

Planning Committee

**Council Chamber, Town Hall
7 August 2008 at 6:00pm**

This committee deals with

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

Information for Members of the Public

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

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Material Planning Considerations

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

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

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

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

Human Rights Implications

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

Community Safety Implications

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

COLCHESTER BOROUGH COUNCIL PLANNING COMMITTEE 7 August 2008 at 6:00pm

Members

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

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

Agenda - Part A

(open to the public including the media)

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

Pages

1. Welcome and Announcements

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

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

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

2. Have Your Say!

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

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

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

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

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

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

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

6. Minutes

To confirm as a correct record the minutes of the meeting held on 24 July 2008.

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. 081070 Tey Gardens Nursery, Church Lane, Little Tey** **13 - 22**
(Marks Tey)

Demolition of existing glasshouses and change of use from commercial horticultural nursery to storage of hard landscaping materials, formation of area of hardstanding, provision of balancing pond, provision of staff car park and associated lanadscape planting revisions to planning permission 073133.
- 2. 081100 West End Cottage, High Street, Dedham** **23 - 37**
(Dedham and Langham)

Construction of two 2 bedroom terraced houses and one 1 bedroom flat above workshop, to replace an existing 2 bedroom cottage with adjacent workshop.
- 3. 081208 261 Straight Road, Colchester** **38 - 42**
(Prettygate)

Proposed separate vehicular access off Dugard Avenue to serve no. 261 Straight Road
- 4. 072956 East Street, Wivenhoe** **43 - 53**
(Wivenhoe Quay)

Two flats added to upper floor of single storey fish shop with remodelled shopfront to Papas Fish Shop. Resubmission of 071034.
- 5. 081003 Coast Road, West Mersea** **54 - 56**
(West Mersea)

Build bunds of granite stone along the west side of packing shed island to protect the island and the shed from further erosion.
- 6. 081154 13 Park Road, Colchester** **57 - 63**
(Lexden)

Proposed single storey extension providing additional bedroom and

change of use from residential home to nursing home for people with physical or mental difficulties. Resubmission of 080777.

7. 081237 Brickhouse Farm, Lower Road, Peldon (Pyefleet) 64 - 67

Listed building application for internal and external alterations.

8. 081291 The Cemetery, Mersea Road, Colchester (Berechurch) 68 - 71

Change of use from non-conformist chapel to florists.

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

24 JULY 2008

Present:- Councillor Ford* (In the Chair)
Councillors Blandon*, Chapman*, Chillingworth*, Chuah*,
Cory*, Foster*, Hall*, Lewis* and Offen*.

Substitute Members:- Councillor Barlow* for Councillor Gamble
Councillor Maclean* for Councillor Elliott.

(* Committee members who attended the formal site visit.
Councillor Hall was present for the site visits at minute
nos. 78 and 84 only.)

Councillor Cory was not present for the consideration and determination of items at minute nos. 81 to 84 inclusive and 88 and 89.

77. Minutes

The minutes of the meeting held on 10 July 2008 were confirmed as a correct record subject to Councillor Chuah's declaration of interest for minute no. 66 being amended to read "in respect of being a trustee and secretary of the St. Anne's Community Hall".

78. 080900 St Andrew's Gardens, Colchester, CO4 3BQ

The Committee considered an application for a change of use of an existing bulky goods/retail premises to a food store including an ancillary coffee shop and customer toilets together with works of refurbishment and associated alterations, reconfiguration of car park and service arrangements, reconstruction of retaining wall and erection of new delivery bay, entrance lobby and mezzanine. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. A planning gain package comprising highway improvements and travel plan/information was proposed to mitigate the negative aspects of the proposal upon the locality. He explained that the Highway Authority had requested a transfer of a strip of land to them to facilitate highway improvements. The main issues were the principle of the proposed use in view of the current designation of the site current designation. This is an out of town centre site, a sequential test has been carried out and established that no other site is closer to the town centre which could be developed to provide the floor space. The Development Team are satisfied in terms of sustainability. The building needs to be redeveloped to bring it up to standard and this proposal will improve the appearance of the site. It is to be regretted that there are a number of mature trees to be removed as part of the highway improvement, but there will be a landscaping scheme to replace the trees within the site. The relocation of the service yard will result in less impact than in its present position.

Chris Nicoll addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He worked for the owners of the Cowdray Centre and has been working to create a scheme of mixed use office, retail, hotel and housing. Many of the occupiers were displaced and were objecting to this application because it represents a short term fix rather than addressing the wider benefits of the Cowdray Centre. The Cowdray Centre is a regeneration site in the Local Development Framework which will be affected significantly by this application. Waitrose are accepting this site because they are confident that they can start on the site within a year. This proposal will have a huge impact on the whole of the Northern Colchester Regeneration Area.

Ken Harrison, Waitrose Development Surveyor, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. They can deliver a store by autumn of next year and are fully committed to this scheme. Waitrose have a long standing requirement to come to Colchester and have discussed suitable opportunities. This site is viable, available and deliverable and will provide 20,000 sq ft and 222 car parking spaces. Servicing and deliverability is a great attraction; it has prominence and accessibility. A development is complex, lengthy and uncertain; always takes longer and costs more, whereas this site is a simple conversion of an existing building to a high quality supermarket. They have spoken to many developers and looked at many sites. This site will allow Waitrose to deliver a high quality store in Colchester which will provide a full range and enable them to compete effectively with existing supermarkets.

Councillor Hogg attended and, with the consent of the Chairman, addressed the Committee. Thinks officers done a good job putting this together. This store needs to come back into operation because there has been some antisocial behaviour here and incidents of trespass. However this site is about winners and losers; those on the eastern side will benefit from the transfer of the service area to the western side. The layout is good but those who live near the northwest corner, 51 Ipswich Road and residents in Orchard Gardens will be affected by the relocated service area. It would be a brilliant scheme were it not for the loss of the trees and the residents on the western side. He wants to see this store come back into use but as it stands he cannot support this scheme. If there was a way this site could be developed and get the highways improvements and a landscape scheme which includes the planting of mature trees to help people in Ipswich Road then he could support it.

Members of the Committee were generally in support of the proposal which would bring the site back into use, but were concerned at the loss of the mature trees, some of which have given residents in Orchard Gardens and the adjacent house in Ipswich Road some protection from activity on the site. Members were also aware that they could not take into account other sites which may or may not come forward. Four thousand people live within walking distance of this site and this is also a tremendous opportunity for employment in the area. Provided as much protection as possible in terms of replacement trees and fences can be given to residents the loading bay may not be too serious. The Highway Authority were trying to improve the whole of the A133 corridor and this was an opportunity to acquire some land to improve the junction. There was some doubt about what the highway improvements would achieve in terms of improving traffic flow. In general terms the Committee supported the application as the benefits outweighed the disbenefits.

It was explained that the loss of the trees was a major negative impact in this proposal. The Arboricultural Officer has commented that the trees are of high amenity value and are in good condition. Their loss is a consequence of the land being dedicated to Highway Authority for carriageway, cycleway, pavement or similar. There is very little space to put in replacement trees along the Ipswich Road boundary, however Condition 4 provides for a scheme of environmental works including planting, fencing to secure appropriate new boundary treatments along Ipswich Road, St Andrews Avenue and around the service area. The Arboricultural Officer would be looking for the replacement of trees. A condition to protect any trees to be retained during construction would also be imposed.

RESOLVED (SEVEN voted FOR, THREE voted AGAINST and TWO ABSTAINED from voting) that –

(a) Consideration of the application be deferred for completion of a Section 106 Agreement to secure highway improvements and transport contributions as required by the Highway Authority.

(b) Upon receipt of a satisfactory Section 106 Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the Amendment Sheet.

Councillor Blandon (in respect of having worked at Paxmans for a number of years in the past) declared her personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

79. 071036 Former Paxman Engineering Works, Port Lane, Colchester, CO1 2JF

The Committee considered an outline application for 373 dwellings, comprising 272 one and two bedroom apartments, 38 two bedroom houses and 63 three and four bedroom houses. Also included in the scheme was 390 square metres of flexible commercial development and a change of use of an existing building which was to remain comprising 830 square metres of flexible commercial use. The commercial areas would comprise A1 and/or A2 and/or A3 and/or B1 and/or D1 and/or D2 use classes. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site. Ward Councillor T. Higgins was in attendance at the formal site visit pursuant to Section 7(3) of the Planning Procedures Code of Practice.

Richard Button, Planning Team Manager, attended to assist the Committee in its deliberations. The principal access would be from Port Lane with a secondary access from Standard Road. The former gatehouse, which is the last remaining original building from the Paxman era, was to be retained for employment use. Proposed buildings along Port Lane were 2.5 storeys and with the drop in level from the street to the site would present two storeys to Port Lane. The scheme also included a variety of dwelling houses and apartments which were in three, four and five storey blocks. The apartment blocks increased the overall density to 70 dwellings per hectare (dph), higher than in New Town which averaged at 55 to 60 dph. A variety of parking arrangements was provided to prevent cars from dominating the street scene. A package of mitigation measures and planning gain amounting to £1,900,000 had been negotiated following an open book cost appraisal process.

Frances Sparrow, resident of St. Leonards Road, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was concerned about parking for existing residents in St Leonards Road and, in the event of any planned restrictions of access from Standards Road, traffic entering St Leonards Road would have to retrace their route whereas currently there were two options to access Hythe Hill. He wanted to know if the public open spaces would be maintained and was disappointed at the loss of the open space around the drainage pond if it was to be filled in; he regretted the loss of any trees around the pond and did not consider the pond to be contaminated as wildfowl were present.

Councillor T. Higgins attended and, with the consent of the Chairman, addressed the Committee. She considered the proposal to be overdevelopment and was disappointed at the number of flats, 270, compared to the number of houses, 63. Three bedroom family homes were desperately needed. She acknowledged that the developer would have to deal with contamination on the site but the 10% affordable housing was well below the 25% which should apply and the potential contamination was known at the time of purchase of the site. There were amenity areas and large green spaces but there was nowhere to kick a football. No community building was being provided. She had calculated that the development would produce at least 500 cars and she asked where residents of Port Lane were going to park. There are some good points in the scheme but she could not support the application, particularly on the grounds of density. She wanted proper family homes for New Town not landmark buildings.

It was explained that the density over the whole site was higher than New Town mainly because of the apartment building which would occupy one third of the site. The density of the remainder was about right and would produce a good community for the residents. There was a community building on the western side of the site which could be used as a community facility. The scheme included two large areas of open space which, coupled with the contribution, was considered acceptable. It was not considered reasonable to ask the developer to provide parking for existing residents. The scheme caters for parking for its own residents which is all that can be asked for.

Members of the Committee commented that the Development Brief for the site was written as a guide for prospective developers. There were elements of the scheme that could be endorsed, however, the brief proposed a mixed use development whereas this was almost entirely residential with just the old building in the north west corner being allocated for employment. The density was high mainly because of the introduction of flats which were not normally found in New Town. This aspect did not comply with the planning brief nor did it reflect the area. This area was a different situation to the rest of the Hythe. The site was in an area much more akin to New Town which had been developed as housing to support industrial employment. It was considered that the Council should be looking for improved gardens for housing not less than the Essex Design Guide of 100 square metres. There would be a lot of new traffic which will use the access on Hythe Hill and yet the Highways Agency had not commented. The 10% social housing was also considered to be inadequate. There was a concern about how residents would be protected from the noise of the factory. Footpaths in the area need upgrading. There was an opposing view that the scheme, based on the concept of an urban village, was imaginative, and that some people may not want back gardens, particularly as there were special open areas provided.

It was explained that in view of the recent change in the housing market it could be a possibility that a further scheme will come forward but the objection relating to flats as such would be very different to sustain. New Town is a good model of urban living and this scheme reflects that. An objection on density may be difficult to sustain. Two bedroom properties can have smaller gardens. The guidance provided for developers was a technical document and did not have the support of a Supplementary Planning Document.

RESOLVED (FIVE voted FOR, TWO voted AGAINST and FIVE ABSTAINED from voting) that the application be refused on the following grounds:-

- insufficient affordable housing which did not comply with the adopted Supplementary Planning Guidance document,
- insufficient amenity space, particularly that provided for dwelling houses, and
- overdevelopment and the density failing to reflect the character of the surrounding area.

80. 081006 King's Arms, 63 Crouch Street, Colchester, CO3 3EY

The Committee considered an application for a variation of Condition 11 of planning permission 080129 to allow external live music events four times a year on Bank Holiday Mondays between 13.00 – 18.00 hours. The Committee had before it a report in which all information was set out.

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

81. 081039 and 081040 38 East Hill, Colchester, CO1 1QX

The Committee considered a planning application and a listed building application for a change of use from a dwelling to an orthodontist by fitting out the existing building, removing an existing 20th century single storey extension and constructing a two storey extension onto the south elevation. These applications represented an amended scheme to the earlier planning application 072263 and listed building application 072232 which were refused. This scheme insets the two storey element approximately one and a half metres away from the boundary with 37 East Hill. The 45° line from the rear corner of no. 37 was just infringed which was contrary to guidance. However, it was considered that the amended scheme affected the neighbour less than the original application. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. The pyramidal roof was now cut back so the 45 degree rule from the bedroom window at no. 37 East hill was satisfied.

Steve Edgerton, representing the objector, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He had seen the modified plans and considered they were more in detail than substance. In terms of the previous proposal, the accommodation was not necessary because to the south was a large garden in which the small amount of accommodation could go. If this was a residential accommodation it would be refused but for a policy of residential accommodation Use Class D which overcame the impact of the development. Buildings that had survived a Civil War were now in danger because of the preservation of a dental surgery.

Dr Smit addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The previous application took account of views made and considered in depth and they believe they have satisfied the comments made by the Council at the last meeting. Not only to the planning application but also to the listed building and all concerned feel they have produced a satisfactory scheme. In respect of the second floor extension they had justified why it was necessary. Orthodontic work did not involve drilling and filling, it was a different way of treating patients with a low noise level. The primary motivation for the application was the surgery itself because the community is in need of additional facilities. The surgery would be well positioned for travel by public transport and private car. They have achieved architectural guidelines and need the facility for Colchester.

Members of the Committee asked for and received an explanation of the 45° rule as it applied in this case. Last time this proposal was before the Committee, the principle of the application was supported by the Committee and they understood that the practice was doing good work and thus the extension was needed. The Conservation Officer agreed that the proposal was satisfactory as far as the conservation application was concerned and it was for the Committee to decide if the improvements overcame their concerns from the last meeting.

RESOLVED (SIX voted FOR and FIVE ABSTAINED from voting), in respect of planning application 081039, that the application be approved with conditions and informatives as set out in the report.

RESOLVED (SEVEN voted FOR and FOUR ABSTAINED from voting), in respect of listed building application 081040, that the application be approved with conditions and informatives as set out in the report.

Councillors Ford (in respect of his daughter being a pupil at a nearby school which had submitted representations to the application) and Lewis (in respect of her relationship with objectors to the application who had become personally acquainted with her in her role as ward councillor) each declared their individual personal interests in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

82. 081079 80-82 London Road, Colchester, CO3 0HD

The Committee considered an application for external alterations to an existing retail unit to include the provision of two further shop frontages facing onto London Road, the provision of a dock leveller to the loading bay, a disabled access ramp, a trolley park, the creation of a waste compound and the reconfiguration of the car park which will reduce the number of spaces.

The Committee had before it a report in which all information was set out, see also Amendment Sheet. It was noted that the site formed part of a designated Local Shopping Centre and also benefitted from an existing planning permission for retail use which was not limited to non-food retail use. The internal sub-division of the store did not require planning permission; however external alterations to retail units did require planning permission. In general terms the reconfigured layout of the parking area was considered to offer improvements and the two new retail units would help to improve the appearance of the frontage onto London Road. The new units were considered to complement the Local Shopping Centre and were supported by Policy TCS12.

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

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

Shelagh Gray addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. MFI had found alternative accommodation. She was aware of concerns about the increased activity on the site. The two new shop fronts would improve the plain frontage and there would be other improvements at the site. Parking spaces were currently poorly laid out and would be improved. The site was a designated Local Shopping Centre and this scheme would add to its viability.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. He was representing forty residents in Nelson Road who had objected to the development on the grounds of public safety and quality of life. Currently the MFI store was effectively a showroom and the entire operation was carried out during normal working hours. Residents were concerned at the possibility of anti-social deliveries and he requested that deliveries be made Monday to Friday between 8am and 10pm; and no delivery vehicles parked overnight with refrigerator units running or waiting for store to open. Their second concern was traffic in London Road. There is a constant flow of traffic along Straight Road and out into London Road, the only break being caused by the pedestrian crossing to enable people to exit. However, in the rush hour and on Saturdays there were very few opportunities. The exit was satisfactory 20 years ago but not now. There were concerns for pedestrian safety, particularly for pupils at Lexden Primary School, 10% of whom had a hearing impairment. Residents have also asked for no external illuminated signs outside opening hours except security lights.

Members of the Committee had some concerns. The MFI store permitted residents to park overnight and local business vehicles to park during the day. A change in this permissive pattern would cause overspill into surrounding roads. Pedestrian safety across the access onto London Road was an issue of concern and a pedestrian priority across the entrance was requested. It was noted that a Travel Plan was to be prepared and the Committee requested that the school in Nelson Road be consulted as part of its preparation.

It was explained that the change of occupier of the site did not require a change of use and currently there were no restrictions on opening hours of the store or delivery times. There was no ability for the imposition of conditions to address these issues, but an informative could be added to bring the applicants attention to the Committee's concerns. The Environmental Health Team would be able to take action if there was any noise nuisance on the site. The Highway Authority had not raised any concerns about the access and whilst there may be a greater number of vehicles using the access it was not a change of use.

RESOLVED (TEN voted FOR and ONE ABSTAINED from voting) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet together with three additional informatives as follows:

1. Delivery times to the store should only be between 8.00 am and 10.00 pm in order to protect residential amenity.
2. The applicant is asked to liaise further with the Highway Authority and the Local Planning Authority to secure improvements to the access in particular in relation to pedestrian movements to and from the two new shop units fronting onto London Road.
3. In preparing the Travel Plan the applicant is to consult the school located in Nelson Road.

83. 081103 Birch Church of England School, School Hill, Birch, Colchester, CO2 0LZ

The Committee considered an application for a proposed nursery unit to be erected within the school grounds for a temporary period of five years. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Alistair Day, Conservation and Design Officer, attended to assist the Committee in its deliberations. A building of this nature would not normally be permitted next to a listed building, but its situation away from the public realm had been taken into consideration.

Mr Carr, a neighbour to the application site, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. This was an example of creeping planning, evidenced by the site's recent history. He has spoken on several previous occasions in respect of congestion and parking at Birch School. His objections were in respect of the congestion currently being caused by cars parking at the start and end of the school day and the difficulties agricultural vehicles have in getting through. This application would exacerbate the situation because of the additional traffic/parking at the start and end of the nursery school day by those who have nursery aged children only. This does not occur at the present time. In respect of staff parking there would be twenty-two staff and only fourteen parking spaces provided which was insufficient. Although the nursery unit would be hidden from public view, from an appearance point of view it might be better if it was clad in weatherboard similar to cottages in the vicinity.

Kate Moore, Headteacher at Birch School, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Birch School had particular difficulties because of its rural location and in accessing this kind of resource. There used to be a nursery provision in the village which was immensely useful to the smooth running of the school but it closed. Since then they have been looking at different possibilities for preschool provision in the community. She had every sympathy with neighbours but traffic problems around the school were not unique. The new children's centre was beginning to become a significant aspect of the community. She was meeting with other nursery providers to work in partnership. She believed an on site nursery could contribute to a reduction in traffic problems in respect of those parents who drop off primary school children in Birch and then drive to Tiptree to a nursery school there.

Members of the Committee considered that primary schools were a valuable facility and they continued to grow which inevitably causes traffic problems. This scheme might help ease the situation rather than exacerbate it. Once again highways have made no objection to this application and traffic problems cannot be solved by this Council. This was an essential facility and the school must continue to improve its facilities.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report for a temporary period of five years.

84. 081105 Colchester General Hospital, Turner Road, Colchester, CO4 5JL

The Committee considered an application for external works to facilitate future building projects within the hospital site, comprising an extension and alterations to the main access road within the site, as previously approved under 071906, the creation of additional/replacement parking bays for use by the disabled, and a hardstanding for a mobile scanning unit. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

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

Michael Grove addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the requirement upon the hospital to implement bunding, fences and landscaping between the site and Beaumont Close. The current state of the mound of earth between the hospital site and Beaumont Close is causing distressing comments being made to residents about neglecting to keep the mound tidy; it was also detrimental to their properties. He requested that the Committee defer their consideration of the application and require the hospital to fulfil the earlier obligation in this respect prior to proceeding with any further building work until they fulfil the condition. He had spoken to the agent who had undertaken to ensure that the works were implemented prior to the road and under those circumstances he had no further objections.

Bob Ward, Director of Roff Marsh Partnership, Architects, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The new road was being built to allow an extension to the Accident & Emergency Unit and the Oncology Unit and replace lost parking, provide better access to mobile screening units and an area near Northern Approaches Road for use during construction. The bund and fences was not originally part of this application nor was it part of the approved road. It was part of the approved medical records application. Details have now been agreed and will be implemented when the new road is due to start. He sympathised with residents in Beaumont Road regarding the time it has taken but gave a reassurance that the Trust had every intention that the work would be carried out very shortly.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. He had concerns about the way the hospital was developing. Mr Grove mentioned earlier planning applications in connection with the medical records building plus the bund, fence and screening. He was very disappointed that he had to ask the Highway Authority to order the hospital to clear the weeds so they did not encroach onto the footpath. Also the hospital had commenced construction of a footpath across the road from the Northern Approaches in January 2008 and the Highway Authority had to order the Trust to cease because they did not have the authority to build the works. As the ward councillor he was very concerned that they were not acting as good neighbours. He requested that work start on the bund on 1 November 2008 and the Trust provide a completion date in writing. He wanted a timescale in writing to ensure that residents are assured it will be completed. He was also concerned that the hospital do not continue developing the site in a haphazard manner and considered it would be useful if their future plans were shared with the Council.

It was explained that the bund was part of the original boundary treatment but when the medical centre was being considered residents were looking for a fence and it subsequently evolved into a bund and a fence. When the application for the road was received there were issues of hospital traffic noise and the impact of the building. Permission for the road had not been implemented yet and the impact has therefore not been sustained. The bund and road works were scheduled to be carried out together. When the landscaping scheme is agreed work could commence and it should be implemented along with the boundary treatment. This would provide a guarantee that the works would be completed.

Members of the Committee wanted to reaffirm their wish that the Trust inform the Council of its plans for the hospital. There was general agreement that sight of the development plans would be helpful in providing an overall picture, whilst acknowledging that it may change. There was general disappointment at the way the Trust had treated the Planning Committee

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

85. 081118 Land to the rear of 110 and 112 Gosbecks Road, Colchester, CO4 3HT

The Committee considered an application for the erection of three new housing units off a shared private drive, a resubmission of application 073146. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED 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 and on the Amendment Sheet.

86. 081164 6 Blackwater Drive, West Mersea, CO5 8NJ

The Committee considered an application for a proposed pitched roof to existing garage. The Committee had before it a report in which all information was set out.

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

87. 081109 and 081113 Marlborough Head Hotel, Mill Lane, Dedham, CO7 6DH

The Committee considered a planning application and listed building application for the removal of an existing unauthorised rooftop kitchen extract duct and chimney and its replacement by a new extract duct and plant in an alternative position. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED that –

(a) Consideration of planning application 081109 and listed building application 081113 be deferred and the Secretary of State be advised that this Local Planning Authority are minded

to grant planning permission and listed building consent as required by Circular 01/2001, arrangements for handling Heritage Applications.

(b) Upon receipt of confirmation from the Secretary of State that this Local Planning Authority may proceed to determine the applications, the Head of Environmental and Protective Services be authorised to grant planning permission and listed building consent with conditions and informatives as set out in the report, see also Amendment Sheet, together with any additional conditions required by the Conservation and Design Officer.

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

88. 081154 13 Park Road, Colchester, CO3 3UL

The Committee considered an application for a proposed single storey extension providing an additional bedroom requiring a change of use from a residential home, Class C3 dwelling house, to a nursing home for people with physical or mental difficulties, Class C2 residential institution. The application was a resubmission of application 080777. The Committee had before it a report in which all information was set out.

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

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

Robert Brain addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Minster Pathways own the home and run 40 such homes all over the country. This home provided sheltered accommodation for six residents, mostly elderly people with varying degrees of disability. The proposal was for a room with an en suite facility to benefit a particular resident, and it would also improve the kitchen facilities and provide an office facility. Unfortunately the extra bedroom meant the use class of the home had to go from Class C3 to Class C2 but this was still a small unit. He appreciated the concerns about transport and extra staff, but no extra staff were required.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. The application form described the current use of the site as a residential home for old people. However, the Design and Access Statement referred to the existing use as a well established residential home for people with specific learning disabilities, these are not necessarily the same. The Design and Access Statement went on to state that clients were aged eighteen to sixty-five years old with physical or learning disabilities who required support and assistance with daily living skills; the client group had no mental health needs. He was surprised that there were no limitations on the client group. If this home was for mental patients with disabilities, a quiet residential area was not an appropriate area for it to be located; noise was an issue on this site. There was one patient who made a lot of noise and on occasions residents had to go round and ask for action to be taken. The entertainment of present residents also creates noise including loud music and there is noise on the changeover of staff. Neighbours cannot open their windows in their utility room because of the noise. Drainage is currently over loaded and a neighbour has asked for a separate sewage system to be laid by the applicant. Cheviots on the other side of no. 15 sits easily with 20 residents, currently no. 13 does not.

Members of the Committee had a number of concerns with the proposal. It appeared that the home was for people with learning difficulties; there was a considerable difference between people with a learning disability and those who were elderly. The home provided residential accommodation for vulnerable groups in the community and this proposal did not appear to comply with planning policy in that it did not have good access to a reasonable range of shops, services and job opportunities. The idea was that residents should be able to go in a wheelchair down to a shop but the property was quite a distance to the bus stop. The property had a very small back garden with no toys available; generally there was nothing on this small site for the patients. When residents were noisy it attracted complaints from neighbours. Residents who are noisy may be kept inside to keep the complaints down. The proposed extension narrowed the frontage which could be used as a place where residents could have quality time. This was not a suitable property for an institution and the proposal did not fit in with the area. Not enough was known about the change of use and whether the home would become a business as a result.

It was explained that Policy H2 sets out the locational characteristics of this type of operation. There should be amenity space provided. Residents could walk to Lexden Road where good bus services into town and amenities existed. Such homes were generally found in residential areas with potential noise impacts which were difficult to legislate for. It was clear that the Committee was not happy with the proposal and wanted further information, in particular clarity regarding the client base, the use of the garden, noise impacts and the implications of the change of use.

RESOLVED (UNANIMOUSLY) that the application be deferred for further information to be provided to the Committee.

89. Enforcement Performance Monitoring for the period 1 January 2008 to 30 June 2008

The Head of Environmental and Protective Services submitted a report detailing enforcement performance for the period 1 January to 30 June 2008 in respect of:-

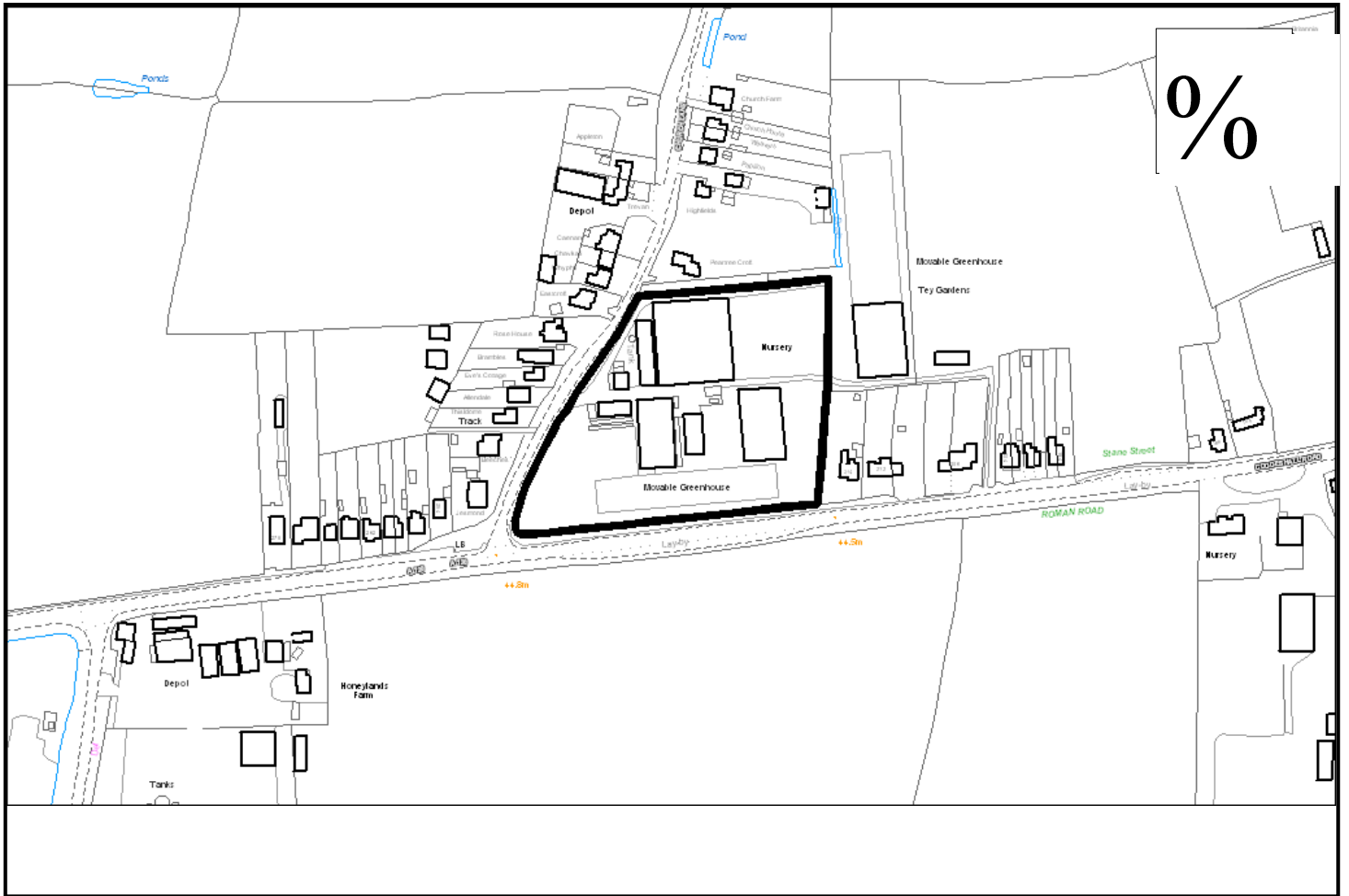
- Enforcement action authorised by the Planning Committee,
- Enforcement appeals decided,
- Prosecutions,
- Enforcement notices served,
- Requisition for information notices served,
- Compliance with enforcement notices.

Richard Button, Planning Team Manager, attended to assist the Committee in its deliberations.

RESOLVED that the information provided be noted and officers in the Environmental and Protective Services be thanked for a very comprehensive report.

90. Richard Button, Planning Team Manager

The Committee were advised that Richard Button, Planning Team Manager, would shortly be leaving the Council after many years service, and this meeting would be the last that he would attend. The Committee wished to record their grateful thanks for the very professional and helpful way in which he had assisted them with their work over the years.



Application No: 081070

Location: Tey Gardens Nursery, Church Lane, Little Tey, Colchester, CO6 1HX

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **7 August 2008**
Report of: **Head of Planning, Protection and Licensing**
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: Simon Osborn

EXPIRY DATE: 02/09/2008

MAJOR

Site: Tey Gardens Nursery, Church Lane, Little Tey, Colchester, CO6 1HX

Application No: 081070

Date Received: 2nd June 2008

Agent: Boyer Planning

Applicant: Global Stone

Development: Demolition of existing glasshouses and change of use from commercial horticultural nursery to storage of hard landscaping materials, formation of area of hardstanding, provision of balancing pond provision of staff car park and associated landscape planting revisions to planning permission 073133

Ward: Marks Tey

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 Planning permission was granted earlier this year for the change of use of this site to the storage of hard landscaping products and some Members will recall that it was subject of a Committee site visit. A late amendment to this earlier approval was the provision of a balancing pond within the south-east corner of the site, which was a requirement of the Environment Agency.

1.2 This application is a resubmission of the earlier application, but with the balancing pond moved to a position to the north-east of the main storage area. With the alternative position of the balancing pond, the south-east corner of the site is now shown as part of the storage area for the hard landscaping products.

2.0 Site Description

2.1 The application site relates to 1.6 ha of land that forms part of a redundant plant nursery. The application site is bounded by the A120 to the south and Church Lane, Little Tey to the west. There is a ribbon of residential properties on the opposite side of Church Lane, also a line of dwellings immediately to the north of the site, and a line of dwellings immediately to the east of the site (along the A120). Vehicular access to the premises is from an existing access point onto Church Lane.

3.0 Description of Proposal

3.1 The application seeks change of use to a storage and distribution use for Global Stone, a subsidiary of Kent Blaxhill, for storage of hard landscape materials. Global Stone presently operate out of two sites elsewhere in the Borough, from a depot nearby in Elm Lane (just south of the A120) and another depot at Mill Race Nursery, but are looking to consolidate onto a single site. They currently employ 11 people and it is envisaged that this will increase by 4 people, in due course.

3.2 A Transport Statement was submitted with the application. This included an assessment of the likely number of lorry movements and proposed improvements to visibility splays suitable for accommodating HGV traffic associated with the proposal. The assessment (based on movements at the Elm Lane depot from June 06 to May 07) estimated a likely average of 15 lorry movements per day, (although the average was closer to 24 movements per day over the period Feb 07 to May 07, with less than 15 movements per day over the first 8 months). The visibility improvements proposed both to the Church Lane site entrance and at the junction of Church Lane with the A120, to accommodate a 16.5m articulated vehicle, require the removal of existing established hedgerows along the Church Lane frontage (between the access and the A120) and on the A120 frontage and, the widening of Church Lane between the site access and the A120. New hedgerows are proposed to be planted behind the newly created sight lines and on the north and east boundaries of the proposed compound.

3.3 The hard landscape products are to be stored to a height not exceeding 3.5m. Times of operation are proposed as 0730 to 1730 hours Monday to Friday and 0730 to 1200 hours on Saturdays.

3.4 The balancing pond located to the northeast of the main storage area will manage surface water run-off from the site, the two being connected by an underground pipe.

4.0 Land Use Allocation

4.1 Rural - No notation.

4.2 The site is adjacent to the village envelope of Little Tey.

4.3 A public footpath is situated immediately to the north of the proposal.

5.0 Relevant Planning History

- 5.1 LEX/243/49 - erection of lorry garage - approved 1949
- 5.2 LEX/280/60 - erection of mobile glasshouse - approved 1960
- 5.3 LEX/407/64 - erection of dwellings - refused 1964
- 5.4 072533 - demolition of existing glasshouses. Change of use from commercial horticultural nursery to storage of hard landscaping materials, formation of hardstanding, provision of staff car park and landscape planting - withdrawn December 2007
- 5.5 073133 - demolition of existing glasshouses. Change of use from commercial horticultural nursery to storage of hard landscaping materials, formation of hardstanding, provision of staff car park and landscape planting - approved 28 March 2008

6.0 Principal Policies

- 6.1 Adopted Review Colchester Borough Local Plan - 2004
 - DC1 - Development Control Considerations
 - EMP1 and 4 - Employment Uses
 - P1 and P2 - Pollution

7.0 Consultations

- 7.1 The Highways Agency directs conditions to be attached to any planning permission which may be granted:
 - (i) the development shall not be brought into its intended use unless and until the works referred to in paragraph ii) of this condition have been completed by the Secretary of State or constructed to a stage to be agreed with the Planning Authority in consultation with the Highways Agency;
 - (ii) the works referred to in para i) of this condition to include the following: widening of the southbound carriageway of Church Lane from the junction of Church Lane with the A120 to the site entrance; closing the existing access to the site located close to the junction of Church Lane and the A120 as detailed on the layout plan 0754/18B of December 2007 (proposed Church Lane revisions two way movement); iii) the extent of the works detailed in paragraph ii) of this condition is to be sufficient to accommodate 16.5m articulated vehicles as detailed on the layout plan 0754/12 of October 2007 (autotrack analysis - access to Church Lane 16.5m articulated vehicle).

7.2 The County Highway Authority:-

"The County Highway Authority notes the changes to the description from the application at 073133.

S4 Highways Act 1980. The County Highway Authority defers to the Secretary of State's Direction as all traffic associated with this development will arrive at the junction of Church Lane and A120 Coggeshall Road.

Any planning permission granted should include appropriate conditions to ensure that a convenient commercial vehicle turning space is available within the site at all times when the access is in use."

Four informatives added.

7.3 The Environmental Control Team made the following comments:

"This is a quiet residential area and the Environmental Control Team wishes to express some concern about potential increased disturbance to nearby residential properties due to an increase in heavy goods vehicle movements from this proposed use. In order to minimise potential noise nuisance recommend hours of delivery to be restricted to 0730 to 1730 Monday to Friday, 0730 to 1200 Saturday, nor at any time Sundays, Bank or Public Holidays. They also recommended a standard light pollution condition."

7.4 The Landscape Officer was satisfied with the concept landscape proposals subject to details being submitted by condition.

7.5 The Council's Development Team noted the application but made no comment.

7.6 Environment Agency comments as follows:-

"We have no objection to the proposal for a balancing pond of minimum 685 cubic metres, in the location indicated on drawing no. 103/2007/07 Revision A and with piped outlets as indicated on this drawing. We recommend that any planning permission granted for this development should incorporate a planning condition for a surface water management scheme in accordance with the scheme now agreed. This planning condition should make reference to the balancing pond minimum capacity and the above drawing no.

8.0 Parish Council's Views

8.1 Marks Tey Parish Council has no objection to this application.

9.0 Representations

9.1 None received

10.0 Report

- 10.1 The previous planning application for this site (073133) attracted a lot of opposition from local residents and the Parish Council. That application as originally submitted was similar to the current application, except it did not show a balancing pond. The application was deferred by Members at their meeting on 28th February 2008 to enable a visit to be conducted by members of the Committee to one of the existing sites operated by Global Stone and for further information to be made available regarding the location of the balancing pond sought as a requirement by the Environment Agency. The applicant then amended the drawing to show a proposed balancing pond in the south-east corner of the site. The application was considered by Members again at their meeting on 13th March 2008, with delegated powers being granted to the Head of Planning Protection and Licensing to grant planning permission subject to the Environment Agency withdrawing their objection before 29th March 2008. The Environment Agency did and planning permission was granted on 28th March 2008.
- 10.2 The fact that planning permission was previously granted for the use is undoubtedly the reason why objections have not been received to the current application.
- 10.3 Essentially there are two differences between the current application and that which was previously granted planning permission. The first difference is that the balancing pond has been moved to a position 50m to the north-east of the main storage area. This new position is within part of the former nursery area and is 40-50m from the rear fences of neighbouring gardens. The line of a public footpath runs to within a few metres of the south-west part of the proposed balancing pond; accordingly your Officer recommends that some form of simple enclosure is provided around its margins in the interest of public safety, see new condition no. 19.
- 10.4 The second difference from the previous planning permission is that the a south-east portion of the main site will now be utilised for the storage of hard landscaping products in common with the rest of the site. This part of the site is adjacent to the private garden of a residential property, 214 Coggeshall Road. This property has a 2m high conifer hedge growing along its boundary with the application site and the applicant is proposing an additional hedge on the application site as part of the landscaping proposal for the scheme. Nonetheless this new hedge will take time to become established and your Officer considers it would be beneficial to their amenity if the height of the landscaping products close to the boundary of 214 Coggeshall Road were reduced from the height proposed elsewhere in the site of 3.5 metres. New condition no. 20 proposes that materials are not stored to above a height of 2.5m, within 5m of the boundary of the application site with 214 Coggeshall Road.

11.0 Conclusion

11.1 The principle of the use has already been established by the earlier planning permission 073133. It is recommended that planning permission be granted as before, but subject to two additional conditions, and an amended surface water drainage scheme (in accordance with the comments of the Environment Agency). The proposed additional conditions relate to: (a) the provision of an enclosure around the balancing pond; and, (b) a reduction in the height of the storage of the landscaping products adjacent to 214 Coggeshall Road. The proposed new conditions (and informatives) are highlighted in bold in the recommendation below.

12.0 Background Papers

12.1 ARC; HA; ECC; PP; HH; TL; CCC; NR; PTC; NLR; Development Team

Recommendation - Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

The development shall not be brought into its intended use (including the initial stocking-up period) unless and until the works detailed below have been completed by the Secretary of State, or constructed to a stage to be agreed in writing with the Local Planning Authority in consultation with the Highways Agency. These works, as detailed on the layout drawing no. 0754/18B titled "Proposed Church Lane Revisions Two Way Movement", dated December 2007 shall include:

- (a) widening of the southbound carriageway of Church Lane from the junction of Church Lane with the A120 to the site entrance; and
- (b) closing of the existing access to the site located close to the junction of Church Lane and the A120.

The extent of the works referred to above shall be sufficient to accommodate 16.5 metre articulated vehicles, as detailed in the layout drawing no. 0754/12 titled "Autotrack Analysis Access to Church Lane 16.5m Articulated Vehicle", dated October 2007.

Reason: To ensure that the A120 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 of the Highways Act 1980, and to satisfy the reasonable requirements of road safety on that road and connecting roads.

3 - Non-Standard Condition

The development shall not be brought into its intended use until sight splays at the access relative to the carriageway of not less than 2.4 x 70 metres in each direction, clear of all obstruction above 900mm in height, have been provided and these splays shall thereafter be retained.

Reason: In the interest of highway safety.

4 - Non-Standard Condition

The development shall not be brought into its intended use until a turning facility for all vehicles using the site has been provided and this turning facility shall thereafter be retained.

Reason: In the interest of highway safety.

5 - Non-Standard Condition

The development shall not be brought into its intended use (including the initial stocking-up period) until the revisions to the access geometry, surface and gateway have been completed in accordance with the approved drawings.

Reason: In the interest of highway safety.

6 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no gate or other means of enclosure shall be provided between the site access onto Church Lane and the gated access to the load/unloading/storage area shown on layout drawing no. BP006-02-01 Rev D.

Reason: In the interests of highway safety and neighbour amenity.

7 - Non-Standard Condition

No deliveries shall be made to and no goods despatched from the site outside the times of 0730 to 1730 hours Mondays to Fridays and 0800 to 1200 hours on Saturdays, nor at any time on Sundays, Bank or Public Holidays.

Reason: In the interest of local residential amenity.

8 - 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". 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: In order to reduce sky glow and safeguard the amenity of nearby residential properties by controlling the undesirable, disruptive and disturbing effects of light pollution.

9 - Non-Standard Condition

No products or pallets shall be stacked or deposited to a height exceeding 3.5 metres above ground level without the prior written consent of the Local Planning Authority.

Reason: In the interest of visual amenity.

10 - Non-Standard Condition

No retail sales shall take place from the site nor goods despatched from the premises direct to members of the public.

Reason: For the avoidance of doubt and in the interest of local amenity.

11 - 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.

12 - 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.

13 - Non-Standard Condition

Before any works commence on site, details of tree and/or shrub planting (together with a proposed means of enclosure between the storage areas and the proposed planting) and an implementation timetable shall be submitted to and approved in writing by the local Planning Authority. The details to be submitted shall provide for a substantial depth of planting particularly to the Church Lane frontage (as shown in principle on the approved layout drawing BP006-02-01 Rev D) and a means of enclosure that is visually satisfactory and prevents the storage area coalescing with the proposed planting. The proposed planting and enclosure shall be provided as soon as practicable following the removal of any existing hedgerow. 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.

14 - Non-Standard Condition

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved by the local Planning Authority prior to any occupation 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.

15 - Non-Standard Condition

Prior to the first use of the development hereby permitted, the surface water management scheme shown on the approved drawing number 103/2007/07 Revision A, and which includes a balancing pond with a minimum capacity of 685 cubic metres, shall be provided and thereafter maintained and retained as approved.

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

16 - Non-Standard Condition

Prior to the commencement of the development hereby permitted details of a scheme that provides for vehicles to park within the site during the construction and stocking-up periods, shall be submitted to and agreed in writing by the Local Planning Authority, and the scheme as approved shall be implemented for the relevant period.

Reason: In the interest of highway safety and local amenity.

17 - Non-Standard Condition

The premises shall be used solely as a storage and distribution use for stone paving products, as described in the submitted application documents, and for no other purpose (including any other purpose in Class B8 or Class B1 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

Reason: To protect the amenities of the surrounding area.

18 - Non-Standard Condition

During the initial stocking-up period of the site with the stone paving products, no deliveries shall be made to the site outside the times of 0830 hours to 1730 hours on Mondays to Fridays.

Reason: In the interest of local amenity.

19 - Non-Standard Condition

Prior to the commencement of the development hereby permitted, details of a scheme of enclosure around the balancing pond shall be submitted to and agreed in writing by the Local Planning Authority and the scheme as approved shall be provided prior to the use hereby permitted commencing, and thereafter shall be maintained and retained as such.

Reason: In the interests of public safety and amenity.

20 - Non-Standard Condition

Notwithstanding the wording of condition no. 9 above, no products or pallets shall be stacked or deposited to a height exceeding 2.5m above ground level within a distance of 5m from the boundary of the application site with the property known as 214 Coggeshall Road, without the prior approval in writing of the Local Planning Authority.

Reason: In the interest of neighbour amenity.

Informatives

Non-Standard Informative

1. The applicant should contact John Hornsby at the Highways Agency to initiate the necessary Section 278 Agreement.

Non-Standard Informative

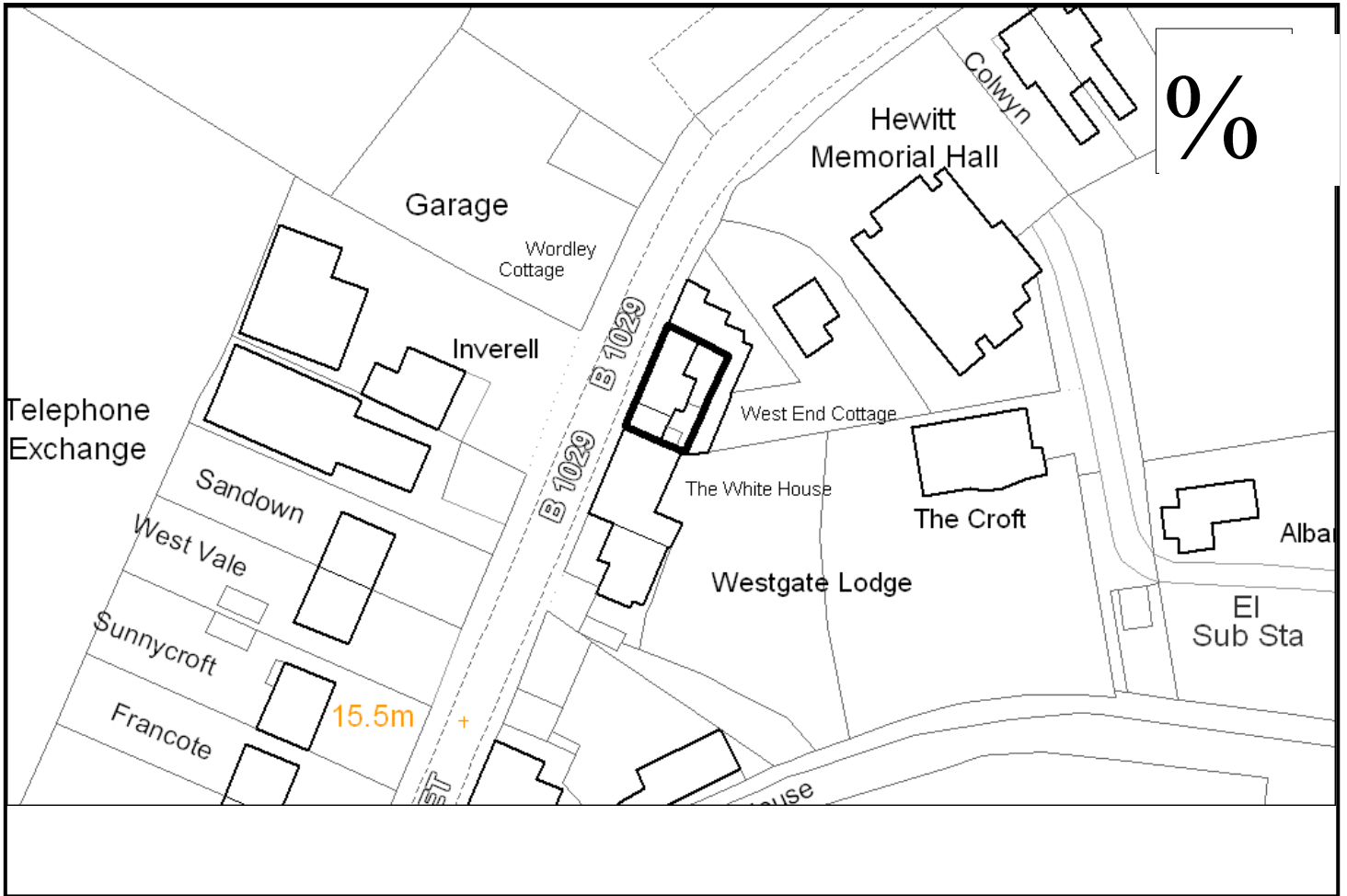
2. The applicant is reminded of their duties and responsibilities with regard to the line of Public Footpath 7, Marks Tey to the north of the site. Should any works affect the line of the right of way these must be carried out in agreement with the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600.

Non-Standard Informative

3. The applicant is advised that the Highway Authority will not allow the line of Public Footpath 7, Marks Tey to the north of the site to be used by vehicles to access the development site in accordance with paragraph 7.3 in the Dept for the Environment Food and Rural Affairs Guidance for Local Authorities Rights of Way Circular 1/08.

Non-Standard Informative

4. 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: 081100

Location: West End Cottage, High Street, Dedham, Colchester, CO7 6HJ

Scale (approx): 1:1250

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7.2 Case Officer: Andrew Tyrrell

EXPIRY DATE: 13/08/2008

MINOR

Site: West End Cottage, High Street, Dedham, Colchester, CO7 6HJ

Application No: 081100

Date Received: 17th June 2008

Agent: Alexander Sedgley Ltd

Applicant: Mr Barry Stewart

Development: Construction of two 2 bedroom terraced houses and one 1 bedroom flat above workshop, to replace an existing 2 bedroom cottage with adjacent workshop

Ward: Dedham & Langham

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

1.0 Planning Report Introduction

1.1 This application has been called in by Councillor Garnett. The reasons given are as follows:

- Overdevelopment of the street scene contrary to the policies of the AONB & Conservation Area.
- Loss of light to the near neighbour (see photo from Google earth), especially during the latter part of the day.
- Building Design is unsympathetic to the character of this historic side of the high Street which should be kept.

2.0 Site Description

2.1 The site lies towards the bottom of the hill leading into the western end of the village centre, on the High Street. It is a reasonably central location, although the curve in the road at the bottom of the hill means that this site can not be seen in context with the village centre itself. Instead, it blends into the buildings of varying heights and designs that make up the sloping streetscene on the eastern side of the hill. The western side of the hill has a greater amount of single-storey post-war dwellings and further set back properties, giving it a more open and rural feel. Opposite the application site is a garage, which now serves primarily as a MOT and repairs centre.

- 2.2 The site lies within the Dedham Conservation Area, as well as the wider-reaching Area of Outstanding Natural Beauty. It contains two "buildings", although these are connected as part of a predominantly continuous building frontage that covers much of this section of the streetscene. Facing east from the street, the left hand "building" is the workshop unit, whilst the two-bedroom dwelling is on the right hand side. The slope runs downwards from right to left (descending northwards). The workshop is single storey, whilst the cottage is of two-storey height. Both properties have painted external brickwork finishes and slate roofs.
- 2.3 The workshop use appears to continue at present. During the site visit the case officer witnessed a mechanic and customer leaving the unit with paperwork and crossing over to the garage opposite. However, it does seem from the information provided from all sources that this use may certainly have reduced and become more informal. It is alleged that the applicant uses the workshop for private parking, but in planning terms there are no recognised off-street parking spaces at this site.
- 2.4 There is currently one parking space on the road in front of the workshop. There is no space in front of the doors (with it being an offence to block accesses). There are other spaces starting in front of the existing cottages and running upwards along the hill.

3.0 Description of Proposal

- 3.1 The proposal is to replace an existing workshop and 2-bedroom cottage with two 2-bedroom terrace houses and a new workshop unit with a 1-bedroom flat above it. The cottages would have small courtyard amenity spaces to the rear. The workshop entrance would be moved slightly uphill from its present location, resulting in the need for a new dropped kerb and access point. This new access location would cause the loss of one on-street car parking space. Alternative replacement car parking spaces are being investigated by the applicant and have apparently been secured for at least 15 years; no written proof of this acquisition has been received at the time of this report, but is expected imminently.
- 3.2 The demolition of the existing buildings is covered under a separate Conservation Area Consent and is not to be considered herein. It is only the replacement buildings that are to be considered. The Conservation Area Consent is running behind the Full Planning Application in terms of timescale but has been received. If this application is approved by the Committee then the Conservation Area Consent might also need to be considered by the Committee at a future meeting.

4.0 Housing Mix

- 4.1 The loss of one 2-bedroom dwelling means that the net increase in development is one additional 2-bedroom dwellinghouse and one 1-bedroom flat. This is achieved through a reduction in the size of the workshop unit and the additional storey above it.

5.0 Land Use Allocation

- 5.1 The land is allocated in the Local Plan as a Conservation Area, within the Village Envelope.
- 5.2 The area is also designated as an AONB and a Countryside Conservation Area.

6.0 Relevant Planning History

- 6.1 The most recent application on record is from 1958, and was for "Alterations and Erection of Garage". There are no applications of particular relevance to this proposal.

7.0 Principal Policies

- 7.1 Adopted Review Borough Local Plan
 - DC1 - Development Control Considerations
 - CO2 - Dedham Vale Area of Outstanding Natural Beauty
 - CO3 - Countryside Conservation Areas
 - UEA1 - Character of Conservation Areas
 - UEA2 - Building within Conservation Areas
 - UEA3 - Demolitions within Conservation Areas
 - UEA11 - Design
 - UEA13 - Development, Including Extensions, Adjoining Existing or Proposed Residential Development
 - H7 - Development within Village Envelopes

8.0 Consultations

- 8.1 Conservation & Design - The scheme is acceptable on its design merits. The buildings should be finished in Flemish Bond, which will require a condition.
- 8.2 Environmental Control - The Advisory Notes for the Control of Pollution during Construction and Demolition Works should be attached to any permission granted.
- 8.3 Streets and Leisure Services - (To explain the parking situation for this area...) Only residents who do not have any off-street parking facilities may apply for a Certificate of Exemption, which allows unlimited waiting within the restricted area. Applications are limited to one per property and an annual fee is payable in advance. The Council may request evidence to confirm that the property is the applicant's normal residence. It is an offence to make a false statement to obtain a Certificate of Exemption.

8.4 ECC Highways - No objections subject to:

- 1) Prior to the commencement of development the developer shall secure the amendment of the Traffic Regulation Order on the parking bays adjacent to the application site with regard to the proposed new access.
- 2) The proposed access being provided with 1.5 x 1.5m pedestrian visibility splays containing no obstruction above 0.6m in height.
- 3) The proposed access being formed at right angles to the carriageway and being provided with an appropriate dropped kerb.
- 4) The existing access being suitably and permanently closed.
- 5) Any vehicular access doors being inward opening only.

9.0 Parish Council's Views

9.1 Dedham Parish Council - Objection, a number of points are raised:

"The Cottage appears to be being demolished to provide a workshop with a flat roof over and the garage appears to be changing to a pair of two-bedroomed cottages. This surely requires a change of use?

Why is the West End Cottage to be demolished? A number of the committee have visited the property recently and in the past and it is considered that the supporting statement should be challenged. If marketed at the right price there are buyers prepared to renovate and upgrade the property to conserve the village appearance. Why has this possibility not been explored, or proof been provided? This question also applies to the workshop/commercial premises, the apparent need for the Business Parks at Dedham Hall and Lower Barn Farm would indicate that the reverse is true. Policy UEA3 b & c are applicable.

This proposal is in the western part of the High Street and for most of its length on a dangerous bend. It is the main route out to the A12 and to the south, a bus route, possibly the busiest street in the village. Not as stated in the supporting statement. In the past we are informed that Colchester Borough Council as Highway Agent were instrumental in the garage being located on the other side of the road because of this problem. We look to the Highway Authority to support this situation.

There are no off-road parking spaces for the three properties and the proposed "workshop" will effectively make one space on the High street redundant, so where are the between four (three dwellings and one highway space) and six new spaces (plus visitors) to be found? We need a permanent solution not a temporary one! Dedham Village Design Statement p.37.

We note that when reviewing the earlier applications 07/2632 & 06/0392 that before the roof was modified on The White House the roof line was even for most of its length from Westgate Lodge, with the workshop between West End Cottage and Wordley End Cottage being lower. This application now further destroys rather than conserves that historic character. The roof line shown should be more uniform to Wordley End Cottage and West End Cottage ridge levels than those indicated. Policy UEA13 elements are applicable.

We also consider that elements of Policies CO2 and H7 must be considered. We therefore recommend refusal".

10.0 Representations

10.1 9 Letters of support were received. These letters state that;

- a) The proposal will enhance this part of Dedham.
- b) It is a suitable development for the area.
- c) The existing buildings are not important to Dedham's cultural heritage.
- d) Off-street parking provided would seem a sensible idea.
- e) It is an appropriate scale and in keeping with surrounding buildings.
- f) Moving the access improves highway safety.
- g) A natural evolution that improves the Western Approach into the village.

10.2 7 Letters of Objection have been received. These letters are too long and repetitive to be included in full, but the issues raised include:

- a) The cottage does not need to be demolished and could be refurbished if sold on the open market.
- b) Hearsay that the garage will be used for residential parking, which would be a change of use.
- c) It is close to a dangerous bend, where cars park restricting sight lines, and on a busy road.
- d) Lack of off-street car parking and the increased need for spaces from extra traffic generation.
- e) The scale of the development overwhelms Wordley Cottage.
- f) The proposal impacts upon the light and privacy of Wordley Cottage.
- g) The DAS is incorrect.
- h) The Dedham Village Design Statement should be considered.
- i) There are better places for affordable housing to be placed.
- j) There is limited amenity space.
- k) What protection is there against these properties becoming second homes or holiday homes?
- l) The current uses are not redundant. Therefore there is a presumption in favour of retention.
- m) This is speculative overdevelopment.
- n) It would be better to convert part of the existing workshop to a small dwelling unit.
- o) It would be better to convert the workshop into 1 or 2 dwellings with a slightly higher roof, but not as tall as the proposal.
- p) Concern over noise through the new attached wall to Wordley Cottage.
- q) Disruption from constructions works.

11.0 Report

The Design and Scale

11.1 The scheme has developed through pre-application discussions and results in an application that borrows aspects from the local vernacular styles of architecture and design. The properties are to be finished in traditional materials that can be found in the immediate vicinity and have a simple traditional appearance. The design increases the height of the buildings on the site, but this is considered to have been integrated in a suitable manner that satisfactorily maintains the scale of the streetscene.

- 11.2 Local buildings have been referenced through the design features, incorporating elements such as the arched roof over the workshop doors, roof forms and mixed heights and materials. For example, part of the organic development of Dedham has meant that there is a variety of facades and roofs adjacent to one another and that there are no areas of single dominant designs. This is reflected by the visual separation of the site into two distinct sections with different roof styles and heights, as well as the use of slates offset against pebbles and tiles used on the neighbouring dwellings.
- 11.3 One issue of contention seems to be the increase in the roof ridge heights. The scale of the development was negotiated prior to the application being submitted. Originally the roof heights were staggered with a lower roof height against Wordley Cottage. However, it was felt by the Conservation Officer that this brought inappropriate visual competition to White House and thus, the applicant has been guided towards the higher section of this development being sited adjacent to Wordley Cottage. The fact that the roofline was different several years ago, an argument raised by the Parish Council, seems irrelevant, as previously approved development has altered this streetscene and the application cannot be judged against a roofline that no longer exists in any event. As stated above, Conservation Area designation is not a licence to cease all change, merely to ensure that standards of development are enhanced.
- 11.4 Indeed, the fact that other developments have allowed the restoration of an additional storey on the adjacent dwelling demonstrates that Conservation Area status does not necessarily mean that such an idea is unacceptable. Again, it is reiterated that these buildings offer little architectural or historical value and that the replacement scheme is considered to fit into the context of the Conservation Area in an acceptable manner. It is also noted that the Conservation Officer advised at the pre-application stage that their preference was for the staggered ridge height to be higher adjacent to Wordley Cottage rather than next to White House as this gave more emphasis to the more prominent building in the streetscene. Originally the notion of staggering the roof levels in line with the slope of the hill was proposed, but the roof heights as shown on the application drawings were considered to be more appropriate to the Conservation Area.
- 11.5 To summarise, the design and appearance of the development is considered to improve the Conservation Area in general. As well as complimenting local features, the design follows the traditional local vernacular style of Dedham. This accords with principles set out in the adopted Essex Design Guide. Thus, the design of this development is considered to be appropriate and accords with the relevant design standards. The Conservation Officer considers that the brick finish should be a Flemish Bond, which can be secured by condition.

Uses

- 11.6 The use of the site remains unchanged, albeit the floorspace and siting of each use is altered by the redevelopment. The residential use is a predominant use within the village. The workshop use is an existing use, established at this site in 1958, although the exact use of this site over the past few years seems unclear. It appears that it has been used as an extension to the garage use on the opposite side of the road, although there is no tie through ownership. The information obtained during the course of this application is that it has been used as an informal office and a place to make teas and coffees by workers at the garage opposite. Workers and clients of the garage opposite were seen entering the site with paperwork during a site inspection, which supports the view that this unit is still in casual use associated with the garage. A condition could be used to clarify the approved use of this unit, which should remain in some form of commercial use to ensure that there is no loss of a small commercial unit in this central village location.
- 11.7 The existing use of the workshop associated with the garage, car repairs and MOTs etc fall within Class B2 of the Use Classes Order. It would be possible to change this use to B1 or B8 uses without a planning application. However, the concern of objectees seems to be focussed on the loss of the workshop to a domestic garage (even though this would help ease parking issues that are also an objection issue). It is advised that this application should not be considered on hearsay that the garage will be used for residential parking. It seems that the Workshop might have been used for residential parking on occasions. There have not been any complaints to the enforcement team about this matter if it has occurred. In any case, the future use of the workshop unit for domestic parking would constitute a change of use and would require a planning application to be submitted. If no planning application were submitted and the workshop unit was used for domestic parking associated with any of the properties (including White House) then enforcement action could be taken if deemed expedient.

The Amount and Layout

- 11.8 The amount of development is considered to be acceptable. Whilst the units are smaller than some units in the village and the immediate vicinity it is a positive aspect of any urban development to have a mixture of sizes. The amount is in line with general Government guidance set out in PPS1 and PPS3 to make the most efficient use of brownfield land.
- 11.9 Additionally, the layout follows the existing footprint of development. This ensure that the building patterns remains unaltered, resulting in only a change in height. This means that issues such as impeded outlook do not arise. It also means that the buildings will not be any more prominent on approaching views as they retain the existing building lines and relationships to the neighbouring dwellings in relation to their front elevations.

- 11.10 There is limited amenity space within the scheme (approximately 30 square metres between the units). However, PPS3 is clear in stating that limited provision can be acceptable in central locations and where the pattern of development is such that large amenity areas would be out of character. Many of the properties in this locality (though not all) have limited amenity space because of the close-knit historic building forms. It would be inappropriate to require a scheme that meets the standard amenity space requirements at this site. It is also noted that there is a communal public open space within close distance to the scheme.
- 11.11 The view expressed in one objection that this scheme is speculative overdevelopment is not agreed with herein for the reasons set out above. This site is capable of accommodating the development without appearing cramped or increasing the footprint of the buildings on the site. The village shops, services and facilities are capable of supporting three additional units.

The Impact on Neighbours

- 11.12 There are two properties in close proximity to the application site, Wordley Cottage and White House. All other properties are beyond reasonable distances in relation to the adopted standards in the Essex Design Guide. There is also significant tree cover along the footpath to the rear of this site.
- 11.13 White House is owned by the applicant and thus impacts on this property are not as significant a concern as on other properties. However there are no adverse impacts on this property. Instead, the main focus is on Wordley Cottage, which has been the subject of objection from both the landlord and the tenant under separate cover.
- 11.14 Wordley Cottage has a modest courtyard area for its private amenity space. The case officer visited this courtyard with the landlord/owner prior to the application being submitted. It is apparent from an inspection of the courtyard that the development would have no impact on the level of sunlight that penetrates this courtyard as there is an outbuilding and brick wall that overshadows it at present. Furthermore, the development meets the adopted standards for assessing light deprivation set out in the Essex Design Guide (EDG). Thus, the application is acceptable in terms of its impact on light.
- 11.15 In terms of impact on privacy, the flat above the workshop has negligible impact because its openings are in similar positions to those in the rear of the existing dwelling at West End Cottage. The bedroom windows on the rear elevation of the two new dwellings are introduced where there is currently no first floor. These potentially have an impact, which is not in accordance with the necessary distance requirements set out in the EDG. However, the angle of outlook from these windows means that it is not possible to see from the windows into the neighbours' amenity area in the courtyard belonging to Wordley Cottage. The outlook toward the courtyard is obstructed by the outbuilding and 3-metre high brick wall that bounds the courtyard. This wall is in the neighbours control and can be retained to ensure that there is no adverse impact on privacy. Therefore, the development satisfies the adopted standards for protection of privacy.

Highway Safety Issues

- 11.16 There have been several comments that the site is located close to a dangerous bend and on a busy road. Dedham High Street has greatly varying traffic levels, with times of very low use and peaks of high level traffic generation. That said, there has been no evidence provided of any accidents having occurred at this bend. Furthermore, this proposal does not increase the number of point of traffic conflict. In fact, it moves the access, where there is a traffic conflict from slow vehicles, further away from the bend. On this basis, the proposal can only have a positive impact on the safety of vehicles using the site for access and for other highway users. The relocation of the access further away from the bend means that there will actually be better sight lines. The parking restrictions (double yellow lines) will remain in place.
- 11.17 The safety of the scheme has been ratified by Essex County Council Highways Authority. They have no objection to the scheme and see no adverse impact on highway safety. The Highway Authority does not support the view that visibility is reduced, that the development is too close to the bend or any other highway related objection. Subject to condition they are satisfied with the scheme, meaning that any refusal would be susceptible to challenge at appeal as it would be contrary to the received expert advice.

Car Parking Provision

- 11.18 As with the majority of properties within Dedham there are no off-road parking spaces. It is not considered appropriate to request on-site parking as this would be out of character. Therefore, the question is whether or not intensified use of this site is considered to be acceptable without parking provision. In terms of residents parking, there is no existing "Residents Parking Scheme" in Dedham. However, there are properties that are entitled to "Certificates of Exemption" from parking bay time restrictions. Streets and Leisure Services have advised that the residents in this part of the High Street are entitled to one space per unit only if they have no forms of off-street parking available. On this basis, three spaces would be the maximum level of parking required, making one space per unit. The applicant has indicated that they have secured three spaces at the garage forecourt opposite, which has been agreed verbally with the vendor. Despite a letter of support from the vendor stating that they have agreed to this, and the applicants' indications, no formal written evidence has been provided as yet. If this changes between the time of this report and the committee meeting an update will be made available. On the basis that three off-street spaces were secured then the residents at this site will not be eligible for certificates of exemption. Therefore, there will be no additional pressures on the residents parking scheme.
- 11.19 However, if no off-street parking is secured then the question of whether or not these properties were allocated exemption certificates would be one that Streets and Leisure Services would need to consider. This falls outside the scope and control of the Planning Service. Instead, in considering the planning merits of this scheme, it must be acknowledged that a no-parking scheme satisfies the relevant planning standards. The Local Planning Authority has adopted the Essex Planning Officers Association Car Parking Standards (2001). These standards state that in an area where there are local facilities and public transport within 400m of a site then no parking is acceptable.

11.20 In this instance, there are two bus stops, local shops, a post office, and community facilities including two public houses within walking distance of the application site. A no-parking development would also accord with the principles of Sustainable Development that are at the heart of the planning agenda, as advocated in Planning Policy Statement 1 (PPS1). Visitor spaces would be no different than for existing dwellings in that it is up to visitors to find a space where they are allowed to park, which might not be immediately outside the property and there is no provision within the High Street for any specific residential visitor spaces. Therefore, the scheme meets the Council's adopted parking standards and can not be refused on this basis.

Other Material Considerations

- 11.21 Several other issues, some of limited or no planning weight, have been raised by objectees. These are addressed in no particular order below, starting with the issue of the Design and Access being incorrect. The Design and Access Statement is meant to explain the design philosophy and understanding of local context. Whilst this is an important part of the application in terms of it forcing the applicant to consider their schemes more carefully, a proposal can not be refused simply on an inaccurate DAS. Therefore, if the DAS is incorrect this is not a reason to refuse this application.
- 11.22 Some objections state that there is no need to demolish this site and redevelop. This is a matter that should be considered as part of the separate Conservation Area Consent and is not relevant to this proposal.
- 11.23 Regarding affordable housing, one objector stated that there are better places for affordable housing. This scheme is not for affordable housing; therefore this comment has been given limited weight in the case officer's report. The scheme is too small to require an affordable housing element.
- 11.24 On the issue of secondary or holiday homes, there is no protection against these properties becoming second homes or holiday homes. There is no planning scope to request such a restriction and any condition stopping these properties being openly available would clearly be ultra vires. However, smaller units are needed in Dedham and it is considered favourable that this scheme will at least provide three units that might assist in accommodating local people to ease this local need.
- 11.25 An objector has suggested that it would be better to convert part of the existing workshop to a small dwelling unit. This is not the proposal under consideration, and this application should be determined on its own merits. There are other issues with conversion such as financial viability, which are not always direct planning considerations. However, the supporting information suggests that the workshop is not structurally capable of accommodating openings such as windows and doors without major works. Additionally, as these buildings are not particularly valuable in terms of their character it is questionable as to why the conversion (and retention) of these buildings would be pursued by the Council when it is considered that a better scheme can be achieved by redevelopment.

- 11.26 The Parish Council, in particular, are concerned that the Dedham Village Design Statement (VDS) has not been considered. This is one of numerous other relevant planning guidance documents and policies against which the case officer's recommendation is based. To clarify, the VDS does not carry as much weight as higher levels of policy, although it is a material consideration. Specific references made by objectees to Page 37 of the VDS. This page lists the parking situation within the Conservation Area, and specifically mentions High Street. On the subject of parking provision it states that "These provisions are adequate for all normal circumstances". This seems to offer little to suggest that intensification of parking in this area would be unacceptable, although the same page later states "New buildings or change of use without adequate provision for parking is detrimental to the amenity of visitors and residents alike". Whilst this can be true, each case must be taken on its own merits and it is not considered that this generality is significant enough to merit the refusal of planning permission herein. In any case, it is considered right to afford more weight to national, regional and local policies that offer support for no parking schemes in sustainable locations such as this application site. Furthermore, there is a possibility that off-street parking can be provided as explained above.
- 11.27 Other statements in the VDS such as that "Replacement buildings, and any new building, should be on a scale that does not intrude upon the surrounding environment" (p.8) or that "Replacements, alterations and additions should receive careful scrutiny. They should be designed to the highest standards, drawing on the local vernacular and using traditional materials in a traditional way in keeping with the other historic buildings in the area" reflect higher levels of policy in any case. Subsequently such requirements have been considered.
- 11.28 Marketing is not a matter for the Council to consider in terms of the acceptability of this scheme. Whilst there is no evidence related to any potential marketing of these units for alternative uses, there is no policy requirement for there to be any for a scheme of this nature, i.e. where there is no loss of any community service. Although it might be possible to find a buyer prepared to renovate and upgrade the property, this speculation is not the primary issue to be determined. This application has been submitted and must be considered on its merits. The availability of the units on the open market is not considered to be a significant planning matter. The workshop unit and the residential uses will need to be occupied following construction so there is a presumption that these might be marketed, but this is not a matter over which planning powers preside. Despite the concerns of the Parish Council, the Business Parks at Dedham Hall and Lower Barn Farm have no significant relevance or comparison to this proposal, particular where there is no net loss of commercial units.
- 11.29 The tenant of the neighbouring dwelling at Wordley Cottage has expressed concern over noise that might be heard through the new attached wall that would be built once new residents move in. Environmental Control have not raised this as a concern as expert advice in this field. It is also considered to be a matter of limited planning control when other services (internal or external organisations such as the police etc) can address this issue if and when it ever occurred. Thus this is not an issue to which enough weight can be attached to refuse planning permission.

- 11.30 Disruption from construction works is another matter against which only limited weight can be attached. It is inevitable to some degree with any form of development. It would be unreasonable to refuse planning permission on this argument. A standard advisory note on pollution from demolition and construction will be attached to any approval of planning permission.
- 11.31 Objectees have specifically referred to the requirements of Policy UEA3, which is one of many considerations that must be balanced alongside one another. This policy supports demolition where there is (a) a positive contribution to Conservation Areas as a consequence of redevelopment, (b) where it is demonstrated that a building is beyond reasonable repair, and (c) that an applicant has provided evidence that efforts have been made to retain existing uses or find alternative charitable uses unless the positive aspects of redevelopment outweigh the loss of the buildings. In this instance, it is considered that the scheme will enhance the area, thus (a) is satisfied. The state of the building demonstrates that it has not been well maintained. Whilst it might not be beyond repair the question would need to be asked as to what benefit to the overall character of the Conservation Area maintenance could bring as the building offers little architectural value, even in pristine condition. Furthermore, the supporting letter dated 10 July 2008 suggests that the workshop is not capable of the structural alterations needed for conversion and that the layout of the dwelling area unsatisfactory for modern standards because of poor fire escape routes and external facilities. Thus, (b) is partially satisfied and, at the very least, could be hindered if pursued as grounds for refusal on its own merits on the basis that the evidence submitted during the application period indicates that the building can not be structurally altered without significant demolition in any case. Criterion (c) is also considered to be satisfied in that there us no loss of the existing uses (only modification to the premises) and the redevelopment will visually enhance this section of the Conservation Area.
- 11.32 Objectees have specifically referred to the requirements of Policy UEA13. In relation to these requirements:
- (a) The design is considered to be acceptable on its merits and will enhance the Conservation Area over the existing buildings.
 - (b) The differing ridge heights and parapet treatments avoid any significant terracing effect and the development does not result in a cramped appearance.
 - (c) There is no impact on the outlook of neighbouring properties as the footprint remains the same.
 - (d) The proposal does not result in an unacceptable impact on daylight.
 - (e) The proposal satisfies the adopted standards with regard to overlooking and does not result in a loss of privacy.
 - (f) The proposal has no effect on the level of amenity space available. Car parking has been covered elsewhere.
- 11.33 Objectees have also specifically referred to the requirements of Policy CO2. In relation to these requirements the scheme is not considered to have an adverse impact on the Dedham Vale Area of Outstanding Natural Beauty.

11.34 Finally, objectees have specifically referred to the requirements of Policy H7. In relation to these requirements:

- (a) There is no existing gap in development, therefore this is not applicable.
- (b) There is no change in the physical pattern of development as the footprint remains as existing. The residential and commercial ground floor uses swap positions, but this is hardly significant.
- (c) The development has been designed to utilize features and materials found within the immediate local vicinity, harmonising and reinforcing local distinctiveness.

S106 Matters

11.35 The applicant has completed a unilateral undertaking for a financial contribution for Public Open Space, Sport & Recreation as required by policy. There are no other planning requirements for this development.

12.0 Conclusion

12.1 It is considered by your officers that this scheme is acceptable on its merits in that no reason can be found to which enough weight can be attached to warrant a refusal. The design merits, impact on the Conservation Area, impacts on neighbours, parking standards, highway safety concerns and other relevant planning issues are considered to be satisfactorily met in relation to the adopted standards and planning policies.

13.0 Background Papers

13.1 ARC: CD; HH; SS; HA; PTC; NLR

Recommendation - Conditional Approval subject to signing of a Unilateral Undertaking

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 - C3.1 Materials (general)

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

Reason: To ensure the use of an appropriate choice of materials having regard to the importance of this scheme in the Conservation Area and to ensure that the choice of materials will harmonise with the character and appearance of other buildings and development in the area.

3 - C3.15 Brick Walls to be in Flemish Bond

The brick walls to the building hereby approved, shall be constructed in Flemish Bond unless otherwise agreed in writing by the Local Planning Authority.

Reason: To harmonise with the character of existing development in the area.

4 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification), the workshop premises hereby approved shall be used with Classes B1, B2 or B8 of the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that class in any statutory instrument and re-enacting that Order with or without modification).

Reason: To ensure that there is no loss of an existing commercial premise at the site, without unreasonably limiting the potential use by recognising that the current B2 use could be changed to a use falling with Classes B1 or B8 without the need for planning permission.

5 - Non-Standard Condition

The workshop premises hereby permitted shall only be open for business between the hours of 07:00 and 19:00 in any one day from Monday to Friday and between the hours of 07:00 and 16:00 on Saturdays. The premises shall not operate at all on Sundays or any Public Holiday.

Reason: No hours have been suggested by the applicant on the submitted forms, but the use of this site outside of sociable hours could cause an unacceptable impact on neighbours and would need to be considered further at such a time that they were ever sought.

Informatives

Non-Standard Informative

1. This planning permission does not provide for any demolition of the existing buildings, which will require the separate application for Conservation Area Consent received to be approved by the Local Planning Authority.

Non-Standard Informative

2. Residential parking (related to any dwelling) in the Workshop hereby permitted could constitute a change of use of that premises that would require planning permission.

Non-Standard Informative

3. 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 construction works. Should any further guidance be required please contact Environmental Control prior to the commencement of any development.



Application No: 081208

Location: 261 Straight Road, Colchester, CO3 9EQ

Scale (approx): 1:1250

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7.3 Case Officer: Sue Fenghour

EXPIRY DATE: 16/08/2008

MINOR

Site: 261 Straight Road, Colchester, CO3 9EQ

Application No: 081208

Date Received: 20th June 2008

Agent: Edward Gittins & Associates

Applicant: Mr & Mrs J Gray

Development: Proposed separate vehicular access off Dugard Avenue to serve no. 261 Straight Road.

Ward: Prettygate

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application is put forward for Committee's consideration by Councillor Lissimore under the 'call-in' procedure. The issue here is one of highway safety.

2.0 Site Description

2.1 Planning permission is sought for a separate vehicular access off Dugard Avenue to serve 261 Straight Road, Colchester

2.2 This detached property is located on the corner of Straight Road and Dugard Avenue and originally its garage was located at the very end of the rear garden with access onto Dugard Avenue.

2.3 Subsequent planning approvals have led to the garage being converted into a small 1 bed separate dwelling and both houses continuing to share the existing vehicular access. The single bedroom property incorporates an integral garage whilst No. 261 Straight Road has off road parking spaces

3.0 Land Use Allocation

3.1 Residential

4.0 Relevant Planning History

4.1 COL/02/1658 - Approval for conversion of garage to 2 storey residential. Condition 3 attached to the permission restricted occupancy to a dependent relative.

4.2 COL/06/1227 – An application to remove this condition was refused and subsequently allowed on appeal.

4.3 COL/07/3137 - Separate vehicular access to 261 Straight Road – refused on highway safety grounds.

5.0 Principal Policies

5.1 Adopted Review Borough Local Plan
DC1 - Development Control considerations

6.0 Consultations

6.1 The Highway Authority comment as follows:-

"The Highway Authority recommended that the initial application numbered 073137 be refused for the following reasons:-

1. Lack of appropriate vehicle sight splays.
2. Lack of convenient on site turning facilities.

Since giving the above recommendation further information and measurements have been provided and investigated. It is now this Authority's opinion that vehicle sight splays measuring 2.4m x 43m in both directions would be achievable in accordance with the Manual for Streets. In view of this and the submitted drawings detailing the provision of an on-site turning facility this Authority does not wish to object to the proposal subject to suitable conditions."

7.0 Representations

7.1 None received

8.0 Report

8.1 Following the last refusal of planning permission on highway grounds the applicant's Highway Consultants held discussions with the Highway Authority. The resultant revised plans submitted show the new boundary wall between the 2 properties moved some 2 metres closer to the single bedroom property whilst still providing the necessary minimum amenity area.

8.2 Supporting drawings demonstrate that both large and small cars can sweep in and out of the proposed access with a degree of latitude.

8.3 The Highway Authority has now removed its objection to the application subject to a number of conditions.

8.4 It is therefore recommended that permission be granted subject to the imposition of those conditions.

9.0 Background Papers

9.1 ARC; HA; CBC

Recommendation - Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

Prior to the occupation of the development visibility splays with dimensions of 2.4 metres by 43 metres as measured from and along the nearside edge of the carriageway shall be provided on both sides of the access. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.

Reason: To provide adequate intervisibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access having regard to Policy 1.1 in Appendix G to the Local Transport Plan.

3 - Non-Standard Condition

Prior to occupation of the access a 1.5 metre x 1.5 metre pedestrian visibility sight splay as measured from the highway boundary, shall be provided on both sides of the vehicular access. There shall be no obstruction above a height of 600mm as measured from the finished surface of the access within the area of the visibility sight splays thereafter.

Reason: To provide adequate intervisibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access having regard to Policy 3.4 in Appendix G to the Local Transport Plan.

4 - Non-Standard Condition

Prior to occupation of the development hereby permitted the turning space enabling a motor car to enter and leave and highway in a forward gear shall be constructed, surfaced and made available for use and shall be retained for that sole purpose.

Reason: To ensure appropriate turning facilities are provided so that vehicles can enter and leave the highway in a safe and controlled manner in accordance with Policy 1.1 in Appendix G to the Local Transport Plan.

5 - Non-Standard Condition

There shall be no gates provided at the vehicular access as part of the development or at any time in the future.

Reason: To enable vehicles using the access to stand clear of the carriageway/footway at all times. Provision of gates would mean vehicles being stationary in the highway whilst they are being opened and closed contrary to Policy 1.1 in Appendix G to the Local Transport Plan and to the detriment of highway safety and efficiency.

6 - Non-Standard Condition

No unbound material shall be used in the surface finish of the driveway within 6 metres of the highway boundary of the site.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety and in accordance with Policy 1.1 in Appendix G to the Local Transport Plan.

7 - Non-Standard Condition

Prior to occupation of the development details shall be approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained at all times.

Reason: To prevent hazards caused by flowing water or ice on the highway in accordance with Policy 1.1 in Appendix G to the Local Transport Plan.

Informatives

Non-Standard Informative

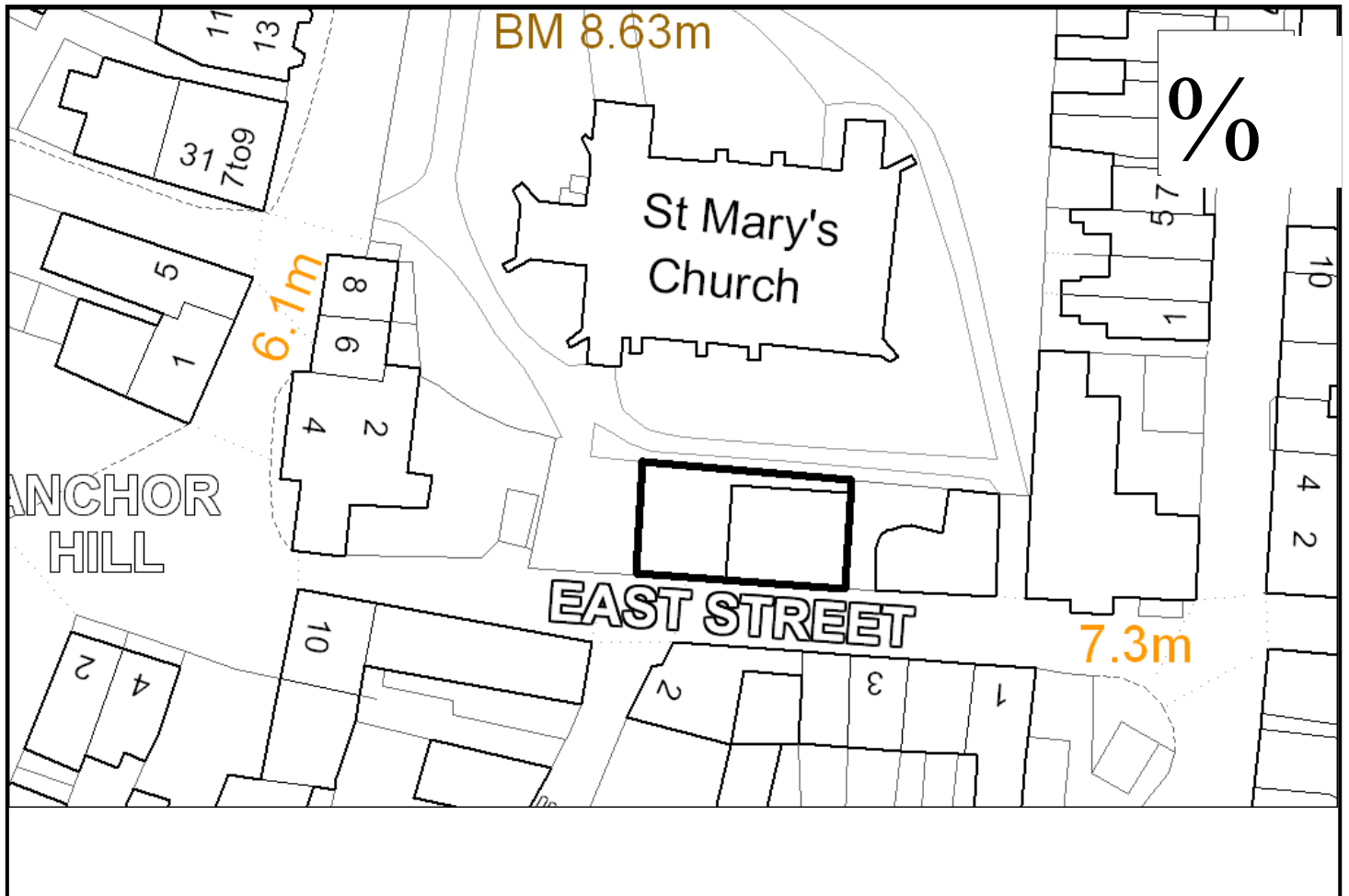
1. The above conditions (02-07) are required to ensure the proposal complies with the County Council's Highways and Transportation Development Control Policies as originally contained in Appendix G to the Local Transport Plan 2006/2011 and refreshed by Cabinet Member decision dated 19 October 2007.

Non-Standard Informative

2. 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 838600.

Non-Standard Informative

3. 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: 072956

Location: Papa's Fish & Chips, East Street, Wivenhoe, Colchester, CO7 9BW

Scale (approx): 1:1250

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7.4 Case Officer: Mark Russell

MINOR

Site: East Street, Wivenhoe, Colchester, CO7 9BW

Application No: 072956

Date Received: 30th November 2007

Agent: J C Forrest

Applicant: Mr & Mrs T Papadamou

Development: Two flats added to upper floor of single storey fish shop with remodelled shop front to Papas Fish Shop. Resubmission of 071034.

Ward: Wivenhoe Quay

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

1.0 Site Description

1.1 The site is in East Street in the heart of Wivenhoe's Conservation Area, and comprises the existing single-storey Papa's Fish Shop, and land to the left of this which is currently a hard-surfaced area used for sitting out in connection with the fish shop. East Street is predominantly residential, with the Listed St. Mary's Church to the Rear. Rose Lane is opposite the site which leads to the River Colne.

2.0 Description of Proposal

2.1 The proposal is to build above, and to the left of, the existing Papa's fish shop, to create residential accommodation. The new remodelled buildings will be two-storey, with one flat above the fish shop which is to continue in use during the construction and the other above a newly-created garage. The existing shopfront will be remodelled.

2.2 The previous application 071034 was withdrawn because of issues of design.

3.0 Land Use Allocation

3.1 Residential in a Conservation Area

4.0 Relevant Planning History

4.1 071034 - Two flats added to upper floor of single storey fish shop with remodelled shop front to 'Papas Fish Shop'. Withdrawn 14th May 2007

5.0 Principal Policies

- 5.1 Adopted Review Colchester Local Plan:
DC1- Development Control considerations;
UEA1 - Conservation Areas;
UEA2 - Alterations to Buildings in Conservation Areas;
UEA5 - Development affecting the setting of Listed Buildings
UEA11 - Design;
UEA12 - Infilling and Backland Development;
UEA13 - Development, including Extensions, Adjoining Existing or Proposed;
P1 - Pollution

6.0 Consultations

- 6.1 The Highway Authority did not object to the original application. However, the proposal now includes garage doors (previously open). The Highway Authority has objected to the doors and corridor, they could lead to delays on the road as cars wait for doors to open.
- 6.2 Environmental Control recommended a standard demolition and construction guidance note and also asked for a written report as proof that the fish and chip business would not cause nuisance to the residents, either by noise or odour.
Officer Comment: This is an existing business and it is not reasonable to request this information.
- 6.3 The Conservation and Design section has been in discussion with the Case Officer and with the applicants prior to submission and his comments are as follows:-

“There can be no doubt that the existing flat roofed, single storey structure, with its prominent and unsightly flue, is a negative feature in the conservation area and detracts from the setting of several nearby listed buildings. Photographic records show that a substantial one and a half storey building previously occupied the site. Proposed is a building of three distinct elements which incorporates a retained fish and chip shop along with a garage and storage area on the ground floor, and two flats on the first. It is understood that one of the design criteria is to retain the ground floor in use during redevelopment.
Overall the building may be considered rather quirky in architectural terms. It does however draw on traditional forms and materials and, by its very quirkiness, ‘fits in’ to the old village, where there is wide range of style and detail.
In addition to replacement of an identifiably unsightly feature and ‘repairing’ the street scene, the proposal frames and encloses the view of the church, and in particular the porch on the south elevation, from East Street. Permission is recommended.”
- 6.4 English Heritage was consulted regarding the effect of the proposal on the setting of the Listed Building St. Mary’s Church. Initial comments expressed disappointment, with particular regard to the proposed walkway to the rear aspect and refusal was recommended. This has resulted in amendment and English Heritage has now withdrawn its objection, whilst indicating its disappointment with the scheme as a whole.

7.0 Representations

7.1 84 representations were received, of which 79 opposed the scheme. Of these, up to 40 appear to be a standard, copied letter which bears the name, address, and signature of each objector.

7.2 This standard letter has as its main concerns that the development would:

1. Obscure views of the church;
2. Result in loss of light to the church;
3. Lead to overlooking of the church;
4. Increase the potential for litter in the churchyard;

Later versions of the letter also raise the following:

5. The design, including balconies, would not be in keeping with the area;
6. Inadequate parking for the residents and the users of Papa's.

7.3 The remaining 40 objections repeat many of these points, and raise additional objections, as follows:

7. The roof is too high in relation to Eastcote House;
8. Balconies are alien;
9. Claims of lack of notification;
10. Lack of parking for deliveries;
11. Height is to allow for mezzanine study area;
12. Overlooking into the garden on Swatchways;
13. Item 4.1 of DAS mentions sash, but drawings show full doors and balconies (see letter from Swatchways);
14. Overdevelopment of the site;
15. St. Mary's Church itself was not notified;
16. Out of character for this part of the Conservation Area;
17. How can construction work be undertaken in the space available?;
18. Conflicting plans (i.e. living room windows on flat 2);

7.4 In support, the following were raised:

- a) The proposal would be an improvement on the current, single-storey building;
- b) It is acknowledged that there would be a loss of parking and seating, but these are used by very few people;
- c) Residential over the shop would forestall the loss of yet another small business in Wivenhoe;
- d) The proposal would improve the views of the church.

8.0 Parish Council's Views

8.1 Wivenhoe Town Council gave a lengthy reply in objection to the proposal, largely echoing its previous comments for application 071034. The following bullet points list these concerns (continuing the numbering from residents' objections):

19. Overbearing, creating a mass of building in a small area resulting in a canyon effect;
20. Dramatic effect on St. Mary's Church;
21. No notification sent to neighbours in the area;
22. No mention of where the extraction fan is to be placed;
23. Traffic implications due to queuing and parking outside of the shop;
24. Detracts from the Conservation Area;
25. Loss of views of the church up Rose Lane;
26. Loss of light in the church;
27. Loss of privacy to the church;
28. Extra litter in the church as diners will eat there in compensation for the loss of external seating;
29. Existing structure of Papas may not be strong enough to take the extra weight, and this may lead to a demolition and loss of this popular fish and chip shop;
30. French doors look into houses across East Street;
31. Building is on the edge of the road, causing queuing customers to stand in the road.

9.0 Report

9.1 The key issues are those concerning the effect on the setting of the church and of the wider Conservation Area, also its design and traffic implications, as well as possible amenity issues.

9.2 In terms of the effect on the church and Conservation Area, the development would reduce views of the main section of the church as seen from parts of East Street and Rose Lane. Whilst this is an attractive view it is not one identified in the recently commissioned Conservation Area Appraisal.

9.3 The benefits of the proposal, however, would be to remove the current unsightly flue and concrete sitting out area, as well as the uninspiring single storey flat roofed building itself. Also, views of the key feature of the church - its tower - would be framed by the new development.

Design Issues

9.4 The design of the proposed development comprises three main elements from east to west as seen from East Street, as follows:

9.5 The eastern-most element comprises an improved timber shop-front with a first floor rendered section lit by a full-drop casement window. Above this is the architectural feature of a two-light window and small dormer whose roof is hipped. The roof is slate.

- 9.6 The central section completes the timber shop-front at ground floor level. The first floor section matches that of the eastern element with render and full-drop window with Juliet Balcony to comply with Building Regulations. The slate roof is higher in this section and is hipped at the western edge.
- 9.7 The larger, western-most, section is soft red brick with a plinth and timber door to the right hand side. To the left is an up-and-over garage door designed not to oversail the highway and faced in timber boarding. This door is an amendment from the original proposal of a doorless void which would have been a visually disappointing feature as viewed up Rose Lane. At first floor level is weatherboarding with an eight-pane window to the left and four-pane sliding sash to the right, in both cases the windows are aligned to give symmetry. The slate roof is hipped at the western end to maximise views of the church. Also on this roof are a proposed flue and sun-pipe.
- 9.8 To the rear, the design incorporates two gables, rendered at the eastern end and weatherboarded at the western end, to match the materials at the front. Each has a four-pane window, with the central section between them also comprising a window of this size. This section also has a ramped deck for access to the flats, which has now been amended to be enclosed at the request of English Heritage.

Land Use

- 9.9 The use would be a continuation of the long-established fish and chip shop, together with an introduction of residential, which is compliant with Local Plan designation and reflects the dominant usage of the area.
- 9.10 The proposed amount of development is two flats, at two storeys, in an area measuring approximately 150m².

Visual Appearance

- 9.11 The main appearance from the public realm would be from the front (south) on East Street. The western-most section would also be partially visible from Rose Lane.
- 9.12 Another important view would be from the rear (north) in the churchyard. The ground floor would be largely obscured by the existing church wall, views would then give way to two gabled sections and linking walkway.
- 9.13 The east elevation, which is largely obscured by Eastcote House would appear as a glimpse of plain rendered wall. Visible to the west would be the weatherboarded elevation with the slate roof sloping away, and glimpses of other gables and elements of roof which make up the development.
- 9.14 The amenity of neighbouring residential properties is not unduly affected in terms of overshadowing or overlooking. Overshadowing caused by the development should be negligible given the existing, much higher, structure which sits behind the site - namely the church. It would be properties diagonally opposite which would lose some morning and evening light respectively as the gap is filled by the new build.

9.15 The windows would have direct views into the gardens of the houses opposite. However, there would be living room windows across from the bedroom windows of the existing houses. This is not an unusual scenario, however, for a densely populated urban location especially where streets are this narrow. As the supporting text to policy UEA13 of the Adopted Review Colchester Borough Local Plan states: "Exceptions may be allowed to the standards within Policy UEA13 where the historic character of the area already exhibits different characteristics, such as an area of Victorian terraced houses where compliance may result in artificially restricted or manufactured development."

9.16 Turning to the representations:

1. This issue has already been analysed above;
2. Whilst some light may be lost to part of the church, this is limited as there are already two-storey properties on the opposite side of East Street. Photographs taken this January show the light that the church enjoys even in the darkest weeks of the year, this would undoubtedly be reduced in winter, by the new structures. There have also previously been buildings on the site of Papa's which were taller than the existing structure, and there appear to have been two-storey houses here in the 1920s.
3. Regarding potential overlooking of the church, including private ceremonies and so on, whilst the concern behind this is understood, it is a difficult argument to sustain. This is the rear aspect of the church, the main entrance being to the High Street elevation. The churchyard to the rear is already overlooked by many windows belonging to several existing properties. Finally, regarding comments about invasiveness at funerals (the funeral of a celebrity a few years ago has been quoted by several people) the churchyard is already a publicly accessible area;
4. It is possible that litter could arise if the sitting out area is removed. It is also possible that the lack of such an area will encourage people to move on and eat their chips elsewhere, as is the case with many any other chip shops. Tables and chairs are also offered within the restaurant;
5. The design and materials have both vernacular and modern references. The height is slightly above that of Eastcote House. This is dictated by the width of the existing building and the requirement for the existing shop to continue during construction and adherence to traditional roof pitches. The timber shop-front across two-thirds of the building is also very traditional. In contrast, the Juliet, some of the windows, and indeed the garage, are non-traditional. The flats would, on balance, appear as traditional in their inception, with some modern additions;

6. One usable parking space (within the garage) is proposed, which is what exists now. Demand on the site would, of course, be intensified, with two residences added to it. It is, however, unrealistic and unreasonable to ask for parking for flats in such a central location. Anyone moving in will be well aware that the parking of a vehicle will be unlikely in this location. Very few dwellings in the area have on site parking; As it is, the provision of parking within the site goes against the grain of the area, and arguably even a nil provision would have been more appropriate;
7. Most of the roof would be about one metre higher than Eastcote House, which is itself the highest building in East Street. The central element of the proposal would, therefore, be the highest building on East Street. The height of the building is in part dictated by the depth of the existing building and to bring the ridgeline down would result in a very slack, unsympathetic, roof-pitch. The height matches the overall design ethos of the proposal, thus making most of it higher than most of the properties in East Street. This is not, of itself, a reason for refusal.
8. The balconies represented new elements in the street-scene, and the applicant has removed these elements from the scheme.
9. The claim of not having been notified is generally incorrect. One near neighbour's address was out of date, and he did not thus receive the initial notification. This has since been rectified. Almost 50 neighbouring properties and individuals who had commented on the previous application, were notified, some later than others. To this it must be added that the Friends of St. Mary's and Wivenhoe Parish Council were notified, a public notice was posted on site and the application was advertised in the local press. Consultation was thus extensive;
10. The agent has clarified this point as follows: "deliveries take place next to 'PAPAS" in East Street as has been the case for many years unchanged, and occur 3 times per week. The delivery vehicles vary in size from transit vans to 2 ton long wheel base Luton vans 4.1m long & 1.98m wide, to occasional larger lorries of about the same size (6.5m x 2.3m) as brewers drays which serve the Black Buoy Inn. The normal stopping delivery time is 10-15 minutes. Fish is delivered usually by FAS Ipswich, Potatoes by Lloyd Russell and oil in small vans by Fryers Pride. These suppliers have always been prepared to move their vehicles, when the occasional lorry is also trying to get past . Cars can pass during deliveries without hindrance."
11. This is covered under the answer to objection number 7;
12. Scaled diagrams suggest that the Swatchways building will prevent buildings from any overlooking;
13. This discrepancy is noted, but does not detract from the merits of the proposal as a whole;
14. The scale of the development is not considered to be an overdevelopment of the site.

15. The Friends of St. Mary's was notified;
16. This has already been covered under item 5;
17. It is accepted the site is limited. However, this is not a reason to refuse permission;
18. This discrepancy is noted, and the agent has since amended the drawings;
19. The development would not be overbearing and satisfies UEA13. The canyon effect which the Town Council claims would occur is a continuation of the general pattern of development (i.e. generally two-storey on a narrow street);
20. This has already been answered in point 1;
21. This has already been answered in point 9;
22. The flue is clearly marked, and the agent has confirmed: "No additional coolers or noise attenuators are anticipated to be required."
- 23-28 These points have already been responded to above.
29. Planning permission is recommended on the basis of the retention of the existing building. Conservation Area Consent would be required to demolish the building.
30. This has already been covered in the above commentary;
31. The proposed situation is not different to the existing scenario.

In relation to the Highway Authority's comments about the automatic garage door, these are noted, but the expected level of use of this garage would be extremely low, and in the balance of a more satisfactory streetscape this minor inconvenience is deemed to be acceptable.

10.0 Conclusion

- 10.1 In conclusion, the principle of this development is not opposed, the scheme is considered to be acceptable in scale and design, and does not unacceptably affect the amenity of any nearby residents or other users.
- 10.2. It is recognised that there will be altered views of the Listed St. Mary's Church, and that views up Rose Lane which currently comprise the main roof of the church, will be affected. At the same time, however, the current view of flue, chairs and tables and concrete wall detracts from the Conservation Area and setting of this Listed Building. The positioning of the development will also frame the principle feature of the church as seen from East Street, that is to say the porch and tower. The quality of re-design of the chip shop is also an improvement on the current squat, single-storey edifice.

10.3 Whilst the many objections are noted, and whilst it is acknowledged that this site is important to the residents of Wivenhoe, the application is recommended for approval upon the dating of a Unilateral Undertaking for contributions towards Open Space, Sports and Recreation facilities.

11.0 Background Papers

11.1 ARC; HA, HH, CD, PTC, NLR

Recommendation

The application be approved subject to the dating of the submitted Unilateral Undertaking (UU) for contributions towards Open Space, Sports and Recreation facilities and the conditions below.

Conditions

1 – A1.5 (Time limit for commencement of Development)

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

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

2 – C3.2 (Materials as Stated in Application)

The external materials and finishes to be used shall be as stated on the application form and as indicated on the approved plans and schedule returned herewith, unless otherwise agreed in writing by the Local Planning Authority.

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

3 - C12.2 (Details of Walls and 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 approved features shall be provided as approved prior to the commencement of the use hereby approved and shall be retained thereafter.

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

4 – A2.2 (amended plans)

The development hereby permitted shall be implemented in all respects strictly in accordance with the revised drawing no[s] [Papas Sheet 03, rev G, Sheet 04 rev E], received 24th June 2008.

Reason: The original and first amended plans were unsatisfactory because the open garage design, and later the rear walkway design, were not visually acceptable in this Conservation Area.

5 – Non Standard Condition

Prior to the commencement of development, full details of the proposed garage door shall be submitted to, and agreed in writing by, the Local Planning Authority. These details shall be of an automatic, roller style of door which does not oversail the highway, and is of Conservation standard. The agreed details shall be installed prior to the occupation of the residential units and shall thereafter be retained.

Reason: To ensure that the development preserves and enhances the character of the Conservation Area and minimises impact on the Highway.

6 – Non Standard Condition

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

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

7 – Non Standard Condition

Prior to the commencement of development, full details of the proposed sun-pipe and flue shall be submitted to, and agreed in writing by, the Local Planning Authority. These details shall be implemented as agreed and kept in place at all times.

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

8 – Non Standard Condition

Notwithstanding the stipulations of the General Permitted Development Order, no external ducting or other plant shall be placed on the external walls or roofs of the building hereby approved without the prior written permission of the Local Planning Authority.

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

9 – Non Standard Condition

Prior to the commencement of development, a scheme to cope with noise and odour elimination shall be submitted to, and agreed in writing by, the Local Planning Authority. The agreed scheme shall be implemented prior to the occupation of any residential unit and kept in place at all times thereafter.

Reason: In the interests of residential amenity.

10 – Non Standard Condition

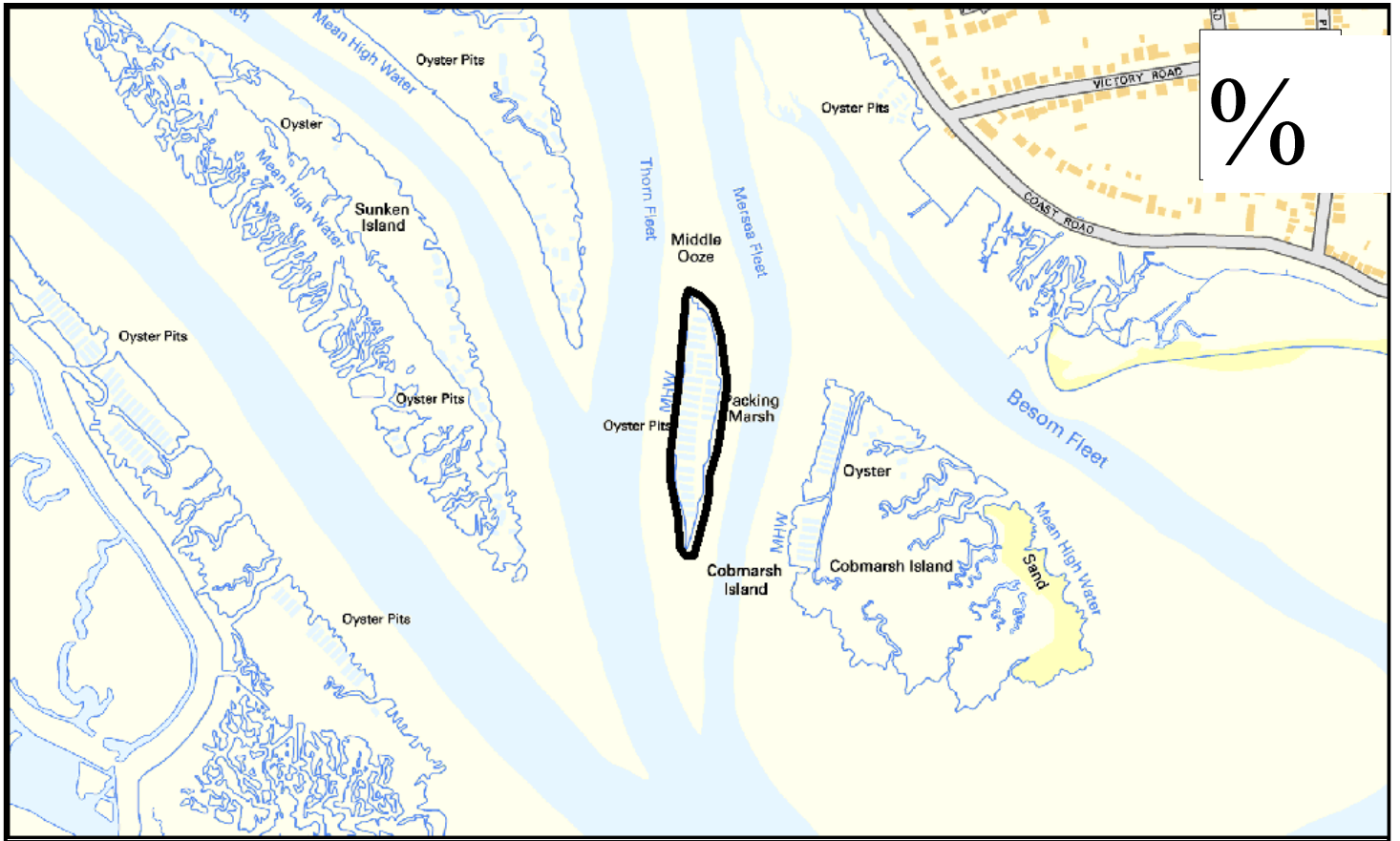
Prior to the commencement of development, full details of the proposed screen to the rear walkway, shall be submitted to, and agreed in writing by, the Local Planning Authority. The agreed details shall be implemented prior to the occupation of any residential unit and kept in place at all times.

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

Informatives:

Non Standard Informative

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



Application No: 081003

Location: Packing Shed Island, off Coast Road, West Mersea, Colchester

Scale (approx): 1:1250

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7.5 Case Officer: Sue Jackson

EXPIRY DATE: 12/08/2008

OTHER

Site: Coast Road, West Mersea, Colchester

Application No: 081003

Date Received: 16th June 2008

Applicant: Mr W Kimberley

Development: Build bunds of granite stone along the west side of packing shed island to protect the island and the shed from further erosion.

Ward: West Mersea

Summary of Recommendation: Approved without conditions

1.0 Planning Report Introduction

1.1 This application is reported to the Planning Committee as the applicant's wife is a Borough Councillor.

2.0 Site Description

2.1 The application site is Packing Shed Island located off the coast of Mersea Island.

3.0 Description of Proposal

3.1 This retrospective application relates to the laying of 300 tonnes of granite to build up bunds along the west side of the island to protect the Island and shed from further erosion.

4.0 Land Use Allocation

4.1 Countryside Conservation Area
Ramsar Site
SSSI
SAC
SPA

5.0 Relevant Planning History

5.1 None

6.0 Principal Policies

6.1 Adopted Review Borough Local Plan
CE1 - The Open and Undeveloped Countryside
C03 - Countryside Conservation Areas
C05 - Habitats

7.0 Consultations

7.1 Natural England comment as follows:-

"Conservation (Natural Habitats & C) Regulations 1994

The development outlined in the current application is not directly connected with the management of the above listed sites for nature conservation. (Blackwater Estuary SSSI, Blackwater Estuary SPA, Blackwater Estuary Ramsar.

It is the opinion of Natural England that the proposed site IS NOT likely to have significant effect on any designated site.

Wildlife and Countryside Act 1981, as incorporated by The Countryside and Rights of Way Act 2000

The provisions of Section 28G and I are set out in DETR circular 04/2001 (para 53-57).

Natural England advises that the development outlined in the current application does not affect a Site of Special Scientific Interest.

I also draw your attention to your duty, under S28G of the Wildlife and Countryside Act 1981, as incorporated by the Countryside and Rights of Way Act 2000, to take reasonable steps, consistent with the proper exercise of your functions, to further the conservation and enhancement of any SSSI.

Protected Species

Natural England currently has no reason to believe that the application will have a detrimental impact on any protected species.

If any information about protected species is reported or suspected from this site please contact Natural England again for our advice (n.b. PPS9 Paragraphs 15-16)."

7.2 The Environment Agency has granted a licence for the work.

8.0 Town Council's Views

8.1 West Mersea Town Council recommend consent.

9.0 Representations

9.1 None received

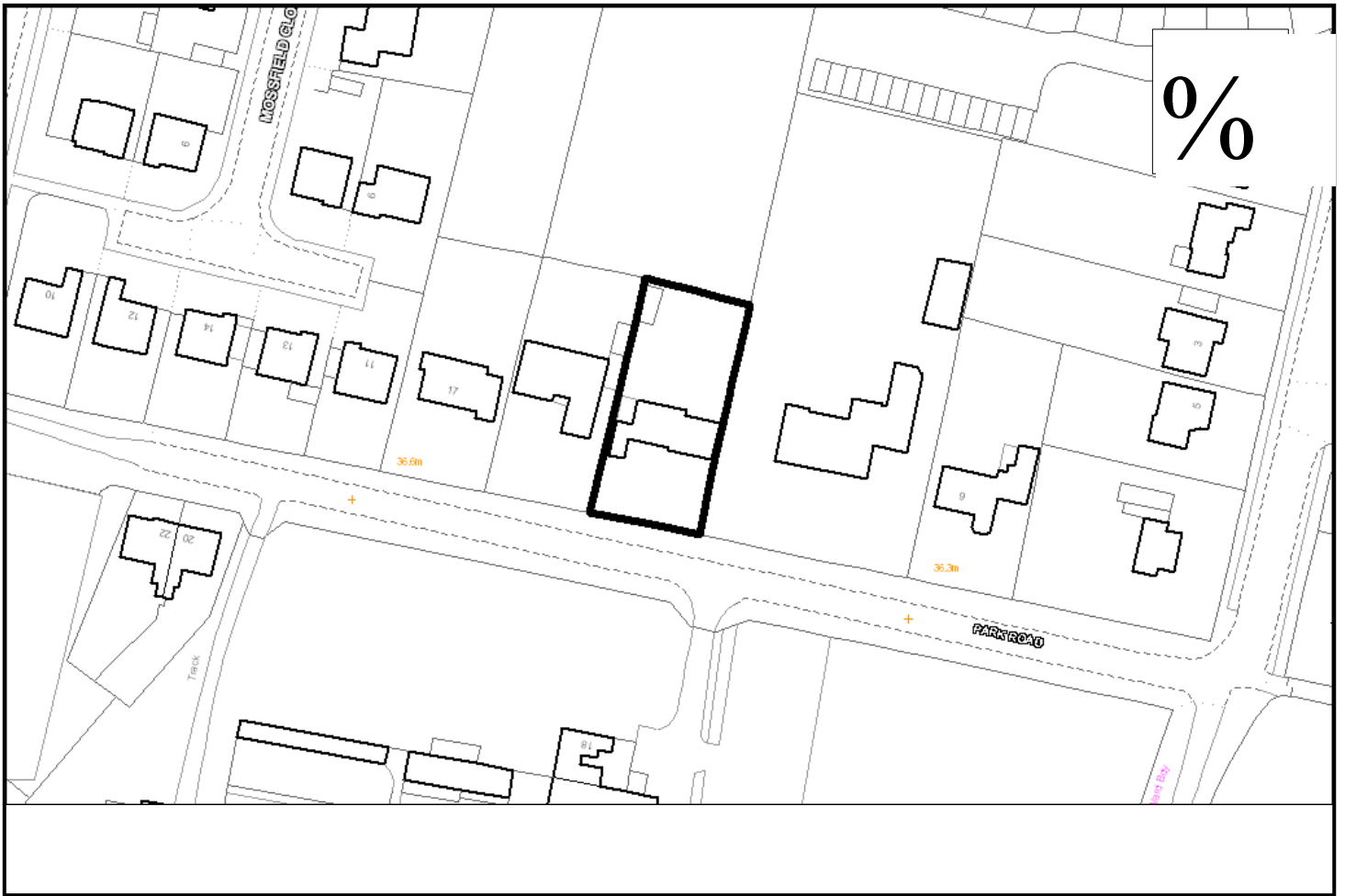
10.0 Report

10.1 The work constitutes an engineering operation and therefore requires planning permission. The bunds are not conspicuous and blend in with other material, loose stone and shells, comprising part of the island.

11.0 Background Papers

11.1 ARC; EN; NR

Recommendation - Approved with no conditions



Application No: 081154

Location: Parkdale, 13 Park Road, Colchester, CO3 3UL

Scale (approx): 1:1250

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7.6 Case Officer: Simon Osborn

EXPIRY DATE: 08/08/2008

OTHER

Site: 13 Park Road, Colchester, CO3 3UL

Application No: 081154

Date Received: 12th June 2008

Agent: Mr Homa Cherry

Applicant: Mr M Patel

Development: Proposed single storey extension providing additional bedroom and change of use from residential home to nursing home for people with physical or mental difficulties. Resubmission of 080777.

Ward: Lexden

Summary of Recommendation: Approved Conditional

1.0 Planning Report Introduction

1.1 This application was deferred from your last meeting in order to seek information regarding:

- Existing and proposed occupiers
- Accessibility to bus stop access
- Garden use
- Noise impacts
- Potential for change of use

Further information is being sought from the applicant on these points and will be made available to Members at their meeting.

2.0 Planning Report Introduction

2.1 This application is called-in by Councillor Mike Hardy, on the grounds of: overdevelopment; unsuitable expansion in a residential area; highway implications; loss of privacy; increased noise levels.

3.0 Site Description

3.1 The application site comprises a single-storey dwelling with a frontage of 19m and a depth of 41m. The site has access onto the adopted part of Park Road via a private drive, which serves a number of properties in the vicinity. The surrounding area is predominantly residential in character, with offices and premises currently in the ownership of Essex County Council, opposite. There are 3 mature trees at the front of the site.

4.0 Description of Proposal

- 4.1 The existing premises comprise a residential dwelling with six bedrooms utilised by persons with learning disabilities. The proposal, for an extension at the front of the property, will increase the number of bedrooms to seven and provide an "office" room. This requires change of use from Class C3 dwelling house to Class C2 residential institution. The premises will provide employment for a total of 8 persons, working in shifts, with no more than 3 employees in any given shift.
- 4.2 An arboricultural assessment was submitted with the application to assess the impact of the proposal on the existing trees.

5.0 Land Use Allocation

- 5.1 Residential.

6.0 Relevant Planning History

- 6.1 The original bungalow and garage was permitted in 1962 (Ref 15314/3) and additions were approved in 1971 (Ref 15314/4) and 1996 (Ref 96/1112).
- 6.2 Application 080777 for a single storey extension providing additional bedroom and change of use to nursing home for people with physical or mental difficulties, was withdrawn by the applicant in June 2008. This was to allow the preparation of an arboricultural assessment and to make alterations to the design/external appearance to the proposal.

7.0 Principal Policies

- 7.1 Adopted Review Colchester Borough Local Plan - 2004
DC1 - Development Control Considerations
UEA11 - Design
UEA12 - Backland Development
UEA13 - Development, including Extensions, Adjoining Existing or Proposed Residential Property
CO4 - Landscape Features
P1 - Pollution
H2 - Meeting Different Needs

8.0 Consultations

- 8.1 The Highway Authority stated it does not wish to object to the proposal as submitted. A note was added that the public's right and ease of passage over Public Footpath No. 201 (Lexden) be maintained free and unobstructed at all times, and no construction plant, vehicles or materials to be left on the public right of way.
- 8.2 Environmental Control recommended the Construction and Demolition standard informative.
- 8.3 The Council's Tree Officer was satisfied with the landscape/arboricultural aspect of the proposal, subject to appropriate conditions.

9.0 Representations

9.1 Three letters against the proposal were received, which raised the following issues:

1. The Land Registry title indicates the dwelling shall not be used for any purposes other than as a private dwelling house.
2. The sewage and drainage facilities are already overloaded.
3. Cannot be certain that the works will not damage the lime tree at No. 15, which is a protected tree.
4. Inadequate parking situation will be worsened.
5. Screaming and shouting from patients is disturbing.
6. Lack of clarity as to whether the scheme is for people with mental difficulties.
7. Use not appropriate within a residential area.

10.0 Report

Design

10.1 The existing building is an original single-storey bungalow, which has been added to in the past. These additions include a flat-roofed front extension and a Mediterranean-style enclosed patio, also at the front. The proposal involves the demolition of the latter feature and the construction of two pitched roof, gabled projections, with a somewhat larger footprint than the Mediterranean-style patio. These projections extend 550mm forward of the flat-roofed front extension, thus providing an articulation and helping the flat-roofed area to appear subservient. These additions provide a larger kitchen and bathroom, a new (7th) bedroom, and a new office. In overall terms, the design is considered an acceptable addition to the street scene.

Other Material Considerations

- 10.2 The prime issue raised by this application is the principle of the change of use. It is understood that the existing premises has operated as a home for persons with physical and learning disabilities for six persons. Under planning law, it is generally recognised that up to six people may live together in a dwelling (including persons with physical and learning difficulties), but once this number is exceeded, planning permission is required for change of use. Thus the proposed addition to create a 7th bedroom requires change of use from Class C3 (dwellinghouse) to Class C2 (residential institution).
- 10.3 The objectors refer to a covenant on the land that the dwelling shall not be used for any purposes other than as a private dwelling house. Clearly, the proposal will change this. However, this is a private covenant, which was imposed between the vendors and the purchasers of the land back in 1892. It is not the role of the Local Planning Authority to administer compliance with private covenants.

- 10.4 Policy H2 of the Local Plan states that proposals for the provision of specialist residential accommodation for vulnerable groups in the community, including the mentally ill and disabled people, will be granted planning permission, provided that: there is sufficient open amenity space within the curtilage of the unit; and, there is good access to a reasonable range of shops, services and job opportunities, or these are readily accessible by public transport. In this instance, there is a rear garden of approximately 300 square metres in size and the site is within easy walking distance of the Lexden Road bus corridor. It is also noted that the adjacent premises at 11 Park Road operates as a nursing home.
- 10.5 The Essex Planning Officers Association Vehicle Parking Standards recommends in the instance of Class C2 uses, provision of 1 space per resident staff and 1 space per 3 bed spaces. There are no resident staff and 7 bed spaces, which equates to a standard of 2.3 spaces (which is expressed as a maximum). There is sufficient space on the frontage to comply with this standard and the addition of one extra bedroom is unlikely to lead to a significant change to existing requirements.
- 10.6 Concern has also been expressed about sewage capacity. This is the responsibility of Anglian Water, but in any case, as with the parking situation referred to above, the addition of one extra bedroom is unlikely to lead to a significant change to existing requirements.

Conclusion

- 10.7 In accordance with Policy H2 of the Local Plan, the area in which the application site is located is considered suitable for a residential institution such as the one proposed. The physical extensions to the property are considered to be acceptable in design terms. The additions to create a 7th bedroom do entail a change of use of the premises from Class C3 to Class C2: however, the addition to create a 7th bedroom will not significantly change the way the way in which the premises are being used. In planning terms, therefore, the proposal is considered acceptable and is recommended for approval.

11.0 Background Papers

- 10.1 ARC; SDD; PTC; NLR; HA; HH; TL

Recommendation – Approved 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 - C3.5 Materials to Match Existing

The external materials and finishes to be used for the approved development, shall be of the same type and colour as those of the existing building unless otherwise agreed in writing by the Local Planning Authority.

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

3 - 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.

4 - 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.

5 - 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.

6 - Non-Standard Condition

The construction shall take place solely in accordance with the terms of the Methodology Statement received on 12th June 2008, which forms part of this permission, and no other works shall take place that would affect the trees unless otherwise agreed in writing by the Local Planning Authority.

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

Informatives

Non-Standard Informative

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

Non-Standard Informative

2 The public's right and ease of passage over Public Footpath No. 201 (Lexden) shall be maintained free and unobstructed at all times and no construction plant, vehicles or materials shall be left on the Public Right of Way.

Non-Standard Informative

- 3 A neighbour has referred to a covenant on the land that the dwelling shall not be used for any proposes other than as a private dwelling house. This planning permission does not override the terms of any private covenant that runs with the land and it is the responsibility of the applicant/developer to consider compliance with it.

7.7 Case Officer: Nick McKeever

EXPIRY DATE: 22/08/2008

OTHER

Site: Brickhouse Farm, Lower Road, Peldon, Colchester, CO5 7QR

Application No: 081237

Date Received: 26th June 2008

Agent: Mr Andy Cameron

Applicant: Mrs L Davidson

Development: Listed Building application for internal and external alterations

Ward: Pyefleet

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 The application is submitted to the Planning Committee as the Applicant is the wife of Councillor P Davidson.

2.0 Site Description

2.1 Brickhouse Farm is a Grade II Listed Building. The Listing describes the building as follows:-

"Built circa 1780 originally timber framed, the red brick cladding is of 1885, subsequent to earthquake damage. Two storeys, with cellar and attics. Red plain tile pyramid roof. Three window range late C18 double hung vertical sliding sashes with glazing bars....Late C19 porch. Late 19 single storey service range on west side in red brick with red plain tile roof, with crested ridge tiles...."

2.2 The proposed works all relate to the late 19 single service range. The application is supported by an Impact and Justification Statement which is reproduced for Member's information:-

1.1 The newly positioned kitchen is actually a return to its original position with a serving hatch into the dining room already existing. This allows the kitchen to serve the dining room more easily.

1.2 The new aga position involves opening up an existing recessed fireplace and existing flue.

1.3 The cutting in of a new window is to allow south facing light to spread into the kitchen.

1.4 Forming the utility and WC only involves the construction of a partition wall across the room. The work to the side door making the top portion glazed again is to allow more light into the room and as a look out for anybody coming onto the drive of the house.

- 1.5 The proposed WC is to replace the WC lost in the proposed alterations and also
To provide a ground floor WC for the main house that is nearer the main living areas.
- 1.6 Forming the garden room – the reason for this is a business reason as much as a lifestyle reason. With farming needing to diversify there is a continued need for accommodating shooting parties, educational parties and the like, and keeping the “messy” part away from the main house would be preferable.
- 1.7 With regards to the lifestyle reason releasing the space by removing the walls opens up the room nicely and the windows and doors are required to get natural light into the room, the cropped hip tends to give a dark feel to the place.
- 1.8 All the joinery is to be softwood painted, single glazed with secondary glazing within the reveals. Windows to be casement sashes and flush fitting. Doors likewise.
- 1.9 This would give not only the light for the room but also scenery across the fields.
- 1.10 The secondary door to the front right is to be removed and blocked up to match the existing up to window sill level. Introduce new sliding sash window to match those existing to this elevation. This assists in the security aspect of the building as this puts an entrance behind a fence rather than to the front of the property.
- 1.11 We would like to suggest that, in our opinion, the impact of the work on the listed building would be quite minimal. The effect on the lives and operations of the occupants would be a great improvement.

3.0 Land Use Allocation

- 3.1 Peldon Village Envelope/ Countryside Conservation Area

4.0 Relevant Planning History

- 4.1 This current application is a re-submission of LB/COL/06/0437 - Removal of fireplace internally, new windows and doors, roof glazing, form utility room and w.c. This application was withdrawn on 31 May 2008.

5.0 Principal Policies

- 5.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Listed Buildings UEA5
Design - UEA11& UEA13

6.0 Consultations

- 6.1 English Heritage advise that their specialist staff have considered the information received and do not wish to offer any comments on this occasion.

7.0 Parish Council's Views

- 7.1 Winstred Hundred Parish Council has no objection.

8.0 Representations

8.1 None received

9.0 Report

9.1 This revised application follows on from discussion with the Agent and the Council's Conservation & Design Officer. The main point of discussions has concentrated upon the size and design of the new windows to be inserted within this single storey service range. Several revisions have been put forward, ultimately arriving at the present submission. The Conservation & Design Officer now considers that the proposed windows are of an appropriate size and design.

9.2 Given that both English Heritage and the Council's Conservation & Design Officer, consider the revised scheme to be acceptable in terms of the impact upon the appearance and fabric of this Listed Building, consent is recommended accordingly.

10.0 Background Papers

10.1 ARC; EH; PTC

Recommendation - Approved Conditional

Conditions

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

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

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

2 - Non-Standard Condition

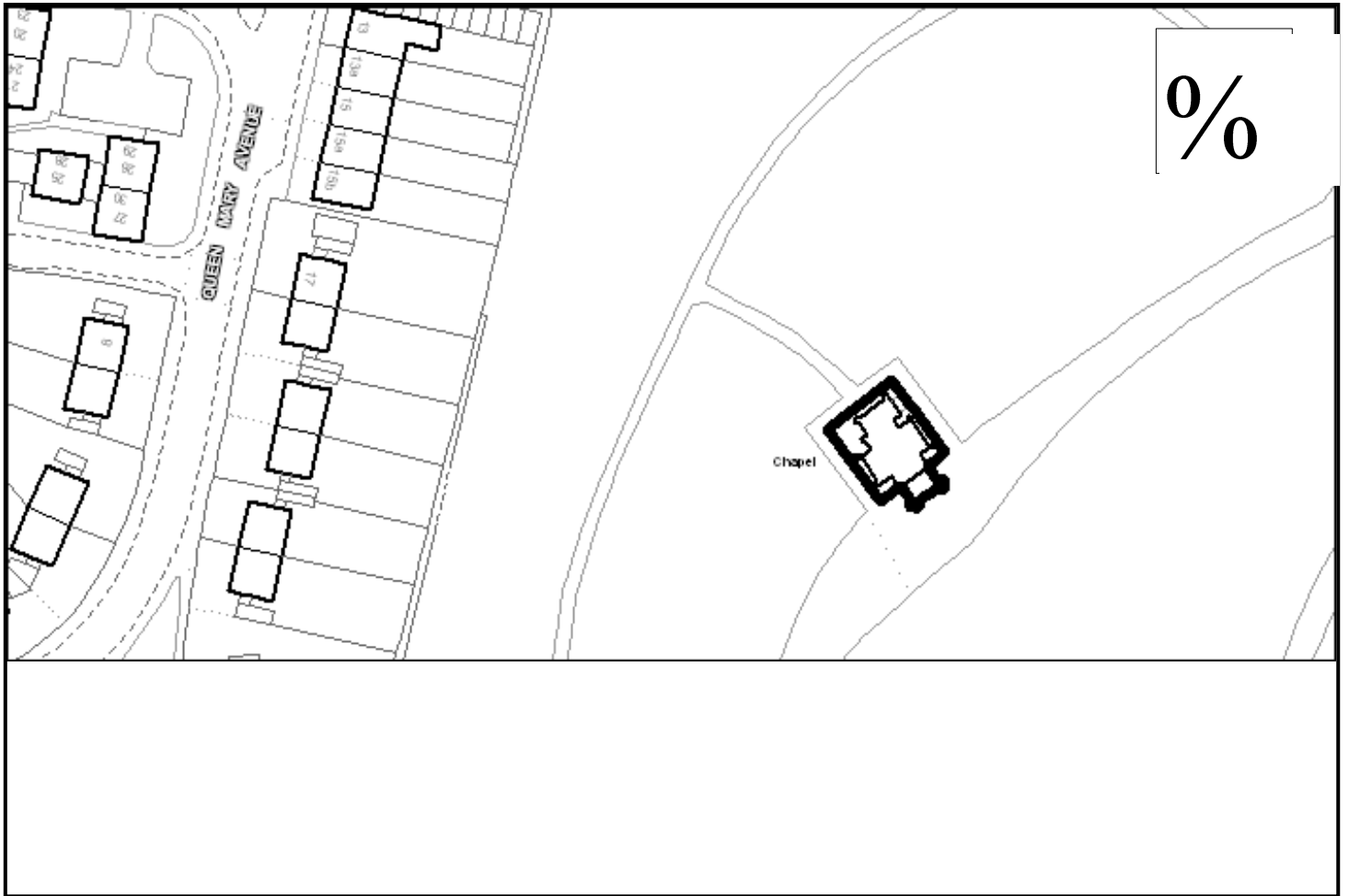
The proposed windows and doors shall be constructed in accordance with the approved drawings and as detailed in the supporting Impact and Justification Statement.

Reason: To ensure the use of appropriate materials and detailing on this Grade II Listed Building.

Informatives

Non-Standard Informative

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



Application No: 081291

Location: The Non Conformist Cemetery Chapel, The Cemetery, Mersea Road, Colchester, CO2 8RU

Scale (approx): 1:1250

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7.8 Case Officer: Nick McKeever

EXPIRY DATE: 02/09/2008

OTHER

Site: The Cemetery, Mersea Road, Colchester, CO2 8RU

Application No: 081291

Date Received: 7th July 2008

Applicant: Miss Corine Mitchell

Development: Change of use from non conformist chapel to florists

Ward: Berechurch

Summary of Recommendation: Conditional Approval

1.0 Site Description

- 1.1 The existing Non-Conformist Chapel is a single storey building located within the Colchester Cemetery, off Mersea Road, Colchester. It lies to the north west of the southern-most entrance to the cemetery adjacent to Bourne Court, Mersea Road.
- 1.2 Within the cemetery to the south are various works buildings and the public conveniences. Residential properties within Dudley Close are located some distance to the east, and within Queen Mary Avenue to the north.
- 1.3 The subject building is an attractive piece of ecclesiastic architecture, constructed in buff coloured stone and a slate roof.

2.0 Land Use Allocation

- 2.1 Cemetery

3.0 Relevant Planning History

- 3.1 None

4.0 Principal Policies

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

5.0 Consultations

- 5.1 Environmental Control has no comment

6.0 Representations

6.1 Councillor Dave Harris has written to say that this is an innovative use of a historical building that should be preserved. In general he supports the application with the proviso that:-

- Rubbish & litter should be contained within the business and that the mechanism for storing & disposal does not spoil the quiet and tranquillity
- Nearby residents are not disturbed by noise etc
- Delivery vehicles should come & go at sensible times and are driven with due regard to the environment. Process should be in place to guarantee respect for mourners and visitors to gravesides
- Any sign on the building, particularly illuminated signs, should be in keeping.

Councillor Davis hopes that these suggestions can be incorporated into any permission and wishes the business well.

7.0 Report

7.1 It is not known when the original use of this attractive building ceased, although the Manager, Cemetery & Crematorium Services, has advised that, based upon anecdotal evidence this is in excess of 30 years ago. The building has in more recent years been used for temporary storage of ground maintenance equipment.

7.2 It has a very modest internal floor area of approximately 72 sq. metres. Car parking is available around the hardened access area in front of the Chapel.

7.3 The building appears to be in very good condition externally and, as far as the maintenance and upkeep is concerned, it would be beneficial to find an appropriate alternative use for it. The modest income derived from the use will help towards the maintenance of the building.

7.4 Any proposed alternative use has of course to be balanced against the need to protect and preserve the particularly sensitive character of the cemetery as a place for quiet meditation and contemplation. Under these particular circumstances an unrestricted A1 (Shop) use would not be acceptable. However, the very modest use as a florist could almost be regarded as ancillary to the principal use of the site, and as an asset for the local community who use these grounds.

7.5 The proposed use is supported by the Cemetery & Crematorium division of Colchester Borough Council's Environment & Protective Services on this basis.

7.6 The application stipulates that the proposed opening hours would be in line with the summer opening hours of the cemetery i.e. 08:00 am to 08:00 pm, but that in reality the hours will probably be more akin to normal shop hours.

7.7 Permission is recommended subject to the use being restricted solely to that as applied for.

8.0 Background Papers

8.1 ARC; HH

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

The premises shall be used for a florist purpose only as defined in the Use Class Order and for no other purpose (including any other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

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

3 - A5.2 Restaurants, Clubs etc

The use hereby permitted shall not be open to customers outside of the opening hours of the cemetery.

Reason: For the avoidance of doubt as to the scope of this permission and in order to safeguard the amenities of the area in general.

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

Our goal is to be a high performing Council

Our corporate objectives for 2006-2009 are:



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