

Planning Committee

Town Hall, Colchester
2 August 2012 at 6.00pm

This committee deals with

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

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

Information for Members of the Public

Access to information and meetings

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

Have Your Say!

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

Private Sessions

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

Mobile phones, pagers, cameras, audio recorders

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

Access

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

Facilities

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Material Planning Considerations

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

- planning policy such as adopted Local Development Framework documents, for example the Core Strategy, Development Plan Documents (DPDs) and the Site Allocations DPD, 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 among the most common issues that 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
- effects on property values
- restrictive covenants
- loss of a private view
- identity of the applicant, their personality or previous history, or a developer's motives
- competition
- the possibility of a "better" site or "better" use
- anything covered by other 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.

Equality and Diversity Implications

All applications are considered against a background of the Council's Equality Impact Assessment (EIA) Framework in order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination. The legal context for this framework is for the most part set out in the Equality Act 2010.

COLCHESTER BOROUGH COUNCIL

PLANNING COMMITTEE

2 August 2012 at 6:00pm

Members

Chairman : Councillor Theresa Higgins.
Deputy Chairman : Councillor Helen Chuah.
Councillors Nick Barlow, Nigel Chapman, Peter Chillingworth, John Elliott, Stephen Ford, Sonia Lewis, Michael Lilley, Jackie Maclean, Jon Manning, Nigel Offen, Philip Oxford and Laura Sykes.

Substitute Members : All members of the Council who are not members of this Committee or the Local Plan Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-
Councillors Lyn Barton, Mary Blandon, Mark Cable, Barrie Cook, Beverly Davies, Annie Feltham, Marcus Harrington, Jo Hayes, Pauline Hazell, Peter Higgins, Brian Jarvis, Cyril Liddy, Sue Lissimore, Colin Mudie, Will Quince, Terry Sutton, Anne Turrell, Dennis Willetts and Julie Young.

Agenda - Part A

(open to the public including the media)

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

An Amendment Sheet is circulated at the meeting and is available on the council's website by 4.30pm on the day of the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm on the day before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Pages

1. Welcome and Announcements

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

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

- action in the event of an emergency;
- mobile phones switched off or to silent;

- location of toilets;
- introduction of members of the meeting.

2. Have Your Say!

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the

Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

6. Minutes

1 - 16

To confirm as a correct record the minutes of the meetings held on 5 July 2012 and 19 July 2012.

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. 120484 Land at Meadow Green Farm, Mount Bures Road, Wakes Colne (Great Tey)

17 - 38

Formation of a Stud Farm comprising a Change of Use of land and redundant livestock building to equestrian use, minor alterations to the building to form stabling, provision of manege, minor extension of existing access track and the siting of a temporary mobile home for a Stud Farm Manager. Diversion of Public Footpath No. 34 (currently shown to pass through established building).

2. 100927 Land to the rear of 19 and 21 Empress Avenue, West Mersea (West Mersea)

39 - 46

Extension of time for the implementation of outline planning permission O/COL/05/1024 for proposed new bungalow with detached garage on plot 1.

8. Exclusion of the Public

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

PLANNING COMMITTEE

5 JULY 2012

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Nick Barlow*, Nigel Chapman*,
Peter Chillingworth*, Helen Chuah*, John Elliott*,
Stephen Ford, Sonia Lewis*, Michael Lilley,
Jackie Maclean*, Jon Manning, Nigel Offen,
Philip Oxford and Laura Sykes*

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

21. Minutes

The minutes of the meeting held on 24 May 2012 were confirmed as a correct record.

22. 120973 Land opposite Sanders Drive, Lexden Road, Colchester

Councillor Lewis (in respect of being acquainted with many of the objectors) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Manning (in respect of his employer, St Benedict's Catholic College, having taken a lead role in opposition to the application) declared a disclosable pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(10) and left the meeting during its consideration and determination.

The Committee considered an application for prior notification of a proposed development by telecommunications code system operators for the installation of a 12.5m (to top) pole painted black and an associated electronics cabinet 1.9m x 0.8m x 1.65m. 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.

Peter Hill, Planning Officer, attended to assist the Committee in its deliberations. He showed a map of this area of Lexden upon which was superimposed the level of mobile signal reception to demonstrate that the current level of reception was lower than that of the surrounding areas and the predicted level of reception which would be on a par with the surrounding areas.

Jill Blaxill addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She referred to the objections to the phone mast being the largest number to date, and to five previous applications which were all refused. The site was within one of the most uniquely pleasant roads in Colchester; Lexden Road was a designated Conservation Area. The proposal would

be highly inappropriate and visually unacceptable. Had the site been within the Conservation Area more stringent conditions would apply; it was just outside one Conservation Area and 100metres from another. She related the history of previous mast applications and added that nothing had changed since that time. She referred to recommendations of the Stewart Report which had commented on the health implications. If approved, 2,000 children would walk though the beam of greatest intensity twice a day and she asked the Committee to refuse the application.

A member of the Committee enquired about the beam of intensity, but it appeared that the terminology was no longer used. The member thanked the applicants for their co-operation in looking for an alternative site and listed the sites which had been dismissed for various reasons. The member believed the mast would be prominent and intrusive when viewed from Sanders Drive and noted that the Landscape Officer's comments on the Amendment Sheet gave some credence to the photomontages of the mast which appeared to illustrate the mast as prominent and potentially visually intrusive when viewed from Sanders Drive.

The Stewart report stated that health considerations could in principle be taken into account but it was for the local planning authority to decide what weight to give to such considerations. She believed that there was a public perception of health dangers in regard to proximity of schools and number of children who pass the mast twice a day. She believed that this was a special case and danger to health could be considered a reason for refusal; siting and impact were also valid reasons for refusal as was impact on the Conservation Area and visual impact on Lexden Road with increased intrusion when viewed from properties in Sanders Drive.

The planning officer referred to the Amendment Sheet in respect of objections on the grounds of health. Following on from the Stewart Report in 2000 some recommendations were taken on and some were not. At that time explicit instructions were given that proximity to schools should not be cited as a reason for refusal. PPG8 included advice that it was the government's firm view that it was not the place to consider health aspects and concerns about them. He drew members' attention to the report where there was set out explicit guidance from the Government against considering health issues as they could lead to a potential claim for costs. The setting however was a material planning consideration, but the search suggested that there were no other options.

Other members of the Committee had some sympathy for the people of Lexden because there would be some intrusion, although background conifer trees may afford some visual protection in time. Weighing up the evidence against economic and sustainability factors there was likelihood that an appeal would be lost.

The planning officer explained that a lower mast may not provide the coverage the applicant was seeking because of the trees around the site. Whilst it was not possible to impose any conditions, the authority could indicate their preference for an alternative colour with a good chance that they would agree.

RESOLVED (MAJORITY voted FOR) that the application be approved and the applicant be requested to consider either dark blue or flat green as an alternative colour

to a black mast.

23. 111672 Cannock Mill House, Old Heath Road, Colchester, CO2 8AA

The Committee considered an outline application for a mixed residential development of twenty-three homes comprising two, three and four bedrooms with associated amenity and parking. 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.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. Neither the Grade 2 listed Cannock Mill, nor the mill pond formed part of the application site; the setting of the mill should be protected. Whilst applications have not been received, the applicant's agent indicated the intention was to convert the mill building into a single dwelling with satisfactory curtilage and parking. The application site was not within the flood zone, but there was a possibility that the mill pond could form part of a drainage proposal and there were a range of conditions relating to groundwater and surface water treatment.

Dominic Collins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The site was on a major traffic route, forms an important east-west corridor and containing a Grade II listed building on site. He referred to there having been no consultation with English Heritage and many of the surveys requested had not been addressed. Various natural habitats would be affected. There would be drainage issues leading to increased flooding at the front of the site. 23-40 vehicles would access the site presenting a danger particularly with the nursery on site and the displacement of five cars which currently parked on site. Any children living on the site would need to cross the road to access other schools. Schools nearby were oversubscribed.

Roger Hayward addressed the Committee on behalf of the owners, pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He acknowledged that the site presented challenges. This was an outline application; reserved matters would comprise design and materials proposals. The scheme was for family housing units and included affordable housing units. The site had good accessibility and the density was lower than it could have been. There were no objections from the Highway Authority. Parking provision was in accordance with the standards. The amenity of surrounding properties had been considered. Wildlife would be protected. The report indicated that the development could take place without any ill effect on trees, surroundings and ecology.

Councillor Blandon attended and, with the consent of the Chairman, addressed the Committee. She was unhappy with the slab levels and wanted to ensure that residents in Barn Hall Avenue would not be affected. She referred to the management of the mill pond, retention of trees and wildlife. The Lime trees at the rear of properties in Barn Hall Avenue were a concern as was flooding of the road from one side to the other.

She considered the contemporary approach and the proposed three storey buildings were inappropriate for the site and had concerns at the additional twenty-three vehicles exiting onto the busy road. She considered the current proposal to be over-development and asked that the application be refused. In the event that the application was approved she requested the addition of road markings at the entrance and traffic calming measures.

Members of the Committee were concerned about a number of issues:-

- the relationship between the listed building and the closest new property;
- that English Heritage should be consulted;
- the shared entrance;
- the ability of the internal roadway to be adopted by the Highway Authority;
- there being too many units on the development;
- a suggestion for the removal of permitted development rights ;
- a natural spring was noticed across the site flowing into the pond and concern at the proposal for a property in front of the pond;
- a drainage system could alleviate the problems of flooding which occurs;
- no mention of sustainable measures – grey water recycling or photovoltaic panels;
- the unit nearest the pond having very little outside space, and amenity space for another unit being below the standard;
- the development would not damage the wildlife corridor because the area to be developed was currently down to grass;
- congestion along the road;
- the nearest schools being full or nearly full;
- the reserved matters application should be determined by the committee.

In response to comments, the planning officer explained that:-

- the contemporary design being satisfactory but the units closest to the mill should be designed more in keeping with the listed mill;
- the unit adjacent to the pond was a first floor flat with parking below. It had only a balcony and a small patio area as its open space, a larger area may be possible;
- the access had been moved away from the current entrance;
- the Highway Authority could be asked about road marking and traffic calming;
- only if the internal roadway achieved adoptable standards would the Highway Authority be able to adopt it;
- highway issues may be a concern to members and residents, but the Highway Authority had raised no objections;
- it was unusual to have a condition for the management of surface water drainage and one had been imposed in response to concerns about the discharge of surface water and potential flooding. The Highway Authority had suggested a scheme to prevent surface water flowing out onto the road. Details of surface water and foul water treatment and works to the pond were both to be agreed;
- residents' privacy could be protected from overlooking at the reserved matters stage;
- the removal of permitted development rights was normally only imposed if the garden sizes were already so small that any further development would make them very small.;

- the site had the potential to exceed current requirements and sustainability;
- conditions in respect of sustainable construction would be imposed;
- the green link between Distillery Pond and Bourne Pond which included Mill Pond would be preserved;
- there were conditions for the retention of dead and rotting wood and the management of the pond;
- the pond had the potential for sustainable drainage although it did not form part of the current submission;
- several of the issues raised by the Natural History Curator were outside the scope of this application;
- it was not appropriate to consult English Heritage because the application did not exceed their thresholds where consultation was required.

RESOLVED (MAJORITY voted FOR) that –

(a) Consideration of the application be deferred for completion of a Section 106 Legal Agreement to provide for the following contributions:-

- Affordable housing at 35% proportional to the overall mix;
- Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document;
- Community Facilities in accordance with the Council's Supplementary Planning Document;
- Education contributions, Primary, Early Years and Creche as Essex County Council formula; and
- Highways contributions to provide transport information packs.

(b) Upon receipt of a satisfactory Section 106 Legal Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, on the Amendment Sheet and a larger garden area to the unit adjacent to the pond be provided if possible.

(c) The reserved matters application to come back to the Committee.

24. 120380 Land between Haven Road and King Edward Quay, Colchester

Councillor T.Higgins (in respect of her spouse being employed by the University of Essex) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the demolition of existing buildings, site remediation and restoration works and mixed-use, student accommodation led development comprising of linked blocks of 4, 5, 6, 7, 8 and 9 storeys with 722 rooms that contain a total 765 bed spaces, approximately 1,288m² of shared facilities (bin stores, cycle stores, laundry, maintenance areas, lounge, reception/management area and shared open space) as well as convenience food retail store (A1), restaurant/bar (A3/A4), community space/gym (D1/D2), private and public open spaces, parking

provision and a new vehicular access from Haven Road. 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.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to comments on the Amendment Sheet and to the scheme of remediation having already been approved.

John Lawson, agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application on behalf of the applicant, owners and developers. This was a £35million development which would bring significant environmental and community benefits. The developer was ready to commence remediation and restoration works and the rest would follow. This was a mixed use scheme with potential benefits including a restaurant and bar. The student accommodation would be managed by a specialist national student accommodation company and would relieve pressure on the rented sector in the town. It would provide a pleasant and safe environment and would open in time for the next academic year; the remaining 354 bed spaces of accommodation would become available in 2014/15. The scheme included a new public park and spaces for public events which would be pump primed with a developer contribution.

Members of the Committee raised a number of comments:- the lack of any defined parking standards for student accommodation; parking provision does not meet the standard of one space for every five students; and the result will be on-street parking extending to the rest of the ward; the minimum standard has been applied for cycle parking; cycle paths need joining up; like to see more done for cyclists in the area along the lines of comments from the Colchester Cycle Campaign; wheelchair users should be able to access every room; there should be provision of car parking spaces for disabled users; the roof area should be made inaccessible for student safety; there was no outdoor space for kicking a football; open space may be used as a skateboard park; speculation regarding supply and demand for student accommodation; speculation regarding users of the retail spaces; issues regarding the use of Section 106 contributions; a range of opinions regarding the timing of the bridge being available for use; the council should look at maintaining the use of the open space; and a statue or water feature for the garden.

The planning officer explained that:- the developer had been made aware of the parking standards; the standard applied was the nearest applicable, in line with other student accommodation nearby; it was envisaged that the student car spaces would not be used every day; there was no on-street parking in the area; a disabled student parking area would be located near to disabled lifts and there would be general disabled parking spaces within the public parking area; the Highway Authority had not raised any objections to the parking provision; it was understood that the open space would be multi-functional; there would be a mix of hard and soft landscaping; there would be 24 hour surveillance on the site so that issues such as unruly behaviour could be controlled; access to the roof would not be available to occupiers of the units; 300 of the units would be let to the University; this was a mixed use development which had

a relationship with the wider area; the bridge would be similar to the other footbridge nearby, the bridge contribution that would be secured as part of the Section 106 agreement was based on the cost of the bridge that had been erected to serve the Weston Homes development to the northwest of the King Edward Quay site, but in any case the bridge was outside the control of the applicant; the landscaping scheme was conditioned and final details were within the council's control; cycling facilities would be provided in accordance with the policy; there was no ability to require ongoing contributions for activities in the open space; and in terms of sustainability SUDS and photovoltaic cells were included in the scheme.

The Development Services Manager accepted the Committee's concerns for the well being of students in such a high building and suggested there be a condition to prohibit any resident having access to the roof. He noted the Committee's point that the bridge was a priority and agreed to establish how quickly it could be provided. The cost of maintaining the open space and toilet facilities was at the developer's expense and was recognised as an extraordinary commitment. In terms of events in the open space, discussions were already taking place with the University of Essex Student Union.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a Section 106 Legal Agreement to provide for the following contributions:-

- a £180,000 contribution to off-site sport and recreational facilities (this sum split into two £90,000 amounts to be paid at identified trigger points);
- a £85,000 contribution towards community development events and activities to be held on the on-site open space – again this sum to be paid in two amounts of £42,500 at identified trigger points;
- a £300,000 contribution to be designated towards bespoke transport information and marketing packs for students and activities/projects which positively influence their travel behaviour;
- a contribution of £250,000 towards a new bridge across the river. However, if the bridge is not provided within a reasonable period of time then the funding may be used for the provision of specific identified pedestrian/cycleway enhancements between the application site and the University of Essex Campus identified in the Cycle Strategy SPD;
- a contribution to cover the cost of any amendments to existing and/or proposed waiting and/or loading restrictions required as a result of the proposal;
- other elements of the agreement would include ensuring public access to the designated open space and agreement on the use of the community facility on the site.

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

25. 120333 Land to the rear of 310-318 Ipswich Road, Colchester

The Committee considered an application for two houses at the rear of 310-318 Ipswich Road. The application was a resubmission of application 111408. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Simon Osborn, Planning Officer, attended to assist the Committee in its deliberations. He referred to the Amendment Sheet and also to a number of trees which had been removed from the site, but added that they did not benefit from Tree Preservation Orders.

Councillor Gerard Oxford attended and, with the consent of the Chairman, addressed the Committee. He referred to the planning history and to several trees on the site having been removed. He also referred to the lack of a pedestrian footpath and vision splays when exiting because of a hedge and wall, not in the applicant's ownership, obstructing views to the right. He referred to the need to consider pile foundations because High Woods trees have had to be removed because they were too close to houses. There were trees in the country park along the western boundary of the site. If the Committee were minded to permit the development he asked that a condition regarding pile foundations be added to secure the safety of the trees for the future.

Members of the Committee were aware of the shared access to the site with the adjacent business premises and that the owner had a right to remove the trees because they were not protected by a Tree Preservation Order. Members questioned the size of the garages which were below standard, but it was explained that whilst there was room for bigger garages they would have a bigger footprint, be higher and more dominant. In any case the parking standards would be met without the garages.

The planning officer explained that the Highway Authority had no issues regarding the visibility splay for the existing access which also served the dental practice. Details of the visibility splays were to be provided prior to commencement of the development. He agreed that the country park was a high quality area and that this proposal included a native species hedge along the western boundary with the country park. He explained that the new hedge was a reasonable condition, the exact wording of which was being discussed with the tree officer.

RESOLVED (MAJORITY voted FOR) that –

- (a) Consideration of the application be deferred for submission of the following:-
- an amended plan being received to show landscaping to the western boundary of the site;
 - an updated tree report being received to include proposed means of protection of retained trees; and
 - confirmation from the Landscape Officer and Arboricultural Officer that the

additional information is acceptable.

(b) Upon receipt of the documents and information required, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, on the Amendment Sheet plus a condition requiring details of foundations to be agreed prior to the commencement in order to ensure that the wellbeing of trees to be retained is not prejudiced.

26. 120484 Land at Meadow Green Farm, Mount Bures Road, Wakes Colne

This application was withdrawn from consideration at this meeting by the Head of Environmental and Protective Services to allow more time for a consultants' report to be received.

27. 120411 Greyfriars, High Street, Colchester, CO1 1UG

The Committee considered an application for a variation of Condition 15 Use of rear terrace, Condition 20 Amended car park layout, Condition 26 Outdoor events and Condition 27 Use of outside areas, following grant of planning permission 102680. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Mark Russell, Principal Planning Officer, attended to assist the Committee in its deliberations. The application had been considered at the Committee's meeting on 24 May 2012 and amended Conditions 15, 20 and 27 were agreed, but the matter was deferred for further information regarding Condition 26. He referred to a map received from the applicants showing the location of all addresses to be notified in advance of an outdoor event.

John Lawson, agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He stated that the applicants were very keen to progress the proposal and were similarly keen to have a good rapport with residents, and his client was content with the solution outlined in the report.

Councillor Frame attended and, with the consent of the Chairman, addressed the Committee. He was content with the rewording of Condition 26 but suggested that the permission should be for one year only and there be a review of events held during the year to make sure there were no issues. This was a new type of 'boutique' hotel and residents were not sure what it meant and how it would operate.

The planning officer reminded the Committee that the applicant was not seeking a temporary condition for outdoor events. The Development Services Manager suggested a condition requiring the hotel operator, the planning service and residents to meet on an annual basis to discuss the proceeding year's events.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report together with a further condition regarding an annual meeting between the hotel operator and the residents' association and planning service to discuss the operation of the hotel during the previous year.

28. 120891 15 Hawlmark End, Marks Tey, CO6 1NF

Councillor Lewis (in respect of her acquaintance with the applicants) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for a first floor side extension over a garage and conversion of the garage. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Mark Russell, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to matters on the Amendment Sheet.

Helen Venner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She made representations in respect of the bathroom window which would impact on her rear garden. She requested that the window be moved so it overlooks the neighbour's own conservatory roof instead of her garden. The first floor exterior finish was plaster which could only be maintained from her property. She preferred an exterior finish to the first floor to be a material which did not require any maintenance. She also sought reassurance that the house would not become two properties.

Councillor Blundell attended and, with the consent of the Chairman, addressed the Committee. She requested that the application be looked at again with a view to making alterations to it. The extension was too bulky and overbearing, although there were others similar. In the officer's report there was a passing reference to an application for no.11 which had been refused and rejected on appeal. The first floor window would look into the secondary living room and she asked for the window to be moved. Finally she suggested the finish be entirely in brick to avoid any maintenance issues.

The planning officer explained that the difference between this application and the neighbour's application in 2005 was that this extension would be much further back on the plot. His response on the Amendment Sheet to the 'front door' suggested that such a door be excluded with an additional condition that it should not be reinstated at any time. Limited opening with the window facing rightwards was suggested for the bathroom window to overcome overlooking into the garden. A member of the Committee suggested recessing the bedroom window to avoid overlooking into the lounge window.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as indicated in the report together with the following amendments:-

- materials to be substituted by brick;
- removal of the ground floor entrance door and restriction on creating any opening;
- requirement for a limited opener on the first floor rear bathroom window hinges to be on the left side (looking out of the bathroom window); and
- either a set back or a build out with blank cheeks in respect of the proposed first floor bedroom window in order to minimise the risk of overlooking of adjacent windows.

29. 120954 24 Alan Way, Colchester, CO3 4LG

Councillors Lewis (in respect of her acquaintance with the applicant's agent, and her daughter and son-in-law and family's residence being in Alan Way) and L.Sykes (in respect of the applicant's agent being her neighbour) each declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for two storey front and rear extensions together with a single storey side extension. The Committee had before it a report in which all information was set out.

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

PLANNING COMMITTEE 19 JULY 2012

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Nick Barlow*, Peter Chillingworth*,
Helen Chuah*, John Elliott*, Stephen Ford,
Sonia Lewis*, Michael Lilley, Jackie Maclean,
Jon Manning, Nigel Offen* and Laura Sykes*

Substitute Member :- Councillor Will Quince for Councillor Nigel Chapman

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

30. Minutes

The minutes of the meetings held on 23 May 2012 and 14 June 2012 were confirmed as a correct record.

31. 120584 Land adjacent to Rusty Tiles, Coggeshall Road, Dedham

The Committee considered an application for a proposed one and a half storey detached dwelling. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Simon Osborn, Planning Officer, attended to assist the Committee in its deliberations. He referred to the reasons for the application being before the Committee which included the three dormer windows, one of which would be obscured glazed and fixed. The other windows had the potential for overlooking into the garden of no. 58 Dedham Mead, but officers considered the overlooking was not unreasonable.

Ian Coates addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. His two concerns were a privacy issue regarding his rear garden and on-street parking in Dedham Meade. He was concerned that his entertaining space along the rear of his property would be overlooked by the dormer windows. He had two parking spaces in front of his garages but when he has visitors they park on the road and if visitors to the new property do the same it would restrict the flow of traffic.

Mike Bowler addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The application met all the relevant planning criteria including parking. The Highway Authority were content with the absence of a turning facility, and the site entrance was in the same position as in the previously approved scheme. In regard to the limited degree of potential overlooking from the dormer windows, he had been unaware that this was a problem to the neighbour because no objections had been raised on this issue. Some of the

dimensions and distances in this application were more favourable than the minimum in the Essex Design Guide, which sought to protect the first three metres from a house; beyond that distance the Essex Design Guide gave no protection. To prevent any overlooking into residential areas was impossible. The general position and orientation would not result any significant or unreasonable overlooking. Overlooking as a reason for refusal on this application would not be sustainable on appeal.

In response to queries raised by members of the Committee, the planning officer explained that a neighbour would need to report the replacement of an obscure glazed window by a clear glazed window to the council's enforcement team to get it rectified. He also confirmed that the borough council had no control over on-street parking.

Members of the Committee suggested that if the dwelling was rotated a few degrees so the dormer windows faced the garages the overlooking would not be problematic. The garden of the new dwelling was at the side which created difficulties in terms of judging the application against the Essex Design Guide. Whilst the neighbour's concerns were understood, in this context they were not considered to be serious enough to warrant a refusal. It was considered that highway and flooding issues were of no consequence.

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

32. 120846 Pearl Walk, Wivenhoe

The Committee considered an application for the conversion of four commercial units into residential use, each of which would comprise a two-bedroomed ground floor apartment. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. She made it clear that the additional comment set out on the Amendment Sheet was sent by email and had not been made by Councillor Ford. She also referred to late information being received on offers close to the asking price for one unit and she suggested that if the committee were minded to approve the application, the applicants be given a period of one month to continue negotiations in the hope that one unit would be sold for a commercial use. In the event that the negotiations were unsuccessful the application would be approved as submitted. She drew the committee's attention to the inclusion of one affordable housing unit in the application which would be provided on the Garrison because there was nowhere within the Cooks Shipyard site where an affordable unit could be located.

Kevin Read addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application because it did not comply with parking standards, commercial space would be lost and there was no private amenity space. The standard parking requirement for four dwellings would be nine spaces whereas only four spaces were provided. He was not in agreement that the

standard should be reduced. The Town Council had objected to the lack of any private amenity space which would be problematic in the event that residents used their frontage for tables, chairs, etc. as evidenced by similar issues nearby. Data evidence indicated there was an under-supply of commercial space and he wanted these units retained as such. He referred to comments by Wivenhoe Town Council as set out in the report.

Tony Middlebrook, Taylor Wimpey, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. They had been marketing the units since June 2009; two units had been sold but no other interest had been shown. During the application period they had received a few cash offers for these units but they were unsubstantiated and there was now the possibility of leaving the site with the units remaining vacant. They had tried to widen the use of the units and they were still marketing them, hence this application. They were willing to provide one affordable housing unit on the Garrison and contributions towards community facilities and open space. He hoped that the committee would see that despite a robust marketing strategy the units remain unsold. In respect of current offers, he would be willing to work with officers to investigate those offers within a strict timetable.

In response the planning officer explained that there was no amenity area for the units because there was nowhere within the site to provide it and this was not uncommon where there was available public amenity space. The quay would provide some amenity space and the Cooks Shipyard development included an open space and play area. There was also the river frontage, public footpaths and more recently a large water meadow which had come into the Council's control as part of the Cooks Shipyard development. Communal bins would be stored within the parking area.

She also explained that the units had been marketed for three years, which was considerably beyond the usual 12-18 month marketing period. The applicant had done all that was requested of them. There was another building wholly allocated for commercial use and it was hoped that would be more successful. It had been established that the marketing strategy had been appropriate. She confirmed that there was current commercial interest in one of the units. In terms of providing affordable housing in Wivenhoe, the housing officer had confirmed that there were no other sites in Wivenhoe currently being developed by Taylor Wimpey so it could not be provided in Wivenhoe and the affordable housing officer had indicated that no housing association would be interested in these units for affordable housing.

Members of the Committee were very concerned that the four units could not comply with policy standards on parking and amenity space. They were also disappointed that the affordable housing unit offered could not be provided anywhere in Wivenhoe, neither could one of these units be used for an affordable housing unit. Members were in little doubt that once they became residential units they would never revert to commercial use in the future and if approved the development could signal open season to other developers to convert business units into flats.

In terms of marketing, the committee considered that this proposal could be premature because the marketing period had run concurrently with a difficult recession period. In

addition to that the units were offered as shells requiring some investment to finish the interiors before they could be used. Some members of the committee were not convinced that the units had been rigorously marketed. Although there was speculation that not all residential units on the Cooks Shipyard development had been sold or were under offer, the planning officer confirmed that that was the case. The current interest in one of the units should be explored and the offer of a deferral to allow negotiations to take place on this potential offer was supported. A deferral period would also provide an opportunity to look at other uses within the commercial use class. The committee noted that two units had been sold in the expectation that ultimately there would be six commercial units. Some members were minded to refuse outright or defer for a considerable period to see if any further offers were forthcoming.

The planning officer advised caution because the applicant had done everything required by the council. The Section 106 agreement set out the marketing strategy which had been on-going for three years. The marketing strategy and value of the units had been assessed by the economic officer who was satisfied at the value and marketing strategy. Whether the interest shown recently was serious was not yet known but financial particulars were being investigated by the applicant. A refusal on the grounds of prematurity would be difficult to defend on appeal.

The applicant had submitted an earlier application to extend the range of uses of the four units to a restaurant use. This application was refused following a significant number of objections by residents on the grounds of impact on their amenity.

It was confirmed that even if the four units were to secure approval for residential use the whole development would retain its mixed use status, albeit reduced, because there was another free standing building for commercial use on another phase of the development and no percentage had been assigned to the mixed use. The marketing strategy in the Section 106 agreement would not require amendment if there was a deferral for six months. To some extent the situation of commercial ground floor space with residential use above restricted the range of uses, but office use was included in the B1 use class and the units had been marketed as B1 light industry/office. Members were minded to defer the application for six months for a vigorous marketing campaign and to investigate the recent interest. The application to return to the committee at the end of the six month period.

RESOLVED (UNANIMOUSLY) that consideration of the application be deferred for six months to allow:-

- (a) the marketing of the units to continue, and
- (b) the recent offers to be fully investigated.

The application to be reported back to Committee.

33. Report for Information

The Head of Environmental and Protective Services submitted a report for information

on a matter regarding a refused retrospective application and the subsequent demolition of two unauthorised dwellings.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

RESOLVED that the report be noted.



Application No: 120484

Location: Land at, Meadow Green Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **2 August 2012**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

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

7.1 Case Officer: Mark Russell

MAJOR

Site: Land at Meadow Green Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP

Application No: 120484

Date Received: 15 March 2012

Agent: Edward Gittins Associates

Applicant: Mr Michel Abusubul

Development: Formation of a Stud Farm comprising a Change of Use of land and redundant livestock building to equestrian use, minor alterations to the building to form stabling, provision of manege, minor extension of existing access track and the siting of a temporary mobile home for a Stud Farm Manager. Diversion of Public Footpath No 34 (currently shown to pass through established building).

Ward: Great Tey

Summary of Recommendation: Refusal

This item has twice been deferred from Committee. On the first occasion because some late comments by the agent were not reported on the amendment sheet, on the second because your Officer took the view that an equine consultant should re-examine the case.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because of a call-in by Councillor Chillingworth on the following lines:

“The application is likely to lead to a new permanent dwelling in the open country side contrary to policy DP24. Also the application should be considered in the light of the national planning policy framework.”

- 1.2 When asked whether the item should still come to Committee if the recommendation were for refusal, Cllr Chillingworth has replied:

“I had hoped the application would come to committee anyway, mainly because I am interested to know how you will handle a case such as this under the NPPF. There is an obvious reason for recommending refusal because of DP24, however this is the first such case since PPS7 was cancelled.”

2.0 Synopsis

- 2.1 The following report describes a proposal for the formation of a stud farm in a countryside location, involving the modification and use of existing buildings and the provision of a temporary mobile home. The proposal is considered in some depth in relation to policy issues, especially in the light of the new National Planning Policy Framework. Objections to the development from locals and the Parish Council are then discussed and the lengthy planning history is explained. Finally, refusal is recommended on the grounds of the proposal being contrary to policy DP24, because the financial case has not been justified, and because of its effect on the countryside and the protected lane Mount Bures Road.

3.0 Site Description and Context

- 3.1 The site, although mostly within Wakes Colne, straddles the Wakes Colne/Mount Bures Boundary and was previously part of Hammonds Farm. The landholding now known as Meadow Green Farm is 13.8 ha. (34 acres) and contains a disused livestock building measuring 32.8m x 13.8m x 3.1m.

4.0 Description of the Proposal

- 4.1 The proposal is to utilise the above mentioned disused livestock building for six stables and two foaling boxes with storage, staff facilities and a laboratory and equine service area. This will require some external finishing works (described as additional block work panels with Yorkshire boarding).
- 4.2 A manege of 50m x 25m with all weather surfacing, enclosed by post and rail fencing, just to the south of the existing buildings, is also proposed.
- 4.3 Paddock fencing is also tabled to divide the land into six paddocks.
- 4.4 The application documents also make it clear that the applicants intend to complete the erection of the hay-barn which has been commenced (having been granted prior approval for agricultural purposes in 2007. This is an extant permission.

- 4.5 Finally, the proposal is for a temporary/mobile home, with a view to making this permanent.
- 4.6 As a consequence, it is also necessary to divert a footpath (number 34) which apparently runs through an existing building. The applicants have chosen to do this via the Town & Country Planning route, rather than under the Highways Act.

5.0 Land Use Allocation

- 5.1 No notation/Countryside

6.0 Relevant Planning History

- 6.1 F/COL/06/0622 - Retrospective application for creation of access road. REFUSED. Appeal withdrawn.
- 6.2 AG/COL/06/0631 - Agricultural Determination application to determine whether prior approval is required for access road (retrospective). REFUSED. Appeal withdrawn.
- 6.3 F/COL/06/1878 - Retrospective application for proposed access road. Resubmission of F/COL/06/0622. REFUSED. Appeal withdrawn.
- 6.4 *C/COL/06/1664 - Change of use of barn and adjacent sheds to domestic horse use and change of use of land from agricultural to domestic grazing. Approved 4th December 2006.
- 6.5 071677 - Proposed hay barn and hardstanding. Approved 1st August 2007.
- 6.6 080562 - Retrospective application for provision of access road. Approved 21st May 2008.
- 6.7 081569 - Change of use of agricultural building into stables to include opening up of footpath route and provision of hardstanding. Withdrawn 23rd October 2008.
- 6.8 090546 - Change of use of agricultural building into stables to include opening up of footpath route and provision of hardstanding. REFUSED. 16th June 2009. APPEAL DISMISSED. Claim for costs DISMISSED.
- 6.9 *090756 - Use of land for grazing horses, erection of building containing 4 loose boxes and construction of hardstanding and new driveway. REFUSED 6th October 2009. APPEAL DISMISSED.

*These are all on land adjacent to the application site, which was formerly part of the site.

7.0 Principal Policies

- 7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

SD1 - Sustainable Development Locations
H1 - Housing Delivery
UR2 - Built Design and Character
ENV1 - Environment
ENV2 - Rural Communities

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):

DP1 Design and Amenity
DP8 Agricultural Development and Diversification
DP9 Employment Uses in the Countryside
DP21 Nature Conservation and Protected Lanes
DP24 Equestrian Activities

8.0 Consultations

8.1 Planning Policy has responded as follows:

'The site is located in a countryside location outside of defined settlement boundaries. Core Strategy Policy ENV1 and Development Policy DP24 are therefore particularly relevant. Access to the site appears to be taken from a Protected Lane as shown on the LDF Proposals Map and Development Policy DP21 is therefore also relevant.

The National Planning Policy Framework was published on the 27 March 2012 and has immediate effect. Although the supporting information correctly refers to the national planning policy guidance in place at the time of application, the policy contained in the National Planning Policy Framework is now a relevant material consideration.

As made clear in the NPPF, however, applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The planning policies in Colchester's Adopted LDF are therefore the primary consideration for this application.

Policy DP24 sets out the criteria that the application must be assessed against. The scale and level of activity proposed will need to be assessed as part of the application, including the amount of proposed equestrian related development, and this considered against the criteria in Development Policy DP24. The proposals should not lead to overdevelopment in the countryside or create conflict with other rural uses if they are to accord with this policy. Criteria (iv) of Policy DP24 requires equestrian development to be related to an existing dwelling or not lead to pressure for a new dwelling. The application proposes that a new dwelling would be provided on the site. In this respect therefore the proposals conflict with the adopted policy.

The supporting statement argues that there is a conflict between DP24 and PPS4. The inspector's report into the Development Policies DPD finding the policy sound was published on 27 September 2010. PPS4 was published on 29 December 2009 prior to this. As part of the examination the inspector therefore had opportunity to consider the conformity of the plan with PPS4 and found the plan was sound and consistent with national policy. The Development Policies DPD is formally adopted and forms part of the development plan against which applications must be assessed.

It should be noted, however, that both PPS4 and PPS7 which are referred to in the statement have now been superseded by the NPPF. The most relevant section is now paragraph 55 of the NPPF which sets out that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. The special circumstances in which isolated new homes in the countryside can be supported remain limited and include the essential need for a rural worker to live permanently at or near their place of work in the countryside. As the publication of NPPF has resulted in the revocation of annex A of PPS7 on sustainable development in rural areas there is currently no further guidance given on this subject at national level.

The application is required to be determined in accordance with the development plan unless material considerations indicate otherwise. As set out above national planning policy, which is a material consideration, no longer provides a detailed level of guidance on this issue. Whilst the material considerations surrounding the business use will therefore be relevant, they are not considered to justify a departure from adopted local planning policy to allow a new dwelling in this countryside location.'

8.2 The agent then offered a rebuttal to this as follows:

'We consider the response of Planning Policy is fundamentally flawed in its approach which seeks to resist the proposal on grounds of conflict with Development Policy DP24.

Planning Policy considers that application of DP24 is sound by reference to the Inspector's examination of the policy in 2010. However, any conclusions drawn at that time (especially those relying on PPS guidance) are now irrelevant. The key consideration is whether DP24 is in conformity with new Government policy contained in the National Planning Policy Framework (NPPF) which superseded all PPG and PPS guidance on 27th March 2012 and is a material planning consideration.

We draw particular attention to Annex 1 of the NPPF which provides that where there is more than a 'limited degree' of conflict between relevant local policies and policies contained within the NPPF, due weight should be given to those policies according to their degree of consistency with the NPPF. It goes without saying, therefore, that where the level of conflict is severe, the policy can carry only limited weight. In this case, Planning Policy have correctly identified the most relevant section of the NPPF as being paragraph 55 which states, inter alia:

Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

The essential need for a rural worker to live permanently at or near their place of work in the countryside.

There can be no skewing or misinterpretation of this policy which provides that the essential need for a rural worker (where a 'rural worker' is anyone whose work requires a countryside location with no exclusions) to live permanently at or near their place of work represents an exception to normal policy constraints which seek to resist new isolated homes in the countryside.

Planning Policy have also identified that more detailed guidance on this issue – formerly contained within PPS7 Annex A – is no longer provided at national level.

However, the absence of such detailed guidance does not undermine the weight to be afforded to the NPPF which is a material planning consideration. In similar vein, the loss of PPS7 Annex A does not add credence to out-of-date policies which are seen to be in conflict with the NPPF.

We maintain that there is clear and unmitigated conflict between NPPF paragraph 55 and Policy DP24 which specifically precludes - and hence discriminates against - proposals for new equestrian workers' dwellings even where there is an essential need for such workers to live at the site. Accordingly, we consider that DP24 can now carry only limited weight and that the correct policy approach should be the same as that for determining all other types of rural workers' dwellings including agricultural workers.

The NPPF is also clear that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. Paragraph 28 states, inter alia, that local plans should (with our emphasis):

Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;

Promote the development and diversification of agricultural and other land-based rural businesses;

In this context, we consider the formation of a stud farm is a legitimate land-based rural business and hence, is supported in principle, by the above national policy.

Furthermore, the proposal includes the conversion and re-use of an existing rural building and would create 3 FTE jobs. Indeed, the Application is supported by a comprehensive Business Plan and Technical Assessment prepared by a Chartered Surveyor and Land Management Consultant which demonstrates the Applicant's long-term commitment to the creation of a viable land-based business.

In view of the above crucial matters relating to the application of policy and the highly material employment aspects, we would be grateful if these considerations could be referred back to Planning Policy to enable a fair and balanced response to be obtained prior to the determination of our Client's Application.'

8.3 Your Policy team then responded as follows:

'Additional comments from planning policy are shown below. These comments should be read in conjunction with the earlier comments dated 03/05/12.

It is noted that the response from the planning agent has now been updated to refer to the publication of the NPPF and correctly identify that this is now the relevant national policy consideration.

It is considered that Development Policy DP24 had full weight prior to the publication of the NPPF notwithstanding the argument put forward in the applicant's earlier supporting statement that it was in conflict with PPS4. As stated in the earlier planning policy response this could not have been the case as this issue was considered by Inspector at examination in 2010 and the plan was found to be consistent with national policy.

The NPPF was published on 27 March 2012. Annex 1 (Implementation) makes clear at paragraph 211 policies in a Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of this Framework. Development Policy DP24 should therefore not be considered 'out-of-date'.

At paragraph 214 it is stated that for 12 months from the date of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework. Provided there is no more than a limited degree of conflict with the framework Development Policy DP24 should therefore continue to be afforded full weight.

Paragraph 215 states that in other cases and following the 12 month period, due weight should be given to relevant policies according to the policies' degree of consistency with the framework.

As stated in the earlier response from planning policy the detailed guidance on this issue previously found in PPS7 Annex A is no longer in force and has not been replaced. Paragraph 55 of the NPPF provides general guidance on this issue and does not go into detail. The wording of NPPF paragraph 55 refers to rural workers, although no definition of rural worker is provided, which therefore could potentially be wide ranging. Given the lack of additional national guidance (previously contained in PPS7 Annex A) this is an issue where local policies will be able to provide more clarity. Paragraph 214 of the NPPF gives a 12 month period in which issues such as this can be addressed.

It is considered that the approach of Colchester's Adopted LDF to rural dwellings remains in general conformity with the NPPF. The wording of the NPPF may give scope to allow more flexibility on rural dwellings in a limited range of circumstances, however, the LDF remains in general conformity and there is limited conflict. Full weight should therefore continue to be afforded to local policies as set out by paragraph 214.

As set out in the earlier policy response the application should be determined in accordance with the development plan giving due weight to any other material considerations such as the NPPF. The application fails to accord with Development Policy DP24 and therefore there is a policy objection to this proposal.'

8.4 The agent gave a further response, below:

“Further to our letter dated 8th May relating to policy matters, we have now read the additional comments submitted by Planning Policy dated 9th May and respond as follows:

We maintain that any conclusions drawn by the Examination Inspector in 2010 are now irrelevant as all national policy at the time the DPD was examined has now been superseded by the NPPF. We are therefore unsure why Planning Policy continues to refer to the Inspector’s conclusions which no longer have any bearing on the application of policy in this case.

Similarly, the question of whether Policy DP24 is now out-of-date is undisputed. The current debate is centred on whether there is more than a *‘limited degree’* of conflict between Policy DP24 and policies contained within the NPPF. If the level of conflict is only limited - as Planning Policy claims - then the policy may continue to be afforded full weight for a period of 12 months. If, however, the level of conflict is deemed to be more than *‘limited’* – as we maintain - the weight of the policy will decrease accordingly.

To this end, we reject any suggestion by Planning Policy that Policy DP24 remains in *“general conformity”* with the NPPF for the following reasons:-

1. The first bullet point of NPPF paragraph 28 supports the growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings and well designed new buildings. However, this impartial support for new rural businesses is actively frustrated by limb (iv) of Policy DP24 which seeks to resist equestrian businesses where they are not related to an existing dwelling. We maintain that the policy is economically counterproductive as it provides that a new equestrian business cannot be established without a large initial investment to purchase both a rural property and associated land and buildings that are suitable for conversion. Limb (iii) of DP24 also prevents the expansion of existing equestrian businesses as it seeks to resist any intensification of buildings in the countryside.
2. The first bullet point of NPPF paragraph 55 states that the essential need for a rural worker to live permanently at or near their place of work represents one of several special circumstances that may support the development of a new dwelling. This special provision is effectively denied by Policy DP24 which requires that an equestrian business can only be developed where there is an existing dwelling. The conflict is further highlighted by supporting paragraph 9.31 which states:-

“An equestrian use will not be considered to justify the erection of a dwelling in a location where permission would normally be refused.”

3. Whilst we accept that an equestrian use in itself may not be sufficient to justify a new dwelling, the NPPF is clear that the essential need for a rural worker – in this case a Stud Farm Manager – to live at his place of work does represent a special circumstance in which a dwelling may be supported. If the Council accepts that the proposed Stud Farm creates an essential need for a Stud Manager to live at his place of work, there is hence clear and significant conflict between the NPPF and Policy DP24.

In summary, therefore, we maintain that there is severe conflict between Policy DP24 and the NPPF such that the policy can carry only limited weight in the determination of the current Planning Application. In the event that Planning Policy maintains its objection to the proposal, we therefore respectfully request that you refer this Application to Members of the Planning Committee for determination as it raises important policy matters which will no doubt have significant implications for the Council in the event of a Planning Appeal.

- 8.5 Having viewed your Officer's recommendation at the time of the last Committee but one (14th June) the agent sent a further reply as follows:

'We attach a Barrister's Advice to the effect that Policy DP24 is non-compliant with the NPPF - as we have firmly asserted. It follows, applying para. 215 of the NPPF, that, with immediate effect, Policy DP24 can be afforded only limited or possibly no weight.'

- 8.6 The Barrister's comments are as follow:

'I am asked by my Instructing Town Planner to consider and comment on the terms of the NPPF in relation to housing for rural workers and Policy DP24, Equestrian Activities, in particular criterion (iv). The latter policy states that planning permission will be supported for equestrian related development if it can be demonstrated that the proposal satisfies four criteria. The first three seek to minimise impact of equestrian related development on the countryside and urban fringe, encouraging reuse of existing buildings, restraining activity in relation to the context and avoiding intensification / detrimental impact. The fourth is particularly restrictive: (the proposal) "Is related to an existing dwelling within the countryside or will not lead to pressure for the development of a new dwelling."

I note that the policy deals generally with equestrian activity and does not distinguish between the different types of horse-related development. Private / domestic recreational proposals are not distinguished from those which are business based. The effect of criterion (iv) on equestrian businesses is clear. The establishment of new commercial studs, riding establishments, liveries etc. and the expansion of existing business will be subject to a restriction which is not applied to other rural enterprise, notably agriculture. So far as new businesses are concerned, if a resident proprietor or employee is necessary, the proposal must indicate the availability of an existing dwelling on site or very closely adjacent. A new dwelling will not be permitted to accommodate an essential worker. The policy makes no allowance for temporary accommodation while a need is proven nor does it allow for conversion of existing buildings to dwellings.

The NPPF, paragraph 55, maintains the long standing national planning policy position that new dwellings within the countryside require special justification: “Local planning authorities should avoid new isolated new homes in the countryside unless there are special circumstances such as:

- The essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting;

The NPPF does not incorporate detailed guidance on the approach to “essential need” for a new dwelling (compare the now cancelled PPS 7). In my view the opinion of an appropriately qualified and experienced expert will be required. For all rural businesses the need must be justified on planning grounds. In all livestock enterprises, agricultural and equestrian, it will involve examination of the requirement for proximity to the animals in connection with health, welfare, safety and security. For there to be a sound case for a resident proprietor or employee the business must have reasonable profitability or the prospect of it – else it is difficult to see how the need, in planning terms, could be “essential” for “a rural worker”.

It is plain from the text of paragraph 55 that the NPPF makes no distinction between different categories of “rural worker”. The NPPF has been drafted as a single statement, covering a wide range of planning policy concerns but it has some leading and consistent themes, among these the building of a strong, competitive economy and within that supporting a prosperous rural economy (paragraph 28): “Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should :

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;
- promote the development and diversification of agricultural and other land-based rural businesses;.....”

In my view the provisions of paragraph 55 should be read in the context of paragraph 28 where no distinction is drawn between agriculture and other land based rural businesses.

In my opinion it follows from the above that there is a very significant difference between the approach set out in Colchester’s policy DP24 and that of the recent NPPF. Potential and existing equestrian businesses are subject to a particular constraint in Colchester which could operate decisively against new enterprise. It has no support on the face of the National Framework. I can see no basis in principle for this difference. It seems to me to be in serious conflict with the encouragement to and support of enterprise which are important features of the Framework. By paragraph 214 of the Framework “For 12 months from (March 27th 2012) decision makers may continue to give full weight to relevant policies adopted since 2004 even if there is a

limited degree of conflict with this Framework". In my opinion, for the reasons given above, the degree of conflict here is considerable. Accordingly, paragraph 215 of the Framework should apply and the provisions of policy DP24 can now be outweighed in properly evidenced cases by paragraph 55 of the Framework.'

8.7 Our Planning Policy team responded to these further points as follows:

'These additional comments have been prepared in response to the information supplied by the applicant's agent on the 13 June 2012 and should be read in conjunction with the earlier planning policy comments.

Development Policy DP24 is an adopted policy which has been through the full process of public consultation and was found to be sound and the most appropriate in all circumstances for Colchester following recent examination in public in 2010.

The NPPF is now a material consideration and also needs to be considered in the determination of this application. As set out in the previous planning policy comments paragraph 55 of the NPPF is considered to be relevant in this case. The NPPF does not provide any guidance on the interpretation of 'essential need' or 'rural worker'. The use of this more general terminology in the NPPF is likely to provide more local flexibility when setting development plan policies. The NPPF also requires essential need to be demonstrated on which there is again no further guidance due to the revocation of the annex to PPS7.

It is considered that Colchester's approach to rural dwellings remains in general conformity with the NPPF. The use of more general terminology in the NPPF provides greater local flexibility. It is not, however, considered to justify the setting aside of Colchester's locally adopted development plan policy.

Given the general terminology used it is entirely appropriate for this issue to be addressed by local planning policies. The more general terminology used does not expressly mention equestrian uses or any other types of rural businesses.

The NPPF is positive towards rural enterprise, as referred to by the applicant's barrister, and this should be a material consideration in the determination of the application. The NPPF, however, also seeks to protect the intrinsic character and beauty of the countryside which should also be taken into account along with the Council's locally adopted policies on this issue. The support for rural enterprise contained in the NPPF is therefore not considered to outweigh the potential for harm or to justify a departure from adopted development plan policies.'

8.8 Our Planning Policy team has also taken verbal advice from a Barrister who has indicated that whilst NPPF does support business in the countryside in general terms, and the Local Plan policies do carry less weight than before, these policies do reflect local circumstances regarding dwellings in the countryside.

He adds that the applicant needs to show essential need (in accordance with NPPF) and Members will need to balance the requirements of NPPF with those of local policy. Is the dwelling essential?

It is also pointed out that the requirements of sustainable development need to be looked at, and in this case the proposal can be held to be unsustainable.

- 8.9 The Highway Authority did not object, but requested several conditions relating to parking provision, surface materials and unobstructed access to footpaths.
- 8.10 Environmental Control did not object, but requested that the proposed packaged treatment plant should comply with current regulations and have a consent to discharge provided by the Environment Agency. Also, a scheme to store and dispose of manure was requested, and a condition limiting lighting.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 Mount Bures Parish Council has responded as follows:

"Whilst the Council realises that the application relates mainly to land in Wakes Colne we would like to make the following observations;

- 1. The applicant proposes to significantly alter the existing footpath regime, diverting Footpath 34 to the north of the development to meet Footpath 31 which also continues through the site to then continue along Footpath 33. Council does not consider this situation to be a safe site for walking and also not conducive to animal husbandry. It is unlikely that existing walkers will wish to continue using the footpaths. The proposed alterations are most unwelcome and the Council strongly objects to this section of the application.*
- 2 With regard to the Change of Use and alteration of buildings, Council believes that this constitutes an overdevelopment of equine business in the area. There are already established equestrian facilities next door at Hammonds Farm, and many others nearby. The siting of the new facilities will be extremely close to the horses, which could be of both sexes, at Hammonds Farm, and Council can foresee problems with the siting of stallions so close, without proper segregation.*
- 3 There are already plenty of established studs in the wider area. There is a concern that saturation of the market will affect the financial viability of this new venture.*
- 4 Mobile Home. Council is very aware from previous decisions that approval of a mobile home is a prerequisite to approval of a permanent property. In view of this the Council strongly objects to this section of the application.*

Council is unconvinced that the information regarding Bed & Breakfast and the references supplied have any relevance to the case.

We confirm that Council objects to this application as whole.'

10.0 Representations

10.1 Ten letters of objection were received, covering the following points:

- The principle of the development
- Setting of a precedent
- Increased traffic
- Other properties nearby have been for sale
- Visual impact
- Too close to other equine uses
- Inadequate/pressure on water supplies
- More footpaths will be affected than is being claimed
- Light pollution
- The area already experiences pressure from too much equine activity
- This is a protected lane
- The stable and the site are of insufficient size to accommodate the proposed use
- The business model presented does not stack up
- Insufficient parking
- Insufficient information about manure storage/removal
- The access road is not strong enough to accommodate the vehicles

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

11.1 Two car parking spaces are proposed, plus one for a horse-box. This complies with a residential standard, but is deficient for staff parking. There is, however, enough room on the site for such provision.

12.0 Open Space Provisions

12.1 n/a

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones

14.0 Report

History

14.1 The planning history for this site shows a gradual movement away from agriculture, towards attempts for equine and associated use. At the same time, the application site, along with neighbouring parcels of land, has been severed from the main site which includes the Hammonds Farm house.

14.2 The history above shows several refusals for a road access, followed by public inquiries from which the appellants then withdrew.

- 14.3 Application 071677 granted prior approval (under agricultural permitted development) for a hay barn and hardstanding. This was in connection with claimed agricultural use. The barn has not been built (although the footings are in place).
- 14.4 By the time of applications 081569 and 090546, the buildings which are now shown to be at the north eastern corner of the site had been incorporated into the site (they had been part of the neighbouring landholding next to Hammonds farmhouse itself at the time of C/COL/06/1664).
- 14.5 At the time of the dismissal of the appeal against refusal of 090546, the appellants claimed that the development being sought (stabling) was for grazing horses, and as such fell under agricultural use, and also indicated a low-key usage.
- 14.6 At the time of the appeal, the appellant also stated that he did not intend to seek a residential presence on the site. The Inspector, in her closing statement recognised that to allow the appeal would be to lay the ground for such an application, concluding:
- ‘I therefore find that the scale of the proposals and the isolated location of the appeal site, unconnected with any residential property, would be likely to result in increasing pressure for development in the countryside, including potentially a dwelling. As such, it would be likely to harm the character and appearance of the countryside.’
- 14.7 It is worth noting that notwithstanding the existence of farm buildings to the north eastern corner of the site, the Inspector still had grave concerns about any dwelling harming the countryside.
- 14.8 The proposal before Members includes more than that dismissed at appeal two years ago, as it also seeks a mobile home with a view to an eventual permanent home.

Principle

- 14.9 The protection of the countryside for its own sake, sustainability and restriction of dwellings in the countryside have long been central tenets in the Planning system, both nationally and locally. The clear and indisputable dismissal of the appeal against the refusal of 090546 was just two years ago. The only change since then is the introduction of NPPF.
- 14.10 Your Policy Officers have given a steer on this proposal, and have now repeated this view on several occasions during this application. Clearly, given the various missives from the agent, there is a fundamental policy-related disagreement on these issues which will presumably ultimately be decided by appeal.

Functional Justification/Viability

- 14.11 Evidence has been submitted by the applicants, and has been accompanied by a business plan and technical assessment from Tatersalls. There has been correspondence from objectors who have disputed its claims, this has then been countermanded by Tatersalls. Colchester Borough Council has employed its own consultant, Reading Agricultural Services (RAS) which has stated '*I would consider it essential for someone to be resident on site or live in close proximity to Meadow Green Farm when there will be a total of 21 horses on site which will comprise four stallions, eight brood mares and associated young stock.*'
- 14.12 This does lend credence to the claim that on-site supervision is necessary, although the term 'nearby' is of interest. The applicant has not provided evidence of attempts to find accommodation elsewhere, although it is noted that the site is isolated and there is not an abundance of properties in the vicinity. This does, however, beg the question why a site has been chosen which is isolated from any realistically available properties.
- 14.13 With the removal of PPS7, and its associated annexes, there is no official guidance which can be used as a toolkit to analyse the functional and financial justification for a proposal such as this.
- 14.14 In the absence of any successor to Annex A of PPS7, a leading lawyer has recently contended that 'the methodology explained in Annex A to PPS7, whilst it no longer forms part of ministerial policy as such, is nevertheless the appropriate way in which this issue should be approached. It is well-established and well understood, and I would expect LPAs and planning inspectors to continue to apply this approach, even though PPS7 can no longer be called in aid as the authority for doing so'
- 14.15 Annex A to PPS7 is, therefore, a useful reference point in analysing the proposal at hand.
- 14.16 With this in mind, the proposal was looked at internally, and doubts were cast on the viability of the proposal.
- 14.17 Your Officers then employed Reading Agricultural Services (RAS) to assess the proposal, and they responded with a six page document, the key closing paragraphs of which are as follow:

.... the equestrian enterprise proposed will have a labour requirement of at least two full-time workers. In the above figures no labour input has been allocated to the small sheep enterprise proposed by the applicant.

Paragraph 5.8 of the business plan indicates that the proposal will require at least one and possibly two full-time workers. The Planning Statement states that the proposal will provide employment for Mr Abusubul as the manager and one full-time employee plus opportunities for part-time work. I further note in the Committee Report that the agent indicates the proposal will create three full-time jobs.

In my opinion it is clear that the proposal will require at least two full-time employees including the applicant.

The NPPF deals with the concept of sustainable development at a strategic rather than at an individual enterprise level. In terms of economic development, it is concerned with contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation (paragraph 7). This does not translate easily into a simple approach to appraise small-scale rural development proposals for temporary or permanent dwellings. In this context RAC considers any assessment of economic sustainability as the ability of the business/enterprise to utilize its resources which allows it to function properly; it has to have the ability to stay in business. It has to have sufficient funds available to fund its day-to-day trading (cash flow), it has to be profitable in order to reinvest within the business or show a reasonable return on the capital invested. No business can be economically viable if over the medium to long term its expenditure exceeds income. These three aspects are essential to sound business planning.

The applicant's business plan provides details of the income and expenditure likely to be achieved by Year 3, with an estimated net profit of £31,700 having taken into consideration finance charges. My concern with the business plan is there are no labour charges contained within the fixed costs, yet it is clear that there will be a labour requirement for at least two full-time workers. I accept that one of these will be the applicant who, as described in the business plan, will be unpaid but a charge equivalent to the current minimum agricultural wage of £14,500 should be deducted from the overall net profit. This effectively reduces the net profit to £17,200. No account however is taken for the salaries of the other employee(s). In my view this will leave the business seriously deficient in funds to pay for further full - and part-time employees which could amount to an additional labour charge of £21,750 (one full-time plus part-time staff).

There are therefore serious concerns over the sustainability and long term future of the proposed equestrian enterprise in its current form. Whilst I accept that this is a fledgling enterprise, the business plan fails to account for a major cost associated with any rural enterprise that employs staff.

14.18 Tatersalls has rebutted this as follows:

'It is.....surprising that in the final section of his report in respect of sustainable development Mr. Bloor finds that there is insufficient available profit in the business to pay not two fulltime workers, as he has concluded earlier, but for two full-time workers plus one-half worker; a conclusion not supported anywhere in the body of his report.

His further conclusion, that there are therefore serious concerns over the sustainability and long term future of the proposed equestrian enterprise in its current form is simply not substantiated by the analysis undertaken in his own report.

To also suggest that the Business Plan fails to account for a major cost in employing staff is entirely inaccurate as £31,700.00 has clearly been identified to meet the labour needs of the business.

Based on Mr. Bloor's own calculations this is enough to pay two full-time agricultural workers the minimum wage of £14,500.00 (which includes National Insurance and on costs) and leave a surplus of some £2,700.00.

Mr. Bloor of course has not had the opportunity to make any direct enquiries of Mr. Abusubul as to how he is actually proposing to meet the labour requirements of the business. He is however well aware, as a staff member of Reading Agricultural Consultants, that most owners/managers of small businesses of this nature, especially during the establishment phase will work far more than the 39 hours, which are allocated to the standard agricultural worker. This alone would mean that external (paid) labour costs can be reduced above the theoretical maximum. In addition Mrs. Abusubul, is available to carry out a limited range of tasks assisting with the enterprise and this element of family labour also has not been accounted for by Mr. Bloor.

However, not only has Mr. Bloor failed to take any account of additional family labour and the extra hours it is likely that Mr. and Mrs. Abusubul will dedicate to their business, and for which they should hardly be criticised or penalised by the planning system, but he has also failed to take account of any other more flexible working arrangements that are available should additional assistance be required.

For example, as commonly found within the equestrian world, it is quite likely that some of the casual assistance which may be required and for which part-time staff could be utilised might be undertaken by those who are above school leaving age but under 18 for whom the minimum wage is £3.68/per hour, by 18-20 year olds at £4.98/per hour or other workers over aged 21 at £6.19/per hour.

All these rates are below the standard rate of £6.77 on which the minimum agricultural wage calculated by Mr. Bloor has been assessed.

Without taking any account of this far more flexible labour profile which is available to Mr. and Mrs. Abusubul, Mr. Bloor is misrepresenting their business and quite unreasonable in his conclusion regarding the long term future and sustainability of the business.

In my opinion the Business Plan quite adequately addressed the labour needs and costs that it will face in the first three years of operation. It also has sufficient unallocated surplus allowed for in the costings section to meet any other modest capital expenditure, for example in providing for field shelters, or similar needs that may arise.

I understand the reference by Mr. Gittins to three full-time workers is looking well beyond this development phase to the time when the business is more fully established.'

- 14.19 Clarification of these points from RAS is awaited and will appear on the amendment sheet.
- 14.20 In conclusion to this section, Members are advised that whilst a functional justification has to some extent been proven, there are doubts surrounding the business case.

Rural Amenity

- 14.21 It is noted that an attempt has been made to locate the manege and mobile home/hardstanding near to the existing group of buildings (including the yet to be built hay barn). However, the users of the to be diverted footpath 34, as well as other footpaths, would be met with a new visual intrusion which would also be detectable from some parts of Mount Bures Road.
- 14.22 In addition, the sub-division of the field into paddocks would also fragment the countryside, and increase the visual disappointment for its users.
- 14.23 Extra light intrusion is also a very real danger. Whilst this can be offset to a degree (with shrouding and so on) it cannot completely eliminate the extra light which would ensue.
- 14.24 The narrow Mount Bures Road, a protected lane, would also be undermined and eroded by the increasing amount of large vehicles and vehicular activity. The extra traffic would also undermine the tranquillity of the area. Whilst it is acknowledged that the previous use was agricultural which would have included large vehicles, this used a different access onto Hemps Green to the south.

Economic Benefits

- 14.25 The Local Planning Authority must have regard to the undoubted economic benefits which such an enterprise could bring. Section 3 of NPPF 'Supporting a prosperous Rural Economy' states that Local Authorities should 'support the sustainable growth and expansion of all types of business and enterprise in rural areas' and 'promote the development and diversification of agricultural and other land-based rural businesses.'
- 14.26 The application does offer the promise of employment, with the potential for two or three full time employees should the business prove a success, and this would undoubtedly contribute to a prosperous rural economy.

Parking

- 14.27 As already discussed at paragraph 11, the provision is deficient, but there is sufficient space on site to accommodate staff in addition to residential parking.

Sufficient Space/Size of Buildings

- 14.28 Tatersalls and a neighbouring objector, both with equine knowledge, have disagreed about this matter. Members are advised to not involve themselves in the dispute unless they have some specialist knowledge which may be of use should the applicant appeal a refusal. Members may, instead, wish to refer to the intensity of the proposed use and its effect on the site and the wider countryside.
- 14.29 Members are reminded that Reading Agricultural Services feel that the site itself is large enough to accommodate the projected number of horses.

Footpaths

- 14.30 It has been stated that footpaths other than those mentioned would be affected. If this is the case it would be for the applicant to deal with this matter should any permission be granted for this application.

Other Matters

- 14.31 Lack of facilities for manure disposal and water have been cited as concerns. On the former, our Environmental Control section has stated a way forward. On the latter, it would be for the applicant to make arrangements. It is not felt that these issues can be carried forward as reasons for refusal, but this additional activity does add to the picture of intensive use in this sensitive rural location.

15.0 Conclusion

- 15.1 A functional justification has, at least in part, been made for a round the clock presence, and thus a dwelling, on site. Holding a valuable stock of horses necessarily means needing to live at or close by the site.
- 15.2 It is with this truth in mind that policy DP24 was formulated, with, at paragraph 9.31 of the justification, the following: "An equestrian use will not be considered to justify the erection of a dwelling in a location where permission would not normally be granted." Namely – this is a recognition that the holding of stock may be a precursor to applying for a house in the countryside. DP24 aims to avoid this amongst other things.
- 15.3 The acceptability, or not, of the principle would therefore seem to turn on the NPPF and how DP24 measures up against this. The applicant has framed a seemingly cogent case for DP24 being viewed as being in conflict with the provisions of NPPF. However, our Policy team has on four occasions during this application held firm with the view that DP24 is still an important material consideration. RAS has also stated that Policy DP24 should continue to be afforded full weight. There is, thus, a disagreement with this regard.
- 15.4 There is also a disagreement over the financial viability of the project, with the applicant's consultant, and the Council's own consultant arriving at different conclusions.
- 15.5 The application would also appear to create visual harm to the countryside with its proliferation of structures and accoutrements such as a manege, lighting fixtures, paddock fencing and field shelters, which would undermine and fragment the intrinsic beauty of the countryside.
- 15.6 In addition, the grass verges would be under threat on the protected Mount Bures Road from the more intensive use of the site.
- 15.7 Given all of the above considerations, Members are requested to refuse this application in terms its being contrary to policy, being not financially justified, and due to its effect on the site and the wider countryside as a result of its physical presence and activities.

16.0 Recommendation - REFUSE planning permission for the following reasons:

16.1 National Planning Policy Framework states, at paragraph 55: 'Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside;
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting....'

In this instance, whilst a functional justification has been claimed, the applicants have failed to demonstrate any financial justification for the proposed stud farm and dwelling in this remote location and the proposal would also fail to enhance the immediate setting of the site.

NPPF, at paragraph 17, states that 'recognising the intrinsic character and beauty of the countryside' is a core Planning principle.

Under that consideration, Colchester Borough Council's Core Strategy policy ENV1 states, inter alia: 'The Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline.....

....green spaces and areas of accessible open space that contribute to the green infrastructure across the Borough will be protected and enhanced.....

..... Where new development needs, or is compatible with, a rural location, it should demonstrably:

iii. protect, conserve or enhance landscape.....

vii. provide for any necessary mitigating or compensatory measures.'

This informs Policy DP1 of the Development Policies, which states, inter alia, that any proposal should 'respect or enhance the landscape and other assets that contribute positively to the site and the surrounding area.'

The proposal, for a proposed temporary, and ultimately potentially a new permanent, dwelling and for sundry other structures and accoutrements such as a manege, lighting fixtures, paddock fencing and eventual field shelters, would severely undermine and fragment the open nature of this site, visible from Mount Bures Road and from several nearby footpaths, undermining its intrinsic character and beauty, contrary to the aims of NPPF paragraph 17 and the above mentioned policies.

Policy DP24 of the Development Policies states that:

‘Planning permission will be supported for equestrian related development if it can be demonstrated that the proposal:

- (i) Cannot be located within existing buildings on the site through the re-use or conversion of buildings for any related equestrian use before new or replacement buildings are considered;
- (ii) Is satisfactory in scale and level of activity, and in keeping with its location and surroundings;
- (iii) Will not result in development leading to an intensification of buildings in the countryside
- (iv) Is related to an existing dwelling within the countryside or will not lead to pressure for the development of a new dwelling.’

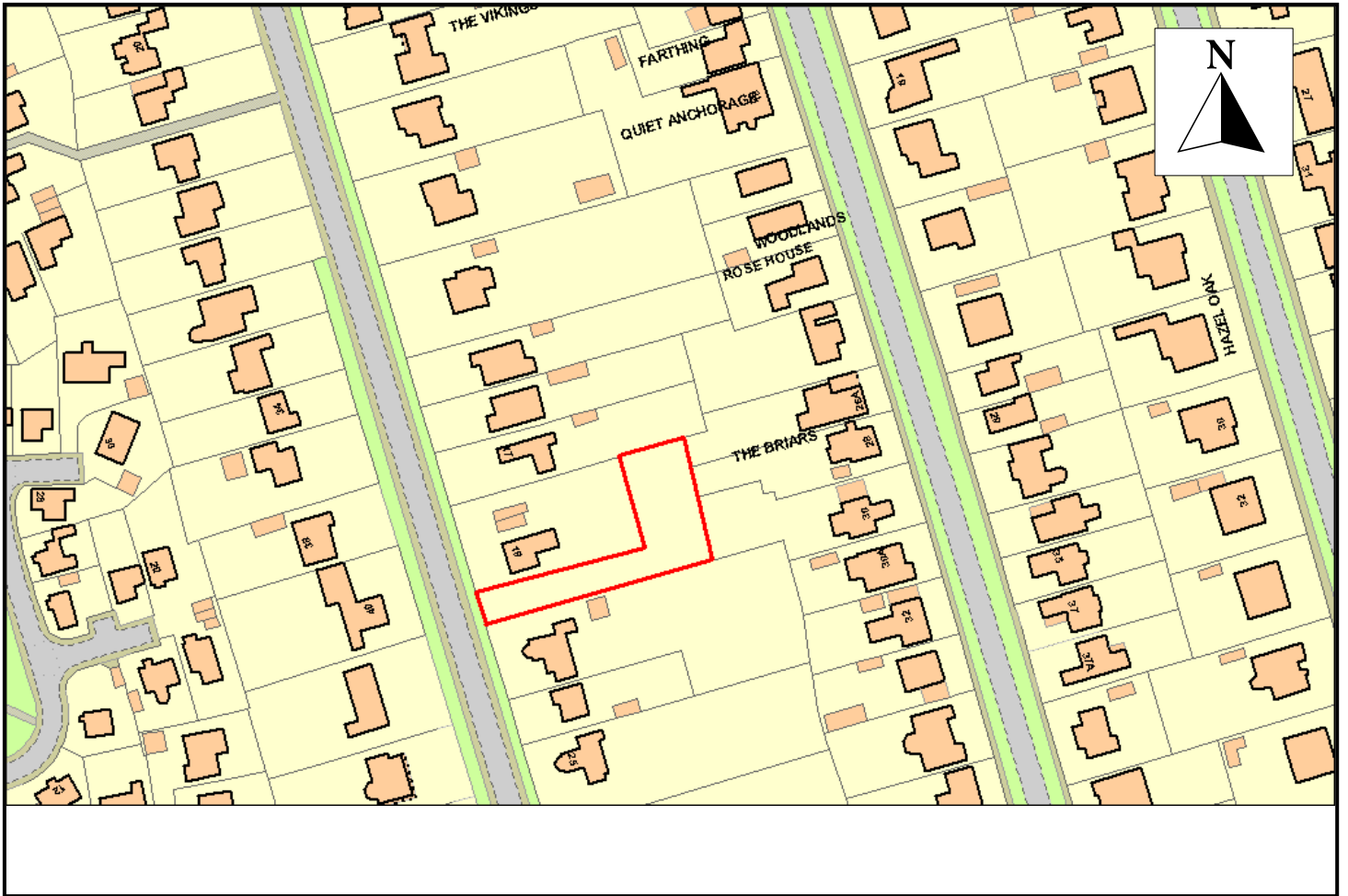
The supporting text clearly states:

‘An equestrian use will not be considered to justify the erection of a dwelling in a location where permission would normally be refused.’

In this instance, the application proposes that a new dwelling would be provided on the site. This, combined with the likely intensification of use, means that the proposals conflict with the above adopted policy.

Policy DP21 of the Development Policies states, inter alia: ‘Protected Lanes of historic and/or landscape value shown on the Proposals Map will be protected from development that would adversely affect their physical appearance or would give rise to a material increase in the amount of traffic using them.’

The proposal for this more intensive use of Mount Bures Road would lead to added pressure on the vergeways, producing erosion and rutting which would diminish its historic, rural character as a protected lane and is therefore contrary to the above policy.



Application No: 100927

Location: Land to the rear of 19 & 21 Empress Avenue, West Mersea, Colchester

Scale (approx): 1:1250

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7.2 Case Officer: Nick McKeever**OTHER**

Site: Land to the rear of 19 & 21 Empress Avenue, West Mersea, Colchester

Application No: 100927

Date Received: 29 July 2010

Agent: Mr Lewis Cook

Applicant: Mr J Wagstaff

Development: Extension of time for the implementation of outline planning permission O/COL/05/1024 for proposed new bungalow with detached garage on plot 1

Ward: West Mersea

Summary of Recommendation: Conditional Approval subject to Unilateral Undertaking

1.0 Reason for Referral to the Planning Committee

- 1.1 This application was withdrawn from a previous Committee meeting at the request of the Head of Planning Services in order to check the validity of a previous condition and landscaping issues, particularly with regard to the retention of established planting.
- 1.2 This application was originally referred to the Planning Committee because there is an objection from a local resident and an objection by West Mersea Town Council. The application was submitted prior to the adoption of the current scheme of delegation to Officers. Unlike the current scheme of delegation, an application of this type had to be referred to the Committee where there were any objections.

2.0 Synopsis

- 2.1 The site specific circumstances have not changed since the original outline permission was granted. It is in this context that the recommendation is for permission.

3.0 Site Description and Context

- 3.1 The site lies to the rear of Nos 19 – 21 Empress Avenue. These two existing properties are relatively large, two storey houses set within substantial plots. The west side of Empress Avenue is characterised by similar house types. Fairhaven Avenue to the east of the site is largely characterised by bungalows and one-and-half storey dwellings. The site is bounded on the north, south and east by residential properties. The northern boundary has substantial planting and mature trees, as is the boundary to the south.

4.0 Description of the Proposal

- 4.1 Outline planning permission for the erection of two detached bungalows was granted under reference O/COL/05/1024. The approved plans showed one bungalow located to the rear of number 19 (Plot 1) and the other to the rear of number 21 Empress Avenue (plot 2). These properties were accessed via a 3.7 metre wide private drive, which is located in an area of land between the south facing elevation of No.19 and the trees/landscaped area adjacent to the boundary with No.21 Empress Avenue.
- 4.2 On the 7th September 2007 a reserved matters application was approved in respect of Plot 1 (reference 07197).
- 4.3 The current application was registered by the Council on the 29th July 2010 and sought permission to extend the life of the original outline permission, in as far as this relates to Plot 1, which was approved on the 2nd August 2005 and was due to expire on the 2nd August 2010.
- 4.4 This current application seeks to extend the period for the implementation of the 2005 outline permission.
- 4.5 Central Government Guidance set out in the document "Greater flexibility for planning permissions (October 2010), advises that an application to extend the time limits for implementation can be made if the relevant time limit has not expired both on 1 October 2009 and at the date of application. An outline application can be extended under this power, as is the situation with this particular case. The application complied with the aforementioned requirements and as such was duly accepted as being a valid application

5.0 Land Use Allocation

- 5.1 SSSI CONSULTATION ZONE Around Mersea Island & /Abberton Reservoir/Tree Preservation Orders/ Bradwell Safeguarding Zone 2/Residential

6.0 Relevant Planning History

- 6.1 O/COL/05/1024 - Residential development to rear of 19 & 21 Empress Avenue. Approve Conditional - 02/08/2005
- 6.2 O/COL/05/0499 - Residential development to rear of 19 & 21 Empress Avenue. Withdrawn - 10/05/2005
- 6.3 071015 - New bungalow with detached garage. Withdrawn.
- 6.4 071917 - Approval for reserved matters of Plot 1. Approved 07/09/2007.

7.0 Principal Policies

- 7.1 The following national policies are relevant to this application:
National Planning Policy Framework

- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:
- SD1 - Sustainable Development Locations
 - SD2 - Delivering Facilities and Infrastructure
 - SD3 - Community Facilities
 - H1 - Housing Delivery
 - H2 - Housing Density
 - H3 - Housing Diversity
 - UR2 - Built Design and Character
 - PR1 - Open Space
 - TA5 - Parking
 - ENV1 - Environment
 - ER1 - Energy, Resources, Waste, Water and Recycling
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
- DP1 Design and Amenity
 - DP3 Planning Obligations and the Community Infrastructure Levy
 - DP4 Community Facilities
 - DP12 Dwelling Standards
 - DP13 Dwelling Alterations, Extensions and Replacement Dwellings
 - DP16 Private Amenity Space and Open Space Provision for New Residential Development
 - DP19 Parking Standards
 - DP25 Renewable Energy
- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
- Backland and Infill
 - Community Facilities
 - Vehicle Parking Standards
 - Sustainable Construction
 - Open Space, Sport and Recreation
 - Extending your House
 - The Essex Design Guide
 - External Materials in New Developments

8.0 Consultations

- 8.1 The Highway Authority has not raised any objections.

The full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 The Parish Council has stated that the application should be refused as outline planning permission is no longer acceptable.

10.0 Representations

10.1 The occupier of 30A Fairhaven Avenue objects due to the change in government guide lines on garden development and the fact that the original permission has expired.

10.2 The occupier of 19 Empress Avenue has raised issues with the ownership of the land, and in particular the access drive, which she states is in her ownership in accordance with Land Registry Title. Whilst the Applicants have been granted legal right of way over her land to access the plot, this is not an exclusive right of way. The access way is already ornamentally planted with long established trees, shrubs and bulbs, and is much admired by passers-by. The planting of it is her ultimate responsibility. The applicants and their successors should be directed to rectify at their expense any accidental damage they might cause in consultation. No extended planning consent should be granted until condition 4 is amended to include her ownership of the access way.

10.3 The report as originally written contained errors, which constitute a further challenge to land in her ownership:-

- The plan on the title page (page 1) shows a site edged in red, which encompasses more land than the Applicant purchased.
Officer Comment: This is not a plan submitted by the Applicant and does not form part of the application. It is an extract from the ordnance sheet reproduced only to identify the location of the site within the context of its surroundings
- The access drive is not 'adjacent' to number 19, which implies that the drive goes along the boundary between number 19 and 21 Empress Avenue. Even if it did there is a large tree in the road which would obstruct the entrance to it.
Officer Comment: The word 'adjacent' has been omitted and this part of the previous report has been re-worded.
- The access is completely in her ownership and not 'partly in her ownership' as stated in the report.
Officer Comment: The report now before members has been amended accordingly.
- The issue of ownership was resolved but not in the way that the report suggested. The Applicant has conceded that he does not own or have control over the access, but only has a right of way over it to access his plot.
Officer Comment: This has been addressed in the current report.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

11.1 The approved plan showing the siting of the dwellings demonstrates that parking can be provided for two vehicles within Plot 1 (a single garage and hardstanding in front of this garage). Whilst the specified size of a garage and parking space has since been increased, there appears to be ample space available to provide a garage and parking space to the current specifications as well as an additional space for visitor parking.

12.0 Open Space Provisions

- 12.1 Private amenity space can be provided to the required standard i.e. a minimum of 60 sq.m for a three bedroom dwelling.

13.0 Air Quality

- 13.1 Not applicable

14.0 Report

- 14.1 The original outline planning permission established the principle of the development of this site for two detached dwellings. This consent was only for the siting of the buildings and the means of access. All other matters were reserved (i.e. external appearance and landscaping). A subsequent application for approval of reserved matters relating to Plot 1 (scale, external appearance and landscaping) was granted permission in September 2007 under reference 071917. Whilst this permission has not yet been implemented the site specific context remains as per the 2004 and the 2007 permissions.
- 14.2 In the period since these previous permissions were granted there have been two important changes to policy at the national level and the local level.
- 14.3 The recently published National Planning Policy Framework states that a presumption in favour of sustainable development is at the heart of this Policy Framework. Proposals which are in accord with the development plan should be approved. Under this Policy framework residential garden land is excluded from the definition of "Previously developed land", thereby removing the presumption in favour of the development of gardens ("garden grabbing"). It is important to note however that this does not automatically mean that such development is unacceptable, as seems to be implied within the submitted objections, but that it should be considered upon its own particular merits. In the case of the application site, this development has already been deemed to be acceptable.
- 14.4 At the Local level, the Council has adopted SPD relating to Infill & Backland Development. Notwithstanding this, the basic principles and concepts that underpin this SPD would have been applied during the determination of the reserved matters application, and in so doing it was deemed to be acceptable.
- 14.5 The issue of the ownership of the access, and associated rights over this land, has been resolved, in that the Applicant does not own or control the access, but has a legal right of way over the access to serve the new dwelling. It is in this context that the access is shown coloured blue on the amended plan, and the appropriate Certificate of Ownership (Certificate B) having been submitted instead of the original Certificate A.

- 14.6 The other concern relating to the landscaping is acknowledged. The land between the access and the boundary with No.21 Empress Avenue is not included within the application site (land edged in red) and is landscaped with trees and other flora. Condition 4 of the reserved matters permission states that “Before any works commence on site, details of tree and shrub planting to either side of the access drive and an implementation timetable shall be submitted to and approved in writing by the local Planning Authority”.
- 14.7 It is clear from a visit to the site that there is already established planting along and in the vicinity of the existing access. This planting creates an attractive setting and as such it is considered that there is no requirement for any additional planting or landscaping.
- 14.8 The Central Government Guidance entitled “Greater flexibility for planning permissions” (October 2012) advises that the primary legislation giving local planning authorities the power to impose conditions remains section 70 of the TCPA 1990. It remains the case that a local Planning Authority can, if considered to be appropriate, remove or impose different conditions. Under the particular circumstances relating to this application, and condition 4 of the reserved matters in particular, it is considered appropriate that any permission to extend the period of the implementation of the original outline permission should not be subject to this condition.

15.0 Conclusion

- 15.1 The development of this site was considered to be acceptable in principle and the subsequent reserved matters agreed with the 2005 permission. In terms of the National Planning Policy Framework, this site lies within an established residential area and on this basis meets the test of being a sustainable development. On the basis that there does not appear to have been any change in the site specific circumstances in the intervening period, it is considered that the application to extend the implementation period of the outline permission O/COL/05/1024, where this relates to Plot 1, is acceptable.

- 16.0 Recommendation** - Conditional Approval subject to a Unilateral Undertaking for a contribution to Open Space and Community Facilities.

Conditions

1 - Non-Standard Condition

The permission hereby granted shall relate only to the extension of time for the implementation of the Outline Planning Permission O/COL/05/1024 for the proposed bungalow with detached garage on Plot 1, in accordance with the application as submitted.

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

2 - Non-Standard Condition

The development shall be begun before the 2 August 2013 (i.e. three years from the date of the expiration of three years of the permission O/COL/05/1024).

Reason: In order to comply with Section 91(1) and (2) of the Town and Country Planning Act 1990 as amended by Section 57 of the Planning and Compulsory Purchase Act 2004.

3 - Non-Standard Condition

Notwithstanding Condition 6 of the permission O/COL/05/1024, the drawing reference 05014/002b shall be superseded and replaced by drawing number 05014/002d.

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

Informatives

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

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.



Colchester Borough Council Development Control

Advisory Note on Parking Standards

The following information is intended as guidance for applicants/developers.

A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.

The residential parking standard for two bedroom flats and houses is two spaces per unit. The residential parking standard for one bedroom units is one space per unit. One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development.



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

The Town and Country Planning (Use Classes) Order 1987 (as amended)

Class A1. Shops

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,
- (k) as an internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet where the sale, display or service is to visiting members of the public.

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
 - (b) professional services (other than health or medical services), or
 - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

Use for the sale of food and drink for consumption on the premises.

Class A4. Drinking establishments

Use as a public house, wine-bar or other drinking establishment

Class A5. Hot food takeaways

Use for the sale of hot food for consumption off the premises.

Class B1. Business

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
 - (b) for research and development of products or processes, or
 - (c) for any industrial process,
- being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2. General industrial

Use for the carrying on of an industrial process other than one falling within class B1 above

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided.

Class C2. Residential institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.

Class C3. Dwellinghouses

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Class C4. Houses in multiple occupation

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

Class D1. Non-residential institutions

Any use not including a residential use —

(a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,

(b) as a crèche, day nursery or day centre,

(c) for the provision of education,

(d) for the display of works of art (otherwise than for sale or hire),

(e) as a museum,

(f) as a public library or public reading room,

(g) as a public hall or exhibition hall,

(h) for, or in connection with, public worship or religious instruction, (i) as a law court.

Class D2. Assembly and leisure

Use as —

(a) a cinema,

(b) a concert hall, (c) a bingo hall or casino,

(d) a dance hall,

(e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

Sui Generis Uses

Examples of sui generis uses include (but are not exclusive to):

theatres, amusement arcades or centres, funfairs, launderettes, sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyards or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

Interpretation of Class C3

For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004.

Interpretation of Class C4

For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004.