

Planning Committee

**Council Chamber, Town Hall
26 June 2008 at 6:00pm**

This committee deals with

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

Information for Members of the Public

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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
26 June 2008 at 6:00pm**

Members

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

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

Agenda - Part A

(open to the public including the media)

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

Pages

1. Welcome and Announcements

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

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

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

2. Have Your Say!

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

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

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

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

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

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

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

6. Minutes

To confirm as a correct record the minutes of the meeting held on 12 June 2008.

7. Planning Applications

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

- | | |
|---|----------------|
| 1. 071108 Land to the north of London Road, Stanway (Stanway) | 6 - 24 |
| Outline application for mixed development of new retail superstore, associated parking and petrol filling station. | |
| 2. 070390 Land at Floral Acres/Tollgate West, London Road, Stanway (Copford and West Stanway) | 25 - 30 |
| Erection of two storey offices, circulation areas, car parking, covered cycle parking, landscaping and access. | |
| 3. 070391 Land at Tollgate West, Stanway (Copford and West Stanway) | 31 - 36 |
| Erection of distribution centre, circulation areas, car parking, landscaping and access | |
| 4. 071087 Floral Acres/Tollgate West, London Road, Stanway (Copford and West Stanway) | 37 - 39 |
| Erection of two storey offices, circulation areas, car parking, covered cycle parking, landscaping and access | |
| 5. 071932 Land at Tollgate Weset, Stanway (Copford and West Stanway) | 40 - 44 |
| Erection of car showroom/workshops, circulation areas, car parking, covered cycle parking, landscaping and access | |
| 6. 080640 Tollgate West, Stanway (Copford and West Stanway) | 45 - 49 |
| Erection of distribution centre, circulation areas, car parking, landscaping and access road. Resubmission of F/COL/06/2056 | |
| 7. 080642 Tollgate West, Stanway (Copford and West Stanway) | 50 - 54 |

Restaurant, car parking, landscaping and access. Resubmission of F/COL/06/2057

- 8. 080693 Building 4, Moler Works, Colne View, Colchester (St Andrew's) 55 - 59**

Partially retrospective application for the erection of 15 number dwellings, 4 of which have been completed (following application F/COL/06/1067) (Resubmission of 071984)

- 9. 081016 Cowdray Avenue, Colchester (Castle) 60 - 62**

Alterations to existing perimeter fencing around artificial pitch, to form recesses using 4.05m high "Ball Stop" fencing to match existing

- 8. Section 106 Agreement // Harveys Farm, Wigborough Road, Peldon, COL/04/0337 63 - 69**

See report by the Head of Planning, Protection and Licensing

- 9. Breach of Condition Notice // 27 Marlowe Way, Lexden, Colchester 70 - 78**

See report by the Head of Planning, Protection and Licensing

- 10. Enforcement Notice // Land at Elm Farm, Elm Lane, Marks Tey 79 - 82**

See report by the Head of Planning, Protection and Licensing

11. Exclusion of the Public

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

PLANNING COMMITTEE

12 JUNE 2008

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

Substitute Member:- Councillor Barlow* for Councillor Gamble.

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

43. Minutes

The minutes of the meeting held on 29 May 2008 were confirmed as a correct record.

44. 080665 20, 22 and Bokhara, Maldon Road, Tiptree, CO5 0LL

The Committee considered an application for a residential development comprising three two-bedroom apartments, one three-bedroom house, two four-bedroom houses and six five-bedroom houses. The Committee had before it a report in which all information was set out, together with further information on the Amendment Sheet.

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

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

Mr Andy Green addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was of the view that the proposed development would have no positive benefit for Tiptree and only a negative effect on the affected residents. The three storey apartments were completely out of character with the surrounding area; the view from his property would be a huge brick wall. The Local Plan stated that mixed unit developments would comprise between two and four bedrooms, and so five bedroom units in this development were not in accordance with this expectation. None of the surrounding developments were higher than two storeys. The Local Plan drew attention to the need for flexibility in respect of density and need to lower the level; the density of the development was too high for Tiptree. This development should fit in with its surroundings, but as submitted it was overbearing and out of character with the surrounding area.

Members of the Committee also expressed a number of concerns about the application. The density of the development was 30 dwellings per hectare which, at the lower end of the range, was considered acceptable. However, the size of the dwellings was not considered acceptable. Developers seemed to have taken advantage of the lower level situation to get as much height as possible in the dwellings; two and a half storey dwellings were effectively three

storey houses. The top floor appeared as a black slate wall. This form of development did not exist elsewhere in Tiptree and was therefore not in keeping; two storey dwellings would be more acceptable. In addition the five bedroom dwellings were outside the development brief for this site which had specified dwellings with between two and four bedrooms. Whilst the design of the dwellings complied with the Essex design guide, their appearance was not considered to be attractive, specifically the windows were mentioned. The car parking provision was two spaces per dwelling but 24 spaces for a development with 47 bedrooms was considered to be inadequate. There were concerns in respect of the stability of a large tree which had fallen and consequently whether an ash tree on the site was similarly close to falling into the site. Some members considered that the variety of accommodation on the site would attract families. The Local Plan stated that there would be no major developments above ten units in Tiptree. However this site was classified as a major development because it comprised twelve new dwellings, but for Local Plan purposes it was not regarded as a major development because the net increase in number of dwellings was nine taking into account the three dwellings which were being replaced. The facilities in Tiptree were those of a rural area, but in respect of housing Tiptree was regarded an urban area.

It was explained that this was a major application in respect of the number of properties. The Local Plan stated that there would be no new major development allocations in Tiptree. However, this site constituted a windfall site and not a major development from a Local Plan perspective because it had not been allocated in the Local Plan. The scheme attempted to develop a new sense of place in the area but it did not appear to take on the character of the area. The density, however, was consistent with the character of Tiptree. Two or two and a half storeys were commonplace throughout the borough and were included in every housing estate development. They were a way of maximising the roof spaces for developers and steep roof pitches lent themselves to accommodation in the roof spaces. True three storey dwellings would be higher than two and a half storey dwellings. The distance from the back of existing properties in Queensway to the side of new properties was 9 metres. In respect of concerns about trees on the site, the application was accompanied by a tree impact survey. Any drainage issues would be covered by Condition 4 and 5 which required a scheme of surface water and foul drainage respectively. There were issues in terms of the stability of the bank but the recommendation included the need for a structural survey and scheme of works to stabilise the bank.

In summary, members were uneasy with the design because it was not in character with the surrounding developments and the dwellings appeared top heavy. There were too many five bedroom units compared with properties in the surrounding area, particularly in Queensway, and the proximity of no. 12 Queensway was an issue as was the bulk and size of roofs and the height of the block of flats.

RESOLVED (NINE voted FOR and THREE ABSTAINED from voting) that consideration of the application be deferred to enable negotiations on amendments to the application to achieve:-

- a reduction in the number of five bedroom houses;
- amendments to the height and design of 2.5 storey units with particular emphasis on reducing the size/height of the roofs;
- a reduction in the height of the block of flats to two storeys.

45. 080824 Regal Works, Plummers Road, Fordham

The Committee considered a retrospective application to regularise the erection of two business units to replace former fire damaged buildings on Regal Works (Wormingford Airfield) Rural Business Site, on the eastern side of Plummers Road, approximately half way between the village envelopes of Fordham and Wormingford. The Committee had before it a report in which all information was set out.

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

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

Mr Brian Pooley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The units comply with EMP5 and are needed to maintain industry and employment in the area. Business use could be continued in the event that permission for industrial use was not granted.

Members of the Committee had two areas of concern:-

- the start time of 6am was considered to be too early in view of the proximity of the premises to a care home; a 7am start time was considered to more appropriate; and
- the appearance of the buildings in their present shiny metallic finish was considered to be unacceptable and it was noted that Condition 5 specified that the exterior of the buildings be changed to a goose grey matt finish which would improve the appearance considerably.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report subject to the hours of use specified in Condition 2 being amended to:-

0700 to 1900 hours on Mondays to Fridays and 0700 to 1300 hours on Saturdays, and at no time on Sundays, Bank and Public Holidays.

46. 080842 15 Fitzgilbert Road, Colchester, CO2 7XB

The Committee considered an application for the demolition of an existing bungalow and the erection of a pair of two storey semi-detached houses. The Committee had before it a report in which all information was set out, together with further information on the Amendment Sheet.

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

RESOLVED (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide 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 Planning, Protection and Licensing be authorised to grant consent with conditions and informatives as set out in the report.

47. 080776 Fairstead, Tey Road, Earls Colne, CO6 2LD

The Committee considered an application for a change of use and alteration of a building formerly used in connection with commercial kennels. The use of the site as a kennels ceased some time ago and appeared to have lapsed. The application was for a use as a complementary health clinic together with a car parking area for two vehicles.

The site was within a rural area, part of a Countryside Conservation Area, in the extreme western part of the Borough alongside the Borough boundary and abutting Chalkney Wood with arable land to the north east and south east.

The Committee had before it a report in which all information was set out, together with further information on the Amendment Sheet.

RESOLVED (UNANIMOUSLY) that the application be approved for the personal use of the applicant only for a maximum temporary period of 3 years with conditions and informatives as set out in the report.

48. 080895 8 The Parade, Queen Elizabeth Road, Colchester, CO2 8LY

The Committee considered an application for a change of use from a launderette to a charity shop, A1 retail use. 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.

49. Performance Monitoring Report

The Committee considered a report by the Head of Planning, Protection and Licensing together with statistical information on performance of the Planning Service in respect of the determination of planning applications for the year to 31 March 2008, an analysis of appeals for the quarter to 31 March 2008, and an update on planning agreements for the year to 31 March 2008.

Vincent Pearce, Planning Service Manager, attended to assist the Committee in its deliberations.

The report highlighted the fact that performance in all three categories of the most important indicator, formerly BV109 now National Indicator 157, had exceeded the Government's specified targets. It also provided a detailed breakdown of the £6.5million of financial contributions from Section 106 Agreements received in the year from 1 April 2007 to 31 March 2008, and an analysis of all appeals in the period from 1 January to 31 March 2008 in those cases where the Council had lost the appeal. It was explained that in respect of the Appeals record, formerly BV204, there was a need to do further analysis, training and workshops to get closer to 60% of appeals being dismissed. Three appeals had resulted in costs being awarded against the Council.

Members of the Committee congratulated the Planning Service Manager and planning officers for the very good results and thanked him for his clear presentation and report. Members considered that there had been one or two applications which need not have come to the Committee because comments had been received in response to the consultation, but the comments had not constituted an objection. A protocol was requested to ensure that in such cases the applications were dealt with by officers. In respect of appeals, there was a balance to be struck by the Committee between agreeing with an officer recommendation and going against such a recommendation. All councillors should be made aware of the potential impact of an appeal. It was noted that some of the decisions which went to appeal had been determined under delegated powers.

RESOLVED (UNANIMOUSLY) that the information set out in the performance monitoring report be noted and the Planning Service Manager and planning officers be congratulated for the very good results.

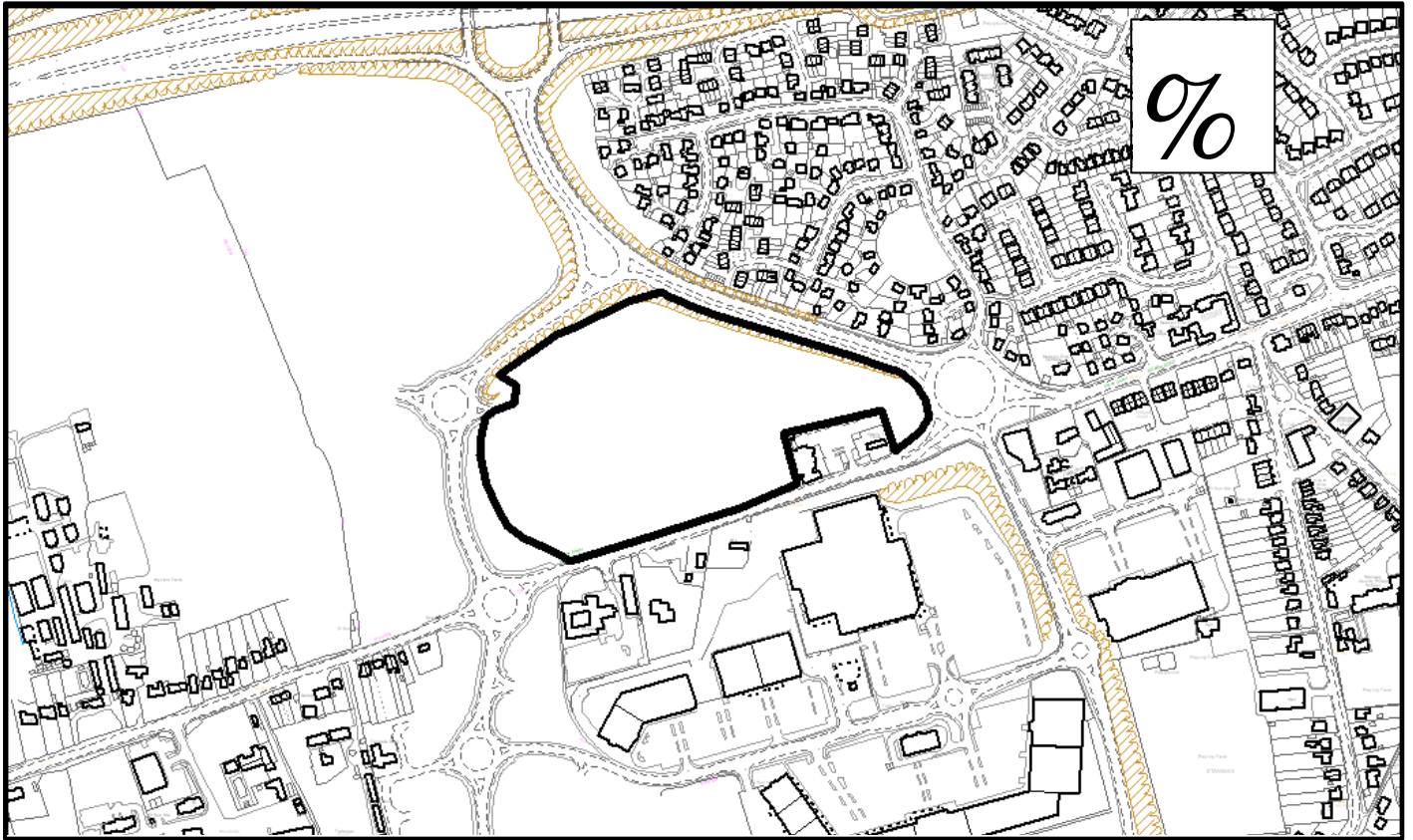
50. Review of Trial Planning Committee 'Call-in' Procedure

The Committee considered a report by the Head of Planning, Protection and Licensing together with proposals to adopt the trial 'call-in' procedure, as set out in the appendix to the report, as a permanent procedure with immediate effect and to amend the Constitution to reflect the change accordingly.

Vincent Pearce, Planning Service Manager, attended to assist the Committee in its deliberations.

Members of the Committee agreed that the system had worked well during the trial period and councillors were satisfied with the way the system operated. It was considered that the trial arrangements could be made a permanent procedure. There were occasions, particularly in cases of neighbour disputes when ward councillors had requested that applications come to the Committee for determination to permit both sides to have their say. It was explained that in these instances under the 'call in process, the Chairman and Groups Spokespersons would be consulted and if they agreed such applications could continue to be determined by the Committee.

RESOLVED (UNANIMOUSLY) that the proposal to adopt the trial 'call-in' procedure as set out in the appendix to the report by the Head of Planning, Protection and Licensing as a permanent procedure with immediate effect and to amend the Constitution to reflect the change.



Application No: 071108

Location: Land to North of, London Road, Stanway, Colchester

Scale (approx): 1:1250

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DC0901MW 01/02



Committee Report

Agenda item **7**

To the meeting of **Planning Committee**
on: **26 June 2008**
Report of: **Head of Planning, Protection and Licensing**
Title: **Planning Applications**

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

7.1 Case Officer: Vincent Pearce

MAJOR

Site: Land to North of, London Road, Stanway, Colchester

Application No: 071108

Date Received: 16th April 2007

Agent: Hall Duncan Associates

Applicant: The Tollgate Partnership

Development: Outline application for mixed development of new retail superstore, associated parking and petrol filling station.

Ward: Copford & West Stanway

Summary of Recommendation: Conditional Approval subject to signing of a Section 106 Agreement

1.0 Site Description

- 1.1 This roughly triangular 5.3ha site is bounded on all three sides by busy roads. Namely Essex Yeomanry Way (north-east side), London Road (south side) and the Northern dog-leg section of the Stanway Western By-pass (west and north sides).
- 1.2 It is generally level and covered with a blanket of rough grass with very little natural flora except for an Oak that sits towards the middle of the site, intermittent scrubby hedging on its southern edge and a line of maturing trees (mostly Oak) on the far north-eastern edge of the site, on the Essex Yeomanry Way embankment.

DC0901MW 01/02

- 1.3 As Essex Yeomanry Way and the northern section of the Stanway Western By-pass are built on rising embankments, elevated views of the site are possible from the north-east and north.
- 1.4 The site does not directly abut any built development except at its south-eastern corner where it touches the rear and western site boundary of the Cherry Tree Harvester Restaurant. The Grasslands Estate lies further to the north-east across Essex Yeomanry Way.
- 1.5 Two existing residential properties, the Tollgate surgery and car sales uses look northwards across London Road towards the application site.
- 1.6 Historically the site has been undeveloped and is likely to be a remnant of a larger field once used for agricultural purposes in the mists of time.

2.0 Description of Proposal

2.1 The land use elements within this scheme have been adjusted since its original submission and now comprise four main elements:-

- Retail: 11150sq. m. (120018sq.ft.) superstore

| usage | Floor area sq.m. |
|--|---------------------|
| Sales area | 7635 |
| Back up (ground floor) | 2195 |
| Back up (1 st floor) | 420 |
| Entrance, café, concessions & customer service | 900 |
| Total | 11150 |

- 16 place 8 pump filling station with a 195sq.m. floorspace ancillary shop/kiosk and car wash.
 - 682 place main car park for customers with a 144 place staff car park/overspill.
 - The use of the existing superstore and filling station sites/buildings south of London Road changing to employment zone uses, the cessation of existing retail use and the loss of retail use rights. (once the new superstore has opened).
- 2.2 The application involves the transfer of retail activity from the existing Sainsbury's store on Tollgate West to the proposed site. Sainsbury's are looking to improve the 'customer experience' but have little or no room to expand on the existing site. Competition in Colchester in the convenience goods sector is tight and Sainsbury's wish to concentrate on and widen food sales as well as widen isles, reduce shelf heights adjust layout to improve convenience to customers and slightly expand the range of some items sold. There is approximately only an 11% gross increase in floorspace (1146sq.m.) between the existing and proposed stores.

3.0 Land Use Allocation

3.1 Employment Zone (Adopted Review Borough Local Plan 2004)

3.2 It should be noted that the finally agreed alignment of the northern leg of the Stanway Western By-pass as built incorporates a dog-leg rather than the smooth arc envisaged at the time of preparing and adopting the Adopted Review Borough local Plan. A miniscule sliver of the site sits outside of the designated employment zone as white land but within the inside edge of the new highway. The variation is not considered to have any additional material land use policy impact beyond that raised by the overall retail scheme being a 'Departure' from the local plan employment zone allocation policy. That said regard needs to be given to the overall size and distribution of available employment land at Tollgate as a result of the proposed land use swap described above before one can say whether the land use 'departure' is significant or inconsequential.

4.0 Relevant Planning History

4.1 This site has had a rich and varied planning history which includes:-

4.2 COL/94/0574: Outline application for Royal Mail sorting office. (withdrawn 21-11-94)

4.3 COL/95/1410: Outline application for D2 & A3 use including a major multiplex cinema. (refused 17-10-96)

4.4 O/COL/00/1615: Outline application for Class A1 (B&Q superstore)..... (refused at appeal 30-09-02)

4.5 O/COL/06/1490: Outline application for mixed development including new retail store, associated parking and petrol filling station. (withdrawn (27-06-06)

5.0 Principal Policies

5.1 Adopted Review Colchester Borough Local Plan (saved policies)

DC1 Development Control Considerations

EMP1 Employment Allocations and Zones

TCS1 Protecting the Vitality & Viability of Colchester Town Centre

TCS3 Major Foodstores

STA2 Land Between Essex Yeomanry Way and South of Church Lane

P1 Pollution (general)

T1 Pedestrian Networks

T5 Public Transport

T9 Car Parking

5.2 Essex Structure Plan

No relevant saved policies

- 5.3 Adopted Regional Spatial Strategy (East of England Plan)
SS1 Achieving sustainable development
E1 Job growth
E3 Strategic employment sites
E5 Regional structures of town centres

- 5.3 Government Guidance
PPS6
PPS13

6.0 Consultations

- 6.1 **The Council's Development Team** raised no objection but required
- (1) Highway issues to be resolved
 - (2) The existing site to revert to EMP1 uses
 - (3) Retail Impact to be full assessed.

Officer Comment: All these points have now been adequately addressed.

- 6.2 **Essex County Council Highways** raises no objection subject to the applicant signing and completing the associated draft S106 Agreement to secure highway improvements.

Officer comment: Essex County Council Highways has been working with the applicant's highway consultants and the Highway Agency to agree a package of improvements, based on shared modelling data, that will ensure that the proposed development can be accommodated without harm to highway safety or the efficiency of the local network and A12 junction.

- 6.3 **The Environment Agency** objects on the grounds that the applicants have not evidenced that their proposal adequately addresses surface water management issues. (Sustainable Urban Drainage - SUDS).

Officer comment: As the proposal is in outline this aspect can be suitably controlled by condition.

- 6.4 **Essex and Suffolk Water** draw attention to the fact that they have mains that may be affected by the development.

Officer comment: The applicant is aware of this issue as he has had to move the mains in recent years and his architect has designed the layout around the mains.

7.0 Parish Council's Views

7.1 **Stanway Parish Council** raises no objection in principle. It expressed concern in respect of:-

- Increased traffic congestion, with having no separate in-out entrance exit, coupled with the increase in customers the store will generate

Officer comment: The proposal has been extensively modelled and the Highway Authority is satisfied that the proposed entrance design and improvement works will avoid undue congestion.

- The land is zoned for employment, and the Parish Council hopes that there will be a condition imposed that the present Sainsbury's store will be for employment use.

Officer comment: Officers shared the Parish Council's concerns and the use of the existing store/site for employment purposes will be safeguarded through an associated s106 Agreement.

- Limited provision for public transport (in particular the 65 bus route).

Officer comment: The highway authority has negotiated new bus stop facilities in London Road with easy pedestrian links direct to the entrance of the new store. This is considered to be a better solution to improving bus access to the site than encouraging buses into the site along with the customer car traffic. London Road has become much quieter since the opening of the northern leg of the by-pass.

- The Parish Council was unable to find any evidence that an archaeological survey is to be undertaken before any groundwork is started.

Officer comment: A desk top study by the Colchester Archaeological Trust was submitted with the application which indicated that recent investigations in the area have revealed nothing of interest. That said officers are recommending an archaeological watching brief as the site sits alongside a Roman highway into Colchester. "Stane Road"

8.0 Representations

8.1 DTZ object on behalf of Taylor Wimpey who are developing at the Garrison. Essentially they express concern that the new store in an out of town location will prejudice the ability to develop approved retail facilities within a sustainable Garrison development which is a designated regeneration area. In summary their key objections are as follows:-

- It is departure from policy and is contrary to established, national, regional and local planning policy for the reasons explained below.
- It is premature in the context of the draft retail strategy presented in the early stages of the emerging LDF – which has yet to progress to a stage at which significant weight could be attached to it, with the proposed designation of Tollgate as a defined centre the subject of objection.

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- It will have an adverse effect upon established retail commitments and undermine investment in identified regeneration locations, including the Garrison.
- It will threaten the existing pattern of local sustainable shopping within both established and emerging communities.
- The proposal fails to undertake any impact assessment.
- The sequential approach submitted in support of the planning application is inadequate since the applicants have failed to fully and properly consider existing town centre allocations in terms of their ability to accommodate the “flexible business model” proposal.
- The degree of overtrading of the store is not sufficient to justify an increase in floorspace of a superstore which measures over 10,000 sq.m. at present, particularly when such overtrading could be taken up by existing commitments in more sustainable locations.

Officer comment: The Council is satisfied that as the proposal is effectively a transfer of existing floorspace with a marginal increase in sales area the impact on the town centre and the Garrison regeneration area will not significant and will not justify a refusal on retail policy grounds. There would appear to be overtrading in Colchester and there is no reason to believe that this proposal on the west side of town will adversely prejudice the prospect of securing a new retail presence to the south of the town centre. Aldi recently opened a local store in Magdalen Street, a convenience goods retailer is looking to occupy the former MFI building in London Road, Lexden and another convenience goods retailer is expected to occupy the former Glynn Webb building on St Andrews Avenue. At the current time convenience goods retailing is particularly buoyant and reflects the potential of this sector in the tow and the levels of demand.

- 8.2 The occupiers of Pink Cottage, London Road object on the grounds that the store has been located close to the two residential properties in London road when there is room on the site for it to be positioned further away. Recent development (eg Sainsbury’s PC World etc has already surrounded them. Access to the service yard is opposite them and London Road is likely to be used for queuing of delivery vehicles with fume and noise pollution. Traffic levels will increase in London Road. The occupiers would prefer the existing boundary landscaping to be allowed to mature rather than have walls facing them.

Officer comment: Whilst the building is close to the London Road boundary it has been designed to present an interesting elevation to the road. This has the advantage of shielding properties in London Road from most of the activity associated with a superstore. The site was designed without a customer ‘car’ access from London Road in order to reduce the levels of traffic using London Road in order to ensure that this becomes a much quieter area. As access for customers was then only possible from the new roundabout on the northern dog-leg section of by-pass scope for positioning the store was limited as it was considered important to segregate delivery vehicles from general store traffic. The occupiers of the Pink Cottage are right to identify noise issues from the service yard as a potential nuisance and disturbance. The report that follows considers this aspect in more detail and goes on to identify mitigation measures. The point raised about queuing delivery vehicles is a good one. Experience with superstores elsewhere in the town has that where the yard is fully occupied delivery vehicles do tend to wait nearby. In this case London Road would be ideal for lorry drivers but not for residents, particularly in the early morning and in the evening or night as refrigerated vehicles tend to cause disturbance. The applicants will be required by condition to agree

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delivery arrangements and lay over arrangements with the Council prior to any work on site commencing. The purpose being to avoid queuing of delivery vehicles outside the yard.

8.3 The occupier of 139 London Road, Evergreen House objects on the grounds that:-

- The new store will increase traffic in the area and cross-town congestion. Smaller stores scattered around the town are more appropriate.
- The existing site is visually attractive and a large “factory style” building will not show up very well on this prominent site.
- Building is too close to London Road and will destroy the rural character hereabouts and will have a dominating impact.

Officer comment: These issues are addressed in the report

8.4 A further objection has been received from an occupier in Meadow Grass Close urging the Council to ensure that the works are undertaken by a competent contractor, stated times are adhered to, pollution is kept to a minimum, the project is completed on time and the contractor is solvent.

Officer comment: Some of these points are beyond the control of the Council but applied conditions will be enforced.

8.5 Colchester Cycling Campaign expressed horror that the scheme had got to the stage it had with little consideration of pedestrians and cyclists. Their concerns focus on four areas

- Cycle and pedestrian access to the store
- Bus access to the store
- Traffic growth
- Future of the existing store

Officer comment: Since this response was received the situation has become clearer through extensive negotiation. Improved provision for easy access by bus to the store has been negotiated by Essex County Council Highways. The suite of applications from the applicant currently before Members provides extensive pedestrian/cycle improvements around Tollgate. The negotiated draft S106 secures the cessation of retail use at the existing site once the new store is open and traffic has been careful modelled and highway improvements secured.

9.0 Report

Supporting material

9.1 The application is supported by the following technical reports:-

- Employment land assessment
- Retail assessment
- Transport assessment
- Design statement
- Flood risk assessment
- Habitat survey
- Desk based archaeological assessment
- Geo-environmental assessment
- Acoustic report
- Tree survey and arboricultural report
- Great Crested Newt survey

Employment land impact and employment opportunity

- 9.2 With a target of 14000 new jobs to create by 2021 Members will generally want to be assured that sufficient employment land exists within the town to accommodate future demand and allow for the expansion of job opportunities and improved life chances.
- 9.3 In particular it is important to ensure that the precious resource of any "immediately available, high quality employment land" is protected and remains available. There is no doubt that the application site currently represents immediately available high quality employment land.
- 9.4 It has excellent existing links to the A12 trunk road system affording good road access to London and the M25, to Europe via the coastal ports within the Haven Gateway Partnership using the A12/A120 /A14 and via Stanstead airport using the A12/A120 and points west and north via the A120/A14 and inter-connecting motorway systems.
- 9.5 The site already benefits from employment zone allocation within the Adopted Local Plan and so securing planning permission for EMP1 employment zone uses (which excludes retail (other than limited retail where this is ancillary to a primary employment Zone use) should not be problematic.
- 9.6 The site is flat, has few constraints and is easily developed.
- 9.7 So why contemplate allowing retail use on the site in place of the allocated employment use?

- 9.8 The applicants have submitted an assessment of the employment land situation in Colchester and this concludes amongst other things that:-
- There is a shortage in the range, quality, location and choice of immediately available employment land. Tollgate represents a valuable supply of immediately available high quality employment land now that the northern leg of the Stanway Western-By-pass has been constructed by the applicant and is open to traffic.
 - The overall supply of potentially available employment land for the plan period is substantially more than adequate at current take up rates.
- 9.9 Officers agree with these conclusions.
- 9.10 Thus to the cursory glance it might appear to a reader that the Employment Impact Assessment seems to undermine the applicant's case for allowing the loss of this valuable employment land to retail use.
- 9.11 Members should however note that policy STA2 prevents any land at Tollgate coming forward until such time as a mechanism for securing the delivery of the Stanway Western By-pass has been delivered. The southern section has been secured through a S106 Agreement with Regent Homes as part of the planning permission for the residential development known as Lakelands phases 2 & 3 (600 additional units). However a mechanism to secure the delivery of the northern leg had historically remained illusive.
- 9.12 As the applicants planning consultant points out the current applicant has rather extraordinarily built the northern leg of the Stanway Western By-pass without it being tied to any particular planning permission. This means that 12.6ha of immediately available employment land (excluding the application site) is now available. Prior to the construction of the northern leg of the Stanway Western Bypass this land was in effect frozen by the requirements of STA2. When the Council considered a proposal to build a B&Q store on the site in the early 2000's it accepted that in the then prevailing economic conditions it was unlikely that employment zone uses would generate the value necessary to deliver the northern leg of the bypass.
- 9.13 Whilst the applicant's altruism in providing the "missing section" of by-pass is to be commended, Members may take the view that as it now exists there is no impediment to ensuring that all the allocated employment land at Tollgate (including the site of the proposed food superstore) is safeguarded and is only developed for that purpose. (ie: the proposal should now be refused on land use/employment policy grounds)
- 9.14 This however would not take account of the full circumstances that now exist. The applicant has volunteered to cease the retail use of the current Sainbury's site south of London Road upon the opening of the new store, were it to be approved and make it available for employment uses. This immediately helps begin to restore the balance of employment land such that there would only be a net loss of 0.8ha. (also see paragraph 8.15).

- 9.15 Furthermore in May 2006 the Planning Committee agreed to the grant of outline planning permission for "Incubator and Business Development Park" at Stane Park immediately to the west of the application site as a departure from the local plan subject to a S106 agreement. That agreement is currently being negotiated. That proposal potentially injects a previously unforeseen additional 6.8ha. of immediately available employment land into the stock at Tollgate. Together these factors more than compensate for the immediate loss of employment land.
- 9.16 It should be noted that as part of the S106 negotiations the applicant and likely operator of the new store (Sainsbury's) have signed up to a ground breaking (at least as far as Colchester is concerned) training initiative. All new additional jobs and future vacancies (beyond initial transferred jobs) will be advertised simultaneously through Job Centre Plus. In an innovative arrangement the superstore operator will work with the Council's Enterprise Team, Job Centre Plus, Colchester Institute and other agencies to help devise and deliver a basic training course for retail skills. This it is hoped will offer school leavers and unemployed candidates to acquire new skills that will improve their chances of securing long-term employment. Indeed the initiative will look to secure work experience and guaranteed interviews with the operator for those students who "graduate" from the course. More work is required from all parties to deliver this scheme but it is hoped that this mutually beneficial arrangement will pave the way for improving life chances for some of the most economically disadvantaged sectors of the community within Colchester.
- 9.17 **Jobs:** It is estimated that the proposal will generate 625 full-time/part-time jobs of which some 584 will be transferred from the existing store. Therefore some 41 new jobs are likely to be generated by the new floor space and trading strategy. This is a significant increase in job opportunity.

Retail impact

- 9.18 Having regard to the swap of retail/employment uses between the sites south and north of London Road the retail impact assessment concludes amongst other things that:-
- As the new store is effectively a relocation with only a 10% increase in gross area there will be no perceptible impact on the town centre bearing in mind the real growth in expenditure that the centre has been accommodating year on year.
 - There is only a limited change to the extent of comparison goods shopping being proposed and as underlying growth in this sector has been around 4%p.a. there will be no impact upon the town centre in this regard.
 - Issues of cumulative impact do not arise.
- 9.19 Officers agree with these particular conclusions

9.20 It should be noted that the proposed S106 Agreement (currently in draft form) as negotiated with the Planning Service requires the existing retail use of superstore south of London Road to cease upon opening of the new store north of London Road for at least 2 years. Employment use of the site will then be sought. Retail use can only reoccur in the future if planning permission is granted for such a use. Clearly this allows all parties to review the situation in the future in the light of changing employment/retail policies as part of the LDF process.

Design & Access

9.21 The applicant and his architect, Kevin Hall of Hall Duncan Associates, have worked closely with the Planning Service to produce an exciting high quality design that celebrates the sites geographic importance.

9.22 In terms of creating a sense of place that reinforces the fact that you are arriving in Colchester where high quality is important the site dominates the approach to the town from the west. It is vital to deliver a building and site layout that makes a statement worthy of a gateway location.

9.23 The existing Sainsbury's store as negotiated with the then Planning Department was at the time of its construction in the 1980s something quite exceptional and innovative. It used steeply pitched traditional clay plain tiled roofs, orangey- red bricks, midstreys and gables to convey a traditional north-Essex agricultural 'barn like' character rather than the then usual basic steel framed, nondescript warehouse looking building with a low pitched industrial style roof. The styling of the existing Tollgate store is now much derided in designer quarters. This is due in large part to the a hackneyed overuse of this style across the country where such a character was out of context. Despite that, it remains a building with presence that whilst dated continues to wear well.

9.24 The opportunity to make a fresh new high quality design statement is being taken with the current site. The applicant has been encouraged to move away from the increasingly used single span curved roof over an open, unobstructed floor solution to designing large modern retail and factory buildings. Several recently constructed buildings in Colchester have been designed in this idiom with differing public reaction. (from pleasure at seeing refreshingly honest contemporary (not vernacular-pastiche) styling to displeasure at seeing what is seen derogatively as "aircraft hanger" design.

9.25 The new superstore will unusually for most buildings be seen on all sides and so requires in effect four principal elevations. Again unlike most buildings it will be seen by the public from different levels (due to the fact that Essex Yeomanry Way rises to meet the A12 interchange).

9.26 Consequently the roof needs to be a strong design feature in its own right such as to create visual interest. The architect has chosen to create a series of pyramidal pavilion features with glazed lantern-lights at their apex. This allows lighting to be installed in such a way as to allow a changing palette of colours to dance upon the roof. At night and particularly on misty autumn evenings this will imbue the building with a new and changing character to that seen in the daytime.

- 9.27 The entrance to the store is unequivocally delineated with an elegant glass rotunda that stylishly commands attention from the main approach to the superstore and subtly announces its presence from Essex Yeomanry Way without recourse to advance signage.
- 9.28 All parties have worked hard to create a building that will have the uncanny ability to change how it looks at different times of the day and night. The design objective has been to create an external façade that is art. How is it intended to achieve this? Large sections of the external elevations will be clad in differently shaped, coloured, textured, profiled and illuminated/non-illuminated segments of material to create a brilliant abstract collage. This collage will change colour as sunlight moves around the building due to the reflective quality of the materials. At night selected back-lit segments will add further interest.
- 9.29 The design of the perimeter to the site has been carefully considered. The site entrance from the northern-leg of the bypass is accentuated by the inclusion of smaller but similarly styled rotundas standing sentinel on each side of the approach junction. A third rotunda is included at the south-west corner of the site overlooking the new London Road roundabout so providing a strong visual feature on the prominent corner. Boundary walling and landscaping is sensitively incorporated into the design so as to tie features such as the mini-rotundas, pedestrian gateway feature and filling station buildings in to a cohesive and uniformly themed design solution.
- 9.30 Access to the store has been carefully considered and all modes of transport are catered for. New footway and cycleway links are to be provided in addition to new safe crossing facilities all to link in with existing networks to provide good linkages with the existing communities around the site. Bus access is provided with new bus stops in London Road linked easily by path to the store entrance. (this allows buses to take advantage of the much reduced traffic flows in London road as opposed to joining shop traffic within the site.
- 9.31 Appropriate parking facilities for shoppers with children and disabled drivers can be provided along with appropriate facilities within store. (also see paragraph 9.41 a detailed analysis of car parking provision.

Highways

- 9.32 The application has been the subject of intense negotiation between the applicants highway consultants "Inter-modal" and Essex County Council and the Highway Agency. Transparent modelling using shared data between parties has occurred and the both of highway authorities are satisfied that with the agreed mitigation measures the proposal will not cause harm to highway safety or an unacceptable impact on traffic movement on and around the A12 junction. The fact that what is in effect being proposed is a swap of designated land uses north and south of London Road has meant that the impact of the development is reduced compared to a proposal to build a second superstore at Tollgate with the likely significant increase in visits to the area that would generate.

Flood risk

- 9.33 The Flood Risk Assessment provided with the application concludes that as the site is located in zone one, outside the areas where 1 in 1000 year flooding events might occur, there are no significant flood risks to the site.
- 9.34 Officers agree with this conclusion
- 9.35 It is intended that surface water from paved areas and roofs will be fully infiltrated using porous pavements and soakaways. Keeping water on site rather than sending it away in pipes to the river is good sustainable urban drainage. It is suggested that if planning permission is granted a condition be added requiring consideration to be given to storing water on site for landscape watering purposes. The Environment Agency require additional information to confirm that the suggested measures are feasible and that sustainable Urban Drainage techniques are optimised.

Environmental matters

- 9.36 **Trees:** The arboricultural report by Hayden's submitted with the application indicates that the mature Oak in the centre of the site whilst in need of remedial surgery is worthy of retention. The application layout retains the said tree.
- 9.37 **Archaeology:** The application is accompanied by an archaeological appraisal undertaken by Colchester Archaeological Trust. This concludes that Tollgate north is in an area of demonstrable archaeological potential (particularly Bronze Age, Iron Age, Roman, Anglo-Saxon and medieval periods) although recent evaluations carried out nearby (eg: medical centre, London Road) have failed to uncover any remains.

Officer Comment: It is suggested that in the view of these comments and in the event that planning permission is granted an archaeological watching brief condition be added.

- 9.38 **Flora & Fauna:** (Habitat Survey and Great Crested newt survey undertaken by MLM on behalf of the applicant)
- Great Crested Newt: no evidence was found on site of this species
 - Badgers: no evidence found on site
 - Bats; The survey suggested that the large Oak in the middle of the site as a potential roosting site.
 - Nesting birds: tree cover on the edge of the site and the large Oak do provide nesting opportunities for birds

Officer Comment: The submitted survey recommends that the large Oak is protected during construction and retained. This seems eminently sensible from both a habitat and an amenity perspective and the addition of a condition to achieve such to any permission, if such is forthcoming, is recommended.

- 9.39 **Contamination:** The submitted contamination report from MLM found no evidence of any form of contamination or adverse soil chemistry and so no remediation is required.

- 9.40 **Noise:** The report submitted by Sharps Redmore Partnership identifies that nighttimes noise within the loading bay will exceed the WHO (World Health Organisation) and BS (British Standard) nighttime guideline value of 46dB L Aeq, 1 hour façade by 1dB. The consultants suggest that building a boundary wall or acoustic fence around the yard to the height of a delivery lorry will effect a 5dB reduction in noise – well within the WHO and BS standard. The noise study concludes that given perimeter screening and refinements to wall/fence heights at the service yard the development is unlikely to give rise to unacceptable levels of noise at residential property either by day or by night.

Officer Comment: In view of this comment it is suggested that additional noise attenuation around the yard is required by condition in order to ensure minimal disturbance. Experience has shown from other retail sites in Colchester that a 24hour retailer can reduce disturbance simply by swapping the traditional metal delivery cages with ones that have rubberised parts which prevent the empty cages from clanking and rattling when being moved around the yard or put back on the lorry. Again this element can be conditioned. It is also recommended (paragraph 7.2 above) that delivery layover arrangements be agreed by condition in order to avoid queuing of vehicles in London Road and possible associated noise nuisance)

- 9.41 **Parking:** Proposed parking levels are 3.7% above the maximum allowed by the Council's parking standards. 11150sq.m. of floorspace generate a parking standard maximum of 796 spaces. The application makes provision for 826 spaces - an excess of 30 spaces. It is suggested that the layout and final number of parking spaces is further conditioned to prevent an excess level of parking. The area accommodated by the 30 spaces could be used to provide additional tree planting/landscaping. Adequate cycle parking can be provided on site.

Other considerations

- 9.42 **Use of floorspace within the store.** It is recommended that the amount of floorspace be controlled by condition and that the level of comparison goods floorspace be restricted along with the creation of additional new floorspace within any mezzanine area. This is recommended in order to protect the vitality and viability of the town centre and to afford the Council the ability to assess and control the traffic impact of such outcomes.
- 9.43 **Recycling facilities.** The proposal does include the installation of recycling facilities and this is welcomed.
- 9.44 **Landscaping.** The proposal includes extensive tree planting and boundary landscaping the details of which will be a reserved matter.
- 9.45 **Filling station & shop.** This aspect of the proposal is considered acceptable and provides a valuable local service. It is recommended that further details of the car wash be provided (by condition) to ensure that the facility uses a sustainable water conservation measures.

9.46 **Sustainable Urban Drainage.** As required by the Environment Agency it is suggested that further detail is required as to surface drainage measures as the development affords a great opportunity to promote sustainable drainage techniques with such a large surface area of car park. If it is possible to re-use surface water for landscape irrigation, car wash or toilet flushing then the store will raise the benchmark for green retail development in Colchester.

10.0 S.106 Matters

10.1 As discussed in the report above the application before Committee is now accompanied by a negotiated detailed draft S106.

10.2 The key elements of the draft S106 are:-

- The new store operator will work with the Council, Job Centre Plus (JCP), Colchester Institute (CI) and other agencies to assist with the provision of a training course for retail skills. The operator will advertise any new job through the Job Centre Plus (as well as undertaking its own recruitment). It will also ensure that any graduate of the 'training course for retail skills' who applied for a job using the operator's application system is interviewed.

This is a ground breaking commitment by a Colchester business. It offers the opportunity for agencies tasked with assisting the unemployed get into or back into employment (JCP), delivering training in practical employment related subjects (CI) and improving the quality of life (CBC) of working with a major national employer. That employer has vast experience in delivering new jobs. By understanding what skills the retail sector wants from potential employees the partnership agencies can work together with the operator to deliver tailored relevant training with the chance of actual work experience and ultimately a job opportunity at the end of the course.

S106 tests

The Council's stated objectives within its Local Plan Employment Strategy include:-

- (a) *To maintain and promote the Borough's existing broad economic base....*
- (c) *To improve job opportunities....*
- (d) *To diversify rural job opportunities...*

The gain secured here through this element of the S106 is therefore related to the proposed development and its major job opportunities, it is proportional and is reasonable because the Council is only looking for the operators time and expertise in what is hoped will be a mutually beneficial initiative.

- A travel plan with a commuted sum for the monitoring of the success of the plan in reducing the dependency on car travel to and from the place of work.

S106 tests

This is now a well used and accepted requirement within S106s and it is reasonable and proportional for an employer with this many staff to encourage sustainable travel to/from work by its employees. This accords with national, regional and local planning guidance.

- A commitment to cease the retail use of the existing retail store for 2 years upon the opening of the new store the subject of this application and not to recommence retail use without first securing planning permission for retail use; AND

A commitment to market the existing store/site for “business” use/s. These uses are those which the Council would normally welcome within an employment zone. (Local Plan Policy EMP1) – eg: offices, light industry, research & development, general industry, warehousing, indoor sports, sale of vehicles...). The marketing strategy has first to be agreed by the Council

S106 tests

These requirements will ensure that the balance of available employment land at Tollgate is maintained and that the impact of this departure from the Local Plan land use allocation is minimised. The requirement clearly relates to the proposed development and is reasonably required to mitigate its potentially harmful impact on the supply of employment land (as defined by Local Plan Policy EMP1) at Tollgate. In terms of site area it is considered proportional.

- The provision of highway improvements. These include additional footways, cycleways, new bus stop facilities, a toucan crossing and controlled pedestrian crossing all designed to improve accessibility and safety for customers using modes of transport other than the motor car.

S106 tests

This is now a well used and accepted requirement within S106s and is reasonable for a use that will be a high movement attractor. The required facilities will help to ensure that the site and its uses are accessible to a full and safe range of modes of sustainable transport.

- The safeguarding of land alongside the recently completed northern section of the Stanway western by-pass for possible future highway improvement works for a minimum of 10 years from the hand over of the land to ECC. Such land as is required is to be purchased at market value.

S106 tests

At first glance this element appears to sit less easily within the Governments tests for reasonableness. That said it is in the interest of the proper planning of this part of Colchester to ensure that any LDF ambitions to expand Colchester on its South side are not prejudiced by an inability to provide adequate road access and connection to/from the A12. The developer has through negotiation and careful layout planning been able to accommodate all of the elements of his proposed development with all of its ancillary uses and retain a safeguarded possible future highway improvement line without prejudicing his development. Furthermore the ability to add capacity to the road that accesses the new store at some point in the future will ensure that the new store remains highly accessible even with LDF generated future traffic growth. Therefore as the proposed development is not harmed by the requirement, as it increases the feasibility of early suggested LDF expansion options and as it ensures that the new store has the potential of remaining highly accessible well into the future it is considered reasonable.

11.0 Conclusion

11.1 With the S106 delivering the transfer of retail activity between the existing and proposed sites and the re-use of the existing site for employment purposes the proposal is considered acceptable in land use terms. The proposed building will allow an existing major retailer and employer to expand service to their customers and create new employment and training opportunities. The retail/service sector has become the employment backbone of Colchester in recent years and the expanding population in Stanway will, as shoppers and potential employees, no doubt welcome an improved retail facility. The design of the proposed building is of a high quality and is appropriate for this gateway situation. The highway impact has been carefully considered and appropriate mitigation is to be achieved through the section 106 Agreement.

11.1 The proposal is considered acceptable subject to a S106 and conditions

12.0 Background Papers

12.1 Employment land assessment
Retail assessment
Transport assessment
Design statement
Flood risk assessment
Habitat survey
Desk based archaeological assessment
Geo-environmental assessment
Acoustic report
Tree survey and arboricultural report
Great Crested Newt survey
ARC; HA; NR; Essex and Suffolk Water; PTC; NLR; CCC

13.0 Recommendation

That the Head of Planning, Protection & Licensing be authorised to GRANT outline planning permission subject to:-

A) The satisfactory completion of a S106 Agreement to secure amongst other things the elements set out in section 9 of this report.

and

B) The attaching of appropriate conditions which shall include:-

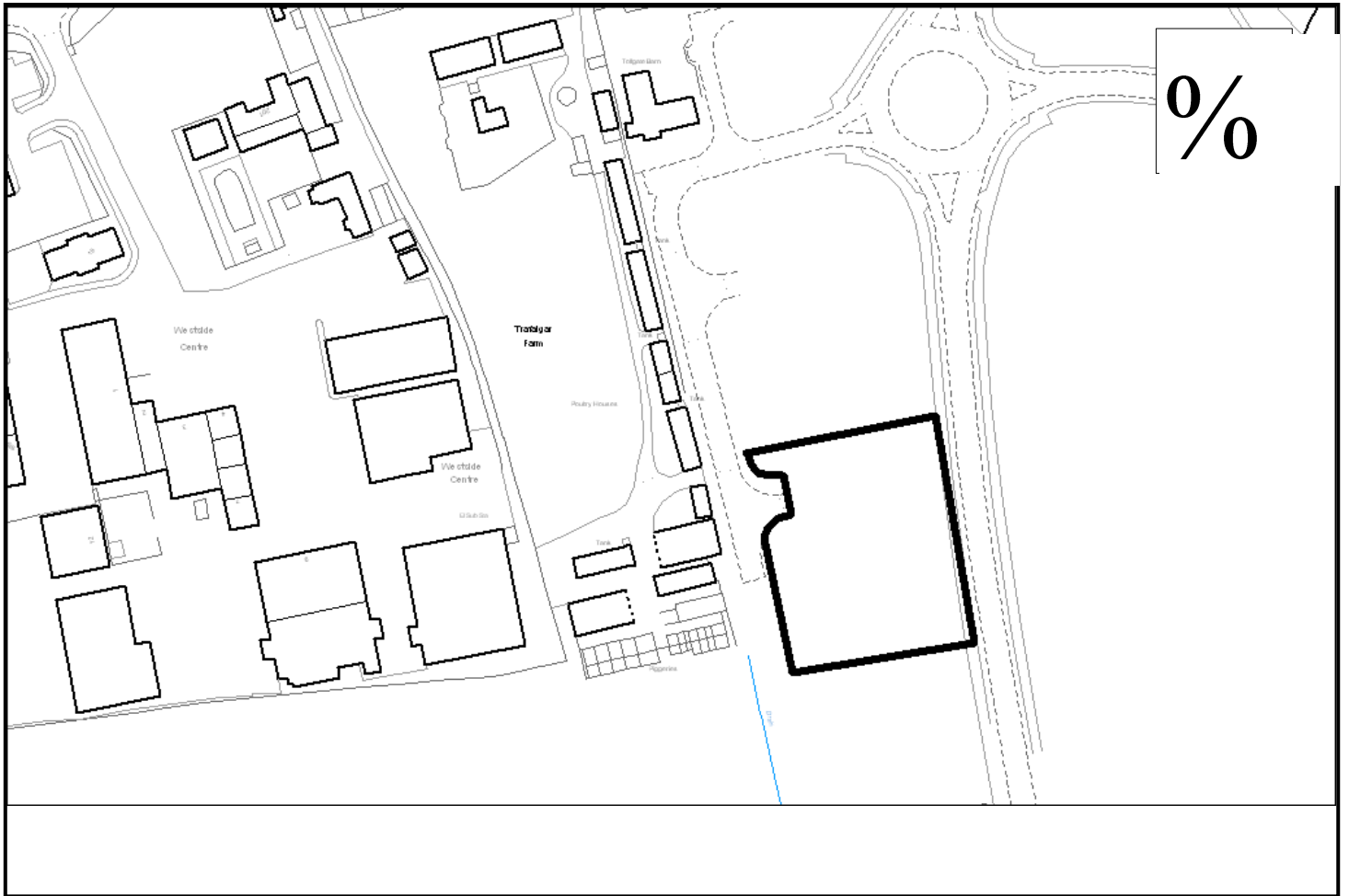
- Submission of detailed elevation drawings at a scale of 1:100 and layout drawings (with particular attention to the design, appearance, texture, colour, profile, illumination, materials used in the decorative panelling)
- Reserved matters to closely match the detail submitted including design code
- Restriction on the total gross/net retail floor area and restriction on the amount of sales area for comparison goods
- Restriction on the creation of mezzanine floorspace

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- Recycling to be provided within the site
- Additional detail of yard enclosure, acoustic screening & delivery cages to be used
- Requirement to agree a delivery vehicle layover strategy with the Council prior to commencement
- Submission of landscaping/irrigation
- Tree retention
- Water storage on-site
- Archaeological watching brief
- Submission of drainage details (SUDS)
- Control over construction times, compound location and construction vehicle delivery routes
- Submission of lighting detail
- Cycle parking provision
- Reduction in the overall level of parking by 30 spaces
- Restriction on the use of car park for any purpose other than customer parking

and

- C) The application being referred to Go-East as a 'Departure' and a major retail proposal and the application not being 'called-in' by the Secretary of State.



Application No: 070390

Location: The Partnership, Land at Floral Acres/Tollgate

Scale (approx): 1:1250

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7.2 Case Officer: Bradly Heffer

MAJOR

Site: Land at Floral Acres/Tollgate West, Stanway

Application No: 070390

Date Received: 8th March 2007

Agent: The Johnson Dennehy Partnership

Applicant: The Tollgate Partnership

Development: Erection of two storey offices, circulation areas, car parking, covered cycle parking, landscaping and access.

Ward: Copford and West Stanway

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

- 1.1 This planning application is one of a number of proposed developments for the Tollgate area of Stanway which are put forward to Committee for determination.
- 1.2 This specific proposal relates to the erection of a two storey office building, together with associated car parking, landscaping etc.

2.0 Description of Proposal

- 2.1 The proposed development would be located on a site at Floral Acres/Tollgate West, Stanway. It would consist of a new two storey office building that would front on to the recently completed northern section of the Western Bypass. Access to the site would take place via a service road leading off an existing roundabout and identified on the submitted drawings as 'Floral Acres Link'.
- 2.2 In terms of design the building would incorporate a metal standing seam roof, buff brickwork and aluminium framed windows. Glazed projecting elements would punctuate the main facades facing the Bypass. The submitted plans also indicate the provision of 58 car parking spaces and 36 cycle parking spaces. Members should note that the arrangement of built form on the site has been constrained, to a significant degree, by a water main easement that runs across the site. This is indicated on the submitted plans. The plan also shows the provision of landscaping to all boundaries of the site.
- 2.3 This planning application is accompanied by a Design and Access Statement, Travel Plan Framework and traffic impact information, all of which are available to view on the Council's website.

3.0 Site Description

- 3.1 The site for this proposal is a level area of land that is located to the west of the recently-completed northern section of the Western Bypass. The given area for the site is 0.33 hectares. It is currently undeveloped. In terms of position it is at a slightly higher level than the road and therefore any new built form would be a particularly prominent new element. At present the site does not contain any specific features of note.
- 3.2 The area surrounding the application site is characterised by further open land either side of the recently constructed road. To the east of the application site lies the established Tollgate retail area which, in the main, consists of large volume structures used for bulky goods sales. There is a large supermarket building and smaller restaurant/takeaway facilities in this area. The majority of buildings in this area have recently undergone a series of external alterations that has altered the architectural style to a more contemporary appearance.

4.0 Land Use Allocation

- 4.1 The site for this proposal falls within a defined Employment Zone as allocated in the adopted Review Colchester Borough Local Plan.

5.0 Relevant Planning History

- 5.1 None

6.0 Principal Policies

- 6.1 Adopted Review Borough Local Plan
DC1 - General Development Control criteria
EMP1 - Employment
STA2 - Area specific policy for this part of Stanway

7.0 Consultations

- 7.1 When the Highway Authority was originally consulted on this application, a recommendation of refusal was made on the basis that insufficient information had been provided regarding highway efficiency/capacity, safety and accessibility. Members are advised that a similar response was received on other applications that are now put forward for determination.
- 7.2 Following this initial response, the applicant's highway advisor has undertaken further analysis of traffic impacts (in liaison with Essex County Council's Highways Authority). This has resulted in the Highway Authority now having no objection to the proposal, subject to the imposition of conditions. The Highways Agency also expressed concerns regarding lack of information on highway impacts. However, again following the submission of further traffic assessment data, the Agency has no objection to the proposal.

- 7.3 The Environment Agency has assessed this proposal as having a low environmental risk. A series of comments are included in its response which can be incorporated as either conditions or informatives.
- 7.4 The Planning Policy section identifies that the proposed use is in accordance with the area's designation as an Employment Zone and Policies EMP1 and STA2. It is also noted that an overall masterplan for this area of Stanway would be preferable to considering individual development proposals.

Officer Comment: A masterplan would be a preferable approach. However, there is no such document in place and in its absence the Council is charged with determining submitted, valid applications on their merits.

- 7.5 Environmental Control would require the imposition of notes and conditions on any grant of planning permission.

8.0 Parish Council's Views

- 8.1 When Stanway Parish Council was originally consulted on this application it made the following comment:-

"Stanway Parish Council raises no objection in principle to this application. However, it is concerned with the lack of bus routes, cycle lanes and footpaths, it is also concerned at the increased development without the completion of the whole of the Western Bypass."

- 8.2 Members are advised that reconsultation took place following the receipt of additional traffic impact information. The following comment was received by the Parish Council on this and other applications before Members for consideration:

"Stanway Parish Council has considered the Supplementary Highway Technical Papers for each of the above applications. At the date of its meeting it had no knowledge of the Car Showroom application. The conclusion of the reports is that no further traffic/road safety alleviation measures are necessary. While the Parish Council is not technically qualified to disagree with this, it is concerned that traffic surveys relate only to the Tollgate Centre itself. No account has been taken of the traffic flow and problems in the wider village, particularly the Warren Lane/Blackberry Road junction and the egress/access to Lakelands.

Mention is made that the Park & Ride site at Eight Ash Green is allocated/committed. Stanway Parish Council does not understand this to be the situation.

The indication in the report that a previously agreed entrance design (Car Showrooms) is now considered to be inadequate was concerning.

Of particular concern in relation to the overall traffic issues was Item 7 – Other Highway Issues. Essex County Council have requested that land within the vicinity of the development sites be safeguarded for the possible future widening of the Western Bypass. As all the sites appear to abut the road, save for grass verges, it would appear that redesigning of the layout would be a necessity. This, in effect, would negate the information in the Supplementary Highway Technical Papers that we have considered."

9.0 Representations

9.1 None received

10.0 Report

10.1 Members will no doubt note the extensive period of time that has elapsed since the initial submission of this planning application. As explained previously, following initial submission it was identified by the Highway Authority (and the Highways Agency) that insufficient information had been made available regarding the highway impacts of the development. The applicant therefore instructed his highway adviser to produce the additional information, which involved substantial ongoing liaison with both ECC Highways and the Highways Agency. This process delayed the formal consideration of the application. However, it has resulted in a positive response from both County and the Agency, subject of course to conditional controls being in place.

10.2 As regards other material considerations it is noted that the proposed use does accord with the current land use allocation for the site, being an employment use within a defined Employment Zone. As regards design this reflects, to some degree, the approach taken on an adjoining site where planning permission has already been granted for an office building. This approved building, which fronts onto the roundabout, utilises similar materials to those proposed under this application. On this basis, the built form along this side of the Western Bypass would have a continuity of design and appearance. This is considered to be important given that any new development in this area will introduce context, and also the public 'experience' of the building will be substantial - given its location on a primary vehicular route on the periphery of Stanway.

10.3 The careful use of landscaping (both hard and soft) would help to compliment the setting of the building and conditions regarding these elements are suggested. Members should also note that this site would be impacted by the identified need to secure land either side of the Western Bypass in order that any necessary widening works that may be desired necessary in the future can actually be undertaken. That said, it is not anticipated that the overall development proposed under this scheme would be compromised by any future widening scheme although, clearly, landscaping would be impacted to some degree.

10.4 With regard to specific comments made by Stanway Parish Council following receipt of the additional traffic impact information, the following responses are made:

1. The application for a car showroom is one of the proposals put forward for determination by Members. Stanway Parish Council has been consulted on this application which was indeed received at a later date than this proposal.
2. The scope of the traffic assessment information has been agreed between ECC Highways, the Highways Agency and the applicant's highway advisers.
3. The assessment had to take into account relevant committed and proposed developments (of which the Park and Ride proposal was one) in order to be robust.
4. As mentioned previously, the extent of land required for future widening of the Bypass is agreed between the applicants and ECC Highways.

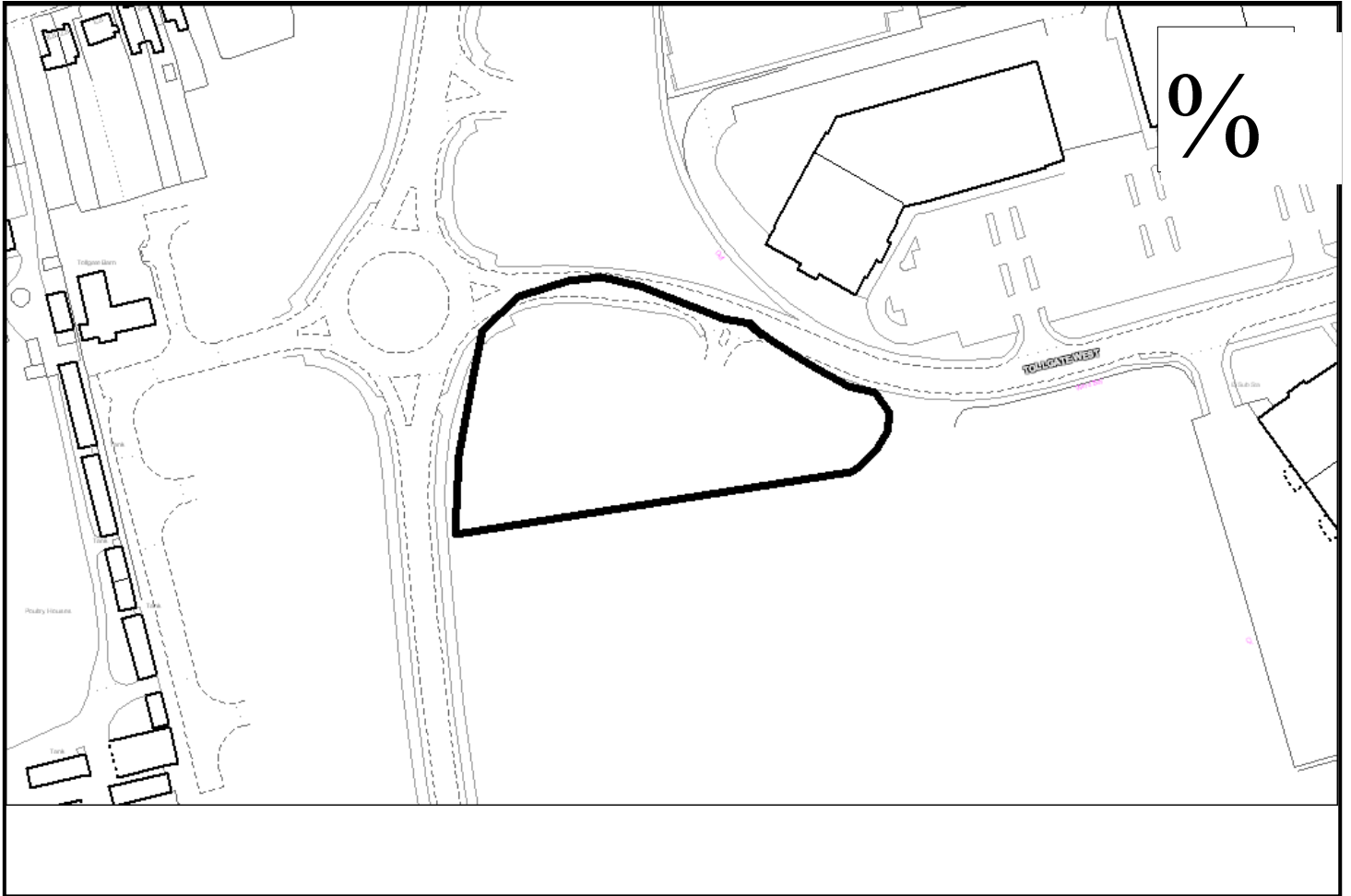
10.5 Members should also note that the Highway Authority required the provision of a £25K sum, to be used towards transport improvements. This requirement is attached to all reports to members but the payment would be triggered by the first development to take place. A £25K payment is therefore not payable on each development.

10.6 In conclusion it is considered that, subject to the imposition of appropriate conditions, planning permission can reasonably be granted in respect of this proposed development.

11.0 Background Papers

11.1 HA; HH; NR; PTC; Highways Agency

Recommendation – Conditional Approval subject to conditions relating to materials, landscaping, highways, environmental control etc. as considered appropriate by officers.



Application No: 070391

Location: The Partnership, Land at Tollgate West, Stanway

Scale (approx): 1:1250

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7.3 Case Officer: **Bradly Heffer**

MAJOR

Site: Land at Tollgate West, Stanway

Application No: 070391

Date Received: 8th March 2007

Agent: The Johnson Dennehy Partnership

Applicant: The Tollgate Partnership

Development: Erection of distribution centre, circulation areas, car parking, landscaping and access.

Ward: Stanway

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

- 1.1 This planning application is one of a number of proposed developments for the Tollgate area of Stanway which are put forward to Committee for determination.
- 1.2 This specific proposal relates to the proposed erected of a distribution centre and provision of associated parking/circulation areas, landscaping etc.

2.0 Description of Proposal

- 2.1 Planning permission is sought for the erection of a building on land at Tollgate West, Stanway, to be used as a distribution centre. The building would be a single span, single storey structure constructed of facing brick/cladding walls, together with a metal, standing seam curved roof. The submitted plan also indicates the provision of glazed areas, with curved or monopitched roofs, punctuating the facades of the building.
- 2.2 Access to the site would be taken directly off Tollgate West, while the proposed building would be located to face the existing roundabout adjacent to the north-west corner of the site. Apart from the building itself the majority of the site would be taken up by circulation/turning areas for vehicles. Parking spaces for 21 cars (including 2 disabled spaces) would be provided adjacent to the building. The submitted plan also indicates the provision of landscaping on the boundaries of the site where it fronts the Western Bypass and Tollgate West.
- 2.3 The planning application is accompanied by a Design and Access Statement, Travel Plan and Traffic Assessment - all of which are available to view on the Council's website.

3.0 Site Description

3.1 The site for this proposal is an irregularly-shaped area of generally level land located at the point where Tollgate West meets the Western Bypass. The site is currently without notable features and has not been previously developed. The given size of the site is 0.68 hectares. Immediately adjacent is open land of similar character located either side of the road network. To the east of the site lies the Tollgate retail area.

4.0 Land Use Allocation

4.1 Within the Adopted Review Borough Local Plan the site is located in an Employment Zone.

5.0 Relevant Planning History

5.1 Members should note that this particular site is also the subject of another application for a car showroom which is also on this agenda (Ref: 071932).

6.0 Principal Policies

6.1 Adopted Review Borough Local Plan
DC1 - General Development Control criteria
EMP1 - Employment Uses
STA2 - Area specific for policy for this part of Stanway.

7.0 Consultations

7.1 When the Highway Authority was originally consulted on this application, a recommendation of refusal was made as the Authority considered that inadequate information had been provided with regard to highway impacts etc.

7.2 Following ongoing, extensive analysis of this issue by the applicants' highway advisers (in liaison with the Highway Authority and the Highways Agency) a revised recommendation has been received of conditional approval. Similarly, the Highways Agency has no objection to the proposal.

7.3 The Environment Agency identifies the proposal as having low environmental risk. Conditions and informatives are suggested for inclusion on any grant of planning permission.

7.4 Essex and Suffolk Water advised that their main falls within the vicinity of the site. However, the applicants' agent has confirmed that the main is not adversely affected by the proposed scheme.

7.5 Planning Policy identifies that the proposal accords with the area's designation as an Employment Zone, and Policies EMP1 and STA2.

8.0 Parish Council's Views

8.1 When originally consulted on this application, Stanway Parish Council stated:-

"Stanway Parish Council raises no objection in principle to the proposed development, which it feels is in keeping with the land allocation for employment. However, given the already heavy volumes of traffic on the Tollgate estate over the weekends it would ask that, if CBC is minded to grant the application, consideration could be given to restricting operating hours to Monday-Friday with no late night working and Saturday morning to avoid conflict between what is primarily car traffic and the HGV traffic which this site may generate."

8.2 Following receipt of additional traffic impact information the Parish Council were reconsulted on this application and the other proposals). The following response was received:-

"Stanway Parish Council has considered the Supplementary Highway Technical Papers for each of the above applications. At the date of its meeting it had no knowledge of the Car Showroom application. The conclusion of the reports is that no further traffic/road safety alleviation measures are necessary. While the Parish Council is not technically qualified to disagree with this, it is concerned that traffic surveys relate only to the Tollgate Centre itself. No account has been taken of the traffic flow and problems in the wider village, particularly the Warren Lane/Blackberry Road junction and the egress/access to Lakelands.

Mention is made that the Park & Ride site at Eight Ash Green is allocated/committed. Stanway Parish Council does not understand this to be the situation.

The indication in the report that a previously agreed entrance design (Car Showrooms) is now considered to be inadequate was concerning.

Of particular concern in relation to the overall traffic issues was Item 7 – Other Highway Issues. Essex County Council have requested that land within the vicinity of the development sites be safeguarded for the possible future widening of the Western Bypass. As all the sites appear to abut the road, save for grass verges, it would appear that redesigning of the layout would be a necessity. This, in effect, would negate the information in the Supplementary Highway Technical Papers that we have considered."

9.0 Representations

9.1 None received

10.0 Report

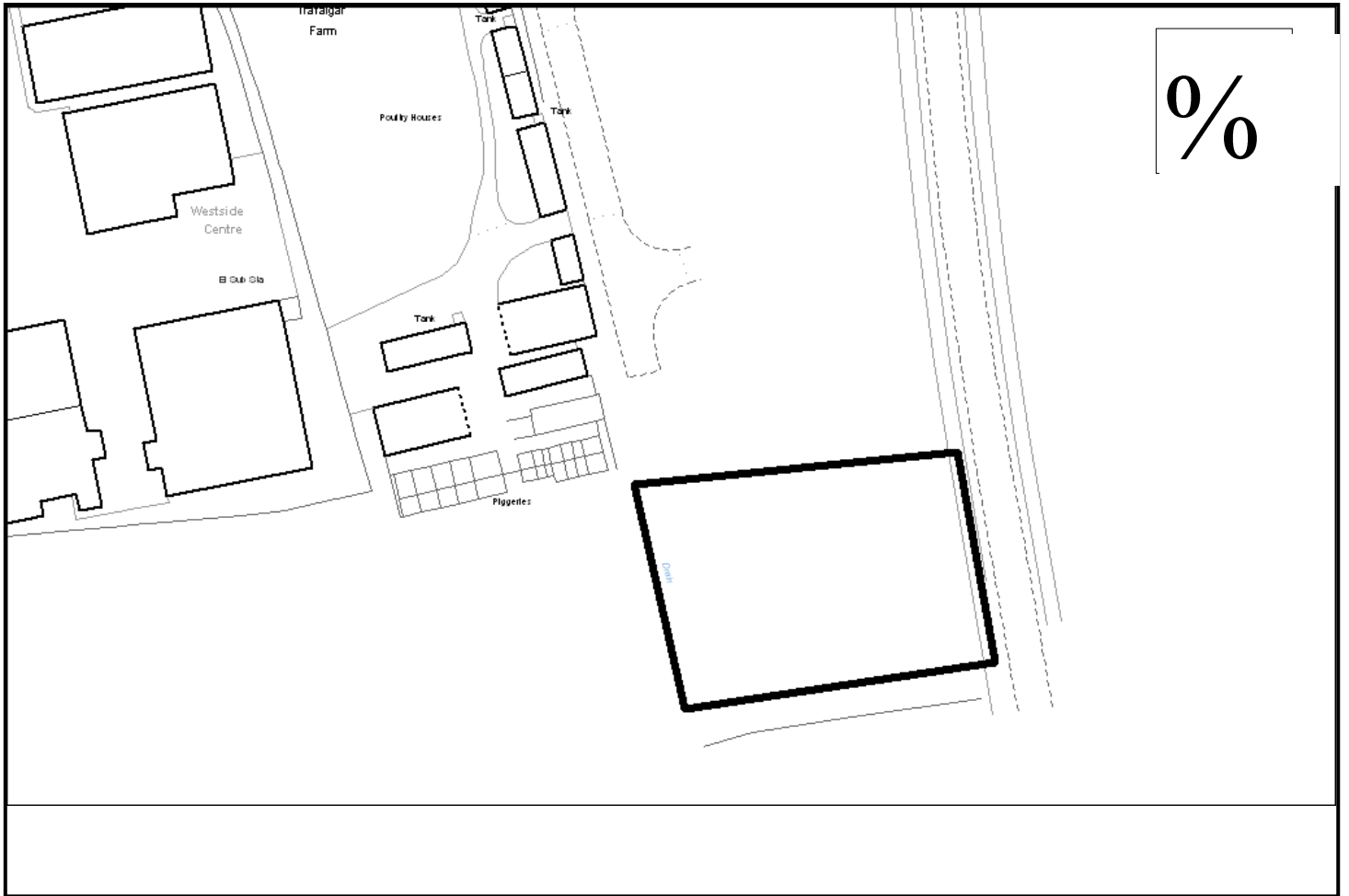
10.1 In terms of land use principles, it is considered that the provision of a Distribution Centre on the identified land would be in accordance with the Employment Zone allocation in the Local Plan. Infact, it is noted that the Planning Policy section of the Council also draw this conclusion in their consultation response.

- 10.2 By its nature the use would give rise to substantial HGV movements. Clearly the arrangement and layout of the site reflects this fact, with substantial areas left open for vehicle manoeuvring and turning. Nevertheless, the site is in a prominent location and, in recognition of this, it is considered that the arrangement of development and building design, should reflect this status. Bearing the above in mind, it is considered that the location of the building is an appropriate response to site characteristics. The built form would address the boundaries of the site, but would specifically relate to the Western Bypass/Tollgate West roundabout situated immediately north west of the site. Members are advised that a similar approach to location has been taken on the opposite (western) side of the Bypass - where planning permission has been granted for an office development which also fronts across the roundabout.
- 10.3 As regards building design, bearing in mind the functional nature of the development it is felt that the architecture incorporates sufficient interest to avoid the provision of the ubiquitous 'tin shed'. Features such a curved main roof, glazed elements etc help to add value to what is, in effect, a warehouse building. Although there are no similar types of building in the vicinity this, in itself, is not considered to be problematic. The area is characterised by generally large volume buildings of various styles and the proposed building would in fact fit in with this context. The variety in detailed design is encouraged, on the basis that the function of the building is different to its neighbours.
- 10.4 As advised previously, the application for this proposal is also the subject of another proposed development to be considered by Members on this agenda (Ref: 071932). Although this situation is unusual, it is not unknown. Members will no doubt be aware that each particular proposal has to be considered on its own merits. It should also be borne in mind that if either proposal (if approved) were to be implemented, the other scheme would not be implementable.
- 10.5 Lastly, comments received from Stanway Parish Council regarding this development are fully acknowledged and appreciated, particularly those in relation to traffic generation and impact. The forms submitted with this application do not propose hours of working etc and on this basis suggested conditions include controls as appropriate. Members should also note that traffic assessment documents have been prepared on the basis that no traffic would be attracted at weekends. The recommended hours of use reflect this assumption.
- 10.6 Members should also note that the Highway Authority required the provision of a £25K sum, to be used towards transport improvements. This requirement is attached to all reports to Members but the payment would be triggered by the first development to take place. A £25K payment is therefore not payable on each development
- 10.6 In summary, the provision of a distribution centre on this site would accord with current plan policies and its impact in highway terms is deemed acceptable by the Highway Authority and Highways Agency subject to appropriate conditions. Additionally the design and layout is considered to be an appropriate response to site characteristics etc. On this basis a conditional recommendation of approval is made to Members.

11.0 Background Papers

- 11.1 HA; NR; HH; PTC; Highways Agency; Essex Suffolk Water

Recommendation - Conditional Approval subject to conditions relating to materials, landscaping, highways, environmental control etc. as considered appropriate by officers.



Application No: 071087

Location: Land at Floral Acres/Tollgate West, Floral Acres/Tollgate West, London Road, Stanway, Colchester

Scale (approx): 1:1250

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7.4 Case Officer: Bradly Heffer

MAJOR

Site: Floral Acres/Tollgate West, London Road, Stanway, Colchester

Application No: 071087

Date Received: 2nd April 2007

Agent: The Johnson Dennehy Partnership

Applicant: The Tollgate Partnership

Development: Erection of two storey offices, circulation areas, car parking, landscaping and access

Ward: Copford & West Stanway

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This planning application should be read in conjunction with the above Committee item Ref: 070390. It is located immediately to the south of that scheme and proposes a further office block and associated car parking and landscaping at Floral Acres, Tollgate, Stanway.

2.0 Site Description

2.1 The specific site is a rectangular shaped piece of vacant and level land and has an area of 0.267 hectares. It is bounded by the Western Bypass to the east, the site of Application 070390 to the north and undeveloped land to the south and west.

3.0 Description of Proposal

3.1 In detail the development comprises 964 sq.m. of office floorspace housed within a 2 storey building some 46m wide and 58m deep and sharing the same access as Application 070390 off 'The Floral Acres Link'. The design and materials also reflect the adjacent proposals but the building would be orientated at right angles to the bypass. 41 car parking spaces, covered cycle storage and boundary landscaping is also included.

3.2 As with Application 070390 the application is supported by a Design and Access Statement, Travel Plan Framework and Traffic Impact information.

4.0 Land Use Allocation

4.1 Employment Zone

5.0 Relevant Planning History

5.1 None

6.0 Principal Policies

6.1 Adopted Review Borough Local Plan
DC1 – General Development Control criteria
EMP1 – Employment
STA2 – Area specific policy

7.0 Consultations

7.1 The Highway Authority has no objection to the proposakl subject to conditions.

8.0 Parish Council's Views

8.1 As for Application 070390

9.0 Representations

9.1 None received

10.0 Report

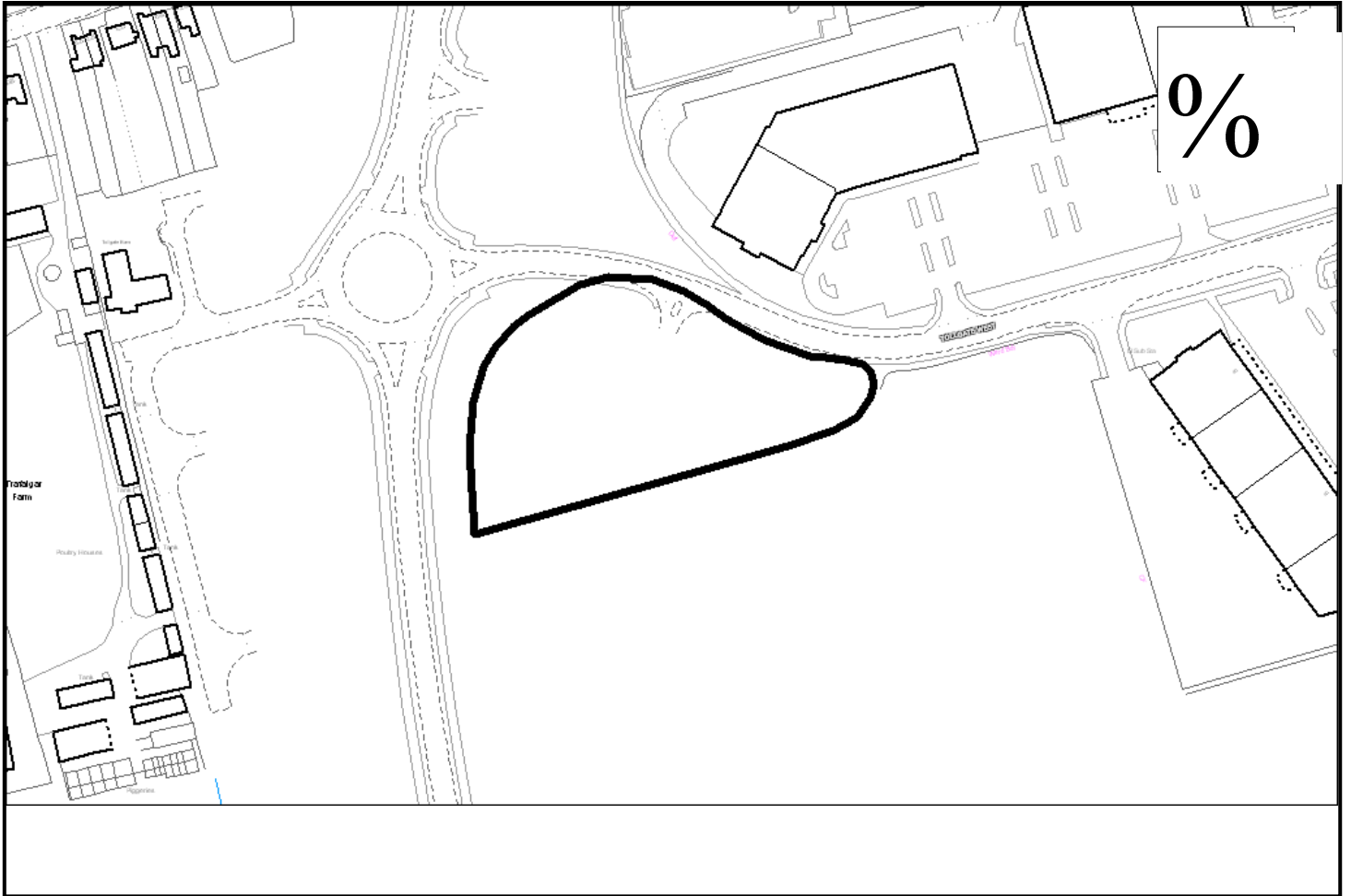
10.1 The major issues and considerations are set out as in the report for Application 070390.

10.2 Members should also note that the Highway Authority required the provision of a £25K sum, to be used towards transport improvements. This requirement is attached to all reports to Members but the payment would be triggered by the first development to take place. A £25K payment is therefore not payable on each development.

11.0 Background Papers

11.1 HA; PTC

Recommendation - Conditional Approval subject to conditions relating to materials, landscaping, highways, environmental control etc. as considered appropriate by officers.



Application No: 071932

Location: Land at Tollgate West, Stanway

Scale (approx): 1:1250

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7.5 Case Officer: Bradly Heffer

MAJOR

Site: Land at Tollgate West, Stanway

Application No: 071932

Date Received: 16th July 2007

Agent: The Johnson Dennehy Partnership

Applicant: The Tollgate Partnership

Development: Erection of car showroom/workshops, circulation areas, car parking, covered cycle parking, landscaping and access.

Ward: Stanway

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

- 1.1 This planning application is one of a number of proposed developments for the Tollgate area of Stanway which are put forward to Committee for determination.
- 1.2 This particular proposal seeks permission to erect a car showroom on an area of land at Tollgate West, together with associated parking, servicing, landscaping etc.

2.0 Site Description

- 2.1 The main element of the development proposed for this site is the car showroom building itself which consists of a main showroom/office element and workshop facilities to the rear. The building itself (which would be constructed using metal clad walling) is the 'corporate design' of the proposed occupier, Audi. It is of a distinctive modern appearance and the cladding utilised in its construction is of specific design.
- 2.2 The remainder of the site would be given over to car parking to serve the use, together with a used car display area that would be located between the building and the Bypass. Access to the site would take place off Tollgate West and the submitted plans also indicate the provision of a turning facility within the site capable of accommodating an HGV. Boundaries to the site would be delineated by new landscaping.
- 2.3 The Design and Access Statement, Travel Plan and Supplementary Highway Technical paper which accompanied the application are 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 Colchester Borough Local Plan.

4.0 Relevant Planning History

4.1 Members will note that this application site is the subject of a proposal for a Distribution Centre (Ref: F/COL/07/0391) which is also included on the Committee agenda for consideration by Members.

5.0 Principal Policies

5.1 Adopted Review Borough Local Plan
DC1 - General Development Control criteria
EMP1 - Employment
STA2 - Area specific policy for this part of Stanway.

6.0 Consultations

6.1 When initially consulted on this application, the Highway Authority objected, on the basis that there was insufficient information available to quantify the impact of the development on the highway network. Following on from the objection, the applicant's highway advisor has provided further information via ongoing liaison with the Highway Authority and the Highways Agency. The Highway Authority and the Highways Agency are now content with the proposal subject to various conditions being imposed on any grant of planning permission.

6.2 Environmental Control would require the imposition of conditions and informatives on a planning approval.

7.0 Parish Council's Views

7.1 Stanway Parish Council has no comment to make on this application.

8.0 Representations

8.1 None

9.0 Report

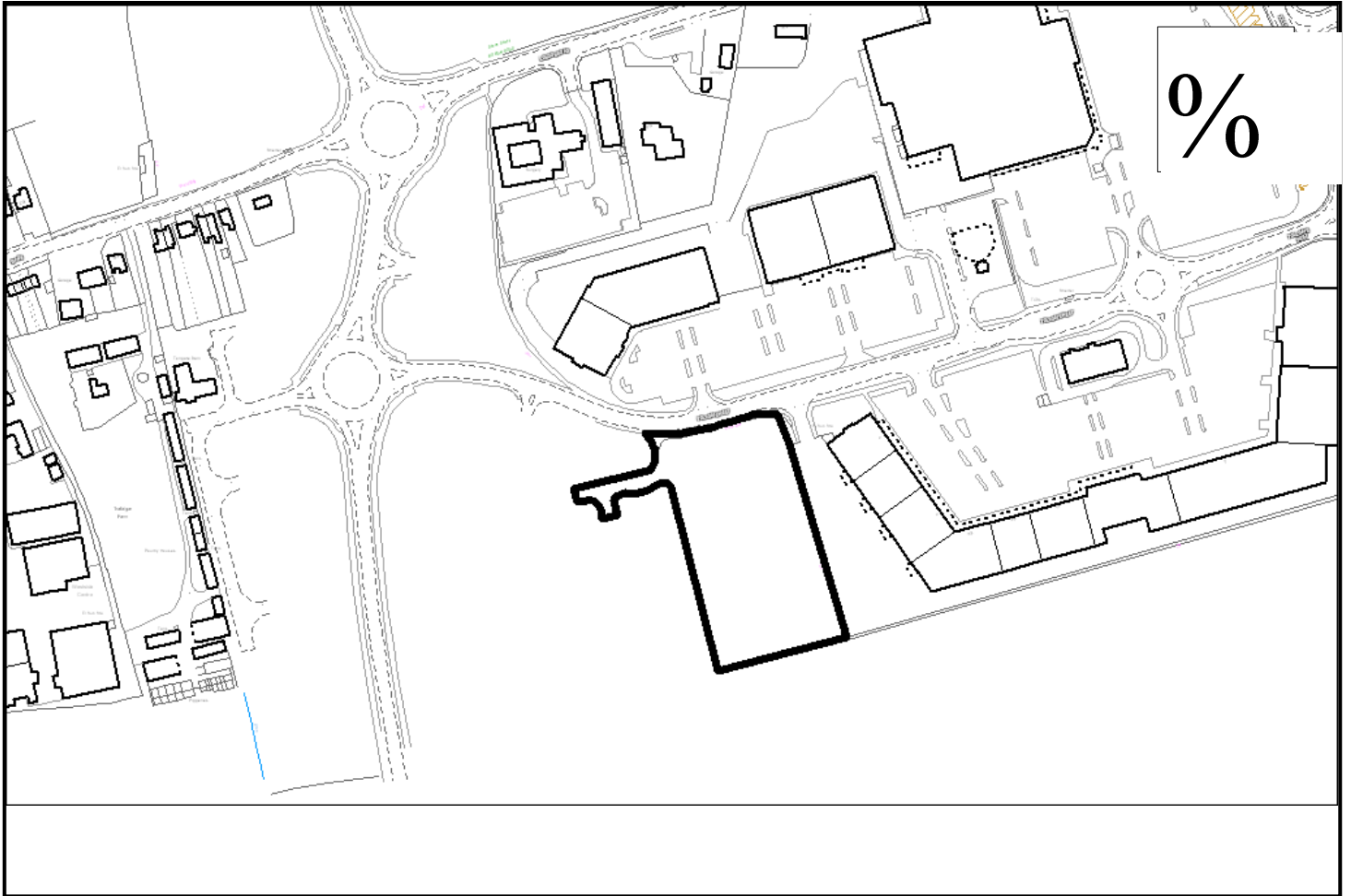
9.1 In examination of Policy EMP1 of the Local Plan, the provision of car showrooms is specifically identified as being acceptable within such locations. The principle, at least, therefore of this use locating on this site would accord with a key Local Plan policy.

- 9.2 As regards the proposal in detail, and particularly the building itself, it is noted that this would be a 'one-off' design that would not have any precedent in the area. Although context is fundamentally important, the development of this (and indeed, surrounding) land has arisen as a direct result of the completion of the northern part of the Western Bypass and, to a substantial degree, site context is yet to be created. The opportunity exists, therefore, for individual designs of good quality to be introduced into the area - as opposed to buildings seeking to mimic and replicate their surroundings. The fact that this building would be an unusual design, and would incorporate specifically finished materials, adds interest and visual variety into this defined employment area. Given the prominence that any building would have on this site it is considered that a mundane built form should be avoided. Importantly, the proposed building would be located so that it addressed the roundabout junction where the Western Bypass meets Tollgate West. Although the plan does indicate a car sales area located between the building and the boundary of the site with the Bypass, this area would be viewed against the 'backdrop' of the building itself and therefore would not be overly prominent in the street scene. Landscaping would further soften the impact of this sales area (and indeed the overall site). A substantial car parking area would be located behind the workshop element of the building but this would not be overly prominent nor an unexpected feature on a site utilised for this type of purpose.
- 9.3 Members will note that the highway impacts of this proposal have been considered in detail, as part of the overall 'suite' of applications for the Tollgate area that are on this agenda for determination. Although undoubtedly this use will generate vehicular traffic, and would be likely to become a 'destination' in its own right, it is noted that it would be served by a newly completed link to the trunk road system and would therefore benefit from convenient car access.
- 9.4 Indeed, this is a salient factor in the consideration of all Tollgate proposals put forward for determination. The release of this land, and the other application sites was dependent on the construction of the northern section of the Bypass.
- 9.5 Also of note is the fact that, following the construction of the Bypass, Essex County Council has sought to secure land either side of the existing carriageway in order to accommodate widening works should these be deemed necessary in the future. In the case of this application, a line is indicated on the plan showing the possible extent of land take for widening works.
- 9.6 As advised in the report for application F/COL/07/0391, the site for this proposal is also subject to a separate application for a distribution centre. The fact that two applications relate to the same site is unusual, but not unique. Clearly, each application falls to be determined on its own merits - a situation that Members are well aware of.
- 9.7 Members should also note that the Highway Authority required the provision of a £25K sum, to be used towards transport improvements. This requirement is attached to all reports to Members but the payment would be triggered by the first development to take place. A £25K payment is therefore not payable on each development.
- 9.8 In summary, subject to the range of conditions as stated at the end of the report, it is felt that Members could grant planning permission for the submitted development.

10.0 Background Papers

10.1 HA; HH; PTC; Highways Agency

Recommendation - Conditional Approval subject to conditions relating to materials, landscaping, highways, environmental control etc. as considered appropriate by officers.



Application No: 080640

Location: Land at, Tollgate West, Stanway, Colchester

Scale (approx): 1:1250

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7.6 Case Officer: Bradly Heffer

EXPIRY DATE: 02/07/2008

MAJOR

Site: Tollgate West, Stanway, Colchester

Application No: 080640

Date Received: 1st April 2008

Agent: The Johnson Dennehy Partnership

Applicant: The Tollgate Partnership

Development: Erection of Distribution Centre, circulation areas, car parking, landscaping and access road. Resubmission of F/COL/06/2056.

Ward: Copford & West Stanway

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

- 1.1 This planning application is one of several proposed developments for the Tollgate area of Stanway that are put forward to Committee for determination.
- 1.2 This particular application seeks planning permission for the erection of a distribution centre on an area of land off Tollgate West, together with associated circulation areas, car parking, landscaping and access road.

2.0 Site Description

- 2.1 The submitted development proposal consists of the erection of a large, single span building (having approximate dimensions of 80 metres length and 40 metres width). It would be located on the eastern half of the site, positioned immediately adjacent to the Tollgate Centre. Vehicular access to the site would take place via a new access point off Tollgate West, which would lead to servicing and parking areas for vehicles. The submitted plans show HGV turning facilities available to the side and rear of the building. Between the building and the road would be a landscaped area.
- 2.2 The proposed building would consist of a main, curved roof element with smaller outshots also having curved roofs. The building would be constructed using a standing seam metal roof, metal cladding/brickwork walls and glazed main entrance area. The Design and Access Statement submitted with the application is available to view on the Council's website.

3.0 Site Description

3.1 The site for this proposal is a rectangular shaped area of land having given dimensions of 75 metres width and 130 metres depth. The site is level and generally featureless apart from several small trees and shrubs. It lies at a lower level than the carriageway of Tollgate West (approximately 1 metre). To the north and east of the site are located large buildings used for bulky goods retail sales. To the south and west is undeveloped land which extends to the Western Bypass.

4.0 Land Use Allocation

4.1 The site for the proposal is within a defined Employment Zone as allocated in the adopted Review Colchester Borough Local Plan.

5.0 Relevant Planning History

5.1 Members are advised that a previous application for an identical development had been submitted on this site (Ref: F/COL/06/2056). This application had gone to appeal, on the basis of non-determination by the Council. However, the appeal was withdrawn, as was the initial application. This current proposal represents a resubmitted application.

6.0 Principal Policies

6.1 Adopted Review Borough Local Plan
DC1 - General Development Control criteria
EMP1 - Employment
STA2 - Area specific policy for this part of Stanway.

7.0 Consultations

7.1 The Highway Authority has no objection to the submission, subject to the imposition of conditions.

7.2 The Highways Agency states:

"As the application will not adversely affect the A12 trunk road at this location, the Highways Agency does not intend to issue a direction and would not wish to comment further on the application."

7.3 The views of Planning Policy are as follows:-

“Planning Policy provided comments to the original 06/2056 application and was in general support of the proposals due to the Local Plan land allocation and the proximity of the site to the strategic road network. The Local Plan allocation of Employment Zone as outlined in Policy EMP1 still exists. Policy EMP1 considers B1, B2 and B8 uses to be appropriate in Employment Zones so the application is considered to still accord with the Local Plan Policies.

Under application 06/2056 Planning Policy encouraged the use of conditions to ensure the Travel Plan suggested as part of the supporting information is still implemented and opportunities for a co-ordinated Travel Plan in the Tollgate area are considered. As the Travel Plan Framework is similar to the original the views of Planning Policy have not changed following this resubmission.

Planning Policy is again in general support of this application and considers the comments provided to the original application to still be appropriate.”

7.4 The Development Team noted the application and approved.

8.0 Parish Council's Views

8.1 Stanway Parish Council has no objection to the proposal.

9.0 Representations

9.1 Non received

10.0 Report

10.1 Members will note that this proposal is one of two applications for distribution centres submitted for determination on this agenda. The merits of the other proposal are discussed in the report for F/COL/07/0391.

10.2 As the site for this proposal is located in a defined Employment Zone, it is considered that the principle of the development taking place would accord with the Local Plan policy. As regards the design of the building, and its appropriateness of this setting, it is noted that nearby buildings are mainly large, single volume structures being utilised for the sale of bulky goods, electrical equipment etc. Given this established character, it is considered that the provision of a large, low building would not appear out of context. The existing buildings have a variety of styles. Those immediately adjacent to the east have recently been remodelled, and have a strong contemporary architectural appearance. Those on the northern side of Tollgate West have a more 'traditional' appearance - being constructed in brick with tiled roofs. The proposed building would appear different to both the above styles, having a curved roof and a more 'functional' appearance. However, the nature of the proposed use would require the provision of a functional-type structure. Notwithstanding this the proposed design does incorporate features and detailing that would combine to avoid the creation of a 'shed' in this prominent position. Clearly, a key element to be considered as part of this development proposal, bearing in mind the proposed use, will be the amount of traffic

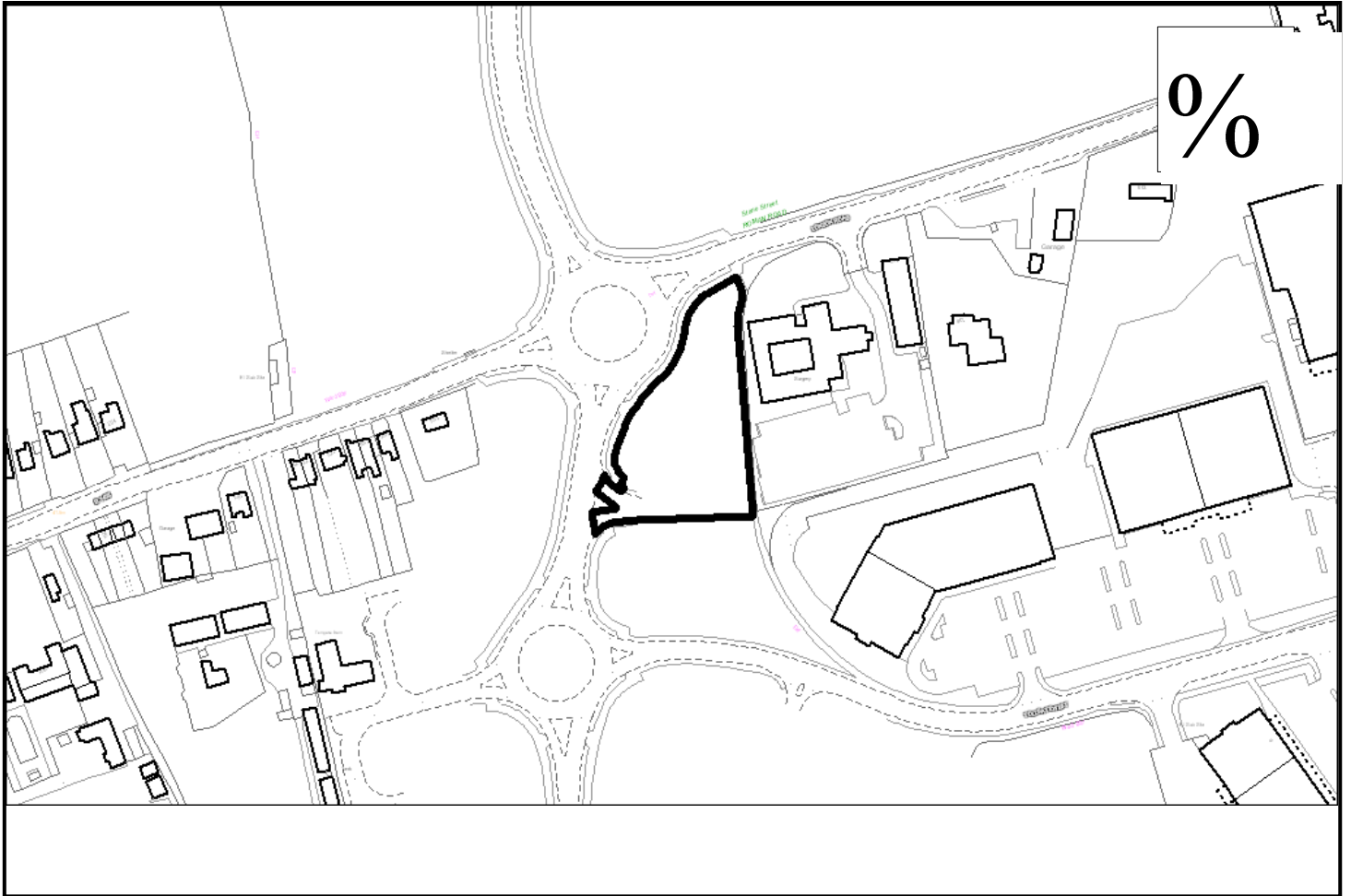
generated. It is noted that the Highway Authority does not object to the proposal, subject to a range of conditional requirements (these being suggested for the 'suite' of applications put forward for determination to Committee). Clearly the fact that the northern section of the Western Bypass has been constructed means that HGVs visiting the site would have convenient access to the trunk road network.

- 10.3 Members should also note that since the initial submission of the application amended plans have been received that show the provision of a footpath/cycleway link through the application site (along the eastern boundary) that would link Tollgate with the future Lakelands Phase 2/3 development immediately to the south. Members should also note that the Highway Authority requires the provision of a 25L sum, to used towards transport improvements. This requirement is attached to all reports to Members but the payment would be triggered by the first development to take place. A £25K payment is therefore not payable on each development.

11.0 Background Papers

- 11.1 HA; PP; PTC; Highways Agency

Recommendation – Conditional Approval subject to conditions relating to materials, landscaping, highways, environmental control etc. as considered appropriate by officers.



Application No: 080642

Location: Land at, London Road/Tollgate West, Stanway, Colchester

Scale (approx): 1:1250

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7.7 Case Officer: Bradly Heffer

MAJOR

Site: London Road/Tollgate West, Stanway, Colchester

Application No: 080642

Date Received: 1st April 2008

Agent: The Johnson Dennehy Partnership

Applicant: The Tollgate Partnership

Development: Restaurant, car parking, landscaping and access. Resubmission of F/COL/06/2057.

Ward: Copford & West Stanway

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This planning application is one of several proposed developments for the Tollgate area of Stanway that are put forward to Committee for determination. This planning application seeks permission for the erection of a restaurant building with associated access, parking areas etc on an area of land bounded by Tollgate West, London Road and the Tollgate Medical Centre.

2.0 Description of Proposal

2.1 The proposed restaurant building would be located in the south-eastern corner of the site. It would have approximate overall dimensions of 17 metres width and 29 metres depth. The design (which has been amended since the initial submission), is of contemporary appearance, incorporating materials such as metal cladding, structural elements (also of metal) and glazing. Access to the site would be via a new access road leading off Tollgate West, which would lead to parking and servicing areas. The remainder of the site (between the built form and the adjoining roads) would be given over to landscaping.

3.0 Site Description

3.1 The site for this proposal is an irregularly-shaped area of land that is located between the Tollgate Medical Centre and the highway being formed by the realignment of the carriageway at this point. The given area of the development is approximately 0.29 hectares. At present the land is unkempt and featureless, in common with the majority of land either side of the Western Bypass. Immediately to the east of the application site is the relatively recently-constructed Tollgate Medical Centre.

4.0 Land Use Allocation

4.1 The site for this proposal is in an Employment Zone as allocated in the adopted Review Colchester Borough Local Plan (March 2004).

5.0 Relevant Planning History

5.1 Members are advised that a previous application to erect a restaurant on this site was submitted under COL/06/2057. An appeal against non-determination of the application was submitted, but prior to the appeal inquiry the application (and appeal) were formally withdrawn.

6.0 Principal Policies

6.1 Adopted Review Borough Local Plan
DC1 - General Development Control criteria
EMP1 - Employment
STA2 - Area specific policy for this part of Stanway

7.0 Consultations

7.1 The Highway Authority and Environmental Control have no objection to the application, subject to the imposition of conditions.

7.2 Planning Policy comment as follows:-

“The application proposes an A3 restaurant use on the an area of land which is allocated as an Employment Zone suitable for B1, B2 and B8 uses as shown on the Local Plan proposals map. Normally the proposal for a restaurant in this location would not be supported by Planning Policy as it is contrary to Policy EMP1, however as Tollgate is currently experiencing a large amount of development the situation is different in this case.

Under the original application Planning Policy was unable to support the proposals on grounds of loss of employment land for inappropriate uses. The loss of employment land can be minimised through the recent applications for development at Stane Park and as a result Planning Policy no longer has concerns regarding the loss of employment land in this locality.

Although the restaurant use is considered inappropriate when judged against Policy EMP1, Planning Policy is confident that the restaurant will have a minimal impact on the Tollgate area when taking into account the full extent of the Retail Park and the adjacent developments at Stane Park and Lakelands. A restaurant in this area will complement the Retail Park and prove attractive to those taking up employment land at Stane Park. The restaurant does not have a takeaway facility which Planning Policy is encouraged to see as this will not unduly increase Tollgate’s attraction as a place to visit by car. A takeaway associated with the restaurant would be likely to increase the number of trips to the area but a restaurant without a takeaway will have a lower impact as a visitor destination. The proposal for a restaurant will provide a small number of jobs which due to their flexibility may appeal to people in the local area which Planning Policy is also encouraged to see.

Taking into account the McDonalds restaurant currently in Tollgate, Planning Policy consider that together with the proposed restaurant provision for food and drink at the Retail Park is adequate and will meet the needs of the area. The proposed restaurant will have a minimal impact upon the Retail Park and serve to complement the proposed development of employment land in this area.

8.0 Parish Council's Views

8.1 The comments of Stanway Parish Council on the proposal are as follows:-

"Stanway Parish Council raises no objections, however it is concerned that it could lead to an increase in litter in the area and would ask that, if Colchester Borough Council are minded to consent the application, some form of control over this aspect is imposed via planning conditions."

Officer Comment: The proposed use is within A3 (Restaurants) and a takeaway facility would not be available. Conditions would reflect this restriction and would mitigate litter generation.

9.0 Representations

9.1 None received

10.0 Report

10.1 The land on which the restaurant would be located forms part of a defined Employment Zone in the adopted Local Plan. The relevant policy in the Local Plan (EMP1) lists the range of uses that would be acceptable in such a location. These include employment uses, car sales/repairs, indoor sports uses etc. and services specifically provided for the benefit of businesses/workers within the Employment Zone. Members will note that the provision of a restaurant for use by the general public is not among the identified list. Notwithstanding this, it is considered that there are material considerations relevant to the application which should be considered in tandem with the land use allocation for the site.

10.2 For example, the Tollgate Centre has recently had an authorised development for a new fast-food restaurant/takeaway – immediately adjacent to the established facility. The occupier of the older building, McDonalds, has relocated to the new facility, and it is understood that the old building will now be occupied by a retail use. The approval of this current proposal would, in effect, re-establish a position whereby two restaurant facilities would be located in the Tollgate area. It is also salient to point out that this current scheme is for an A3 use, and would not include takeaway sales or a drive-through facility. On this basis the use is unlikely to be a major high turnover car attractor, nor would it be likely to create litter problems or late night noise disturbances etc.

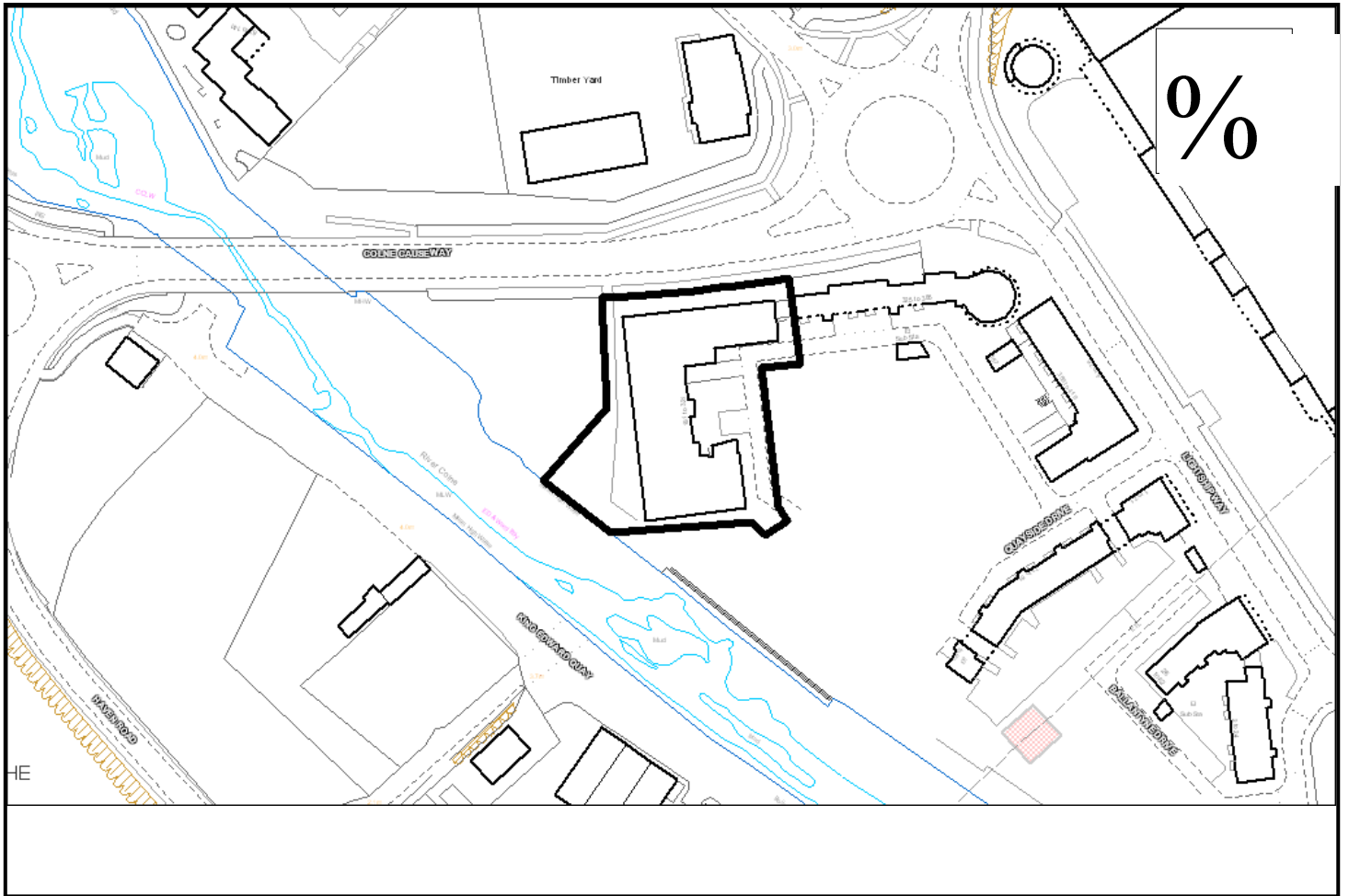
10.3 Given the fact that this part of Tollgate is identified for future employment growth (within Tollgate and Stane Park) and substantial residential development (at Lakelands to the south) the use may appeal to office users/business clientele and future local residents. Furthermore, whilst the use is not identified as an employment use as such, clearly there will be a level of employment provided – estimated to be between 10 full-time and 15 part-time jobs.

- 10.4 It is on the basis of the above factors that the Planning Policy Section does not object to the above proposals. As regards the design of the building, it is acknowledged that this does not follow other examples in the area, like the nearby Tollgate Medical Centre. However, in your officer's view this variation in design approach would not be harmful to visual amenity in this area. Indeed, context and character will, to a substantial degree, be created by the incremental development of various sites along the route of the Western Bypass. As a stand alone structure it would have sufficient interest, bearing in mind the prominence it would have in the street scene. Additionally, the use of cladding as an external material element is carried through on other proposed buildings in the area.
- 10.5 Members should also note that the Highway Authority requires the provision of a 25K sum, to used towards transport improvements. This requirement is attached to all reports to Members but the payment would be triggered by the first development to take place. A £25K payment is therefore not payable on each development.
- 10.6 In summary, subject to the imposition of conditions to control the terms of the use, and as requested by various consultees, it is considered that planning permission can be granted for the proposed development.

11.0 Background Papers

11.1 HH; PP; HA; PTC; Highways Agency

Recommendation - Conditional Approval subject to conditions relating to materials, landscaping, highways, environmental control etc. as considered appropriate by officers.



Application No: 080693

Location: Building 4, Moler Works, Colne View, Colchester

Scale (approx): 1:1250

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7.8 Case Officer: Richard Button

EXPIRY DATE: 05/07/2008

MAJOR

Site: Building 4, Moler Works, Colne View, Colchester

Application No: 080693

Date Received: 4th April 2008

Agent: Bidwells

Applicant: Barratt Eastern Counties

Development: Partially retrospective application for the erection of 15 number dwellings, 4 of which have been completed (following application F/COL/06/1067) (resubmission of 071984)

Ward: Harbour

Summary of Recommendation: Conditional approval subject to signing of Section 106. If applicants fail to complete Section 106 and flood risk issues are not resolved before expiry date application to be refused

1.0 Site Description

- 1.1 Building 4 is an apartment block which forms part of the redevelopment of the former Moler brickworks site which lies beside the river at Colne Causeway/Lightship Way, East Colchester. It is now known as Colne View. The site is being redeveloped with a mixture of housing and commercial uses, of which a health and beauty parlour, kitchen shop, barbers and convenience store are already operational.
- 1.2 Building 4 has been completed externally in accordance with a planning permission originally granted in 2004.
- 1.3 The current application represents the third attempt to obtain planning permission to increase the number of apartments over and above those originally approved. Whilst externally the building has been constructed in accordance with the original permission, internal alterations are proposed and have been partially implemented to create an extra 15 apartments. This will be achieved by reducing the number of larger 3 and 4 bedroom apartments and increasing the quantum of smaller 1 and 2 bed units. The application is partially retrospective as 4 of the proposed smaller units have already been completed and been sold.

- 1.4 The application is identical in every respect to the previous application submitted last year (F/COL/07/1984). Members resolved to conditionally approve this application subject to a legal agreement securing contributions to affordable housing, transportation and open space, and the satisfactory resolution of an outstanding objection by the Environment Agency. The applicants were unable to resolve the flood risk issue within the 13 week period and therefore the application was refused for the following reason:

"The application fails to address Environment Agency objections to the proposal on flood risk grounds, as such the proposal is contrary to Planning Policy Statement 25 (PPS25) Development and Flood Risk and Policy CE2 of the Adopted Review Colchester Borough Local Plan (March 2004)"

2.0 Land Use Allocation

- 2.1 Regeneration Area

3.0 Relevant Planning History

- 3.1 COL/02/0703 - Outline permission for mixed use development of residential , shops, live work units, marine heritage centre and a pub/restaurant.
- 3.2 COL/04/0947 - Full planning permission for residential development of 224 flats, arranged over 2-6 stories, and 22no. 3 storey houses. 4 commercial units on ground floor of the development. 1 cafe building (5a) with landscaped terraces. Provision of riverside walk, new landscaping and quayside works. A pocket park, plus ancillary lighting, bicycle storage, refuse storage, car parking, roads and footpaths.
- 3.3 COL/04/1399 - Reserved matters approval pursuant to the above outline permission for buildings 1, 3 and 6.
- 3.4 COL/06/0826 - Full planning permission approved for increased units on Building 8.
- 3.5 COL/06/1484 - Full Planning permission for residential development of 18 flats (15 x2Bed, 3 x1Bed) over 3 commercial units, plus ancillary refuse, bicycle storage and car parking approved adjacent to building 8 and the river frontage.
- 3.6 COL/06/1067 - Full planning permission refused for an uplift of 4 units on Building 4 due to failure to provide appropriate S106 contributions, reason for refusal given as;
"In the absence of an appropriate form of undertaking to secure appropriate and acceptable contributions towards community facilities and affordable housing the proposal fails to provide the community benefits that reasonably relate to and mitigate the impact of this development. As such the proposal is contrary to the Adopted Review Colchester Borough Local Plan 2004, Policies DC1, CF1, ECH1 and Supplementary Planning Guidance Affordable Housing, March 2004."
- 3.7 COL/06/1075 & 1083 - Duplicate full planning applications for Building 2. 06/1075 was withdrawn, 06/1083 was refused planning permission on the basis of design. A planning appeal was submitted and then withdrawn.

- 3.8 COL/07/0064 - Full planning permission approved for erection of 69 apartments on the site of building 2, resubmission of F/COL/1083/06.
- 3.9 F/COL/07/1984 - Refusal of full partially retrospective application for the erection of 15 number dwellings, 4 of which have been completed (following application F/COL/06/1067)

4.0 Principal Policies

- 4.1 Adopted Review Borough Local Plan - March 2004
EC1 - River Colne Regeneration Area
DC1 - Development Control considerations
CE2 - Risk of Flooding

5.0 Consultations

- 5.1 Environment Agency - The application was initially submitted without a Flood Risk Assessment which is a statutory requirement within Flood Zone 3. Although a Flood Risk Assessment has now been received (some six weeks after submission of the planning application itself) the Environment Agency's comments had not been received at the time of writing this report.
- 5.2 Essex County Council (Highways) - No objection to the application subject to a contribution towards the East Colchester Regeneration Area Transportation Fund.
- 5.3 Environmental Control - As this is only for internal alterations – no comment.

6.0 Representations

- 6.1 One representation has been received from a prospective purchaser of one of the larger apartments who believes there has been much interest expressed in these units contrary to the applicant's contention that they are proving unattractive to purchasers. He suggests the motive behind the application is to maximise profits at the expense of providing a balanced mix of accommodation on the site and that this is contrary to regeneration aims for the Hythe.

Officer Comment - The application is identical to that previously submitted which Members resolved to approve. Whilst not desirable when looking to achieve a mixed and balanced community in terms of unit type, the applicants have submitted an appropriate justification in terms of the ability to market the larger units which there is no evidence to refute.

7.0 Report

- 7.1 The application proposes an internal rearrangement to create the additional units. No external alterations are proposed. From a design perspective no objection can be raised as the physical appearance of the building already benefits from planning permission granted under application reference F/COL/04/0947.
- 7.2 The uplift in unit numbers would be achieved by replacing larger 3 and 4 bed units with 1 and 2 bed units.

- 7.3 The proposed units are limited in terms of available amenity space, having access to the river frontage and the communal area at the rear of building 2. In addition balconies will be provided. The level of amenity space provision accords with the wider development of the site and is partially mitigated through the open space contribution. Car parking is proposed at a level of 86%, this is the same level as provision through the wider site and that recently accepted on the adjacent building 2 site. Such a level of car parking is in accordance with the overall site provision and within the planning policy consideration of adopted standards for a location that has good access to public transport. A contribution is sought towards transportation improvements of £8,805.00 to mitigate against the impact of increased units on this site. Car parking on site will be controlled through a parking management scheme.
- 7.4 Following discussion with the Council's Development Team, a package of planning gain has been requested in order to mitigate the impact of the increased units in terms of highways, open space and affordable housing, the last of which is sought as an off site contribution in lieu of physical unit provision due to the small number of affordable units being unattractive within the larger development. The package of contributions has been included in a draft S106 Agreement submitted with the application.

8.0 Background Papers

- 8.1 ARC; NR; HA; HH; NLR

Recommendation 1

That the Head of Planning Services be authorised to grant a conditional planning permission (heads of condition as set out below) subject to:

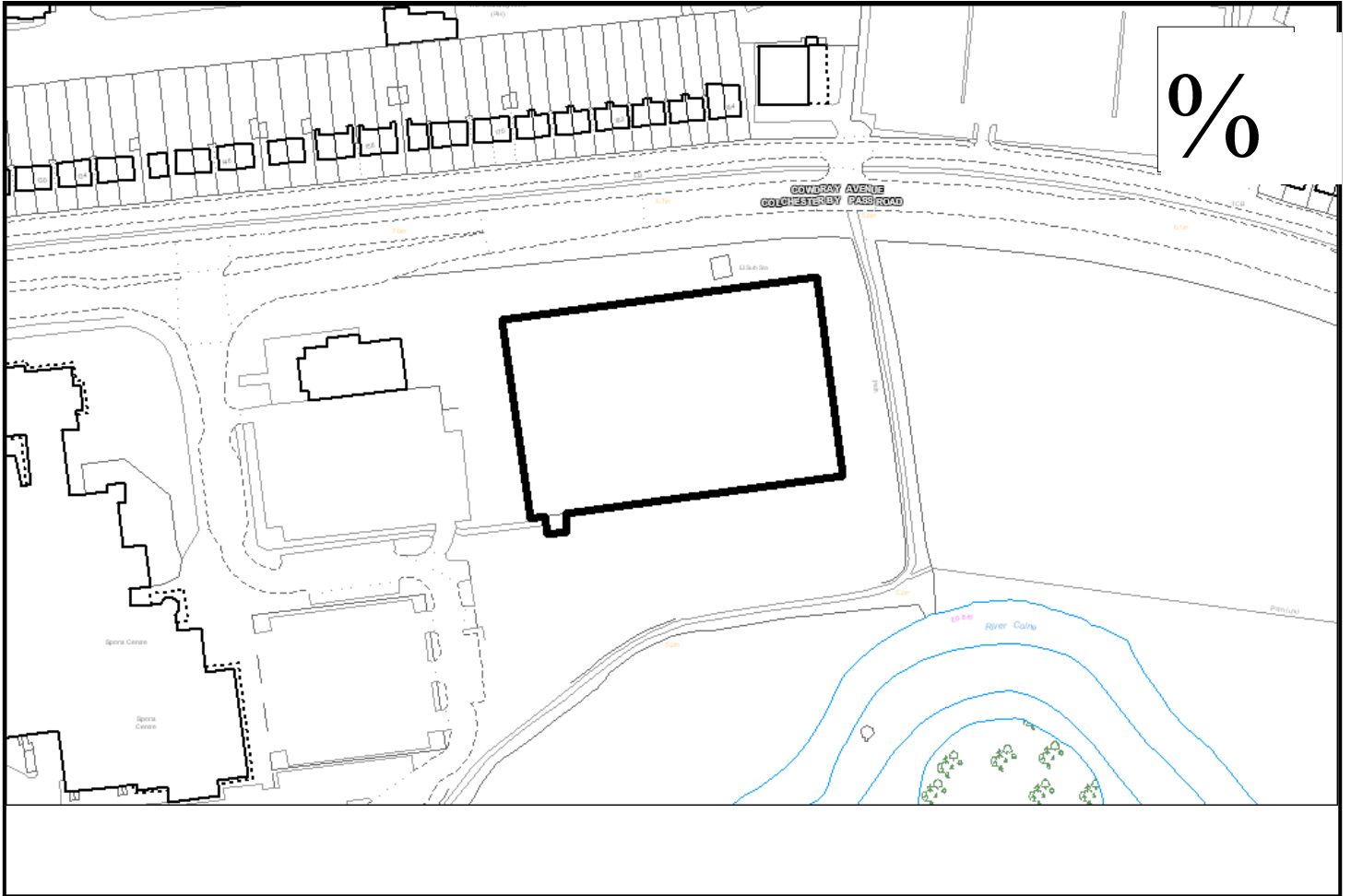
1. The Environment Agency confirming that it wishes to raise no objections on flood risk grounds and no alterations are proposed to the physical form of the building or its surroundings that might potentially harm their appearance and or functionality.
2. Completion of an appropriate legal agreement to secure the following contributions;
 - £240,000.00 towards off site affordable housing provision;
 - £8,805.00 towards the East Colchester Regeneration Area Transportation Fund;
 - £12,006.00 towards the provision or, improvement and or maintenance of open space.

Conditions

- Full Planning Permission Time Limit
- Details of bicycle parking to be submitted and agreed
- Details of refuse storage to be submitted and agreed
- Details of communal storage areas to be submitted and agreed
- Details of car parking to be submitted and agreed
- A car park management strategy to be submitted and agreed
- Any other appropriate conditions recommended by the Environment Agency

Recommendation 2

That if the applicants fail to complete a satisfactory Section 106 Agreement as set out above and the flood risk issues are not resolved without adversely affecting the physical appearance or functionality of the building and its surroundings, in time to enable permission to be issued before the expiry of the 13 week determination period, The Head of Planning Services be authorised to refuse the application accordingly.



Application No: 081016

Location: Colchester Leisure World, Cowdray Avenue, Colchester, CO1 1YH

Scale (approx): 1:1250

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7.9 Case Officer: John Davies

EXPIRY DATE: 18/07/2008

MINOR

Site: Cowdray Avenue, Colchester, CO1 1YH

Application No: 081016

Date Received: 22nd May 2008

Agent: Mr Radley

Applicant: Mr A Cairns

Development: Alterations to existing perimeter fencing around artificial pitch, to form recesses using 4.05M high "Ball Stop" fencing to match existing.

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application is presented to Planning Committee as the applicant is Colchester Borough Council and the Head of Planning, Protection and Licensing does not have delegated powers to determine such applications.

2.0 Site Description

2.1 The application relates to the all weather artificial sports pitch on the Leisure World Site, which is located to the east of the main building and the MacDonalds restaurant.

3.0 Proposal

3.1 The proposal concerns the existing weld mesh fencing around the perimeter of the site. It is proposed to extend this fencing to create new 20 m x 3m recesses at either end of the pitch. These are to be used for the storage of sports equipment within the enclosed area. The proposed area of fencing would match the existing namely, 4.05 metres high and coated a green colour RAL 6005 to match the existing fencing.

4.0 Land Use Allocation

4.1 No notation
Flood Zone 2

5.0 Relevant Planning History

5.1 80/1496- Construction of all weather floodlit play area – Approved 3 November 1980

6.0 Principal Policies

- 6.1 Adopted Review Colchester Borough Local Plan-March 2004
DC1- Development Control considerations
UEA11- Design

7.0 Consultations

- 7.1 None

8.0 Representations

- 8.1 None received

9.0 Report

- 9.1 This is a very minor proposal on the Leisure Centre complex, which would have very limited, if any, impacts on either the appearance of the area or the amenity of neighbours over and above the existing appearance and use of the all weather pitch.
- 9.2 The proposed works would extend hard surfacing over grassed areas at either end of the pitch. This would involve on the eastern side some excavation into an existing grassed bund, which would be re-graded afterwards and made good.
- 9.3 A condition is recommended requiring the extension to match the existing fencing in terms of design and colour.

10.0 Background Papers

- 10.1 ARC

Recommendation - Conditional Approval

Conditions

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

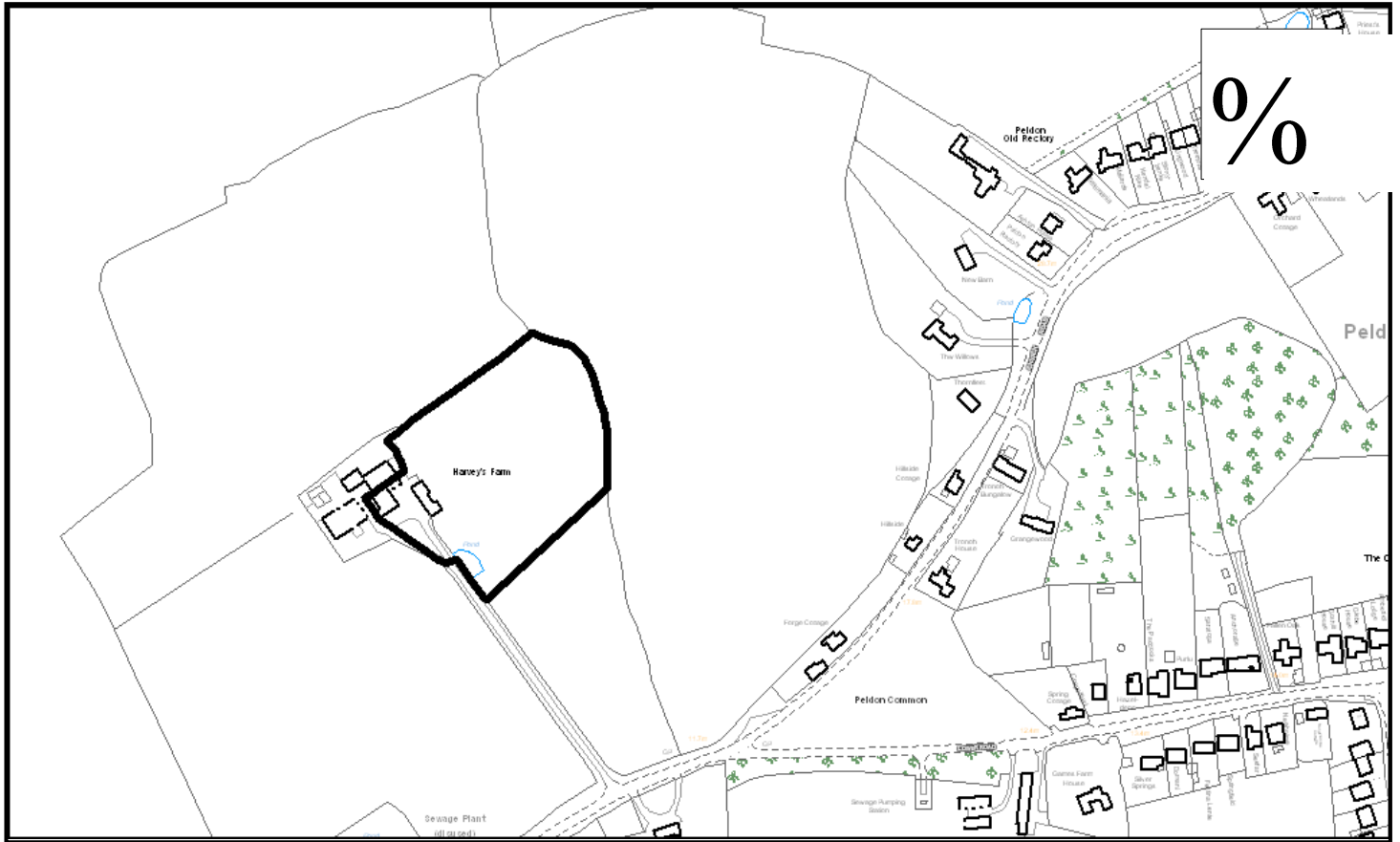
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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 - C3.2 Materials as Stated in Application

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

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



Application No: 040371

Location: Harveys Farm, Wigborough Road, Peldon, Colchester, CO5 7RA

Scale (approx): 1:1250

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26 June 2008

| | | | |
|-----------------------|--|---------------|---|
| Report of | Head of Planning, Protection and Licensing | Author | Nick McKeever (01206) 282441 |
| Title | Harveys Farm, Wigborough Road, Peldon – Application No: COL/04/0337 | | |
| Wards affected | Pyefleet | | |

Change of use from agricultural holding to create a residential curtilage and conversion of former farm building to ancillary domestic use. Delete requirement for Section 106 for removal of permitted development rights relating to use of parcel of agricultural land for domestic garden.

1. Decision(s) Required

- 1.1 Members are requested to consider the information contained in this report and to delete the requirement for the Section 106 Agreement and to replace it with a standard condition removing permitted development rights under The Town and Country Planning Act (General Permitted Development) Order 1995, Classes A to E of Part 1, and Classes A to B of Part 2 of Schedule 1 of the Order.

2. Reasons for Decision(s)

- 2.1 The planning permission in respect of the application COL/04/0337 has not been issued in that this permission was deferred by Members on 13 May 2004 in order for the satisfactory completion of the legal agreement (Section 106 Agreement). This Agreement has not been completed and the change of use of the parcel of agricultural land has subsequently been incorporated into the curtilage of Harvey's Farm.

3. Alternative Options

- 3.1 Whilst Legal Services prepared a draft Section 106 Agreement, this was not progressed and Legal Services subsequently closed their case file. There are no records now held. The Applicants could be required to re-enter into the Agreement. This will, however, impose additional costs upon them.

4. Supporting Information

- 4.1 Attached as Appendix 1 is a copy of the report that was submitted to the Planning Committee on 13 May 2004. At that point in time the Review Colchester Borough Local Plan had not long been adopted (i.e. March 2004). This plan contains a policy specific to the change of use of agricultural land to garden (H12). This policy states that Applicants will be expected to relinquish their Permitted Developments Rights over the new garden area. The policy goes on to state that detailed advice will be contained within Supplementary Planning Guidance. Paragraph 13.60 of the supporting text to this policy explains that Applicants would be required to sign a legal agreement to relinquish permitted development rights within the new garden area to prevent it being covered by garden structures and fixtures such as sheds and fences.

4.2 Over the intervening years since the Adoption of the Review Local Plan, the rather onerous requirement to enter into a legal agreement has tended to be relaxed and to be replaced by the use of a planning condition. Whilst a condition on a planning permission can be appealed against, whereas a Section 106 Agreement can only be challenged through the judicial system, it can achieve the same end result without the costs that accrue to the Applicant in terms of the time and financial outlay.

5. Proposals

5.1 It is recommended that the need for the Applicants to enter into a Section 106 Agreement should be replaced by a condition removing the permitted development rights previously referred to within this report. As such the Applicants would need to apply for planning permission for the erection of any extensions, outbuildings, enclosures, hardstandings etc that would otherwise go with the domestic use of the parcel of former agricultural land.

6. Strategic Plan References

6.1 The relevant policies within the Adopted Review Colchester Borough Local – March 2004 are:
DC1 – Development Control considerations
CO1 – Countryside
H12 – Extensions to gardens in the countryside.

7. Consultation

7.1 None

8. Publicity Considerations

8.1 None

9. Financial Implications

9.1 None

10. Equality, Diversity and Human Rights Implications

10.1 None

11. Community Safety Implications

11.1 None

12. Health and Safety Implications

12.1 None.

13. Risk Management Implications

13.1 None

14.0 Standard References

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

Background Papers

Adopted Review Colchester Borough Local Plan – March 2004

APPENDIX 1

13. Case Officer: Mr N McKeever

Site: Harveys Farm, Wigborough Road, Peldon, Colchester, Essex, CO5 7RA

Application No: C/COL/04/0337

Date Received: 24th February 2004

Agent: Stanley Bragg Partnership Limited

Applicant: Mr & Mrs S Swinton

Development: Change of use from agricultural holding to create a residential curtilage and conversion of former farm building to ancillary domestic use

Ward: Pyefleet

13 MAY 2004

Site Description

Harveys Farm is a Grade 2 listed building accessed via a private drive from Wigborough Road. This farmhouse, together with associated outbuildings, originally formed part of an agricultural holding. It has since been sold away from the associated holding. The applicant has, therefore, submitted this application in order to establish a residential curtilage for the farmhouse.

The application site includes a parcel of land approximately 108m x 95m to the west of the farmhouse, together with an outbuilding to the east. The remaining group of outbuildings, whilst in the ownership of the applicant, are not to be included within the proposed residential curtilage.

Land Use Allocation

Bradwell safeguarding

Relevant Planning History

None

Principal Policies

Adopted Review Colchester Local Plan (March 2004)

DC1 - Development Control considerations

H12 - Extensions to gardens in the countryside

Human Rights Implications

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

Article 8 - The right to respect for private and family life,

Article 1 of The First Protocol (Protection of Property) - The right to peaceful enjoyment of possessions,

it is considered that:

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

Community Safety Implications

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

| Positive | Negative | Nil Effect |
|----------|----------|------------|
| | | ✓ |
| | | ✓ |

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

| Yes | No | Not Applicable |
|-----|----|----------------|
| | | ✓ |

Consultations

None.

Parish Council's Views

Winstred Hundred Parish Council understand that a Section 106 is being used here and have no objections on this basis.

Representations

None

Report

The site lies within an attractive area of open countryside and is subject to policies which strive to avoid all unnecessary development. However, extensions to domestic gardens are permitted where:

- (a) There is no material adverse impact on the surrounding countryside;
- (b) It would not mean the material loss of good agricultural land, or otherwise seriously interfere with a neighbouring agricultural enterprise;
- (c) It would not set a precedent for unacceptable extensions to gardens at one or more neighbouring properties.

With regard to the land to the west of the house, this has effectively been incorporated into a domestic curtilage. It is well screened on all boundaries by established hedge and tree planting. Thus, whilst this is a large parcel of land, it has a limited impact on the open countryside. In addition it might well be expected that a building of historic and archaeological importance in this setting would have a generously proportioned curtilage. On this basis the proposed garden area would enhance the setting of the building and would not appear out of character with its rural setting.

The applicant has erected various outbuildings and a swimming pool within part of this land immediately adjacent to the farmhouse. Notwithstanding the presence of these buildings, policy H12 states that applicants will be expected to relinquish their Permitted Development Rights over the new garden area. This is in order to safeguard the appearance and character of the countryside. The supporting text to policy H12 requires that applicants enter into a Section 106 Agreement as the appropriate mechanism to secure the removal of these Rights.

The proposal includes the change of use of a traditionally styled, part weatherboarded outbuilding forming part of a group of redundant agricultural buildings. This sits well with the farmhouse and might reasonably be grouped ancillary to it.

No objection is raised to this proposal subject to the applicant entering into a Section 106 Agreement to secure the relinquishment of Permitted Development Rights.

Background Papers

ARC; SDD; PTC; NLR; HH

Recommendations

That the application be deferred for the satisfactory completion of the aforementioned Section 106 Agreement. Upon completion the Head of Planning and Protection be granted delegated powers to approve the development subject to the following condition:-

Conditions

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

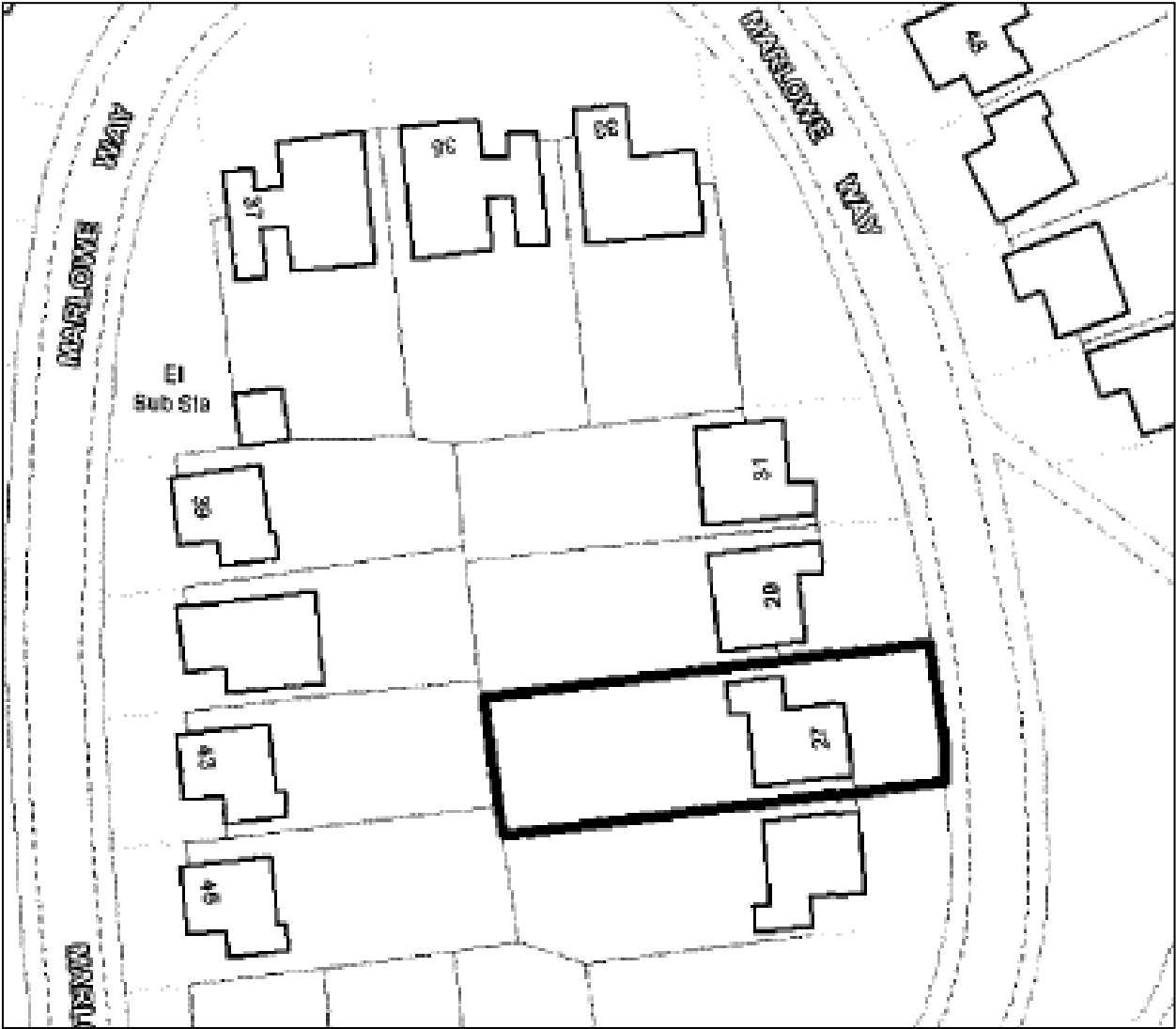
The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990.

Application No: 080090

Location: 27 Marlowe Way, Colchester, CO3 4JP

Scale (approx): NOT TO SCALE



26 June 2008

| | | | |
|----------------|--|--------|----------------------------------|
| Report of | Head of Planning, Protection and Licensing | Author | Vincent Pearce (01206) 282352 |
| Title | 27 Marlowe Way, Lexden, Colchester | | |
| Wards affected | Lexden | | |

This report concerns planning permission ref: COL/08/0090 for a single story side extension and a current breach of attached condition no.2 which requires the bricks being used to match those of the existing house. A site visit has revealed that the bricks being used do not match. This report seeks authorisation to serve a *Breach of Condition Notice (BCN)*.

1.0 Decision(s) required

- 1.1 Members are requested to consider the information contained in this report and to authorise that a ***Breach of Condition Notice (BCN)*** be issued to ensure that the external walls of the extension currently under construction be painted a cream colour (the exact hue to be agreed beforehand) or rendered in a cream through render or cream coloured painted render (the exact hue to be agreed beforehand) in order to conceal the fact that the bricks being used in its construction do not match those of the existing house.

2.0 Reasons for decision(s)

- 2.1 The failure to use matching bricks as required by condition 02 of the planning permission granted 7th March 2008 (ref: COL/08/0090) has resulted in the extension having a discordant and visually uneasy appearance to the rest of the house such as to be detrimental to the character of the house and its aesthetic harmony contrary to Policy UEA11 of the Adopted Review Borough Local Plan 2004.

- 2.2 Condition 02 states:-

“The external materials and finishes to be used for the approved development, shall be of the same type and colour of those of the existing building unless otherwise agreed in writing by the local planning authority.

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

3.0 Alternative Options

- 3.1 Take no further action: If members are of the opinion that having considered all material matters that there is no material harm to “an interest of acknowledged importance” (the required test for planning authorities) then it would not be reasonable to take any action.
- 3.2 Take action to secure the removal of the outer skin of red bricks and their replacement with matching cream/pink bricks. If Members are of the opinion that there is serious material harm and no other remedial action is possible then it may be expedient to require the complete or part re-rebuilding of the extension.

4.0 Supporting Information

- 4.1 Whilst this property is not Listed, not in a designated Conservation Area and not in an area designated as having Special Character in the Adopted Local Plan it does have a strong character.
- 4.2 It can be characterised as typical of the higher quality design lower density open plan estates of the 1960's and 1970's. There is a broad mix of house types. Some embrace the design features redolent of the modern movement. (eg: asymmetrical roofs, oversized prominent stone clad feature chimneys to the front and large areas of glazing). Others such as the property in question are more orthodox in appearance.
- 4.3 Throughout the estate you find small clusters of houses in a similar style but these sit adjacent to clusters of a different style. So within the estate you find two-storey and chalet style houses constructed in cream or red or yellow or grey bricks. (but not mixed within a single building), often but not always combined with white boarding or vertical tiling or render.
- 4.4 No.27 is constructed in pale cream bricks which have an irregular pinkish blush. The neighbouring properties are constructed in the same brick although numbers 29 and 31 have pastel painted rendered elements.
- 4.5 The extension currently under construction is being built using a red brick. It does not match those of the existing house. Bizarrely the internal walls to the extension have been constructed using a brick which is a better colour match to the main house than the ones used on the external faces.
- 4.6 The owners have pointed out in mitigation that their builder was unable to find exact matches at a local builders merchants and the bricks currently being used were sourced as the nearest readily available match.
- 4.7 Whilst this may have been so it should have been possible to source and order a cream/pink brick from a brick manufacturer rather than resort to using a red brick. It is also noted that a better match of brick has been used on the internal face of the extension.
- 4.8 Members will note from a site visit that a cluster of properties on the other side of the road are built in red brick.
- 4.9 The owners of no. 27 also point out that an open porch at the front of no. 27 has been constructed using a similar red brick for its plinth. This is so but a porch can usually be built as permitted development (ie built without the need for planning permission). The plinth is in itself not a prominent feature and does not read from the road.
- 4.10 The main issues in this case are considered to be:-
- Has the use of non-matching brick had a detrimental impact on the character of the house?
 - Has the use of non-matching bricks had a detrimental impact on the character of the wider area?
 - Has the use of non-matching bricks had a detrimental impact on the amenity enjoyed by the neighbouring properties?

- 4.11 The unauthorised red bricks are clearly visible from the road/footpath as the approved extension projects forward of the front face of the main house and even further forward of the main front wall to no.29. The single storey extension has two pitched roofs running parallel with the road which means the flank wall of the approved extension can be seen above the existing boundary fence between no. 27 and no. 29. It is from this direction that the red bricks clash most discordantly with the yellow bricks of the main house as the red brick flank wall of the extension is set against the larger expanse of cream/pink brick of the flank wall of the main house. This is not a juxtaposition of bricks that the Council would normally allow because they clash and draw attention to the extension which should normally be expected to read as a subservient feature. The result is an uneasy visual disharmony. It is therefore considered that the unauthorised brick does have a detrimental impact on the character of the house itself.
- 4.12 As previously described the character of the area is not such as to have warranted statutory or non-statutory special protection. The buildings within this estate draw from a rich palette of materials and whilst the use of red bricks has resulted in an easy visual disharmony in terms of the building itself this is not considered dramatic enough to harm the overall character of the estate itself. The impact is very localised to the cluster of houses in the immediate vicinity.
- 4.13 At the time of considering the application to extend no. 27 careful consideration was given to the impact that it might or might not have on the amenity enjoyed within the affected adjoining property, no.29. The impact was not considered such as to warrant refusal of the proposal by the Council when considered by the Planning Committee in March 2008.
- 4.14 From a visit to no.29 undertaken on the 13th June 2008 the Planning Service Manager does not consider that the use of red bricks has resulted in an unacceptable loss of amenity to the occupiers of no 29. The use of red bricks will not seriously reduce the amount of reflected sunlight reaching the living room of no. 29 through its existing high level side windows. Whilst the neighbours at no.29 will see restricted parts of the red brick extension set against the cream/pink side wall of no. 27 their view will in reality will not be as broad as that of passers-by on the footway outside of no.27. Therefore the unauthorised red bricks are not considered to result in a significant loss of amenity to the adjoining property.
- 4.15 The breach is not considered serious enough to warrant demolition of the approved extension as other methods of mitigation exist. Officers are investigating whether a chemical stain can be applied to the red bricks in order to alter their appearance to better match the pinkish blush of those used on the main house.
- 4.16 If an appropriate stain cannot be found then the red bricks should be painted an appropriate shade of pink tinged cream or covered with a pink tinged cream render. Traditionally extensions in Essex are treated as subservient elements and if they do not use exactly matching bricks then they tend to be built in materials which suggest an underlying, simple, lightweight structure, such as render or boarding. By selecting a pale colour such as a pink tinged cream the extension is visually harmonious because the cream bricks and paint/render colour are from the same base hue and so the effect is monochromatic (one colour) and sympathetic rather than polychromatic (multi coloured) and contrasting.

- 4.17 It should be noted that an employee of the Council's Planning Service lives next door but one to the site in question at no. 31 Marlowe Way. This was not reported at the time of the consideration of the application to extend no.27 because the occupiers of no. 31 made no comment in respect of the application.
- 4.18 At the time of dealing with the application to extend no. 27 the Planning Service was unaware of the fact that the applicants (who are also the present owners) have a close family relative who worked for the former Highway Service of Colchester Borough Council and who now works for Essex County Council Area Office. This has been raised since by a party who questions the Council's impartiality when considering the merits of the application and the way that the subsequent complaint has been handled.
- 4.19 The Planning Service Manager is satisfied that the original application and subsequent complaint have both been handled properly and that the neighbour's objections to the original application were carefully considered.

5.0 Proposals

- 5.1 Members are asked to note that officers are currently exploring whether there is a brick stain/dye on the market that can be applied to the red bricks to alter their appearance such as to match the brickwork colour of the main house. It is hoped to report findings to Committee on the night and so the proposed action in 5.3 below is set out as two options [] and [] depending upon the result of investigation.
- 5.2 In considering the action to be taken in response to this breach of condition Members are not at liberty to reassess the merits of the proposal to extend no.27 in the form approved by permission reference COL/08/0090.
- 5.3 Whilst this situation is bound to raise emotions locally any decision now taken must be based on the facts, must reflect any demonstrable harm, must be reasonable and must be proportionate.
- 5.4 Members authorise the service of a **Breach of Condition Notice (BCN)** requiring that the [external brickwork be stained to alter the red colouration so that it has a pink tinged cream hue to match the bricks of the main house] [external walls be painted a pink tinged cream colour to be approved beforehand by the local planning authority or rendered using a pink tinged cream coloured through-render or a pink tinged cream painted render to be approved beforehand by the local planning authority] within 3 months or prior to any part of the extension coming into beneficial use whichever is the earlier.
- 5.5 There are no particular references to the Strategic Plan; publicity or consultation considerations; or financial; equality, diversity, community safety; risk management implications. The matter does raise human rights issues over and above those of individuals in that the harmful impact of the unauthorised use of red bricks in the construction of the extension is contrary to Council planning policy and therefore has a wider adverse public impact.

6.0 Background papers

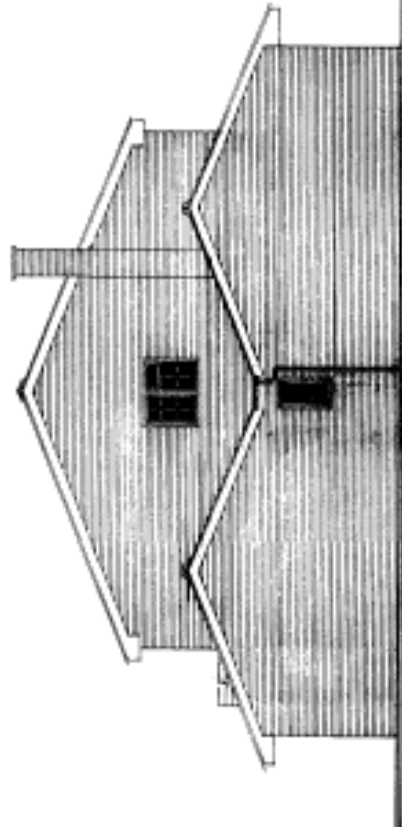
Site plan
Photographs

Figure 1: Approved elevations COL/08/0098

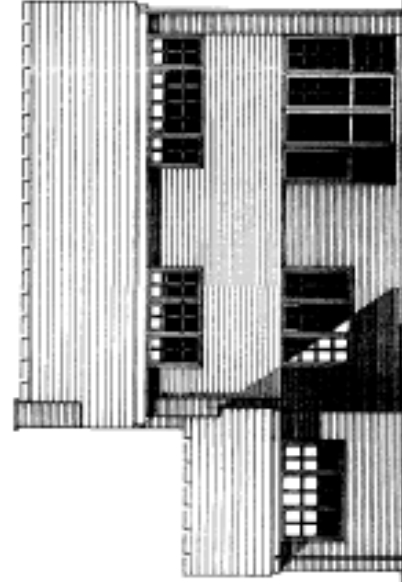


Front

Side

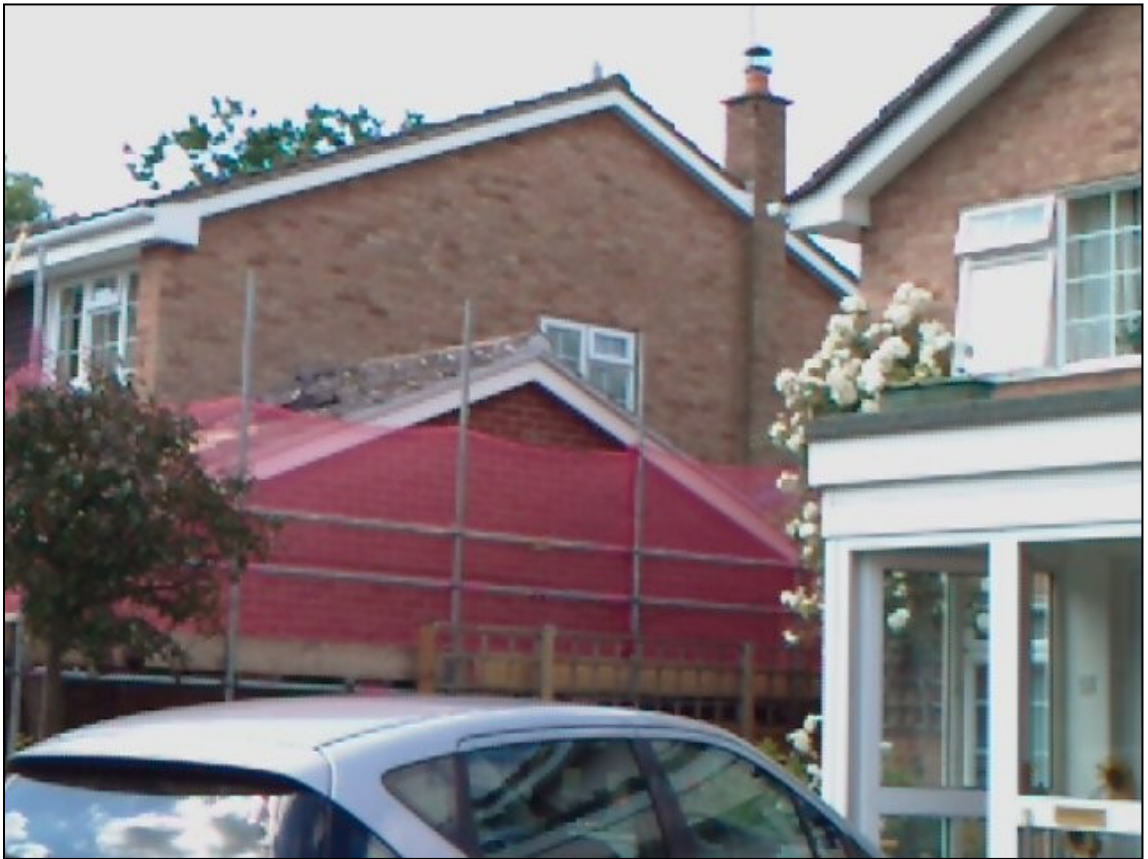


Side

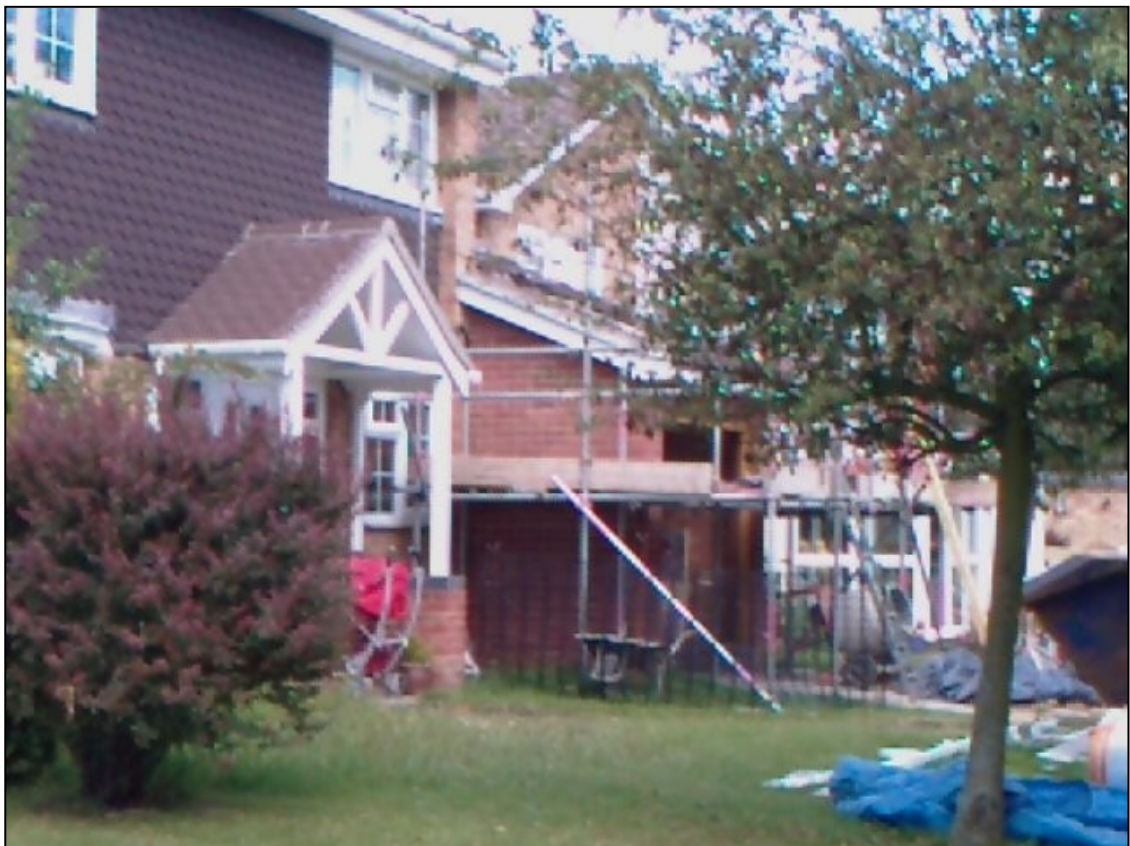


Rear





View of extension at no. 27 from the public footpath adjacent to no. 29.



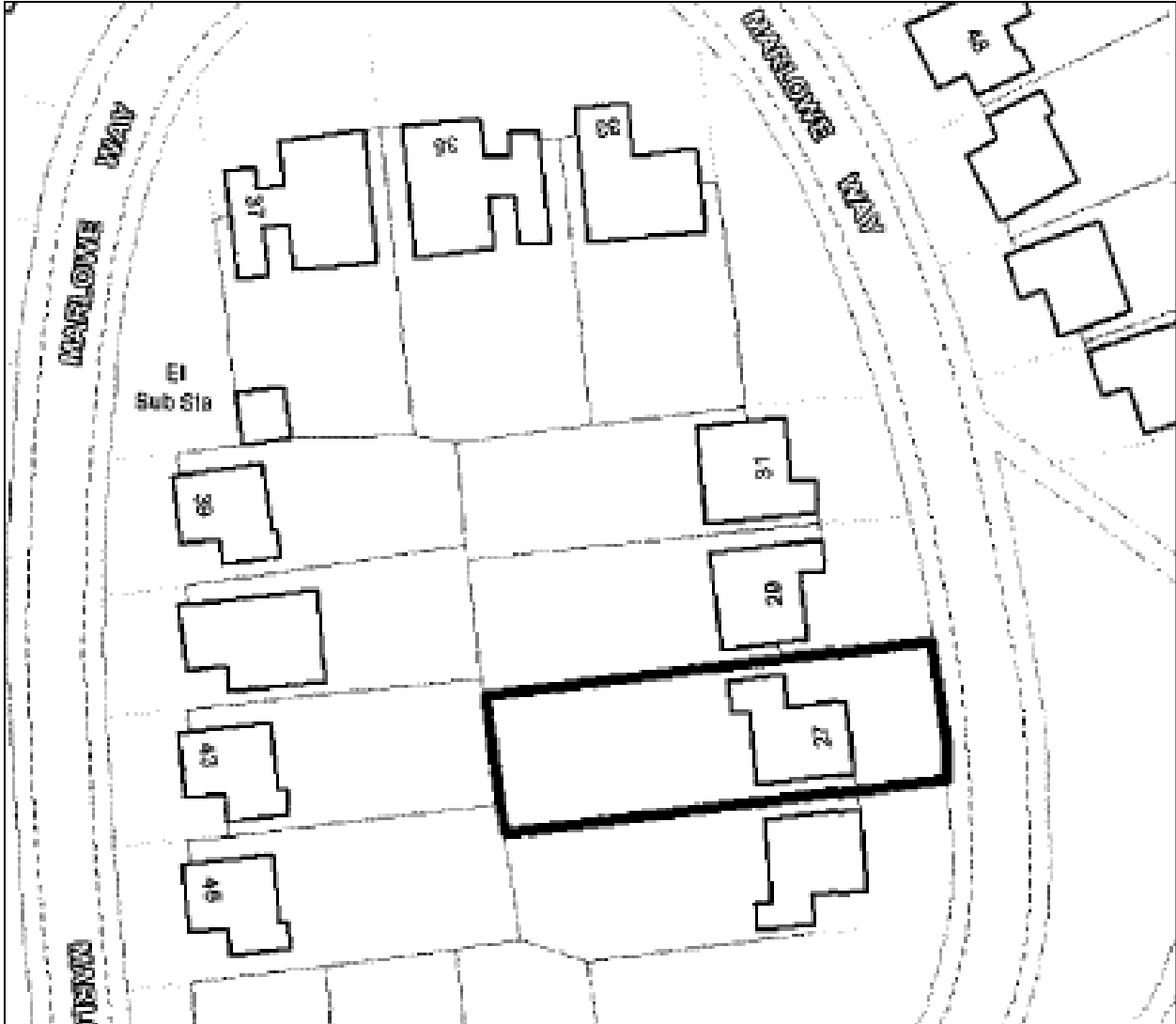
View of extension at no. 27 from the public footpath adjacent to no. 25.

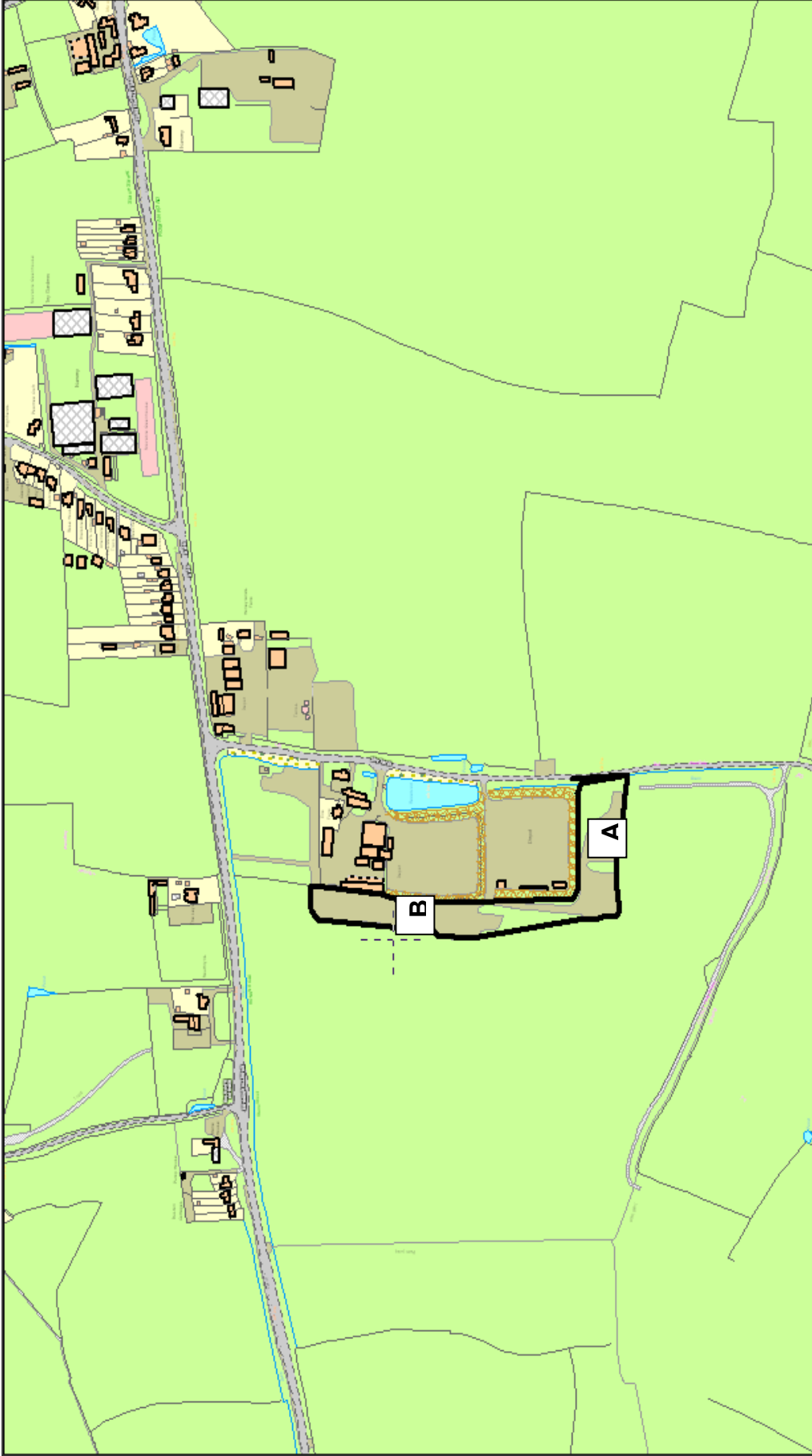
PLEASE NOTE: Coloured images will be included in the officer presentation at the meeting

Application No: 080090

Location: 27 Marlowe Way, Colchester, CO3 4JP

Scale (approx): NOT TO SCALE





Site Location Plan

MAP NOT TO SCALE

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Complaint Reference: 153878

Site Location Address: Elm Farm, Elm Lane, Marks Tey, Colchester, CO6 1HU

Date Produced: 30 October 2008

26 June 2008

| | | | |
|-----------------------|---|---------------|---|
| Report of | Head of Planning, Protection and Licensing | Author | Cheryl Headford (01206) 282422 |
| Title | Land at Elm Farm, Elm Lane, Marks Tey | | |
| Wards affected | Great Tey | | |

This report concerns the unauthorised change of use of agricultural land to that of a haulage yard with portacabin office, temporary storage of building materials and unauthorised engineering works to form earth bunds around the land, previously presented to Committee on 15 May 2008.

This report has been amended to request the compliance period and to include the removal of the portacabin office omitted from previous report

1. Decision(s) Required

- 1.1 Members are requested to consider the information contained in this report and to authorise that an Enforcement Notice should be authorised requiring:
- The cessation of the use as a haulage yard
 - The cessation of the use for temporary storage of building materials
 - The removal of earth bunds.

2. Reasons for Decision(s)

- 2.1 The site lies in a defined rural area, outside of the village envelope.
- 2.2 The authorised use of the land is for agriculture, however, there is no evidence of any agricultural activity on land immediately adjoining the site.
- 2.3 Policy CO1 of the Adopted Review Colchester Borough Local Plan seeks to protect the countryside for its own sake and development which does not need a countryside location and which could reasonably be located elsewhere will be refused.
- 2.4 EMP4(b) of the Local Plan states that such development will be limited to appropriate changes of use, or small scale extensions with the site of existing complexes of buildings. The unauthorised activities do not form part of the original authorised business site area and represent a significant and unacceptable visual intrusion of an industrial nature into the countryside and therefore conflict with the above policies.
- 2.5 Policy DC(1) of the Adopted Review Colchester Borough Local Plan states that the highway network should be able to accommodate safely the extra traffic the site will create. In this instance this extra activity would result in the intensification in the use of Elm Lane which has a sub-standard visibility splay onto the A120 and results in vehicles performing right-hand turning movements across the flow of traffic compromising the safety of road users.

3. Alternative Options

- 3.1 Members could chose not to pursue enforcement action however this would result in consent by default and would be contrary to policy.

4. Supporting Information

- 4.1 The site was first brought to our attention in 2004 when it was reported that the earth bunds surrounding the authorised site had been extended.
- 4.2 In March 2004 the site was visited and shown to contain a number of containers to Area A, while Area B contained various building materials, hardcore and general waste. Members can view photos taken during this visit.
- 4.3 Following negotiations the hardcore and waste materials contained within Area B were removed.
- 4.4 In July 2004 aerial photos of the site were commissioned, members can view the relevant photos. It can be seen that both Areas A and B then had containers and haulage vehicles.
- 4.5 In December 2004 application C/COL/04/2257 was lodged for the continued use of land for haulage yard (Area A) and production and distribution of asphalt products (Area B). Earth bunds were shown around both areas. This application was refused in February 2005.
- 4.6 In August 2005 a further application F/COL/05/1336 was received for the retention of the haulage yard to Area A. This application was refused in March 2006. It was understood that this application would be appealed.
- 4.7 In April 2006 a Planning Contravention Notice was served on the executors of the estate of the landowners and on the haulage company using the site, however, in view of the impending planning appeal, no enforcement action followed.
- 4.8 The estate is now being dealt with by the Trustees and a further Planning Contravention Notice was served in April 2008.
- 4.9 It is claimed that the current haulage company have been operating on site since before the death of the late owner in April 2000, however no written contract or tenancy was entered into and therefore the Trustees are not able to advise when the actual change of use first occurred.
- 4.10 Aerial photos taken in 2000 show that the site had already been extended and that there appears to be a small amount of storage use in Area B

5. Proposals

- 5.1 It is considered expedient to take enforcement action to cease the use of the haulage yard, removal of the portacabin office, storage of building materials and the associated earth bunds, sited on the land contrary to planning policies.
- 5.2 A period of six months for compliance is considered reasonable. This should allow sufficient time for the removal of the stored materials and the earth bunds and for the haulage company to find alternative premises for their office and vehicles.

6. Financial Implications

6.1 None

7.0 Strategic Plan References

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

8. Publicity Considerations

8.1 None

9. Human Rights Implications

The main human rights implication relate to:

Article 1 of the First Protocol (protection of Property) – the right to peaceful enjoyment of possessions and:

Article 8 – the right to respect for private and family life.

In respect of Article 1 it is accepted that planning laws control property in the general public interest.

In respect of Article 8 it is legitimate for the Council to pursue planning aims provided that this is not disproportionate to the human rights of any individual.

10. Community Safety Implications

10.1 None.

11. Health and Safety Implications

11.1 None.

12. Risk Management Implications

12.1 None

13. Consultation

13.1 None

Background Papers

Policies – CO1, EMP(b), DC1 Adopted Review Colchester Borough Local Plan – March 2004

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

Our goal is to be a high performing Council

Our corporate objectives for 2006-2009 are:



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