

# Planning Committee

Town Hall, Colchester  
7 January 2010 at 6.00pm

## **This committee deals with**

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

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

## Information for Members of the Public

### Access to information and meetings

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

### Have Your Say!

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### Private Sessions

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

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

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## **Material Planning Considerations**

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

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

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

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

## **Human Rights Implications**

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

## **Community Safety Implications**

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

# COLCHESTER BOROUGH COUNCIL PLANNING COMMITTEE 7 January 2010 at 6:00pm

## Members

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

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

## Agenda - Part A

(open to the public including the media)

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

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

## Pages

### 1. Welcome and Announcements

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

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

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

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

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

## **3. Substitutions**

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

## **4. Urgent Items**

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

## **5. Declarations of Interest**

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

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

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

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

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

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

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

Councillors should consult paragraph 7 of the Meetings General

Procedure Rules for further guidance.

**6. Minutes** **1 - 11**

To confirm as a correct record the minutes of the meeting held on

**7. Planning Applications**

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

1. 091627 Land adjacent (South), Grange Road, Tiptree (Tiptree) **12 - 34**

Change of use of agricultural land to sports field, minor regrading and drainage of playing area, erection of associated building for changing rooms and ancillary accommodation, water tank, vehicle parking, vehicular access from Grange Road and provision of cycleway/footway links to Harrington Close and Vine Road. Resubmission of 091117.

2. 091380 35 New Road, Tiptree (Tiptree) **35 - 42**

Outline application for demolition of detached bungalow and erection of three detached two storey houses, lay out private drive, manoeuvring and amenity areas, erect cart lodges and garden sheds and alter vehicular access onto New Road. Resubmission of 090134.

3. 091448 Vingt Trois, The Basketworks, Grange Road, Tiptree (Tiptree) **43 - 49**

Demolition of lawful dwellinghouse and replacement with new bungalow.

4. 091391 The Acacias, Bacons Lane, Chappel (Great Tey) **50 - 55**

Retention of vehicular access and continued use of the land for keeping livestock - e.g. chickens, goats.

5. 091494 Unit 4, 13 High Street, West Mersea (West Mersea) **56 - 62**

Additional use of tea room/cafe premises to include use as a restaurant (A3) and takeaway sales (A5) and extended opening hours from 08:00 hours to midnight.

6. 091504 Tower View, Pennsylvania Lane, Tiptree (Tiptree) **63 - 67**

Erection of one dwelling.

7. 091514 86 London Road, Marks Tey (Marks Tey) **68 - 72**

Replacement of an existing stand alone ancillary storage facility with a purpose built building to form a new pharmacy.

## **8. Exclusion of the Public**

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





**PLANNING COMMITTEE  
17 DECEMBER 2009**

*Present :-* Councillor Ray Gamble (Chairman)  
Councillor Sonia Lewis (Deputy Mayor)  
Councillors Mary Blandon, Helen Chuah,  
Mark Cory, John Elliott, Stephen Ford,  
Theresa Higgins, Jon Manning and Ann Quarrie

*Substitute Members :-* Councillor Beverly Davies  
for Councillor Andrew Ellis  
Councillor Mike Hardy for Councillor Sonia Lewis  
Councillor Peter Chillingworth  
for Councillor Jackie Maclean

*Also in Attendance :-* Councillor Chris Hall  
Councillor Nick Barlow

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

**147. Minutes**

The minutes of the meeting held on 3 December 2009 were confirmed as a correct record.

**148. 090732 Land adjacent 9 Walters Yard, Colchester, CO1 1HD**

The Committee considered an application for the erection of a one bedroom detached dwelling with a basement on a small parcel of land currently laid out to grass and set behind Grade II Listed Buildings within Colchester Conservation Area 1. Outline approval for a dwelling on the site was granted in 2005 for a similar sized building. The Committee had before it a report in which all information was set out, see also Amendment Sheet. The application had been presented to the Committee on 19 November 2009 but was deferred to allow further consultation with some neighbours who had been omitted from the initial consultation. The Committee had made a site visit prior to that meeting in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

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

Susan Jennings addressed the Committee, on behalf of residents of Walter's Yard and West Stockwell Street pursuant to the provisions of Planning

Committee Procedure Rule 8 in opposition to the application. Residents had accepted that there would be development on this plot but this proposal was very different from the original permission. Her concerns were that the application had used unreliable information for example the site description and identity of the adjacent properties, nos. 57 and 58 West Stockwell Street would be completely boxed in, and the Highway Authority had objected. Visitors to the Dutch Quarter appreciate the buildings and the owners of properties seek to protect that history. The proposed building could not be more out of character in this location.

Dean Pearce, agent, acting on behalf of the applicants, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the diversity of periods of building in the Dutch Quarter and those surrounding the site, and that this proposal would reinforce that trait by being a building of its own time whilst maintaining traditional values of character and quality. Basements and attics were typical of the area. The applicants work locally and have a long association with the town and were aware of the difficulties of the site.

Councillor Barlow attended and, with the consent of the Chairman, addressed the Committee. He referred to the objection by the Highway Authority and the possibility that it may not be possible for vehicles to get to the far end of Walter's Yard. He referred to Council policies particularly UEA2 in respect of protecting the Conservation Area, and disagreed that the building would contribute to the area; and UEA12 in respect of overlooking and overshadowing. He was concerned that there would be large amounts of earth to be removed during the construction process affecting the Georgian wall at 59 West Stockwell Street and considered that strong conditions would be required to protect neighbours amenity. He was also concerned about that property being shut off. The extant permission had specific conditions regarding fitting in with the area; this on the other hand was a different design and style which was inappropriate for the area and he urged the Committee to reject this application on the grounds that it was not the right design.

Members of the Committee expressed a range of opinion on the design of the building and whether or not it fitted into the area. Some considered it to be an interesting modern design, and others considered it to be out of keeping with the surrounding much older dwellings. It was recognised that this area already comprised a mix of 15th to 20th Century buildings and a good modern design was not sufficient reason for refusal. Other towns such as Cambridge had modern buildings next to old buildings and in time this could fit in well and be an asset. There were also concerns about the use of copper and the design of the chimney, the loss of light and privacy to neighbours and the small amount of private amenity space but the proposal

complied with the Design Guide in regard to privacy and amenity elements. There was a concern about an objection raised by the Highways Authority on an earlier approved application which had not been taken into account then and the Highway Authority had objected again on this application. The Georgian wall abutting the site was of great concern and a specific condition was requested to protect it during excavation on the site and thereafter. There were also concerns about the works causing a disturbance to neighbours and a condition to reinforce the advisory notes during construction was requested. Some members preferred the design of the earlier approved building.

In response it was explained that the Council has policies that seek to promote and enhance an area. Gap sites such as this make no contribution to an area and their redevelopment using imaginative and high quality designs is to be encouraged. A new building should not reflect earlier designs but should have regard to scale, height and mass of surrounding buildings and this building fulfilled this requirement, relating well to the buildings opposite. Local Authorities are required not to stifle design or impose a particular style on an applicant. The area displays a wide variety of styles spanning five centuries and the different styles contribute to the character of the Dutch Quarter. In response to the preference for the earlier approved scheme, the Committee were reminded that Local Planning Authorities cannot prevent different schemes from coming forward. In respect of concerns about overlooking, the window on the side of the building will provide light for the stairwell and be obscure glazed, and the elongated door/window on the frontage is to provide a fire exit and will be of etched glass; there is also a condition for it to remain closed except in an emergency. In respect of concerns about the copper roof, there is a condition requiring samples of all materials to be submitted before development commences and it is suggested that the copper roof be treated to a burnished brown. It was acknowledged that the garden size was small but a number of garden sizes in surrounding properties are similar which is considered acceptable in central locations and the previous scheme also had a small garden. In respect of the wall, there is full access from one side of the wall and there is a condition requiring a full archaeological survey to be done. There will be an impact on the building at the end of West Stockwell Street but this proposal is not dissimilar in height to the previous approved building and it would be difficult to justify a refusal on those grounds. The previous and current parking standards policies state that in town centre locations the parking policy can be relaxed. Access through to the end of Walter's Yard will not be affected. With regard to disturbance during construction, Condition 3, scheme of works, could be amended to include a reference to hours of work as set out in the advisory note.

*RESOLVED* (MAJORITY voted FOR) that –

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

(b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, together with an amendment to condition 3 to include reference to the hours of work as set out in the advisory note.

#### **149. 091417 13 Nayland Road, Colchester, CO4 5EG**

The Committee considered an application for a variation or removal of Condition 2 of planning approval COL/92/1460 which limits staffing at the premises to one practitioner and two ancillary staff. Subsequent planning consents had given permission for up to four consultancy rooms. The Committee had before it a report in which all information was set out.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. The issue of numbers of car parking spaces for dental staff and pharmacy staff was raised at the time the application for an extension to the rear of the building was granted. There are fourteen spaces in total, five at the front of the site and the remainder at the rear. This application seeks to rectify the fact that the permission granted in 1992 had only one consulting room at the pharmacy but there have been two operating for a number of years.

Mr Welham addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The overall plan shows four parking spaces for the unit above the pharmacy which was for one surgery but there are now two new consulting rooms and one treatment room. The current facilities generate up to fifteen cars which currently park on the footprint of the parking area for the further approved surgery. However, when the surgery extension is built there will be eight displaced cars that will have to park on the highway. This is a retrospective planning permission. Pedestrians may be at risk and he wanted to know who was going to accept liability for the planning permission.

Ms Sam Matthews, Dental Clinic Practice Manager, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Since March 2003 the dental clinic has operated under a contract with the Primary Care Trust. According to a

recent planning approval the car parking places comply with current standards on current approval and this one. There have been no objections from the Highway Authority and there is a good bus route reducing the need for staff to use a car. Wherever possible they employ local staff who could walk or cycle and there is a car sharing scheme. If the approval is denied they will have to shut down with a loss of jobs and patients having to find another dentist. They also have a domiciliary contract so a further two members of staff park there for ten minutes to collect equipment.

Members of the Committee were disappointed at this retrospective application. The situation at the surgery would create overspill but there was not much that the Council could do about off street parking. This was a dilemma in a growing town which needed facilities. In consideration of the previous planning application a request was made for yellow hatching to protect access to two parking spaces for 15 Nayland Road together with a condition for provision of cycle parking which requirements were not mentioned in the report. Members were aware that Mile End Road was not as busy as it had been prior to the Northern Approach Road becoming operational.

It was confirmed that the practice was operating in compliance with the parking provision of fourteen parking spaces, five were provided at the front of the building and a series of spaces at the back. It was explained that the hatching and cycle parking should have been incorporated in the previous planning permission and it would be possible to add a condition for the provision of cycle parking provision to serve the current practice/extension.

*RESOLVED* (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report together with an additional condition for the provision of cycle parking to be agreed.

**150. 091441 The Cottage, Moor Road, Langham, CO4 5NR**

The Committee considered an application for a change of use from agricultural land to garden extension. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

**151. 091442 35 De Vere Road, Colchester, CO3 4EA**

The Committee considered an application for a two storey rear extension. The Committee had before it a report in which all information was set out.

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

**152. 091513 Greenstead Road, Colchester, CO4 3UJ**

The Committee considered an application to determine whether prior approval was required for a slim line mono pole streetworks structure and associated equipment cabinets accommodating equipment for O2 and Vodafone. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

*RESOLVED* (UNANIMOUSLY) that –

(a) Consideration of the application be deferred until after the expiry date of the consultation period as advertised in the newspaper, due to expire on 1 January 2010.

(b) Subject to no substantive objections being received which raise new issues, the Head of Environmental and Protective Services be authorised to inform the applicant that prior approval is required, that the details submitted are acceptable and that prior approval is granted for the siting and appearance of the development.

**Councillor Theresa Higgins (in respect of an association some years ago with a resident in the neighbouring property) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**153. 090817 1 Moorside, Colchester, CO1 2TJ**

The Committee considered an application for a change of use from a betting shop, Class A2, to Indian takeaway, Class A5. The application is a resubmission of 081777. The Committee had before it a report in which all information was set out.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. The submission included works comprising a chimney to the rear. However, this application was submitted for a change of use and if approved a form of extraction equipment would be required which would

need to be housed within a chimney which itself would itself require separate planning permission. It was confirmed that the extraction system details do achieve the aim of reducing smell to the level where it is acceptable. A red line is drawn around building itself indicating that the courtyard area to the rear is not within the control of the applicant thus there is no off street parking provided as part of this application. The surrounding roads have double yellow lines restricting on street parking at any time. Thus there is no opportunity for on street or off street parking. It was confirmed that the Highway Authority had stated that they had no objections to the application. In terms of planning policy it is considered that this use is acceptable. Hours of operation were considered to be acceptable as there are other similar outlets in the area which operate for similar hours. Reference was made to a further three suggested conditions on the amendment sheet which could be added to ensure that any development of the ground floor business unit did not adversely impact on the amenity of neighbouring properties.

Gordon Hawley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. They would have to live with the decision of the meeting. The fact that there is no parking in the area seems to have been dismissed yet the problem is insuperable. There is no dedicated parking for customers or possibility of it being provided. The nearest legal parking was 90 paces away. The site is opposite The Rose and Crown Hotel, one of the best medieval timber framed buildings in Colchester. An Indian takeaway seems inappropriate in the area, and its operation seven days a week from 12 noon to 12 midnight appears difficult for the residents to put up with. This building was originally built as offices. The only way to access the first floor would be up a flight of stairs next to a commercial kitchen. The danger of fire was mentioned and its threat to the escape route down the stairs. There was a timber framed house attached to this premises and the risk of fire was of great concern to the occupiers.

Mrs Salma Ahmed addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Most of the issues were related to traffic, parking, noise, smell, litter, traffic and parking. She noted that the Highway Agency had not objected. Currently there was one space behind the building and there are parking restrictions in the area. However, there is on street parking for 30 minutes between the hours of 8am and 6pm and after 6pm there was parking available on East Street. Trading will be for local customers passing by and for employees in the industrial area of Moorside. Most business would be during the evening hours when customers can park safely without obstructions. Environmental Control had no objections as extraction equipment would be installed prior to first use. She did not believe it would be reasonable to decline the application on the grounds mentioned.

Councillor Hall attended and, with the consent of the Chairman, addressed the Committee as the ward councillor and the Heritage Champion. This is a very important area. It was noted that the area had been at risk but its improvement had begun with the restoration of Charlie Browns and it was crucial to this eastern approach to Colchester that this improvement be continued. He was concerned at the lack of parking for collections and deliveries which should be taken into consideration and he was disappointed at the response from the Highway Authority and considered that they should be present to hear the Committee's deliberations. He was concerned about smells which could penetrate through wattle and daub and the impact on the environment and disturbance to local people. He was disappointed that another use could not be found. Local takeaways have been there for forty years.

Members of the Committee had a number of concerns principally in regard to the impact on the residents of the timber framed residential properties adjacent and close to the site which would primarily be the smells, causing considerable inconvenience for residents. Subsidiary concerns were the risk of fire to these properties and the hours of use, 12 noon to 12 midnight Monday to Saturday and 12 noon to 11pm on Sundays and public holidays. This site was within a Conservation Area on the outer limit of the town centre and there were concerns in respect of disturbance to the balance of the area and with traffic, including the slamming of doors and conversation at night. The lack of parking was considered to be an encouragement for illegal parking. It was thought that parking on double yellow lines may be permitted for a very short time.

The planning officer explained that there were no objections from Environmental Control or from the Highway Authority. It was recognised that members considered this use would give rise to amenity issues to residents. It was within an area where it was considered not essential to provide parking facilities but the Committee may consider that to be unacceptable. The Highway Authority were primarily considering the impact on highway safety and would assume that no customers would park on the double yellow lines around the property. The risk of fire in respect of any installation and use of kitchen and extraction equipment was an issue within the remit of Building Control which would be considered at the appropriate time. The Environmental Control team had responded that any smell nuisance would not be sufficient to sustain an objection to the application. It is possible to take into account the potential impact on the amenity to the building next door but defence of a refusal at appeal would be difficult if the Committee's concerns are not supported by the appropriate experts. In terms of impact on the character of the area, this current application does not propose any external alteration to the building but reference was made to



a subsequent application for the installation of a chimney at the rear of the property. The duct would exit at the rear and extend higher than the roof. It was considered that the duct cladding would have been harmful to the character of the Conservation Area so the duct would be housed in a false chimney on the boundary with the neighbouring property.

Members remained concerned principally on amenity issues from the hours of opening; the potential impact of smell nuisance and having an extraction unit very close to residential properties; the lack of any parking to cater for the use, even accepting that it is an area on the periphery of the town centre.

*RESOLVED* (UNANIMOUSLY) that the application be refused on the following grounds:-

- noise, disturbance and smell to local residents;
- impact on adjacent listed buildings and residential amenity; and
- impact on the Conservation Area.

**154. 091261 and 091263 Little Netherhall, Princel Lane, Dedham, CO7 6HE**

These applications were withdrawn from the agenda in order that they be determined under the Council's Scheme of Delegation to Officers by the Planning Committee.

**155. Enforcement Action // Geylanii Stores, 11 St Botolph's Street, Colchester**

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the removal of unauthorised external shutters and housing at the premises which are considered to be contrary to existing planning policies. The site is within Colchester Conservation Area 1. The Committee had before it a report in which all information was set out.

Members of the Committee referred to the recently approved guidance on shutters in the town centre.

*RESOLVED* (UNANIMOUSLY) that an enforcement notice be served at Geylanii, 11 St Botolph's Street, Colchester, requiring the removal of external shutters and housing with a compliance period of three months.

#### **156. Enforcement Action // The What Bar, 7 Queen Street, Colchester**

The Head of Environmental and Protective Services submitted a report on proposed listed building enforcement action requiring the removal of unauthorised wooden shutters at the premises which is within Colchester Conservation Area 1. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

*RESOLVED* (UNANIMOUSLY) that a listed building enforcement notice be served at The What Bar, 7 Queen Street, Colchester requiring the removal of 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.

#### **157. Enforcement Report // Land at The Smallholding, Colchester Road, Mount Bures**

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the cessation of the unauthorised use of a showman's caravan for residential purposes on part of the site, and its disconnection from all services; water, electricity, heating and calor gas, which would facilitate residential use for any showmen's caravans. The development is considered to be contrary to existing planning policies and the site is within a Countryside Conservation Area and remote from any defined village envelope, services and places of employment. The Committee had before it a report in which all information was set out, see also Amendment Sheet. It was noted that the site was within Great Tey ward and not Fordham and Stour as indicated.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to the late request on the Amendment Sheet that the compliance period should be increased to twelve months. However, given the Council's attempts to achieve the cessation of the unauthorised occupation of the site during the last twenty months as detailed in paragraph 4 of the report, it was considered that a compliance period of six months was appropriate in this case.

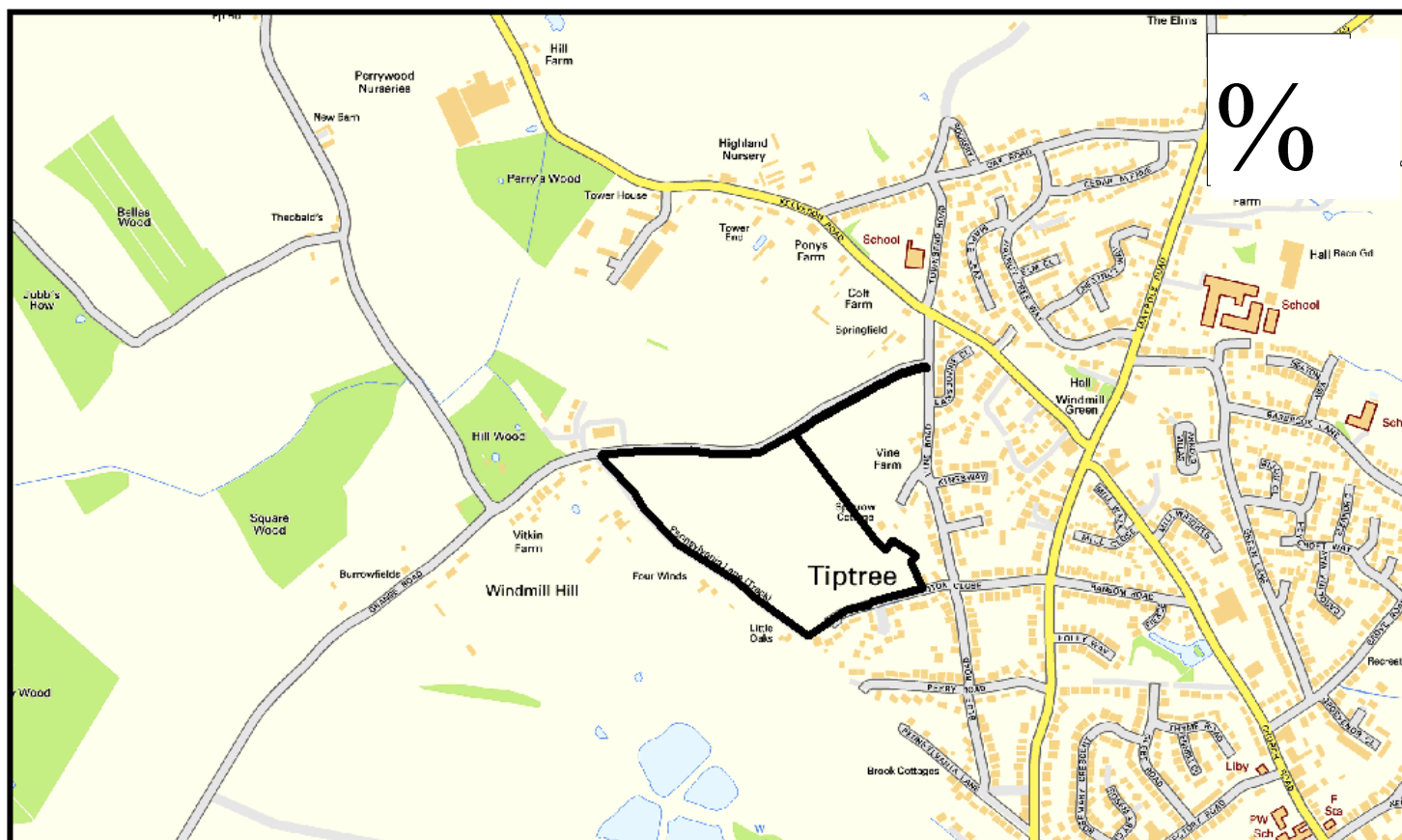
Members of the Committee took into account the fact that the occupiers of the unauthorised caravan had had every opportunity to take appropriate steps and were supportive of the compliance period of six months. If the occupiers had nowhere to live at the end of the compliance period they would become homeless and have a priority for being housed by the local authority.

*RESOLVED* (UNANIMOUSLY) that an enforcement notice be served at The

Smallholding, Colchester Road, Mount Bures requiring:-

- the cessation of use of the showman's caravan on any part of the site for residential purposes, and
- the disconnection of all services, including provision of water, electricity, heating and calor gas, which would facilitate residential use for any showmans' caravans,

with a compliance period of six months.



**Application No:** 091627

**Location:** Land Adjacent (South), Grange Road, Tiptree, Colchester

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

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# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **7 January 2010**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

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

**7.1 Case Officer: Mark Russell**

**EXPIRY DATE: 18/03/2010**

## **MAJOR**

**Site:** Land Adjacent (South), Grange Road, Tiptree, Colchester

**Application No:** 091627

**Date Received:** 17<sup>th</sup> December 2009

**Agent:** Mr John Lawson

**Applicant:** Colchester United Football Club Ltd

**Development:** Change of use of agricultural land to sports field, minor regrading and drainage of playing area, erection of associated building for changing rooms and ancillary accommodation, water tank, vehicle parking, vehicular access from Grange Road and provision of cycleway/footway links to Harrington Close and Vine Road. RESUBMISSION OF 091117

**Ward:** Tiptree

**Summary of Recommendation:** Conditional Approval

### **1.0 Planning Report Introduction**

1.1 This application is a re-submission of 09117, which is the subject of a Public Inquiry scheduled for 13<sup>th</sup> and 14<sup>th</sup> January 2010, to create new football pitches on land at Grange Road, Tiptree.

- 1.2 This previous application was submitted to the Planning Committee in November 2009 with an Officer recommendation for approval. Members resolved to refuse the application for the following reasons:-

*“The site for this proposal is located within an area of white land i.e. no notation as allocated in the Adopted Review Colchester Borough Local Plan – March 2004. Additionally, policy ENV 1 of the Local Development Framework Adopted Core Strategy (December 2008) states, inter alia:*

*‘Unallocated green field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough.’*

*As new development within such areas is subject to restriction, the Council would wish to ensure that development proposals accorded with the aims of relevant policies in the Adopted Local Plan and the Adopted Core Strategy. To this end, the Council considers that the submitted scheme fails to include a sufficient degree of community use within the development to justify the use of this unallocated white land for an alternative purpose.*

- 1.3 The recommendation to Members is as previously suggested. The Planning Service Manager is expected to provide a fuller verbal appraisal at the meeting.

## **2.0 Site Description**

- 2.1 The proposal remains as previously submitted and described in the Report that accompanied the application when it was referred to the Planning Committee.
- 2.2 The application 091627 is a consolidating submission for the use of the land for football pitches and other related matters and for the provision of a building providing changing room facilities, amongst other facilities, for two community teams and two changing rooms for match officials.
- 2.3 This application proposes the erection of a building, comprised of a mix of two storey and single storey elements, located close to the north-western corner of the site and adjacent to the proposed car and coach parking area.
- 2.4 The design of the new building seeks to reflect a vernacular weatherboarded barn, albeit with a modern approach, with midstreys and associated outbuildings. To this end the external materials are drawn from the vernacular palette to include red facing brick and clay plain roof tiles.
- 2.5 The submitted floor plans show the following facilities:-

### Ground Floor

Gym, four Changing Rooms, Laundry, Boot Room, Physiotherapy Room and Reception Area.

## First Floor

Office, Balcony overlooking the sports pitches, Canteen, Kitchen, Media & Meeting Room, Plant, Store, Training Room W.C's

The application also includes an 11cubic metre water tank located to the west of this main building.

The building, water tank and car/coach parking area are all shown located to the north of the Essex & Suffolk Water main, and associated valve area, which crosses the site from Grange Road to the north.

### **3.0 Land Use Allocation**

- 3.1 The site lies with an area of white land i.e. No Notation as designated in the Adopted Review Colchester Borough Local Plan – March 2004.
- 3.2 The LDF Site Allocations Submitted DPD and the related Proposals Map shows the site allocated for public open space. The DPD was submitted to the Planning Inspectorate at the end of November 2009.

### **4.0 Relevant Planning History**

- 4.1 090217 – Change of use of agricultural land to sports field, minor regarding and drainage of playing area, with associated vehicle parking area and vehicular access from Grange Road. Community usage of one pitch proposed. Refused. This application is the subject of an appeal to be held at a public inquiry in January 2010.
- 4.2 091115 - Change of use of agricultural land to sports field, minor regarding and drainage of playing area, with associated vehicle parking area and vehicular access from Grange Road. Community usage of one pitch proposed (resubmission of 090217). Refused.
- 4.3 091117 - Change of use of agricultural land to sports field, minor regrading and drainage of playing area,erection of associated building for changing rooms and ancillary accommodation,water tank,vehicle parking,vehicular access from Grange Road and provision of cycleway/footway links to Harrington Close and Vine Road. Refused

### **5.0 Principal Policies**

- 5.1 Adopted Review Borough Local Plan
  - Development Control Considerations - DC1
  - CO4 – Landscape Features
  - CO8 - Agricultural land
  - P1 – Pollution
  - L14 – Public Rights of Way
  - L15 – Footpaths, cycleways and bridleways
  - L16 – Sports causing noise or disturbance

- 5.2 Local Development Framework Core Strategy (December 2008)  
ENV1 – Environment  
ENV2 – Rural Communities  
PR1 – Open Space and Recreational Facilities

## 6.0 Consultations

- 6.1 The Highway Authority's previous recommendation was for permission subject to conditions.

- 6.2 The Environment Agency comments on application 091115 and 091117 as follows:-

### "Flood Risk

A Flood Risk Assessment (FRA) has been received in support of the development proposal. After careful consideration by our Development & Flood Risk team, we would advise the Council that we accept, in principle, the findings of the FRA. The FRA submitted demonstrates that infiltration shall be used to dispose of the surface water generated on site; this shall in turn create no increase of flood risk off site. The proposed infiltration plans would be acceptable for the site as it has been proven that the 1 in 100 year storm event including climate change would be stored on site prior to infiltration taking place. It should be noted that while the proposed infiltration disposal of surface water is acceptable in principle, we would object to the discharge rate proposed in section 3.12 of the FRA that might be used if infiltration was not suitable. This rate is the current 1 in 100 year storm event run off, the site should mimic current rates as such discharge should be restricted to the current 1 in 1 year storm event.

The system proposed for the site will require future maintenance and possible replacement. We have been advised separately by letter dated 22nd September 2009 from Colchester United FC that it is their intention to provide and maintain the proposed drainage system, including soakaways as outlined in the scheme.

We are content for the matter of infiltration discussed above to be dealt with at the discharge of condition stage for the surface water management scheme.

### Environment Agency position

We will object to the planning application unless the planning conditions set out below be appended to any planning approval granted."

*No further comment has been sought from the Environment Agency*

- 6.3 The Landscape Officer is satisfied with the landscape content of the proposal subject to minor amendments.
- 6.4 Environmental Control comments remain unchanged from the previous comments i.e. no objection subject to conditions.
- 6.5 Natural England has no objection to the proposed development in respect of legally protected species, provided the mitigation as outlined in the report is incorporated into a permission or part of a suitably worded agreement or planning condition, if necessary.



- 6.6 The comments from the Campaign to Protect Rural Essex at the time of applications 091115 and 091117 were as follows:-
1. This is a Trojan horse to gain development for major urbanisation on the edge of Tiptree with the Applicant's intention to seek housing on the land adjoining.
  2. The plans for the changing room facilities need to be carefully studied to ensure that this is not the basis for a social club or other 'add-ons'. The benefits for the local community need to be spelt out in detail.
  3. The Council is urged to assess whether this application is in the interests of the local community and, if it grants approval, conditions are imposed to prevent any further development without the submission of another planning application.
- 6.7 The Council's Arboricultural Officer is satisfied with the arboricultural content of the proposal subject to conditions and confirmation that the details of the arboricultural monitoring for the site during the duration of the development process. This will require the provision of monthly monitoring reports to be provided to the local authority.
- 6.8 Sport England submitted a lengthy response to applications 091115 and 091117. This response can be summarised that the proposed development is considered to offer significant benefits to community football directly and indirectly and the proposal is considered to clearly meet their planning policy objective and accord with Government Guidance in PPG17 on the provision of new sports facilities. Sport England would therefore support the principle of this planning application.
- 6.9 Sport England also advise that Sport Essex, the county sports partnership, have also confirmed their support for the principle of the development due to the community sports development benefits that are offered by the proposed development.
- 6.10 The British Horse Society County Access Bridleways Officer expressed concerns at the time of applications 091115 and 091117 in that horses and their riders using the public bridleway would be at risk from footballs being mis-kicked onto the bridleway. Vulnerable users of the bridleway should have the same protection that a road carrying vehicular traffic would have. There could be issues with noise and excitement generated by football matches, which would need to be risk assessed when considering the positioning of the pitches.
- 6.11 Essex & Suffolk Water commented on applications 091115 and 091117 that they have no objection provided that they have unrestricted access to the main and valves at all times for the purpose of operation, maintenance and repair. The main is subject to a 10 metre wide easement and has restrictions within this area 5 metres either side of the main, not 3 metres as indicated in the Agent's letter to them.
- 6.12 Essex Cricket expresses their support for the proposed sports training ground. "CUFC is one of our local professional football club's, which has an urgent need for a permanent training facility to help achieve its sporting excellence aspirations. The addition of a full size football pitch and changing room accommodation for use by local community teams, representing the highest standard in the area for such a facility – a rare opportunity which should not be missed."

6.13 Planning Policy's comments at the time of 091115 and 091117 were as follows:-

*"The application relates to the provision of sports pitches with associated vehicular access and parking. I am satisfied that this application can be considered in isolation and is separate from the representations submitted in respect of the Site Allocations DPD. The provision of sports pitches is not considered to undermine the Core Strategy and the strategic objectives contained therein.*

*Relevant planning policies and guidance can be found in the following documents;*

*National Planning Policy/Guidance*

***PPG17*** - *Planning for Open Space, Sport and Recreation. Open spaces, sport and recreation all underpin people's quality of life and are therefore fundamental to delivering broader Government objectives. These include:*

- supporting a rural renewal - the countryside can provide opportunities for recreation and visitors can play an important role in the regeneration of the economies of rural areas. Open spaces within rural settlements and accessibility to local sports and recreational facilities contribute to the quality of life and well being of people who live in rural areas.*
- promotion of social inclusion and community cohesion - well planned and maintained open spaces and good quality sports and recreational facilities can play a major part in improving people's sense of well being in the place they live. As a focal point for community activities, they can bring together members of deprived communities and provide opportunities for people for social interaction.*
- health and well being - open spaces, sports and recreational facilities have a vital role to play in promoting healthy living and preventing illness, and in the social development of children of all ages through play, sporting activities and interaction with others.*
- promoting more sustainable development - by ensuring that open space, sports and recreational facilities are easily accessible by walking and cycling and that more heavily used or intensive sports and recreational facilities are planned for locations well served by public transport.*

*The countryside around towns provides a valuable resource for the provision of sport and recreation, particularly in situations where there is an absence of land in urban areas to meet provision... local authorities should encourage the creation of sports and recreational facilities in such areas.*

***PPS7*** – *Sustainable Development in Rural Areas, includes reference to facilitating the provision of appropriate sport and recreation facilities in the countryside around urban areas. In judging proposals for development of high quality agricultural land consideration must also be given to amenity value, access to infrastructure and maintaining viable communities.*

### Regional Policy

*Policy ENV1 – requires areas and networks of green infrastructure to be identified and created to ensure an improved and healthy environment for communities. Tiptree experienced significant growth with the Grove Road development and this has not been matched by green infrastructure, including green spaces for recreational use.*

*Policy SS8 complements Policy ENV1 in recognising the importance of the urban fringe. It acknowledges that some parts of the urban fringe will be used to accommodate urban extensions and where this happens it will be important to manage the adjoining countryside to ensure amongst other things the needs of residents for access and recreation are provided for.*

### Local Policy

*Local Policy is contained within the adopted Local Plan (saved policies) and the adopted Core Strategy. The site is White Land in the Local Plan (land with no notation.) The relevant policies are detailed below;*

- Core Strategy Policy PR1 and Table PR1 – the Council aims to provide a network of open spaces, sports facilities and recreational opportunities that meet local community needs and facilitate active lifestyles. The table identifies the need for sports pitches in Tiptree.*
- Core Strategy ENV1 – unallocated land outside of settlement boundaries will be protected and development strictly controlled. However there is recognition that some development needs or is compatible with a rural location and in such cases various criteria should be met.*
- Core Strategy ENV2 – outside village boundaries the Council will favourably consider small scale leisure and tourism schemes.*
- Local Plan Policy L16 – sets out what factors to consider when assessing a proposal for sporting activity causing ‘noise or disturbance.’ This is intended to cover sports such as war gaming or combat games. Football (predominantly training) is not considered a noisy sport.*
- Site Allocations Submission DPD and the related Proposals Map shows the site allocated for public open space.*

### Other Issues

*A significant area of land is required for this facility which it would be extremely difficult to accommodate within an urban area or on previously developed land. The applicants were asked to consider a number of other sites all closer to Colchester but all were greenfield sites, suggesting in accordance with Policy ENV1 this is a use which needs to take place in a rural location. Ownership issues, high land values and hope value prevented any other sites being suitable.*

*It was also pointed out that players do not necessarily reside in Colchester so would be travelling by car to training whether it be in Colchester or Tiptree. The need to travel by car will not change. The use of the community pitch by local teams would reduce the need for them to travel. (There has been a shortage of sports facilities locally which has necessitated teams having to travel to Langham to play their games.)*

*The community pitch and facilities should be available to the community as a whole (see CBC Playing Pitch Strategy) Appropriate management would be required to ensure wider use or the Council could consider taking over the pitch to be run in conjunction with Tiptree Sports Centre and subject to a commuted sum for maintenance agreed as part of the application. Although the intention to improve junior football facilities at Warriors Rest is acknowledged the proposals do not form part of this application and cannot therefore be secured.*

*The scheme should include cycle and pedestrian access and cycle parking to better link the site with the village and improve accessibility for local people.*

### Conclusions

*There is no objection to the provision of sports pitches subject to;*

- 1. full community use of the community pitch and changing facilities to address the shortfall identified in the Core Strategy; This should be secured by legal obligation which should also control cost of using the facilities (possibly linked to cost of similar facilities at Tiptree Sports Centre), maintenance of the community pitch and public part of the building.*
- 2. highways issues being resolved;*
- 3. adequate parking and access for cyclists and pedestrians. The pedestrian and cycle access points should be unobstructed at all times whilst the facility is open – to be secured by condition/legal agreement.”*

## **7.0 Parish Council's Views**

7.1 Tiptree Parish Council objected to the proposal at the time of applications 091115 and 091117 on the grounds that it is outside the village envelope and does not form part of the LDF. The Parish Council's policy is to actively oppose residential or commercial development outside of the village envelope unless there is substantial gain to Tiptree.

7.2 Feering Parish Council objects strongly to the proposal:-

- Road infrastructure is inadequate to cope with the potential increase in traffic implicit in this application. The impact on traffic flows through Feering and Kelvedon would be significant from traffic going to and from the site.
- Detrimental impact on the community sporting facilities already available at Thurstable School by the provision of similar facilities elsewhere in the village.
- Question the compatibility with CBC's Green Transport Policy given the distance between the proposed training ground and the club's facilities in Colchester.
- Concern that Tiptree has been allowed to develop from a village into a small town, without supporting upgrades in its infrastructure, including independent access to/from the A12 and this is having a detrimental impact on the surrounding rural villages. If CBC are minded to approve an application for this site, a S106 agreement should be required to provide Tiptree with its own independent access to/from the A12.

7.3 Messing-cum-Inworth Parish Council supported the previous applications with the proviso that more community facilities are included as part of the development i.e. more pitches, changing rooms and other sporting facilities. Concern was also expressed at possible flood light pollution.

## 8.0 Representations

8.1 Representations given at the time of applications 091115 and 091117 have been carried forward to this application. Any subsequent comments will be reported on the amendment sheet.

8.2 The publicity of applications 091115 and 091117 resulted in more than 230 objections being received. The majority of these objections were in the form of a standard letter. The points raised are, however, summarised as follows:-

1. **Reasons given for the development**  
The development is for a professional football club, a profit-making organisation, which has no association with Tiptree. Future developments planned for the site are not 'essential' for sport in the countryside.
2. **The Community Pitch**  
This will be restricted at very prescriptive times. Local teams will be prevented from using the pitch at week-ends. The pitch is not a community pitch according to CBC & Sport England definitions since it is not readily available to the community at large.
3. **New cycleway and footpath**  
The new route along the northern edge of the site delivers users directly onto the carriage way of Vine Road: there is no footpath on either side of the road at or near the exist point.
4. **Development Traffic and highway safety issues**  
The design of the site drainage system will require 4,500 cubic metres of material to be excavated, exported & replaced by imported stone requiring a high number of heavy vehicle movements. The Transport Statement states that development traffic may use Vine Road.
5. **CBC refusal of the previous application in June 2009** Both of the new applications state the intention to use the community pitch before the changing rooms will be available. This is a point of concern raised by the Planning Committee and has not been fully addressed.
6. **Location**  
The recommendation of the Council's 'Open Space, Sport and Recreational Study 2007 in respect of Tiptree was that any new sporting facilities should be sited at Tiptree Sports Centre to enhance the facilities.
7. **Green Links**  
The security fence effectively severs a green link by sealing off significant portions of the hedgerows from wildlife and open aspects of the land.
8. **Applications do not conform to planning policies at National and Local levels**

8.3 In addition to the aforementioned standardised letter of objection 14 other individual letters of objection have been received. The objections contained within these letters are summarised as follows:-

- Additional traffic on the roads, with a dangerous junction at Vine Road/Grange Road. Poor access to the site. Use of substandard crossroads junctions (Grange Rd/Kelvedon Rd, Vine Rd/Maldon Rd & Grange Rd/Braxted Rd).
- No proper assessment of the inadequacies of the routes and junctions which could be used by users of the site.
- It does not appear that a coach can use the access and any larger vehicle cannot turn out of the site without encroaching into the opposing traffic stream.
- Site is outside of the village envelope on “greenbelt” and is unnecessary and inappropriate. The land should return to agricultural use.
- Commercially oriented private company. Few people in the area would benefit.
- Noise
- Threat of a much larger complex or use as a private club with bar, restaurant, sports medical facilities, thereby resulting in a large number of vehicle trips. CBC may wish to restrict the use by condition or by a legal agreement as conditions may not be robust enough.
- Ecological issues – animal and bird habitation would be affected
- Use of floodlights
- Plenty of agricultural land adjacent to the football stadium at Cuckoo Farm
- Issues regarding the use of Sustainable Drainage System (SUDS). It was originally proposed to use a system requiring a high volume of dry stone. Has an alternative scheme been agreed by the Environment Agency?
- Raising of ground levels and related issues with Essex & Suffolk Water.

8.4 The occupier of 15 Harrington Close, Tiptree, submitted a lengthy letter of objection to the proposed development. Whilst this letter can also be viewed in full on the Council website, the main objections are summarised as follows:-

- Proposals are unsustainable contrary to the lynchpin of current planning policy (PPS1, PPS6 & PPG13). The new training ground for CUFC will increase the need to travel by car. The trip generation estimates in the Transport Statement are likely to be higher than suggested.
- Trip Generation Estimates. The proposed level of use is underestimated, thereby undermining the accuracy of the technical studies. The proposals are likely to be a high traffic generator.
- Community provision. The application does not provide a ‘community pitch’ in line with the Council’s own definition. This is a commercial enterprise by a private limited company in the countryside, with strictly limited and peripheral ‘community’ benefits for a strictly limited number of people in the local community
- Shortfall of Outdoor Sports Facilities.
- Significant impact in terms of noise generation

- The proposals are not appropriate for Tiptree as a settlement. In line with the strategic hierarchy of settlements, and in view of the fact that CUFC's stadium is in Colchester, the lower order settlement of Tiptree should not be considered a suitable location for such a major facility. The most suitable location for the training facility would be in Colchester where the RSS & Core Strategy state that development should be concentrated. In Tiptree development should be appropriate in scale and nature to local housing and employment needs. The local teams (e.g. Tiptree Heath FC) could be accommodated elsewhere and may not, at first, have any changing facilities on the site.
- The proposals are premature in relation to the LDF and are piecemeal. Proposals for the application site should be considered through the LDF process so a proper analysis of alternative sites can be considered.
- Visual Impact of the car park, erection of fencing, sports pitches and two storey building on an unallocated, Greenfield site.
- Applicant has argued that development as proposed would be acceptable in the greenbelt under PPG2 as a sports facility. The proposed development with its parking, buildings and fences, goes beyond the spirit of PPG2.
- Contrary to PPS7
- Highway safety issues
- Pedestrian and Cyclist facilities
- Loss of high quality agricultural land. Contrary to Local Plan policy CO8. Part of the site is grade 2 agricultural land and not completely grade 3 as claimed.

8.5 In excess of 100 copies of a standardised letter supporting the development have been received. The reasons for supporting the proposal are summarised as follows:-

- CUFC is our local professional football club, which has an urgent need for a permanent training facility.
- Provides for a high quality playing pitch surface with provision for a full size football pitch and changing room accommodation for use by local community teams, representing the highest standard in the area for such a facility
- It is supported by the Council's Technical Officer and Sport England.

## **9.0 Report**

9.1 The previous application 091117, which was reported to the Planning Committee, considered all the objections and responses from the statutory and non-statutory consultees. It examined the Planning Policy issues (at National and Local levels), the environmental and ecological issues, highway and road traffic matters, sustainability in terms of the distance of the site from the CUFC stadium, and amenity related issues. Having weighed up all the material considerations, this report recommended that planning permission for the change of use of this site outside of the built-up area of Tiptree for sports pitches should be granted.

9.2 Members, however, were concerned that, despite the recommendations from Planning Policy, Sport England, Natural England, the Highway Authority, Environmental Control, the application was unsatisfactory in terms of the community provision.

- 9.3 It is acknowledged that, whilst the proposed development was held to not be acceptable in this regard, no other objections were raised in terms of adverse environmental, highway, noise issues, sustainability or other planning policy related matters such as have been set out in the objections to this re-submission. This remains the case in that the two applications are still supported by the majority of the consultees.
- 9.4 This report therefore will focus on these two previously stated grounds for refusal.
- 9.5 In terms of the number of proposed football pitches and the illustrative layout of the pitches, the applications remain the same. It is still proposed to provide a total of five pitches five. Four of these will be dedicated solely to use by CUFC for training purposes. The remaining pitch will be provided for community use.
- 9.6 In terms of the community the Design & Access Statement states that the two local teams Tiptree Heath FC and Tiptree Jobserve FC will use the community pitch as their home base for local weekend fixtures. For qualitative reasons this pitch can only be used for up to three times per week.
- 9.7 It is also envisaged that within the capacity and availability limits, other local community teams will also be able to book the use of the community pitch. This use could be further increased through cancellations and shortened cup runs etc. The D&A Statement states that the detailed arrangements for the community use will be the subject of a management plan, which is intended to be covered by a planning condition as recommended in the previous report to the Planning Committee.
- 9.8 The community sports element also includes a new building providing changing room accommodation, showers and toilets, for two community teams and two changing rooms for match officials. The Design & Access Statement states that this accommodation will be designed to be suitable for both male and female teams, and that it will meet the standards recommended by the FA and the Football Foundation. The community users will also have access to a canteen area where post match gatherings can be held.
- 9.9 Concerns have been expressed that the application as submitted proposes that the football pitches will be made available for use prior to the new building accommodation the changing rooms and associated facilities being erected and completed. This concern is acknowledged and appreciated. The Applicant has since confirmed that it is now the intention to construct this building in association with the provision of the pitches. As this is seen as an essential component of the community use, it is recommended that this provision should be secured by an appropriate condition.
- 9.10 It is perhaps unfortunate that CUFC propose to enclose the site with a two metre high fence, to be erected as permitted development. It is confirmed that this fence does constitute permitted development in that it is located a considerable distance from any adjoining highways and is separated from the adjacent highways by intervening structures (e.g. hedges and the proposed 1.2 metre high bund). This fence is similar to the fence erected on the Warners Rest Site in Maypole Road, Tiptree.
- 9.11 It is recognised that there is a need to restrict access to the site in order to protect the sports pitches from unauthorised use and from potential damage. This fence is to have access gates for maintenance purposes.



- 9.12 There have been concerns expressed from residents as to the use of sustainable drainage schemes (SUDS). The Applicant has been discussing this matter with the Environment Agency. Following on from these discussions, it is noted that Environment Agency has confirmed that the proposed SUDS is acceptable, subject to conditions.
- 9.13 The Development Team has suggested that the community use elements of the proposal should be secured by a legal agreement, which would also control the cost of using the facility (possibly linked to the cost of the similar locality at Tiptree Sports Centre), maintenance of the community pitch and public part of the building.
- 9.14 The previous report in respect of 091117 recommended that this community element be controlled by condition (as recommended by Sport England). The use of conditions is generally considered to be preferable to legal obligations. The use of condition to achieve this objective has also been agreed between the Council and the Applicant in the Statement of Common Ground forming part of the Public Inquiry into the refusal of both 091117 and 090217.
- 9.15 In order to remain consistent it is recommended that any consent should be the subject of an appropriate condition rather than a legal obligation.
- 9.16 Regarding the building itself, the location in the north west corner of the site is considered to be acceptable on the basis that:-
- It is located at the point furthest away from the main concentration of residential properties to the south (Vine Road/Harrington Close). As such the use will have minimal impact upon residential amenity.
  - It will relate in a satisfactory manner to a cluster existing buildings in this part of Grange Road (e.g the Waterworks and a small group of dwellings)
  - This is otherwise an under utilised part of the site – the land further to the south is the area where the football pitches are to be located
  - It is well screened by existing hedges and trees
  - It is located in close proximity to the proposed access and car/coach parking area
- 9.17 The Applicant had two approaches to the design and layout of the buildings; a modernistic building or a more vernacular approach. It is considered that the vernacular approach, albeit with modern elements, is the more suitable and appropriate within this otherwise rural landscape.
- 9.18 The design of the buildings has been subject to modifications and amendments as recommended by the Urban Design Officer. These amendments have resulted in a building which is attractive and sympathetic to its setting.
- 9.19 Whilst this new building provides facilities beyond that may reasonably be required purely for community use, it is considered that it is acceptable in terms of its scale, form and design.

9.20 The Applicant is aware of local concerns that the building could be used for other general leisure uses with associated highway and amenity issues (e.g. a sports and leisure centre – uses within Use Class D1.). It is on this basis that CUFC have suggested an appropriate condition restricting the use.

9.21 In conclusion it is considered that this new building, together with the provision of a community use sports pitch, will provide the community element that Members considered the previous application failed to provide. As a fundamental part of the community use element it is crucial that this building is to be provided concurrently under the provision/use of the sports pitches. Any consent should be conditioned accordingly.

## **10.0 Background Papers**

10.1 ARC; HA; HH; PTC; NLR; NR; EWT; Kelvedon Parish Council; CPREssex

### **Recommendation - Approve Conditional**

#### **Conditions**

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

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

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

2 - C3.4 Samples of Traditional Materials

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

Reason: To ensure that the proposed development is visually [satisfactory/attractive] and enhances the appearance of the locality.

3 - Non-Standard Condition

The permission hereby granted relates to the amended plans hereby returned approved.

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

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

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

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

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

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

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

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

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

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

#### 7 -C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

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

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

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

#### 9 - C11.17 Landscape Management Plan

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

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

#### 10 - Non-Standard Condition

Prior to the removal of the area of hedgerow to the Grange Road frontage as indicated on the approved drawings, a destructive reptile search shall be carried out under the supervision of a qualified ecologist and any protected species shall be carefully translocated to a safe area within the site. The hedgerow removal shall also be undertaken under the supervision of a qualified ecologist.

Reason: There is evidence that the site is/is likely to be of importance for nature conservation and it should be further investigated as advised by Natural England.

#### 11 - Non-Standard Condition

None of the hereby permitted sports pitches shall be brought into use until one sports pitch has been laid out and made available for community use. Thereafter one sports pitch (which shall be of an adult pitch specification with minimum dimensions of 100 metres in length and 65 metres in width) shall be made permanently available on the site for such community use during all permitted playing times.

Reason: To ensure that the approved scheme incorporates an appropriate level of community use.

#### 12 - Non-Standard Condition

Prior to the commencement of the use a Community Use Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of access, pricing policy, hours of use, management responsibilities and include a mechanism for review. The approved Scheme shall be implemented upon commencement of use of the development.

Reason: To secure well managed safe community access to the sports facility.

### 13 - Non-Standard Condition

Prior to the commencement of development, a scheme for the provision and implementation of surface water drainage, incorporating sustainable drainage principles, shall be submitted and agreed, in writing with the Local Planning Authority. The scheme shall incorporate the surface water drainage strategy outlined in the Flood Risk and Drainage Assessment Report Reference E530-01 REV.A. April 2009. The scheme shall be constructed and completed before occupancy of any part of the proposed development.

Reason: To ensure a satisfactory method of surface water drainage.

### 14 - Non-Standard Condition

Prior to the proposed access being brought into use, vehicular visibility splays of 160m x 4.5m by 160m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. The existing frontage hedge may be retained subject to it being reduced to and maintained at or below the prescribed height.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

### 15 - Non-Standard Condition

Prior to commencement of the proposed development, a size 2 vehicular turning facility, of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free of obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

### 16 - Non-Standard Condition

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 10m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

### 17 - Non-Standard Condition

Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 18m from the nearside edge of the carriageway of the existing road.

Reason: To ensure that the largest vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety.

### 18 - Non-Standard Condition

The public's rights and ease of passage over Public Footpath No. 14 (Tiptree) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way in accordance with Policy 3.5 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member Decision dated 19 October 2007.

#### 19 - Non-Standard Condition

The development shall not be occupied until such time as the car parking area, indicated on the approved plans, including any spaces for the mobility impaired has been hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

#### 20 - Non-Standard Condition

Prior to commencement of the proposed use commencing, the provision for parking of powered two wheelers and bicycles, as indicated on the approved plan, or any may subsequently be agreed in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To promote the use of sustainable means of transport in accordance with EPOA Vehicle Parking Standards and Policy 4 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member Decision dated 19 October 2007.

#### 21 - Non-Standard Condition

Prior to the proposed use commencing, the permissive cycle routes as indicated on the approved plan have been provided entirely at the Applicant/Developer's expense.

Reason: To make adequate provision for the additional cycling traffic regenerated as result of the proposed development and to promote the use of sustainable means of transport in accordance with EPOA Vehicle Parking Standards and Policy 4 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member Decision dated 19 October 2007.

#### 22 - Non-Standard Condition

Prior to the use commencing the improvements to the junction of Grange Road and Vine Road as indicated on the approved drawing have been provided entirely at the Applicant/Developer's expense.

Note: This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in section 278 of the Highways Act 1980.

Reason: To make adequate provision for the additional vehicular traffic generated within the highway as a result of the proposed development in the interests of highway safety.

#### 23 - Non-Standard Condition

Any proposed new boundary hedge required following provision of the vehicle visibility splays shall be planted a minimum of 600mm back from the highway boundary.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

#### 24 - Non-Standard Condition

A competent person shall ensure that the rating level of noise emitted from the site plant, equipment, machinery shall not exceed 5dBA above the background prior to the 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. Condition 25 shall comply with this standard.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

#### 25 - Non-Standard Condition

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

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

#### 26 - Non-Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light' for zone E2. This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to the use hereby permitted commencing a validation report undertaken by competent persons that demonstrates compliance with the above shall be submitted to the Local Planning Authority for approval. Having been approved any installation shall thereafter be retained and maintained to the standard agreed.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

#### 27 - Non-Standard Condition

The user of the Colchester United Training Pitches hereby permitted shall not operate outside of the following times:-

10.30 a.m. to 1.00 p.m. Monday to Saturday.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

#### 28 - Non-Standard Condition

At no time shall the boundary of any sports pitch be laid out or located closer than 40 metres to a residential curtilage.

Reason: In the interests of protecting local residential properties from noise nuisance.

### 29 - Non-Standard Condition

Prior to the commencement of use of the development a Travel Plan, which shall include monitoring shall be submitted to and approved in writing by the Local Planning Authority. The provisions of the Travel Plan shall be adhered to at all times unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

### 30 – Non Standard Condition

Prior to the commencement of development (or such other date or stage in the development as may be agreed in writing with the Council), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing by the Local Planning Authority:

- i) Preliminary risk assessment which has identified all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors and potentially unacceptable risks arising from contamination of the site.
- ii) A site investigation scheme based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- iii) The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The scheme shall be implemented as approved unless otherwise agreed in writing with the Council.

Reason: To ensure that the proposed development does not cause pollution of Controlled Waters and that development complies with approved details in the interests of protection of Controlled Waters.

### 31 – Non Standard Condition

Prior to the works commencing details of a construction management plan shall be submitted to the Local Planning Authority for approval, written approval shall be obtained and the measures within the construction management plan shall be fully implemented. The construction management plan shall include measures dealing with the following:-

- i) A construction access to be formed onto Grange Road (either in the location of the proposed access or to the east if ecological restrictions concerning the hedgerow dictate) using an agreed bound material. If a temporary access is formed it shall be restored following the construction period.
- ii) Routing measures for all construction and delivery traffic.
- iii) An excess soil storage area to be formed close to the proposed car park area.
- iv) Removal of excess soil from the site, which will be disposed of at Tiptree Quarry landfill site unless otherwise agreed in writing with the Local Planning Authority.
- v) Hours of operation to be applied.
- vi) Dust suppression measures including wheel washing arrangements.

Reason: In the interest of highway safety and amenity.



### 32 – Non Standard Condition

The proposed pedestrian and cycle access points shall remain unobstructed at all times whilst the facility is open.

Reason: To ensure unrestricted access to the site and the facilities provided therein.

### 33 – Non Standard Condition

The sports accommodation building shall only be used in association with and ancillary to the approved outdoor sports facility and for no other purpose within Class D2 of the Town and Country Planning (Use Classes Order 1987) as amended, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To clarify the intended use of the approved sports accommodation building.

## **Informatives**

### **Informatives from Highway Authority**

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

The above is required to ensure the proposal complies with the County Council's Highways and Transportation Development Control Policies as originally contained in Appendix G to the Local Transport Plan 2006/2011 and refreshed by Cabinet Member decision dated 19 October 2007.

All works affecting the highway shall be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838696.

The applicant is reminded of their duties and responsibilities with regard to the line of Public Footpath 14 to the north east of the site. Should any works affect the line of the right of way these must be carried out in agreement with the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600.

The applicant is advised that the Highway Authority will not allow the line of Public Footpath 14 to the north east of the site to be used by vehicles to access the development site in accordance with the Department for the Environment Food and Rural Affairs Guidance for Local Authorities Rights of Way Circular 1/09.

In the interests of promoting sustainable modes of transport, and limiting the development's effect on the highway, in accordance with policies numbers 4 and 6 in Appendix G of the Local Transport Plan 2006/11 as refreshed by Cabinet Member Decision 10 October 2007 the developer has agreed to implement a Travel Plan. The Travel Plan, which must incorporate a scheme of monitoring by the Essex County Council, is supported by a non-returnable £3,000 fee payable by the Developer.

### **Informatives required by Environmental Control**

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

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

All car parking and service areas shall be sited/screened to minimise any noise impact on nearby residential premises and be of a non-gravel construction.

### **Informatives required by Essex and Suffolk Water**

Before works are commenced on site, please contact Mr Keith Lambird (Mobile Tel: 07714064822) and arrange for the route of our 36th Steel Strategic Water Main to be traced and marked out.

The car park may be constructed over our easement, but no structures e.g. lighting columns may be erected in the easement.

The cover to our Washout access pit (approximately 90 metres from the Grange Road boundary) must be kept clear at all times.



**Application No:** 091380

**Location:** 35 New Road, Tiptree, Colchester, CO5 0HN

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

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**Site:** 35 New Road, Tiptree, Colchester, CO5 0HN**Application No:** 091380**Date Received:** 26 November 2009**Agent:** Mr Stewart Rowe**Applicant:** Mr Gary Sharp**Development:** Outline application for demolition of detached bungalow and erection of three detached two storey houses, lay out private drive, manoeuvring and amenity areas, erect cart lodges and garden sheds and alter vehicular access onto New Road. Resubmission of 090134.**Ward:** Tiptree**Summary of Recommendation:** Conditional Approval subject to Unilateral Undertaking

## 1.0 Site Description

- 1.1 The site is a rectangular plot of land of approximately 0.12ha (17.8m x 65m) located on the junction of New Road and Keeble Close, within the built up area of Tiptree. The site consists of a detached bungalow and its established garden area. The bungalow fronts onto New Road and the garden is enclosed by an established hedge that runs along the eastern boundary with Keeble Close.
- 1.2 Immediately to the west is a two storey detached house with its garage being located between No.35 New Road. The development in Keeble Close consists of a 1980's housing development. The existing development along New Road is of mixed character but is predominantly two storey within the vicinity of the site. To the east of the site the dwellings are mainly pairs of semi-detached, two storey houses.
- 1.3 The application proposes the demolition of the existing bungalow at 35 New Road and the erection of three detached, two storey dwellings. Two of these dwellings face onto Keeble Close and are both three bedroom units. The third dwelling, which contains four bedrooms, has a frontage onto New Road.
- 1.4 Access to the development is by way of a private drive off New Road, leading to a parking courtyard, which contains two separate covered parking areas designed to reflect a pair of cart lodges. The access is to be taken off New Road as the Applicant has no right of access off Keeble Close.
- 1.5 Car parking is provided at the newly adopted standard of two spaces per dwelling. Bicycle parking and recycling storage is provided within domestic sheds as shown on the submitted drawings.

1.6 The buildings are to be built of vernacular materials (red brick with slate or plain tiled roofs) with timber windows and stone or plain tiled sub-cills. Painted timber fascias and painted timber open porches are also proposed.

1.7 A refuse collection point within 25 metres of the highway is shown for the dwellings on plots 2 & 3.

## **2.0 Land Use Allocation**

2.1 Residential

## **3.0 Relevant Planning History**

3.1 090134 – Outline application for demolition of detached bungalow and the erection of a pair of semi-detached houses, a terrace of 3 nos. two storey houses, layout private drive, parking and amenity areas, erection of garden sheds and alter vehicular access onto New Road. Withdrawn 14 April 2009.

## **4.0 Principal Policies**

4.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
Design - UEA11  
Development adjacent to existing dwellings – UEA13

4.2 Supplementary Planning Document – Parking Standards Design & Good Practice. Adopted 12 November 2009

## **5.0 Consultations**

5.1 The Highway Authority has requested a minor alteration to the access and the slight increase in the size of the car ports so as to comply with the recently adopted parking standards. These amended plans will be available at the Committee Meeting.

## **6.0 Parish Council's Views**

6.1 Tiptree Parish Council objects on the grounds of:-

1. Highway issues - sight splays
2. Out of keeping
3. Loss of amenity to neighbours.

6.2 Feering Parish Council maintains their long standing objection in principle due to the potentially increased traffic through Feering and Kelvedon.

## **7.0 Representations**

7.1 The occupiers of 37 New Road, who own a strip of land inbetween the eastern site boundary and Keeble Close, raise the following matters.:-

- (a) Access should be via Keeble Close as this would result in a lower risk to pedestrians and other road users.
- (b) If a shared courtyard parking arrangement is preferred (although this is not a feature of existing development in the area), vehicles could enter via New Road and exit via Keeble Close.
- (c) Surface water drainage and sewerage systems issues – after heavy periods of rain flooding occurs opposite and adjacent to the site.
- (d) Is parking provision sufficient?
- (e) If access was via Keeble Close would contractors' vehicles access the site without causing congestion.
- (f) Loss of privacy.

7.2 Two other letters have been received raising the following issues:-

- (a) Overdevelopment. Existing density in the area is 17 DPH. Proposed development is 25 DPH.
- (b) Out of keeping.
- (c) No detailed landscaping submitted. All boundary hedges should remain.
- (d) Reduce garden space and affect wildlife.
- (e) Plans are incorrect:-
  - Plot 3 elevation does show utility door but floor plan does not.
  - Hedge on part of the northern boundary of the plan covers that whole boundary of 2m height.
  - Hedge is the boundary and not inside as shown.
  - The dotted 'sight line' in the north east corner is misleading due to no vehicular access near it.

## **8.0 Report**

8.1 The site lies within an established residential area of Tiptree where there is no objection in principle to residential development. It is on this basis that the Applicant has submitted this application seeking to address the objections raised by your Officers to the previous application 090134. This previous submission was considered to unacceptable in terms of the number of units, together with the layout and design of the units as shown on the indicative plans submitted with the application.

8.2 The current scheme has been the subject of various amendments to the layout and the design of the dwellings and has evolved to the scheme which is now before Members.

- 8.3 The layout now addresses both the frontage onto New Road as well as the frontage to Keeble Close, with the pair of identical, but handed dwellings, facing onto Keeble Close. The required vehicular turning and parking areas are located to the rear of the dwelling on the New Road frontage, with the parking being contained within, and screened by, a pair of open-fronted buildings. The hedge along the Keeble Close frontage is to be retained, albeit reduced in height from the present 3m, to further screen the site and maintain the character of this part of the site.
- 8.4 The dwellings have been designed to reflect the character and appearance of other late Victorian/Edwardian dwellings in the vicinity, incorporating similar spans, roof pitches and ridge heights. The external materials are drawn from the vernacular palette and incorporate gauged brick arches and stone cills. The buildings also incorporate working chimneys with external stacks.
- 8.5 The dwellings have all been laid out and designed to take into account the Council's Local Plan policy UEA13, which seeks to secure the amenity of existing dwellings. In this context the units on plots 2 & 3 have both been designed such that the windows at first floor level in the rear elevations overlooking the dwellings to the west serve a landing and a bathroom (i.e. non-habitable rooms). They do contain one bedroom window but there is no direct overlooking of habitable rooms in the rear elevation of these existing dwellings or the private patio areas of these dwellings. With regard to the privacy of No. 37 New Road, the dwellings on Plots 2 & 3 do not directly overlook the windows in the rear elevation. The detached buildings within the rear garden of No. 37 also provide some screening of the rear garden area.
- 8.6 With regard to the existing dwelling No.1 Keeble Close immediately adjacent to the site, the submitted plans show that the dwelling on plot 3 does not infringe the 45 degree rule within policy UEA13. This particular criterion seeks to prevent a new dwelling from being overbearing upon its neighbour by not permitting it to transgress a 45 degree line drawn from the nearest corner of the adjoining dwelling. Whilst the dwellings on plots 2 & 3 do project forward of this adjoining dwelling, they sit behind this 45 degree line projecting from the front elevation and they will not be unduly prominent or discordant within the established street scene.
- 8.7 Whilst the new access will run parallel to the rear garden of no. 33 New Road, the plans show that the amenity of this property is to be protected by the erection of a 1.8m high brick wall and a new hedge on the inside of this wall to soften the visual impact. This brick wall runs along the side boundary of No.33 until it joins up to one of the proposed car ports.
- 8.8 The applicant's attention has been drawn to the discrepancy between the elevation/floor plans and amended drawings have been requested.
- 8.9 The agent has confirmed that the hedge along the boundary with Keeble Close is owned by the occupiers of 37 New Road, Tiptree and that the applicant has no rights to prune/remove it. With this in mind the development proposals have been designed to 'ignore' the hedge. On this basis the application form is correct in that the hedge is not to be affected by the development.

## **9.0 Conclusion**

9.1 This redevelopment is acceptable in principle. Whilst the development at 25 DPH is below the recommended lower threshold this has to be balanced against the need to provide an acceptable layout that also meets and satisfies the relevant Local Plan policies relating to design and impact upon visual and residential amenity, together with the requirements of the Highway Authority and compliance with the recently revised and adopted parking standards. Having due regard to all of the aforementioned it is considered that this is an acceptable development and permission is recommended accordingly.

## **10.0 Background Papers**

10.1 ARC; HA; PTC

### **Recommendation**

Conditional Approval subject to a Unilateral Undertaking for a contribution to Open Space and Community Facilities.

### **Conditions**

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

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

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

2 - C3.3 Samples to be Submitted

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

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

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

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

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



#### 4 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

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

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

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

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

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

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

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

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

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

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

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

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

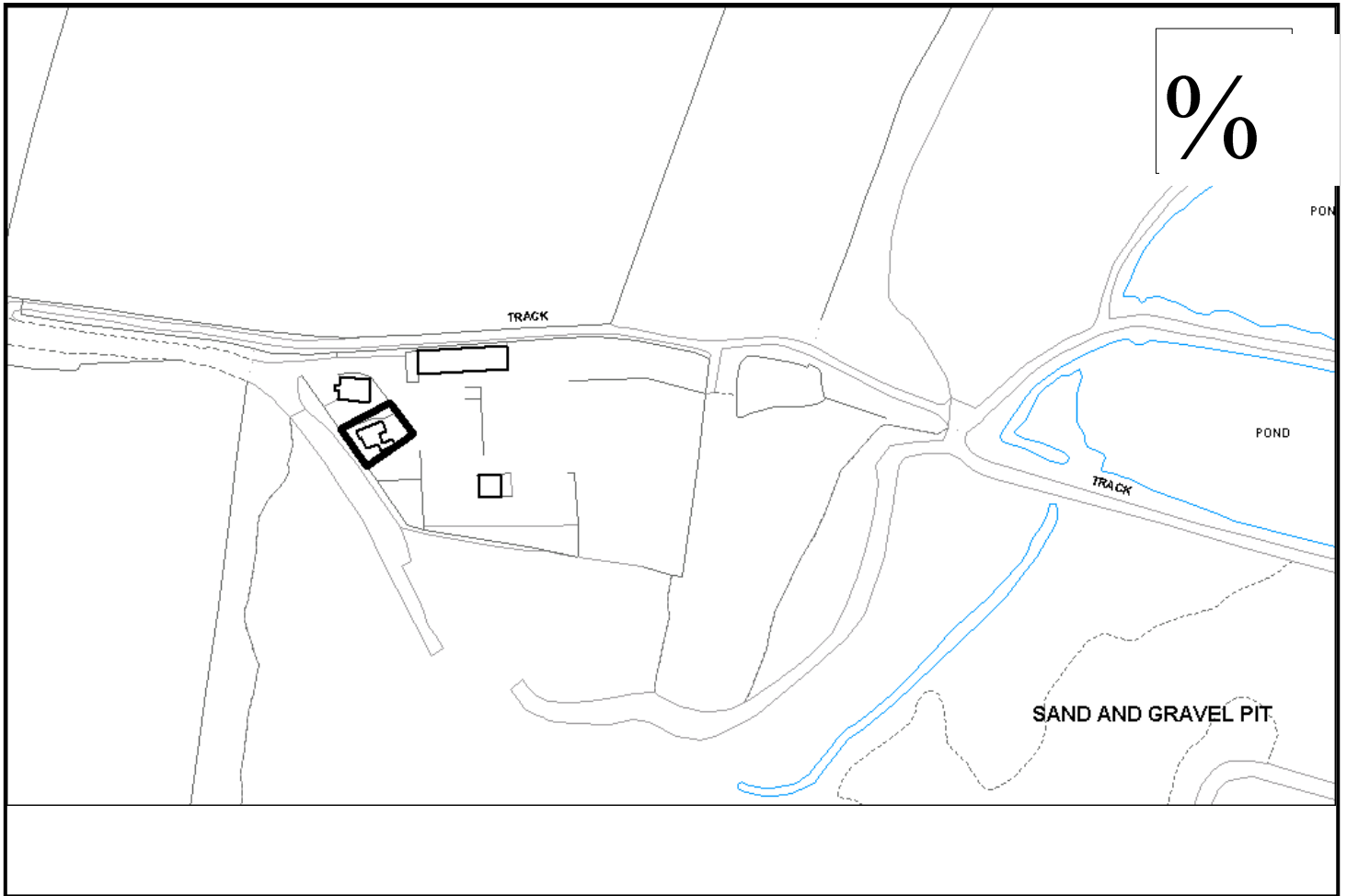
#### 9 - C12.2 Details of Walls or Fences

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

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

#### **Informatives**

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



**Application No:** 091448

**Location:** Vingt Trois, The Basketworks, Grange Road, Tiptree, Colchester, CO5 0Q

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

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### 7.3 Case Officer: Simon Osborn

## OTHER

**Site:** Vingt Trois, The Basketworks, Grange Road, Tiptree

**Application No:** 091448

**Date Received:** 11 November 2009

**Agent:** Edward Gittins & Associates

**Applicant:** Mr R Martin

**Development:** Demolition of lawful dwellinghouse and replacement with new bungalow.

**Ward:** Tiptree

**Summary of Recommendation:** Conditional Approval

#### 1.0 Planning Report Introduction

1.1 It is brought to the attention of the Planning Committee that the applicant is a Borough Councillor.

#### 2.0 Site Description

2.1 The application site comprises a fenced enclosure with a dwelling, parking area and small garden area within its curtilage. The dwelling comprises 3 former caravans and timber sheds, with a run-down appearance. The application site adjoins a chalet-style dwelling to the north and the Tiptree Basketworks Employment Site to the west.

#### 3.0 Description of Proposal

3.1 The application seeks to replace the dilapidated dwelling (former caravans and timber sheds) with a new 2-bedroom bungalow on the same site. The proposed dwelling will have an internal floor area of 88.5 sqm and an overall height just exceeding 5m. Two parking spaces are shown at the front of the proposed bungalow and an amenity area of 70 sqm is provided to the rear.

#### 4.0 Land Use Allocation

4.1 Rural Business Site

## **5.0 Relevant Planning History**

5.1 K/COL/05/1440 – use of building incorporating former mobile homes as dwelling was granted a lawful use certificate on 21st October 2005. The decision notice stated:

“From the information submitted, the Council is satisfied that the residential use of the identified premises, as a single dwellinghouse, began more than four years before the date of this application.”

5.2 The adjoining dwelling known as ‘Baskets’ was granted a certificate of lawfulness in December 2000 for the change of use of portacabin office to use as a single dwellinghouse (reference K/COL/00/0360). In May 2002 an application for a new dwelling as a replacement to this was granted planning permission (reference COL/01/1872).

## **6.0 Principal Policies**

6.1 Local Development Framework  
Core Strategy (adopted):  
CE3 - Employment Zones  
ENV2 - Rural Communities

6.2 Development Policies (emerging only):  
DP1 – Design and Amenity  
DP5 – Employment Land and Protection of Employment Land  
DP13 – Dwelling Alterations, Extensions and Replacement Dwellings  
DP19 – Parking Standards

6.3 Adopted Review Colchester Local Plan 2004 saved policies:  
DC1- Development Control considerations  
UEA11 - Design  
UEA13 - Development, including Extensions, Adjoining Existing or Proposed Residential Property  
H9 – Replacement Dwellings in the Countryside  
EMP5 – Development on Free Standing Business Sites

## **7.0 Consultations**

7.1 Highway Authority: no objection to proposal as submitted.

7.2 Environmental Control: recommended Construction and Demolition informative.

## **8.0 Parish Council's Views**

8.1 Tiptree Parish Council object to this application. Outside village envelope and designated rural business land, not residential.

## 9.0 Representations

### 9.1 None received

Full text of all consultations and representations are available to view on the Council's web-site.

## 10.0 Report

### Policy context

- 10.1 The application site lies within the Tiptree Basketworks Employment Site. This is shown in the adopted Local Plan as a Freestanding Rural Business Site, as it is surrounded by countryside and remote from the settlement area of Tiptree. The site is also shown as an Employment Site within the LDF Submission Proposals Map. The Council would normally protect land allocated for employment purposes for employment uses.
- 10.2 In this instance however, the application site already has authorised use as a dwellinghouse, which was acknowledged by the Council when a lawful use certificate for such was issued in October 2005. As such saved Policy H9 in the adopted Local Plan relating to replacement dwellings in the countryside is of particular relevance to this proposal.
- 10.3 Policy H9 states: "The replacement of a habitable permanent dwelling in the countryside will be permitted, provided that: (a) the proposed replacement is acceptable in its setting by virtue of its scale, form, design, siting and materials, and it reinforces the local vernacular style and sense of place; (b) it would, when compared to that of the existing dwelling have no greater adverse impact on the rural character of the open countryside." Paragraph 13.48 (e) indicates that the dwelling to be demolished should be a habitable permanent dwelling – e.g. that is in a reasonable state of repair and is currently, or was very recently occupied.
- 10.4 From a policy perspective, the central issue is considered to be whether or not 'Vingt Trois' may be treated as a habitable permanent dwelling. The opening sentence in the DAS describes the dwelling as "dilapidated" and it is not currently lived in. Further information submitted by the applicant's agent states that the dwelling "was permanently occupied by two tenants up to January 2005 and was then occupied by Mr Martin's son James on an intermittent basis up to April 2008, which was the last time it was used for overnight accommodation. The dwelling remains James's home address for his lorry and car driver's licences and, until last week (ie. the week before 2<sup>nd</sup> December 2009), was his home address used by his bank. I understand that apart from a 6 month tax holiday, domestic Council Tax has been paid throughout. Although vacant since April 2008, there has been no intention by the owner to abandon the property."

## Abandonment

- 10.5 Case law has established that there are four tests or indicators that can help in reaching a conclusion as to whether the residential use of a property has been abandoned. These are (i) the physical condition of the building; (ii) the period of non-use; (iii) whether there has been any other use; and (iv) the owner's intentions with regard to continuation of the use.
- 10.6 A recent appeal decision in respect of application 081426 found in the Council's favour that a property that had been vacant since 1978 had been abandoned and refused to grant a lawful development certificate for its use. The decision referred to a number of judgements where dwellings had not been held to be abandoned after various periods of non-occupation (Tewkesbury unoccupied for 35 years being the longest). In the recent Colchester case, the Inspector held that it was the lack of any action to undertake repairs to the property over a 26 year period that was decisive.
- 10.7 In the instance of 'Vingt Trois', the Council issued a lawful development certificate as recently as October 2005, when it stated on the decision notice: "From the information submitted, the Council is satisfied that the residential use of the identified premises, as a single dwellinghouse, began more than four years before the date of this application." Whilst the property has been vacant for at least 18 months (and possibly on a regular basis for four years), the continued payment of Council tax throughout this period, in your officer's opinion, would not appear to indicate an intention to abandon the use.
- 10.8 Whilst the dwelling does not by virtue of its appearance "appear" to be currently habitable, it has been occupied in the relatively recent past and does not yet appear to have been abandoned. It is a permanent dwelling because the Council has already granted a lawful use certificate for such use. It is considered that the details of the proposal should be considered in accordance with saved policy H9 and the Council's other standard design policies.

## Design and layout

- 10.9 Policy H9 requires that replacement dwellings are of a similar scale as the original and have no greater adverse impact on the rural character of the open countryside. The plans submitted as part of the lawful use certificate application show 2 bedrooms; the overall dimensions appear to indicate approx 64 sqm of internal floorspace. The proposed replacement dwelling has an internal floor area of 88 sqm with 2 bedrooms. The replacement dwelling is considered to be of similar scale to the existing.
- 10.10 The existing structure is barely visible from outside the site by virtue of the lack of a pitched roof and the boundary fencing. The proposed replacement is also of single storey form but incorporates a pitched roof. It will as such be more visible than the existing structure. However, the overall impression is of a bungalow with a plain, undemanding appearance. The dwelling is sited approximately 400m away from Grange Road, with 2 lines of hedgerow between the dwelling and the road. It is considered that it will not have a significant visual impact on the countryside. It will also have a roof line that is lower than the adjoining dwelling known as 'Baskets'.

- 10.11 The application form proposes concrete interlocking tiles on the roof. However, given that the roof form will be more visible it is considered that either clay tiles or natural slate should be utilised. The applicant has subsequently agreed to this.
- 10.12 The proposed replacement dwelling will be more visible than the existing structure. However, it is considered to be modest in appearance and comparable in scale with the existing structure. Its position on the periphery of an Employment Site and its distance from the road limit the visual impact of the proposal on the countryside from a public perspective.

#### Other Material Considerations

- 10.13 The adjoining dwelling known as Baskets is within the ownership of the applicant. It was formerly a portacabin office until 2000 when a lawful use certificate for use as a dwelling was granted. An application submitted in 2001 to replace it with a new dwelling adopted the same approach as here; i.e. that it should be considered as a replacement dwelling in the countryside.

### **11.0 Conclusion**

- 11.1 The site is remote from the settlement boundary of Tiptree and within a designated Employment Site. Permission for a residential dwelling would not normally be granted in these situations. However, the Council previously agreed in October 2005 that the premises had been used as a single dwellinghouse for a period of at least 4 years. As such the proposal for a replacement dwelling should be considered in accordance with the provisions of policy H9 in the Local Plan relating to replacement dwellings in the countryside. The proposed replacement bungalow is of modest appearance and is accordingly recommended for approval.

### **12.0 Background Papers**

- 12.1 HA; HH; PTC

### **Recommendation - Conditional Approval**

#### **Conditions**

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

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

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



## 2 - Non-Standard Condition

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

Reason: To ensure that the proposed development is visually satisfactory and harmonises with the countryside.

## 3 - B7.1 Residential Buildings

Before the dwelling hereby permitted is first occupied, the existing dwelling shall be entirely demolished and all materials resulting therefrom shall be completely removed from the site within 28 days of the first occupation of the replacement dwelling hereby permitted.

Reason: The site lies within an area where permission for new dwellings is not normally granted and the Local Planning Authority would not permit a second dwelling in this location.

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

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

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

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

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

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

## **Informatives**

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

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 by initially telephoning 01206 838600.



**Application No:** 091391

**Location:** Adjacent to, The Acacias, Bacons Lane, Chappel, Colchester, CO6 2EB

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

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**7.4 Case Officer: Jane Seeley**

**EXPIRY DATE: 11/01/2010**

**OTHER**

**Site:** The Acacias, Bacons Lane, Chappel, Colchester, CO6 2EB

**Application No:** 091391

**Date Received:** 16 November 2009

**Agent:** Zoe Manning

**Applicant:** Mrs M Baines

**Development:** Retention of vehicular access and continued use of the land for keeping livestock, eg: chickens, goats

**Ward:** Great Tey

**Summary of Recommendation:** Conditional Approval

## **1.0 Description of Proposal**

- 1.1 The site is in the Countryside but, adjacent to the Chappel – Swan Street Village Envelope. The frontage (to Bacons Lane) has a bank (approx 1.5 – 2m high) with a hedgerow of approx 3 to 4 metres high) A vehicular access has been created which has required excavation of the bank and removal of some planting. Sloping from the road the site is overgrown with some domestic type planting evident. There are a couple of low key, old chicken sheds on the site which are utilised for the keeping of chickens. The boundary with The Acacias (NE) is fenced. To the rear of the site is the residential curtilage of a dwelling k/a Corvette; the common boundary is marked by a hedge. The SE boundary, with arable land is mainly open with some hedging.
- 1.2 This application seeks to regularise the vehicular access and continued use of the use of the site for the keeping of livestock. Information in the DAS indicates that the site was used for this purpose until 12 – 15 years ago.

## **2.0 Land Use Allocation**

- 2.1 Countryside Conservation Area

## **3.0 Relevant Planning History**

- 3.1 None

## **4.0 Principal Policies**

- 4.1 Adopted Local Plan  
DC1 - Development Control considerations  
CO4 - Landscape features
- 4.2 Core Strategy  
ENV1 - Environment

## **5.0 Consultations**

### 5.1 Trees and Landscaping:

- Hedgerow is 'not important'
- any excavations to achieve sight splay requirements should retain the form of the embankment as these form an essential part of the character of Bacons Lane
- any hedgerow that may be removed and any existing hedge enclosing the site that is in a degraded condition needs renovation through planting with native hedgerows
- satisfied with landscape content subject to the above; recommend conditions

### 5.2 Highways:

- Unsure why an access is necessary given that the applicant only lives 60m from the site
- Recommend that the access is provided with, visibility splays, pedestrian visibility splays, a suitable hard surface, measures to stop water draining onto the highway and on site parking and turning area.

### 5.3 Environmental Control

'No Comments'

## **6.0 Parish Council's Views**

### 6.1 Chappel Parish Council object:

1. The vehicular access is very large; it is not clear as to why as the applicant is resident in Bacons Lane.
2. The repaired chicken sheds are of poor quality and would not sustain long term use.
3. This is a retrospective application

## **7.0 Representations**

### **7.1 Two letters of objection:**

- Object to vehicular access; Bacons Lane is too narrow to take an increase in traffic.
- Reservations about size of the drive; a small path and gate would be adequate for proposed use.
- Past experience shows that getting lorries in and out of accesses in the lane causes difficulties and usually results in the lane being blocked.

## **8.0 Report**

8.1 The application site is the countryside; whilst it has with residential curtilage on 2 sides the south east boundary is to arable land. The keeping of livestock in a rural location would be difficult to resist. There are 2 very low key chicken sheds on the land; any additional buildings would require planning permission. This in itself provides an element of control over the use.

8.2 The vehicular access that has already been constructed has cut through a bank that contributes to the character of Bacons Lane. Highways, whilst querying the need for the access given that the applicant resides close to the site, have not raised any objections subject to the access being provided with sight splays, onsite parking/turning, water attenuation and hard surfacing of the access adjacent to the highway. These matters can be required by condition.

8.3 The applicant has advised that she is likely to be moving in the near future and therefore she will not have anywhere to park in Bacons Lane when visiting the site. The land is willed to the applicant's 3 children. The chickens on the site belong to and are cared for by her daughter who visits the site regularly. This daughter lives in Vernons Road Chappel so the site is not easily accessible by foot.

8.4 The impact of the creation of the access, and the additional works required by the Highways Authority, have been assessed by the Council's Landscape Officer who has advised that subject to controls to retain the form of the banks and new/additional planting he is satisfied with the landscape content of the proposal.

8.5 Accordingly, it is not considered that there is any sustainable planning reason for refusal of the application. A condition to control the keeping of livestock to recreational purposes only is suggested.

## **9.0 Background Papers**

9.1 ARC; TL; HA; HH; PTC; NLR

## **Recommendation - Conditional Approval**

### **Conditions**

#### **1 - Non-Standard Condition**

Within 2 months of the date of this permission, details of tree and/or shrub planting and an implementation timetable shall be submitted to and approved in writing by the local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the local Planning Authority.

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

#### **2 - Non-Standard Condition**

Within 2 months of the date of this permission details of earthworks have been submitted to and approved in writing by the local Planning Authority. These details shall include the proposed grading and mounding of land areas including levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in with in 2 months of and in accordance with approved details.

Reason: To ensure proper consideration and approval of any effects of change in topography on landscape features.

#### **3 - Non-Standard Condition**

Within 2 months of the date of this permission the following in shall be submitted for the written agreement of the LPA in conjunction with the Local Highways Authority:

- a) Details of an onsite vehicle parking and turning
- b) A method to prevent water draining onto the highway
- c) Details of the surfacing of the access and parking/turning area (the first 6 metres from the access shall be surfaced in a hard, free draining and stable material) The approved details shall be implemented within 2 months of there approval and shall thereafter be retained as approved.

Reason: In the interests of highway safety and efficiently and the protection of the rural character of the locality

#### **4 - Non-Standard Condition**

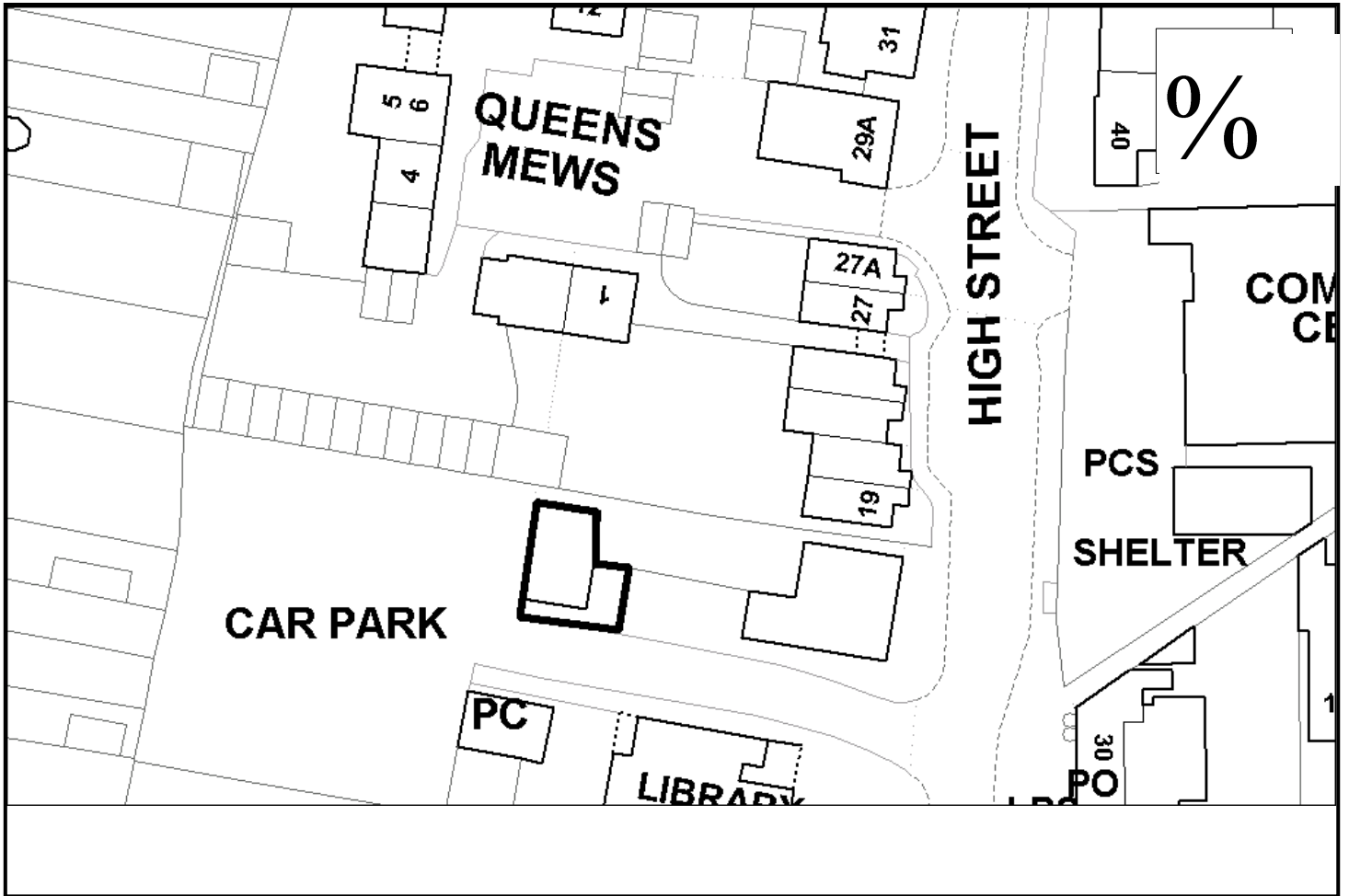
In conjunction with the detail required by Condition 2 vehicle visibility splays measuring 2.4m x 43m in both directions and pedestrian visibility splays measuring 1.5 x 1.5m in both directions shall be provided with in 2 months of and in accordance with the details agreed by Condition 2.

Reason: In the interests of highway safety and efficiently and the protection of the rural character of the locality.

## 5 - Non-Standard Condition

The use of the site for the keeping of livestock shall be for recreational purposes only and the site shall not be used for the commercial keeping of livestock or as an agricultural enterprise.

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



**Application No:** 091494

**Location:** Curiosi-teas, Unit 4, 13 High Street, West Mersea, Colchester, CO5 8QB

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

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**7.5 Case Officer: Simon Osborn**

**EXPIRY DATE: 14/01/2010**

**OTHER**

**Site:** Unit 4, 13 High Street, West Mersea, Colchester, CO5 8QB

**Application No:** 091494

**Date Received:** 19 November 2009

**Agent:** Mr Steve Norman

**Applicant:** Ms J Wood

**Development:** Additional use of tea room/cafe premises to include use as a restaurant (A3) and takeaway sales (A5) and extended opening hours from 08:00 hrs to midnight.

**Ward:** West Mersea

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

1.1 The building subject of this application is a 2-storied property with a tea-shop on the ground floor and a flat at first floor level with a separate entrance. The premises are set back behind a commercial property that fronts onto the High Street and is immediately adjacent to a public car park, with public conveniences opposite.

## **2.0 Description of Proposal**

2.1 The application is for the change of use of the ground floor to include use as a restaurant (Class A3) and takeaway sales (Class A5). The opening hours as proposed are to be extended from 0800 hours to midnight. No change is proposed to the residential flat on the first floor.

2.2 Further to the application being received, the applicant has indicated that a condition to stipulate occupation of the flat by the operator/manager of the premises would be acceptable, as would a condition limiting the use to cease at 2300 hours if this was deemed essential.

## **3.0 Land Use Allocation**

3.1 Rural District Centre

## **4.0 Relevant Planning History**

4.1 83/0047 refused permission for extension to shop and minor alterations to domestic dwelling.

4.2 C/COL/00/0303 granted planning permission for change of use from retail to teashop and retail – this included a condition that the premises not to be open to customers outside of the hours 0900 to 1800.

## **5.0 Principal Policies**

### 5.1 Local Development Framework

Core Strategy:

CE1 - Centres and Employment Classification and Hierarchy

CE2 - Mixed Use Centres

CE2b - District Centres

TA1 - Accessibility and Changing Travel Behaviour

TA5 - Parking

### 5.2 Adopted Review Colchester Local Plan 2004 saved policies:

DC1- Development Control Considerations

TCS1 - Retail Development

TCS12 - Rural District and Local Shopping Centres

P1 - Pollution

## **6.0 Consultations**

6.1 Highway Authority: Any comments received will be reported.

6.2 Environmental Control:

"We are aware that there are a number of residential properties located nearby and would wish to ensure that the permission would be in the main for restaurant use, with takeaway being ancillary to the main business. A business that is predominantly takeaway in the location and operating the hours proposed has potential to be detrimental to residential properties. Consideration should also be given to reducing the evening operating hours to 23:00.

We are also concerned that there is a residential unit located directly above the proposed business and future occupants may be adversely affected by odour and noise from the extraction system and the general operation of the business. Any occupier of this flat would probably have to be associated with the business to minimise the likelihood of complaints.

Should permission be granted we would recommend the following conditions relating to noise and sound insulation, odour control and grease traps."

6.3 Further Comments from Environmental Control:

"In view of the fact that it is located within a retail area, I don't think that the issue of ancillary use for the takeaway can be taken any further. However, I am pleased to note the agreement regarding restriction of use of the upstairs flat and restriction of opening hours. It would be worth advising the applicant to ensure that the odour extract system is located as far as possible from residential gardens."

## **7.0 Town Council's Views**

### **7.1 West Mersea Town Council comment as follows:-**

"Following discussion it was agreed to recommend consent be granted in respect of this application with a condition that the closing time is at 5.00pm latest."

## **8.0 Representations**

8.1 An objection was received from 19 High Street relating to the concentration of similar establishments within the area (The Mersea Grill, Church Road; The White Hart PH, corner of Church Road and High Street; The Art Café, opposite corner of High Street and Church Road; The Islander Fish and Chips on High Street; and the Titash Indian Restaurant, opposite The Islander); and the proximity of residential properties at Queen Mews, which would be subject to considerable nuisance.

8.2 Full text of all consultations and representations are available to view on the Council's web-site.

## **9.0 Report**

### Policy context

9.1 The application site is in the West Mersea Rural District Centre. Policy CE2b in the adopted Core Strategy indicates that these centres will be protected and enhanced to provide shops, services, community facilities and employment to meet the needs of local communities. Saved Local Plan Policy TCS12 indicates that uses which complement the primary retail role of the centres will be allowed, subject to the number of A1 retail units not reducing below 50% and a continuous frontage of no more than two non-retail uses being permitted.

9.2 In this respect, since the premises are currently used as a tea room/café establishment, the proposal will not result in the loss of a pure shop use. The position of the premises to the rear of most of the commercial premises within High Street means it does not form part of the main commercial frontage.

### Amenity

9.3 Environmental Control in their initial response raised concerns relating to the amenity impacts of the proposal. These concerns related to the potential for odour nuisance and general noise and disturbance, particularly to the occupants of the flat above the premises, but also to other residential premises within the vicinity. They also asked that consideration be given to slightly earlier closing hours than originally proposed, namely 2300 hours.

9.4 The applicant has since confirmed that closing at 2300 hours and limiting occupation of the flat to the operator/manager of the premises would be acceptable. It is acknowledged that these restrictions are helpful whilst not entirely alleviating Environmental Control concerns regarding the potential for nuisance. However, a proposed restaurant and/or takeaway is a local service and one that would ordinarily be found within a rural district or local shopping centre. A use such as this is likely to be dependent upon the evening hours for much of its business and, if the use is considered acceptable, limiting the proposed hours of use to 5.00 pm is unlikely to be commercially viable.

### Highways

9.5 At the time of drafting this report, the comments of the Highway Authority were still awaited. However, the proposed site is immediately adjacent to a free public car park and it is likely that proposed users of this facility who are travelling by car would wish to use this car park.

## **10.0 Conclusion**

10.1 The premises are within a Rural District Centre, where local services such as restaurants/takeaways would normally be considered as appropriate. As with all such uses, there is potential for nuisance from odour and general noise and disturbance. In this respect, the flat immediately above the restaurant/takeaway is to be used by the manager/operator of the premises. Whilst there are other residential premises within the vicinity, its general position is considered satisfactory. The application is recommended for approval.

## **11.0 Background Papers**

11.1 HA; HH; PTC; NLR

## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

## 2 – Non-Standard Condition

A competent person shall ensure that the rating level of noise emitted from the site plant, equipment, machinery shall not exceed 5dBA above the background prior to the 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. Conditions 03 and 04 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.

## 3 - Non-Standard Condition

Any plant, equipment or machinery on the premises shall be constructed, installed and maintained so as to comply with Condition 02. The noise generated by such equipment shall not have any one 1/3 octave band which exceeds the two adjacent bands by more than 5dB as measured at all boundaries near to noise-sensitive premises.

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

## 4 - Non-Standard Condition

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 the 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/or the amenities of the area by reason of air pollution/odours/dust/smell.

## 5 - Non-Standard Condition

Foul water drains serving the kitchen shall be fitted with grease traps maintained in accordance with the manufacturer's instructions prior to the use hereby permitted commencing. Such equipment as shall have been installed shall be retained and maintained to the agreed specification and in good working order.

Reason: To prevent pollution of the water environment.

## 6 - Non-Standard Condition

No customers shall enter the premises before 0800 hours on any day and no customers shall remain on the premises after 2300 hours on any day, nor shall food be provided to customers off the premises outside of these times.

Reason: The use of this site outside these hours would be likely to cause nuisance/loss of amenity/disturbance to adjacent/nearby residents.

## 7 -Non-Standard Condition

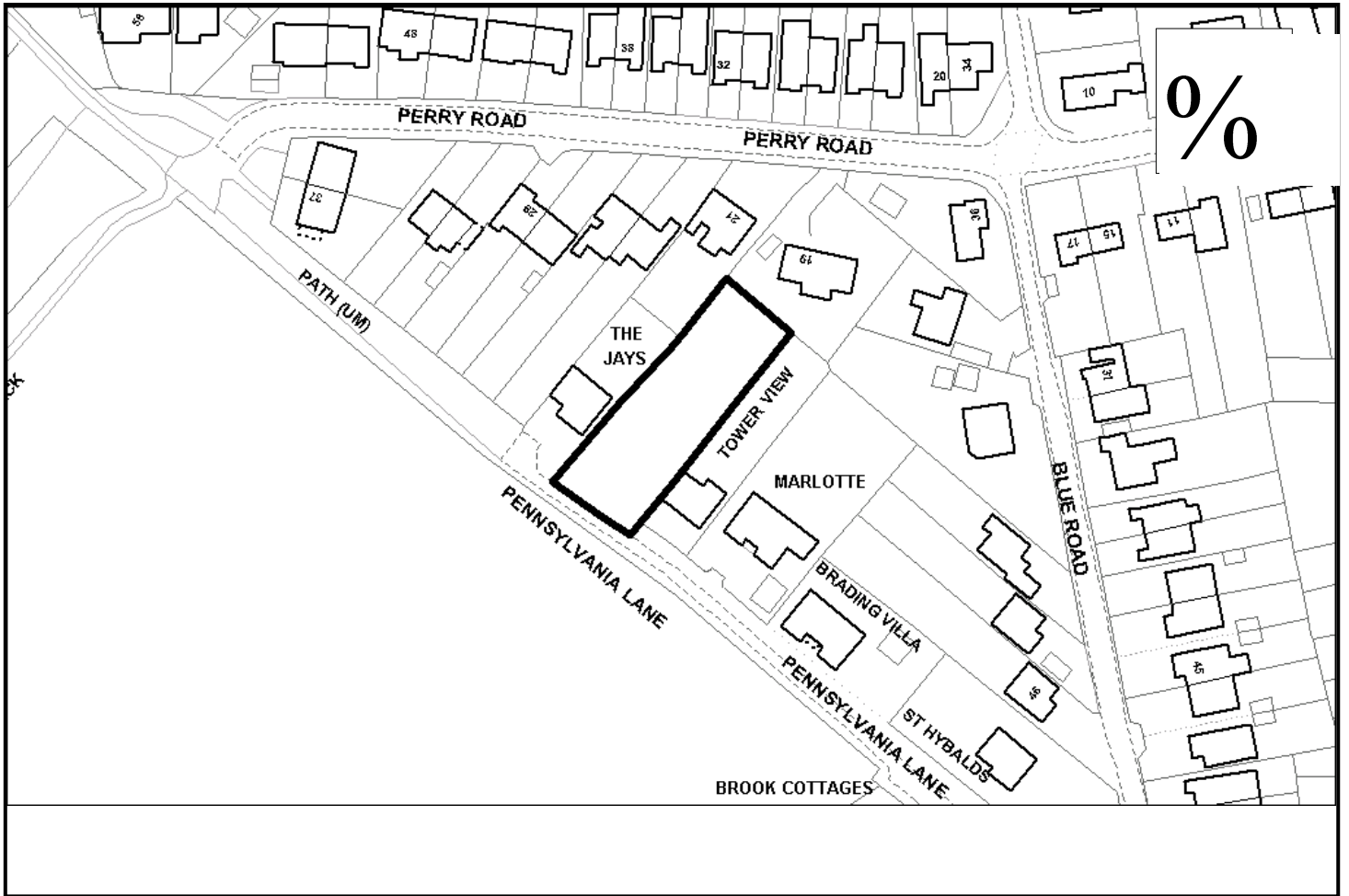
The residential flat located immediately above the use hereby permitted shall only be occupied by the operator/ manager of the business premises and any resident dependents.

Reason: The proximity of the flat to the proposed restaurant/takeaway is likely to result in some odour nuisance, which could not be adequately dealt with by the Council if the occupant was not associated with the proposed business use.

### **Informatives**

In respect of condition 2 above, a competent person is defined as someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience.

In respect of condition 4 above, the applicant is advised that the odour extract system is likely to be best located as far as possible from residential gardens.



**Application No:** 091504

**Location:** Land Between The Jays &, Tower View, Pennsylvania Lane, Tiptree, Colchester, CO5 0TU

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

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**Site:** Tower View, Pennsylvania Lane, Tiptree, Colchester, CO5 0TU**Application No:** 091504**Date Received:** 25 November 2009**Agent:** Mr Simon Judd**Applicant:** Mr G Turner**Development:** Erection of one dwelling**Ward:** Tiptree**Summary of Recommendation:** Conditional Approval subject to Unilateral Undertaking

## **1.0 Planning Report Introduction**

1.1 This application proposes amendments to a new dwelling in Pennsylvania Lane, Tiptree.

## **2.0 Site Description**

2.1 This is a retrospective application for full planning permission following the permission 081452 for the erection of a detached dwelling. This permission follows an original outline approval Ref: O/COL/05/0711 for 2 dwellings on 2 separate plots, having now expired. One of the dwellings, on a plot to the south east of 'Tower View', has recently been built under approval 072789.

2.2 The house, which is the subject of this application, has been built on a vacant site approximately 21.5m wide and 26m deep between 2 detached dwellings, 'The Jays, a modern property to the west and 'Tower View' an older style house, to the east. Pennsylvania Lane marks the urban edge of Tiptree with open countryside to the south west and the residential streets of Perry Road and Blue Road to the north east.

2.3 The new dwelling is a 5 bedroom detached house set over 3 floors. The approved scheme showed the ground floor being set partially below ground level. The revised scheme shows that all of the building is constructed above ground level.

2.4 The design incorporates both modern and traditional features. The main roof is pitched with a number of subsidiary flat roof elements lying predominantly to the side and rear elevations. The front elevation is dominated by an asymmetric gable and adjacent a full height glazed 'tower' feature with balconies at first floor and second floor. The dwelling is to be finished in white render with a clay tile roof.



- 2.5 The following information, which explains the circumstances behind this application, has been extracted from the submitted Design & Access Statement:-

The site was found to have a relatively high water table compared to the site further down the road and the anticipated drop within this ground of 1000mm was not possible for the proposed ground floor slab. The slab depth was therefore set at 170mm below general ground and the differential of 830mm was accounted for in a reduction of floor to ceiling heights for the three levels of accommodation.

The net result is that the ridge height stays relative and comparable to that of the original permission and the building plan remains as approved. The alterations in section have minor effects on the front and rear elevations in particular with triangulation. However, these are very minor and the ratios of vertical roof elevation to vertical wall elevation have remained unaltered.

On the rear elevation the glazing to the double height glazed area has changed in its framing strategy and larger glass forms are now proposed as opposed to smaller vertical rectangular sections. The net result is less structural framing and supplementary glazing support. In essence the building in its form and design follows the previously permitted concept and the net result of the construction does not differ from the principles already established in the granting of permission 081452 dated 17 December 2008.

- 2.6 The application has been submitted following the refusal of a request made by the Applicant for the alterations to the approved development to be considered as a minor amendment.

### **3.0 Land Use Allocation**

- 3.1 Residential

### **4.0 Relevant Planning History**

- 4.1 O/COL/05/0711 - Approval for 2 new houses and associated road improvements including junction of Pennsylvania Lane and Maldon Road - Approved 24 June 2005
- 4.2 072789 - Approval under reserved matters for 5 bedroom house on land between Tower View and Brading Villa, Pennsylvania Lane on 8 January 2008.
- 4.3 081452 – Erection of one dwelling. Approved

### **5.0 Principal Policies**

- 5.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
UEA11 & 13 - Design issues

## **6.0 Consultations**

6.1 The Highway Authority observes that the previously conditioned improvement works to the junction of Pennsylvania Lane and Maldon Road are yet to be completed but understands that Colchester Borough Council is actively pursuing the completion of these works with the developer via the Planning Enforcement process. No objection is raised subject to conditions securing 1.5m pedestrian visibility splays, resurfacing of the Bridleway across the site frontage in an appropriate rolled stone material and the public's right of ease and passage over this Bridleway no.17 (Tiptree) being maintained free and unobstructed at all times.

## **7.0 Parish Council's Views**

7.1 Tiptree Parish Council objects for the following reasons:-

- Loss of amenity to neighbours.
- Out of keeping and inappropriate design.

## **8.0 Representations**

8.1 The occupier of 21 Perry Road, Tiptree considers that this is a hideous building, that there is now more glass on the rear elevation and that the height is not in line with the other properties

## **9.0 Report**

9.1 The previously approved scheme was reported to Members as follows:-

“The principle of residential development has already been established. In general design terms the scheme proposed respects both the existing building line and height of adjacent properties. Dwellings in the Lane are a mix of styles and ages and it is considered that the current proposals, which incorporates both modern and traditional features, will sit quite comfortably within the existing streetscene. High hedges to Pennsylvania Lane will ensure that the property is relatively well- screened when viewed from a distance across open countryside”.

9.2 This situation remains unchanged in that, in general terms, the amended development has no greater impact upon visual or residential amenity. There is very little difference in overall height of the building above ground level (i.e. approximately 8 metres). In terms of the appearance of the building, when viewed from Pennsylvania Lane, the only difference is that the ridge height, and hence the area of the roof, has been reduced. As a consequence the three storey front bay feature appears taller relative to the overall height of the building. On this basis a refusal of permission in terms of any adverse impact upon visual amenity could not be sustained.

9.3 The other main change is the change to glazed areas within the rear elevation replacing the approved smaller vertical rectangular sections. This has no impact in terms of public views from Pennsylvania Lane. This alteration will be seen from the properties in Perry Lane, and Nos. 19 and 21, which back onto the site. However the property directly opposite the site, 19 Perry Lane, is more than 35 metres from the rear of the new dwelling and as such the impact upon the privacy of this property is satisfactory. The other property No. 21 Perry Lane is not directly opposite the new dwelling but is also more than 25 metres away.

## **10.0 Conclusion**

10.1 The changes to the roof of the building do have a material impact upon the appearance of the building as previously approved. However the overall relationship to the adjoining properties remains much the same and the amended design does not have a significant impact upon the visual amenity of the area or residential amenity. Permission is recommended on this basis.

## **11.0 Background Papers**

11.1 ARC; HA; PTC; NLR

### **Recommendation**

Conditional Approval subject to a Unilateral Undertaking for a contribution to Open Space and Community Facilities.

### **Conditions**

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

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

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

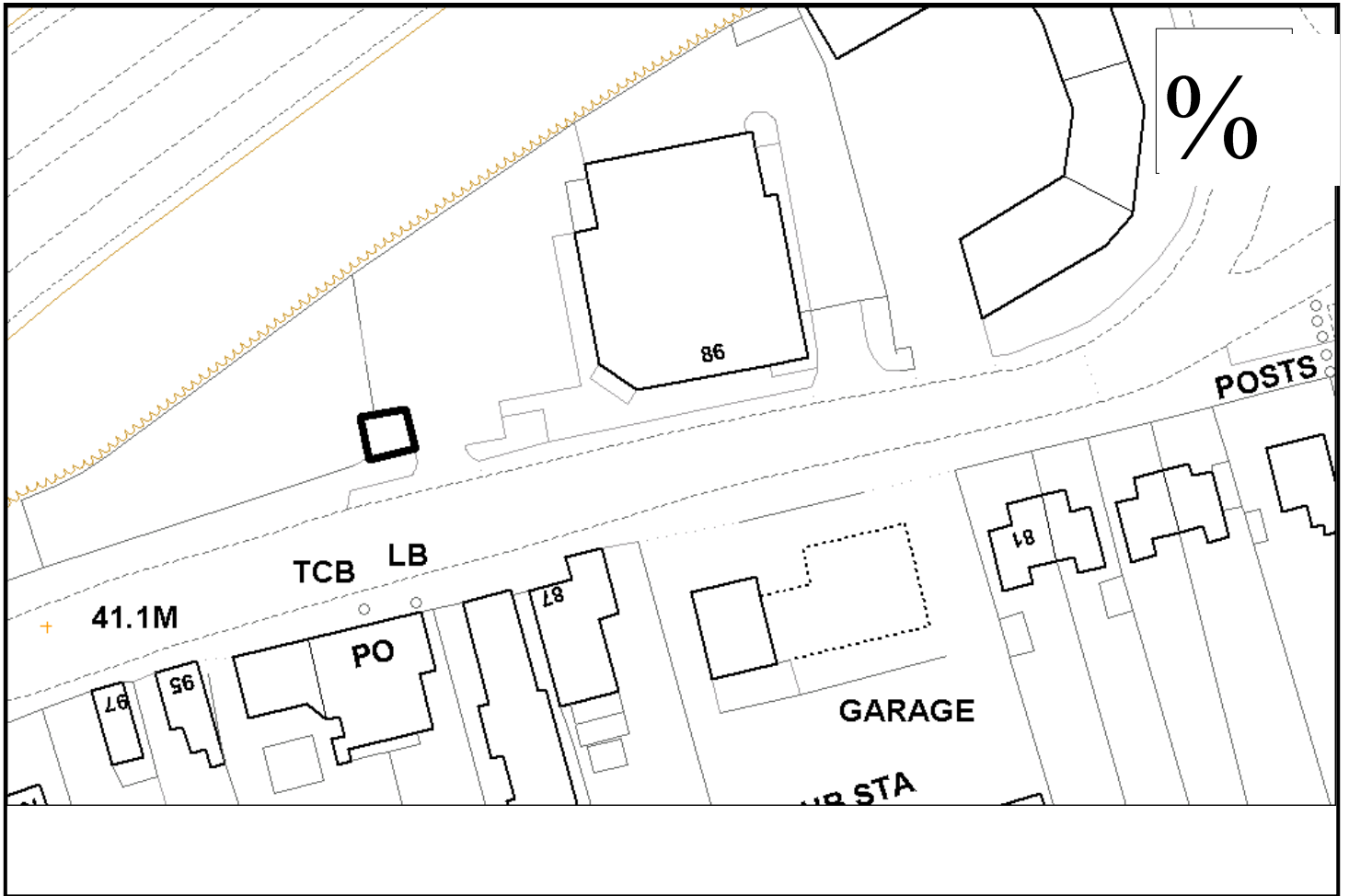
2 – Non-Standard Condition

The permission hereby granted relates only to the design and external appearance of the dwelling as approved under the planning permission 081452. The conditions, with the exclusion of condition 02, on this permission 081452 remain extant and applicable to the amendments hereby approved.

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

### **Informatives**

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



**Application No:** 091514

**Location:** The Food Company, 86 London Road, Marks Tey, Colchester, CO6 1ED

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

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**7.7 Case Officer: John Davies**

**EXPIRY DATE: 21/01/2010**

**OTHER**

**Site:** 86 London Road, Marks Tey, Colchester, CO6 1ED

**Application No:** 091514

**Date Received:** 26 November 2009

**Agent:** Marc Lambert

**Applicant:** The Food Company

**Development:** The replacement of an existing stand alone ancillary storage facility with a purpose built building to form a new pharmacy

**Ward:** Marks Tey

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

1.1 The application site relates to 'The Food Company' premises on the north side of the London Road in Marks Tey. This is a retail and restaurant use which has existed since permission was granted in 1999. There is a large car parking area to the west of the building with a single access from London Road. Within the car park is a square plan, brick storage building of 30 square metres in area adjacent to the access on London Road.

1.2 The site is outside the Marks Tey Village Envelope, the boundary of which runs along London Road.

## **2.0 Description of Proposal**

2.1 The application proposes a replacement building on the site of the existing storage building within the car park to be used a pharmacy within Class A1. This is a re-submission for a slightly larger building than that previously approved on the site in December 2008. The approved building had dimensions of 10.5m x 6.5m (footprint 68m) with a 6.0m maximum roof height. The current proposal has dimensions of 10.57m by 6.52m together with shallow gabled projections to the front and rear. The overall roof height remains at 6 metres. Other changes to the design are as follows:

- Hipped ends on the east and west sides of the approved building changed to full gables
- Gable added to the north (rear ) elevation
- Enlarged window to south elevation and alterations to other elevations
- Widened south (front ) gable

- 2.2 The building is physically separate from the retail building and immediately adjacent to the parking area associated with the store.
- 2.3 The building has been designed with the appearance of single storey, but with gabled projections on all frontages to provide some interest to the visual design; provision is made for retail storage space within the roofspace. Public entrance to the building is from the northeast corner of the building adjacent to the car park, rather than direct from the London Road.

### **3.0 Land Use Allocation**

- 3.1 No notation

### **4.0 Relevant Planning History**

- 4.1 F/COL/99/0617 – Demolition of PH and erection of food hall and coffee shop (A1 and A3 uses) with customer and local shoppers' car park – Approved 1999
- 4.2 C/COL/00/1748 – Creation of car park – approved 2001
- 4.3 071004- Provision of public footway and extension to car park – Approved 2007
- 4.4 081318- Change of use of ancillary store to pharmacy.-Withdrawn
- 4.5 081677- Change of use of ancillary store to pharmacy - Approved 22 December 2008

### **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Borough Local Plan-March 2004  
DC1- Development Control considerations  
UEA11- Design Considerations  
H7 – Village Envelopes  
TCS13 – Shopping in Villages and the Countryside
- 5.2 Core Strategy  
UR2- Built Design and Character  
CE2c- Local Centres

### **6.0 Consultations**

- 6.1 Highways Authority object to the application and recommend refusal for the following reasons:

“The B1408 London Road in this location is classed as a Strategic Route in the Functional Route Hierarchy as detailed in appendix G to the Local Transport Plan 2006/2011. Policy 1.1 in appendix G states: Direct access from these roads will be prohibited. Any development proposal which seeks to create a new access or to increase or change the use of an existing access will attract a recommendation of refusal from the highway authority.”

## **7.0 Parish Council's Views**

7.1 Marks Tey Parish Council have no objection.

## **8.0 Representations**

8.1 None

## **9.0 Report**

- 9.1 Members will note from the above planning history that planning permission has previously been granted for a retail building on this site and that this application is submitted following changes to the size and design of the building which you're Officers considered were material and therefore required a fresh application to be submitted.
- 9.2 Given that background, the issues for consideration are not about principle, which has been previously accepted, but the impact of the increase in the size of the building and changes to its design and appearance.
- 9.3 With regard to the changes in size, it should be noted that there is very little difference in the overall footprint or overall height of the building from that approved. The main changes relate to the elevational design which includes the formation of gables on all frontages and increased fenestration. This provides greater storage space in the roof area and gives the building more of a 'shop' appearance.
- 9.4 With regard to appearance of the building, the roof would be more prominent with gabled frontages and facing brickwork comprising buff and red facing bricks to match the main building. The roof would have man-made slates.
- 9.5 The changes to the size and appearance of the building are considered to be satisfactory insofar as the proposed building would be seen as consistent in design with the main building.
- 9.6 The objection from the Highway Authority to the intensification of retail use on the site is a repeat of their objection to the last application. The last time Officers recommended refusal of the application on the grounds that the proposal was outside the Village Envelope and supported the objection from the Highway Authority. However, the Committee didn't follow the Officer's recommendation of refusal and supported the proposal. Given the previous approval and the fact that this proposal does not significantly increase retail floorspace on the site it is recommended that their objection cannot be sustained.
- 9.7 For the above reasons this application is recommended for approval subject to the same conditions as the previous application.

## **10.0 Background Papers**

10.1 ARC; HA; PTC

## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

#### **2 – Non-Standard Condition**

Unless otherwise agreed in writing the proposed pharmacy shall only be open for business during those times described in the submitted application documents i.e. 8.30 a.m. to 6.00 p.m. Monday to Saturday inclusive.

Reason: To protect the amenities of the locality.

#### **3 - Non-Standard Condition**

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended by the Use Classes (Amendment) Order 2005 the premises as permitted shall only be used for the activity hereby permitted and shall not be converted to any other use unconnected to the permitted activity.

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

#### **4 - Non-Standard Condition**

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

Reason: To ensure that the development harmonises with the appearance of the existing building and the character of the area.

### **Informatives**

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



## INDEX TO PLANNING APPLICATIONS CODES

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

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

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

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

## INTERNAL CONSULTEES

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

## REPRESENTATIONS ETC

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

## EXTERNAL CONSULTEES (2 character codes)

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



## **Colchester Borough Council Environmental Control**

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

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

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

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

#### **Noise Control**

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

## **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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