

# Planning Committee

Town Hall, Colchester  
17 September 2009 at 6.00pm

## **This committee deals with**

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

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

## Information for Members of the Public

### Access to information and meetings

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

### Have Your Say!

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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.

### Mobile phones, pagers, cameras, audio recorders

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

### Access

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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  
17 September 2009 at 6:00pm**

**Members**

Chairman : Councillor Ray Gamble.  
Deputy Chairman : Councillor Stephen Ford.  
Councillors Mary Blandon, Helen Chuah, Mark Cory,  
John Elliott, Andrew Ellis, Theresa Higgins, Sonia Lewis,  
Jackie Maclean, Jon Manning and Ann Quarrie.

**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, John Bouckley, Nigel Chapman, Peter Chillingworth, Barrie Cook, Beverly Davies, Wyn Foster, Mike Hardy, Pauline Hazell, Peter Higgins, Martin Hunt, Michael Lilley, Sue Lissimore, Richard Martin, Nigel Offen, Lesley Scott-Boutell, Laura Sykes, 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 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 - 12**

To confirm as a correct record the minutes of the meeting held on 3 September 2009.

## **7. Planning Applications**

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

1. 090891 Orchard Place, Vernons Road, Chappel  
(Great Tey) **13 - 45**

Retention of existing unauthorised use of land for permanent stationing of 12no. caravans on six pitches for occupation by gypsy families. Erection of small toilet/utility sheds and laying of hardcore/chipping/tarmac surfaces. Resubmission of 090559.
2. 090725 Land to the east of Port Lane, Colchester  
(New Town) **46 - 69**

Erection of 224 dwellings.
3. 090909 East View, Straight Road, Boxted  
(Fordham and Stour) **70 - 74**

Change of use from doctors surgery to domestic dwelling. Alterations to roof to form three bedrooms.
4. 090984 13a Nayland Road, Colchester  
(Mile End) **75 - 82**

New disabled dental clinic (resubmission of 090550).
5. 091002 Abbots Wick Farm, Abbots Wick Lane, Great Wigborough  
(Birch and Winstree) **83 - 89**

Change of use and minor alteration of barn to form granny annexe and ancillary leisure space.
6. 090588 17 East Mersea Road, West Mersea  
(West Mersea) **90 - 97**

Change of use of existing swimming pool for non-domestic purposes.

7. 090755 Woodhouse Lane, Coach Road, Great Horkesley (Fordham and Stour) **98 - 104**

Proposed livestock building plus change of use of land for the temporary stationing of a mobile home.

8. 090823 Unit 2, Tollgate East, Stanway (Stanway) **105 - 110**

Change of use from class A1 Retail to B1 Business, B2 General Industrial, and B8 Storage and Distribution, with ancillary retail under Colchester Borough Council Planning Policy EMP1.

## **8. Exclusion of the Public**

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



**PLANNING COMMITTEE  
3 SEPTEMBER 2009**

*Present :-* Councillor Ray Gamble\* (Chairman)  
Councillor Sonia Lewis\* (Deputy Mayor)  
Councillors Mary Blandon\*, Helen Chuah\*,  
John Elliott\*, Andrew Ellis\*, Stephen Ford\*,  
Theresa Higgins\*, Jackie Maclean\*, Jon Manning\*  
and Ann Quarrie\*

*Substitute Member :-* Councillor Laura Sykes for Councillor Mark Cory\*

*Also in Attendance :-* Councillor Chris Hall

(\* Committee members who attended the formal site visit.  
Councillor Gamble was not present at the site visit  
referred to in minute no. 83)

## 82. Minutes

The minutes of the meeting held on 20 August 2009 were confirmed as a correct record subject to minute 81 being amended to reflect the Committee's decision for the temporary period to be for eighteen months ending on 28 February 2011.

**Councillor Ray Gamble (in respect of having worked at the magistrates court for 5 years, having links with the court over 30 years and his close personal association with a number of magistrates) 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. The Deputy Chairman, Councillor Ford, acted as Chairman for this item.**

## 83. 090752 St Botolphs Car Park, St Botolphs Circus, Colchester

**The Chairman has agreed pursuant to the provisions of Section 100B(4) (b) of the Local Government Act 1972 to consider the following item at this meeting as a matter of urgency to enable the application to be considered and determined within the 13 week period for determination of major applications.**

The Committee considered an application for the redevelopment of part of the St. Botolphs Car Park. The development comprises a part two, part three, and

part four storey magistrates court complex incorporating double height court volumes. Within the building there will be four magistrate courtrooms and one youth/family courtroom, with associated ancillary accommodation. There are eighteen secure staff car parking spaces and vehicular access off Magdalen Street that will entail alterations to the highway. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

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

Mr Dave Stenning, on behalf of Colchester Civic Society and former Head of Conservation at Essex County Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The report states that 'the new building will set a new context while relating to its surroundings.' This is confusing as it is the existing context which is important. The report goes on to state that 'an obvious architecture of a more contextual form will appear out of scale and out of character'. It is surely what is required. The current proposal ignores the location. The rear elevation towards the Priory is painfully horizontal in its depth. He regarded this proposal as an extraordinarily unsympathetic proposal and unacceptably damaging in this location. The fault lies in the Development Brief. There is also the matter of the Local Development Framework Committee which would like to see a 12m strip behind the building for buses. The resultant building is likely to be unpopular.

Mr P. Smith, Town Planning Consultant representing HM Court Services, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The existing building is no longer fit for purpose and new facilities are needed to deliver enhanced court services in Colchester. This is a joint project in both Colchester and Chelmsford. A pre-application meeting was held and the design and development of the scheme has taken full account of all views expressed. A number of consultation exhibitions were also undertaken and the views of design officers were positive. It is a complex site. The issues include the need to respond positively to changes in ground level and address three frontages and listed buildings. He believed this was a successful, balanced design. In terms of the car parking issue, Blue Badge holders will be able to park in the public car park. He referred to paragraph 9.3 of the report which notes that officers are confident that details raised by English Heritage can be overcome. He only became aware of this response recently. He was firmly of the opinion that the development will become an important asset to the town in terms of positive design and architectural response.

Councillor Hall attended and, with the consent of the Chairman, addressed the Committee. This is an area of heritage which needs to be protected. This is a prominent site and it is important that it is developed properly. The site is derelict at the moment. He was shocked by the proposal, by the building's originality, and comprehensive approach and modern design. It will give Colchester a major new building. English Heritage is supportive and he was surprised that the Civic Society had changed their minds. He considered the issues of the tower could be resolved and hoped Committee would take notice of the comments made.

Members of the Committee recognised that this building was crucial to Colchester whilst some had doubts about the contemporary design. There are outstanding issues of design and architectural detailing and these needed to be addressed. There was a suggestion that the Committee should indicate whether they were content with the decision being delegated to the Head of Environmental and Protective Services or whether they wanted it to come back to the Committee. A great building should have gravitas and it was important to make sure that the detail was right. Some members had doubts about the design but the computer generated image (cgi) showed what a landmark building it was. There were concerns that there should be disabled parking spaces for all those using the building and that access arrangements under DDA legislation to the court house and courts, for example induction loops, should be installed as part of the construction of the building rather than being added at a later date. Several members were concerned about the facade on to Magdalen Street. The reasons given included the loss of views of the Town Hall, the Priory and St Botolphs, the window frames and windows project from the vertical plane. There was nothing in the Section 106 to contribute towards the rest of the ward. An explanation of the terminology green wall, green roof and brown roof was requested together with the sustainable credentials of the building. There were three different terracotta tiles each varying in shade of terracotta and the question as to how they would be used was posed with a preference for the tower to be broken up in design terms.

It was explained that the Section 106 agreement is almost exactly as in the outline permission with the only change being on the Amendment Sheet. Any Section 106 asked for has to be related to the application to mitigate any negative impacts. This type of application does not trigger a contribution for open space. The elevation on to Magdalen Street is the staff side and has been designed to be less permeable and more secure, but because of the function that goes on inside any amendment to that elevation may be more than minor amendments. The courts are set back and the view from Magdalen Street is effectively a green wall. The surface treatments of the roofs are more sustainable. Green roofs are living plants, often from the sedum family,

to slow down water run off and take up carbon dioxide and give off oxygen. Brown roofs are made from crushed hard recycling material and create new habitats. A green wall is a living wall, often willow and forms a solid green screen which provides security benefits and helps to green the building. The heating system is fuelled by bio mass boilers. Significant alterations could be made to the tower but reducing it by a metre here and there may not give a better view of any particular landmark. The brief always envisaged a building of this scale on this site. The Magdalen Street elevation does have a human scale which it is believed would be a pleasing elevation.

*RESOLVED* (FIVE voted FOR, THREE voted AGAINST and THREE ABSTAINED from voting) that the application be deferred for further negotiation relating to:-

- the architectural detailing of the tower block in particular to give greater vertical emphasis and visual interest; and
- the provision of disabled parking spaces for visitors to the court.

No other elements of the design require amendment. The application to be referred back to the Committee for a decision.

#### **84. 090838 Blacksmiths Corner, Ivy Lodge Road, Great Horkesley**

The Committee considered an application for the erection of a single detached dwelling and alterations to the existing vehicular access. The Committee had before it a report in which all information was set out.

*RESOLVED (UNANIMOUSLY)* that, subject to the receipt of satisfactory comments from the Trees and Landscape Officer –

(a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.

(b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

#### **85. 090906 2 Albertine Close, Stanway**

The Committee considered an application for a proposed detached dwelling which is a resubmission of 090507. The Committee had before it a report in



which all information was set out.

*RESOLVED* (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.

(b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

**86. 090399 Primrose Cottage, The Street, Chappel**

The Committee considered an application for the renewal of planning permission for a proposed new dwelling and garage. The Committee had before it a report in which all information was set out.

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

**87. 090722 Plot 10, land off (formerly part of rear garden) no. 9 D'Arcy Road, Colchester**

The Committee considered an application for the erection of a four bedroom detached dwelling house. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

A concern was expressed from the Committee that a four bedroom house on this plot would be out of context with its surroundings which mainly comprise three bedroom bungalows and houses and terraced properties further away. There were also concerns about its height.

It was explained that in planning terms it was considered that the overall design and scale of the proposed dwelling is acceptable and does not appear out of keeping with the adjacent property. It is similar in scale to a new dwelling on the frontage of the completed development. Private amenity space and parking provisions meet the required standards and there is a condition regarding slab levels, which would secure a roof height level with neighbouring

properties. The site was a generous size and it would be hard to demonstrate that the site would be cramped or that the dwelling would be out of context with its surroundings.

*RESOLVED* (MAJORITY voted FOR) that –

(a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.

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

**Councillor Mary Blandon (in respect of her acquaintance with the applicant and his family) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**88. 090785 30 St Clare Road, Colchester**

The Committee considered an application for the demolition of the existing house, garage and outbuildings and the erection of a new detached house with detached garage. The Committee had before it a report in which all information was set out.

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

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations. It was explained that this application was similar to one approved under COL/06/1541 with a number of changes, substantially the building being positioned 3m further back into the plot from the position previously approved, two additional dormer windows, a 300mm increase in overall height, and the garage being positioned further forward to improve vehicular circulation at the front. It was confirmed that a Category A Scots Pine tree was included in the tree survey which provided for root protection for the tree during development.

Mr John Nicholson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The introduction included all the points relevant to his application. The house was

located further back into the plot to assist with vehicular access to the road. He considered that the overlooking issues have been addressed and that the dormer windows would not impinge on the neighbours.

Members of the Committee raised a number of issues with the objective of safeguarding the privacy of the neighbouring property to the southeast. The large window to a rear bedroom, shown as patio doors, potentially had access to flat area above the bay on the ground floor. In order to prevent the patio doors from being used to access the flat roof area a Juliet balcony was proposed. However there was a view that the doors should be changed to a fixed window to prevent the flat roof area from being used as a balcony. Other members supported this view with a further suggestion that the balustrade around the perimeter of the flat roof area be removed. Also requested was a condition to require obscured glazing to the two dormer windows in the roof on the southeast elevation.

It was explained that the Juliet balcony was included to ensure that the balcony could not be used as a balcony as physical measures were considered to be more successful than conditions. In regard to the two new dormer windows, they face towards the driveway area of no. 44 Fitzwalter Road. There is no living space in the loft, which is to be used for storage only, and the windows will provide some light to the space, but it was for the Committee to determine the treatment of this window.

*RESOLVED* (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report together with an additional condition to secure obscure glazing in the two side dormer windows.

## **89. 090848 Part garden of 110 Oaklands Avenue, Colchester**

The Committee considered an application for the erection of a bungalow together with associated parking facilities for the new and existing properties. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr John Brew addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This application complied with the majority of the relevant policies. Any impact on surroundings and neighbours would be minimal. Parking provision is adequate and any on-street nuisance parking would be decreased. The design reflects the surrounding area. The minimum amenity space required is 50 sq m and

this proposal provides 85 sq m. In essence the only issue is the rear garden space, which is 17m wide and 4m deep. The rear garden is west facing and in the sun for the majority of the day.

It was explained that this proposal was considered inappropriate in planning terms. Although amenity space is provided, it is considered inappropriate because it does not create a usable or attractive garden due to its size and the way it is arranged. The issue is whether this proposal creates a better environment and it is considered that it does not.

Members of the Committee considered the amenity space to be poor. Another, similar infill property nearby has a usable garden space but this one does not. It was also unsatisfactory that the one parking space was in the garden.

*RESOLVED* (UNANIMOUSLY) that the application be refused on the grounds set out in the report.

#### **90. 090922 Coy View, East Road, West Mersea**

The Committee considered an application for the construction of a new access to an allotment area. The Committee had before it a report in which all information was set out.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Vince addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He did not object to the allotments themselves but did object to the access point which was opposite his bungalow. The original application was misleading because of the address, which has not been used for 10 years. The access point does not exist in the position indicated but was 300 yards to the west nearer the footpath and speed limit. This position for an access point is extremely dangerous. There are deep ditches on either side of the road and walking is extremely dangerous.

Members of the Committee acknowledged the concerns of the speaker but the Highways Authority have not raised any objections. It appeared that there was an access to the field which had become overgrown. Some of the hedging will need to be removed to improve the splay. They recognised that there were no grounds to refuse the application and considered that there was a lack of allotments throughout the borough.

It was explained that there was an access in the position indicated but it was not visible at the moment. The officer referred to another access some distance down the road which was likely to be the one referred to by the public speaker. The road bends at the point where motorists will exit the site and the curve of the bend provided good visibility to the motorist.

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

#### **91. 090360 Sports Ground, Colchester Road, West Mersea**

The Committee considered an application for a first floor extension to an existing sports and social club together with revised access and parking arrangements which was a resubmission of 081756. The Committee had before it a report in which all information was set out.

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

#### **92. 090486 Unit 1 Solus Development, William Harris Way, Colchester**

This item was withdrawn from this meeting by the applicant.

#### **93. 090743 200 Ipswich Road, Colchester**

The Committee considered an application for a proposed change of use of part of the ground floor from residential use to a fast food takeaway restaurant, with extensions to the front and rear, the formation of a car park to the rear and associated access. The Committee had before it a report in which all information was set out, see also Amendment sheet.

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

It was explained that this was an additional commercial unit within the plot, which would be a small fast food takeaway on the north side additional to the convenience and off licence store on the south side, with residential accommodation above. The proposals are identical to the previous proposals. Car parking was provided in the back garden comprising seven parking spaces at back for commercial units and three parking spaces for residential accommodation. In addition there were two parking spaces in front

of no. 200 Ipswich Road and two parking spaces on front of no. 202 Ipswich Road.

Members of the Committee were concerned about this becoming a fast food takeaway because odour extraction equipment was rarely entirely successful. The existing opening hours would be reduced by condition by closing one hour earlier and not opening at all on Sundays.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, see also Amendment sheet.

#### **94. Enforcement Action // Land at 111 Wilson Marriage Road, Colchester**

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the demolition of a front extension used as a porch and the removal from the site, of all materials arising from the demolition.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

A planning application was submitted in April this year which had varied from the existing porch and had been refused. No further applications have been received. Notwithstanding offers for improvement the existing porch looks incongruous in this location. The enforcement action proposes to return the porch to its original state.

Mr Hanak addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the proposed enforcement action. His grandmother had a stroke two years ago and at that time she became a wheelchair user. The extension to the porch was built at that time to house her wheelchair when she came to visit them. He now hoped to reduce the size of the porch to something that was acceptable. He wanted to establish what the procedure was and to find a way to alter the porch to comply with the rules.

Members of the Committee commented that the porch appeared to be free standing, did not enhance the property, and was an inappropriate extension to the front of the building. The occupier had submitted an application to regularise the situation, which had been refused. Now there is an opportunity to submit a further application without charge, a "free go", and this could be done within the 4 months period for removal of the current porch. The reason for the extension was understood but the existing porch appeared to be larger

than was necessary to house a wheelchair.

*RESOLVED* (UNANIMOUSLY) that an enforcement notice be served at 111 Wilson Marriage Road, Colchester, requiring the demolition of the extension to the porch and the removal from site of all materials arising from the demolition with a compliance of four months.

**Councillor Andrew Ellis (in respect of having used the services of the applicant's agent, Mr E.Gittins, and having purchased furniture from the company) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**95. Enforcement Action // Land at Furniture Zone, Turkey Cock Lane, Lexden Heath, Colchester**

The Head of Environmental and Protective Services submitted a report on proposed enforcement action requiring the cessation of use of the land for the siting of three containers used for storage purposes, and the removal of those containers from the site. See also Amendment Sheet.

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

Mr Ted Gittins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the proposed enforcement action. An application to retain the containers for a temporary period of 12 months has been refused and an appeal has been lodged. An appeal against an enforcement notice will duplicate the work, possibly taking 10 months in total, set against application for containers to remain for 12 months. The applicant had permission for storage on the land but is now instructed to put in an application for storage, which will come to council in 6 weeks so he queried whether this enforcement action is justified. The containers constitute a vital part of the operation. They are not visible from public vantage points and only used in the morning and never at weekends. Currently there is one delivery of stock each month; if they were to be removed deliveries every week would be required, thus causing a greater impact than at present. An appeal has been lodged and will be heard on its merits and if the Committee could consider using its discretion, without duplication, costs would be saved.

Mr Franklin addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the proposed enforcement action. In accordance with Council policy an application to regularise the breach was

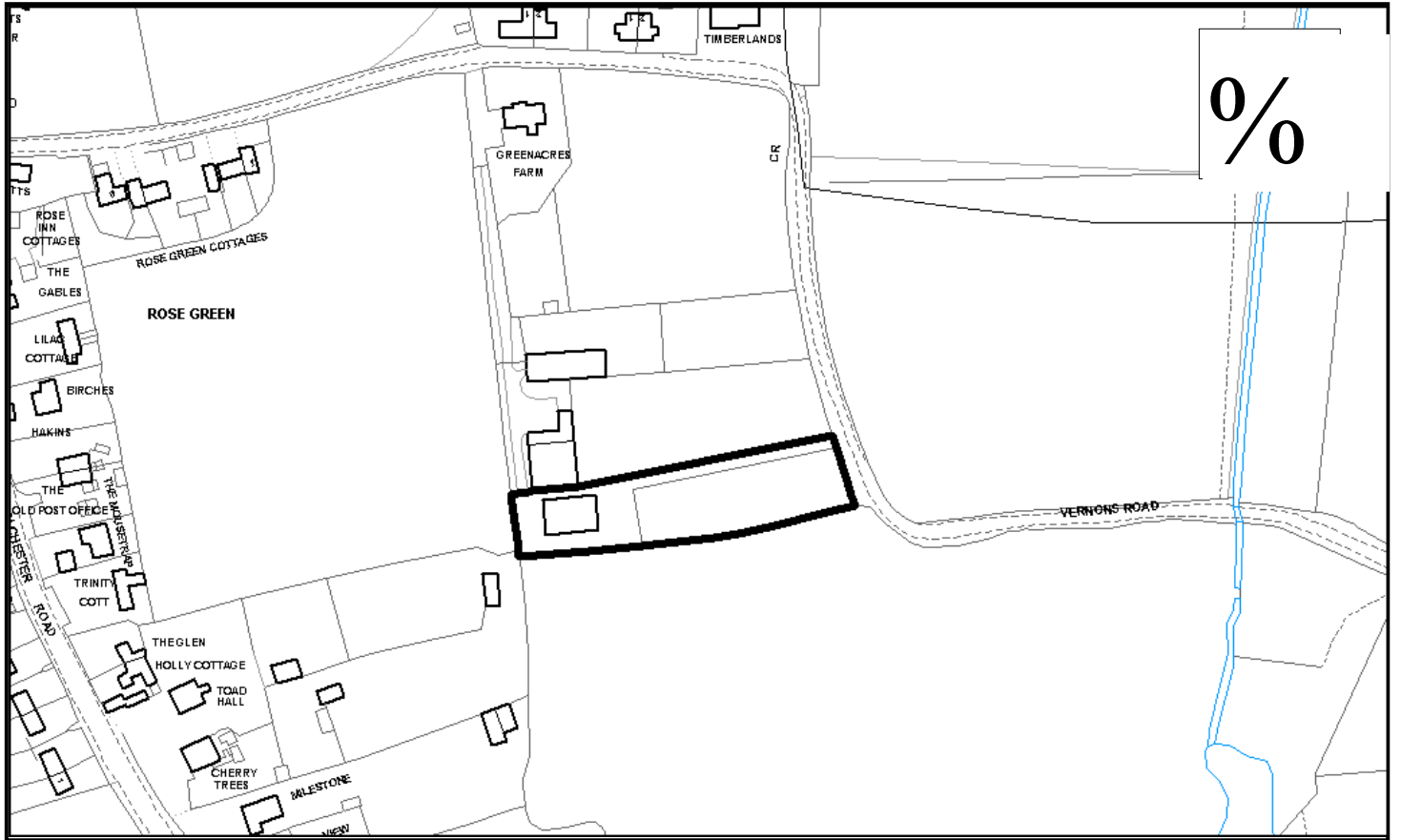
refused and it was firmly stated that any further growth at this site is contrary to planning regulations. The site has changed considerably from its permitted use and the current use of storage in the containers is an extension and an increase in scale and intensity which is of concern. The containers are visible from their garden and there is an electricity supply. They contain flat pack furniture and are used daily. There are vans of various sizes visiting the site every week. Now there is storage, distribution and sales which is a larger operation. They have lost the amenity of their garden and have to confine their dogs inside because they are upset by the activity.

It was explained that the containers and their use is contrary to policy and has an impact on the neighbours. The enforcement notice is seeking removal of containers. In respect of the refusal of planning permission, if an appeal is dismissed it does not secure the removal of the containers. Thus the purpose of the two appeals running together secures their removal.

Members of the Committee supported the service of an enforcement notice to bring normality back for the neighbours.

*RESOLVED* (MAJORITY voted FOR) that an enforcement notice be served at Furniture Zone, Turkey Cock Lane, Lexden Heath, Colchester, requiring the cessation of use of the land for the siting of three containers used for storage purposes, and the removal of those containers from the site with a compliance period of four months.





**Application No:** 090891

**Location:** Orchard Place, Vernons Road, Chappel, Colchester

**Scale (approx):** 1:1250

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# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **17 September 2009**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

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

**7.1 Case Officer: Mark Russell      EXPIRY DATE: 17/09/2009      OTHER**

**te:**                      **Orchard Place, Vernons Road, Chappel, Colchester**

**Application No:**    **090891**

**Date Received:**    **23 July 2009**

**Agent:**                **Dave Cookson Associates**

**Applicant:**           **Mr Michael McCarthy**

**Development:**      Retention of existing unauthorised use of land for permanent stationing of 12no. caravans on six pitches for occupation by gypsy families. Erection of small toilet/utility sheds and laying of hardcore/chipping/tarmac surfaces. RESUBMISSION OF 090559.

**Ward:**                  **Great Tey**

**Summary of Recommendation:** Refusal

## **1.0 Planning Report Introduction**

**1.1 This application is a resubmission of 090559, which was invalidated for insufficient information. The subsequent application was originally lodged in late June, and was then revalidated on 23rd July when relevant information became available.**

## **2.0 Site Description**

- 2.1 The site comprises a parcel of former agricultural land (which is still its extant lawful use) and is approximately 100 metres outside of the Chappel Village Envelope. It is surrounded on two sides by open country, and on one side by the grounds of Greenacres Farm which is a caravan site and is itself mainly open land. The fourth side is the entry point on to the unclassified Vernon's Road. The site is partially screened by trees and hedging, although in the case of the southern aspect this is virtually non-existent.
- 2.2 The application before Members is, at the time of writing, partially retrospective. Fencing has already gone up around the site, including internal divisions between the proposed plots, entrance gates have been installed to the Vernon's Road aspect, and a partial occupation of the site has been in place almost consistently since February 2009. In addition, the site is now entirely covered with crushed aggregate or hardstanding.

## **3.0 Description of Proposal**

- 3.1 As mentioned above, the application is partially retrospective.
- 3.2 The application is to regularise the use of the site for the stationing of 12 no. caravans on 6 no. pitches for gypsy families. These pitches would be located on the left hand side of the site, with the access from Vernons Road to the right. Four of the pitches would measure 15m x 15m, one would measure 17m x 15m, and the final pitch would measure 20m x 20m. It is proposed, as the description suggests, to have two caravans in each pitch.
- 3.3 The access from the road can be closed off with metal framed gates with a wire mesh infill. When closed, the gates would leave a set back of three to four metres from the edge of the carriageway of Vernons Road.
- 3.4 The site (apart from the access on to the highway) has been enclosed with a boundary fence up to two metres in height, and fences of approximately one metre in height which separate the proposed plots from each other. All of these are close-boarded.
- 3.5 Also proposed is the erection of a small single storey wooden building of approximately 4m x 3m in each pitch. These would have a kitchen, bathroom, toilet and store facility.
- 3.6 The final element of the proposal is for small internal lighting inside the fence, with light directed downwards.

## **4.0 Land Use Allocation**

- 4.1 Unallocated

## **5.0 Relevant Planning History**

- 5.1 090559 - Retention of use of land for permanent stationing of 12no. caravans for occupation by gypsy families. Erection of small toilet/washing sheds and laying of hardcore/chipping surfaces. Withdrawn.

## **6.0 Principal Policies**

- 6.1 ODPM – Circular 01/2006, *Planning for Gypsy and Traveller Caravan Sites*  
Department of Communities and Local Government "Progress Report on Gypsy and Traveller Policy" (July 2009)  
"Designing Gypsy and Traveller Sites - Good Practice Guide" (May 2008)
- 6.2 East of England Plan  
Policy H3 – "Provision for Gypsies and Travellers" (July 2009)
- 6.3 Adopted Review Colchester Local Plan (March 2004):  
DC1- Development Control considerations;  
P1 - Pollution  
UEA13(e) – Development adjoining existing residential property;  
CO5 – Nature Conservation;  
L1 – Leisure, Recreation and Tourism
- 6.4 Core Strategy (December 2008):  
ENV1 - Environment  
ENV2 – Rural Communities  
H5 – Gypsies, Travellers and Travelling Showpeople
- 6.5 Emerging Local Development Framework  
Policy SAH2 – gypsy and Traveller Accommodation (August 2009)

## **7.0 Consultations**

- 7.1 Trees and Landscapes recommended "Agreement to the landscape aspect of the application subject to minor amendments and condition."
- 7.2 Environmental Control comment as follows:-

"The applicant indicates that this land will be used for residential use only and Environmental Control is therefore commenting on this basis. We would however recommend that the use is restricted to residential as suggested. The septic tanks or mini treatment works will be subject to approval by the Environment Agency and we would suggest that advice is sought from the agency regarding the most favourable option."

Environment Control also suggested guidance on demolition and construction and lighting (included at the foot of this report).

7.3 Highway Authority recommended refusal on the following grounds:

“This proposal, in requiring all facilities such as education, employment and shopping elsewhere, would introduce additional domestic traffic, including pedestrians and cyclists (both adults and children) into this very rural location where there are neither street lights nor footways and where traffic is subject to no special or local speed limit other than that nationally imposed for single carriageway roads. The proposal would accordingly be contrary to the interests of highway safety.

The proposal would lead to intensified use of the rural road network by large vehicles and caravans in an area which is not suitable for this level and size of traffic, and would therefore have a detrimental effect on the roads and an increased maintenance liability for the Highway Authority.

The proposal would create a sub-standard vehicle access by reason of insufficient visibility splays which would measure 4.5m x 90m in this location.”

7.4 Environment Agency comment as follows:

“The proposal involves a number of septic tank/soakaway systems in a small area, plus a part of the site is within a groundwater vulnerable zone, a minor aquifer of variable permeability. Our Groundwater and Contaminated Land team has stated that they do not have any concern over septic tank sewerage at this location from a controlled water point of view. The applicant will need to make an application for consent to discharge and any specific issues will be raised at this stage by our Groundwater & Contaminated Land team.

If approved, the foul drainage from the proposed development may be discharged to a septic tank and soakaway system which meets the requirements of British Standard BS 6297: 1983 and which complies with the following: - a) there is no connection to any watercourse or land drainage system and no part of the soakaway system is situated within 10 metres of any ditch or watercourse, or within 50 metres of a well, borehole or spring; b) porosity tests are carried out to the satisfaction of the Local Planning Authority to demonstrate that suitable subsoil and adequate land area is available for the soakaway (BS 6297: 1983 refers).

According to our North Essex Environment Management team, there are properties in Vernons Road that are connected to the public foul sewer some distance to the north of the site. However, it may be possible to connect to a private lateral if there is one nearby, with the owner’s permission.”

The Environment Agency further advised the applicant to consult Planning Policy Guidance note 4 regarding non-mains drainage, and it also advised that storage, treatment and disposal of wastes without a permit or exemption is an offence.

## 7.5 Planning Policy comment as follows:

“The East of England Plan has been subject to a single issue review into Gypsy and Traveller Accommodation in the East of England. As the Secretary of State is yet to consider responses to the latest consultation the final level of pitch provision that East of England Plan Policy H3 will require in Colchester is still unclear. It is, however, reasonable to assume that the total number of pitches required in Colchester in 2011 is likely to be either 25 (as recommended by the Panel Report) or 30 (as suggested in the Secretary of State’s proposed changes).

The total number of authorised or lawful existing pitches in Colchester Borough is currently in the region of 8 pitches.

Whether the required total number of pitches in 2011 is finalised as 25 or 30 pitches it is clear that a considerable number of additional pitches will be required. The site with planning permission at Severalls Lane may be able to contribute up to 12 pitches but this development is yet to be commenced. Even if pitches are provided at Severalls Lane, additional provision is still required to meet the 2011 target, and further increases will be required to meet the total pitch requirements in 2021 of 33.6 or 40.32 pitches.

Colchester’s Core Strategy was adopted in December 2008. Core Strategy policy H5 sets out the Council’s approach for the provision of Gypsy and Traveller accommodation within the Borough. This policy states that a suitable site is being provided in Severalls Lane, Colchester; and that additional sites will be identified (in the Site Allocations DPD) to meet future need. The Site Allocations DPD will therefore seek to formally allocate sufficient land to meet the new pitch requirements for Colchester that result from the East of England Plan Single Issue Review. When identifying sites to meet the East of England Plan target, it is important that any sites allocated are achievable, deliverable and are in locations where Gypsy and Traveller groups have expressed a desire to live. Planning applications for Gypsy and Traveller accommodation, therefore, have potential to contribute towards the additional pitch provision that the Council is required to identify through the Site Allocations DPD.

In seeking suitable locations for Gypsy and Traveller accommodation Core Strategy Policy H5 sets out that the Council will seek to locate sites within reasonable proximity to existing settlements, and with access to shops, schools and other community facilities. The application site is located approximately 370 metres (by road) outside of the existing village envelope at Rose Green, Chappel, as identified in the 2004 Local Plan and approximately 130 metres from the village envelope directly. These distances are within what can be considered reasonable walking distance and suggest the site can be considered to be in reasonable proximity to the existing settlement at Rose Green, Chappel. There is a bus stop, post box and United Reform Church located in the Rose Green area of Chappel.

The area of the settlement at Rose Green, Chappel is separated from the other development at Chappel and Wakes Colne, and like other residents at Rose Green, it would be necessary for residents at the application site to travel to The Street, Chappel, to access the shop, post office, public house and school (approximately 1.0 – 1.2km from the application site by road). Although this is outside what would generally be considered a reasonable walking distance residents at the site would have broadly the same level of access to community facilities, shop and schools as those living in the existing settlement at Rose Green, Chappel. There is a footway on one side of Colchester Road (A1124) linking the Rose Green area to the other parts of Chappel and Wakes Colne. The supporting information indicates that a need to access educational facilities was a significant factor in the desire for accommodation on this site and that children from the site have successfully enrolled in the local school.

The application site is also approximately 1.4km (by road) from Chappel and Wakes Colne Railway Station providing options for sustainable travel.

Core Strategy policy H5 also states sites should provide adequate space for vehicles and appropriate highway access. The application indicates that it is anticipated that 6 families would live on the site. Further confirmation should be sought over the exact size of the proposed pitches. Each pitch would need to provide sufficient space for parking of vehicles and amenity space. Advice should be sought from Essex County Council Highways regarding the levels of access required from the 6 families / pitches. The application form indicates a site area of approximately 0.05ha (500 sq m) and an approximate total length of site of 97 metres. It should be noted, however, that measurement of the site size using the Council's mapping system indicates a site length in the region of 116 metres and a total site area (including shared access) of approximately 0.28 ha or 2800 sq m. Clarification should therefore be sought over the size of the site and the size of the proposed pitches.

Guidance on the size of Gypsy and Traveller pitches and the design of Gypsy and Traveller sites is contained within the Communities and Local Government Good Practice Guide on '*Designing Gypsy and Traveller Sites*' (May 2008) and should be treated as a material consideration. Paragraph 7.9 of this document makes clear that there is no one-size-fits-all measurement of a pitch as this will vary depending on individual needs, but paragraphs 7.12 and 7.13, do list the type of facilities that may need to be accommodated. The Good Practice Guide then goes on to give good practice examples of site design including the approved application at Severalls Lane, Colchester. The good practice examples and the types of supporting facilities such as utility buildings listed in the Good Practice Guide suggest that an overall density of 1 pitch per 500sqm over a whole site is broadly appropriate for estimations of a sites potential capacity. This allows for typical pitches, supporting facilities, communal space and access requirements as noted by paragraphs 7.12 and 7.13 of the Good Practice Guide. This actual level of provision on any one site, however, would vary significantly depending upon the characteristics of the site and the requirements of its residents as noted by paragraph 7.9. Assuming a site size of 0.28ha the application site at Vernons Road would have a theoretical capacity of 5.6 pitches (assuming 500 sq m per pitch). An application for 6 pitches on the site therefore appears to be broadly consistent with the number of pitches that a site of this size would normally be expected to provide.

The application site is located outside the settlement boundary but appears to be in close proximity to the existing settlement in accordance with Core Strategy policy H5. Core Strategy policy ENV1 seeks to conserve the environmental assets and open character of the Borough and sets out the criteria to which development outside of settlement boundaries should conform. The environmental impact of the proposal should not outweigh the need for Gypsy and Traveller accommodation as expressed in the East of England Plan and Core Strategy Policy H5.

A similar assessment should be applied with regard to 2004 Local Plan Policy DC1 which has been saved as required by the Planning and Compulsory Purchase Act 2004. The detailed design of the site should be such as to minimize or mitigate any potential adverse impacts on the surrounding area particularly with regard to issues of amenity.

The site is located in a Countryside Conservation Area as defined by policy CO3 of the 2004 Local Plan. This policy has been saved as required by the Planning and Compulsory Purchase Act 2004. It should be noted, however, that an updated study of 'Areas of Landscape Character Importance' was carried out as part of the Core Strategy. The Inspector's report into the Core Strategy, however, required the removal of reference to Areas of Landscape Character Importance from the Core Strategy as a

binding change. As a result Local Plan Policy CO3 has not been formally superseded by the Core Strategy but the weight that may be attached to Countryside Conservation Areas is significantly reduced. The Landscape Character Assessment should instead be used when assessing the potential landscape impact of proposals as detailed in the sixth paragraph of Core Strategy Policy ENV1. The Landscape Character Assessment shows the site to be located in area A5, Colne River Valley Slopes. The landscape planning and land management guidelines set out a number of key issues for this area including the importance of ensuring development responds to the historic settlement pattern, form and building materials and the need to conserve and restore hedgerows. The Review of Countryside Conservation Areas (August 2005) forms part of the Landscape Character Assessment and provides evidence on the value of landscape areas within the borough. This report suggests that although the application site was previously identified as a Countryside Conservation Area it should no longer be included as an Area of Landscape Conservation Importance.”

Planning Policy then confirmed “As set out in the response there is a need for Gypsy and Traveller accommodation in the Borough in order to meet the RSS requirements. The site also appears to broadly conform with the requirements of Core Strategy policy H5. The site is also outside of the revised area of Landscape Conservation Importance as detailed in the Landscape Character Assessment evidence base. These considerations therefore suggest the application should be approved. There are, however, a number of other considerations set out in the response such as the requirements of Core Strategy policy ENV1 and saved local plan policy DC1. The application does not include much detail on detailed site design and as stated in the response I think this needs to sufficiently minimise or mitigate the potential impact of the site on issues such as residential amenity. Core Strategy policy H5 also sets out requirements for vehicle parking and access, and given that the exact size of site and pitches is unclear I have been unable to look at this. If these issues can be satisfactorily addressed through the application, or by way of condition, then the planning policy recommendation is for approval.”

## **8.0 Parish Council's Views**

8.1 Both Chappel and Wakes Colne Parish Councils were consulted for this application.

8.2 Chappel responded as follows:

“Chappel Parish Council wishes to object to the above planning application. The reasons for the objection are outlined in detail below. However, we would like to draw Colchester Borough Council to the following:

### **The Planning Policy of Colchester Borough Council states in its broad aims and objectives...**

...manage the planning system within Colchester in a fair and equitable manner in accordance with the Council’s policies and the Service Charter and our publicised Enforcement Policy. We also strive to provide a fair and equitable service to all our customers. We aim to work with applicants, their representatives/agents/advisors, neighbours to planning proposals, elected representatives, the public, amenity groups, business groups, community groups, in an open and transparent way without bias seeking always to take a balanced approach to the requirements of all parties involved in the planning process.



There will be a continuing commitment to the protection of the open countryside in the Borough for its own sake. Such protection will mitigate against any adverse impact upon existing landscape character and maintain traditional rural qualities. It also states that **“Development that does not need a countryside location and which could reasonably be located elsewhere in the Borough will be refused.”**

With the above Policies in mind Chappel Parish Council wishes the following to be taken into consideration in relation to the above application:

- **Circular 01/06 Planning for Gypsy and Traveller Caravan Sites** provides guidance on Local Planning Authorities to demonstrate that sites are suitable. The site in question has not been identified by Colchester Borough Council as a suitable location for a gypsy site and it would be reasonable to suggest the application is premature and should be rejected purely on this basis.
- Colchester Borough Council’s Review of Countryside Conservation Areas in Colchester Borough Final Report dated August 2005 - Dave Cookson (the Agent) as Planning Policy Manager, rates the Colne River Valley and Chappel to be of **high value**.
- The application is for permanent stationing of 12 caravans – this is therefore a major development.
- The application site is outside the village envelope.
- The land identified in the application is agricultural land and no change of use to residential has been applied for within the application. The Planning Investigation Officer, Cheryl Headford in her email dated 24 February 2009 to a local resident stated “...we will be inviting them to submit an application for change of use of the land”. This has never been applied for.
- In June 2002 Colchester Borough Council refused Application No: F/COL/02/0437 at Greenacres, Vernons Road, Chappel (land abutting the site in question) for a single storey side extension and conservatory on the basis that the proposed extension would be clearly visible from the nearby public highway to the detriment of the local landscape; the proposal would introduce an incongruous element into a sensitive rural area, which the Local Planning Authority seeks to protect.

The Supporting Planning Statement for this application states “the site is barely visible from Vernons Road. This is clearly in conflict with Colchester Borough Council’s established opinion regarding a smaller proposal, further from Vernons Road but adjacent.

## Design Appearance and Layout

- Chappel Parish Council would dispute that the design of the proposed site as being “of an appropriate quality and character for the sensitive rural area which the Local Planning Authority seeks to protect.” The site is defined by high fence panels and concrete posts that are in no way sympathetic to the immediate environment.
- The proposed development has no regard to local building traditions or to the natural environment.
- The Supporting Planning Statement states a substantial farm building was demolished on part of the site. This building was a known roost for bats and undoubtedly, other forms of wildlife.

## Impact on visual or residential amenity, noise disturbance, smell or nuisance

- Circular 01/2006 from the Deputy PM para 54 states that “sites should respect the scale of, and not dominate the nearest settled community”. Chappel Parish Council maintains that Orchard Place does dominate the community that is to the north of the site in Vernons Road; the community here is comprised of mainly retired persons.
- The site is visually obtrusive – as per CBC’s previous comments on application F/COL/02/0437 as detailed above.
- The Planning Officer, Mr Mark Russell, the Police, Gypsy Liaison Officer and Street Services have all recently attended the site as a result of rubbish being strewn all over the road, dogs, horses trespassing and causing a nuisance on neighbouring private land, raw sewage and other rubbish being thrown over onto neighbouring private land.
- The site has also been subject to complaint as a result of loud music being played at unacceptable times.
- Activities on the site have already caused difficulties within the local community.

## Highway safety and Traffic

- Proposals for new development should promote high standards of road safety and should not result in a deterioration of traffic conditions within the surrounding area. The suitability of the site at Vernons Road cannot be supported on grounds of highway safety and Chappel Parish Council would wish to **support** The Highways Authority **Recommendation of Refusal**.
- Vernons Road is a narrow, single track rural road used by vehicles, cyclists, walkers and horse riders. The Supporting Planning Statement states “...will generate little additional traffic onto **a very quiet rural road**”. The increase of traffic from the site has already caused local problems. Due to the proposed number of pitches the number of resident’s vehicle movements to and from the site will be more than modest. Refuse and sewerage collections, and visitors to be site must all be considered, thus vehicle movements will be significant for such an unsuitable narrow, and already dangerous rural road.
  - Emergency Services access would be compromised. Parking issues at Rose Green – giving access to the A1124 – has caused problems and has been previously highlighted by both the Parish Council and the Police.

- Regular flooding in Vernons Road has been raised many times with Highways. In winter Vernons Road freezes from the entrance to the proposed site down the road causing icy and lethal driving conditions.
- The road network is unable to accommodate safely the extra traffic the proposed site will generate.
- At the junction with Oak Road where no road signs exist residents have reported several “near misses”.
- There is no footpath.
- There is no lighting.
- A Transport Impact Assessment has not been provided, and neither are access reports from the Fire and Ambulance services in evidence.
- In Part 6 of the application it is stated that an altered access is not proposed on to the Highway. At present it is understood that part of the access comprises land belonging to the adjoining landowner. Furthermore the vehicle access is substandard. As per The Highway Authority the visibility splay should measure 4.5 metres x 90 metres in this location and this is not possible without the co-operation of adjacent landowners.

## **Health and Safety**

- The suitability of the site with regard to health of the residents of the site and the village and safety of the children is of great concern:
- Travellers originally moved onto the site in February. The Supporting Planning Statement states “...the applicants are currently experiencing some difficulties in securing water and electricity supplies...” “...It is intended to provide permanent foul drainage...” Six months on with children, adults and animals resident on the site there is no water, no electricity and nowhere for sewage to go. A local resident has visited the site to complain of human waste, dirty nappies and rubbish being thrown onto his land. This is a HEALTH HAZARD.
- Black rubbish sacks are being deposited on the verge many days prior to collection. Chappel Parish Council advised Mark Russell to this problem and on his visit to the site on the 29<sup>th</sup> July and his subsequent email correspondence he confirmed that the problem existed. The daily depositing of black bags outside the site continues. A recent press article in the Essex County Standard states that this is in contravention to the provisions of the Clean Neighbourhood and Environment Act 2005. A Colchester resident has been threatened with a penalty of between £100 and £1000 for violation of the Act.
- There is no provision for children’s play area within the site plan. The Supporting Planning Statement points out all of the families currently have children (there are currently 11 children on site). The site is not suitable or large enough and cannot sustain safely this number of children.
- The site is not suitable or large enough to park safely the number of vehicles which will need to come onto site. As stated in the Supporting Planning Statement the access is to the outside of a sharp bend and visibility to the south is slightly restricted. Cars would be left on Vernons Road and safety would be compromised.
- The road is unlit and there are no pavements making the road treacherous for children and adults particularly in the winter months when Vernons Road floods and ices over.
- Given that the site was not considered suitable for an “affordable housing” project Chappel Parish Council is very concerned that the stated safety issues seem not to be a factor in assessing this site for occupation by Gypsy families.

## **Crime and fear of crime**

- Chappel Parish Council has received many representations from residents expressing genuine fears that the presence of the proposed site might escalate the crime levels within the Village, and result in more breaches of the peace.
- Chappel Parish Council has read, and fully supports the objection submitted by the East Anglian Railway Museum.

## **Economic impact**

- The construction and occupation of this site, without Planning approval, has already had a serious impact on the adjacent “hide away” caravan site operated by Matt Thorn at Greenacres Farm. The income from casual lettings of five pitches represents a significant income stream to Mr. Thorn. As you will see from other objections the idea of seeking refuge from a busy life is not met by camping adjacent to a Traveller site. We refer Planners to the objection submitted by The Caravan Club dated 29<sup>th</sup> May 2009.
- We refer Planners to the objection submitted by East Anglian Railway Museum.
- At the local Livery Stables there are now three vacant places, the occupants having given notice since February. The occupation of this site has caused intimidation as vehicles from the site have given no consideration to horse riders. Horses have been upset with bags or rubbish and children’s toys being left on the road.
- The Government recognises the importance of rural businesses and has set out proposals for helping rural communities to thrive stating that “...we must take action to overcome the unsustainable pressures facing the future of rural communities...”

## **Conclusions**

In the Supporting Planning Statement submitted by the Agent it states:-

- They are third generation immigrant Irish gypsy stock, with extended families residing in Braintree – The Supporting Planning Statement states “ the families need their own site as they were occupying pitches owned by other families – this would seem to be in conflict with the submitted Land Registry documentation.
- They were living on pitches in Braintree but have had to move since the owners returned - Land Registry Official Copies state/implies the applicants are the owners of properties in Braintree and Tiptree
- They have tried but failed to find other suitable sites in the locality – nothing substantiated in supporting documentation
- They wish to preserve their extended family structure by living on one site in joint ownership – the site is not large enough to sustain extended families

- They wish to settle in order to offer better opportunity for their children especially in terms of education and health care – There are no nursery/playschool facilities in Chappel, only a small primary school. There is no secondary school or further education facility in Chappel. Three children who were registered at the local primary school attended for a total of 11 days and have now been removed from the School Roll. There is no healthcare facility in Chappel as there is no Doctors Surgery or Dentist.
- They have invested considerably in this site and making it fit for purpose, and will continue to upgrade and maintain it to a high standard – all works undertaken to date have been without Planning Permission. The likelihood is that if Planning permission had been granted the works completed to date would not comply with required standards. There is no water or electricity supply to the site and no sewage disposal system has been installed.
- If they are forced to leave the site they will have to return to an unsatisfactory fully travelling lifestyle, which will be detrimental to all the families, and especially the children – this contradicts previous statement that they were living on pitches in Braintree.

Policy H3 says decisions of planning application should be based on the latest available information on need within the region and local area. By their own admission the applicants do not have any ties to the Chappel area, intend to maintain their travelling lifestyle, and it is difficult to see how a need to be in the Chappel area can be proven.

Chappel Parish Council understands that 12 authorised pitches can be provided at Severalls Lane.

A further 8 pitches are provided at Kelvedon Road, Tiptree.

Currently there is 1 at Clearview, Rectory Road, Aldham and 6 at Land at Bridge Side, Turkey Cock Lane, Stanway.

This gives a total of **27 pitches within the Colchester Borough**. The requirement is for a total of 30 pitches, being a net increase of 25 from the 5 pitches considered to exist (as per The East of England Plan) in 2006. Based on this; the net increase of 25 pitches can be more than satisfied from the 27 pitches already identified above.

***THERE CURRENTLY APPEARS TO BE NO “NEED” FOR ADDITIONAL PITCHES FROM UNSUITABLE SITES SUCH AS VERNONS ROAD.”***

### 8.3 *Wakes Colne* responded as follows: (TO ABRIDGE)

**“Re: Planning Application No: 090891 (Re-submission of Planning Application No 090559). Retention of existing unauthorised use of land for permanent stationing of twelve caravans on six pitches for occupation by gypsy families. Erection of small toilet/ utility sheds and laying of hardcore/ chipping/ tarmac surfaces.**

**Location: Orchard Place, Vernons Road, Chappel, Colchester.**

On behalf of the vast majority of the residents of Wakes Colne, the Parish Council is unanimous in its decision to STRONGLY OBJECT to the suitability of the above planning application. The reasons for objection are identified under the following points all of which are quantified in this document:

- 1. Historical planning history and planning policy relative to the application.**
- 2. Visual appearance, design and layout of the proposed site.**

3. Highway issues and safety.
4. Environment issues.
5. Heath and safety.
6. Fear of crime.
7. Inadequate local amenities.
1. **Historical planning history and planning policy relative to the application**

- 1.1 In respect of this planning proposal the Parish Council have reviewed previous planning history on your website and have noted that planning application no: F/COL/02/0437 for a single story side extension and conservatory at Greenacres, Vernons Rd was refused on the grounds that it would have an adverse impact on the rural character of the open countryside when viewed from a public place. It was also stated that the proposed development represented a very significant enlargement of a fairly modest dwelling and in addition it would be clearly visible from the nearby public highway to the detriment of the local landscape. It also states that the vicinity is a sensitive rural area, which the local Planning Authority seeks to protect.

**In essence the Application in question seeks to contradict all the above comments and it is hoped that on this basis the recommendation will be refusal.**

- 1.2 Contained in the document OPDM Circular 01/206 point 49, it quotes “there is a general presumption against inappropriate development within Green Belts. New gypsy and traveller sites in the Green Belt are normally inappropriate development, as defined in Planning Policy Guidance 2 ‘Green Belts’ (PPG2). National planning policy on Green Belts applies equally to applications for planning permission from gypsies and travellers, and the settled population alternatives should be explored before Green Belt locations are considered”. That said, the same document point 59 quotes “In order to encourage private site provision, local planning authorities should offer advice and practical help with planning procedures to gypsies and travellers who wish to acquire their own land for development. It is strongly recommended that gypsies and travellers consult local planning authorities on planning matters before buying land on which they intend to establish any caravan site”. In the case of Vernons Road the supporting document quotes “The current procedure would have been to apply for and secure consent prior to purchasing the land but this would have meant a delay”. It would seem that the Applicants were aware of the correct procedure but in this case they have chosen to ignore it.

**On the above point the Parish Council again recommends refusal.**

## **2 Visual appearance, design & layout of the proposed site**

- 2.1 The size of the site seems somewhat small to accommodate twelve caravans, six utility sheds, six septic tanks and at least one vehicle per family. In recent correspondence received from Mark Russell (the planning officer) it was stated that for a dwelling house it would generally be considered that 1.5 parking spaces per dwelling and 1/8th visitor parking would be considered acceptable. Therefore this equates to a possible three spaces per pitch and 1.5 spaces for visitors over the whole site. As stated above the site is not large enough for the caravans, septic tanks and utility sheds so it is a concern as to where the three vehicles per pitch and visitor parking will be accommodated. Therefore there would be gross overcrowding.
- 2.2 The application makes no provision for the eleven children to play. As already stated, if the site is inadequate in size now, it seems fair to assume that the site is unsatisfactory in its design and layout as eleven children will have no facilities to play within the proposed site. This will mean that the children will spill out onto the highway and thereby cause serious accidents.
- 2.3 Access for emergency vehicles will be severely restricted and we have concerns about an adequate turning circle for these vehicles
- 2.4 Access for essential service vehicles is also inadequate due to the narrow country lane the proposed site is situated on.
- 2.5 The proposed site is at present on agricultural land as opposed to residential, as stated in the application form.

**The above points would indicate the proposed site is totally unsuitable and a recommendation of refusal is, again, requested.**

## **3. Highway Issues & Safety**

- 3.1 The area of Vernons Road is a quiet, lightly trafficked country lane where a great deal of recreational activities take place such as walking, cycling, horse riding and jogging and it is feared if this development goes ahead this would lead to intensified use of the road by large vans / trucks, caravans, service and emergency vehicles. The supporting document states "The site, whilst not on the main road network, will generate little additional traffic onto a very quiet rural road". The increase in traffic due to the site has already caused problems and this will only be set to continue if the application is approved.
- 3.2 The highway in one direction has no visibility due to a very sharp bend on the brow of a hill, and in the other direction, has very little visibility due to the narrowing of the road and another bend. At present work is being done on the site and it has been reported that an increase in traffic has already been very considerable and if planning permission is granted then the danger level would rise significantly.
- 3.3 The narrow country lane has no footpaths or street lights and is not subject to any special speed limits; therefore this would create a more hazardous environment for the new, as well as the existing residents of Vernons Road.

- 3.4 Vernons Road is subject to regular flooding in the winter months, particularly around the area of the proposed entrance; again this would increase the risk of hazards.
- 3.5 In the supporting statement, it is stated that eleven children will be living on the site. In four years time all the children will be eligible to attend the local school (the school is approx 0.7 miles walk from the site by road) this will mean a significant increase in the footfall using Vernons Road on a regular basis. As stated previously, the area in question is very dangerous and not in keeping with the "safer journeys to school" programme that has been adopted in Chappel.
- 3.6 In point 2.2 mentioned above it states the children have no provision for a play area and it is a major concern that the children will use the highway as an additional area to play which will again significantly increase the road safety issues currently being experienced.
- 3.7 In points 2.3 and 2.4 it states that emergency and essential service vehicles will have inadequate areas to turn, this also will inevitably compound the road safety issues.

**The above points suggest the site is unsuitable and not sustainable for a proposal of this nature. Wakes Colne Parish Council unreservedly supports the Highways Authority with its recommendation of Refusal of this Application.**

#### **4. Environment & Conservation Area Issues**

- 4.1 Regarding an ecological survey it is unclear how much information the agent had when he was instructed to work for the applicants. Significant removal of vegetation had taken place prior to the appointment of the agent and to the knowledge of the Parish Council an ecological survey, that would confirm if any protected species have been destroyed, has not been conducted.
- 4.2 In recent months the demolition of an old barn has taken place and the agent claimed in the supporting document "the derelict farm building was far more obtrusive to the community and rural setting than the proposed caravans and sheds are". That said it is a concern that the agent thinks that twelve caravans, six sheds and six septic tanks would be more aesthetic to the eye than an old farm building in the open countryside.
- 4.3 In addition, an ecological survey may confirm that the work to date could have destroyed potential sites for the local bat population. As stated above in point 3.2 work is being done at the present time which could be destroying wildlife in the surrounding area.
- 4.4 The Colne Valley is an area of outstanding beauty and the majority of the valley is in designated conservation areas, and to allow this sort of site to be approved would have devastating consequences on the very rural aspects of the villages of Wakes Colne & Chappel.
- 4.5 The application site in Vernons Road is outside the village envelope and was up until recently part of a conservation area and it would be deemed inappropriate if this sort of application was approved see point 1.1.



- 4.6 The proposed site has no mains water supply, no properly engineered sewage disposal or monitored electrical supply. In essence this would suggest that the sustainability and suitability of the site is untenable at the present time. The issues of the water, sewage disposal and electricity have been ongoing since the site was occupied in February of this year and it does not look likely to be sorted out in the near future. With a minimum of twenty two people living on the site this is posing a very serious public health hazard.

**On the above points the Parish Council again recommends refusal.**

## **5. Heath & Safety**

- 5.1 It is apparent that leaving large quantities of filled black refuse bags outside the proposed development on the highway creates a significant public health risk. Members of the public and Council have regularly spotted refuse sacks thrown on highway land waiting for collection. Collection day is a Wednesday, but the refuse sacks are put out when they are full sometimes six days before collection. Leaving rubbish on the road not only looks unsightly but invites vermin and foxes to the area who then leave a trail of devastation in their wake. In this tiny corner of what was unspoilt countryside we now find we have a health and safety issue to deal with on a grand scale.
- 5.2 Noise pollution is part of everyday life; however as already mentioned Vernons Road is a rural country lane that generally experiences little or no noise on a daily basis. The Parish Council are concerned that an application of this kind will increase the noise beyond recommended levels. The most common causes of noise pollution are created by children playing, dogs barking and neighbours vehicles. The description of the proposed application incorporating the setting up of the site would suggest increase noise to an inappropriate level for surrounding residents.
- 5.3 Light Pollution is also a major concern. Vernons Road has no street lights apart from one at the junction of Spring Gardens Road. Any proposed light from the site would cause pollution as this area is generally unlit.
- 5.4 Point 4.6 above refers to the lack of electrical, water supply and sewage disposal on the site and, as already stated this is a serious health and safety issue which does not seem to have been addressed. In addition it has been reported that dirty nappies and rubbish has been thrown on to a local residents adjoining land, again as stated above this is a serious public health issue.

## **6. Fear of Crime**

- 6.1 In recent months several incidents have been reported to the local police in respect of theft and anti-social behaviour. This has been very unsettling to the elderly population of our village and has resulted in many residents not going out as they would normally.
- 6.2 Other incidents have also taken place and these have not been reported to the police as the individuals are afraid of reprisals.

6.3 The agent has stated the applicant “has erected a close boarded fence as a means of security”; Wakes Colne and Chappel are sleepy rural villages that currently experience little or very low level crime. At present the residents of the site do not seem to be alleviating that fear of crime, as people have felt intimidated while passing the site in recent weeks.

**On the basis that, if this Application is approved, there will probably be an increase in “fear of crime” we strongly recommend refusal of this Application**

## **7. Local Amenities**

7.1 The H5 planning document states “the Council will seek to locate sites with access to local shops, schools and other community facilities. The site is approximately .0.7 miles from the school and the local post office and part of this journey is along a narrow, unlit dangerous country road. The nearest health facilities are approximately 3.5 miles from the site and the dentist and supermarket facilities are located in either Halstead, Coggeshall or Stanway. The supporting document makes no reference to Health Care, Dentistry or local supermarkets being within reasonable distance to the site. “

**This suggests the site is not suitable and again the Parish Council strongly recommends refusal.**

## **Conclusion**

Wakes Colne Parish Council have studied large amounts of documentation about Gypsies and Traveller communities and we have noted that the East of England RSS Gypsy and Traveller Review on Policy H3 states that decisions on planning applications should be determined on the latest information based on NEED within the local area. We submit that the NEED of the Applicants for the Site in Vernons Road is unproven by the Application and that the applicants, on their own admission, intend to maintain their travelling lifestyle which negates their NEED for the settlement in Vernons Road.

As stated in the James Firths Planning Policy Statement to Mark Russell on the 21<sup>st</sup> May 2009 the total number of authorized pitches in Colchester is currently in the region of eight. He also states that the Severalls Lane site will contribute a further twelve pitches, it is also understood that there are a further six pitches at Turkey Cock Lane and one in Aldham. This gives approximately twenty seven pitches in the Borough of Colchester, and the East of England RSS plan states 30 pitches need to be provided before 2011.

**This would suggest that there is no need for an additional six pitches in Vernons Road Chappel.**

After reading all the documents sent with the planning application it remains a concern that the land registry documents do not seem to correspond with the supporting application document. The land registry documents suggest that all the current owners of the plots at Vernons Road also have registered addresses in either Tiptree or Braintree. However the supporting document states “they were living on pitches in Braintree but have had to move since the owners returned”

From reading these comments, we would hope that the planning department and committee would be uniform in their decision making. We urge them to take all our points of objection into consideration and **REFUSE** this planning application.”

## **9.0 Representations**

9.1 Approximately 100 written objections to the application have been received from residents and businesses and other interested parties such as the Colne Stour Countryside Association, White Colne Parish Council and East Anglian Railway Museum, In addition to this a lengthy letter of objection has been received from Holmes and Hills Solicitors acting on behalf of the action group “Protect Rural Chappel and Wakes Colne.”

9.2 The full list of objections is below, for clarity these have been grouped into subject headings “Highways”, “Services”, “Local Facilities”, “Amenity”, “Countryside/visual amenity”, “Procedural” and “Other.” Naturally, some comments fall under more than one heading.

### **A – Highways**

1. Narrow access
2. Dangerous bend
3. Poor visibility
4. Increased traffic
5. No room for emergency vehicles
6. Danger to cyclists/walkers/horse-riders
7. Flood, mud and ice on the road
8. Hardcore will worsen the run off of water
9. No footpath for travellers’ children to use to go to school
10. Questions over ownership of the access
11. If Colchester Borough Council grants approval, contrary to the Highway Authority’s advice, then they should be culpable if there is an accident.

### **B – Services**

12. Lack of electricity,
13. Lack of adequate sewerage,
14. Lack of water supply
15. No room for the proposed landscaping
16. No room for gardens
17. No room for stabling
18. Unsuitability in terms of size, relating to fire spread/distance from septic tanks etc.
19. No fire hydrants
20. Insufficient room for planting
21. No provision for separate storage and collection of recyclable waste
22. No play area for children
23. No provision for parking
24. Visitors would further increase the strain on parking
25. High water table will not take cesspits

### **C – Local Facilities**

26. Infrastructure/services in Chappel and Wakes Colne are insufficient for extra residents
27. Bus service is not good
28. Chappel has few facilities (one shop, one pub, a village hall and no healthcare facilities or employment)
29. Not sustainable

### **D – Amenity**

30. Outlook from private dwellings and gardens
31. Noise (people/dogs/generators)
32. Overcrowding (12 families)
33. Increase in crime
34. Increase in anti-social behaviour
35. Small community (Rose Green) of 6 dwellings, of which 4 are retired people – would be dominated
36. Rubbish spilling out on to the grass verge
37. Other health hazards such as gas canisters
38. Horses causing extra pollution/overgrazing of surrounding land
39. Light pollution
40. Lack of privacy to residents of Vernons Road
41. The development would dominate the community

### **E – Countryside/Visual Amenity**

42. Effect on countryside
43. Site is outside village envelope
44. The development detracts from the River Colne Countryside Project
45. Effect on tourism
46. Affecting the Countryside Conservation Area
47. Flora and fauna have been lost
48. No clear whether a site survey for protected habitats or species on or near the site has been undertaken
49. The site is in a Conservation Area/Countryside Conservation Area
50. Development out of scale with its surroundings
51. The fence is unsightly
52. Hardstanding is unsightly

### **F – Procedural**

53. The same rules should apply to everyone – including dwellings which have not been permitted because of being outside village envelopes
54. Land is agricultural
55. The travellers are breaching Planning Law/Control/The application is retrospective
56. The application should be classified as a “major” as it is for more than ten units of accommodation
57. Not wanted and not needed
58. Space is already going to be provided at Severalls
59. A stop notice should have been served
60. Irregularities over ownership/land registry
61. Permission should not be granted as a means of relieving pressure to provide travellers’ sites

62. Sufficient information about which people will be living on the site has not been given
63. The site has not been identified by the Council, and the application is therefore premature and should be rejected on that basis
64. The rights of the people of Chappel and Wakes Colne have been disregarded
65. Colchester Borough Council does not have up-to-date information about need – so how can it claim that this site is needed?
66. The application has been pre-determined
67. Change of use of land has never been applied for
68. Brownfield land should be considered first
69. “Twinoaks” (Braintree) isn’t full

### **G – Other**

70. Extra children at the school, and not always at school/loss of school places for others
71. Loss of value of properties
72. “This could be another Cray’s Hill”
73. Businesses will be run from the site
74. Costs to the Council Tax payer in terms of utilities/water/refuse etc.
75. Precedent for other small parcels of agricultural land
76. The large iron gates fail to integrate the site in to the community
77. More families could move in
78. Plans for low cost housing in the village were restricted as it was outside the Village Envelope
79. If Colchester is seen as an easy touch, other travellers from other districts may move in. Occupation has been minimal, so travellers obviously have alternative sites to go to
80. The location means polarisation rather than integration
81. Applicants have not produced evidence of having looked at other sites
82. Percolation test required to see if soil is suitable for septic tanks

A lengthy, and detailed, letter from Homes and Hills Solicitors (representing the “Protect Rural Chappel and Wakes Colne” group which has between 150 and 300 members) was also received, this largely mirrored the points above, and covered the following:

- i) The Council’s failure to take Enforcement action has been unreasonable
- ii) The property is within a designated area of landscape importance
- iii) No water, power or sewerage provision
- iv) Noise and disturbance to local residents
- v) Refuse has been left out
- vi) Loss of business to the neighbouring caravan park
- vii) Site remote from existing settlement and facilities
- viii) Inadequate space for vehicles
- ix) Inadequate Highway access
- x) The site is highly visible
- xi) Separate planning applications should have been submitted for each plot
- xii) Accurate measurements have still not been provided
- xiii) The applicants/occupiers do not comply with the relevant criteria
- xiv) The school places taken up by travellers’ children have now been withdrawn
- xv) The Council’s data on need is not finalised, therefore need is not proven

- xvi) Allocation is already sufficient
- xvii) Planting is impossible/limited due to non-ownership of neighbouring land
- xviii) The proposed level of use is overly-intense
- xix) Fencing and hardcore do not accord with the character of the area
- xx) No evidence has been given that the applicants are bona fide Gypsies

- 9.3 Positive comments – within objection letters – stated that the behaviour towards travellers’ children was deplorable, and that there was no objection to the travellers per se.
- 9.4 Colchester Civic Society gave a neutral response, stating: “CCS has sympathy with the desire of the gypsies to secure a settled education for their children but considers that the decision must be based on the suitability of the site alone.”
- 9.5 One letter of support was received from a resident of Colchester, stating that the needs of the travellers should be acknowledged, and that most Gypsy/traveller people proved to be excellent neighbours.

## 10.0 Report

- 10.1 The retrospective nature of this application, and the length of time that it has taken to validate/process and finally bring to Committee has caused concern for many residents of the villages of Chappel and Wakes Colne. The Planning Service has taken time to ensure that all relevant factors are considered and that all appropriate material has been submitted.
- 10.2 Concerns that Enforcement or Stop Notices were not served are noted, but the Planning Department has taken the view that the application should be heard by Members before any such action is considered. The contention that a lack of Enforcement is “unreasonable” is, therefore rejected. The matter is now before Members, and should be considered on its merits.
- 10.3 To achieve this, the relevant guidance and policies need to be considered. The key documents are:

ODPM – Circular 01/2006, *Planning for Gypsy and Traveller Caravan Sites*  
 East of England Plan - Policy H3 – “Provision for Gypsies and Travellers” (July 2009)  
 Adopted Review Colchester Local Plan (March 2004) - DC1- Development Control considerations; P1 – Pollution UEA13(e) – Development adjoining existing residential property; CO5 – Nature Conservation;  
 Core Strategy (December 2008):  
 ENV1 – Environment, ENV2 – Rural Communities, H5 – Gypsies, Travellers and Travelling Showpeople

10.4 The key document is the Circular. For Members' information the aims of circular 01/2006 are as follows:-

- a) to create and support sustainable, respectful and inclusive communities where gypsies and travellers have fair access to suitable accommodation, education, health and welfare provision; where there is mutual respect and consideration between all communities for the rights and responsibilities of each community and individual; and where there is respect between individuals and communities towards the environments in which they live and work.
- b) to reduce the number of unauthorised encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this circular;
- c) to increase significantly the number of gypsy and traveller sites in appropriate locations with planning permission in order to address under-provision over the next 3-5 years;
- d) to recognise, protect and facilitate the traditional travelling way of life of gypsies and travellers, whilst respecting the interests of the settled community;
- e) to underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- f) to identify and make provision for the resultant land and accommodation requirements;
- g) to ensure that Development Plan Documents (DPDs) include fair, realistic and inclusive policies to ensure identified need is dealt with fairly and effectively;
- h) to promote more private gypsy and traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own site; and
- i) to help to avoid gypsies and travellers becoming homeless through eviction from unauthorised sites without an alternative to move to.

10.5 The circular identifies the need for local authorities to assess general accommodation needs through the gypsy and traveller accommodation assessment (GTAA) process. This process then informs the preparation of Development Plan Documents that would give a robust response to the need to provide gypsy accommodation in the Borough. Members will be aware of the site provision made for gypsies at Severalls Lane, and at several other small sites within the Borough. At the time of writing, the process of identifying sufficient private sites (as required by the circular) is in the process of being addressed through the LPD process, and Vernon's Road has been identified as a possible site. This document is out for consultation on 18<sup>th</sup> September 2009, and is scheduled for adoption in August 2010.

10.6 On 20<sup>th</sup> July 2009, the revision to policy H3 of the Regional Spatial Strategy for the East of England was published (this replaced policy H3 – 'Provision for Gypsies and Travellers' and paragraphs 5.11 and 5.12 in the East of England Plan) and stated that 30 pitches *as a minimum* should be provided in the Borough of Colchester (as opposed to 25 which was the previously mooted figure). Policy confirmed this in an email to your Officer on 2<sup>nd</sup> September 2009 : "The final version of Policy H3 assumes we had 5 pitches in 2006 and requires us to provide a further 25 pitches between 2006 and 2011, to make a total of 30 pitches in 2011. The total number of pitches we need to get to by 2011 is therefore 30, not 25 as some of the respondents seem to assume."

- 10.7 Current provision was quoted, in that same email, as currently being below this target. “We have 6 permanently authorised sites that currently provide 8 pitches (12 caravans). We also have one site (Turkey Cock Lane) with *temporary* permission that provides a further 3 pitches (6 caravans). Although not currently authorised there is also one site that is believed to be lawful due to the length of time the use has occurred (1 pitch / 2 caravans). The Severalls Lane site also has planning permission but development is yet to commence (12 pitches).”
- 10.8 This would indicate a current provision of 27 pitches at the very most, but excluding the temporary permission this takes us to 24. This also presumes that Severalls will eventually come on line. Thus a deficiency of between three and six pitches is apparent until 2011.
- 10.9 We must also have an eye on the situation beyond 2011. Again, Policy state: “We will also need to provide for an increase in pitch provision post-2011. We are currently seeking clarification from the Government Office / EERA as to how the post-2011 requirement should be calculated but this could be as high as another 21 pitches between 2011 and 2021, giving a total requirement of 51 pitches in 2021.”
- 10.10 Therefore the requirement to provide pitches is a fact and cannot be ignored, and the Circular further instructs us that ‘Gypsies and travellers are by their very nature nomadic and so will not always have local connections. Planning authorities have to determine applications for development from anyone who submits them.’
- 10.11 This, of course, does not mean that all speculative or retrospective applications must be granted approval simply because Colchester Borough Council has not yet achieved its allocations. The difficulty of providing the increase in allocation in such a short timescale (i.e. an unforeseen additional five pitches to be provided by 2011) is recognised by the Regional Spatial Strategy (RSS) single-issue review and the first sentence of final RSS Policy H3 therefore refers to *the role of development control decisions* in achieving the 2011 required level of provision.
- 10.12 It is, therefore, against current Development Control policies, and in the context of Circular 01/06, that the application needs to be considered.
- 10.13 The relevant Development Control policies are:  
 East of England Plan - Policy H3  
 Core Strategy - Policy H5  
 Adopted Review Colchester Borough Local Plan - Policies
- 10.14 RSS Policy H3 is helpful in instructing Local Authorities that they must make provision, and leaves the details to Local Authorities, stating:  
 “Local authorities should achieve the levels of provision required by 2011 as soon as possible through development control decisions and Development Plan Documents (DPDs). The preparation of joint or co-ordinated Development Plan Documents is encouraged and where they are produced, provision can be redistributed across the areas concerned. Opportunities should be taken to secure provision through major developments.”



“DPDs should identify the location and capacity of sites to deliver the pitch requirements in Policy H3 in locations likely to be attractive to the local Gypsy and Traveller communities while avoiding areas at risk of flooding and adverse effects on areas of wildlife and landscape importance.”

- 10.15 In a section titled “Locational Guidance” it states that sites within the county of Essex should be “in a Distributed network aligned with transport routes and urban centres.”
- 10.16 As stated, the DPD and site allocation is a work in progress and thus the fallback position is to measure the application against the circular and the Local Plan/Core Strategy policies.
- 10.17 Relevant policies in the core strategy are:  
H5 (Gypsies, Travellers, and Travelling Showpeople)  
ENV1 (Environment)  
ENV2 (Rural Communities)

The relevant policy in the emerging LDF is Policy SAH2 (Gypsy and Traveller Accommodation).

- 10.18 Policy H5 states – “The Council will seek to locate sites within reasonable proximity to existing settlements, and with access to shops, schools and other community facilities. Sites should also provide adequate space for vehicles and appropriate highway access.”
- 10.19 Regarding the first sentence, proximity to an existing settlement and access to facilities is a key consideration which has been flagged up by many parties. The site itself is approximately 130 metres from the village envelope, adjacent to Greenacres Farm and approximately 150 metres from two small clusters of houses on Vernons Road and Rose Green. The houses of Colchester Road are a similar distance “as the crow flies” but require a journey of in excess of 400 metres. The school requires a journey of approximately one kilometre, with the Post Office/shop being a similar distance. Community facilities are scarce. Thus, if the Council were considering this as a site there may be concerns that it is not suitably located. Members are advised, however, that case law does not wholly support this as a reason for refusal, and the distance from the Severalls site (which has been granted permission, and is held up as a good example in the above-mentioned Good Practice Guide) to facilities, is not dissimilar to this application.
- 10.20 The argument that “an isolated location which is remote from schools and shops is unsuitable” is noted, and is a relevant point to consider. However, the Planning Inspectorate has previously ruled in some cases that access to educational facilities is a problem which applies to all children living in rural areas, and has also noted that shops were in reach by car. As most Gypsies have the mobility to visit shops some distance away, the argument of remoteness has been held by the Inspectorate to have limited force.

- 10.21 Regarding the second point, the Highway Authority has already objected to the “sub-standard vehicle access by reason of insufficient visibility splays” and it is further contended (although the applicant disputes this) that the eastern end of the existing bell-mouth is not in the applicant’s ownership. Whether it is or not, the access can still be described as inadequate, and this may be seen, in itself, as a reason for refusal.
- 10.22 Regarding “adequate space for vehicles”, the site does appear cramped, and the fear that there is not an adequate provision for this is a very real one. The publication "Designing Gypsy and Traveller Sites - Good Practice Guide" suggests:
- “4.44 A key element for the site is the provision of adequate parking space for resident’s use. Parking spaces must be a minimum of 2.4 x 4.8 metres.*
- 4.45 Resident parking should largely be provided for on individual pitches (see 7.3) but a site could also contain additional parking facilities for visitors, as parking on the roadside could otherwise impede access of fire and other emergency services.”*
- 10.23 Depending on how the site is laid out, adequate parking might be possible. As presented, it does look possible.
- 10.24 However, the below paragraphs will have a knock-on effect on this.
- “4.18 Access roads and the site design itself should be capable of providing sufficient space for the manoeuvrability of average size trailers of up to 15 metres in length.*
- 4.27 Roads must not be less than 3.7 metres wide, or if they form part of a one way traffic system, 3 metres wide.*
- 4.29 Where possible, site roads should be designed to allow two vehicles to pass each other (minimum 5.5m).*
- 4.26 No caravan or park home more than 50 metres from a road....vehicular access and gateways must be at least 3.1 metres wide and have a minimum clearance of 3.7 metres.”*
- 10.25 Arrangements for 15 metre long trailers being able to manoeuvre when all utility buildings etc. does appear to be tight. Obviously some of the trailers are on site and have managed to manoeuvre, but this may be difficult once the site is full populated, and could cause trailers and other vehicles to have to reverse on to the narrow highway. Whilst the access road meets the 3.7 metres requirement (just) it is not 5.5 metres wide, and could not therefore accommodate two vehicles passing each other.
- 10.26 It should also be noted that the site depth had led to two of the caravans being placed in excess of ninety metres from the Highway, which does not accord with Building Regulations.
- 10.27 It is possible to comply with all of the above, but this would require a different configuration and a less intensive use of the site.

10.28 The below must also be considered in terms of site layout.

*“4.13 - it is essential that a clear gap of 3 metres is provided within the inside of all site perimeter boundaries as a fire prevention measure.*

*4.38 It is recommended that the inclusion of a communal recreation area for children of all ages is considered where suitable provision is not available within walking distance on a safe route.*

*4.47 To ensure fire safety it is essential that every trailer, caravan or park home must be not less than 6 metres from any other trailer, caravan or park home that is occupied separately.”*

10.29 The application does not indicate, nor does the current site layout offer much hope of, any communal recreation area for children. The nearest available open space which is publicly accessible is the public footpath across Vernons Road, this is clearly not a satisfactory provision.

10.30 As the applications stands, there is not, and does not appear to be any realistic hope of, achieving the three metre gap within the perimeter, nor the six metre gap between caravans, nor the requisite space for the location of the septic tanks, cess-pits or soakaways. Part H of the Building Regulations states that a septic tank should be at least 7 metres from any habitable part of a building, and within 30 metres of a vehicular access. In the case of a soak-away the "drainage field" should be at least 15 metres from any habitable part of a building, and within 30 metres of vehicular access (to enable desludging).

10.31 A Cesspool must be at least 7 metres from any habitable part of a building, and within 30 metres of a vehicular access.

10.32 The third alternative, a package treatment works (i.e. a mini-sewage plant), must comply with British Standard 7781. Building Control has advised that these are expensive, costing up to £10,000.

10.33 Again, there would appear to be insufficient space to satisfactorily accommodate any of these as the application stands.

10.34 As a caveat to the Good Practice Guide, the introduction states: ““It would not....be appropriate to use this good practice guidance in isolation to decide whether a private application for site development should or should not be given planning permission.” However, the recently produced DCLG "Progress Report on Gypsy and Traveller Policy" (July 2009) does state at paragraph 49 "the advice will also be pertinent in the way that private sites are developed, whether as permanent residential sites, transit sites or as temporary stopping places.” The Good Practice Guide is, therefore, a material consideration.

- 10.35 Regarding policies ENV1 and ENV2, ENV1 states: "The Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline. The Council will safeguard the Borough's biodiversity, geology, history and archaeology through the protection and enhancement of sites of international, national, regional and local importance....."
- 10.36 ENV2 states – "Outside village boundaries, the Council will favourably consider small-scale rural business, leisure and tourism schemes that are appropriate to local employment needs, minimize negative environmental impacts and harmonise with the local character and surrounding natural environment."
- 10.37 Whilst many objectors, including PRCWC's Solicitor, have stated that this land is designated, this is in fact incorrect. It previously formed part of the Colne Valley Countryside Conservation Area, but under Colchester Borough Council's Landscape Character Assessment review this parcel of land has not survived as an "Area of Special Landscape Importance", and therefore now has no status.
- 10.38 Nearby land, however, does carry this status, and it could be argued that the site detracts from this. This is naturally a matter of opinion, but when travelling from the Colchester direction along Vernon's Road, the site is not visible until one is on top of it. It could be argued that it is not largely visible from the public aspect, although views from private residences and gardens must surely exist. If views of the tops of caravans can be gleaned from any public vantage point, these must be set against the previous views, which would have been full on views of caravans at the neighbouring caravan park.
- 10.39 The fence, however, is unsightly and requires planting to help it to meld with the landscape.
- 10.40 In your Officer's view, provided landscaping could be achieved, the effect on the landscape would not be an overriding reason for refusal, and Members are reminded of the following paragraphs from the Circular:
- "...local landscape and local nature conservation designation should not be used in themselves to refuse planning permission for gypsy and traveller sites." (Paragraph 53)*
- "...sites may also be found in rural or semi-rural settings. Rural settings, when not subject to special planning constraints are acceptable in principle." (Paragraph 54).*
- 10.41 Thus it is held that a refusal on the grounds of visual amenity (notwithstanding the gates, which can also be overcome by condition) might be difficult to sustain.

10.42 The final raft of policies to consider are those relating to the Local Plan, namely policies P1 (Pollution) and DC1 (General Development Control Considerations).

Policy P1 states:

“Development will not be permitted where either it or any ancillary activities, including vehicle movement, are likely to harm the amenities of people living nearby by reason of:

(a) noise;

(b) vibration;

(c) smell;

(d) fumes;

(e) smoke;

(f) ash;

(g) dust;

(h) grit;

(i) light;

(j) lack of adequate drainage facilities;

(k) likelihood of pollution of surface or underground waters;

(l) air pollution or any other forms of pollution.”

10.43 Potentially all of these factors could be an issue, but points (b), (d), (f) and (g) and (h) are not felt to represent an imminent threat either to residential or, in the case of (h) highway amenity. Point (a) is covered by the below discussion regarding policy DC1.

10.44 The remaining threats of pollution relate to arrangements for sewerage disposal. This issue has raised much concern. Environmental Control has confirmed that any septic tanks or mini treatment works will be subject to approval by the Environment Agency and has suggested that “advice is sought from the agency regarding the most favourable option.”

10.45 The Environment Agency confirmed that its Groundwater and Contaminated Land team has stated that it does not have any concern over septic tank sewerage at this location from a controlled water point of view, and that and that any specific issues would be raised on application for consent to discharge

10.46 It has also advised that (subject to approval) the foul drainage from the proposed development may be discharged to a septic tank and soakaway system which meets the requirements of British Standard BS 6297: 1983 and which complies with the following: - a) there is no connection to any watercourse or land drainage system and no part of the soakaway system is situated within 10 metres of any ditch or watercourse, or within 50 metres of a well, borehole or spring; b) porosity tests are carried out to the satisfaction of the Local Planning Authority to demonstrate that suitable subsoil and adequate land area is available for the soakaway (BS 6297: 1983 refers).”

10.47 Circular 03/99 *Planning Requirement in respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development*. Paragraph 1 Appendix A states that if the non-mains sewerage and sewage disposal are assessed as being unsatisfactory, this would normally be sufficient to justify refusal of planning permission. The Environment Agency has not stated that arrangements are unsatisfactory, and has added that any issues arising will be dealt with on application for consent to discharge. Subject to conditions, the issue of sewerage would not therefore appear to be intractable – provided it is achievable.

10.48 This leads to the other questions of water and electricity....in the submission documents, the agent advised:

*“The applicants are currently experiencing some difficulties in securing water and electricity supplies, but that matter is being resolved.”*

The agent has been contacted for an update on this point and in an e mail on 7 September advised: “

*“Applications for water and electricity supplies have been made, although these may take some time to materialise. However I am of the view that these should not be determining factors in this application.”*

10.49 If sewerage and other matters are resolved, then refusal on grounds of pollution (with the possible exception of noise – see below) is difficult to sustain.

10.50 As for policy DC1, this states *inter alia* that: “All proposals for development, including changes of use, will be permitted only if they satisfactorily meet the following criteria where relevant:

a) *The development will not cause unacceptable harm through pollution to land, air and water or to people or natural resources;”*

This general policy effectively asks us to consider whether a proposal would materially affect nearby residents.

- 10.51 The proposal is for six pitches, which would mean twelve caravans. How many people this would actually mean on site is not known, and even the applicant may not have an exact answer. The exact figure is not important, and would be impossible to condition in any event. A figure of upwards of thirty-five to forty people would appear to be a reasonable estimate. When computed into daily movement of people to and from school or work, whether by car or on foot, this represents a large amount of activity in a small area.
- 10.52 Even when on site, at weekends, this still amounts to a large presence, and contrasts starkly to the scattered pattern of housing near to it, namely the five houses across Vernons Road, six on Rose Green, and the neighbouring Greenacres Farm. Whilst it is noted that the neighbouring caravan park can house up to six caravans and this leads to an intensification of use on that site, this is still half the amount proposed on the application site, and is largely seasonal.
- 10.53 The site dimensions also add to the feeling of a crowding of the site because of a knock-on effect due to inadequate parking (as discussed above), but also because of the spatial difficulties in the satisfactory provision of septic tanks, spacing of caravans as advised in the Good Practice Guide, and separation of utility buildings to comply with Building Regulations, as well as the provision of a bin and recycling store and an area for children to play in. To this must be added the lack of space for any garden area or stabling or meaningful softening landscaping to the south. All of this would almost certainly result in activities from the site spilling over into the public realm and further dominate the area.
- 10.54 The agent has been contacted to see whether permission for a smaller number of pitches is acceptable, and he has advised that his client does not wish for this. It would appear, therefore, that six pitches (12 caravans) is the only grounds on which this application can be considered.
- 10.55 Regarding other matters raised, it is accepted that there are some minor inaccuracies in some of the submitted documents, but these do not alter the substantive matters under consideration, nor is there any doubt as to the scale of the site of itself, which is clearly laid out for all to see.
- 10.56 It is not accepted that the amenity of any residence has been affected in terms of overlooking, loss of privacy and so on.
- 10.57 A contention that there has been or will be crime in the area is inadmissible as a consideration, and any reference to noise and other statutory nuisance can be addressed through Environmental Control. Light pollution, similarly, is a statutory nuisance and lighting matters can be covered by condition.
- 10.58 The complaint about rubbish on the grass verge has been alluded to in the above section about overcrowding, but for the record the Street Services division has confirmed that it picks up rubbish every Wednesday from outside the site.
- 10.59 "Other health hazards" such as gas canisters are dealt with by separate legislation and are not matters for Planning.

- 10.60 Regarding flora and fauna, it is accepted that the former and potentially the latter were in place, but now no longer are. It would not be possible to retrospectively demand an ecological report or to refuse the application on these grounds.
- 10.61 The claimed loss of trade to Greenacres Farm is noted. Anecdotally it would appear that the proposal has had an affect on this business, although the claim of 100 per cent downturn in trade is disputed. The supporting text to policy L1 (Leisure, Recreation and Tourism) states under paragraph (c) that its aim is "To promote sustainable tourism and the development of visitor attractions in appropriate locations and to improve facilities for visitors to the Borough." It is accepted that the proposal may detract from that aspect for the neighbouring caravan park, but this is not in itself sufficient reason for refusal.
- 10.62 The owner of Greenacres Farm has cited that activity on the application site, as well as the altered views for his guests who were previously able to look down the grassy slopes. However, the fallback position to this is that, under permitted development, a two metre high fence could have been erected without any breach of Planning control.
- 10.63 Comments about the procedure of this application are also noted, and have in part been discussed above. For the record, the application was, of course, not "pre-determined." Regarding the comment that "a change of use has never been applied for", that is, indeed the purpose of this application. Regarding the contention that "separate applications should have been submitted for each plot" there does not appear to be any justification to accept this claim.
- 10.64 Finally, the claim that "no evidence has been produced that the applicants are *bona fide* Gypsies." The definition of a gypsy in Circular 01/2006 is "Persons of nomadic habit of life, whatever their race or origin, including such persons who on grounds only of their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such."
- 10.65 The agent has confirmed that the applicants are, indeed, third generation Irish gypsies, and there would not appear to be any justification to dispute this. Regarding the contention that if they are travellers then they do not need a permanent base, a House of Lords judgement in *Greenwich L.B. v Powell* 12/88 has held that a gypsy need only lead a nomadic life *seasonally*, therefore they need not be on the move permanently.

## **11.0 Conclusion**

- 11.1 The location of this traveller's site is not felt to be unacceptable in principle, other than for the fact that the Highway arrangements are not satisfactory. It does not, of itself, lead to loss of privacy or overlooking, although it does appear to have affected the viability of the neighbouring caravan park. The site is not in a designated area, although it is currently visible from some areas which are.
- 11.2 However, the proposed amount of pitches, caravans, and people would dominate and adversely change the character of the surrounding settlement and the dimensions of the site would lead to undesirably cramped conditions with possible overspill into the surrounding area, and this would be to the detriment of residential amenity.



- 11.3 For this reason, and given the Highway Authority's concerns, refusal is recommended.
- 11.4 Members are reminded of circular 11/95 which considers temporary permissions. This states that "The reason for granting a temporary permission can never be that a time-limit is necessary because of the effect of the development on the amenities of the area. Where such objections to a development arise they should, if necessary, be met instead by conditions whose requirements will safeguard the amenities. If it is not possible to devise such conditions, and if the damage to amenity cannot be accepted, then the only course open is to refuse permission."
- 11.5 For this reason, a temporary permission for the development as proposed is not held to be acceptable.

## **12.0 Background Papers**

12.1 ADRBLP; Core Strategy; NLR; TL; HH; HA; NR; PTC; NLR; Civic Society

### **Recommendation – Refusal**

#### **Reasons for Refusal**

Policy DC1 of the Adopted Review Colchester Borough Local Plan (March 2004) states, inter alia, that: "All proposals for development, including changes of use, will be permitted only if they satisfactorily meet the following criteria where relevant:

a) The development will not cause unacceptable harm through pollution to land, air and water or to people or natural resources;"

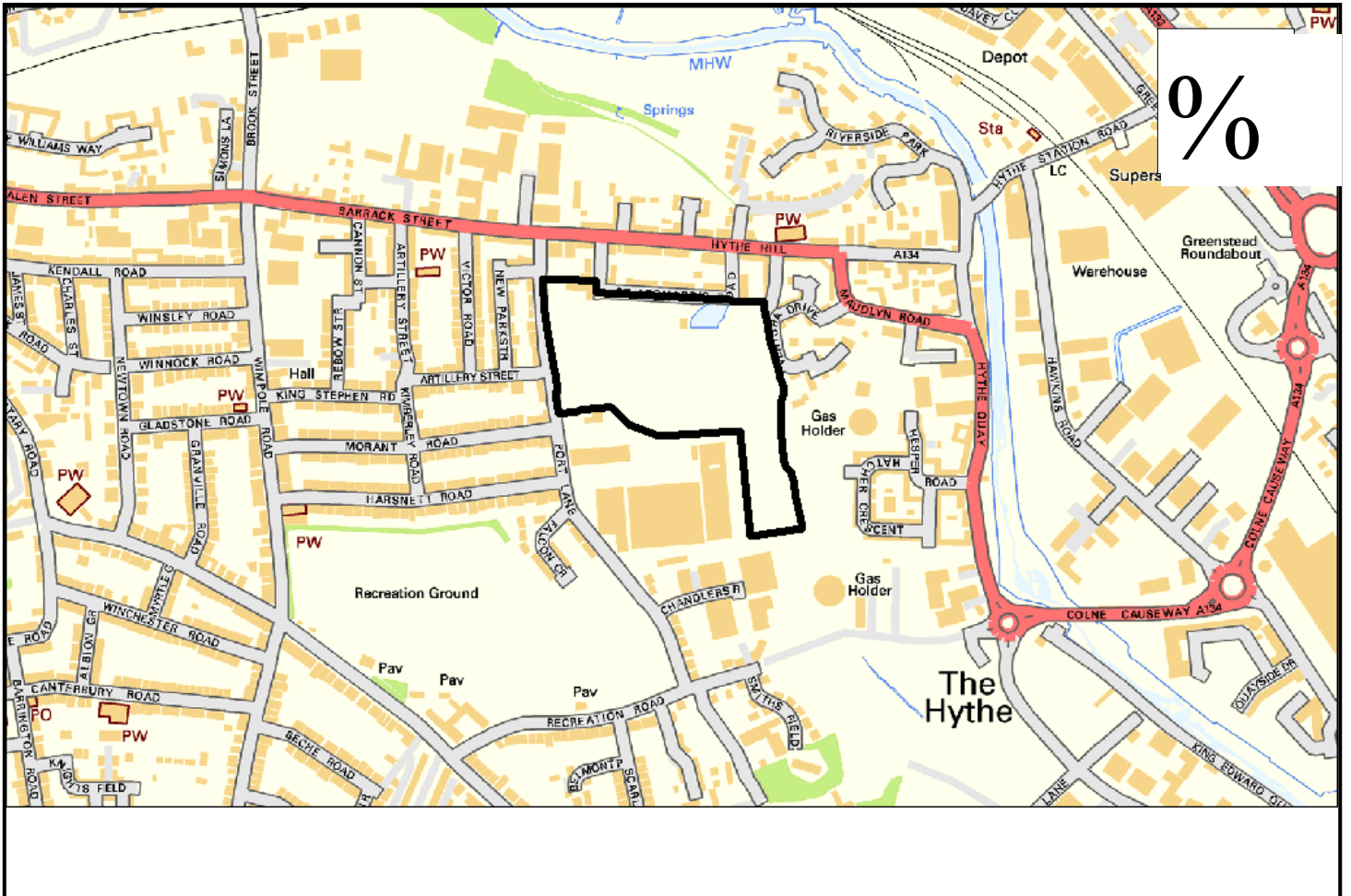
The proposal, as presented, would introduce a large number of people, traffic, and potentially animals, into a small area. Whilst it is accepted that a travellers' site may produce greater density of population than is found in the settled community, it is contended that the level proposed is completely out of context for this small, scattered settlement around Vernons Road and Rose Green. The site itself is not large enough to satisfactorily provide adequate spacing of buildings and vehicles to comply with Highways requirements or Building Regulations relating to fire spread and sewerage provision, and does not offer any play area for children, nor adequate room for vehicles to pass, with the result that on site activities would spill over into the surrounding area, to the increased detriment of nearby residential amenity.

This would be contrary to the provisions of the above policy DC1 (a) as well as policy P1 which states, inter alia, that "Development will not be permitted where either it or any ancillary activities, including vehicle movement, are likely to harm the amenities of people living nearby by reason of: (a) noise;"

The proposed intense use of the site, with limited room for vehicles to manoeuvre or pass each other, would lead to vehicles, including caravans and trailers, reversing on to or off of the highway, to the added detriment of highway safety.

The proposal would create a sub-standard vehicle access by reason of insufficient visibility splays which would measure 4.5m x 90m in this location.

This is contrary to Essex County Council's Highways and Transportation Development Control Policies as originally contained in Appendix G to the Local Transport Plan 2006/2011 and refreshed by Cabinet Member decision dated 19 October 2007.



**Application No:** 090725

**Location:** Land to the East of, Port Lane, Colchester

**Scale (approx):** 1:1250

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## 7.2 Case Officer: Bradly Heffer

**MAJOR**

**Site:** Land to the East of, Port Lane, Colchester

**Application No:** 090725

**Date Received:** 2 June 2009

**Applicant:** Mr James McConnell

**Development:** Erection of 224 dwellings.

**Ward:** New Town

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

### 1.0 Planning Report Introduction

1.1 This report concerns a proposal for a substantial residential development on land off Port Lane, Colchester.

### 2.0 Site Description

2.1 The site for this proposal is a broadly L-shaped piece of land (with a given area of 5.3 hectares) located to the east of Port Lane Colchester. The site is bounded to the north by St. Leonards Road, which itself takes access directly off Hythe Hill. Immediately to the south of the site is an industrial site occupied by Man B&W, an international manufacturing company.

2.2 The site slopes markedly to the east and is bounded at this point by Parsons Lane and Ventura Drive, part of infill housing that has been constructed on the former Hythe gasworks site. Members will no doubt be aware that, historically, this site (and the Man B&W site to the south) was occupied for a substantial period of time by Paxman Engineering Works. However, the application site has been cleared, with the exception of a building in the north-western corner of the site. This building is currently the subject of a conservation area consent application for demolition.

2.3 There are established trees on the site (mainly towards the north-eastern corner and, sporadically, along the eastern and southern boundaries). The majority of land use around this site is established residential development that comprises part of the New Town area of Colchester.

### **3.0 Description of Proposal**

3.1 The proposal that is put forward for Committee consideration is for a residential redevelopment of the identified site. The submitted scheme proposes the erection of 224 dwellings on the site, consisting of a combination of two and three-storey buildings arranged in perimeter blocks. The main vehicular access to the site would take place off Port Lane, while dwellings fronting the northern boundary of the site would be accessed via St. Leonards Road and Standard Road. The scheme proposes the creation of individual character areas within the site, but with a general theme of traditional architecture used across the site. Hence, dwellings would be mainly two-storey, with some three-storey elements at specific points e.g. within squares and at particular corners, in order to provide visual interest and legibility. Overall, the scheme follows an Essex Design Guide approach in terms of layout and arrangement of dwellings and the range of materials and finished proposed.

3.2 The proposed scheme consists predominantly of houses and the range of accommodation is summarised below:

104 x 2 bed houses  
72 x 3 bed houses  
23 x 4 bed houses  
25 x 2 bed flats

3.3 The submitted scheme also indicates the provision of an area of open space within the development, located along the eastern boundary of the site.

3.4 The application is accompanied by a Design and Access statement which is available to view on the Council's website.

### **4.0 Land Use Allocation**

4.1 The site for this proposal is located in the East Colchester Regeneration Area as allocated in the adopted Review Borough Local Plan.

### **5.0 Relevant Planning History**

5.1 O/COL/06/2068 – Outline application for a mixed use development including 393 dwellings and commercial floor space – application withdrawn.

5.2 071036 - Outline application for 373 dwellings plus 390sqm of flexible commercial development comprising A1 and/or A2 and/or A3 and/or B1 and/or B1 and/or D1 and/or D2 uses. Change of use of existing building (830sqm) to flexible use comprising A1 and/or A2 and/or A3 and/or B1 and/or D1 and/or D2 – application refused at the Planning Committee meeting held on 30th July 2008.

5.3 090726 – Demolition of building in the north western corner of the site, east of Port Lane and immediately to the south of 4 Standard Road. Application still under consideration.

## **6.0 Principal Policies**

### **6.1 Adopted Review Colchester Borough Local Plan – March 2004**

DC1 - General Development Control criteria

UEA11–13 - Design policies

UEA15 - Adjacent green links

L5 - Open Space

P1 - Pollution

ECH1 - Development in the Regeneration Area

### **6.2 Local Development Framework – Core Strategy**

H2 - Housing Density

H4 - Affordable Housing

SD2 – Delivering Facilities and Infrastructure

## **7.0 Consultations**

### **7.1 Members are advised that this application has been reported to the Development Team and it was agreed that the previously-established mitigation figure (under application ref 071036) is also applicable to this application. The agreed figure is £1 090 000. Further, the Development Team has agreed that the amount could be used as follows:**

- Education contribution £92 000
- Open space and recreation £400 000
- Community facilities £30 000
- Business £378 000
- Highways £190 000

### **7.2 Additionally the Development Team endorsed the 25% affordable housing provision.**

### **7.3 When originally consulted on the application the Highway Authority had no objection to the application subject to securing various elements as part of a S106 agreement, and also imposing a series of conditions on the grant of planning permission. Following receipt of amended plans, reconsultation has taken place and further comments of the Highway Authority will be available at the Committee meeting.**

### **7.4 Environmental Control would require the imposition of conditions and informatives. The following comment is also made:**

“We have no controls over the activities at the MAN B&W site and have to take this into account when assessing future noise exposure to site occupants. A noise abatement notice has previously been served on MAN B&W and it is possible that a best practical means defence could be successfully employed against future enforcement action.

Both PPG 24 and BS 8233 recommend the use of BS 4142 for assessing the impact of industrial noise on residential units. It is a standard commonly used by acoustic consultants in such situations and was agreed as appropriate by STATS during initial discussions for previous applications. Whilst the outside facade measurement position

is of direct relevance to gardens and ground floor living areas (where patio doors etc. may reasonably be expected to be open), its relationship to internal levels within bedrooms is less clear.

It is our opinion that the extreme rating levels measured during the night engine testing will give rise to unacceptable internal levels through partially open windows and inadequately glazed closed windows.

We think that, based on the figures previously provided by STATS, the levels at exposed gardens and ground floor living areas on the exposed facades can be brought within the current standards with the conditions detailed below. This leaves bedrooms. STATS and H & H have demonstrated that installation of the correct standard of glazing should achieve satisfactory internal levels during the worst case. It is acknowledged that at times of testing/cooling tower operation these windows will have to be closed for the internal standards to be met. Both PPG 24 and the WHO guidelines state that occupants should be able to partially open bedroom windows for ventilation, hence our proposal to locate bedrooms away from the exposed facades on previous applications. However, we have noted that in recent appeals the Inspector has deemed the closure of windows a reasonable mitigation measure, assuming an alternative means of ventilation is provided. Although the engine testing regime could increase at any time, we acknowledge that, based on previous information provided by STATS, the current tests affecting bedrooms are occasional.

In order to reach a resolution to this situation that will go a significant way to addressing our outstanding concerns in a proposal that we consider to be both achievable and reasonable, we recommend the imposition of conditions.”

- 7.5 Anglian Water has no objection to the proposal subject to the imposition of a condition and informatives.
- 7.6 The Environment Agency has advised that it requires the provision of conditions and informatives on any grant of planning permission.
- 7.7 When originally consulted on the proposal, the Essex County Fire and Rescue Service considered the layout of the scheme as being unsatisfactory as one dwelling did not benefit from fire appliance access within 45 metres of its footprint. Furthermore, concerns were raised about the culs-de-sac arrangement proposed off Standard Road and St. Leonard’s Road. Following receipt of amended plans the Service has been re-consulted and its views will be reported at the meeting.
- 7.8 The following comment has been received from the Council’s Landscape Officer regarding the initially submitted scheme:

“The surface treatment although acceptable for the most part needs to be further simplified in order to reach the ideal detailed in ‘Toward Better Street Design’ document (page 16) which requires a single surface material to be used for the pedestrian realm, currently it would appear 3 are proposed. Ideally this should be reduced to 2, one to identify the ‘home zone’ type streets as separate areas as a single all encompassing surface and 1 to identify the pedestrian realm elsewhere on the site unifying the footpath network with the raised tables, squares, etc.

In the absence of specified tree types The proposal need to be cross-checked against the following ‘rule of thumb’ requirements to allow development of full mature crown spread and adequate light penetration in compliance with BS 5837 (6.3 & 13.2.2):

- Larger principal trees should (unless variety specifically identified) be planted a minimum 8m from any building frontage requiring light penetration and 6m from any other.
- Secondary trees should (unless variety specifically identified) be planted a minimum 5m from any building frontage requiring light penetration and 4m from any other.

Any further comments received will be reported at the Committee meeting.

## 8.0 Representations

8.1 As a result of neighbour notification on the originally submitted plans, a total of 24 responses were received from local residents. Of these 17 copy letters raised the issue of the access arrangement proposed at Standard Road and St. Leonards Road. When the application was originally submitted the plans indicated a cul-de-sac arrangement whereby traffic would not be able to travel along St. Leonards Road and continue along Standard Road (and vice versa). This arrangement has now been altered and the current access arrangements are reflected on the amended plan.

8.2 Other comments received may be summarised as follows:

- The proposal will give rise to traffic congestion and parking problems.  
*Officer comment: The proposal as originally submitted and as amended has not given rise to an objection from the Highway Authority. As regards parking, the submitted scheme proposes a total of 384 spaces to serve the development which equates to an average of 1.71 spaces per unit. This exceeds the 1.5 space per dwelling maximum advocated in the Essex Planning Officers Association Vehicle Parking Standards that are adopted by the Council. The proposed parking spaces would be allocated to provide one space per affordable housing unit, private flat and small 2-bedroom house, two allocated spaces for each large 2-bedroom house and all 3 and 4-bedroom houses. 35 spaces would be unallocated.*
- New housing should be provided on the periphery of the town and this site used for recreation, sports and industrial heritage.  
*Officer comment: The re-use of this 'brownfield' site for residential development is a suitable re-use in land use planning terms and would be a key element in the established aim of regenerating East Colchester. As part of the mitigation of the development sums would be secured that would contribute to recreation, community facilities and business development.*
- The reduction in the number of housing units is an improvement but the pond on the site should not be filled in.  
*Officer comment: It is understood that the pond on the northern boundary of the site (adjacent to St. Leonards Road) was originally provided as a source of water in the case of fire (when the site was occupied by Paxman Engineering Works) and as part of the industrial process for making diesel engines. Investigation of the pond to submission of the application revealed the water to appear polluted although the presence of smooth newts was noted. The ecological report submitted with the application states that the '...single visit in mid summer does not provide conclusive evidence that crested newts are not present, but from the two specialist surveyors, both with extensive knowledge of Essex and the natural history of the great crested newt, considered it (sic) extremely unlikely that crested newts are present. This included an appraisal of the isolated nature of the pond within a*

*heavily residential and industrial area, with its history (pollution etc) and the lack of suitable terrestrial habitat around the site where newts could live...’ On this basis it is considered that the loss of this feature would be acceptable in planning terms.*

- Who will be responsible for the maintenance of the open spaces?  
*Officer comment: If the open spaces are to be offered to the Council for adoption then the appropriate commuted sum would also have to be paid. Otherwise the areas would be managed by a Management Company created by the applicant company.*
- It is hoped that an existing lay-by in Port Lane that falls within the application site can be retained or replaced elsewhere in the street.  
*Officer comment: The proposed streetscape along Port Lane would reflect that found on the opposite side with the exception that dwellings would be set behind a line of trees. Although it is fully appreciated that the lay-by does provide a convenient parking facility for local residents the alternative treatment proposed under the submitted scheme is felt to be an appropriate response in townscape terms. Additionally parking facilities for the new housing would be conveniently located to the rear in order to discourage on-street parking.*

Any comments received on the amended plans will be reported to Members at the Committee meeting.

### 8.3 Councillor Fisher made the following comments on the original planning application:

“I was contacted last week by residents of St Leonard's Place regarding their concern about one aspect of the plans for the Paxman site. I know the area well, but went along to see one of the residents on Friday afternoon and he told me of their concerns.

The Plan shows Standard Road being blocked off with a turning space created. I gather also that St Leonard's Place will be widened by 2 ft (where the boarding is situated at present).

The objection which the residents have, and which I fully support, is that currently emergency vehicles and waste collection vehicles often have to come along Standard Road and St Leonard's Place and then reverse back the same way, because there is not enough space to turn into St Leonard's Road. The waste vehicle then has to enter St Leonard's Road and collect from there and then reverse out to Hythe Hill again.

This is because residents of St Leonard's Road park their cars outside their houses and the already narrow road then becomes too narrow for large vehicles to turn the corner. I am very well aware of this as I often park in St Leonard's Place and even with a car and great care, I have to drive very slowly and carefully to drive out to Hythe Hill via St Leonard's Road.

The new development also has 18 parking places coming out on to St Leonard's Terrace, 10 at right angles to the road and 8 alongside the road. This effectively means no other parking in St Leonard's Terrace. However, this is not my objection. My objection is that St Leonard's Road is the narrower of the two roads (Standard and St Leonard's), that the corner of St Leonard's Terrace and St Leonard's Road is less than 90 degrees. The house on the north corner is within a couple of feet of the corner of the road, all the other houses in St Leonard Road have very small frontages and no possibility of making off road parking. However, they will have to have the extra traffic from the new houses, plus delivery lorries and other large vehicles, trying to pass each other on this narrow road, or one of them reversing. Another matter worth considering is the length of the new parking spaces - are they long enough to take long cars and perhaps a transit van? Again, we don't want to build in problems from the outset.



If one road has to be blocked off, it should be St Leonard's Road. Standard Road is much wider. The maisonettes have off-road parking and the few houses there have the space for off-road parking if they wished, although the road is wide enough for vehicles (including emergency and waste vehicles) to pass each other.

I have consulted with the Head of Waste, Mr Dave McManus, who knows of the problem. If there are no cars parked, vehicles can currently negotiate the bend.

However, with parked cars, they cannot - and in the future, waste collection vehicles may be longer.

I think CSC should ensure that we do not build in an extra expense in Waste collection, by perhaps having to use 2 or 3 vehicles each week (as has happened in other developments) instead of one vehicle with separate compartments.

I have been in touch with Mr Adam Thomas, who is doing the liaising for Bellway Homes and he had passed on my concerns.

I have not had any other serious planning objection raised. The residents are generally well disposed to the development but they have experienced the problems for emergency vehicles. Just last weekend an ambulance could not get round the corner from St Leonard's Road to St Leonard's Terrace and had to turn round and approach via Standard Road. This could have been serious if the extra time had resulted in death, and a delay like this with a fire could also have serious consequences.

I hope Bellway Homes can adjust their plans and close off St Leonard's Road, and not Standard Road.”

Any further comments made following the receipt of the amended scheme will be reported to Members at the Committee meeting.

## **9.0 Report**

9.1 As will be noted by the planning history attached to this application, this site has been the subject of two previous applications for redevelopment. However, whereas the previous applications sought permission for a mixed use development, this current proposal is for a residential use only. As Members will note, the site (although previously used for industrial purposes for an extensive period of time) is surrounded on three sides by established residential development – with the southern boundary adjacent to the Man B&W site. In your officer's view the principle of introducing additional residential development on to the application site would not conflict with the predominant land use of the surrounding area, nor the allocation in the adopted Local Plan.

9.2 Although the last application, ref. 071036 was reported to Committee with a recommendation of approval, Members resolved to refuse the application for the following, summarised reasons:

- The submitted scheme represented an overdevelopment of the site, principally owing to the high proportion of apartments
- The scheme incorporated inadequate private open space
- Insufficient affordable housing was secured as part of the overall proposal

9.3 Following refusal of this scheme Members are advised that further negotiation has taken place, resulting in the submission of this current scheme. With regard to the points of concern raised by Members on the previous scheme the following comments are made:

- Members will note that the scheme now proposes a majority of houses as opposed to flats. The houses on the site number 199 whereas flats number 25. This is a significant change from the previous proposal which consisted of 272 apartments and 101 houses. Allied to this alteration is a reduction in the density of development proposed. Given the size of the site, and the number of dwellings proposed under this current scheme, the proposed density of development equates to 42 dwellings per hectare (whereas the previously refused scheme proposed a residential density of 70 dwellings per hectare). Members are advised that the densities of residential development surrounding the application site range from 30 + units per hectare to 90 + units. Members should also note that in the Port Lane Development Brief prepared by the Council the suggested maximum density for residential development on this site should be 45 dwellings per hectare. On this basis it is considered that the proposed density of development is reasonable in this context.
- The submitted application does include a plan showing the proposed private amenity areas for the proposed dwellings. It is noted that of the 224 units proposed 19 units would be served by private gardens less than 50 square metres. In some cases the reduction in garden area is a result of the related dwelling fulfilling a corner-turning function, which is considered important in townscape terms. In your officer's view it is considered that the overall provision of private amenity space is acceptable as the greater majority of units benefit from a private amenity space in excess of 50 square metres and an area of public open space is shown within the scheme. Furthermore, the application site lies within comfortable walking distance of the Old Heath Recreation Ground – a substantial area of public open space.
- The applicant company has produced a statement explaining the affordable housing element of the currently-submitted proposals. The statement is available to view on the Council's website but the following extracts are included here for Members information:

*'The proposed planning application concerns a residential development of 224 dwellings that are (sic) to be predominantly houses. The affordable housing will also be mainly houses. A total of 56 affordable units are proposed, of which 5 are two-bed flats, 28 two-bed houses, 19 three-bed houses and 4 four-bed town houses. These units will be entirely for social rent.*

*Twenty-five percent of the units are proposed as affordable. This figure has been derived from the anticipated level of grant funding that is to be forthcoming from the Homes and Communities Agency (HCA). This will enable early delivery of these units within the development...*

*Core Strategy policy H4 advises that the Council will seek to secure 35% of new dwellings as affordable. Whilst the proportion of affordable housing does not achieve that percentage, it does accord with the Draft Development Brief, which requires 25% of dwellings as affordable.*

*The affordable housing is to be provided in two key areas within the heart of the development. Area 1 will be located along the northern boundary of the site and*

*extended into the Mews Square to be provided in the north-east corner of the site. Area 2 will be located along the southern boundary of the site. These locations will ensure suitable integration of the affordable housing within the development to deliver a mixed and balanced community.'*

- 9.4 Previously the unsuccessful proposal only offered 10% of the total number of units as 'affordable' which equated to 37 units. Although the current scheme has 148 fewer dwellings the uplift to 25% produces a total of 56 affordable units. This is an increase of 19 units.
- 9.5 Members are advised that the Council's Housing Development Officer is content with the submitted proposals as far as the affordable housing element is concerned.
- 9.6 In consideration of the revised scheme it is felt that it represents a suitable response to the site and particular constraints that exist. Two key areas where the success of the scheme would be judged are where it interfaces with existing development on Port Lane and St. Leonards Road. To this end it is noted that in both cases the proposed development reflects the scale, design and use of materials that are prevalent in the area and, in your officer's view the scheme will integrate well with the surrounding form of development. Members will note that this scheme varies from the previous proposal in that the building in the north-western corner of the site is not proposed for retention as part of the scheme. While the building is an established element on this site it is not of such quality that its retention could be insisted upon. Furthermore, it is felt that the replacement building is of a suitably high standard of design in itself, bearing in mind that it abuts a conservation area. Additionally, the legal agreement attached to a grant of planning permission would secure a financial contribution to business and enterprise development.
- 9.7 Within the application site the layout consists of a series of perimeter blocks, which would be served by a legible series of roads. The design of the proposed dwellings within the site displays a wider variation, in order to create particular 'character areas'. The creation of these 'character areas' would add further legibility and visual interest to the scheme.
- 9.8 The location of the application site is such that its development would provide an important 'link', facilitating pedestrian and cycle access between the established areas of New Town to the west and the ongoing regeneration areas of the Hythe to the south and east. As further improvements in the area are realised, such as the possible provision of open space on the site known as Breakers Park, the 'link' role identified above will become more relevant.
- 9.9 In summary, it is considered that the current proposal represents a visually and spatially appropriate redevelopment of this site within one of the Borough's established regeneration areas. Furthermore the scheme is considered to address the range of concerns that were raised by Members when the previously-submitted scheme was rejected.

## **10.0 Background Papers**

- 10.1 HA; HH; AW; NR; TL; CBC; NLR; FB; O/COL/06/2068 071036

## **Recommendation**

That the application is deferred in order that S 106 Agreement may be secured whereby the following sums are secured:

- Education contribution £92 000
- Open space and recreation contribution £400 000
- Community facilities £30 000
- Business and Enterprise £378 000
- A contribution of £190 000 towards improvements to the highway network in the vicinity of the proposal site as considered necessary and/or appropriate by the Highway Authority.

Additionally the following elements shall be incorporated:

- Provision of 25% affordable housing units in accordance with the location, mix and tenure shown in the submitted application
- The provision of a Transport and Marketing Scheme which shall include, among other features, free season tickets and timetable information as well as publicity (e.g. by poster and leaflet).

Following successful completion of the Agreement as described, the Head of Environmental and Protective Services be authorised to issue a delegated planning permission for the application 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 - C3.1 Materials (general)**

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

Reason: The application has insufficient detail for approval to be given to the external materials; and [to ensure that the development does not prejudice the appearance of the locality/to ensure that the development has a satisfactory appearance in order to protect and enhance the visual amenity of the area).

#### **3 – Non-Standard Condition**

The Local Planning Authority shall be notified in writing of the date that the development will commence and furnish details of their representative on site.

Reason: To ensure that the Council may monitor the development from commencement and throughout the construction phase in collaboration with the developers and or their representatives in order to ensure that the scheme is carried out to a high standard and in accordance with the approved details under the terms of the planning permission.

#### 4 – Non-Standard Condition

Details of all ground surface finishes, including kerbs and manhole covers, both within adoptable highways and non adopted areas on public frontages shall be submitted to and approved in writing by the Local Planning Authority prior to installation.

Reason: To ensure that these elements of the scheme are given full and proper consideration in the overall design process such that they may contribute to the creation of a high quality public realm.

#### 5 – Non-Standard Condition

Details of street lighting, lanterns and columns shall be submitted to and approved in writing by the Local Planning Authority prior to installation.

Reason: To ensure that these elements of the scheme are given full and proper consideration in the overall design process such that they may contribute to the creation of a high quality public realm.

#### 6 – Non-Standard Condition

Details of the design, height, materials and location of all street furniture including traffic signs, traffic calming and traffic management devices and installations, bollards, street name plates and seating shall be submitted to and agreed in writing by the Local Planning Authority in conjunction with the Highway Authority.

Reason: To ensure that these elements of the scheme are given full and proper consideration in the overall design process such that they may contribute to the creation of a high quality public realm.

#### 7 – Non-Standard Condition

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

Reason: To ensure that adequate facilities are provided for refuse in a manner that does not detract from the character of the development.

#### 8 – Non-Standard Condition

Prior to the development being brought into use, facilities for the collection of recyclable materials shall be provided in a visually satisfactory manner and in accordance with a scheme that shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that adequate facilities are provided for the collection of recyclable materials in a manner that does not affect the character of the development.

#### 9 – Non-Standard Condition

Prior to the commencement of the development a scheme of boundary treatment including walls, railings, fences, and hedges etc shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the position, height and design and materials/species to be used. The walls/railings/fences/hedging etc features shall be provided as approved and thereafter retained.

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

#### 10 - Non-Standard Condition

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

#### 11 - Non-Standard Condition

The development hereby approved shall be screened by trees/hedges/shrubs on the southern and eastern boundaries adjoining the retained industrial site boundaries of the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority before any part of the development is begun. The planting of all trees/hedges/shrubs agreed shall be completed not later than the next planting season following commencement/completion of the development unless otherwise agreed in writing by the Local Planning Authority. Any tree, shrub or hedge planting that dies is diseased, becomes seriously damaged or is removed within five years of planting shall be replaced with another of similar size and species in the next planting season.

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

#### 12 - Non-Standard Condition

In accordance with the Council's policies relating to arts and culture in the Borough, a scheme indicating the provision of public art shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall be carried out within six months of completion of the development.

Reason: To ensure that this development scheme makes a contribution to the Borough in the field of arts and culture in accordance with the Local Planning Authority's policies contained in the Adopted Local Plan and to enhance the quality of the public realm.

#### 13 - Non-Standard Condition

Prior to the development commencing a scheme of maintenance of the proposed public realm (including regular street cleaning), until such times as the streets/other open spaces are formally adopted, shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall thereafter be implemented in accordance with the approved details.

Reason: To ensure a satisfactory environment for residents until the public realm is formally adopted.

#### 14 – 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.

#### 15 – 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.

#### 16 – 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.

#### 17 – 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.

### 18 - Non-Standard Condition

All rooms shall be designed to achieve internal noise levels no greater than those specified as 'good' in the current version of BS 8233. This equates to 30 dB(A) Leq 8 hour (23:00 to 07:00) and a maximum of 45 dB L(A) in bedrooms, 30 dB(A) Leq 16 hour (07:00 to 23:00) in living and dining rooms and 45dB(A) Leq 16 hour (07:00 to 23:00) in kitchens/bathrooms/utility rooms. These figures are with windows closed and an adequate alternative means of ventilation provided. The levels specified shall apply to all noise conditions and the mitigation shall take into account external frequencies so that internally there is no dominant frequency. Private gardens shall be designed to achieve a level no greater than 50 dB(A) Leq 16 hour (07:00 to 23:00).

Reason: In order to ensure that the amenity of the occupiers of the dwellings is not adversely impacted by noise generated by the Man B & W site to the south.

### 19 - Non-Standard Condition

An acoustically designed fence shall be erected along the boundaries of the private rear gardens in plots facing the existing MAN site. This shall be designed, installed and maintained to achieve an overall attenuation of at least 8dB(A) inside the gardens. (This should mean that the gardens have a BS 4142 rating of a maximum of +5 - marginal, achieve the desirable level stated in BS 8233 and meet the WHO standard. It may also mean that ground floor living rooms can achieve the 'reasonable' levels specified in BS 8233 with windows partially open, taking into account all day engine testing.)

Reason: In order to ensure that the amenity of the occupiers of the dwellings is not adversely impacted by noise generated by the Man B & W site to the south.

### 20 - Non-Standard Condition

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 Holidays.

Reason: In order to protect the amenity of existing residential property during the construction of the development.

### 21 - Non-Standard Condition

Prior to any works commencing the developer shall submit a scheme for the control of dust during construction for approval by the Local Planning Authority. This shall incorporate the measures recommended in the STATS report on air quality.

Reason: In order to protect the amenity of existing residential property during the construction of the development.

### 22 - B3.2 Light Pollution

Any lighting of the development shall be located, designed and directed [or screened] so that it does not [cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary]. Avoidable intrusion means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

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



### 23 - Non-Standard Condition

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 24 to 27 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 27 has been complied with in relation to that contamination. .

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy P4 of the adopted Local Plan 2004.

### 24 - Non-Standard Condition

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 land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy P4 of the adopted Local Plan 2004.

#### 25 - Non-Standard Condition

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 land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy P4 of the adopted Local Plan 2004.

#### 26 - Non-Standard Condition

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 land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy P4 of the adopted Local Plan 2004.

#### 27 - Non-Standard Condition

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 Site Characterisation, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition Submission of Remediation Scheme, 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 Implementation of Approved Remediation Scheme.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy P4 of the adopted Local Plan 2004.

### 28 - Non-Standard Condition

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 25.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy P4 of the adopted Local Plan 2004.

### 29 - Non-Standard Condition

Notwithstanding the provisions of sections 94, 98 and 106 of the Water Industry Act 1991, no development shall commence until details of a scheme, including phasing, for the provision of surface water drainage on and offsite has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the details so approved.

Reason: Unless suitable surface water solutions are implemented then the development may lead to localised flooding and amenity impact.

### 30 - Non-Standard Condition

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Ardent Consulting Engineers, dated April 2009 and referenced B742-03 and the following mitigation measures detailed within the FRA: 1. The disposal of surface water shall be in accordance with drawing no B742012 and the Microdrainage calculations contained within Appendix H of the April 2009 FRA. 2. Prior to first occupation of any development, a scheme for the adoption and maintenance of any SuDS features shall be submitted to the Local Authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to reduce the impact of flooding on the proposed development and future occupants for the lifetime of the development.

### 31 - 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.

### 32 - Non-Standard Condition

Prior to the commencement of development, a scheme for the provision and implementation of rainwater harvesting shall be submitted and agreed, in writing, with the Local Planning Authority. The works/scheme shall be constructed and completed in accordance with the approved plans/specification before occupancy of any part of the proposed development.

Reason: To enhance the sustainability of the development through efficient use of water resources.

### 33 - Non-Standard Condition

No occupation of the development shall take place until such time as the following have been provided or completed to the satisfaction of the Highway Authority:

- A priority junction off Port Lane to include 2 no. kerbed radii each with a dropped kerb/tactile paving crossing and a minimum 90 x 2.4 x 90 metre visibility splay maintained clear to the ground at all times
- The widening of Port Lane along the entire westernmost boundary of the proposal site. A foot/cycleway (minimum width 3.0 metres) along the entire westernmost boundary of the proposal site
- A kerb build out at both the Port Lane/Artillery Street and Port Lane/New Park Street junctions to provide protected residents on street parking.
- Kerb build outs at and to the east of the Hythe Hill/Standard Road junction.
- The levelling, surfacing and dedicating as highway any additional land required along the proposal site easternmost boundary for the future upgrading of the existing footpath to a foot/cyclepath. A minimum of 4.0 metres is required (consisting of existing highway and land from the proposal site) to deliver a minimum 3.0 metre wide foot/cyclepath plus any required highway furniture including lighting
- A £190,000 contribution towards improvements to the transport network in the vicinity of the proposal site as considered necessary and/or appropriate by the Highway Authority
- Travel packs

Reason: In the interests of highway safety.

### 34 - Non-Standard Condition

The existing proposal site access from St. Leonard's Road shall be permanently closed off to all vehicular traffic. Direct access for cyclists and pedestrians shall be retained.

Reason: In the interests of highway safety.

### 35 - Non-Standard Condition

The proposed footpath between the site access road and Parson's Lane (adjacent to plot 117) shall be a minimum 3.0 metre wide foot/cyclepath.

Reason: In the interests of highway safety.

### 36 - Non-Standard Condition

There shall be a direct pedestrian/cycle link between the proposal site and the existing foot/cyclepath which runs along the proposal site southernmost boundary

Reason: In the interests of highway safety.

#### 37 - Non-Standard Condition

Measures shall be provided to ensure no mud and/or debris is deposited on the public highway by any vehicle associated with construction of the proposal. Details to be agreed with the Local Planning Authority and Highway Authority.

Reason: In the interests of highway safety.

#### 38 - Non-Standard Condition

All trees shall be provided with root barriers to prevent damage to underground services.

Reason: In the interests of highway safety.

#### 39 - Non-Standard Condition

Details of all trees proposed within areas, which are to be adopted, as highway shall be agreed with the Highway Authority. All these trees shall be sited clear of all underground services and visibility splays as well as to complement the proposed street lighting. These trees shall require a commuted sum for maintenance.

Reason: In the interests of highway safety.

#### 40 - Non-Standard Condition

The bend adjacent to plot 182 shall have a mountable shoulder to enable larger vehicles to overrun the inside of the bend.

Reason: In the interests of highway safety.

#### 41 - Non-Standard Condition

The full width ramped table on the road between plots 70/71 and 211 shall be a cushion type arrangement with a minimum 1.0 metre pedestrian gap on both sides.

Reason: In the interests of highway safety.

#### 42 - Non-Standard Condition

No unbound material shall be used in the surface finish of a driveway within a minimum of 6.0 metres from the highway boundary of the proposal site.

Reason: In the interests of highway safety.

#### 43 - Non-Standard Condition

The carriageways of the proposed estate roads shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months from the occupation of such dwelling

Reason: In the interests of highway safety.

#### 44 - Non-Standard Condition

Any independent footpath shall be a minimum 2.0 metres wide, may need to be drained but will have to be lit.

Reason: In the interests of highway safety.

### **Informatives**

#### **NOISE/POLLUTION INFORMATIVES**

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: -

- (a) 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.
- (b) Mobile plant to be resident on site during extended works shall be fitted with nonaudible reversing alarms (subject to HSE agreement).
- (c) 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.
- (d) 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.
- (e) No fires to be lit on site at any time.
- (f) 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.
- (g) All bulk carrying vehicles accessing the site shall be Suitably sheeted to prevent nuisance from dust in transit.

#### **CONTAMINATION INFORMATIVE**

The Local Planning Authority has determined the application on the basis of the information available to it. The applicant is responsible for the safe development and safe occupancy of the site.

## ANGLIAN WATER INFORMATIVES

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the applicant will need to ask for the assets to be diverted under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

There is sufficient water resource capacity to supply this development. However, in line with national and regional government policy Anglian Water would wish to see measures taken by the developer to ensure that buildings are constructed to high water efficiency standards. This can be achieved through the design of efficient plumbing systems and the installation of water efficient fixtures and appliances in line with the Code for Sustainable Homes. This will minimise the growth in demand for water from the new development and help to ensure the sustainable use of our region's water resources.

The development cannot be supplied from the network system that at present does not have adequate capacity. The applicant is advised to contact Anglian Water to discuss the reinforcement works required to supply this development.

The foul flows from the development can be accommodated within the foul sewerage network system that at present has adequate capacity. If the developer wishes to connect to Anglian Water's sewerage network they should serve notice under Section 106 of the Water Industry Act 1991.

## ENVIRONMENT AGENCY INFORMATIVES

An agreement for the maintenance and management of the proposed underground cellular storage and hydrobrakes should be agreed with the Local Planning Authority and/or Anglian Water Services Ltd as soon as is practically possible.

Surface water from roads and impermeable vehicle parking areas shall be discharged via trapped gullies.

Foul and surface water drainage from the proposed development should be discharged to the main sewers.

No foul sewage or trade effluent, including cooling water containing chemical additives, or vehicle washing water, including steam cleaning effluent, shall be discharged to the surface water drainage system.

All surface water from roofs shall be piped direct to an approved surface water system using sealed downpipes. Open gullies should not be used.

Contaminated waters must not be disposed of to public sewer without the express permission of the sewerage undertaker, Anglian Water Services Ltd. Such waters must only discharge to the public foul or combined sewer, not surface water sewer.

Any facilities, above ground, for the storage of oils, fuels or chemicals shall be provided with adequate, durable secondary containment to prevent the escape of pollutants. The bunded area shall be designed, constructed and maintained in order that it can contain a capacity not less than 110% of the total volume of all tanks or drums contained therein. All filling points, vents, gauges and sight glasses should be bunded. Any tank overflow pipe outlets shall be directed into the bund. Associated pipework should be located above ground and protected from accidental damage.

There shall be no gravity or automatic discharge arrangement for bund contents. Contaminated bund contents shall not be discharged to any watercourse, land or soakaway. The installation must, where relevant, comply with the Control of Pollution (Oil Storage) (England) Regulations 2001 and the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991 and as amended 1997. Site occupiers intending to purchase or install pollutant secondary containment (bundling) should ensure that the materials are not vulnerable to premature structural failure in the event of a fire in the vicinity.

#### HIGHWAY AUTHORITY INFORMATIVES

The above is required to ensure the proposal complies with the County Council's Highways and Transportation Development Control Policies, as originally contained in Appendix G of the Local Transport Plan 2006/2011 and refreshed by Cabinet Member Decision dated 19 October 2007

Prior to any works taking place in the public highway the developer shall enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works

All highway related details shall be agreed with the Highway Authority

The number of parking spaces, including disabled, cycle and motorcycle shall be in accordance with those standards set down within Essex Planning Officers Association, Vehicle Parking Standards, August 2001. Further all cycle and motorcycle parking shall be convenient, covered and secure

Any proposed traffic calming shall be laid out and constructed having consulted the emergency services and bus operators

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by Essex County Council.

The local planning authority may wish to consider extending the New Town 'residents only' controlled parking zone to cover the proposal site.

The Highway Authority will not adopt the proposed stepped foot/cyclepath links. The steps shall be accompanied by ramps

Sufficient turning and off loading facilities for delivery vehicles, together with an adequate



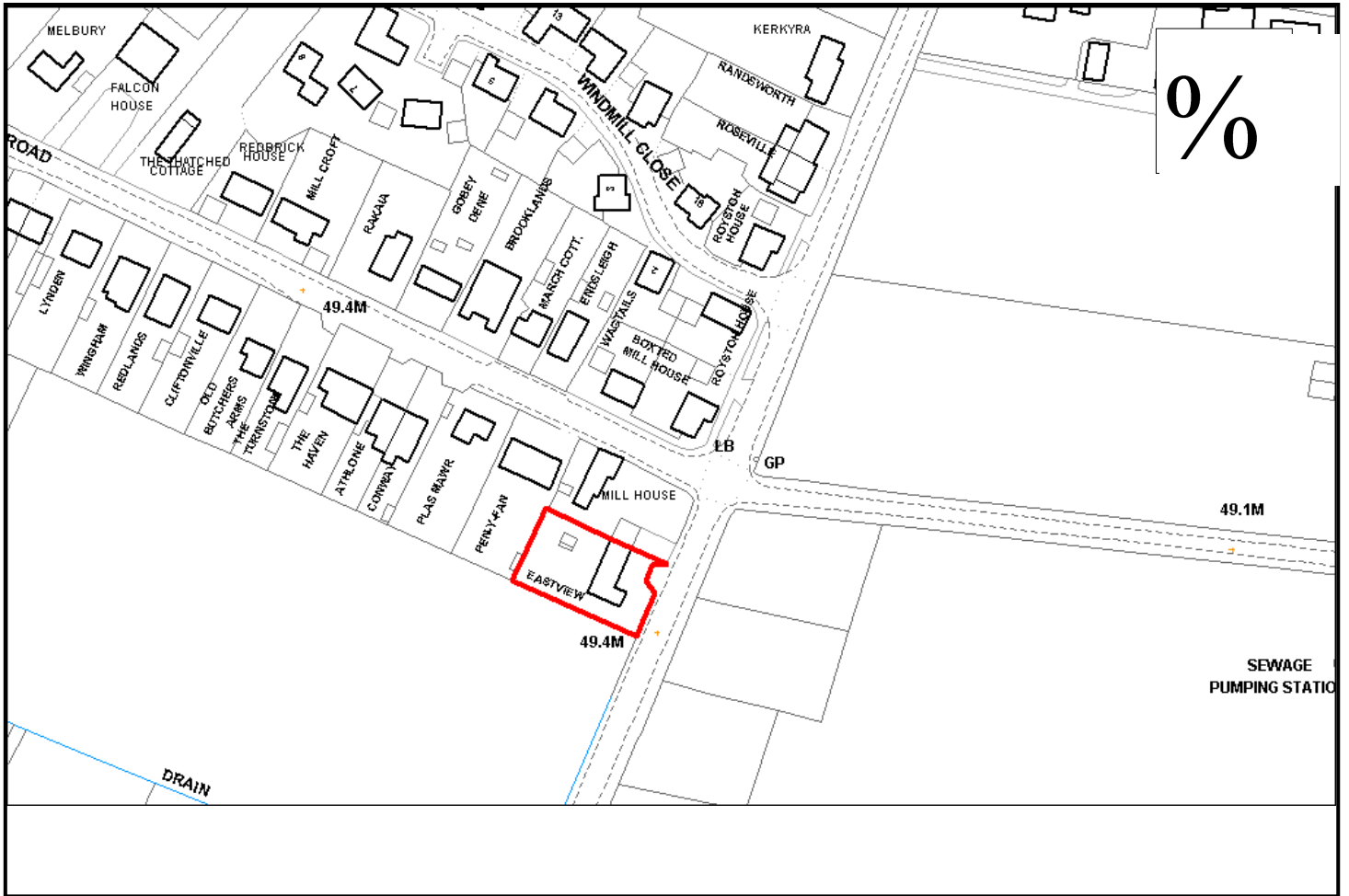
parking area for those employed in developing the proposal site shall be provided within the limits of the proposal site

In paved areas, whether or not the planted areas are to be adopted as highway, any tree shall be sited a minimum 2.0 metres from the defined (or undefined) edge of carriageway. Where the adopted highway is to be an independent footpath, any tree shall be planted a minimum 1.0 metre from the edge of the highway

Prior to occupation, each dwelling shall be served by a system of operational street lighting between the dwelling and an existing highway which shall thereafter be maintained in good repair.

#### ESSEX FIRE SERVICE INFORMATIVE

The architect or applicant is reminded that additional water supplies for fire fighting may be necessary for this development. The architect or applicant is urged to contact the Water Technical Officer at Service Headquarters, telephone 01277 222275.



**Application No:** 090909

**Location:** East View, Straight Road, Boxted, Colchester, CO4 5QZ

**Scale (approx):** 1:1250

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**7.3 Case Officer: Jane Seeley**

**EXPIRY DATE: 22/09/2009**

**OTHER**

**Site:** East View, Straight Road, Boxted, Colchester, CO4 5QZ

**Application No:** 090909

**Date Received:** 28 July 2009

**Agent:** W A Todd

**Applicant:** Mr & Mrs Steven Knight

**Development:** Change of use from Doctors surgery to domestic dwelling. Alterations to roof to form three bedrooms.

**Ward:** Fordham & Stour

**Summary of Recommendation:** Conditional Approval subject to satisfactory comments from the Trees and Landscape Officer

## **1.0 Site Description**

- 1.1 The application site is close to the junction of Mill Road and Straight Road. It currently supports a 1950's bungalow and flat roof single garage. The property was built as a dwelling and doctor's surgery. The building has been used solely for domestic purposes for many years and its appearance gives no indication of the former surgery use.
- 1.2 In support of the change of use element of the proposal the applicant's have advised that they have a Statutory Declaration signed by a previous owner that indicates that the dwelling has not be used as a surgery since the early 1980's. This document is to be made available for your Officer's inspection prior to the Committee Meeting.
- 1.3 The application also proposes the erection of a first floor extension to the bungalow and a pitch roof extension to the garage. The ridge height of the dwelling will increase from approx 4.8m to approx 6.9m.

## **2.0 Land Use Allocation**

- 2.1 Village Envelope  
Countryside Conservation Area  
Special Policy Area

## **3.0 Relevant Planning History**

- 3.1 LEX/194/55 - Erection of a dwelling and surgery - Consent 29 August 1955 - Detailed Plans approved 24 September 1956

## **4.0 Principal Policies**

- 4.1 Adopted Colchester Borough Local Plan  
DC1 - Development Control considerations  
UEA11 - Design  
UEA12 - Backland development  
UEA13 - Development, including extensions, adjoining existing or proposed residential property  
H7 - Development within Village Envelopes  
CO3 - Countryside Conservation Areas  
CF4 - Retaining key community facilities and services
- 4.2 Core Strategy  
ENV 1 -  
ENV 2

## **5.0 Consultations**

- 5.1 Highways - No objection - condition required to ensure that the existing drive/turning area is retained awaited
- 5.2 Trees and Landscaping - Comments awaited

## **6.0 Parish Council's Views**

- 6.1 Parish Council comment:
- Concerned about the considerable increase in the scale of the building and its possible effect on the adjoining property;
  - Perhaps single storey accommodation might be more appropriate
  - Suggest modifications are made to the vehicular access/site parking as the number of occupant cars for a 4 bedroom house might become a hazard getting on and off Straight Road

## **7.0 Representations**

- 7.1 1 Letter has been received commenting:
- Change of use to a dwelling seems reasonable; the property has been as a domestic dwelling for at least the last 10 years.
  - The extension will increase the height of the property from 3.7m to 5.4m, a substantial increase of almost 50%.
  - The 3 upper storey rear windows will directly overlook the property to the rear (Pen-y-Fan) reducing privacy.
  - Proposals seems in conflict with the Council's SPD 'Extending your house?' with regard to privacy.
  - The extension should be redesigned or the internal layout reconfigured to avoid overlooking.

- A large conifer tree near the boundary with Pen-y-Fan does provide some screening, however it is not known if this is to be retained. We do not wish to change garden by planting a conifer hedge that would take some time to grow.

## **8.0 Report**

- 8.1 It is understood that the Statutory Declaration in the applicant's possession indicates that the doctor's surgery use ceased in the 1980's. This information has not been contradicted by the Parish Council or local residents. It is therefore appropriate (once the document has been inspected by your Officers) to accept this information as correct. Policy CF4 seeks to retain key facilities in villages and if the surgery use was still taking place it would be necessary to comply with the Policy requirements. However since the use does not appear to have occurred for over 25 years it is not considered appropriate to require the applicant's to demonstrate that alternative facilities are available in the village or that the use is no longer required. Indeed given the time lapse in the use it is possible that it could be argued that the use has been abandoned. It is also likely that an application for a Lawful Development Certificate would be successful.
- 8.2 Eastview is located in the Boxted Village Envelope and therefore, in principle, provision of a first floor extension is acceptable. The design of the extension, which is considered acceptable, has been influenced by the fact that the building is above the existing footprint. The use of cream coloured weatherboarding for the whole of the finished dwelling will lighten the impact of its bulk. The adjacent dwelling, Mill House, is set to the rear of Eastview. Due to the juxtaposition of the dwellings the extension will not unduly impact on that dwelling and its presence in the street scene will be acceptable.
- 8.3 There are 3 dormer windows in the rear elevation serving a bedroom, a landing and a bathroom. These windows will be approximately 19m's from the rear garden boundary that is to the side of the rear garden of Pen-y-Fan (a house fronting Mill Road). This boundary is well screened by trees in both gardens. The applicant's have indicated that it is not proposed to fell the conifer tree in the application site. Whilst it is appreciated that the trees in the garden of Pen-y-Fan are deciduous, these will provide some filter screening in winter months. It is not considered that the level of overlooking will have such an adverse impact on the amenity of the occupiers of Pen-y-Fan as to warrant refusal of planning permission.
- 8.4 ECC have not raised any objection to the proposal subject to a condition to retain the existing drive/turning facilities.
- 8.5 To facilitate the proposed garage roof extension a tree in the neighbour's (Mill House) garden will require some trimming back. Comments from the Council's Arboricultural Officer regarding this work should be available before the Committee Meeting.

## **9.0 Background Papers**

- 9.1 ARC; Core Strategy; HA; TL; PTC; NLR

**Recommendation** - Conditional Approval subject to satisfactory comments from Trees and Landscaping Officer

**Conditions**

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

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

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

2 - C3.1 Materials (general)

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

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

3 - Non-Standard Condition

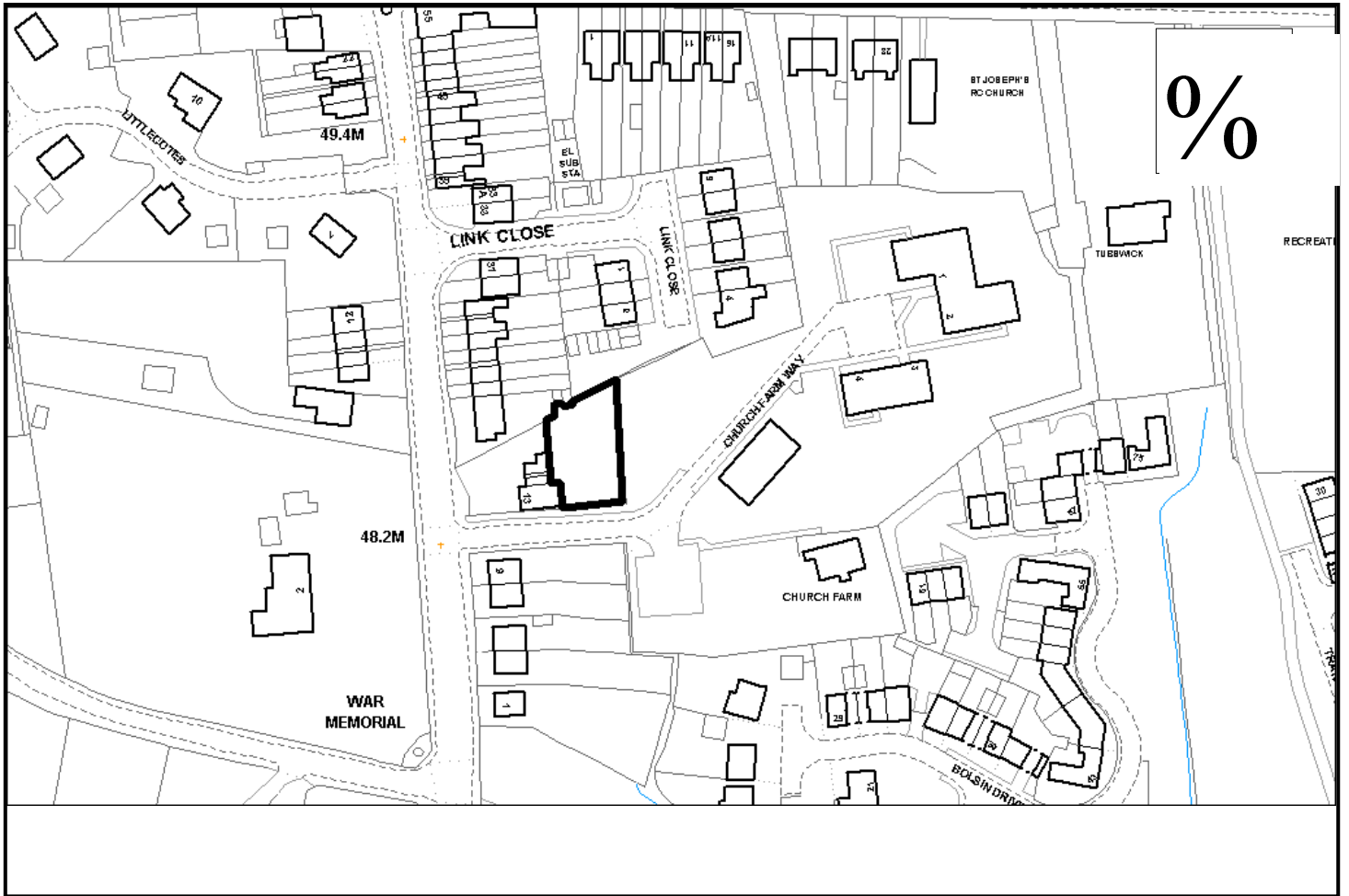
The existing hard surfaced drive/vehicular turning area shall be retained and kept clear for the manoeuvring of vehicles.

Reason: In the interests of highway safety.

Plus any conditions required by the Trees and Landscape Officer

**Informatives**

Your attention is drawn to the attached advisory guidelines relating to the control of pollution during demolition/building.



**Application No:** 090984

**Location:** 13a Nayland Road, Colchester, CO4 5EG

**Scale (approx):** 1:1250

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**Site:** 13a Nayland Road, Colchester, CO4 5EG**Application No:** 090984**Date Received:** 27 July 2009**Agent:** Mr Peter Reeve**Applicant:** M Kangi**Development:** New disabled dental clinic (resubmission of 090550)**Ward:** Mile End**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

- 1.1 The site consists of the existing building at Mile End Pharmacy which incorporates the first floor dental practice and a parking area on the site frontage. The area to the rear of the existing building accommodating the Pharmacy and Dental Practice is a shingle covered area used for additional car parking.
- 1.2 To the south is a private access road leading to Church Farm and other NHS buildings. To the east are dwellings and a garage belonging to No.15 Nayland Road, which is located to the north.
- 1.3 A vehicular right of way exists over the site for garaging to No.15 Nayland Road.
- 1.4 The site lies within a predominantly residential area.
- 1.5 The application proposes an extension to the existing dental clinic in the form of a two storey and a single storey extension to the rear of the existing building. The intention is to provide a new disabled dental clinic that complies with the Disability Discrimination Act (DDA) on the ground floor. The ground floor accommodation will include a consulting room, a treatment room, recovery area and reception/waiting area.
- 1.6 The accommodation to be provided within the new first floor area will include a staff room, stock room and a store room.
- 1.7 The external materials are shown as being buff brickwork, with cedar cladding on the single storey building. The roofs are of a contemporary design clad in a single ply membrane with standing seams, with a grey finish.
- 1.8 The application proposes a total provision of 12 car parking spaces and two disabled parking spaces. There is also provision for cycle parking within the site, located to the rear of the new extension.



1.9 Full details of the development are contained within the supporting Design & Access Statement, which can be viewed on the council web site.

1.10 The application also includes a Tree Survey, Arboricultural Implication Assessment and Method Statement

## **2.0 Land Use Allocation**

2.1 Residential

## **3.0 Relevant Planning History**

3.1 Planning permission for the change of use of the first floor offices within the existing building to a dental surgery was granted under reference COL/92/1460 on 1st March 1993.

3.2 F/COL/04/1522 – Erection of a two storey building comprising no more or less than six self-contained units. The permitted use for each unit to be B1C (offices) and D1A (Non-Residential Institution – individual medical or alternative therapy practitioner). Approved 18th April 2005.

3.3 F/COL/05/1824 – Alterations to existing pharmacy to provide additional ground floor area and rear extension to form consulting room. Approved 26th January 2006.

3.4 A previous application 090550 for the provision of a new disabled clinic was withdrawn on 3rd June 2009.

## **4.0 Principal Policies**

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

## **5.0 Consultations**

5.1 The Highway Authority has no objection.

5.2 The Colchester Cycling Campaign requests Sheffield rack parking at the front of the premises to serve both the pharmacy and the dental clinic.

5.3 Environmental Control recommends conditions relating to the control of light pollution.

## **6.0 Parish Council's Views**

### **6.1 Myland Parish Council has concerns regarding the site:-**

- **Parking & Manoeuvrability** – the Parish Council do not accept the table submitted with the application as being realistic of the current & future parking situation. On 4th May there were 11 cars parked in the area to the rear. This indicates that, contrary to the information provided that parking would be increased from 5 to 12, the actual situation is that current spaces will be reduced by at least 4, from 16 to 12. The 12 spaces will represent only a 50% provision for a predicted increase in the number of 24 people at normal trading times. The site was also visited by the Parish Council on 11th August when there were 13 cars parked at the site.

There is every chance that some patients may have to arrive by ambulance or minibus. There seems insufficient room for these vehicles to manoeuvre safely or to park.

- **Health & Safety.** With regard to 3 spaces at the rear, if the car parked next to the cycle stand caught fire it would be difficult for the fire service to reach it. In the event that the building had to be evacuated there is only one safe exit, especially for wheelchair users. Which would be the main door? What happens if there is a fire near the main entrance?
- **Cycle stands.** Access to these will be difficult if the car parking spaces in front are occupied. The gap between the building and the car parking spaces appears to be very narrow.

## **7.0 Representations**

### **7.1 The occupier of No.15 Nayland Road has submitted a substantial letter of opposition to the development. This document is reproduced in full as an Appendix. The main points of contention are summarised as follows:-**

- Gross over development of the site
- No proposed traffic management plan to deal with the vehicles using the facility without off- street parking being provided for them within the application.
- Contrary to the existing conditional planning permissions on this site. The 1993 permission was for only one surgery and only 3 employees, including the dentist. This was on the basis that there were only 4 parking spaces allocated to the use.

## **8.0 Report**

### **8.1 The main issues relating to this development are the scale, form and design of the extensions relative to the existing building and the impact upon residential amenity, the provision of on-site car parking and cycle parking and the existing right of way to No.15 Nayland Road.**

### Design and impact upon residential amenity

- 8.2 With regard to the principle of any extensions to this building due regard has been given to the planning permissions granted under reference F/COL/04/1522 and F/COL/05/1824. In this respect the scheme now before Members is smaller in terms of its footprint and height than the 04/1522 scheme. The previous consents clearly recognised that a relatively large extension to the existing building could be accommodated within the site without detriment to the amenity of the area or the amenity of nearby residential properties.
- 8.3 Whilst the design of the extension incorporates contemporary features, the new additions are designed to read as distinct and separate building forms in their own right. Considered upon their own merits these forms are considered to be an interesting and unusual addition to the site.

### Parking Issues

- 8.4 The planning permission for the use of the first floor of this existing building granted in 1993 contained the following condition:-

*“02 – The layout of the accommodation shall not be other than as shown on the approved drawing and at no time shall additional or extended consulting room facilities be created without the Council’s prior permission. Additionally, staffing at the premises shall be restricted to one practitioner and two ancillary staff at any particular moment in time.*

*Reason: Parking provision has been matched to the facilities provided and number of staff to be employed. Any intensification of use will result in substandard parking provision likely to result in on-street parking which will cause congestion and possible highway hazard”.*

- 8.5 It is clear that this condition does not preclude any further applications relating to the provision of the facilities to be offered by the dental practice, it only requires the formal approval of the Council. In this context Members will appreciate that this current application must be considered upon its own merits.
- 8.6 In restricting the level of use of the practice, the Council would have had due regard to the parking standards as applicable at the time that the application was determined. This would have been one space for every practitioner, one space for every 2 members of staff present at the busiest time and 2 visitor car parking spaces for each consulting room, thereby generating a requirement for 4 parking spaces.

8.7 The current adopted car parking standards require 1 space per F/T staff & 2 spaces per consulting room. This is the standard used by the Applicant in arriving at the proposed on-site car parking provision of 14 spaces for the pharmacy and the enlarged dental clinic:-

	Nos of Staff	Consulting Room
Existing Dentist	3	2
Existing Pharmacy	2	0
Proposed Dentist	1	2
Car parking provision	6	8

8.8 The submitted drawing number KG4 03-B shows how this level of provision is to be accommodated within the overall site. The size of the individual parking bays complies with the minimum standards set out in the Essex Planning Officer Association Vehicle Parking Standards (i.e. 4.8m x 2.4m or 2.7m x 4.8m for disabled parking where direct access is provided to a footway at the side or rear).

8.9 These standards have been the subject of a recent review and public consultation period. However any proposed changes to the standards have not yet been adopted. Whilst members may have reservations as to the application of the currently adopted minimum standards, the application has to be determined in the context of these adopted standards.

8.10 The application drawings do not show the finish surface treatment of the car parking areas but it is recommended that these spaces should be permanently defined and marked out in order to ensure that the maximum car parking can be obtained rather than to permit indiscriminate parking thereby potentially reducing the available parking area.

8.11 The application drawing KG4 03-B shows the provision and retention of the right of way to the garage of No.15 Nayland Road.

8.12 The comments made in respect of the location of the proposed cycle parking stands are appreciated. There would appear to be scope for these to be located adjacent to the disabled parking, convenient to the new entrance to the dental clinic. This is conditioned accordingly.

## 9.0 Conclusion

9.1 The principle of the extension of this existing building has previously been accepted by the two permissions granted in 2005 and 2006. The proposed extension to the existing dental clinic in terms of its size and form can be accommodated on this site without causing any loss of amenity to the area in general or to the nearby dwellings.

9.2 Whilst the concerns of the Myland Parish Council and the occupier of No.15 Nayland Road are acknowledged and appreciated, on-site parking is shown as being provided in accordance with the current standards adopted by the Council.

9.3 On this basis permission is recommended.

## **10.0 Background Papers**

10.1 ARC; HA; CCC; HH; PTC; NLR

### **Recommendation - Conditional Approval**

#### **Conditions**

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

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

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

2 – Non-Standard Condition

The building hereby approved shall not be occupied until the parking areas have been surfaced and the individual parking spaces defined and marked out in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The parking spaces shall thereafter be retained for parking of vehicles ancillary to the development.

Reason: To ensure that adequate on-site parking facilities.

3 – C3.2 (Materials)

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 has a satisfactory appearance in the interests of visual amenity and helps to reinforce local character and identity.

4 – D4.4 Bicycle Parking (satisfactory arrangements)

The building/s or land subject to this permission shall not be brought into use for the purposes hereby approved until satisfactory arrangements for the provision of bicycle parking have been agreed in writing and implemented to the satisfaction of the Local Planning Authority.

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

5 - C3.3 Samples to be Submitted

Samples of the materials to be used on the 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.

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

#### 6 - 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 E3. This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to the use hereby permitted commencing a validation report undertaken by competent persons that demonstrates compliance with the above shall be submitted to the Local Planning Authority for approval. Having been approved any installation shall thereafter be retained and maintained to the standard agreed.

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

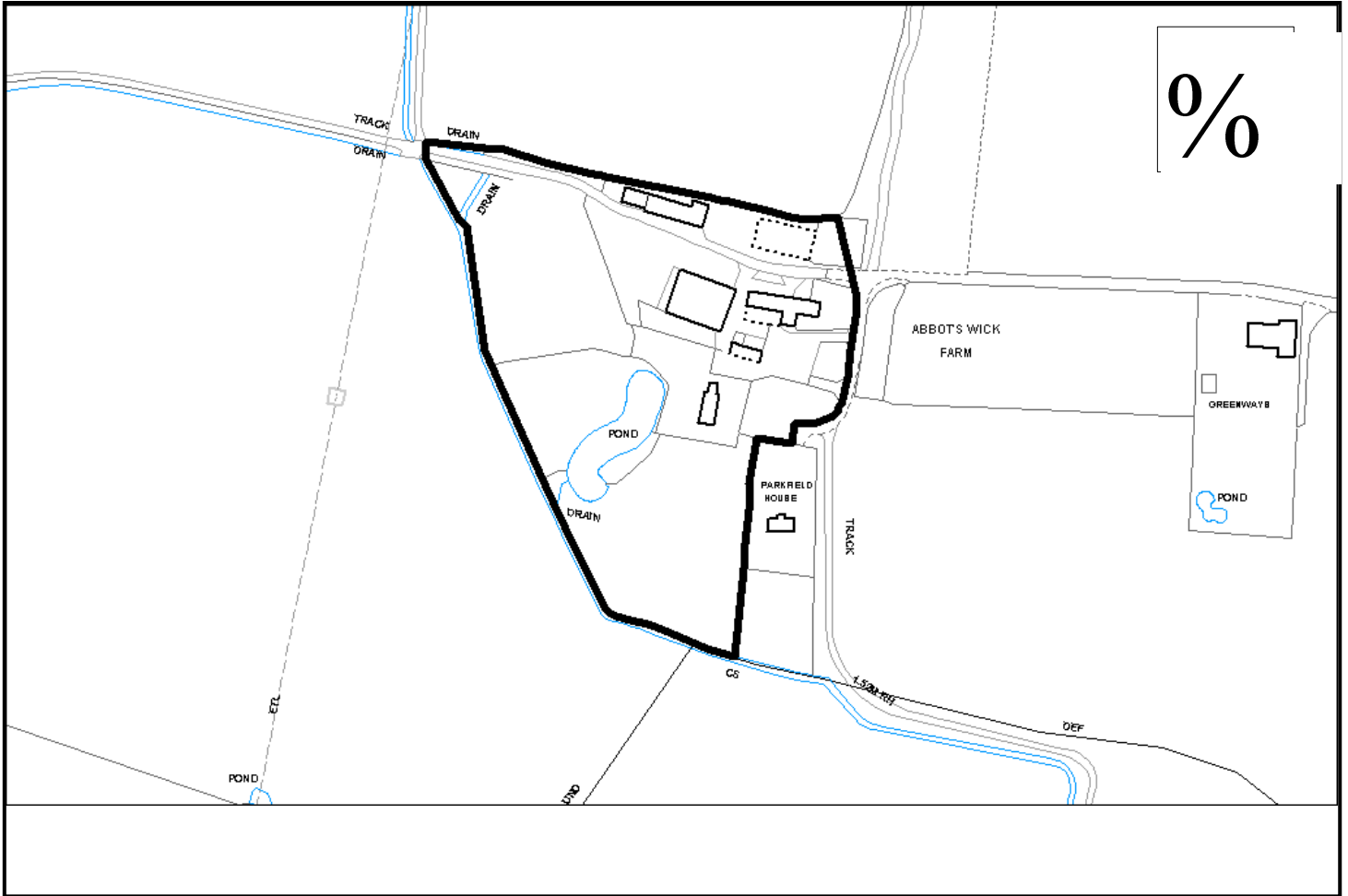
#### 7 - Non-Standard Condition

The layout of the accommodation shall not be other than as shown on the approved drawing and at no time shall additional or extended consulting room facilities be created without the Council's prior permission. Furthermore staffing at the premises shall be restricted to the staff as detailed in Addendum A to the Design and Access Statement submitted as part of the application.

Reason: For the avoidance of doubt as to the scope of this permission and to ensure that the use does not have an adverse impact upon the amenity of this area or the interests of highway safety in terms of the available on-site parking provision.

#### **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:** 091002

**Location:** Abbots Wick Farm, Abbots Wick Lane, Great Wigborough, Colchester, CO5

**Scale (approx):** 1:1250

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**7.5 Case Officer: Nick McKeever**

**EXPIRY DATE: 24/09/2009**

**OTHER**

**Site:** Abbots Wick Farm, Abbots Wick Lane, Great Wigborough, Colchester, CO5

**Application No:** 091002

**Date Received:** 30 July 2009

**Agent:** Edward Gittins & Associates

**Applicant:** Mr John Cotton

**Development:** Change of use and minor alteration of barn to form granny annexe and ancillary leisure space.

**Ward:** Birch & Winstree

**Summary of Recommendation:** Refusal

## **1.0 Site Description**

- 1.1 The appeal site lies within an area of open countryside to the west of the village of Great Wigborough. The village itself lies to the south east of Colchester Town Centre.
- 1.2 Abbots Wick Farm consists of the Grade 2 listed farmhouse and a range of former agricultural buildings located outside of the curtilage and to the north of the farmhouse. Included amongst these buildings is a large weatherboarded barn. This barn is the subject of this application.
- 1.3 It is understood that the farmhouse and outbuildings are no longer used as part of an agricultural enterprise. The outbuildings are, therefore, redundant as far as agricultural use is concerned.
- 1.4 Abbots Wick Farm is accessed via Abbots Wick Lane, a narrow road approximately half a mile in length and leading off the B1026. The Lane has no footpaths and only limited opportunities for vehicles to pass. The junction of the Lane with the B1026 is sub-standard with poor visibility particularly to the south.
- 1.5 The application proposes the change of use and conversion of the existing redundant barn to form a granny annexe and leisure facilities ancillary to the existing dwelling on the site.
- 1.6 It is intended that the conversion would provide accommodation for the Applicant's mother and her carer. The plans show accommodation provided on the ground floor (dining room, study and lounge), and on a first floor (carer accommodation, and one bedroom with en-suite). This accommodation is to be provided within approximately half of the barn.



- 1.7 The remaining half of the barn will be used to provide leisure facilities on the ground floor (shown on the plans as "Gym. Pool etc"), together with a Cinema Room within a first floor. These are stated on the application as being ancillary to the residential use of the existing former farm house.
- 1.8 All the first floor accommodation will require the insertion of a new first floor within the existing barn.
- 1.9 The conversion will entail the insertion of heritage roof lights together with high level timber-framed glazing in the midstreys and front elevation of the barn.
- 1.10 Full details of the proposal and the justification for the conversion are set out within the supporting Design & Access Statement, full details of which can be viewed on the Council website.

## **2.0 Land Use Allocation**

- 2.1 No notation

## **3.0 Relevant Planning History**

- 3.1 The site has a lengthy planning history. The existing group of buildings have been used for various, unauthorised, commercial activities including the storage/renovation of classic heavy goods vehicles and car repairs. The more recent and relevant planning applications include:-

COL/98/1228 - Change of use of redundant farm buildings to storage/repair of classic heavy goods vehicles and car repairs. This application was refused on 5 November 1998.

COL/98/1749 - Conversion of barn to single dwelling and erection of double garage/car port. This was refused on 25 February 1999. A subsequent appeal against an enforcement notice relating to this use was dismissed on 8 September 1999. The reference for this appeal is T/APP/A1530/C/98/1011191/P6.

C/COL/03/0031 - Change of use of former agricultural barn to Use Class B1: Business, Class B2: General Industry and Class C3: storage. This application was refused by the Council on 29 May 2003.

F/COL/04/0162 - Conversion of redundant farm barn to dwelling and part of outbuilding to domestic garage. Refused under officer delegated powers on 29 March 2004.

On 19 April 2004 an application for the conversion of the redundant barn referred to in Paragraph 1.2 to form a dwelling and part of outbuilding to domestic garage was submitted to the Council (Ref: F/COL/04/0766). This application was a re-submission of COL/04/0162. The application was refused on 28 May 2004 and was subsequently dismissed on appeal dated 22 March 2005.

#### **4.0 Principal Policies**

- 4.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
Listed Barns or Other Listed Agricultural Buildings – UEA6
- 4.2 Core Strategy  
Environment -ENV1  
Rural Communities – ENV2

#### **5.0 Consultations**

- 5.1 The Highway Authority recommends refusal for the following reasons:-

"Abbots Wick Lane, by reason of its narrow carriageway, absence of footways and sub-standard geometry together with inadequate visibility both for and of emerging vehicles at the priority junction with Colchester Road, the B1026, is considered to be unsuitable to cater for the traffic associated with the proposal. The proposal would be contrary to highway safety and Essex Local Transport Plan 2006 12011 Appendix G: Development Control Policy 1.1.

Furthermore the proposal would intensify the use of a substandard access onto the B1026 a Secondary Distributor Road (PR2) where the main function is that of carrying traffic freely and safely between centres of population. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier and be detrimental to highway safety and Essex Local Transport Plan 2006/2011 Appendix G: Development Control Policy 1."

#### **6.0 Parish Council's Views**

- 6.1 Winstred Hundred Parish Council comments as follows:-

"The Parish Council supports this application. To ensure that the barn does not become a separate house we would recommend that it is linked legally to the main house so that they cannot be sold as separate residential units in the future.

Any development along Abbots Wick Lane raises concerns about increased traffic to/from a property, particularly with regard to the inadequate sight splay which creates a dangerous junction between Abbots Wick Lane and the B1026 but we feel that with this particular application, subject to the condition above, will have a minimal effect on traffic volumes.

Previous applications to develop this barn have been rejected largely because they did not satisfy the policy designed to protect the open countryside from development for its own sake and to preserve its character and appearance.

We feel that sensitive development of the barn, in line with the Council's guidance on materials etc, will not harm the character and appearance of the countryside since the barn has been part of the visual panorama of that section of the countryside for many years. We also contend that if development of some kind is not permitted, within the protection of prohibiting the developed barn from sale as a separate unit, greater harm will be done to the appearance of the countryside in future as eventually the barn will be left to rot and collapse."

## **7.0 Representations**

7.1 The occupiers of Parkfield House, Abbots Wick Lane, have written in support of the application on the basis that:-

- The proposal represents a 21st Century solution to the use of a redundant farm building whilst conserving the historical setting of the farm.
- The annexe fulfils a growing social need to cater for an elderly parent whilst the ancillary leisure space reflects the need to enjoy the home to the full.
- Conversion will not be detrimental to the rural nature of the lane.
- The accommodation would represent no more increase in cars on the lane than would be expected in the normal run of families growing in size.
- The Applicants have shown a great deal of care and consideration for the rural surroundings.

7.2 Councillor Kevin Bentley has requested that the application be referred to the Planning Committee.

## **8.0 Report**

8.1 The Council has been consistent in its approach to refuse residential conversion of this redundant barn for two main reasons:

### Development in the Countryside

The site lies within the open countryside outside of the village envelope for Great Wigborough. Planning policies at the national level, (the superseded PPG7 and the current PPS7), and at the local level (superseded Local Plan Policy CO1 and the recently Adopted Core strategy Policies ENVI & ENV2), all seek to conserve and protect the natural and historic resources of the countryside and to resist inappropriate or unnecessary development in the rural areas.

8.2 The Council's approach to housing in rural areas is set out in supporting text to the saved rural housing policies. This text explains that, in order to safeguard rural resources and the appearance of the countryside, the Council will countenance three main types of exception to this general policy. These exceptions are:-

- (i) Where there is a need for affordable housing (Policy H5);
- (ii) Dwellings clearly essential for the purposes of agriculture or forestry (Policy H10);
- (iii) Use as a last resort for the preservation of listed agricultural buildings (Policy UEA6)

In the context of previous refused applications none of these three exceptions applied.

8.3 The existing barn, in terms of its external appearance is concerned appears to be in reasonable condition. However, as this building is not listed either in its own right for any historic or architectural interest, or as a building within the curtilage of the grade 2 listed farm house, its retention cannot be justified on these grounds. As such there is no policy support for residential use in terms of the Local plan Policy UEA6.

- 8.4 The recent application for the conversion to a granny annexe & leisure facilities (09/0049) was refused in line with this aforementioned policy stance on the basis that the barn was relatively remote from the existing farm house and the conversion could potentially be used as a two bedroom, fully self-contained dwelling.
- 8.5 It is acknowledged, however, that unlike this previous application, the current application proposes a legal agreement to tie the occupancy of the granny annexe to the occupation of the host property. A draft agreement has been received. It is considered that this agreement would provide adequate safeguard to ensure that the new accommodation does not become a separate planning unit. A planning condition restricting the occupancy to that of an annexe would, unlike a legal agreement, be open to immediate challenge by way of an Appeal to the Secretary of State.

### Highway Objections

- 8.6 The Highway Authority has resisted any alternative use of the redundant agricultural buildings at Abbots Wick Farm; hence the refusal of planning permission for the conversion of the main barn to a dwelling in 1999 and 2004, the storage/repair of heavy goods vehicles & car repairs in 1998 and the use of the barn for Class B1: Business, Class B2: General Industry and Class B8: Storage in 2003.
- 8.7 The objection to any intensification of use of Abbots Wick Lane is based upon the view that the lane is narrow in width, has no facilities to cater in safety for pedestrians and has a sub-standard junction with the B1026 route.
- 8.8 This stance has been tested and upheld on several Appeals. In an enforcement appeal decision in September 1999 relating to unauthorised non-agricultural commercial use and outside storage of non-agricultural vehicles, the Inspector made reference to Abbots Wick Lane as a narrow track with no footpaths and limited opportunities to pass, and the junction of the lane with the B1026 as sub-standard with poor visibility particularly to the south.
- 8.9 In this respect the views of the Highway Authority are appreciated and acknowledged.

### **9.0 Conclusion**

- 9.1 The use of the barn for facilities ancillary to the existing dwelling on this site is not considered to be contentious or to have any detrimental impact upon the appearance or character of this large, redundant agricultural barn. It would seem to be a practical solution to the continued use of the building.
- 9.2 The use as an annexe is more of an issue, given the physical separation from the existing dwelling together with the fact that the use would not be dependent upon the facilities of this existing dwelling. The creation of a separate planning unit within this rural location, relatively remote from any local facilities, would be unsustainable and contrary to planning policy.
- 9.3 It is considered that the use would only be acceptable if it could be effectively tied to the occupation of the host dwelling. In this respect the Applicants have offered to secure this by way of a legal agreement.

9.4 Notwithstanding these matters it is recognised that the Highway Authority has successfully maintained an objection in principle to any additional use of Abbots Wick Lane on the basis that this is contrary to the interests of highway safety. It is on this basis that the proposed use as a granny annexe is not acceptable.

## **10.0 Background Papers**

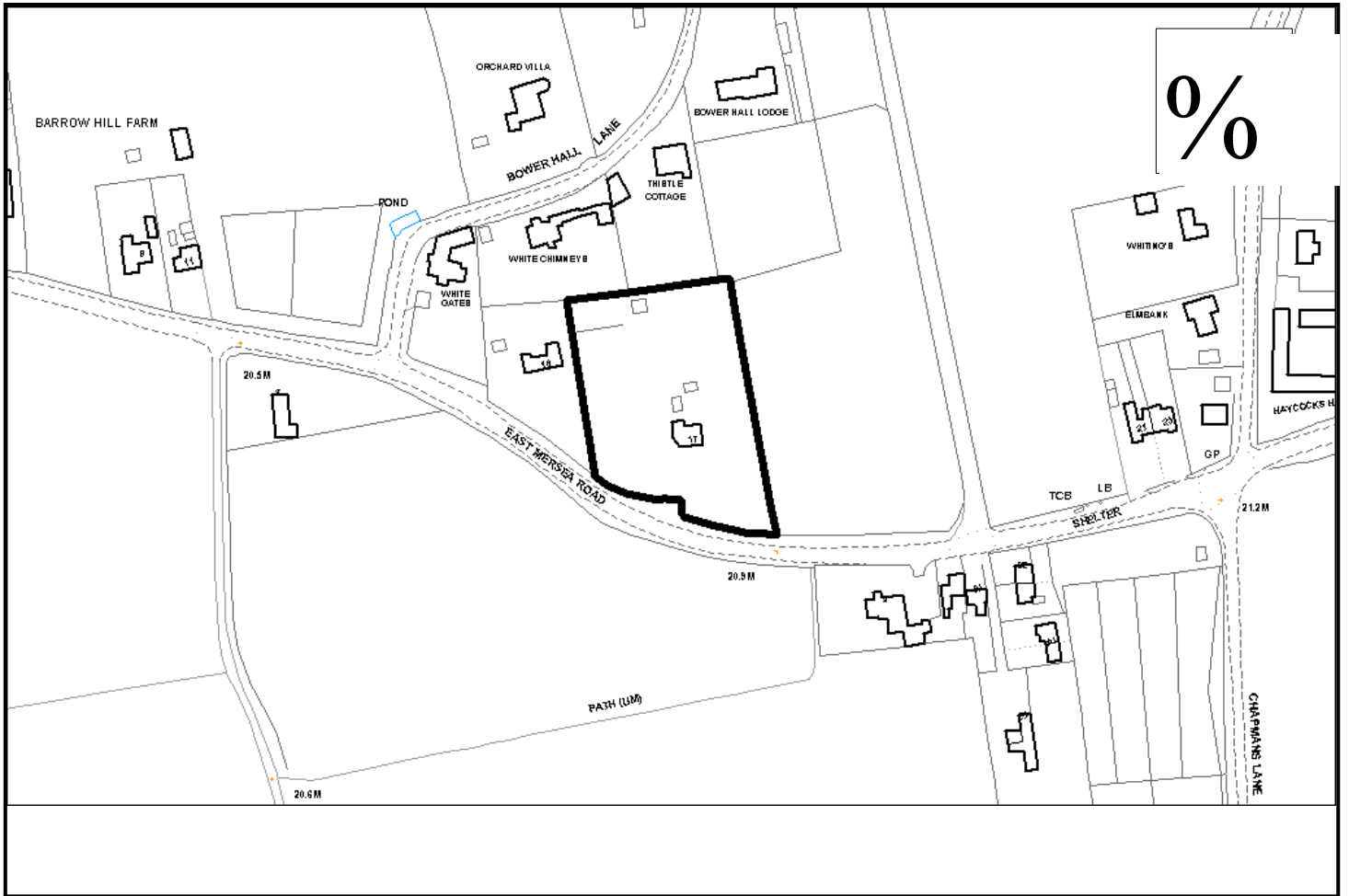
10.1 ARC; Core Strategy; HA; PTC; NLR; CBC

### **Recommendation - Refusal**

#### **Reason for Refusal**

Abbots Wick Lane, by reason of its narrow carriageway, absence of footways and sub-standard geometry together with inadequate visibility both for and of emerging vehicles at the priority junction with Colchester Road, the B1026, is considered to be unsuitable to cater for the traffic associated with the proposal. The proposal would be contrary to highway safety and Essex Local Transport Plan 2006 12011 Appendix G: Development Control Policy 1.1.

Furthermore the proposal would intensify the use of a substandard access onto the B1026 a Secondary Distributor Road (PR2) where the main function is that of carrying traffic freely and safely between centres of population. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier and be detrimental to highway safety and Essex Local Transport Plan 2006/2011 Appendix G: Development Control Policy 1.



**Application No:** 090588

**Location:** 17 East Mersea Road, West Mersea, Colchester, CO5 8SL

**Scale (approx):** 1:1250

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## 7.6 Case Officer: Les Mitchell

## OTHER

**Site:** 17 East Mersea Road, West Mersea, Colchester, CO5 8SL

**Application No:** 090588

**Date Received:** 30 April 2009

**Applicant:** Mr & Mrs D Banks

**Development:** Change of use of existing swimming pool for non domestic purposes.

**Ward:** West Mersea

**Summary of Recommendation:** Conditional Approval

### 1.0 Planning Report Introduction

- 1.1 This application is referred to the Planning Committee as the applicant is related to a member of the Council's staff.

### 2.0 Site Description

- 2.1 The site fronts the northern side of East Mersea Road, about ¼mile to the east of the junction with Dawes Lane. It comprises a 2-storey dwelling in about 0.37ha of garden with a black timber-clad building, which contains a swimming pool, towards the back of the site. There is a wide access to the site from the highway and a paved area is laid out adjoining the access which can accommodate the parking of up to 14 cars. Pedestrian access from the car park is by way of a fenced boardwalk about 1.5m wide. Along the front and western (adjacent to the boardwalk) boundaries of the site is a leylandii hedge, about 4m high and around the other boundaries are tall hedges and trees. There is a dwelling to the west of the site fronting East Mersea Road and dwellings to the north fronting Bower Hall Lane. The only dwelling visible from the site is part of a 2-storey dwelling in Bower Hall Lane to the north.

### 3.0 Proposed development

- 3.1 The application seeks retrospective planning permission for the use of a swimming pool within a building in the garden of the house for non-domestic purposes, in particular, giving swimming lessons on a commercial basis. The use has continued for the past 7 years.
- 3.2 The use is not open to the general public except on a pre-booked class or private hire basis and to local primary schools. The timetable of use is generally: –

Mondays – open 12.30 to 19.00; groups. From 12.30 to 14.45, three or four groups of 7 from schools spread over this time, with Mrs Banks teaching, groups travel by minibus. From 14.45, Mrs Banks' own classes (7/8 children) or private hire.

Tuesday to Friday – similar pattern but open at 09.30 to 11.30 for teaching (Mrs. Banks' own mother and toddler classes)

Saturday – 08.00 to 13.00; Mrs Banks' private classes, then available for private hire including occasional parties.

Sunday – 10.00 to 15.00: family hire.

3.3 During school holidays, there are no lessons or classes and the private hire is considerably less.

#### **4.0 Land Use Allocation**

4.1 Residential within a rural area.

#### **5.0 Relevant Planning History**

5.1 None

#### **6.0 Principal Policies**

6.1 Adopted Local Plan  
DC1 - Development Control considerations  
CO1 - Rural resources  
CO3 - Countryside Conservation Areas  
P1 - Pollution

6.2 Core Strategy  
ENV 1 - Environment  
ENV 2 - Rural resources

#### **7.0 Consultations**

7.1 Environmental Services Officer has received no complaints about noise regarding this property. To reduce noise impact to a minimum, it is recommended that all doors and windows to the pool building remain shut whilst the pool is in use, the outside changing area is fully enclosed and of a solid construction, and the first half of the walkway (nearest the pool) has a soft covering to reduce noise from footfalls.

7.2 The Highway Authority was unable to support the application due to the excessively wide access. However, if this Council is minded to grant permission, the Highway Authority has given requirements which it would accept for the reduction in width and sight lines to make it safer from a highway aspect. A meeting has been held with the applicants and the required measures have been agreed with the Highway Authority; they will be included in the conditions recommended should Members grant permission.

#### **8.0 Town Council's Views**

8.1 The West Mersea Town Council recommends that consent is granted.



## 9.0 Representations

- 9.1 Two representations objecting to the use of the pool have been received from residents in Bower Hall Lane. Their objections are that the pool is rented to anyone and at any time. There is no control over noise levels and is particularly loud when used by school children. Rental is allowed into the late evening without any control or apparent supervision. The noise has become an intolerable imposition in this rural area and it has resulted in a long-term loss of amenity. There are questions raised about pollution from the pool water and its effect on vegetation in the area and highway safety issues as the entrance is on a bend.
- 9.2 The objectors consider that permission for a commercial use has been applied for rather than putting noise controls in place and dealing with the complaints in a neighbourly and correct manner. Attention is drawn to the availability of swimming pools at the East Mersea Youth Camp and Waldegraves Caravan Park.
- 9.3 Representations supporting the proposal have been received from 42 Mersea Island addresses, the Langenhoe Community Primary School, 4 addresses in Fingringhoe, 3 in Layer-de-la-Haye, 2 in Peldon, 2 from south Colchester, 1 from Rowhedge and 1 in Great Bentley. A further two letters without an address but signed have been received.
- 9.4 The Langenhoe Community Primary School asks the Council to take into account the effect the closure of the pool would have on the ability to provide lessons in accordance with the National Curriculum, of which swimming is a statutory part. The pool is close to the school and minimises travel costs and the time taken out of the school day. The shorter distance means that smaller groups of children can be taken and is better to meet the needs of pupils with differing abilities. The alternative would be to transport children to Colchester Leisure World, as the School did in the past. Based on this experience, the school considers that it would lead to children making less progress, be more expensive and take a whole morning to give a 30 minute session.
- 9.5 The other representations received support the proposal and consider that this is an invaluable facility which is of tremendous benefit to children. It gives them confidence and, especially living in an area where there are many water based activities, an essential life skill. The availability of swimming facilities is in line with Government policies to reduce obesity and encourage daily exercise. The facility caters for children with special needs, also.
- 9.6 The supporting representations consider that the pool plugs a gap as there are no public community swimming facilities on the island. The alternatives are Colchester Leisure World, which is a long drive away (and without a direct bus service) and oversubscribed, or private clubs in the Colchester area which are considered to be extortionately expensive. Many parents say that their children would not be able to have swimming lessons if they had to travel to Colchester due to costs and time and that their journeys would increase traffic in Colchester and be an addition to carbon emissions.

9.7 The supporting representations consider that the pool is in an ideal, accessible location, with quality teaching, which would be a huge loss to the community if it should close.

## **10.0 Report**

10.1 The main issues in this case are considered to be the effect of the development on the character, qualities and resources of the rural area, the effects on the amenities of neighbouring residents and highway safety.

10.2 The pool and building could be erected as permitted development if its use was solely for domestic purposes ancillary to the dwelling. Planning permission is required in this case as its use is for commercial purposes. Therefore the appearance of the building in the countryside is not an issue, but the effect of additional people using it, over and above the family use, is.

10.3 The commercial use is controlled by the applicant and is restricted to pre-booked lessons and sessions, small school groups and occasional private hire. There is no open public use of the pool. The majority of customers, other than school groups, come by car, but in view of the limited number in each session, the small number of cars can be accommodated readily within the parking area. The cars are enclosed by hedges and trees and other than from the road (but not beyond), the parking is not a significant intrusion into the landscape. It is considered that the use will have no significant impact on the character or appearance of the rural area, therefore.

10.4 The nearest objector's house is about 45m away from the building and the boundary between the properties about 20m away. There are hedges and trees along this boundary and only part of this dwelling is visible from the site. The pool building and its use are not visible to any extent from this dwelling and cannot be seen from any other dwelling. It is considered that the visual amenities of neighbours are not affected.

10.5 Some noise from the use of a swimming pool is inevitable, whether it is from a family or commercial use. The numbers in each session are limited and the applicant endeavours to keep any noise to a minimum by limiting any activity outside the building and has provided notices asking clients to keep noise to a minimum. With the distance from the pool building to the boundary and the nature of the vegetation, it is considered that the noise experienced by neighbours is limited and permission could not reasonably be refused for this reason.

10.6 The applicant can take further measures to lessen noise from the use by adding a non-slip, noise reducing layer to the surface of the boardwalk nearest the building and ensuring that doors and windows are closed during the use of the pool and this will be recommended if it is decided that permission should be granted.

10.7 It will be noted by Members that the use has been carried out for the past 7 years and the first complaint was received by the Planning Department at the beginning of this year. No complaints were received by the Environmental Services Officer during the 7 years. The applicant has indicated that there has been no change in the activities during this period that would have increased the levels of noise or disturbance that neighbours could have experienced.

- 10.8 To ensure that there is no possibility of neighbours being disturbed by the use of pool for commercial purposes at unreasonable times, it is recommended that a condition limiting the opening times is imposed on a permission in accordance with the timetable set out above. This would not affect the use by the family for its own purposes.
- 10.9 It is considered that a temporary permission would be inappropriate in this case as the use has been carried on for some years and the opportunity to assess the effect of the use has been given. However, limiting the permission to the applicant would be appropriate to ensure that the Council can consider any changes to the use a future owner may propose.
- 10.10 The access is open across a large part of the site frontage at present and the Highway Authority considers that it would encourage drivers to enter the site too fast and exit from an unsafe point. To improve the safety, it has been recommended that the access is reduced in width to a maximum of 5.5m and sight lines provided. A meeting has been held with the applicants and Highway Authority and appropriate changes agreed. These are included as conditions in the recommended permission.
- 10.11 The objectors have referred to other swimming pools available on Mersea Island at The Mersea Youth Camp (now The Mersea Centre for Outdoor Learning) and Waldegraves Holiday Park. The use of the pool at the Youth Camp is for groups taking part in a planned programme of activities only and is not available school groups unless they are taking part in a programme or to the public. The Holiday Park pool is available to people staying on the site and is open to the general public; school groups can arrange to have lessons here.

## **11.0 Conclusion**

- 11.1 The use is within a largely enclosed site within the countryside conservation area and it is considered that it will not affect the character of the area or the amenities of nearby residents. Highway safety can be brought up to a standard required by the Highway Authority.
- 11.2 It is considered that the development is not contrary to requirements of policies CO1, CO3, P1 and DC1 of the Adopted Review Colchester Borough Local Plan and policies ENV1 and ENV2 of the Core Strategy.

## **12.0 Background Papers**

- 12.1 ARC; Core Strategy; HH; HA; PTC; NLR; Urban Design

## **Recommendation - Conditional Approval**

### **Conditions**

#### **1 - Non-Standard Condition**

The use hereby permitted shall enure solely for the benefit of Mr. D. and Mrs. S. Banks unless a further planning permission has been granted to enable another party to operate the use.

Reason: To ensure that any changes to the use as permitted are considered by the local planning authority in the interests of the amenities of nearby residents and the character of the countryside conservation area.

#### **2 - Non-Standard Condition**

The use of the swimming pool building, approach boardwalk and car park shall not be used for or in connection with the giving of swimming lessons by the applicant to individuals or groups, by school groups not exceeding 10 children, for family or private hire or any purpose related to the non-residential use of the swimming pool at any time except during the following hours:

Monday to Friday: 09.30 to 19.00

Saturday: 08.00 to 17.00

Sunday: 10.00 to 15.00

Reason: In the interests of the amenities of nearby residents.

#### **3 - Non-Standard Condition**

The doors and windows of the pool building shall remain closed whilst the pool is in use for the giving of lessons, the use by school groups and during family and private hire sessions and all purposes related to the non-residential use of the swimming pool.

Reason: In the interests of the amenities of nearby residents.

#### **4 - Non-Standard Condition**

Within 3 calendar months from the date of this permission, the vehicular access shall be reduced in width to 5.5m and shall be provided with an appropriate connection to the carriageway of East Road, West Mersea.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

#### **5 - Non-Standard Condition**

The remodelled access shall be provided with vehicular visibility splays measuring 120m x 2.4m x 120m x site maximum as measured along, from and along the nearside edge of carriageway on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

#### 6 - Non-Standard Condition

The Applicant's shall provide a suitable wall/hedge/fence across the site frontage save for the remodelled site access in accordance with a scheme of planting or fencing/walling to be agreed in writing with the local planning authority before the commencement of any works.

Reason: To prevent indiscriminate vehicular access manoeuvres into and from the highway, in the interests of highway safety.

#### 7 -Non-Standard Condition

Any proposed new boundary hedge shall be planted a minimum of 1m behind the vehicular visibility splay.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway and to ensure adequate intervisibility between drivers of vehicles using the access and those in the adjoining highway, in the interests of highway safety.

#### **Informatives**

It is recommended that the first half of the boardwalk nearest the pool has a soft covering to reduce noise from footfalls.



**7.7 Case Officer: John Davies****OTHER****Site:** Woodhouse Lane, Coach Road, Great Horkesley, Colchester**Application No:** 090755**Date Received:** 17 June 2009**Agent:** Acorus Rural Property Services**Applicant:** Mr Tim Knighton**Development:** Proposed livestock building plus change of use of land for the temporary stationing of a mobile home**Ward:** Fordham & Stour**Summary of Recommendation:** Conditional Approval**1.0 Site Description**

1.1 The site, known as Woodhouse Farm, is located at the end of a farm track leading from Coach Road to the west of Great Horkesley. The farm complex comprises two grain stores and a large store /workshop building. The farmhouse to the west of the farm complex, formerly associated with the land, is now in separate ownership having been sold off in the past. There is, therefore, no residential accommodation associated with the farm. The applicant, Mr. Knighton, lives approximately 2 miles away at Old House Farm in Old House Road.

**2.0 Proposal**

2.1 The proposal is for the erection of a new livestock building to be sited to the south of the existing southernmost grain store which would measure 28.75 metres x 24 metres and capable of accommodating up to 100 cattle. The application is also for a mobile home positioned within the yard to be occupied by an agricultural worker to be employed on the farm.

2.2 The application is supported by a report prepared by Acorus Ltd setting out details of the proposed livestock enterprise and arguing that the proposal complies with the functional and financial tests as set out in Annex A of PPS7.

2.3 The application has been revised since original submission in respect of the siting of the mobile home, which is moved into the yard area and by the provision of more information on livestock movements.

**3.0 Land Use Allocation**

3.1 No notation

#### **4.0 Relevant Planning History**

- 4.1 073092- New livestock building plus change of use of land for stationing of a mobile home for a temporary period- Refused 11.2.08 - Dismissed on appeal. The appeal was dismissed on the grounds that the proposed mobile home did not satisfy the statutory tests in PPS7 regarding functional and financial need.
- 4.2 072130- New livestock building plus change of use of land for stationing of a mobile home for a temporary period- withdrawn.
- 4.3 070934- Proposed livestock building and associated hardstanding- Refused 14.5.2007

#### **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Borough Local Plan-March 2004  
DC1- Development Control considerations  
H10- Agricultural and Forestry Workers dwellings
- 5.2 Adopted Core Strategy-December 2008  
ENV2- Rural Communities

#### **6.0 Consultations**

- 6.1 Environmental Control - no comments
- 6.2 Highway Authority - no objection.
- 6.3 Environment Agency give advice on provision of foul and surface water drainage.
- 6.4 Tree Officer - no objection so long as any building is at least 10 metres from the tree trunk.

#### **7.0 Parish Council's Views**

- 7.1 No response received

#### **8.0 Representations**

- 8.1 Objection received from occupier of the Old Stables raising the following issues:
- Why introduce livestock on this part of farm near residential uses when it used to be elsewhere on the farm?
  - Concern about provision for foul drainage from the unit and details of size and location of septic tank. Concerned about run off into a pond on land.
  - What happens after 3 year period for temporary dwelling- will there be proposals for permanent housing?
  - Concern about noise and disturbance from cattle loading which is suggested as starting at 5 am in the morning.



8.2 Objection received from business occupier in the nearby Woodhouse Business Centre raising the following issues:

- Impact of airborne pollution and odours from livestock building
- Noise pollution
- Want restriction on any permanent residence

8.3 The changes to the siting of the mobile home and information on cattle movements have been notified to neighbours and any further comments will be reported.

## **9.0 Report**

9.1 The main issues to consider are the impact of the proposed livestock building on the character and appearance of the countryside, consideration of whether the proposed temporary accommodation meets the statutory tests in PPS7, impacts of the use on neighbours' amenity, drainage and impacts on trees. The previous scheme was refused on appeal as the Inspector was not satisfied that the proposal for temporary accommodation satisfied both the functional and financial tests in Annex A of PPS7.

9.2 Government guidance and Local Plan policy restrict the provision of permanent residential accommodation in association with new agricultural enterprises and advises that until the new enterprise is proven (after normally 3 years trading) any residential accommodation should be of a temporary nature.

### Impact of Character and Appearance of Countryside

9.3 The proposed livestock building is to be sited next to an existing agricultural building on the farm and it would therefore form part of the existing farm building assemblage. There is also good existing tree screening to the east and south of the plot. It is therefore considered that the siting of the building is satisfactory and minimises its impact on the open countryside.

### Compliance with PPS7 Statutory tests

9.4 The applicant has provided justification in the form of a report by Acorus to justify the provision of temporary accommodation to support a farm worker on the site connected with the proposed livestock enterprise. This report has been independently assessed by Richard Tattersall, a Chartered Surveyor and Land Management Consultant. His report is available to read on the web site. However his conclusions on the proposal are as follows:

- The proposed livestock enterprise differs from the previous (refused) scheme in that there would be increased throughput of livestock. The numbers of monthly batches of purchased animals would be increased from 8-10 to 14-15 per month increasing the annual throughput from 100 to 168-170 pa.
- The husbandry needs for tending and rearing of livestock especially young calves together with security issues clearly gives rise to a functional need for residential supervision.
- Proposed standard man days associated with livestock enterprise equates to a full time enterprise for one person.

- The functional test will be satisfied once the enterprise is up and running and fully stocked.
- The enterprise would generate a sufficient gross margin to satisfy the financial test.
- The proposed building is appropriately designed and laid out for its proposed use.

9.5 In the light of the above comments it is considered that the applicants have provided sufficient information to satisfy the functional and financial tests.

#### Impacts on Neighbour Amenity

9.6 The existing site comprises an arable farm holding with a number of buildings and there are already large vehicle movements, albeit not necessarily in the early morning. In response to concerns raised by neighbours regarding early morning disturbance from the movement of cattle, the applicants have provided further clarification of the nature and frequency of such trips. There would be one delivery of calves per month on average which would be during the day and not necessarily early morning. Movement of finished cattle would be either on a weekly basis in a land rover and horsebox (3-4 animals per time) or monthly by cattle lorry (14-15 animals per time). These movements would be from around 7am. Consequently, the concerns about noise nuisance are noted, however, in view of the above information it is not considered that cattle movements would be so large or frequent to give rise to harm to amenity. Other points to note are that Environment Control have not objected to the proposal.

#### Drainage

9.7 The comments of the Environment Agency regarding drainage require consideration to be given to provision of satisfactory surface and foul drainage and in particular to ensure that there is no pollution of existing watercourses. This is a concern raised by the owner of the Old Stables with regard to possible pollution of a pond on his land. To this end a condition is recommended requiring details of surface and foul drainage to be agreed.

#### Summary

9.8 The proposed livestock building would be seen as part of an existing farm grouping and would not have an adverse impact on the character of the area. The provision of temporary accommodation has been justified in terms of the functional and financial tests. Issues related to impact on trees and drainage can be dealt with by conditions. It is not considered that the use would give rise to unreasonable harm to the amenity of neighbours. For these reasons permission is recommended.

### **10.0 Background Papers**

10.1 ARC; Core Strategy; HH; HA; NR; TL; PTC; NLR

## **Recommendation - Conditional Approval**

### **Conditions**

#### **1 - Non-Standard Condition**

The construction of the livestock building 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 mobile home hereby approved shall be limited to a period of 3 years from the date of the approval of permission. Should the livestock operation cease on the site prior to the expiry of three years the mobile home shall no longer be occupied and shall be removed from the site.

Reason: Permission for the mobile home is granted for a temporary period of three years because the livestock enterprise is new and there is no justification for a permanent dwelling in accordance with Policy H10 in the Adopted Review Colchester Borough Local Plan.

#### **3 - Non-Standard Condition**

The occupation of the mobile home shall be limited to a person employed in livestock management on Woodhouse Farm and by no other persons.

Reason: In order to ensure that the occupation of the dwelling is limited to a person working on Woodhouse Farm.

#### **4 - Non-Standard Condition**

Before the livestock building hereby permitted is commenced, 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 the agreed details.

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

#### **5 - 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.

#### 6 - 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.

#### 7 -Non-Standard Condition

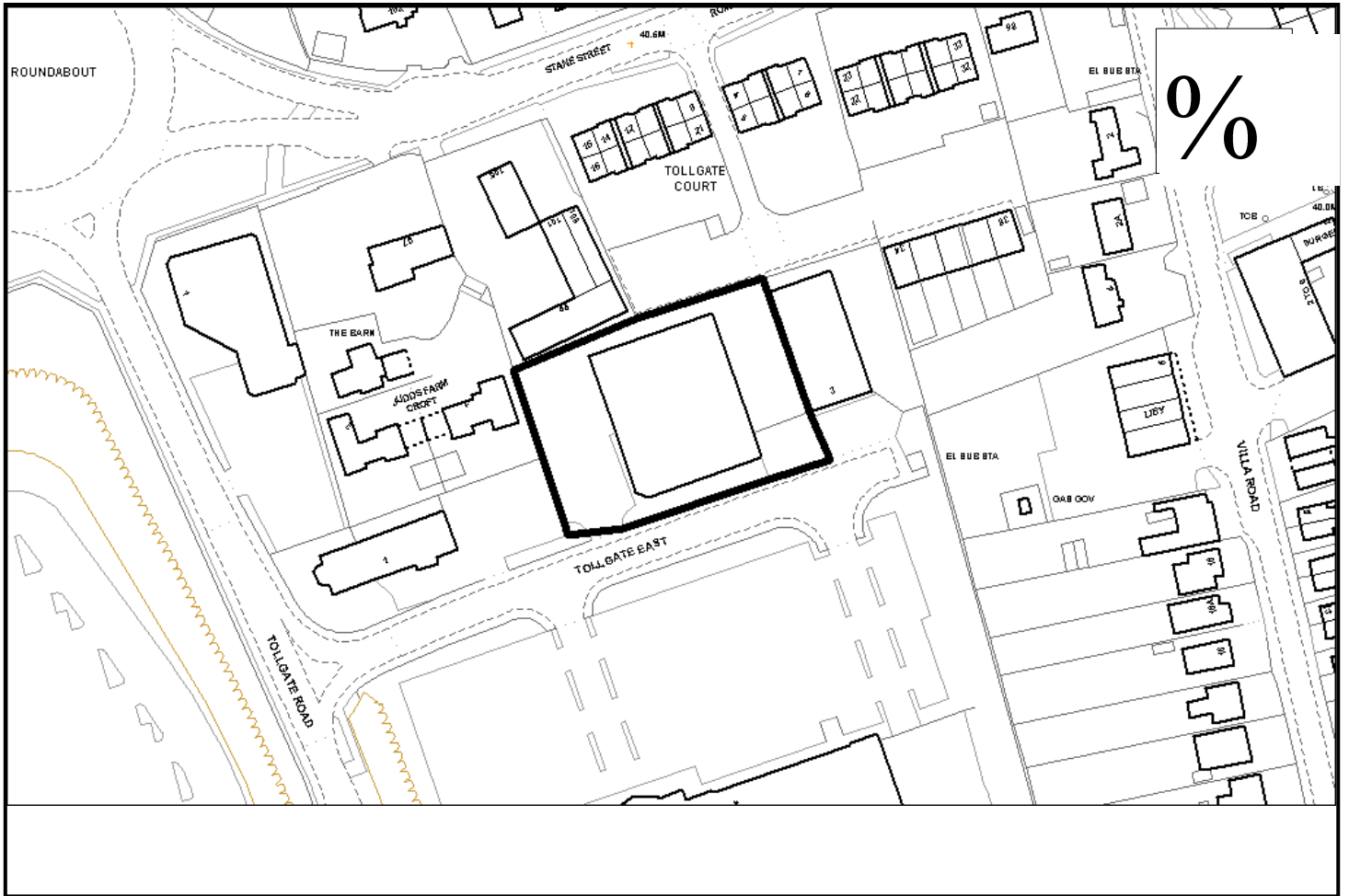
Prior to the erection of the livestock building details of foul and surface water drainage shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure satisfactory provision is made for the disposal of foul and surface water.

#### **Informatives**

In submitting details to comply with Condition 7 you are advised to have regard to the letter dated 7 July 2009 from the Environment Agency which sets out advice on appropriate drainage schemes.

Your attention is drawn to the attached Advisory Notes on the Control of Pollution associated with demolition and construction works.



**Application No:** 090823

**Location:** Unit 2 Tollgate East, Stanway, Colchester, CO3 8RQ

**Scale (approx):** 1:1250

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## 7.8 Case Officer: John More

**OTHER**

**Site:** Unit 2 Tollgate East, Stanway, Colchester, CO3 8RQ

**Application No:** 090823

**Date Received:** 23 June 2009

**Applicant:** Mr Daniel Watts

**Development:** Change of use from class A1 retail to B1(Business) B2(General Industrial) and B8 (Storage & Distribution),with ancillary retail under Colchester Borough Council Planning Policy EMP1

**Ward:** Stanway

**Summary of Application:** Conditional Approval

### 1.0 Site Description

1.1 The site comprises a large industrial style shed last used by Land of Leather as a retail premises. There is a parking area and public entrance to the left/west side of the building and a parking/delivery/servicing area to the right/east. Opposite is the car park to Homebase and the area currently used as a hand car wash. To the rear/north are business units and the car park to Tollgate Court (residential units). To the east is a business unit used as a day nursery (Hundred Acre Wood). To the west is the parking area to an office building and a residential property (the nearest residential unit).

### 2.0 Description of Proposal

2.1 The application proposes the change of use of the existing building from retail (class A1) to Business (B1), General Industrial (B2) and Storage & Distribution (B8), with ancillary retail.

### 3.0 Land Use Allocation

3.1 The site is allocated in the Local Plan proposals map as bulky goods comparison retailing to which policy TCS11 relates. This policy has now been superseded by Core Strategy Policies CE1, CE2 and CE3.

### 4.0 Relevant Planning History

4.1 Relevant planning history for the site is application COL/87/1609 for the change of use of a vacant light industrial unit to retail (A1). This was approved subject to a restrictive condition limiting the retail activity to the sale of furniture and other ancillary items and no other retail use.

## **5.0 Principal Policies**

### 5.1 Local Development Framework

Core Strategy:

CE1 - Centres and Employment Classification and Hierarchy

CE2 - Mixed Use Centres

CE2b - District Centres

CE3 - Employment Zones

### 5.2 Adopted Review Colchester Local Plan 2004 saved policies:

DC1- Development Control considerations

## **6.0 Consultations**

### 6.1 Environmental Control recommend conditions to control noise on the site to protect the amenity of nearby the residential dwelling.

*Officer Comment: The recommended noise conditions have been added to the recommendation.*

## **7.0 Parish Council's Views**

### 7.1 Stanway Parish Council raises no objection to this application.

## **8.0 Representations**

### 8.1 One letter of objection has been received from an adjoining resident. The main points raised are that they do not wish to be disturbed by large vehicles parking late at night or odd hours and do not want strangers coming within the vicinity of their home. At present, without consent, the car park is used as a lorry park with vehicles coming and going at odd hours causing disturbance and an ugly view.

*Officer Comment: Any current unauthorised use as a lorry park is not a matter for this application. The applicant has informed the council that following this letter access to the site has been blocked.*

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

## 9.0 Report

### Policy context

- 9.1 Core Strategy policy CE1 encourages economic development and job creation, promotes and maintains existing employment sites. Table CE1a - Centres and employment classification and hierarchy – classifies Tollgate as an urban district centre to which policy CE2 relates. Stanway is further classified as a strategic employment zone to which policy CE3 is also relevant. Table CE1b – Appropriate land uses – indicates that B1, B2 and B8 uses are considered acceptable in this location. Policy CE2 promotes a mix of uses in accordance with these tables. More specifically, policy CE2b encourages a diverse range of uses. Policy CE3 indicates that Employment Zones will accommodate business developments that are not suited to Mixed Use Centres, including industry and warehousing. The Council will encourage the provision of incubator units and grow-on space to support the development of small and medium enterprises. Retail developments will not normally be supported in Employment Zones, except for small scale developments that provide for the needs of the local workforce or are ancillary to an industrial use.

### Use

- 9.2 The proposed use would fit with the existing building, parking and servicing areas. Core Strategy policies encourage a diverse mix of uses in this location and the proposed use is therefore considered acceptable in principle.

### Design and layout

- 9.3 No changes are proposed to the design and layout of the building.

### Amenity

- 9.4 The closest residential property to the site is the objector's dwelling at 1 Judds Farm Croft. This property overlooks the car parking area and the public entrance to the building and is separated from the site by a high brick wall. The service entrance is to the east side of the building away from this dwelling. Environmental Control do not raise objections to the proposed uses subject to controlling conditions. If any B2 use can comply with the noise conditions there would be no reason to object to B2 uses in principle. It is not considered the proposal would cause material harm to the amenity of the neighbouring properties with suitable controlling conditions.

### Highways and Parking

- 9.5 The Highway Authority has not commented on the application. No changes are proposed to the existing accesses.
- 9.6 No changes are proposed to the existing parking/servicing areas. There are 25 car parking spaces which would be retained.



## **10.0 Conclusion**

10.1 The proposal uses are appropriate for the existing building and would contribute to the mix of uses in the locality. It would increase the options for letting this vacant building, bring it back into an economic use and provide local employment. The proposal would not conflict with planning policy and subject to controlling conditions would not harm the amenities of neighbouring properties. Approval is therefore recommended subject to controlling conditions.

## **11.0 Background Papers**

11.1 ARC; Core Strategy; HH; PTC; NLR

### **Recommendation - Conditional Approval**

#### **Conditions**

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

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

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

2 - Non-Standard Condition

No machinery shall be operated, no process shall be carried out and no deliveries taken at, or despatched from the site outside the following times, unless otherwise agreed in writing by the local planning authority: 0800 – 1800 Monday to Saturday; nor at any time on Sundays, Bank or Public Holidays.

Reason: The use of this site outside these hours would be likely to cause nuisance/loss of amenity/disturbance to adjacent/nearby residents.

3 - Non-Standard Condition

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995, no further plant or machinery shall be erected on the site under or in accordance with Part 8 of Schedule 2 to that Order without planning permission from the local planning authority.

Reason: To protect the amenity of nearby residential properties.

4 - Non-Standard Condition

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: In order to control the presence of additional items of plant/machinery etc on this site in the interests of visual and residential amenity.

#### 5 - 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 use hereby permitted commencing. 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 prior to the use hereby permitted commencing. All subsequent conditions shall comply with this standard.

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

#### 6 - Non-Standard Condition

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 devised by a competent person and approved in writing by the local planning authority. This shall comply with the initial noise condition.

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

#### 7 -Non-Standard Condition

The general industrial activity hereby approved shall not be carried out anywhere on the site except within the buildings in order to comply with the initial noise condition.

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

#### 8 - Non-Standard Condition

Any plant, equipment or machinery on the premises shall be constructed, installed, and maintained so as to comply with the initial noise condition. The noise generated by such equipment shall not have any noise frequency component that exceeds more than 5dB above the background frequency levels as measured at all boundaries near to noise-sensitive premises.

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

#### **Informatives**

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

## INDEX TO PLANNING APPLICATIONS CODES

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

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

## INTERNAL CONSULTEES

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

## REPRESENTATIONS ETC

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

## EXTERNAL CONSULTEES (2 character codes)

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