

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
17 December 2009 at 6:00pm**

SUPPLEMENTARY AGENDA

Part A

(open to the public including the media)

Pages

12. Amendment Sheet

71 - 390

See Amendment Sheet attached.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. **A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. **The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.**

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

3. **The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).**

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

7.8 091263 – Little Netherhall, Princel Lane, Dedham

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

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“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

7.8 091263 – Little Netherhall, Princel Lane, Dedham

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

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AMENDMENT SHEET

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

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princl Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

7.8 091263 – Little Netherhall, Princel Lane, Dedham

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

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AMENDMENT SHEET

**Planning Committee
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Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

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within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

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

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

7.8 091263 – Little Netherhall, Princel Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

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A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

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AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

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Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

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I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

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

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

7.8 091263 – Little Netherhall, Princel Lane, Dedham

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

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Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

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I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

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I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

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within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

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In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

7.8 091263 – Little Netherhall, Princel Lane, Dedham

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

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AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

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7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. **A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. **The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.**

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

3. **The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).**

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

7.8 091263 – Little Netherhall, Princel Lane, Dedham

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

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

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

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Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

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12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

7.8 091263 – Little Netherhall, Princel Lane, Dedham

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscurity).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

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

2. **The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.**

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

3. **The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).**

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

INFORMATIVE:

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

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AMENDMENT SHEET

**Planning Committee
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Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

7.8 091263 – Little Netherhall, Princel Lane, Dedham

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

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

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

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AMENDMENT SHEET

**Planning Committee
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The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

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The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

7.8 091263 – Little Netherhall, Princel Lane, Dedham

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

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within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

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OFFICER’S RESPONSE

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“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

- 1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.
- 2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.**

Reason: To ensure that the permitted development does not harm the local environment and the amenities of the area by reason of air pollution, odours or smell.
- 3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).**

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princel Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

7.8 091263 – Little Netherhall, Princel Lane, Dedham

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

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within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

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AMENDMENT SHEET

**Planning Committee
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There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. **A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. **The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.**

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

3. **The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).**

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscurity).

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**Planning Committee
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There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

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AMENDMENT SHEET

**Planning Committee
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I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

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Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. **A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. **The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.**

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

3. **The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).**

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

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**Planning Committee
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I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

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“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

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Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

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3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscurity).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

- 1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.
- 2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.**

Reason: To ensure that the permitted development does not harm the local environment and the amenities of the area by reason of air pollution, odours or smell.
- 3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).**

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

7.8 091263 – Little Netherhall, Princel Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

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

INFORMATIVE:

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AMENDMENT SHEET

**Planning Committee
17 December 2009**

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I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

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Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscurity).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

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A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

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AMENDMENT SHEET

**Planning Committee
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I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

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Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

- 1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.
- 2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.**

Reason: To ensure that the permitted development does not harm the local environment and the amenities of the area by reason of air pollution, odours or smell.
- 3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).**

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

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As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

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That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

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In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

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Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscuration).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

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AMENDMENT SHEET

**Planning Committee
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I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

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As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

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I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

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Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscurity).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

1. **A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

2. **The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.**

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

3. **The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).**

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princel Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

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Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

AMENDMENT SHEET

**Planning Committee
17 December 2009**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090732 – Land adjacent 9 Walters Yard, Colchester

Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

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I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

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**Planning Committee
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Numbers 59 West Stockwell Street and 2 Walters Yard have been consulted, and the following comments have been received from 59 West Stockwell Street.

“As you are aware, I had only recently been given notice of this new pending application (having been omitted from the list of interested parties in your possession).

It is interesting to note the comments contained in the Council Committee Report to the meeting of November 19th this year, prepared in support of this newest application (number 090732) described as a “modern folly” and referring to it as something less flamboyant to that already approved. But also saying that the withdrawal of the previous plans were to do with the fact that the “Cottage Ornee” proved too difficult to build.

I must say, that the Council has spent considerable energy in defence of these various proposed building projects since the original request to build a simple 2 story dwelling (allowing the developer to capitalise in selling this very small vegetable garden as a going concern).

Whilst I sympathise with the Applicant who has bought the land with the hopes of building (a number of variations of) a house in which to live, as you may expect, I will now be again objecting to this new request for planning permission for much the same reasons as I had originally expressed under the applications for the “Cottage Ornee” and the currently proposed “Modern Folly”.

I will list my personal objections below however I must say in advance of this that I understand (and fully endorse) the objections made by my neighbours and I am sure, those expressed would be echoed by a wider group of local residents had they been given the opportunity to have done so as the proposed plans are an affront to the character and charm of Walters Yard and in a wider sense the whole neighbourhood.

It cannot have escaped notice by the Council or even the purchaser of the land (now applicant applying for planning permission to build on this plot), that this is a long established community and those choosing to reside in this neighbourhood have done so because of the character, history and charm of this

historic location. I for one bought my ancient house for those very reasons.

Further, I know for a fact that each owner or occupier (including myself) takes their responsibilities to keep and care for our homes and neighbourhood very seriously indeed and act as guardians of these buildings and act to preserve them in character for our nation and those who will come after us.

That having been said, I currently own the property fronted on to 59 West Stockwell Street with the back being adjacent to Walters Yard and it is also with my own personal perspective on this new build that I voice my own objections to this new build.

My objections are as follows:

1. Personal Privacy and Peaceful Enjoyment of our Property

As mentioned above, the back of our house borders the above referenced plot of land with an ancient dividing wall separating ours and land under consideration. We have done our best to block the obtrusive view that those working in the British Telecom office block (another eyesore) have of us into our bedroom (or when we seek to enjoy our private garden space) up until now through the use of tall planting.

2. Proximity

Unfortunately, in viewing the building plans under consideration, it does appear that we will instead have to suffer in very close proximity, from what I can make out, the view of a bank of windows overlooking our bedroom and garden area. I use the phrase "from what I can make out" as the "drawings" made available to me to view lack any sense of scale or perspective so it is impossible to know for sure.

From what little calculation mentioned in the planning documents, it is readily apparent to me that the build will be within inches of the boundary wall separating the properties. In this I do not feel that there is sufficient amount of GAP space between the proposed dwelling and the wall separating this from my property.

3. The Condition of the Ancient Wall.

I am given to understand that this wall is in itself listed. However it has suffered damage caused by the actions of the developer (who had obtained the original planning permission) in tearing away the flora that had grown attached to the wall taking with it the mortar between the bricks, but was not repaired and is now unstable.

Further, the wall must be some 200 years old. As with any new build, excavation of the land will be required to be carried out. I am very concerned as to the possibility of land slip. The land in my garden is not stable. There is for a fact a subterranean hole in my garden (possibly part of the ancient Roman lamp factory) that presently is not causing any land shift problems.

In the event there will be excavation required to build the proposed dwelling (I understand to a further 2.8 metres (presumably in addition to that already set out in some previous plan). This most probably will exacerbate the situation and may cause the whole thing to collapse resulting in the total destruction of the wall and resultant land slip.

It is interesting to note that this planning application (as referred to above) takes into account Biodiversity and Geological Conservation and that the answers given as NO to the question is regarding protected and priority species. This I am sure, was at the very heart of the wanton act of tearing away the flora from the wall perpetrated in the first instance by the developer/owner of the land at the time of the original planning permission being sought.

I have not gone into boundary issues at the time of this writing however suffice to say that I have taken on garden law and I can say that I will take seriously any issues arising that cause damage to my property as a result of such slip as well as any matters of illegal trespass during any construction permitted by the council.

Finally, although the council has been unsympathetic to any protestations raised in each instance (dismissing in a somewhat flippant fashion, the 10 issues and concerns raised - as detailed in the afore referenced recent Committee Report) I feel that it should not be too late for this to be rectified by refusing this newest request but instead allowing only a build that is in keeping with the character and scale of the yard.”

A letter from the owner of 2 Walters Yard states as follows:

“I am the owner of 2 Walters Yard and I strongly object to the proposed building as I understand that it will be a 2 storey cottage which is ‘gimmicky’ in design, will be overbearing, completely incongruous and out of character for this area. Like most of my neighbours I believe that the Dutch Quarter should retain the medieval style of housing as it is an important historical asset to Colchester and should therefore be preserved for that reason.

Walters Yard is a very small lane and it is already difficult for residents to park a car and gain access to the flats and houses situated at the end of the road. We have already experienced problems when a lorry transporting a digger to clear the proposed site tried to gain access to Walters Yard. Several neighbours including myself had to spend time guiding the lorry drive back so that he did not hit the side of my property. Whilst the lorry was parked in Walters Yard none of residents living in the flats and houses in Walters Yard could gain access or leave their properties as the lorry was parked literally inches from their front doors. (Some residents have small children, safety issues with lorries reversing should be considered). Surely this raises serious health and safety issues, but it is also unacceptable that people should be inconvenienced in this way.

Not only is it difficult to reverse into Walters Yard but I cannot see how even a small lorry would be able to make deliveries to the yard. West Stockwell Street is also very narrow, there is not an adequate turning circle for lorries to come in forwards – they would need to reverse in from West Stockwell Street. This will prove very difficult and impossible for large lorries. I therefore presume that larger deliveries would need to be unloaded on West Stockwell Street and then transported up the lane causing further disruption and possible traffic issues in West Stockwell Street itself.

There is also nowhere for building materials to be stored or skips to be placed for the removal of any spoil, which will be considerable as the design of the building includes a basement etc.

I also have concerns about the foundations for buildings in this area. Knowing that there is a well in the garden of No. 59 West Stockwell Street which runs along the back of the proposed building site. Also that I have a well which is actually inside my property. My main concern is not only the effect the proposed building will have on the water courses, but also what method will be used by any building contractor to dig out the foundations for the proposed property and what effect this will have on my property and the surrounding area?

The proposed property is a classic case of trying to fit ‘a quart into a pint pot’ and that the space should be returned as garden or a smaller wooden construction building be proposed.”

OFFICER’S RESPONSE

All of the above comments are noted, and most of these points have been covered in the Committee report (the issue of privacy, for example, is met with obscurity).

The concerns over structural issues are acknowledged, but these are not Planning considerations. The onus is on any developer to ensure that no damage is done to the property of third parties.

7.3 091441 – The Cottage, Moor Road, Langham

Langham Parish Council responded:

“The applicants seek change of use from agricultural land to garden extension and state that the land has been fenced by the farmer, whom we presume therefore to be the land owner. This is one of a number of applications for Change of Use from agricultural land, one of which was refused by the Borough and also dismissed on appeal (Application no. C/COL/07/00370). A second (Application no. 090409) has also been refused and has gone to appeal.

Langham is particular insofar as a *large* number of residential, commercial and industrial properties abut high quality agricultural land

which is both cultivated and cultivable. Change of Use of this nature reduces the stock of high quality agricultural land in a rural area. Accordingly, whilst sympathetic to the applicants, we cannot for the above reasons and in the interests of consistency, support this application.”

Officer Comments:

Application C/COL/07/0037 relates to Jeveck, Chapel Road, Langham, which site was referred to in the original report under ‘Other Material Considerations’. Application 090409 relates to land at the rear of commercial premises known as Powerplus Engineering Ltd, School Road, Langham: in this instance the change of use of land from agriculture to commercial use relates to a stand-alone site outside of the village envelope and requiring the diversion of a public footpath.

The concerns of the Parish Council are understood; nonetheless each application has to be treated on its own merits. It is considered that the application for The Cottage is different to the two sites referred to, because the land is not readily visible from a public perspective.

7.5 091513 – Greenstead Road, Colchester

The following additional consultation responses and representations have been received:

Environmental Control: No comments.

Essex County Highways: The Highways Authority does not wish to object to the proposals as submitted. All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600

Hythe Residents Association: The site is inappropriate for a residential area.

12 Elmstead Road: The mast will be much higher than other structures in the vicinity and it and the associated cabinets will add to the clutter. If the mast is to improve coverage in the Greenstead area, it should not be sited on the periphery of Greenstead.

Officer Response: The mast is required as part of an overall network of coverage for the telecommunication operators and the chosen site was within the search area that would achieve the required coverage. In practice there are many constraints to where a mast can be located such as land ownership, width of footpath, etc. In general, a proposed mast is more likely to blend into an area with existing street furniture than where there is none. At the same time, it is recognised that there is a fine balance between “blending-in” and “street clutter”. In this instance however, given the high number of existing lamp columns

within the area and other highway furniture and signage, it is considered that the proposal will not materially impact upon the character of the area and is likely to have less of an impact than in an area with no comparable level of existing street furniture.

7.6 090817 – 1 Moorside, Colchester

It has come to the attention of officers that this application is only for a change of use. This is because significant dialogue has occurred since the application has been submitted to agree the recommendation before you. However, as this application is only for a change of use, and as such technically does not involve any physical works, there are some necessary alterations to the report.

In essence, the proposal does accord with planning policy as has been outlined within the original report to members. Although, as this is a change of use application, the physical works, which have been conditioned to ensure they are acceptable can no longer be applied. In fact, these, as any physical alterations, require planning permission in their own right and will be considered on their own merits at the appropriate time. Therefore, this application will only deal with the principle of the change of use of this building and not the physical works (i.e. Chimney and extraction system). While this application can consider whether the applicant can comply with the extraction control condition, as put forward by the Council's Environmental Control Department, as seen below, it cannot consider the physical works involved. However, it is your officer's opinion that a brick built chimney could be attached to this building to ensure a satisfactory appearance and as stated by the Council's Environmental Control department, this system, if properly maintained, will ensure that the proposal is satisfactory in terms of amenity issues.

The other issue that has come to light, is that the red line included within the application does not include the rear parking area, therefore, the application form, while stating that there will be a car parking space, can not be controlled. As ECC Highways Authority has not objected to this proposal, and the fact that this site is adjacent to the Town Centre, this in your officers opinion, is not a reason for refusal that could be justified or upheld on appeal.

In summary, Conditions 3 and 4 of the report you have seen require planning permission in their own right, so cannot be attached in this change of use application. However, the conditions attached below can still be added to ensure that any development of this ground floor business unit does not adversely impact on the amenity of neighbouring properties.

- 1. A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the 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: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.
- 2. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.**

Reason: To ensure that the permitted development does not harm the local environment and the amenities of the area by reason of air pollution, odours or smell.
- 3. The application only relates to the premises known as 1 Moorside, Colchester, and only involves the change of use of the ground floor of this building into a takeaway (A5) use. The first floor remains in office use (A2).**

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

INFORMATIVE:

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

7.7 091261 – Little Netherhall, Princes Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

7.8 091263 – Little Netherhall, Princel Lane, Dedham

Withdrawn by Head of Environmental and Protective Services so that application can be determined under delegated powers.

Agenda Item 9 – The What Barn, 7 Queen Street, Colchester

A letter from the managing director of the business to the investigation officer dated 4 December, states that he will arrange for the shutters to be removed from the outside of the building as soon as feasibly possible.

It is therefore proposed to amend the recommendation as follows:

“Members are requested to authorise the issue of a listed building enforcement notice requiring the removal of the wooden shutters with a compliance period of three months. The notice to be served only if the shutters have not been removed by 17 January 2010.”

Agenda Item 10 – Land at The Smallholding, Colchester Road, Mount Bures

Letter received from land owner and occupier of the showman’s caravan, requesting a period of 12 months to comply with an Enforcement Notice. This is reproduced below:-

“Further to our conversation today, I wish to outline the reasons why I am looking for a period of 12 months to find alternative residence. My wife and I are currently not in a financial position to either private rent or buy a property, therefore we will be seeking help from the Council’s housing department. Whilst I appreciate there is a waiting list I hope they will consider our situation – especially with a young baby in the family. Also my mother is rather ill which is putting a great strain on the whole family, both emotionally and regards my time. I fully appreciate the time you have already afforded me but hope you will consider my situation.”

Members are reminded that officers brought the fact that the caravan could not remain in residential use to the occupiers in April 2008 and have since attempted to negotiate compliance to vacate this use. Officers allowed a generous period of time, letting them remain until after the birth of their child, accepting their assurances that they would then be in a position to relocate.

It is the officers’ opinion that they have been lenient in this case and that 6 months should be sufficient time to find alternative accommodation.

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
17 December 2009 at 6:00pm**

SUPPLEMENTARY AGENDA

Part B

(not open to the public or the media)

Pages

There are no Section B Items