

Planning Committee

Town Hall, Colchester
20 October 2011 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.

Access

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

Facilities

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Material Planning Considerations

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

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

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

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

Human Rights Implications

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

Community Safety Implications

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

Equality and Diversity Implications

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

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
20 October 2011 at 6:00pm**

Members

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

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

Agenda - Part A

(open to the public including the media)

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

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

Pages

1. Welcome and Announcements

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

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

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

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

2. Have Your Say!

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

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

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

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

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

public interest.

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

6. Minutes

1 - 12

To confirm as a correct record the minutes of the meetings held on 8 September 2011 and 22 September 2011.

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. 111302 Colchester United Football Club Site, Layer Road, Colchester, CO2 7JJ (Shrub End)

13 - 25

Demolition of former Colchester United F.C. buildings and construction of 58no. dwellings together with garages, car ports and including new road and landscaping.

2. 111538 Land from Wormingford to Abberton including Abberton Reservoir, Abberton Reservoir Scheme, Peldon Road, Abberton (Pyefleet)

26 - 33

Variation of condition 62 of permission 080194, to allow use of Broad Meadows access for a temporary period until 30 April 2012. Use will be for light goods vehicles (up to 60 movements per day), 8 wheel delivery trucks of 30 ton GVN, (20 movements per day for 4 weeks during October 2011) and concrete deliveries of 20 ton GVN (up to 6 movement per day, once per week between October 2011 to January 2012.

3. 102422 Building F, East Gores Farm, East Gores Road, Great Tey, CO6 1RZ (Great Tey)

34 - 42

Change of use of Shed F from redundant agricultural use to B1 office use.

4. 102432 Building K, East Gores Farm, East Gores Road, Great Tey, CO6 1RZ (Great Tey)

Change of use of Building K to Business Storage (B8 Storage and

Distribution).

5. 111401 Barrow Hill Farm, East Mersea Road, West Mersea (West Mersea) **43 - 50**

Application for a new planning permission to replace extant planning permission F/COL/06/1579 to extend time limit for implementation for the change of use of existing barn to residential and public parking and access to ancient monument.

- 8. Injunction Action // Land east of Brook Street, Dedham 51 - 58**

See report by the Head of Environmental and Protective Services.

- 9. Exclusion of the Public**

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

**PLANNING COMMITTEE
8 SEPTEMBER 2011**

- Present :-* Councillor Ray Gamble (Chairman)
Councillors Peter Chillingworth*, John Elliott*,
Stephen Ford*, Peter Higgins*, Theresa Higgins*,
Sonia Lewis*, Jackie Maclean*, Jon Manning,
Philip Oxford* and Laura Sykes*
- Substitute Member :-* Councillor Dennis Willetts
for Councillor Christopher Arnold*
- Also in Attendance :-* Councillor Nick Barlow
Councillor John Bouckley
Councillor Bill Frame
Councillor Will Quince
Councillor Henry Spyvee
Councillor Colin Sykes

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

Councillor Peter Chillingworth (in respect of being the Council's representative on the Building Preservation Trust) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

51. 091305 and 091343 The Jumbo Water Tower, Balkerne Passage, Colchester, CO1 1PA

The Committee considered planning application 091305 for a change of use of the building and alterations to provide four flats, restaurant and offices, the erection of an ancillary building and associated works, together with the companion listed building application 091343. The Committee had before it a report in which all information was set out, see also the 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. The site visit did not include the access to interior of the building.

Sue Jackson, Principal Planning Officer, and Vincent Pearce, Planning Services Manager, attended to assist the Committee in its deliberations.

Mr Light, Chairman of the Balkerne Tower Trust (BTT), addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He asserted that the application swept aside local and national planning policies. The only public access to the Tower would be to the restaurant so there would no access to views from the upper reaches of the building. The report before the Planning Committee claimed that the alternative BTT proposals were unrealistic, which ignored the promising responses that had been received from potential funders and

the carefully calculated costings included in the proposals. The BTT proposals were criticised for their lack of certainty whilst the unrealistic claims of the applicant were accepted. The applicant's proposals were not viable. For significantly less than the cost of the applicant's proposals, BTT could restore the Tower and allow Jumbo to take its rightful place as a significant heritage asset and tourist attraction. The Committee should agree with consultees and local residents and refuse the application.

Mr Ward addressed the Committee on behalf of the applicant pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Jumbo was a dominant and much loved feature which required sensitive treatment. The changes to the tower were designed in an architecturally sensitive manner and sought to complement the existing structure. The form of the building would be kept and the proposed changes to the water tank would not affect the fabric of the building. There was no viable alternative use to those proposed and the BTT proposals were neither realistic nor financially sound. The applicant proposed to maintain long term control of the assets in the tower in order to recover his investment. The advantage of this scheme over the scheme put forward in 2001 was that only two sides of the tank would be removed and a comprehensive architectural approach had been taken to the infilling of the legs. The application would bring the building back into public use and would result in the enhancement of the tower and the surrounding conservation area.

Councillor Spyvee attended and, with the consent of the Chairman, addressed the Committee. He drew the Committee's attention to the advice provided by the Conservation Officer. This made it clear that the main issue was the impact that the development would have on the special interest of the tower and the character and appearance of the conservation area. The proposals in this application failed the test set by the Conservation Officer, whilst the scheme proposed by BTT met the test. English Heritage made it clear that the proposals would radically alter the building and criticised the applicant for not considering alternatives. He also drew the Committee's attention to comments from other consultees such as the Spatial Policy team of the Council, the Victorian Society and the Highway Authority. Ignoring the views expressed by officers and consultees would send the wrong message to developers. Jumbo was a very significant building for Colchester and there was now a chance to own and preserve it. Pursuing the BTT scheme would put the chance of success where it should be, in the hands of the people of Colchester.

Councillor Frame attended and, with the consent of the Chairman, addressed the Committee. The importance of Jumbo as a symbol of Colchester was highlighted by its use, along with the Town Hall and the Castle, on the front of Colchester's bid for City Status. The key damage that would result from this application would be the infilling of the spaces between the legs of the tower. Also this scheme failed to give any public access to the Tower, except to patrons of the restaurant. BTT had not been given sufficient time to come up with alternative proposals and he noted that English Heritage recommended deferral for exploratory talks. It was important that all options were explored and he recommended that the Committee defer its consideration of the applications to see if BTT could bring forward a viable proposal.

In response to queries from the Committee about the status of BTT's proposals and

the likely prospects of any deferment for further negotiations, planning officers explained that BTT were in a difficult situation in that they needed to own the tower in order to apply for grants and funding to bring forward their proposals, but without funding they were unable to move forward and attempt to purchase the building. Whilst their proposals had received a sympathetic response from potential funders, they had not elicited the necessary funding. The applicants were willing to meet BTT but felt this was unnecessary as there was so little prospect of an agreement being reached. It was therefore considered that the prospect of a scheme to preserve the tower being brought forward was unrealistic and therefore the Committee should determine the application.

The Committee were informed that the Department of Communities and Local Government had issued a direction under Article 25 of the Town and Country Planning (Development Management Procedure) Order 2010 directing that if the Council were minded to grant the application, the Secretary of State must be afforded the opportunity to consider whether the application should be referred to him for determination.

Members of the Committee expressed concern about the impact of the proposal on the appearance and character of the building. It was noted that the tower was a grade two star listed building which reflected its unique character. Particular concern was expressed about the glazed infilling of the spaces between the legs of the tower. The glazed infilling would change the aspect and views of the building as light would no longer be seen through the legs of the tower. This would fundamentally alter the unique character and appearance of the building. The sense of the building as an ornate tank supported on legs would be lost. Another issue of concern was the glazing of two sides of the water tank. The water tank was a key feature of the building and an integral part of its character. Glazing two sides of the tank would lead to the loss of the detailing on the tank and change the character of the building. Not only would the proposals cause significant harm to the character and appearance of the building, but they would also adversely affect the surrounding conservation area. The proposed scheme was more radical than a previously refused scheme.

Concern was also expressed that, notwithstanding the town centre location, the proposed parking provision of two vehicle spaces for the use of the penthouse flats was in breach of the current parking standards. It was noted that the Highways Authority recommended refusal on the basis of the parking provision.

Some members of the Committee expressed concern that insufficient information about whether further works would be needed to comply with fire and building regulations. In particular it was felt that if an external staircase was required to provide a means of escape from the building, this would seriously compromise the character of the building.

It was noted by members of the Committee that the proposals would not allow public access to the tower. Some members expressed their disappointment that the Committee site visit had only looked at the exterior and setting of the building and had not had access to the interior of the building. The Committee were advised that in relation to this application, it was external views of the building and consideration of its

impact on the surrounding area that was important and this could be assessed without access to the building itself. Therefore an internal site visit was not necessary. Nevertheless, there was concern about the condition of the building and the Committee requested that should the application be refused, the Planning Service manager should arrange to inspect the site both internally and externally to see if any action was required to secure repairs to the building or the appearance of the site.

In discussion, other members of the Committee expressed support for the proposals. The importance of the tower to Colchester was appreciated. However, the tower was decaying slowly and was on Essex County Council's Heritage at Risk register. The only realistic way of securing the future of the tower was through the types of uses proposed by this application. This approach was in line with PPG15. It was important to minimise the changes to the fabric of the building to keep the harm to the appearance of the building to a minimum. In this context it was noted that only two sides of the water tank would be replaced by glass. The side of the tank visible from the High Street would not be replaced. A similar glazing scheme on the tower at Wivenhoe had not adversely affected the character of the building. Also it was stated that the infilling of the legs with glazing would be in keeping with the Romanesque tradition. Concerns about the infilling of the legs were noted but any scheme to develop the tower would need a similar element to this. The proposed development was sympathetic to the character of the building which would only change the nature of the building marginally. Approving the application would be in the long term interests of the building.

RESOLVED (SEVEN voted FOR, FIVE voted AGAINST) that the applications be refused for the following reasons:-

- The proposed works to the building would have an adverse impact on the character, appearance and setting of the listed building. In particular the glazed infilling of the legs of the tower of the building would cause significant harm to the building and fundamentally alter the unique character and appearance of the building and compromise the sense of the building as a tower. The glazing of two sides of the tower would cause significant harm to the character and appearance of the building.
- The proposed works and the change in the character and appearance of the building would have an adverse impact on the character and appearance of the conservation area.
- The proposed works to the building would result in a loss of sense of place by removing the sense of uniqueness that the tower brought to the location
- The proposed works to the building would result in a loss of sense of identity.
- Insufficient information had been submitted to enable the Council to properly assess the application including whether further works are required to comply with fire and building regulations.
- The proposed parking provision was not in accordance with current parking standards and would lead to indiscriminate parking in the adjacent highway contrary to the safety and efficiency of the highway and the proposal would lead to loading, off-loading and servicing within and from the adjacent street, causing danger and obstruction to road users contrary to highway safety and efficiency.

52. 111170 Land adjacent to 47 Belle Vue Road, Wivenhoe, CO5 8PA

The Committee considered a reserved matters application seeking approval of the appearance, landscaping, layout and scale relating to conditions 1, 2, 3, 5, 8, 9, 10, 11, 15, 17, 18 and 20 for permission 090822 for a new three bedroom dwelling. The Committee had before it a report in which all information was set out, see also the Amendment Sheet.

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

RESOLVED (UNANIMOUSLY) that the application be deferred and delegated to the Head of Environmental and Protective Services pending the consideration by the Council's Arboricultural Officer of the updated arboricultural assessment. Condition 2 to be amended to include the drawing showing the amended access detail.

53. Compliance with Condition 17 of Application 071786 // The Old Oyster Sheds, Coast Road, West Mersea

This item was withdrawn from the agenda in advance of the meeting by the Planning Services Manager.

PLANNING COMMITTEE 22 SEPTEMBER 2011

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

Also in Attendance :- Councillor Pauline Hazell
Councillor Margaret Kimberley

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

54. Minutes

The minutes of the meeting held on 25 August 2011 were confirmed as a correct record, subject to addition of the following text after the first sentence in the third paragraph of minute 48 Victory Dock, Coast Road, West Mersea:-

“In her presentation of the application Ms Jackson drew Members attention to page 87 paragraph 10.4 and explained the application must be determined on its planning merits and that any discussions by other Council Services are not relevant to the consideration of or determination of this application. “

55. **091305 and 091343 The Jumbo Water Tower, Balkerne Passage, Colchester, CO1 1PA**

Councillor Chillingworth made the following statement on behalf of members of the Conservative group who attended the meeting on 8 September 2011 when planning applications 091305 and 091343 were discussed:-

“Following the meeting, Bob Russell, MP for Colchester Town, chose to make a public statement calling for an inquiry into how the Conservative members voted, because of donations made by the applicant to Conservative candidates at the 2010 Parliamentary elections.

I want to state that none of the Conservative members present knew of these donations. In addition, I have had the assurance of the Chief Executive, Adrian Pritchard, that even if we did, we would have been under no obligation to declare an interest. I understand that he has rejected the MPs request for an inquiry.

Finally we are dismayed that the MP has, once again, chosen to politicise the Committee’s business and cast doubt on the integrity of members because the way they vote and particularly, in this case, when they followed the advice of the planning officer’s recommendation.”

Councillor Gamble stated that in respect of these applications that before the Committee began to consider the applications he declared that he had received a letter from Bob Russell, MP. He had sought advice on behalf of all members of the Liberal Democrat group about whether he should declare an interest in respect of this correspondence and was advised that this was not necessary. He was aware that a complaint has been made to the Monitoring Officer in respect of this matter and that the issue had been discussed in the local press. It was his view that each member had come to their own view on the applications based on the information before them.

56. 111241 Garrison Area H, Cateau Road, Colchester

The Committee considered an application for the approval of the reserved matters following outline approval (O/COL/01/009). The application proposed the erection of an additional two two bedroom flats in place of three commercial units.

The Committee had before it a report in which all information was set out.

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

57. 110608 and 110609 St Johns Ambulance Site, Chapel Road, Wivenhoe

These applications were withdrawn by the Head of Environmental and Protective Services in order for consideration of further matters raised by the agent in relation to the grounds of refusal. The applications to come back to a future meeting of the Committee.

Councillor Sonia Lewis (in respect of her acquaintance with the applicant) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

58. 110937 Tubswick, Mill Road, Colchester

The Committee resumed its consideration of an outline application for the demolition of the existing building, the construction of a replacement dwelling and eight additional dwellings, garages and associated works. The application had been deferred by the Committee at its meeting of 28 July 2011.

The Committee had before it a report in which all information was set out together with comments on the Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations.

Councillor Pete Hewitt, Myland Community Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Whilst the additional conditions proposed in the report were welcomed, they did not address the fundamental issue with this application which was that it introduced an additional traffic hazard outside Myland Primary School. The proposed access would effectively make a crossroad. Myland Community Council were dismayed that Essex County Council did not recognise the additional risk this created. If approved, the application would diminish the sense of place. The proposed service road was inadequate and the proposed development was too dense. A reduction in the density would also reduce the risk to pedestrians. If the application were to be approved, the layout plan including the number of houses should be specifically labelled as “non-indicative”.

Members of the Committee were of the view that the deferment had been successful in ensuring that concerns about the development were properly addressed. The concerns about density were noted, but this development was well within the accepted density levels for urban Colchester as set out in the Core Strategy. Members of the Committee indicated that screening at the south end of the site should include a mix of mature and semi-mature trees to ensure a high level of screening from the outset. Concern was also expressed about the applicability of the 45 degree rule from the development and the impact of the access road on the pavement on the south side of Mill Road.

It was explained that the pavement on the south side of Mill Road would continue with a dropped kerb rather than a bell mouth opening for the access road. In respect of the planting on the southern boundary, this would normally be a matter for the reserved matters, but it was the intention to specify a reasonable screen from the earliest possible opportunity. Condition nine could be strengthened to require this. Issues of overlooking and the 45 degree rule would also be for the reserved matters application. The indicative plan provided with the application was in broad terms suitable.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the Unilateral Undertaking and the conditions and informatives as set out in the report and with condition 9 to be expanded to include the planting of mature and semi-mature trees.

59. 111464 9 Mountbatten Drive, Colchester

The Committee considered an application for the conversion of a garage into a lounge, including replacement garage door with upvc window and brickwork.

The Committee had before it a report in which all information was set out.

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

60. 111470 100 Coast Road, West Mersea

The Committee considered an application for the erection of a boat store and improved access to Coast Road.

The Committee had before it a report in which all information was set out together with comments on the 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.

Dave Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. When introducing the application, he highlighted to the Committee the change in the recommendation to refusal as set out on the Amendment Sheet on the basis of comments received from the Tree Officer.

Mr Lewin addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The site was located in a conservation area, which was a quiet residential area. He believed that the applicant had also plans to build a gravel roadway, garage and an extension to the dwelling. No overall plan had been submitted but this backland site would gradually be covered by development. He drew the Committee's attention to errors in the report about the size of the proposed store, which would be large enough to accommodate two routemaster buses. He noted that 100 Coast Road was the business address of the applicant's company and was concerned about potential business uses on the site. The report was flawed and its recommendation invalid.

Councillor Kimberley attended and, with the consent of the Chairman, addressed the Committee. This was a resubmission of a previous application that had been refused. The changes from the refused scheme were minimal. Particular concern was expressed about the impact of the proposed development on Firs Hamlet. The fencing between the site and Firs Hamlet was not robust. The applicant was a successful contractor and the use of heavy machinery on this site, especially on a gravelled road, would be intrusive and noisy. It would introduce an industrial use into a residential area. If the application were to be granted the strongest possible conditions should be imposed and the gravel road moved further away from the boundary with Firs Hamlet. The proposed condition 3 would be hard to police and should be strengthened. There was a subsidence problem in Firs Hamlet which could be exacerbated by the movement of boats or heavy machinery.

In response to queries from the Committee, planning officers clarified the dimensions of the boat store. It was explained that whilst concerns about future development had been expressed by speakers, the Committee had to consider the application before it on its own merits. In respect of concerns about possible business uses on the site, conditions were proposed to limit the use of the site to residential use. Enforcement action could be taken if a business use developed on the site.

Some members expressed concern at the late change in recommendation. Whilst it noted that this was because the applicant had submitted information late, the

application had been validated. There had no opportunity to test the views of the Tree Officer or seek to resolve the issues raised. Members of the Committee considered that it would be fairer in the circumstances to explore with the applicant whether it would be possible to relocate the boat store further away from the site boundary in order to overcome the issues identified by the Tree Officer. Authority to determine the application should be delegated to the Head of Environmental and Protective Services

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for consideration to be given to resiting the rear of building away from the site boundary in order to allow for the proper assessment of the impact of the development on nearby trees and hedge.

(b) The Head of Environmental and Protective Services be authorised to grant consent under delegated powers with conditions and informatives as set out in report (subject to (c) below) in the event that suitable amended plans are received. In the event that suitable amended plans are not received, then the application is to be refused on tree protection grounds.

(c) Should planning permission be granted that condition 3 be strengthened to clarify that the building should only be used for the storage of 2 boats for the private use of the applicant.

61. 111135 Former Garrison Theatre Build, Circular Road South, Colchester

The Committee considered an application for the change of use of the garrison theatre building to church and ancillary use.

The Committee had before it a report in which all information was set out together with comments on the Amendment Sheet.

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

Dr Demuren, Chair of the Board of Trustees of the Redeemed Christian Church of God addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Church was a not for profit Christian charitable organisation. The Church currently used premises on Brook Street which were now inadequate and therefore needed a new home. Locating to this building would serve the needs of both the Church and the local community. No changes would be made to the exterior of the building and internal changes would not be detrimental to the history and character of the building. The Church would offer holistic services to meet both individual and community needs such as health and food services. Other churches were successfully integrated into residential areas and improvements such as double glazing and air conditioning could be introduced to ensure that no noise nuisance occurred.

Councillor Hazell attended and, with the consent of the Chairman, addressed the

Committee. She stressed that she did not oppose the application per se, but expressed concerns about parking and noise issues. In respect of car parking, whilst the travel plan was quite impressive, Circular Road West and Circular Road East were very congested as was the Churchill Gate development. It was noted that complaints had been made about noise from the Church's premises at Brook Street. The Kingsland Church had had to comply with stringent sound proofing requirements. Whilst these had been expensive they had been successful and had given the Church great freedom. Potential expense and difficulty should not be a barrier to such requirements. The peace and well-being of local residents and future residents were very important. The application should be deferred for further investigation into noise issues and potential sound proofing requirements.

Members of the Committee discussed whether the proposed conditions would effectively control issues of potential noise nuisance. In particular it was noted that the conditions to control amplified music may not be appropriate for gospel singing. Some members endorsed the success of the conditions imposed on the Kingsland Church.

It was explained that, in addition to the condition relating to amplified music, it was intended to condition hours of use to order to control potential noise issues. The Kingsland Church example had been raised with Environmental Control but they were of the view that the situation was not directly comparable and it would not be appropriate to impose such a condition in this instance. Environmental Control were satisfied that the proposed conditions would provide the necessary safeguards. There had been no complaints about the Brook Street premises since 2008 which suggested that the Church would be a considerate and responsible neighbour. There would not be an objection in principle to the replacement of windows and the installation of double glazing provided it was of an appropriate design and material.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 and the Head of Environmental and Protective Services be authorised to complete the agreement to provide a travel plan including a financial contribution to cover the cost of approving, reviewing and monitoring the travel plan.

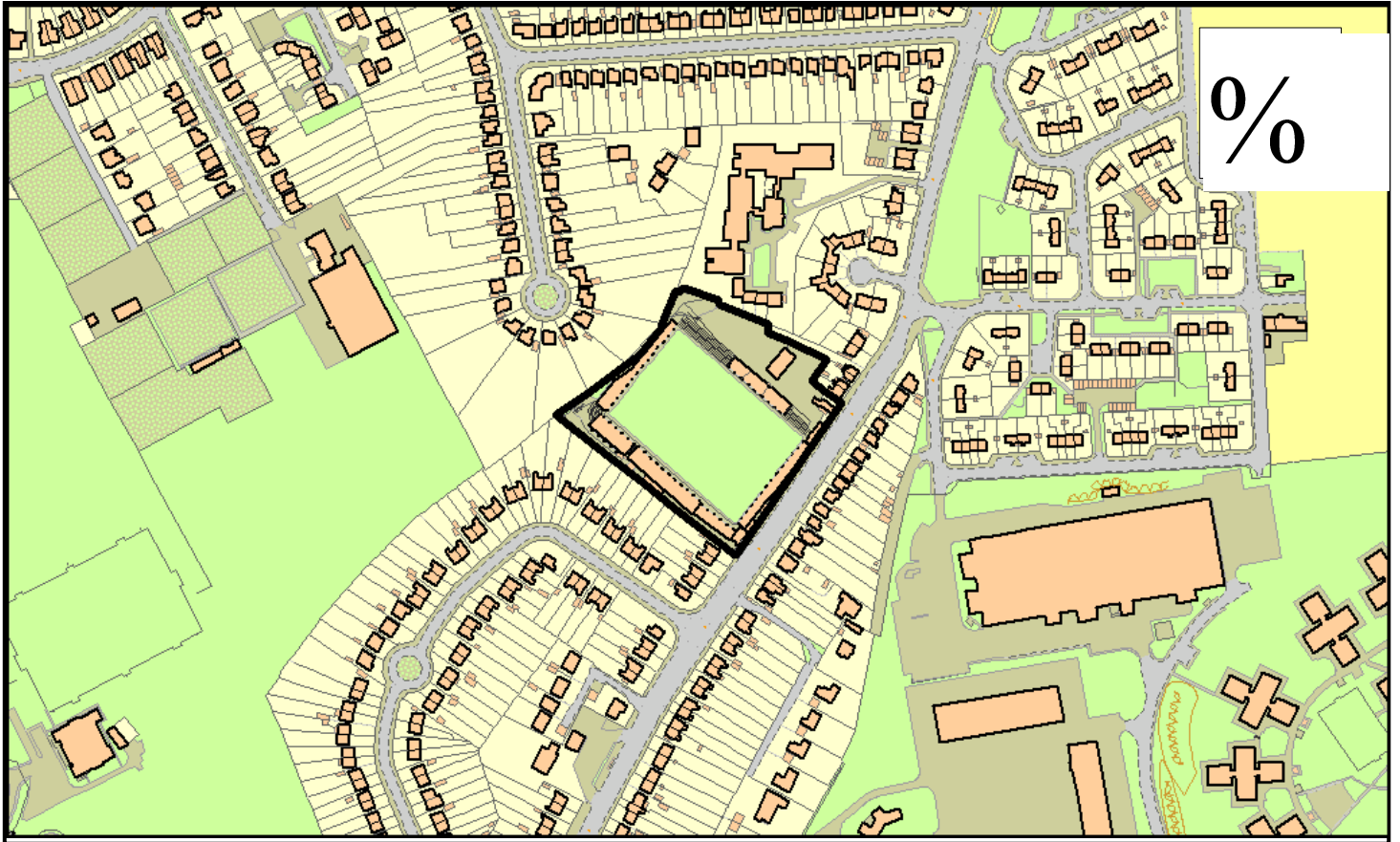
(b) Upon completion of the legal agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives to cover the issues set out in the report.

62. 111289 Town Hall, High Street, Colchester

The Committee considered a listed building application to install an additional handrail to the main internal staircase.

RESOLVED (UNANIMOUSLY) that the application be endorsed and, in accordance with paragraph 8 of Circular08/2009 Arrangements for Handling Heritage Applications” that this application be referred to the Secretary of State for approval with the

conditions as set out in the report.



Application No: 111302

Location: Colchester Utd Football Club Site, Layer Road, Colchester, CO2 7JJ

Scale (approx): 1:1250

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Committee Report

Agenda item

7

to the meeting of **Planning Committee**
on: **20 October 2011**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

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

7.1 Case Officer: Mark Russell

Due Date: 24/10/2011

MAJOR

Site: Colchester United Football Club, Layer Road, Colchester, CO2 7JJ

Application No: 111302

Date Received: 25 July 2011

Agent: Mr David Pratt

Applicant: Abbey New Homes

Development: Demolition of former Colchester United F.C buildings and construction of 58no. dwellings together with garages, car ports and including new road and landscaping.

Ward: Shrub End

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

1.0 Introduction

1.1 This application is referred to the Planning Committee because it has been called in by Councillor Hazell for reasons of design, appearance and lay-out. The following comments have been received from Councillor Hazell:

- 58 dwellings on this site is too dense for the space available.
- Available parking is also an issue - spaces rather cramped in.
- Design and internal layout plans were not available for all the properties proposed.
- The Green, which should be a feature of this historical site is placed to one side, with restricted access, making it less of a feature. For the best visual impact, the Green needs to be more central.
- This is an opportunity to make this a quality design both in the design of the houses, and to ensure that the development fits it and blends with the family homes which will surround it. It is considered that these plans do not yet fit the criteria in either case.

2.0 Synopsis

2.1 The following report describes in detail the consultation replies from internal consultees, the Highway Authority and neighbouring properties. These highlight some concerns involving density, design and potential pollution from asbestos as well as specific questions about drawing accuracy, proposed boundary treatment and the status of an area of no man's land.

2.2 The report section gives answers to these concerns, and the improved layout and design is discussed, including the proposed open space and character areas within the development.

2.3 Finally, approval is recommended, subject to conditions and a Legal agreement for Section 106 contributions.

3.0 Site Description and Context

3.1 This site was used for the playing of football for 101 years (1907 – 2008) and was the home of Colchester United Football Club from 1937 until May 2008 when the club's last home game against Stoke City took place. Since that date it has been redundant, some of the stands and other fixtures and fittings having been sold to other organisations and individuals, with others having been dismantled. Much of the superstructure, however, remains.

3.2 The site measures 1.45ha and is situated between the gardens of Wavell Avenue to the north and north west, and Rainsborowe Road to the west and south west. To the north east are the grounds of the care-home 'The Cannons'. To the east are the gardens of 35-41 Layer Road.

3.3 The remainder of the site fronts on to Layer Road, with a frontage of approximately 114 metres.

4.0 Description of the Proposal

4.1 The proposal, following the removal of all remaining structures and hardstanding, is for 58 dwellings, garaging, car-ports, a new road and landscaping, including an area of green in the middle of the site covering part of the old pitch. The breakdown of the development is as follows:

10 x 2 bedroom houses
25 x 3 bedroom houses
20 x 4 bedroom houses
3 x 2 bedroom flats

The development has been broken down into character areas, which are described in detail in the report section at paragraph 13.

5.0 Land Use Allocation

5.1 Predominantly Residential

6.0 Relevant Planning History

6.1 The site history shows 50 applications relating to its previous use as a football stadium. None of these, however, are relevant to the application at hand.

7.0 Principal Policies

7.1 The following national policies are relevant to this application:
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 3: Housing
Planning Policy Statement 10: Planning for Sustainable Waste Management
Planning Policy Statement 12: Local Spatial Planning
Planning Policy Guidance 13: Transport
Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation
Planning Policy Statement 22: Renewable Energy
Planning Policy Statement 23: Planning and Pollution Control

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

SD1 - Sustainable Development Locations
SD3 - Community Facilities
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour

TA2 - Walking and Cycling
TA4 - Roads and Traffic
TA5 - Parking

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
- DP1 Design and Amenity
 - DP2 Health Assessments
 - DP3 Planning Obligations and the Community Infrastructure Levy
 - DP4 Community Facilities
 - DP12 Dwelling Standards
 - DP15 Retention of Open Space and Indoor Sports Facilities
 - DP16 Private Amenity Space and Open Space Provision for New Residential Development
 - DP17 Accessibility and Access
 - DP18 Transport Infrastructure Proposals
 - DP19 Parking Standards
 - DP25 Renewable Energy

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

8.0 Consultations

- 8.1 Design and Heritage: The Initial comments were negative, beginning with the statement 'There are some fundamental issues of poor design and substandard policy requirements within the layout that need to be addressed before the application can be supported.'

The points raised related to:

- Inadequate garden sizes;
- Lack of visual mitigation for parking courts;
- Lack of sufficient turning space for vehicles in some instances;
- Poor arrangement of parking for flats;
- Lack of enclosure between parking courts and rear gardens;
- Poor outlook from some plots;
- Possible inadequate access for the electrical substation;
- Weak character type for the houses;
- Utilitarian architectural elements and poor detailing (such as the use of solid courses as window headers, overuse of mono-pitch door canopy, over-fenestration and over-wide gables);

Officer's Note: A productive meeting has taken place between your Officers and the developers and a much improved scheme has been tabled. Your DHU Officer is supportive, and his written comments are awaited.

- 8.2 Landscape Conservation: Your Landscape Officer has recommended several changes to this aspect of the scheme. These include the omission of small areas of grass, a larger number of trees in the public open space and a greater transparency for this space amongst other things.

These enhancements have largely been met following the recent amendments and a formal written confirmation as to their acceptability is awaited. The finer points of this scheme can be left to condition.

- 8.3 Trees: Your Arboricultural Officer has confirmed that a tree survey is required to assess the potential impact on neighbouring trees outside of the site. This has been received, and your Officer has advised as follows:

'The Categorization & Constraints Plan needs to be set against the proposal footprint. We also require a Tree Protection Plan, Arboricultural Implication Assessment & Arboricultural Method Statement linked with the proposed development taking into account the development processes and end use of the properties adjacent to the tree to be retained.

Whilst it is appreciated that the majority of the trees are categorised as C as per BS5837: 2005, they are situated off the site and are therefore outside of the control of the developer, as such it is likely that a majority of the trees will be retained. I would also comment that these trees provide useful screening during the construction process and therefore are even more desirable to retain.'

Officer's comment: This has been forwarded to the applicants and the findings will appear on the amendment sheet.

- 8.4 Highway Authority: The Highway Authority commented earlier in the application with various recommendations involving a reconfiguration of parking as well as junction radii and footway widths. The applicant has acted upon these requests within the amended scheme and formal comments are awaited.

The Highway Authority has confirmed that it does not object subject to obligations and conditions. The formal recommendation is imminent and will appear on the amendment sheet.

- 8.5 Environmental Control: Your Environmental Control team, specifically the Contaminated Land specialist, had discussions with the developers prior to the submission of the application.

That Officer has stated 'The full RMS is awaited.....given that we have quite a lot of information already and it would appear that the site can be made suitable for the proposed use, it will be okay to condition rather than needing the info up front.'

'Given that the full RMS is not yet available it is recommended that all of the relevant conditions be imposed as we are not sure that the site has been fully characterised.'

Environmental Control has also recommended an asbestos survey and the standard Demolition and Construction advisory note.

8.6 Development Team: Development Team considered the application and its decision was:

- Highways layout and affordable housing issues should be resolved;
- The idea of incorporating a project into the scheme to reflect the heritage of the site / replace the memorial garden is supported;
- S106 requirements confirmed as follows:
- Travel Packs and a Highways contribution of £57,000 towards improved cycle links in the vicinity of the site;
- A £3,500 contribution towards a residents' Cycle Training Programme;
- A Community Facilities contribution of £67,828 towards the refurbishment of Shrub End Community Hall;
- An Education contribution of £168,703 (index linked to April 2011) towards Primary provision;
- A Leisure / POS contribution of £307,865 - if POS is being provided on-site this sum is reduced to £213,436, plus a commuted sum for maintenance if any areas of POS are required to be adopted by CBC.

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

9.0 Representations

9.1 Twelve representations from nearby properties have been received. The main points raised are as follow:

- Too much development is occurring in Colchester;
- The development is overly dense;
- Clarification is required of the status of an area of "no man's land" between the site and neighbouring gardens;
- The barrier between the site and neighbouring gardens should be a brick wall;
- Request for a memorial to recognise the land's previous use;
- Also, for a garden for those whose ashes have been scattered there;
- Potential danger to trees
- Additional cars/highway safety;
- Discrepancies between some of the drawings;
- Times of building work should be restricted;
- Concerns about asbestos removal;

- Extra noise when the site is occupied;
- The proposal seems to be sympathetic and well thought out;

9.2 Colchester Cycling Campaign (CCC) also commented, stating:

‘We would like to see greater pedestrian and cycle permeability to this development, especially through to the Boadicea Road playing fields and, at a later date, to Wavell Avenue. Could the council please investigate land ownership to see if this is feasible as part of this application.’

Should land ownership be an issue, we would request that the developer makes provision for future paths, to meet cycling standards for width, to the boundaries of the site.’

10.0 Parking Provision

10.1 122 parking spaces are to be provided. The parking standards seek a 225 per cent provision to allow for visitor parking. In this instance, that would equate to 130.5 spaces. There is thus a deficiency of 8.5 spaces. The proximity of the bus service just outside of the site and easy access to the services and amenities of the wider urban area makes this slight relaxation acceptable.

11.0 Open Space Provisions

11.1 Approximately 1,450m² of open space (i.e about 10 per cent of the site area) is proposed as Public Open Space (POS) near the centre of the site, roughly in the position of the central-rear section of the playing pitch. This amount complies with adopted guidance in Core Strategy policy PR1.

12.0 Report

Design and Layout

12.1 The layout has been subject to much negotiation and refinement which has taken place over a number of years and seeks to maximise the use of the site whilst retaining some feeling of openness in deference to the historic use of the site.

12.2 Central to the scheme is the provision of the above mentioned open space, around which the housing development is arranged. This incorporates an area roughly from the position of the old centre circle and taking in part of the half of the pitch towards the old Wavell Avenue or “clock end” of the stadium.

12.3 The details of the treatment of this central area will be left to condition, but the indicative drawings show some tree planting, and semi circular seating arranged around a focal point. Within this area, visual reference to the site’s history, as well as an area for those who have had the ashes of their loved ones scattered upon the pitch, can be accommodated. It is suggested that the very centre of the focal point should have some vertical relief, in the form of the statue of a footballer for example. This would be visible down the fifty metre long avenue of trees which line the central entrance point to the development, and would act to give an immediate sense of place.

- 12.4 The development has been classified into three character types to give it some visual variation as well as an identifiable logic. These areas are: Layer Road, Public Open Space (POS), and Courts. The different types have received different treatments, as follows:

Layer Road - Main brick: Red, Window/door heads : Reconstituted stone, Cills : Reconstituted Stone, Roof : Dark Grey;

POS - Main brick: Buff, Window/door heads: Brick 'flat-arches', Cills: Reconstituted Stone, Roof: Light Grey

Courts - Main brick: Orange/Red, Window/door heads : Reconstituted stone, Cills: Reconstituted stone, Roof : Brown.

- 12.5 Thus the Layer Road frontage will have a rhythm and look which is very similar to that of the surrounding 1930s style of housing, whilst the internal areas will have their own ambience which is more context specific. This includes two short runs of housing which sweep around the corners across from the POS.
- 12.6 Your Officers have also negotiated minor design tweaks to individual house types involving lintels, porch roofs, and fenestration resulting in satisfactory amendments.
- 12.7 In terms of density, which has been one of the concerns raised, the overall density is 40 per hectare. Whilst this could be described as slightly higher than the surrounding area, it actually ranks as low to moderate in terms of Core Strategy Table H2a. This table gives indicative guidelines of 'Over 40 dwelling per hectare for Colchester Town and District Settlements' (with 30 to 40 being the guide for village developments).

Scale, Height and Massing

- 12.8 The scale, height and massing are all in sympathy with the surrounding area. Whilst some of the properties make good use of roof-space (the type 1251 house, for example, which is used for plots 16, 17, 18, 29, 30, 40 and 41) are slim, and require three storeys in order to function as three or four bedroom houses, these are no higher than prevailing patterns of development in the locality. The groupings of short runs of terracing on Layer Road, and clusters of semi-detached or short terraces within the site also have a familiar feel to them.

Impacts on Neighbouring Properties

- 12.9 The development has been tailored and re-configured to comply with standard policies and guidance. In most cases the houses are separated by their gardens from existing dwellings, therefore issues of being overbearing or producing overlooking are, by and large, designed out.
- 12.10 There are five plots which are the exception to this: Plot 22 is near to the gardens of numbers 16 and 18 Rainsborowe Road (about one metre away from the boundary), plots 37 and 42 which are close to the boundary of 35 Layer Road, and plots 14, 21 and 25, which are close to the boundaries of 45 Layer Road/2 Rainsborowe Road, 14 Rainsborowe Road and 27 Wavell Avenue respectively.

- 12.11 In the case of plots 37 and 14, these are bungalows and raise no concerns, plots 21, 22 and 25 are flank-side on to the rear end of neighbouring gardens, and whilst perhaps altering the outlook from these properties, produce no concerns in terms of overlooking or overshadowing. Plot 42 might cause some overlooking to 37 and 39 Layer Road – but these addresses are non-residential (being currently used for retail).
- 12.12 As far as possible, mitigation of car parking has meant that spaces and vehicular movement are kept away from boundaries with existing neighbouring properties. For the most part this is achieved by boundary planting. The exception to this is plot 15's parking, however this is immediately adjacent to the garage of that property and therefore presents no issues concerning lost amenity.

Amenity Provisions

- 12.13 Relevant guidance in the form of Policy DP16 states that garden provision should equate to:
- One or two bedroom houses – a minimum of 50m²
 - 3 bedroom houses – a minimum of 60m²
 - 4 bedroom houses – a minimum of 100m²
- 12.14 In this instance a total of 14 properties have deficient garden space. There is a justification for this as the geometry of the corners makes it very difficult to achieve large gardens for plots 27 & 28, 38 & 39. These three bed properties should have 60m², but will have 47, 44, 50 and 50 respectively, which is not a dramatic deficit. The four-bed unit at plot 51 has 60m² against a standard of 100m².
- 12.15 The Essex Design Guide does allow for relaxation, especially for townscape reasons, stating in its section on garden sizes: 'Where the majority of houses comply (with the minimum garden size) there may be some houses which, due to their situation in the layout, cannot be provided with a private garden to the required standard.....there may be, for example, houses which turn external corners.'
- 12.16 The remaining Plots 6 & 7 (46m² each) and 55 & 56 (39m²) are deficient against a standard of 50m²; and the three-bed types at 31, 52, 53 and 54 measure 45m², 45m², 40m² and 38m² against a standard 60m². The four bedroom house at plot 8 should have 100m², but only has 57m². These plots all front on to Layer Road. The deficiency is marked for plot 8, and worthy of note for plots 55, 56, 53 and 54. Otherwise the deficiency is negligible, and in the balance of considerations the shortfall is not considered to be crucial to the determination of this application.

Highway Issues

- 12.17 As reported above, the Highway Authority made initial comments, but does not object to the proposal as it stands, and final comments are awaited. By way of clarification, that authority (apart from requesting for Travel Packs and a Highways contribution of £57,000 towards improved cycle links in the vicinity of the site) asked for:
- Parking to comply with the new Essex Car Parking Standards;
 - The footpath both sides of the main access road to be two metres wide and continuous across the two parking court accesses;
 - The footpaths to extend around the junction radii at its north-western end, and connect to the frontage footway of Layer Road;
 - Amendment to the transitions to the shared surface roads (Type 6 - road width 5.8 metres);
 - On the type 4 feeder road, the entrance to garages at plots 58 & 59 to be amended to give clearance to the footway;
 - Removal of the proposed two parking bays on Layer Road;.
 - On the Type 6 roads (culs-de-sac), Type 3 turning heads to be used;
 - Clarification of the proposed traffic calming measures;
 - A raised junction leading into the development;
 - A swept path analysis to be submitted demonstrating that the largest service vehicle can use the layout;
 - Visibility splays where driveways meet highways to be 1.5 x 1.5 metres;
 - Clarification of pedestrian/shared use surfaces;
 - Clarification/amendment to the parking spaces to plots 31 & 37;
- 12.18 These matters have been dealt with by amended drawings and confirmation of this is expected in time for the amendment sheet.

Other matters

- 12.19 One subject that has arisen repeatedly relates to the proposed boundary treatment. Six residents have asked for clarification, five of these asking for a brick wall. This had been mentioned in a meeting between residents and the developers but does not appear to have ever been agreed. A brick wall around the site would be expensive, and would not normally be expected other than on the public facing aspect of a development such as this. Boundary treatment will be left to condition, but it is expected that the majority of it will consist of 1.8 metre close-board fencing.
- 12.20 The issue of a no-man's land has also been raised as an issue by two properties on Wavell Avenue (27 and 28). From the aerial photographs it is clear that there is an area of vegetation which has been outside of any use for some years, but is still in the conveyance of the site. In the final analysis, if this is to form part of the development (in this case mainly garden, although the corner of plot 25 would come close to the boundary with number 28 Wavell Avenue) there would not appear to be any reason for refusing the scheme. An agreed landscaping scheme could help to soften the transition, but it is noted that the neighbouring gardens are well planted where they border the site. The latest site drawing from the developer does show a narrow fringe outside of the red line of the site, which may be the no-man's land which has been mentioned.

- 12.21 The request from the CCC for neighbouring land to be purchased to allow cycle routes through the site from Wavell Avenue has been noted as a long-term desire. However, this is not considered to be a realistic option, and in fact monies have been requested by the Highway Authority for cycle link improvements in the area (£57,000) and Colchester Borough Council has requested £3,500 to go towards cycle training for local residents. This has been decided at Development Team as a fair offering towards cycling in Colchester.
- 12.22 Regarding the concern about hours of work and the removal of asbestos, these matters have been responded to by Environmental Control and standard informatives can cover this. Members may wish to impose conditions for hours of work if they feel this is appropriate, although the informative is the standard way of dealing with this.

13.0 Conclusion

- 13.1 In conclusion, the redevelopment of this important site for residential purposes has long been earmarked, and is now near to fruition. The principle of a residential scheme is supported. The amended layout with a central green and a focal point feature, the housing types and designs, and parking layout and provision are all supported.
- 13.2 There are no outstanding issues of residential amenity, and matters of planting and boundary treatment are left to condition.
- 13.3 The issue of trees still requires resolution and it is possible that the findings will require some amendment to the scheme.
- 13.4 This being the case, it is recommended that approval be granted, subject to the outstanding issue of trees being resolved.

14.0 Background Papers

- 14.1 PPS; Core Strategy; CBDP; SPG; DHU; TL; AO; HA; HH; Development Team, NLR; CBC

15.0 Recommendation

- (1) APPROVE subject to the prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990. The Head of Environmental and Protective Services to be authorised to complete the agreement to provide the following:
- Affordable Housing;
 - Travel Packs;
 - Highways contribution towards improved cycle links;
 - Contribution towards a residents' Cycle Training Programme;
 - A Community Facilities contribution towards the refurbishment of Shrub End Community Hall;
 - An Education contribution towards Primary provision;
 - A Leisure / POS contribution.

- (2) On completion of the legal agreement, the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

Conditions

Fully-worded conditions on the amendment sheet to follow, including:

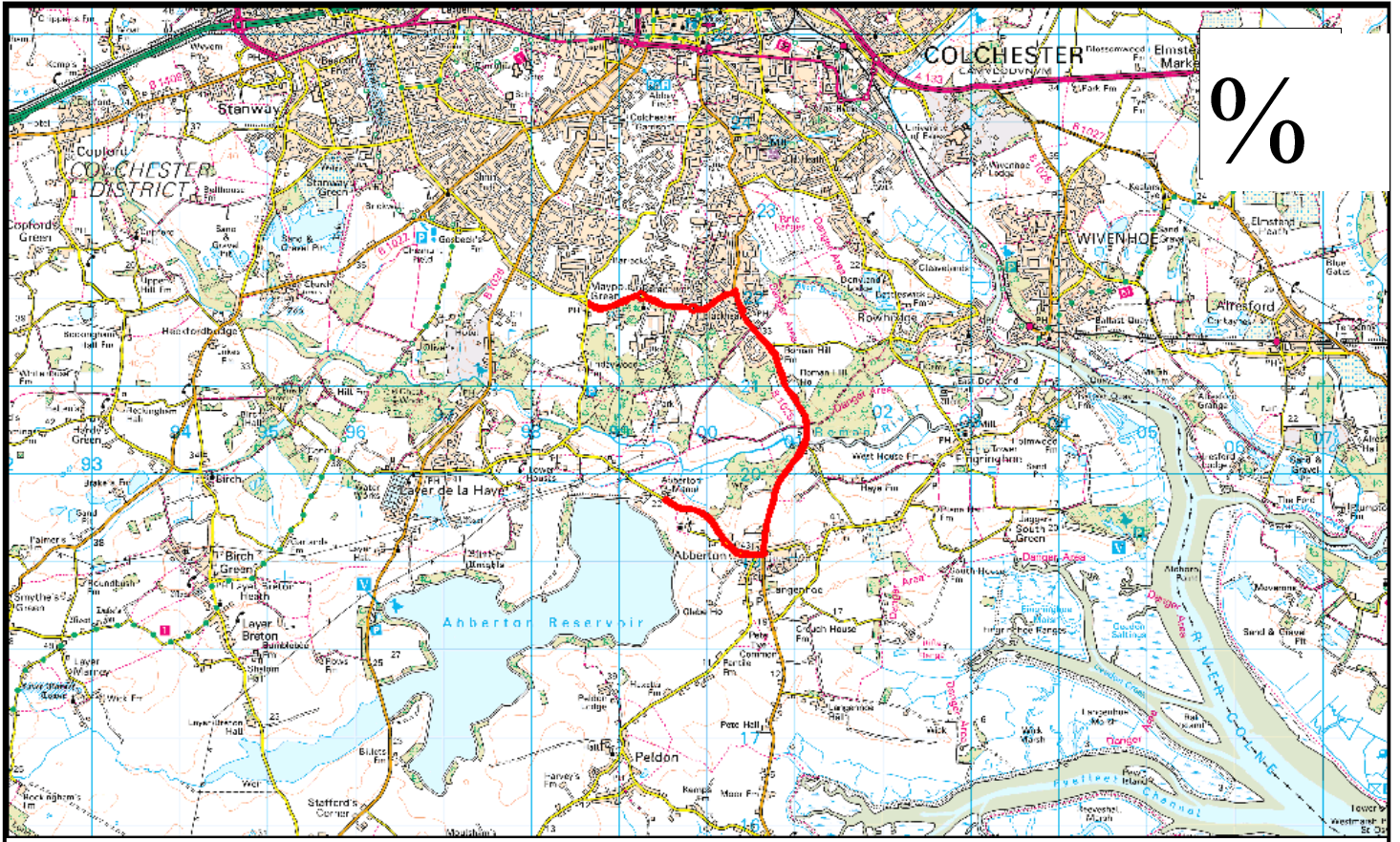
1. Standard 3 year time-limit;
2. Development to comply with amended drawings;
3. Materials to be agreed;
4. Parking to be provided prior to occupation;
5. Landscaping/planting to be agreed and implemented;
6. Tree protection;
7. Central feature including seating (as indicated on drawing) and statue to be agreed and implemented prior to occupation of x units;
8. External glazing bars to be used;
9. Boundary treatment to be agreed and implemented;
10. Highways conditions;
11. Hard surfacing conditions;
12. Windows to bathrooms/en-suites to be obscured to Pilkington Level 3;
13. PD removal;
14. Contaminated land conditions;
15. Asbestos survey and safe removal;
16. Bat survey/mitigation;
17. Reptile survey/mitigation;
18. Tree clearance to be September – February (or failing this, a pre-clearance nest-check);

Informatives

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

(2) Asbestos

(3) Works to the highway



Application No: 111538

Location: Land from Wormingford to Abberton including Abberton Reservoir, Abberton Reservoir Scheme, Peldon Road, Abberton, Colchester

Scale (approx): Not to scale

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7.2 Case Officer: Sue Jackson Due Date: 23/11/2011

MAJOR

Site: **Land from Wormingford to Abberton including Abberton Reservoir, Abberton Reservoir Scheme, Peldon Road, Abberton, Colchester**

Application No: **111538**

Date Received: 24 August 2011

Applicant: Mr Daniel Wilson

Development: Variation of condition 62 of permission 080194, to allow use of Broad Meadows access for a temporary period until 30 April 2012. Use will be for light goods vehicles (up to 60 movements per day), 8 wheel delivery trucks of 30 ton GVN, (20 movements per day for 4 weeks during October 2011) and concrete deliveries of 20 ton GVN (up to 6 movement per day, once per week between October 2011 to January 2012.

Ward: Pyefleet

1.0 Introduction

1.1 This item is referred to the Planning Committee because it relates to a major application. It has also been called in by Councillor Harris if all the comments he made on the proposal are not covered by conditions on any planning permission. These comments are set out in the representation section, and while some are secured by condition others are not.

2.0 Synopsis

2.1 The application proposes an amendment to the route used by traffic travelling to and involved in work on the expansion of Abberton Reservoir. The report will describe the new route and explain why permission is recommended.

3.0 Site Description and Context

3.1 Members will be familiar with the Abberton Reservoir project which includes the expansion of the reservoir and the laying of a pipeline from Wormingford to the expanded reservoir. The agreed route involves traffic using Cunobelin Way, Gosbecks Road then travelling through Kingsford and Layer de la Haye village, High Road and Church Road to the reservoir.

3.2 The proposed route is that when traffic reaches Gosbecks Road to use Berechurch Road, Mersea Road and Layer Road Abberton to an access known as Broad Meadows Abberton.

4.0 Description of the Proposal

4.1 The proposal is to allow the use of the Broad Meadows access for a temporary period until 30 April 2012. The vehicles will be light goods vehicles (up to 60 movements per day), 8 wheel delivery trucks of 30 ton GVN, (20 movements per day for 4 weeks during October 2011) and concrete deliveries of 20 ton GVN (up to 6 movements per day, once per week between October 2011 to January 2012. The access will be used between 07.00 – 19.00 hours Monday to Friday and) 7.30 to 13.00 Saturdays.

5.0 Land Use Allocation

5.1 The application relates to adopted public roads

6.0 Relevant Planning History

6.1 080914 - Construction of new Wormingford Pumping Station (WPS). New pipeline from WPS to Abberton Reservoir. Expansion of Abberton Reservoir. Works to B1026 - Approved 9 April 2009.

7.0 Principal Policies

7.1 The following national policies are relevant to this application:
Planning Policy Guidance 13: Transport
Planning Policy Statement 23: Planning and Pollution Control

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:
TA4 - Roads and Traffic
ENV1 - Environment

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP17 Accessibility and Access

8.0 Consultations

8.1 The Highway Authority would not wish to raise an objection to the above application

- The proposal complies with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011
- Prior to any works taking place in the highway the developer shall enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All highway related details should be agreed with the Highway Authority

- 8.2 Essex County Highways were asked to respond to the matters raised by Councillor Harris and other Councillors and have commented as follows:-

“We have been working well with NWL/Carrilion over this and have no issues. The lorries have already been using this access and route without any problems. The roads involved do not have weight restrictions. A speed limit is not necessary and the site is currently managing the lorries well. These are not excessive amounts of lorry movements. We are unable to support highway inspections as proposed by Cllr Harris in his objection comment. You could condition (similar to Layer village) no lorry movements past Cherrytree School at school times”.

Officer Comment: The applicant has been allowed to use this access on an occasional basis.

- 8.3 Environmental Control has been consulted but no comments have been received at the time of drafting this report.

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

9.0 Parish Council Response

- 9.1 Abberton and Langenhoe Parish Council have stated that “It was agreed at the last parish council meeting held on 5th September that the parish council did not object to this proposal”

10.0 Representations

- 10.1 Residents are not consulted on discharge of planning conditions. Whilst neighbour notification has not taken place all the ward and borough councillors have been notified, the application has also been advertised and 21 public notices displayed along the proposed route.
- 10.2 Councillor Harris has requested that the application is called in if the following matters are not covered by conditions. His comments are supported by Councillors Hazell, Lilley, Mudie and Naish.

“As Mitigations/conditions

- a) The Lorries must be covered with the proper covers provided - no cover no movement.
- b) That the timing of the lorries to be such that they miss the school in and out times to reduce risk to schools
- c) That highways carry out a pre useage survey so that any deterioration of pot holes and road surface can be monitored throughout the process of the movements.
- d) That a register of each movement is kept with times etc to supply to Council and residents association to demonstrate that 20 lorries + 6 cement lorries are not exceeded in numbers.

I am concerned that safety and our local transport highway is at risk with such an extra volume of traffic.”

10.3 Councillor Hazell comments:-

“I know Layer Road Abberton very well. It is a road I use constantly. The road is a dangerous one, narrow winding and hilly but with a straight stretch as it nears the reservoir entrance at Broad Meadows. Vehicles speed constantly. During the winter months and bad weather cars do end up in the ditches. With so many vehicular movements proposed than at least for the months the road is used to facilitate the reservoir rebuild, I believe a speed limit be imposed; 30mph ought to be the maximum speed permissible from the Langenhoe Lion down Layer Road to the bridge that crosses the Roman River. I support the comments made by Councillor Harris.”

10.4 Councillor Naish has commented that:-

“In adverse weather conditions (Snow and Ice) no movements of 30 ton trucks be allowed”.

10.5 Councillor Lilley has commented

“I wish to object to the Planning application number 111538 on the grounds of Public Safety. With this number of Lorries being sent down Mersea Road this is only going to add to the problems this road suffers from, speeding motorists who do not stick to the speed limit as they leave the mini roundabout near Berechurch Hall road they pick up speed all the way down the hill towards Mersea.

The route of the lorries will go past Cherry Tree Primary School which does not have a Public crossing and only has a Lollypop Person to help Parents and children across this very busy road .Elderly residents also have to cross this road to pick up Buses into Town and they do not have a safe crossing as speeding motorists heading into Town do not observe the speed limits until they have to stop at the Mini-roundabout at Berechurch Hall Road.

I have had a few residents in the past complain to me about speeding motorists along the stretch from Wier Lane past their properties heading towards Abberton and this brought to the attention of the Highways Department but was told that nothing could be done to help slow cars down.

I am very concerned about any Lorries speeding down this road with full loads let alone 26 a day and that is why you should turn this application down as it is far many Lorries in a built up area past a busy School which already suffers from congestion problems.

I fully support the comments made by Cllrs. Harris and Hazel”.

10.6 Councillor Mudie has commented:-

“My main concern is that of heavy goods vehicles carrying uncovered substances that may cause dust emission. Would you kindly issue a request that the companies involved on this project ask their drivers to cover their loads whilst in transit”

10.7 The following comments have been received on behalf of the Governors of Cherry Tree Primary School and Speech and Language Centre. They comment as follows:-

“This application, which will permit a sizeable number of heavy lorries daily to travel northbound on the Mersea Road will add significantly to the already sizeable risks our children and parents are exposed to when coming to and going from school.

Already there is a high disregard for the current speed limit, the LEA crossing patrol is at best intermittent and frequently unavailable, and the general standard of driving in the vicinity of the school is often unacceptable.

The governors, at their governing body meeting this week, want to make clear the school’s objection to this proposal, further considering that if a temporary amendment to the original planning application was permitted in this instance the developers would cite this as a pretext and precedent for further applications when, if granted, the current application expires.”

11.0 Parking Provision

11.1 N/A

12.0 Open Space Provisions

12.1 N/A

13.0 Report

13.1 The routing plan was agreed as part of the discharge of a condition requiring agreement to a Traffic Management Plan. Residents are not consulted on the discharge of conditions but the information in the original planning application indicated traffic would use Gosbecks Road and then travel through Layer de la Haye village.

13.2 Since the commencement of work on the project the traffic, including deliveries and workers/contractors, has passed through Layer de la Haye village; this has included pipe deliveries and will include all the traffic involved in the re-alignment of the B1026. Layer village has experienced a large amount of traffic including very large vehicles (delivering 13.5m length pipes). The approved Code of Construction Practise prevents deliveries during school picking up and dropping off times (vehicles pass Layer de la Haye school (on the corner of High Road and The Cut). Your officer attends regular meetings of the Reservoir Liaison Group and it is reported that this restriction has been adhered to.

13.3 Whilst the comments received are appreciated this variation will only involve a small percentage of the total amount of traffic and is for a temporary period. The operation of this substantial project has taken place with minimal comment for residents.

13.4 Members will note the Highway Authority does not support either highway inspections or a speed limit. It is fair to say this additional traffic will represent only a small proportion of the traffic that uses these roads every day. Whilst the applicant has indicated they could place advisory signs these would be impossible to enforce. Your officers view is that no advisory signs are required.

13.5 The applicant has included the following explanation:

“The reason for the application is to ease deliveries to the Broadmeadows area of the site in a period of potentially inclement weather, the water level is low so there is a lot to be done before the “tide” comes in and we are rebuilding the crest of the Main Dam”.

13.6 The applicant has also provided the following response to the comments made:

“All of our delivery lorries have and use covers. The only heavy vehicles that will be using this route will be concrete wagons and Open Stone Asphalt deliveries. The OSA trucks have to be covered because they are carrying hot bituminous materials. We have no unbound granular materials delivered as these are produced on site.”

13.7 The applicant has also agreed a register of traffic movements could be kept at the Broad Meadows entrance and have commented that adverse weather conditions such as snow and ice would close the site and therefore the vehicle movements would cease by default.

13.8 The existing Code of Construction Practice restricts vehicle deliveries during school picking up and dropping off times and this is recommended as a condition on this permission.

14.0 Conclusion

14.1 Whilst this traffic will have an impact on residents living along and using the roads it is not additional traffic and if permission is not granted it will travel through Layer village to the existing site access. Your officer considers the use of these roads for the limited period proposed is acceptable and permission is recommended.

15.0 Background Papers

15.1 PPG; Core Strategy; CBDP; HA; HH; PTC; NLR; CBC

Conditions

1 - Non-Standard Condition

This consent allows the use of the Broad Meadows access for a temporary period only expiring on the 30 April 2012. The permission allows use of the access by the following vehicles; light goods vehicles (up to 60 movements per day), 8 wheel delivery trucks of 30 ton GVN, (20 movements per day for 4 weeks during October 2011) and concrete deliveries of 20 ton GVN (up to 6 movements per day, once per week between October 2011 to January 2012).

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

2 - Non-Standard Condition

The access shall only be used between the hours of 07.00 – 19.00 Monday to Friday and 7.30 to 13.00 Saturdays.

Reason: To avoid doubt as to the scope of the consent hereby granted and to protect residential amenities.

3 - Non-Standard Condition

Prior to the commencement of the use of the access hereby permitted a supplementary Code of Construction Practice and Traffic Management Plan shall be submitted to and agreed in writing with the local planning authority. These documents shall include the following matters:

- Vehicles to avoid school picking up and dropping off times
- Vehicles to be sheeted
- System to record all vehicles entering and leaving the site and CBC to be allowed to inspect the record on request.

Reason: In the interests of highway safety.

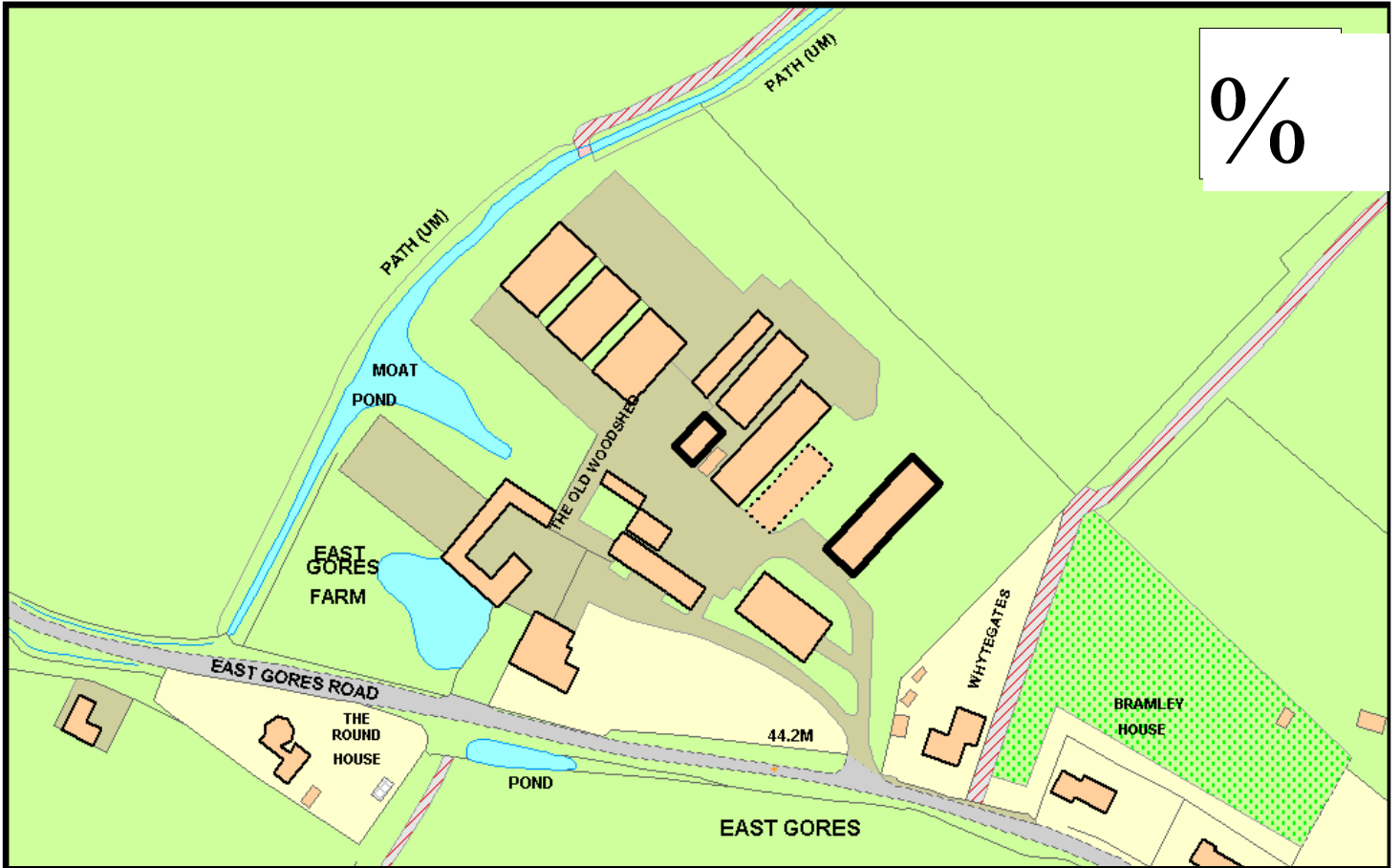
4 - Non-Standard Condition

Prior to any works taking place in the highway the developer shall enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.

Reason: In the interests of highway safety.

Informatives

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



Application No: 102422 & 102432

Location: Building F & K, East Gores Farm, East Gores Road, Great Tey CO6 1RZ

Scale (approx): 1:1250

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7.3 Case Officer: Mark Russell**OTHER****Site:** Building F, East Gores Farm, East Gores Road, Great Tey CO6 1RZ**Application No:** 102422**Date Received:** 23 November 2010**Applicant:** Mr William Sunnucks**Development:** Change of use of Shed F from redundant agricultural use to B1 office use**Ward:** Great Tey**Summary of Recommendation:** Conditional Approval**7.4 Case Officer: Mark Russell****OTHER****Site:** Building K, East Gores Farm, East Gores Road, Great Tey CO6 1RZ**Application No:** 102432**Date Received:** 25 November 2010**Applicant:** Mr William Sunnucks**Development:** Change of use of building K to Business Storage (B8 Storage and distribution).**Ward:** Great Tey**Summary of Recommendation:** Conditional Approval**1.0 Introduction**

1.1 These application are referred to the Planning Committee because they were lodged under the old scheme of delegation and objections were received. The applications are presented in one report as both raise the same issues.

2.0 Synopsis

2.1 The following report describes the proposed change of use of two former agricultural buildings. The objections and concerns, both from residents and from the Highway Authority are highlighted. A transport assessment commissioned by the applicant is then discussed, which concludes that the increased level of usage would be minimal. On this basis approval is recommended, with conditions to ensure the protection of residential amenity.

3.0 Site Description and Context

3.1 East Gores Farm is a collection of former agricultural buildings which are now beyond that use. The buildings are to the north and east of the Grade II Listed East Gores Farmhouse and barn. The site is remotely located at some two kilometres from the Village Settlement Boundaries of Great Tey and Marks Tey, and 600 kilometres from the A120. Surrounding it is mainly open country, although the Grade II Listed Roundhouse is opposite, and a small scattering of half a dozen dwellings is close by.

4.0 Description of the Proposals

4.1 The two applications at hand are as follow:

102422: Change of use of Shed F from redundant agricultural use to B1 office use

102432: Change of use of building K to Business Storage (B8 Storage and distribution).

5.0 Land Use Allocation

5.1 Agricultural

6.0 Relevant Planning History

6.1 072269 – Change of use from redundant agricultural to storage – Conditional Approval 29 October 2007

6.2 072274 – Change of use from storage/workshop to Officer B1 – Conditional Approval 29 October 2007

6.3 091639 – Change of use of shed N from B1/B8 (officer/storage) use to office/storage) use to office (B1) – Conditional Approval 19 February 2010

6.4 85/1168 – Change of use from farm store to light in industrial for purposes of furniture restoration – Conditional Approval 2 September 1985

6.5 88/1295 – Continued of building on a permanent basis for light industrial purposes of furniture restoration – Condition Approval 12 August 1988

6.6 C/COL/05/1706 – change of use of shed from agricultural to workshop storage – Conditional Approval 7 December 2005

6.7 F/COL/04/2332 – Extensions and alterations including demolition of two detached single storey sheds (replacement of doors and windows on south west flank with specialist extract replacements) – Conditional Approval 20 April 2005

6.8 F/COL/07/0135 – Proposed conversion of former workshop to smaller workshop, 3 bay car parking and hot tub/amenity room – Conditional Approval 21 March 2007

7.0 Principal Policies

- 7.1 The following national policies are relevant to this application:
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 7: Sustainable Development in Rural Areas
Planning Policy Guidance 24: Planning and Noise
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:
SD1 - Sustainable Development Locations
CE1 - Centres and Employment Classification and Hierarchy
TA4 - Roads and Traffic
ENV1 - Environment
ENV2 - Rural Communities
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP8 Agricultural Development and Diversification
DP9 Employment Uses in the Countryside
DP17 Accessibility and Access

8.0 Consultations

- 8.1 The Highway Authority initially stated:

‘This Authority is currently minded to recommend refusal on this on the grounds that the lane from the A120 to the farm is not suitable for a large increase in traffic flow by reason of very limited width.

This is only one of a number of applications on this site and the Highway Authority has concerns that the piecemeal nature of the development proposals is over-development and likely to cause capacity and maintenance issues along the lane.

Further information is requested regarding the proposals for the whole site and the likely traffic implications for East Gores Road. On receipt of this information further consideration will be given.’

- 8.2 The applicant then commissioned a traffic survey which looked at movements on this stretch of road, concluding that the effect on the proposals would be negligible. Further details of this are given in the report section at paragraph 13.
- 8.3 Having been reconsulted with this information, the Highway Authority has withdrawn its objection, stating.

‘On the advice given by Waterman Boreham, this Authority would not object to the proposals under applications 102422 & 102432 for the barn structures at East Gores Farm.’

- 8.4 Planning Policy has not objected, taking the view that the piece-meal development of the site is an established fact, albeit that it has led to a situation that we may not have initially envisaged.

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

9.0 Parish Council Response

- 9.1 Great Tey Parish Council stated that it had no objections to either application subject to neighbours' views.

10.0 Representations

- 10.1 Two letters of objection were received to the applications.
- 10.2 The occupiers of the Round House objected on the basis of increased traffic and the lack of passing places on Salmons Lane with consequent danger to road-users including pedestrians and horse-riders given the lack of any footway.
- 10.3 An objection from the occupiers of Tye Cottage was received on similar lines, stating 'this is another two developments being proposed which will generate more congestion, which in turn cause more dangerous incidents. As a note, a couple of weeks after the previous application was granted a delivery driver struck a deer coming from East Gores Farm and the deer was fatally injured and had to be put down. The bottom line is the road is too narrow to cope with the volume and speed of delivery and commuter traffic.'

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

11.0 Parking Provision

- 11.1 Both applications propose two parking spaces. 102422 (B1 use) measured 60m², and the provision complies exactly with the Parking Standards' requirements of one space per 30m². 102432 (B8 use) is 270m², against a requirement for one space per 150m². Thus both are compliant.
- 11.2 It is noted that the larger site also boasts space for any additional visitor parking should this ever be required, there is thus no issue of parked vehicles obstructing the Highway.

12.0 Open Space Provisions

- 12.1 N/A

13.0 Report

Impact on Neighbouring Properties:

- 13.1 The objections received to these, and previous, applications have raised concerns about continuous intensification of the site (six permissions in the last six years). On each occasion Colchester Borough Council has taken the view that a small change was not significant, and on each occasion residents have requested that no further intensification be allowed. Each application needs to be looked at on its merits, however, both individually and within the overall context.
- 13.2 In this instance, transport consultants Waterman Boreham have estimated that as few as 2 to 3 traffic movements per month would pertain to the B8 usage as described (i.e. low level, office back-up storage) but have noted that an open B8 storage use could generate between 4-6 movements per day. To this must be added the low level of vehicular movement relating to B1 use. In total, and in a worse case scenario, it could be said that ten extra movements per day could be expected.
- 13.3 The applicant has also offered to restrict the use to storage, as opposed to storage and distribution which is what the B8 use-class usually allows (and could give rise to a courier company being based there, for example). This is considered a sensible approach as the desired use is simply low-level office storage.
- 13.4 In terms of internally-generated noise, neither of the proposed uses would produce any nuisance by their very nature. One neighbour had voiced concerns about a noisy gravel drive, but the applicant has indicated that a different surface can be provided if required.
- 13.5 Finally, in terms of amenity, hours of use are to be restricted to those applied for (both 07:00 – 19:00, Monday to Saturday, and at no time on Sundays/Bank Holidays).

Highway Issues

- 13.6 These are allied to the above considerations. The issues relate both to safety and capacity. Waterman Boreham's research shows that Salmon's Lane/East Gores Road has an average daily flow of about 150 vehicles each way. The peak flow is 20 vehicles per hour, northbound, on weekday mornings. This is held to be 'well within the capacity of a single track road such as this with occasional passing places.'
- 13.7 The consultant cites Essex County Council's (ECC) policy DM15 (Congestion) which states:
- 'The Highway Authority will protect the safety and efficiency of the public highway by requiring the developer to demonstrate that the development proposal has no detrimental impact upon the existing or proposed highway in congestion terms...'
- ECC's description of detrimental is '...a significant increase in the potential for accidents and/or an increase in traffic flow of 5 per cent or more.'
- 13.8 In this case, the B8 use carries a potential 2 per cent increase in traffic movement. When added to the B1 use, this comes to little over 3 per cent, and is thus not detrimental.

13.9 The Highway Authority has consequently withdrawn any objection to the application.

Other Matters

13.10 Following application 091639, your Officer advised residents that he would hold discussions with the applicant to assess what future plans he had for the site, rather than a continuous incremental approach being taken. Discussions have taken place, and the applicant has advised that there is very little left on the site in the way of buildings which could be re-used, and that there are no intentions to expand in the foreseeable future.

14.0 Conclusion

14.1 In conclusion, whilst noting the disquiet of some neighbouring properties, the level and type of activity being proposed is not held to raise any concerns, and approval is recommended.

15.0 Background Papers

15.1 PPA; Core Strategy; CBDP; HA; PP; PTC; NLR

Recommendation – Conditional Approval for 102422

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 hours of use hereby approved shall be limited to those applied for, namely: 07:00 - 19:00 Monday to Saturday, and at no time on Sundays or Bank/Public holidays.

Reason: In the interests of residential amenity.

3 - Non-Standard Condition

Prior to the use hereby permitted being implemented, the applicant shall ensure that adequate parking, as detailed on the submitted documents, is provided and is kept in place at all times.

Reason: To ensure that adequate parking is provided on site, in the interests of highway safety and efficiency.

4 - Non-Standard Condition

Prior to the uses hereby permitted being implemented, a scheme of surfact treatment shall be submitted, and agreed in writing by the Local Planning Authority, and implemented, and shall be retained as such.

Reason: For avoidance of doubt as to the scope of this permission, and in the interests of residential amenity.

Informatives

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

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

Recommendation – Conditional Approval for 102432

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 hours of use hereby approved shall be limited to those applied for, namely: 07:00 - 19:00 Monday to Saturday, and at no time on Sundays or Bank/Public holidays.

Reason: In the interests of residential amenity.

3 - Non-Standard Condition

Prior to the use hereby permitted being implemented, the applicant shall ensure that adequate parking, as detailed on the submitted documents, is provided and is kept in place at all times.

Reason: To ensure that adequate parking is provided on site, in the interests of highway safety and efficiency.

4 - Non-Standard Condition

Prior to the uses hereby permitted being implemented, a scheme of surfact treatment shall be submitted, and agreed in writing by the Local Planning Authority, and implemented, and shall be retained as such.

Reason: For avoidance of doubt as to the scope of this permission, and in the interests of residential amenity.

5 - Non-Standard Condition

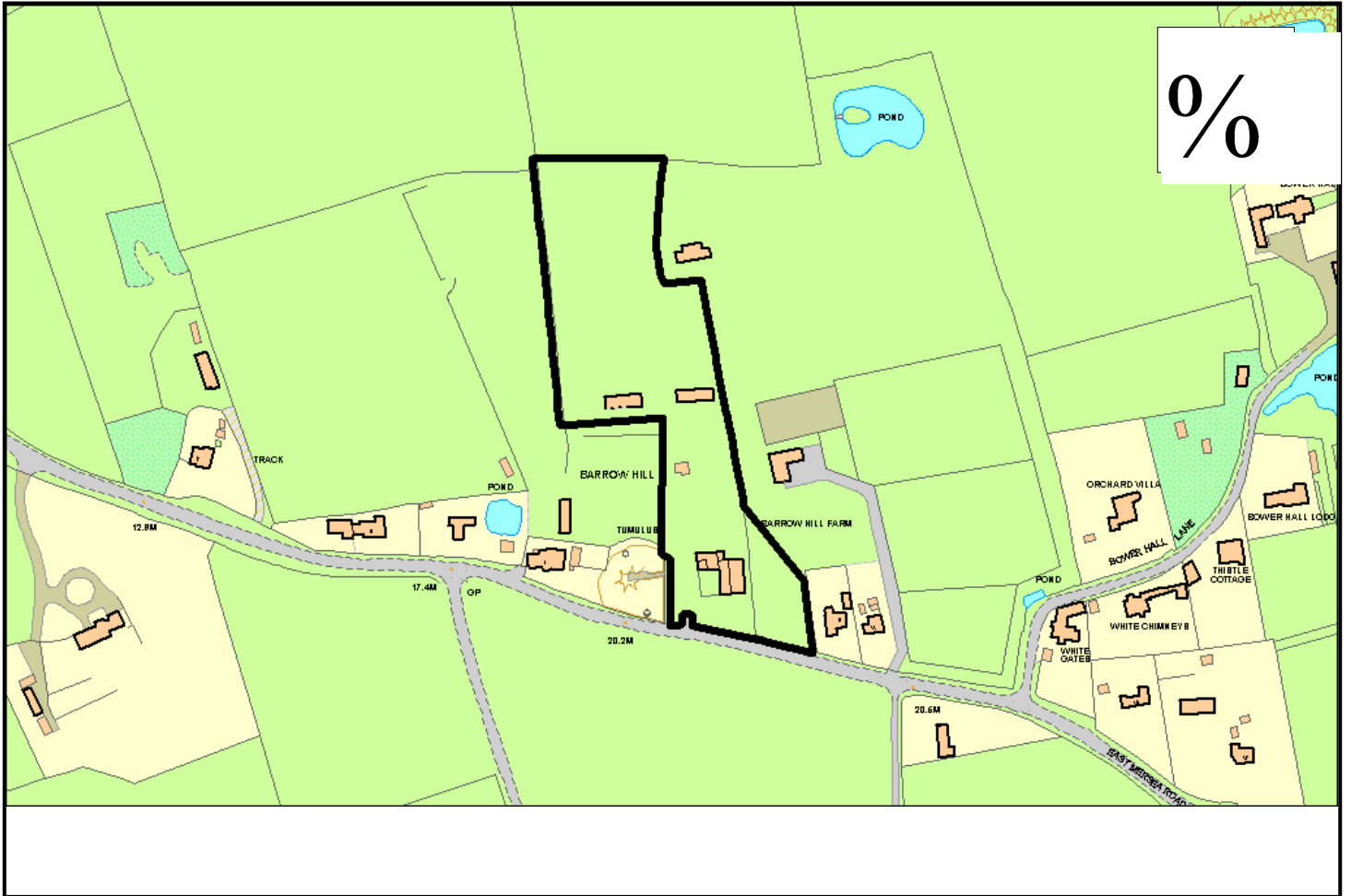
The B8 use hereby approved shall be limited to storage only, and not be used for any distribution activities.

Reason: In the interests of residential amenity and highway safety and efficiency.

Informatives

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

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



Application No: 111401

Location: Barrow Hill Farm, East Mersea Road, West Mersea, Colchester

Scale (approx): 1:1500

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7.5 Case Officer: Sue Jackson

OTHER

Site: Barrow Hill Farm, East Mersea Road, West Mersea, Colchester

Application No: 111401

Date Received: 2 August 2011

Agent: Mr D Farrow

Applicant: Mr And Mrs R Wacey

Development: Application for a new planning permission to replace extant planning permission F/COL/06/1579 to extend time limit for implementation for the change of use of existing barn to residential and public parking and access to ancient monument.

Ward: West Mersea

Summary of Recommendation: Conditional Approval subject to Section 106 Agreement

1.0 Introduction

1.1 This application is referred to the Planning Committee because it involves a new dwelling in a countryside location which is contrary to policy and the recommendation is to approve. In addition the application does not include a unilateral undertaking for the usual recreation and community facilities.

2.0 Synopsis

2.1 The application seeks to extend the period to implement a planning permission granted in 2008. The report explains there are two elements to the proposal. In addition to the conversion of the barn to a dwelling it includes improved access and facilities to a Scheduled Ancient Monument owned by Colchester Borough Council. The report explains why permission is recommended and why the standard contributions are not required.

3.0 Site Description

3.1 The application site is located on the north side of East Mersea Road, West Mersea. It has a total site area of 1.45 hectares and comprises a small range of farm buildings in a poor state of repair and overgrown land.

3.2 Adjacent to the site is a Scheduled Ancient Monument - Mersea Mound (a burial chamber).

4.0 Description of the Proposal

- 4.1 The proposal involves the conversion of the buildings to a 4-bedroomed dwelling with the land used as residential curtilage. The barn is "T" shaped with 2 lean to single storey elements on the front elevation. One of these links to a replacement building which will provide additional accommodation and parking. The main barn will remain predominantly as an open volume with a study gallery across a small part of the first floor. The ground floor volume will provide a sitting room, dining room and kitchen the bedrooms are provided in the replacement building. Part of the front curtilage will be enclosed to provide a courtyard garden.
- 4.2 The existing vehicular access will be closed and a new access with improved visibility provided to serve the dwelling and provide access to parking and turning facilities for the Ancient Monument. New landscaping is proposed along the site frontage and side boundary. An area of coppiced woodland is indicated behind the dwelling. An interpretation board is indicated within the car park.
- 4.3 Lights will be provided to the access passage of the burial chamber using a sustainable energy source.
- 4.4 Information submitted with the application indicates the barn is a timber framed structure of 5 bays and central midstrey. There is much evidence of reused timber. Cladding is featheredged weatherboarding, or corrugated iron. The timber frame wall is built off a brick plinth about 12 courses high and much interfered with in modern materials including concrete block and in situ concrete. The roof is a complete replacement in sawn softwood and clad in corrugated iron. There is a good flagstone threshing floor to the central bay.
- 4.5 A structural survey and viability report have been submitted. Both documents are available to view on the Council website. The former concludes that:-

"All of the visible timber appears to be in reasonable condition and can be retained as noted above. Further inspection of the outside face of all timbers is recommended when the external coverings have been removed to ensure that there is no excessive hidden decay. The roof loading will be increased by the addition of tiles on the outside and insulation and plaster on the inside, however, the timber are of adequate size to support them.

The brick plinth will require a new foundation at least 1 metre deep.

Diagonal bracing should be added to the rafters either in the form of hardwood timber on the underside or light steel strapping on the top side before the new coverings are fixed.

The building does not require substantial reconstruction to retain it for any future use. It is in fair condition for its age and providing the small amount of repairs described above are carried out it will remain stable for many years to come."

5.0 Land Use Allocation

- 5.1 Coastal Protection Belt

6.0 Relevant Planning History

- 6.1 F/COL/06/1579 - Change of use of existing barn to residential and public parking and access to ancient monument - planning permission granted 5-08-2008

7.0 Principal Policies

- 7.1 The following national policies are relevant to this application:
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 5: Planning for the Historic Environment
Planning Policy Statement 7: Sustainable Development in Rural Areas
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:
SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
SD3 - Community Facilities
UR2 - Built Design and Character
TA5 - Parking
ENV1 - Environment
ENV2 - Rural Communities
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP10 Tourism, Leisure and Culture
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP18 Transport Infrastructure Proposals
DP19 Parking Standards
DP23 Coastal Areas
- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:
Community Facilities
Vehicle Parking Standards
The Essex Design Guide
External Materials in New Developments
Open Space, Sport and recreation

8.0 Consultations

- 8.1 The Landscape Officer has no objection subject to conditions.
- 8.2 The Highway Authority has no objection subject to suitable conditions to achieve a new vehicular access with improved sight splays.
- 8.3 The Museum Curator supports the application.

8.4 English Heritage support the application and comment this scheme provides a means of beneficial management to the scheduled ancient monument which we would welcome. We have no objections to the proposals and assume that a S106 agreement will be concluded in respect of the visitor facilities for the scheduled monument.

8.5 Spatial Policy concluded as follows on the original application that on balance the application should not be permitted at this stage but that the applicant is encouraged to look for potential alternative use of the redundant site.

9.0 Town Council's Response

9.1 West Mersea Town Council comment:-

“Following discussion it was agreed to recommend consent be granted in respect of this application.”

10.0 Representations

10.1 Two letters supporting the application have been received.

11.0 Parking Provision

11.1 The parking provision exceeds the Council's standard.

12.0 Open Space Provisions

12.1 The financial contribution towards open space, sport and recreation is not included in the section 106 agreement. This is explained in the report below.

13.0 Report

13.1 The 2006 application was recommended for refusal by officers as it was considered the access to and facilities to the ancient monument did not outweigh the policy objections to a new dwelling in the countryside. However members took a different view and planning permission was granted subject to a section 106 agreement. The agreement secured the provision of a car park and coach parking, the former to be transferred to the Council with access rights secured, provision of an information board, lighting and landscape scheme and the developer to maintain the access land and coach park land.

13.2 This application is to extend the time period for the implementation of the planning permission. Whilst the conditions imposed have been discharged work has not commenced.

- 13.3 Since the original application was approved the Council has adopted supplementary planning guidance/documents requiring financial contributions for community facilities and open space for all new dwellings. These contributions are not offered as part of this application. At the time of the original application a viability appraisal was submitted which concluded the project is viable but offers no profit and therefore would only be considered by an individual wishing to create this overall facility for his own private enjoyment as a dwelling without speculative gain. This appraisal was independently verified. A new appraisal has been submitted with this application which concludes the cost of all the works would slightly exceed the value of the completed property.
- 13.4 In light of this conclusion and the community facilities already secured by the existing section 106 agreement it is considered the usual contributions are not required in this instance. A new agreement has been submitted which links the new application to the original Section 106.
- 13.5 Members should be aware that whilst much of the existing internal timber frame will be retained the brick plinth, weatherboarding and roof will all be completely new work. This has not changed from the original application.

14.0 Conclusion

- 14.1 The extension of the time period of this extant planning permission is considered acceptable.

15.0 Background Papers

- 15.1 PPS; Core Strategy; CBDP; SPG; TL; HA; Museums; EH; PP; PTC; NLR

Recommendation

- (1) APPROVE subject to the prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 linking this application to the earlier section 106 agreement.
- (2) On completion of the legal agreement, the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

Conditions

1 - 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 new vehicle access and 2.4m x site maximum sight splays shall be installed and the existing access closed permanently prior to the commencement of any of the development or works authorised by the permission.

Reason: In the interests of highway safety and for the convenience of pedestrians and motorists.

3 - Non-Standard Condition

The new vehicle access shall be constructed in permanent stable free-draining material for at least the first 10m from the highway boundary.

Reason: In the interests of highway safety and for the convenience of pedestrians and motorists.

4 - Non-Standard Condition

The Local Planning Authority shall be notified not less than 48 hours before the commencement of any work on site and the developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority, and shall allow him to observe the excavations and record items of interest and finds.

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

5 - 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.

6 - C10.18 Tree and Hedgerow Protection: General

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

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

7 -Non-Standard Condition

Faced common bricks shall not be used for 103mm thick boundary walls. The bricks to be used for such walls shall be of a type to be agreed in writing with this Council prior to the commencement of the development.

Reason: These bricks have an unfinished return face that produces a very poor appearance and if used for this purpose would be detrimental to the visual amenity of the area.

8 - Non-Standard Condition

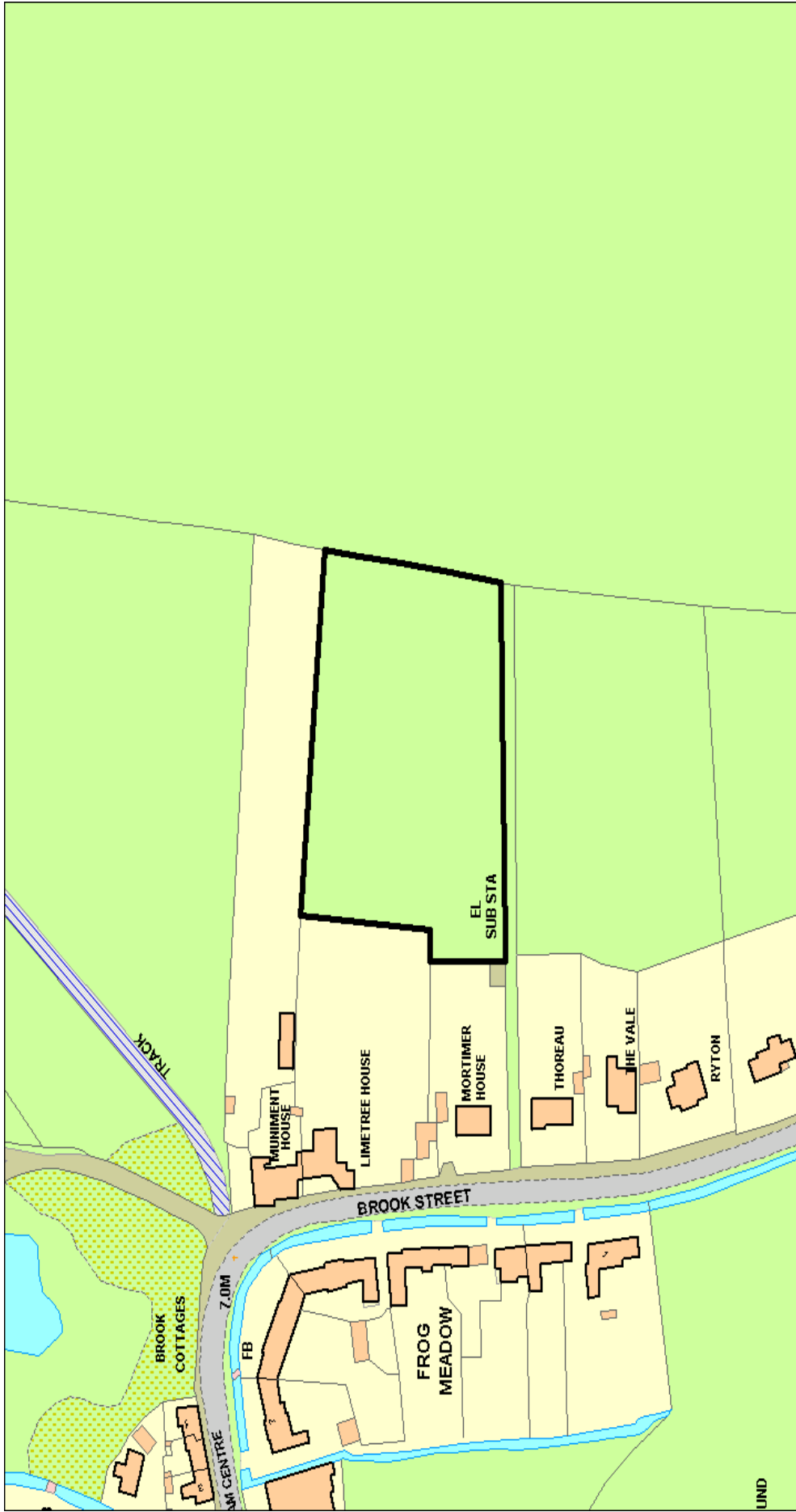
The development shall be carried out strictly in accordance with the information/documents submitted and already approved in discharge to the conditions on planning permission F/COL/06/1579.

Reason: To avoid doubt as to the scope of the consent hereby granted and to ensure the development is implemented in accordance with the approved details.

Informatives

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

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



Site Location Plan – NOT TO SCALE

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Application Reference: 003143

Site Location Address: Land to East of, Brook Street, Dedham, Colchester

Date Produced: 11 October 2011

20 October 2011

| | | | |
|-----------------------|---|---------------|---|
| Report of | Head of Environmental & Protective Services | Author | Vincent Pearce 01206 282452 & Dale Keeble 01206 506942 |
| Title | Reporting of injunction action relating to land East of Brook Street, Dedham | | |
| Wards affected | Dedham | | |

This report is presented to members in relation to an injunction granted on 1st July 2011 at Chelmsford County Court against Mr & Mrs Pryke. Powers are contained in the Constitution Part 3 page 58 para 17. "Authority to institute legal proceedings (including the serving of injunctions and enforcement notices) under the Town and Country Planning Act 1990 (Part VII and Part VIII) and the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 (Part IV) where it is considered the most appropriate remedy in relation to the circumstances of the case, and expedient to do so, without referral to Planning Committee, subject to a report being made to Committee as soon as practical thereafter".

1.0 Decision

- 1.1 Members are asked to note this report which is presented in line with the requirements of the Council's Constitution as described above and to confirm that they support the action that was taken and continues to be taken in respect of this matter and the enforcement of the terms of the current injunction order.

2.0 Background

- 2.1 On 1 July 2011 Chelmsford County Court considered an application for an injunction.

The Court ordered that Mr and Mrs Pryke are:

- a. Forbidden from developing the land east of Brook Street Dedham, placing any mobile home / demountable building on it or erecting any structure
 - b. Ordered to remove any such development / mobile home / demountable building or structure that they have already put on the land by 15th September 2011.
- 2.2 An enforcement complaint was received from a member of the public as the land is being occupied by a homeless family living in tents. Mrs Pryke is the land owner, title absolute and has made it quite clear that her family would like to remain and live on the land on a permanent basis.
- 2.3 Unauthorised engineering works to install a septic tank have already taken place on the land and is the subject of a separate enforcement notice.

- 2.4 In order to prevent any further unauthorised works and to effect the removal of unauthorised structures it was necessary to apply to the Court for an injunction.

3.0 Reasons for Decision

- 3.1 The site is a greenfield site in a countryside location outside of the Dedham Village Settlement Boundary. Policy ENV1 (Environment) of Colchester's Adopted Core Strategy (December 2008) states that greenfield land outside of settlement boundaries should be protected and where possible enhanced. The site is located within the Dedham Vale Area of Outstanding Natural Beauty (AONB) which national policy makes clear should benefit from the highest level of protection. Policy DP22 (Dedham Vale Area of Outstanding Natural Beauty) of Colchester's Adopted Development Policies DPD (October 2010) states that development will only be accepted in this area where it makes a positive contribution and does not affect the character of the AONB. This siting of a mobile home on this site would not accord with this policy and would be likely to be detrimental to the AONB. The site is also located within a designated Conservation Area where development is required to preserve and enhance the character of the Conservation Area. The principle of residential development or the siting of a mobile home on this site therefore does not accord with national and local planning policy.
- 3.2 Access to the land is via designated footpath 18. The line of the footpath is obviously covered by highway rights. However, due to the status of the route these rights would be for pedestrians only with 'usual accompaniment' - dogs, pushchairs etc. There would be no highway vehicular rights. Any vehicle rights to exist would be private rights noted on the deeds to any property, or granted by the land owner as a private allowance.
- 3.3 Essex County Council Highway Authority recommended refusal of the previous planning application 090953 as the route was not suitable for vehicles; creation of a substandard access, and interference with pedestrian traffic.

4.0 Alternative Options

- 4.1 None

5.0 Supporting Information

- 5.1 090953 - Erection of single storey barn constructed of timber frame, with timber cladding and a pitched tiled roof. Cartlodge type building with eaves height of 2.2m. To facilitate the sustainable maintenance and management of smallholding and livestock. The application was REFUSED
- 5.2 Planning Policy Statement 1 states that development plan policies should take account of environmental issues such as the need for the protection of the wider countryside and the impact of development on landscape quality. It states that "Planning policies should seek to protect and enhance the quality, character and amenity value of the countryside and urban areas as a whole. A high level of protection should be given to most valued townscapes and landscapes, wildlife habitats and natural resources. Those with national and international designations should receive the highest level of protection". The Dedham Vale AONB is a national designation which should therefore receive the highest level of protection in accordance with PPS1.

Planning Policy Statement 7 states at paragraph 10 that "Isolated new houses in the countryside will require special justification for planning permission to be granted. Where the special justification for an isolated new house relates to the essential need for a worker to live permanently at or near their place of work in the countryside, planning authorities should follow the advice in Annex A to this PPS." Annex A of PPS7 makes clear that one of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural, forestry and certain other full-time workers to live at, or in the immediate vicinity of, their place of work". In the case of this site there is no associated agricultural/employment development and the accommodation would not be an occupational dwelling. New accommodation in the location does not therefore accord with PPS7. Paragraph 21 of PPS7 states that "Nationally designated areas comprising National Parks, the Broads, the New Forest Heritage Area and Areas of Outstanding Natural Beauty (AONB), have been confirmed by the Government as having the highest status of protection in relation to landscape and scenic beauty. The conservation of the natural beauty of the landscape and countryside should therefore be given great weight in planning policies and development control decisions in these areas". A mobile home on this site would have a harmful impact on the landscape and would not contribute to the economic and social well-being of these designated areas.

Planning Policy Statement 3 at paragraph 33 states that "At the local level, Local Development Documents should set out a strategy for the planned location of new housing which contributes to the achievement of sustainable development". It states that Development Plans should bring forward sufficient land of a suitable quality in appropriate locations. Colchester's Adopted Core Strategy (December 2008) seeks to direct development to sustainable locations in accordance with Policies SD1 (Sustainable Development Locations) and H1 (Housing Delivery). Other than identified growth areas this includes no requirement for additional housing development on Greenfield land.

Core Strategy Policy ENV1 (Environment) states that "Unallocated Greenfield land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough". Following the adoption of the Site Allocations DPD (October 2010), the LDF Proposals Map (October 2010) shows that this site remains outside of the Dedham Village Settlement Boundary. The site is therefore a Greenfield site which should benefit from protection under Policy ENV1.

Policy DP22 (Dedham Vale Area of Outstanding Natural Beauty) of Colchester's Adopted Development Policies DPD (October 2010) states that development will only be accepted in this area where:

- "i) It makes a positive contribution to the special landscape character and qualities of the AONB
- ii) Does not affect the character, quality views and distinctiveness of the AONB or threaten public enjoyment of these areas, including by increased vehicle movement
- iii) Supports the wider environmental, social and economic objections as set out in the Dedham and Stour Vale AONB and Stour Valley Management Plan". The siting of a mobile home in this location would fail to accord with the above criteria.

Although not part of the statutory Development Plan the Dedham Village Design Statement has also been adopted by the Council and seeks to resist this form of development outside of settlement boundaries. Specifically it is stated that "the open spaces between settlements must be maintained thus keeping the rural nature of the village and protecting the AONB."

The conservation area status of the site also means Planning Policy Statement 5 (Planning for the Historic Environment) and Policy DP14 (Historic Environment Assets) of Colchester's Adopted Development Policies DPD (October 2010) are relevant. Policy DP14 states that "Development will not be permitted that will adversely affect a listed building, a conservation area, historic park or garden or important archaeological remains." The development would be unlikely to preserve and enhance the conservation area as required by PPS5 and Policy DP14. In this respect, and with regard to its location outside of the settlement boundary and within the AONB, the development also appears unlikely to accord with Core Strategy Policy UR2 (Built Design and Character) (December 2008) or Development Policy DP1 (Design and Amenity) of Colchester's Adopted Development Policies DPD (October 2010) which require development to be appropriate in its context. The site does not appear to include a controlled or owned right of access to a highway. The most obvious route for access is using the line of Public Footpath 18 Dedham which is contrary to Circular 01/09.

- 5.3 The injunction was the subject of a further hearing and His Honour Judge Newton subsequently varied the injunction (court notice dated 26th September 2011) to hold part 'b' from taking effect pending the outcome of an appeal into an associated enforcement appeal.

6.0 Consideration

- 6.1 The securing of an injunction order in July 2011 has been followed by significant ongoing investigation involving the Planning Service as additional unauthorised activity has continued to occur meaning that the situation on site has been evolving. Currently three caravans have been brought onto site in defiance of the Court and the relevant injunction, part 'a'. This fast moving situation has meant that this report is being presented as soon as practical.

7.0 Conclusion

- 7.1 The evolving situation and the fact that a Court Order has now been flouted such as to constitute a Contempt of Court indicates that the urgent action to secure an injunction was an appropriate step to take and was justified in terms of seeking remedy for a situation that was likely to move quickly. Members are asked to note the action taken to date and agree that the action continues to be supported by the Committee.

8.0 Strategic Plan References

- 8.1 This action meets the Council's Corporate Objective to be greener and cleaner in that it relates to the protection of the character of the countryside which in this area falls within an Area of Outstanding Natural Beauty from alien and unacceptable development. It is noted that of the nine Corporate priorities in the Strategic Plan one has more of a potential connection with this action. - Homes for All. Whilst the Council is looking to play its part in helping to deliver homes for all (whether directly or indirectly through the planning system and the delivery of affordable housing) this does not extend to permitting unauthorised residential uses contrary to its adopted planning policies.

9.0 Publicity Considerations

9.1 A number of meetings have been held with the occupiers/owners of the site and separate meetings with complainants have also occurred.

10.0 Financial Implications

10.1 None beyond the additional court/legal costs associated with pursuing the action

11.0 Equality and Diversity

11.1 This case does not involve gypsy or traveller considerations

12.0 Human Rights Implications

12.1 Mr & Mrs Pryke were until recently living in tents on the site with their children as they report being homeless. The injunction was granted by the court in the light of all material considerations. The bringing onto the site of three caravans is an action prohibited by the injunction order and the Prykes are now in contempt of court. Discussions have been held with the Housing Service and the Prykes with a view to identifying interim support but any offer has been rejected.

13.0 Community Safety Implications

13.1 The unauthorised use requires that the two cars and associated motorbikes used by the occupier/s access the site via public footpath no 18. This poses a potential safety hazard to walkers. Additionally some local people have expressed anxiety about using the footpath because of the presence of the family.

14.0 Health and Safety Implications

14.1 As described in 13.1 above. Members will no doubt want to see the matter concluded before winter sets in.

15.0 Risk Management Implications

15.1 Having taken urgent action to prevent the intensification of the unauthorised use and having seen the injunction ignored by the occupiers the risk management implications of not taking action are that the occupiers become established on the site or seek to brought additional structures onto the site or even try and create a permanent built presence.

Background Papers

Injunction Order and variation

Injunction Order

Between Colchester Borough Council Claimant
and Mr and Mrs Pryke Defendants

| | |
|---|-------------|
| In the Chelmsford County Court | |
| Case No. | 1CO00626 |
| Claimant's Ref | RS/Dedham |
| Defendant's Ref | |
| Issued on | 1 July 2011 |

Mr and Mrs Pryke
 Land east of Brook Street, Dedham
 Colchester

If you do not obey this order you will be guilty of contempt of court and you may be sent to prison


On 1 July 2011 the court considered an application for an injunction

The Court ordered that Mr and Mrs Pryke are

- a. Forbidden from developing the land east of Brook Street Dedham, placing any mobile home / demountable building on it or erecting any structure
- b. Ordered to remove any such development / mobile home / demountable building or structure that they have already put on the land ~~within 7 days of this order~~
by 15th September 2011

This order shall remain in force until varied or discharged by further order of the court. Permission to apply.

No order as to costs

So ordered


If you do not understand anything in this order you should go to a Solicitor, Legal Advice Centre or a Citizens' Advice Bureau

[Signature]

General Form of Judgment or Order

| | |
|--|-------------------|
| In the Chelmsford County Court | |
| Claim Number | 1CO00626 |
| Date | 26 September 2011 |



| | |
|----------------------------|--|
| COLCHESTER BOROUGH COUNCIL | 1st Claimant Ref RS/DEDHAM |
| MR & MRS PRYKE | 1st Defendant Ref |

Before His Honour Judge Newton sitting at Chelmsford County Court, Priory Place, New London Road, Chelmsford, Essex, CM2 0PP.

Upon hearing the Defendant in person and hearing the Solicitor for the Claimant

And upon reading the application dated 11 August 2011

And upon the Court being informed that the planning Appeal Inspectorate have accepted for consideration appeal of Mr and Mrs Pyke

IT IS ORDERED THAT

1. Paragraph 6 of the order dated 01 July 2011 be dispensed until the determination of the appeals with the Planning Inspectorate.
2. The case be re-listed for further consideration before His Honour Judge Newton on a date to be advised, over the Determination from the planning appeals has been published.
3. Costs in the application.

Dated 19 September 2011



Colchester Borough Council Development Control

Advisory Note on Parking Standards

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

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

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

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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