

Planning Committee

Town Hall, Colchester
2 April 2009 at 6:00pm

This committee deals with

planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

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Information for Members of the Public

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Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices and at www.colchester.gov.uk.

Private Sessions

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

Mobile phones, pagers, cameras, audio recorders

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

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

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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
2 April 2009 at 6:00pm**

Members

Chairman : Councillor Ray Gamble.
Deputy Chairman : Councillor Stephen Ford.
Councillors Peter Chillingworth, Mary Blandon,
Nigel Chapman, Helen Chuah, Mark Cory, John Elliott,
Wyn Foster, Chris Hall, Sonia Lewis and Nigel 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:-

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 19

March 2009.

7. Planning Applications

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

1. 090152 24 Elmstead Road, Wivenhoe, CO7 9HX
(Wivenhoe Cross)

Erection of 1 no. 4 bedroom dwelling following demolition of 2 no. one and a half storey cottages.

2. 081452 Tower View, Pennsylvania Lane, Tiptree, CO5 0TU
(Tiptree)

Erection of one dwelling.

3. 081481 East Mersea Hall, Church Lane, East Mersea, Colchester, CO5 8TJ
(Pyefleet)

Change of use of drawing room at East Mersea Hall from residential to mixed residential/wedding and functions venue. Erection of marquee on temporary basis each year between 5 April and 15 October. Change of use part field OS2036 to grassed vehicle parking area in connection with weddings/functions at the Hall and at other times for church services and annual East Mersea Village Fete. Provision of footbridge over moat for direct access from new parking field to East Mersea Hall grounds.

4. 090090 4 Nayland Road, Colchester, CO4 5EG
(Mile End)

Design amendments to plot 1 to include rooms in roof, part of existing residential development under construction.

5. 090164 400 The Crescent, Colchester, CO4 9YQ
(Highwoods)

Extension of existing car park from 50 to 130 spaces. Variation of Condition 02 of planning permission COL/98/0335.

6. 090205 New Farm Road, Stanway, Colchester, CO3 0PG
(Stanway)

Erection of a 22.5 metre telecommunications monopole with 3 no. antenna. Floodlights from existing column to be located at same

height.

7. 090211 Collins Green, School Road, Messing, Colchester, CO5 9TH
(Birch and Winstree)

Retrospective application for minor elevational change to plots 1 and 2.

8. 090235 Great Oaks, Horkesley Road, Boxted, Colchester, Co4 5HS
(Fordham and Stour)

Variation of Condition no. 2 of Application F/COL/99/1486 to allow occupant to work in agriculture, horticulture or forestry outside of the site.

9. 090293 Little Acorns, Abbotts Lane, Eight Ash Green, CO6 3QL
(West Bergholt and Eight Ash Green)

Variation of Condition 10 of planning permission O/COL/06/0917. Remove dead and dying trees and replant trees and hedges.

10. 090070 Highwoods Square, Colchester, CO4 9ED
(Highwoods)

Proposed 10.6m high wind turbine and associated works for a period of 15 years.

11. 090084 Goojerat Road Link, Colchester Garrison, Colchester
(Shrub End)

Creation of new east-west road link between Butt Road and Circular Road West, broadly along the existing alignment of Goojerat Road, including access to Areas K1, K2, L and N (in accordance with the Overall Development Masterplan and Master Layout Plan).

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).

9. Amendment Sheet

See Amendment Sheet attached.

**PLANNING COMMITTEE
19 MARCH 2009**

Present :- Councillor Ray Gamble* (Chairman)
Councillors Mary Blandon*, Peter Chillingworth*,
Helen Chuah*, Mark Cory, John Elliott*, Stephen Ford,
Wyn Foster*, Chris Hall*, Sonia Lewis* and Nigel Offen*
Substitute Member :- Councillor Jackie Maclean
for Councillor Nigel Chapman*

(* Committee members who attended the formal site visit.
Councillor Hall was present for the site visit at minute no.
226 only and Councillors Chuah and Lewis took no part
in the site visit at minute no. 231.)

Councillor Gamble was not present for the determination of all applications agreed under the en bloc arrangements, minute nos. 228, 229 and 233-235 refer.

225. Minutes

The minutes of the meeting held on 5 March 2009 were confirmed as a correct record.

226. 082124 Essex Hall Road, Colchester

The Committee considered an application for the erection of a new care home and special needs unit with attendant gardens and car parking and the establishment of approximately 1.35 hectares of public open space. 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.

Vincent Pearce, Planning Service Manager, and John More, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mrs Stuttle addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She referred to the outline planning permission which was approved in 1988 for just 9 flats; on that site plan this particular area was marked not to be used for buildings and to be retained for open space. The reason given was that the area was important and to protect the flood plain. That area is part of this site for a care home, so rather than establish an open space this application is denying a public open space. Also negative comments were made about increased traffic flows in 1984 so that may be tenfold today. The cycleway encroaches on visitor parking. The short cut to this quiet area is the reason for CCTV provision. Photographs taken in February show a lake on the flood plain

and eradication measures for Japanese Knotweed on the site has not been successful. She asked if the change in levels would affect the flood plain and where would it drain. She considered the situation to be totally unacceptable and commented that the area should be replanted for the use of residents and for people to enjoy; regeneration does not mean all areas should be developed. Residents were not formally notified of this planning application.

Mr Wilson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This was a carefully considered approach suited to the site and a good start for the regeneration area. This is an up to date care home for the elderly which positively encourages the use and enjoyment of the surrounding area. The building encourages residents to continue with their interests and hobbies and from a planning point of view the proposal fits into the surrounding area. Any detrimental effect on amenity for local residents would be minimal. The proposed building will be 45 metres distant and 2.5 metres lower than the flats. The traffic generated from the home is much less than it would be from a residential development. Detailed proposals for the minimisation of any flood risk and decontamination of the site had been submitted. The cycleway had been added at the request of the Borough Council.

Councillor Barlow attended and, with the consent of the Chairman, addressed the Committee. The Environmental Agency had withdrawn their objections on flooding grounds but he asked why this application was satisfactory in this respect when previous applications were not. The application should have been informed by an ecological survey and this still needs to be undertaken. Parking was insufficient for this proposal; there are already parking problems in the area with the station being so close and more areas may be concreted over for parking. The cyclepath represented a new connection from the station to Westway which opens up this area for crime; Claremont Heights already suffers from crime. He was surprised that only a few residents had received notification of this proposal, and those who had responded were not aware that the meeting was taking place.

It was explained that this was a full planning application which was not bound by the terms of the earlier outline permission. Standard consultation procedures had been followed for neighbouring dwellings to the site but the Essex Hall development would not have been consulted as a whole. This site was less susceptible to flooding than the area referred to by Mrs Stuttle. A flood risk assessment had been submitted with the application which included raised areas for a refuge and a lower area for compensatory flood storage capacity. Reports on contamination had been submitted and the contamination officer was satisfied; conditions had been added to ensure there would be no risk at a future date. Parking provision was thirty spaces, twenty-one for the care home and nine for the special care unit, plus three spaces for people with disabilities and ten spaces for cycles. This site cannot compensate for existing traffic problems in the area. The cyclelink was in the applicant's ownership. Construction techniques to avoid harm to trees would be used.

Members of the Committee were aware of the history and previous use of the site and of the traffic problems and local concerns. They were also aware that the planning policy position was clear that the proposal was satisfactory and suitable for the site.

This facility will fulfil a very serious need in the area and would make a difference to this group of the population. It would cause fewer problems and less traffic than residential units on the site and it was noted that the Highway Authority had not objected in spite of the narrowness of the road; appropriate signage was suggested. There were advantages to residents to have a well landscaped open space. Generally there was support for the use but the need for elderly people to use lifts to evacuate was not considered ideal; residential accommodation should be on the ground floor. An explanation regarding the users of the special care unit was requested. Parking was raised as an issue but it was recognised that the rail station and main bus routes were close to the site. Some concerns about flooding were expressed.

It was explained that whilst the Environment Agency do not give any reassurance that the area will not flood, they have suggested measures to mitigate the risk and had suggested suitable conditions and now appear satisfied. In response to concerns regarding staffing levels, it was explained that the planning system has no remit to control the operation of healthcare units. In respect of traffic and parking, the Council's own parking standards seek to encourage other modes of transport; this site is next to the railway station and bus stops, and within walking distance of the town centre, and could be one of the more sustainable sites in the borough. The cycleway had been required by the Planning Policy Team. The Highways Authority are satisfied. There could be management issues in terms of flat owners, and a requirement to produce a travel plan as part of Section 106 Agreement would demonstrate how the operators of the site, as employers, will encourage staff to use alternative modes of transport. If the cycleway were located more centrally it would create an area between dwellings and the cycleway where there would be less activity which might encourage antisocial behaviour.

RESOLVED (MAJORITY voted FOR) that –

(a) Consideration of the application be deferred for completion of a Legal Agreement to secure the following matters:-

- the transfer of the Open Space with an appropriate commuted sum;
- the provision of the north/south cycleway; and
- the provision of a Green Travel Plan for staff.

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

Councillor Peter Chillingworth (in respect of his professional association with the consultant who prepared the report for the Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7 (3)

227. 072007 Fields Farm Road, Layer de la Haye, CO2 9JN

The Committee considered an application for a proposed two bedroom residential dwelling in association with an established livery and riding school business. 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.

Vincent Pearce, Planning Service Manager, attended to assist the Committee in its deliberations. The principal rooms of the new, modest, brick built property, would be facing out into the existing yard. In respect of new permanent agricultural dwellings, the Government guidance comprises a function test and a financial test. The functional test was to establish that a property was required because the use of the site justified 24 hour supervision and that the accommodation could not be provided elsewhere. The consultant had confirmed that this test was satisfied. The financial test was to establish that the business has been in existence for a number of years and the profits generated were sufficient to prove that the business was viable. Conditions would be imposed to ensure that the house was tied to the equestrian business. The remainder of the paddock area would be restricted to grazing and no use by the riding school would be permitted. The applicant rented fields used for grazing and the view was that it was not necessary for such land to be in the ownership of the householder. The financial test that the business is viable has also been satisfied. The applicant has lived for four to five years in a mobile home on site and it is considered unreasonable to extend that time.

Barry Pettican addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He believed that the farm with the site paddocks were not included in the permission of 2007, so there would be no option but to refuse the application as nothing has changed. Capital for the new dwelling must come from the business income, but the house will be funded by the sale of a property. He drew the Committee's attention to paragraph 9.17 of the report in respect of the impact of the letting agency on the business case for the equine use. He had already waited for three years for a planning application to be made. Permanent approval avoids future enforcement action. In May 2008 a mortgage offer was requested but never provided. Whether or not there was a mortgage, Policy CO13 requires that it is a stand alone equine business without subsidy from any other financial source.

Mrs Tootal addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. They bought Barn Stables in 2001. They provide teaching for adults and children, riding for deaf children and livery. The operation is inspected annually by the Council. In 2004 they obtained permission for the caravan, therefore the need for a dwelling on site has been established. The business has been scrutinised and considered to be viable. The new property would be accessed via the stable yard. She had already entered into a Section 106 agreement for open space.

Members of the Committee commented that approval has been given for a mobile

home and that must have satisfied the test at that time and as nothing has changed since that time the functional test still stands. Some horses belong to other people so there is an animal welfare issue; the business cannot function unless there is 24 hour on-site supervision. Most of the objector's points relate to the financial test. The accounts show that the applicant could make her living from the business and also fund the erection of a modest sized dwelling. Two additional conditions were suggested, one to enable an employee to be permitted to live in the dwelling, and the other to ensure that the mobile home should be removed within a month of the occupation of the dwelling. If it is not possible to allow an employee to live in the dwelling at this stage, the applicant can submit an application in the future to remove the relevant restrictive. The test requires the business to fund the dwelling which it can do. Most objections should include reasons which relate to a proposal being contrary to policy and there seem to be no such grounds for refusal in this case. The property will be more pleasing than the mobile caravan and it is tied; Councillors know how difficult it is to remove such a tie.

It was agreed that it was sensible to impose a condition for the removal of the mobile home. A condition to enable the dwelling to be occupied by an employee has been deliberately removed because of the tension which existed in this case. The applicant's drive, enthusiasm and dedication to the riding school fulfils part of the reason of the functional test.

RESOLVED (MAJORITY voted FOR) that consideration of the application be deferred for the following matters:-

(a) Receipt of an appropriately scaled drawing showing the area of land required to form the domestic curtilage of the proposed house and the extent and position of the new house, all to the satisfaction of the local authority.

(b) Completion of an appropriate obligation/s under Section 106 of the Town & Country Planning Act 1990 (as amended) is/are satisfactorily entered into to ensure that:-

- the occupation and ownership of the proposed house is only by persons owning and operating the associated equestrian business on the adjacent site and the equestrian business is not sold, let or otherwise disposed of independently of the permitted house once implementation of that planning permission has commenced; and
- provision is made for an appropriate contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.

(c) Upon receipt of an appropriately scaled drawing and a satisfactory Legal Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report together with an additional condition to ensure the removal of the mobile home once the dwelling is completed.

228. 082132 Nayland Road, Great Horkesley

The Committee considered an application for the erection of a one bedroom bungalow on a small backland site that has been created to the rear of properties fronting Tile House Lane to the north, Elstar Lane to the west and south, and adjoining the garden of a property in Tile House Lane to the east. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that, subject to the deletion of the requirement for a contribution towards Open Space, Sport and Recreational Facilities, the application be approved with conditions and informatives as set out in the report, see also Amendment Sheet.

229. 082152 10 Manor Road, Wivenhoe, CO7 9LN

The Committee considered an application for the construction of a new two bedroom detached bungalow and the demolition of the existing single garage. The Committee had before it a report in which all information was set out. This application was deferred from the previous Committee meeting for an improved elevational treatment to be negotiated, see also Amendment Sheet. The Committee made a site visit prior to the last Committee meeting, see minute no. 218.

RESOLVED (UNANIMOUSLY) 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.

230. 090064 First and Second Floors of 15, 17 and 19 Head Street, Colchester, CO1 1NX

The Committee considered an application for a change of use of the first and second floor to A3/A4 use. The ground floor has A3 use approved. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Mr John Egan, on behalf of the Colchester Civic Society, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He asked that the Committee reject the application. The area was not

short of drinking establishments and he mentioned a number of others which were nearby. This is not a stress area. This establishment already has A3 use on the ground floor and if this application was granted there would be A4 use upstairs. He referred to a new standard developed by the Civic Trust equivalent to the Green Flag Award and hoped that Colchester would embrace the new standard. He did not believe that another drinking establishment would contribute positively to the town centre. There are no residential properties adjacent to the site, but there are many in the vicinity. Noise does emanate from such establishments and conditions are all very well but they need to be enforced.

Councillor Barlow attended and, with the consent of the Chairman, addressed the Committee on behalf of ward Councillor Spyvee. His concerns related to residents' amenity and a change of use referred to in the report which was allowed on appeal. He regarded the A3/A4 use situation as bizarre, and there was a lack of information on how much will be devoted to A3 use. He speculated that this could be a back door route to another pub which would cause a lot of problems in the area and distress to residents. He urged the Committee to reject this application or at least the A4 part.

Members of the Committee had considerable sympathy with Councillor Barlow's comments. There were a number of concerns: the application appeared to be a request for drinking on the first and second floors and there was some confusion about how the mixed use would operate; this could be a pub by the back door; the extra space would be a threefold increase; a query regarding a requirement for a smoking area or the possibility that people would smoke out on the pavement; and residents' amenity. This was an important location and more information was requested on the Purple Flag. Members queried whether the application could be refused on the grounds of the percentage of non-retail use in the street being exceeded. Other members were concerned at the prospect of an appeal against a refusal being upheld. The licensing authority had more power to control this type of operation and the Committee wanted to convey their views to the licensing team.

It was explained that A3/A4 mixed use establishments tended to serve food in the daytime and drinks in the evening. Whether or not it was A4 by the back door, the application is for a mixed use. They were difficult to control in terms of hours of different uses. Conditions could be put in place to ensure amenity of residents. The report mentions that there are no Council tax payers in adjacent properties but is silent on whether there are any residents in the area. The High Street is in a different policy area in terms of retaining a percentage of A1 retail street frontages; this is an upper floor area and that policy is not applicable to this application. The approved hours of use were specified by the Inspector as set out on the Amendment Sheet. The planning authority and licensing authority each have control over clearly defined aspects of this type of establishment and the planning authority cannot control that which another authority controls. Reasons for refusal need to be supported by planning policy and there appear to be no planning reasons applicable to this application. Vincent Pearce, Planning Service Manager, suggested that the Committee's concerns could be passed to the licensing team but they would need to be couched in appropriate terms, for example, a lack of smoking facilities or whether people leave the premises in an orderly manner, neither of which can be controlled by the planning system.

RESOLVED (MAJORITY voted FOR) that –

- (a) The application be approved with conditions and informatives as set out in the report.
- (b) Planning officers and licensing officers liaise as suggested by Vincent Pearce, Planning Service Manager and set out above.

Councillor Helen Chuah (in respect of her former professional acquaintance with Heather Castillo, the manager of The Haven Project) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7 (3)

Councillor Ray Gamble (in respect of his former association with Mr Sven Farmer as members of the Council's Standards Committee) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7 (3)

Councillor Sonia Lewis (in respect of her property being adjacent to the application site) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and she left the meeting during the Committee's consideration and determination of the application.

231. 090078 1 Glen Avenue, Colchester, CO3 3RP

The Committee considered an application to remove Condition 06 attached to planning permission F/COL/06/0065 which restricts the permission to a temporary permission expiring on 1 March 2009. The use has been operating for 4 years under temporary planning permissions and a permanent permission was now sought. 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 More, Principal Planning Officer, attended to assist the Committee in its deliberations.

Sven Farmer, on behalf of local residents and an immediate neighbour of the site, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He objected strongly to the application for a permanent permission, but he would not object to a further temporary period of 3 to 4 years duration. The operation, activities and treatment of residents has introduced an extensive and intensive business use in the heart of Lexden; the land use of the site is residential. The twelve car parking spaces were fully occupied. The background noise is greater than from a normal residence. The current

management, styles, personnel and policies of the Haven Project make every effort to reduce its impact on neighbours. This proposal was well meaning but would not provide the neighbours with the safeguards and controls that the rolling programme of temporary approval does. He urged the Chairman not to approve this application, but asked the applicant to reapply for temporary approval.

Heather Castillo, the current manager of The Haven Project, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. They originally had a three year approval with a condition to assess the impact on the neighbourhood. She considered they were good neighbours; they keep in touch and invite their neighbours to sing carols with junior choristers in the church at Christmas. They feel part of the community in Lexden. They have a number of managers and firm rules and structures which will remain. There seems to be one objection from a neighbour and they have ceased to use the side of the garden which backs on to Mr Farmer's house. There are no objections from any other neighbours and she considered that objection was not valid. No other care centre in the town is subject to a temporary condition. This is the third time they have applied for planning permission involving stress and anxiety, a planning fee and renegotiation with the landlords which gives them an opportunity to do a rent review. She believed it was neither right nor fair.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. He had it on the best authority that the Haven Project is a good neighbour and there is agreement with all the claims made in the covering letter about the Project being model neighbours. He had two concerns in the context of business takeover and management changes. He accepted the explanations given by planning officers in the report and the neighbours will take comfort from Condition 2. He is concerned that changes in management are not satisfactorily covered and was surprised that there is no protection. He hoped that the current management team will continue in post. Mr Farmer mentioned overflow parking on Glen Avenue which does sometimes occur he considered it would be useful if the double yellow lines were extended.

Members of the Committee were encouraged to hear such good comments and considered it a pity that there was one objector on the basis that something might happen in the future. There was support for Councillor Hardy's proposal to write to the Highway Authority and ask them to review the on street parking restrictions in this area which causes congestion on the corner.

RESOLVED (UNANIMOUSLY) that –

- (a) The application be approved with conditions and informatives as set out in the report.
- (b) The Highways Authority be requested to add this part of Glen Avenue to a review of on street parking restrictions.

232. 090081 Daniels House, 146 Straight Road, Colchester, CO3 5DT

This application was withdrawn from consideration at this meeting by the agent/applicant.

Councillor Ray Gamble (in respect of his membership of the Governing Body at St. John's Primary School) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and he left the meeting during the Committee's consideration and determination of the application.

233. 090126 Former Caretakers Bungalow, Clay Lane Grove, Colchester, CO4 0HH

The Committee considered an application to vary Condition 04 attached to planning permission C/COL/03/1841 to extend the opening hours of a day nursery at the premises from 8pm until 4pm to 8pm until 6pm on schooldays. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

234. 081644 Weston Homes Community Stadium, United Way, Colchester, CO4 5UP

The Committee considered an application to vary Condition 37 attached to planning permission O/COL/01/1622 to allow the use of the stadium's internal concourses for a farmers' market on the first Thursday of each month; an annual Christmas Fayre; and betting booths for match day betting within each stand.

The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that the application be approved with separate conditions and informatives for the farmers' market, the Christmas Fayre, and match-day betting as set out in the report.

235. 082144 104 Oak Road, Tiptree, Colchester, CO5 0NA

The Committee considered an application for a change of use and conversion of an existing car port to create two consultation offices and associated waiting room and w.c. facilities for use as a private cosmetic clinical practice, supplementary to the applicant's London based practice. The Committee had before it a report in which all information was set out.

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

236. Legal Agreement // 26 Hythe Quay, Colchester

This item was withdrawn from consideration at this meeting by the Head of Environmental and Protective Services.

237. Legal Agreement // St James Park Estate, Mile End, Colchester

The Head of Environmental and Protective Services submitted a report seeking authorisation to agree a Deed of Variation to an existing Section 106 Agreement in respect of the proportions of social rented units and shared ownership units. The effect of the application would be for eleven 2 bedroom flats and one 1 bedroom flat, all currently designated as shared ownership units, to be designated as rented units.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. He was not against the proposal but had an issue regarding vandalism to homes which have only just been finished in Mile End Ward. A great deal of his case work comes from antisocial behaviour and outstanding repairs. He referred to damaged and dangerous drain covers and a fascia on the front of a building covered in graffiti. It had taken two years for a social landlord to repair a damaged front door. A bin store is full of rubbish including a tumble dryer. There are two or three residents in some of the flats who are frustrated at poor service and the conditions they have to live with. It seems that if social landlords chose not to undertake repairs there is little that can be done about it. He requested that the Planning Committee write to relevant social landlords requesting they improve their maintenance record.

It was explained that it may be possible to encourage them to improve their management, and Councillor Goss was asked to provide a list.

A member of the Committee had a similar situation on the former garrison estate in the Elmwood Avenue area. He and two residents demanded that a senior representative of the responsible company walk around the area to help them understand the situation. This action was effective in resolving the issues.

RESOLVED (UNANIMOUSLY) that –

(a) The Deed of Variation to an existing Section 106 Agreement as described in the report by the Head of Environmental and Protective Services be endorsed.

(b) Councillor Goss be invited to submit a list of repairs and a senior member of the management team of the relevant housing associations be invited to view the problems in the area.



Application No: 090152

Location: 24 Elmstead Road, Wivenhoe, Colchester, CO7 9HX

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **2 April 2009**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

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

7.1 Case Officer: Andrew Tyrrell EXPIRY DATE: 03/04/2009 MINOR

Site: **24 Elmstead Road, Wivenhoe, Colchester, CO7 9HX**

Application No: **090152**

Date Received: 6th February 2009

Agent: Mr Kevin Smith

Applicant: Mr & Mrs Dave Whymark

Development: Erection of 1no. 4 bedroom dwelling following demolition of 2no. one and a half storey cottages.

Ward: Wivenhoe Cross

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 The application is recommended for approval, but has unresolved objections. Therefore, it has been referred to the Planning Committee.

2.0 Site Description

2.1 The site is within the village envelope of Wivenhoe. It previously contained 2 dwellings, but these have both been demolished with the approval of the Council in March 2008. There were also 2 authorised points of vehicular access to the site which remain in situ.

2.2 The site is located on the east side of Elmstead Road. This area is a residential area, with a mixture of single, one-and-a-half, and two storey properties. The properties in this stretch are one-and-a-half storey dwellings, with two storey dwellings further north.

3.0 Description of the Proposal

3.1 The proposal is a new dwelling. It is a 4-bedroom property of one-and-a-half storey height, i.e. a chalet bungalow style design. The proposal includes some landscape details, including fences and walling, and some trees and hedging, although this is not tantamount to the details on a normal landscaping scheme. There is one point of access proposed.

4.0 Land Use Allocation

4.1 Residential

5.0 Relevant Planning History

5.1 The site was previously subject to planning application 080870 for the “erection of 2 semi-detached 3-bedroom houses with ancillary garages following demolition of original semi detached cottages”. However, this application was withdrawn.

6.0 Principal Policies

6.1 Adopted Local Plan (2004) policies that are relevant include:

DC1 – Development Control Consideration

UEA11 – Design

P1 – Pollution (General)

H7 – Development within Village Envelopes

6.2 In addition, the Core Strategy (2008) policies below are also relevant:

SD1 – Sustainable Development Locations

H2 – Housing Density

H3 – Housing Diversity

UR2 – Built Design and Character

7.0 Consultations

7.1 ECC Highways Authority have stated that the access is not in accordance with their usual standards, but is an improvement over the previous 2 substandard accesses on site; therefore they have no objections subject to conditions that have been included in the recommendation.

8.0 Town Council's Views

- 8.1 Wivenhoe Parish Council have stated that if the Local Planning Authority are minded to grant permission they would like to be consulted on Section 106 planning gains. However, this application is not of a scale that justifies any legal agreement or planning obligations as there were two properties on site and it was previously accepted that not even a unilateral undertaking would be required for a contribution towards open space, so intruding such a requirement now would seem unreasonable. They also request conditions that have been included.

9.0 Representations

- 9.1 The objection that has resulted in this item being included on the committee agenda is detailed below. The neighbour has stated that they are not prepared to give up part of their road frontage to a pathway, as nobody has spoken to them about this. This, they state is shown on the plans. However, their land is not in the application site and is therefore unaffected by this application. Planning permission does not provide any right to develop on another persons land either. Therefore this raises no issues.
- 9.2 The objector then goes on to state that there is a fence shown on their boundary line which they will not allow to be erected. However, as long as any fence is erected within the application site this is beyond their control.
- 9.3 One valid point made is that regarding a dormer window at the rear, which faces sideways to the south. This does overlook the property, however, at the time of writing amendments were being sought to remove this problem. Failing, these negotiations, a condition specifically excluding the dormer window could be used, with the rear elevation being able to accommodate a window for light to the bedroom without privacy issues.
- 9.4 The final comment made in the objection is that the house is set far back from where the original properties were. However, the property is in line with the properties either side in terms of taking a compromise between the two to blend in as the properties are staggered and the building line is not straight.

10.0 Report

Design

- 10.1 The design of the property is not very inspiring, but it is pleasant in itself. Without excelling in architectural design, it does satisfy the design criteria. It is also of an equal standard to the properties around it, as this is an area of no particular architectural merits. It is also a marked improvement over what was previously found on site. An urban designer was asked about the property on an informal basis, with the response being that it achieved what was necessary to be acceptable. Therefore, it is not considered sustainable to refuse the application on design grounds.

Amenities

- 10.2 The property would have no impact on light to neighbouring properties. However, any sideward facing window need to be carefully considered as referenced above. The dormers to the rear projecting gable are particular important. To the north facing elevation, it is considered that existing site circumstances relating to the neighbours existing garage means that the dormer would not have any adverse impact on that residents' privacy because the views would be obscured by a building in the neighbours' control.
- 10.3 However, to the south, despite the wider distance to the boundary of 11m, the 1.8m fence proposed would still not offer complete privacy to the sitting out area. To this side, the proposed welling is also further behind the neighbouring property, which does not help reduce the impact. Therefore there is some impact on privacy. Any facing openings on this elevation would need to be either obscure glazed and non-opening or high level only windows. This point is still being negotiated at the time of writing, and will hopefully be resolved by the time of the planning committee meeting. However, in case this issue has not been resolved by amendments, it is proposed that conditions be used to restrict openings to an acceptable amount/type.

Highways Implications

- 10.4 As stated above, the access is an improvement over previous circumstances at the site; therefore a less than usual standard of visibility can be accepted. At present the site plan does not make it clear how vehicles will manoeuvre in the site, so that they can enter and exit in a forward gear. Therefore, the landscaping plans will need to incorporate a turning area at the front of the site.
- 10.5 The Highways Authority has asked that a 2m strip of land be secured at the front of the site by planning condition. However, the condition would only be reasonable if the planning permission would otherwise be unacceptable. This is not the case, with the 2m strip of land for a future pavement seeming irrelevant to whether or not this development is actually acceptable. Therefore, this condition is not recommended.

11.0 Conclusion

- 11.1 To conclude, the application is not perfect, but meets adopted standards in a satisfactory manner as long as the privacy issue is resolved. The objection received does not raise any other planning issues that merit a refusal. Consequently, with the use of appropriate conditions, there is no reason why planning permission can not be granted for this proposal. A refusal would be weak against any appeal on this basis.

12.0 Background Papers

- 12.1 ARC; HA; PTC: NLR

Recommendation - Conditional Approval

Conditions

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

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

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

2 - 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: The materials proposed in the application are not considered to be suitable for use on this site; and to ensure that appropriate materials are chosen which will secure a satisfactory appearance, in the interests of visual amenity.

3 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

Schedules of plants, noting species, plant size and proposed numbers/densities. Planting area protection or decompaction proposals.

Implementation timetables.

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

4 - C11.12 Landscape Works Implementation

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

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

5 – 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 windows, dormer windows or other openings (other than those expressly authorised by this permission) shall be constructed above ground floor level in the north or south facing elevations of the dwelling hereby approved.

Reason: To protect the amenities and privacy of adjoining residents.

6 – Non-Standard Condition

Notwithstanding the details shown on the submitted plans, the two south facing windows above ground floor level are excluded from the permission and an alternative openings arrangement shall be agreed, in writing, by the local planning authority prior to the commencement of development. Any details agreed shall then be implemented in full prior to the first occupation of the dwelling hereby approved and retained in their approved form thereafter.

Reason: These windows result in unacceptable overlooking and only obscured glazed, non-opening windows or above eye level openings would be acceptable. However, there are alternative possibilities that could be agreed that would suffice; therefore this condition is proposed rather than a refusal of planning permission.

7 –Non-Standard Condition

Prior to the first occupation of the development hereby permitted, visibility splays with dimensions of 2.4 metres by 43 metres as far as can be achieved within the boundaries of the site and 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 inter-visibility 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.

8 – Non-Standard Condition

Prior to first use 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 inter-visibility between the pedestrians and users of the access and the existing public highway for the safety and convenience of users of the highway and of the access.

9 – Non-Standard Condition

Prior to the first occupation of the development hereby permitted a turning space of a design to be agreed in writing by the local planning authority enabling a motor car to enter and leave the 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.

10 - 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.

11 - B7.5 Hours of Work

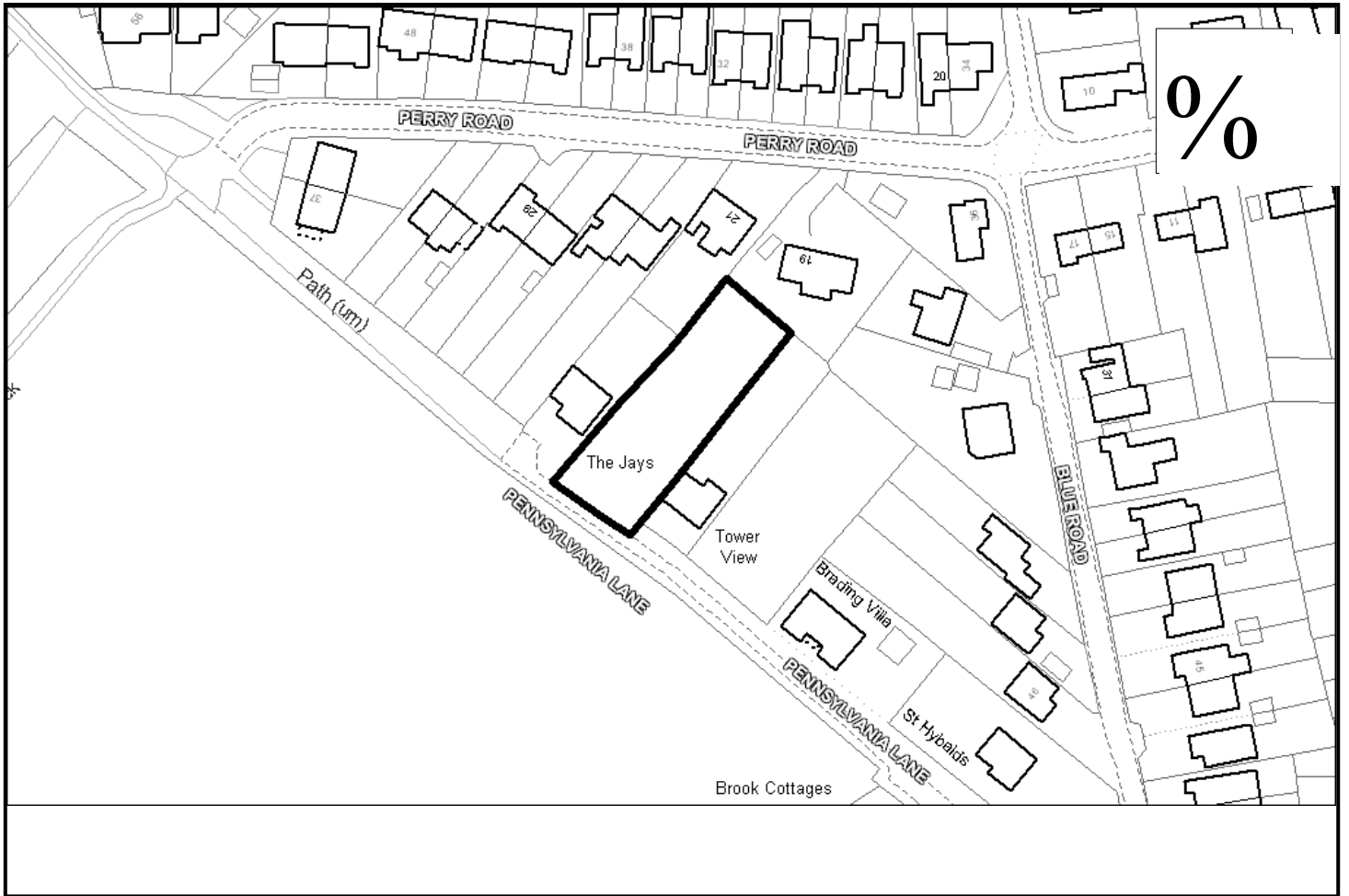
No construction work relating to this permission shall be carried out on any Sunday or Public/Bank Holidays nor before 0730 hours or after 1800 hours on any weekday or before 0800 hours or after 1300 on Saturdays.

Reason: In order to protect residential amenity.

Informatives

The applicant is referred to the attached advisory note for the avoidance of pollution during demolition and construction phases.

All works affecting the highway must only be carried out with the prior arrangement, and to the requirements and satisfaction, of the highways authority. Application for the necessary works should initially be made by contacting 01206 838600.



Application No: 081452

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

Scale (approx): 1:1250

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7.2 Case Officer: Sue Fenghour

EXPIRY DATE: 12/02/2009

Site: Tower View, Pennsylvania Lane, Tiptree, Colchester, CO5 0TU

Application No: 081452

Date Received: 17th December 2008

Agent: Mr Simon Judd

Applicant: Mr G Turner

Development: Erection of one dwelling

Ward: Tiptree

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

1.0 Planning Report Introduction

1.1 This application proposes a new dwelling in Pennsylvania Lane, Tiptree. Two objections have been received from neighbours and there are a number of outstanding highway issues.

2.0 Site Description

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

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

2.3 A 5 bedroom detached house is proposed set over 3 floors, the ground floor being set partially below ground level and including a double garage accessed by a ramp.

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

3.0 Land Use Allocation

3.1 Residential

4.0 Relevant Planning History

4.1 O/COL/05/0711 - Approval for 2 new houses and associated road improvements including junction of Pennsylvania Lane and Maldon Road - Approved 24 June 2005

4.2 072789 - Approval under reserved matters for 5 bedroom house on land between Tower View and Brading Villa, Pennsylvania Lane on 8 January 2008.

5.0 Principal Policies

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

6.0 Consultations

6.1 The Highway Authority has no objections subject to the imposition of conditions.

7.0 Parish Council's Views

7.1 Tiptree Parish Council has no objections.

8.0 Representations

8.1 2 letters of objection have been received from neighbours expressing concern that:

1. Highway improvements as conditioned in the original outline approval have not been carried out including improvements to the Pennsylvania Lane/Maldon Road junction.
2. Problems previously experienced with trade vehicles blocking the Lane when the first house was built will reoccur.
3. The design is not appropriate to the area.

9.0 Report

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

9.2 Turning to the issue of highway improvements recent discussions have taken place between the Highway Authority and the original landowner to resolve the matter of junction improvements onto the Maldon Road.

9.3 The original proposed works to Pennsylvania Lane itself have been reassessed. The outline approval stipulated the widening of part of the unmade section of the Lane and provision of a Size 2 turning head within the current site. On balance it is now considered that only minimal improvements need to be carried out to serve what will be the last two additional dwellings in the Lane. It is considered important that the character of the bridleway and its hedgerow, which also forms the rural edge to Tiptree, is maintained whilst at the same time ensuring highway safety is not compromised. The Highway Authority has therefore requested amended plans be submitted showing a single access point to serve the new dwelling and surfacing of the lane adjacent to the site in rolled stone. These plans have now been received to the Highway Authority's satisfaction and it now has no objections.

9.4 In overall terms the plans are now considered to be acceptable and permission is therefore recommended.

10.0 Background Papers

10.1 ARC; HA; PTC; NLR

Recommendation

The application be deferred in order that a Unilateral Undertaking is completed whereby a contribution to Open Space, Sport and Leisure is made in accordance with the Council's Supplementary Planning Document. Once completed, the Head of Environmental and Protective Services be authorised to grant planning permission for the proposed development, subject to the following conditions:-

Conditions

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

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

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

2 - A2.3 Devel to Accord With Original and Revised Plans

The development hereby permitted shall be implemented in all respects strictly in accordance with the revised drawing no[s] 06C, dated and received 4 February 2009, in addition to those originally submitted which are not superseded, drawing no[s] 05B, 01, 03E, 02E and 04D.

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

3 - A7.1 Specified Permitted Devel Rights Removed

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development)(Amendment)(No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) no extensions/garages/sheds/conservatory/buildings etc] shall be erected[other than those expressly authorised by this permission].

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

4 - 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 that the proposed development is visually satisfactory and enhances the appearance of the locality.

5 - B4.5 No Additional Windows in Walls/Roof Slope

No new window or other openings shall be inserted above ground floor level in the east and west elevations/roof slopes of the proposed building without the prior approval in writing of the Local Planning Authority.

Reason: In the interests of residential amenity and to secure the privacy of adjoining occupiers.

6 - C11.14 Tree / Shrub Planting

Before any works commence on site, details of tree and/or shrub planting and an implementation timetable shall be submitted to and approved in writing by the Local Planning Authority. This 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.

7 -C12.2 Details of Walls or Fences

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

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

8 - Non-Standard Condition

The proposed vehicular access shall be provided with 1.5m x 1.5m pedestrian visibility splays measured from and along the highway boundary and containing no obstruction exceeding 0.6m in height. The splays must not form part of the vehicular surface of the access.

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 Essex Local Transport Plan 2006/2011, Appendix G: Development Control Policy 1.1.

9 - Non-Standard Condition

Prior to the occupation of the proposed development being permitted, the bridleway across the entire site frontage shall be resurfaced in an appropriate rolled stone material, to the satisfaction of the Local Planning Authority.

Reason: In the interests of the public's safety on the Definitive Right of Way and in accordance with Essex Local Transport Plan 2006/2011, Appendix G: Development Control Policy 1.1.

10 - Non-Standard Condition

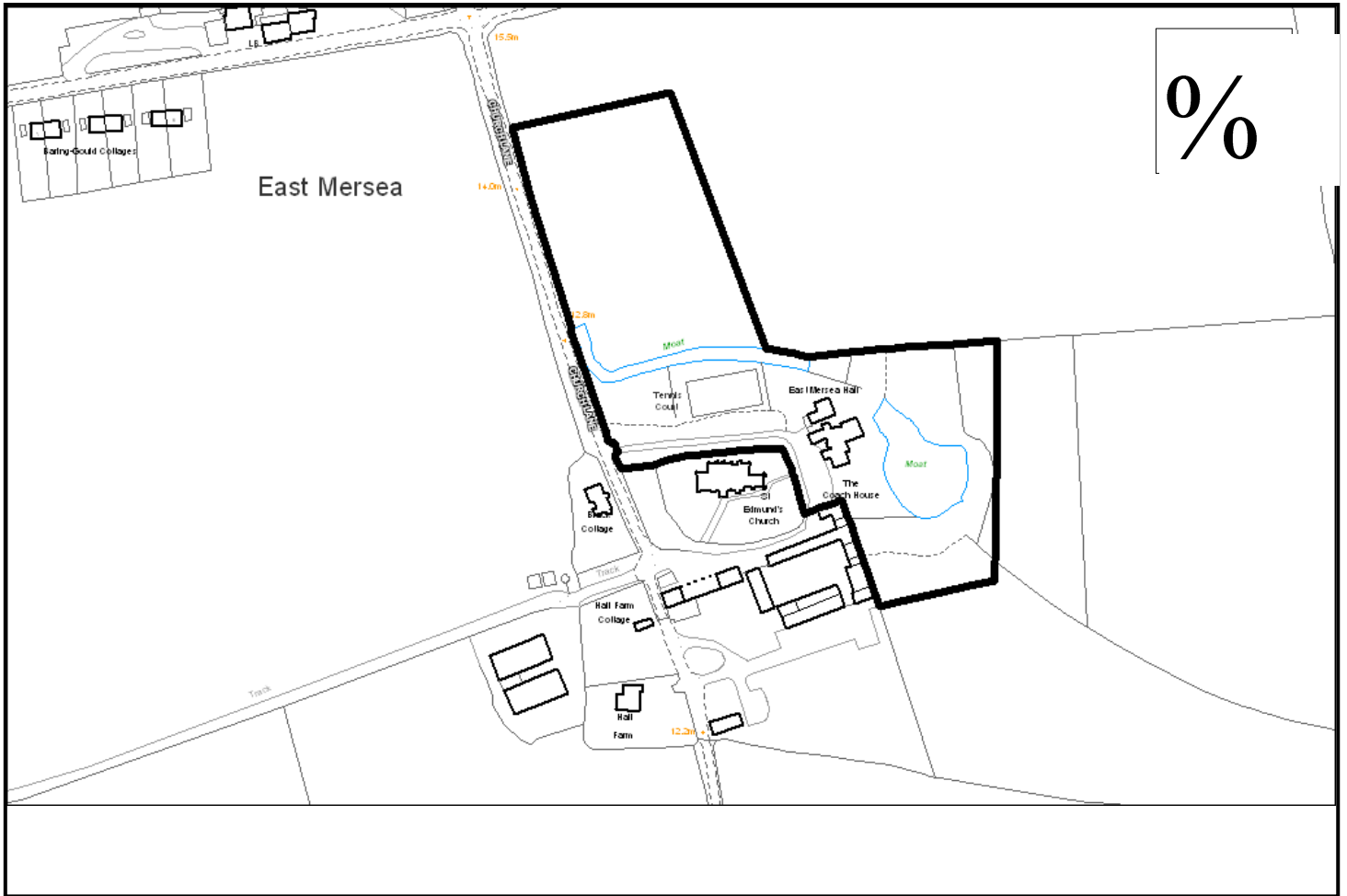
The public's right and ease of passage over Bridleway No. 17 (Tiptree) shall be maintained free and unobstructed at all times.

Reason: In the interests of the public's safety on the Definitive Right of Way and in accordance with the Essex Local Transport Plan 2006/2011, Appendix G: Development Control Policy 1.1.

Informatives

All works effecting the highway are to be carried out by prior arrangement and to the satisfaction and requirements of the Highway Authority. Application for the necessary works should be made initially by telephoning 01206 838600.

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: 081481

Location: East Mersea Hall, Church Lane, East Mersea, Colchester, CO5 8TJ

Scale (approx): NOT TO SCALE

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7.3 Case Officer: Andrew Tyrrell

EXPIRY DATE: 05/05/2009

OTHER

Site: East Mersea Hall, Church Lane, East Mersea, Colchester, CO5 8TJ

Application No: 081481

Date Received: 3rd February 2009

Agent: Mr C Richardson

Applicant: Mr D Sunnucks

Development: Change of use of drawing room at East Mersea Hall from residential to mixed residential/wedding and functions venue. Erection of marquee on temporary basis each year between 15 April and 15 October Change of use part field OS2036 to grassed vehicle parking area in connection with weddings/functions at the Hall and at other times for church services and annual East Mersea Village Fete Provision of footbridge over moat for direct access from new parking field to East Mersea Hall grounds

Ward: Pyefleet

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This item is referred to the planning committee as a consequence of an internal objection from Spatial Planning Policy. Locally, it has received support from residents, the parish church and Essex County Council registrar's office. Matters raised by one neighbour have been clarified and they have voiced their support now. Therefore, there is only the internal objection to address.

2.0 Site Description

2.1 The site is at East Mersea Hall, Church Lane in East Mersea. The site lies in the countryside outside of any development boundaries and in an area that is not well served by public transport. It is therefore not a sustainable location for large-scale development in terms of traffic generation.

2.2 The site comprises the main dwelling, a Grade II Listed Building, and its gardens and grounds. In addition, a section of agricultural field adjacent to the dwelling is also included for car parking. This area has an existing access from Church Lane, but is otherwise screened by a hedgerow.

3.0 Description of the Proposal

- 3.1 The proposal is to use one room at the rear of the listed building for civil wedding ceremonies. The reception events would then be held in a marquee which would be erected at the site, within the gardens. To accommodate parking, a car parking area would be set aside in the agricultural field, with access to the main site across a pedestrian footbridge.
- 3.2 The weddings are planned to run for 6 months a year, from April 15th to October 15th. They would comprise both small civil ceremonies and larger functions, with a maximum of 150 people accommodated in the marquee.

4.0 Land Use Allocation

- 4.1 The land is designated as Coastal Protection belt and is part of a Countryside Conservation Area.

5.0 Relevant Planning History

- 5.1 There is no relevant planning history to this site, although reference is made to other rural wedding venues within the borough. These are listed in the report below.

6.0 Principal Policies

- 6.1 Regard should be given to the adopted Core Strategy (2008) policies:
ENV1 – Environment
ENV2 – Rural Communities
TA1 – Accessibility and Changing travel Behaviour
- 6.2 Additionally, the adopted Local Plan (2004) policies listed below should also be considered:
DC1 – Development Control Considerations
CO4 – Landscape features
CO8 – Agricultural Land
P1 – Pollution (General)
L14 – Public Rights of Way
EMP4 – Employment Uses in the Countryside

7.0 Consultations

- 7.1 Internally, the Rural Enterprise Team fully support the proposal as it creates 16 jobs and provides an enterprise where Colchester has an identified shortfall in existing facilities. The Environmental Control team and the Landscape Officer are also happy with the proposals subject to conditions. However, The Spatial Policy Team objects to the proposal, which they see as an unsustainable large-scale use in the countryside. This objection is addressed in detail below.

7.2 Externally, there is support on file from the Parochial Parish Church. The Essex County Council Registration Business Development Manager also states their support. They have confirmed that there is an increase in the number of such facilities in Essex, but that Colchester has actually seen a decrease in numbers and lacks adequate provision for wedding venues.

8.3 Essex County Council Highway Authority has no objections subject to conditions recommended as part of this agenda item. However, one condition, relating to there being no unbound materials in the first 6m of the new access to be provided has not been included. This is because it is considered that there should be no hardsurfacing within the agricultural field (and none is proposed) to ensure that the field can be retained in a state that could revert back to agricultural use if the proposal is unsuccessful.

9.0 Parish Council's Views

9.1 The Parish Council have not raised any objection to the proposal.

10.0 Representations

10.1 One neighbour wrote in. They stated their support subject to no cars using the main driveway to the dwelling after 11pm. This will be secured by condition; therefore they have stated that they are happy to support the proposal.

11.0 Report

Introduction

11.1 This application is referred to the committee as a consequence of an objection from our Spatial Policy team. The case officer has considered the application and advises that in their opinion this proposal is a matter of striking a balance, with arguments for and against it in terms of the range of policy considerations. Contemplation has therefore been given as to which matters to give more weighting to when balancing the decision.

11.2 In this instance, the case officer's view is that members are recommended to approve the proposal; however this is not without recognition that there are areas where the application does not meet all planning requirements. Essentially, the crux of the issue is striking the balance between creating rural employment and encouraging appropriate rural enterprise and farm diversification, against the need to promote sustainable location in traffic generation terms. This is discussed below.

11.3 Importantly, whichever way the committee are minded to vote it will not be possible to satisfy every policy requirement. This application falls in a grey area where policies can not be applied in a black and white fashion. A wider planning context is paramount to making any decision. Subsequently, a detailed and policy-orientated report is found below, the main points are then summarised in the conclusion.

Local Planning Policies

- 11.4 Case law has demonstrated that some uses completely unrelated to agriculture can be appropriate farm diversification schemes. For example, craft centres and farm museums are often allowed as an appropriate diversification of the rural economy. In the same vein, weddings are considered to be sensitive to their rural location, whilst not related directly to it. This proposal has consequently met with support from several parties; however there is an objection from our spatial policy team. It is worth noting that where conflicts exist between policy requirements a balance must be considered, and also that where local policies do not accord with the aims of national policies then the national policies would carry more weight as overarching planning system objectives.
- 11.5 Firstly, policy ENV1 in the adopted Core Strategy seeks to conserve and enhance the Borough's countryside and coastline. The Policy Team have referred to this policy as it states that "Within the Coastal Protection Belt development will not be permitted that would adversely affect the open and rural character of the undeveloped coastline, and its historic features, sites of nature conservation importance and wildlife habitats". However, it is counter-argued that this development would not fail these tests. The development proposed would have no impact on the physical character of the landscape and would result in no irreversible change. The only open area is the car park, which is to remain untouched in terms of surface treatments (no hard landscaping is proposed and conditions will be used to ensure this does not occur in future).
- 11.6 The wedding ceremonies themselves will take place in the rear room of the existing Grade II Listed Building. This has null impact on the countryside, leaving only new development to be considered, specifically a marquee to be erected at the site during summer months, and car parking on wedding occasions in the adjacent agricultural field. The marquee is a temporary structure and can be removed at any time. It also sits within the existing gardens of the listed building, rather than in the open countryside per se. In this respect, it is hard to argue that the temporary erection of a marquee for periods in the summer months would have a long-term detrimental impact on the coastal protection belt.
- 11.7 Similarly, the actual impact of the car parking needs to be carefully considered. It should be established that there is material harm to the wider countryside and coastal protection belt to sustain a policy objection, the policy itself is not sufficient to refuse the application unless there is a proven harm, however this is not considered to be the case. The car parking will be visually incongruous whilst cars are parked at the site, but when they are removed as visitors leave what harm would actually be left? There is an avoidance of any form of permanent association with the car parking area. There is no hard standing or insensitive treatment of the area, which will remain grassed and in keeping with the agricultural field. Indeed, taking into account the 28 occasions on which cars can be parked in this field anyway, the argument against this element of the proposal is already weakened by a lack of quantitative harm. Add into the equation the additional landscape enhancement measures proposed and there are also adequate mitigations for the days when cars will be parked in this field.

- 11.8 The explanatory text beneath the policy indicates that the Coastal Protection Belt is a county-wide designation that protects the sensitive character of the undeveloped coastline which could be harmed by development that might otherwise be acceptable in a countryside area. However, it is considered herein that no such harm would be caused.
- 11.9 Policy ENV2 in the Core Strategy says that outside village boundaries, the Council will favourably consider small-scale rural business, leisure and tourism schemes that are appropriate to local employment needs, minimise negative environmental impacts and harmonise with the local character and surrounding natural environment. The size of the use is a point of debate, as small-scale is not defined in these terms. However, it is generally considered that this policy indicates support for rural enterprises where they can be compatible with their setting. This proposal enhances local employment opportunities through the potential for up to 16 jobs (including part-time employment) being created over the course of a wedding day and the following clean-up day. It also minimises its environmental impact through the landscape mitigation measures, which include new native hedges to enhance the existing hedge round the highway boundary and add several Oak trees at an average of 20m spacing. Therefore, policy ENV2 seems to be satisfied.
- 11.10 Policy TA1 in the Core Strategy says that future development in the Borough will be focussed on highly accessible locations. There is a policy conflict here in that it states that “developments that are car-dependent or promote unsustainable travel behaviour will not be supported”. However, this does not take into account circumstances where other policies accept some degree of development in rural areas in unusual instances. The very nature of some development means that it will be sited in unsustainable locations, not everything can be built in urban locations next to train stations. Wedding venues such as this rely on rural locations to provide attractive grounds for ceremonies to take place in, which is the attraction of such venues. Such venues are commonplace in the rural areas, not just in Colchester but more widely other such venues can be found in areas such as Prested Hall in the Braintree district (in Feering) and widely across Essex and Suffolk.
- 11.11 Indeed, in Colchester, weddings already occur at Layer Marney Tower, Wivenhoe House, Maison Talbooth Hotel, The Marks Tey Hotel, and Westwood Park (Little Horkesley) and amongst others. Layer Marney Tower is available for wedding ceremonies and receptions throughout the year and can accommodate 140 guests, but this is no more a sustainable location than the application site. Dedham’s Maison Talbooth can take up to 200 guests, whilst Wivenhoe House can accommodate up to 250 guests in their marquee.
- 11.12 Despite these licensed venues, overall there is shortage of venues in the Colchester Borough and this has been confirmed by the Registration Business Development Manager at Essex County Council. They have stated that the wedding venue business economy is worth an estimated £90,000,000 per year to Essex as a county as these venues provide local business and employment that “spills out” to other enterprises nearby (catering, photographers, suit hire etc). Essex County Council also make the point that venues of this sort have risen in number across the County, but that Colchester is the sole exception to this trend, and has seen a fall in the provision of such venues over recent years. This has left a shortfall of venues in the borough and an identified market need. It could also partially explain why approximately 100 less wedding took place in the borough last year as compared with 4 years ago.

- 11.13 Given the number of instances where such uses can be found, it would be difficult to argue that there is no precedent for such uses. The wider economic benefits to the rural community also need to be considered against the environmental impact and sustainability. Policies DC1 and EMP4 in the adopted Local Plan are saved policies and may also be used in the consideration of this application. Local Plan policy DC1 states that all proposals for development, including changes of use, will be permitted only if they will not cause unacceptable harm through pollution to land, air and water or to people or natural resources, provide high levels of accessibility by public transport, where the highway network will be able to accommodate safely the extra traffic the proposal will generate and it will not lead to the loss or degradation of rural resources. DC1 also includes reference to protecting the vitality and/or viability of Colchester Town Centre, rural district centres, local shopping centres and village shops and services. For the reasons given above it is considered that, on balance, the benefits of the proposal outweigh any negative implications that might be perceived.
- 11.14 Local Plan policy CO3 declares that the Countryside Conservation Areas will be given special protection from any development likely to be prejudicial to their natural, social or cultural resources. However, this development is not considered to result in any long-term harm to the Countryside Conservation Area, and there are environmental mitigation proposals to help enhance the native planting at the site and limit visual impacts when the car park is in use. The marquee will have no visual impact beyond the immediate site. Similarly, policy CE1 of the Local Plan sets out that development will be resisted on the undeveloped coastline; however this site is predominantly a brownfield site and is therefore not undeveloped.
- 11.15 Only the car parking area would be on a greenfield site, and as this is outside of any dwelling curtilage the parking of cars could take place here for up to 28 weddings as permitted development (under Part 4, Class B) in any case, therefore it is only whether or not any number of events over and above this would cause material harm that can reasonably be considered. Given that the wedding season is limited to 6 months of the year, the questions should be considered as to at which point over the 28 occasions that parking can occur as permitted development that the frequency then becomes unacceptable.
- 11.16 It is also worth noting that case law (related to cases regarding farmers markets, although useful as an example herein) has found that the strict interpretation of sustainability as an argument against occasional events in the rural area is weakened by the fact that what is proposed is likely to be in operation for single days at a time only, and at other times land would revert to its open state. The marquee is only proposed for events between 15th April and 15th October in any year. Therefore for the majority of the time there will be no change to the visual appearance of the area.

11.17 The Spatial Policy Team's comments acknowledge that the site is also close to an existing Caravan Park; nonetheless they believe that it amounts to new development within the countryside and within the Coastal Protection Belt considered to be contrary to the adopted policies in the Core Strategy (TA1, ENV1, and ENV2). This argument has not been given as much weight by the case officer because the caravan park is currently shown in the draft Site Allocations document that forms part of the Local Development Framework as being proposed for expansion, which undermines the strength of any sustainability argument at this site. There is also a new allocation for employment land adjacent to this caravan park, near to the application site. Therefore, the site allocations would significantly increase the amount of traffic more than the proposal herein if they remain as proposed.

National Planning Policies

11.18 As well as these local policies, consideration should be given to the overarching national policies, as these set the basis for the planning system. Planning Policy Statement 1 (PPS1) on "Delivering Sustainable Development" sets out planning policies for the delivery of sustainable development through the planning system. At the heart of sustainable development is the simple idea of ensuring a better quality of life for everyone, now and for future generations. A widely used definition was drawn up by the World Commission on Environment and Development in 1987: "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". However, this definition has been taken in various directions and sometime becomes muddled as a consequence.

11.19 Essentially, the Government set out four aims for sustainable development:

1. social progress which recognises the needs of everyone;
2. effective protection of the environment;
3. the prudent use of natural resources; and,
4. the maintenance of high and stable levels of economic growth and employment.

11.20 The planning system is designed to ensure that these aims are pursued in an integrated way through a sustainable, innovative and productive economy that delivers high levels of employment, and promotes social inclusion, sustainable communities and personal well being, in ways that protect and enhance the physical environment and optimise resource and energy use. Therefore, PPS1 states that:

"Planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by:

1. making suitable land available for development in line with economic, social and environmental objectives to improve people's quality of life;
2. contributing to sustainable economic development;
3. protecting and enhancing the natural and historic environment, the quality and character of the countryside, and existing communities;

- 11.21 It is considered that the proposal at East Mersea hall does not conflict with these aims. Indeed, it makes a generally positive contribution when considered holistically. For example, PPS1 is clear in its aim to provide greater access to employment opportunity, and although there is a presumption in favour of ensuring that new development is located in areas where reliance on access by car can be avoided, PPS1 recognises that this may be more difficult in rural areas. In order to avoid excluding all development in the countryside, Government policy recognises that there may be instances where a balance must be struck. Usually, in such instances, provided that there are no permanent negative impacts as a consequence of development, or that environmental impacts can be mitigated somehow, then other considerations can be given more weight. PPS1 states “Adverse environmental, social and economic impacts should be avoided, mitigated, or compensated for”.
- 11.22 This is considered to be such a case. The important factor is the lack of negative impact on the landscape. It is conceded that travel by car is not sustainable, but this in itself has to be considered against other issues and not in isolation. If there were harm to the landscape then this balance might be tipped in favour of the environmental considerations. However, as it stands, the mitigation measures actually offer the opportunity to enhance the rural area as a whole, for the wider public benefit. In cases where a balance or trade-off is being considered, planning authorities should be able to demonstrate how their decision would be integrating various elements of sustainable development. Primarily it should be clear how an approval of the proposed development will achieve outcomes which enable social, environmental and economic objectives to be achieved together. Considering sustainable development in an integrated manner like this is stated in PPS1 as being a “key factor in delivering sustainable development through the planning system”.
- 11.23 Thus, in some circumstances, a planning authority may decide in reaching a decision to give different weight to social, environmental, resource or economic considerations. In this instance, the enhancement of the physical rural environment through an integrated landscaping scheme that is to be agreed, which includes oak trees and native hedging, the economic benefits (16 jobs directly, plus indirect incomes streams), and the community benefits (the site is often used by the church for their overspill parking on popular services and for the annual village fete although this is informally agreed and not controlled by planning conditions) are significant considerations.
- 11.24 The proposal also broadly accords with Planning Policy Statement 7 (PPS7) entitled “Sustainable Development in Rural Areas”. PPS7 expands on the sentiments within PPS1 with specific regard to development in the countryside. The Government’s objectives for rural areas set out in PPS7 include the aims that planning delivers sustainable economic growth and diversification through good quality, sustainable development that respects and, where possible, enhances the intrinsic qualities of the countryside.

- 11.25 Again, it is preferable to promote more sustainable patterns of development by focusing most development in, or next to, existing towns and villages, but PPS7 further explains that the main purposes of this aim is to prevent urban sprawl and discourage the development of 'greenfield' land. This proposal would result in neither of these problems. Additionally, at the same time PPS7 recognises that there is scope to provide "appropriate leisure opportunities to enable urban and rural dwellers to enjoy the wider countryside" and encourages "Promoting the development of the English regions by improving their economic performance so that all are able to reach their full potential – by developing competitive, diverse and thriving rural enterprise that provides a range of jobs and underpins strong economies."
- 11.26 It is acknowledged that PPS7 identifies that "Accessibility should be a key consideration in all development decisions" and that "most developments which are likely to generate large numbers of trips should be located in or next to towns or other service centres that are accessible by public transport, walking and cycling, in line with the policies set out in PPG13, Transport". However, the word "most" is acknowledgement that there may be instances where this is not achievable. To expand upon this point, PPS7 continues by adding that "Planning authorities should support a wide range of economic activity in rural areas". These aims can not be achieved in totality; therefore it is inherent in planning policy that consideration to weighting is given on a case by case basis.
- 11.27 Critically, PPS7 offers recognition that "Planning authorities should adopt a positive approach to planning proposals designed to improve the viability, accessibility or community value of existing services and facilities" which includes churches and other factors that play an important role in sustaining village communities. Although not controlled by planning conditions, there has been for many years a fete on the car parking area of the agricultural field, and occasional use by visitors to the church services. The application would continue to ensure that the land was available for such uses, although not securing these formally.
- 11.28 PPS7 is also clear in stating that "When determining planning applications for development in the countryside, local planning authorities should support development that delivers diverse and sustainable farming enterprises and support other countryside-based enterprises and activities which contribute to rural economies, and/or promote recreation in and the enjoyment of the countryside. In this respect, the proposal is complimentary to the Council's rural regeneration aims and has gained the full support of our Strategic Policy and Regeneration Team.
- 11.29 The Government's policy is to support the re-use of appropriately located and suitably constructed existing buildings in the countryside where this would meet sustainable development objectives, and re-use for economic development purposes is usually preferable. Strictly speaking, the proposal is not a typical re-use of existing buildings. The ceremonies will be carried out in the existing dwelling, with a room to the rear being utilised for this purpose. However the marquee is a new structure. That said, it is not a permanent structure, can be removed at any time, and would not prejudice the wider countryside due to the limited times that it can be erected. Therefore, whilst the ceremonies themselves accord with the policy, the impact of the car park and marquee need to be carefully considered.

- 11.30 The criteria to be considered include the potential impact on the countryside and landscapes and wildlife, specific local economic and social needs and opportunities, settlement patterns and accessibility to service centres, the suitability of different types of buildings, and of different scales, for re-use and the desirability of preserving, buildings of historic or architectural importance or interest, or which otherwise contribute to local character. Of these considerations, only the amount of traffic generation is considered to be unsustainable. This issue should not be downplayed, and is important; indeed if members were minded to refuse the application then grounds on the basis of an unsustainable location would be the most plausible reason for refusal. However, matters such as the preservation of the listed building and countryside should not be ignored. There is undeniably more likelihood that the dwelling and its grounds will be well maintained if it is to be used for weddings or business would be lost. Therefore, there is a minor justification that affords some weight in that the application would help enhance the long-term maintenance of the listed building.
- 11.31 PPS7 also specifically identifies planning considerations in relation to proposals for farm diversification. Recognising that diversification into non-agricultural activities is vital to the continuing viability of many farm enterprises, local planning authorities are instructed to “be supportive of well-conceived farm diversification schemes for business purposes that contribute to sustainable development objectives and help to sustain the agricultural enterprise, and are consistent in their scale with their rural location”.

Other Matters

- 11.32 The period proposed for weddings in the marquee coincides with the holiday period at the nearby caravan park. Thus there would be traffic generated in this locality from that existing use for these months. However, this is not a significant consideration, and so the marquee was the subject of discussions with Environmental Control prior to the application being submitted. Consequently, there are no concerns over the disturbance from music or noise within the marquee provided that the recommended conditions are attached as advised by Environmental Control.
- 11.33 PPG24 also draws attention to the need to have regard not only to internally generated noise but also to attendant problems which can be associated with patrons in the vicinity. It states that disturbance caused by traffic and related parking should not be underestimated. For this reason, consideration has been given to the points of access, particularly as the main entrance to the driveway is close to a neighbouring dwelling.
- 11.34 To avoid unnecessary disturbances, it is proposed that gates be erected at this entrance and kept shut after 11pm so that no visiting taxis or vehicles access the site other than into the proposed car parking area. Guest would then leave on foot via the proposed footbridge. This keeps all movements away from the neighbouring resident.
- 11.35 The neighbours have stated that they are satisfied with this arrangement and have no objections as long as this is secured by condition. They have enquired about the fire safety concerns related to a locked gate at the entrance, however this would not be a concern where the car parking supervisors to be employed are present.

11.36 In terms of parking and highway safety, Essex County Council Highways Authority has no objection to the scheme subject to conditions. The access is to be relocated to a safer point of access with greater visibility, and this matter has also been approved by the Council's Landscaping Officer where a section of hedging is to be removed and replaced. There is a public footpath alongside the car parking area and this will need to be retained at a minimum of 2m width.

12.0 Conclusion

12.1 To summarise, in rural areas such as the application site the impact of the additional activity generated by the development proposed has to be weighed against the economic or other benefits that would be generated. Generally, such facilities should be concentrated in locations which are well served by public transport. However, in the specific nature of wedding venues they are typically set in spacious and attractive rural grounds, thus making them typically unsustainable locations. The balance that must be considered is that of their unsustainable location and the traffic generation that this causes weighed against the economic and social benefits that can be secured.

12.2 In this case, there are also some environmental gains, through landscaping being proposed to mitigate part of the unsustainable nature of the location in traffic generation terms. As it is often accepted that uses that would contribute towards the maintenance and enhancement of rural environments it is considered that the use of East Mersea Hall for wedding ceremonies can be supported on the basis that it is a compatible rural use that would generate additional employment, and that would have some form of benefit to the local rural economy and wider community. The use would not adversely affect the visual amenity and openness of the countryside and provides commercial benefits associated with diversifying the agricultural economy.

13.0 Background Papers

13.1 ARC; Rural Enterprise Team; ECC; HA; NLR

Recommendation - Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

The use hereby permitted shall take place solely between April 15th and October 15th in any one calendar year and at no other time whatsoever unless previously agreed, in writing, by the Local Planning Authority. No marquee shall be erected at the site before April 1st in any year and that marquee shall be removed by October 31st in that same year.

Reason: These are the time periods for events as described within the application and on the basis of which the application has been considered and when the trees offer full screening. Longer periods would need to have further consideration in due course if they were ever proposed.

3 - Non-Standard Condition

The use of hereby permitted shall remain ancillary to the residential use of the dwelling known as East Mersea Hall and shall be for use as a registrar's office, marriage ceremony venue, and for associated wedding event functions and entertainment purposes only, and for no other purpose (including any other forms of events) whatsoever.

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

4 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification, the car parking use hereby approved shall be limited to events associated with wedding and civil ceremonies held at East Mersea Hall, the congregation of the adjacent church for church services, and one annual fete unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: This is the basis on which the use has been submitted, advertised, and considered. To allow further consideration of any other proposal at such a time as they were permitted.

5 - Non-Standard Condition

The number of guests or other persons on the site at any one time, who are not employed for the uses hereby permitted, shall not exceed 150 people unless otherwise agreed in writing by the local planning authority.

Reason: In order to control the scale of use in relation to the amenities of neighbouring residents.

6 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

Schedules of plants, noting species, plant size and proposed numbers/densities. Planting area protection or decompaction proposals.

Implementation timetables.

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

7 -C11.12 Landscape Works Implementation

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

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

8 - Non-Standard Condition

There shall be no hardstanding or other form of hard surfacing within the car park area agreed by the Local Planning Authority unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To avoid doubt as to the scope of this permission and ensure that the countryside is not subjected to any inappropriate forms of development. To allow further consideration of any other proposal at such a time as they were permitted.

9 - Non-Standard Condition

All guests or other persons on the site, who are not employed for the uses hereby permitted, will vacate the site before midnight.

Reason: To ensure that the disturbance potential is kept to a minimum.

10 - Non-Standard Condition

Prior to the first use of the site for the purposes hereby permitted gates will be erected at the main site entrance of a siting, design and appearance that will have been previously agreed, in writing, by the Local Planning Authority and be retained as such thereafter. After 11pm on the day of any event associated with uses hereby permitted, the approved gates shall then be kept locked other than for access to the residents of East Mersea Hall and contractors providing audio equipment on that day.

Reason: This is the basis upon which the application has been considered to ensure that the disturbance potential is kept to a minimum and any other arrangements would need further consideration.

11 - Non-Standard Condition

Any marquee erected at the site shall be of a rigid structure designed and installed to provide a minimum of 7dB sound attenuation.

Reason: To ensure that there is no excessive noise from the marquee as other forms of marquee would not provide necessary sound attenuation to avoid disturbance to neighbours.

12 - Non-Standard Condition

There shall be no amplified sound after 23:30 hours.

Reason: To ensure that music is not played until unsociable hours so that the disturbance potential is kept to a minimum.

13 - Non-Standard Condition

Any marquee erected at the site shall have a noise limiter fitted that is capable of controlling bass frequencies in accordance with details submitted to and approved by the Local Planning Authority and this limiter will operate at all times to ensure that amplified sound is reduced.

Reason: To ensure that the disturbance potential is kept to a minimum.

14 - Non-Standard Condition

The public footpath no.26 shall be maintained free from obstruction for a minimum width of 2 metres at all times.

Reason: To ensure that the footpath is available for the use of the public at all times in the interest of public safety and in accordance with the definitive Rights of Way.

15 - Non-Standard Condition

The new vehicle access shall be constructed at right angles to the existing carriageway. The width of the driveway at its junction with the highway boundary shall not be less than 5.5 metres and retained at that width for 6 metres within the site.

Reason: To ensure that vehicles can enter and leave the highway in a safe and controlled manner.

16 - Non-Standard Condition

Prior to the first occupation of the development hereby permitted, visibility splays with dimensions of 2.4 metres by 70 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 inter-visibility 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.

17 - Non-Standard Condition

Prior to first use 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 inter-visibility between the pedestrians and users of the access and the existing public highway for the safety and convenience of users of the highway and of the access.

18 - Non-Standard Condition

Prior to the first use of the new access to the car park the existing access to the field shall be permanently closed in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority.

Reason: To avoid an unnecessary additional point of traffic conflict in the interests of highway safety.

19 - Non-Standard Condition

Any gates provided at the vehicular access shall only open inwards and shall be set back a minimum of 4.8 metres from the nearside edge of the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway/footway whilst gates are being opened and closed.

20 - Non-Standard Condition

The car park indicated on the plans hereby approved shall be made available for this purpose prior to the commencement of the use hereby approved and thereafter shall be retained for car parking thereafter.

Reason: To ensure that vehicles visiting the site can park off the highway.

21 - B9.1 Refuse Bins

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

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

22 - B9.2 Recycling Facilities

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

Reason: To ensure that adequate facilities are provided for the collection of recyclable materials.

Informatives

All works affecting the highway must only be carried out with the prior arrangement, and to the requirements and satisfaction, of the highways authority. Application for the necessary works should initially be made by contacting 01206 838600.

The development hereby permitted relates only to a change of use and not to any building works or alterations to the main dwelling, which is a listed building and that would require separate consent for Listed Building Consent.



Application No: 090090

Location: 4 Nayland Road, Colchester, Essex, CO4 5EG

Scale (approx): 1:1250

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7.4 Case Officer: Andrew Tyrrell

EXPIRY DATE: 15/04/2009

OTHER

Site: 4 Nayland Road, Colchester, Essex, CO4 5EG

Application No: 090090

Date Received: 18th February 2009

Agent: Mr Paul Newbould

Applicant: Mr David Thompson

Development: Design amendments to plot 1 to include rooms in roof, part of existing residential development under construction

Ward: Mile End

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application, whilst relatively minor, has caused some local interest from neighbours who are concerned about being overlooked. The application is consequently referred to the committee because of these unresolved objections, where the officer recommendation is to approve.

2.0 Site Description

2.1 The site comprises one dwelling, its garden and a garage, which is under construction at this site. The application site is plot 1 of 5 plots on the site, and is the property sited at the Nayland Road frontage. The construction site as a whole includes 4 other properties on the former rear garden to 4 Nayland Road (which was also known as Henry Villas) where development was previously approved, but the other properties are not within the red line showing the extent of the application.

3.0 Description of the Proposal

3.1 The application is for a minor variation to the design of plot 1, which relates solely to three new windows to allow a loft conversion. All other matters are covered under the existing permission and should not be considered herein.

3.2 The windows are a front elevation dormer, a rear elevation dormer, and a south side elevation rooflight, above a landing area. This would allow the loft space to be used as rooms, effectively making the dwelling 5 bedrooms (the Parish Council say 6 because of a study on the first floor). Despite the labelling on the submitted plans, the two dormer windowed rooms (at the front and rear) should both be treated as potential bedrooms as there would be no future planning controls over their domestic use.

4.0 Land Use Allocation

4.1 Residential

5.0 Relevant Planning History

5.1 Although there is much history to this site, the relevant planning history originates from application F/COL/06/1038 dated 19 Dec 2006. This granted permission for a backland development of 5 dwellings currently being constructed. This application was approved by the planning committee only after some roof windows had been removed from plots 3 and 4.

5.2 Planning application 071248 then sought to add an extra detached dwelling and garage to the 2006 permission, but this proposal was refused.

6.0 Principal Policies

6.1 The following policies are relevant from the Adopted Colchester Borough Local Plan:
DC1 - Development Control considerations
UEA11 - Design

6.2 In addition, the Core Strategy policy below is relevant:
UR2 – Built Design and Character

7.0 Consultations

7.1 The Highway Authority raises no objection.

8.0 Parish Council's Views

8.1 Myland PC have objected, stating that:

“This application contains insufficient information regarding the roof height of the property proposed for plot 1. There is concern that in order to extend this property it will involve raising the height of the roof. Although the DAS says the ridge height is no higher than previously approved the application does not include detailed plans with height measurements that could back up this statement.

The decision notice for the original permission clearly states that no new windows or dormers shall be inserted in the roofspace of the unit in order to prevent overlooking and this condition should remain in place for the reasons stated.

The proposal will result in a property with the potential for 6 bedrooms. The so-called “Box” room in the roof is in fact larger than bedroom 3 and the study/bedroom 4 on the first floor. The potential therefore exists for 6 people (or more) occupying the property and, as it only has 2 off-road parking spaces, this is likely to cause parking problems within the site and on Nayland Road.

Our objection is therefore on the grounds that this property will be overbearing, will affect neighbours light and privacy, and will cause additional noise and traffic pollution”.

9.0 Representations

9.1 2 people have objected, the residents at 6 Nayland Road and at 23 Nayland Road. The issues raise include:

1. The property could become a 5-bedroom dwelling.
2. The property could become one of multiple occupancy.
3. There would be too many car parked here and there are already traffic problems.
4. The development is already too large and most residents opposed it originally.
5. The proposal is out of character with properties on the opposite side of the road.
6. This development will effect light.
7. Number 6 Nayland Road will be directly overlooked.
8. There will be noise issues.
9. The site should remain a village scene and not a concrete jungle.

10.0 Report

Design

10.2 The design of the rooflight is standard, and will not have a material impact on the overall visual appearance of the dwelling. The dormers have been designed as minimal intrusions into the roof to provide light, rather than to gain head room. This accords with the design advice adopted through the Essex Design Guide. On this basis there are no issues about the design of the dormer windows.

Amenities

10.3 Privacy is, in the case officers' opinion, the most significant consideration due to the previous approval. In response to the comments received from objectors, it is not considered that the 3 windows will cause additional noise at the site, nor increase overshadowing over and above the main dwelling roof to an unacceptable level. Indeed, the 2 dormers are the only physical increase in the size of the development, and these are not considered to make the development so large that it would be unacceptable; therefore some of the objection comments have been given little weight.

10.4 The Parish Council have stated that they are concerned that the roof will be increased in height over then previous approval. They state that the plans are unclear as to the new height. However, it is rare that plans actually include height measurements on them as they are drawn to scale. The common line taken is that if the development built does not accord with the details shown on the plans then enforcement action will be investigated. The scale of the plans indicates a height of 8.9m and this is the how the application should be considered.

10.5 With regard to overlooking, the Essex Design Guide standards state that new rear windows should be 25m form adjacent properties and that side windows should be a minimum of 15m from the boundaries of existing properties. These distances are prescribed in order to preserve privacy between facing above ground floor habitable room windows and/or gardens.

- 10.6 There has been concern expressed about the impact on the neighbouring properties. To the front, the dormer overlooks the highway, which is a public area. Therefore, in consistency with standard practices, privacy is not considered to be an issue from this window. To the side, the landing window does not serve a habitable room, and also retain just less than 25m to the adjacent property measured on the plans. This would probably be more than 25m after taking into account the angle of viewing, and in any case is too marginal to withhold an appeal in the case officers opinion. Therefore, this does not appear to raise any loss of privacy concerns. To the rear, a 30 degree angle of outlook as reference in the adopted privacy standards taken from the dormer would only overlook the rest of the development, which is unoccupied at present. Again, there are no concerns over loss of privacy.
- 10.7 On the basis of the above, it is not considered that there would be sufficient grounds to refuse the application on any loss of privacy.

Other Matters Raised

- 10.8 The other matters raised by objectors begin with the argument that the property could become a 5 or 6 bedroom dwelling. This is irrelevant to the impact of the windows, and all other matters have already been approved. Consideration has been given on the basis that the windows may well serve bedrooms or other habitable rooms regardless of the labelling on the plans, but there would still be no adverse impacts on neighbours.
- 10.9 There is also concern voiced that the property could become one of multiple occupancy. A house of multiple occupation (HMO) would require planning permission in its own right. Therefore, this issue should not be considered herein.
- 10.10 There is also concern that there would be too many car parked here and there are already traffic problems in the locality. However, Highways have raised no concerns.

11.0 Conclusion

- 11.1 To summarise, the application relates to some minor design changes to the property. The 3 additional windows do not raise any significant planning concerns in their own right. All other matters have either been approved already, or not relate to this application in a direct manner. Therefore, the application is recommended for approval.

12.0 Background Papers

- 12.1 ARC; HA; PTC: NLR

Recommendation - Conditional Approval

Conditions

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

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

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

2 - 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 proposed development is visually attractive and enhances the appearance of the locality.

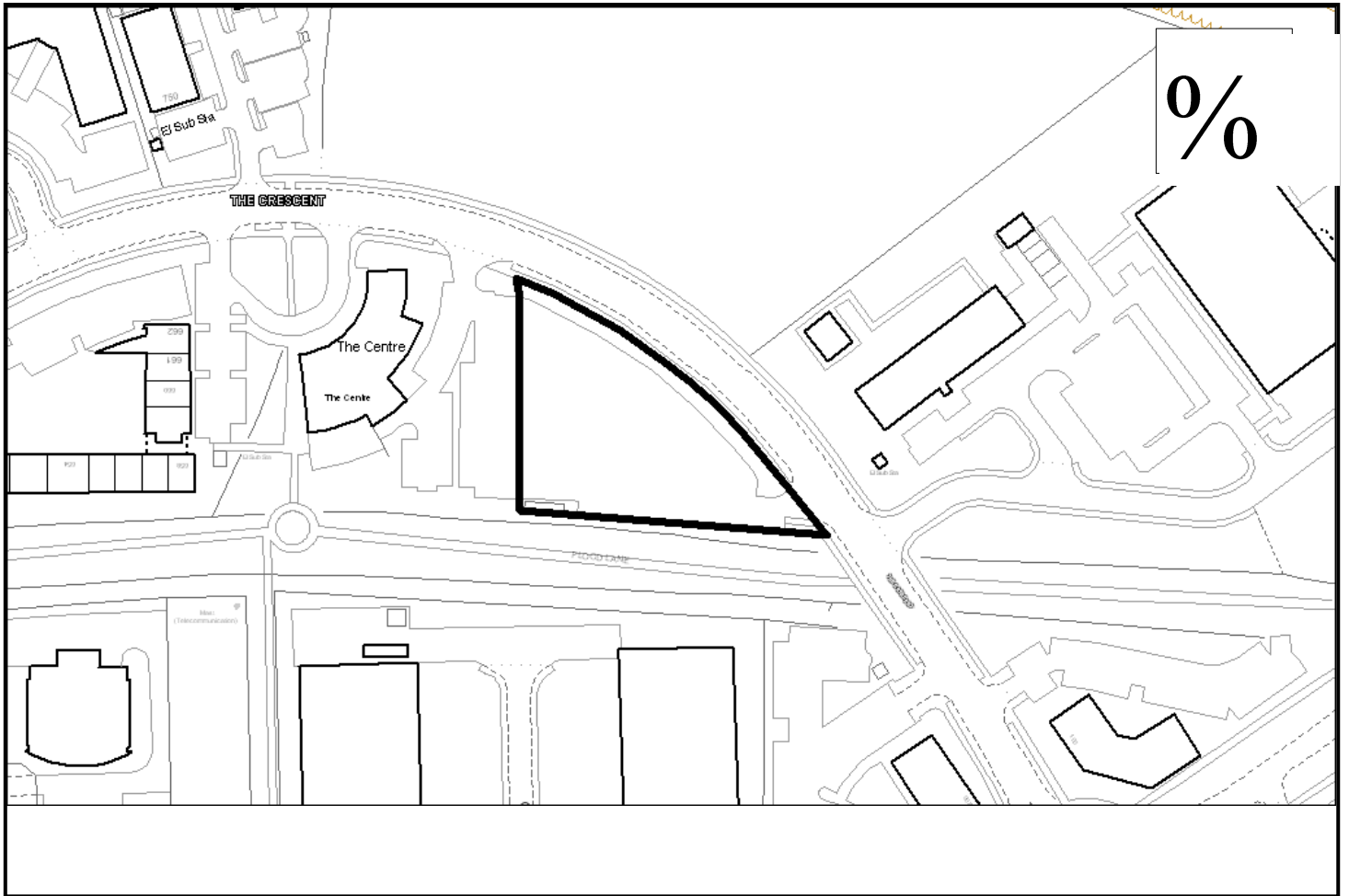
3 – Non-Standard Condition

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 new windows, rooflights or other openings shall be inserted above ground floor level on the north elevation without the prior written approval of the Local Planning Authority.

Reason: In order to prevent overlooking and loss of privacy to adjoining occupiers.

Informatives

The applicant is referred to the attached advisory note for the avoidance of pollution during demolition and construction phases.



Application No: 090164

Location: 400 The Crescent, Colchester, CO4 9YQ

Scale (approx): 1:1250

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7.5 Case Officer: Bradly Heffer

EXPIRY DATE: 06/04/2009

OTHER

Site: 400 The Crescent, Colchester, CO4 9YQ

Application No: 090164

Date Received: 9th February 2009

Agent: Lambert Smith Hampton

Applicant: Essex County Council

Development: Extension of existing car park from 50 to 130 spaces. Variation of condition 02 of planning permission COL/98/0335.

Ward: Highwoods

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This report concerns a proposal to vary a condition relating to a car park use on an area of land known as Plot 400 The Crescent Colchester.

2.0 Site Description

2.1 The site for this application is a roughly triangular piece of land located within the Severalls Business Park in Colchester. It is bounded to the north by the main vehicular route through the area which is known as The Crescent. To the east, west and south is established commercial development. The site itself is level and a notable feature is the established hedging and trees located on the boundaries which combine to filter views into the site, particularly from The Crescent. Part of the site leading off the road has been surfaced with block pavements but the majority is unsurfaced at the present time. A barrier has also been installed at the entrance. Members are advised that the surfaced area of the car park was originally permitted as part of an application to extend a nearby office building (south of the application site) that is currently known as Essex House. Following on from this permission (granted in 1995) a further permission was granted to extend the area of parking in 1998. At that time the permission was subject to a condition (02) that stated the following:

‘The car park hereby approved shall be ancillary to the office use on the adjacent site known as Plot 200 for as long as that site is occupied by ‘Guardian Direct’ only. In the event of Guardian Direct no longer occupying all of the building on Plot 200 the car park the subject of this permission shall cease being used as a car park and shall be reinstated to a tidy condition within 28 days.’

2.2 This planning application seeks to vary the terms of the condition – not least due to the fact that the office building on Plot 200 is now occupied by Essex County Council. A new lease has been agreed with Colchester Borough Council, the owners of the building. The following points have been made in support of the application:

- Essex House is open from 07:00 to 23:00 Monday to Friday and 09:00 to 12:00 on Saturday. Between 300 and 350 members of staff are based at Essex House. Further parking demand is generated by visitors to the office – estimated to number between 375 and 500 daily (including peripatetic staff). If the car park subject of this application cannot be utilised this will inevitably create parking within the highway.
- On match days the car park is utilised by visitors to the Colchester United football ground.

2.3 The full text of the supporting information is available to view on the Council's website.

3.0 Land Use Allocation

3.1 The site for this proposal is located within an Employment Zone as allocated in the adopted Review Borough Local Plan – March 2004

4.0 Relevant Planning History

4.1 COL/95/0832 – Extension to existing office building. Application approved 30th August 1995

4.2 COL/98/0335 – Extension of existing car park from 50 to 130 spaces. Approved 6th May 1998

5.0 Principal Policies

5.1 Adopted Review Borough Local Plan
DC1 – General Development Control Criteria
EMP1 – Employment Land Provision

6.0 Consultations

6.1 The Highway Authority does not wish to object to the proposals as submitted. It does recommend the addition of an informative to any grant of planning permission.

7.0 Representations

7.1 None received

8.0 Report

8.1 Examination of the previous planning history reveals that the Council was prepared to grant permission for the use of the identified land as car parking on the basis of the following reasons:

1. The occupier of the building at that time, Guardian Direct, had demonstrated a need for a higher than normal parking demand.
2. In the event that the occupier of the building vacated, the area should be developed for Employment Zone uses.

8.2 Since the grant of permission in 1998 the occupancy of the building has changed and therefore the terms of the condition have been breached. However, it is noted that the current occupier – Essex County Council – has a high parking demand, given the use that the building is put to. Given this situation it is considered reasonable in principle to allow the identified site to be used as car parking for the current user. It is fully acknowledged that the site comprises part of an Employment Zone, and the preferred land use would be a commercial development that accorded with the Local Plan policy. Nevertheless, the occupancy of the building at Plot 200 will continue to generate parking demand whereas there is no indication that the permanent development of this land will take place in the near future. Unmet parking space demand will undoubtedly be met within the local highway network, to the likely detriment of highway safety. It is noted that the car park is also utilised as a car parking facility for visitors to Colchester United football ground. Again, an unmet demand is likely to lead to on-street parking pressure in the locality. Importantly, the fact that the site benefits from established screening means that the potentially detrimental impact of the use on visual amenity is satisfactorily mitigated.

9.0 Background Papers

9.1 ARC: HA

Recommendation - Conditional Approval

Conditions

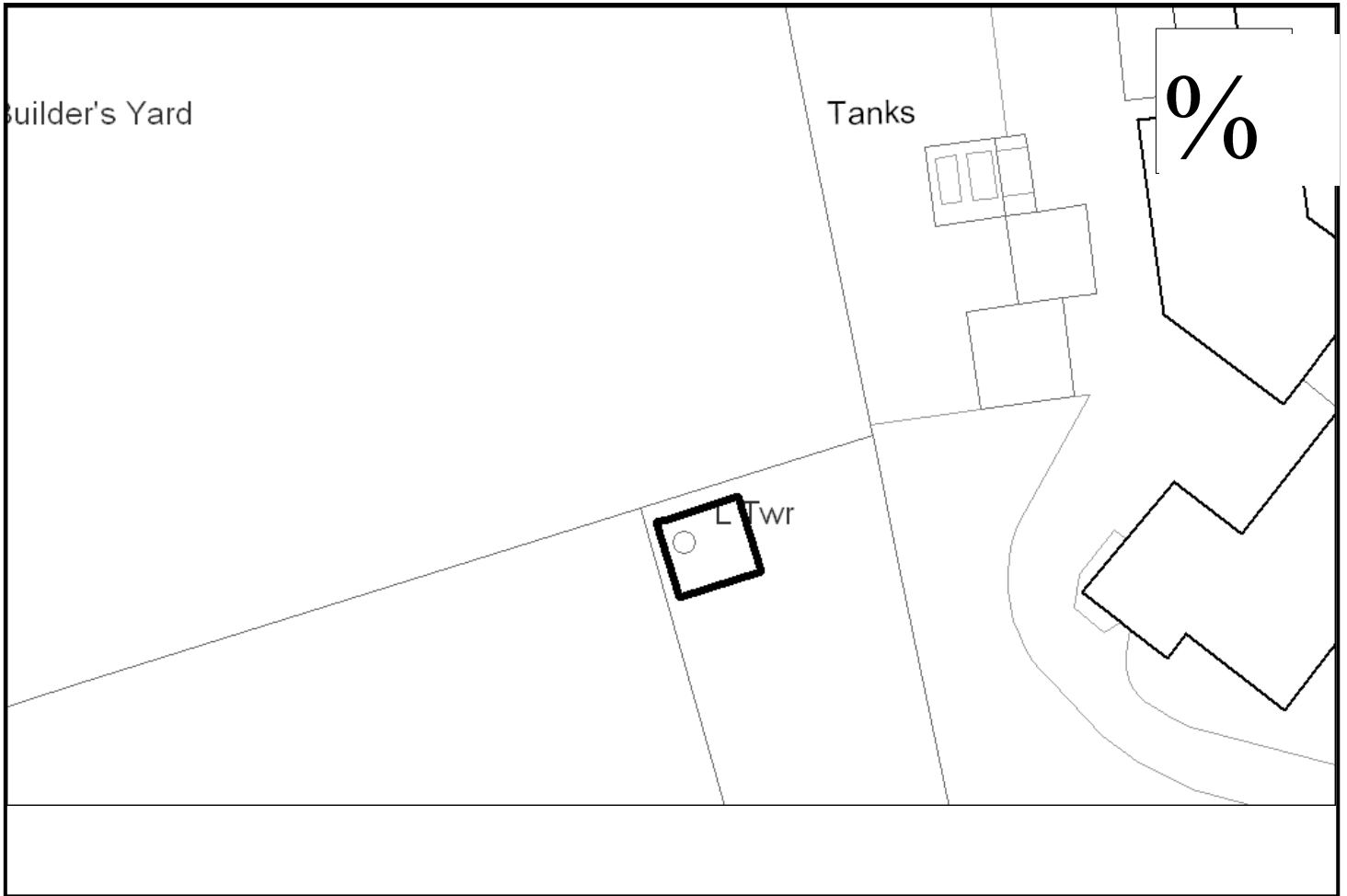
1 - Non-Standard Condition

The car park hereby approved shall be ancillary to the office use on the adjacent site known as Plot 200 and for use by Colchester United supporters on match days (as agreed by Colchester Borough Council, Essex County Council and Colchester United Football Club) for so long as that site (Plot 200) is occupied by Essex County Council. In the event of Essex County Council no longer occupying all of the building on Plot 200 the car park the subject of this permission shall cease being used as such and shall be reinstated to a tidy condition within 28 days.

Reason: For the avoidance of doubt as to the scope of the permission hereby granted and in granting this permission the Council has taken account of the particular operating pattern of Essex County Council. The permission also recognises Colchester Borough Council's aim to ensure that the subject site is developed for employment uses in accordance with the established land use allocation for this site.

Informatives

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.



Application No: 090205

Location: Stanway Rovers Football Club, New Farm Road, Stanway, Colchester, CO3 0PG

Scale (approx): 1:1250

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7.6 Case Officer: John Davies

EXPIRY DATE: 13/04/2009

OTHER

Site: New Farm Road, Stanway, Colchester, CO3 0PG

Application No: 090205

Date Received: 16th February 2009

Agent: Mrs Melanie Barnes

Applicant: Telefonica 02 (Uk)

Development: Erection of a 22.5 metre telecommunications monopole with 3 no. antenna. Floodlights from existing column to be located at same height.

Ward: Stanway

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The site for the proposed mast is located in the north-east corner of the Stanway Rovers Football Club ground, which is accessed off New Farm Road. The site is bounded by a builders yard to the north (Colliers and Catchpole), the St Albrights site to the east, a residential development to the south-east and open land comprising football pitches, allotments and gardens to the west. St Albrights is a vacant former office building with permission for residential use and is Listed Grade 2.

2.0 Description of Proposal

2.1 The proposed siting for the mast is an existing 17m floodlighting column, which is to be replaced by a 22.5m high monopole with 3 antennae at the top and relocated floodlighting positioned at 17.5 metres on the same pole. The application is accompanied by a report setting out a description of the proposal, consideration of alternative sites, prior consultation and coverage details and ICNIRP Certificate. The proposed finish to the monopole would be natural galvanised grey.

3.0 Land Use Allocation

3.1 Open Space

4.0 Relevant Planning History

4.1 F/COL/01/0352- to install 20m replacement floodlight with 6 antennae and 4 transmission dishes on the floodlight, equipment cabinet, cabling all in a fenced compound- Approved 4.5.2001. This mast/floodlighting is located at north-west corner of pitch.

- 4.2 PA/COL/00/1441- replacement of floodlight with 15 m column supporting an antenna and transmission dish with equipment cabin near base. Floodlights to be attached to column. Approved 26 September 2000.
- 4.3 F/COL/02/0841- mobile phone base station comprising 20 m monopole and equipment cabin with lighting on existing mast to be mounted on replacement mast.- Approved 1 July 2002. This mast/floodlighting is located at the south-west corner of the pitch and replaced the mast agreed under 00/1441.
- 4.4 PA/COL/03/1713- Replacement of existing 12m monopole with proposed 12m high monopole- Agreed 21 November 2003. This is a mast in the south-west corner of the builders' yard site.

5.0 Principal Policies

- 5.1 Adopted Review Colchester Borough Local Plan-March 2004
DC1- Development Control considerations
UT4- Telecommunications
UEA5- Impacts on setting of Listed Building
- 5.2 Core Strategy –December 2008
ENV1- Environment

6.0 Consultations

- 6.1 Environmental Control - any comments to be reported.

7.0 Parish Council's Views

- 7.1 No objection.

8.0 Representations

- 8.1 2 letters of objection were received. One has been withdrawn following clarification of the siting of the mast. The remaining objection is on the following grounds:
- The effects to health are still unproved.
 - There are two existing masts on the site and one to the north in the builders' yard. Another mast is considered excessive.
 - Mast will be close to proposed residential development at St Albrights.

9.0 Report

- 9.1 The main issues to consider are the design and appearance of the structure and its impact on the surrounding area, its impact on the setting of the Listed building at St Albrights and health issues associated with telecommunications development.

- 9.2 The proposed mast is on the existing site of a floodlighting column to the football ground and it is proposed to replace this with a taller monopole which would share antennae and floodlighting fixtures. The latter being at the same height as existing. This approach has been previously adopted with the erection of similar shared mast/floodlight columns at positions to the north-west and south-east of the ground. These are to similar overall heights as currently proposed and are detailed in the Planning history section above. It is considered that the shared use of such structures is an appropriate means of providing for additional telecommunications development.
- 9.3 With regard to health issues it is noted that ICNIRP certification has been provided in respect of this proposed equipment. Government advice to LPAs is that if a proposed development meets the ICNIRP guidelines, it should not be necessary to consider the health effects further.
- 9.4 With regard to impact on the adjoining listed building the main issue is the impact of the mast on views from London Road and its junction with Magazine Farm Way. The mast would be seen behind the roof of St Albrights against the skyline. The mast would be approximately 5 metres higher than the existing floodlight column. Given the distance from the main range of St Albrights and the presence of substantial tree screening on the frontage it is not considered that the mast would be an unduly prominent feature in the backdrop to views of the listed building.
- 9.5 The proposed monopole structure would by default have a galvanised grey finish unless an alternative colour was requested by the Local Planning Authority. It is recommended that a condition be imposed to agree these details to ensure the finish is as sympathetic as possible to its surroundings.

10.0 Background Papers

10.1 ARC; HH; PTC: NLR

Recommendation - Conditional Approval

Conditions

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

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

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

2 - C6.2 Details of Satellite Antennae

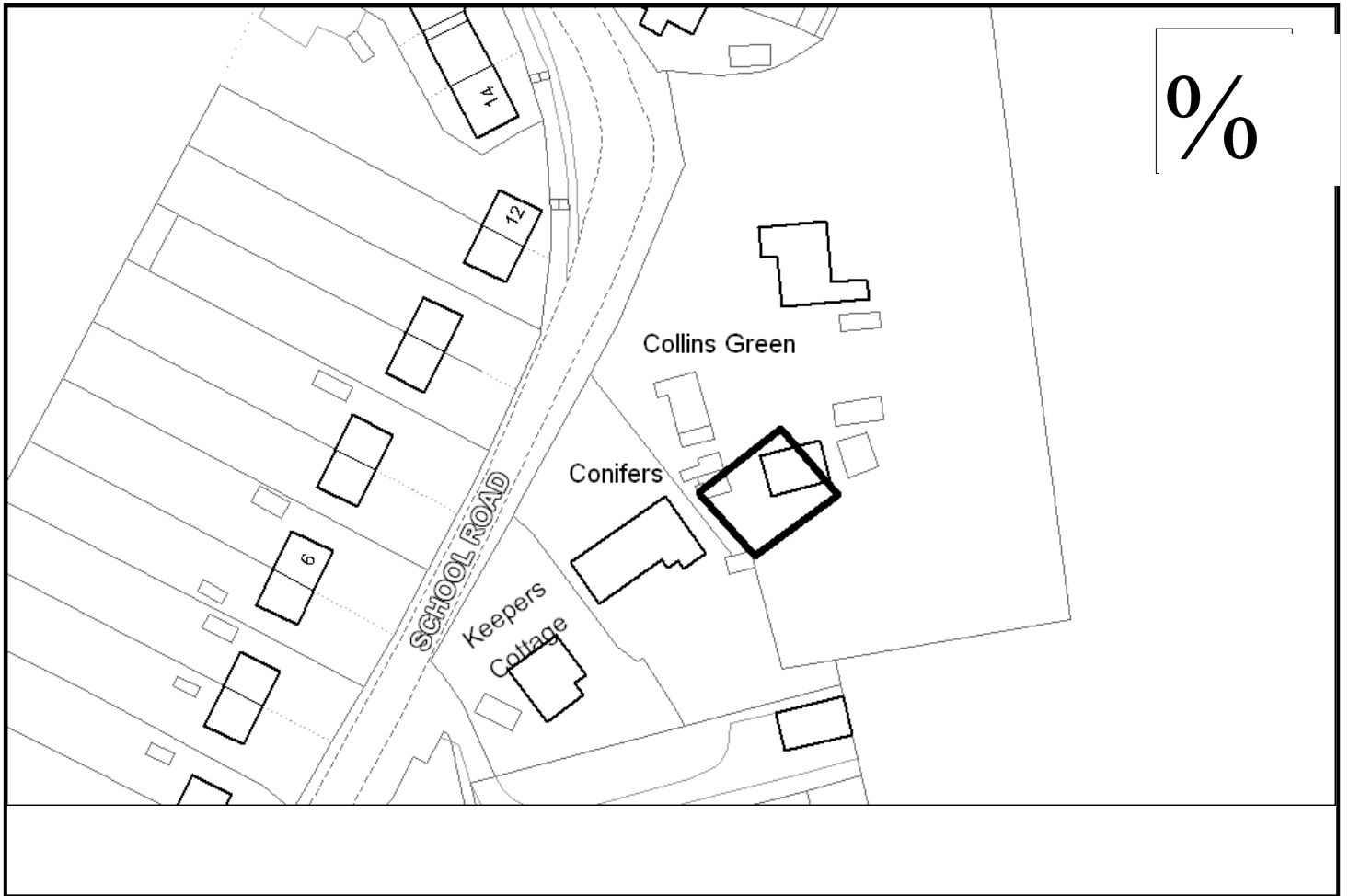
Prior to the erection of the monopole mast and antennae hereby permitted, full details of its colour/finish shall be submitted to and agreed in writing with the Local Planning Authority. The dish shall thereafter be retained only as approved.

Reason: In the interests of visual amenity.

3 – Non-Standard Condition

The monopole and antennae hereby approved shall not be brought into use until the existing floodlight column has been removed from the site and the equipment shall only be used in conjunction with the attachment of floodlights to serve the football ground as shown in the approved plans.

Reason: In order to ensure that the monopole is also used for floodlighting purposes and to prevent the retention of the existing floodlighting column which would be to the detriment of visual amenity.



Application No: 090211

Location: Plot 1 & 2, Collins Green, School Road, Messing, Colchester, CO5 9TH

Scale (approx): 1:1250

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7.7 Case Officer: Nick McKeever

EXPIRY DATE: 13/04/2009

OTHER

Site: Collins Green, School Road, Messing, Colchester, CO5 9TH

Application No: 090211

Date Received: 16th February 2009

Applicant: Leelamb Homes

Development: Retrospective application for minor elevational change to plots 1 & 2.

Ward: Birch & Winstree

Summary of Recommendation: Refusal

1.0 Site Description

1.1 The site lies within the village envelope of Messing. There are established residential properties to the west along the opposite side of School Road; immediately to the north is a more recent residential development fronting onto an area of village green. Other properties lie to the south whilst to the east lies open countryside.

1.2 The site is approximately ha with planning permission (reference F/COL/07/0826) for the erection of 7 dwellings:-

2 x 3 bed semi-detached houses on Plots 1 & 2

2 x 4 bed semi-detached houses on Plots 3 & 4

2 x 5 bed detached houses

1 x 6 bed detached house.

1.3 The dwellings on Plots 1 to 4 have been constructed. The remainder of the units have yet to be started and no development is currently taking place on the site.

1.4 This application relates to the dwellings on Plots 1 & 2 and seeks retrospective consent for works which have not been carried out in accordance with the approved drawings. These works include:-

- An increase in the height of the buildings from approximately 9 metres to 10 metres. This increase is the result of additional courses of bricks between the top of the first floor windows and the eaves.
- Changes to the front porches from the flat canopies to pitched roofs.
- There is also a discrepancy between the apparent detail on the front elevation shown on the approved drawing number 2083/03 B and the building as constructed. This relates to quoins on the front edges and purported lintels over the windows. The quoins have not been incorporated into the structures and the lintels have been finished in brick on edge headers rather than reconstituted stone.

2.0 Land Use Allocation

2.1 Village Envelope/Countryside Conservation Area

3.0 Relevant Planning History

3.1 F/COL/07/1734 - Demolition of existing bungalow and workshops, construction of 7 no. residential properties and associated garages and new access (resubmission of 071059). Approved 14 September 2007.

4.0 Principal Policies

4.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Design - UEA11& UEA13

5.0 Consultations

5.1 None

6.0 Parish Council's Views

6.1 The comments of Messing cum Inworth Parish Council are reproduced in full:-

"Messing cum Inworth Parish Council wishes to place on record its annoyance, grave concerns and strong objections to the retrospective planning application 090211, which seeks to amend application 071734 that the Parish Council supported two years ago.

The Parish Council's annoyance reflects the views of more than 30 people - a significant number in an adult population of 200 – who turned up at the Parish Council Planning Committee meeting on 3 March 2009. Residents aired their anger for more than an hour over the flagrant breach by Leelamb Homes of the permission granted by the Borough Council with regard to the original application 071734.

The unanimous opposition by both Parish Council and residents to planning application 090211 was heightened by the suspicions that the developer had used similar 'Trojan horse' tactics in past planning applications to Maldon District Council with regard to sites in Nayland.

An example of this tactic is that application 071734 contained two three bedroom houses (Plots 1 & 2) but these have disappeared from 090211 with all plots ticked as "4+" bedrooms.

Therefore Parish Councillors do not consider 090211 to be "minor elevation alterations" when the changes made leave residents offended by four town houses that are an eyesore and totally out of keeping with a picture-postcard village. They damage Messing's picturesque reputation, underlined by the awards as Essex's Best Kept Small Village in three of the last four years.

Planning Policy Statement 1 (PPS1) clearly states "that any new development which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area, should not be accepted." The overview laid down in PPS1 was thoughtfully carried out by Granville Homes when they developed Bouchiers Place in 1995-96 and the subsequent Messing Green development at the turn of the century. The latter development is highlighted by Colchester planning officers as a shining example of sympathetic rural development.

The Parish Council notes that the development shares a common boundary with the village's Conservation Area - and a plot containing a Grade 1 listed building. It believes the planning directives for the development should therefore be more in keeping with established and historic properties.

The problems with the Collins Green development start with the colour of the bricks, which are totally out of keeping with the rest of the village. The bricks are a harsh red when the remainder of the village has muted shades and therefore plots 1 to 4 of the development do not blend with the rest of the village.

In the conditions laid down in 071734 stated that the external finish of the brickwork must be in the local vernacular and that samples must be submitted to planning officers for approval. In keeping with the neighbouring Messing Green development, the conditions stated that these bricks must be soft orangey red, multi-coloured or Suffolk White - and that smooth faced wire-cut bricks were unacceptable. The planning files list no further correspondence between planners and developers even though the planning officers had said that the example of brick supplied by the developer was unacceptable. Parish Councillors wonder whether plots 1-4 have been built with the unacceptable brick selection.

The objections continue with the 10-13 extra courses of brickwork that add to the height of the properties, estimated at the best part of a metre. This extra elevation leaves Plots 1 & 2, as well as 3 & 4, 'sticking out like sore thumbs' on the village skyline when viewed from a variety of locations.

It was noted by a Parish Councillor that the extra height has enabled the builder to add an extra room in the second storey, not in the original plan, making the properties more attractive in the recession while avoiding the 'bedroom tax' which could have increased liabilities and a rise in the subsequent Section 106 payments. There is also concern that the added height may put the Plots 1 & 2, and possibly 3 & 4 too, in breach of 'the 45 degree rule' in relation to the facing properties, namely Osborne Cottages, School Road, Messing.

The problems with the brickwork, which could have been softened by rendering or weatherboarding, are exacerbated by the absence of feature bay windows and lintels above all windows, the non-approved design of porches and the lack of corbelled corners on the buildings, all of which were shown on the original plans in 071734. It should also be noted that objections to Plots 1 & 2 also apply to neighbouring plots 3 & 4. The net effect of this non-compliance in respect of the design approved in 071734 leaves residents faced with a carbuncle on the face of Messing.

The Parish Council therefore urges the Borough's Planning Officers and Planning Committee Members to note the high level of public objections at the retrospective application and reject it on the grounds that the changes carried out are far from "minor" and require a major rethink to make the development compliant with council planning policy and previously-approved plans.

The Parish Council urges officers and members to visit or revisit Messing and see how the development is totally out of character with the rest of the village, especially as it stands close to the much-lauded Messing Green."

7.0 Representations

7.1 In excess of 60 objections have been received. The objections are summarised as follows:-

- The overall height and roofline is imposing and as a result of the additional brickwork (approx 90cms) appears disproportionate.
- The omission of the approved detail (stone lintels, corbelled feature brickwork, flat roofed portico and solid panel front doors) is a flagrant breach of planning control and gives the buildings a bland and uninspiring appearance, which does not relate aesthetically to the surrounding area.
- Increase in space within the roof void. It seems inevitable that an application would be worth presenting to build dormers into the roof as seen in the Plots 3 & 4.
- Demonstrates a fundamental flaw between Planning Control and Building Regulations that permits the buildings to be constructed contrary to the approved scheme.

7.2 Councillor Andrew Ellis has submitted a lengthy comment on the application. Whilst his letter can be viewed in its entirety on the Council website it is considered appropriate to reproduce it as Appendix 1.

8.0 Report

8.1 The scheme for the development of this site evolved through protracted negotiations between the Conservation & Design Manager and the Agent, Matthews Serjeant Architects, to produce a range of house types and sizes. An acceptable scheme was finally submitted and subsequently referred to Members of the Planning Committee with a recommendation for approval.

8.2 The development duly proceeded with the construction of the 3 & 4 bedroom, semi-detached dwellings on Plots 1 to 4. It was at the stage where these buildings were completed (externally) that it was brought to the attention of the Planning Office that there appeared to be a discrepancy between the height and the external detail of the buildings as built, particularly Plots 1 & 2, and as approved. Upon the inspection of the site it was confirmed that additional brickwork had been inserted between the top of the first floor windows and the eaves resulting in the apparent increase in the height of the finished building. The buildings on Plots 1 & 2 were now of a similar height to the 4 bedroom properties at Plots 3 & 4.

8.3 Once the buildings at Plots 1 to 4 were completed externally the developer ceased building operations and the site was closed down. The developer was, however, advised of the discrepancies and advised of the need to either reduce the height of Plots 1 & 2 or to submit a retrospective application. This retrospective application was submitted on the 16th February 2009. The plans were then amended to include the deletion of the quoins and the change to the porch detail. These are the plans that are now presented to the Planning Committee.

- 8.4 The concerns of the residents of Messing are acknowledged in that the increased height due to the additional brickwork gives the buildings on Plots 1 & 2 an unbalanced and disproportionate appearance. It is not aesthetically pleasing. Whilst the overall proportions of Plots 1 & 2 are very similar to Plots 3 & 4, the inclusion of the dormers on the front roof planes of Plots 3 & 4 mitigates against this effect. It is unfortunate that the buildings sit on an elevated position and this contributes to the incongruity of the buildings when viewed from the road and relative to the adjoining dwelling.
- 8.5 The fact that the remainder of the approved development has not been completed further compounds the unfortunate impact that these buildings have upon the established street scene.
- 8.6 With regard to the brick arch detail over the windows and the quoins, the Applicant has stated that the schedule of external materials submitted for approval to the Council, and subsequently approved, for Plots 1 – 4 only specified a red brick (Leicester Red). Thus whilst the approved drawings indicated brick quoins, but not corbelled eaves, and a string course under the eaves, the Applicant maintains that the dwellings on these Plots have been built in accordance with the agreed external materials schedule. The Applicant has however stated that he is willing use stone slips to reproduce the appearance of stone lintels. This would improve the otherwise bland external appearance of these buildings. On this basis it is not necessary to require the proposed quoin detail.
- 8.7 There can be little doubt that the inclusion of the quoin detail would have enhanced the appearance of these dwellings. Any brick slips applied to reproduce the effect of quoins would sit proud of the existing facing bricks. As such they would not be an ideal solution.
- 8.8 No objections are raised to the pitched roof detail on the porches as this tends to add a small element of variety to the front elevation. The detailing of the front doors does not detract significantly from the overall appearance of the dwellings.

9.0 Conclusion

- 9.1 The combination of the increase in the height of the two buildings on Plots 1 & 2 resulting from additional courses of bricks, together with the omission of the architectural detailing has detracted significantly from the appearance of these buildings as shown on the approved drawings. The front elevations now have a disproportionate and aesthetically unpleasant appearance that detracts from their setting within the established village street scene.

10.0 Background Papers

- 10.1 ARC; PTC; NLR

Recommendation - Refusal

Reasons for Refusal

1 - Non-Standard Refusal Reason

The increased height of the buildings on Plots 1 & 2, where this is due to the insertion of additional courses of bricks between the top of the first floor windows and the eaves, results in these buildings having a disproportionate and aesthetically unpleasant appearance that will detract from the appearance and character of the development as approved under the permission 071734, and detracts from their setting within the established village street scene. In this respect the proposed development is contrary to the Adopted Review Colchester Borough Local Plan – March 2004 Policy UEA11 and to the advice contained within Planning Policy Statement 1 (PPS 1).

09 MAR 2009

Cllr. Andrew Ellis

Conservative Member for Birch and Winstree
Colchester Borough Council

Ransomes, Wigborough Road, Peldon, Essex CO5 7RA.
Tel: 01206 - 735 166, e-mail: andrew@birchandwinstree.com

Monday, 02 March 2009

Nick McKeever
Colchester Borough Council
P O Box 889
Town Hall
Colchester
Essex
CO1 1FL

Dear Mr McKeever,

Collins Green, Messing

Having had a chance to review the submitted plans for application 090211 online, and comparing them with the buildings 'on site', I am now very concerned about this development. I quite understand Messing residents' comments that what they thought they were getting, and what they have actually got, are two very different things! As I often said during my four-year stint as a member of the planning committee, "the devil is in the detail", and this case aptly proves that point.

While I could not have envisaged the particular shade of red brick used for this development, from the submitted drawings; that which confronted me on my site visit was quite shocking, and totally at odds with nearby buildings. Given that you suggested the use of these bricks in your correspondence of 22nd October 2007, perhaps you could enlighten me as to why? The submitted (approved) plans show interesting brick detailing (quoined corners), reconstructed stone-faced lintels over the windows, and flat roofed porches; all completely different to what has actually been constructed, and all of which would have mitigated to a certain extent, the bland design of these buildings. In addition we obviously have a substantial increase to the height of plots 1 and 2, the subject of the retrospective planning application. The detailing I have mentioned continues to be shown on the set of submitted plans accompanying this application.

I do not need to remind you that PPS1 states '*that any new development which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area.... should not be accepted*'. This development fails this test by some margin.

09 MAR 2009

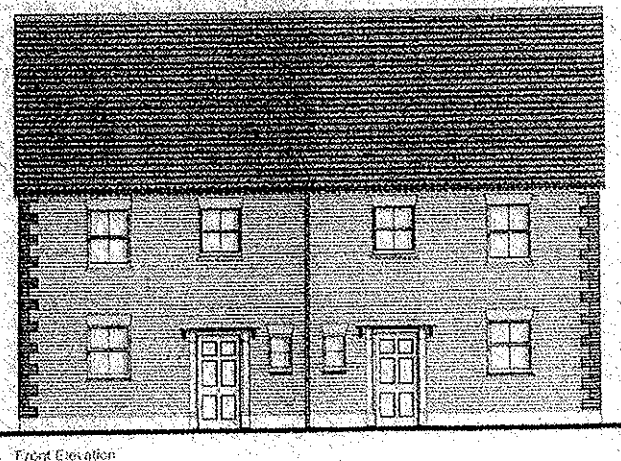
I sat on the Committee, which gave this permission, and recall that I spoke against the design, as I thought it poor, especially given its village setting. I even requested that false chimneys be added, in an effort to break up the roofline; committee members agreed with me, and these were added as a condition. Unfortunately those actually constructed are rather small and appear out of proportion; again highlighting that 'the devil is in the detail'! Given that this is a 'stones throw' from the Messing Green development, which Colchester Planners quite rightly hold up as a 'shining example' of good rural development, makes this act of architectural vandalism all the more disappointing.

Having spent some considerable time reading through the various applications 'online' I can find no evidence for these detailing changes in your correspondence with the developer; I completely understand why you have told the developer to submit a retrospective application for the change of height to plots 1 and 2, but would also like to know what can now be done to reinstate the missing detail?

This picture (right) is taken from the developers own website, showing an example of a property from another of their schemes. It illustrates the detailing features I have been discussing.



The approved drawing reproduced below, shows what I as a planning committee member, and the residents of Messing, expected to see constructed (minus the chimney's we conditioned). Please note the quoining, window lintels and door frame/porch details.



09 MAR 2009

The photograph below, shows what has actually been constructed, chimney's added, all other detail removed! Two quotes from the developers own website, 'The site is situated in the picturesque village of Messing', and 'our homes are recognisable by their distinctive style and quality range of exterior finishes', appear at odds with what they have achieved so far...



As a Planning Committee member, I was known for being a 'stickler' on design. I regularly made reference to the quote from PPS1, which I used earlier in this letter, because I felt well designed schemes could (and should) enhance communities, and poor design was simply unacceptable. I hold this belief very dear, and consider this scheme unacceptable on grounds of poor design.

I wish to be informed what action Colchester Borough Council Planning Department will be taking to remedy this incredibly unsatisfactory situation. The retrospective application for the change of height to plots 1 and 2 whilst essential, does not address the issue of the missing detailing from these plots, and also missing from the adjacent plots 3 and 4.

I look forward to receiving your response on these issues.

Yours sincerely,

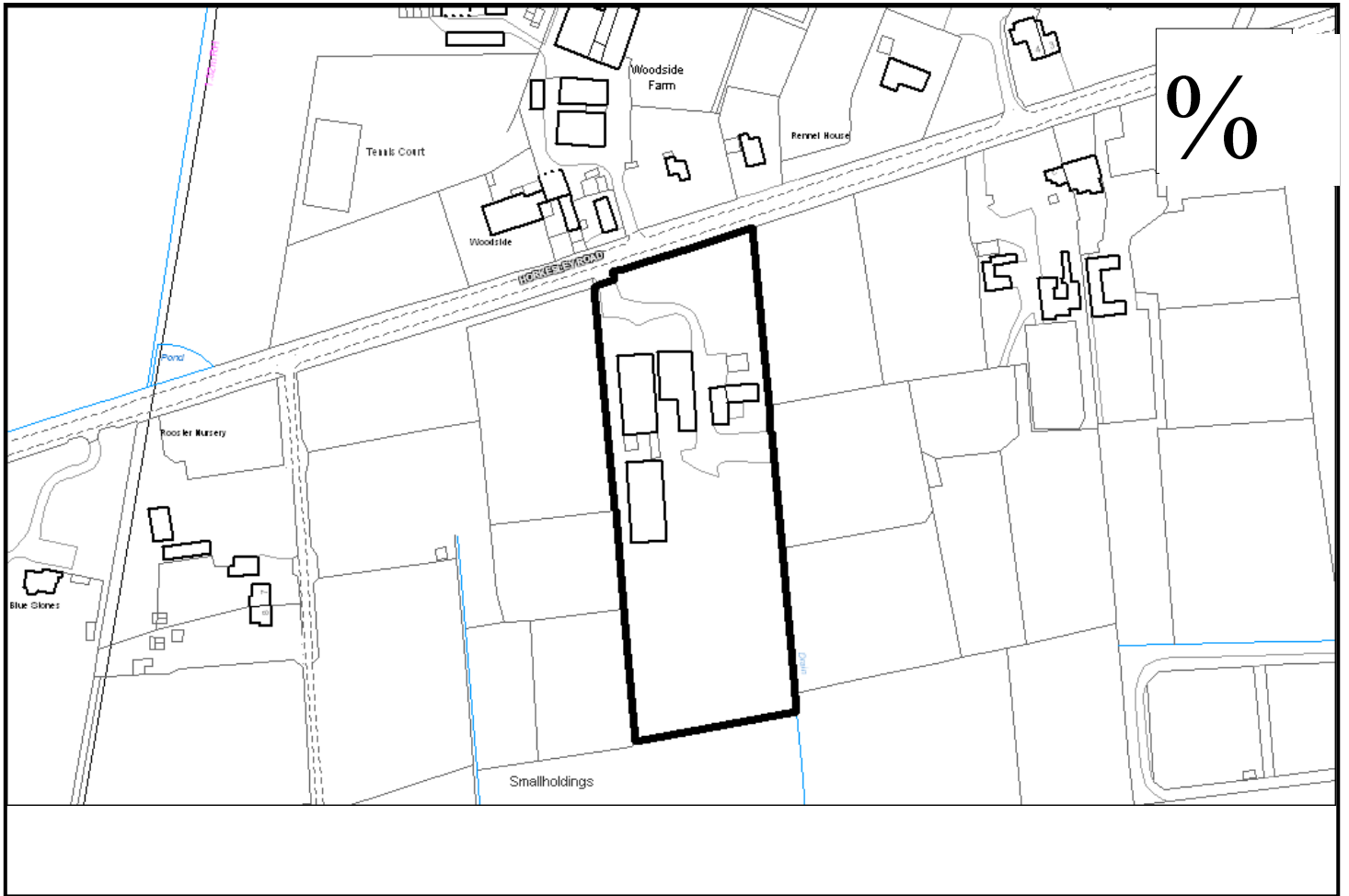
Andrew Ellis

Cllr. Andrew Ellis

Conservative Member for Birch & Winstree
Colchester Borough Council

Copy to:

Vincent Pearce, Planning Services Manager
Cllr. Kevin Bentley
Jon Longman, Chairman, Messing-cum-Inworth Parish Council



Application No: 090235

Location: Great Oaks, Horkesley Road, Boxted, Colchester, CO4 5HS

Scale (approx): 1:1250

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7.8 Case Officer: Jane Seeley

EXPIRY DATE: 17/04/2009

OTHER

Site: Great Oaks, Horkesley Road, Boxted, Colchester, CO4 5HS

Application No: 090235

Date Received: 20th February 2009

Agent: Ms Emma Wilkinson

Applicant: Mr M Daly

Development: Variation of Condition No. 2 of Application F/COL/99/1486 to allow occupant to work in agriculture, horticulture or forestry outside of the site

Ward: Fordham & Stour

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The application site is a former, now rather derelict looking, horticultural nursery. There is a range of glasshouses with barns that were at one time used for manufacturing. A mobile home remains on site. At the front of the site is a dwelling that has been constructed over a number of years. A condition restricts the occupation of this dwelling to a person employed on this horticultural nursery. The house is now approaching completion and could be occupied on a full time basis.

1.2 When planning permission (F/COL/99/1486) was granted for the dwelling a condition (02) was imposed as follows:

‘The occupation of the dwelling shall be limited to a person solely or mainly working, or last working at Sow and Sow Nursery in agriculture or in forestry or a widow or widower of such a person and to any resident dependents.’ (NB at the time of the application this horticultural unit was k/a Sow and Sow Nursery).’

1.3 This application seeks to vary this condition to allow the occupant of the dwelling to work in agriculture or forestry outside of the site. In support of the application the applicant’s agent has provided a supporting statement. The full text of this document is available via the Council’s website. The main points are summarised:

- 1) The applicant purchased the site in 2003. His intention was and remains to construct the dwelling and run a nursery business from the site.
- 2) Since 2003 Mr Daly has sought minor amendments and 2 planning permission for alterations and extensions to the dwelling.
- 3) Personal circumstances have resulted in delays in completing works on site and the preparation of the remainder of the site.

- 4) An application was made in 2008 to vary condition 2 for a period of three years to enable Mr Daly to occupy the dwelling for 3 years without complying with the occupancy condition in order that he can gain the necessary training and to allow him to work outside of the site. This was refused.
- 5) The original permission was in line with National Guidance; the granting of this permission will not conflict with these principles.
- 6) The variation of the condition would have the benefit of meeting the wider aims of the development plan and government objectives whilst securing the retention of a dwelling for the agricultural community.
- 7) Currently Mr Daly cannot comply with Condition 2, the variation of the condition will allow Mr Daly to fully comply with the occupancy condition.
- 8) The wording of Condition 2 is not in accordance with national policy.

2.0 Land Use Allocation

2.1 Special Policy Area

3.0 Relevant Planning History

- 3.1 F/COL/99/1486 Erection for a two storey dwelling house for use by employee of nursery – Approved 2 December 1999
- 3.2 080253 Erection of single storey rear extension – Approved 19 March 2008
- 3.3 081546 Erection of a porch – Approved 8 October 2008
- 3.4 082047 Occupation of dwelling without compliance with Condition 2 of application F/COL/99/1486 (occupation by person working in, or last working at, Sow and Sow Nurseries) for a temporary period of three years and variation of Condition 2 to allow occupant of dwelling to work in agriculture or forestry outside of the site. – Refused 30 January 2009

4.0 Principal Policies

- 4.1 Adopted Local Plan
DC1 - Development Control considerations
CO1 - Rural resources
H10 - Agricultural and Forestry Worker Dwellings

Core Strategy
Core Strategy ENV1

5.0 Consultations

5.1 None

6.0 Parish Council's Views

6.1 Great Horkesley Parish Council do not object provided Condition refers to Occupant.

7.0 Representations

7.1 2 Letters/emails have been received:

1 objection:

- the applicant seems unwilling to comply with the terms he is obliged to follow.
- I cannot see any logic in the convoluted arguments.
- Hope the Council will stand up to this blatant attempt to bypass the reasonable agricultural occupancy conditions.

1 letter of support:

- the site is a blot on that landscape a mishmash of buildings and increasingly dilapidating glass houses.
- the use of a house for an agricultural worker is totally reasonable; there is a shortage of housing for this low paid group and the size is ideal for families; the removal of the green house is inevitable; an agricultural worker is likely to cultivate the area or use it for livestock.
- the removal of the temporary building and the maintenance or removal of the glass house should be a requirement of any approval. The tendency to follow planning guidelines with out concern for the above factors makes a mockery of such guideline. These guidelines are for the interpretation by people who are concerned for their underlying principles, ie to preserve and enhance the countryside and support workers who maintain it.

8.0 Report

8.1 The previous application to allow Condition 2 of the 1999 permission to be removed for a temporary period and to vary the condition as currently proposed was refused. It was considered that the temporary relaxation of the condition for a period of 3 years would set an undesirable precedent and would result in a dwelling becoming in effect a general purpose house which would be resisted by national and local policies. However it was indicated on the Decision Notice that an application to vary Condition 2 was likely to be supported by your Officers.

8.2 Condition 2 of F/COL/99/1486 restricts the occupant of the dwelling k/a Great Oakes to a person employed or last employed on the application site in agricultural or forestry. This type of restrictive agricultural condition is not currently supported by PPS7 and was not in accordance with PPG7 at the time of its imposition. The advice in these guidance notes is/was that agricultural occupancy conditions should be more general, ie the occupant should be permitted to work in agriculture or forestry both on the site and elsewhere in the locality. There is no record of any reason why this advice was not followed in 1999 or why the existing condition was imposed rather than a general agricultural restriction. Accordingly it has been concluded that as there is no justification for the overly restrictive condition it would be unreasonable for it not to be varied so that it is in line with PPS7 advice.

8.3 The supporting statement provided by the applicant's agent suggests that the applicant can comply with the condition, as varied, and that the grant of this permission would in effect confirm that he would not be in breach of planning permission if he were to occupy the dwelling. This is not the case. The determination of this application relates solely to the variation of the condition. The applicant's ability to comply with the varied condition is not for consideration and is not inferred in the event of this application being approved. An informative to this effect is recommended.

9.0 Background Papers

9.1 ARC; PTC; NLR

Recommendation - Conditional Approval

Conditions

1 - Non-Standard Condition

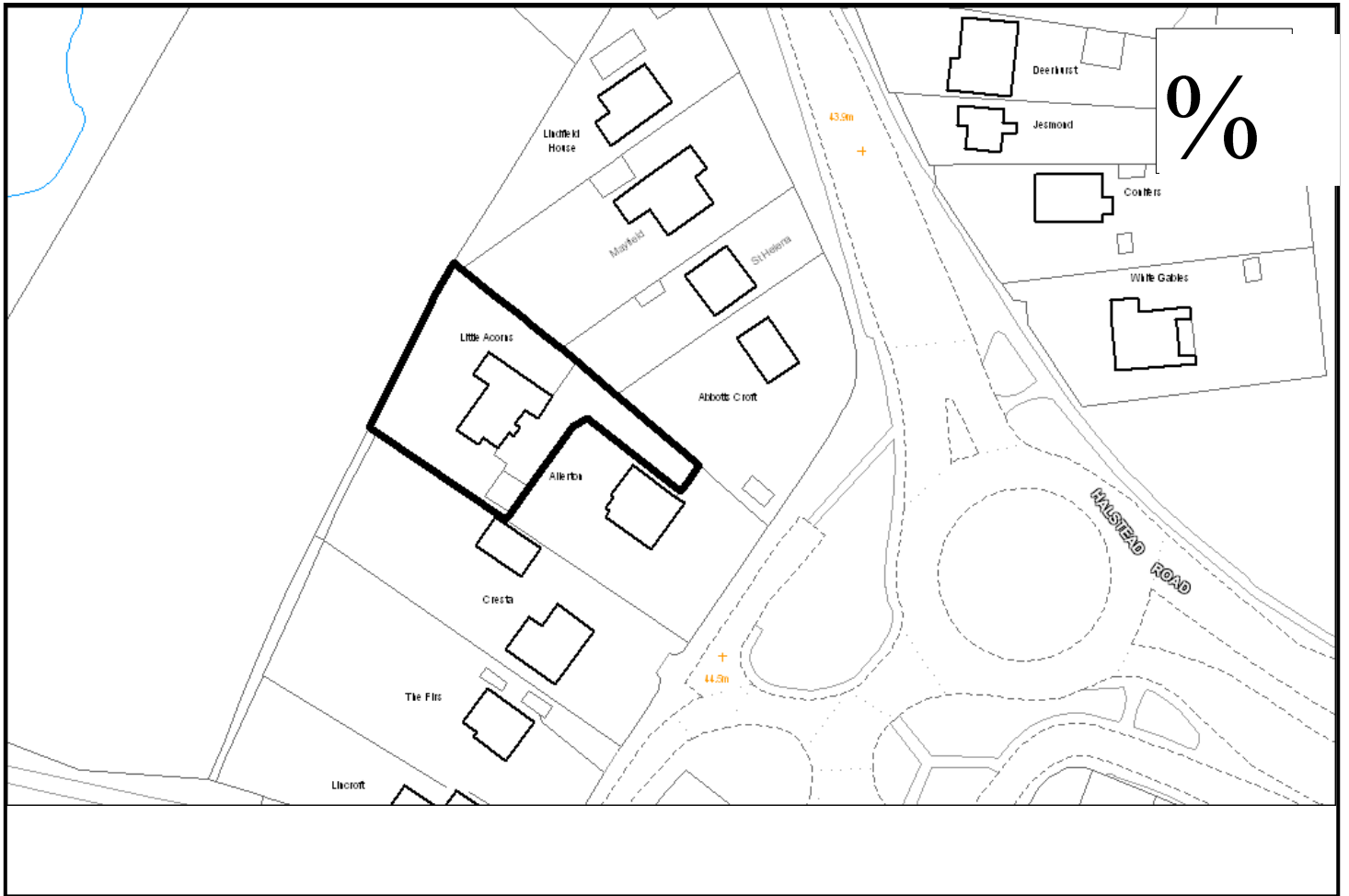
The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.

Reason: For the avoidance of doubt and because the site lies in a rural area where development other than for agricultural purposes is not normally permitted.

Informatives

You are advised that the grant of this permission does not infer that the applicant can comply with the terms of the varied condition. The applicant, or any other occupant, will need to be able to demonstrate to the Local Planning Authority that they comply with Condition 1 above.

You are advised that the other conditions attached to planning permission F/COL/99/1486 remain relevant and enforceable.



Application No: 090293

Location: Little Acorns, Abbotts Lane, Eight Ash Green, Colchester, CO6 3QL

Scale (approx): 1:1250

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7.9 Case Officer: John Davies

EXPIRY DATE: 29/04/2009

OTHER

Site: Little Acorns, Abbots Lane, Eight Ash Green, Colchester, CO6 3QL

Application No: 090293

Date Received: 4th March 2009

Applicant: Mr J Heath

Development: Variation of Condition 10 of planning permission O/COL/06/0917.
Remove dead and dying trees and replant trees and hedges

Ward: W. Bergholt & Eight Ash Green

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The application site is a bungalow and grounds known as Little Acorns situated behind a dwelling known as Allerton on Abbots Lane. The application concerns a row of trees (8 no) to the rear of the garden which adjoin a large field which is accessed from Halstead Road. The trees comprise 5 oaks, 2 elm and an ash. The trees are not visible from either Abbots Lane nor Halstead Road. One of the oak trees has already been pollarded by the applicants in advance of planning permission being granted. This application is therefore partly retrospective.

2.0 Description of Proposal

2.1 The application is for works to the trees comprising the complete removal of three trees (2 elms and an ash) , the removal of a stem to one of the oaks and works of crown lift, coppicing or removal of dead wood to the other four oak trees. There are also proposals for replacement tree planting and improvement to the hedgerow.

3.0 Land Use Allocation

3.1 Village Envelope

4.0 Relevant Planning History

4.1 O/COL/06/0917-Erection of a single storey dwelling, garage and access drive together with accommodation works to Allerton including the erection of a new garage - Approved 28 July 2006

4.2 071297- Reserved Matters application- Erection of single storey dwelling, garage and access drive with accommodation works to Allerton, including the erection of a new garage. Approved 14 June 2007

- 4.3 081570- Variation of Condition 10 of planning permission O/COL/06/0917 (works to trees) - Refused 9 October 1998
- 4.4 081942- Variation of Condition 10 of planning permission O/COL/06/0917 (works to trees). Remove dead and dying trees and replant trees and hedges. Withdrawn

5.0 Principal Policies

- 5.1 Adopted Review Colchester Borough Local Plan-March 2004
DC1- Development Control considerations
CO4- Landscape Features
- 5.2 Core Strategy
ENV1- Environment

6.0 Consultations

- 6.1 Tree Officer comments are as follows:-

“I’m in agreement to the recommendations made within the proposal. These trees are of limited public amenity and would therefore not be subject to TPO. They have been previously badly managed and do need work to make them safer. The proposal also states that whilst trees are being removed and cut back additional hedging is also being put in.”

7.0 Parish Council's Views

- 7.1 Eight Ash Green Parish Council object to the application on grounds that works have already commenced without planning permission and in breach of current planning conditions. The parish Council are aware that the person making the application and carrying out the works to date is not the land owner. The Parish would like it noted that they are not happy that this has been allowed to happen and planning conditions have been breached so easily.

8.0 Representations

- 8.1 The consultation period extends to 28 March and at the time of writing 2 letters of objection have been received from neighbours on following grounds:
- A healthy mature oak tree has already been felled without planning permission.
 - Trees do not belong to the owners of ‘Little Acorns’
 - Owners should be required to re-plant the same species.
 - Purchaser of bungalow was aware of tree protection condition when buying the property.
- 8.2 Any further responses will be reported on the Amendment Sheet.

9.0 Report

- 9.1 This application concerns proposals to carry out works to trees, which are the subject of a tree protection condition imposed on the original outline consent for the erection of the bungalow.
- 9.2 The first application for similar works was refused on the grounds that there was insufficient clarity in the submission and information to justify the works. The Tree Officer has since visited the site to carry out a more detailed inspection which has informed his consultation comments. The second application for the same works was withdrawn by the applicant following a withdrawal of the item from Planning Committee agenda on the 18 December last year due to uncertainty over the ownership of the application site. This has now been resolved as the current application has been submitted with Certificate B signed to indicate that the owner of the adjoining field has been notified of the application as a joint owner of the Application site.
- 9.3 The proposed tree works appear to be partly motivated in order to remove dead/dying trees and dead work from healthy trees as well as to provide more light into the rear garden on the property. There is no objection to the removal of dead trees and their re-planting and the other works of crown lifting and removal of dead wood are considered to be justified on grounds of good tree management practice. The Council's Tree Officer does not raise objection to the works.
- 9.4 It is acknowledged that works to one of the trees have already been carried out by the applicants and the concerns of neighbours about non compliance with conditions are noted. This was the pollarding of an oak tree and they were works in accordance with the planning submission, which was agreed by the Tree officer. It is not considered expedient that any legal action be taken in respect of this given that the trees are not of high public amenity value and the applicant proposes re-planting. Failure to comply with the condition is not a reason in itself to refuse this application.

10.0 Background Papers

- 10.1 ARC; TL; PTC; NLR

Recommendation - Conditional Approval

Conditions

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

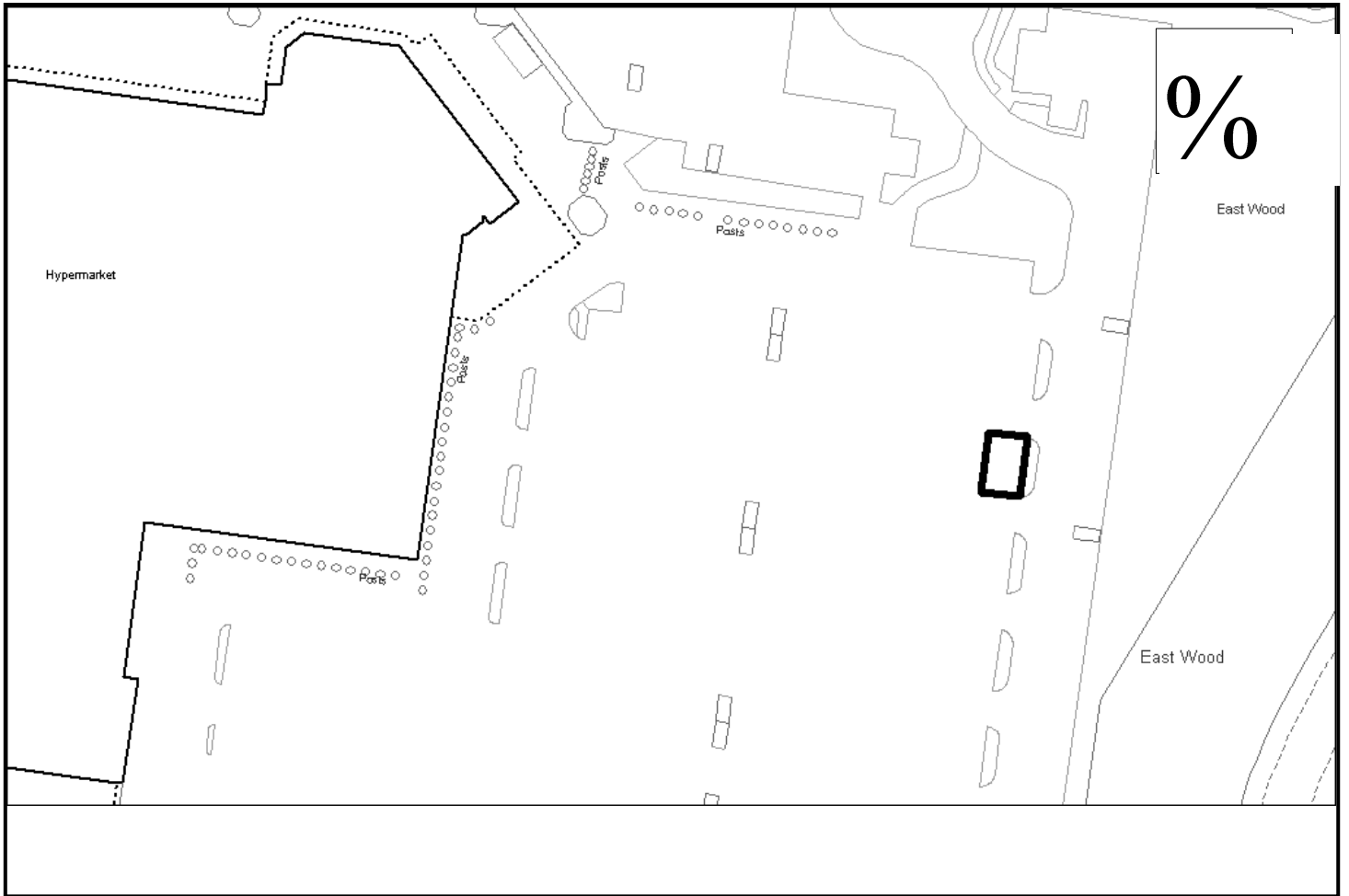
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2 - C11.14 Tree / Shrub Planting

Before any works commence on site, details of tree and/or shrub planting and an implementation timetable shall be submitted to and approved in writing by the Local Planning Authority. This 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.



Application No: 090070

Location: Tesco Stores Ltd, Highwoods Square, Colchester, CO4 9ED

Scale (approx): 1:1250

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7.10 Case Officer: Nick McKeever

OTHER

Site: Highwoods Square, Colchester, CO4 9ED

Application No: 090070

Date Received: 21st January 2009

Agent: Mr Moise Coulon

Applicant: Tesco Plc

Development: Proposed 10.6m high wind turbine and associated works for a period of 15 years

Ward: Highwoods

Summary of Recommendation: Conditional Approval

1.0 Site Description

- 1.1 The Tesco Store is located amidst a residential area at Highwoods Colchester. The site is surrounded on all sides by residential properties set within the remains of a large woodland area.
- 1.2 The application proposes the erection of one 6 KiloWatt micro wind turbine within the main car park of the Tesco Store. It is to be located to the West of the main store close to the feeder road into the car park. The turbine is in the form of a monopole having a total height of 10.6m including a rotor with a diameter of 3.3m. The rotor assembly consists of six vertical aerofoils mounted on the top of the pole. The electricity generated would be fed directly into the existing store.

2.0 Land Use Allocation

- 2.1 Local Shopping

3.0 Relevant Planning History

- 3.1 Whilst there is a relatively extensive planning history none of the planning applications relate specifically to this proposal.

4.0 Principal Policies

- 4.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Design - UEA11& UEA13
Pollution [General] – P1
Planning Policy Statement 22 (PPS 22)
Renewal Energy Schemes – P6

5.0 Consultations

5.1 Environmental Control recommends the following:-

"The noise emission (LA90, 10 minute) from the wind turbine at any property shall not exceed the greater of 35dB(A) or 5dB(A) above background noise (LA90, 10 minute) during the period of 07.00 hours to 23.00 hours and shall not exceed the greater of 43dB(A) or 5dB(A) above background noise (LA90, 10 minute) during the period of 23.00 hours to 07.00 hours.

The lower noise level set for the daytime is to take into consideration the use and enjoyment of residential garden areas. A slightly higher night-time level allows for a degree of reduction of external noise through a partially open window.

Environmental Control recommends that a non reflective matt finish is used for the blades and any other moving parts."

6.0 Representations

6.1 3 letters of objection have been received. The objections are summarised as follows:-

- Loss of visual amenity, particularly during the winter months when the trees which screen the site lose their leaves. The existing trees are inadequate to effectively screen the turbine. A more open position would be more appropriate (i.e. in the centre of the car park)
- Noise generated by the turbine. More information should be sought.
- Whilst the need for green energy is acknowledged, how much impact will the turbine have on the total energy requirement for the site?

6.2 Councillor Gerard Oxford has asked that more information should be sought on the noise levels and on the alternative sites that were considered.

7.0 Report

Principle of the development

7.1 PPS 22 sets out the policy of the national government with regard to renewable energy and offers guidance on the assessment of the potential impacts of such development. This Statement makes it clear that renewable energy projects, regardless of their size, have wider environmental, economic and social benefits. Local Planning Authorities should not seek to unreasonably constrain the development of such facilities.

7.2 The Adopted Review Local Plan Policy P6 reflects this advice and states that a proposal for renewable energy will be permitted if it does not harm the landscape or historic features within it.

7.3 The Policy DC1 states that all proposals for development will be permitted where :-

- The development does not cause unacceptable harm through pollution to land, air and water or to people or natural resources;
- The development will be well designed and should be based upon a proper assessment of the surrounding built and natural environment.

Noise Issues

7.4 Whilst the application was supported by details of the noise generated by the wind turbine, further information was sought. The response was as follows:-

“Noise

As detailed in the noise chapter of our planning application supporting statement, ETSU-R-97 The Assessment and Rating of Noise from Wind Farms states:

“For single turbines or wind farms with very large separation distances between the turbines and the nearest properties, a simplified noise condition may be suitable. If the noise is limited to an LA90, 10min of 35dB(A) up to wind speeds of 10 m/s at 10m height, then this condition alone would offer sufficient protection of amenity, and background noise surveys would be unnecessary.”

TNEI made a calculation which shows that the noise from the turbine would be 3.10dB(A) LA90 at the closest noise sensitive receptor (69m from the turbine) and the proposal therefore satisfies the simplified ETSU criterion as stated above. In response to objections that the turbine is “closer to residence and away from the store”, TNEI has submitted a revised location where the Turbine is now estimated to be 87m away from the closest noise sensitive receptor. The same calculation with an 87m separation distance gives an estimated 29.0dB(A) LA90, well below ETSU simplified criterion.

The above calculation is a worst case scenario and assumes flat acoustically hard ground and no screening. In addition, I would add that if Colchester Borough Council still considers noise to be an issue. TNEI has suggested a suitable noise condition which is in accordance with ETSUJ-R97:

CONDITION: *Noise from the operational turbine measured at the nearest noise sensitive receptor (as legally existing at time of consent) shall be limited to an LA90, 10min of 35dB(A) at wind speeds of up to 10m/s as measured or calculated at 10m height.*

REASON – *To protect residential amenity.”*

7.5 With regard to these noise levels it is acknowledged that they fall below the standard required by Environmental Control i.e. 35dB (A). On this basis your Officers are satisfied that the development complies with development the aforementioned Local Plan policy.

Visual Impact

- 7.6 The location of the turbine has been determined taking into account the potential impact against the need to maximum exposure to the prevailing south-westerly winds. In terms of the impact the proposed turbine is located a satisfactory distance from residential properties, particularly those along Eastwood Drive. It will also be viewed against the existing building and other “street furniture” within this privately owned land. The site is also very well screened by the existing trees that enclose the Tesco Store and its car park. This tree screening includes a substantial a belt of trees along the eastern boundary between the car park area and Eastwood Drive.
- 7.7 The white finish of the turbine has been chosen to be as discreet as possible and to blend into the existing building when viewed against this as a background. The Applicant is, however, prepared to consider an alternative finish if this is considered to be necessary.
- 7.8 In response to a request by your Officers the Applicant has submitted more details of the site selection criteria. This response explains that constraint mapping of the store has been undertaken to consider issues such as minimum separation distances from roads, outbuildings etc. The results of this analysis are set out in an additional drawing entitled “Wind Harvesting Site Analysis”.
- 7.9 In response to local objections the Applicant has moved the turbine 15 metres to the west in the car park and further away from the dwellings along Eastwood Drive.
- 7.10 The additional information set out the Agent’s letter dated 6th March and the drawing entitled “Wind Harvesting Analysis” can be viewed in full on the Council website.

8.0 Conclusion

- 8.1 Policies at the National and the Local levels support the development of renewable energy projects, provided that such developments do not adversely impact upon the amenities of the areas in which they are to be located and upon the amenities of the occupiers of nearby residential properties. The proposed turbine is to be located within the site owned and operated by Tesco Stores Ltd and is to be positioned a significant distance from residential properties. Furthermore the site is well screened by established and mature trees. It is not considered that, by reason of its size, height or design, it would have an adverse impact upon the visual amenity of the surrounding area. The potential impact upon nearby residential properties has been assessed in terms of noise. In this context it is noted that Environmental Control has no objection subject to an appropriate condition. From the information supplied by the Applicant it would appear that these requirements are capable of being satisfied.

9.0 Background Papers

- 9.1 ARC; HH; NLR

Recommendation - Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

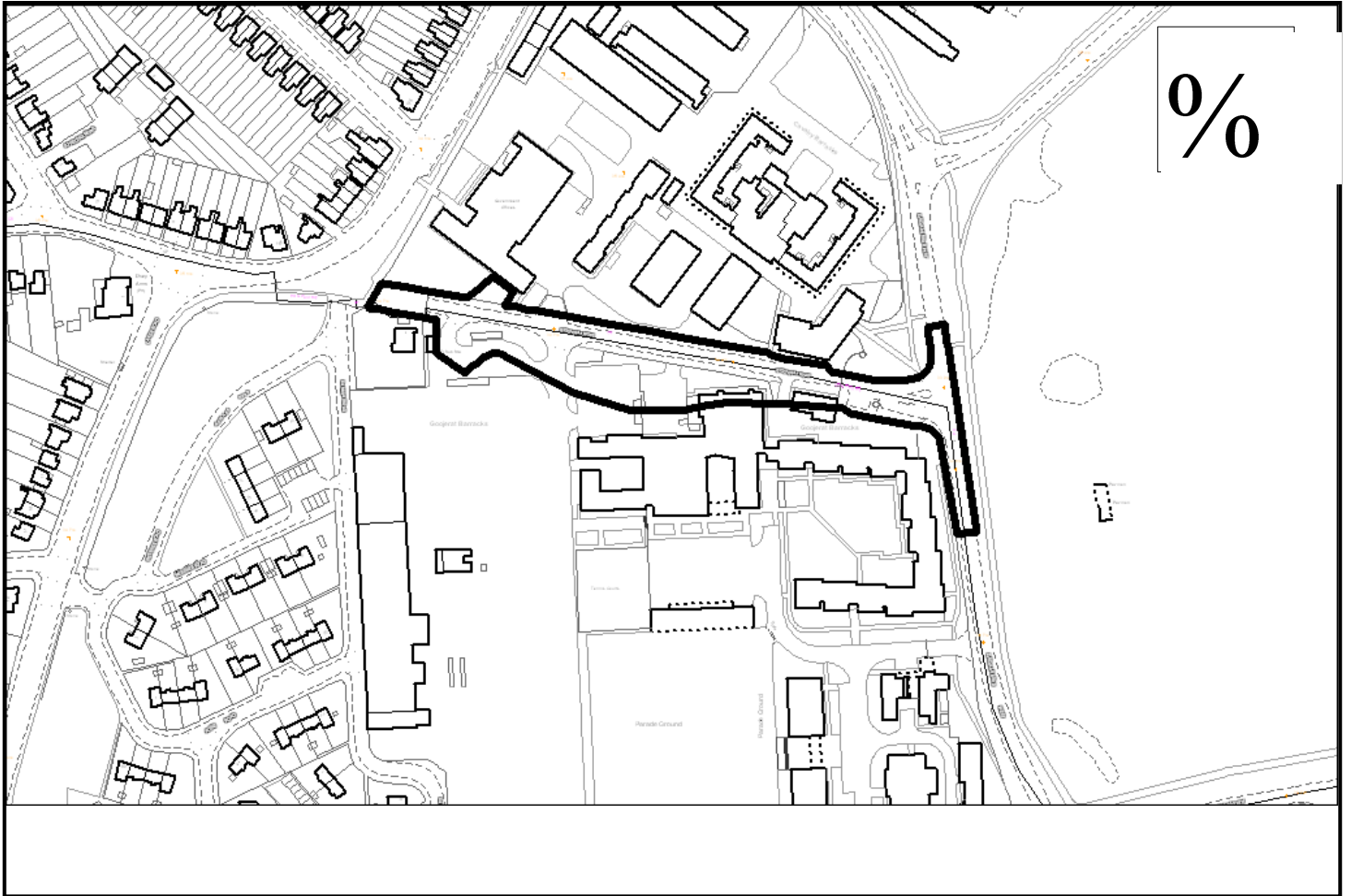
The noise emission (LA90, 10 minute) from the wind turbine at any property shall not exceed the greater of 35dB(A) or 5dB(A) above background noise (LA90, 10 minute) during the period of 07.00 hours to 23.00 hours and shall not exceed the greater of 43dB(A) or 5dB(A) above background noise (LA90, 10 minute) during the period of 23.00 hours to 07.00 hours.

Reason: In order to safeguard the amenity of existing residential properties.

3 - Non-Standard Condition

A non-reflective matt finish shall be used on the wind turbine.

Reason: In order to reduce the impact of the development upon visual amenity.



Application No: 090084

Location: Goojerat Road Link, Colchester Garrison, Colchester

Scale (approx): 1:1250

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7.11 Case Officer: Alistair Day**OTHER****Site:** Goojerat Road Link, Colchester Garrison, Colchester**Application No:** 090084**Date Received:** 28th January 2009**Agent:** Jcn Design Limited**Applicant:** Taylor Wimpey Developments Ltd**Development:** Creation of new east-west road link between Butt Road and Circular Road West, broadly along the existing alignment of Goojerat Road, including access to Areas K1, K2, L and N (in accordance with the Overall Development Masterplan and Master Layout Plan).**Ward:** Shrub End**Summary of Recommendation:** Conditional Approval**1.0 Site Description**

- 1.1 Goojerat Road is located to the west of Abbey Field and formerly served the Goojerat and Sobraon Barracks. The road originally formed a link road between Butt Road and Circular Road West but was closed several decades ago as a security measure (with the access onto Butt Road being stopped-up and trees planted). The road currently remains closed within a secure area to which the general public have no access.
- 1.2 The majority of the land to the north of Goojerat Road remains in military use and the buildings and boundary treatments to this area have recently been upgraded to accommodate the 56 Provost Company of the Royal Military Police. The former PSA site (known as Area K) and the majority of the land to the south (known as Areas L & N) are to be redeveloped as a neighbourhood centre and housing respectively as part of the Garrison Urban Village development. The former military uses within the Goojerat and Sobranon Barracks have now been relocated to the new garrison and the land is now dominated by a number of vacant buildings and disused hard standing. Along approximately two thirds of the southern side of Goojerat Road is a brick wall which formed the boundary to the former Goojerat Barracks. Goojerat House located at the junction of Goojerat Road and Cambrai Road is to be retained and does not form part of the Garrison Urban Village development.

2.0 Description of Proposal

- 2.1 The current planning application seeks permission for the widening and realignment of the existing Goojerat Road and incorporates a combined 3m wide footpath/cycleway on the north side of the road and a 2m wide footpath on the south side. It is proposed to reform the existing junction of Circular Road West and Goojerat Road so that it meets the current highway adoptable standards. A mini-roundabout is to be provided towards the western end of the existing road to provide access to Area K and Areas L&N. A second junction close to the middle of the link road is proposed to provide access to military police compound. The access onto Butt Road is to be reopened and a new mini-roundabout created; these works fall outside the scope of this planning application and are to be approved under the relevant highway legislation.

3.0 Land Use Allocation

- 3.1 Garrison Regeneration Area

4.0 Relevant Planning History

- 4.1 O/COL/01/0009 – A new urban village comprising residential development (up to approx 2,600 dwellings) mixed uses including retail, leisure and employment , public open space, community facilities, landscaping, new highways, transport improvements and associated and ancillary development. - Approved June 2003

5.0 Principal Policies

- 5.1 Core Strategy
SD1 – Sustainable development locations
SD2 – Delivering facilities and infrastructure
H1 – Housing Delivery
PR2 – People Friendly Streets
UR1 – Regeneration Areas
TA2 – Walking and Cycling
TA1 – Accessibility and changing Travel Behaviour
TA3 – Key Sustainable Transport Projects – Walking, Cycling and Public Transport Projects
- 5.2 Adopted Review Borough Local Plan
DC1 - General Development Control considerations
P1 – Pollution General
P2 – Light Pollution
CF3 – Access

6.0 Consultations

- 6.1 The Landscape Officer initially raised an objection to the current proposal however following further discussions he has verbally confirmed that the concerns raised can be adequately controlled by conditions and by securing an appropriate landscape treatment to the adjacent development sites (Area K and Areas L&N). The Council's Arboricultural Officer has not raised an objection to the current proposal.

- 6.2 Environmental Control have no objection to this application, subject to the attachment of appropriate conditions and advisory notes.
- 6.3 Museum Services have not raised an objection to the current application.
- 6.4 The Highway Authority have raised no objection to this proposal subject to certain conditions.

7.0 Representations

- 7.1 Cllr Dave Harris made the following comments:

“I would like to suggest that the plans include adequate provision for cycle ways at the junction and interchanges shown. It is essential that such changes are put in at this stage rather than after the event.”

- 7.2 Mr B Russell MP comments on this application can be summarised as follows:

“It is my understanding that an original section of the brick wall and railings along the edge of the former Goojerat Barracks are still in existence. It is not clear from the application whether the railings will be retained. That they are still there is amazing; for them to be lost now would be outrageous. I seek your assurance that they will be retained.”

8.0 Report

- 8.1 The Garrison Urban Village Development was granted outline planning permission in June 2003. The Environmental Impact Assessment that was submitted in support of this application proposed the formation of a new East-West Link Road (part of which follows the general alignment of the existing Goojerat Road) and is illustrated on the Overall Development Masterplan that formed part of the outline application. It is also a requirement of the garrison legal agreement that improvement works are undertaken to Goojerat Road, including the formation of a roundabout at its junction with Butt Road. The principle of upgrading Goojerat Road is therefore established by the Garrison outline planning permission.
- 8.2 The upgrading of Goojerat Road is being brought forward ahead of the creation of redevelopment proposals for Area K and L&N. Under normal circumstances the design detailing of the road would be considered under a reserved matters planning application, however, because the road is being brought forward in isolation to the adjacent development sites it is necessary to submit a full application for these works. Notwithstanding this, the new road has been designed fully in accordance with the requirements of the outline planning permission and associated legal agreement.

- 8.3 Whist the Garrison Master Plan indicates a straight road link between Circular Road West and Butt Road the constraints of the site are such that this is not possible. The re-opening of the access onto Butt Road fixes the point where the proposed road link begins, together with the levels and alignment of the road, footpaths and cycle ways. Gooerjat House and the electricity substation define the extent of the land available to the south which means that the works to widen the road are pushed further north of its original alignment. This results in the loss of a number of trees. The trees are not considered to be of a particularly high quality and given this there is not an objection to their removal.
- 8.4 One of the main reasons for upgrading Goojerat Road is to provide access to Area K and Areas L&N. Alternative access routes into Areas K from both Butt Road and Circular Road West are not considered acceptable (due to substandard visibility splays, the close proximity to existing junctions and/or the loss of the recently created on-street parking bays). Vehicular access into this site has therefore to be from the Goojerat Road. The size and design of the new access junction serving Areas K and Areas L&N are dictated by the need to be of sufficient capacity to serve these developments.
- 8.5 It is proposed to provide a new vehicular access to the police station. Consideration was given to combining the entrance to the MoD police station off the main access to Areas K and L&N; however the combination of highway standards and MoD security requirements have meant that this is not possible. The new access road to the police station will also provide 6 visitor parking spaces for the police station.
- 8.6 The recently erected security fencing to the MoD police station forms a fixed boundary on the north side of Goojerat Road. The requirement to widen the existing road to 7.3m and provide footpaths and cycle ways pushes the extent of the new highway to the south of the existing road alignment resulting in the loss a brick boundary wall and several trees. The objection raised by the MP is noted; however the principle of creating the new link road was established at the outline planning application stage and, given the retention of land to the north by the MoD, it was always going to be the case that the boundary wall to the former Goojerat Barracks (and the trees immediately adjacent to it) were going to be lost when the Goojerat Road was upgraded.
- 8.7 An integral part of this application is to provide improved pedestrian and cycle facilities. A new 3m combined footpath/cycleway is proposed on the north side of the upgraded Goojerat Road and will link in with the existing pedestrian and cycleways on Butt Road and Circular Road West.
- 8.8 The current proposal forms an integral part of the Garrison Urban Village development and accords fully with requirements of the outline garrison planning approval and the associated legal agreement. It is therefore recommended that this application is approved subject to the conditions set out below.

9.0 Background Papers

- 9.1 ARC; TL; HH; AT; HA; NLR

Recommendation - Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

There shall be a 90 x 4.5 x 90 metre visibility splay maintained clear to the ground at all times at the proposed Goojerat Road and Circular Road West junction and other vehicular access points off Goojerat Road unless otherwise agreed in writing with the Local Planning Authority in consultation with the Highway Authority.

Reason: In the interest of highway safety.

3 - Non-Standard Condition

The proposed mini roundabout shall have a minimum 22 metre inscribed circle diameter.

Reason: In the interest of highway safety.

4 - Non-Standard Condition

The proposed footway along the southern side of the Goojerat Road carriageway shall be extended to link up with the existing footway west of Circular Road West. The details of these works shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety and to secure a satisfactory standard of development.

5 - Non-Standard Condition

The existing parking lay-by on the north side of Goojerat Road carriageway shall be removed as part of the proposal.

Reason: For the avoidance of doubt and in the interest of highway safety.

6 - Non-Standard Condition

Prior to commencement of the development details of hard and soft landscaping including trees, which may affect existing and proposed public highway, shall be submitted to and approved in writing by the Local Planning Authority in conjunction with the Highway Authority. The approved details shall be implemented to the satisfaction of the Local Planning Authority and Highway Authority prior to occupation of the development.

Reason: In the interest of highway safety.

7 -Non-Standard Condition

Prior to the commencement of works details of the measures to be provided to ensure that no mud and/or debris is deposited on the public highway by any vehicle associated with construction of the proposal shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interest of highway safety.

8 - B6.11 Reporting of Unexpected Contamination (Cond. 1-4 Not Used)

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
 - (iii) • human health, • property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, • adjoining land, • groundwaters and surface waters, • ecological systems, • archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Where remediation is necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

9 - 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.

10 - 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.

11 - 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.

12 - Non-Standard Condition

The construction shall take place solely in accordance with the terms of the submitted Methodology Statement prepared by D F Clark (dated 16 December 2008) and no other works shall take place that would affect the trees unless otherwise agree in writing by the Local Planning Authority.

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

13 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.). Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

14 - C11.12 Landscape Works Implementation

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

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

15 - C11.17 Landscape Management Plan

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

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

Informatives

The developer is referred to the attached advisory notes for the Control of Pollution during Construction and Demolition works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

The Highway Authority have requested the following Informative Notes:

- The proposed crossing facilities immediately north of the Goojerat Road/Circular Road West junction shall be consistent with the Circular Road West improvements, either already constructed or technically approved by the Highway Authority in readiness for construction
- The Highway Authority will not adopt the area of land containing the 'Existing Guard House to remain'
- The Highway Authority will require a commuted sum for maintenance for the proposed 'gateway' over the footway along the southern side of the Goojerat Road carriageway
- Depending on the height and gradient of the proposed embankments, the Highway Authority will require a minimum 3 metre wide maintenance strip at the base of the embankment
- Prior to any works taking place in the public highway the developer shall enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All highway related details shall be agreed with the Highway Authority
- Any proposed traffic calming shall be laid out and constructed having consulted the emergency services and bus operators

AMENDMENT SHEET

Planning Committee
2 April 2009

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 090152 – 24 Elmstead Road, Wivenhoe

The amendments mentioned in paragraphs 9.3 and 10.3 have been submitted. Therefore, there are no concerns over overlooking from the dormer window subject to condition 6 being reworded.

7.3 081481 – East Mersea Hall, Church Lane, East Mersea

It has been clarified that Paragraph 3.2 should have indicated that the marquee is to be on site for 6 months a year, from April 15th to October 15th, but that weddings in the property itself will be all-year round. Outside of the main summer season numbers are restricted to 50 people because of the size of the room available.

Consequently, Condition 2 will also need to be reworded as follows:

2 - Non-Standard Condition

No marquee shall be erected at the site before April 1st in any year or remain erected on the site after October 31st in that same year. Any marquee erected on the site shall be used solely for the use hereby permitted and limited to dates of use between April 15th and October 15th in any one calendar year and at no other time whatsoever unless previously agreed, in writing, by the Local Planning Authority.

Reason: These are the time periods for events as described within the application and on the basis of which the application has been considered and when the trees offer full screening. Longer periods would need to have further consideration in due course if they were ever proposed, however some additional time has been permitted solely for accommodating the erection and removal of the marquee either side of the permitted use timescale.

7.7 090211 – Collins Green, School Road, Messing

Letter received from Applicant, Mr P E Lamb, Director, Leelamb Homes – please see attached

7.8 090235 – Great Oaks, Horkesley Road, Boxted

Section 6 – Parish Council comment is from Boxted Parish Council (not Great Horkesley Parish Council as stated in report)

7.10 090070 – Highwoods Square, Colchester

Additional Condition:-

The wind turbine hereby approved shall be located in the position shown on the amended drawing number 5656-2326 PL990) 200B, received 6th March 2009.

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

25 MAR 2009

Mr N Mckeever
Planning Officer
Colchester Borough Council
Po Box 889
Town Hall
Colchester
Essex
Col 1FL

24/03/2009

Dear Mr Mckeever

Re: Collings Green School Road Messing Application no 090211

I write to counter the inaccurate statements made by Messing Parish Council in their leaflet campaign to local residents with regards to our site at Messing.

The leaflet in question called upon residents to write to you on apparent breaches of planning consent. This was done without checking the current approval and conditions and also without speaking to ourselves, I might add the parish Council were keen to talk with us when they wanted some of the £43,000.00 public open space contribution we made for parish projects.

I will deal with each item as follows.

The picture of a property taken from our web site by the parish council and used to describe what should have been built on plots 1 to 4 is similar in detail to that as approved for plot 6 at Collings Green not plots 1 to 4.

The height of the building on plots 1 & 2 conforms with the approved plan (2038/03A) elevation view, where its relationship with plots 3 & 4 shows the ridge line sitting approximately 400mm lower, the plan also approves a stairway to the loft area with a roof window.

The comments made with regards to the lintels and quoins are completely wrong as we have followed the approved materials and details schedules which you have acknowledged.

Taking on board your comments with regard to doing something with the lintel heads I have spoken to a pre-cast stone manufacturer and would propose resin bonding stone veneers to the heads of the windows on the front of plots 1 to 4 which will go some way to revitalising some of the plainness of the elevation although this will only benefit the view from within the courtyard.

It would appear the Parish Council dose not understand how the site is to look when finished as all their comments relate to how it looks now. They have completely overlooked the fact that the site is not complete yet and there are garage blocks to be built, these being timber clad buildings of considerable size fronting the site each side of the entrance with a ridge height nearing 6 meters which is the height from ground level to the eaves of plots 3 & 4 and they will completely obscure most views seen at present.

I really do not understand the motive behind this campaign as we have fully cooperated with the parish council in the past, but I cannot stand by and have inaccurate statements influencing the planning process especially as we now have firm acceptable offers on the two homes concerned which will enable us to obtain the funding needed to return to site and hopefully stay in business.

Yours sincerely

P E Lamb
Director
Leelamb Homes

