley

MINOR

Site: 8 Hall Road, West Bergholt, Colchester, CO6 3DS

Application No: 090395

Date Received: 24 April 2009

Agent: Mr A Yates

Applicant: Mr L Holohan

Development: New build 2 storey dwelling with proposed parking

Ward: W. Bergholt & Eight Ash Green

Summary of Recommendation: Conditional Approval

1.0 Site Description

- 1.1 The application site is located within well established sporadic ribbon development on the north side of Hall Road. It is outside the West Bergholt Village Envelope. Currently the site is the side/rear garden of 8 Hall Road an ex Local Authority semi detached house; it supports a partially built garage and a greenhouse. A fence, in line with the front wall of the dwelling, divides the front and rear garden. Forward of the fence the garden is mainly block paving. The rear garden has a variety of fruit trees and domestic shrubs; there are some conifers on the rear boundary with open farmland. The site slopes slightly up from the road and then is generally level. To the east of the site is a very low key 1990's bungalow that is set to the rear of an Anglian Water Pumping Station. In the grounds of the pumping station is an oak tree.
- 1.2 As originally submitted the application proposed a chalet style dwelling. Following negotiations the scheme has been amended to an Edwardian pastiche detached house with single storey elements to the rear and east side. A single garage to the rear of the dwelling is included in the scheme.

2.0 Land Use Allocation

- 2.1 No notation

3.0 Relevant Planning History

- 3.1 O/COL/02/0940 - Outline application for erection of 1no 2 bedroom single storey dwelling – Approved 5 July 2002

4.0 Principal Policies

4.1 Adopted Local Plan

DC1 - Development Control considerations

UEA11 - Design

UEA12 - Backland Development

UEA13 - Development, including extensions, adjoining existing or proposed residential property

CO4 - Landscape features

4.2 Core Strategy

ENV 1 - Environment

ENV 2 – Rural Communities

5.0 Consultations

5.1 Trees and Landscaping:

Request details of how retained trees, particularly the large tree to the front of the site, will be protected. This can be dealt with by condition

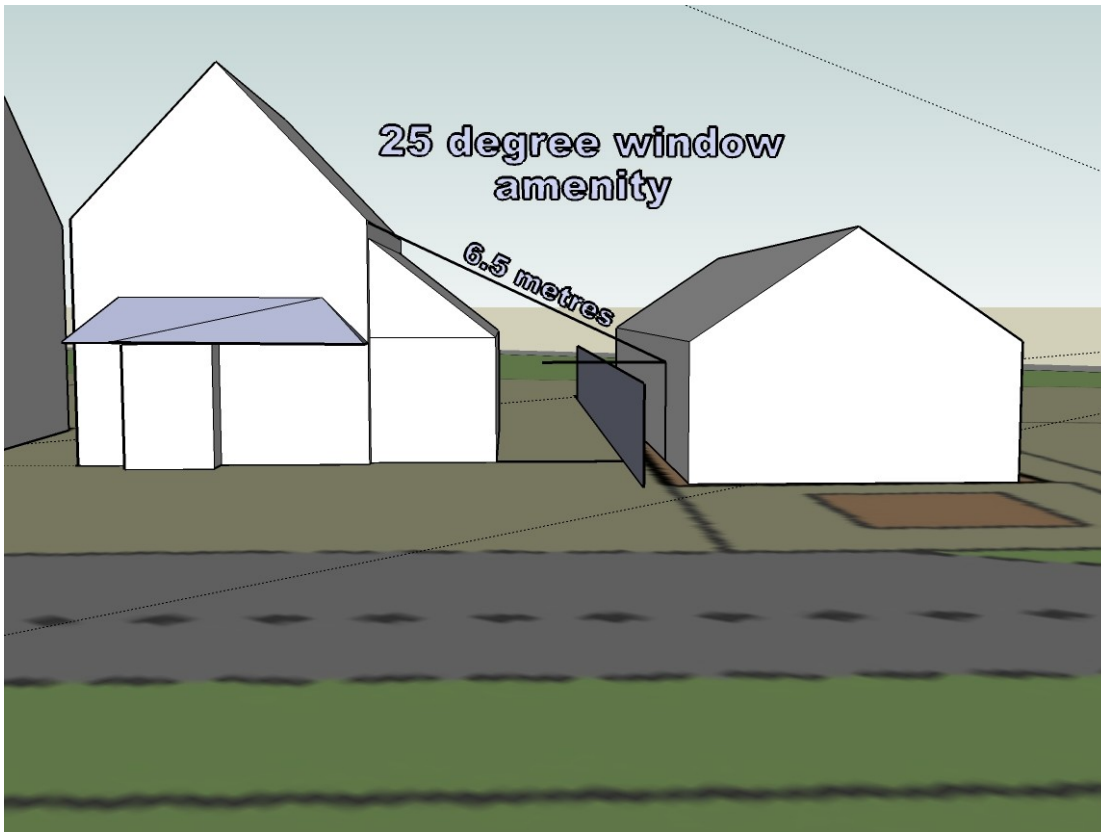
5.2 Highways:

No objection – recommend conditions and informative

5.3 Urban Design:

The proposed new dwelling adjacent to 8 Hall Road is an Edwardian pastiche that is sufficiently well detailed; although the drawings are not the most accurate I have seen. For this reason I would like to have details of all woodwork and joinery, which may include UPVC, conditioned. Materials should also be conditioned for approval.

The house has been designed to accommodate 6.5 metres of open space for the 25 degrees of daylight amenity for the study window of the adjoining property. This is illustrated below.



The contribution of this new dwelling to the street scene is of a polite infill and is not detrimental in this location. The main issues of concern are the neighbour's amenity of daylight because of proximity and noise because of the rear garage, this latter element could be omitted from the scheme and parking could be accommodated in the front of the house.

5.4 Anglian Water (AW):

- Confirm that there have been several recorded sewerage incidents affecting one property in Hall Road.
- Advise that AW object to any new building within 15 metres of a pumping station due to noise and odour nuisance.
- Would not be willing to defend a refusal of planning permission on these grounds at Appeal.

6.0 Parish Council's Views

6.1 Comments on originally submitted scheme – 'no comments'.

Comments on revised drawings awaited

7.0 Representations

7.1 1 Letter, commenting on originally submitted scheme, received:

- Devaluation of property
- Reduction of light to windows on west side of dwelling – study and rear of sitting room
- Proposed garage would obstruct daylight to the garden and block the view
- Introduction of doors at first floor would intrude on privacy
- The sewage system has failed to cope with the current requirement on a number of occasions, an increase in properties would added to this problem
- The squeezing in of another property has the potential to: spoil a secluded area, increase traffic, overload the sewage system and invade personal privacy.

Comments on revised drawings awaited

8.0 Report

- 8.1 The site is outside the Village Envelope, and therefore Policy would not generally support new build. However it is considered that the development of the site for one dwelling is acceptable infill development. Hall Road is an area of linear development dating mainly from the mid 20th century. In the vicinity of the site infill development was permitted for 2 infill-detached dwellings in the mid 1980's and the bungalow to the east of the site was granted planning permission in 1994. In 2002 outline planning permission was granted for the erection of a dwelling on the application site. It is not considered that there is any change in planning policy since this date that would warrant refusal, in principle, to development of the site. It appears to be the last opportunity for infill development in the locality.
- 8.2 The style and size of the originally submitted dwelling was considered inappropriate for the site. Extensive negotiations with the Council's Urban Design Officer has resulted in the revised drawings now under consideration. The impact of the proposed dwelling in the street scene, which is demonstrated by the submitted street scene, is considered acceptable. It is recognised that the difference in levels of the site requires careful assessment and therefore a condition requiring the submission of details of levels on and adjacent to the site is recommended.
- 8.3 The adjacent bungalow has 2 windows in the west elevation that are approx 1m from the common boundary with the site. This boundary has an approx 1.8m fence. These windows provide light to a small study and lounge window (secondary window). The impact of light has been assessed using the 25 degree test as set out in the Essex Design Guide. The proposed dwelling will not infringe on light to the lounge window. There will be some impact on light to the study window (as demonstrated above) however there is 6.5m from the window to the infringement. It is not considered that a refusal of planning permission on this infringement could be sustained.

- 8.4 The location of the proposed garage to the rear of the adjacent bungalow has the potential to cause nuisance to the occupiers. It will also result in a sizable building close to the fence that would have an adverse impact on the residential amenity. The applicants have agreed to remove the garage from the scheme.
- 8.5 The revised scheme removes the first floor doors. Property prices and views are not material planning considerations.
- 8.6 Concerns regarding the inability of the AW pumping station to deal with sewage from the additional dwelling has been referred back to AW. It has been confirmed that there have been several incidents affecting a property in Hall Road. Whilst AW have indicated that they do not support the provision of new dwelling within 15 metres of a pumping station they have advised that they would not be able to defend a reason for refusal on this ground. Accordingly it is not considered that a refusal can be recommended.

9.0 Background Papers

- 9.1 ARC; Core Strategy; TL; HA; Urban Design advice; AW; PTC; NLR

Recommendation - Conditional Approval

Conditions

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

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

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

- 2 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any Order revoking and re-enacting that Order with or without modification), no extensions shall be constructed (other than any expressly authorised by this permission or any other grant of express planning permission), or buildings erected on any part of the site 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 over development of the site by controlling future extensions and buildings.

- 3 - Non-Standard Condition

No development shall take place until cross sections of the site and adjoining land, including details of existing ground and buildings levels around the building hereby approved, any changes in levels proposed together with the proposed floor levels within the building, and finished ridge height of the house in relation to the adjacent dwellings have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with those approved cross sections and specified levels.

Reason: To ensure the satisfactory assimilation of the dwelling into the street scene.

4 - C3.1 Materials (general)

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

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

5 - Non-Standard Condition

Prior to the hereby development commences full details of the all windows, woodwork and joinery, which may include UPVC, shall be submitted for the written approval of the Local Planning Authority and the approved details shall be implemented and retained as approved

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

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

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

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

7 -C10.18 Tree and Hedgerow Protection: General

All 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.

8 - Non-Standard Condition

A suitable replacement vehicular access and off-street parking facility to the existing dwelling shall be provided to this Council's satisfaction prior to the commencement of any other works.

Reason: In the interests of highway safety.

9 - Non-Standard Condition

The vehicular accesses to the existing and proposed dwellings shall be no wider than 4.8 metres, constructed at right angles to the highway boundary, linked about the common boundary of the plots and be provided with an appropriate dropped kerb connection with Hall Road and the existing vehicular access shall be suitably and permanently closed to this Council's satisfaction when the new accesses are brought into use.

Reason: In the interests of highway safety.

10 - Non-Standard Condition

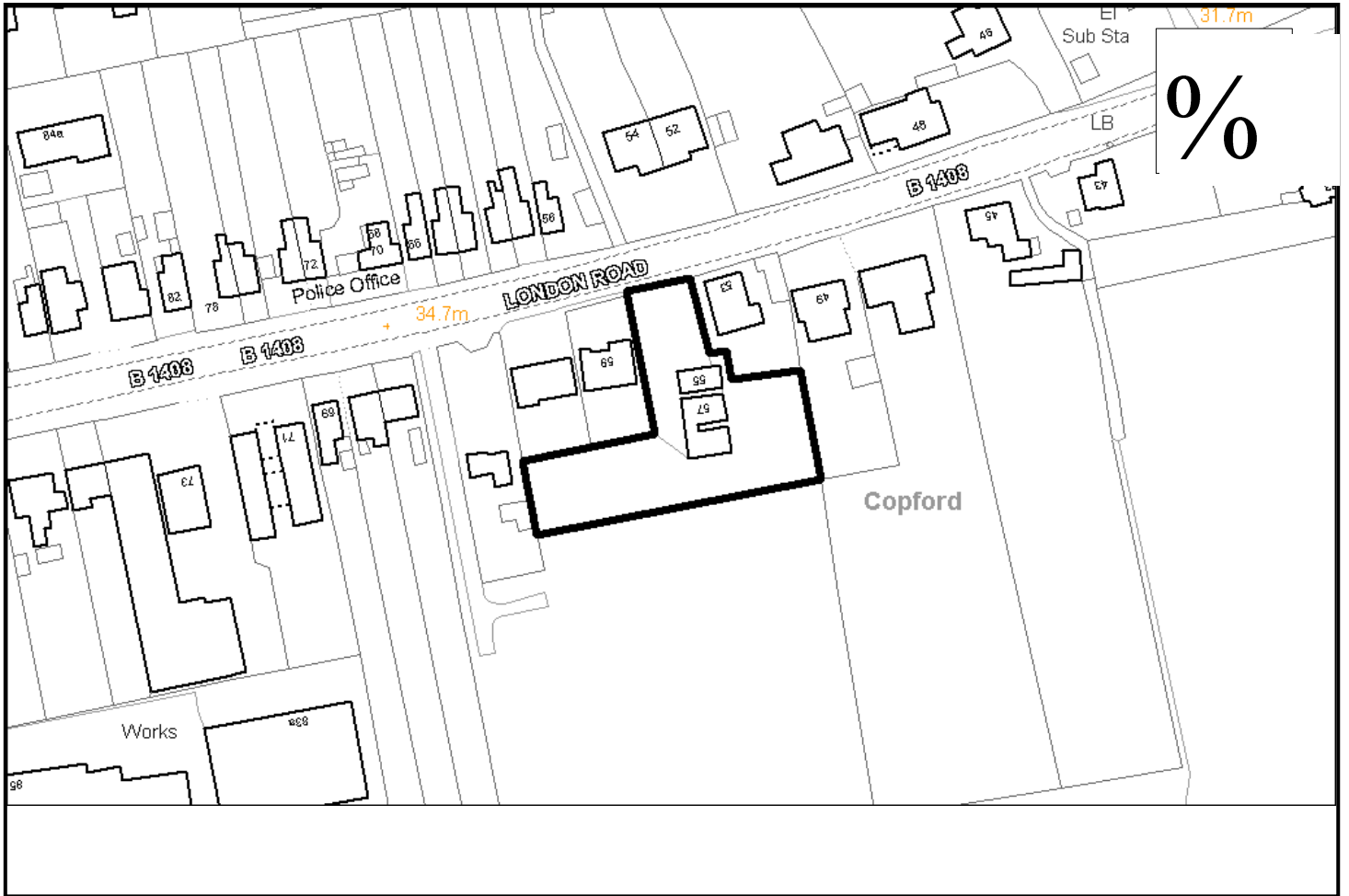
The proposed accesses shall be provided with: 2m x site maximum vehicular visibility splays and 1.5m x 1.5m pedestrian visibility splays on both sides relative to the highway boundary all of which shall contain no obstruction exceeding 0.6m in height.

Reason: In the interests of highway safety.

Informatives

Your attention is drawn to the attached advisory guidelines relating to the control of pollution during demolition/building.

The garage shown on the approved street scene and site layout drawing was deleted from the proposed development prior to the grant of planning permission; accordingly this permission does not grant consent for this garage.



Application No: 090519

Location: Land Adjacent To, 53 London Road, Copford, Colchester, CO6 1LG

Scale (approx): 1:1250

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7.4 Case Officer: Andrew Huntley

MINOR

Site: 53 London Road, Copford, Colchester, CO6 1LG

Application No: 090519

Date Received: 22 April 2009

Agent: Mr Jamie Kelly

Applicant: Mr N Sagar

Development: Proposed dwelling and detached garage on land adjacent to 53 London Road, Copford. Variation of 072961.

Ward: Copford & West Stanway

Summary of Recommendation: Conditional Approval – subject to Unilateral Undertaking

1.0 Site Description

- 1.1 The site as edged in red on the site location plan is a 'T' shaped parcel of land of approximately 0.06ha (frontage to London Road, Copford of approx. 14m and average depth of 46m) located between Nos. 53 and 59 London Road. It lies within the village envelope and within a predominantly residential area.
- 1.2 The dwellings immediately adjacent to the site (i.e. Nos. 53 & 59) are both two storey, detached dwellinghouses. No.53 is Victorian in character, whilst No. 59 is one of a pair of modern detached dwellings built circa 1980.
- 1.3 The existing development along London Road in the vicinity of the site can best be described as an eclectic collection of dwellings of various designs and character set within plots of various sizes. There is no defined building line along the south side of the London Road in the immediate vicinity.
- 1.4 The application site has an established commercial use (B1 Light Industrial) as recognised by a Certificate of Lawfulness granted on 17 December 2004. It contains a number of single storey buildings associated with the established use. These buildings (Nos. 55 & 57 London Road) are located adjacent to the rear garden of 53 London Road and are of no particular architectural merit.
- 1.5 To the rear of the site is open countryside forming part of the Roman River Valley Countryside Conservation Area. The application shows a large area of this land as being within the ownership or control of the Applicants (i.e. land shown edged in blue). This land is outside of the village envelope.

2.0 Description of Proposal

- 2.1 The application proposes the demolition of the existing buildings and the erection of one, four bedroom, detached two storey dwelling having a total floor area of 252 sq.m. A detached double garage is to be erected towards the rear of the site. This building is of individual design incorporating single and 2 storey elements, constructed in clay plain roof tiles, slates on some of the single storey elements, facing bricks, render and weatherboarding. It is set back from the front elevation of No. 53 but in general alignment with the front of No. 59.
- 2.2 There is an existing vehicular access off London Road. It is proposed to relocate this access towards the left hand side of the site. Parking and a vehicular turning facility will be provided within the front garden area.

3.0 Land Use Allocation

- 3.1 Countryside Conservation Area.
Potential Contaminated Land

4.0 Relevant Planning History

- 4.1 K/COL/04/1965. Certificate of Lawfulness for existing use of 55 – 57 London Road, Copford as light industrial. Approved 17 December 2007.
- 4.2 071017. New detached dwelling. Refused 9 May 2007.
- 4.3 072961. New detached dwelling. Approved.

5.0 Principal Policies

- 5.1 Adopted Review Borough Local Plan
DC1 - Development Control considerations
UEA11 - Design
UEA13 - Development
P1 - Pollution
- 5.2 Adopted Core Strategy
SD1 – Sustainable Development Locations
UR2 – Built Design and Character
- 5.3 East of England Plan
ENV7 - Character
- 5.4 Planning Policy Statement 1
Planning Policy Statement 3
Planning Policy Statement 23

6.0 Consultations

6.1 The Highway Authority comments as follows:-

"The Highway Authority raises no objection subject to suitable conditions to achieve the following:

- Prior to occupation of the development visibility splays with dimensions of 2.4 metres by 90 metres as measured from and along the nearside edge of the carriageway shall be provided on both sides of the access. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times. Reason: To provide adequate intervisibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access having regard to policy 1.1 in appendix G to the Local Transport Plan.
- Prior to occupation of the dwelling hereby approved a 1.5 metre x 1.5 metre pedestrian visibility splay as measured from the highway boundary shall be provided on both sides of the vehicular access. There shall be no obstruction above a height of 600mm as measured from the finished surface of the access within the area of the visibility sight splays thereafter. Reason: To provide adequate intervisibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access having regard to policy 1.1 in appendix G to the Local Transport Plan."

6.2 Environmental Control recommend that any permission should be subject to conditions relating to the submission of a contamination investigation & risk assessment, remediation and validation schemes, as per the previous submission.

7.0 Parish Council's Views

7.1 Recommends refusal on the basis of overdevelopment of the site and the scheme being out of keeping with adjacent properties.

8.0 Representations

8.1 One letter of objection has been received. Their objection is summarised as follows:

- Overbearing impact upon, and loss of light to, conservatory, bathroom & garden.
- Floor area is far in excess of any other surrounding property.
- The position of the double garage, whilst at the other side of the proposed property is so far set back from the road that it will further obstruct our light and open aspect.
- The access should be altered to improve safety.
- Hours of construction should be limited to business hours and their vehicles should be parked off the main road.
- The proposed boundary fencing should be no higher than the existing fencing.

9.0 Report

Introduction

- 9.1 The main consideration within this application is whether the changes to the previously approved scheme are acceptable. Application 072961 proposed a large detached 4 bedroomed property. This application also proposes a large 4 bedroomed detached property in the same position and with the same footprint as the previous scheme. The changes proposed within this scheme are relatively small changes to the design. This includes a small raise in height to the rear, slight alterations to the side projections and changes to the design of the roof.

Appraisal

- 9.2 The only issues that need consideration are the alterations from the previously approved scheme. The design changes are relatively minor, with only a small increase in bulk to the rear of the dwelling as the projection has been raised by 450mm. These alterations do not warrant a refusal on design grounds due to the previous approval, which is very similar.
- 9.3 In terms of amenity, the raising in height of the rear element by 450mm would not have any greater impact on residential amenity as it is set in from the flank walls of the proposed dwelling. The other design changes would have no impact on neighbouring amenity over and above that of the previously approved scheme.
- 9.4 The siting of the garage has not changed, although the design has been altered from a pyramid roof to a simple pitched roof with gables. This alteration is acceptable on design grounds.
- 9.5 The access has been moved slightly eastwards within the plot to allow for better visibility. This is acceptable and the highway authority has raised no objections to the proposal subject to conditions.

Other Considerations

- 9.6 As already stated, one letter of objection has been received relating to size and impact on amenity. These issues have already been addressed. Furthermore, it would be unreasonable to object on these grounds now when the previous scheme, which is very similar, was approved. In regard to changing the position of the dwelling to allow for the access to be down the western side of the plot, the highway authority has raised no objections to the access arrangements. Therefore, no objections can be raised in terms of highway safety and there is no planning reason to insist on such a change, which could raise new amenity issues. In terms of hours of construction, this is controlled through Environment Control legislation and is not a matter for planning. Planning can also not control where workmen park. If vehicles are parked on the highway then that will be a matter for the Highway Authority to control under their powers. An informative requesting that the developer use his best endeavours to ensure that vehicles are parking clear of the public highway during the construction period might be considered by the Committee.

9.7 Furthermore, the application has been accompanied by a Unilateral Undertaking to secure the provision of the required open space contribution.

10.0 Conclusion

10.1 The application proposal is very similar to the previously approved scheme. The changes proposed are acceptable on design grounds and would not have any greater impact on neighbouring amenity than the proposal approved under application 072961.

11.0 Background Papers

11.1 ARC; Core Strategy; East of England Plan; HA; HH; PTC; NLR

Recommendation – Conditional Approval

Conditions

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

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

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

2 - C3.4 Samples of Traditional Materials

Samples of all materials to be used in the external construction and finishes of all parts of the proposed development, shall be selected from the local range of traditional vernacular building and finishing materials and shall be submitted to and agreed in writing by the Local Planning Authority before the development commences. The development shall be implemented in accordance with agreed details.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity.

3 - C12.2 Details of Walls or Fences

Prior to the commencement of the development details of screen walls/fences/railings /means of enclosure etc 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/walls shall be provided as approved prior to the occupation of the building and shall be retained thereafter.

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

4 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

5 - 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.

6 - 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.

7 -B6.6 Site Characterisation

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

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

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

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction.

8 - Non-Standard Condition

Development shall not commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use, is submitted and agreed in writing with the Local Planning Authority. The scheme shall include all works to be undertaken, proposed clean-up criteria, timetable of works and site management procedures.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction.

9 - Non-Standard Condition

The approved Remediation Scheme shall be carried out in accordance with the document prior to the commencement of development otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority shall be given 2 weeks written notification of commencement of the agreed works. Following completion of measures identified in the approved Remediation Strategy a validation report and certificate shall be submitted and agreed with the Local Planning Authority.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction.

10 - Non-Standard Condition

Following completion of measures identified in the approved Remediation Strategy a validation report and certificate shall be submitted and agreed with the Local Planning Authority.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction.

Informatives

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

The phased risk assessment should be carried out also in accordance with the procedural guidance and UK policy formed under the Environmental Protection Act 1990.

The site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

The Local Planning Authority has determined the application on the basis of the information made available to it.



Application No: 090749

Location: Land Adjacent (South of), Rushmere Close, West Mersea, Colchester

Scale (approx): 1:1250

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7.5 Case Officer: Nick McKeever

EXPIRY DATE: 04/08/2009

OTHER

Site: Land Adjacent (South of), Rushmere Close, West Mersea, Colchester

Application No: 090749

Date Received: 9 June 2009

Agent: Vaughan & Blyth (Construction) Ltd

Applicant: Richard Pearson & Partners

Development: Proposed office/storage unit (B1, B2 & B8 use).

Ward: West Mersea

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 This 0.025ha site lies within an established industrial park in the centre of West Mersea. There are residential properties in Queen Anne Road to the west, in Hilly Broom Gardens to the south.

1.2 It is an undeveloped plot within this industrial park, which contains a wide variety of different size and designed units. Access is via Rushmere Close, a private road.

1.3 The proposal is for the erection of a two storey unit 6.0m in width and 9.2m in length. The ground floor is built in facing brickwork, the first floor and roof is finished in metal profile cladding. The unit has a first floor window in the front elevation facing onto Rushmere Close, a range of windows in the side elevation but no windows in the rear elevation.

1.4 The ground floor is shown as being a storage area, with office accommodation within the first floor.

1.5 Five car parking spaces are provided within the forecourt area, one of these being for disabled parking.

2.0 Land Use Allocation

2.1 Employment Zone

3.0 Relevant Planning History

3.1 Planning permission for the development of the site for light industry/Phase One – 6 units. Approved 20th January 1986.

3.2 There has been a number of applications during the intervening years for individual units within the Close, mainly for light industrial use, but also for other uses Storage, postal sorting office, vehicle repair & MOT Station).

4.0 Principal Policies

4.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Design - UEA11& UEA13
Centres & Employment Classification - Core Strategy CE1 & CE2
Contaminated Land – P4
Pollution (General) – P1

5.0 Consultations

5.1 The Highway Authority notes that Rushmere Close is a private road and has no objection.

5.2 Environmental Control comment that they are aware that there are a number of residential properties close by and that they have received a number of complaints regarding this estate in the past. On this basis they seek to minimise any disturbance by conditions relating to noise & sound insulation of the building and any plant or equipment, all activities being confined to inside the building and a restriction on the hours of business.

5.3 Environmental Control refer to a desk study, preliminary risk assessment and a ground investigation report (Land Contamination) has been submitted in support of the application. In view of this report and subsequent information supplied to Environmental Control, the view is taken that no additional monitoring is required as long as the Characteristic Situation 2 level of gas protection is afforded to the development (as detailed in the submitted Report). Additional contaminated land conditions should still be applied.

6.0 Town Council's Views

6.1 West Mersea Town Council recommends consent.

7.0 Representations

7.1 The occupier of 56 Queen Anne Road object on the basis that:

- The two storey unit will intrusive as it will be visible from their property. The adjacent units are single storey and are the same height as the “Stroods Contactors” unit opposite the new unit.
- Windows will affect their privacy
- External materials are out of keeping with the character of the residential area
- Increase in noise & nuisance

7.2 The occupiers of 3 Hillybroom Gardens have no objection in principle but object to the two storey building due to the site being slightly higher than Hillybroom Gardens and overlooking. Potential noise is an issue. Is there to be any restrictions on times of loading/unloading and the arrival of vans etc.

8.0 Report

8.1 As the site lies within a designated Employment Zone, there is no objection in terms of the land use.

8.2 The design of the unit, and the proposed external materials, is generally sympathetic to the other units within this industrial park, to which the site will relate rather than to the residential properties in the vicinity. The units within this industrial park consist of single storey and two storey buildings

8.3 There are two windows within the side elevation facing onto Queen Anne Road. These windows are high level and as such the unit will not prejudice the level of amenity currently enjoyed by these dwellings within this Road. It is noted that the properties within Queen Anne Road are set at a significantly higher ground level and that they are screened by a belt of mature trees.

8.4 With regard to business hours, the application proposes that the unit will be open from 09:00 am to 17:00 hours Monday to Friday. Environmental Control recommend the opening hours should be restricted to 08.00 – 19.00 hours Monday to Friday and 08.00 – 13.00 hours Saturdays.

8.5 The Agent, Vaughan & Blythe (Construction) Ltd has confirmed that the deletion of the proposed B2. General Industrial use from the proposed development is acceptable.

8.6 It is noted that the car parking is located within the forecourt area. Whilst some of the other Units within the park have parking located to the side or to the rear, other Units (e.g 1 – 4) front onto a parking & servicing area. The site is restricted in size and there is little scope for the parking to be located elsewhere. It is considered that, given that this is an industrial park, the provision of the parking on the forecourt will not have a significant impact upon the overall character and appearance.

9.0 Background Papers

9.1 ARC; HA; HH; PTC; NLR

Recommendation - Conditional Approval

Conditions

1 – A1.5 (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 hereby permitted shall not operate (including deliveries)/be open to customers outside of the following times: - 08:00 to 19:00 hours Monday to Friday, 08:00 to 13:00 Saturday.

Reason: In order to safeguard the amenity of nearby residential properties.

3 - Non-Standard Condition

A competent person shall ensure that the rating level of noise emitted from the site plant, equipment, machinery shall not exceed 5dBA above the background prior to the building hereby approved coming into beneficial use. The assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the local planning authority prior to the building hereby approved coming into beneficial use. All subsequent conditions shall comply with this standard.

Reason: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

4 - Non-Standard Condition

The activities hereby approved shall not be carried out anywhere on the site except within the buildings indicated on the approved plans in order to comply with the Condition 3 of this permission.

Reason: For the avoidance of doubt as to the scope of this permission and to safeguard the amenity of the area.

5 - Non-Standard Condition

Any plant, equipment or machinery on the premises shall be constructed, installed and maintained so as to comply with the initial noise condition. The noise generated by such equipment shall not have any one 1/3 octave band which exceeds the two adjacent bands by more than 5dB as measured at all boundaries near to noise-sensitive premises.

Reason: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

6 - Non-Standard Condition

There shall be no audible reversing alarms.

Reason: To safeguard the amenity of nearby residential properties.

7 - Non-Standard Condition

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 9 to 12 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

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

8 - Non-Standard Condition

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

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

9 - Non-Standard Condition

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

10 – Non-Standard Condition

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 9, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 10.

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

11 – Non-Standard Condition

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 9.

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

12 – A4.12 (No Open Storage)

There shall be no outdoor storage of any materials goods equipment plant machinery or vehicles of any description on any part of the site without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and for the avoidance of doubt as to the scope of the permission hereby granted.

13 - A3.1 (Premises Only to be Used for a Specific Use)

The premises shall be used for B1 Business and B8 Storage and Distribution purposes only as defined in the Use Class Order and for no other purpose of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

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

14 - B4.6 (Slab Levels)

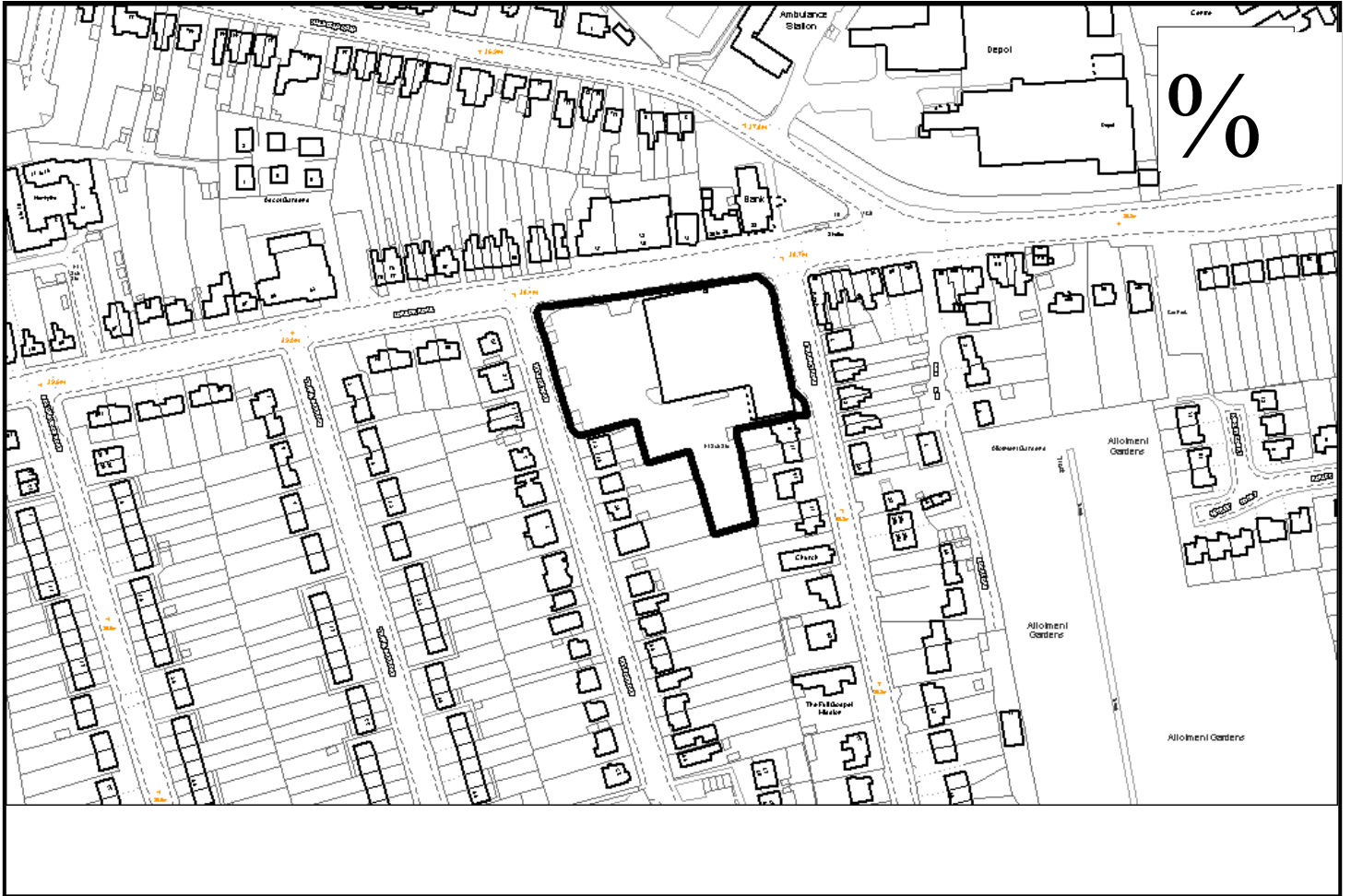
No development of the site shall take place until cross sections of the site and adjoining land and buildings, including details of existing ground levels around the buildings hereby approved and any changes in levels proposed, together with the proposed floor slab levels within that part of the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with those approved cross sections.

Reason: To enable the Local Planning Authority to exercise proper and considered control over the development as whole and to protect the amenity of occupiers of adjacent properties.

15 - A7.9 - (Rem of Perm Dev Rights)

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 extensions or alterations shall be carried out (other than those expressly authorised by this or any other express permission) on any part of the site, whether externally or internally, without the prior written permission of the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of the permission and to protect the amenity and privacy of adjoining residents.



Application No: 090433

Location: 81-82 London Road, Colchester, CO3 9DW

Scale (approx): 1:1250

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7.6 Case Officer: John Davies**OTHER****Site:** 81-82 London Road, Colchester, CO3 9DW**Application No:** 090433**Date Received:** 31 March 2009**Agent:** January's Chartered Surveyors**Applicant:** Lexden Investments Limited**Development:** Change of use of upper floor of former MFI premises from Class A1 (Retail) to Class A1 (Retail) and Class D1 (Church) in the alternative, including modifications to the roof and fenestration, insertion of fire doors on ground floor and provision of bicycle parking areas.**Ward:** Lexden**Summary of Recommendation:** Conditional Approval**1.0 Site Description**

1.1 The application relates to the site on the corner of London Road and Straight Road in Lexden, which was last occupied by the retailer MFI. The whole building has Class A1 retail use rights. The existing building has frontages onto both of these roads, however the main frontage and the public entrance into the shop is from the large car park to the west. The car park, which is bounded by a brick wall, lies close to the corner of London Road with Nelson Road. Vehicular access to the site is from London Road, approximately 50 metres from the traffic lights at the junction of London Road with Straight Road.

2.0 Description of Proposal

2.1 The proposal is for A1 retail and Class D1 (Church) use on the first floor of this building. This is an area of 1760m². Whilst the first floor already has retail use rights the purpose of this dual use application is to secure change of use to D1 Church use at the same time as retaining the ability to revert back to retail use should the Church use cease in the future.

2.2 The application includes modifications to the roof and fenestration, insertion of fire doors on the ground floor and provision of bicycle parking areas for use by the Church.

2.3 Proposed alterations to the building are confined to the centre of the roof and comprise the raising of the roof over the proposed Church hall and provision of roof lights, all of which would be screened by the perimeter mansard roof forms. The only change to layout of the site is the provision of cycle parking along the southern boundary for Church users (in addition to provision on the road frontage for shoppers). The proposals also include pedestrian safety improvements to the access onto the site from London Road in the form of a raised access feature. The application submission includes a Transport Assessment and a draft Travel Plan to be operated by the Church. It also includes a Noise Report, prepared by Sharps Redmore Acoustic Consultants, which assesses the impact of use of the first floor by the church on the surrounding residential environment.

2.4 There is a separate report on the agenda relating to application 090434 which proposes the removal of a condition attached to permission 081079 which restricted retail sales on the first floor.

3.0 Land Use Allocation

3.1 Residential Area
Local Shopping Centre

4.0 Relevant Planning History

4.1 081079 - External alterations to existing retail unit to include provision of two further shop entrances, provision of dock leveller to loading bay, disabled access ramp, trolley park, creation of waste compound and reconfiguration of the car park. Approved 29.7.08

4.2 The above application sought to make various physical alterations to the building and to the external areas. These changes included a new entrance facing toward the car park with a new ramp and covered trolley bay adjacent; two new shop frontages facing directly onto London Road; and, a reconfiguration of the parking and servicing area, which reduced the number of car parking spaces from 107 to 86.

5.0 Principal Policies

5.1 Adopted Review Colchester Borough Local Plan-March 2004
DC1- Development Control considerations
TA5- Parking

5.2 Core Strategy- December 2008
CE2c - Local Centres

6.0 Consultations

6.1 Environmental Control - no objections to change of use. Advise that applicant be referred to standard construction and demolition informative.

6.2 Highway Authority would not wish to raise an objection to the above application subject to the following:

1. No occupation of the development shall take place until such time as the following have been provided or completed to the satisfaction of the Highway Authority:
 - Improvements to the existing site access off London Road as shown in principle on the planning application drawings. Improvements to include the provision of tactile paving and the realignment of the existing footway along the south side of London Road to suit the proposed raised table
 - A travel plan in accordance with Essex County Council policy. Travel Plan to include a review and monitoring fee of £3,000 (this requirement has been waived by the Highway Authority)
 - Measures shall be provided to ensure no mud and/or debris is deposited on the public highway by any vehicle associated with construction of the proposal. Details to be agreed with the Local Planning Authority and Highway Authority

7.0 Representations

7.1 Objections have been received from 5 residents in Nelson and Trafalgar Roads on the following grounds:

- Concern about use of Lexden Primary School for additional parking as this will mean increased traffic to the school at evenings and weekends when school is closed and residents normally have relief from disturbance and effects of weekday traffic when school is open.
- Use of site by Church will add to parking demands on a supply of parking already limited in terms of capacity both on site and in surrounding area. May be up to 500 attending Church at peak capacity leading to concerns about highway safety on London Road and increased traffic in Nelson Road particularly by cars seeking to use car park at local school.
- Likelihood of increased on street visitor parking in surrounding roads if school is full or the walk back is considered too far.
- Where will the congregation park during the week when school parking is unavailable?
- What happens when 12 month contracts with local schools end?

7.2 Aldi object to the proposal on the following highway and parking grounds:

- Insufficient car parking at the site
- Inadequacy of agreements for overspill parking
- On street congestion likely
- Impact on vitality and viability of local centre due to traffic congestion

7.3 Also point out following matters:

- Condition on previous permission to prevent retail sales on first floor was appropriate and allowing use of space by a Church with 500 congregation would generate higher levels of demand than a retail use.
- No precise figures are provided on increase in congregation and it is alleged that Church have separately stated that the move would allow growth up to 500. Based on current congregation of 200 and use of 30 cars it can be extrapolated that 500 visitors would generate around 80 car trips.
- The Church will be granted only 20 car parking spaces on site not 25 as proposed in application.
- Overspill parking provision cannot be guaranteed or enforced.
- Likelihood of increased on street parking by visitors who find the school car parks too far away especially the elderly and mothers with push chairs.
- Sunday morning - 10-45am service will attract peak church visitors and is also one of ALDI' s busiest trading days. Likely that parking demand to store will be around 70 cars rather than 40-50 set out in TA.
- If the store car park is over-crowded and inaccessible may lead to less sustainable travel to other shopping centres

8.0 Report

8.1 The Kingsland Church currently occupies 2 buildings on Lexden Road approximately 400m to the east of the site. These are too small for the expanding congregation and therefore bigger locally based premises have been sought by the Church for its expansion. It is likely that the existing premises will be occupied by another community use.

8.2 The proposal is for the Church to relocate to the first floor of the former MFI building. These premises are within a Local Centre as defined within the Core Strategy Policy CE2c. Appropriate uses are listed as small scale shops, services and community facilities. Community facilities are defined as including places of worship. The use of the first floor as either a place of worship or for retail use is therefore considered to be in line with adopted land use policy.

8.3 There are no significant external alterations proposed to the building other than formation of roof lights that would be largely screened from view and velux windows which would be positioned within the existing roof planes.

8.4 The main issues to consider are parking and traffic generation. To this end the applicants have provided a Transport Statement (TS) to consider parking supply and demand in the context of land use and parking policy. This also includes a draft Travel Plan to be operated by the Church.

8.5 The main points in the TS are:

- The church will adopt a travel plan, which will promote increased walking, cycle and car share access to church.
- On weekdays and Saturdays demand for parking by the Aldi store and Church will be met by existing parking provision on site.

- Peak parking demand by the Church will be before the late Sunday morning service (1045-1200) and coincide with near peak demand by ALDI. Overall parking demand cannot be accommodated on site and there would be an excess of demand for about 50 spaces. At such times the Church would use nearby off site parking at Lexden Springs School (50 spaces), London Road public car park, Halstead Road car park together with a further 20 spaces available at Lexden Primary school, if needed, and available roadside parking.
- 36 covered cycle parking spaces are to be provided on site for Church use.
- Car parking management plan- there will be management of the use of the application site car park and other car parks on Sunday mornings to prevent confusion and congestion. e.g. churchgoers will be restricted from using Aldi's parking spaces.

8.6 The draft Travel Plan proposes:

- Appointment of a TP Coordinator
- Survey of church members' travel behaviour
- Setting of targets to reduce car use and monitoring dates
- Control over use of allocated parking on the application site by limiting it to specific Church visitors as part of a Parking Management Plan
- On site coordination of parking during the late Sunday morning service
- Encouragement to car-sharing

8.7 The Church has provided details of its existing weekly activities broken down by day, time of day, numbers involved and car use. This shows that there is a variety of activities ranging from toddler groups to dance classes taking place and that during the week the maximum cars generated by any activity is no more than 20 . Also none of the activities finish later than 9.30pm on any day. With the larger premises there is potential for greater evening activity although given the nature of the accommodation the Church consider that wedding and funerals are limited to 2-3 per year and may be more likely to take place at other Churches in the group where there would be more external space.

8.8 The main potential conflict in peak demand between the Church and the ALDI store is the late Sunday morning service. The TS indicates total car parking demand on a Sunday by the Church to be around 80 cars. This demand can be met by the following parking provision available at weekends:

Application site	20 spaces
Existing Church site	5 spaces
London Road Public Car Park	22 spaces
Halstead Road car park	15 spaces
Lexden Springs School	50 spaces
Total	112 spaces

This provision excludes space available at Lexden School (20 spaces) and uncontrolled, on street parking in London Road, Nelson Road, Trafalgar Road and Straight Road. The concerns raised by residents in Nelson Road and Trafalgar Road are noted. However, it should be noted that the Church see the use of parking at Lexden School as only being necessary as a last resort. Their main parking provision is listed in the above table.

- 8.9 It is noted that some off-street parking provision is reliant on the consent of third parties. The submission includes letters from the Head Teachers of Lexden Springs and Lexden Schools confirming the availability of their car park for use on Sundays and raising no objection to the proposed use of the building by the Church. However, the letters do indicate that these arrangements are subject to annual and quarterly review respectively and there is a concern that if the availability of these car parks was withdrawn where the displaced cars would go. These are valid concerns as it is not reasonable to impose a condition requiring that such off street parking belonging to a third party should be made available for use by the Church in perpetuity. Notwithstanding this it should be noted that the Church have been using Lexden Springs School parking for 3 years and there are no reasons to believe that this arrangement would be cease in the future. In the unlikely event that permission was withheld the Church has indicated that there would be alternative parking sources in the area that they might use such as parking at Lexden House on London Road, which would provide 10-15 spaces and the car park at the Fire Brigade Workshop. Both of these uses have limited or no need to use their parking on a Sunday.
- 8.10 Improvements to the vehicular access to the site are proposed comprising the provision of tactile paving and the realignment of the existing footway along the south side of London Road to suit the proposed raised table. This feature should reduce vehicle speeds and raise drivers' awareness when using the access.
- 8.11 The application is accompanied by a Noise report which considers possible noise generated by the development in respect to amplified music, general activity and building plant. The report notes that the Church's activities only occur during the day time with no activities taking place at night time (i.e. after 11am). Amplified music is played during Church Services at which noise levels may for periods of up to 30 minutes reach 100 dBA. Given the presence of residential uses nearby the report recommends internal works to the roof, walls and openings to provide greater insulation to the building. The report concludes that subject to implementation of such insulation works and management to ensure that door and window openings are kept closed during services and other activities, that noise generated by the use should not exceed measured background noise levels. Appropriate conditions are proposed to secure implementation of these recommendations.
- 8.12 In conclusion, it is considered that the use of the first floor by the Church is an appropriate community use for a site in a local centre. Consideration has been given to possible noise impacts on neighbours arising from the use of the building and consideration as to whether there is sufficient car parking given the use of the ground floor as a supermarket and limited on site parking. Your officers conclude that on the basis of the availability of off-street parking in the immediate vicinity and the proposed management of visitor travel by the Church through the mechanism of a travel plan, that the proposed use should be able to operate without causing undue congestion and parking problems in the area.

9.0 Background Papers

9.1 ARC; Core Strategy; HH; HA; NLR

Recommendation - Conditional Approval

Conditions

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

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

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

2 – Non-Standard Condition

Prior to the commencement of the Church or retail use highway access improvements shall have been fully implemented in accordance with outline details shown on Plan 83604/A/01A and further details of the works which shall have been previously submitted to and approved by the Local Planning Authority. Further details shall include the provision of tactile paving and the realignment of the existing footway along the south side of London Road to suit the proposed raised table.

Reason: In order to improve the access in the interests of the safety of pedestrians and other road users.

3 – Non-Standard Condition

Prior to the commencement of the Church use hereby approved a Travel Plan shall be submitted to and approved by the Local Planning Authority. The approved Travel Plan shall thereafter be fully implemented.

Reason: In the interests of promoting sustainable development in accordance with adopted Local Plan Policy T3.

4 – Non-Standard Condition

The Church use shall not commence until details of a scheme demonstrating that the building is to be altered to provide adequate sound insulation against internally generated noise in accordance with guidelines in PPG24 and the WHO 'Guidelines for Community Noise' as appropriate. The submitted details shall include measures to satisfactorily limit the impact of live and amplified music played within the building. The building shall be maintained in accordance with the approved details.

Reason: To safeguard the amenities of nearby residential properties.

5 – Non-Standard Condition

Prior to the commencement of the retail or Church use hereby approved 20 car parking and 36 covered cycle parking spaces together with space for motorcycle parking shall be provided in accordance with details of their provision which shall have been previously submitted to and approved by the Local Planning Authority. They shall be permanently retained as approved thereafter.

Reason: To ensure satisfactory provision for parking on site for users of cars, motorcycles and bicycles.

6 – Non-Standard Condition

The use of the first floor of the building hereby approved as a place of worship shall be limited to between the hours of 8.00am and 11.00pm daily.

Reason: To safeguard the amenities of nearby residential properties.

7 –Non-Standard Condition

The use of 1st floor is hereby restricted to either a place of worship within Class D1 or retail use within Class A1.

Reason: For the avoidance of doubt as to the scope of the approval.

8 – Non-Standard Condition

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

Reason: To reduce the undesirable effects of light pollution on the amenity of neighbouring residential properties.

9 – Non-Standard Condition

Before works commence measures shall be provided to ensure no mud and/or debris is deposited on the public highway by any vehicle associated with the construction of the proposal, in accordance with a scheme which shall first have been submitted to and agreed in writing by the local planning authority (in consultation with the highway authority).

Reason: In the interest of highway safety.

10 - Non-Standard Condition

All window units and doors within the building hereby approved shall be kept shut when live or amplified music is being played within the building.

Reason: To protect the amenities of adjoining residents.

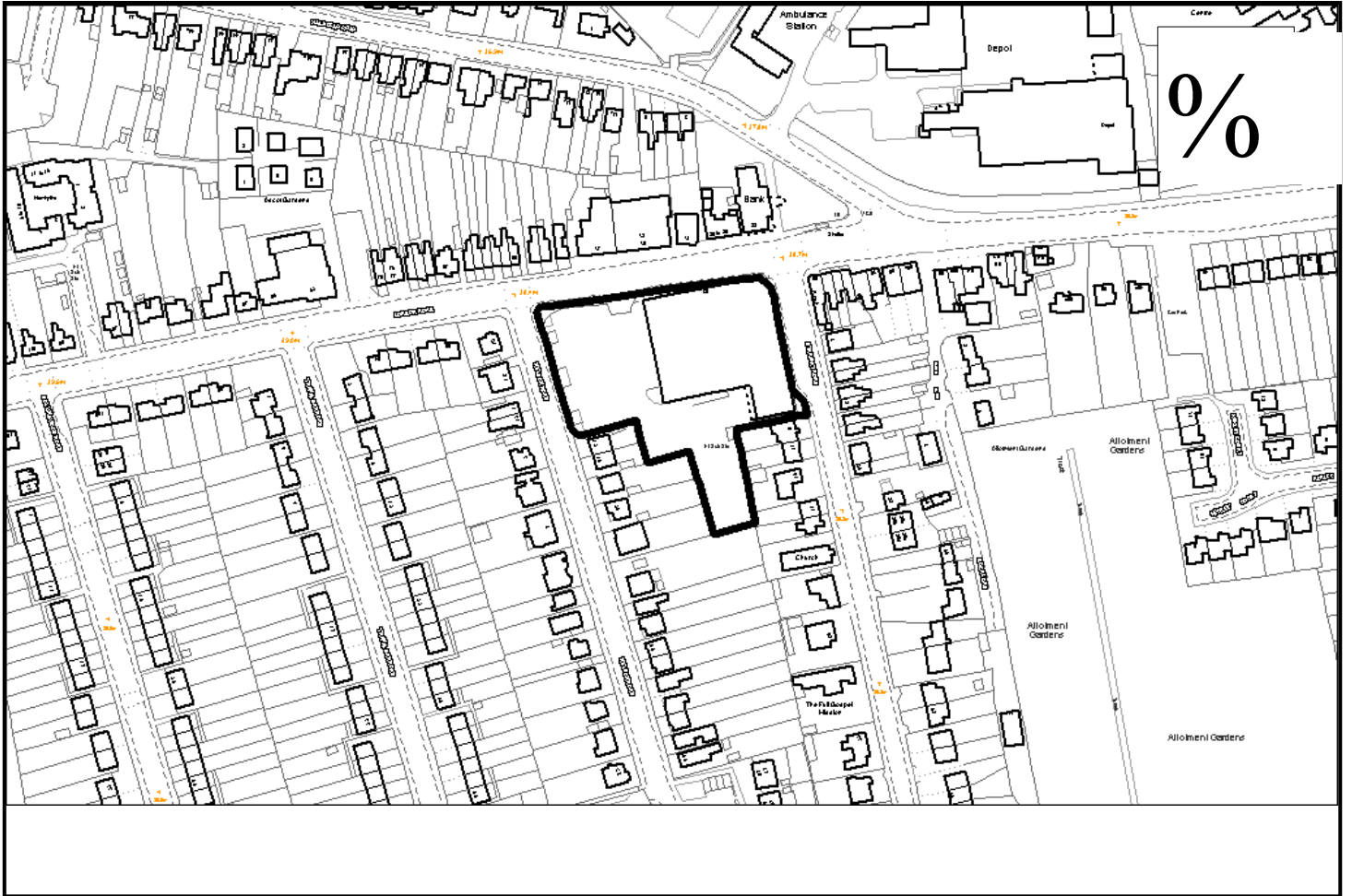
11 - Non-Standard Condition

If any site plant, equipment, or machinery is proposed in or outside the building a competent person shall ensure that the rating level of noise emitted from the equipment shall not exceed 5dBA above the background prior to the Church use hereby permitted commencing. The assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the Local Planning Authority prior to the equipment being installed.

Reason: To safeguard the amenities of nearby residential properties.

Informatives

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



Application No: 090434

Location: 80-82 London Road, Colchester, CO3 0HD

Scale (approx): 1:1250

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7.7 Case Officer: John Davies

OTHER

Site: 80-82 London Road, Colchester, CO3 0HD

Application No: 090434

Date Received: 31 March 2009

Agent: January's Chartered Surveyors

Applicant: Lexden Investments Limited

Development: Application to delete Condition 5 of planning permission 081079 (No retail sales shall take place from the first floor of the building.)

Ward: Lexden

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The application site relates to the existing MFI site on the corner of London Road with Straight Road in Lexden. The existing building has "dead" frontages onto both of these roads, the main frontage and the public entrance into the shop being from the large car park to the west. The car park, which is bounded by a brick wall, lies close to the corner of London Road with Nelson Road. Vehicular access to the site is from the London Road, approx 50m from the traffic lights at the junction of London Road with Straight Road.

2.0 Description of Proposal

2.1 The application is to delete condition 5 from planning permission 081079, which is set out in full below:

5. *No retail sales shall take place from the first floor of the building.
Reason: The application as submitted specifies retail sales uses for the ground floor of the premises. The Local Planning Authority is not prepared to grant planning permission for proposals which would reduce the level of parking on the site for open, unspecified retail sales on both the ground and first floors of the premises. This is made in the interest of highway safety, in accordance with adopted SPG and local amenity.*

2.2 The application is accompanied by a Transport Statement.

2.3 There is a separate application on the same agenda (090433) relating to a proposal to use the first floor for either retail or Church use, in the alternative.

3.0 Land Use Allocation

- 3.1 Residential Area
Local Shopping Centre

4.0 Relevant Planning History

- 4.1 081079- External alterations to existing retail unit to include provision of two further shop entrances, provision of dock leveller to loading bay, disabled access ramp, trolley park, creation of waste compound and reconfiguration of car park. Approved 29.7.08
- 4.2 The above application sought to make various physical alterations to the building and to the external areas. These changes include: a new entrance facing toward the car park, with a new ramp and covered trolley bay adjacent; two new shop frontages facing directly onto London Road; and, a reconfiguration of the parking and servicing area, which reduced the number of car parking spaces from 107 to 86.

5.0 Principal Policies

- 5.1 Adopted Review Colchester Borough Local Plan-March 2004
DC1- Development Control considerations
TCS12- Local Shopping Centre
- 5.2 Core Strategy
CE2e- Local centres

6.0 Consultations

- 6.1 Highway Authority - The Highway Authority would not wish to raise an objection to the above application.
Note: The proposal complies with the County Council's Highways and Transportation Development Control Policies, as originally contained in Appendix G of the Local Transport Plan 2006/2011 and refreshed by Cabinet Member Decision dated 19 October 2007.

7.0 Representations

- 7.1 None received

8.0 Report

- 8.1 This application seeks to remove a planning condition attached to a previous planning permission which prohibited retail sales from the 1st floor of the building. The condition was imposed by Officers over concerns about the ability of the site to provide sufficient car parking for the approved Aldi store given the loss of 20 car parking spaces as a result of approved external works to provide improved facilities on the site i.e. cycle shelter, trolley bays, refuse area and service bay.

8.2 The applicant's case in support of the removal of the condition is summarised as follows:

- The existing building has unrestricted retail use rights having been occupied since the mid 1970s as a supermarket with A1 use rights on both the ground and first floor;
- The condition does not comply with the statutory tests as it is un-related to the development, not relevant and is unreasonable.
- The condition does not comply with PPG13 and adopted CBC parking policy which recommends maximum parking standards
- It is also pointed out in the DAS that the purchasers of the site are unable to obtain funding given the imposition of the condition which has reduced the value of the site. (This is not a material planning consideration).

8.3 In addition to the above submissions the applicants contend in a submitted Transport Assessment that there is sufficient car parking both on the site and adjoining to meet expected demand if both floors were used for retail trading. The Highway Authority has considered this proposal and raises no objection to the removal of the condition.

8.4 The main issue is whether the removal of the condition would be likely to lead to retail use on both floors on a site where the provision of parking is below the maximum standard and whether this would lead to displaced customer parking on street and associated congestion and obstruction to the detriment of highway safety and amenity. It is evident, however, that Aldi do not wish to trade on the first floor and the linked application proposes use of the first floor by Kingsland Church. The main purpose of this application appears to be therefore to remove a condition which has an effect on the value of the site. Given the case set out in the Transport Statement and the lack of objection from the Highway Authority, it is considered that the removal of the condition would not give rise to the concerns which justified its imposition.

9.0 Background Papers

9.1 ARC; Core Strategy; HA

Recommendation - Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

This approval removes Condition 5 attached to planning permission reference 081079 dated 29 July 2008. All other conditions and informatives attached to that permission remain in force.

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



Application No: 090669

Location: 22 Whittaker Way, West Mersea, Colchester, CO5 8LB

Scale (approx): 1:1250

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7.8 Case Officer: Andrew Tyrrell

OTHER

Site: 22 Whittaker Way, West Mersea, Colchester, CO5 8LB

Application No: 090669

Date Received: 18 May 2009

Applicant: Ms Audrey Davy

Development: Proposed new boundary fence.

Ward: West Mersea

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 The application is referred to the committee as a result of a Town Council objection that cannot be resolved. The planning history is of paramount importance. Further detail is found below.

2.0 Site Description

2.1 The site is a corner property within an estate development. The property is a single storey dwelling of roughly square footprint with a side-pitched gable roof. The property is finished in red brick and concrete tiles, typical of its era.

2.2 The rear garden is rectangular, demarcated by a brick wall. This wall is a single brick width rather than double brick as is usual, and shows signs of instability. On the street side of the wall is an area of amenity land, which has been planted with domestic scale shrubbery. This terminates at the boundary with the adjacent neighbour at 1 Buxey Close, who has an extended garden fence that incorporates this amenity space inside their garden boundary screen. This neighbouring dwelling also occupies a corner plot.

3.0 Description of Proposal

3.1 The proposal is to demolish the brick wall (which does not need permission) and replace it with a new close-boarded fence to match the neighbouring fence at 1 Buxey Close. The fence would be of a standard design and height.

4.0 Land Use Allocation

4.1 The land is predominantly residential land.

5.0 Relevant Planning History

5.1 The planning history of the adjacent site is of particular importance. The simple facts of the matter are that, at some point over 4 years ago, occupants of 1 Buxey Close extended their garden fence out to the pavement without planning permission. This is evident from aerial photography, which is believed to date to back to 2001, but certainly more than 4 years. No enforcement action can be taken against this because there is a 4 year time limit for the Local Planning Authority to enforce against unauthorised residential-related developments and this fence now has immunity from any such action. Therefore, the fence next door is beyond the scope of planning controls. This has obvious implications for any argument that the proposal herein would harm the streetscene, set a precedent, or be out of keeping.

6.0 Principal Policies

6.1 The following Local Plan policies are relevant:

- DC1 – Development Control Considerations
- UEA11 – Design

6.2 In addition, the following Core Strategy policies are also relevant:

- UR2 – Built Design and Character
- PR2 – People-Friendly Streets

7.0 Consultations

7.1 ECC Highways have no objection subject to all development being clear of the highway. Whilst this is suggested by them to be worded as a condition such a condition would not pass the six tests as it is considered unnecessary in light of the detail shown on the plans regarding the location of the fence.

8.0 Town Council's Views

8.1 The Town Council have recommended refusal on the ground that the fence is out of keeping with other properties in this vicinity.

9.0 Representations

9.1 No objections have been received from neighbours.

10.0 Report

10.1 In light of the minor nature of the development proposed and the facts of the planning history this report has not been divided into various subjects and will be kept brief. The main issue is whether or not there are grounds to the Town Council's objection that warrant the refusal of planning permission.

- 10.2 In most instances such a development would be resisted on the basis that the current planting scheme outside the wall, i.e. the publicly visible side, is better than a dead frontage as will result from the proposed fence. Therefore, the Town Council's comments are reasonable.
- 10.3 However, the proposal has not met any objections from local residents who will see the fence on a daily basis. This is not surprising, given that it is apparent that no one has ever raised a complaint about the once unauthorised fence that was erected next door in order to initiate enforcement investigations on this matter.
- 10.4 Given that there is a fence of similar nature and siting adjacent to the proposed development, it would be hard to defend a refusal against appeal. The Planning Inspectorate would undoubtedly look at the lack of opposition or action against this fence and ask the question what harm can actually be identified. Your case officer would suggest that we would find it hard to demonstrate that sufficient harm has been caused in this instance due to the history.
- 10.5 That said, this does not set a strong precedent as the two properties are within a remote location on the estate where passing traffic is limited, are isolated as a pair of bungalows between two cul-de-sac entrances within the main Whittaker Way streetscene, and due to the relevant planning history, which would not apply in most comparable cases.

11.0 Conclusion

- 11.1 In conclusion, a refusal would be hard to sustain at appeal and it is considered unreasonable to refuse this specific proposal. This does not affect our ability to refuse such fence movements at other locations as the circumstances are unusual.

12.0 Background Papers

- 12.1 ARC; Core Strategy; HA; PTC

Recommendation - Conditional Approval

Conditions

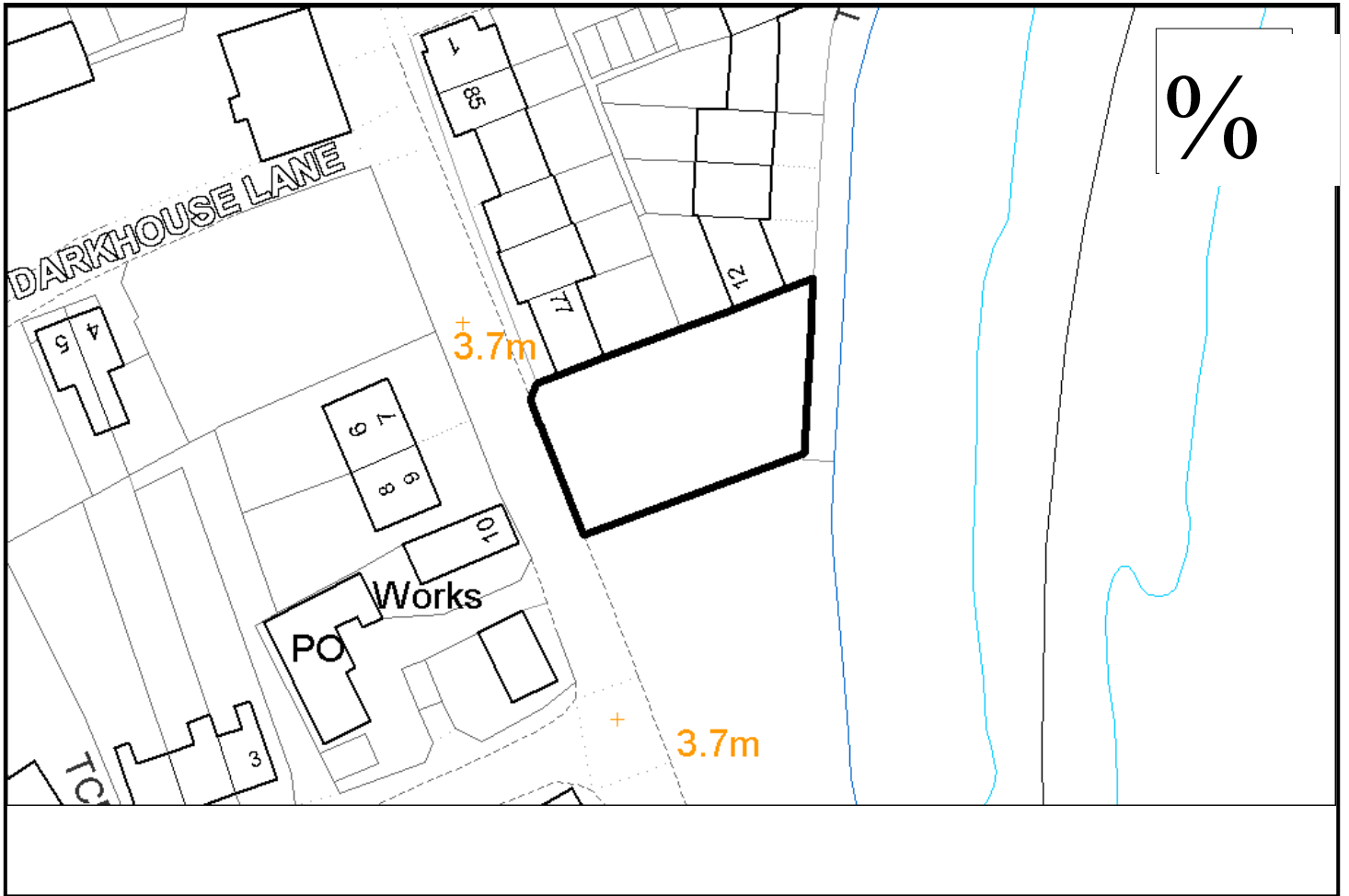
- 1 – A1.5 Full Perms (time limit for commencement of Development)

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.

Informatives

PLEASE NOTE that any works affecting the highway (including any temporary obstruction to parts of the footpath) should only be carried out by prior agreement with, and to the requirements and satisfaction of, the Highway Authority. Application for the necessary works should initially be made by phone on 01206 838600 or by email on highways.eastarea@essex.gov.uk.



Application No: 090704

Location: Rowhedge Heritage Trust Hut, High Street, Rowhedge, Colchester

Scale (approx): 1:1250

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7.9 Case Officer: Sue Jackson

OTHER

Site: High Street, Rowhedge, Colchester

Application No: 090704

Date Received: 26 May 2009

Applicant: Mr Keith Phillips

Development: Renewal of planning permission 071120 for the continued use of the Heritage Trust Hut

Ward: East Donyland

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The heritage hut is located on a greensward between the River Colne and Rowhedge High Street. The specific location is next to no 77 High Street.

2.0 Description of Proposal

2.1 The heritage hut is a small timber clad terracotta steel roofed portacabin building used for community activities it has displays of maritime history and village history and includes a small café.

2.2 The building benefits from a temporary permission granted in 2005 and renewed in 2007 the applicant now seeks a permanent permission, this is at the suggestion of the case officer and follows government advice to local planning authorities to grant a temporary consent followed by a permanent consent (obviously only if the proposal is acceptable).

2.3 Whilst a permanent consent is sought the applicant is still pursuing funding for a larger permanent building. A permanent consent will not affect this as the same building would have to be removed irrespective of whether it had a temporary or permanent permission.

2.4 The applicant has commented as follows:-

"I am writing in support of the above application. I am the Chair and applicant on behalf of the Rowhedge Heritage Trust. I have received a great deal of correspondence from friends and supporters of the Rowhedge Heritage Trust expressing dismay and anger about the decision of the Parish Council to oppose the continuation of planning permission for the Hut. As set out in the planning application I took careful steps to inform and consult the Parish Council about the planning application including a meeting with the Chair of the Council and the Clerk to the Council and a presentation to the Council before the application was put in. No

questions or issues were raised with me indicating there was opposition to the application. In addition the Parish Council is represented on a Partnership of the Rowhedge Heritage Trust, the Colchester Borough Council and the Essex County Council which has been brought together to get the funding for a permanent building on the site and engage with the community about the plans. The Partnership has similarly been completely kept up to date with the planning application for the Hut. Incidentally the result of the community engagement events undertaken by the Partnership in 2008 and 2009 indicate strong majority support of a maritime community facility on the site.

The design appearance and layout of the Hut are exactly as agreed with the Borough Council Planning Department for the previous planning application and are suitable and in keeping with the riverside site.

In my opinion I can only conclude that there must have been a big misunderstanding about this planning application on the part of the Parish Council. As it was an application for permanent permission, as advised by Sue Jackson, this was construed as the Rowhedge Heritage Trust wishing to keep the relocatable building as a permanent fixture and was therefore opposed on this basis."

"I am writing to confirm that we are prepared to accept a temporary extension to the planning permission for the Hut.

We would have been prepared to accept this from the outset as we are working towards creating a permanent centre in conjunction with partners in the Borough and County Council. I carefully sought advice and followed the advice to the letter. I explained the advice to the Parish Council. This process has been fraught with difficulty and frustration and above all immensely time consuming for myself and other volunteers in the Trust."

3.0 Land Use Allocation

3.1 Residential

4.0 Relevant Planning History

4.1 F/COL/05/0463 - Temporary permission granted

4.2 071120 - Extension for further temporary period

4.3 F/COL/01/0207 - Erection of riverside centre approved (this consent related to a larger brick building)

5.0 Principal Policies

5.1 Adopted Review Borough Local Plan
DC1 – Development Control considerations
UEA1 – Character of Conservation Areas
P1 - Pollution

6.0 Consultations

6.1 Environment Agency comments as follows:-

“A flood risk assessment has been submitted and no objection is raised. The hut is already in position and has been for some time. Therefore by using the current flood evaluation plan and making sure all users of the site are aware of the it the flood risk can be mitigated against.”

6.2 Environmental Control has no comments.

7.0 Parish Council's Views

7.1 East Donyland Parish Council comment as follows:-

“It was resolved to recommend refusal as the application is not in keeping with design, layout and appearance of the village.”

8.0 Representations

8.1 2 letters of objection have been received one for the immediate neighbour at no. 77 and the 2nd from the owner of no 14 High Street, the objections raised are as follows:-

- The temporary hut is only 1m from my south boundary. It is too close. I moved into the property in September 2006 and have seen how the premises operate. The hut functions as an outside café in summer. There are no toilet facilities. The hut is not used by the majority of the village but only a small section of the population. The delay in the permanent building reflects the lack of the Rowhedge Heritage Trust to attract funding. The Council should get the trust to remove the building as it was supposed to be only a temporary arrangement. The construction of the building amplifies noise from 22.00 until 5.00 pm at weekdays and bank holidays. There is an overbearing impact from the flag and flagpole, when people sit in the paved area they have direct sight into the kitchen and a bedroom. When someone goes up the flagpole they can see into my house and overlook my back garden.
- The existing portacabin designed with a corrugated iron roof is not acceptable to be permanently located in the village adjacent to a conservation area. No objection would be raised to a more suitably designed building

8.2 Over 30 letters of support have been received.

- Valuable contribution to village life
- The building is sound and totally sympathetic
- We are dismayed the parish council has recently rejected the application
- Building is a focal point for the village and visitors including those by boat.
- We are sad to hear the hut may be closed down
- It is surprising the parish council has objected as they are one of the four partners in the recently formed Rowhedge riverside centre partnership

9.0 Report

- 9.1 The building is sited on an area of greensward with no restriction on the times the greensward can be used. At the other end of the greensward is the Anchor Public House. The land where the heritage hut is located was given to the parish council to be used for the construction of a community heritage building secured by a legal agreement when the housing development, of which no. 77 High Street forms part, was granted planning permission.
- 9.2 Whilst the comments of the neighbour are appreciated this use is considered acceptable in this location. However in terms of “good neighbours” it is considered the trust should notify the owners of no 77 prior to someone climbing up the flag pole. Whilst this could not be controlled by condition an informative is suggested.

10.0 Background Papers

- 10.1 ARC; NR; HH; PTC; NLR

Recommendation – Conditional Approval

Conditions

1 - Non-Standard Condition

This consent is subject to all the conditions on planning permission F/COL/05/0463 with the exception of condition 2.

Reason: To ensure a satisfactory form of development.

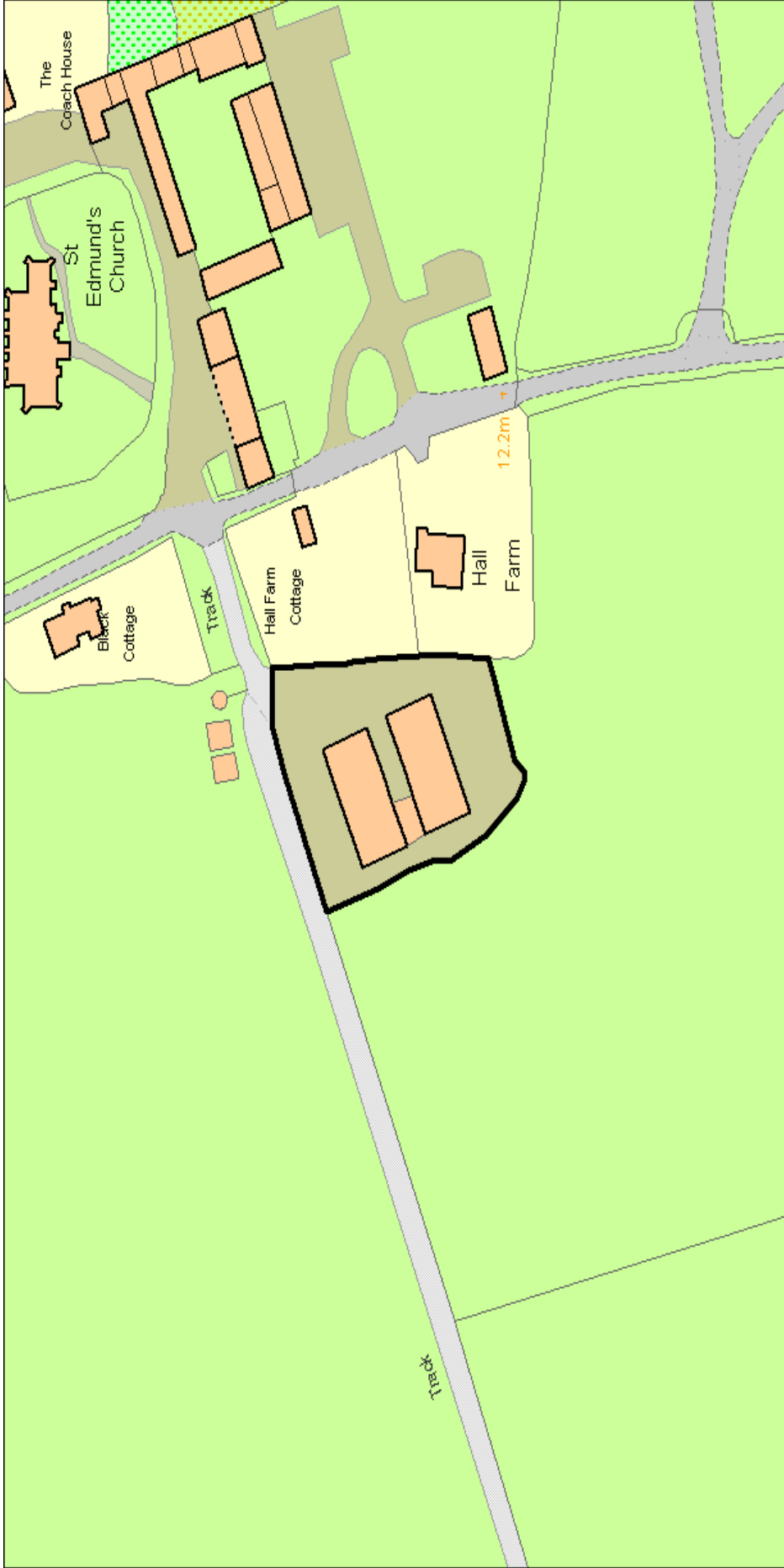
2 - Non-Standard Condition

The building shall be maintained to the satisfaction of the local planning authority.

Reason: To ensure a satisfactory form of development adjacent to the Conservation Area.

Informatives

It is recommended the Trust give the owners of no 77 High Street Rowhedge at least 24 hours notice prior to climbing/working on the flag pole and provide details of the timing and duration of such works.



Site Location Plan

MAP NOT TO SCALE

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Notice Reference: 2070
Complaint Reference: 194577
Site Location Address: Church Lane, East Mersea, Colchester
Date Produced: 15 October 2008

Site Location Plan

MAP NOT TO SCALE

© Crown Copyright. All Rights Reserved. Colchester Borough Council 100023706 2007

Notice Reference: 2070

Complaint Reference: 194577

Site Location Address: Church Lane, East Mersea, Colchester

Date Produced: 15 October 2008

23 July 2009

Report of	Head of Environmental and Protective Services	Author	Sarah Hayes ☎ 01206 282445
Title	Land at Church Lane, East Mersea		
Wards affected	Pyefleet		

This report advises Members of the service of a Breach of Condition Notice under delegated authority

1.0 Decision Required

1.1 Members are advised of the service of a Breach of Condition Notice (BCN) under delegated powers.

2.0 Reasons for Decision

2.1 Planning permission, reference COL/02/1898 for storage of plant and materials in connection with a ground work firm, was granted on 27 June 2003. A condition was imposed on this permission which stated: "This consent relates to the storage of plant and materials only and does not include repair of plant or any industrial process." The reason given for the condition is: "For the avoidance of doubt as to the scope of this permission and to ensure that the use does not cause harm to the amenity of the surrounding area."

2.2 In October 2008, a complaint was received that noisy repairs to plant and machinery was being carried out on the site. The BCN was served to stop the repair of plant on the site in the interests of the amenity of the surrounding area.

3.0 Alternative Options

3.1 If no action is taken and the condition is not complied with for a period of ten years, it would be too late to enforce the condition.

3.2 Action could be taken under the Environmental Protection Act if there is a statutory nuisance.

4.0 Supporting Information

4.1 In August 1998 planning permission, reference 98/0798, was approved for a storage use at this site. This was for a temporary period of one year only to see how the use affected amenity.

4.2 In June 2003 permission was again approved for the storage use, this time without the temporary use condition. In order to safeguard amenity the condition set out in paragraph 2.1 above was imposed.

- 4.3 Two complaints were received in October 2008 as a result of noise generated from the site. After investigations were carried out, it emerged that there were two separate breaches of planning control. In addition to repairs to plant being carried out, contrary to the terms of the condition, a concrete crushing recycling business had also been set up on adjacent land. The concrete crushing was passed to Essex County Council's minerals and waste enforcement officer and this use of the land has now ceased.
- 4.4 A site visit was carried out which showed that one of the large buildings on site was set up as a well stocked workshop. Two mechanics were working there.
- 4.5 Even without the concrete crushing, complaints of noise from the site continued to be received. Some noise was directly attributable to repairs of plant and machinery, which is controlled by the condition, other noise resulted from the authorised use of the site, such as cleaning the yard and the manoeuvring of large machinery. The BCN will not control the noise arising from these sources, so if the nuisance continues action will be required under the Environmental Protection Act.
- 4.6 The BCN was served on 29 April 2009 with a compliance period of three months which expires on 29 July 2009.
- 4.7 On 23 June 2009 a planning application, reference 090827, was submitted for the change of use of a building on the site for vehicle maintenance and for the erection of a noise attenuation fence. The target date for determining this application is 18 August 2009, which is after the period for compliance with the notice. Failure to comply with a BCN is an offence for which the perpetrator can be prosecuted and normal procedure is to carry out a site visit to check that the notice is being complied with. This visit will be carried out as normal, but given the circumstances of the case, it is not intended that any further action will be taken until the planning application has been determined.

5.0 Proposals

- 5.1 That Members note the contents of this report.

6.0 Standard References

- 6.1 There are no particular references to the Strategic Plan; publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications.



Application No: 071571

Location: 34 East Hill, Colchester, CO1 2QX

Scale (approx): 1:1250

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Planning Committee

Item
9

23 July 2009

Report of	Head of Environmental & Protective Services	Author	Andrew Huntley ☎ 01206 506943
Title	34 East Hill, Colchester		
Wards affected	Castle		

This report is for Members' information and concerns the failure to comply with s.106 of the Town and Country Planning Act and action proposed by officers.

1. Decision(s) Required

1.1 None - information only.

2. Reasons for Decision(s)

2.1 N/A

3. Alternative Options

3.1 In the event that no action is taken the developer would be enabled to carry out the development without complying with the established requirement to provide an appropriate contribution in accordance with adopted policy.

4. Supporting Information

4.1 None.

5. Proposals

5.1 Application 071571 for a change of use from offices to 1no. dwelling at 34 East Hill, Colchester was approved on the 3 September 2007. This application included a unilateral undertaking dated 3 September 2007, given by The London Land and Property Co(East Hill) LLP to the Council under Section 106 of the Town & Country Planning Act 1990 relating to planning obligations. This undertaking related to the payment of a public open space contribution in line with adopted Council policy.

5.2 Since the approval, the proposed residential accommodation has been implemented and the property is currently being occupied. No payment has been received by the Council in relation to the signed unilateral undertaking. As a result of this breach, on the 4 June 2009, the Council wrote to the London Land and Property Company requesting that the contribution be paid by the 12 June 2009. No monies were received and the Council is pursuing enforcement action to reclaim the monies owed and any legal costs incurred in doing so.

6. Strategic Plan References

6.1 Contributions by developers towards open space and recreation facilities are a key strand in achieving places where people want to live and encouraging healthy and sustainable living.

7. Consultation

7.1 None.

8. Publicity Considerations

8.1 None.

9. Financial Implications

9.1 Legal costs incurred taking enforcement action but these should be recovered.

10. Equality, Diversity and Human Rights Implications

10.1 None.

11. Community Safety Implications

11.1 None.

12. Health and Safety Implications

12.1 None.

13. Risk Management Implications

13.1 None.

14. Standard References

14.1 N/A

Background Papers

None.



Planning Committee

Item

10

23 July 2009

Report of	Head of Environmental and Protective Services	Author	Vincent Pearce ☎ 282452
Title	Planning application determination performance monitoring, and an appeals analysis update for the quarter 1 April 2009 – 30 June 2009		
Wards affected	All		

This report provides:- details of the performance of the Planning Service judged against Government National Indicators and summarises the details of 'allowed' appeals for the period 1st April 2009 – 30th June 2009.

1.0 Decision Required

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

2.0 Summary of performance report (Headlines)

- ◆ **'Major' application performance was significantly above the Government target in the period. ✓**
- ◆ **'Minor' and 'other' application performance significantly exceeded the relevant Government targets in the same period. ✓**
- ◆ **The number of planning applications received dipped mid-quarter but has rallied. !**
- ◆ **The delegated decision rate was just below the 90% target ✓**
- ◆ **Appeals record (formerly BV204) was excellent. ✓**

3.0 Reasons for Decision

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

4.0 Alternative Options

4.1 Not applicable

5.0 Supporting Information

5.1 None

6.0 Performance Assessment

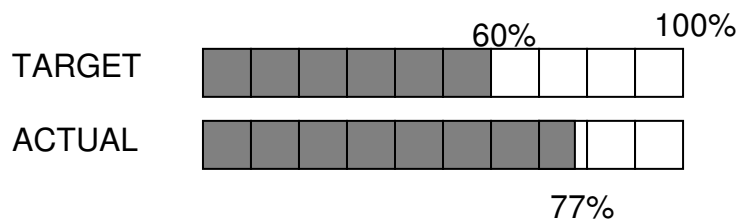
6.1 This report will review performance against the following performance indicators

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

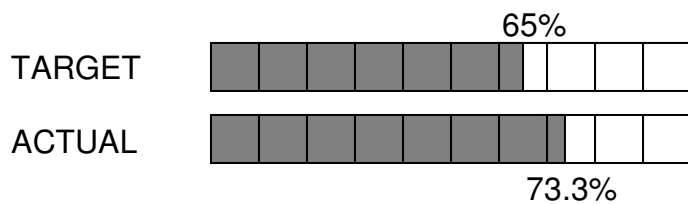
■ NI 157 (8 and 13 week performance)

6.2 Performance levels for the quarter 1 April 2009 – 30 June 2009 were as described below:-

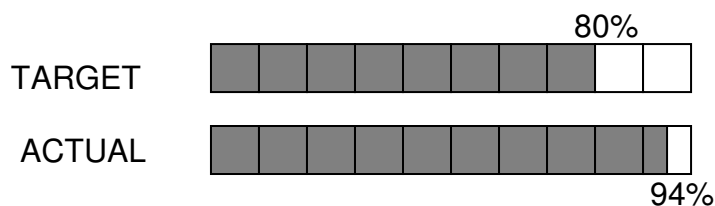
MAJOR application performance



MINOR application performance



OTHER application performance



HOUSEHOLDER application performance



FIGURE 1: NI 157 by type (1 April 2009 – 30 June 2009)

(note: there is no national target for householder applications (part of others) but this is a useful indicator as to how quickly the majority of users get a decision, as householder applications form the largest proportion of all applications)

6.3 The really good news for the period is that performance in all 3 key categories significantly exceeded the national indicator targets. At these levels there would be no suggestion of the Council's Housing & Planning Delivery Grant (HPDG) Award being 'abated'. (reduced as a penalty for poor performance).

6.4 Trends are shown below:-

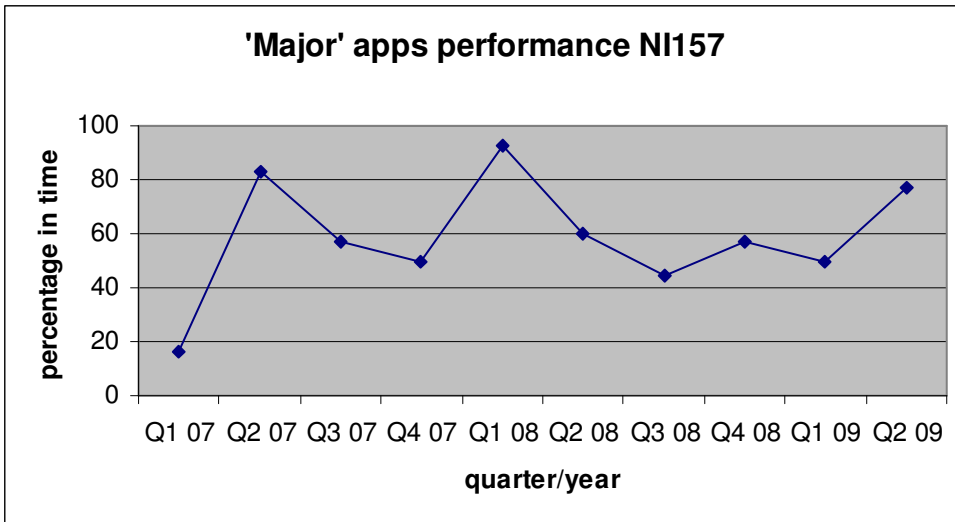


Figure 2: 'Majors' performance by quarter from January – March 2007

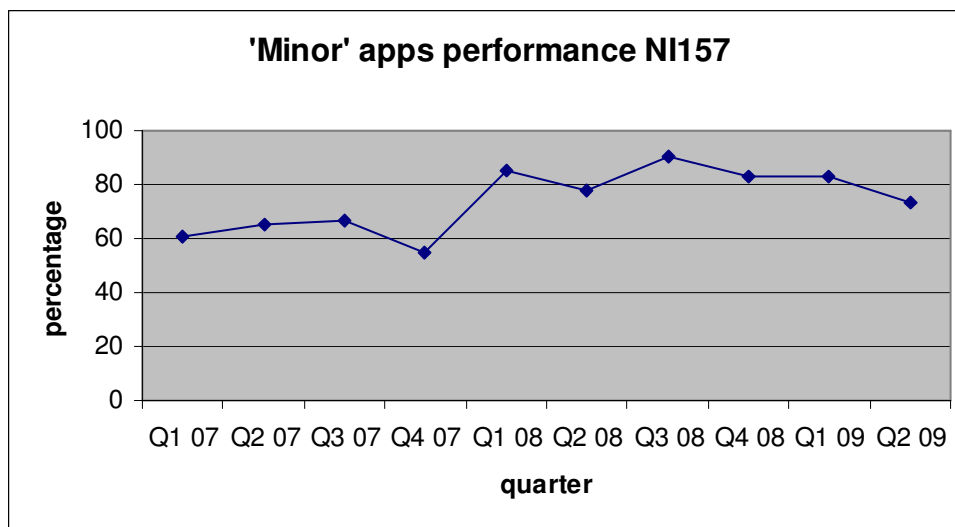


Figure 3: 'Minors' performance by quarter from January – March 2007

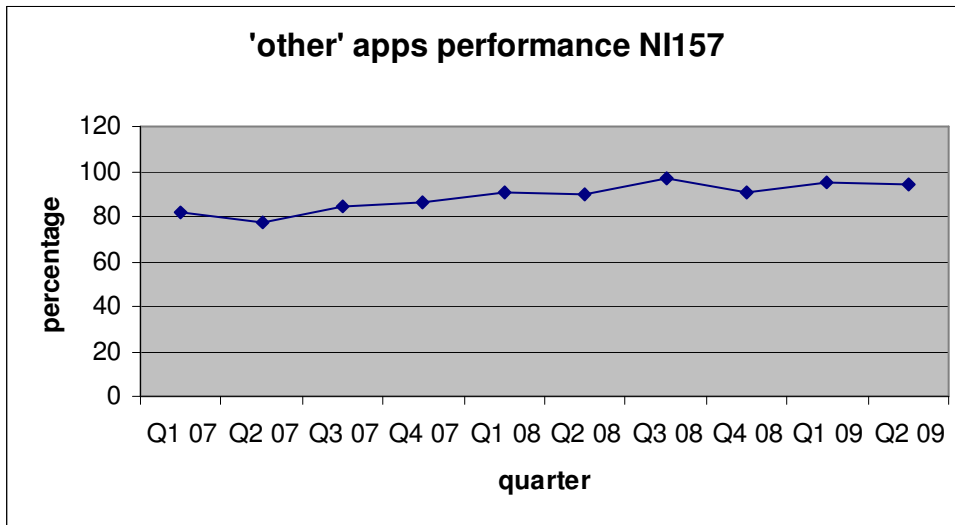


Figure 4: 'Others' performance by quarter from January – March 2007

■ **Trends: Applications Received**

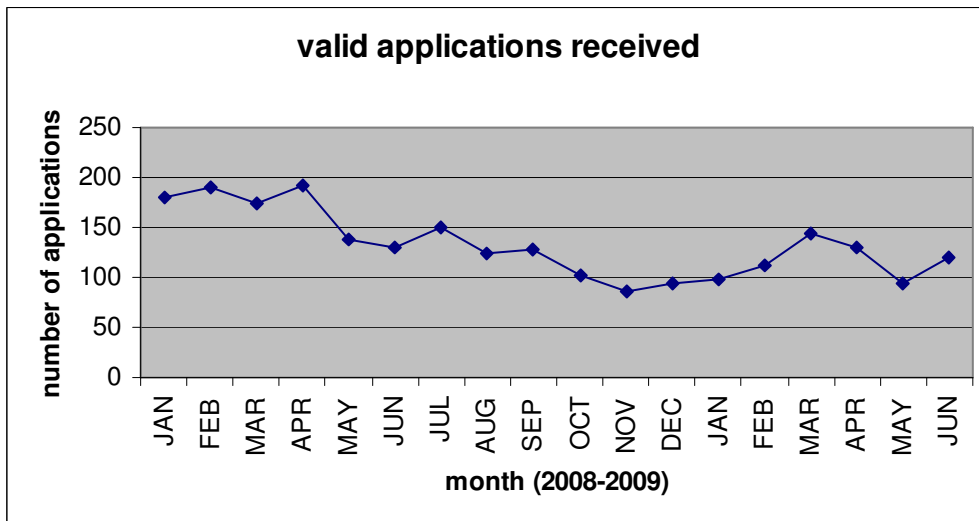


FIGURE 5: Valid applications received by month from January 2008

6.5 Applications dipped significantly in May but rallied again in June. It is too early to say if this was a blip or the sign of some new uneasiness in the market. Members will see that November 2008 – March 2009 represented a period of sustained growth in the number of applications being made. That said a number of significant major planning applications have been received this quarter which may herald improved expectations from the major house builders. It is also a sign that they are looking to amend planning permissions that they already have in favour of greater numbers of houses and less flats. This may be a sign that they wish to be ready to build schemes that the market can support when mortgage finance becomes more easily available.

■ Former BV. 188 (Delegated decisions)

6.6 During the period the overall level of delegated decision making was 88% which remains tantalisingly close to the Government's target is 90%. Performance therefore sits comfortably close to the level that the Government deems to indicate effective and efficient decision making.

■ Former BV. 204 (Appeals 'Upheld') (between 1st April 2008 and 31st March 2009)

6.7 Over this period only one appeal out of 7 determined was 'upheld'. (upheld = the Council lost). **The 'upheld appeal' rate against the Council was therefore a mere 14.2%. This is an excellent record and is better than the national average which tends to sit in the mid- 30's%. (ie the Council's success rate was 87.5%).**

6.8 Were this level of success to continue throughout the year there would be no suggestion of the Council's Housing & Planning Delivery Grant (HPDG) Award being 'abated'. (reduced as a penalty for poor performance).

6.9 As is customary this report will now analyse those appeal decisions received since the last quarterly report that went against the Council.

1.

Reference: 081755

Address: **65 Fingringhoe Road, Colchester**

Proposal: Amendment of roofline to that previously agreed

Summary of Inspector's Letter (decision dated 18th May 2009).

Inspector : Richard High

- Delegated decision

Main Issue

The Inspector noted that the only issue was the effect of the proposal on the character and appearance of the existing dwelling and the area.

Considerations

The Inspector was of the view that the altered scheme would continue to reflect the style of the existing bungalow and whilst it may not be as tidy as that previously approved it would not be poorly articulated as the separate elements would remain clear. Indeed he felt that it would retain the relationship with no. 67 more successfully than that previously approved. Consequently he did not feel that harm could be attributed to the proposal.

9.0 Financial implications

9.1 Nothing specific but members will have noted the significance of the reference in (sections 6.3 & 6.8 above) to the fact that by steering clear of 'poor' performance the Service avoids the Council facing abatement to the Housing & Planning Delivery Grant Award

10.0 Strategic Plan References

10.1 Further improving the performance of the Planning Service (Development Management) has been identified within the Service as a priority, the aim being to be in the top quartile in all categories. The Service's quantitative and qualitative performance contributes, amongst other things, to the broad objectives of raising the performance/reputation of the Council, contributing towards making the Borough clean and green, promoting economic prosperity, tackling deprivation, place-shaping, improving wellbeing and making Colchester a place that people want to live, work and visit.

11.0 Risk Management

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

12.0 Publicity Considerations

11.1 None

13.0 Human Rights Implications

14.1 None.

15.0 Community Safety Implications

13.1 None.

16.0 Health and Safety Implications

14.1 None.

INDEX TO PLANNING APPLICATIONS CODES

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

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

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

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

INTERNAL CONSULTEES

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

REPRESENTATIONS ETC

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

EXTERNAL CONSULTEES (2 character codes)

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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