

Planning Committee

Council Chamber, Town Hall
5 February 2009 at 6:00pm

This committee deals with

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

Information for Members of the Public

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

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Material Planning Considerations

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

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

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

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

Human Rights Implications

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

Community Safety Implications

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

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
5 February 2009 at 6:00pm**

Members

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

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

Agenda - Part A

(open to the public including the media)

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

Pages

1. Welcome and Announcements

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

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

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

2. Have Your Say!

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

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

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

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

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

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

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

6. Minutes

To confirm as a correct record the minutes of the meeting held on 22 January 2009.

7. Planning Applications

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

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| 1. 082101 Park Farm, Coopers Lane, Dedham
(Dedham and Langham) | 6 - 11 |
| Provision of a manege. | |
| 2. 082064 Stanway Green Lodge, Stanway Green, Stanway
(Stanway) | 12 - 22 |
| Extension and alteration to upgrade existing facilities to current standards and increase number of residents from 27 to 30.
Resubmission of 081655. | |
| 3. 081947 143 Coast Road, West Mersea
(West Mersea) | 23 - 26 |
| Removal of wall and replace with posts and chain. | |
| 4. 081997 Dawes Lane and East Mersea Road, West Mersea
(West Mersea) | 27 - 30 |
| Construction of new access to allotment site. | |
| 5. 082102 Turkey Cock Lane, Eight Ash Green
(West Bergholt and Eight Ash Green) | 31 - 39 |
| Use of buildings for the sale of antique, secondhand and new furniture. | |
| 6. 082110 342 London Road, Stanway
(Copford and West Stanway) | 40 - 45 |
| Restaurant signage including post signs, walls signs, 'A' board and illuminated lantern. | |
| 7. 082111 342 London Road, Stanway
(Copford and West Stanway) | |
| Listed building application for proposed signage, replacing existing signs. | |

- | | | |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| 8. | 081848 Halstead Road, Eight Ash Green
(West Bergholt and Eight Ash Green) | 46 - 55 |
| | Reserved matters for Plots 13, 14 and 15 pursuant to Outline Consent O/COL/02/0306. | |
| 9. | 081938 3 Priory Street, Colchester
(Castle) | 56 - 63 |
| | Continued use of building and rear amenity area for worship. | |
| 10. | 082051 Chapel Road, Tiptree
(Tiptree) | 64 - 67 |
| | Replace existing 15 metre column and 3 spine mounted antenna with a new 15 metre mini macro column with small headrame with 6 antenna and 4 new Flexi BTS units on a pole mounted support column on the existing tower base. | |
| 8. | Injunctive Action // Roxis, 118 High Street, Colchester | 68 - 80 |
| | See report by the Head of Environmental and Protective Services | |
| 9. | Enforcement Action // Wine Me Up, 35 North Hill, Colchester | 81 - 84 |
| | See report by the Head of Environmental and Protective Services | |
| 10. | Enforcement Action // Afro Caribbean Hairdresser, 25 Barrack Street, Colchester | 85 - 87 |
| | See report by the Head of Environmental and Protective Services | |
| 11. | 080879 Minor Amendments to Planning Permission // 13 Stanley Road, Wivenhoe | 88 - 92 |
| | See report by the Head of Environmental and Protective Services | |
| 12. | 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

22 JANUARY 2009

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

Substitutes:- Councillor Manning for Councillor Hall
Councillor Sykes* for Councillor Chuah.

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

188. Minutes

The minutes of the meeting held on 8 January 2009 were confirmed as a correct record.

Councillor Gamble (in respect of his membership of the same branch of the Rotary Club as the public speaker, David Priest) declared his personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

189. 082056 Site at corner of Norman Way and Lexden Road, Colchester

The Committee considered an application for prior approval for the erection of a 9.0 metre replica telegraph pole mast supporting a shrouded antennae unit containing three antennae, overall height including antennae support of 12 metres, radio equipment housing and ancillary development.

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

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

David Priest addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He objected to the proposal on the basis that the technology of mobile phone masts had not been proved safe. It was significant that objections had been raised by medical professionals. The precautionary approach for approving mobile phone masts acknowledged health concerns by requiring schools to be consulted in circumstances where the beam of greatest intensity would fall on school grounds. The site was close to a number of schools and over 1800 pupils would pass this location twice a day. The location was also near a conservation area and PPG15 stated that masts should not be located in conservation areas and areas adjacent to them. He expressed concern that that Hilly Fields had not been fully investigated as an alternative site.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. He explained that the ward councillors had conducted widespread consultation with residents about this application and that there was widespread opposition to the proposal. Over 11% of households in east Lexden had indicated their opposition. The views of those who worked or studied in Lexden were also important and there was also opposition amongst these groups. There was widespread rejection of the government's position on health risks and there was concern that the precautionary approach advocated by government was being violated as the proposed location was close to a number of schools and in particular was on the main pedestrian and vehicular access to two schools.

Members of the Committee expressed a number of concerns about the proposal. The approach to assessing health risks set out in the report was noted, together with the fact that the emissions would be within ICNIRP guidelines. However, the Committee also took account of the precautionary approach and that if mobile phone masts were proposed to be located in school grounds, this could only be done with the consent of the school after consultation with parents. The Committee also took account of the draft Circular, Land Use Planning and Electromagnetic Fields, which accepted the validity of public perception of danger as a material planning consideration. The Committee noted that this particular location was close to four schools and was at the junction of Norman Way and Lexden Road which was the main access to two schools and a link to a third. Therefore a very large number of children would pass through the beam of greatest intensity on a twice daily basis. Given these factors, which were unique to this particular location, placing the mast at this point would result in a public perception of danger to health. The need for better coverage in the area was accepted and the ward councillors indicated their willingness to work with the applicant to find a more suitable location.

The Committee considered whether it should defer its consideration of the application for further consideration of alternative sites but noted that applications for prior approval needed to be determined within a fifty-six day period and would be granted if not determined. There was therefore no scope to defer.

Concern was also expressed about the visual impact of the proposal on the amenity of the area. There were already a number of signs, telecommunication boxes and other street furniture in the immediate vicinity of the location. An additional mast and box would only add to the clutter of street furniture and would have a detrimental impact on residential amenity.

RESOLVED that prior approval was required and be refused for the following reasons:-

- (i) Public perception of health dangers having regard to the proximity to a number of schools and the large number of school children who regularly use the section of Norman Way where the beam of greatest intensity would fall (NINE voted FOR and THREE ABSTAINED from voting);
- (ii) Unacceptable visual impact due to cumulative clutter of street furniture and resulting detrimental impact on residential amenity (NINE voted FOR and THREE ABSTAINED from voting).

In addition the applicant to be advised that Local Planning Authority was willing to negotiate to secure a suitable alternative site in the locality.

190. 081852 Hawkins Road, Colchester

The Committee considered an application for the erection of 63 residential units and 823 square metres of commercial floorspace with associated car parking and provision of river walkway connecting with Colne Causeway on land known as the Aim Hire site, Hawkins Road Colchester. The site formed part of the East Colchester Regeneration Area. The application was a resubmission of 080021.

The Committee had before it a report in which all information was set out, together with additional information 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.

Members of the Committee requested that an additional condition be imposed requiring that all balconies be accessed via sliding doors, as these allowed the maximum use to be made of the balcony.

RESOLVED (ELEVEN voted FOR and ONE voted AGAINST) that the application be deferred in order that the written recommendation of the Environment Agency be received by the Council. If the Environment Agency did not raise an objection to the proposal (with or without the imposition of conditions) the Head of Environmental and Protective Services be authorised to issue a delegated planning permission, subject to the conditions set out in the report and additional conditions to deal with landscaping requirements and requiring sliding doors to serve balconies, following completion of the Section 106 Agreement as described in the report.

In the event that the Environment Agency objected to the proposal, the Head of Environmental and Protective Services be authorised to issue a delegated refusal of the application on the grounds identified by the Agency.

191. 081918 3 Darcy Road, Colchester

The Committee considered an application for revisions to dwelling approved on Plot 1 of development granted permission under 071668.

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

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

192. 081820 49-51 North Station Road, Colchester

The Committee considered an application for the retention of a kitchen extractor fan and flue located on the rear wall of the property. The existing flue was positioned against a gable wall and rises to a height of around 7 metres.

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

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

Steve Garrett addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He expressed concern that the lack of

control of development around his property had had a serious impact on his property. He had not complained before because he had assumed it had planning permission. This extractor was one of at least three in adjacent buildings. It was noisy, smelly and unsightly. The constant low level noise it emitted interfered with his quiet enjoyment of his property. He did not consider the proposal to paint it black would improve the situation significantly as it would not deal with issues of noise and odour.

Akin Hunter addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He appreciated that the extractor was unsightly. However this was a consequence of the work done at the request of Environmental Health to attenuate the noise issue. It could not be made less unsightly without compromising the efficiency of the extractor. However painting it black would make it less obtrusive. There were a number of take away food establishments in the area that contributed to the issues of odour and noise.

Members of the Committee expressed sympathy for the concerns expressed by Mr Garrett. The Committee discussed whether the extractor could be screened by soft landscaping. However, it was noted that there was insufficient room for the planting of any landscaping and the Committee took the view that the proposed conditions offered the best practical solution.

RESOLVED that the application be approved with conditions and informatives as set out in the report (TEN voted FOR and TWO ABSTAINED from voting).

193. 082064 Stanway Green Lodge, Stanway Green, Colchester

The application was withdrawn by the Head of Environmental and Protective Services in advance of the meeting.

194. 081940 220 Maldon Road, Colchester

The Committee considered an application for the erection of a building in the rear garden of 220 Maldon Road, Colchester comprising a one bedroom annexe to provide accommodation for elderly parents.

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

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

195. 081945 269 Bergholt Road, Colchester

The Committee considered an application for a change of use of the ground floor of the premises from an office to a beauty therapist studio.

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

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

196. Performance Monitoring Report // Planning application determination, an appeals analysis update and a planning agreement performance update for the period 1 October to 31 December 2008

The Head of Environmental and Protective Services submitted a report setting out the achievement levels for planning applications determined, an appeals analysis update and a planning agreement performance update for the period 1 October to 31 December 2008.

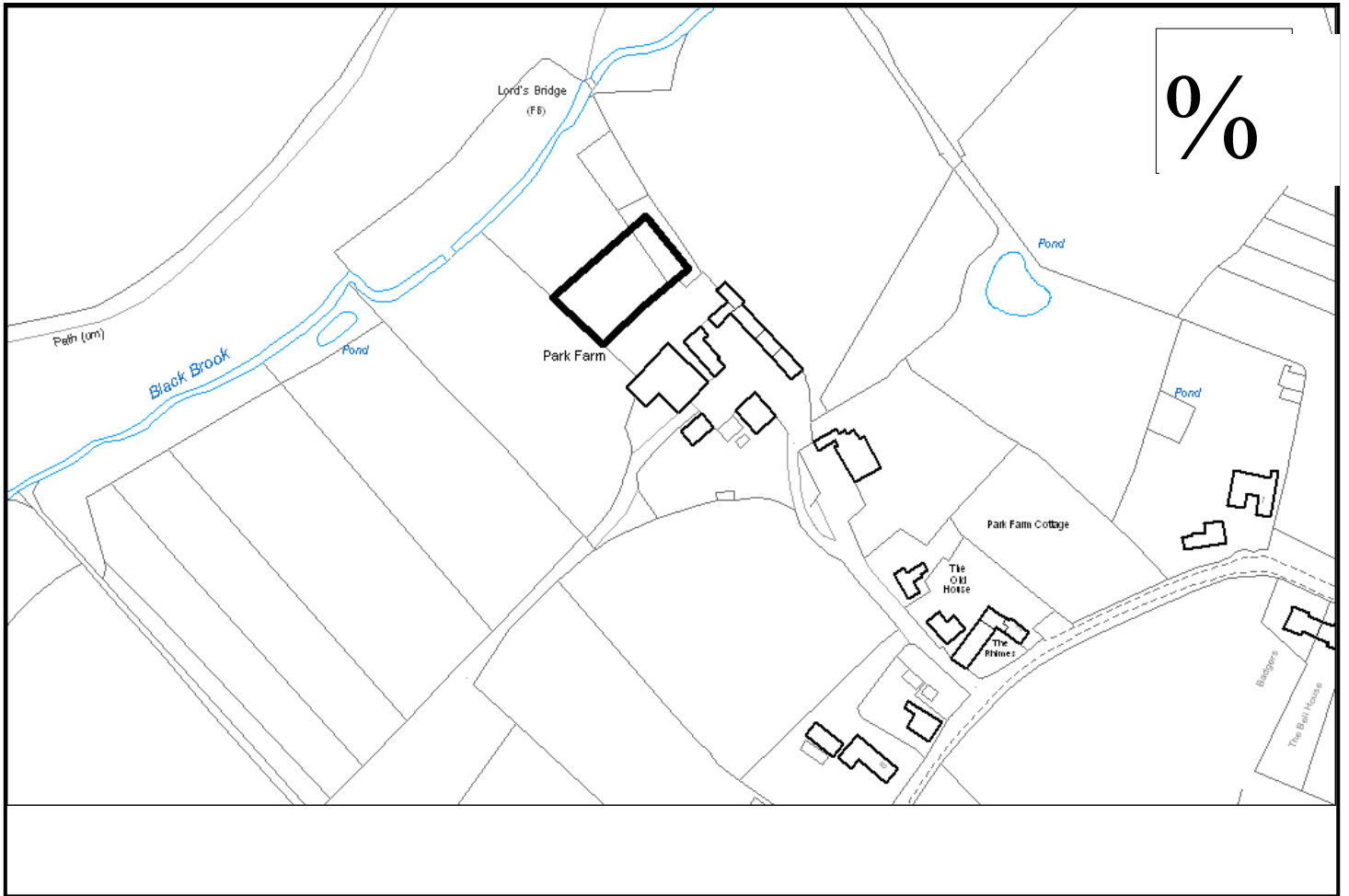
David Whybrow, Development Manager, attended to assist the Committee in its deliberations. He explained that:

- 'Major' application performance fell from 'above' to 'just below' the Government target in the period 1 October 2008 - 31 December 2008;
- 'Minor' and 'other' application performance continued to significantly exceed the relevant Government targets in the same period;
- The number of planning applications received had continued to drop and was below the number recorded in the previous quarter. There was evidence that the decline had plateaued;
- Appeals record (formerly BV204) had slipped since the previous quarter but overall remained on target (ie since April 2008);
- The delegated decision rate was reasonable but was below the 90% target;
- Legal agreement financial contributions receipts were significantly down.

Members of the Committee considered that the performance of the planning service over the period 1 October – 31 December 2008 had been very good, given the challenging economic climate. The Committee asked that in future reports, where details were given of successful appeals, it be made clear whether the original decision was taken under delegated powers or by Committee. The Committee also noted the delegated decision rate was below the national average and asked that consideration be given to amending the scheme of delegation so that it covered cases where objections were received but which did not raise significant planning issues. Ward Councillors would retain the ability to call applications in where necessary.

RESOLVED that:-

- (i) the report be noted;
- (ii) in future reports, where details were given of successful appeals, it be made clear whether the original decision was taken under delegated powers or by Committee;
- (iii) consideration be given to extending the scheme of delegation including those cases where objection were received but which did not raise significant planning issues.



Application No: 082101

Location: Park Farm, Coopers Lane, Dedham, Colchester, CO7 6AX

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **5 February 2009**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

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

7.1 Case Officer: Nick McKeever

EXPIRY DATE: 14/02/2009

MINOR

Site: Park Farm, Coopers Lane, Dedham, Colchester, CO7 6AX

Application No: 082101

Date Received: 19th December 2008

Agent: Edward Gittins & Associates

Applicant: Mr Andrew Easey

Development: Provision of a manege

Ward: Dedham & Langham

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The site forms part of a working horse stabling facility located at Park Farm, with access off Coopers Lane, Dedham. The overall setting is one of a number of stables, sheds and other ancillary equipment, car parking and an extensive area of grassland, most of which is subdivided by fences to form individual paddocks.

- 1.2 There is a small group of dwellings located at the top of the access to Park Farm, together with an individual dwelling known as Park Farm. This dwelling formed the original farmhouse, with most of the related land being sold off. To the north of the proposed site is Black Brook, the southern bank of which is lined by established tree.
- 1.3 The application seeks permission to create a manege on a part of the existing grassland to the north-west of the existing stables and other associated buildings. The area of this parcel of land is given as 0.08 hectares. The manege is to be enclosed by timber post and rail fencing. The surface is to comprise rubber strip over sand, gravel and stone.
- 1.4 The application is supported by a brief Design & Access Statement together with a Tree Survey, Arboricultural Implication Assessment & Method Statement. These documents can be viewed on the Council website.

2.0 Land Use Allocation

- 2.1 Countryside Conservation Area
AONB

3.0 Relevant Planning History

- 3.1 072313 – Use of former agricultural land for the stabling and grazing of horses – Approved without conditions – 22 November 2007
- 3.2 080363 – Replacement building to form two bedroom dwelling – Withdrawn 15 April 2008
- 3.3 80/0790 – Outline application for conversion of coach house and loft to form a dwelling for an agricultural worker – Refused 11 August 1980
- 3.4 81/0528 – Outline application for demolition of lean-to in part and renovation of the Old Coach House and loft to form single dwelling for agricultural worker – Refused 26 May 1981
- 3.5 Change of use from barn storage to boarding kennels for 10-15 dogs – Approved Conditional 29 November 1982

4.0 Principal Policies

- 4.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Countryside Conservation Area – C03
Dedham Vale AONB – C02

5.0 Consultations

- 5.1 The Landscape Officer comments that the proposal would appear not to have any substantially detrimental effect on public amenity in landscape terms and raises no objection.

5.2 The Council's Arboricultural Officer comments that, as far as can be seen from the plan submitted as part of the Tree Survey, the proposed manege has no significant impact upon trees to be retained.

6.0 Parish Council's Views

6.1 Dedham Parish Council comment that:-

"The Parish Council Planning Sub-committee have considered this application and have no objection. However because of its close proximity to the Blackbrook and in consideration of an Application in Boxhouse Lane for a similar Menage we wish to maintain continuity in our approach and request a condition setting out that any horse manure removed from the Menage is stored elsewhere away from the stream to minimise contamination".

7.0 Representations

7.1 The occupier of Park Farm has submitted a lengthy representation, which can be viewed in its entirety on the Council website. The comments are summarised as follows:-

- Her home is immediately adjacent to the Farm Yard and part of the associated farmland and is the only property that could be affected;
- The application incorrectly states that the facility is to be in a corner of the site alongside established hedges. The land owner has removed many of the hedges on the property generally and has felled a number of trees on the land overall.
- Most of the stables are rented out to people who pay for the their use and for grazing of their horses or ponies. The farm yard can accommodate at least 4 cars but at present there are at least 3 horse boxes in the farm yard.
- If permission is granted there could be long-term repercussions I.e. additional people paying to use the manege, possible floodlighting and more traffic along Coopers Lane and travelling past her house.
- Should permission be granted conditions should be imposed upon the hours of use Monday to Friday 8:00 am to 5:00 pm and Saturdays 8:00 am to 12:30 pm, and not on Sundays; no floodlights permitted; the use restricted to those people who currently stable or graze their horses at Park Farm.

7.2 The occupier of The Rimes, Coopers Lane, has submitted the following comments:-

- Any increase in the traffic, particularly horse transporters, will increase the hazard to existing users and her property. If the Authority sees fit to approve the application the use of the manege should be restricted to horses normally stabled at Park Farm.
- The proposal as shown on the application documents have a surface level above the present ground level and will therefore make any horse jumps or other equipment more visible within the valley than if they would if used in the field at the present ground level
- Adverse impact of floodlights
- Adverse impact upon Dedham Vale.

8.0 Report

- 8.1 The land at Park Farm has a Lawful Use for the stabling and grazing of horses under a Lawful Use Certificate granted by the Council under reference 072313. The Certificate was granted on the basis that the Applicant had shown beyond reasonable doubt that the use for the stabling and grazing of horses had continued for at least 10 years.
- 8.2 This Certificate did not set out any restrictions on the numbers of horses that could be stabled or grazed upon the land.
- 8.3 Under these circumstances, and taking into account the representations made by the occupiers of Park Farm and The Rimes relating to any increased use and associated traffic using Coopers Lane, any permission should restrict the use of the manege to those people who currently use the existing facilities.
- 8.4 The Applicant has provided written confirmation that there is no intention to install floodlights. This should be restricted by an appropriate condition in the interests of residential and visual amenity of this sensitive landscape.
- 8.5 In other respects the comments made by the Landscape Officer and the Arboricultural Officer are acknowledged.
- 8.6 It is also recommended that any consent should be subject to a condition requiring the submission and approval of the proposed method for the storage and disposal of manure.

9.0 Background Papers

- 9.1 ARC; TL; PTC; NLR

Recommendation - Conditional Approval

Conditions

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

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

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

- 2 - A4.5 Stables - Scheme for Manure Storage and Disposal

Prior to the commencement of any work on site a detailed scheme for the storage of manure within the site and its subsequent disposal shall be submitted to and approved by the Local Planning Authority. The storage and disposal of manure shall be carried out in accordance with the approved scheme.

Reason: For the avoidance of doubt as to the scope of this permission and to ensure that the use does not cause harm to the amenity of the surrounding area.

3 – Non Standard Condition

No flood lighting and security lighting of the manege shall be installed unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of residential and visual amenity.

4 – Non Standard Condition

The use of the manege shall be limited to horses stabled or grazed at Park Farm.

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

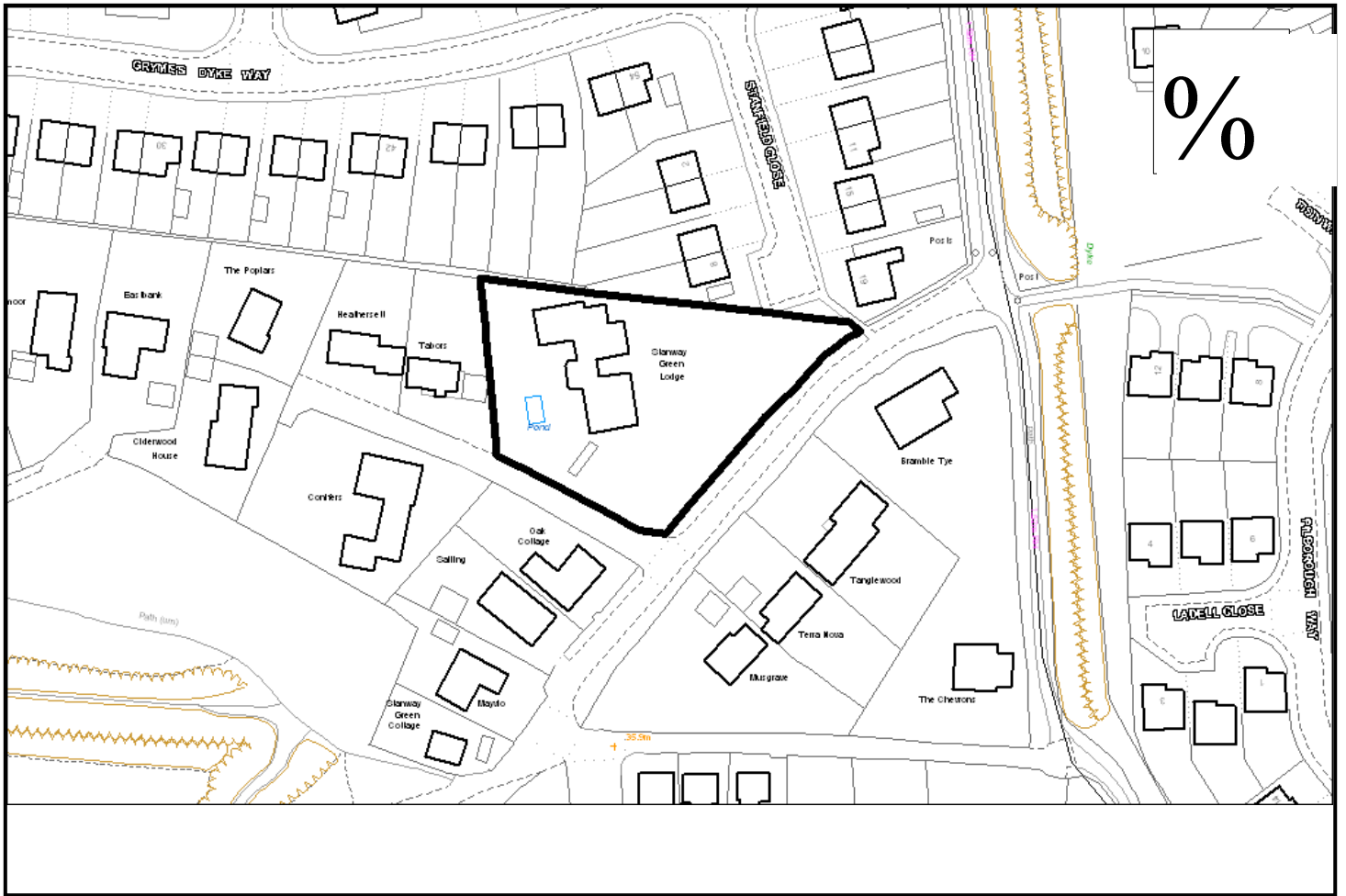
5 – Non Standard Condition

All horses to be transported to and from the site shall be by way of horse trailer and not by horse lorries.

Reason: In the interests of the amenity of the nearby residential properties.

Informative

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



Application No: 082064

Location: Stanway Green Lodge, Stanway Green, Stanway, Colchester, CO3 0RA

Scale (approx): 1:1250

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7.2 Case Officer: Mark Russell

EXPIRY DATE: 07/02/2009

OTHER

Site: Stanway Green, Stanway, Colchester, CO3 0RA

Application No: 082064

Date Received: 12th December 2008

Agent: Homa Design Ltd

Applicant: Stanway Green Lodge

Development: Extension and alteration to upgrade existing facilities to current standards and increase number of residents from 27 to 30. Resubmission of 081655.

Ward: Stanway

Summary of Recommendation: Conditional Approval

This item was withdrawn from Committee on 22 January 2009 due to a large number of late objections and it was not possible to inform all objectors of the Committee meeting.

Condition 09 has been amended and is shown in bold.

1.0 Planning Report Introduction

1.1 This application has been called in by Councillor Scott-Boutell as it is potentially divisive and she wishes for Committee to give it full consideration.

The application would have come to Committee anyway due to the receipt of objections.

2.0 Site Description

2.1 The site comprises a former dwellinghouse which has been incrementally extended to form a care home for 27 elderly residents. The site is reasonably well-screened from other properties by a selection of mature and semi-mature trees. This generally well-planted area is close to the Stanway Green Area of Special Character. The site is surrounded on all four sides by residential properties.

3.0 Description of Proposal

- 3.1 The proposal, as described above, is to alter and extend the existing care-home, thus increasing the number of residents from 27 to 30. This will be achieved by internal reconfiguration, which will have the result of increasing the size of the individual rooms and removing the double rooms, and by erecting a double-storey element to the front (approximately 64m²) and two single-storey elements to the rear (approximately 80m² and 55m² respectively).
- 3.2 The previous application (081655) was withdrawn on 29th October 2008 on the advice of the Case Officer as refusal was being recommended on the grounds of invasion of privacy of neighbours and the loss of trees.
- 3.3 This application was submitted shortly before the Christmas break, and therefore not all representations and consultation replies had been received at the time of writing. As this application is identical to the previous one, save for the new planting proposals, most of the issues are as then. Any subsequent comments prior to the Committee will be reported on the amendment sheets.

4.0 Land Use Allocation

- 4.1 Residential

5.0 Relevant Planning History

- 5.1 85/0871 - Change of use from single dwelling to residential home for eight elderly residents. Approved 22 July 1985;
- 5.2 85/1361 - Single storey rear extension and internal alterations. Approved 21st November 1985;
- 5.3 87/1198 - Alterations and extension to elderly persons home. Approved 7th September 1987;
- 5.4 94/0045 - Erection of extension to existing elderly persons home. Approved 10th March 1994;
- 5.5 98/0214 - To increase number of residents by 2 more than limit imposed by Condition 5 of COL/94/0045. 18th June 1998;
- 5.6 F/COL/00/0833 - Extension to elderly persons home. Approved 25th August 2000;
- 5.7 F/COL/02/2019 - Extension(s). Refused 17th January 2003, appeal dismissed 10th October 2003;
- 5.8 081655 - Extension and alteration to upgrade existing facilities to current standards and increase number of residents from 27 to 30. Withdrawn, 29th October 2008.

6.0 Principal Policies

- 6.1 Adopted Review Colchester Local Plan:
DC1- Development Control considerations;
UEA11 – Design;
UEA12 – Backland Development;
CO4 – Landscape Features;
H2 – Specialist Accommodation;
P1 – Pollution

Local Transport Plan.
Policy 3.5 in Appendix G

7.0 Consultations

- 7.1 The Highway Authority referred to its previous comments. In these it had not objected, but asked for conditions to protect the bridleway which acts as an access to the site. This should be supported by a £5,000 bond.
- 7.2 The Arboricultural Officer was satisfied with the report submitted by the applicant's specialist, and stated that "The recommendations for the replacement hedge are acceptable. All other comments as per previous consultation". These previous comments suggested conditions to protect trees and natural features on the site.
- 7.3 Environmental Control did not object, but asked that, should permission be granted for the development, an advisory note on demolition and construction be included.

8.0 Parish Council's Views

- 8.1 Comments from Stanway Parish Council are awaited. Stanway Parish Council was previously supportive of the scheme.

9.0 Representations

- 9.1 At the time of writing (7th January 2009), due to the Christmas break, fewer representations had been received than previously. Two letters of objection had been received from neighbouring properties (26 previously) and three letters of support (19 previously) from relatives of residents of Stanway Green Lodge. Many more representations of support and objection are expected before the committee date, and these will be reported on the amendment sheet.
- 9.2 Apart from the amended planting proposals, the issues now are as before, therefore the previous objections and responses are discussed below.
- 9.3 Many of the letters featured the same concerns, which are as follows:
1. Loss of trees;
 2. Loss of screening;
 3. Building too close to boundaries with resultant overlooking and noise/cooking smells to neighbouring properties;
 4. Cramped overdevelopment with an urban appearance;
 5. Pedestrian and cycle links are not "well lit" as has been claimed;

6. Overlooking issues to the front;
7. Concern over how firefighters would access the site;
8. Circulation space under part M of the Building Regulations would not be compliant;
9. High volume of traffic would further increase;
10. Undermining of rural/semi-rural character of the area;
11. Quality of life for those around it would be destroyed;
12. Highly prominent building in an elevated position is out of keeping with the area;
13. Previous application had been refused at appeal – this should also be refused;
14. Mix of traffic with horses on the bridleway not desirable;
15. Stanfield Close is used as a dropping-off area for staff and so on;
16. The extended property would be overbearing;
17. Damage to the bridleway by construction traffic;
18. Overlooking due to the fall of the land;
19. Volume of refuse already causes problems to health;
20. Property is not domestic in scale;
21. Claims that the site is readily accessible from a bus-stop are untrue;
22. General issues of existing noise from the home;
23. Existing parking issues;
24. Large vehicles already have problems entering the site;

9.4 All of the letters of support for the application were from people with relatives at the home, or who worked at the home or had some other association with Stanway Green Lodge. These all stated that the home was well run and that it would benefit from improved facilities.

10.0 Report

10.1 Objectors have often mentioned the appeal of the refused application F/COL/02/2019 which was eventually dismissed. This has also led to a belief that the words of the Inspector in her decision of 10th October 2003 were tantamount to an embargo on future extensions. Certainly the Inspector's decision must be heeded, and many of the issues then were as now, but a key difference was that that application was for two-storey elements all the way around – the current application seeks two single-storey elements to the rear, with a double-storey element to the front. This must be treated on its own merits, and whilst it is accepted that the original dwelling Stanway Green Lodge has all but disappeared, it would not appear advantageous to dwell too much on this simple principle of design if this now institutional building is to be well-screened from public view by trees. For the record, your Officer feels that the proposed extensions are acceptable in design terms.

10.2 Policies DC1 and UEA12 seek to protect the amenity of neighbouring properties, similarly Policy P1 seeks to protect neighbours from nuisance of noise or odours.

10.3 Against this we must consider Policy H2 which states: "H2 Proposals for the provision of specialist residential accommodation for vulnerable groups in the community, such as the mentally ill, disabled people, the elderly and young, single, homeless people, will be granted planning permission..." with certain provisos – such as amenity space and so on.

10.4 Here is a potential conflict – Existing residential amenity against the need to provide specialist accommodation.

- 10.5 If the proposed extensions could be accommodated without harming neighbouring residential amenity then they should be allowed. It is clear that an increase of three residents would make no appreciable difference in overall terms in relation to traffic or noise generation.
- 10.6 The extensions do seem to fill the plot, arguably uncomfortably so, and issues of reduced amenity space and proximity to neighbouring properties have been raised. On the first, no satisfactory planning guidance exists, and the applicants have intimated that due to mobility issues, very little garden space is required.
- 10.7 Key to the proposal is its affect on neighbouring residential properties. During the previous application the applicant offered a revised parking layout which now means that the trees on the boundary of Stanfield Close would be preserved, alleviating residential and visual amenity concerns along the northern boundary
- 10.8 Nearby Oak Lodge would also potentially suffer some loss of privacy due to the proposed removal of two small trees on the southern boundary of the development site. However, new specimens are proposed for this location which should help to alleviate this concern.
- 10.9 Of particular concern, however, is the potential effect on the dwellinghouse "Tabors". The applicant is proposing the removal of three trees which currently provide some screening, particularly in the summer months. The loss of these (essential to the development - the building would undoubtedly undermine many of these, which could lead to their future loss as a direct result of the development) would open up views from the existing first floor windows of Stanway Green Lodge, into the garden and curtilage of Tabors. Because of the fall of the land, the height of these windows is actually approaching the height of second floor windows and the incidence of overlooking and feeling overlooked would increase unless evasive measures are taken.
- 10.10 With this in mind a scheme of replanting has been discussed with the applicant.
- 10.11 Your Officer visited the site on 12th November 2008, and assessed the current level of overlooking from the ground and first floor levels, then with the use of measuring poles the potential effect of a replacement hedge at about two metres in height was assessed.
- 10.12 It was found that the existing tree cover was largely ineffective at the southern (house) end of the site, and clear views of Tabors' conservatory and parts of its garden were available in the winter months, with the lower branches of the twin poplars appearing to offer little in the way of screening. This is also the case even when in leaf (see photographs in the presentation, which were taken from Tabors in mid-September, long before any leaf-fall).
- 10.13 Further north, the Norway maple appears to offer satisfactory screening, assisted by other extraneous foliage around it.
- 10.14 At the furthest (northern) end there is virtually no screening at all, although the potential for overlooking is less here anyway, given the relative lack of high-level windows.

- 10.15 Purely in terms of privacy, therefore, the loss of the poplars, and in particular the Norway maple, would have a negative effect.
- 10.16 The proposal, as discussed with the applicant at length is, therefore, to plant an “instant hedge” of approximately two metres in height. The hedge, depending on species, would obviously grow each year, and would be conditioned to be maintained at a desirable height of about three metres.
- 10.17 The hedge would have the affect of immediately securing some privacy, which at the house end will be a great improvement for the winter months, and should be a slight improvement for the summer months.
- 10.18 The middle section of the garden would have altered views of Tabors. The solid mass of the Norway maple would be gone, and in its place would be a lower hedge, but which would be higher than the current growth in the areas surrounding the maple. In the winter months this is seen as a slight gain, although in summer its effect is likely to range from neutral to slightly negative.
- 10.19 Finally, at the northernmost end, the hedge would have the instant effect of securing an as yet non-existent privacy.
- 10.20 Photographs are included in the Committee presentation which show the current scenario, and indications of where the line of sight would be with an initial two metre hedge, and then an eventual three metre hedge.
- 10.21 There is some public visual element to this too, with trees of eight, ten and eleven metres in height being tabled for removal. This fringe of trees, which is along the boundary with Tabors, clearly does form part of the sylvan character of the area. The arboricultural consultant has classified these trees on the boundary with Tabors as being grade C (our arboricultural Officer advises us “Category C trees will usually not be retained where they would impose a significant constraint on the development as is the case in this instance. The actual categorisation is in terms of the tree and basically advises that C category trees are downgraded because of impaired condition, presence of defects that, whilst not immediately hazardous or detrimental, do significantly limit the trees’ safe useful life, due to previous unsympathetic management, pruning etc.”)
- 10.22 Regarding the objections, many of the points raised have been dealt with in this section, a few points still require clarification. These are numbered in reference to the numeration in the objections section:
3. Cooking odours are a potential issue, but can be overcome by careful mitigation measures. The proposed “general waste and recyclable waste store” seem to be sensitively placed, across the track from Oak Lodge, rather than being close to a boundary. This is not to say that some noise nuisance is not possible;
 5. This may be a valid point, but the success or failure of this application does not hinge upon it;
 7. This is noted, but the Highway Authority has not objected;
 8. Building Regulations are, indeed, outside of the remit of Planning;
 14. The horse/vehicle mix is an existing one, not least with vehicles belonging to nearby residences;

17. If permission is granted, the applicant will be required to provide a bond to be held against any required repairs to the bridleway;
19. This is covered by separate legislation;
21. As with point 5. above, the success or failure of this application does not hinge upon this. For the record, however, the bus route does seem distant from the application site;
23. The applicant is offering eleven parking spaces, this is an increase of two, and thus a proportionate increase. In terms of the Essex Planning Officers Association's Vehicle Parking Standards (August 2001), the scheme is arguably slightly deficient (30 rooms + the equivalent of nine full-time members of staff should mean just over twelve spaces), but the offering is an improvement on the current state of play.

11.0 Conclusion

- 11.1 This application seeks to maintain, and slightly increase, specialist accommodation for a vulnerable group. The necessary loss of the trees, some of which appear to have formed part of planting conditions for previous permissions, is noted. However, it is held that these do not provide adequate screening, especially in winter, and the proposed hedge would, in some ways, be an improvement. It is accepted that the view from Tabors would be altered, and that the hard edge of the roof may be visible where it was not previously, however this is not held to outweigh the other considerations and the application is therefore recommended for approval.

12.0 Background Papers

- 12.1 ARC; HA; TL; HH; PTC; NLR

Recommendation - Conditional Approval

Conditions

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

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

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

- 2 – Non-Standard Condition

The residential home as initially permitted under permission 85/0871, and hereby extended, shall have no more than 30 (thirty) residents living in it at any one time.

Reason: Colchester Borough Council has granted permission on the basis that individual room sizes need to be increased, and does not wish to see a further intensification of this site.

3 – Non-Standard Condition

Prior to the commencement of development, the applicant shall undertake a survey of the Bridleway running between the end of the Green and the application site access point, to the satisfaction of the Highway Authority. On the completion of development the same method of survey shall be carried out to assess any damage.

Reason: Access to the development site is along a public right of way known as Bridleway 17, Stanway. Whilst the Highway Authority has no objection to the principle of the development, the construction process could, through delivery of materials and passage of construction traffic, cause damage to the Bridleway surface over and above that caused through normal user passage. This bond is required in order to rectify excessive damage and wear having regard to Policy 3.5 in Appendix G to the Local Transport Plan of Essex County Council.

4 - Non-Standard Condition

Prior to the commencement of development, the applicant shall provide the Highway Authority with a £5,000 bond for use in connection with extraordinary maintenance required as a result of the construction traffic.

Reason: Access to the development site is along a public right of way known as Bridleway 17, Stanway. Whilst the Highway Authority has no objection to the principle of the development, the construction process could, through delivery of materials and passage of construction traffic, cause damage to the Bridleway surface over and above that caused through normal user passage. This bond is required in order to rectify excessive damage and wear having regard to Policy 3.5 in Appendix G to the Local Transport Plan of Essex County Council.

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

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

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

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

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

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

7 -C10.18 Tree and Hedgerow Protection: General

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

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

8 - Non-Standard Condition

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

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

9 - Non-Standard Condition

Notwithstanding the annotation on the drawings hereby approved, the applicant shall, prior to the commencement of development, submit, in writing, details of the type of instant hedge on the boundary to Tabors, to the Local Planning Authority. These details shall be agreed, in writing, by the Local Planning Authority and shall be implemented as such, and retained in perpetuity. The hedging shall be planted at no less than two metres in height, and shall not be reduced in height until a height of three metres has been reached. Having reached such a height it shall not be reduced to below three metres at any point.

Reason: Whilst the principle of such planting has been agreed, Colchester Borough Council is keen to ensure that the hedging offers sufficient screening and is of a type which can be satisfactorily maintained.

10 - Non-Standard Condition

With the exception of the hedging mentioned in the above condition 9, which shall be amended from the drawings hereby approved, all planting shown on the drawings hereby approved shall be as per these drawings, and shall be planted in the first planting season following substantial completion of the development hereby approved.

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

11 - C11.12 Landscape Works Implementation

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

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

12 - Non-Standard Condition

Prior to the commencement of development, the applicant shall place a solid screen fence, of a minimum of 1.8 metres in height, along its boundary with Tabors. This fence shall remain in place until the commencement of hedge planting on that boundary, and shall only be removed concurrently with this planting.

Reason: To afford the inhabitants of that property a reasonable amount of privacy during construction and prior to the hedge planting.

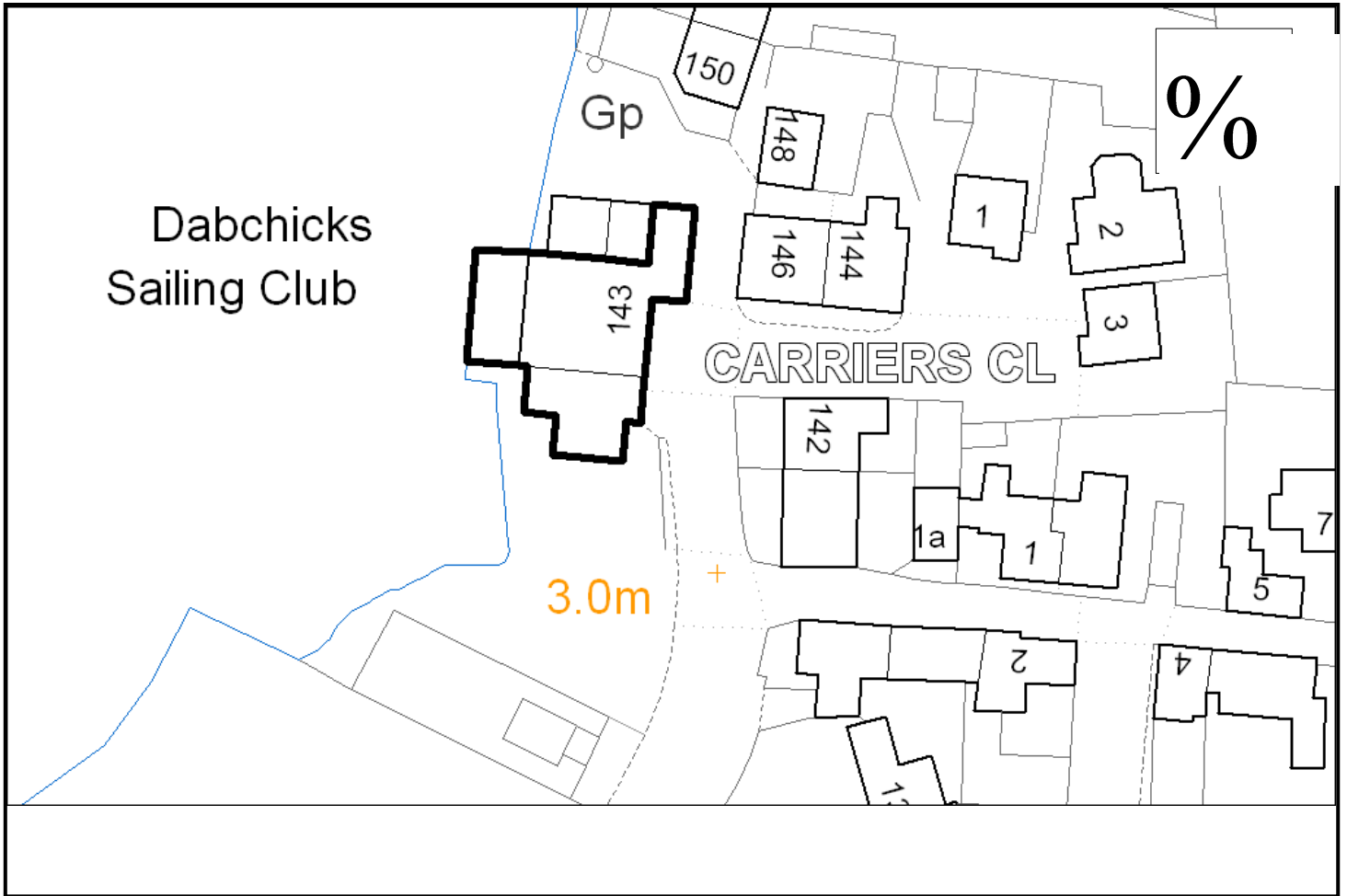
13 - Non-Standard Condition

Car parking for the development shall be as illustrated on the plans hereby approved, and shall be put into place prior to the development hereby permitted being brought into use. The spaces shall be used solely for their designated purpose.

Reason: In order to provide adequate parking for workers and visitors to the site.

Informatives

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



Application No: 081947

Location: Dabchicks Sailing Club, 143 Coast Road, West Mersea, Colchester, CO5 8NX

Scale (approx): 1:1250

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Site: 143 Coast Road, West Mersea, Colchester, CO5 8NX**Application No:** 081947**Date Received:** 18th December 2008**Applicant:** Mr Edward Allan**Development:** Removal of wall and replace with posts and chain**Ward:** West Mersea**Summary of Recommendation:** Conditional Approval

1.0 Site Description

- 1.1 The Dabchicks Sailing Club is located at the northern end of the Coast Road, West Mersea. It includes a two storey building with an apron for the storage of boats immediately to the south of this building. The boundary to the site is formed by a low brick wall. Residential properties lie to the north, east and to the south-east of the site.
- 1.2 The application proposes the removal of this wall and its replacement by 3 posts linked by a single chain. The posts are steel, 1130mm high and with a galvanised finish due to the regular exposure to salt water. The existing post by the vehicular entrance is to be retained.
- 1.3 The applicant indicates the replacement of the wall is justified on the basis that this wall has become a maintenance problem due to the increased traffic from visitors, most of whom turn around at the junction beside the site. The low height of the wall means that it is not easily visible from within a car.

2.0 Land Use Allocation

- 2.1 Conservation Area covered by an Article 4 Direction.

3.0 Relevant Planning History

- 3.1 None

4.0 Principal Policies

- 4.1 Adopted Review Borough Local Plan
Development Control Considerations – DC1
Conservation Areas – UEA 1 & 2
Design - UEA11

5.0 Consultations

5.1 None

6.0 Town Council's Views

6.1 West Mersea Town Council comment that there is a strong objection to the proposed chains and ask that, having regard to the conservation area status together with the potential restriction of riparian rights, for the chain to be omitted and for wooden posts to erected. These should be placed close enough together to prevent vehicle access.

7.0 Representations

7.1 The occupier of 19 Firs Road objects on the basis that:-

- (1) This is an encroachment upon the Village Green, Registration No. VG247 and will violate the Enclosure Act of 1857. Also residents have the right to hang their washing on the village green and should not be expected to hurdle over the proposed barrier.
- (2) Effect riparian rights of access and egress
- (3) Under the Marine Bill Act this will affect the coastal path and spreading room which this village green is perhaps the ideal spreading room
- (4) Out of keeping with the conservation area
- (5) The cover of the Planning Handbook 1995 showed the open and accessible natural Coast Road free from barriers.

8.0 Report

8.1 The principle consideration in this particular case must be the impact of the proposed enclosure upon the character and setting of the conservation area, covered by an Article 4 Direction, and the impact upon the amenity of this part of the Coastal Road. The Article 4 Direction removes the normal rights to erect means of enclosure.

8.2 The existing low brick wall is of no particular merit and as such does not make a positive contribution to the setting of the conservation area.

8.3 The front boundary enclosures to the existing properties within this part of Coast Road are an eclectic mix with no uniform characteristic to them. On this basis the proposal to replace the existing wall with a series of posts linked by a low chain is acceptable in principle.

8.4 The onus upon development within a conservation area is that it should protect or enhance its setting and character. In this context the application as submitted does not provide sufficient details of the design of the posts. If Members are minded to approve the development it should be on the basis that full details of the design of the posts and chain should be submitted for prior approval.

8.5 Whilst the concerns of the Town Council and of the objector are acknowledged, it is considered that a low slung chain link between the posts would not present an impenetrable barrier to any people seeking to gain access onto this particular part of the Coast Road and would but would provide a sufficient deterrent to vehicles.

8.6 With regard to any encroachment onto the stated village green, this is not a matter for the Planning Authority and would not in its self prevent the granting of planning permission. The Applicant would need to seek the consent of the registered keepers of the green, although it is noted that the applicant has submitted Certificate A under Article 7 to the effect that nobody but the applicant was the owner of the land. The Applicant has stated that the site is not "Village Green" and the Sailing Club have a freehold to this land , which the Village Green is immediately adjacent.

8.7 This consideration would apply equally to the matter of any riparian rights.

9.0 Background Papers

9.1 ARC; PTC; NLR

Recommendation – Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

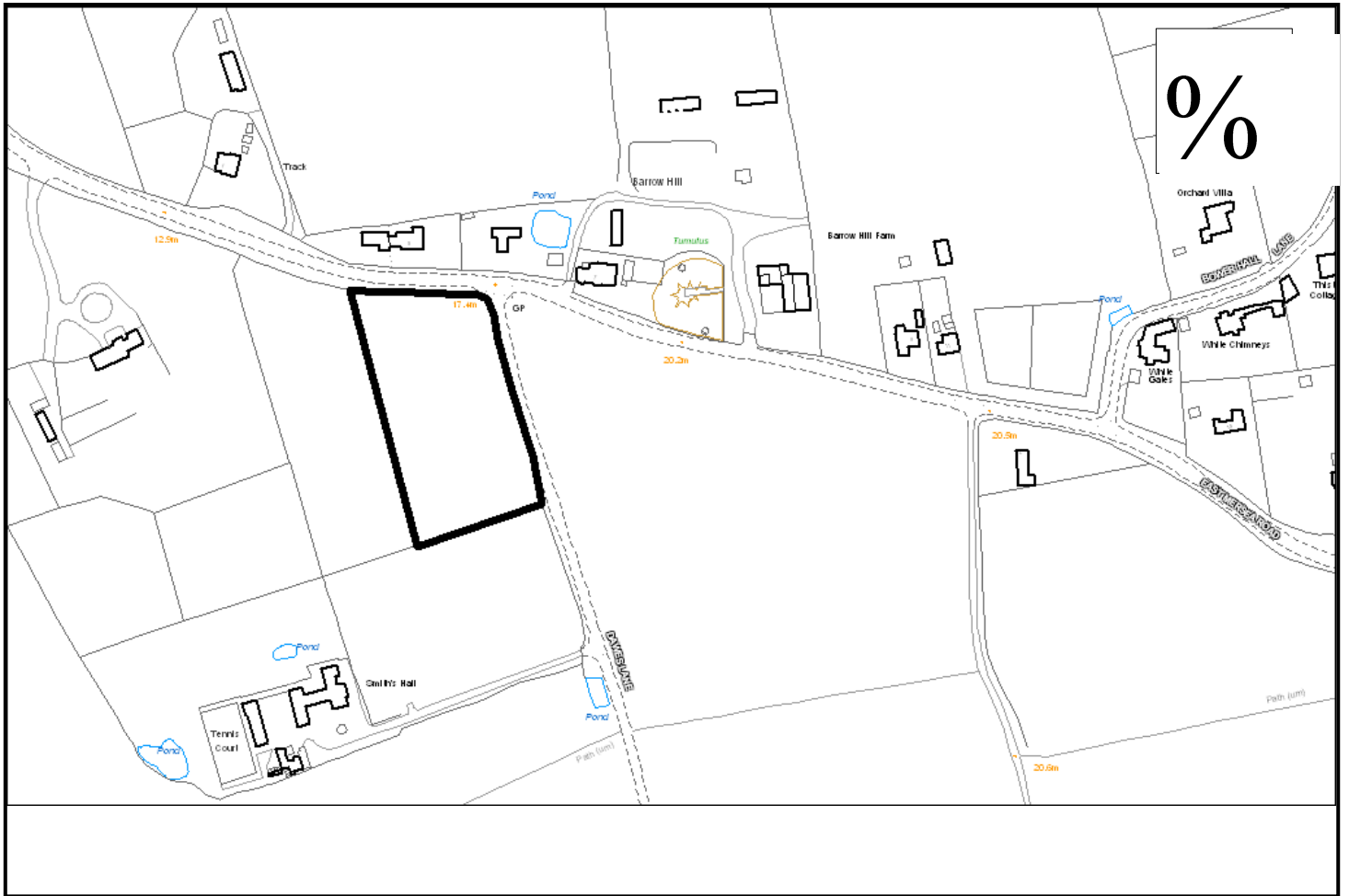
Prior to the commencement of development details of the design of the posts, together with full details of the size and design of the proposed linking chain, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: For the avoidance of doubt as to the scope of this permission and in order to achieve a satisfactory visual appearance having regard to the setting within the conservation area.

Informatives

The attention of the Applicant is drawn to the presence of the Village Green and that the consent hereby granted does not confer any rights to interfere with any land forming part of a registered Village Green without the permission of the owners of such land.

The attention of the applicant is drawn to any riparian rights that may apply to this land.



Application No: 081997

Location: Field Corner of, Dawes Lane & East Mersea Road, West Mersea

Scale (approx): 1:1250

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7.4 Case Officer: Nick McKeever

EXPIRY DATE: 14/02/2009

Site: Dawes Lane & East Mersea Road, West Mersea

Application No: 081997

Date Received: 19th December 2008

Applicant: Mr David D Tucker, West Mersea Town Council

Development: Construction of new access to allotment site

Ward: West Mersea

Summary of Recommendation: Conditional Approval subject to the Highway Authority having no objection

1.0 Site Description

- 1.1 This application seeks planning permission for the formation of a vehicular access to an area of agricultural land located immediately to the west of the junction of Dawes Lane and East Mersea Road. The new access is to be on Dawes lane close to the southern boundary of the field.
- 1.2 The access is to serve proposed allotments on this parcel of agricultural land.
- 1.3 To the north of the East Mersea Road frontage are a small group of dwellings. To the south of the site is the dwelling 33 Dawes Lane. The site is otherwise surrounded by agricultural land.

2.0 Land Use Allocation

- 2.1 Countryside Conservation Area

3.0 Relevant Planning History

- 3.1 None

4.0 Principal Policies

- 4.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1

5.0 Consultations

- 5.1 The comments of the Highway Authority will be reported at the Planning Committee.

6.0 Town Council's Views

6.1 None

7.0 Representations

7.1 The occupiers of Barrow Hill Cottage, 3 East Mersea Road have submitted an objection which is summarised as follows:

1. The objection is not just to the access but to the siting of the allotments without any consultation with local residents.
2. The site is almost 2 miles from the village centre. This will encourage people to drive unnecessarily.
3. Site is within a protected landscape - CCA within the Coastal Protection Belt.
4. Increased traffic and associated noise.
5. The remote location will encourage vandalism.
6. The erection of sheds etc will have an adverse impact.
7. Drainage - increased surface water run-off onto the road.
8. Provision is made for sanitary facilities.
9. Lack of public consultation

The letter of objection can be viewed on the Council's website.

8.0 Report

8.1 The land is currently used for the purposes of agriculture. Under Section 336 of the Town and Country Planning Act 1990 agriculture is defined as follows:-

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly;

8.2 The use of the land as allotments would be classed as horticulture, and therefore an agricultural use in accordance with the aforementioned definition. Whilst the concerns expressed by the occupiers of Barrow Hill Cottage are acknowledged and appreciated, on this basis the application before members consideration is only for the proposed access to this land.

8.3 The application does not provide details of the layout of the access and no response has been received from the Highway Authority at the time that this report was drafted. In this context the recommendation is for permission subject to no objection being received from the Highway Authority prior to the Committee Meeting and on the basis that details of the layout of the access should be submitted and agreed by the Local Planning Authority in consultation with the Highway Authority.

8.4 The application form states that a total of 15 parking spaces will be provided, although the provision of these spaces does not form part of the proposed development as described. The Applicant should, therefore, be advised that any consent hereby granted relates solely to the formation of the access and not to the provision of any car parking, which is likely to require planning permission.

9.0 Background Papers

9.1 ARC; HA; PTC; NLR

Recommendation – Conditional Approval subject to the Highway Authority having no objection

Conditions

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

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

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

2 - Non-Standard Condition

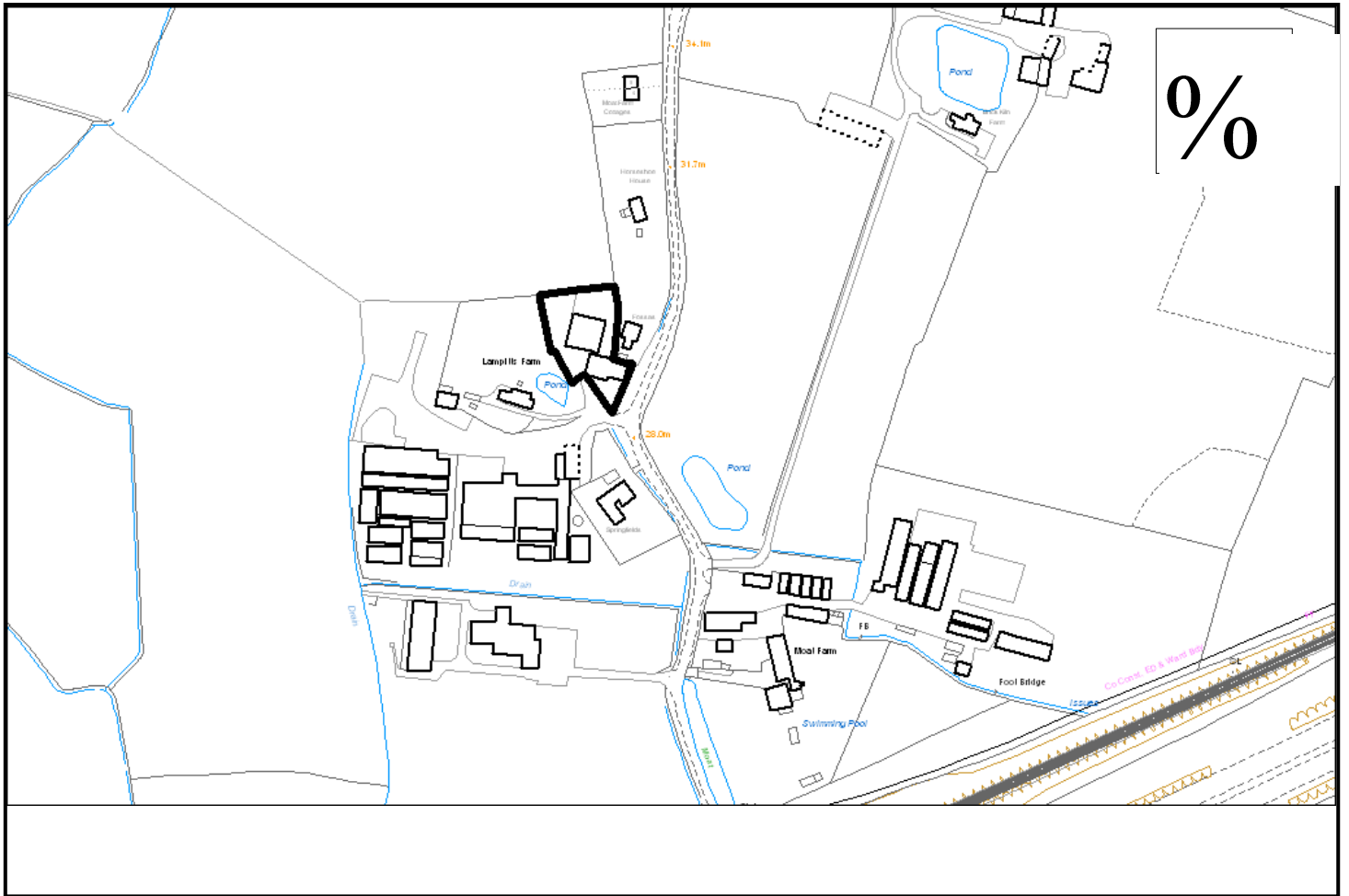
The permission hereby granted shall relate solely to the formation of the access as described in the application and not for any other details, including the provision of any parking facilities within the site.

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

3 - Additional conditions as may be required by the Highway Authority and which are considered by the Local Planning Authority to reasonable and necessary in the interests of highway safety

Informatives

The provision of car parking facilities within this site is likely to require planning permission and the Applicant is advised to consult the Local Planning Authority for further information and advice.



Application No: 082102

Location: Lampitts Farm, Turkey Cock Lane, Eight Ash Green, Colchester, CO3 5ND

Scale (approx): 1:1250

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7.5 Case Officer: Jane Seeley

EXPIRY DATE: 10/02/2009

OTHER

Site: Turkey Cock Lane, Eight Ash Green, Colchester, CO3 5ND

Application No: 082102

Date Received: 15th December 2008

Agent: Edward Gittins & Associates

Applicant: The Furniture Zone

Development: Use of buildings for the sale of antique, secondhand and new furniture

Ward: W. Bergholt & Eight Ash Green

Summary of Recommendation: Conditional Approval

1.0 Site Description

- 1.1 The application site is located to the west of Turkey Cock Lane adjacent to Barn Plants Nursery. It supports 2 former agricultural buildings: a traditional barn and a single storey breeze block former piggery building that was previously used for storage and manufacture. Both buildings have permission for retail purposes. Conditions on the planning permissions restrict retail in the barn to antiques, pine and used furniture (COL/93/0552); and retail in the other building to antique and second hand furniture (COL/03/0043). There is also a personal condition for the use of the Barn. (COL/93/552), but not on the other building.
- 1.2 The buildings are currently occupied by a business known as The Furniture Zone (FZ). The furniture retailed from the site is predominantly new. There is also a breach of the personal planning permission. This application seeks to regularise the existing use and user.
- 1.3 In support of the application the applicant has provided a planning statement and emailed additional comments. The full text of these papers can be viewed via the Council's website the salient points are listed below:
- the 2 buildings are subject to separate retailing permissions which have been active for many years
 - to regularise the position the opportunity is being taken to seek a single and uniformed permission for both buildings
 - the existing permission for the barn allows new pine furniture and sundries to be sold
 - new, antique and second hand furniture has been sold for many years in both buildings.
 - Small household items could be retailed as ancillary to the primary use.

- The proposal maintains the status quo and will not involve a material change in terms of general use and intensity.
- The site has generally had 2 deliveries by HGV per month. This has been reduced recently because new furniture is delivered to the business's Stanway outlet and transferred to the site by the FZ's own 35cwt Luton van.
- There is no manufacturing at all at the site.
- About 70% of the floor space of the Barn is devoted to second-hand furniture. About 50% of the piggery building is devoted to reclaimed oak furniture, 35% to new and 15% to antique and second hand furniture. Second hand furniture remains the mainstay of the business
- Both buildings can lawfully be used for retailing of furniture. The issue is whether the type and age of the furniture has any bearing on the impact of the business on residential amenity or any other material way. A further impact is if the type of wood is material and whether it is reasonable to refuse new furniture being sold in the piggery which is permitted in the Barn. The applicant does not consider there is any evidence or reason to suggest the age of the furniture has any significance in planning terms.
- The applicant is not aware of any measurable difference on residential amenity since the introduction of new furniture.
- The proposed hours of opening are only 30 minutes on each side of the existing opening hours.

2.0 Land Use Allocation

2.1 No notation

3.0 Relevant Planning History

3.1 072952 - Erection of building for the sale of furniture and removal of condition 2 of planning permission COL/93/0552 (personal use) - Withdrawn 23.01.2008

Former Piggery Building:

3.2 03/0043 - Change of Use of general industrial workshop to display and retail of antique and second hand furniture – Approved 4 March 2003

3.3 081630 – Variation of Condition No 2 on application C/COL/03/0043 to allow the sale of new furniture and sundry household items –withdrawn 19.11.08

Barn:

3.4 98/0838 - Continued use of barn for sale of furniture, pine and sundry sales (non compliance to Condition 01 of COL/93/0552) - Approved 28 July 1998

3.5 92/0355 - Use for sale of antique and second furniture and pine from the barn – Approved 24 April 1992

3.6 93/0552 - Continued use for sale of antiques, pine and used furniture - Approved 24 June 1993

3.7 081634 – Removal of Condition 2 (personal planning permission) and to vary condition 3 of COL/93/0552 to allow the sale of new furniture pine and household sundries. – Withdrawn 18/11/08

4.0 Principal Policies

4.1 Adopted Review Borough Local Plan
DC1 - Development Control considerations
CO1 - Rural resources
TCS1 - Protecting the vitality and viability of Colchester Town Centre
TCS11 - Retail development outside Colchester Town Centre
TSC13 - Shopping in villages and the countryside

Core Strategy

CE1 – Centre and Employment Classification and Hierarchy
ENV 2 – Rural Communities
TA1 – accessibility and Changing Travel Behaviour

5.0 Consultations

5.1 Highways – No objections but recommends 2 informatives.

5.2 Planning Policy:-

- Site is located outside of any village settlement boundaries. Core Strategy Policies CE1 and ENV2 indicate that small scale business use may be appropriate if they provided local employment, support the local economy and harmonise with local character and natural environment. Uses with significant retail elements are unlikely to be acceptable.
- However the application site does have the benefit of existing retail permission granted prior to the implementation of the above mentioned policies. The permitted use allows for the retail of used furniture and antiques. Given the existing permission the bringing of new furniture to the site to be sold does not appear to be a significantly material difference. Consideration should be given to regularising the use if this does not materially increase the scale of the retail use.
- The sale of a greater range of goods would be likely to increase the scale and intensity and should be restricted.
- If any expansion of the business, either physical or change in intensity, is proposed the business could reasonably be required to relocate to a location which conforms to Policy CE1.

5.3 Environmental Control – No Comments

6.0 Parish Council's Views

6.1 Eight Ash Green Parish Council - Object:-

- Potential increase in use created by the amendment to the conditions would have a detrimental impact on residential amenity.
- The change could lead to more traffic movements along a very narrow lane that is unsuitable for large amounts of traffic.
- If CBC is minded to grant permission PC request that consideration is given to restricting permission to the applicant and placing a limit on HGV traffic

6.2 Stanway Parish Council – Object:-

- Site lies on a narrow rural land with no edging or foot path, the remains of a medieval moat lay adjacent to the highway and a low brick built railway bridge impedes large vehicles.
- Site is totally unsuitable for a large retail/manufacturing concern. The present use is low profile use of existing redundant farm buildings. The proposal is for a purpose built retail unit which is totally out of keeping with the setting and has no connection with the farm.
- Site is not zoned for development

7.0 Representations

7.1 Colchester Civic Society hope that conditions exist or can be inserted in any approval to ensure that the location does not become an all purpose retail location by default.

7.2 12 letters/emails of objection (the full text of these letters is available via the Council's web site):

General Comments:

- Concern about how the application forms have been completed; consider that procedurally the application is invalid.
- Current use is unauthorised it is misleading for the applicant's agent to imply there is no material change of use.
- Application is present in a veiled way. Is furniture storage and distribution and manufacturing occurring at the site?
- As there is no second hand or antique occurring at the site this must be a new retail unit in the countryside.
- The FZ advertise that the business is trading in new furniture, pine and oak furniture to trade and public, and kitchen appliances, worktops, sinks and limited antique and second hand furniture. The trade reference indicates whole sale and storage and distribution use
- There are containers used for storage on site.
- Furniture made on site is taken to the applicant's retail outlet at Stanway.

Policy Issues:

- The agent has not demonstrated how the use concurs with PPG4 and PPS 7 - the application must be judged against planning policies relating to retailing in the countryside.
- The FZ advertise that the business is trading in new furniture, pine and oak furniture to trade and public, and kitchen appliances, worktops, sinks and limited antique and second hand furniture. The trade reference indicates whole sale and storage and distribution use.
- PPS7 and PPG4 along with Policy CO1 of the Local Plan seek to protect the countryside from unacceptable development and ensure that uses are appropriately located, meet sustainable development objectives and protect residential amenity.
- Policy TCS1 of the Local Plan protects the vitality of town centres and Policy TCS11 provided for bulky goods retailing in appropriate locations such as Stanway were the FZ has a retail unit.
- The original planning permission for the application site was for a very low key use and was conditioned to prevent intensification.
- The retailing is in the countryside and contrary to National and Local Plans.
- There is no supporting documented information to justify a departure from the Local Plan. The Council's Policy section have indicated at the time of the earlier applications that any expansion or intensification would not accord with the Local Plan or Core Strategy and that a new retail use such as this is inappropriate.

Residential Amenity

- The use has an impact on the residential property k/a Fossas. The units wrap around 2 sides of the site and are in close proximity to the dwelling and private garden area. It results in unacceptable intrusion to residential amenity.
- An increase in operating hours is proposed, these coincide with hours that would be expected to see a retail use trading. Any increase in hours will result in a greater loss of residential amenity.
- Lorries arrive early and are noisy.

Road network

- The existing road network is not suitable to accommodate the level of traffic that a retail unit generates.
- The lane is already extremely dangerous and congested with heavy vehicles, it is impossible to work or cycle safely along the lane.
- The lane is used as a rat run.
- HGV's are damaging the lane and verges

8.0 Report

- 8.1 Planning history dating from 1992 indicates that the barn was originally used for low key antique and second hand furniture sales. Council records suggest that from 1992 to 1998 when the planning permission for the barn was made permanent, that the retail only occurred at weekends. However no conditions were imposed to restrict sales to weekends.

- 8.2 Planning permission was granted in 2003 for change of use of the piggery from general industrial use to retail. Whilst contrary to retail policies the application was considered to be an acceptable expansion of the existing retail from the barn. Factors that influenced the decision included: the existence of the retail use at the adjacent horticultural nursery/garden centre; that the use would not compete with existing retail uses in the locality and that additional traffic generation would not be significant. It was also considered that the use would have a less adverse impact on the adjacent residential properties than the general industrial use it replaced.
- 8.3 The premises were visited at the time of the previous planning application (September 2008) and in January 2009. At the time of the first visit an extremely limited number of antique or second hand furniture were displayed for sale. The recent visit revealed more second hand and antique furniture; however the amount of this type of furniture was nowhere near the levels advised by the applicant (see 1.3 above). Your Officers are of the opinion that retailing from both buildings is predominantly new furniture. The site visits revealed that there were also a limited amount of ancillary goods; these were pictures, lamps and clocks. No kitchen units, worktops, sinks or white goods were evident. The applicant's agent has advised that no manufacturing is undertaken at the site.
- 8.4 National and Local Planning Policies whilst generally supportive of small scale employment use in the countryside normally seek to prevent retailing uses. If this application was for a new retail use of the scale of the applicant's business it is likely that this Council would not support the proposal. However it is not possible to determine this application without regard to the existing retail permissions on the site.
- 8.5 It is acknowledged that when permission was originally granted in the early 1990's for retail uses at the Barn that this was a low key week end only concern. In 1998 permission was granted for the permanent use of the barn for retail of antique, pine and second hand furniture. A condition was imposed on the type of furniture that could be sold. The wording of this condition rather ambiguous and it could be argued that new pine furniture could be sold from the barn.
- 8.6 At the time of the grant of planning permission for retail use at the Piggery Building in 2003 a condition was imposed restricting retailing to antique and second hand furniture in the interests of consistency.
- 8.7 An assessment has to be made as to whether bringing furniture to the site, its display and retail is materially different whether it is antique, second hand or new. Your Officers have concluded that there is no significant material difference in the operation of the site for new or old furniture. Accordingly it is not considered that a refusal of planning permission can be justified.
- 8.8 The ancillary items for sale on site are so limited as to be de minimus. To prevent that this type of goods becoming a more significant part of the stock and to ensure that the retail use does not change from bulky comparison to more convenience merchandise a condition restricting the use to furniture is suggested.
- 8.9 The planning permission for the Barn includes a personal permission. The applicant is in breach of this condition. The grant of this full application would in effect remove this condition.

- 8.10 The Council have been aware since 2003 that there has been a breach of this condition. In the report to Committee for Piggery Building in 2003 the breach is acknowledged but it is stated that the matter is not contentious. No such condition was imposed on the retail use of the piggery. It is not considered that personal condition for the barn serves any useful planning purpose.
- 8.11 One of the objector's has raised concerns regarding the impact of retail use on residential amenity. Their bungalow is immediately adjacent to the two retail buildings. However no indication is shown on how their amenity is being eroded by the use. It is not considered that the use of the building for the sale of mainly new furniture, which has been occurring for many months, has had any significant martial change on their amenity.
- 8.12 Included within the application is the extension of opening hours on Monday to Saturday inclusive by an extra half an hour in the morning and the evening. ie from 9.30 to 17.30 hours. It is not considered that this increase in opening times will have a material impact.
- 8.13 Concerns regarding highway safety issues have been discussed with ECC Highway Officers. Given the level of HGV vehicle movements directly associated with the FZ is in the regions of 2 per month, they are not raising any objections.
- 8.14 Following receipt of the objector's comments regarding the application forms the agent has submitted revised forms.
- 8.15 The agent has advised that the containers on site are being used for furniture storage. The existing planning permissions are conditioned to prevent furniture being displayed stored or sold in the buildings. A similar condition is proposed for this application. This unauthorised storage use will be investigated.

9.0 Background Papers

- 9.1 ARC: HA; PP; HH; PTC; NLR

Recommendation - Conditional Approval

Conditions

1 - Non-Standard Condition

The buildings shall only be used for the sale of antiques and new and second hand furniture and no other purpose (including any other purpose within Class A1).

Reason: For the avoidance of doubt and to enable the Council to control the use of the site in the interests of the amenity of the area.

2 - Non-Standard Condition

No goods shall be displayed, stored or sold other than from within the building.

Reason: To enable the Council to control the use of the land in order to safeguard the amenity of the area.

3 - Non-Standard Condition

The premises shall not be open to customers other than between the hours of 9.30 am and 5.30pm. on Monday to Saturday inclusive and from 10am to 4.00pm on Sundays, Bank and Public Holidays.

Reason: To safeguard the amenities of nearby residential properties.

4 - Non-Standard Condition

No deliveries shall be made to and no goods despatched from the site outside the hours of Monday to Friday 10.00-16.30 hours nor at any time on Sundays or Public Holidays.

Reason: To safeguard the amenities of nearby residential properties.

5 - A5.6 Noisy Operations

Operations including vehicle movements and use of plant or machinery for which noise is audible at the site boundary shall only be carried out between Monday to Friday 10.00-16.30 hours and at no times on Saturdays, Sundays and Bank/Public Holidays.

Reason: To safeguard the amenities of nearby residential properties.

6 - B4.1 No Additional Windows in Flank Walls

No windows, doors, voids or openings of any kind shall be inserted, placed or formed in the north or east walls and they shall remain imperforate at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residential properties.

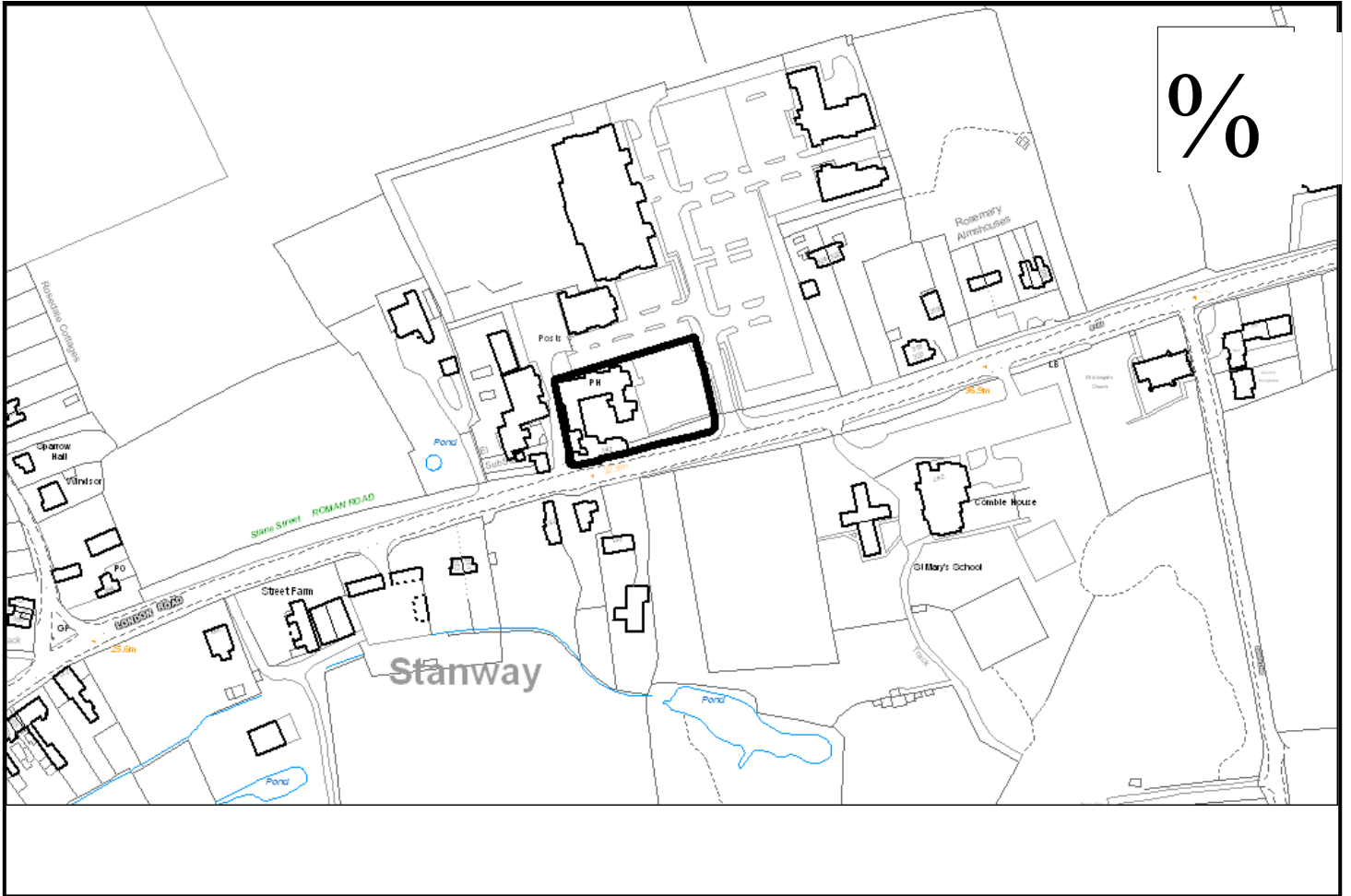
7 -Non-Standard Condition

No parking and turning of vehicles shall take place within the site on land immediately to the north and east of the building.

Reason: To safeguard the amenities of nearby residential properties.

Informatives

The applicant is reminded of their duties and responsibilities with regard to the line of public Footpath 23 to the south of the site.



Application No: 082110 & 082111

Location: The White Hart, 342 London Road, Stanway, Colchester, CO3 8LT

Scale (approx): 1:1250

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7.6 Case Officer: Jane Seeley

EXPIRY DATE: 12/02/2009

OTHER

Site: 342 London Road, Stanway, Colchester, CO3 8LT

Application No: 082110

Date Received: 17th December 2008

Agent: Mr Leslie Gregg

Applicant: Mr David Knight

Development: Restaurant signage including post signs, wall signs, 'A' board and illuminated lantern

Ward: Copford & West Stanway

Summary of Recommendation: Advertisement Consent

7.7 Case Officer: Jane Seeley

EXPIRY DATE: 24/02/2009

OTHER

Site: 342 London Road, Stanway, Colchester, CO3 8LT

Application No: 082111

Date Received: 30th December 2008

Agent: Mr Leslie Gregg

Applicant: Mr David Knight

Development: Listed building application for proposed restaurant signage, replacing existing signs

Ward: Copford & West Stanway

Summary of Recommendation: Listed Building Consent

1.0 Site Description

1.1 The White Hart is a restaurant/public house located on the north side of London Road close to the access to Wyevale Garden Centre and a Day Nursery. The main vehicular access and parking for the premises is via the aforementioned vehicular access. The White Hart is a Grade II listed building that was extensively extended in the 1990's. The original building fronts London Road. The main access to the premises is via the carpark

1.2 This application proposes changes to the signage and some additional lighting. Since submission of the application the scheme has been amended.

1.3 As amended the scheme proposes: .

- 2 replacement signs on the original listed building;
- 1 replacement sign at the entrance to the car park;
- 2 replacements signs and a licensee plaque by the main entrance door
- 2 new brass lanterns on either side of the main door

2.0 Land Use Allocation

2.1 No notation

3.0 Relevant Planning History

3.1 LB/COL/06/2062 –Replacement Signage – Refused 23.1.2007 Split Decision at Appeal (NB this consent has not been implemented)

4.0 Principal Policies

4.1 Adopted Review Borough Local Plan
DC1 - Development Control considerations
UEA 17 – Advertisements Outside Conservation Areas
UEA 20 – Adverts on Listed Buildings and Scheduled Ancient Monuments

5.0 Consultations

5.1 Highways – No objection subject to conditions to control light levels and shielding.

5.2 Conservation and Design – verbally advise that there is no objection to the revised scheme.

6.0 Parish Council's Views

6.1 Stanway Parish Council – Object:

- do not consider that sign number 5 is in keeping with the curtilage of the Listed Building.

(NB - The sign that the Parish Council have identified as Sign 5 (a photograph has been provided) is an existing sign and not for consideration as part of this application)

7.0 Representations

7.1 Two letters of objection received from the same person (the second received after receipt of the revised drawings):

1. Operators of the premises are imposing their national brand image in an excessive manner which is unacceptable on a listed building.
2. The premises have operated for many years with more moderate signage
3. The use of reflective vinyl and illumination panels is unacceptable on a listed building.

4. Use of garish, loud, American-derived sign designs is unacceptable and the original name of the public house is barely retained.

8.0 Report

- 8.1 As originally proposed the proposed signage for this premises was considered excessive. Negotiations, which were guided by the Inspector's decision for the 2006 applications have resulted in the applicant's agent agreeing to remove a proposed gable end sign on the original listed building, a road side sign on London Road and an 'A' board by the main entrance. Agreement was also obtained to changes to the design and size of other signage.
- 8.2 The applicants have confirmed that the signs on the original listed building are to be constructed in timber.
- 8.3 Although the whole restaurant/public house complex is listed the only historic element of the building is the original building on the road frontage. The signs for this part of the building are sympathetic both in scale and use of materials.
- 8.4 The signs at the entrance to the car park and adjacent to the main entrance door are remote from the historic element of the building, therefore, it is not considered that they will detract from the integrity of the building's character/appearance and will not compromise its wider setting. Likewise the introduction of the brass lanterns and the licensee plaque will not have a detrimental impact.
- 8.5 The wording and design of the signage is not a material consideration. The applicant's amended scheme does retain the name of the public house over the main entrance.

9.0 Background Papers

- 9.1 ARC; HA; CD; PTC; NLR

Recommendation for 082110- Advertisement Consent

Conditions

1 - A1.7 Advert Consents (time and standard requiremen

'Unless an alternative period is specifically stated in the conditions below this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
5. No advertisement shall be sited or displayed as to obscure or hinder the ready interpretation of any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).'

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2 - Non-Standard Condition

Prior to the display of the advertisements any external light sources shall be so positioned and shielded at all times in accordance with details to be submitted and agreed in writing by the local planning authority.

Reason: Prior to the display of the advertisements any external light sources shall be so positioned and shielded at all times in accordance with details to be submitted and agreed in writing by the local planning authority.

3 - Non-Standard Condition

Maximum luminance of the internally illuminated sign shall not exceed the standard contained with in the Institute of Lighting Engineers Technical Report No 5. In this location (Zone E3) this will be 800CD/m2.

Reason: To avoid disability or discomfort from glare for either pedestrians or motorist in accordance with policy 1.1 in Appendix G to the Local Transport Plan.

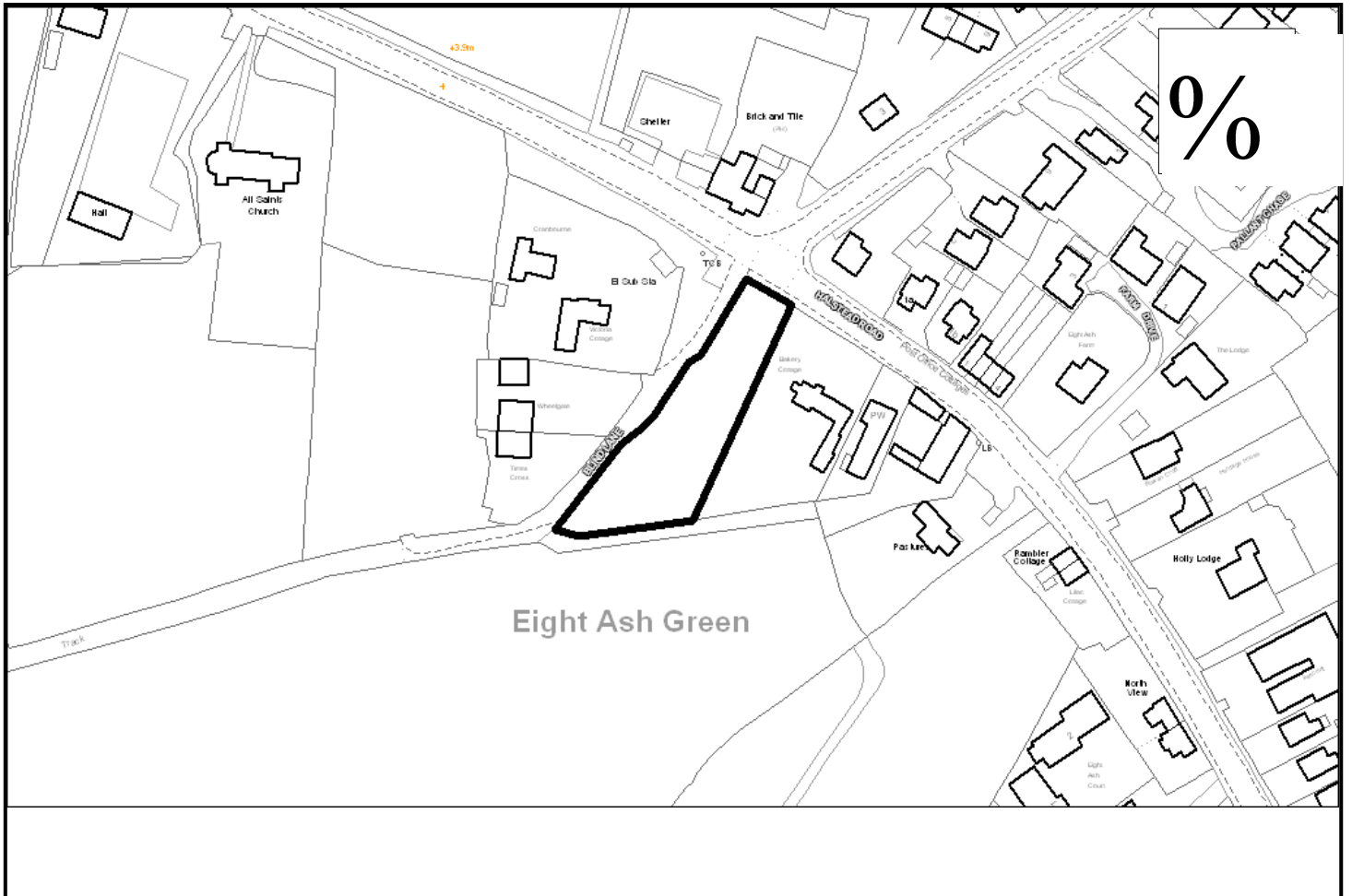
Recommendation for 082111 – Listed Building Consent

Conditions

A1.6 LBs & Con Area Consents-time lim for comm

The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: In order to comply with the requirements of Section 18(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990, as amended by the Planning & Compulsory Purchase Act 2004.



Application No: 081848

Location: Land Adjacent All Saints Church, Halstead Road, Eight Ash Green, Colchester

Scale (approx): 1:1250

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7.8 Case Officer: Mark Russell

OTHER

Site: Halstead Road, Eight Ash Green, Colchester

Application No: 081848

Date Received: 28th October 2008

Agent: Anthony G James

Applicant: N P Powell Developments Limited

Development: Reserved matters for plots 13 14 & 15 pursuant to Outline Consent O/COL/02/0306

Ward: W. Bergholt & Eight Ash Green

Summary of Recommendation: Conditional Approval

This item was withdrawn from the Committee of 18 December 2008 for clarification of landscaping matters.

1.0 Site Description

1.1 The site is on the edge of, but entirely within, Eight Ash Green Village Envelope and consists of the former garden of a now demolished bungalow. This fronts on to Halstead Road which is the main road through Eight Ash Green to the north, and its long axis to the west borders "Blind Lane" which is an unmade track with a long history of vehicular use. Across this are three existing dwellings, to the east is the bungalow Bakery Cottage, and to the south is a track which forms the boundary of the Village Envelope and serves Bakery Cottage, across this track is agricultural land.

2.0 Description of Proposal

2.1 The proposal is for the reserved matters of siting, access and design of Outline permission O/COL/02/0306 for plots 13 14 & 15 of a development which also incorporates twelve units in further land to the west (which was dealt with by a separate Reserved Matters application RM/COL/06/2099). This is for three two-storey, four bedroom dwellings with garaging. It is proposed that the buildings form a frontage to Blind Lane.

2.2 The dwellings are individually designed as follows: Plot 13 is an offset "T" plan with front and side gables, windows are accommodated low in the roof. The materials are red brick and vertical tile hanging to the walls, with plain tiles to the roof. A detached double garage is proposed in red brick and slate; Plot 14 is a traditional "T" plan with the smaller of the cross wings having a mansarded section to the right hand side as seen from the front, again, most windows are accommodated low in the roof. The principal wing is also mansarded. Materials are render to the walls with red brick to the plinth and chimney and plain tiles to the roof. This has a cart lodge with parking for two vehicles and has a red brick plinth with cream weatherboarding and slate roof;

Plot 15 is a “L” plan with two ranges of roof and a side facing gable. It is sloped at first floor level and, once again, most windows are accommodated low in the roof. Materials are identical to those of plot 14. This also has a cart lodge with parking for two vehicles, and materials for this are as per the cart lodge at plot 14.

3.0 Land Use Allocation

3.1 Residential in a Village Envelope

4.0 Relevant Planning History

4.1 96/1049 - Outline application for erection of 15 no. 2, 3 and 4 bedroom Dwellings. Approved 18th December 1998;

4.2 O/COL/02/0306 - Outline application for erection of 15 no. dwellings with access road (renewal of COL/96/1049). Approved 31st October 2006;

4.3 RM/COL/06/2099 - Reserved matters for 12 dwellings relating to outline permission O/COL/02/0306 for 15 dwellings with access road. Approved 22nd February 2007.

5.0 Principal Policies

5.1 Adopted Review Colchester Local Plan:
DC1- Development Control considerations;
UEA11 - Design;
UEA12 - Infilling and Backland Development;
UEA13 - Development, including Extensions, Adjoining Existing or Proposed;
P1 – Pollution;

6.0 Consultations

6.1 The Highway Authority did not ultimately object to the Outline application, but its formal comments on this Reserved matters application are awaited.

6.2 Environmental Control did not object, but requested a standard demolition and construction advisory note. Our Contaminated Land Officer responded as follows:

“There was a potential for contamination to be present at this site and Contaminated Land conditions were applied to the earlier application for the whole site (F/COL/02/0306). Sufficient site investigation has now been undertaken for these three plots under this permission. However, there remains the potential for unexpected contamination from an anthrax-infected carcass that was buried in the vicinity, but its exact location unknown. Consequently, should permission be granted for this application, the Contaminated Land Officer recommends inclusion of the following condition.”

(This condition is included at the foot of this report).

6.3 The Arboricultural Officer has studied the arboricultural study submitted by the applicant and is in agreement with its conclusions.

7.0 Parish Council's Views

7.1 Eight Ash Green Parish Council responded as follows on 24th November 2008:

“At the Eight Ash Green Parish Council meeting held on Wednesday 12th November 2008 it was resolved to object very strongly to this application.

Blind Lane is an unmade-up bridle lane with hedges and trees alongside and overlooking it. The proposal shows large two story houses with a building line within inches of the lane. This is unacceptable and is totally prejudicial to the rural character of the area.

As they will dominate the street scene and restrict the amount of parking available to the proposed properties.

The lane is very narrow and currently provides access to various properties that have acquired a presumed right of way. This will be lost to those residents as it is inevitable that overflow cars from the new development will be left outside their properties. Such parking will not only make access to existing properties difficult if not impossible, it will also prevent legitimate use of the right of way by pedestrians and other authorised users.

This site originally held one small bungalow. To attempt to put three large four bed roomed houses on it is gross over development. Additionally the original proposal as approved for the combined sites of this and the adjacent larger development was for mixed housing including social housing. This has clearly not been undertaken in the re-arranged dual application technique.

As Blind Lane is a public right of way there are permissive rights of access to the existing properties but the new development has never had access rights. We had previously received assurances from the planning department that access between the new road on the adjacent site and Blind Lane would be blocked and we request clarification that this is still the case as the plans submitted to us for comment were unclear of this.

In the previous application we objected strongly to vehicles having access onto Blind Lane and we noted that permission may be granted for pedestrian access. This is why Colchester Borough Council revised the positioning of the garages for plots 10 and 11.

The Highways Department objected to these properties accessing the new road for safety reasons. This was overcome by the dual application strategy but we believe that even on its own, this application represents a clear road hazard as traffic seeks to leave Blind Lane onto the main A1124 Colchester to Halstead road.

Finally, as the original bungalow on this site did not have an access on to Blind Lane, we believe that such an access bearing in mind the current status of lane would be illegal.”

8.0 Representations

8.1 Two letters of objection were received from neighbouring dwellings.

8.2 The occupiers of Wheelgates, Blind Lane, pointed out that they had not been correctly notified (the name of a previous site-user was on the Council's database, this has now been corrected and the occupiers of Wheelgates have now been consulted). Concerns here related to possible conditions of danger on Blind Lane, insufficient parking, overdevelopment, loss of hedging, proximity of dwellings to the lane, and the overpowering nature of Plot 14.

8.3 The occupiers of Times Cross, Blind Lane, objected stating that Blind Lane was not a public right of way and raised concerns over extra traffic using it.

9.0 Report

9.1 Members are reminded that this is a Reserved Matters application, and the principle of three dwellings on this site has already been granted permission. The points for discussion in this Reserved Matters application are access, siting and design.

9.2 The issue of access on to Blind Lane does need some explanation. The history of this lane is long and complicated, as is the question of its status. Ultimately the Inspector has concluded (in 2005) that it is not a highway available for public vehicular use, this being the case it is not possible from a legal stand point to bring about its stopping up. Therefore, whilst use of the lane is discouraged due to visibility issues, it is impossible to insist upon this. Colchester Borough Council is aware that there may still be a dispute as to whether the occupiers of the new dwellings have a legal right to vehicular access over Blind Lane, but this legal issue should not prevent the determination of a planning application.

9.3 Regarding the siting, the shape of the land does partially dictate this. The decision to “front” the highway (Halstead Road as well as Blind Lane itself) comes about from issues of amenity of existing residents as well as good design and townscape. Our Urban Designer has explained this as follows:

“As there are no over looking issues for this site there is an opportunity to create more spatially efficient development on two storeys. Bungalows are neither traditional nor appropriate in a rural context. The architectural expression available in a bungalow is limited and often makes a poor contribution to townscape or streetscape. Given that the outline permission had established the principle of development on this site it was within the reserved matters that the best contribution to townscape was sought.”

9.4 In terms of design, which has been described at length at paragraph 2., pre-application discussions between Colchester Borough Council and the applicant have produced the scheme before Members today. It introduces a variety of styles as explained by our Urban Designer: “The three dwellings were initially designed a single form repeated. This would typify ‘executive’ style developments. The approach agreed with development control was to create three individual homes that make a positive contribution to the village and reflect the better elements of its character and traditional more rural forms. This dictated a more organic and individual styling of each unit.”

9.5 Regarding the remaining objections, responses are below:

- *Insufficient parking*: The parking is above standard at 2 per dwelling;
- *Overdevelopment*: The amount of dwellings has already been agreed at outline, and the density, with three dwellings at 1597m², equates to fewer than 20 dwellings per hectare;

- *Loss of hedging:* The section facing Halstead Road, and the initial return length of approximately 4 to 5 metres, is to be retained. A condition can be imposed for replanting on part of the remaining length of Blind Lane. This is not possible for the whole length due to vehicular access to the properties;
- *Plot 14 is overpowering:* Whilst this, and the other two dwellings have a presence, they are not considered to be overpowering or overbearing, and certainly do not seem to overbear on neighbouring properties;
- *Overflow parking will make access to existing properties difficult, and prevent legitimate use of the right of way by pedestrians and other authorised users:*
This can not be ruled out, but blocking the lane would be an offence. Parking provision is above current standards, and more space exists for lengthways parking in front of the cart-lodges for visitors. In addition, two spaces exist at the entrance to Blind Lane for occasional parking. In total it is held that there is a wide offering of parking places, which should alleviate concerns over Blind Lane being blocked.
- *The original proposal as approved for the combined sites of this and the adjacent larger development was for mixed housing including social housing.*
The total number of dwellings on both sites (fifteen) falls below the threshold for affordable housing.
- *The new development has never had access rights.*
This legal matter is outside of Planning.
- *We had previously received assurances from the planning department that access between the new road on the adjacent site and Blind Lane would be blocked.*
To do this would be to formalise an intensification of use of the sub-standard Blind Lane access onto Halstead Road. By keeping the track between the proposed dwellings and the new road open, occupiers of the new dwellings would be able to use the safer junction, which serves the main site.
- *This application represents a clear road hazard as traffic seeks to leave Blind Lane onto the main A1124 Colchester to Halstead Road.* The principle of three dwellings on this site has been allowed at Outline, and Blind Lane cannot be blocked for legal reasons.

10. Conclusion

- 10.1 In conclusion, the principle of this development has already been given planning permission, the scheme is considered to be acceptable in scale and design, and does not unacceptably affect the amenity of any nearby residents or other users.
- 10.2 Whilst the objections are noted, and whilst it is acknowledged that this site is important to the residents of Eight Ash Green, the application is held to be acceptable in this location, and is recommended for approval.

Background Papers

ARC; HA; HH; PTC; NLR; TL

Recommendation - Conditional Approval

Conditions

1 - C3.3 Samples to be Submitted

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

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

2 - C11.12 Landscape Works Implementation

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

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

3 - Non-Standard Condition

Before any works commence on site, details of tree and/or shrub planting and an implementation timetable shall be submitted to and approved in writing by the local Planning Authority. This shall include hedge-planting along the entire length of plot 15 as far as the driveway access, and also on the north-western corner of plot 14 as far as its pedestrian access. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the local Planning Authority.

Reason: In the interests of visual amenity and to soften the appearance of the development as seen from Halstead Road.

4 - Non-Standard Condition

Prior to the commencement of development, an external colour scheme shall be agreed, in writing, by the Local Planning Authority. The development shall be completed in accordance with the agreed scheme as such and shall remain so at all times.

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

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

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

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

6 -Non-Standard Condition

No new windows shall be inserted at any time above ground floor level in any wall or roof-slope unless agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and privacy of surrounding properties.

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

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

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

8 - C10.16 Tree & Natural Feature Protection: Entire S

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

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

9 - C10.18 Tree and Hedgerow Protection: General

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

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

10 - C3.20 Surfacing Materials to be Agreed

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable access ways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

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

11 - Non-Standard Condition

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

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

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

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

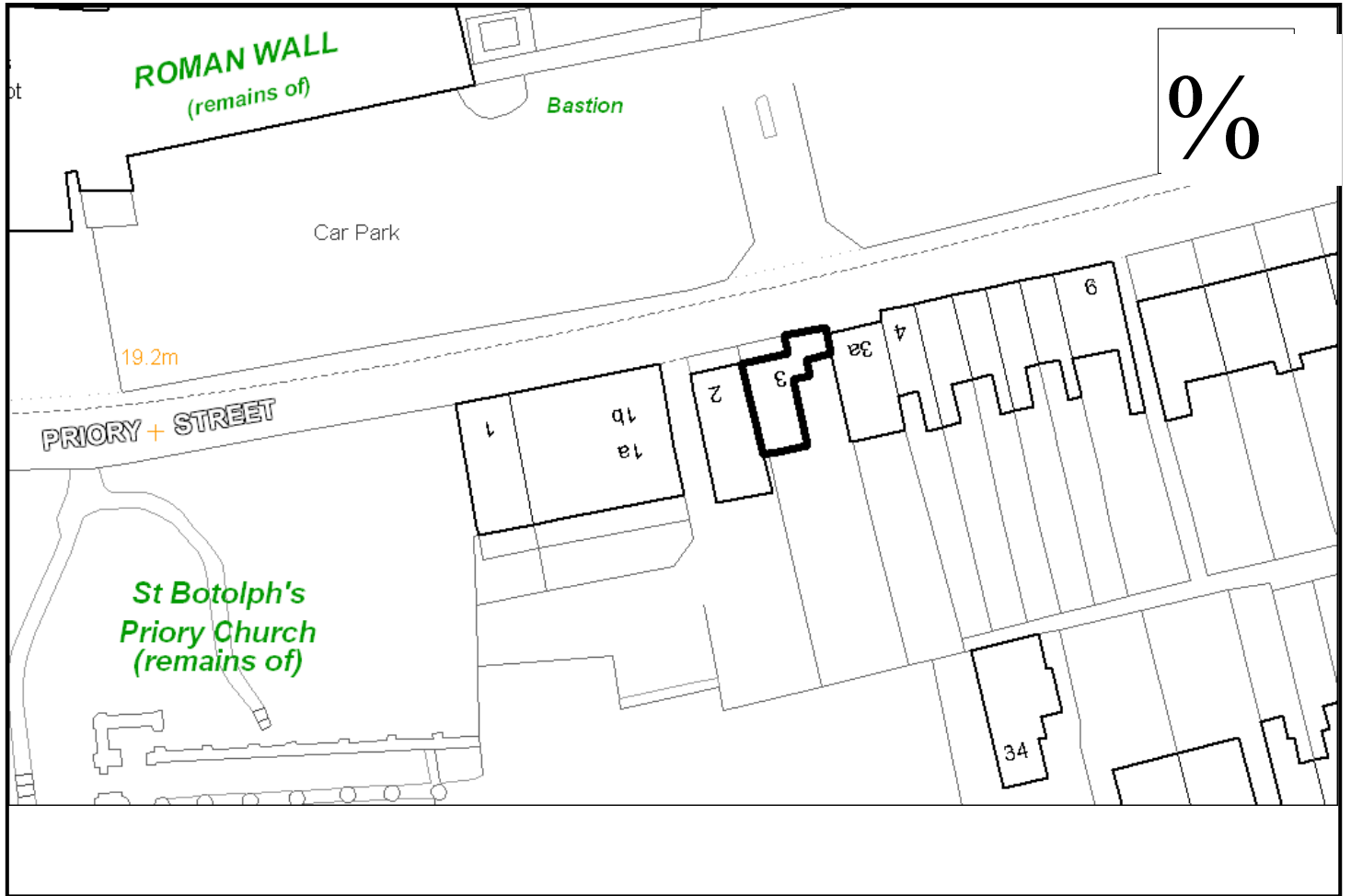
12 – Non standard Condition

Prior to the commencement of development the applicant shall submit details of hedge planting from the corner of Blind Lane/Halstead Road to the first driveway. These details shall be agreed in writing and shall be implemented as such during the first planting season following substantial completion of the development hereby approved, and shall be maintained at all times in accordance with the above condition 04.

Reason: In the interests of visual amenity.

Informatives

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



Application No: 081938

Location: 3 Priory Street, Colchester, CO1 2PY

Scale (approx): 1:1250

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7.9 Case Officer: Mark Russell

OTHER

Site: 3 Priory Street, Colchester, CO1 2PY

Application No: 081938

Date Received: 24th November 2008

Agent: Pps Ltd

Applicant: Colchester Islamic Cultural Association

Development: Continued use of building and rear amenity area for worship.

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The site comprises the left-hand side property of a pair of semi-detached houses and a rear garden which has been laid to hardstanding. This is in Colchester Conservation Area 1, and next to the grounds of St. Botolph's Priory. The other side of the pair (No. 2) is currently already under authorised use as mosque.

2.0 Description of Proposal

2.1 The proposal is a retrospective one, to regularise the use of 3 Priory Street for worship, and also to use the rear garden for this purpose. The former garden of 3a is also part of this application.

2.2 The application also seeks to regularise the hardstanding, which requires planning permission in itself.

3.0 Land Use Allocation

3.1 Residential in a Conservation Area.

4.0 Relevant Planning History

4.1 For 3 Priory Street:
080327 - Change of use from garden area to car parking area. Refused: 17th April 2008.

4.2 For 2 Priory Street:
92/0352 - Change of use as a meeting place for Colchester Islamic Cultural Association. Approved 8th June 1992;

93/0343 - Single storey rear extension and porch. Approved 3rd June 1993; 93/1559 - Single storey rear extension and alterations. Approved 10th March 1994;

F/COL/01/1857 - Single storey rear extension to form enlarged prayer room. (Renewal of COL/93/1559). Refused 22nd February 2002;

F/COL/02/1281 - Extension to Prayer Room (re-submission Of COL/01/1857). Approved 6th September 2002.

5.0 Principal Policies

Adopted Review Colchester Local Plan (March 2004):

DC1- Development Control considerations;

UEA1 – Conservation Areas;

UEA2 – Alterations affecting Conservation Areas;

UEA5 – Listed Buildings (setting of);

UEA7 – Setting of Ancient Monument;

P1 – Pollution

6.0 Consultations

6.1 The Highway Authority did not object

6.2 Comments are awaited from Environmental Control, but it is noted that there have been some complaints about the usage of 2 Priory Street. Most of these were in 2000, although there was one complaint about late night meetings in 2004. Sound insulation conditions were previously required in earlier applications at that address, and a judgement from Environmental Control is awaited as to whether this would be required in this case.

7.0 Representations

7.1 Two letters of objection were received from neighbouring dwelling 4 Priory Street and nearby 9 Priory Street. The points raised in these objections were as follows:

1. This is the only non-residential use in a long stretch of Priory Street;
2. Increased footfall for this non-domestic use;
3. Removal of walls between the properties would result in the loss of smaller dwellings;
4. The facility could be located in an existing, disused, church building;
5. Increase in parking, especially in light of the proposed future reduction of parking spaces on Priory Street itself;
6. Encouraging off-street parking (against policy);
7. The freeholders of 4 and 5 Priory Street had not been contacted regarding the application;
8. The use does not improve the character of the area;
9. The opening up of the rear has led to an increase in crime/the fear of crime;
10. If the premises are becoming inadequate, then the organisation should look at moving to a different site;
11. Potential noise due to the call to prayer (even without amplification);

12. Funerals are not appropriate in this location, especially in view of windows of neighbouring residences;
13. Ground levels mean that privacy is further invaded;
14. Drainage may be insufficient;
15. Fear of day-long use of the rear garden by a possible future user.

7.2 Objector's wished to make it clear that their objections were not based on any opposition to the Colchester Islamic Cultural Association itself.

7.3 An additional letter was also received from 9 Priory Street complaining that the neighbour consultation deadline, and that on the public notice, differed. It claimed that this had led to confusion, and also stated that insufficient time had been allowed for comment, and that more neighbours should have been consulted.

OFFICER'S COMMENTS: All immediate neighbours were notified, as was the case with the previous application. In all nineteen properties were consulted, and each one was given 21 days to respond, so the claim that these had "only a few days to respond" is incorrect.

Neighbours are notified immediately that an application is lodged. If the application also needs to be advertised with a site notice and in the local press, then this is done a very short time later. These advertisements are weekly, and thus there is often a slight discrepancy between the two deadlines for comment. Clearly the later date is the cut-off (although in practice Colchester Borough Council accepts even later comments) and there does not appear to be any confusion on this point.

Regarding the earlier point 7, that freeholders of 4 and 5 Priory Street were not notified, letters were sent to the "Owner/Occupier" of each of these properties on 12th December. Details of the freeholders' addresses, whilst these may be held for purposes of Council Tax, are not available for the purposes of neighbour notification due to Data Protection. Clearly both freeholders were aware of the application whether by being notified by their tenants, or by the public or press notice, given that representations have been made by them.

8.0 Report

8.1 Priory Street is a largely residential street, with some commercial properties at the St. Botolph's end, but also with several religious institutions – such as the Mosque, a Synagogue, the Catholic Church and the Spiritualist church. The principle of religious use in this location (at number 2) was also sanctioned in 1992, under planning application 92/0352.

8.2 The principle of use of the building at number 3 is also acceptable, and should comply with policy DC1 which seeks to protect residential amenity. Therefore, and only if Environmental Control request this, a sound insulation condition can be imposed.

8.3 There is no doubt that when the mosque is in use, and particularly before and after worship, there is briefly a large number of people outside the building, but in the context of a site so close to other town centre uses including the surface car park, this can be argued to not contrast too starkly with the prevailing pattern of activities.

- 8.4 It is the rear, outside use which seems to raise the most concerns. These concerns manifest themselves in terms of disturbance and loss of privacy to neighbouring properties, as well as visual blight due to the amount of unrelieved hardstanding which has been laid. This latter point is also of relevance when viewed from the grounds of the Grade I St. Botolph's Priory. Photographs in the Committee presentation indicate what the gardens used to look like prior to this planting.
- 8.5 The hardstanding has also had the effect of raising the ground levels considerably when compared to neighbouring gardens. Whilst the fence between 3a and 4 is not a very high one to begin with, this dates from a time when both properties were residential gardens, well planted in the case of numbers 3 and 3a. For residents of number 4, and indeed any of the next few houses, to be confronted by a large number of people – sometimes up to three figures – must be very unsettling, and this is obviously exacerbated when taking into account the ground levels.
- 8.6 The applicants have, therefore, been advised that, if permission is granted, this will be on the basis of a renewed surface treatment and extensive planting which would have the effect of screening the mosque garden from neighbouring properties, and from the grounds of the priory.
- 8.7 The applicants have offered many of these features in their supporting statement, which is a good basis to start from. It is proposed that, in addition to this, a planting belt be introduced to the boundary with number 4 to provide additional screening and comfort.
- 8.8 The proposed level of outdoor use does require some further explanation. The applicant has advised that this breaks down into three elements: Friday prayer, funeral prayers, and Eid.
- 8.8 Friday Prayer. This lasts from 12:30 to 13:30. There is no call to prayer using amplification, and no verbal congregation response. There is no music or singing.
- 8.9 Funeral Prayers: A prayer service where only the Imam speaks, and lasting 30 minutes. There is no verbal congregation response. There is no music or singing. The coffin is placed outside during the prayers. The applicant advises that there have been three such services in the last three years.
- 8.10 Eid Prayers: These take place twice a year, (currently towards the end of the year) and have variable dates attached to them. Prayers last for 45 minutes.
- 8.11 It would appear, therefore, that the level of outdoor usage is not extensive, but without a doubt it may be unnerving for neighbouring properties to have a large number of people in the rear, being addressed by an individual. Some separation and screening is, therefore, a way of offsetting this.

The 2007 application was refused for the following reasons:

“It is considered that the replacement of the private garden area with a slab of concrete for parking is harmful to the character and appearance of the Town Centre Conservation Area. Furthermore the proposal would result in loss of privacy and security to the rear garden areas of the neighbouring properties fronting Priory Street and a lack of private amenity space for No 3 Priory Street, harmful to the amenity of the residents. For the reasons above the proposal would be contrary to Local Plan policies DC1, UEA1 and UEA11 and fails to take the opportunities available for improving the character and quality of the area contrary to PPS1.

The proposal would result in a large area for private car parking in this sustainable town centre location, promoting the use of the private car, contrary to the sustainable development objectives of PPS1.”

- 8.12 The first clause has been addressed by the above commentary, and can be resolved by condition. The second point has been mostly resolved by the reinstatement of a wooden barrier between the former gardens of numbers 2 and 3, which has limited the parking area to the former garden of number 2, which is a much reduced area for parking. A condition is suggested which confirms this as a permanent fixture, thus preventing future access to the rear of number three by motor vehicles.
- 8.13 Regarding the other points raised: 3) This does not require planning permission; 4) and 10) It is not for the Local Planning Authority to suggest better venues, but to judge the merits of each application; 8) With effective planting and boundary treatment, the character of the area should be properly re-instated; 14) should be ameliorated by the proposed planting and different surface treatment; (15) is overcome by a personal condition.

9.0 Conclusion

- 9.1 In conclusion, and whilst the objections are noted, the application is held to be acceptable in this location, and is recommended for approval, with conditions to ensure satisfactory planting and boundary treatments, to limit car parking, to lay new surface treatments, to have hours of use restrictions and to have a personal condition of use. A sound insulation condition will be imposed if Environmental Control deem this to be necessary.

10.0 Background Papers

- 10.1 ARC; HA; HH; NLR

Recommendation - Conditional Approval

Conditions

1 - C12.2 Details of Walls or Fences

Within 28 days of this permission details of screen walls/fences/railings /means of enclosure etc shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the position/height/design and materials to be used. The approved features shall be provided as approved prior to the commencement of the use hereby approved and shall be retained thereafter. These details shall be agreed in writing by the Local Planning Authority and shall be implemented within 56 days of permission and shall be retained thereafter.

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

2 - Non-Standard Condition

Within 28 days of this permission, details of tree and/or shrub planting and an implementation timetable shall be submitted to and approved in writing by the local Planning Authority. This shall be to the boundaries of St. Botolph's Priory and number 4 Priory Street, and shall be to a minimum depth of 1.5 metres to the boundary with 4 Priory Street. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the local Planning Authority.

Reason: In the interests of visual and residential amenity and to soften the appearance of the development as seen from St. Botolph's Priory.

3 - Non-Standard Condition

Within 28 days of this permission, the applicant shall submit full details of the proposed new surface treatment for the area to the rear of 3 and 3a Priory Street. These details shall include the removal of the hardstanding to the rear, and shall be agreed in writing by the Local Planning Authority. These details shall then be implemented within 56 days of permission and shall remain as such at all times thereafter.

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

4 - Non-Standard Condition

A permanent barrier shall remain in place between the former gardens of 2 and 2 Priory Street at all times, of such a height and spread to prevent the passage of motor vehicles.

Reason: To avoid overuse of motor vehicles in this predominantly residential, town-centre location.

5 - Non-Standard Condition

The premises shall not be used other than between the hours of 8.00am and 10.30pm.

Reason: To protect the amenity of the occupants of residential properties in this area.

6 - Non-Standard Condition

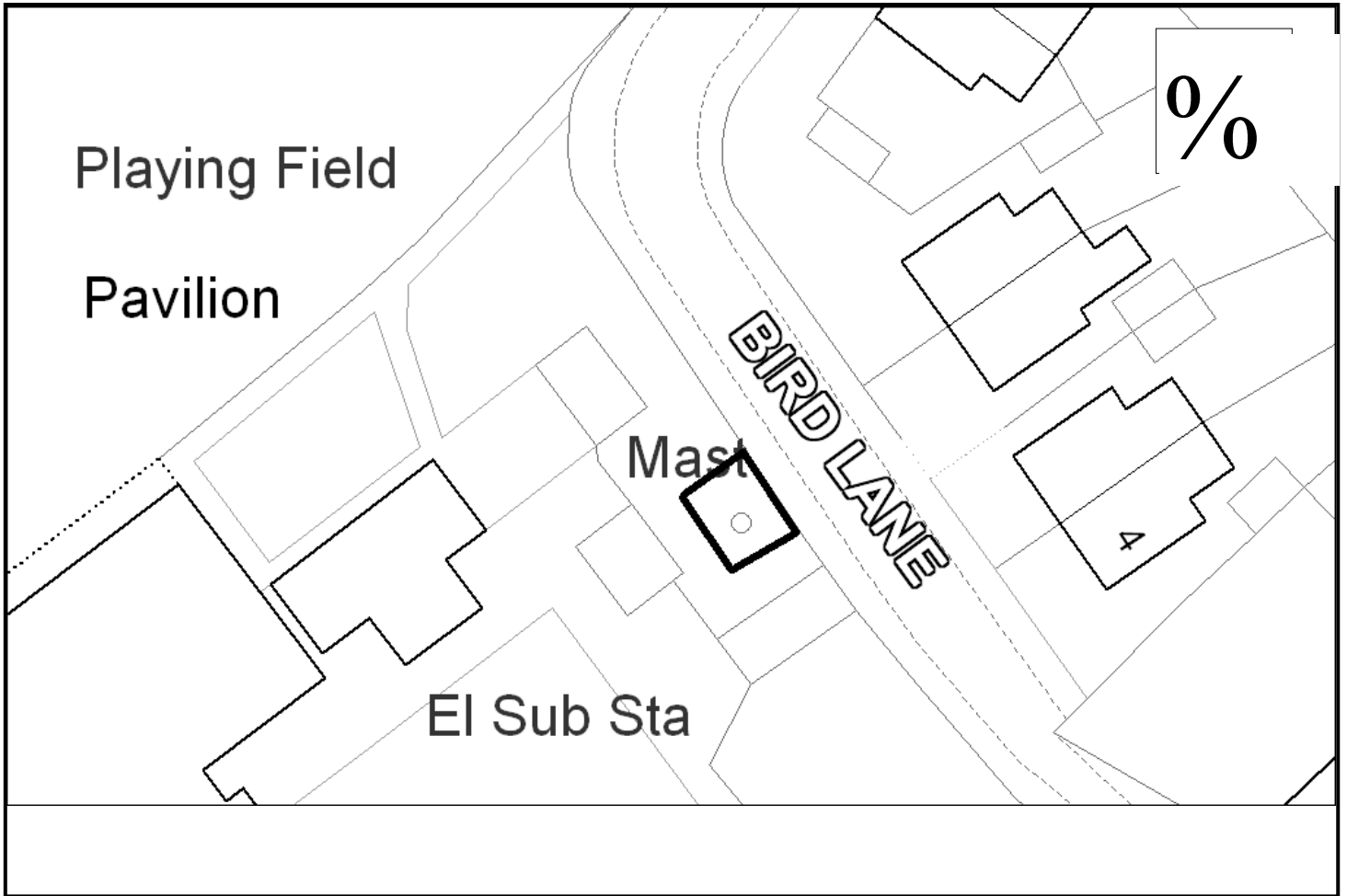
No music shall be played, or dancing shall take place on the premises.

Reason: To protect the amenity of the occupants of residential properties in this area.

7 -Non-Standard Condition

The permission hereby granted shall be for the use of Colchester Islamic Cultural Association only.

Reason: Colchester Borough Council wishes to control the use of this building and curtilage against the use by future users which may not be acceptable.



Application No: 082051

Location: Land at Tiptree United Football Club, Chapel Road, Tiptree, Colchester, CO5 0RA

Scale (approx): 1:1250

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7.10 Case Officer: Sue Fenghour

OTHER

Site: Chapel Road, Tiptree, Colchester, CO5 0RA

Application No: 082051

Date Received: 4th December 2008

Agent: Savills

Applicant: Telefonica O2(Uk) Limited

Development: Replace existing 15 metre column and 3 spine mounted antenna with a new 15 metre mini macro column with small headrame with 6 antenna and 4 new Flexi BTS units on a pole mounted support column on the existing tower base.

Ward: Tiptree

1.0 Site Description

- 1.1 An existing 15m mast is located on the eastern boundary of the football ground adjacent to Bird Lane. It is proposed to replace this 15m column and 3 spine mounted antenna with a new 15m mini macro column with 6 antennae and 4 new flexi units on a pole mounted support column using the existing lower base.
- 1.2 This development is required to improve network coverage and the use of the existing site is seen as the best environmental solution with no requirement for a new separate stand-alone structure

2.0 Land Use Allocation

- 2.1 Residential

3.0 Relevant Planning History

- 3.1 PA/COL/99/1587 - Prior Approval not required (by letter dated 21 January 2000) for the installation of a radio monopole antenna equipment cabin and ancillary development.

4.0 Principal Policies

- 4.1 Adopted Review Borough Local Plan
UT4 - Siting of Telecommunication Masts

5.0 Consultations

- 5.1 Environmental Control have no comments to make other than to recommend conditions including control of noise levels.

6.0 Parish Council's Views

6.1 Tiptree Parish Council objects to the application on the grounds of loss of amenity and proximity to nearby properties. It is noted that a similar mast is already located at Wilkins and Sons on Factory Hill.

7.0 Representations

7.1 3 objections have been received, 2 from residents and 1 from Tiptree United Football Club. The concerns raised cover of the visibility of the mast, a buzzing sound when windows are open, health issues and impact on house values.

8.0 Report

8.1 Whilst the existing mast is located some 80m from the nearest residential property in Bird Lane there is a partial tree screen 5-6m high along the eastern road boundary and also to the north of the site. Furthermore in the general locality there are 4 much higher floodlights serving the Football Club.

8.2 The proposed replacement mast would only result in a nominal height increase of 20cm although the headframe would be bulkier in appearance. Additional ground-based equipment would only be visible within the immediate compound which is screened by hedges/trees around the mast site.

8.3 This development would utilise an existing telecommunication centre and result in an only minimal increase in height and therefore visual impact on its surroundings.

8.4 It is also ICNIRP compliant (Public Exposure Guidelines) and therefore health issues cannot be considered in this context.

8.5 Finally both local and national planning policy guidelines (as set out in PPG8) are met and in conclusion no objections are raised to this replacement mast.

9.0 Background Papers

10.1 ARC; HH; PTC; NLR

Recommendation - Conditional Approval

Conditions

1 - Non-Standard Condition

The existing mast and all its associated equipment shall be removed from the site within 28 days of the installation of the proposed development works.

Reason: In the interests of visual amenity.

2- Non-Standard Condition

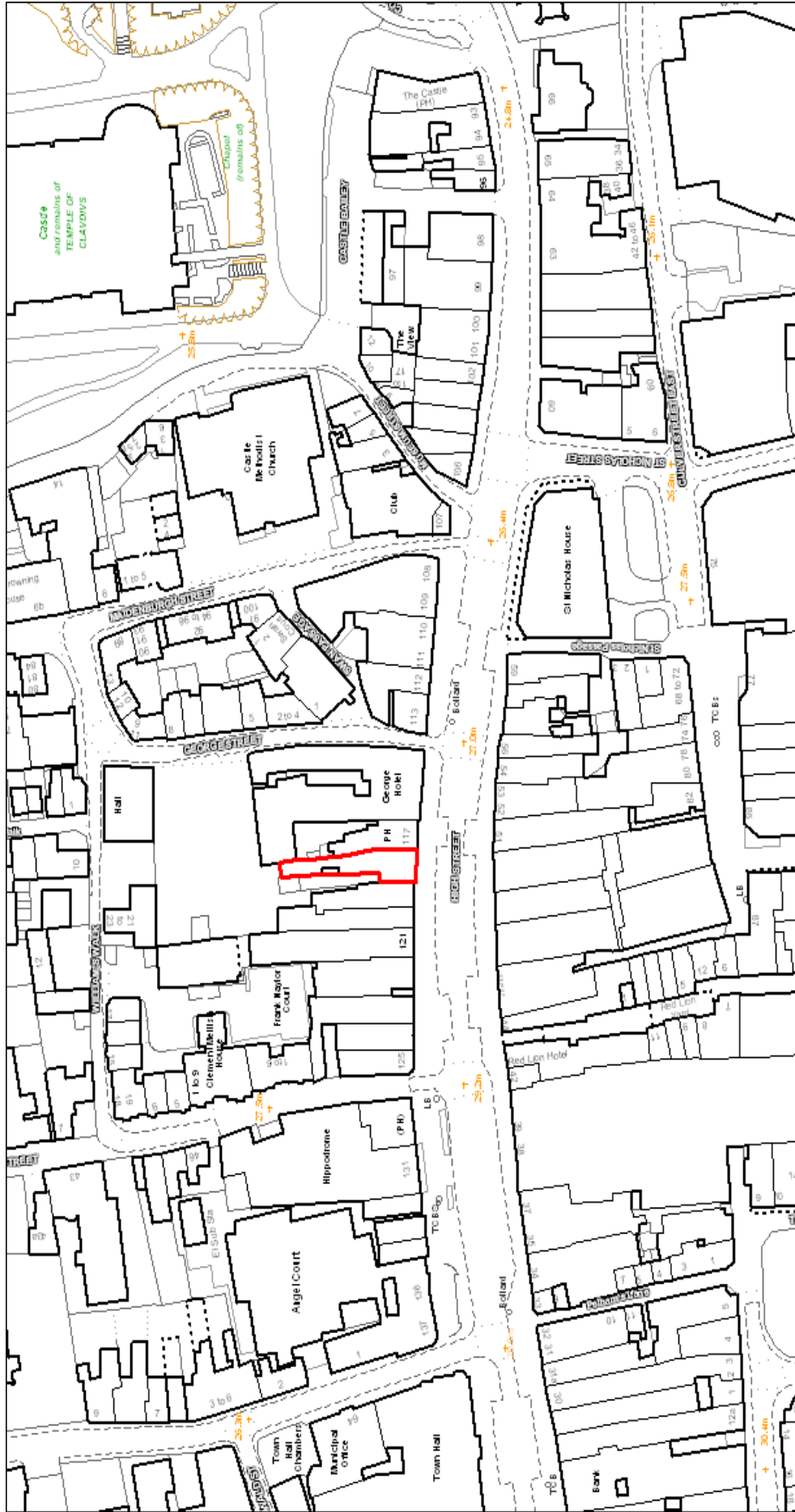
A competent person shall ensure that the rating level of noise emitted from the site shall not exceed 5dBA above the background prior to the use hereby permitted commencing. The assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the Local Planning Authority prior to the use hereby permitted commencing. All subsequent conditions shall comply with this standard.

Reason: In the interests of visual amenity.

Informatives

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

A competent person is defined as someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience.



Site Location Plan

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Complaint Reference: 151066

Site Location Address: Roxis, 118 High Street, Colchester, Essex, CO1 1SZ

Date Produced: 29 January 2009

(MAP NOT TO SCALE)

Planning Committee

Item
8

5 February 2009

Report of	Head of Environmental & Protective Services	Author	Sarah Hayes ☎ 01206 282445
Title	Roxis, 118 High Street, Colchester		
Wards affected	Castle		

This report concerns the unauthorised use of the ground floor of 118 High Street as a café/restaurant.

1.0 Decision Required

- 1.1 Members are requested to authorise injunctive action to restrain the continued use of the ground floor of 118 High Street, Colchester, (trading as Roxis) as a restaurant/café, in breach of a planning condition.

2.0 Reasons for Decision

- 2.1 In 2002, planning permission C/COL/02/1677 approved the change of use of the basement to A3 use (restaurant); first floor to B1 (office) and the second floor to residential use. A new access to the basement and alterations to windows and door openings were also approved. The report for this application is included as an appendix to this report for information. One of the conditions imposed required the use of the ground floor to be for A1 purposes only. This condition has never been complied with.
- 2.2 In January 2006 a Breach of Condition Notice was served requiring that the ground floor was used for A1 purposes only. The owners have been prosecuted twice for non-compliance with the requirements of this notice and the unauthorised use is continuing. The only action which may realistically restrain the breach of the BCN is to obtain an injunction.
- 2.3 Policy TCS5(a) in the Borough Plan seeks to protect the vitality, viability and retail attractiveness of this part of the town centre by maintaining a retail frontage of at least 50%. The Council's stance in refusing permission for a change of use to A3 of the ground floor of these premises has twice been upheld on appeal, thus supporting this policy and the Council's concern to maintain the balance between shopping and other uses in this important mixed use area.

3.0 Alternative Options

- 3.1 **The 'No Action' Option.** As the unauthorised use has continued to operate despite the service of a BCN and two prosecutions, it is clear it is likely to continue unless further action is taken. Allowing this use to continue, without any good justification may be considered to bring the planning system and the enforcement process into disrepute and makes it difficult to justify refusal of other applications for restaurant uses in similar situations.

- 3.2 **Further Prosecution.** As the BCN is still not being complied with, a further prosecution could be brought. This is likely to result in a guilty verdict and fine as on the previous occasions. However, the maximum fine for failing to comply with a BCN is only £1,000 and the fines and threat of further fines have clearly not been sufficient to cause the use to cease. Legal advice is that as two prosecutions have not been effective, it is unlikely that further prosecutions would be. It is expensive in both officer and court time and so it would not be appropriate continue this course of action.
- 3.3 **Direct Action.** There is no default power to allow the LPA to enter the land and take direct action in the case of the breach of a BCN.
- 3.4 **Enforcement Notice.** An enforcement notice could be served. The advantage would be that the maximum fine for breaching an enforcement notice is £20,000, whereas the maximum fine for breaching a BCN is only £1,000. However, there is a right of appeal against an enforcement notice, which the owner would probably exercise. Although there is little doubt that the appeal would be dismissed as there have been two previous unsuccessful appeals, this would lead to expense for the LPA and would prolong the period that the breach is continuing.
- 3.5 Default powers also exist where an enforcement notice has not been complied with, unlike the case of a BCN, which would allow entry to the site to take direct action. Such action is more often used when a site has to be cleared because unauthorised development has occurred, or a site has to be tidied. In this situation where a use has to cease it is not considered that direct action would achieve the desired result.
- 3.6 The service of an Enforcement Notice is therefore not recommended.

4.0 **Supporting Information**

4.1 **PLANNING HISTORY** 118 High Street has had a complicated planning history since it was purchased by the current owners in January 2002. At this time the authorised use was for retail purposes, which is classified as an A1 use. The most relevant applications are detailed below.

4.2 C/COL/02/0412: Change of use to A3 (restaurant/café and sandwich bar), new shopfront, new access to flats above from High Street, repair to existing windows and rendered walls, new access to existing basement, repair to single storey extensions. Refused 12/8/02

C/COL/02/1677 Change of basement to A3 retail. Change of use of first floor to office B1. Change of use of second floor for residential. Installation of new shop front and access to upper floors. New basement access and alterations at rear to windows and door openings. Conditional permission 13/12/02. A condition was imposed on this permission which states: "The ground floor of 118 High Street shall be used for A1 retail purposes only. The sale and/or the consumption of hot food is not permitted within this part of the building."

C/COL/04/0355: Change of use of ground floor from A1 (retail) to A3 (Food and drink). Refused 21/4/04, appeal dismissed 25/5/05.

F/COL/04/1148: Variation of condition 11 of C/COL/02/1677 to allow opening 0800 to 2300 Mon-Sat inc. and 0800 to 2230 Sundays. Conditional permission 10/8/04

F/COL/05/1821: Variation of condition 11 of COL/02/1677 to change opening times on Monday to Sunday to 0800 – 0100. Withdrawn 23/10/07.

F/COL/06/0661: Retrospective application for continued use of ground floor as a café (Class A3) for a temporary period of one year. Variation of condition 10 of planning permission C/COL/02/1677. Refused 2/6/06, appeal dismissed 30/5/07

071692: Conversion of existing roof space into living room as additional accommodation for existing flat. New dormer windows. Conditional approval 21/4/08

- 4.3 Despite the refusal of planning permission to change the use of the ground floor in 2002 and again in April 2004, by November 2004, the use of the ground floor as a restaurant/café had already commenced. Advice was offered to the owners during site visits and letters sent informing them that enforcement action was likely, but the unauthorised use of the ground floor continued.
- 4.4 In January 2006, a BCN was served on the owners of 118 High Street. This related to a condition imposed on planning permission C/COL/02/1677. The requirement of the notice was: *“Use the ground floor of the premises for A1 retail purposes only. In order to do so, there must be no consumption of food or drink, either hot or cold on the ground floor of the premises. In addition there must be no sales of hot food or hot drink from the ground floor for consumption off the premises”*.
- 4.5 Compliance with this notice was required by 30 April 2006. A site visit was carried out on 4 May 2006 to check that the requirements of the notice were being complied with. It was clear that the notice was not being complied with and on 19 May 2006 the Head of Service authorised a prosecution. In November 2006, the owners were prosecuted and found guilty in their absence. The maximum fine was imposed and the owners were ordered to pay costs to the Council. They appealed against the level of fine and this was subsequently reduced.
- 4.6 Despite the prosecution, the ground floor of the premises continued to be used as a café/restaurant. This resulted in a second prosecution in May 2008. The owners pleaded guilty and were again fined and had to pay costs.
- 4.7 Prior to both the prosecutions, the owner suggested that the ground floor was in A1 use as it was being used as an Internet Café. Government advice in Circular 3/05 specifically states that an Internet Café is an A1 use. Therefore if the premises were being used as an internet café, the condition, and the requirements of the BCN would be complied with. Circular 3/05 defines internet cafes as follows:
“Internet cafés, also called cyber cafés, are premises whose main function is the provision of internet access facilities, although the majority of these premises may have ancillary café facilities. The amended Order classifies these premises as A1 (premises where the primary purpose is to provide access for members of the public to the internet). However, as with sandwich bars and coffee shops, it is the primary purpose that needs to be considered. The availability of hot and cold drinks, and perhaps a separate area for consumption (to avoid spillage and damage to expensive machinery) will not, in itself, invalidate the A1 status of the internet café provided that the café element is an ancillary aspect of the business. Similarly, a café will not be classified as an internet café on the basis of a relatively few computer terminals available for use by customers.”
- 4.8 The owner has claimed that he has installed Wifi internet capability to allow customers to either use their own laptop computers, or one of the four available for hire. However, the premises are not being advertised as an internet café and there are no signs showing that the internet is available until you enter the premises. Various visits have been carried out and there is no evidence of customers using the internet. Clearly the main function of the premises is not for the provision of internet access facilities, so the ground floor does not benefit from the A1 status granted to internet cafes.

5.0 Proposals

- 5.1 To apply to the courts for an injunction requiring the use to cease. There is no right to an injunction and the court would have to be satisfied that the injunctive action is necessary or expedient in land use terms.
- 5.2 Several factors should weigh in favour of an injunction being granted. These are:
- (a) the breach has been continuing for a prolonged period in defiance of the BCN
 - (b) the breach is likely to continue unless further action is taken
 - (c) nothing short of an injunction is likely to be effective
 - (d) failure to comply with a BCN is a breach of the criminal law, not simply a breach of planning control, and
 - (e) the matter has been tested by appeal to the Planning Inspectorate (twice)
- 5.3 Other factors which the court should take into account are the balance between public and private interests. The owner would undoubtedly suffer some level of hardship as injunction will interfere in the way the business is operated. The owner will be forced to change the style of trading on the first floor of the building, but will not be forced to cease to trade. There is the option to operate as a traditional A1 retail outlet, or to use the premises as an internet café. To be weighed against this hardship are the public interest issues. These are whether the action is necessary and expedient in land use terms to uphold the policies in the Borough Plan.
- 5.4 Failure to comply with an injunction is a serious matter as it is dealt with as contempt of court and as a result is punishable by imprisonment. For this reason, courts are only likely to grant an order if they are prepared to enforce it.
- 5.5 It is considered that an injunction is an appropriate and proportionate response to the continuing breach of the BCN and of planning law and Members are therefore recommended to authorise injunctive action to restrain the continued use of the ground floor of 118 High Street as a restaurant/café.

6.0 Human Rights Implications

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

Article 8 - The right to respect for private and family life,
Article 1 of The First Protocol (Protection of Property) - The right to peaceful enjoyment of possessions, it is considered that:

In respect of Article 8, it is legitimate for the Council to pursue planning aims provided that this is not disproportionate to the human rights of any individual. As an appropriate compliance time has been proposed, it is considered that the enforcement action, is not disproportionate.

In respect of Article 1, it is accepted that planning law controls property in the general public interest. The exercise of the enforcement powers contained in the legislation, does not amount to deprivation, provided the action is proportionate.

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

7.0 Consultation

- 7.1 Legal services have been consulted on whether injunctive action is an appropriate response to this breach of criminal law. This report would form part of any application for an injunction and has been checked by legal services.

8.0 Strategic Plan References

- 8.1 Planning (Development Control) is identified as a service where we wish to improve performance. Planning enforcement is an integral part of that service.

9.0 Standard References

- 9.1 There are no particular references to publicity considerations; or financial; equality, diversity; community safety; health and safety or risk management implications.

Case Officer:	Mr A Day
Site:	118 High Street, Colchester, Essex, CO1 1SZ
Application No:	C/COL/02/1677
Date Received:	25th September 2002
Agent:	Clive Richardson Associates
Applicant:	Mr S El-Sayed
Development:	Change of basement to A3 retail. Change of use of first floor to office B1. Change of use of second floor for residential. Installation of new shop front and access to upper floors. New basement access and alterations at rear to windows and door openings
Ward:	Castle

Site Description

118 High Street is located on the north side of the High Street. The building was previously occupied by Jefferys Jewellers but is now vacant and in need of major repair and refurbishment. The building dates from the sixteenth century or earlier and is of timber frame construction. It is listed grade II for its special architectural and historic interest.

Land Use Allocation

Mixed Uses Area Group A

Relevant Planning History

COL/90/1343 The conversion of the first / second floors to office use. The redesign of the shop front to provide access to the first floor.

COL/90/1344 The redesign of the shopfront to provide access to the first floor.

COL/02/0412 Change of use of the ground floor to A3 retail and a new shop front.

COL/02/432 Installation of a new shop front, removal of stair case the insertion of a new staircase in a different position and various internal alterations.

Principal Policies

Adopted Review Borough Local Plan

Central Area Local Plan

CA148 Presumption in favour of residential shopping and office uses

CA151 Environmental Improvements

CA92 Design principles

CA93 Changes of use (noise/traffic)

CA111 Criteria for control of signs and advertising

- Colchester Borough Local Plan - 2nd Deposit Draft
- UEA1 Character of Conservation Area
- UEA2 Buildings within Conservation Areas
- UEA5 Altering listed building
- UEA8 Development affecting sites of archaeological significance
- UEA17 Advertisements within Conservation Areas
- UEA21 Advertisements on listed buildings
- TSC 3 Changes of use from retail in the town centre
- TSC 9 Proposals for change of use to leisure, food and drink
- TSC 20 Office development
- DC1 General

Human Rights Implications

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

- Article 8 - The right to respect for private and family life,
- Article 1 of The First Protocol (Protection of Property) - The right to peaceful enjoyment of possessions,

it is considered that:

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

Community Safety Implications

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

Positive	Negative	Nil Effect
		✓
✓		✓

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

Yes	No	Not Applicable
		✓

Consultations

English Heritage understand that there is an outstanding listed building consent for works to this building which involves the removal of the present staircase and a new one in a different position. If this is the case, the principal concern of English Heritage is that the permitted works are carried out with minimum destruction of historic fabric.

The Society for the Protection of Ancient Buildings (SPAB) are concerned at the loss of the staircase and request that the Council do not consent to its removal without first receiving clear information on its age and interest. The Society has serious concerns at the proposed treatment of the basement and questions the extent of the proposed works. The Society also questions the necessity for removing the main partition separating the front shop area from the rear of the building particularly as this will significantly alter the ground floor plan. The Society requests that every effort is made to repair the existing windows and that they should not be replaced unless first approved by the Council. The Society understand that consent was granted in 1990, which included the removal of the staircase. However, this in itself, should not be a reason for granting consent to the application in its present form.

Ancient Monuments Society welcome the reuse of the upper floors but are concerned at the removal of the staircase

The Georgian Group strongly objects to the proposal to remove the staircase as this would mean the loss of the original plan form of the building. However, the Group note that there is a

valid outstanding listed building consent, which includes the loss of this staircase. The Group is also very concerned by the proposal to install tanking in the cellar. Tanking merely forms an impermeable barrier trapping water; this does not solve the water ingress problem. Further consideration needs to be given to alternative solutions to resolving the damp problems currently being experienced within the cellar.

Museum (Archaeological): 118 High Street is situated within the heart of the historic town. It is possible, therefore, that archaeological deposits may be disturbed during the renovation of the cellar area. It is recommended that if consent is granted, the applicant commission an approved professional archaeological contractor to conduct a watching brief as the footing are excavated.

Environment Agency advise that all drums and small containers used for oil and other chemicals shall be stored in a bunded area which do not drain to any watercourse, surface water sewer or soakaway. The Agency also advise that all washdown and disinfectants should be discharged to the foul water sewer.

Environmental Control suggest various conditions relating to sound insulation, noise levels, opening hours and refuse storage / collection.

Highway Authority have no objection against this proposal subject to the new shopfront being entirely clear of the limits of the public highway.

Representations

Colchester Civic Society objects to the part of the application that proposes the change of use of the basement to A3 retail.

Report

There have been extensive discussions between the applicant and planning officers relating to the proposed change of use of the building, the design of the new shop front and the alterations to the internal layout.

The proposed change of use comprises Class A3 in the basement, Class B1 (office) on the first floor and residential on the second floor. The ground floor of the property will remain within Use Class A1 (Shops).

118 High Street lies within a mixed use area (Group A) as defined in the Draft Local Plan that seeks to maintain a balance (on the ground floor frontages) between shopping and other uses. The current planning application maintains the status quo at ground floor level. The alternative uses proposed for the basement and on the first and second floors do not conflict with planning policies. The proposal to bring the whole building into use is welcomed as this will help to secure the future upkeep and repair of this important building.

The design of the proposed new shopfront is a significant improvement on the existing shopfront and will enhance both the appearance of this building and this part of the conservation area.

Various internal alterations are proposed as a part of the current applications.

First regarding the proposal to removal the existing staircase. The stair tower occupies a central position at the rear of the main building and contains an attractive nineteenth century staircase. In 1990 listed building consent was granted to convert the upper floors to office and these works included the removal of the stair tower and the installation of a new staircase in a different position. Works started on the conversion of the upper floors in 1991 but were never completed due to the down turn in market for office accommodation. The 1990 listed building consent is thus still valid and the owner could continue with the implementation of this scheme.

The current listed building application still seeks the removal of the existing staircase, but amends the design and location of the new staircase. This represents a significant improvement on the approved scheme as it retains much more of the historic fabric of the building.

The basement probably dates from the Victorian period and appears, in the past, to have been used only for storage. Excessive damp in the basement has resulted in the deterioration of the built fabric at this level. The basement has also suffered from alteration works that have been carried out to a poor standard and without due consideration to the overall arrangement of the building. The current application seeks consent to line the external walls of the basement area with a new free-standing block wall and the insertion of a concrete floor. It is also proposed to inject a chemical damp proof membrane into two courses of bricks on the perimeter wall beneath the timber frame superstructure. In view of the poor condition of the basement and the fact that there is very little historic fabric within this area, the proposed works are considered acceptable.

The remainder of the internal alterations proposed do not involve a significant loss of historic fabric and there is no objection to these works.

Background Papers

ACC; SDD; Planning Policy Guidance Note 15; Planning and the Historic Environment (1994); EH; SPAB; AM; GG; AT; HA; HH; NR; CC

Recommendation for F/COL/02/1677

Approve conditional - Recommendation

Conditions

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

The development hereby permitted shall be begun before the expiration of five 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.

2 - Non Standard

The proposed new shopfront shall be implemented in strict accordance with drawing numbers 187/15/B and 187/16/B as amended by the letter from Clive Richardson Associates dated 07 November 2002 (excluding the external lighting) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

3 - Non Standard

Full details of the proposed new signage shall be submitted to and approved, in writing, by the Local Planning Authority prior to the commencement of works.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

4 - C1.8 (Plaster and Render)

A full specification of the proposed external render including details of backing, number and mix of each coat and proposed surface finish shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of rendering/plastering work.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

5 - C1.9 (Retention of Window Detail)

Notwithstanding the details submitted, all existing windows shall be retained and where necessary repaired and any repairs shall retain details of mouldings to match the original design and incorporate surviving crown and cylinder glass unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

6 - Non Standard

Notwithstanding the details submitted, additional drawings, by section and elevation, of the proposed covered entrance to the basement shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

7 - C3.3 (Samples to be Submitted)

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

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

8 - Non Standard

No development or preliminary works shall take place until the applicant, their agents or successors in title has commissioned an approved, professional archaeological contractor to conduct a watching brief as the footings are excavated. The scope of the brief shall allow sufficient time and finance for the archaeologist to observe and record any archaeological feature that may be destroyed. At the end of this exercise an ordered report will be produced and submitted to the Local Planning Authority.

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

9 - Non Standard

If hitherto unknown evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record together with recommendations for dealing with it in the context of the scheme, shall be submitted for written approval by the Local Planning Authority.

Reason: To protect the character of the listed building.

10 - Non Standard

The ground floor of 118 High Street shall be used for A1 retail purposes only. The sale and/or the consumption of hot food is not permitted within this part of the building.

Reason: For the avoidance of doubt and to ensure that the ground floor of this property continues to contribute towards the dominant retail appearance of the High Street.

11 - Non Standard

The A3 use hereby permitted shall not be open to customers outside the following times: 08:00 to 23:00 (Monday to Friday) and Sunday 08:00 to 22:30 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenity of nearby residential properties.

12 - B1.2 (Sound Insulation: Any Building)

The use hereby approved shall not commence until the building has been modified to provide sound insulation against internally generated noise in accordance with a scheme approved in writing by the Local Planning Authority.

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

13 - Non Standard

All external doors to the proposed A3 retail unit shall be fitted with self closing hinges and thereafter retained as such.

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

14 - B1.6 (Control of Acoustic Spec of Plant & Machinery)

Details of all plant and machinery, including manufacturers acoustic specifications, proposed to be used pursuant to the uses hereby approved shall be submitted to and approved by the Local Planning Authority prior to installation on the site. No plant or machinery shall be installed other than in accordance with the approved details.

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

15 - Non Standard

14. Prior to the operation commencing a noise limiting device shall be installed to restrict the level of internally amplified sound. The level shall be set in consultation with Environmental Control and any unauthorised adjustment shall not be permitted. Details of the proposed device shall be submitted to and approved, in writing, by the Local Planning Authority prior to the commencement of activities involving the emission of amplified sound.

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

16 - B2.2 (Food Premises)

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Head of Planning and Protection) full details of equipment to be installed for the extraction and control of fumes and odours together with a code of practice for the future operation of that equipment. The use hereby permitted shall not take place other than in accordance with these approved details.

Reason: To ensure that the permitted development does not harm the local environment and/or the amenities of the area by reason of odours and smell.

17 - B9.1 (Refuse Bins)

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

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

18 - B9.2 (Recycling Facilities)

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

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

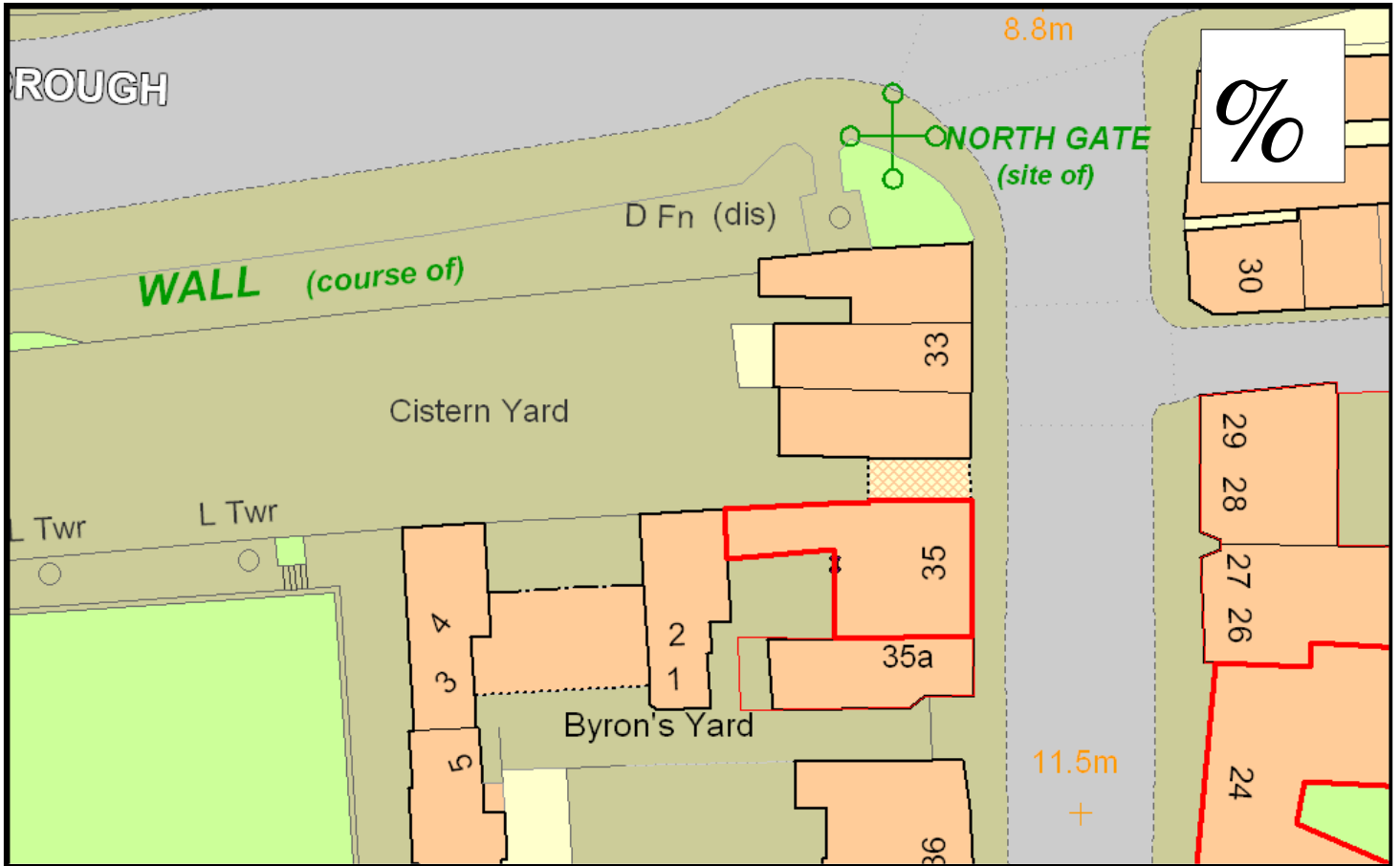
Informatives

1 - Non Standard

The letter from the Environment Agency setting out good practice in relation to the storage or containers used for oil and other chemical and the discharge of washdown and disinfectant waters is attached.

2 - Non Standard

All works affecting the highway are to be carried out by prior arrangement with and the satisfaction of the Highway Authority. The application for the necessary works should be made initially by telephoning 01206 282732.



Location: Wine Me Up, 35 North Hill, Colchester, CO1 1QR

Scale (approx): 1:1250

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Planning Committee

Item

9

5 February 2009

Report of	Head of Environmental & Protective Services	Author	Sarah Hayes ☎ 01206 282445
Title	'Wine Me Up', 35 North Hill Colchester		
Wards affected	Castle		

This report concerns the installation of external shutters, at Wine Me Up, which is in Colchester Conservation Area 1

1.0 Decision(s) Required

- 1.1 Members are requested to authorise the service of an enforcement notice requiring the removal of the shutters at 35 North Hill, trading as 'Wine Me Up'.
- 1.2 Three months is considered a reasonable period of time to allow the removal of the shutters. As the premises are licenced it is accepted that security is required. Three months will allow an alternative form of security, such as internal shutters, which would not require planning permission, to be installed.

2.0 Reasons for Decision

- 2.1 Within the Adopted Review Colchester Borough Local Plan, March 2004, policies UEA1 and UEA 2 state that Conservation Areas will be given special protection from development considered detrimental to their settings. In the case of a shop front, it should be of a high standard of design relating sympathetically to the character of the building and surrounding area. Materials should be sympathetic with the particular character of the area. Local Plan policy UEA5 requires the LPA to protect the setting of listed buildings.
- 2.2 The Council have a duty to both preserve and enhance the character of conservation areas. 35 North Hill lies within Colchester Conservation Area number 1 and at the foot of an historic street which forms one of the major entrances to the town centre. The town centre conservation area appraisal notes that although numbers 32-35 North Hill are not listed they are certainly of local interest. It should also be noted that there are listed buildings opposite (including Grade 2* (star) Ye Old Marquis PH) and it is important to safeguard the setting of these buildings.

2.3 The external security shutter, which has already been installed, runs fully across the frontage of the premises. It is considered that the security shutter housing, which is of a poor boxy appearance, and the security shutter itself, which is of a perforated design, will be both visually unacceptable and also present a 'deadening' appearance when fully operational in the streetscene. The overall design and appearance of the shutter, therefore, whether in operation or not, presents as an unduly obtrusive and unattractive feature out of keeping with the historic character and setting of North Hill and contrary to the policies set out above. In such a location any alterations to shopfronts require high standards of design using traditional materials and finishes sympathetic to the historic character of the area.

2.4 The shutters are contrary to existing planning policies and it is therefore considered expedient to take enforcement action.

3.0 Alternative Options

3.1 If no action is taken, after a period of four years, the development will become lawful and no action could be taken. At the time of the first visit to the site, in March 2008, the shutters had already been installed. They would therefore become lawful in around three years time.

4.0 Supporting Information

4.1 A complaint that the shutters had been installed was received in March 2008. A site visit was carried out and the shutters were viewed in both the open and closed position. The shutters are of the perforated type, consisting of solid metal slats with pinprick perforations. When closed they almost completely obscure the interior, although small spots of light leak out.

4.2 The shutters are contained in an boxy housing, which is visually unacceptable.

4.3 Government advice acknowledges that security shutters illustrate the tension that can exist between the need for effective crime prevention measures and the need to maintain or improve the environmental quality of an area. The creation of a fortress like atmosphere can be self-defeating. Solid shutters can have an adverse effect by resulting in a 'dead' appearance and contributing towards the creation of a hostile atmosphere. They are also vulnerable to graffiti. This in itself can give out signals about the areas vulnerability to crime and also deter the public from using such locations, thus losing the benefit of passive surveillance.

4.4 The owner of the business made an application for planning permission, reference 081683, to retain the shutters and an application for advertising consent, reference 081684, for the sign above them. Both applications were refused on 26 November 2008; at the time this report neither of these applications have been appealed.

4.5 The owner of the business has stated that the shop is only shut from 0100 until 0700 on Sundays to Thursdays and from 0300 until 0700 on Fridays and Saturdays. The shutters are therefore only closed for six hours during most nights and four hours on Fridays and Saturdays. Nevertheless, it is not considered that this overcomes the problems with the shutters. The opening hours could change leading to the shutters

being closed for much longer periods and the bulky shutter housing, which is constantly visible, is considered unacceptable.

- 4.6 Members will be aware that enforcement action cannot be taken in respect of an advertisement, the only remedy being prosecution. The owner has recently been advised that he is vulnerable to prosecution for displaying an unauthorised sign and if he makes no effort to remedy this matter prosecution will be considered. Powers to authorise a prosecution under the Advertisement Regulations are delegated to the Planning Services Manager.

5.0 Proposals

- 5.1 An enforcement notice is served requiring the shutters to be removed. A period of three months for compliance will allow the owner to install alternative security precautions.

6.0 Standard References

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



Site Location Plan

MAP NOT TO SCALE

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Notice Number: 02018
Complaint Reference: 173249
Site Location Address: Afro Caribbean Hairdresser, 25 Barrack Street, Colchester, CO1 2LJ
Date Produced: 29 January 2009

Planning Committee

Item
10

5 February 2009

Report of	Head of Environmental & Protective Services	Author	Sarah Hayes ☎ 01206 282445
Title	Afro Caribbean Hairdresser, 25 Barrack Street, Colchester		
Wards affected	New Town		

This report concerns the installation of external shutters at a hairdressing salon

1.0 Decision Required

- 1.1 Members are requested to authorise the service of an enforcement notice requiring the removal of the shutters at 25 Barrack Street, with a compliance period of two months.

2.0 Reasons for Decision

- 2.1 The shutters are of a poor appearance and have not been designed to fit the premises. Policy DC1(b) of the Adopted Review Colchester Borough Local Plan requires that development will be well designed, having regard to local building traditions. These shutters appear incongruous and are contrary to the aims of this policy. It is therefore considered expedient to take enforcement action.

3.0 Alternative Options

- 3.1 If no action is taken, after a period of four years, the development will become lawful and no action could be taken. The shutters have been installed for between one and two years, so could become lawful in around two years time.

4.0 Supporting Information

- 4.1 In January 2008 a complaint was received that two businesses had installed roller shutters near the Wimpole Road/Magdalen Street crossroads. The complainant said:

"In my opinion these types of shutters are out of keeping with the area and the council's plans for regeneration of the area down to the Hythe. They make the street more intimidating, particularly after dark, and while it is only a couple of businesses at the moment, if others were to follow suit, I feel that it would make the street as a whole a more unpleasant place to be at night. If you visit any street in the suburbs of London or any other Town or City you will understand how these shutters make the streets seem more closed in and give a general feeling that the area is unsafe.

Other businesses on Barrack Street have got open type grills which, while providing additional security, still allow a view inside the shop, it is the blocking of this entirely that has the effect of closing in of the street for pedestrians."

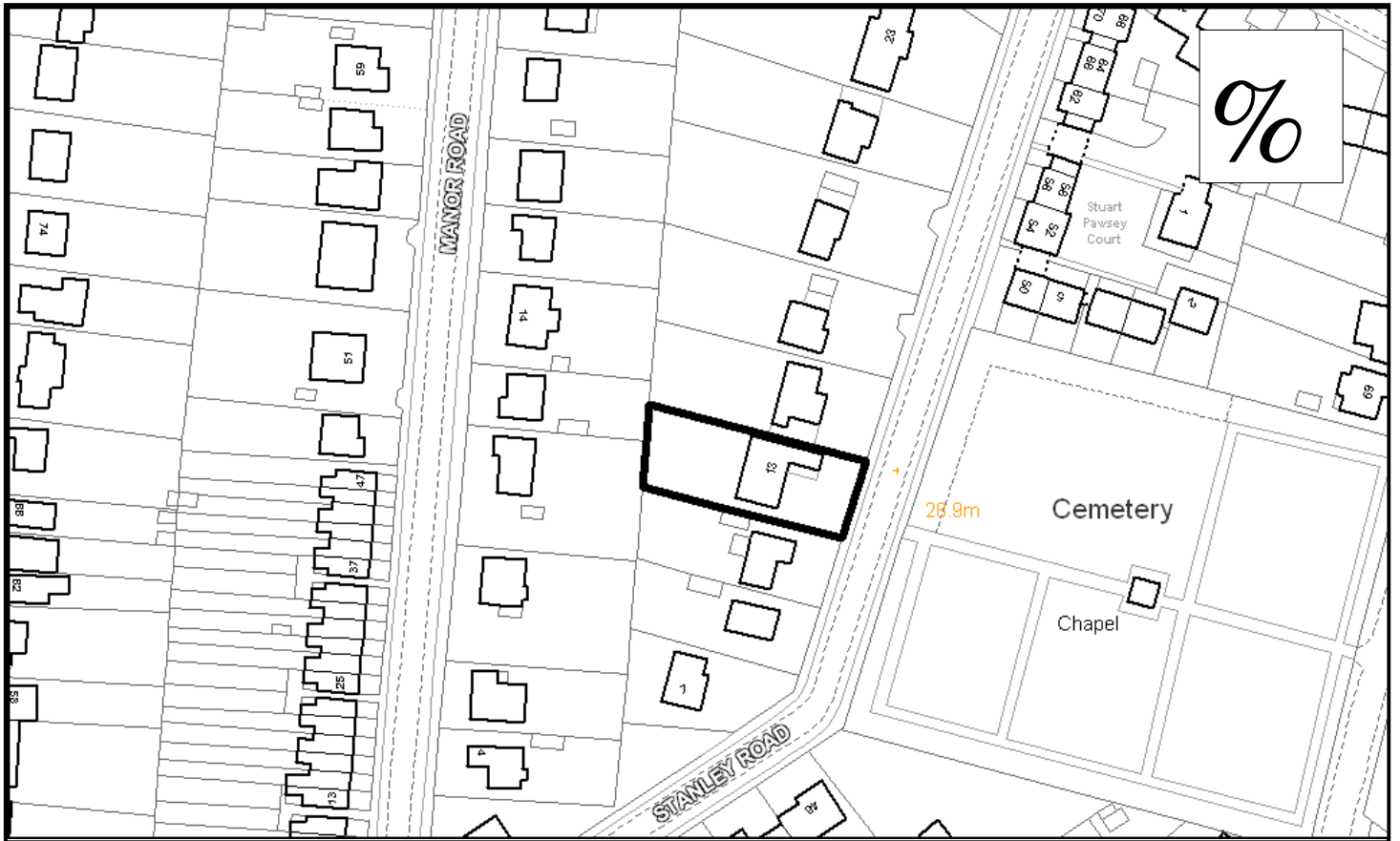
- 4.2 The details of this complaint echo government advice that solid shutters can result in a dead appearance and a hostile atmosphere.
- 4.3 Three local businesses were visited. One business had installed open mesh shutters with a slim housing. These shutters were considered appropriate in this location and they submitted a planning application which was approved. The owner of the second business has agreed to submit a planning application for more appropriate shutters and install these if planning permission is granted. Although progress has been slow, it is not considered appropriate to take enforcement action at this stage.
- 4.4 The third business is the subject of this report. The shutters are of a particularly poor design and have not been designed to fit the premises. Communication with the operator of the business has been difficult and it has not been possible to negotiate either an improvement in the design of the shutters or agreement to remove them. It is understood that the business may be struggling, but the removal of the shutters should be a relatively simple operation and would reveal the original shopfront.

5.0 Proposals

- 5.1 Members authorise the issue of an enforcement notice requiring the shutters to be removed.
- 5.2 Two months is considered a reasonable period of time to allow the removal of the shutters. There does not appear to be any particular reason why a hairdressers should require special security.

6.0 Standard References

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



Application No: 080879

Location: 13 Stanley Road, Wivenhoe, Colchester, CO7 9LP

Scale (approx): 1:1250

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Planning Committee

Item
11

5 February 2009

Report of	Head of Environmental & Protective Services	Author	David Whybrow ☎ 01206 282444
Title	Application No. 080879 - 13 Stanley Road, Wivenhoe		
Wards affected	Wivenhoe Quay		

This report seeks Members' agreement to 2 minor amendments and provides information relating to a number of complaints received during the construction period

1.0 Decisions Required

- 1.1 To agree as minor amendments changes to the proposed chalet bungalow as approved under Ref: 080879. Following commencement of the work an external chimney has been constructed on the southern side elevation of the property and the applicant also wishes to change the external finishes to render and black weatherboard.
- 1.2 Amended plans have been submitted and further consultations have been carried out with the neighbours and Wivenhoe Town Council. Their views are reported below.

2.0 Reasons for Decisions

- 2.1 The new chimney, required for safety reasons, represents a small-scale alteration in keeping with the originally approved scheme. The proposed changes are generally considered to be appropriate to the area and in accordance with your normal policy guidelines.

3.0 Alternative Options

- 3.1 The applicants could be asked to submit a new planning application incorporating the chimney and proposed changes to external materials. In your officer's opinion this is not warranted in the present case as the alterations are genuinely "non-material" in nature.

4.0 Supporting Information

- 4.1 Planning permission was granted on 27 June 2008 for the removal of the existing roof and construction of a new roof with rooms within the roof space and other associated alterations.
- 4.2 Following objections from neighbours and a site meeting revised plans were received which replaced the dormers on the rear elevation with velux windows.

4.3 Also in response to neighbours' concerns and at the request of a local Councillor a condition was included in the Decision Notice as follows:-

"No construction work relating to this permission shall be carried out on any Sunday, Bank or Public Holiday nor before 07.30 hours or after 18.00 hours on any weekday or before 0800 hours or after 1300 hours on Saturday.
Reason: In order to protect residential amenity.

4.4 The Town Council's response was as follows:-

"No material planning considerations other than consideration to be given to impact on neighbours and all materials being used to be stored within the curtilage of the site. The Borough Council's Code of Practice on working hours and noise should be enforced. The Town Council notes that the applicant has taken into account the views of neighbours."

4.5 Two subsequent minor amendments comprise:-

- An external full-height chimney which was constructed on the southern side elevation. This was not included within the original approved plans, but considered to be necessary when the existing chimney was found to be structurally unsafe and did not comply with Building Regulations. The chimney is domestic in scale, projects 450mm beyond the face of the existing gable and is located approximately 1.5m away from the side boundary.
- The second minor amendment relates to a change in materials to avoid a mismatch of existing and new brickwork. The front and side elevations would be rendered and the front garage and rear single storey extension would be finished in black weatherboarding as a contrast. A mix of brick, render and weatherboarding is to be found in properties along Stanley Road.

4.6 Overall these amendments are considered to be of a minor nature, to be in keeping with the appearance of the property and streetscene and will not significantly affect the amenity of neighbours.

5.0 Strategic Plan References

5.1 None

6.0 Consultation

6.1 The views of Wivenhoe Town Council to the amendments are as follows:-

"The amendments were noted and the Planning Committee had nothing further to add to their original comments." (see Paragraph 4.4)

6.2 A total of 5 written responses have been received from the neighbours at 15 Stanley Road and representations have also been received from the owner of No. 11. In summary their major concerns are:-

- The chimney has been constructed without permission, will have an overbearing effect and impinge on the skyline. It should be possible to reconstruct it in its original permission.

- The chimney should be the subject of a retrospective planning application. Chimney emissions will have adverse impact on ventilation of 11 Stanley Road.
- The proposed change in materials will be overbearing and not in keeping and should be part of a new application.
- Insufficient time was given to respond to the minor amendments.
- These additional works will result in further disturbance and loss of amenity.

6.3 Environmental Control have responded to the new chimney as follows:-

“Environmental Control have no comment to make on an existing chimney being demolished and rebuilt other than the standard notes on demolition and construction.”

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

6.4 Building Control have responded to the new chimney as follows:-

“I have had a look through Approved Document J: Combustion appliance and fuel storage systems and am satisfied that the chimney provision does not contravene any part of this regulation.

I have made a site inspection of the works being carried out to the property and am satisfied that the works are in accordance with the Building Regulations and the approved plans.”

6.5 A letter of explanation has been received from the agent. In brief it states:-

“The approved scheme proposed to extend the existing chimney stack in height above the ridgeline of the new roof, however, it has found to be structurally sub-standard. Also we have been advised that the existing flue is dangerous and does not comply with current building control standards in respect of serving the existing fireplace. It cannot be easily upgraded because it is integrated into the existing gable end structure and anyway exceeds the number of permissible bends. Therefore it is proposed to construct a replacement “Class One” flue and chimney stack in accordance with the current Building Regulations against the external face of the southern gable end. The chimney stack will project 450mm beyond the face of the existing gable wall but will still be in excess of 1.5m away from the southern boundary and will be positioned directly behind the existing fireplace to ensure that the new flue is as straight and long as practicable to maximise its draught. The overall height of the chimney is designed in accordance with the requirements of the building regulations to ensure that the products of combustion can discharge freely into the outside air whatever the wind conditions.

For the reasons noted above we consider that the proposed revision does not materially affect the approved scheme and is not detrimental to neighbouring properties, therefore we would respectfully request if the Council would consider accepting this proposal as a minor amendment to the current planning permission. It should also be noted that this amendment has been made on safety grounds and if the existing chimney and flue had been inspected earlier

a replacement chimney would have been included into the original planning application.”

- 6.6 Comments from the Investigation Officer regarding complaints received is attached as Appendix 1.

7.0 Publicity Consultations

- 7.1 None

8.0 Financial Implications

- 8.1 None

9.0. Equality, Diversity and Human Rights Implications

- 9.1 None

10.0 Community Safety Implications

- 10.1 None

11.0 Health and Safety Implications

- 11.1 None

12.0 Risk Management Implications

- 12.1 None

Background Papers

080879; ARC 2004; PTC; NLR; HH; BC

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

Our goal is to be a high performing Council

Our corporate objectives for 2006-2009 are:



e-mail: democratic.services@colchester.gov.uk
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