

Planning Committee

Town Hall, Colchester
3 June 2010 at 6.00pm

This committee deals with

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

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

Information for Members of the Public

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Private Sessions

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

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Material Planning Considerations

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

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

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

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

Human Rights Implications

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

Community Safety Implications

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

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
3 June 2010 at 6:00pm**

Members

Chairman : Councillor Ray Gamble.
Deputy Chairman : Councillor Theresa Higgins.
Councillors Andrew Ellis, Stephen Ford, Philip Oxford,
Peter Chillingworth, Helen Chuah, John Elliott,
Jackie Maclean, Jon Manning, Ann Quarrie and Laura Sykes.

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

Agenda - Part A

(open to the public including the media)

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

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

Pages

1. Welcome and Announcements

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

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

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

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

2. Have Your Say!

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

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

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

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

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

public interest.

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

6. Minutes 1 - 6

To confirm as a correct record the minutes of the meetings held on 19 May and 20 May 2010.

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. 091644 A12, Colchester Road, Boxted (Mile End) **7 - 20**

Roadside service area to include petrol forecourt and canopy, shop, HGV refuelling and canopy, HGV parking, car wash, jet wash, customer parking, underground fuel tanks, plant room and associated services.
2. 091357 Avon Way House, Avon Way, Colchester (St Andrew's) **21 - 32**

New student accommodation in 2 blocks A and B forming a total of 38 new student bedrooms in 9 cluster flats. Each bedroom is ensuite and shares kitchen and lounge facilities with other bedrooms within a cluster flat.
3. 100433 16 Elmstead Road, Colchester (St Andrew's) **33 - 40**

Conversion of existing house, and erection of two storey rear extension to form eight bedsits. Erection of cycle and bin store and new boundary fences.
4. 100752 449 Ipswich Road, Colchester (St John's) **41 - 46**

Application for variation of Condition 7 of application 090150 to remove TPO tree fronting Evergreen Drive.
5. 072523 The Old Oyster Sheds, Coast Road, West Mersea (West Mersea) **47 - 61**

Renewal of existing approval C/COL/01/0526. Take down the existing building, refurbish and renovate timber frame walls and roof, re-erect walls and extend shed for use as a private oyster tasting and luncheon/dining suite.

6. 072522 The Old Oyster Sheds, Coast Road, West Mersea (West Mersea)

Renewal of existing approval C/COL/01/0526. Take down the existing building, refurbish and renovate timber frame walls and roof, re-erect walls and extend shed for use as a private oyster tasting and luncheon/dining suite.

7. 071786 The Old Oyster Sheds, Coast Road, West Mersea (West Mersea)

62 - 73

Change of use of previously approved private dining/corporate venue to restaurant A3 Class Use, together with additional car parking.

8. 100635 2 Malting Green Road, Layer de la Haye (Birch and Winstree)

74 - 86

Construction of 4no. single storey 'bed and breakfast' units, owned and controlled by existing public house.

- 8. Non-Material Amendment to Planning Permission No. 071123 // Middlewick Ranges, Mersea Road, Colchester**

87 - 91

See report by the Head of Environmental and Protective Services.

- 9. Variation to Legal Agreement // Balkerne Heights Development**

92 - 94

See report by Head of Environmental and Protective Services.

10. 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
19 MAY 2010

Present :- Councillors Peter Chillingworth, Helen Chuah, John Elliott, Andrew Ellis, Stephen Ford, Ray Gamble, Theresa Higgins, Jackie Maclean, Jon Manning, Philip Oxford, Ann Quarrie and Laura Sykes

1. Appointment of Chairman

RESOLVED that Councillor Gamble be appointed Chairman for the ensuing Municipal Year.

2. Appointment of Deputy Chairman

RESOLVED that Councillor T.Higgins be appointed Deputy Chairman for the ensuing Municipal Year.

PLANNING COMMITTEE
20 MAY 2010

- Present :-* Councillor Ray Gamble* (Chairman)
Councillor Helen Chuah* (Deputy Mayor)
Councillors Peter Chillingworth*, John Elliott*,
Andrew Ellis*, Stephen Ford, Theresa Higgins*,
Jackie Maclean, Jon Manning and Ann Quarrie
- Substitute Member :-* Councillor Barrie Cook
for Councillor Laura Sykes*
- Also in Attendance :-* Councillor Julie Young

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

3. Minutes

The minutes of the meeting held on 29 April 2010 were confirmed as a correct record.

4. Public Apology from Councillor Richard Martin

Councillor Richard Martin attended and, with the consent of the Chairman, gave the following public apology:-

“At the Planning Committee meeting held on 7 January 2010 a debate took place on whether or not to grant planning permission to Colchester United Football Club for a new training ground and Club house on land adjacent to Grange Road, Tiptree.

During my contribution to that debate I made a comment about our officers having ‘a hidden agenda’ to drive the application through. In hindsight, I can see that this was an inappropriate comment which I cannot substantiate. Whilst I maintain my view that this is an unsuitable form of development in Tiptree, I wish to take this opportunity to offer my apology to our Planning Officers if my comment impugned their reputation or the reputation of this Council, in any way.”

5. 100131 Land at rear of 1-18 Cherry Chase, Tiptree, CO5 0AE

The Committee considered an application for the demolition of existing garages and construction of seven one-bedroom bungalows and one two-

bedroom bungalow and associated car ports for occupation by tenants of Wilkin & Sons Limited. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Councillor Ann Quarrie (in respect of having an association with the applicant and the objector for many years) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and she left the meeting during its consideration and determination.

Councillor Stephen Ford (in respect of his former close association with the applicant's partner) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and he left the meeting during its consideration and determination.

6. 100553 Innisfree, De Vere Lane, Wivenhoe, CO7 9AS

The Committee considered an application for a new one and a half storey house with vehicular access. The application is a resubmission of 091158 but with a slightly bigger plot with a frontage onto Woodland Way of 12.4 metres. The floor area has been reduced to 58.5 metres square and the design has been amended. 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.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to the character of the area and that within this context it would be inappropriate to permit the proposed development. It was recognised that infill had taken place further along to the east end of De Vere Lane where plot sizes were smaller and also to the north of the area where plot sizes were smaller in general terms but larger than this particular plot. The submitted Design and Access Statement took an opposing view that the character of the area was fairly mixed and therefore the addition of a new dwelling on this plot was acceptable.

Ann Thomas addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Her garden

backs onto the garden of the application site. She contended that Woodland Way, Beech Avenue and west De Vere Lane was a quiet corner of Wivenhoe with large houses, whereas this proposal was substantially different. The proposed flank wall was less than two metres from her rear fence resulting in an unacceptable degree of overshadowing of her garden. The proposed dwelling was set at 90 degrees to other houses and would impact on the privacy of residents at Sylvan Oak. The full impact of the proposal could only be appreciated from the garden. The supporting information suggested another house in De Vere Lane has set a precedent but she rejected this view. Both Wivenhoe Town Council and other neighbours opposed the application.

Vanessa Baxter addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This proposal was a new, architect designed, home on part of an extensive plot. The objective was a sensible design compatible with the area and in scale with Innisfree. There would be no overlooking or over shadowing of neighbours' properties. The size of the plot had been increased and the footprint of the dwelling had been reduced. The proposal was in line with the Council's policies on infill developments and garden sizes and as such would fit in with the surrounding area and cause no material harm to the street scene. The area comprised mixed plot sizes and designs. The original objections had all been addressed and she noted that some neighbours had supported the plans. She regretted that Wivenhoe Town Council and Wivenhoe Society now supported objectors.

Councillor J. Young attended and, with the consent of the Chairman, addressed the Committee. She referred to Local Plan policies including UEA 11, 12 and 13, and UR2 of the Core Strategy. She considered that the development adhered substantially to these policies with the exception of design and the character of the area. The opinion that the dwelling was poorly designed seemed to be a subjective view and there also seemed to be a subjective interpretation of the character of the area. The development satisfied the policy on infill in its entirety. PPS 3 covered context, including architects materials, design and overshadowing; the only element in PPS 3 not fully covered was context. The application is a resubmission of an application recently withdrawn and replaced with this new proposal which fitted in with the street scene.

It was explained that the context was the main issue. There was no suggestion that there were any problems with the design or with impact on privacy or overshadowing. The issue was whether or not the proposal was appropriate and in this case the view was that the context was not right for this development in this location as explained in paragraph four of the reasons for refusal.

Members of the Committee considered the report to be very comprehensive. The Committee had made a site visit. It was appreciated that the applicant had taken the trouble to get the application to a form which may be acceptable, especially in relation to design and also to overcoming objections. However, for many years there were problems with backland developments because they frequently changed the character of an area. People are attracted to an area because of its character which changed when a new development conflicted with that character. Policy UR2, built design and character, is the outcome of efforts to prevent such occurrences. The adopted Supplementary Planning Document on backland development is supportive of that policy and the Committee should support this policy. This proposed development is a good example of where this policy is trying to address these issues. Members considered this to be an incongruous form of development and the officer had provided extensive and well researched reasons for refusal on good grounds, particularly PPS 1 and 2 which had been used in the right context here. In another context Members could see the proposal being acceptable but in this context it was too much development on too small a plot and it did not fit in with the character of the area.

In response to a query about the parking provision, it was explained that this proposal met the parking requirement for a two bedroom property. In response to a query regarding whether any development would be acceptable on the site, it was explained that the report clearly set out the nature of the area and the reasons why it would not be appropriate to recommend any development on this particular site.

RESOLVED that the application be refused on the grounds set out in the report.

7. 100667 Westview Cottage, Long Road West, Dedham, CO7 6EH

The Committee considered an application for the demolition of an existing house and outbuildings and their replacement with a five bedroom detached house and double garage. Planning permission has previously been granted for a replacement five bedroom dwelling and double garage on this site. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

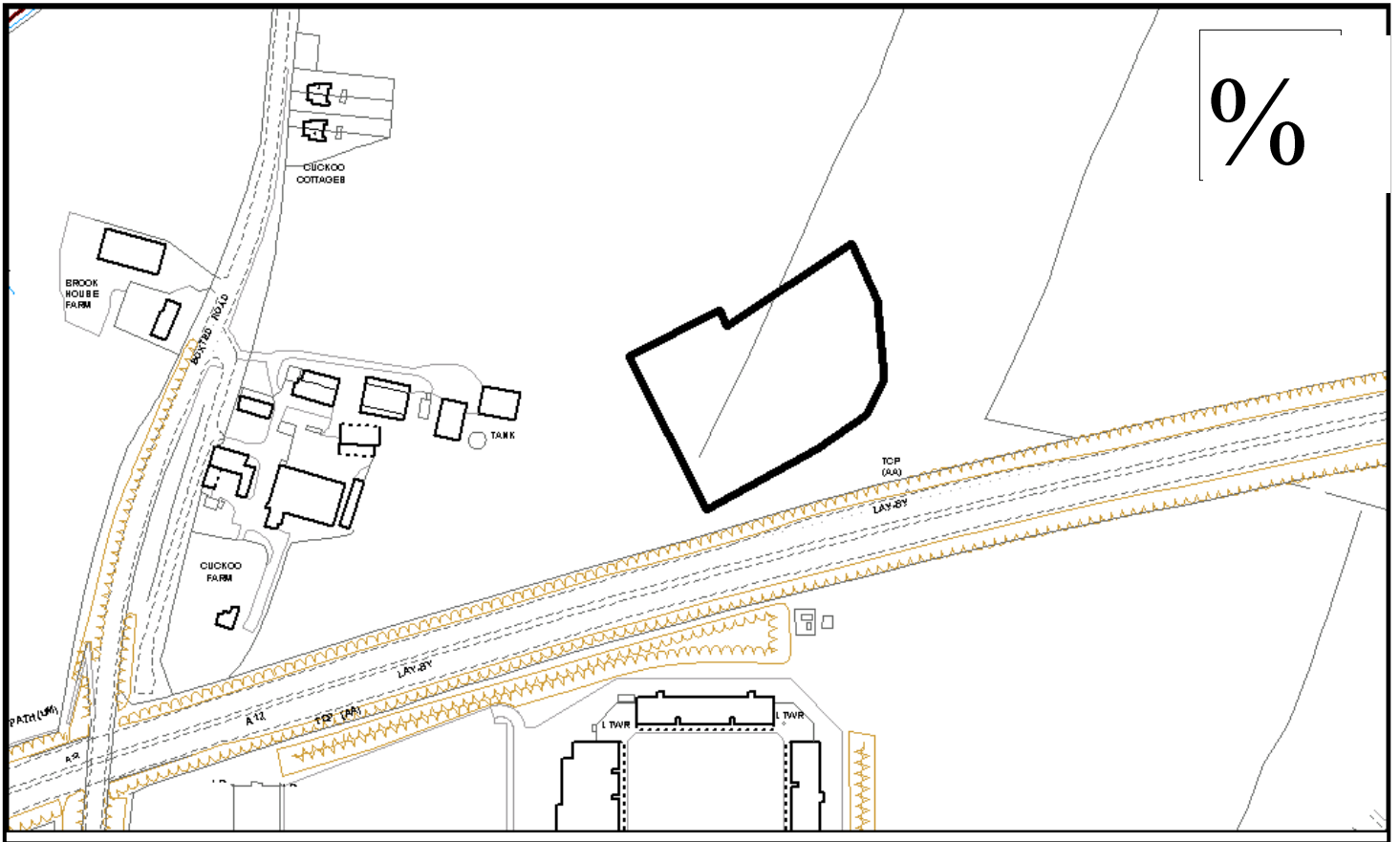
8. 100484 Villa 7 Turner Village, Turner Road, Colchester, CO4 5JP

The Committee considered an application for a variation of Condition 10 of planning permission 090800, for the removal of an ash tree, reference T003. The Committee had before it a report in which all information was set out.

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

9. John Davies, Principal Planning Officer

The Chairman made reference to John Davies' imminent departure from the Council and that this would be the last meeting he would attend. He paid tribute to John who had been an excellent planning officer and had done a very good job for Colchester Borough Council. On behalf of the members of the Committee he thanked him for his support and wished him well in the future.



Application No: 091644

Location: Land at Junction 28, A12 Colchester Bypass, Boxted, Colchester

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **3 June 2010**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

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

7.1 Case Officer: Bradly Heffer

EXPIRY DATE: 07/06/2010

MAJOR

Site: A12 Colchester Bypass, Boxted, Colchester

Application No: 091644

Date Received: 8 March 2010

Agent: Brian Barber Associates

Applicant: Bp Oil Uk Limited

Development: Roadside service area to include petrol forecourt and canopy, shop, HGV refuelling and canopy, HGV parking, car wash, jet wash, customer parking, underground fuel tanks, plant room and associated services.

Ward: Mile End

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application concerns a proposal to build a petrol filling station on land next to the A.12 trunk road. The application is presented to Committee with a recommendation of approval but the proposal has met with objection from local residents.

2.0 Site Description

- 2.1 The site for this proposal is an area of land immediately adjacent to the new junction linking the Northern Approach Road with the A.12 trunk road. This junction is currently under construction and when completed will consist of a slip road off the northbound side of the trunk road, leading to a roundabout and bridge. The proposed new filling station would be accessed via the roundabout and would abut the new slip road. Members will also be aware of the intention to create a new Park and Ride facility on land to the north of the new junction. The application site was previously in agricultural use but the character of the land has been altered as part of the ongoing junction construction works. The given site area is 1.4 hectares.
- 2.2 To the west of the application site is a group of established buildings that form the Cuckoo Farm complex – now used for a variety of business purposes. Additionally there are a group of four dwellings to the north west of the application site that front on to Boxted Road. Brook House Farm is located on the opposite (western) side of Boxted Road. On the opposite (southern) side of the A.12 trunk Road sits the Community Stadium.

3.0 Proposal

- 3.1 The submitted application seeks permission for the erection of a new main sales building, separate petrol filling areas for cars and lorries, ancillary parking areas for cars, air and water facilities and a refuse storage area. The filling station would incorporate an access arrangement whereby cars and lorries would utilise a shared entrance but leave the site using separate exits.
- 3.2 The design of the main sales building would incorporate the use of aluminium composite panelled walls, and a metal profiled roof. The entrance to the building would be defined by a substantial area of glazing. The building has overall dimensions of 21.2 metres x 12.1 metres and would contain a sales and café area, together with w.c. facilities and ancillary offices, stores etc. The petrol filling areas would be covered by canopies which would have an overall height of six metres (5.4 metres to the underside). The proposed refuse storage area would be constructed using stained wooden boarding. The submitted plans also show the provision of various signs to serve the development but these would have to be the subject of a separate application to the Council for advertisement consent.
- 3.3 Members should note that under the current adopted parking standards this type of use would generate a need for 5.5 spaces maximum. The submitted plans show the provision of 15 spaces which comfortably exceeds this requirement.

- 3.4 The application is accompanied by a Planning, Design, Access and Transport Statement. The document may be viewed on the Council's website but the following extracts are included here for Members' information:

'The development will replace the existing BP Oil service area located on the northbound carriageway of the bypass to the east of the proposed site and new junction...The scheme comprises the development of a fuel forecourt and canopy, HGV forecourt and canopy, shop, a dedicated HGV lane with parking, underground fuel tanks and associated services. The proposal comprises land within the outline approval area, granted in March 2006, which also includes the provision of an A3 restaurant. This, however, is not part of this current proposal by BP Oil...The outline planning permission establishes the area for the roadside services, scale of development and its components. In particular, the overall size of the new canopy and shop are set out in condition 10 on the outline consent. Further restrictions are imposed on the number of HGV parking spaces and restaurant. The proposals comprise a shop building of around 240 square metres, a forecourt canopy of 225 sq metres and HGV canopy amounting to 115 sq metres. All these proposed structures are within the limits established by the outline permission...Down lighting under the two canopies will ensure no light spillage into the surrounding landscape to the west and south.'

4.0 Land Use Allocation

- 4.1 No notation i.e. white land as allocated in the Adopted Review Colchester Borough Local Plan.

5.0 Relevant Planning History

- 5.1 O/COL/01/1625 - Outline application for replacement roadside services to include petrol filling station comprising associated Class A1 retail shop, refuelling facilities, car wash and Class A3 roadside restaurant and lorry park. Application granted planning permission on 21 March 2006.

6.0 Principal Policies

- 6.1 Adopted Review Colchester Borough Local Plan Saved Policies-March 2004
DC1- Development Control considerations
UEA11 - Design
CF1 - Infrastructure and Community Facilities Provision
- 6.2 Adopted LDF Core Strategy- December 2008
SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
UR2 - Built Design and Character
TA4 - Roads and Traffic
ENV1 - Environment

7.0 Consultations

7.1 The Highway Authority responded as follows:

‘The A12 is classed as a Trunk Road. In this regard the Highway Authority does not wish to make any comments on the proposal and defers to the Highways Agency as the maintenance authority.’

7.2 The Highways Agency stated:

‘As the application will not adversely affect the A.12 trunk road at this location, the Highways Agency does not intend to issue a direction.’ The response further confirms that the Agency has no objection to the proposal.

7.3 Environmental Control would require the imposition of conditions on any grant of planning permission for the submitted development.

7.4 Essex and Suffolk Water queried whether the development may impact on its mains infrastructure. A request for further information was made and subsequently it has been confirmed that the Company has no comments or observations to make regarding the application.

7.5 The Landscape Officer makes the following comment on the proposal:

‘In order to help protect the amenity value of the open countryside to the north, east and west of the development site, particularly in relation to potential visual intrusion and light & noise pollution, a combination of ground modelling and tree screen planting belts need to be included to the site’s boundaries, particularly the northern boundary; together with a lighting programme that accords with the ‘Institute of Lighting Engineers – Guidance Note for the reduction of obtrusive light.’ Conditions are recommended for inclusion in any grant of planning permission.

7.6 As this application falls within the category of major development it was presented to the Council’s Development Team. After consideration the following decision was made:

‘Application noted and approved, subject to further negotiation on a contribution towards sustainable projects in the vicinity of the development site.’

The full text of all consultations is available to view on the Council’s web-site.

8.0 Parish Council's Views

8.1 Myland Parish Council comments as follows:

‘There is no reference made to possible light pollution in the application. We request that all lighting is of non-polluting type and is dimmed at night’

9.0 Representations

9.1 As a result of notification five letters have been received in which objections are raised to the proposal. The following list comprises a summary of the comments received:

- The proposal will result in a serious loss of amenity caused by noise disruption, light pollution, fumes etc and could also create a health hazard for those living in the vicinity.
- The use could cause ground pollution caused by petrol, oil and other pollutants.
- The use will be a 24 hour operation and the shop facility will become a destination in its own right causing more disturbance as well as taking trade away from local shops.
- The fact that HGVs would park on site could create a safety issue with criminal activity also likely to occur.
- The underground fuel tanks present a specific hazard.
- This is the wrong location for such a facility and residents have not been properly advised of the scheme prior to the submission of the application.
- No development was to take place on this side of the A.12 trunk road.
- Vehicle washing facilities will cause further disturbances
- The proposal will have a detrimental impact on the landscape and wildlife in the area.

The full text of representations is available to view on the Council's web-site.

10.0 Report

10.1 Members will have noted that a previous outline planning application was approved in 2006 for the provision of a petrol filling station on this site. This outline application (ref O/COL/01/1625) formed part of a 'suite' of applications that related to the redevelopment of the Mile End area of the town and included the Northern Approach Road, new stadium and a new junction on to the A.12 trunk road.

10.2 The requirement for a new petrol filling station followed on from the loss of the existing facility as a result of the works to create the new junction. The submitted Design and Access statement includes information regarding the factors that resulted in having to relocate the existing facility that fed into the outline planning permission being granted as follows:

'The proposal for replacement roadside services was submitted to enable the provision of the proposed grade separated junction. Statutory trunk road design criteria, together with account of the particular characteristics of the A.12 in this location meant that there was only a limited stretch of the A.12 between Boxted Road and Severalls Lane bridges where the proposed junction could be constructed. Locating the junction in this stretch resulted in conflict between vehicles joining the A.12 from the proposed on-slip road with those leaving the A.12 by the existing BP Oil Service Station off-slip. There was no opportunity to reposition the existing entrance or exit arrangement for the service station.'

10.3 Given that the Council granted permission for the provision of a petrol filling station in this location in 2006, albeit in outline, it is felt that the principle at least of the development taking place has been established. That said, the current proposal has to be judged against relevant material considerations. Additionally the proposal has given rise to objections from local residents and their concerns have to be addressed.

10.4 In terms of the design and layout of the proposed development it is felt that this represents a reasonable response to the site and the surrounding area. The facility is designed in order that vehicular traffic would access via a single point but would then be segregated with cars and lorries having separate filling areas. Additionally, separate exits from the site would be provided for either type of vehicle. This would enable the site to be accessed and exited conveniently which is an important consideration given that the facility is intended to serve the trunk road network and also, potentially, the future Park and Ride facility located to the north of the application site. The main building itself is of 'modern' design, incorporating cladding, glazing and metal profiled roofing. Given the location of the facility adjacent to the trunk road, the main views of the development would be from the road itself and in this context it is felt that the architectural response is acceptable. The application site is opposite the new Community Stadium and although the stadium building is not fully revealed from the level of the trunk road its modern appearance is perceptible. It is therefore felt that the architectural approach taken with the filling station is appropriate in this context. The group of dwellings and agricultural-type buildings to the east and north-east of the application site do have a more traditional appearance, but it is felt that the proposed filling station would read as part of the overall new junction works in spatial terms.

10.5 The comments received from local residents are fully appreciated and in response the following points are made:

- The impact of the proposals on local amenity and issues such as pollution and site safety are key considerations. It is noted that the Environmental Control section would require the imposition of conditions on the grant of a planning permission but no objection is raised to the principle of the development taking place. The conditions would seek to control inter alia noise levels, insulation, light pollution etc. Additionally the provision of a landscaping scheme would ensure that the overall impact of the development in the landscape was softened and screening could be incorporated to the boundaries facing towards residential development clustered around Boxted Road.
- The location of the facility would mean that vehicular access to the site would be from the trunk road network as opposed to the nearby local roads. This would help mitigate the potential for disturbance from vehicular movements generated by users of the facility, delivery vehicles etc. Additionally the facility is intended as a service to users of the trunk road network and it is anticipated that the greater majority of visits to the site would be by passing vehicles as opposed to persons visiting the site as a shopping facility.
- As will be appreciated the control of criminal activity in itself is not a planning issue although the design and layout of development may incorporate elements to discourage this sort of behaviour. The security of the site would be enhanced by use of CCTV cameras. Additionally the arrangement of the development would mean that the main refuelling area for cars was overlooked by the entrance to the main customer building on the site.
- The trunk road does act as a natural containment feature for encroachment of development on to land to the north but the outline planning permission did establish that a new filling station would be located on this side of the A.12.
- Although the submitted scheme does incorporate areas for air, water and vacuum facilities there is no vehicle washing facility proposed for the site.

- The site itself does not contain natural features of note and the conditions attached to a grant of planning permission would require the submission of a landscaping scheme which would introduce tree and associated planting that would assist in the mitigation of the overall impact of the development. Importantly, the control of lighting would enable the problems of unacceptable light wash to be addressed which would recognise local amenity requirements as well as the needs of species such as bats. Members are also advised that the site has no specific ecological designation in the adopted Local Plan.

10.6 In conclusion it is considered that the submitted scheme represents a reasonable proposal in planning terms and, subject to the imposition of conditions, it is felt that permission may be granted in this case.

11.0 Background Papers

11.1 HA; HH; TL; DT; EW; PTC; NLR; O/COL/01/1625

Recommendation - Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

No part of the development shall be brought into its intended use unless and until the highway improvements as shown in outline on the submitted drawings hereby returned stamped approved have been implemented to the satisfaction of the Local Planning Authority, unless the Local Planning Authority first gives written approval to any variation.

Reason: The proposed roadside services are unable to be safely accessed until the proposed improvement has been satisfactorily completed and in order that the A12 Trunk Road will continue to fulfil its purpose as part of a national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980, and for the safety of traffic on that road.

3 - Non-Standard Condition

A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to the building hereby approved coming into beneficial use. The assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the Local Planning Authority the building hereby approved coming into beneficial use. All subsequent noise conditions shall comply with this standard.

Reason: In order to protect the amenity of local residents from noise nuisance.

4 - Non-Standard Condition

Any plant, equipment or machinery on the premises shall be constructed, installed and maintained so as to comply with condition 03. The noise generated by such equipment shall not have any one 1/3 octave band which exceeds the two adjacent bands by more than 5dB as measured at all boundaries near to noise-sensitive premises.

Reason: In order to protect the amenity of local residents from noise nuisance.

5 - Non-Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light' for zone E2 . This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to [the building hereby permitted coming into beneficial use/the use hereby permitted commencing] a validation report undertaken by competent persons that demonstrates compliance with the above shall be submitted to the planning authority for approval. Having been approved any installation shall thereafter be retained and maintained to the standard agreed. (Zones: E1 – national parks, outstanding beauty; E2- rural, small village or dark urban areas; E3 – small town centres or urban locations; E4 – town/city centres with high levels of night-time activity. If on boundary of two areas opt for darkest)

Reason: To reduce the undesirable effects of light pollution and to protect the amenity of nearby residential properties and to mitigate adverse impacts to wildlife.

6 - Non-Standard Condition

No external lighting fixtures for any purpose shall be constructed or installed until details of all external lighting proposals have been submitted to and approved by the Local Planning Authority; and no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the undesirable effects of light pollution and to protect the amenity of nearby residential properties and to mitigate adverse impacts to wildlife.

7 -Non-Standard Condition

No development shall commence on the site of the proposed roadside services until details of foul and surface water drainage have been submitted to and approved by the Local Planning Authority. The drainage works shall be constructed in accordance with the approved details unless the Local Planning Authority first gives written approval to any variation and in any event they shall be completed before the proposed roadside services are taken into beneficial use.

Reason: To ensure satisfactory drainage of the site.

8 - Non-Standard Condition

Prior to being discharged into any watercourse, surface water sewer or soakaway all surface water drainage shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To protect the groundwater quality in the area.

9 - Non-Standard Condition

No development shall commence on the site of the proposed roadside services until a scheme of noise attenuation measures have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed in accordance with the approved details before the site of the proposed roadside services is beneficially occupied unless the Local Planning Authority first gives written approval to any variation.

Reason: To protect the amenity of nearby residential property and the locality.

10 - Non-Standard Condition

Before any plant or machinery (including any ventilation system) is used on the premises it shall be enclosed with sound insulating material and mounted in such a way which will minimise transmission of structure/ground borne sound in accordance with a scheme (including manufacturers acoustic specifications where appropriate) which shall first have been submitted to and approved in writing by the Local Planning Authority. No plant or machinery shall be installed other than in accordance with the approved details unless the Local Planning Authority first gives written approval to any variation.

Reason: To protect the amenity of nearby residential property and the locality.

11 - Non-Standard Condition

Prior to the development hereby approved being brought into use, refuse storage and recycling facilities shall be provided in accordance with a scheme which shall have previously been submitted to and approved in writing by the local planning authority. In the case of communal storage areas, a management company shall be made responsible for the maintenance of such areas. Such detail as shall have been installed shall be retained and maintained in good working order. The developer shall notify the local planning authority of the management company contact details as soon as these are known.

Reason: To ensure that satisfactory arrangements are made for the storage and collection of refuse and recycling facilities.

12 - Non-Standard Condition

The use hereby permitted shall not commence until provision, in accordance with details agreed in writing with the Local Planning Authority, has been made within the site and in the vicinity of the site for the disposal and collection of litter resulting from its use. Such equipment, arrangements and facilities as shall have been installed/provided shall thereafter be retained and maintained in good order.

Reason: To ensure that adequate facilities are provided for refuse storage and collection in the interests of the amenity of nearby properties.

13 - Non-Standard Condition

No Class A3 (cafe/restaurant) Use, as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order), shall commence operation until there has been submitted to and approved in writing by the Local Planning Authority full details of equipment to be installed for the extraction and control of fumes and odours together with a code of practice for the future operation of that equipment. The use shall not take place other than in accordance with the approved details unless the Local Planning Authority first gives written approval to any variation.

Reason: To ensure the use does not harm the local environment and the amenities of the area by virtue of air pollution or odours.

14 - Non-Standard Condition

No movement of heavy goods vehicles or plant shall occur to, from or within the site associated with site clearance, demolition or construction work except with the prior written consent of the Local Planning Authority (including the use of plant or machinery or power tools) other than between the hours of 07.30 hrs to 18.30 hrs on weekdays and 07.30 hrs to 13.00 hrs on Saturdays and at no time on Sundays or Public Holidays, except with the prior written consent of the Local Planning Authority.

Reason: To protect the amenity of nearby residential property.

15 - Non-Standard Condition

Details of all construction accesses, lorry/construction routes and any haul road provision that are required in connection with site clearance, demolition or construction shall be submitted to and approved in writing by the Local Planning Authority prior to works of any kind commencing on site. The development shall be implemented in accordance with the approved details unless the Local Planning Authority first gives written approval to any variation.

Reason: In the interests of highway safety and to protect local amenity.

16 - Non-Standard Condition

No site clearance, demolition or construction shall commence on site until arrangements for the control of dust and mud have been made to prevent, as far as reasonably practicable, the deposit of dust on nearby property, and the accumulation of mud on the highway. Such arrangements shall be agreed in writing with the Local Planning Authority prior to commencement and shall be implemented in accordance with the approved details unless the Local Planning Authority first gives written approval to any variation.

Reason: In the interests of highway safety and to protect local amenity.

17 - Non-Standard Condition

Samples of the materials to be used on all external finishes shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The development shall only be carried out using the approved materials unless the Local Planning Authority first gives written approval to any variation.

Reason: To ensure the use of an appropriate choice of materials having regard to the siting of the application site within an area of Strategic Open Land.

18 - Non-Standard Condition

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

- Means of enclosure
- Car parking layout
- Other vehicle and pedestrian access and circulation areas
- Hard surfacing materials
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting)
- Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc indicating lines, manholes, supports etc)

Soft landscape details shall include:

- Planting plans
- Written specifications (including cultivation and other operations associated with plant and grass establishment)
- Schedules of plants, noting species, plant size and proposed numbers/densities
- Implementation timetables

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

19 - C11.12 Landscape Works Implementation

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

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

20 - C11.16 Earthworks

No development shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with approved details.

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

21 - C10.16R Tree & Natural Feature Protection: Entire Site

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

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

22 - Non-Standard Condition

All trees and hedgerows on or overhanging the site shall be protected from damage as a result of works on site in accordance with BS5837:1991. All existing trees shall be monitored and recorded for at least five years following contractual completion of the relevant phase of the approved development. In the event that any trees and or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

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

23 - Non-Standard Condition

No site clearance, demolition or construction works shall take place within the application site until details of mitigation measures (including methodology, timescale for completion and long term maintenance and monitoring plan) have been submitted to and approved in writing by the Local Planning Authority to protect and enhance the habitat of bats.

Reason: To ensure that the impact of the development on protected species are properly mitigated.

Informatives

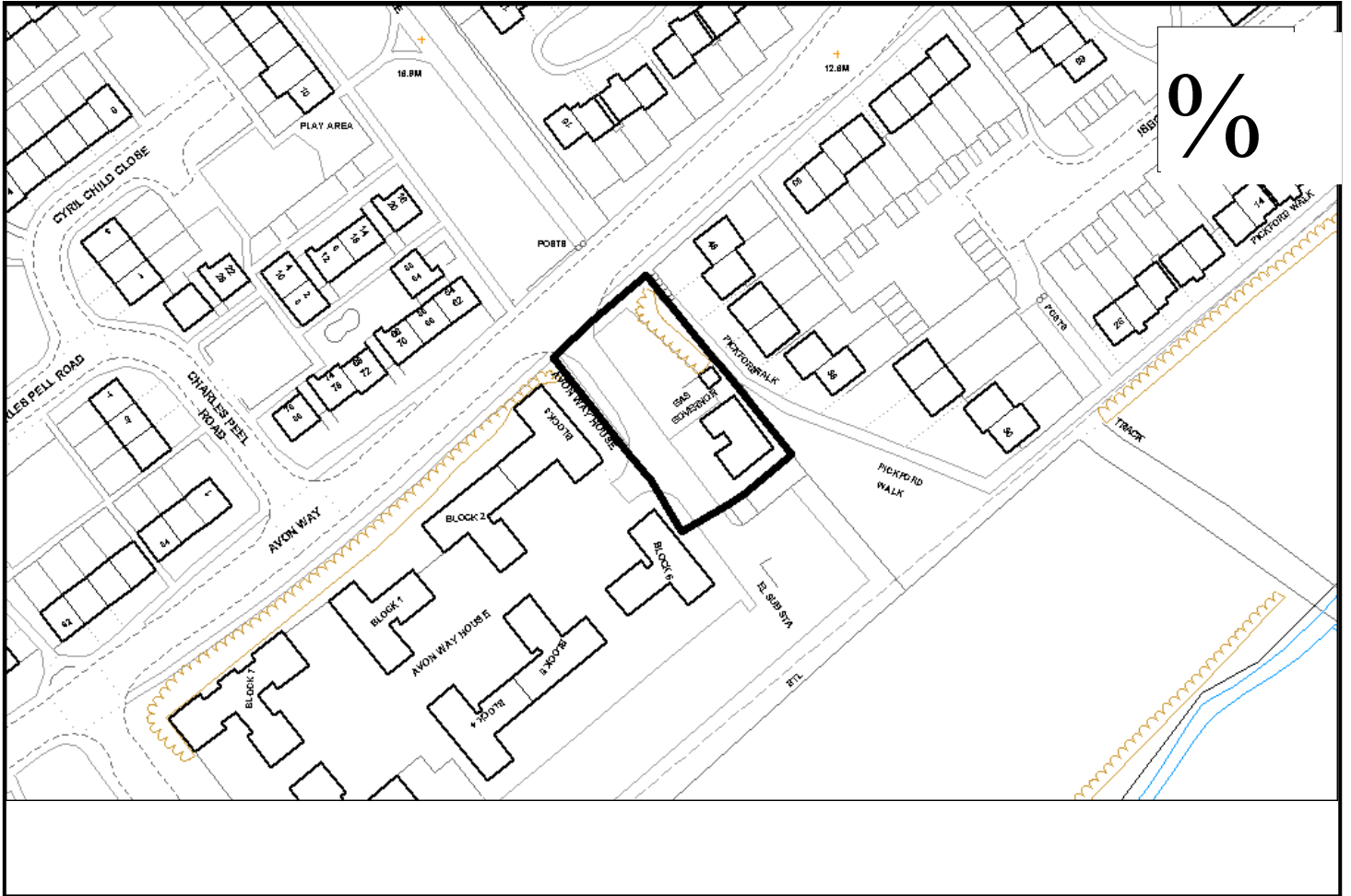
The developer is advised that:-

1. Surface water run-off from impermeable vehicle parking areas shall be passed through an approved petrol/oil bypass interception facility before being discharged to any surface water sewer.
2. Surface water drains from vehicle re-fuelling areas shall be connected to the foul sewer via oil/petrol/grit interception facilities designed and constructed to the satisfaction of the Local Planning Authority.
3. No public foul or surface water facilities exist in the vicinity of the proposed development.
4. Foul water flows from any restaurant/kitchens should be passed through fat/oil interception facilities designed and constructed to the satisfaction of the Local Planning Authority.
4. The use of soakaways at this site should be proven adequate in accordance with BS6297:1983. If soakaways are proven to be inadequate another method of disposal must be found and approved by Anglian Water.

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

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

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



Application No: 091357

Location: Avon Way House, Avon Way, Colchester, CO4 3TZ

Scale (approx): 1:1250

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7.2 Case Officer: Bradly Heffer

MAJOR

Site: Avon Way House, Avon Way, Colchester, CO4 3TZ

Application No: 091357

Date Received: 29 October 2009

Agent: Mr Mike Brearley

Applicant: Mr Owain Thomas

Development: New student accommodation in 2 blocks A and B forming a total of 38 new student bedrooms in 9 cluster flats. Each bedroom is en-suite and shares kitchen and lounge facilities with other bedrooms within a cluster flat.

Ward: St Andrews

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

1.0 Site Description

- 1.1 Members will recall that this site has been the subject of a previous application to erect student accommodation.
- 1.2 This current proposals seeks permission for the erection of a further two blocks of accommodation, identified as A and B on the submitted plans. The submitted scheme identifies an area of land (approximately 1315 square metres in size) located to the north-east of the existing buildings on the site. It is bounded to the north-west by Avon Way and to the north-east by Pickford Walk, which is fronted by a series of established semi-detached properties facing towards the application site. Immediately to the south east of the site is a hardened area currently utilised for vehicular parking. Under the previously-considered scheme this part of the existing site would be occupied by a new accommodation building. To the south west of the site are existing blocks of accommodation that comprise the existing Avon Way House site.
- 1.3 The submitted plans show the provision of two blocks that are of three storey height where they face on to the Avon Way House site and two storey height where they face the dwellings in Pickford Walk. The buildings would be constructed using a combination of red brick, cladding and render walls, single ply membrane roofs and aluminium polyester powder coated windows. In terms of accommodation proposed, Block A would provide 2 x 4 bed flats and 1 x 2 bed flat. Block B would provide 1 x 6 bed flats, 3 x 5 bed flats, 1 x 4 bed flat and 1 x 3 bed flat.

1.4 As stated previously this site has been the subject of an application to provide residential accommodation for students (ref: 090498). The currently-proposed blocks did form part of the original submission but were withdrawn from the application that was finally presented for determination to Committee.

1.5 As part of the current submission a Design and Access Statement has been included in support of the scheme. This may be viewed in full on the Council's website.

2.0 Land Use Allocation

2.1 Residential

3.0 Relevant Planning History

3.1 090498 - 81 new student bedrooms in 20 flats. Each room has its own ensuite and each flat has a shared kitchen/dining room. The new development is split into 4 separate blocks C, D, E and F. This application was approved, subject to the completion of a Section 106 Agreement. Members should note that at the time this report was produced the Agreement had not been completed. The permission is therefore not issued by the Council.

4.0 Principal Policies

4.1 Adopted Review Colchester Borough Local Plan
DC1 - General Development Control Criteria
UEA11 - Design
UEA13 - Development including extensions adjoining existing or proposed residential property.

4.2 Local Development Framework Core Strategy (December 2008).
H2 - Housing Density
UR2 - Built design and character
PR1 - Open Space
TA2 - Walking and Cycling
TA5 - Parking

5.0 Consultations

5.1 The Highway Authority has no objection to the proposal, subject to the imposition of conditions that would relate to a scheme to encourage bus travel, details of bicycle/motorcycle parking and provision of footpath works.

5.2 The Council's Spatial Policy Team comments as follows:-

"This application appears to relate to amendments to accommodate the redesign of Blocks A and B, which were withdrawn prior to the determination of application 090498 for 4 other blocks, and which was delegated for approval subject to the completion of a Section 106 Agreement. The revisions raise no substantive new issues of a policy nature. If planning permission is granted for this development, it is recommended that occupancy is tied to student accommodation. Consideration should be given towards a planning contribution in line with adopted SPD."

5.3 The Council's Landscape Planning Officer would require the imposition of conditions on the grant of any planning permission.

5.4 The Environment Agency requires the imposition of a condition to secure a scheme for the implementation of water, energy and resource efficiency measures.

6.0 Representations

6.1 As a result of neighbour notification, 7 letters of objection have been received. The comments may be summarised as follows:-

1. The proposal will give rise to further parking in the surrounding roads and associated traffic problems as there will be inadequate facilities provided on site. It would not be possible to stop occupiers bringing cars to Colchester, even if parking on site were to be controlled.
2. The provision of the development would be overpowering and create a loss of privacy and light for occupiers of dwellings in Pickford Walk. Furthermore, this development, in combination with the previous submission, will create unacceptable noise nuisance. The difference in land levels between the application site and Pickford Walk should be properly appreciated.

6.2 One letter has been received that identifies the need for secure cycle parking and provision of cycle routes, were permission to be granted.

6.3 Letters of objection have been received from the MP for Colchester, Mr Russell, and also Ward Councillors for St Andrews. These representations are produced as appendices to this report. Responses to these representations made on behalf of the developers are also included as appendices.

7.0 Report

7.1 In considering this current application, it is necessary to briefly summarise the planning situation in relation to this site. The blocks identified as A and B were originally part of the development proposed under the first application submission, (Ref: 090498). However, this aspect of the development was withdrawn from the application finally approved by Members. This followed initial consideration of the proposal in its entirety by Committee (i.e. for Blocks A to F) when the application was deferred in order that the following issue, inter alia, could be reconsidered:

"The proximity of Blocks A and B with properties in Pickford Walk, including siting, reduction in heights, lowering of slab levels, infilling between existing blocks and proposed blocks along the south east boundary to remove the need for new blocks adjacent to Pickford Walk."

7.2 Clearly therefore Members were concerned about the potential impact of the proposed accommodation blocks A and B on the amenity of the occupiers of houses in Pickford Walk. On this basis the developer withdrew Blocks A and B from the proposals in order that further consideration could be given to Members' concerns.

7.3 This current submission is the developer's response to Members' concerns. To this end, the key changes with regard to impact on Pickford Walk dwellings are summarised below - this information is taken from the developers' addendum to the Design and Access Statement, submitted as part of this current planning application:-

"The two blocks have been redesigned to take into account the comments made at planning stage. The amendments made are as follows:-

Site Layout

The road design has been realigned to create more space between Blocks A and B and the neighbouring houses on Pickford Walk.

Block A

- The building has been rotated to follow the new road alignment. This has significantly improved the distance between this block and properties No. 48, 46 and 44 as can be seen on the proposed site plan drawing no 01 and the site sections drawing no 08.*
- Furthermore, it is proposed to hand the entrance to that shown on the previously submitted scheme. This enables the entrance to the Block to be a significantly lower level to that shown on the previous scheme.*

Block B

- The building has been rotated to follow the new road alignment. This has improved the distance between this block and properties nos 38, 40 and 42.*
- The block and been redesigned as split level taking advantage of the natural sloping topography. This significantly helps in reducing the overall mass of the block and break down the monolithic appearance.*

Materials and Massing

The materials are in keeping with those shown on the previous application with brick and render at ground and first floor and cladding at second floor. The roof finish will be a single ply membrane with standing seams. The massing of the blocks follows the principles set out in the previous application."

- 7.4 Members will note the changes are illustrated on the currently submitted plans. The key elements are the realignment of the internal road (to enable relocation of the blocks, further away from the nearest properties in Pickford Walk) and revisions to the building design to reflect the topography of the site. As a planning judgement it is considered that the position of the proposed accommodation blocks in relation to the dwellings in Pickford Walk would not be of such detrimental impact to support a refusal of the proposal on this basis. The plans illustrate that there would, at the closest point, be a distance of 15 metres between properties (existing and proposed) which exceeds distances found elsewhere in new residential areas, build under Essex Design Guide Standards. The Guide identifies a 10 metre spacing in order to afford proper penetration of daylight etc. This scheme comfortably exceeds this level at its nearest point. The fact that the proposed blocks are designed in order to drop to a two-storey height where they face Pickford Walk would further mitigate their overall impact on these properties.
- 7.5 A second significant issue is that of parking provision on the site. This current scheme would result in the loss of a further 7 spaces, therefore reducing the overall number to 30 spaces (including 4 disabled spaces).
- 7.6 Members will also be aware that the Council has recently adopted new minimum parking standards. However, this application was submitted prior to the formal adoption. Notwithstanding this situation, the applicable standard requires that 1 space should be provided per full time equivalent staff plus 1 space per 5 students.
- 7.7 The total number of bedrooms that would be created by the previous scheme (090498) and this current proposal would total 102. Therefore the development in its entirety would generate a need for 21 spaces (i.e. 102 divided by 5) as a rounded up figure. 30 spaces in total are offered as part of the overall development proposals for the Avon Way site. Additionally, it is noted that the particular tenancy agreement that the developer has with occupiers '...actively discourages...' students from bringing their own cars. Furthermore, the provision of bus tickets and cycle/footpath links would help to encourage other modes of transport to access the Essex University campus. Notwithstanding the above, it is fully appreciated that the issue of problems created by on-street parking in the vicinity of the application site have given rise to strong objections being made by respondents and Ward Councillors.
- 7.8 In summary, the revised scheme that is put forward for consideration by Members is considered to be a reasonable attempt to address Members' previous concerns about the potential impact of the development on the amenity of neighbouring dwellings in Pickford Walk. Additionally, it is considered that the provision of parking facilities in this case is reasonable given the occupancy restriction that would be applicable and also that other modes of transport are encouraged i.e. cycle/pedestrian links and a period of free bus travel (recommended condition no. 18).

8.0 Background Papers

- 8.1 ARC; Core Strategy; HA; PP; TL; NR; NLR; Ward Councillors, MP; 090498

Recommendation

- (A) That the application is deferred in order that a Section 106 Agreement may be secured, which includes the following elements:-
- The pedestrian/cycle links from the site to the cycle and footpath network at the south of the site.
- (B) Upon satisfactory completion of the agreement as described above, the Head of Environmental and Protective Services be authorised to issue a planning permission for the submitted development, subject to the following conditions:-

Conditions

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

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

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

2 - B6.6 Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

3 - B6.8 Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

4 - B6.9 Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

5 - B6.10 Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 2, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 3, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

6 - B6.13 Validation Certificate

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 5 above.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with Policy P1 of the adopted Local Plan March 2004.

7 -B7.3 Programme to be Agreed

No demolition whatsoever shall take place until such time as a programme has been submitted to, and agreed in writing by the Local Planning Authority stipulating the extent and timing of such operations.

Reason: In order to safeguard amenity in this location.

8 - B7.4 Fencing Around Site

Neither demolition nor any other site works shall commence until the frontage of the site has been enclosed by a continuous solid fence in accordance with details to be agreed in writing by the Local Planning Authority. Such fencing shall remain in place until clearance/building works have been completed.

Reason: To protect the amenities of the locality.

9 - B9.1 Refuse Bins

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

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

10 - B9.2 Recycling Facilities

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

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

11 - C3.1 Materials (general)

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

Reason: To ensure a satisfactory appearance in the interests of visual amenity.

12 - C3.21 Hard Surfacing

Prior to the commencement of the development hereby permitted details of all materials to be used for hard surfaced areas within the site including [roads/driveways/car parking areas/courtyards/etc] shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: In the interests of visual amenity and to provide a satisfactory form of development.

13 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals. Implementation timetables.

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

14 - C11.12 Landscape Works Implementation

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

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

15 - C11.17 Landscape Management Plan

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

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

16 - C12.2 Details of Walls or Fences

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

Reason: In the interests of visual amenity and to provide a satisfactory form of development.

17 - Non-Standard Condition

The occupation of the buildings hereby approved shall be limited solely to persons attending the University of Essex as students.

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

18 - Non-Standard Condition

The Developer shall be responsible for the provision and implementation of a Transport Information and Marketing Scheme for sustainable transport, approved by the Local Planning Authority, to include vouchers for 12 months free bus travel within the inner zone for each eligible member of every new bedroom, valid for exchange during the first 6 months following occupation of the individual dwellings. Details of the uptake of the vouchers shall be provided to the Essex County Council's Travel Plan Team on a 6 monthly basis.

Reason: In the interests of promoting sustainable development and transport in accordance with Policy No. 4 in Appendix G to the Local Transport Plan 2006/20112 as refreshed by Cabinet Member decision dated 19 October 2007.

19 - Non-Standard Condition

Prior to commencement of the proposed development, details of the provision for parking of powered two wheelers and bicycles, of a design which shall be approved in writing with the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To promote the use of sustainable means of transport with EPOA Vehicle parking Standards and Policy No. 4 in Appendix G to the Local Transport Plan 2006/20112 as refreshed by Cabinet Member decision dated 19 October 2007.

20 - Non-Standard Condition

Prior to commencement of development details of the provision of two suitable cycleway/footway links to the existing network south of the site shall be approved in writing with the Local Planning Authority and prior to occupation of the development these links shall be provided within the site and shall be maintained free from obstruction at all times for that purpose.

Reason: To promote the use of sustainable means of transport with EPOA Vehicle parking Standards and Policy No. 4 in Appendix G to the Local Transport Plan 2006/20112 as refreshed by Cabinet Member decision dated 19 October 2007.

21 - Non-Standard Condition

Prior to the commencement of development a scheme for the provision and implementation of water, energy and resource efficiency measures, during the construction and occupational phases of the development shall be submitted to and agreed, in writing, with the Local Planning Authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the construction and occupancy of the development. The scheme shall be constructed and the measures provided and made available for use in accordance with such timetables as may be agreed.

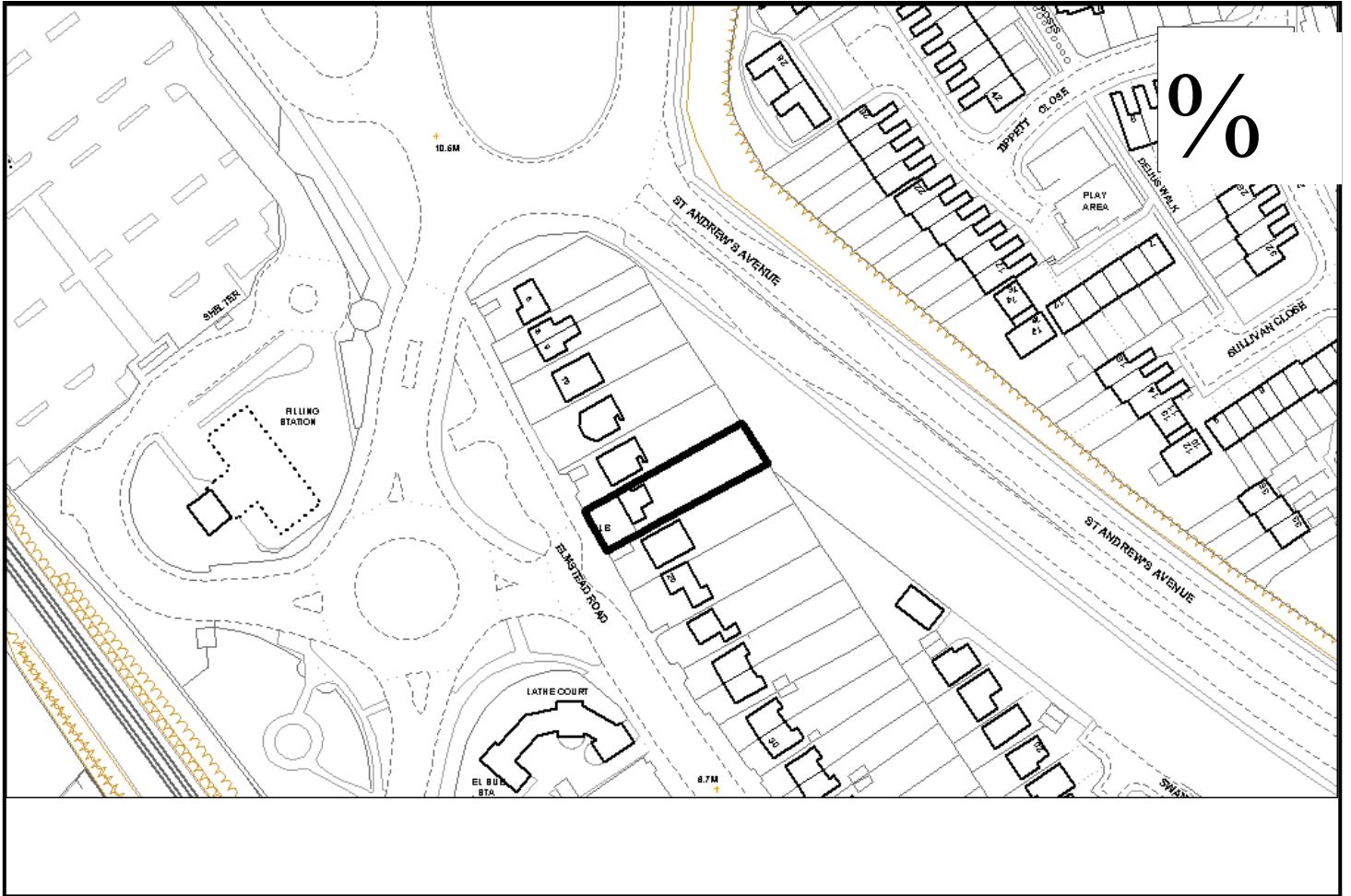
Reason: To enhance the sustainability of the development through better use of water, energy and materials.

Informatives

It should be borne in mind that, unless otherwise stated, the base for Conditions 18-20 is Policy 1.1 in Appendix G to the Local Transport Plan, 2006/2011 as refreshed by Cabinet Members decision dated 19 October 2007.

All works affecting the highway shall be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made initially by phone on 01206 838696 or by email on www.highways.eastarea@essex.gov.uk.

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



Application No: 100433

Location: 16 Elmstead Road, Colchester, CO4 3AA

Scale (approx): 1:1250

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Site: 16 Elmstead Road, Colchester, CO4 3AA

Application No: 100433

Date Received: 8 March 2010

Agent: Stephen Egerton Associates

Applicant: Triland Ltd

Development: Conversion of existing house, and erection of two storey rear extension to form eight bedsits. Erection of cycle and bin store, and new boundary fences.

Ward: St Andrews

Summary of Recommendation: Conditional Approval with Unilateral Undertaking

1.0 Planning Report Introduction

- 1.1 The proposal is for the conversion of this existing two storey detached, three bedroom dwellinghouse at 16 Elmstead Road, together with a two storey rear extension, to form eight bedsits. The plans show the formation of 4 'Flats' on the ground floor and 4 'Flats' on the first floor. Each of these units has a small kitchen area and shower/toilet.
- 1.2 4 of the units will be provided within the existing building and the remainder within the proposed two storey rear extension.
- 1.3 The existing building has a floor area of 112sq. m. The extension will add a further 120.8 sq.m, thereby giving a total floor area of 232.80 sq.m.
- 1.4 The rear extension takes the form of a gabled range, with the ridge mimicking the existing, and a 'double-piled' rear wing. The extension has a total depth of 7.6m and an overall width of 7.94m. The external materials are to match the existing (facing bricks and slate roof, artificial stone lintels and timber windows).
- 1.5 The application proposes the retention of the existing one car parking space, to be allocated for disabled use. Cycle parking for 8 spaces is to be provided in an enclosed secure out-building.
- 1.6 The application includes the required Unilateral Undertaking in respect of contributions towards the provision of Open Space and Community Facilities.

2.0 Site Description

- 2.1 The existing building at 16 Elmstead Road is located within a cul-de-sac at the north-western extremity of Elmstead Road. The property was built in 1910 and consists of a narrow span, gable end main range facing onto Elmstead Road. At the rear is a two storey wing, inset from the north-west and south east elevations of the main part of the building. There is a small single-storey lean-to building on the north-west elevation of the rear wing.
- 2.2 The building is of brick construction, with stone lintels, and roofed in slates.
- 2.3 The property and the neighbouring dwellings sit on an elevated position relative to Elmstead Road. Number 14 Elmstead Road is set at a lower ground level than No.16, whilst No.18 is at the same level as No.16 Elmstead Road.
- 2.4 The area is of mixed character in terms of the type of dwelling (i.e. two storey, chalet bungalows and bungalows), their design and ages.
- 2.5 Number 14 Elmstead Road is a chalet bungalow, with flat roof dormers on the north-west and south-east facing roof slopes. No. 16 is also a chalet bungalow with a dormer within the roof slope facing onto the site.
- 2.6 There are other dwellings to the south. To the west is a large Tesco store.

3.0 Land Use Allocation

- 3.1 Residential

4.0 Relevant Planning History

- 4.1 F/COL/06/1328 – Conversion of existing house to form two apartments and single storey rear extension to form third apartment, alterations to front entrance to form three parking spaces. Refused 02/10/2006. Dismissed on appeal 20/08/2007.
- 4.2 F/COL/06/1783 – Conversion of existing house to form two apartments and single storey rear extension to form kitchen, re-build ground floor bathroom, alterations to front entrance to form parking area. Approved 01/03/2007

5.0 Principal Policies

- 5.1 Adopted Borough Local Plan
DC1 - Development Control Considerations - Design
UEA13 - Development adjacent to existing dwellings
UEA11 – Design
- 5.2 Core Strategy
UR2 - Built Design and Character
TA2 – Walking & Cycling
TA5 – Parking

6.0 Consultations

6.1 The Highway Authority comments as follows:-

“The Highway Authority would not wish to raise an objection to the above application. Whilst it is noted that the proposal does not comply with the current parking standards, the site is in walking distance of a railway station and major bus routes, and has immediate access to food and home wares shopping facilities.

Further to the above, the proximity to the University would suggest that the occupants of the bedsits are more likely to be students who are less likely to own cars”.

7.0 Representations

7.1 Letters of objection have been received from the occupiers of Nos.12,14 and 18 Elmstead Road. Whilst their objections can be viewed on the Council website, the objections are summarised as follows:-

- This is a commercial venture, out of character with the residential nature of the area. The 1920/30's built house should remain as a private dwelling.
- Insufficient parking to cater for eight bedsits. During weekdays and during term times the cul-de-sac is full of cars. Unregulated spaces are occupied by car owning University students who do not want to pay University car parking charges.
- Potential increase in noise and disturbance.
- Extension is too large and will affect the outlook from the first floor windows in No.14 Elmstead Road as well having an adverse impact upon the garden of this adjoining dwelling. Overlooking of the rear garden of No.18 Elmstead Road.
- No clear responsibility for the upkeep of the site. Occupiers of the bedsits are likely to neglect the proposed bins and waste area resulting in health and hygiene issues as well as being unsightly.

8.0 Report

8.1 There are three main issues arising from this proposal. The first is the use of the property for multiple –occupancy; the second is the scale, design and impact of the proposed extensions; the third is the issue of on-site car parking facilities.

The use other than as a dwelling house

8.2 The principle of the conversion and associated extension of this property was accepted by the granting of planning permission F/COL/06/1873 in March 2007, although it has to be acknowledged that this conversion was only for two apartments. Notwithstanding this, the proposed use within a residential area is acceptable in planning terms and the occupancy of the accommodation is not in itself a material consideration.

8.3 The neighbours concerns as to any potential noise, together with any possible matters arising from the possible lack of maintenance of the refuse storage facilities, caused by the future occupiers are appreciated. These matters are the subject of controls under other legislation and it is not for the planning system to duplicate these other controls.

Proposed extensions

- 8.4 The proposed two storey extensions are located at the rear of this building. This factor, together with the elevated position of the site relative to the road, means that the new additions will not have any impact in terms of the street scene.
- 8.5 In terms of the scale and design of the extensions, it is accepted that they will add significantly to the existing building. However, this is mitigated by the size of the plot and in particular the depth of the rear garden (i.e. in excess of 23m) and through the design of the new building.
- 8.6 The new development can readily be accommodated within the relatively large garden area and still maintain a useable private amenity significantly greater than the Council's minimum standard of 100 sq.m.
- 8.7 The extension is composed of an assemblage of forms, in an approach advocated by the Council's adopted SPD "The Essex Design Guide". Immediately to the rear of the existing house is a parallel range duplicating the main part of the existing building. Attached to this parallel range are two rear projecting wings with gable ends and a central valley. The whole of this assemblage is inset 1400mm from the north-west facing elevation of the host building. The effect of this approach is to reduce the apparent bulk of the building and provide for an extension that is sympathetic in form to the original building.
- 8.8 In this respect the proposed extension overcomes the design objection raised to the application F/COL/06/1328. This scheme proposed a single storey rear extension 8.25m in depth in a single, unrelieved mass.
- 8.9 Whilst the extension can comfortably be accommodated within the site, it is also important that the new building does not have any adverse impact upon the amenity of the two adjoining dwellings, both of which have dormer windows and ground floor windows within their respective elevations which face onto the site. In this respect the extensions have to comply with the relevant Local Plan policy, UEA13.
- 8.10 In order for new development not to be overbearing upon the adjoining dwellings, any extensions should not infringe an imaginary line drawn from the nearest corner of the adjoining dwellings. The submitted Site Plan (Drawing No.809-01) shows the relationship of the new extensions relative to Nos.14 & 18 Elmstead Road. It is readily apparent that the extension, whilst projecting 7.9m from the rear elevation of the host building, complies with this policy requirement. It is therefore acceptable in terms of any overbearing impact.
- 8.11 It is noted that the application documents include an aerial photograph (Drawing No. DAS.Sk.01) which shows that there is a fairly well defined rear building line in the immediate vicinity of the site. The proposed rear extension has been superimposed upon this photograph to show that this extension is generally sympathetic to this building line.
- 8.12 The supporting Design & Access Statement also refers to Drawing No. DAS.SK.01 as showing that the footprint of the extended building is similar to the pair of semi-detached dwellings at Nos.6 & 8 Elmstead Road.

- 8.13 In terms of the height of the new building, the ridge line of the parallel range and the rear projecting wings are no higher than the existing building.
- 8.14 The policy UEA13 also seeks to prevent any new development from having an unacceptable impact upon daylight and sunlight to habitable rooms in adjoining dwellings. The properties 14 and 18 Elmstead both have dormer windows and ground floor windows that face onto the proposed extension. The application includes drawings that demonstrate that the proposed development complies with this aspect of the policy in terms of the impact upon rooms served by these windows.

Parking Issues

- 8.15 This matter has been raised as an issue in the submitted representations.
- 8.16 In this context the appeal decision in respect of F/COL/06/1328 is of relevance. Paragraphs 7 and 8 of this decision are reproduced as follows:-
7. The appeal proposals incorporate amended plans with different parking provision to that initially submitted to the Council. They show that the existing driveway would be used for parking. While this could accommodate 3 cars they would be a nose to tail arrangement whereby it would not be possible for two of the vehicles to exit the site without the other being moved. The scheme approved in March 2007 includes alterations to the site entrance to form a parking area in which 2 cars can readily reach the spaces provided. The appellant has suggested that the appeal proposals could be modified by condition so that this alternative arrangement would be incorporated in the scheme. Consultation has taken place on this as part of the approved development and in my view no interests would be prejudiced by such a change. However, there would still potentially be one parked car that did not have direct access to the road.
8. I consider that with 3 separate households in the extended building it is likely that occupants would choose to park on street rather than cope with the inconvenience of having to move vehicles or ask others to do so. However, the appeal site is in a cul-de-sac section of Elmstead Road. Parking is restricted at certain times of the day to vehicles with residents' permits. The Council's vehicle parking standards provide for a maximum of one space per dwelling for main urban areas and locations where access to public transport is good such as here. I note the proximity of the site to the University but with the controls in place I have seen no evidence of particular parking problems. I conclude that with the amended access the parking provision would be adequate. In this respect the proposals would concur with the objectives of the Local Plan Policies H3 and UEA13. However, I consider that the absence of harm in this regard would not outweigh my conclusions on the first main issue and that overall the proposals would conflict with the development plan. For the reasons give above and having regard to all other matters raised, I conclude that the appeal should be dismissed."
- 8.17 Members will be aware that since this appeal, the Council has adopted new parking standards. The parking standard that has been used in other recent applications for student accommodation is 1 space per 5 students (cars) and 1 space per 3 students (cycles).

- 8.18 This standard is relevant in that it is envisaged that the accommodation will be used by students attending the University and any permission should be conditioned accordingly. It would however fall well below the required standard for one bedroom flats (i.e. one space per flat, giving a total requirement of 8 spaces).
- 8.19 The proposed scheme, whilst it can comply with the appropriate cycle parking standard, only provides for 1 car parking space. It is therefore 1 space short of the required standard.
- 8.20 The adopted "Parking Standards Design and Good Practice" states that, for main urban areas a reduction to the vehicle parking standard may be considered. Main urban areas are defined as those having frequent and extensive public transport and cycling and walking links, accessing education, healthcare, food shopping and employment. In this respect it is noted that the Highway Authority have referred to the close proximity to the railway station at the Hythe, good public transport links and the nearby superstore. This is also reflected in the aforementioned appeal decision.
- 8.21 Whilst the concerns of the adjoining occupiers are appreciated, it is considered that a restricted planning permission would be appropriate having regard to the location of the site and its proximity to local facilities.

9.0 Background Papers

9.1 ARC; Core Strategy; HA; NLR

Recommendation

The application be deferred and delegated authority be given to the Head of Environmental and Protective Services to approve the development upon the satisfactory completion of the unilateral undertaking in respect of the contributions towards the provision of Open Space and Community Facilities, and subject to the following conditions.

Conditions

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

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

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

2 - C3.2 Materials as Stated in Application

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

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

3 - A7.11 No New Windows

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed in the flank walls of the building hereby approved.

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

4 - Non-Standard Condition

The car parking and cycle parking facilities shall be provided in accordance with the approved development prior to the occupation of the building and thereby retained as such in perpetuity to serve the development.

Reason: For the avoidance of doubt as to the scope of this permission whereby the reduction in on-site car parking facilities to serve the development has been approved having regard to the restricted occupancy of the accommodation and its location relative to existing public transport and other facilities.

5 - Non-Standard Condition

The occupation of the buildings hereby approved shall be limited solely to persons attending the University of Essex as students.

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



Application No: 100752
Location: 449 Ipswich Road, Colchester, CO4 0HF
Scale (approx): 1:1250

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7.4 Case Officer: Simon Osborn

EXPIRY DATE: 15/06/2010

MINOR

Site: 449 Ipswich Road, Colchester, CO4 0HF

Application No: 100752

Date Received: 20 April 2010

Agent: David Webber Partnership

Applicant: Millenium Investments 2000 Ltd

Development: Application for variation of Condition 7 of application 090150 to remove TPO tree fronting Evergreen Drive

Ward: St Johns

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 The application is brought to Committee as it has been “called-in” by Cllrs Ray Gamble and Paul Smith on the basis that the proposal is detrimental to the amenity of local residents. Representations have also been received from local residents to the removal of the tree. The Tree Officer has confirmed that the tree should not be a constraint upon development. It is therefore recommended that the application is approved.

2.0 Site Description

2.1 The application site relates to a long rectangular parcel of land with frontages onto both Ipswich Road and Evergreen Drive. Two sycamore trees close to the Evergreen Drive frontage have been retained as part of planning permission 090150 for 8 dwellings. Works to implement this planning permission have commenced.

3.0 Proposal

3.1 Condition 7 of 090150 stated: “All existing trees and hedgerows shall be retained, unless shown to be removed on the approved drawing. All trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its guidance notes and the relevant British Standard. All existing trees shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that any trees and/or hedgerows (or their replacements) die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998”.

3.2 The application seeks the removal of one of the two sycamore trees on the Evergreen Drive frontage.

4.0 Land Use Allocation

4.1 The site is allocated in the Local Plan as predominantly residential.

4.2 The two sycamore trees are subject to TPO 35/01.

5.0 Relevant Planning History

5.1 The site has an extensive planning history with a series of proposals for residential development of the site. The most relevant application in this instance is:

090150: Erection of 8 dwellings with associated access drives and parking, approved with conditions 12.05.2009.

5.2 Application 100809 has recently been submitted, which seeks the relocation of the approved dwelling on plot 8 by approx 3m. This application is still under consideration.

6.0 Principal Policies

6.1 Adopted Review Colchester Borough Local Plan Saved Policies-March 2004
DC1- Development Control considerations
CO4 – Landscape Features

7.0 Consultations

7.1 The Council's Tree Officer comments as follows:-

"I am in agreement with the arguments presented regarding the removal of the Sycamore at 449 Ipswich Road. This tree would be categorised as C from the guidance provided in BS5837:2005 and therefore should not be used to constrain the development process.

Whilst it is a relatively large tree the loss can be mitigated by provision of replacement trees as suggested. The removal of this tree would allow for the planting of a more suitable species in keeping with those within the local area such as the Sweet Chestnut suggested.

Conclusion

In conclusion, I am satisfied with the arboricultural content of the proposal subject to the above."

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

8.0 Representations

- 8.1 Cllrs Gamble and Smith have both objected to the proposal on the basis that it was part of the original application for housing and its removal will be detrimental to the amenity of nearby residents.
- 8.2 Objections have also been received from 6 local residents on the following grounds:
1. The land was purchased by the developer with the TPO in place and if it is now in poor condition it is due to neglect.
 2. Other trees and hedges on the site have been removed – this tree adds to the character of the area and helps soften the impact of the development seen from outside the site.
 3. The trees were part of a medieval woodland and should be retained for their historic benefit and their benefit to birds and insects.
 4. No point in having Preservation Orders if they can be removed.
 5. If the tree is removed a new one should be put in the same place, not somewhere else, just so the private amenity area of plot 8 can be made larger.

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

9.0 Report

- 9.1 Planning permission was granted in 2009 for the development of 8 dwellings on this parcel of land. The proposal removed a poor quality oak tree, but retained two sycamore trees, which are protected by a Tree Preservation Order. A report from the Land & Sculpture Design partnership, in support of the application puts forward the following reasons for the removal of the tree:
- TPO T3 (the sycamore tree to be retained) provides the main amenity value to the adjacent public highway and the surrounding properties. The removal of T2 (the sycamore proposed to be removed) will not have a significant adverse effect on amenity and will provide additional space for T3.
 - A replacement tree (sweet chestnut) is proposed on the Ipswich Road frontage; this is in a more prominent location, is a longer-lived species, and will be viewed by more people.
 - Sycamore is prone to honeydew, and this is likely to be a particular nuisance as the tree is overhanging the parking area for the proposed dwelling.
 - The approved site layout shows construction works within the root protection of T2, which requires specialist construction methods. In my professional opinion the tree is 'C' category according to BS 5837 and therefore should not form a constraint to development.
 - Retention of this tree is further constraining the proposed development by compromising the space available for the rear garden area of plot 8 (Planning application 100809 has been submitted in this regard and is currently under consideration).

9.2 The 'C' category is considered appropriate by the professional for the following reasons:

- Referring to BS 5837 subcategory 1: T2 is not a particularly good example of the species, it is not rare or unusual, it is not an essential component of a group, or a formal or semi-formal arboricultural feature. 'B' category trees are described as those that might be included in the preceding description, but are downgraded because of impaired condition.
- Referring to BS 5837 subcategory 2: The tree is one of a pair – i.e. part of a group, but does not confer a significantly greater landscape value, and it offers only low screening benefit, because it is located 'behind' the other tree.

9.3 A 'C' category is generally categorised as a tree of low quality and value, which should not constrain a development.

9.4 The Council's Tree Officer has confirmed that a 'C' category designation is appropriate to the tree now proposed for removal and is of the opinion that a replacement tree on the Ipswich Road frontage is acceptable.

10.0 Conclusions

10.1 The tree proposed for removal is not of sufficient quality to act as a constraint upon the development process. Whilst it is a relatively large tree its loss can be mitigated by the provision of the replacement tree suggested. The application is recommended for approval.

11.0 Background Papers

11.1 ARC; Core Strategy; TL; NLR

Recommendation - Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

This permission varies Condition 7 of application 090150 in that one of the two sycamore trees fronting Evergreen Drive may be removed as specified on the approved drawing no. 07:510:508. All other terms and conditions of planning permission 090150 otherwise remain applicable, in force and extant.

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

3 - Non-Standard Condition

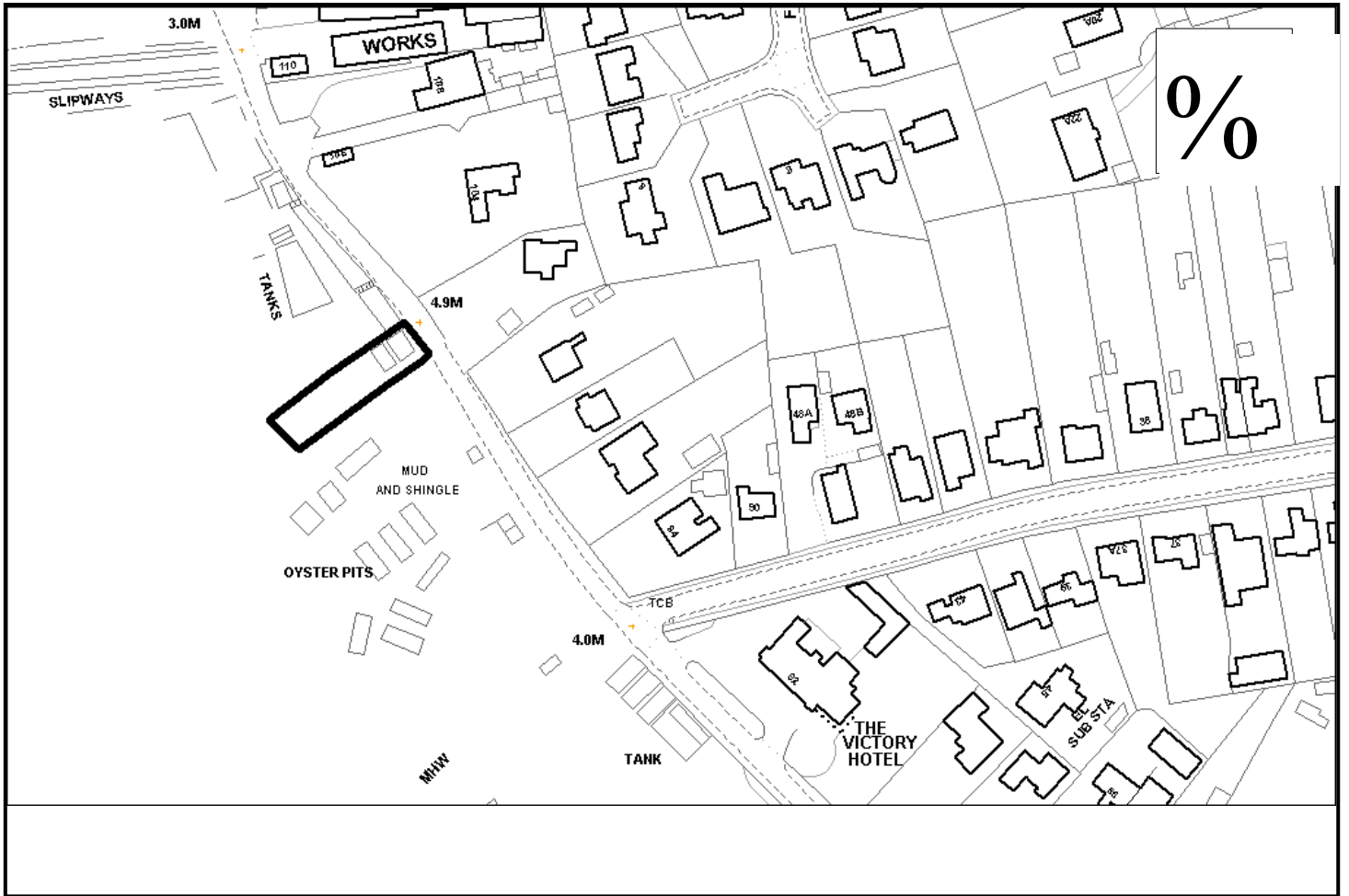
A replacement tree shall be planted on the Ipswich Road frontage as shown on drawing no. LSDP 10595.01 Rev B in the first planting season following this permission.

Reason: In the interest of local visual amenity.

Informatives

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

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



Application Nos: 072523 & 072522

Location: The Old Oyster Sheds, Coast Road, West Mersea, Colchester, CO5 8PA

Scale (approx): 1:1250

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7.5 Case Officer: David Whybrow

OTHER

Site: The Old Oyster Sheds, Coast Road, West Mersea, Colchester, CO5 8PA

Application No: 072523

Date Received: 5 October 2007

Agent: Mr Simon Plater

Applicant: Lay & Wheeler Group Limited

Development: Renewal of existing approval C/COL/01/0526. Take down the existing building, refurbish and renovate timber frame walls and roof, re-erect walls and extend shed for use as a private oyster tasting and luncheon/dining suite.

Ward: West Mersea

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

7.6 Case Officer: David Whybrow

OTHER

Site: The Old Oyster Sheds, Coast Road, West Mersea, Colchester, CO5 8PA

Application No: 072522

Date Received: 5 October 2007

Agent: Mr Simon Plater

Applicant: Lay & Wheeler Group Limited

Development: Renewal of existing approval C/COL/01/0526 Take down the existing building, refurbish and renovate timber frame walls and roof, re-erect walls and extend shed for use as a private oyster tasting and luncheon/dining suite.

Ward: West Mersea

Summary of Recommendation: Conservation Area Consent subject to signign of a Section 106 Agreement

1.0 Introduction

- 1.1 These applications were deferred at the meeting on 29 April in order that further consultation could be carried out with the Marine Management Organisation, MMO.
- 1.2 This report provides (in bold print) the comments made by MMO and takes the opportunity to incorporate matters raised by the previous Amendment sheet including the views of the Environment Policy Team.
- 1.3 A complete up to date summary of all representations received ahs also been provided in order to capture later representations received in respect of these long-running applications.
- 1.4 The previous report is set out below

2.0 Planning Report Introduction

- 2.1 These applications for Planning Approval and Conservation Area Consent submitted in February 2007 propose the refurbishment/renovation and extension to existing sheds to use as a private oyster tasting and luncheon/dining suite. It seeks to renew earlier planning approval C/COL/01/0526 which was granted in October 2002 and expired in October 2007.
- 2.2 That application attracted a large number of representations, both for an against the proposal, and this application has similarly generated many letters.
- 2.3 The applications were accompanied by a Design and Access Statement and supporting statement which may be inspected on the Council's website. More recently, in February 2010, a flood risk assessment, sequential test and an economic assessment based on the requirements of PPS4 - Planning for Sustainable Economic Development - have also been submitted. They too may be viewed on the web-site.

3.0 Site Description

- 3.1 The application relates to a building described as 'The Old Oyster Sheds' on the seaward side of Coast Road, West Mersea. It was built in the early 1900s and used by the oyster fishery until the 1960s. The current lawful use is as a beach hut.
- 3.2 The building was originally 2 separate structures, which are now linked. The building has a black plinth and white boarded elevations under a double pitched roof. The rear building has a plain tiled roof - the front roof is covered with diamond shaped tiles. The building has a small balcony on the seaward side. There is a small hardsurfaced area to the side of the building. The application site includes an area of foreshore at the rear of the building.
- 3.3 The sheds are of timber construction. Information submitted with the application demonstrates they are structurally substandard with foundations seriously affected by sea action and foreshore erosion.

4.0 Description of Proposal

- 4.1 The supporting statement submitted with the application described the history of the applicant company, Lay and Wheeler, their intentions to provide a very specific, bespoke offer of corporate and private events based on ticket applications, the design details and policy considerations.
- 4.2 In respect of the proposed use it is indicated that the oyster room will be available for groups of 10-48 people although it is anticipated that demand will mainly be for parties of 20-30 people. It will be used on various days of the weeks, mainly during daylight hours. The busiest period for oysters are the winter months, especially October, November, February and March when the shellfish are at their best but local tourism is very quiet.
- 4.3 The average number of visitors per week is expected to be 100 over a number of sessions. Groups will be transported by coach or mini-bus and not travel by car. The intention is to provide a unique attraction where people can enjoy the very finest Mersea oysters and fish.
- 4.4 The main features of the refurbishment scheme are:-
- a) Retains timber floor, 2 side walls and front wall, all to be strengthened and renovated with steel columns used to straighten the floor.
 - b) The existing dwarf wall forming foundations of the front section will be retained and refurbished.
 - c) The existing roof will be retained and added to so as to comprise 2 elements - the main pitched roof and glazed lantern.
 - d) The floor plan will be 1.2m longer, plus a veranda, giving a 27% increase in floor area but no increase in width.
 - e) The new gable end wall and return walls will be predominantly glazed. Removable/sliding shutters will cover these glazed areas when the building is not in use.
 - f) A tan coloured roof sheeting will be used and all weatherboarding will be in a cream colour wash.

5.0 Land Use Allocation

- 5.1 Conservation Area
- 5.2 Part of the site is within the Coastal Protection Belt and Site of Special Scientific Interest/Special Protection Area/Special Area of Conservation/Ramsar Site.

6.0 Relevant Planning History

- 6.1 COL/87/1303 - Restoration of derelict hardstanding – Retrospective application refused planning permission but enforcement action not pursued.
- 6.2 ENF/27/92 - In 1994 and Enforcement Appeal relating to the use of the building as a residential dwelling was dismissed.

- 6.3 CL/COL/95/0351 - A Certification of Lawful Development relating to the use of the premises for recreational and leisure purposes by the applicant and his immediate family was subsequently granted.
- 6.4 C/COL/01/0526 - Take down building, refurbish and renovate timber frame walls and roof, re-erect walls and extend shed for use as a private oyster tasting and luncheon/dining suite - Approved 10 October 2002.

7.0 Principal Policies

- 7.1 Adopted Review Colchester Borough Local Plan
DC1 - Development Control considerations
CE2 - Risk of flooding
CE10 - West Mersea
CO3 - Countryside Conservation Areas
CO5 - Habitats
UEA1 - Character of Conservation Areas
UEA2 - Building within Conservation Areas
UEA3 - Demolitions within Conservation Areas
UEA12 - Design
P1 - Pollution
L18 - Tourist and visitor facilities
- 7.2 Adopted Core Strategy
UR2 - Built design and character
CE1 & 2 - Centres Classification of Hierarchy, Mixed Use and District Centres.

8.0 Consultations

- 8.1 Environmental Control recommend conditions be attached to any consent granted covering restrictions of hours of use, delivery times, noise levels/sound insulation, controls over kitchen fumes and odours and construction works.
- 8.2 Natural England (English Nature) raise no objections but recommend conditions to be imposed on any planning permission.
- 8.3 The Highway Authority recommend approval with conditions relating to vehicle site splays, cycle parking and provision of new section of footway.
- 8.4 The Environment Agency did not raise objections in the previous case but identify the use as "less vulnerable" development within Flood Zone 3, a high risk zone, where, in accordance with PPS25 - Development and Flood Risk - a flood risk assessment (FRA) must be prepared. A FRA, including a sequential test assessment of potential alternative sites was produced in February 2010, eliciting confirmation that the Environment Agency would not object on flood risk grounds.

8.5 For Members' information the FRA concludes that the greatest impact on flooding at the site would be an interruption of business rather than a risk to people. It is acknowledged that the predicted flood depths would be unsafe for people to enter the building, however it is considered unlikely that people would remain in, or attempt to enter during flood events and the risk to people is accordingly low. The principles of water entry design are to be incorporated into the building to afford easy and speedy renovation after an event and mitigate any cost of such renovation. The applicants would subscribe to the Environment Agency's Flood Warning Scheme, an emergency flood/evacuation plan has been prepared and a Business Flood Plan has also been initiated.

9.0 Town Council's Views

9.1 West Mersea Town Council recommend refusal for the following reasons:-

- “1. The use of the building as a luncheon/dining suite is likely to result in additional noise and cooking smells in this conservation area, and will seriously affect the amenity of residents in the area.
2. The number of times the proposed building will be used is unclear, and open to abuse by the owners.
3. The building is on a flood plain and we would request the Planning Authority confirm with the Environment Agency the data given in the application viz. the floor level of the Oyster Sheds being 4.53m above OS Newlyn.
4. Coast Road is a very narrow road at this point and already suffers from vehicles causing obstruction when parked legitimately in the area. The road is known and acknowledged to be unsuitable for coaches and long vehicles as evidenced by the signage on the approach to the Oyster Sheds.

Vehicles delivering to the premises will be unable to use the slipway to the side of the Oyster Sheds without causing considerable obstruction when manoeuvring to and from the premises, and this is likely to risk a collision with oncoming traffic given the nature of the road in that area. There is no other parking facility for deliveries close enough to the property.

The applicant has already stated the intention that clients will be walking to and from the Sheds, having been 'busses' to suitable parking places. It is inevitable that there will always be people not willing to use the buses particularly in bad weather, and are likely to use their cars, thus causing further parking difficulties. The people walking from the premises, having indulged in wine drinking will then be expected to walk to the vehicles provided. It is quite likely that one or more people will be the 'worst for wear' from the effects of this drinking, and will run the risk of being hit by traffic even though there is a short length of footpath near the premises.

It is our belief that no matter what conditions are put upon the applicants to ensure people are carried to and from the premises to alleviate these traffic problems, it will be impossible to 'police' and enforce these conditions and we strongly recommend this application is refused. “

10.0 Representations

10.1 Letters of objection have been received from Coast Road Association, Mersea Island Society and 8 residents in the locality. Copies of all letters received may be viewed on the web-site but the following is a summary of the views expressed:-

1. The proposal is for a bigger, higher building, out of keeping with the character of the Conservation Area and not enhancing the Area of Special Character. Extra glazing will result in an "alien, plate glassed encroachment on the waterfront".
2. Will exacerbate existing traffic hazards and dangers to pedestrians where the road is narrow and lacks footpaths. The road is unsuitable for further traffic, including staff and delivery vehicles and applicants will not be able to prevent customers arriving by car.
3. Loss of residential amenity due to increased traffic activity, noise, smell, loss of view and possible light pollution.
4. Loss of part of boatyard for parking could be beginning of process leading to running down of Mersea as a boating centre.
5. Building has deteriorated to extent that this will no longer be a refurbishment, but a rebuilding project.
6. As well as Natural England and Environment Agency consent, other approvals may be necessary from Marine and Fisheries Agency for works on foreshore?

10.2 3 letters of support have been received, making the following observations:-

1. It is a shame to see sheds declining. This project will provide employment and revenue and give a much needed addition to the amenities on the Island.
2. Left unattended the building will continue to be a deteriorating eyesore. Any commercial use will give rise to the same sort of objections but this will increase the opportunities for local employment, supply of goods and services.
3. The continued enhancement and use of local infrastructure is critical to the wellbeing of the majority of Mersea residents and visitors to the Island.
4. One cannot have enough tasteful locations to visit and having the opportunity to combine this with keeping a part of history alive. It is obvious that this location attracts many more people to this place who want to enjoy the tranquil atmosphere of sea and boats and have the desire to sit and eat.

11.0 Report

11.1 The previous application was considered in terms of its effect on residential amenity, local plan policy, impact on Conservation Area and Area of Special Character, highways implications, impact on SSSI and SINC and Flooding.

- 11.2 As regards residential amenity it was noted that the area contains not only dwellings, but the Victory Public House, commercial boat yards, restaurant and Yacht Club. It was considered that the very specific dining use proposed, as opposed to a general A3 use, would not be likely to detract from residential amenity. Similar conclusions were drawn in respect of Local Plan policy insofar as the particular use, primarily serving sea food, would promote the oyster and fishing industries while maintaining the physical qualities of the Conservation Area and waterside area. It was considered that the proposed changes to the building "sit comfortably in the Conservation Area" as concluded by the then Conservation and Design Manager. Moreover Natural England raised no objections in respect of impact on SSSI or SINC.
- 11.3 The Highway Authority confirmed that the proposals were consistent with policies promoting communal transport and green travel plans. The Environment Agency raised no objection subject to the floor level being set above a 1 in 200 year flood level.
- 11.4 In the light of the generally favourable responses by the professional consultees, it is considered that the renewal of this consent is justified so long as the use is tightly prescribed in the legal agreement and conditions, as in the previous case.

12.0 Summary

- 12.1 Although these applications have given rise to a number of letters of objection, the renewal of planning permission based on the specific dining experience proposed, reinforced by appropriate conditions and legal agreement is not considered objectionable and has not attracted concern by the main statutory consultees.

13.0 Background Papers

- 13.1 ARC; Core Strategy; HH; NE; HA; NR; PTC; NLR

14.0 Further Report

- 14.1 **The MMO are a relatively new body who have planning jurisdiction over any land up to a high water mark, HMW. Their powers overlap with the Borough Councils which extend to LMW. They have provided the following observations:-**

"I have been contacted by the applicants regarding an application they will shortly be submitting to the Marine Management Organisation (MMO) for a FEPA Licence to deposit articles below Mean High Water Spring (MHWS) during construction of oyster sheds at West Mersea.

Once we have received his application we will go out to consultation and give our consultees (we will consult you) a statutory 28 day period to respond. Once this period is over, if there are no concerns raised we will be able to issue a Licence for the deposit. A colleague of mine has also informed them that if there are any concerns regarding navigational issues he may need to apply for CPA consent.

I have been informed that you have pulled the planning applications until all Licenses etc from the MMO have been received. This is not something we normally request and does not usually happen. Generally we ask Local Planning Authorities to make the applicants aware that they cannot start work and deposit anything below MHWS or do any activities that may need CPA Consent before they have received all Consents from us”

14.2 These comments demonstrate that FEPA licensing process is separate from the present planning process and it is clear that these applications can now be determined, independent of this procedure.

14.3 **NOTE FOR MEMBERS:** Previous planning application COL/01/0526 was subject to a Section 106 Agreement requiring the following:-

- To only use the premises for the purposes permitted by the planning permission.
- That no less than 90% of the functions shall be seafood events.
- That there shall be no more than 48 guests at any one function (including seafood events).
- That the premises shall not be used for any functions (including seafood events) unless and until the Council have approved the Travel Plan in writing.
- That the Travel Plan when approved in writing by the Council shall be used for every function (including seafood events).
- That the functions (including the seafood events) shall be organised and run in accordance with the details set out in the supporting statement that accompanied the planning application.
- That no guests will be allowed to arrive at the premises to attend a function (including a seafood event) independently from a group transfer organised by the owner in accordance with the Travel Plan.
- That all functions (including seafood events) will be ticketed in advance and the ticket allocations and travel arrangements for guests will be centrally organised and administered through either (a) the Lay and Wheeler Wine Centre’s Tasting Events Department, The Wine Centre, Gosbecks Road, Colchester; or (b) the Peldon Road Inn Booking Office, Mersea Road, Peldon.
- To allow the Council reasonable access to financial and other records that it reasonably requires to satisfy itself that the owner is complying with the planning permission and the covenants contained herein.

These requirements should apply again and the recommendation altered accordingly.

15.0 Representations Received

15.1 In total 19 letters, e-mails and on-line objections have been received. Some objectors have written more than once. The representations are as previously reported with later comments referring to the following matters:-

- 1. This area of Coast Road is a dangerous place for a restaurant having regard to the narrow nature of road, alignment, high traffic speeds and minimal enforcement of parking restrictions. The safety of pedestrians at day and night has not been taken into account.**
- 2. The waterfront in Mersea needs the protection of all aspects of its truly marine/nautical nature.**
- 3. There are already enough food-selling outlets in this area to deal with demand.**
- 4. The area's sense of tranquility is already being eroded due to traffic levels and parking problems.**
- 5. This is not the ONLY feasible alternative use. The building should be restored to retain a part of Mersea's maritime history, for instance as an Oyster Heritage Centre.**

15.2 The Victorian Society have also written with the following observations:-

"We understand that your Council is considering an application for conservation area consent to take down and rebuild the oyster shed on Coast Road, West Mersea.

Having considered the application and supporting documents on your website we wish to OBJECT to the proposals.

The oyster sheds are an interesting and important part of West Mersea's history. The island has a strong maritime character with a history of boating and yachting and the harvesting of oysters. The oyster industry and the historic buildings relating to it draw people to the area. The first part of the shed dates from the 19th century. This incorporated a telegraph office for the packing shed, whereby orders for oysters would be relayed from London to the packing shed.

The sheds are surrounded by both redundant and active oyster beds and are not far from the oyster packing shed, once part of the same operation. They form part of an important group reflecting the industrial heritage of the area.

The dismantled and rebuilt sheds do not represent an accurate reconstruction of the existing: the plans show the material and fenestration to have changed. We wonder in fact how much of the existing fabric will be used? In our view this is an application for demolition rather than for dismantling and rebuild, in which case would expect the tests set out in PPS5 to have been met before the demolition is accepted. This does not appear to have been the case. The applicant has not demonstrated that the harm is necessary, that the existing building could not be adapted rather than demolished or that the building has been offered to a charity or community group that would take on and conserve the existing building. We understand that there is a local group, the Coast Road Association, who would be willing to do just that.

While we do not object to the change of use or to some extension to the building, the proposed extension does not relate well to the existing building. It is taller and larger in terms of bulk with a single roof ridge running the entire length of the building at a higher level than the existing. The new roof subsumes the two smaller structures and makes the historic development of the building harder to read.

In summary, what appears to be the almost complete demolition of the historic oyster sheds within the conservation area and reconstruction to a different form and on a much larger scale will be harmful to the historic building and to the character and appearance of the conservation area. The proposals have not been proven to be necessary and are therefore contrary to local and national planning policy. We recommend that your Council refuse conservation area consent."

Officers Note: These comments must be considered in the light of the previous decision to approve and subsequent comments by the former Conservation and Design Officer and Environmental Policy Team.

15.3 6 e-mails express support for the proposals with the following explanation:-

- 1. Will benefit waterfront aesthetics. The existing sheds are an eyesore.**
- 2. Creates jobs.**
- 3. Existing food outlets are always busy and it is difficult to get a table.**

15.4 The Coast Road Association wish to confirm that whilst originally consisting of an informal group of residents of Coast Road, they have now adopted a Constitution enabling them to speak with one voice and to a greater effect on matters of concern to local residents. It is open to all residents in the locality.

Recommendation for 072523 and 072522

- (a) The applications be deferred in order that a Section 106 Agreement may be secured consistent with earlier consent (details as outlined above) and**
- (b) Upon satisfactory completion of the Agreement, the Head of Environmental and Protective Services be authorised to issue a planning permission subject to the conditions below:-**

Conditions for 072523

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

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

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

2 - Non-Standard Condition

The premises shall be used for a private oyster/seafood luncheon and dining suite in accordance with the details in the supporting statement and for no other purposes.

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

3 - Non-Standard Condition

The development hereby permitted shall be implemented in all respects strictly in accordance with the revised drawing No. 2065/03 Revision Be dated March 2001 and received 20 December 2001.

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

4 - Non-Standard Condition

The consent hereby granted shall ensure for the benefit of The Lay and Wheeler Group only.

Reason: Permission has only been granted due to specific details of operation and management submitted by the applicants.

5 - Non-Standard Condition

Prior to the commencement of any development a building/renovation programme shall be submitted to the Local Planning Authority for approval (in consultation with English Nature). The programme will need to demonstrate the measures that will be taken to avoid noise excessively above background levels which could disturb birds during sensitive nesting or over wintering periods. The development shall be carried out in accordance with the agreed programme.

Reason: To ensure that adequate measures are taken to protect the continuing well being of a Site of Special Scientific Interest/designated/Site of Nature Conservation interest/wildlife species/site of acknowledged wildlife/nature conservation importance.

6 - Non-Standard Condition

Prior to the commencement of any development details of all the glazed areas shall be submitted to the Local Planning Authority for approval. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory form of development in the Conservation Area.

7 – Non Standard Condition

The area of the slipway identified on the application plans for demolition shall be demolished, all materials removed from the site and the foreshore reinstated prior to the premises being brought into use. These works shall be completed to the satisfaction of the Local Planning Authority (in consultation with English Nature).

Reason: To mitigate for the loss of foreshore resulting from the additional piles.

8 - Non-Standard Condition

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

Reason: To ensure the character and appearance in the Conservation Area.

9 - A4.12 No Open Storage

There shall be no outdoor storage of any materials, goods equipment, plant machinery or vehicles of any description on any part of the site without the prior written consent of the Local Planning Authority.

Reason: To ensure the character and appearance in the Conservation Area.

10 - Non-Standard Condition

Prior to the commencement of any development detailed plans of the removable shutters, shall be submitted to the Local Planning Authority for approval. The shutters erected shall accord with the approved details in all respects. These shutters shall all be erected on the building at the end of each event and shall stay in place until the beginning of the next event. An event is defined as each occasion the premises are used.

Reason: To ensure the character and appearance of the Conservation Area is maintained.

11 - Non-Standard Condition

The premises shall only be used for the purposes hereby permitted between the hours 10.00 - 17.00 Sunday, Tuesday and Wednesday with staff cleaning until 18.15 and Thursday, Friday and Saturday 10.00 - 22.30 hours with staff cleaning until 23.15.

Reason: To protect the amenities of adjoining residents.

12 - Non-Standard Condition

No deliveries shall be made to and no goods despatched from the site outside the hours of 10.00 - 17.50 Tuesday to Saturday nor at any time on Sundays or Public Holidays.

Reason: To safeguard the amenities of nearby residential properties.

13 - Non-Standard Condition

No amplified music shall be played on site.

Reason: To safeguard the amenities of nearby residential properties.

14 - Non-Standard Condition

The use hereby permitted allows the griddling of fish only and no other primary cooking.

Reason: To safeguard the amenities of nearby residential properties.

15 - B2.2 Food Premises

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Head of Planning and Protection) full details of equipment to be installed for the extraction and control of fumes and odours together with a code of practice for the future operation of that equipment. The use hereby permitted shall not take place other than in accordance with these approved details.

Reason: To ensure that the permitted development does not prejudice/harm the local environment and/or the amenities of the area by reason of air pollution/odours/dust/smell.

16 - Non-Standard Condition

No development shall take place until there has been submitted and approved by the Local Authority (in consultation with Environmental Control) a scheme in the form of a maintenance contract for maintaining the odour control system. All maintenance of the equipment shall be carried out in accordance with the agreed scheme.

Reason: To ensure that the permitted development does not prejudice/harm the local environment and/or the amenities of the area by reason of air pollution/odours/dust/smell.

17 - B3.3 Light Pollution

No external lighting fixtures for any purpose shall be constructed or installed until details of all external lighting proposals have been submitted to and approved by the Local Planning Authority; and no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the undesirable effects of light pollution on the amenity of neighbouring residential properties.

18 - Non-Standard Condition

The floor level of the building shall be at or above 4.471 ordnance datum newlyn.

Reason: To ensure the building is not at risk of tidal inundation.

19 - Non-Standard Condition Reason

Prior to the commencement of any development details of the improvements to the footpath outside the site frontage shall be submitted to the Local Planning Authority for approval. The works shall be completed in accordance with the approved details prior to the use hereby permitted commencing. This footpath shall be available for public use in perpetuity.

Reason: To ensure a satisfactory form of development and in the interests of highway safety.

20 - Non-Standard Condition

The refurbishment/renovation of the building shall be carried out generally in accordance with the details contained in the supporting statement and the Engineer's Methodology Statement.

Reason: To avoid doubt as to the scope of the consent hereby granted.

21 - Non-Standard Condition

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

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

Informatives

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

Conditions for 072522

Conditions

1 - A1.6 Full Perms (time limit for commencement of Development)

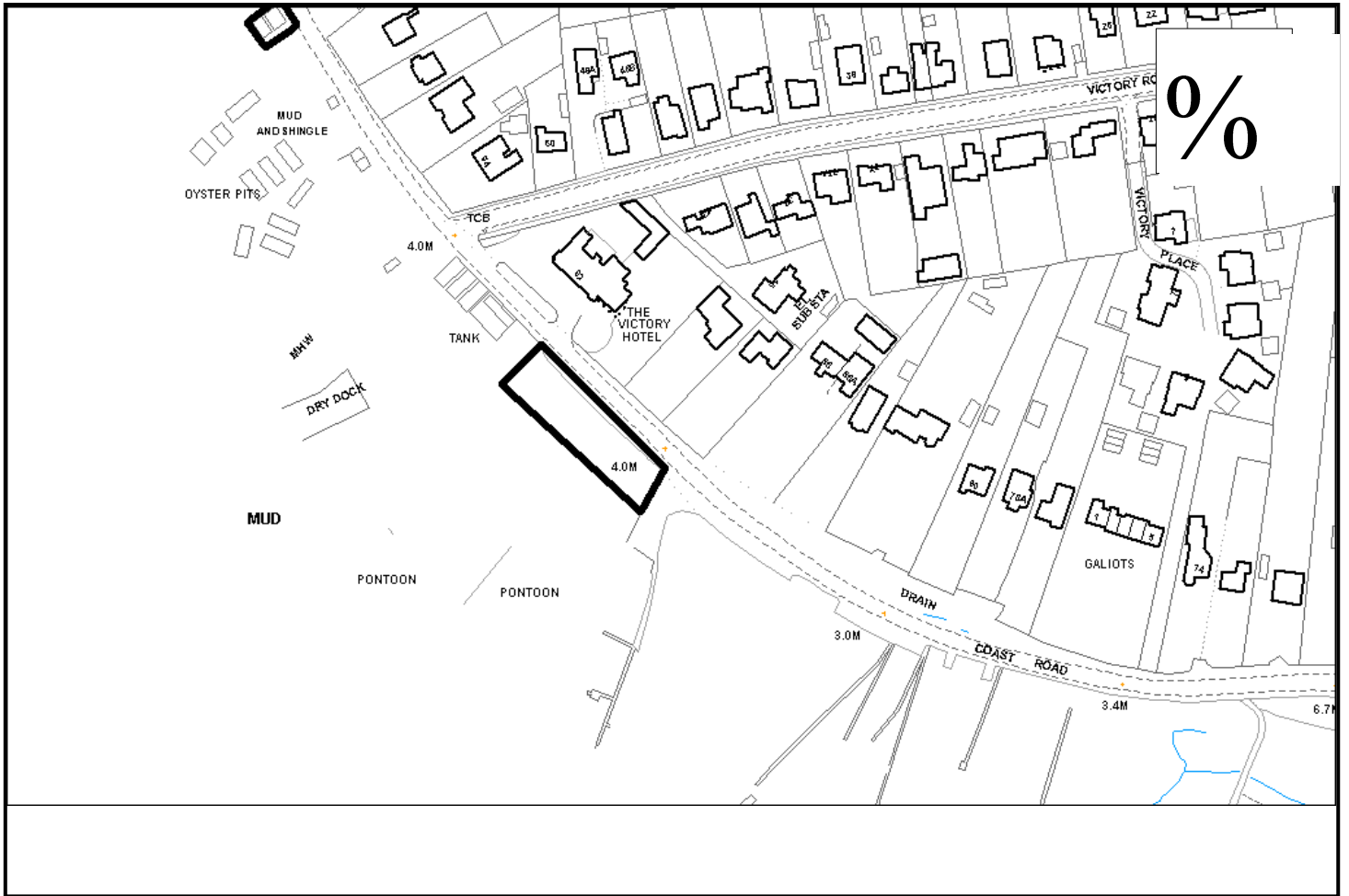
The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

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

2 - Non-Standard Condition

The demolition works hereby permitted shall only be carried out in conjunction with those works approved concurrently under Ref: 072523.

Reason: In order to safeguard the appearance of the locality and protect local amenity.



Application No: 071786

Location: The Old Oyster Sheds, Coast Road, West Mersea, Colchester, CO5 8PA

Scale (approx): 1:1250

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7.7 Case Officer: David Whybrow

OTHER

Site: The Old Oyster Sheds, Coast Road, West Mersea, Colchester, CO5 8PA

Application No: 071786

Date Received: 27 June 2007

Agent: Mr Simon Plater

Applicant: Vinocity Limited

Development: Change of use of previously approved private dining/corporate venue to restaurant A3 Class Use, together with additional car parking

Ward: West Mersea

Summary of Recommendation: Conditional Approval

1.0 Introduction

- 1.1 These applications were deferred at the meeting on 29 April in order that further consultation could be carried out with the Marine Management Organisation, MMO.
- 1.2 This report provides (in bold print) the comments made by MMO and takes the opportunity to incorporate matters raised by the previous Amendment Sheet including the views of the Environment Policy Team.
- 1.3 A complete up to date of all representations received has also been provided in order to capture later representations.
- 1.4 The previous report is set out below.

2.0 Planning Report Introduction

- 2.1 This application relates to the same Oyster Shed as the previous items and seeks approval for its use for open A3 (restaurant) use. It also includes an area of remote car parking which will be described more fully in the "Site Description" section below.
- 2.2 The application has again generated a substantial number of letters of representation.

3.0 Site Description

- 3.1 The application relates to a building described as 'The Old Oyster Sheds' on the seaward side of Coast Road, West Mersea. It was built in the early 1900s and used by the oyster fishery until the 1960s. The current lawful use is as a beach hut.

- 3.2 The building was originally 2 separate structures, which are now linked. The building has a black plinth and white boarded elevations under a double pitched roof. The rear building has a plain tiled roof - the front roof is covered with diamond shaped tiles. The building has a small balcony on the seaward side. There is a small hardsurfaced area to the side of the building. The application site includes an area of foreshore at the rear of the building.
- 3.3 The sheds are of timber construction. Information submitted with the application demonstrates they are structurally substandard with foundations seriously affected by sea action and foreshore erosion.

4.0 Description of Proposal

- 4.1 The building subject of this application is as described in the previous item, but the proposal also includes an area of car parking (21 spaces) located some 140m away to the seaward side of Coast Road, south of the Victory Hotel. This land forms part of an existing boatyard with an established hedge providing screening from the road. Car parking for the restaurant off-season will be provided by unrestricted parking on Coast Road and during the restricted summer season, in the designated car park area.
- 4.2 In respect of the restaurant use, the following information has been provided:-
1. 3 full time and 2 part time staff will run the restaurant, the full time staff being permanently based at the site.
 2. Business hours will be 11.00 a.m. - 11.00 p.m., 6 days each week, including Mondays.
 3. Staff will arrive no later than 9.00 a.m. and leave no later than 11.30 p.m.
 4. The maximum number of covers will be 48 at any one time.

5.0 Land Use Allocation

- 5.1 Conservation Area
- 5.2 Part of the site is within the Coastal Protection Belt and Site of Special Scientific Interest/Special Protection Area/Special Area of Conservation/Ramsar Site.

6.0 Relevant Planning History

- 6.1 COL/87/1303 - Restoration of derelict hardstanding – Retrospective application refused planning permission but enforcement action not pursued.
- 6.2 ENF/27/92 - In 1994 and Enforcement Appeal relating to the use of the building as a residential dwelling was dismissed.
- 6.3 CL/COL/95/0351 - A Certification of Lawful Development relating to the use of the premises for recreational and leisure purposes by the applicant and his immediate family was subsequently granted.
- 6.4 C/COL/01/0526 - Take down building, refurbish and renovate timber frame walls and roof, re-erect walls and extend shed for use as a private oyster tasting and luncheon/dining suite - Approved 10 October 2002.

7.0 Principal Policies

7.1 Adopted Review Colchester Borough Local Plan

DC1 - Development Control considerations
CE2 - Risk of flooding
CE10 - West Mersea
CO3 - Countryside Conservation Areas
CO5 - Habitats
UEA1 - Character of Conservation Areas
UEA2 - Building within Conservation Areas
UEA3 - Demolitions within Conservation Areas
UEA12 - Design
P1 - Pollution
L18 - Tourist and visitor facilities

7.2 Adopted Core Strategy

UR2 - Built design and character
CE1 & 2 - Centres Classification of Hierarchy, Mixed Use and District Centres.

8.0 Consultations

- 8.1 Environmental Control recommend conditions be attached to any consent granted covering restrictions of hours of use, delivery times, noise levels/sound insulation, controls over kitchen fumes and odours and construction works.
- 8.2 Natural England (English Nature) raise no objections but recommend conditions to be imposed on any planning permission.
- 8.3 The Highway Authority recommend approval with conditions relating to vehicle site splays, cycle parking and provision of new section of footway.
- 8.4 The views of the former Conservation and Design Officer are set out in full below:-

"The application raises three distinct issues:-

1. The proposed new full A3 use.
2. The principles and detail involved in its refurbishment/retention.
3. The proposed new car parking.

On 1 above, the building is sited on the 'water' side of Coast Road. An important feature of the previous approval was the detailing of the building, in particular the shuttering arrangement, which in conjunction with the strictly limited hours of opening, was aimed at reducing its visual impact and retaining a low key presence. The increased opening hours of the new proposal will inevitably result in the building being illuminated more often and therefore becoming much more obtrusive.

On 2, the question of whether this is a conversion, or demolition and replacement is again marginal. Indeed the building seems to have had little or no maintenance since the time of the last application - which leads one to think that any retention and re-use justification for the proposal is less convincing.

On 3, private car parking on open sites is not a use which should be encouraged in the Conservation Area for reasons of visual amenity. In this case again it is proposed on the water side of Coast Road. The previous proposal was given on balance support as it proposed a strictly limited use with an identified 'waterside' connection (the proposed cuisine), in a pleasingly refurbished building. Whilst the design approach remains welcome, the factors identified in 1, 2 and 3 above suggest that the current proposal is too far at odds with the principles underpinning the adopted policy framework to justify support."

- 8.5 The Environment Agency did not raise objections in the previous case but identify the use as "less vulnerable" development within Flood Zone 3, a high risk zone, where, in accordance with PPS25 - Development and Flood Risk - a flood risk assessment (FRA) must be prepared. A FRA, including a sequential test assessment of potential alternative sites was produced in February 2010, eliciting confirmation that the Environment Agency would not object on flood risk grounds.
- 8.6 For Members' information the FRA concludes that the greatest impact on flooding at the site would be an interruption of business rather than a risk to people. It is acknowledged that the predicted flood depths would be unsafe for people to enter the building, however it is considered unlikely that people would remain in, or attempt to enter during flood events and the risk to people is accordingly low. The principles of water entry design are to be incorporated into the building to afford easy and speedy renovation after an event and mitigate any cost of such renovation. The applicants would subscribe to the Environment Agency's Flood Warning Scheme, an emergency flood/evacuation plan has been prepared and a Business Flood Plan has also been initiated.
- 8.7 The Environmental Policy team considered the proposals in relation to relevant policies relating to Conservation Areas, Centres Classification and hierarchy and particularly Policy CE10 in respect of West Mersea Waterside Area of Special Character. They identified positives from the scheme in terms of the attractive nature of the proposed buildings works, the employment benefits and provision of off-street parking facilities but on balance considered the adverse impacts on local traffic and residential amenity and lack of evidence about the need for the restaurant and recommended the application be refused on this basis.
- 8.8 More recently, additional information has been submitted by the agent, indicating:-
1. Approved scheme is not viable.
 2. The proposal is for a low-key restaurant with a maximum of 48 covers offered a leisurely "fine dining" experience with low turnover.
 3. Oyster Bar, Company Shed and other local cafes offer a different, faster dining experience with higher turnover and greater numbers of people, but operate similar evening opening times.
 4. There are no feasible alternative uses for the building and it will therefore continue to deteriorate if planning permission is not granted.
 5. 50% of menu will be locally sourced fish, seafood and vegetables.
 6. Negotiations with the Highway Authority have led to an agreement that:-
 - No parking space will be provided adjoining the shed. This area will be devoted to cycle parking.
 - Proposed car parking layout improved and appropriate sight splays provided at entrance.

- An extended footway to be provided from outside the Shed to existing footpath south of Victory Road junction.
- 8.9 Further discussions between the Environmental Policy Team and the applicant/agent indicated that the matter may be reviewed in the light of further survey information relating to on-street parking in the waterfront area, staggered opening hours to reduce impact on residential amenity and a sequential test study to consider the suitability of alternative sites in accordance with PPS6 (now PPS4) advice in relating to protection of existing centres.
- 8.10 This information has now been submitted in the form of an economic assessment, which follows PPS4 advice and addresses the following key impact considerations:-
1. Carbon dioxide emissions and resilience to climate change.
 2. Accessibility by a choice of means of transport and effect on local traffic/congestion levels.
 3. High quality and inclusive design and opportunities for improving the quality of the area.
 4. Impact on economic and physical regeneration in the area.
 5. Impact on local employment.
 6. Impact on existing, committed and planned public investment in a centre or catchment area of the proposal, including customer choice.
- 8.11 The report concludes that the scheme delivers the following benefits:-
- (i) It would facilitate the efficient use of a brownfield site in accordance with PPS1 and PPS4 Policy EC2.1d.
 - (ii) It would enable the restoration and refurbishment of a prominent building within the area of special character which is worthy of preservation and which would enhance the appearance of the area in accordance with Local Plan Policy CE10 and Policy UEA2, PPS7, PPS4 Policy EC6.2c, Policy EC7/1b/c, Policy EC101.2c and Policy EC12.1a/d.
 - (iii) It would enable the introduction of a use appropriate to the area of special character which enhance the vitality of the area in accordance with Local Plan Policy CE10 and PPS4 Policy 2.1i, Policy EC7.1e and Policy EC12.1a.
 - (iv) It would prevent a period of uncertainty about the future of the Oyster Sheds with possible long term deterioration of the building fabric which would detract from the character of the area in accordance with Local Plan Policy UEA1 and Policy CE10.
 - (v) It would provide a new facility for the benefit of tourists and local inhabitants, including fishermen and yachtsmen and increase choice in accordance with Local Plan Policy CE10 and Policy L9 and PPS4 Policy EC2.1b, Policy EC4.1c, Policy EC6.2e and Policy EC7.1a.
 - (vi) It would provide small-scale local employment in accordance with Local Plan Policies EMP2 and EMP4 and PPS4 Policy EC10.3 and Policy EC17.2a.
 - (vii) It would provide direct benefits to the local fishing industry and indirect benefits to local businesses in accordance with Local Plan Policy CE10 and PPS4 Policy EC10.d, Policy EC12.1a and Policy EC17.2a.
 - (viii) It would be likely to attract new customers to the area which may also increase custom for other local restaurants in accordance with Local Plan Policy CE10 and PPS4 Policy EC10.d, Policy EC12.1a and Policy EC17.2a.

8.12 While the negative impacts relating to the development are limited to:-

- (i) The out-of-centre location which is less sustainable than a town centre location, being some distance removed from the town centre and not having the benefit of public transport facilities. However, out-of-centre locations are not precluded under PPS4 and the site is within walking distance of the town centre where public bus facilities are available; and
- (ii) a limited increase in vehicle movements and pedestrian movements on Coast Road although the level of increased car movements will be small and the potential increase in congestion which could occur at peak periods is mitigated by the proposed car parking arrangements.

8.13 In consequence of the above the report concludes that:-

"In general it is considered that there would be no appreciable impacts on the existing centres or on any existing Class A3 establishments and that the benefits of the proposals would far outweigh the limited negative impacts which would not in themselves justify refusal of planning permission. At Policy EC2 the Government urges Local Planning Authorities to:-

- (i) Support existing business sectors (which would include leisure and tourism.
- (ii) Make the most efficient and effective use of land.
- (iii) Prioritise previously developed land which is suitable for re-use and which reflects the requirements of businesses such as site size, site quality etc, and to
- (iv) Encourage new uses for vacant or derelict buildings, including historic buildings."

8.14 It is understood that the Environmental Policy team would support the proposals for a "fine dining" outlet specialising in a mainly seafood cuisine under these circumstances and written confirmation is anticipated before the Meeting.

9.0 Town Council's Views

9.1 West Mersea Town Council recommend the application be refused, but offer the following comments by the Chairman:-

- "1. Not only is West Mersea Waterfront designated a commercial area but employment on the island is an important issue.
- 2. Whilst no doubt the original intention of the designation was principally for marine industries, there has in recent years been a growth in food and drink facilities along the front, although it could be said that they also have a sailing/holiday connotation.
- 3. Two of the current five public restaurants have no parking facilities, (albeit this one has two spaces) and it could therefore be argued that the precedent has been set. On the other hand we already have a serious parking problem in the summertime without adding to it.

4. The application states that 20 car parking spaces will be provided on the Victory Boar Park ("The Burma Road") and there is a contract between the Applicant and Mr Rob Moffat who leases the park for his company, Mersea Marine. The Town Clerk and I had a meeting with Mr Moffat in which he stated that if this project went ahead he would be prepared to apply for planning permission to use the Burma Road for a public car park from May to September or thereabouts. Whilst he would make a daily usage charge he could not afford to put in the infrastructure - barriers etc - without the input of the Applicant. The value of this facility should not be under-estimated.
5. Local residents state that the sheds have a historical significance and that as such should be preserved. The suggestion is as a Heritage Centre and this is undoubtedly a good idea, however there are major issues that would need to be overcome before such a project could succeed:-
 - (a) Ownership and grant aid.
 - (b) Manning during summer weekends. We already have the Mersea Museum and Packing Shed, both of which are Heritage Centres and both of which require voluntary manpower. The Chairman of the Museum, David Cooper, tells me that they could not possibly entertain the manning/supplying and running of them both.
 - (c) The Heritage Centre would need visitors so parking problems would still apply.
6. The sheds in question are seriously dilapidated and if nothing is done then they will fall down.

Mersea Waterfront and beaches are a playground for Colchester residents and visitors and need things to see and do. Just as importantly they need somewhere to park that does not create a misery for local residents. Currently parking facilities, particularly on the waterfront, are a disaster that planners need to address with some urgency."

10.0 Representations

- 10.1 20 letters raising objection to the scheme have been received from The Coast Road Association, local residents and businesses. The contents of these letters may be viewed on the Council's website, and a summary of the issues they contain is provided below:-
 1. Additional parking will exacerbate existing congestion on Coast Road and cause danger to pedestrians. As summer restrictions only apply from 8.00 a.m. - 6.00 p.m. and car park is a distant from the restaurant it is unlikely to address problems after 6.00 p.m.
 2. This stretch of Coast Road is at its narrowest and most dangerous and lacks a footpath. Emergency vehicles could be obstructed in a road where many elderly people live and lifeboat men may also be affected.
 3. The new car park entrance would add to hazards and would not deter drivers from dropping off passengers direct to the restaurant.
 4. No more restaurants or cafes of any sort are required on Coast Road. Although the previous restricted approval provided safeguards for residential amenity, the open A3 use does not. Existing pubs and food outlets already generate noise, traffic and parking problems, especially at night.
 5. Will result in noise and disturbance from extra vehicular activity including service vehicles and staff activity beyond restaurant opening hours.

6. Nearby houses, including listed buildings, will suffer loss of privacy, noise and cooking odours and possible light pollution.
7. The wildlife, special character and tranquillity of this beautiful area will be eroded by further development.
8. These sheds should be used for something that would genuinely preserve and enhance the area's character as a Conservation Area and SSSI.
9. Existing sewers do not cope with present demands. It would be irresponsible to overload them further.
10. Vermin proof refuse storage is essential.
11. Disturbance during construction period could be prejudicial to any oyster storage unit, which, amongst other things, needs a supply of clean sea-water. Access to any premises could also be obstructed (West Mersea Oysters).

10.2 3 letters of support have been received, making the following observations:-

1. It is a shame to see sheds declining. This project will provide employment and revenue and give a much need addition to the amenities on the Island.
2. Left unattended the building will continue to be a deteriorating eyesore. Any commercial use will give rise to the same sort of objections but this will increase the opportunities for local employment, supply of goods and services.
3. The continued enhancement and use of local infrastructure is critical to the wellbeing of the majority of Mersea residents and visitors to the Island.
4. One cannot have enough tasteful locations to visit and having the opportunity to combine this with keeping a part of history alive. It is obvious that this location attracts many more people to this place who want to enjoy the tranquil atmosphere of sea and boats and have the desire to sit and eat.

11.0 Report

11.1 The applicant company, Lay and Wheeler, are a long standing and prominent Colchester company with an established national and international customer base. Their vision for the oyster sheds is for a distinctive sea-food based restaurant taking advantage of their location on the foreshore. It is indicated that the original proposal for a private oyster tasting and luncheon/dining suite would not be viable and while a fully open A3 use would not be acceptable here as described in the previous item, it is again considered that a carefully regulated, low-key and predominantly sea-food restaurant operated under a "personal" consent which responds to the distinctive dining experience intended by the applicant, as well as the unique character of this coastal location would be appropriate here. The refurbishment of the building is to be welcomed and will enhance the character and appearance of the foreshore area, while the offer of peak season, off-road parking facilities, closing times adjusted so as to avoid peak activity when other businesses are in operation and addressing safety issues through the creation of a new length of footway will also be an essential element of any consent granted.

12.0 Further Report

12.1 MMO comments are set out in connection with the previous item.

12.2 The following additional information has been provided by the applicant/agent:

- 1.** The car parking spaces within the boatyard are secured by legal agreement between the owners and applicant for the full period from April to September and the owners have taken account of boat owners' needs.
- 2.** For the purposes of a condition of planning permission "fine dining" may be defined as a quality menu and wine list with table dressings to complete with the most noted award winning restaurants in East Anglia.
- 3.** The car park entrance to be controlled by an automatic barrier with key-code system and intercom.
- 4.** Service deliveries can be provided within hardstanding on site between the hours of 7.30 a.m. – 1.30 p.m. only.

13.0 Further Consultations

13.1 Planning Policy have commented at length on the PPS25 (Flood Risk) and PPS4 (Economic Assessment) assessments carried out against both applications.

In relation to PPS4 their comments are summarised as follows:-

- 1.** The development is below the threshold size requiring a sequential test appraisal.
- 2.** There is no longer a requirement to demonstrate there is "need" for development proposals in edge or out of centre locations which are not supported by an up-to-date Development Plan.
- 3.** Assessment of positive and negative impacts. The positive impacts statement is justified. Appropriate mitigation - to address a residential amenity effects - is required to address the negative impacts identified.

As regards the PPS25 sequential test: the approach taken conforms to advice in the PPS and the area of search for reasonably available alternative sites is consistent with others undertaken for Colchester Borough Council.

In conclusion, subject to the Council having the additional information highlighted in this response, i.e. legal agreement regarding parking and information on staggered opening hours, I am satisfied that the sequential test and economic assessment submitted to support the above planning applications meets the requirements of PPS25 and PPS4.

14.0 Further Representations Received

14.1 In total 50 letters, e-mails and on-line objections have been received in respect of this application. Some objectors have written more than once. The views of The Victorian Society are as set out in connection with the previous item.

- Will increase traffic hazards to existing users of the area where pedestrian facilities are inadequate.
- There is no “out of season” parking in the locality and an increase in parking restrictions since the application was submitted.
- The summer season parking proposals will be to the detriment of Mersea’s very important yachting industry and maritime heritage and could lead to boats being moved elsewhere.
- Could lead to loss of local yacht related work.
- The proposed car park is too far from the restaurant and would encourage illegal parking elsewhere, especially if it is raining. Any congestion could pose serious problems for emergency services and lifeboat crew members as well as houseboat owners.
- Destruction of habitat and detriment to wildlife.
- Noise and disturbance to local residents.
- Potential flooding problems.
- There are six other cafes/restaurants in the immediate vicinity which already cause traffic and parking problems.
- The car park entrance is too close to that serving the Victory Inn – an accident waiting to happen – while the restaurant itself is probably the most dangerous point of the whole of Coast Road, especially at weekends and public holidays.
- There is now less on-street parking in the area than 2007 yet the volume of traffic has increased significantly.

Officer Note: The original report referred to on-street parking being available in winter months only. Parking restrictions now apply all year round.

14.2 6 e-mails have been received supporting the scheme on the basis that the renovation and use of the old oyster sheds will only enhance West Mersea and the Coast Road area, especially if it results in additional parking being made available. They hope a compromise between parking and boating requirements can be found.

14.3 NOTE FOR MEMBERS’ INFORMATION

On Page 73 of the report the comments by the Town Council Chairman are his personal views and not those of West Mersea Town Council.

15.0 Background Papers

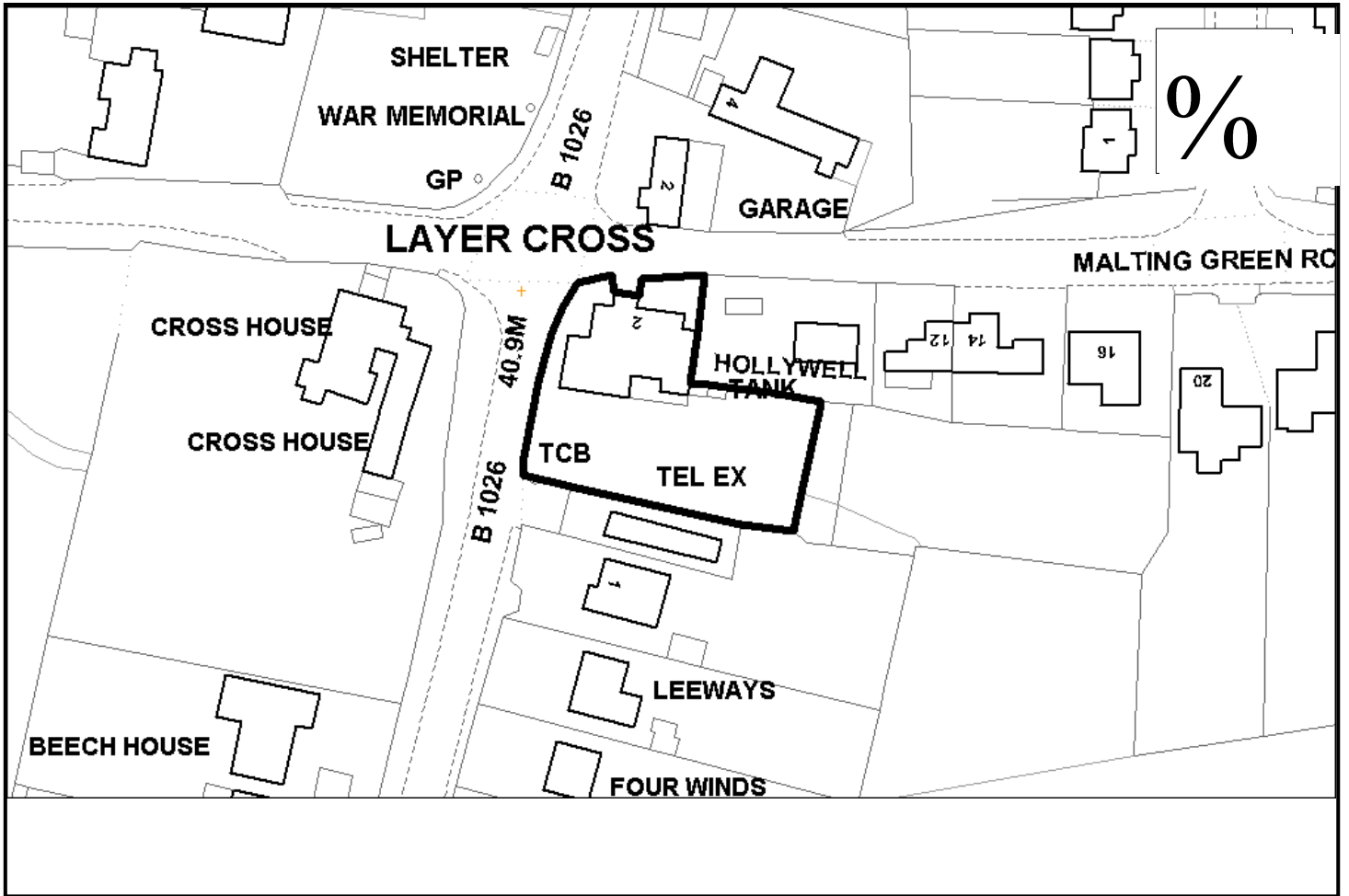
15.1 ARC; Core Strategy; HH; NE; HA; NR; PP; PTC; NLR

16.0 Recommendation

13.1 Provided that the Environmental Policy team confirm that the additional information submitted overcomes previous policy objections, it is recommended that permission be granted subject to conditions covering the following matters:-

- Standard Time Limit
- Demolition works
- Limitation to use/"personal" consent
- External materials and finishes
- No outdoor storage/refuse facilities
- Opening times/delivery times
- Odour/noise controls
- External lighting/light pollution
- Floor level/FRA requirements.
- Highway Authority requirements.

12.2 The comments of the Environmental Policy team will be reported via the Amendment Sheet. The exact condition wording will also be confirmed once their views have been received.



Application No: 100635

Location: The Fox PH, 2 Malting Green Road, Layer-De-La-Haye, Colchester, CO2 0JH

Scale (approx): 1:1250

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7.8 Case Officer: Bradly Heffer

MINOR

Site: 2 Malting Green Road, Layer-De-La-Haye, Colchester, CO2 0JH

Application No: 100635

Date Received: 1 April 2010

Agent: Vaughan & Blyth (Construction) Ltd

Applicant: Mrs A Chatterton

Development: Construction of 4no. single storey 'bed and breakfast' units, owned and controlled by existing public house.

Ward: Birch & Winstree

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application is presented to Committee for Members' consideration as it has given rise to objections from local residents.

2.0 Site Description

2.1 The site for this proposal currently forms part of the curtilage of the Layer Fox public house. The public house is located at the junction of Church Road / High Road (B.1026) and Malting Green Road. The junction is known as Layer Cross.

2.2 The public house itself has a grade 2 listing and is located at the northern end of the roughly L-shaped site. The remainder of the curtilage is given over to a large hardened car park, accessed directly off Church Road, leading to a grassed area (containing established trees). The land is generally level and the site itself has a given area of 0.14 hectares (as stated on the submitted application forms) Directly to the north of the curtilage lies the private garden areas of dwellings facing on to Malting Green Road, while to the south the site abuts the boundary of no.1 Church Road and also the site of an electricity sub-station. To the west of the public house curtilage, on the opposite side of Church Road lies the curtilage of The Cross House – a substantial listed dwelling. A feature of note to the north west of the public house is a small green area that is bounded to the north and west by established dwellings.

3.0 Proposal

- 3.1 Under the submitted application permission is sought for the erection of a single storey building, to be used for 4no. bed and breakfast units. The building would be constructed using weather-boarded walls and a pantile roof. Plans submitted with the original submission show individual units comprising a bedroom and en suite bathroom facility, with individual external access doors. The building would sit on a projecting brick plinth. Natural light to the bedrooms would be provided via north-facing windows looking across the public house curtilage while 'sun-pipes' would provide some daylight penetration into the en suite areas. The submitted scheme also proposes the provision of additional disabled car parking spaces to serve the development. The submitted plans show 16no. car parking spaces plus 2no. spaces for disabled persons in total. As part of the submission the application is accompanied by a Design and Access Statement. The following extracts are taken from this document to explain the terms of the application:

'The proposal is to construct a row of 4no. terraced bedroom units which each have their own en suite facilities (2 of which are designed for disabled occupancy) to be used in conjunction with the public house to offer bed and breakfast accommodation. The accommodation would be operated and controlled by the tenants of the existing public house...

The position of the proposed units is away from the neighbouring residential properties so as not to create any overshadowing, overlooking or noise nuisance. We feel the traditional design of the units will be in keeping with the area and not be detrimental to the setting of a listed building...

The proposal also utilises the existing car parking area with disabled parking spaces positioned convenient to the entrances to the bed and breakfast accommodation...'

Members can view the full text of the statement on the Council's website.

4.0 Land Use Allocation

- 4.1 The red line application site for this proposal lies within the established village envelope for Layer de la Haye. The majority of the village is included within a Countryside Conservation Area. These allocations are included in the Adopted Review Colchester Borough Local Plan – March 2004.

5.0 Relevant Planning History

- 5.1 F/COL/00/0612 and LB/COL/00/0613 – Demolition and rebuilding of lean-to porch. Approved via notice dated 15th June 2000.
- 5.2 F/COL/00/0875 and LB/COL/00/0879 – Construction of single storey extension. Approved via notice dated 25th August 2008.

6.0 Principal Policies

- 6.1 Adopted Review Colchester Borough Local Plan Saved Policies-March 2004
DC1- Development Control considerations
CO3 - Countryside Conservation Area
UEA5 - Altering Listed Buildings
UEA11 - Design
UEA13 - Development, including Extensions, Adjoining Existing or Proposed Residential Property
CF4 - Retaining key community facilities and services
H7 - Development within village envelopes
- 6.2 Adopted LDF Core Strategy- December 2008
SD1 - Sustainable Development Locations
UR2 - Built Design and Character
ENV1 - Environment
ENV2 - Rural Communities

7.0 Consultations

- 7.1 The following response has been received from the Council's Planning Policy Division:

'The application site is within the Layer-de-la-Haye Village Envelope as shown on the Local Plan Proposals Map and is also within the Settlement Boundary as shown on the LDF Submission Proposals Map. The principal of development on this site is therefore already agreed when considering this application with regards to the Local Plan and the emerging LDF documents.

Core Strategy Policy ENV2 outlines that the Council will enhance the vitality of rural communities by supporting appropriate development of infill sites within the Settlement Boundaries. It also outlines that "Outside of these boundaries small-scale rural business, leisure and tourism schemes will be favourably considered where appropriate." With regards to this application the Planning Policy Team are satisfied that the site is appropriate for development but would have wished to see further information submitted with the application to demonstrate that the level and type of tourist development is the most appropriate in this location.

Although the applicant outlines in their Design & Access statement that "the Council confirm that there is a need for this type of accommodation in rural areas" no indication is given as to where this confirmation has been given, or in which document or by which officer. The Planning Policy Team is disappointed that further evidence has not been supported but in this instance consider the proposals to be small scale and do not wish to raise an objection on this issue.

Planning Policy Statement 4 which was published in December 2009 outlines in Policy EC7 that Local Authorities should support sustainable rural tourism and leisure developments that benefit rural communities. PPS4 is focused on Sustainable Economic Growth across the country and although the Town Centre is correctly highlighted as the top of the Hierarchy and the Preferred Location for economic growth and development there is recognition that rural areas provide a valuable contribution to the economy of each local authority. Taking the national guidance into account the Planning Policy Team are satisfied that the proposal is considered to be in accordance with Policy EC7(b).

The applicant has outlined in their Design and Access Statement that the proposal utilizes the existing car parking arrangements for the public house. After looking at aerial photographs the Council has available it appears as though the application site has been used for car parking for a number of years. As a result the Planning Policy Team has concerns with regards to the car parking provision that will remain once the bed and breakfast units have been constructed. Land to the east of the application site is currently grassed and outside of the Settlement Boundary so any future development or car parking on this site could well have a detrimental impact on this rural village and would not be supported by the Planning Policy Team.

The Planning Policy Team considers this application to be in general accordance with the Core Strategy Objectives and Policies as well as PPS4 and therefore have no objections to this application after considering the information submitted to date.'

- 7.2 The Highway Authority has no objection to the application subject to the imposition of a condition on the granting of any planning permission.
- 7.3 The Environmental Control section would require the imposition of the Demolition and Construction informative on the granting of any planning permission.
- 7.4 English Heritage advises that the application does not to be referred as it does not fall within the relevant categories.

8.0 Parish Council's Views

- 8.1 Layer de la Haye Parish Council has no objection to the proposal.

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

9.0 Representations

9.1 As a result of local notification seven letters have been received from local residents objecting to the submitted application. The following summarised points are included for Members' information:

- The provision of bed and breakfast accommodation is not necessary as there is already provision within the village, for example at Rye Farm.
- The development will have a detrimental impact on neighbours amenity caused by noise nuisance and overshadowing and the visual character of the area. A previous application to use curtilage land as a beer garden was refused and this should be dealt with in the same way.
- The site for the development is not inside the defined village envelope for the village and should fail on these grounds.
- Disturbances from customers using the public house are already experienced and this situation will be exacerbated if the development goes ahead.
- The development would compromise security and privacy.
- The land that is subject to this application is to be used solely as amenity space for the occupiers of the public house.
- Clearance works have already taken place on site, presumably in anticipation of approval being given for the proposed development.
- The occupancy of the bed and breakfast accommodation could be for long-term lets which would not be acceptable.
- If permission is granted for the development appropriate fencing should be erected to protect security and privacy.

9.2 Members are advised that the applicant has sent a letter in response to the representations received in which the following summarised points are made:

- It is not intended to create a beer garden as part of this application. The public house already has a seating area to the front of the building.
- It is intended to plant to the front of the proposed units to offer privacy to the occupiers. High hedging in place at the present time does provide some screening.
- The units would be insulated in order to protect against noise nuisance.
- The tree removal that has taken place was (in the case of one tree) as a result of impact on power lines and the potential impact on a neighbouring property, in the case of another.
- There is no intention to use the proposed units for long term lets.
- There is a willingness to consult neighbours about the erection of fencing adjacent to the units in order to protect privacy.
- The applicants endeavour to ensure that customers keep noise to minimum when leaving the premises and notices are displayed to this effect.
- The proposed building is set away from the dwelling at 1 Church Road to protect amenity.

9.3 One letter received expresses support for the proposal stating that the proposal would assist with the financial viability of the public house, enabling it to continue as a facility for the local community.

- 9.4 Colchester Cycling Campaign has requested secure, covered cycle parking as part of this scheme.

The full text of all representations is available to view on the Council's web-site.

10.0 Report

- 10.1 Members should note that since the initial submission of this application amended plans have been submitted that revise the access arrangement to the site (following Essex County Council's comments on the original plan) and propose the erection of a 1.8 metre screen fence along the eastern boundary of the 'red line' application site. Residents have been advised of the revised plan and additional comments received will be reported to Members at the Committee meeting.
- 10.2 In terms of the main issues to be considered under this application, these are listed below:
1. The principle of locating the proposed use on this site.
 2. The impact of the development on the amenity of local residents and the setting of the listed building
 3. Responses to neighbours' concerns.
- 10.3 As regards the first issue it is noted that the actual site for the application building is within the defined village envelope for Layer de la Haye as well as forming part of the curtilage of a listed building. Land to the east of the red line application site, but still forming part of the curtilage of the public house, is outside of the line of the envelope. Members will be well aware that the provision of residential development in rural locations outside of defined village envelopes is deemed to be unacceptable in principle. However, the fact that the building would be located within the village envelope means that the principle at least of a residential use being proposed here would accord with the Council's current land use allocation. Additionally, it is noted that the proposal is not for an unfettered residential use but, rather, would be restricted to that of bed and breakfast accommodation.
- 10.4 Bearing this in mind, reference has to be made to relevant policy advice at national and local level. To this end it is noted from the response received from the Council's Planning Policy team (included in full in this report for Members' information) identifies the relevant policies against which the application should be judged and concludes that the submitted scheme does not conflict with PPS advice and local level policy. It is noted that the Policy team does recognise the potentially detrimental impact resulting from encroachment of the use on to land immediately to the east of the application site. It should be noted that the amended plan would define the application site by a close-boarded fence and this would contain the use, in your officer's view.

- 10.5 As regards the impact of the development on the setting of the listed building it is felt that this additional structure would not adversely affect the existing character. It is noted that at its nearest point the proposed building would be approximately 13 metres distant, and positioned with a gable end facing towards the main public viewpoint from Church Road. On this basis it would read as an outbuilding, with a subordinate visual relationship with the public house, in your officer's view. Additionally the building would be constructed using a traditional design and palette of materials including black weatherboarding, wooden windows, pan tiled roof, projecting brick plinth and exposed rafter feet. This type of structure would be visually appropriate here in close proximity to what is, arguably, the historic hub of the village. As well as the proposed building itself it is considered that the associated works would not be harmful to the setting of the listed public house. These would include the erection of the proposed screen fence and the provision of two parking spaces on part of the currently grassed area immediately to the front of the bed and breakfast building.
- 10.6 Another key consideration is the cumulative impact of the development on the amenity of the area – bearing in mind that the application site falls within an established residential area. The building would be located in such a way that it would face the rear gardens of dwellings in Malting Green Road and also abut the curtilage of no. 1 Church Road. The single storey design of the building, and the provision of screen fencing on the eastern boundary and trellis fencing directly to the front of the building's windows and entrances, would in combination mitigate the potential for overlooking of existing rear gardens to the north of the application site. Additionally, although the building would abut the boundary of the dwelling at No. 1 Church Road, its overall impact on this dwelling and its immediate rear garden area would be lessened by the existing EDF substation building located immediately adjacent to No.1. The use of the building for bed and breakfast accommodation is not likely in itself to give rise to unacceptable noise disturbance, in your officer's view. In the interests of neighbourliness it is considered that the applicant will be aware of any disturbances caused by occupiers of the units as complaints from local residents would no doubt be lodged.
- 10.7 Furthermore it is noted that the Council's Environmental Control section does not raise this issue in its consultation response to this application. Lastly, Members attention is drawn to the applicant's supplementary comments that confirm the intention of a scheme of insulation against noise. A suitably worded condition could address this particular issue.
- 10.8 As regards the comments received from neighbours, as summarised in this report, these are fully acknowledged and appreciated and the following responses are made:
- The fact that other facilities exist is recognised but each application falls to be determined on its own merits. The relevant policy identifies the appropriateness in principle of small-scale enterprises and it is felt that the proposed development would fall within this category.
 - The nature of the building and the arrangement of the development would successfully mitigate its overall impact. The application as submitted does not propose the creation of a garden for customers of the public house and this has been confirmed in writing by the applicants. Members should note that a previous Enforcement Notice also precludes the creation of a 'beer garden' within the curtilage.

- The site for the proposed building is within the defined village envelope for Layer de la Haye while the remainder of the curtilage to the east does fall outside.
- The removal of established trees is regretted but these were not protected and their removal was outside planning control. Additionally, the applicant advises that the works were required due to other factors outlined in this report and not in anticipation of planning permission being granted for the development.
- The use of the building may be controlled by suitable occupancy restriction in the event that planning permission is granted for the development. Again, the applicants have asserted that the intention is not to create long term lets.

10.9 In summary it is considered that the proposed development represents a reasonable development in planning terms and a recommendation of approval is made, subject to the imposition of conditions as set out below.

11.0 Background Papers

11.1 PP; HA; HH; PTC; NLR; CAA; CY; EH

Recommendation – Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

The permission granted is given in accordance with the amended drawing (ref 522/1A) hereby returned stamped approved.

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

3 - Non-Standard Condition

The accommodation hereby approved shall be used as short term accommodation for holiday makers and visitors between 1 March and 31 January in any calendar year, and further, shall not be let to any individual family or person for a total period of more than 4 weeks between those dates.

Reason: To avoid doubt as to the scope of the permission hereby granted.

4 - B1.2 Sound Insulation: Any Building

The use hereby approved shall not commence until the building has been modified to provide sound insulation against internally generated noise in accordance with a scheme approved in writing by the Local Planning Authority. The building shall be maintained in accordance with the approved scheme thereafter.

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

5 - B3.3 Light Pollution

No external lighting fixtures for any purpose shall be constructed or installed until details of all external lighting proposals have been submitted to and approved by the Local Planning Authority; and no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the undesirable effects of light pollution on the amenity of neighbouring [residential] properties.

6 - B4.1 No Additional Windows in Flank Walls

No additional windows, doors, voids or openings of any kind shall be inserted, placed or formed in the flank walls of the building/buildings hereby permitted and these walls shall remain imperforate at all times unless otherwise agreed in writing by the Local Planning Authority.

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

7 -B7.5 Hours of Work

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

Reason: In order to protect the amenity of nearby residential property from noise nuisance during the construction phase of the development.

8 - C3.4 Samples of Traditional Materials

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

Reason: To ensure that the development does not harm the character or appearance of the Listed Building/s [on this and/or adjacent sites].

9 - C3.6 Samples of Roof Materials to be Agreed

The roof of the proposed building/extension shall be clad in clay plain tiles, samples of which shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The development shall be implemented in accordance with agreed details.

Reason: To ensure that the development does not harm the character or appearance of the Listed Building/s [on this and/or adjacent sites].

10 - C3.12 Rainwater Goods to be Coloured Black

All new rainwater goods shall be coloured black, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character or appearance of the Listed Building/s [on this and/or adjacent sites].

11 - C3.13 External Joinery to be Painted Timber

All external joinery shall be of painted timber, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character or appearance of the Listed Building/s [on this and/or adjacent sites].

12 - C3.18 External Boarding to be Painted

All external boarding to the development hereby approved shall be timber featheredged weatherboarding with a painted finish, the colour of which shall be previously agreed in writing with the Local Planning Authority.

Reason: To ensure that the development does not harm the character or appearance of the Listed Building/s [on this and/or adjacent sites].

13 - C3.20 Surfacing Materials to be Agreed

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable access ways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: To ensure that the development does not harm the character or appearance of the Listed Building/s [on this and/or adjacent sites].

14 - C4.2 Windows to be Exactly as Shown on Plans

The windows used in the development shall be exactly as detailed on the approved drawing unless otherwise agreed in writing by the Local Planning Authority.

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

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

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

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

16 - C10.18 Tree and Hedgerow Protection: General

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

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

17 - C11.14 Tree / Shrub Planting

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

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

18 - C12.3 Details of Walls and Fences as Plans

The boundary/screen/walls/fences/railings/hedges etc as indicated on the approved plans shall be erected/planted before the occupation of any building and shall be retained thereafter.

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

19 - D2.5 Non Residential Devel

The car parking spaces indicated on the plans hereby approved shall be constructed prior to the occupation of the building hereby approved and thereafter shall be retained and used only for car parking in relation to the permitted uses of the site.

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

20 - D4.3 Bicycle Parking (in accordance with a scheme)

Prior to the [building/s land] being brought into use for the purposes hereby approved, bicycle parking facilities shall be provided in a practical and visually satisfactory manner within the site, which comply with the Local Planning Authority's current cycle parking standards and are in accordance with a scheme, indicating the number, location and design of such facilities, which shall have previously been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall thereafter be retained to serve development.

Reason: To ensure proper provision for cyclists, including parking in accordance with the Local Planning Authority's standards.

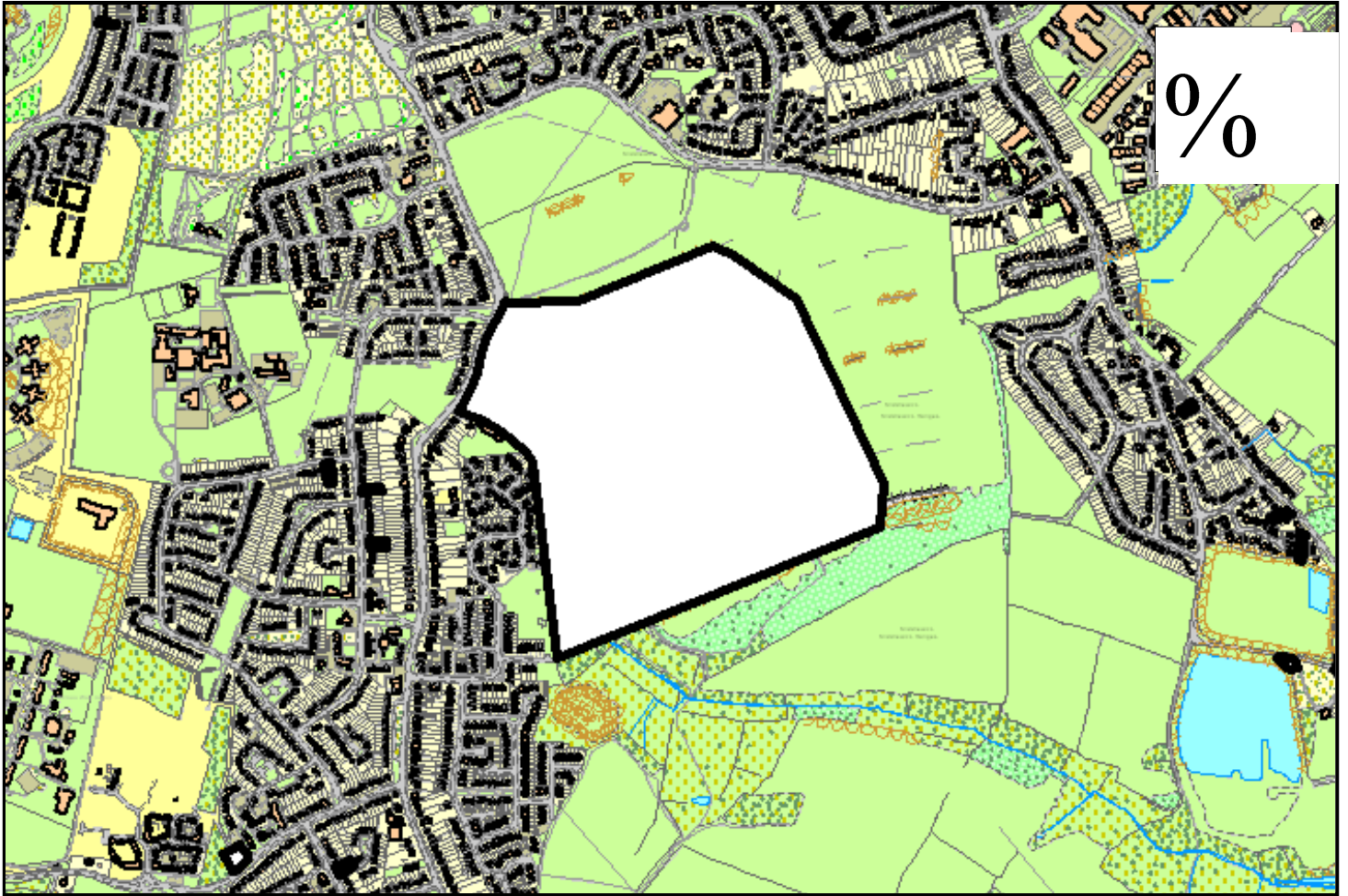
21 - Non-Standard Condition

Prior to occupation of the development the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres to the north as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: The use of this access is a matter of fact and whilst the proposal will not create a large intensification in use the current visibility splay is obstructed by a white wooden fence. This will provide adequate intervisibility between the vehicles using the access and those in the existing public highway in the interest of highway safety to ensure accordance with Policy 1.1 of the Highways and Transportation Development Control policies.

Informatives

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



Application No: 071123

Location: Middlewick Ranges, Mersea Road, Colchester, CO2 8BJ

Scale (approx): Not to Scale

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3 June 2010

Report of

Head of Environmental and Protective Services

Author

Nick McKeever
01206 282441

Title

Non-material amendment to Planning Permission No. 07/1123. Erection of a 2.4m high security chain link fence surrounding the ranges to satisfy health and safety, Middlewick Ranges, Mersea Road, Colchester

Wards affected

Berechurch

This report concerns a proposal to move a 535 metre section of the security fence approximately 20 metres to the south of the approved location. This request has been made at the request of the Ministry of Defences, Defence Estates.

1.0 Decision(s) Required

- 1.1 Members of the Planning Committee are requested to approve the proposed realignment of part of the northern section of the security fence as an amendment to the permission 07/1123 granted on 8 June 2007.
- 1.2 Under this permission the security fence will enclose that part of the Middlewick area used by the MOD as shooting ranges. The public footpath FP162 Middlewick currently runs in a south-easterly direction through the centre of the range area.
- 1.3 This footpath is to be diverted around the eastern, south-eastern and south-western perimeters of the security fence.

2.0 Reasons for Decision(s)

- 2.1 This section of the approved fence is in close proximity to part of the route of the diverted Public Right of Way FP162 Midlewick. The diversion of this footpath, which is necessary to allow the implementation of the permission 071123, was the subject of a recent public inquiry, whereby the proposed diversion order was confirmed on 23 April 2010.
- 2.2 During the public inquiry local residents expressed concerns that the proximity of the fence to the route of the diverted PROW presented a danger to personal safety. Users of the PROW could be trapped against the fence and thereby unable to escape from any threat for example from a mugger, threatening dog or motorcyclist. Whilst the Planning Inspector did not support these concerns, the Ministry of Defence is aware of these local concerns; hence the request to this Authority for the proposed amendment.

3.0 Alternative Options

- 3.1 In the event that Members resolve not to agree the proposal as an amendment to the permission 071123, the Ministry of Defence would be required to submit an application for planning permission for the realignment of the security fence.

4.0 Supporting Information

- 4.1 Two separate plans are reproduced as an Appendix. These plans show the existing and the proposed routes of the affected section of the security fence.

5. Proposals

- 5.1 The affected section of the security fence is approximately 535 metres in length, which runs in a north easterly direction from the site entrance off Mersea Road, joining the start of the existing FP162 (point A on the approved plan). It then runs parallel, and in close proximity, to a small section of the confirmed path of the diverted PROW, part way between points A and B1 on the plan).
- 5.2 The proposal is to move this northern section approximately 20m to the south of an existing track used for access by the Ranges maintenance vehicles.
- 5.3 In addition to reducing the perceived threat to the personal safety of users of the PROW, the realignment of this fence is beneficial to the public use of this land in that it marginally reduces the total area of the Ranges that will be enclosed by the security fence.








6.0 Standard References

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

Background Papers

F/COL/07/1123

Legend

-  Fencing
-  Existing PROW to be Diverted
-  Existing PROW
-  Diverted PROW
-  Existing Buildings
-  Trees
-  Points of Access



Scale 1:2,500 @ A2

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Plan Reference: Fencing_Plan3_Updated_2010

Plan Dated: 23/03/10

Produced By: GM

Revised: ---

IMPORTANT

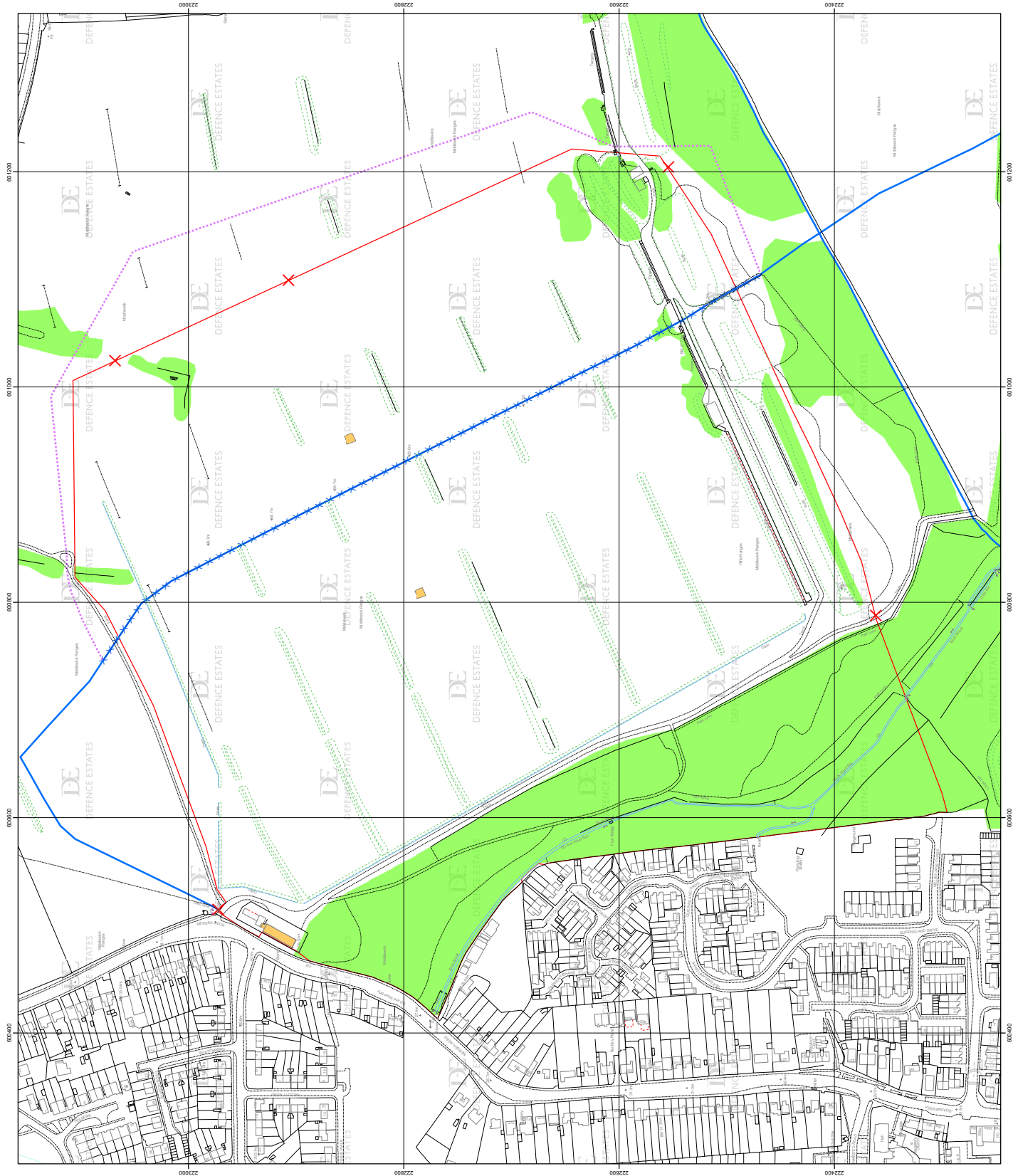
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MOD, DE OPERATIONS NORTH
 STIRLING HOUSE, DENNY END ROAD,
 WATERBEACH, CAMBS. CB25 9QE
 Tel : 01223 255415



Footpath Diversion
Colchester Army Training Area
Essex

Grid Reference: TM 008227

Legend

- Fencing
- D D D Existing PROW to be Diverted
- Existing PROW
- - - - - Diverted PROW
- Existing Buildings
- Trees
- D Points of Access



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Plan Reference: Fencing_Plan3_Updated_A21

Plan Dated: 24/10/08

Produced By: SN

Revised: ---

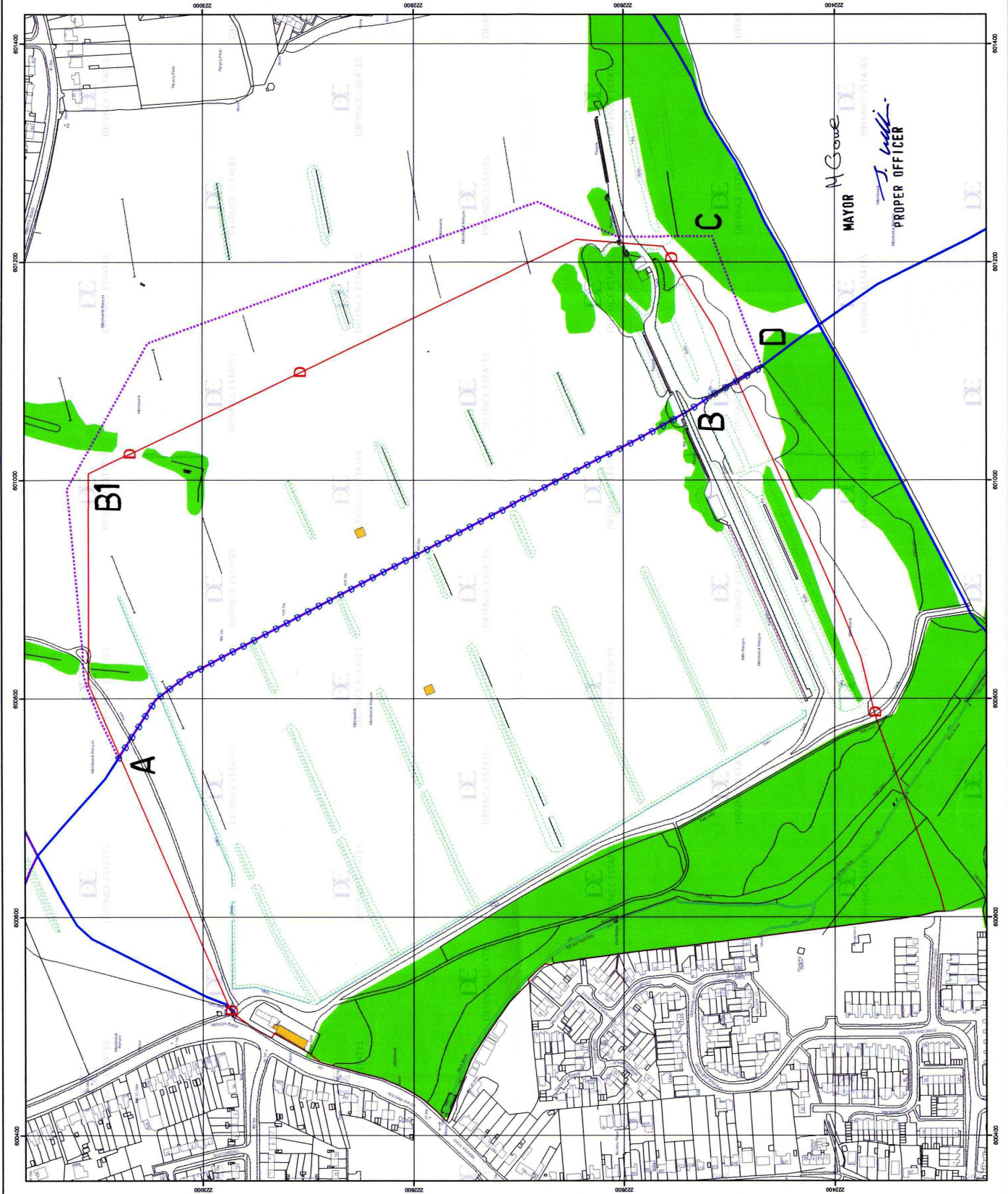
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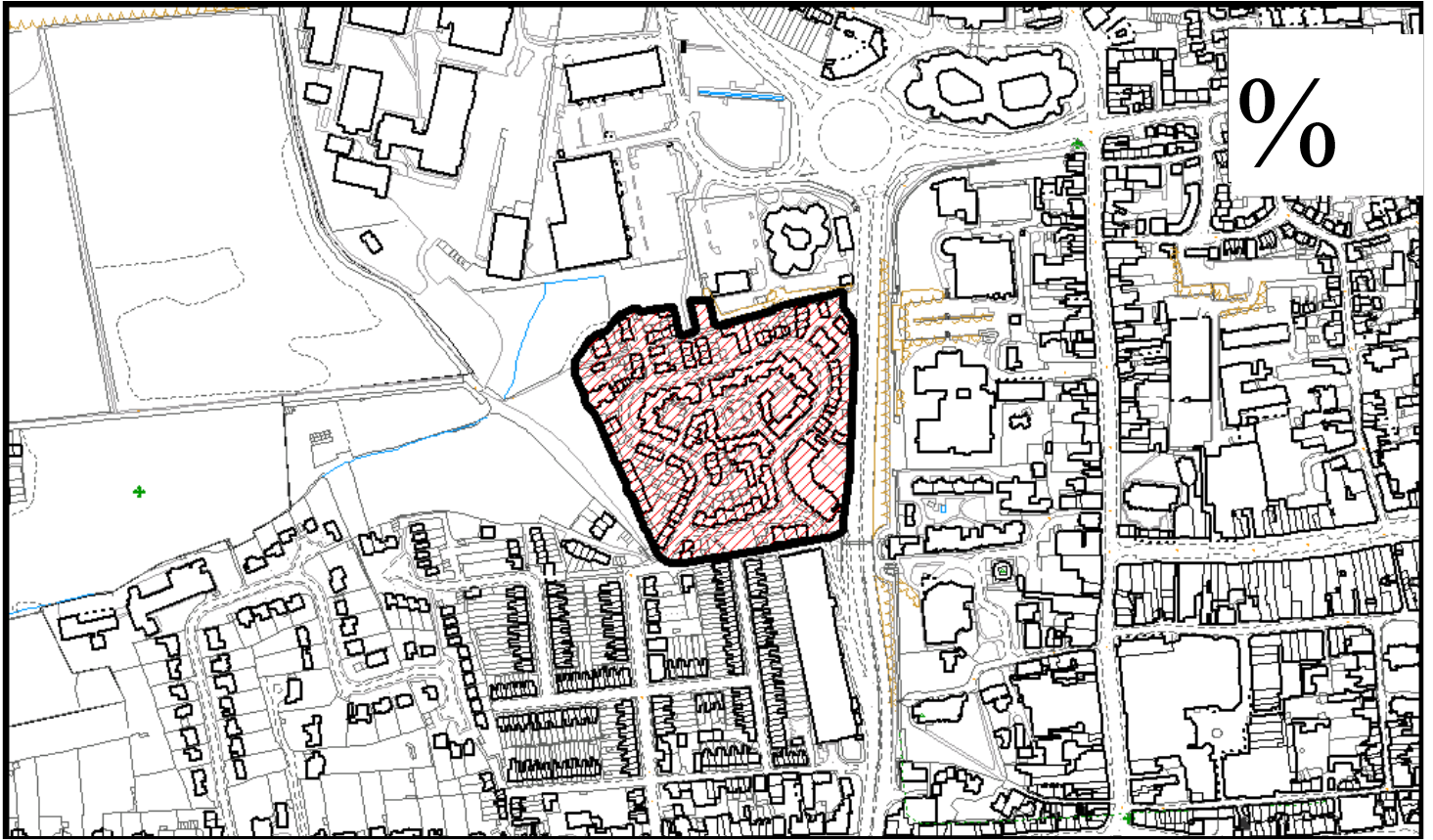
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MOD, DE OPERATIONS NORTH
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WATERBEACH, CAMBS. CB25 9QE
Tel : 01223 255415



MAYOR
 M. Gove
 J. Gove
 PROPER OFFICER



Application No: 010667

Location: Former St Marys Hospital Site, Popes Lane, Colchester, CO3 3JR

Scale (approx): 1:1250

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Planning Committee

Item

9

3 June 2010

Report of	Head of Environmental and Protective Services	Author	David Whybrow ☎ 01206 282444
Title	Variation of Legal Agreement relating to mangement of open space at Balkerne Heights Development, Colchester		
Wards affected	Castle		

Members are requested to authorise a variation to the legal agreement accompanying Application F/COL/01/1313 in order to allow one of the open space areas on the Balkerne Heights development to be maintained by a Management Company rather than transferred to Colchester Borough Council

1.0 Decision(s) Required

- 1.1 Members authorise a variation to the legal agreement associated with this development having regard to the circumstances set out below.

2.0 Reasons for Decision/Supporting Information

- 2.1 Full planning permission was granted for the Balkerne Heights residential development (formerly St Marys Hospital) on 10 July 2002. The legal agreement accompanying this application required, amongst other items, the transfer of play area in the north part of the site together with a further 3 public open space areas to the Council with standard commuted sums.
- 2.2 In 2006 the planning office received a request from the then developer, Barratt Homes, that Public Open Space area 3, in the extreme north-west part of the site, alongside the larger open space area to the east and south-east of Hilly Fields, be removed from the land to be adopted by the Local Planning Authority and transferred into the responsibilities of their Management Company.
- 2.3 At this stage there was officer level agreement to the proposed variation, including acceptance by the Parks and Recreation Manager. For Members' information, the public open space areas and appropriate standards of landscaping were secured by way of the planning approval.
- 2.4 Members are requested to endorse their officer's decision in order that the variation can be formally concluded.

3.0 Alternative Options

- 3.1 If the variation to the legal agreement did not proceed, the Local Planning Authority would be required to accept the transfer of the land with commuted sums, contrary to the requirements of the Parks and Recreation Team.

4.0 Strategic Plan References

- 4.1 The delivery of open space within new residential developments contributes towards strategic plan “quality of life” objectives but such objectives are not prejudiced by these proposals.

5.0 Consultation

- 5.1 None

INDEX TO PLANNING APPLICATIONS CODES

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

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

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

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

INTERNAL CONSULTEES

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

REPRESENTATIONS ETC

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

EXTERNAL CONSULTEES (2 character codes)

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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