

# Planning Committee

Town Hall, Colchester  
5 November 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

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## Private Sessions

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

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## **Material Planning Considerations**

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

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

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

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

## **Human Rights Implications**

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

## **Community Safety Implications**

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

**COLCHESTER BOROUGH COUNCIL  
PLANNING COMMITTEE  
5 November 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 - 8**

To confirm as a correct record the minutes of the meeting held on 15 October 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. 090752 St Botolphs Car Park, St Botolphs Circus, Colchester (New Town) **9 - 39**

Redevelopment of part of the St Botolphs Car Park, involving the construction of a part 2, part 3, part 4 storey magistrates court complex (incorporating double height court volumes) comprising 4 magistrates courtrooms and 1 youth/family courtroom with associated ancillary accommodation, provision of 18 on site staff car parking spaces, special parking arrangements for the disabled, cycle parking and secure vehicle lock, with vehicular access off Magdalen Street (including associated off site highway alterations).

2. 091063 Former Focus Do It All Store, Moss Road, Stanway (Stanway) **40 - 49**

Change of use from DIY store to Indoor Leisure Centre (A3/A4/D2 uses) to include ten pin bowling and ice rink.

3. 091115 Land adjacent south Grange Road, Tiptree (Tiptree) **50 - 72**

Change of use of agricultural land to sports field, minor regrading and drainage of playing area, with associated vehicle parking, vehicular access from Grange Road and provision of cycle/footway links to Harrington Close and Vine Road (Resubmission of 090217).

4. 091117 Land adjacent south Grange Road, Tiptree (Tiptree) **73 - 127**

Change of use of agricultural land to sports field, minor regrading and drainage of playing area, erection of associated building for changing rooms and ancillary accommodation, water tank, vehicle parking, vehicular access from Grange Road and provision of cycleway/footway links to Harrington Close and Vine Road.

- |     |                                                                                                                                                                                       |                  |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 5.  | 090692 London Road, Stanway<br>(Stanway)                                                                                                                                              | <b>128 - 147</b> |
|     | Erection of new food store with associated accesses, petrol filling station, car parking, cycle parking, servicing and landscaping.                                                   |                  |
| 6.  | 090897 11 Spring Road, Tiptree<br>(Tiptree)                                                                                                                                           | <b>148 - 157</b> |
|     | Reserved matters application for demolition of existing bungalow and erection of 3no. chalet style dwellings and 1no. bungalow.                                                       |                  |
| 7.  | 091084 St Pauls Hospital, Boxted Road, Mile End<br>(Mile End)                                                                                                                         | <b>158 - 163</b> |
|     | Erection of a 3.9 metre high fence around perimeter of the hospital site.                                                                                                             |                  |
| 8.  | 091147 Hythe Station, Hythe Station Road, Colchester<br>(St Anne's)                                                                                                                   | <b>164 - 167</b> |
|     | Erection of hoardings no greater than 2m high attached to fencing which borders the railway station. The hoardings will feature painting and poetry.                                  |                  |
| 9.  | 091177 New Dawn, Ipswich Road, Dedham<br>(Dedham and Langham)                                                                                                                         | <b>168 - 172</b> |
|     | Variation of Condition 04 of planning permission COL/03/0556 to allow for opening all year i.e. January to December, Monday to Sunday with hours of operation to be from 6am to 10pm. |                  |
| 10. | 091197 61 Oaklands Avenue, Colchester<br>(Prettygate)                                                                                                                                 | <b>173 - 177</b> |
|     | Proposed single storey side extension with front porch, rear single storey extension, conservatory and internal alterations.<br>Resubmission of 090608.                               |                  |
| 11. | 091242 24 Becker Road, Colchester<br>(Prettygate)                                                                                                                                     | <b>178 - 181</b> |
|     | Ground floor extension forming a new bedroom. Convert existing study/playroom into a shower room.                                                                                     |                  |
| 12. | 091262 1 Rosebank Road, West Mersea<br>(West Mersea)                                                                                                                                  | <b>182 - 189</b> |

Proposed alterations and extensions to existing detached house to provide accommodation for disabled daughter. Resubmission of 081459.

13. 091073 14 and 16 Wivenhoe Business Centre, Brook Street, **190 - 195**  
Wivenhoe  
(Wivenhoe Quay)

Change of use from printers (B2) to dance studio (D2).

- 8. Enforcement Action // Land at Hill House Farm, Colchester Road, West Bergholt** **196 - 199**  
(West Bergholt and Eight Ash Green)

See report by the Head of Environmental and Protective Services.

## **9. 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**  
**15 OCTOBER 2009**

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

*Substitute Member :-* Councillor Richard Martin for Councillor John Elliott

?

*Also in Attendance :-* Councillor Nick Cope

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

## **112. Minutes**

The minutes of the meeting held on 1 October 2009 were confirmed as a correct record.

## **113. 090011 Hawkins Road, Colchester, CO2 8LH**

The Committee considered a reserved matters application for the former Jewson's site for 221 dwellings in four buildings, including 224 car parking spaces, refuse and cycle storage, sewer diversion, work to the river wall, commercial accommodation and landscaping. The application is a resubmission of application 072531 amending the previously approved scheme from 58 to 53 one bedroom units; from 150 to 156 two bedroom units and from 13 to 12 three bedroom units. Other amendments were proposed to some balcony sizes, to hard and soft landscaping to enable an increase in car parking provision; two residential units to be moved from Block 4 to Block 2; minor revisions to materials; and an alteration to the construction method. 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.

## **114. 091139 Shorlands, Coggeshall Road, Dedham, CO7 6ET**

The Committee considered an application for the demolition of an existing

dwelling and its replacement with two four-bedroom detached houses and associated garaging. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

*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.

**Councillor Ray Gamble (in respect of his acquaintance with Mr Parker) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)?**

**Councillor Sonia Lewis and Councillor Richard Martin (in respect of their personal acquaintances with Mr Parker during their schooldays) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)?**

**Councillor Theresa Higgins (in respect of having submitted a formal objection to the application) 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)? Councillor Higgins made representations in accordance with Paragraph 12(2) of the Code of Conduct for Members and then left the meeting during the Committee's consideration and determination of the application.**

#### **115. 090902 1B Winnock Road, Colchester**

The Committee considered an application for the demolition of a shop and the construction of three two-bedroom houses with secure cycle and bin store. The site is bounded on three sides by residential properties. 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.

David Whybrow, Development Manager, attended to assist the Committee in its deliberations. No objections had been received from local residents. The issues of concern are amenity areas and car parking spaces. The gardens are well below the minimum size and there is no off street parking, but the site is in a Conservation Area where spatial standards can be waived and officers believe this will be of benefit to the Conservation Area. There is some on street parking opposite the site, otherwise much of the area is within a residents' parking scheme. It was an 'on balance' recommendation.

Councillor T. Higgins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application on the grounds of the private amenity space and car parking. She believed there should be no compromise on the provision of amenity space, these were modern homes and comparisons were being drawn with houses in the locality which were built in the nineteenth century. The on-street car parking opposite the site is restricted to two hours and it is often used for deliveries. The Highway Authority have recommended refusal. Just because the site is in a Conservation Area does not mean there should be a compromise. The nearest open space is a long way away, there is no service at the rail station on Sundays and there are not enough parking spaces.

Mr G. Parker, agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The site is not of great merit but occupies a prominent position in the Conservation Area. Officers have produced and weighed the benefits against disadvantages. Issues raised by objectors have been addressed in correspondence and on lack of parking and garden areas. There is a lack of consistency because Essex County Council Highway Authority appears to be adopting conflicting standards having accepted flats in Winnock Road with zero parking but have objected to these. He referred to the adopted car parking standards for sustainable sites, which applies to this site and would benefit the locality. The scheme meets the spirit and letter of the council's policies and he asked that permission be granted.

Members of the Committee were very concerned at the very small gardens, the smallest being 16 sq.m. There were too many properties in too small an area and as such they would not provide a good quality of life. If the scheme was for a terrace of two properties it would enclose the street scene, and whilst the garden space would still be below the current standard it would make the scheme more acceptable. The Committee made it clear that whilst they had voiced a view that two properties may be preferable, the applicant should not assume that any scheme for two properties would necessarily gain approval from the Committee.

It was explained that a resubmission for two properties on the site would not

necessarily be treated as a free go because as a proposal for a different number of units it would be regarded as a materially different scheme.

*RESOLVED* (UNANIMOUSLY) that the application be refused on the grounds that the proposal represents over-development of the site and the lack of amenity space.

**116. 091121 Connaught House, 850 The Crescent, Colchester Business Park, Colchester**

The Committee considered an application for the construction of a 1.8 metre high weatherboard clad compound to contain a cooling, heating and ventilation unit. 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.

**117. 090802 All Saints Church, Halstead Road, Eight Ash Green**

The Committee considered an application to vary Condition 21 of outline planning permission O/COL/02/0306 for the construction of fifteen dwellings with an access road. Condition 21 required an access road onto Halstead Road and vehicular access onto church land prior to the occupation of any of the dwellings. The proposal is to remove the reference to the vehicular access onto church land in Condition 21, whilst preserving the reference to the access onto Halstead Road. The amended Condition 21 to read: "No dwellings shall be occupied until such time that the proposed new access road onto the Halstead Road has been constructed and completed in accordance with the approved plans" Reason: For avoidance of doubt as to the scope of this permission, and in the interests of highway safety. 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.

**Councillor Jackie Maclean (in respect of her former acquaintance with the public speaker, Ms Caxton) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)?**

## **118. 090932 31 Creffield Road, Colchester, CO3 3HY**

The Committee considered an application for new garages and an office within the site. The application is a resubmission of 082042. 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.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained that there were three issues to consider: conservation and design, the impact on trees, and the amenity of surrounding residents. Members would be aware that the Council had a duty in respect of conservation and design issues. He considered that there would be a limited impact from Creffield Road and the new structures being visible at the entrance to the property and from a new property to the north of the site in Keble Road. It is considered that they would have a neutral impact on the Conservation Area and the contemporary design solution was considered to be acceptable. The tree officer was satisfied that if the scheme went ahead any nearby trees could be adequately protected.

Lesley Caxton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She has lived in the neighbourhood for many years and currently lives to the rear of the site with which she shares a boundary wall. She was also representing residents who live directly opposite the proposed development. Residents were not opposed to an extension providing it did not overpower or destroy the nature of the Conservation Area, but in this case it seemed to be in contrast to the area. The materials used were not found elsewhere in the Conservation Area. She believed it would be possible to use materials which would match those of the property and be in scale but the proposed materials and forms were a disappointment. She did not want the boundary wall to be built on and considered the proposed structure to be so high that it would affect the sunlight to her property in the mornings, be overbearing on her property, and the overlooking would invade her privacy. She would have preferred a single storey building with no overlooking windows which would conform with policy. She hoped the office and workshop would be used only for the purposes associated with the house.

Tim Heath addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This application had been developed following consultation with planning officers. He had given an undertaking that the garage would be for domestic use. He had a

collection of small cars which are used for show and social events so there would be no garage or workshop facilities. He recognised that design was a matter of taste, but considered that the materials would work well with the villa. He was aware of concerns about potential damage to lime trees on the boundary and considered that they needed pollarding to return them to a safe state. He had provided a method statement to take account of the need to protect their roots. The copper roof was in keeping with such buildings as Jumbo.

Councillor Cope attended and, with the consent of the Chairman, addressed the Committee. He had been approached by residents in Creffield Road to oppose the application and referred to policies UEA1 and UEA2 in relation to the Conservation Area. The policies state that materials used are to be sympathetic with the character of the area, and designed to retain and enhance its character. The material to be used could become a laminated cladding which is a lookalike timber and would be the wrong choice for the Conservation Area. There were objections to the use of copper which could cause staining on the boundary wall. He referred to a recent planning approval for a property in a neighbouring road which included a condition that the materials used should be from a range of local materials and the stated reason for the condition was to ensure that the development did not affect the Conservation Area. This proposal appeared to adopt a different interpretation of Conservation Area policy. In the Design and Access Statement there was reference to a workshop but there were no references to a workshop in the report and he queried whether this was a change of use by the back door. The existing garage was potentially an historic building and in their response to the consultation the Victorian Society had submitted an objection to the proposal which appears to be contradictory to the Council's stated policy that the Conservation Area should be protected from inappropriate development.

A number of the Committee members had concerns about the proposal and it being inappropriate for and detrimental to the Conservation Area. The various reasons stated were that the design did not enhance or sit comfortably with the main building nor was the shape of the roof acceptable in the Conservation Area; that the materials, specifically the copper roof, did not fit in with the area; and that the proposal did not enhance the Conservation Area. There was a preference for a more traditional palette of materials and design which would fit in with the area. Members had noted that there appeared to be a difficulty in producing a traditional scheme with a room in the roof and it might be necessary to eliminate this element from the front garage with a taller pitch on the rear garage. There were also concerns about the possibility of there being some sort of workshop facility and a condition was requested to restrict the garages to domestic use. It was highlighted that these structures were attached to a building and were

not buildings in their own right.

Officers explained that the office and workshop was designed to be ancillary to the house and provided they remained so there were no planning issues. The intention was to use the building for private enjoyment but an informative could be added. The scheme has been designed to preserve and enhance the Conservation Area. Referring to council policies it was explained that it was important that new buildings should not imitate earlier styles, but should reflect their context. Local authorities should not attempt to impose a style on an applicant but the design should be contextual and linked to the main building and the surrounding area. Members had voiced differing views on whether contemporary design was appropriate; the response was that it cannot be ruled out, but it was noted that in this case members would prefer a more traditional form. The officer view was that the proposal would have a limited impact on the wider Conservation Area because it was set well back from the frontage and direct views could only be glimpsed down the side elevation from the front. Views from the side elevation and from Keble Close were restricted.

Officers also acknowledged that members were uncomfortable with the choice of materials and were suggesting the use of traditional materials. However, it was considered that the use of materials which emulated the original building would not be successful as it would appear as an addition rather than being seamless with the building. The use of materials different from the original building would create a subtle building. There should not be an attempt to create something which was clearly not old. This modern building and the historical building would both be using materials of their time.

*RESOLVED* (MAJORITY voted FOR) that the application be refused on the grounds that it is contrary to Council policy because the proposal fails to preserve or enhance the character of the conservation area by virtue of its design, materials and siting.

**119. 091057 The Coast Inn, 108 Coast Road, West Mersea, CO5 8NA**

The Committee considered an application for the retention of posts and shuttering to enclose a car parking area on a small parcel of land to the west of Coast Road opposite The Coast Inn including a further stretch to contain land immediately to the east. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

*RESOLVED* (UNANIMOUSLY) that -

- (a) Consideration of the application be deferred to permit Essex Wildlife

Trust to be consulted on the proposal.

(b) In the event that no adverse comment is received from Essex Wildlife Trust, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the Amendment Sheet, together with any additional conditions recommended by the Essex Wildlife Trust.

## **120. Guidance Note // Shopfront Security Guidance**

The Head of Environmental and Protective Services submitted a report and a draft guidance note on shop front security. The guidance note is intended as an interim measure until such time as a Shop Front Design Guide is produced. The draft guidance note outlines the different types of security currently available and provides advice on the most suitable options. An essential requirement would be a high degree of transparency to enable the window display to be seen and light to diffuse through the shop front onto the street at night. The guidance note also provides information on the requirement for planning permission and listed building consent. The Committee had before it a report in which all information was set out.

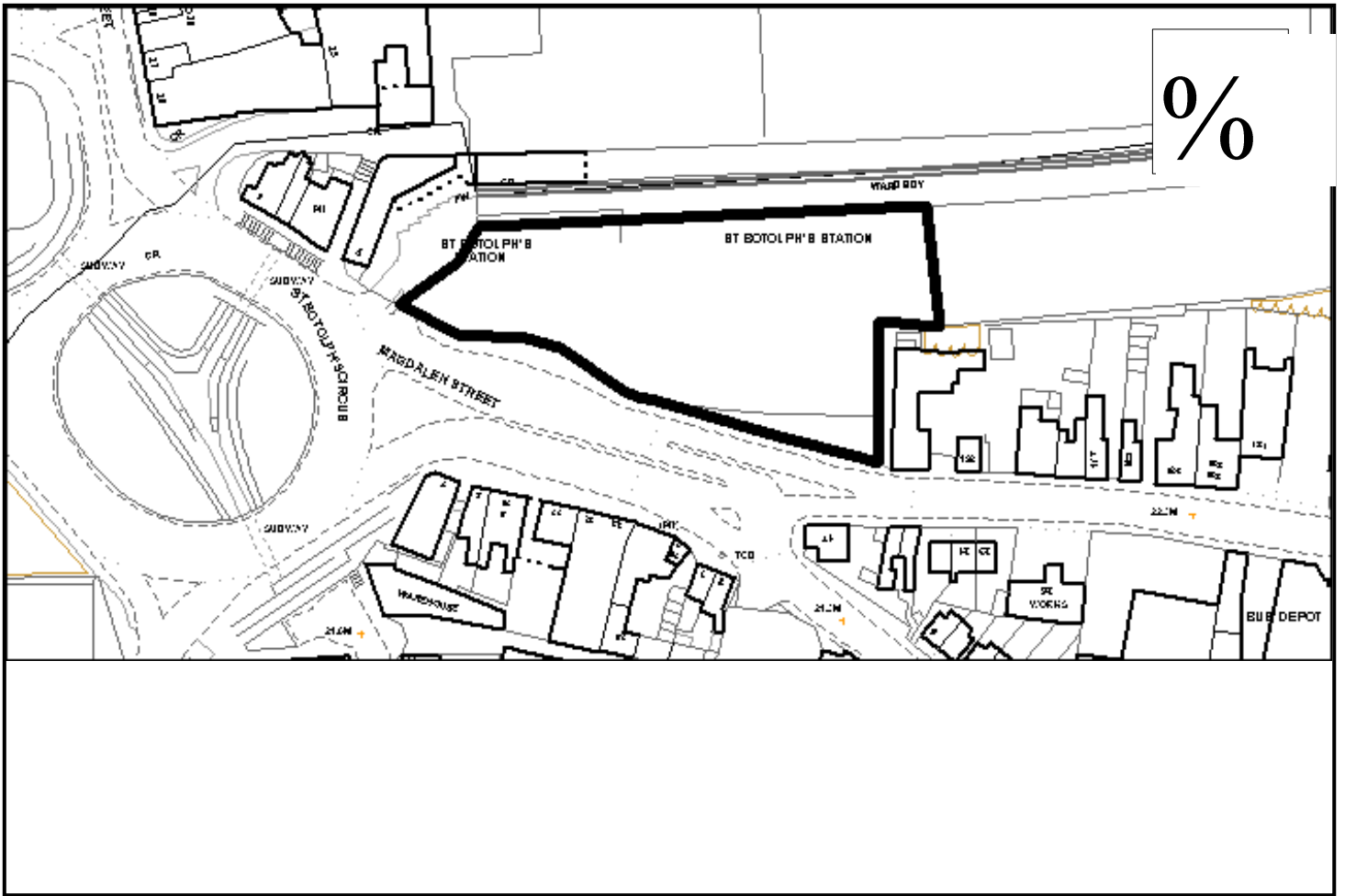
Nelia Parmaklieva, Urban Designer, attended to assist the Committee in its deliberations. The guide was for all shopfronts, not just those in Colchester town centre. It was explained that it was intended to distribute the guide to estate agents and to post it on the council's website.

Members of the Committee thanked officers for the guide and suggested that the guide also be distributed via the non-domestic rates, Colchester Federation of Small Businesses, the Chamber of Trade and Commerce, the managers for Culver Square Centre and the Lion Walk Centre.

*RESOLVED* (UNANIMOUSLY) that the Guidance Note on Shop Front Security be endorsed.

?





**Application No:** 090752

**Location:** Part Site Of, St Botolphys Car Park, St Botolphys Circus, Colchester

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

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## Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **5 November 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: John More

**MAJOR**

**Site:** St Botolphs Car Park, St Botolphs Circus, Colchester

**Application No:** 090752

**Date Received:** 15 June 2009

**Agent:** Mr P Smith

**Applicant:** Secretary Of State For Communities & Local Government

**Development:** Redevelopment of part of the St. Botolphs Car Park, involving the construction of a part 2, part 3, part 4 storey magistrates court complex (incorporating double height court volumes) comprising 4 magistrates courtrooms and 1 youth/family courtroom with associated ancillary accommodation, provision of 18 on site staff car parking spaces, special parking arrangements for the disabled, cycle parking and secure vehicle lock, with vehicular access off Magdalen Street (including associated off site highway alterations).

**Ward:** New Town

**Summary of Recommendation:** Conditional approval upon satisfactory completion of the S106 agreement.

## **1.0 Introduction**

1.1 At the Planning Committee held on the 3<sup>rd</sup> September 2009, following a detailed presentation of the proposal and a site visit, there was a full debate of the proposed development. The Committee resolved that the application be deferred for further negotiation specifically 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.

1.2 Following this meeting your officers and a representative from English Heritage have met with the applicants design team a number of times to discuss the architectural detailing of the tower element and issue of disabled parking.

1.3 Amended plans and a statement regarding essential parking for disabled Court users was submitted to the Council. An additional period of consultation has been undertaken and some comments have already been received although any further comments will be reported to members on the amendment sheet.

## **2.0 Amended Proposal**

### Design

2.1 Members will be pleased to hear and see that the applicants have responded positively and creatively to the demand of the Committee that the elevations of the tower feature be transformed to create a strong vertical emphasis (rather than the horizontal emphasis shown on the submitted scheme). Officers are satisfied that the changes required by Members have enhanced the overall appearance of the building. A number of significant changes have been made. These are:-

2.2 The terra cotta tiles and louvres used to clad the court volumes have been rotated to take on a vertical arrangement. The two previously proposed large bonds of horizontal glazing panes have also been altered to feature three vertical window elements each. This has introduced a new elegance and overcome the stubby squat appearance identified as a problem by the Committee.

2.3 The previously proposed plain terra cotta tile has in parts been replaced with a profiled version to create greater interest and shadows across the facade and larger tile units have been selected.

2.4 The architects have revisited the site and have taken reference from the proportioning of St. Botolph's Church tower. The South and West court façades have been divided into three structural bays, each of which features a variation of glazing and 'glass-look-alike' panels behind vertical louvres.

- 2.5 Between the glazing and louvres there is a walkway for window cleaning purposes which offers depth to the elevation and lightens the mass of the façade. Vertical articulation and the impression of decreased scale are further enhanced through the contrast between a lighter profiled terra cotta tile versus a slightly darker solid terra cotta tile. Concealed behind the flat tiles are three structural concrete columns. These run all the way to the ground, two of them externally and one internally. These columns which frame the main entrance are proposed to be clad in vitreous enamel panels and become visible between first and ground floor in a tapered fashion to contrast with the main geometry. A continuous glass façade on the ground floor beneath the terra cotta clad cantilever completes the impression of a lighter, floating double height court volume whilst drawing visitors into the building.
- 2.6 A court crest has been inserted at high level on the South elevation to aid identification of the building from afar. The Insignia and building name position over the main entrance remain the same as proposed in the initial design.
- 2.7 While the refinements to the design have focused on the double height court volume opposite Colchester Town Station, in order to achieve a homogenous design, the treatment of the tower is repeated on the other three court volumes. Importantly, these amendments have not affected the previously established and submitted choice of external material, fenestration or window accentuation expressed as protruding boxes.
- 2.8 On the south elevation, a line of horizontal louvres has been added to the smaller openings in this elevation to provide solar shading.

#### Disabled Parking

- 2.8 In response to members concerns regarding disabled parking, a statement regarding essential parking for disabled court users has been submitted by the applicants. This is copied below.

*“Disabled parking bays will be available for use by customers of the proposed Colchester Magistrates’ Court.*

*Her Majesty’s Courts Service Essex (HMCS) is extremely committed to Customer Service and earlier this month was awarded the Customer Service Excellence accreditation by the Lord Chief Justice. Our staff are trained to provide excellent customer service to all our users, including those with disabilities and to be innovative in seeking solutions to ensure our users can easily access the Court and the associated facilities. The new Courthouse will be DDA compliant and has been designed specifically with disabled users in mind. For example, Courtroom layouts facilitate wheelchair users, induction loops will be available in every Courtroom for those with impaired hearing and there are lifts to all floors for all users, including defendants in custody.*

*There will be 18 parking spaces at the Colchester site, designated for Judges and Court staff. Two of these spaces will be dedicated car parking for disabled persons.*

*Public parking is not generally available at Court at court sites without prior arrangement. However, a priority for HMCS Essex is that arrangements are made for disabled Court users to park on site as required.*

*When people are required to go to Court, the witness care unit or defence lawyer provide: information about the location of the Court, opening hours and facilities available. If the Court user has any special needs, the defence or prosecution/witness care unit will ask staff to make provision to accommodate these specified needs.*

*Information on Court facilities is also provided to users via the local Court information leaflet, which is also available on the internet. In the leaflet, Court users are invited to contact the Court or their solicitor if they have a disability which makes going to Court difficult. The number for the HMCS disability helpline is also given in the leaflet.*

*When staff are alerted, for example that a witness is a wheel chair user, the Court Customer Services Officer on site will agree the best solution in liaison with the user and/or their representative. This might include arranging for the witness to park in the secure car park or for the user to be brought to and from Court by a police officer or other supporter.*

*If a disabled Court user arrives without prior notice at the secure car park they will be able to press the intercom button at the entrance to the car park or telephone to alert security who will arrange for the Court Customer Service officer to make a suitable arrangement at the time.*

*To summarise, HMCS are committed to providing car parking for disabled court users and to find ways of making it easier for everyone to be able to access Court facilities. We also understand that there is a Council aspiration to provide a multi-storey car park adjacent to the Courthouse which will also provide easy access for Court users.”*

### **3.0 Consultations**

**3.1 Conservation Officer** comments will be reported on the amendment sheet.

**3.2 Urban Design Officer** comments as follows:-

*“The refined proposal addresses the main entrance design with a proposal for external columns supporting the three structural bays of the main tower and framing the entry to the building. The positioning of the columns gives emphasis to the entrance while providing visual and structural connection with the three structural bays of the redesigned main tower. The tapered design provides a dynamic contrast to the prevalent rectangular geometry and the slim width profile gives a desired sense of more openness on ground level. The proposed terracotta treatment of the soffit to the cantilever (extending from the façade) is acceptable and will provide a good impression in this most public area.*

*More attention should be given to the design of rainwater goods. In particular, the downpipe from the main tower should be seamlessly incorporated into the supporting column, rather than being a separate feature. I trust this can be resolved under conditions, with details to demonstrate that. Similarly, detail drawing and samples should be provided for the proposed cladding of the columns, and approved under conditions. These details are very important as they form part of the most visible and public area of the Magistrate’s Court, and we need to ensure a design which will give the best impression from the public square and at entry into the building.*

*Comments relating to contribution to the public realm are still valid and additional information and details on design will be required.”*

### 3.3 **English Heritage** Historic Areas Advisor comments

*"I am happy with the way that the way the scheme is progressing. I support the deeper louvres to increase the vertical emphasis. I agree with the use of ribbed terracotta units. The use of multi coloured slips looks well in other applications, but I agree that here it fights the verticality. The raked columns add emphasis to the entrance, which is welcome. The terra cotta will, I hope be of the reddest hue possible- the images tend to look brown!*

*EH has no objection to the scheme as now proposed, and would recommend that any outstanding details and material samples are resolved in consultation with Colchester BC."*

### 4.0 **Representations**

4.1 Cllr Gerard Oxford comments that as there is no public car parking included in the application "disabled people are not in my view being discriminated against although it needs to be recognised that if a wheelchair users needs assistance with transport the police don't have wheelchair accessible transport."

4.2 1 Letter of objection has been received summarised thus:

- a dull tower has become something horrid
- best described as 'unrelieved verticality'
- this is a turn in the wrong direction and beg the architect to revert to the original design
- the coat of arms still looks like boy scout badges pinned on
- the entire design remains extremely unsatisfactory

Any further comments will be reported to members on the amendment sheet.

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

### 5.0 **Report**

#### Revised tower design

5.1 It is considered the architects have responded well to the Committee's resolution for further negotiation to give greater vertical emphasis and visual interest to this prominent element of the new Court. The revised design successfully gives vertical emphasis to the tower while the vertical louvres to the front of the recessed glazing give a sense of depth to the facade.

5.2 The columns which frame the entrance and support the tower are now visually stronger and appear to support the structure above.

## Disabled Parking

- 5.3 The issue of disabled parking has been given greater clarity by the statement submitted by the applicants. While no public car parking is being provided, a secure parking solution is being put forward to allow disabled visitors to park at the Court House where no other members of the public can park. In this respect it is clear that disabled users are not being discriminated against.

## S106 Heads of Terms

- 5.4 The application has been presented to the Councils Corporate Development Team who have confirmed that the proposal generates the requirement for a S106 Agreement to secure the following:-

- Contribution of £28,692 towards CCTV provision
- Contribution of £33,106 towards footpath/cycle path
- Contribution of £165,531 towards New Public Square Works
- Contribution of £11,035 towards provision of pedestrian signage
- Contribution of £55,177 towards public Art provision
- Contribution of £30,588 towards Public Realm Improvements and Transport Initiatives
- To allow the Borough Council to operate the car park on a pay and display basis until such time as the site is required by the developer to commence the development and to allow continued access to the remaining car park

- 5.5 The Highway Authority has requested that the following be secured by way of a S106 agreement:-

- To provide a temporary access off Magdalen Street (adjacent to St. Botolph's Roundabout) to serve that part of St. Botolph's car park which does not form part of the proposal site (as shown in principle on drawing number 200398/EAD/151 Rev. P3 prepared by Mott McDonald)
- Not to commence development until the developer has entered into a highways agreement with Essex County Council in relation to the highway works in Magdalen Street
- The permanent removal of the temporary access mentioned above and provision of a new section of footway in Magdalen Street
- The remodelling and reconstruction of the Magdalen Street/Military Road traffic signal controlled junction to provide direct access to the proposal site as shown in principle on drawing number 200398-TA-001 Rev. P3 prepared by Mott McDonald.

A draft legal agreement has been submitted and is being reviewed by the Council's Solicitor.

## **6.0 Conclusions**

- 6.1 In summary it is considered that the revised proposal overcomes previous concerns relating to the appearance of the tower element. Details relating to parking for disabled court users have been clarified and are considered satisfactory.

6.2 The proposal would represent a major step forward in the regeneration of this rather bleak and uninviting site which is at a gateway to the town centre and would act as an important catalyst for the regeneration of other sites in the St Botolph's Quarter.

6.3 The two outstanding issues of the tower design and disabled parking have been resolved and the application is therefore recommended for approval subject to controlling conditions and the securing of a S106 agreement as detailed above.

## **7.0 Background papers**

7.1 Committee Report 3<sup>rd</sup> September 2009; Conservation Officer; Urban and Design; EH; NLR

## **8.0 Recommendation**

That the Head of Environmental and Protective Services be authorised to GRANT planning permission subject to:-

A) The satisfactory completion of a S106 Agreement to secure amongst other things the elements set out in section 5.4 of this report.

and

B) The attaching of appropriate conditions and informatives as set out below:-

### **Conditions**

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

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

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

2 - B6.6 Site Characterisation

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,



- adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).  
This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from 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.

### 3 - Non-Standard Condition

Development shall not commence until 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.

### 4 - 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.

#### 5 - 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 2 "Site Characterisation", and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 3 "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 4 "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

#### 6 - 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 3 "Submission of Remediation Scheme" above.

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.

#### 7 -Non-Standard Condition

Additional drawings that show details of all architectural features such as windows (including window reveals and glazing systems), louvre panels, Magistrates Court coat of arms, green walls, vehicle entrance gates, flues, rainwater goods and roof features, at a scale of between 1:20 and 1:1 as appropriate shall be submitted to and approved in writing by the local planning authority prior to commencement of the development. The development shall be carried out in accordance with the approved details.

Reason: To ensure the use of suitable detailing having regard to the importance of this scheme in the townscape.

#### 8 - 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 the use of an appropriate choice of materials having regard to the importance of this scheme in the townscape.

### 9 - Non-Standard Condition

The refuse storage facilities indicated on the approved plans returned herewith shall be provided and made available to serve the proposed development/use hereby approved before the development/use is occupied or becomes operational. Such facilities shall thereafter be retained to the satisfaction of the local planning authority.

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

### 10 – B3.3 (Light Pollution)

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

Reason: To protect the amenity of adjoining residents and in the interests of highway safety.

### 11 - Non-Standard Condition

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

Existing and proposed finished contours and levels.

Specifications for the Green Wall and green roof.

Hard surfacing materials.

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

Planting plans.

Written specifications (including cultivation and other operations associated with plant establishment). Schedules of plants, noting species, plant size and proposed numbers/densities.

Planting area protection or decompaction proposals.

Implementation timetables.

Reason: To ensure the use of an appropriate choice of materials and suitable hard and soft landscaping having regard to the importance of this scheme in the townscape.

### 12 - 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.

### 13 – Non Standard Condition

Prior to its installation, additional drawings that show details of the public bicycle parking racks shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure the cycle parking facilities are provided in a visually satisfactory manner having regard to the importance of this scheme in the townscape.

### 14 - Non-Standard Condition

Prior to the building being brought into use for the purposes hereby approved, the vehicle and bicycle parking facilities approved shall be provided and shall thereafter be retained to serve development.

Reason: To ensure adequate provision of vehicle and bicycle parking.

### 15 - Non-Standard Condition

No development shall take place, including any works of demolition, until a Construction Method Statement and Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. measures to ensure no mud and/or debris is deposited on the public highway by any vehicle associated with construction of the proposal
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works
- viii. details of how the safety of all those using the temporary access mentioned above shall be maintained whilst the proposal is constructed.

Reason: In the interests of highway safety and for the convenience and safety of pedestrians, cyclists and motorists.

### **Informatives**

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

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

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 applicant shall grant an easement to enable the Highway Authority to maintain the traffic signal loops which will be located within the proposal site.

The applicant requires an easement from the Highway Authority to enable them to maintain their services which will be located in the foot/cycle path which in turn will be located north of the proposal site.

The applicant's attention is drawn to the need to enter into a Party Wall Agreement relating to the proposal site's Magdalen Street frontage.

The applicant's attention is drawn to the comments made by:

Anglian Water;

Essex County Fire and Rescue Service;

details of which can be viewed on the Council's web-site.

My previous report is produced below:-

## **1.0 Site Description**

- 1.1 The application site is located adjacent to St Botolph's Circus and Colchester Town railway station, immediately to the north of Magdalen Street. It occupies a prominent position on the edge of the town centre. The site forms part of a larger area which is currently used as a surface level car park and is predominantly covered with blacktop tarmac. There is a slight change in ground level across the site with a more significant change between the ground level within the site and Magdalen Street which is retained by a 4/5 metre high retaining wall in places. The site measures 0.34 hectares in area and forms an irregular shape.
- 1.2 The development is located adjacent to, but not within, Colchester Conservation Area No.1. Colchester Town station, which is listed grade 2 for its special architectural or historic interest, is located immediately adjacent to the application site. To the north of the site, the Church of St Botolph, the remains of the Priory and the town wall are all afforded statutory protection. Furthermore, opposite the site on the south side of Magdalen Street are two further listed buildings at No's 14 and 17 Magdalen Street.
- 1.3 The site occupies a strategic gateway location beside a transport interchange where several main routes into the town centre converge at St Botolph's Circus. At present the site is bleak, shabby and uninviting, whilst the unrelieved retaining wall constructed in dark coloured engineering bricks presents a dead frontage to Magdalen Street.
- 1.4 It is recommended that Members take the opportunity to visit the site prior to the committee meeting to fully appreciate the context, including the topography of the area, relationship with listed buildings and scheduled monuments and understand important views of the site from Magdalen Street, St Botolph's Circus and from the grounds of the Priory.

## **2.0 Description of Proposal**

- 2.1 The scheme proposes the redevelopment of part of St Botolph's Car Park, involving the construction of a part 2, part 3, part 4 storey magistrates court complex (incorporating double height court volumes) comprising 4 magistrates courtrooms and 1 youth/family courtroom with associated ancillary accommodation. The application also proposes the provision of 18 on site staff car parking spaces, cycle parking area and secure vehicle lock, all taking vehicular access off Magdalen Street. This involves the construction of a new access, including associated off site highway alterations.
- 2.2 The architectural approach to the complex is contemporary and endeavours to achieve 'BREEAM Excellent' rating for sustainable development. The building rises to an equivalent of 5 storeys at its highest element facing the Colchester Town station, with other parts up to 4, 3, 2 and 1 storey. The main public access to the courts would be provided from the new station square with vehicular access from Magdalen Street.
- 2.3 In terms of the materials proposed, the court volumes would be expressed in natural terracotta tiles with terracotta louvres shading the glazing, glazed stair and circulation areas framed in Zinc with aluminium louvres and light coloured stack bonded brick to the north and south facades. A living green wall is proposed to enclose the secure staff car/cycle parking area. The roof would comprise green and brown treatments to deliver sustainable drainage solutions whilst providing opportunities for enhanced biodiversity.
- 2.4 The application was accompanied by a full suite of reports including a Design and Access Statement, Planning Statement, Transport Statement, Phase 1 Ecological Assessment, Archaeological Report, Site investigations report and Phase 1 Risk Assessment, Noise Assessment, Renewable Energy and "BREEAM" Assessment, all of which can be viewed on the councils web site.
- 2.5 The remainder of the existing car park outside the application site will continue its present use. During the construction period when the courthouse is being built, land would temporarily be made available along the northern boundary of the application site for access to the car park via a temporary access beside the station. After the courthouse has been completed this land would be made available for use as a combined footpath/cycleway. A new direct access to the remaining car park will be sought from a point yet to be determined on Magdalen Street.

## **3.0 Land Use Allocation**

- 3.1 The site is allocated in the Local Plan as a Car Park. The St Botolph's Quarter Master Plan which was adopted by the Council as supplementary planning guidance in June 2005 shows the site allocated for a magistrate's court. Following the adoption of this document a Development Brief was prepared for the site which was adopted by the council as technical guidance to advise those preparing development proposals.

## **4.0 Relevant Planning History**

- 4.1 In 1982 planning permission was refused for the erection of warehousing and distribution units on the site (81/1821).

- 4.2 In 1982 planning permission was refused for the construction of DIY centre for retail sale of DIY, home improvements, garden & associated products plus ancillary facilities including parking & access works (82/1241). The proposal was allowed at appeal following a public inquiry in 1983.
- 4.3 Following this, approval was granted for the details of the DIY Centre for retail sale of DIY, home improvement, garden and associated products plus ancillary facilities including parking & access works. (82/1241A)
- 4.4 There are various temporary planning permissions for the use of the site as a public surface car park. The most recent (98/0139) was granted in 1998 for a period of 5 years.
- 4.5 On the 2nd December 2008 outline planning permission was granted for demolition of existing car park to develop a Court House 3 storeys high. The Court House to contain 4 Magistrates and 1 Youth/Family Courts and their associated accommodation. Ancillary car parks and access roads to be constructed over 2 phases (O/COL/04/1513).
- 4.6 There is an outstanding application for the continued use of the car park as a car park. This is required as the previous temporary permission for the use of the car park has expired. While part of the car park may be covered by the proposed magistrates court, the remainder would be retained for parking during the construction process (090760).

## **5.0 Principal Policies**

- 5.1 Local Development Framework  
Core Strategy:  
SD2 - Delivering Facilities and Infrastructure  
SD3 - Community Facilities  
CE1 - Centres and Employment Classification and Hierarchy  
CE2a - Town Centre  
UR1 - Regeneration Areas  
UR2 - Built Design and Character  
PR1 - Open Space  
PR2 - People-friendly Streets  
TA1 - Accessibility and Changing Travel Behaviour  
TA2 - Walking and Cycling  
TA4 - Roads and Traffic  
TA5 - Parking  
ER1 - Energy, Resources, Waste, Water and Recycling
- 5.2 Adopted Review Colchester Local Plan 2004 saved policies:  
DC1- Development Control considerations  
UEA1 - Character of Conservation Areas  
UEA11 - Design  
P4 - Contaminated Land  
P7 - Energy Efficiency  
T3 - Green Commuter Plan Requirements  
CF1 - Infrastructure and Community Facilities Provision

## 6.0 Consultations

### Highway Authority

6.1 The Highway Authority would not wish to raise an objection to the above application subject to the following:

1. No commencement of the development shall take place until such time as the following have been provided or completed to the satisfaction of the Highway Authority:
  - Any Party Wall Agreement required to facilitate the proposal
  - A temporary access off Magdalen Street (adjacent to St. Botolph's Roundabout) to serve that part of St. Botolph's car park which does not form part of the proposal site (as shown in principle on drawing number 200398/EAD/151 Rev. P3 prepared by Mott McDonald)
2. 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:
  - The permanent removal of the temporary access mentioned above and provision of a new section of footway in Magdalen Street
  - The remodelling and reconstruction of the Magdalen Street/Military Road traffic signal controlled junction to provide direct access to the proposal site as shown in principle on drawing number 200398-TA-001 Rev. P3 prepared by Mott McDonald
3. Other conditions:
  - Prior to commencement of the development a construction management plan shall be submitted to and approved in writing by the Local Planning Authority in conjunction with the Highway Authority. Plan to include details of how the safety of all those using the temporary access mentioned above shall be maintained whilst the proposal is constructed. The approved details shall be implemented to the satisfaction of the Local Planning Authority and Highway Authority prior to commencement of the development
  - 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

#### Notes:

- 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
- In making this recommendation the Highway Authority has assumed the proposal site internal layout will not be laid out and constructed to adoptable standards and that the applicant does not intend to offer it to the Highway Authority for adoption



- The requirements contained in 1 & 2 above shall be imposed by way of negative planning conditions or planning obligation agreements as appropriate
- 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
- 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
- The applicant shall grant an easement to enable the Highway Authority to maintain the traffic signal loops which will be located within the proposal site
- The applicant requires an easement from the Highway Authority to enable them to maintain their services which will be located in the foot/cyclepath which in turn will be located north of the proposal site.

*Comment: The matters raised can be dealt with by way of conditions, legal agreement and informatives.*

#### English Heritage

- 6.2 English Heritage has attended pre-application meetings as there are potential impacts on the setting of the conservation area, the setting of adjacent listed buildings such as the Town Railway Station and St Botolph's Church, and St Botolph's Priory and the Town Walls which are scheduled ancient monuments.
- 6.3 Whilst English Heritage has welcomed the most recent revisions to the design it has suggested that there is scope for the refinement of certain details notably to the tallest block adjoining the Town Station. Whilst they support the scheme they feel that further consideration should be given to this element before detailed planning permission is granted.
- 6.4 English Heritage initially raised concerns relating to the detailing and materials for the proposed court building, but did not object in principle to the height and general massing, or to the contemporary design approach. They suggested the need for articulation of individual elements, changes to the roofline and facing materials and more emphasis to be given to the pedestrian entrance from the new public square.

- 6.5 Following a presentation of a revised design they supported the revised roof forms, elevational changes, the use of terra cotta and buff brick along with the canting of the soffit to the cantilever above the entrance to give greater emphasis. They felt that the proposal would now contribute positively to the edge of the conservation area and to the setting of the St Botolph's Priory and that the elevations viewed from Magdalen Street and the Priory were now enlivened by the changes. However, they still have reservations with regard to the treatment of the tower element. They feel there is a need to create texture and interest and to bring a human scale to this block. Although in real terms it is not, at five generous storeys an abnormally high building, because of the scale of its immediate neighbours it appears in the rendered images to be particularly bulky. The diminutive columns on either side of the entrance and the horizontal emphasis of the large openings emphasise this characteristic.
- 6.6 The revised elevation on either side of the tower now have a strong vertical emphasis especially with regard to their glazing and they appear in harmony with the locality. English Heritage had hoped that on the tower the use of different alignments of the terracotta louvers within the large voids might create this texture and interest. This does not appear to have been reconsidered, but we are unsure whether in any case that this would have completely resolved this discordance.
- 6.7 Overall, English Heritage considers that the design has much to recommend it but would however urge further consideration to this important element.
- 6.8 English Heritage recommend that detailed planning permission should only be granted when this authority has satisfied itself that all of the unresolved design aspects of this important proposal have been fully resolved.

#### Essex County Fire and Rescue Service

- 6.9 Access for Fire Service purposes is considered satisfactory. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage. The architect is reminded that additional water supplies for fire fighting may be necessary and are urged to contact the Water Technical Officer at Service HQ. Dry rise fire mains may be required within the building, additional fire hydrants may be required and any existing hydrants affected by the building works will require resiting to suitable locations.

#### Anglian Water

- 6.10 Anglian Water have assets close to and within the site which may be affect the layout of the development and ask for an informatives to be attached to any permission granted.

#### Archaeological Officer

- 6.11 This site was evaluated in 2005 and no archaeological deposits were found. No Recommendation.

## Environmental Control

- 6.12 Environmental Control have reviewed the Phase 1 Environmental Risk Assessment report which accompanied the application. The report contained a suitable detailed preliminary conceptual site model and is therefore acceptable as sufficient information to accompany the application for contaminated land purposes. The report concluded that further site investigation and risk assessment will be required before the site can be made suitable for use. Suitable conditions are recommended.

## Heritage and Design

- 6.13 The main conservation issue raised by this application is the effect that the proposed development would have on the setting of nearby listed buildings and that of Colchester Conservation Area No.1.
- 6.14 Given the size of the proposed new Magistrates Court, there is not an objection to the adoption of a contemporary design solution; indeed to attempt to dress-up a building of its proposed height and width in a vernacular style would, in my view, appear contrived.
- 6.15 The five storey element of the proposed Magistrate Court ('the 'tower') responds to the desire for a focal point at the western end of the site. The erection of a building in this location that has a visual presence onto St Botolphs Circus was always likely to create an awkward juxtaposition with and dominate the modest listed Town Station. It is therefore important that scale and mass of the tower is broken down (through the use of materials etc) so that it relates to the more domestic scale of the surrounding buildings.
- 6.16 With regard to the current proposal, the terracotta clad element of the tower appears squat and heavy – a consequence of its proportions - and this is further exaggerated by the design and disposition of the proposed louvred openings and by it being viewed in conjunction with the more slender tower of St Botolph's Church. The bulk of the terracotta tower fails to reflect the historic grain of the area and, a consequence of this, will appear out of context with the local townscape. Visually, the squat nature of the terracotta tower could be reduced by incorporating stronger vertical elements within the façade. In contrast to the terracotta element of the tower, the stair tower has a strong vertical emphasis and assimilates much better into the surrounding townscape, particularly when viewed from a distance.
- 6.17 The main entrance to the Magistrates Court is via the proposed new public square. While this accords with the planning brief, it does generate a potential conflict between pedestrians and motorists (to the proposed public car park / potential bus station site); a more appropriate / convenient location for the main entrance would be off Magdalen Street. The proposed supporting columns to the entrance foyer visually lack sufficient stature to support the weight of the building above.

- 6.18 The Magistrates Court reinstates a built frontage to Magdalen Street which is welcomed. The architectural articulation of the façade generally provides rhythm and visual interest to this street frontage; the upper terracotta levels would benefit from the incorporation of visual relief panels / insertion of window to create visual interest to this part of the building. From the tower, the building steps so that the building reflects the scale of the buildings in Magdalen Street. On the rear elevation, the façade has a strong horizontal emphasis. In views from the Priory, the first floor echoes the horizontality of the existing boundary brick wall to the railway station and, based upon the drawings, would seem to work quite successfully. At the first floor mezzanine and second floor levels, the design and disposition of the rear elevation windows also have a strong horizontal emphasis, however, these appear visually uncomfortable when viewed from a distance and jar with the historic townscape.
- 6.19 The current proposal indicates hard landscaping to the foyer area of the Magistrate Court; the design of this landscaped area needs to be coordinated with the design proposals for the station public square. I would also question the proposals for an area of soft landscaping (grass) to either side of the entrance to the Magistrate Court from Magdalen Street; I would advise that this area is hard landscaped with tree planting incorporated if considered appropriate. I would also recommend that an audit of traffic signage / street furniture etc is undertaken in the general vicinity of the development site and that the opportunity is taken to reduce that amount of signage (street clutter) to the absolute minimum level required to comply with highway safety requirement.
- 6.20 While there is not an objection in principle to the development of this site for the new Magistrates Court, further refinement is still required to the treatment of the elevations and the 'apron' landscaping to the proposed buildings.

### Urban Design

- 6.21 While the Essex Design Guide adopted by the Council does not provide sufficient guidance on the design of civic buildings, 'Better Civic Buildings' and 'Building in Context' by CABE provide the most relevant guidance and the design appraisal of the current proposal refers to it. Consideration of the design principles outlined in the adopted St Botolphs Car Park Brief and the St Botolph's Quarter Masterplan SPD has also been given in the current design appraisal.

#### 1. Relation of the building to its specific site

The proposed building fits well within an awkward long triangular site, and the large double volume courts are set well to create level differences across the site, with the mass of the building rising in opposite direction to the fall of the site, terminating with a focal tower at the lowest point to the west. This allows for a smoother transition towards the eastern boundary to the predominantly 2 and 3 storey along and across Magdalen Street. The building provides a positive and imaginative response to the site constraints, gives consideration of the physical aspects of the site and the amount of accommodation needed is fitted on the site in an elegant and creative way. The needs for separate vehicular and pedestrian access are resolved in a convenient way.

## 2. Relation of the building to the wider setting

The new building reinstates the street pattern along Magdalen Street by providing a building frontage to what was a gap in the street, it provides containment of St Botolph's roundabout and the station square and forms a strong focal point.

The immediate area surrounding the site, with the large junction of 5 roads, the railway line, parcels of vacant land, and the adjoining town centre conservation area, is fragmented, the historic street pattern is disrupted and the local character is eroded. A new distinctive, modern and stylish building to embody HMCS aspirations sets a new context, while relating to its surroundings. An obvious architecture of a more contextual form, copying from historic styles and applying historic elements on an irregular building footprint will appear artificial, out of scale and out of character.

Although appearing dominant in relation to the station building, the court building also creates a presence suitable to its function. The most dominant element, the tower contains the law courts, provides a landmark, and together with a new civic space provides legibility for the wider setting and a focal point in an important arrival location. The building's larger footprint and height (in comparison to surrounding buildings), is resolved by the design principle of an assembly of building volumes with a distinct treatment to mark the different areas, and glazed elements to provide vertical emphasis. This design breaks the otherwise bulky building into a more human scale and finer grain series of connected buildings, to complement the scale and character of the surrounding area. The careful architectural articulation of facades provide visual interest and scales it down to reflect the surrounding buildings. Frontages with a variety of openings facing directly onto the public realm of Magdalen Street, the station square and most of the rail line frontage, provide activity and interest, and enhance the quality of the townscape in this area.

## 3. Materials use

The court complex endeavours to achieve 'BREEAM Excellent' rating for sustainable development, by using sustainable building principles incorporating natural cooling and ventilation, features to optimise solar heating, biomass boiler and green roofs. This is encouraged and welcomed by the Council. The building utilises a palette of robust, high quality materials. The main body of the building utilises bricks and terracotta tiles in an innovative and interesting way – and the combination of stack bonding and vertical and horizontal expression of the different floors and other important features provides a unifying rhythm and a human scale to the building. The brick and tile palette – a range of hues in terracotta red (main tower) and cream (rest of building) harnesses the local vernacular, while providing interesting shading variation. Interesting contrast is provided by extensive glazing and zinc cladding, and different alignment of terracotta louvres and aluminium solar shading. The detailing of the soffit to the cantilever and the supporting columns at the main entrance need to be refined to give a greater emphasis to the entrance. Concrete columns and white render will be unacceptable, and materials from the established palette should be considered instead.

#### 4. Architecture suitable to the uses it contains

It is acknowledged that the building dominance is a desired feature. The clearly expressed court volumes' mass is consciously chosen to express a sense of gravitas and importance required by the HMCS. At the same time, the slanted cantilever and the glazed main entrance create a sense of openness and a friendly atmosphere. The use of different spaces and navigation around the building is resolved in a satisfactory way, with public, staff and secure entrances clearly separated.

#### 5. General appearance of the building

The building is confidently modern in appearance, it is well presented and visually interesting on all elevations, with a potential to contribute positively to the adjacent conservation area and the setting of St Botolph's Priory. The composition in the pattern of solids and openings in all façades is well balanced, with the variety of window treatment and glazed circulation areas adding to the visual interest. There is originality in the detailing of materials and the way the building is put together, reinforcing the contrasting elements and at the same time providing a unifying rhythm to the whole building. Careful choice of materials provides the connection between traditional and contemporary architecture. The roof treatment is interesting, with a series of mono pitch roofs arranged to create an undulating roofline. The positioning of the Court logo and lettering need to be refined to provide a better fit with the modern building and the features on the main tower.

#### 6. Contribution to the public realm

The complex is designed as a place and not an isolated building – it provides enclosure and a positive interface to the town station square, creating a new space with all public functions of the court facing the square. Two equally important elevations to Magdalen Street and to the cycle path provide active frontages with a series of windows. Natural surveillance along the cycle path is provided by an active frontage containing the primary public staircase and the public waiting areas on the first and second floor of the north façade.

The enhancement of the station square to provide a setting for the building is recognised by the applicant, however the design is not part of this application. The applicant need to ensure that the public square and landscape features on it are designed to appear as integral to the building, complementing the building palette and extending to the glazed main entrance. A public square concept design and specification should be submitted. High quality materials and attention to detail, ensuring that the property boundary is seamless, extending the hard landscape treatment along the northern 'public' façade and articulating the starting point of a 'Heritage route' running N-S will be sought. An opportunity to incorporate public art within the building, for example, in the aluminium solar shading along Magdalen Street need to be explored and discussed with the Council. The treatment of boundary walls needs careful detailing with more transparency added by the use of steel mesh and soft landscaping. Details of the vertical greening of the 2.5m boundary wall enclosing the car park will be required as part of the landscape strategy.

## 7. Impact of building in views and vistas

The stand-alone building has a positive impact on the wider townscape and will improve legibility by providing a focus for the St Botolph's roundabout and the station square. The tower provides more distant focal and sequence views on arrival on the train and from Southway Approach, thus enhancing the sense of arrival to town and improving legibility. Views of the courthouse from higher sites in the town centre are limited to momentary glimpses due to the existing tight urban fabric, and views from St Botolph's Priory gardens may also be limited to the upper part of the tower in the future, with the development of the Britannia car park. Due to the specific access, bulk and height requirements of the Court complex it has not been possible to reduce the height to extend to afford the long views from Magdalen Street towards the St Botolph's Priory and the Colchester centre townscape and roofscape. These views across town will however be possible from the public waiting area on the northern side of the new building. The short views from street level are lively, and the window arrangement, particularly on Magdalen Street frontage afford a close-up interaction with the proposed development. The green roof treatment would satisfy the somewhat limited distant views from the elevated town centre.

6.22 Approval is recommended provided additional information on the design of the square is provided and the refinements in detailing outlined above are addressed.

### 6.23 Comment

*The Borough Council is commissioning the design work for the station square which would be part funded by S106 contributions from this development.*

## 7.0 Representations

7.1 Bob Russell MP has written objecting to the application on the following grounds:

- Massive negative impact upon the setting of the historic Priory ruins which will result from the awful design and bulk of the proposed court house next to Colchester Town Railway Station.
- Those making the application have refused to meet Colchester Civic Society
- Strongly urge the Council to refuse the current application because it is not only totally inappropriate for the site but it will also have lasting visual damage to the setting of St Botolph's Priory and the listed building adjacent the site.

7.2 Colchester Cycling Campaign request retention of land between the courthouse and railway for use as a cycle route with the building designed to face both the railway and road. Staff cycle parking at this site should include individual cycle lockers or a secure caged area. There should be a separate and highly-visible public cycle parking area facing Magdalen Street. Off-site highways alterations should include consideration of Colchester's "cycling town" status.

- 7.3 Colchester Civic Society has written two letters objecting to the application. While the Civic Society continue to support the inclusion of a new court building as part of the St Botolph's Regeneration Scheme it should be one where considerable expenditure produces truly memorable outcomes, noting this will be the most significant public building planned for the town for perhaps 100 years and there should have been significant public involvement and scrutiny which has not happened.
- 7.4 Any building must serve its purpose but also impact positively on its setting. The Civic Society share English Heritage's reservations relating to the tower element. They understand that a landmark building has been requested but such a tall slab would confuse the urban form and be an unfortunate and unwelcome intrusion in any long views. Such a design may sit well on a greenfield site but fails to function as a meaningful urban form. The roof line is dull and monotonously horizontal. There is a bewildering confusion of window shapes and sub divisions.
- 7.5 The Civic Society consider the new building should be immediately recognisable as a significant public building with an aura of justice but it has more the look of an educational building or a small power station. The architecture has no specific origin and could diminish Colchester's image as a historic town. The building should be as memorable as the Town Hall or Jumbo and add to the collective image of the place. They confirm that they are not suggesting an Edwardian Pastiche but the challenge remains.
- 7.6 The tower profile and silhouette deserves more thought, the mono-pitch roof is a cliché of the 1960's and aggressive in shape. The Society confirms that they will remain prepared to take part in discussions which might lead to a positive outcome and fully support English Heritage's Recommendation "that detailed planning permission should only be granted when your authority has satisfied itself that all of the unresolved design aspects of this important proposal have been fully resolved".
- 7.7 Two letters of objection have been received summarised thus.
- The LPA is required to ensure that new buildings are not annoying and offensive to residents and visitors to a Town
  - Current proposal promises to be an alien and damaging building in this location
  - Has no real symbolic content and could be mistaken for an expensive office or clinic
  - The building forms part of the setting of the conservation area with St Botolph's Priory and church close behind
  - The tall block would seriously intrude into the skyline when from many locations
  - This would be the wrong kind of skyline and its silhouette would damage many prospects
  - It ought to be possible to rearrange the accommodation to produce a benign and articulated profile.
  - Use could be made of more familiar materials without compromising modernity
  - The station house would be dwarfed and overawed by the vast entrance block which crudely ignores and destroys it
  - The new building would result in a scaleless cliff to Magdalen Street, monotonous in its blankness and undue length. Something of visual interest needs to happen



- View from St Botolph's roundabout the most damning, a bleak profiled box with seemingly arbitrary patterning threateningly poised over a sheet of glass
- The coat of arms would stare from its improbable setting
- CBC should fulfil its duty and rapidly dismiss this proposal
- So inappropriate and alien that it is difficult to take seriously
- Next time more care and effort should be put into a brief with public consultation part of the process
- There will be an impact when viewed from the priory, but this is more to do with the alien form and detail as much as the bulk

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

7.9 The applicant has written in response to the consultation responses. Their letter is attached as an appendix to the report for member's information, as is the Civic Society's response to the applicant's letter.

## 8.0 Report

### Background

8.1 The principle of erecting a Magistrates Court comprising 4 Magistrates courts 1 youth and family court and the associated ancillary accommodation on this site was established by the 2008 outline planning permission. This permission gave detailed approval for the means of access to the site, while the siting, design, external appearance and landscaping were reserved matters.

8.2 The main issue in this case is the detailed design of the proposed courthouse and its impact on the surrounding area, including the setting of the conservation area, adjacent listed buildings and scheduled monuments.

8.3 Since the grant of the outline planning consent council planning, urban design and regeneration officers have been involved in detailed pre-application discussions involving the applicants design team, and English Heritage. The applicants also undertook a public consultation exercise. The proposal as submitted is a result of these discussions and consultations.

### Policy context

8.4 The Core Strategy, saved policies in the Adopted Replacement Colchester Borough Local Plan and the St Botolph's Quarter Master Plan all support the redevelopment of this site for a magistrates court.

8.5 The adopted planning brief sets out the main principles for the redevelopment of this site. Key points of the brief are:

- New development should reflect the scale and grain of the existing and historic morphology;
- New buildings should be similar in height to the existing buildings;
- The western end of the development should provide a landmark building and a focal point to strengthen the townscape.

- The building should front onto Magdalen Street where possible
- Architectural detailing should articulate the building to reflect the massing, scale and grain of the surrounding area.

- 8.6 In terms of design, Core Strategy policy UR2 requires high quality and inclusive design in all developments. It requires design to be informed by context appraisals and to create places that are locally distinctive, people-friendly, provide natural surveillance and which enhance the built character and public realm of the area. Developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported. Core Strategy Policy UR1 requires the design and scale of development to be sympathetic to the character of the area and enhance historic buildings and features. It also requires regeneration developments to contribute toward improvements of the local public realm, infrastructure and community facilities, although the Council will consider the viability of developments in determining these contributions.
- 8.7 Saved Local Plan policy DC1 requires new development to be well designed and based on a proper assessment of the surrounding built environment. More specifically design policy UEA11 requires a high standard of building and layout design with a specific requirement for buildings to have adequate regard for their setting. New development should in general accord with the Borough Council's design, layout, parking, highway and space standards with good standards of townscape being achieved in terms of harmonious groups of buildings and the spaces between them. Policy UEA1 states that development considered detrimental to the setting of Conservation Areas will be refused.

#### Design and layout

- 8.8 The consultation responses provide a detailed commentary on the merits of the design and layout of the building proposed with various conclusions. The St Botolph's Master Plan and Development Brief for the site set the tone for the design and layout and the architects have use these documents to progress the detailed proposal now before you.
- 8.9 It is considered that the proposed building fits well within this awkward long triangular site. The building is broken down into its component elements to create level differences across the site, with the mass of the building rising in opposite direction to the fall of the site, terminating with a focal tower at the lowest point to the west, as required by the development brief.
- 8.10 The proposed building would complete the street frontage along Magdalen Street by providing a building frontage to what was an ugly gap in the street. It would also provide containment of St Botolph's roundabout and the station square and form a strong focal point.
- 8.11 Although appearing dominant in relation to the adjacent listed station building, the court building also creates a presence suitable to its function. The most dominant element, the tower contains the law courts and would provide a suitable landmark subject to appropriate detailing, and together with a new civic space provides legibility for the wider setting and a focal point in an important arrival location. In this instance the building dominance is a desired feature with the clearly expressed court volumes'

used to express a sense of gravitas and importance required by a public court building.

- 8.12 The building's larger footprint and height in comparison to surrounding buildings is resolved by the design principle of an assembly of building volumes with a distinct treatment to mark the different areas, and glazed elements to provide vertical emphasis. This design breaks the otherwise bulky building into a more human scale using architectural articulation of facades to provide visual interest and scales it down to reflect the surrounding buildings. Frontages with a variety of openings facing directly onto the public realm of Magdalen Street, the station square and most of the rail line frontage, provide activity and interest, and enhance the quality of the townscape in this area.
- 8.13 The materials proposed stem from discussions with English Heritage following consideration of the drawings prepared for the public consultation exercise. The main body of the building would be constructed using bricks and terracotta tiles with a combination of stack bonding and vertical and horizontal expression of the different floors and other important features to provide a unifying rhythm to the building. Interesting contrast is provided by extensive glazing and zinc cladding, and different alignment of terracotta louvers and aluminium solar shading. The details of the soffit to the cantilever and the supporting columns at the main entrance need to be refined to give a greater emphasis to the entrance.
- 8.14 The building is well presented and visually interesting on all elevations, with a potential to contribute positively to the surrounding area. The solid to void ratio is well balanced, with the variety of window treatment and glazed circulation areas add to the visual interest. The roof treatment with a series of mono pitch roofs arranged to create an undulating roofline also adds visual interest to the building.
- 8.15 The design and positioning of the court logo and lettering need to be refined and provided in more detail. This can be controlled by a suitably worded condition.
- 8.16 The proposal would provide enclosure and a positive interface to the proposed public square, with all public functions of the court facing the square. Two equally important elevations to Magdalen Street and to the footpath/cycleway provide active frontages with a series of windows providing natural surveillance. The public functions of the court would be provided on the north side of the building overlooking the proposed footpath/cycleway.
- 8.17 While it would be ideal for the application to include a public square concept design and specification, the majority of the public square is outside the applicant's ownership or control. The Borough Council has taken on the responsibility for commissioning the design work for the new public square and is working closely with the applicants to complete this work as expediently as possible. This proposal would generate a contribution towards this work and the implementation of the public areas, while occupation of the building would be restricted until the hard landscape work within the application site had been completed in accordance with the approved design.

- 8.18 Overall officers support the design put forward, however we share English Heritage's view that further refinements to the tower element are required. It is considered that with further detailed design work to the tower element to improve its vertical emphasis, the proposed building would have a positive impact on the wider townscape and would improve legibility by providing a focus for the St Botolph's roundabout and the station square.

#### Impact on the Conservation Area and Listed Buildings

- 8.19 The main conservation issue raised by this application is the effect that the proposed development would have on the setting of nearby listed buildings and that of Colchester Conservation Area No.1. In terms of the impact on the setting of the conservation area it is considered the proposal, with suitable amendments to the tower element, would contribute positively to the setting of the conservation area. A view supported by English Heritage.
- 8.20 With regard to the setting of the listed station building, the desire for a focal point at the western end of the site was always likely to create an awkward juxtaposition with and dominate the modest listed Town Station. However, with suitable detailing to this tower element it is considered the proposal would be acceptable.

#### Highways and Parking

- 8.21 The highway access from Magdalen Street was approved as part of the outline planning permission granted last year. The current proposal shows a similar access from Magdalen Street with a greater level of detail. The Highway Authority do not raise any objection to the proposal submitted subject to the imposition of conditions and informatives which can be attached to any permission granted.
- 8.22 18 car and 10 cycle parking spaces are proposed for staff within the secured area accessed from Magdalen Street. 20 cycle spaces are proposed for the public under the covered entrance overhang. A separate secure vehicle dock is proposed for use by custody vehicles. In this context the parking provision is considered acceptable.

#### Other considerations

- 8.23 The court complex endeavours to achieve 'BREEAM Excellent' rating for sustainable development, by using sustainable building principles incorporating natural cooling and ventilation, features to optimise solar heating, biomass boiler and green roofs. This would exceed the aspirations set out in Core Strategy policy ER1.

## S106 Matters

8.24 The proposal generates the requirement for a S106 Agreement to secure the following:-

- Contribution of £28,692 towards CCTV provision
- Contribution of £33,106 towards footpath/cycle path
- Contribution of £165,531 towards New Public Square Works
- Contribution of £11,035 towards provision of pedestrian signage
- Contribution of £55,177 towards public Art provision
- Contribution of £16,553 towards provision of traffic signs
- To allow the Borough Council to operate the car park on a pay and display basis until such time as the site is required by the developer to commence the development and to allow continued access to the remaining car park
- To provide a temporary access off Magdalen Street (adjacent to St. Botolph's Roundabout) to serve that part of St. Botolph's car park which does not form part of the proposal site (as shown in principle on drawing number 200398/EAD/151 Rev. P3 prepared by Mott McDonald)
- Not to commence development until the developer has entered into a highways agreement with Essex County Council in relation to the highway works in Magdalen Street
- The permanent removal of the temporary access mentioned above and provision of a new section of footway in Magdalen Street
- The remodelling and reconstruction of the Magdalen Street/Military Road traffic signal controlled junction to provide direct access to the proposal site as shown in principle on drawing number 200398-TA-001 Rev. P3 prepared by Mott McDonald

8.25 Members are advised that the requirements of the S106 Agreement described above are considered to satisfy the tests prescribed in Circular 1/97 in that they are:-

- necessary
- relevant to planning
- directly related to the proposed development
- fairly and reasonably related in scale and kind to the proposed development
- reasonable in all other respects

## **9.0 Conclusion**

9.1 The principle of redeveloping the application site as a new magistrates court was established by the granting of outline planning permission in December 2008. Further the Core Strategy, saved policies in the Adopted Replacement Colchester Borough Local Plan and the St Botolph's Quarter Master Plan all support the redevelopment of this site for a magistrates court.

9.2 Officers consider that the proposal would regenerate this rather bleak and uninviting site which is at a gateway to the town centre and would act as an important catalyst for the regeneration of other sites in the St Botolph's Quarter. The proposal would provide an important facility in itself for Colchester but would also, through an appropriate legal agreement, contribute towards the station square, footpath/cycleway, public art, signage improvements and CCTV provision.

9.3 While your officers agree that there are further design refinements which could be made to the tower element, we are satisfied that this can be resolved through the submission of amended drawings. We are confident that the concerns raised by English Heritage can be overcome without a fundamental redesign of the whole tower element.

## 10.0 Background Papers

10.1 ARLP, SQMP, DB, HA; EH; ECC; AW; AO; DHU; NLR

### Recommendation

That the application be deferred in order that the following can occur:

- amended drawings be submitted to the Council showing the tower element, including more details showing the window elements and how they would be broken up by louvre panels
- a S106 Agreement can be secured, which includes the following elements:
  - o Contribution of £28,692 towards CCTV provision
  - o Contribution of £33,106 towards footpath/cycle path
  - o Contribution of £165,531 towards New Public Square Works
  - o Contribution of £11,035 towards provision of pedestrian signage
  - o Contribution of £55,177 towards public Art provision
  - o Contribution of £16,553 towards provision of traffic signs
  - o To allow the Borough Council to operate the car park on a pay and display basis until such time as the site is required by the developer to commence the development and to allow continued access to the remaining car park
  - o To provide a temporary access off Magdalen Street (adjacent to St. Botolph's Roundabout) to serve that part of St. Botolph's car park which does not form part of the proposal site (as shown in principle on drawing number 200398/EAD/151 Rev. P3 prepared by Mott McDonald)
  - o Not to commence development until the developer has entered into a highways agreement with Essex County Council in relation to the highway works in Magdalen Street
  - o The permanent removal of the temporary access mentioned above and provision of a new section of footway in Magdalen Street
  - o The remodelling and reconstruction of the Magdalen Street/Military Road traffic signal controlled junction to provide direct access to the proposal site as shown in principle on drawing number 200398-TA-001 Rev. P3 prepared by Mott McDonald

Upon satisfactory completion of the S106 agreement and submission of suitable detailed amended drawings, the Head of Environmental and Protective Services be authorised to grant planning permission for the development, subject to suitably worded conditions and informatives to cover the following:

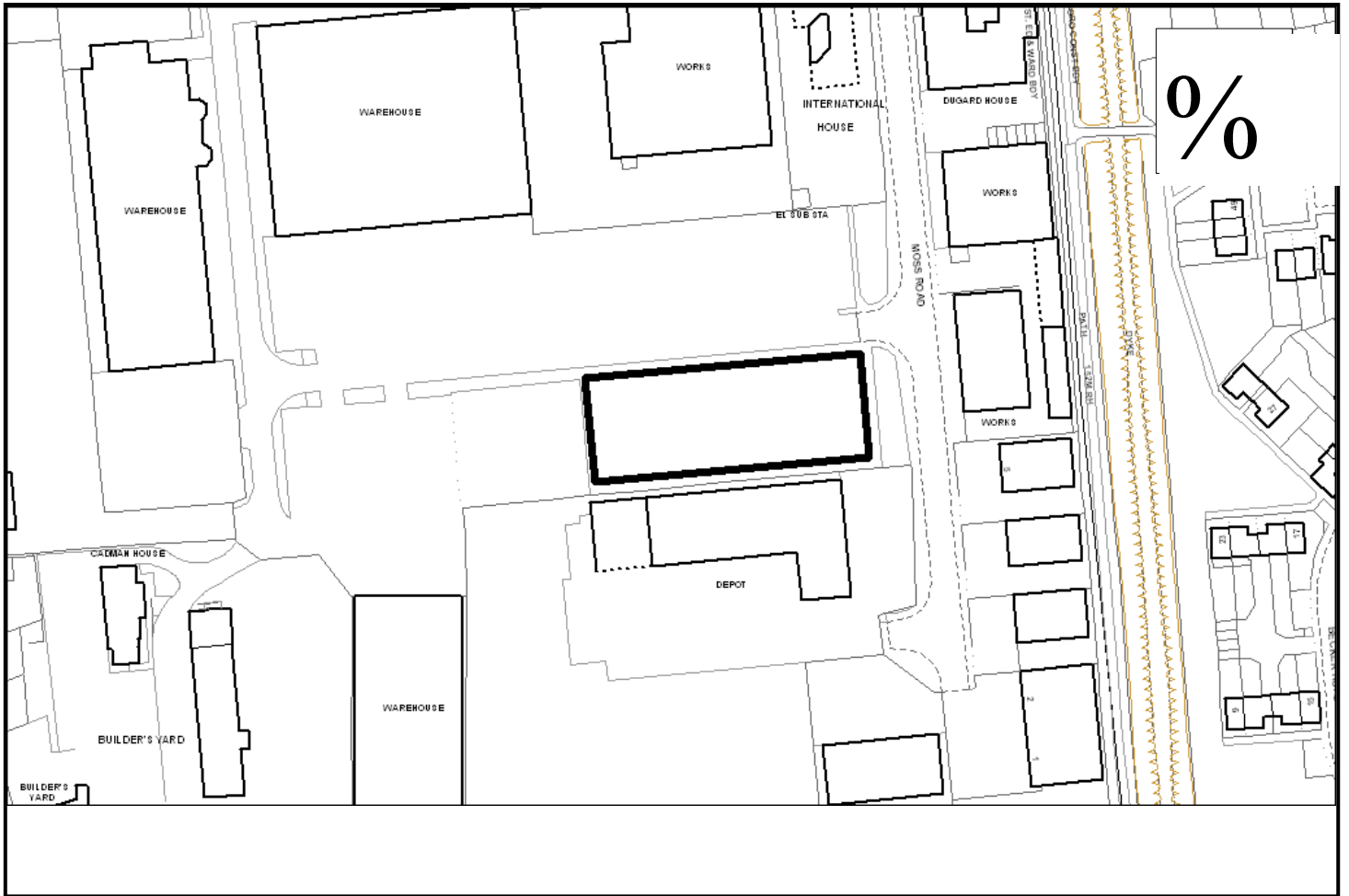
### Conditions

- Time limit
- Submission of more detailed drawings showing architectural elements including windows details, louver panels, Magistrates court coat of arms, green walls, vehicle entrance gates,

- Submission of detailed hard and soft landscape proposals
- Contaminated Land
- Material samples to be submitted and agreed
- A scheme indicating the provision of public art
- Details of public cycle parking to be submitted
- Vehicle and cycle parking to be provided prior to occupation
- Highway conditions
- Construction management plan
- Method to control mud on roads

## **Informatives**

- The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.
- All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made by initially telephoning 01206 838600.
- The applicant's attention is drawn to the need to enter into a Party Wall Agreement relating to the proposal site's Magdalen Street frontage.
- The applicant's attention is drawn to the comments made by:
  - o Anglian Water;
  - o Essex County Fire and Rescue Service;
 details of which can be viewed on the Council's web-site.



**Application No:** 091063

**Location:** Former Focus Do It All Store, Moss Road, Stanway, Colchester, CO3 0LE

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

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**7.2 Case Officer: Mark Russell**

**EXPIRY DATE: 10/11/2009**

**MAJOR**

**Site:** Former Focus Do It All Store, Moss Road, Stanway, Colchester, CO3 0LE

**Application No:** 091063

**Date Received:** 11 August 2009

**Agent:** The Johnson Dennehy Planning Partnership

**Applicant:** Mr M Hunt

**Development:** Change of use from D.I.Y store to Indoor leisure centre (A3/A4/D2 uses) to include ten pin bowling and ice rink.

**Ward:** Stanway

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

- 1.1 The site comprises the former Focus DIY building off of Moss Road, Stanway. It has had permission to be sub-divided into bulky retail units, but this venture has not been successful. The building is approximately 1950xm2 (72 x 27m) and faced with a brickwork plinth, slate grey panels and aluminium glazed openings. Accompanying the building is a car parking area for 132 vehicles plus eight spaces for people with disabilities and parking for seven motorcycles and two buses or coaches.
- 1.2 The site is located behind the retail outlet of Paul Simon and in front of Cadmans, and is accessible both from Moss Road and from the private road which also serves Hatfields.

## **2.0 Description of Proposal**

- 2.1 The proposal is to change the use of the building to incorporate a ten-pin bowling alley, an ice rink and a café/bar.
- 2.2 The bowling would comprise 14 standard lanes with the whole area given over to bowling being approximately 30 x 26 metres.
- 2.3 At the other end of the building, the ice rink activity would occupy a space of approximately 18 x 26 metres, with the oval shaped rink itself measuring approximately 13.5 x 21 metres.
- 2.4 In the middle of the building, covering approximately 24 x 26 metres, it is proposed to place the bar/café with pool tables and arcade games. The toilets, kitchen/servery, beer store skate store and control desk would also be placed in this section.

2.5 No external alterations are envisaged.

### **3.0 Land Use Allocation**

3.1 Mixed Use Area (Peartree Road)

### **4.0 Relevant Planning History**

4.1 77/1020 – Use of warehouse as Home Improvement Centre. Approved 5<sup>th</sup> September 1977;

4.2 F/COL/03/1203 – Variation of condition 2 attached to approval ref 77/1020 to permit the sale of bulky goods. Approved 12th September 2003;

4.3 F/COL/04/1465 - Minor external alterations required in connection with sub-division of existing building. Approved 13th September 2004;

4.4 F/COL/05/0118 - External alterations required in connection with sub-division of existing building. Approved 18th March 2005;

### **5.0 Principal Policies**

5.1 Adopted Colchester Borough Council Local Plan:  
DC1, L1 (Leisure),  
STA4 (Stanway)

5.2 Core Strategy:  
SD1 – Sustainable Development,  
CE1 – Centres and Employment

### **6.0 Consultations**

6.1 Environmental Policy responded as follows:

*“The policy context appropriate to this application is in transition. The site is within the Peartree Road Mixed Use Area as identified in the Local Plan, to which STA4 applies. However, Peartree Road is also identified as an Urban District Centre in the Core Strategy, to which Policy CE2b applies. At a national level PPS6 is appropriate as intensive leisure uses, such as the ones proposed, are considered as a main town centre use. Further to this a consultation document was published in July 2009 as draft PPS4, which it is intended will eventually replace PPS6 (and other PPS guidance).*

*PPS6 (paragraph 1.8) identifies intensive leisure facilities as a main town centre use. The PPS then sets out the considerations for assessing these forms of development. Para 3.4 and following... the applicant should demonstrate (a) the need for the development, (b) that it is of an appropriate scale; (c) that there are no more central sites for the development; (d) that there are no unacceptable impacts on existing centres; and (e) that locations are accessible. The proposal is not within the town centre and unfortunately the application does not provide an assessment of the suitability of the site in accordance with PPS6.*

*The Core Strategy sets out a network and hierarchy of centres as recommended by PPS6. The Core Strategy sets out that leisure uses should be directed to the town centre in the sub-text to the hierarchy (Table CE1a) and also within policy CE2a. Peartree Road is identified as an Urban District Centre in the table i.e. below the town centre and edge of centre in terms of the hierarchy of centres. Policy CE2b encourages a more diverse range of uses within Urban District Centres (including community facilities, services, offices and housing) and improvements to the public realm. Leisure uses are not specifically mentioned. As submitted, the application has not demonstrated that the proposed facility would be suitable for an Urban District Centre as opposed to a more accessible town centre or edge of centre location, nor has it considered accessibility by non-car based modes of transport.*

*The Local Plan has a standalone policy (STA4) for the Peartree Road Mixed Use Area. The subtext to the policy encourages office and industrial uses and change of use from retail to other uses normally accepted within an Employment Zone. It is indicated that these would include indoor sports uses, subject to it not being prejudicial to the expansion of leisure facilities at Stanway School. Whilst this policy is still saved, it was drawn up prior to the publication of PPS6 and should be accorded less weight for the purposes of determining this proposal.*

*Finally, we have the Consultation Document on a new PPS4 relating to promoting prosperous economies. Suggested Policy EC18 on the supporting evidence for planning applications for main town centre uses, states a sequential assessment and impact assessment are required for a main town centre use not in an existing centre; also, an impact assessment would be needed where a significant development not in accordance with the development plan is located in an existing centre and such a development would substantially increase the attraction of the centre and could have an impact on another centre; also the level of detail and the type of evidence should be proportionate to the scale and nature of the proposal and its impacts; finally, a comprehensive impact assessment would be needed for retail and leisure developments over 2500 sq.m floorspace. In this case, the proposal is for a development of approx 1900 sq.m floorspace and within an existing centre. A less rigorous assessment would be required in accordance with this document; it is however only a Consultation Document at present.*

#### *Summary*

*It is noted that the building has been vacant since 2003 and that the proposed use could be seen to increase the attractiveness of this Urban District Centre. Nonetheless, in terms of PPS6 and the CS, the applicant has not provided an assessment of need, nor demonstrated that there are no other available sites in a sequentially preferable location. Also we have no assessment of the accessibility of the proposal by non-car modes of transport, and it is not clear from the drawings what provision is made for bicycle users. On this basis, the applicant should be asked to provide further information in accordance with the approach required by PPS6."*

- 6.2 Environmental Control requested conditions regarding noise levels and sound insulation.
- 6.3 The Highway Authority did not raise any objections.
- 6.4 Development Team considered the application and reiterated Policy's requirement for assessment of need, a sequential test, and an assessment of the accessibility of the proposal by non-car modes of transport.

## 7.0 Parish Council's Views

7.1 Stanway Parish Council supported the application, and asked for the following to be considered:

- Possible funding for additional bus routes in the area;
- Concessions for Stanway youth of school age;
- Rear doors to be used for fire exits and deliveries only.

## 8.0 Representations

8.1 An objection was received from Cadman's, concerning late hour use, increased traffic, increased wear-and-tear on the private road, poor access both to the service road and Moss Road,

8.2 A further objection was received from Cadman Plant Limited, which complained that it had not been consulted and was concerned about its yard full of heavy machinery which might attract late night visitors. It, too, was concerned about an increase in traffic.

*Officer's note – Cadmans was consulted, but Cadman Plant Limited, which appears not to be linked to Cadmans was not. The difference between the two companies is not immediately apparent, and Colchester Borough Council apologises for this oversight.*

8.3 A mixed response was received from Colchester Civic Society (CCS) stating that it was concerned about the lack of accessible transport, although it noted that the same was true for Leisure World.

## 9.0 Report

9.1 The broad principle of such a use in this location requires justification. This building is zoned in the Adopted Local Plan within a special policy area (STA4) which is a mixed use area of retail, office and industrial. The policy acknowledges that due to the mixed use it can no longer be classified as an Employment Zone. The policy tolerates a change of use from retail to other uses normally accepted within an Employment Zone, and this would include leisure uses.

9.2 As Environmental Policy has further indicated, under Planning Policy Statement (PPS) 6, intensive leisure facilities such as these are identified as a main town centre use. The PPS then states that applicants should demonstrate:

- (a) the need for the development;
- (b) that it is of an appropriate scale;
- (c) that there are no more central sites for the development;
- (d) that there are no unacceptable impacts on existing centres; and
- (e) that locations are accessible.

9.3 The proposal is not within the town centre and whilst some of the above points were covered in the initial supporting documents, the applicant did not initially provide an assessment of the suitability of the site in accordance with PPS6. As PPS6 takes primacy over the previously adopted policy STA4, its provisions must be considered.

9.4 The applicant has subsequently provided the extra information, which suggests that:

- a) A need has been established – i.e. there is a need for 40 lanes in Colchester, whilst only 24 currently exist (at Cowdray Avenue);

In response to this, Policy has asked how and where this need was calculated. The applicant has responded as follows:

*“Contact was made with the British Ten Pin Bowling Association who advised us that as a ‘rule of thumb’ one lane is required for every three thousand head of population. Taking the urban population of Colchester as 115,000 this equates to approximately 40 lanes as referred in paragraph 2.1 of the Supporting Statement.*

*We ourselves took this ratio one step further by considering the urban population of all existing centres in Essex namely,*

*Basildon – Hollywood*

*Basildon – Town Centre*

*Braintree – Number Ten*

*Chelmsford – Ten Pin*

*Colchester – Ten Pin*

*Collier Row – Roller Bowl*

*Dagenham Bowling*

*Harlow – First Bowl*

*Leigh Broadway – Super Bowl*

*Maldon – Madison Heights*

*Southend – Ten Pin*

*Walton on the Naze – Pier Bowl*

*Using the ratio of one lane per three thousand head of population all the centres above conformed with the exception of Maldon and Walton on the Naze.”*

- b) In terms of scale, no new building or car parking is proposed, and the activities which are proposed are, therefore, arguably no greater than those permitted under previous permissions in 1977 and 2003, which have allowed home improvement and bulky retail uses, with in excess of 130 parking spaces.
- c) Regarding a more central location, the applicants have stated that a search for premises was undertaken, and that only one building of the right size could be found – Bridge House at the Hythe. This, however, was discounted as it was not in one single open span area – which was what the applicant required.

In response to this, Policy has requested some further supplementary information – namely, it has asked for a full justification as to why Bridge House, which is sequentially preferable, is not acceptable:

The applicant has further responded:

*“Bridge House, Hythe Quay previously housed a mix of commercial buildings over three floors including A1, A3, B1 and D2 Uses. The buildings are in a dilapidated state of repair with some of the buildings being burnt out or substantially affected by fire damage.*

*The site at Bridge House extends to 0.21 hectares with vehicular access being gained through the adjoining residential estate. No part of the existing building would allow either the Ice Rink or the Ten Pin Bowling lanes to be incorporated within the confines of the structure.*

*The Ice Skating Rink in particular needs to be clear of any structural obstructions such as columns to enable it to be safely used to its full potential.*

*We further understand that in addition to the established commercial use the site has the benefit of a resolution to grant planning consent subject to conditions and completion of Section 106 Agreement for 18 No. two bed apartments and 3 No. Commercial Units.*

*The site and buildings are not worthy of further consideration for the uses proposed for the former Focus DIY building.”*

- d) The response given to this point is less conclusive, the applicant has highlighted the fact that Colchester town centre is of good quality and range, according to a recent retail study. The applicant also reminds us that comprehensive impact assessments are only required on sites in excess of 2,500 metres (the application site is only 1,900 metres).

It must also be remembered that this area is tabled as an Urban District Centre, which means it will emerge as a centre in its own right. This is discussed further below.

- e) In terms of accessibility, the agent has confirmed that the site is served by bus routes 4 and 65. In terms of cycle parking 23 spaces are previewed.

Policy has given a final response as below:

*“PPS6 encourages locations which are readily accessible by public transport for leisure uses such as these. The site has direct bus links with the town centre and Highwoods, although clearly is some distance from the train station and residents from other parts of Colchester would need to change buses, making it less likely that they will use public transport to reach the site.*

*The evidence submitted makes a case for need. It also appears to show that there are no other suitable buildings existing within sequentially more preferable locations (although other sites in more sequentially preferable locations such as the Cowdray Centre may of course become available in the future). The proposed use is within an Urban District Centre. This site is therefore sequentially preferable to most employment sites within the Borough - realistically these may be the only other alternative sites likely to become available within the immediate future.*

*The site is not ideally placed in terms of accessibility. However, it is within an Urban District Centre and Core Strategy Policy CE2b does encourage a more diverse mix of uses. The proposal would do that and makes use of a building that has been vacant for some time.*

*If planning permission is granted, the development should encourage accessibility to the site by pedestrians, bus users and cyclists. In this respect it is recommended that secure and sheltered cycle parking should be provided in accordance with the recommended minimum standards. The applicant could also be encouraged to provide a clearly accessible noticeboard giving details of alternative travel means (bus and cycle routes and times).*

9.5 Regarding the objections from neighbouring properties, responses to these are below:

Late hour use – usage of up to 23:30 (24:00 Saturday, 23:00 Sunday) is envisaged. This should not cause disturbance to any residence, as the nearest dwellings are at least 100 yards away (Becker Road, Valley Close and Grymes Dyke Way – all of which have industrial buildings between them and the site).

It is acknowledged that this will mean a movement of people and vehicles in this location at a later hour than at present. Of course, this would also mean that there would be increased surveillance in the area at that time. The lateness of opening, notwithstanding the fact that heavy machinery is stored nearby, is not considered to be a reason for refusal.

The comments about increased wear and tear on the private road are also noted, but this must be a matter for the various stakeholders – leaseholders and freeholders – to resolve.

In terms of access to both the private road and Moss Road, the Highway Authority has not voiced any concerns in terms of highway safety.

Regarding the request for cheaper ticketing for Stanway school children, the applicants are happy to do this. Regarding the issue of parking for existing industrial premises on Moss Road, the control of the car park is in the remit of the freeholder rather than the applicant. This user will require both entrances to be left open and it is hoped that this will enable other users to park without hindrance.

9.6 Whilst the Parish has expressed a desire that the rear doors be used for emergency and delivery purposes only, such a condition is held to be difficult to enforce, and also unnecessary as the nearest residence is approximately 100 metres distant.

## **10.0 Conclusion**

10.1 In conclusion, with the upcoming Local Development Framework site allocation confirming this area as a district centre, this proposal is seen as a possible for other activities in the vicinity. Whilst the justification in terms of accessibility and sequentiality is not overwhelmingly convincing, this scheme is held to be acceptable with no issues of residential amenity or highway safety.

## **11.0 Background Papers**

11.1 ADRBLP, Core Strategy, NLR, PTC, HA, HH, PP

## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

#### **2 – Non Standard Condition**

Prior to the commencement of development the applicant shall provide details of secure and sheltered cycle parking in accordance with the recommended minimum standards in the publication *Parking Standards – Design and Good Practice (September 2009)*. These measures shall be put in place prior to the development hereby permitted being brought in to use, and shall be retained as such at all times thereafter.

Reason: In order to facilitate non-car use in the interests of sustainable travel.

#### **3 – Non Standard Condition**

Prior to the development hereby permitted being brought in to use, the applicants shall provide details of a scheme of reduced price entry for children of school age resident in the parish of Stanway. These details shall be submitted in writing, and the scheme shall be in use at all times.

Reason: In order to provide a community facility for the people of Stanway in this emerging Urban District Centre.

#### **4 – Non Standard Condition**

The use hereby permitted shall not be outside of the times applied for: Namely – Monday to Friday 10:00 – 23:30; Saturday 10:00 – 24:00; and Sunday 10:00 – 23:00.

Reason: For avoidance of doubt as to the scope of this permission, as later opening hours may present new issues which would need to be fully explored under a fresh planning application.

#### **5 – Non Standard Condition**

The uses hereby permitted shall be limited to those applied for – namely ten-pin bowling and ice-skating with ancillary games machines and restaurant/bar as illustrated on the drawings hereby approved.

Reason: For avoidance of doubt as to the scope of this permission, as Colchester Borough Council would like to control the use of this Urban District Centre site to prevent it being open to a general D2 (Assembly and Leisure) use.

#### **6 – Non Standard Condition**

The restaurant/bar hereby permitted shall not operate independently of, or at hours which differ from, the leisure usage hereby permitted.

Reason: To prevent the site becoming a dedicated food and drink destination in its own right.

#### **7 – Non Standard Condition**

No food or drink shall be sold from the site for take-away purposes.

Reason: For avoidance of doubt as to the scope of this permission, and to prevent the site becoming a dedicated food and drink destination in its own right.



#### 8 – 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: For avoidance of unnecessary noise pollution.

#### 9 – 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: For avoidance of unnecessary noise pollution.

#### 10 – 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: For avoidance of unnecessary noise pollution.

### **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.

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

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



7.3 Case Officer: Nick McKeever

EXPIRY DATE: 24/11/2009

**MAJOR**

**Site:** Land Adjacent (South), Grange Road, Tiptree, Colchester

**Application No:** 091115

**Date Received:** 25 August 2009

**Agent:** Mr John Lawson

**Applicant:** Colchester United Football Club Ltd

**Development:** Change of use of agricultural land to sports field, minor regrading and drainage of playing area, with associated vehicle parking, vehicular access from Grange Road and provision of cycle/footway links to Harrington Close and Vine Road. (Resubmission of 090217)

**Ward:** Tiptree

**Summary of Recommendation:** Government Office for the Eastern Region be advised that Colchester Borough Council is minded to approve the submitted planning application

## 1.0 Planning Report Introduction

- 1.1 This is one of two applications (reference 091115 & 091117) submitted on behalf of Colchester United Football Club. The application 091115 is a re-submission of 090217 to create new football pitches on land at Grange Road, Tiptree.
- 1.2 This previous application was submitted to the Planning Committee on 25 June 2009 with an Officer recommendation for approval. Members resolved to refuse the application for the following reasons:-

*“The site for this proposal is located within an area of white land i.e. no notation as allocated in the Adopted Review Colchester Borough Local Plan – March 2004. Additionally, policy ENV 1 of the Local Development Framework Adopted Core Strategy (December 2008) states, inter alia:*

*‘Unallocated green field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough.’*

*As new development within such areas is subject to restriction, the Council would wish to ensure that development proposals accorded with the aims of relevant policies in the Adopted Local Plan and the Adopted Core Strategy. To this end, the Council considers that the submitted scheme fails to include a sufficient degree of community use within the development to justify the use of this unallocated white land for an alternative purpose. Furthermore, the Council is concerned that the submitted application does not include provision for changing and toilet facilities required for the development, as a means of facilitating community use.”*

The current application seeks to address this refusal.

## **2.0 Site Description**

- 2.1 The site for this proposal is an area of land (of approximately 9 hectares in size) located on the western side of Tiptree. Specifically, it is bounded by Grange Road, Pennsylvania Lane and Harrington Close. It was last utilised for agricultural purposes with the northern and western boundaries defined by established hedging and trees. The southern boundary with Harrington Close is currently open as is the eastern boundary except where it abuts the curtilage of Sparrow Cottage. In topographical terms the site is relatively level and, apart from the existing boundary hedging on the periphery there are no features of prominence within the site – the land having been used for arable farming.
- 2.2 The land use surrounding this site is for the most part predominantly rural in character, punctuated by sporadic development including the Waterworks site to the northwest and a row of dwellings that front on to the south side of Grange Road. To the south of Harrington Close, on the opposite side of Harrington Close, is residential development, the frontage of which faces across the application site.

## **3.0 Description of Proposal**

- 3.1 The proposal remains as previously submitted and described in the Report that accompanied the application when it was referred to the Planning Committee. This previous report is reproduced as an Appendix. Details of the proposal are set out within paragraphs 3.1 – 3.10.
- 3.2 The new application is however accompanied by a revised Design and Access Statement. Whilst this document can be viewed in full on the Council website extracts of the more salient points are reproduced as follows:-
- “1.3 Consequently, this planning application includes further clarification of the extent of community use as agreed with the Council's Parks and Recreation Manager and a separate planning application has also been concurrently submitted, which includes details of CUFC's proposed changing facilities including accommodation for community teams. Therefore, in short it is considered that the measures referred to in this Statement and associated planning applications address the Council's specific reasons for refusal.”

“1.7 The overall intention is to establish a high quality Football Training Centre for CUFC use with state-of-the-art facilities, to support the growth of the Football Club and complement its new stadium at Cuckoo Farm in north Colchester. Although privately owned, CUFC is a community based organisation and recognises its responsibilities in this respect. Following discussions with Council officers and Sport England, this application includes the use of one of the pitches by the community. The community pitch, for qualitative reasons can only be used for up to three times a week. Within this utilisation capacity it is envisaged that Tiptree Heath FC and Tiptree Jobserve FC will use a pitch as their home base for local weekend fixtures. In addition, also within the capacity and availability limits other local community teams will also be able to book the use of the community pitch too.

The detailed arrangements for the use of the community pitch will be the subject of a management plan, which is intended to be covered by a planning condition as recommended by officers.”

“3.2 Consequently, an integral part of CUFC’s scheme is for the provision of a full size football pitch, which would be dedicated to community use. This would be secured through a planning condition, which has been agreed with the Council’s planning and sports officers. The community pitch would also be made available prior to the overall sports use commencing. Also, the playing surface of the community pitch will be maintained to a high standard suitable for local league purposes and in the interest of maintaining a quality playing surface, will be limited to a utilisation rate of a maximum of 3 matches per week.”

“3.3 The Club’s policy is to promote an inclusive approach to the use of the community pitch with the objective of supporting ‘grass roots’ sports development and to help meet the identified local shortfall in sports pitch provision at Tiptree in particular. With this approach in mind, CUFC has identified two local football clubs (Tiptree Heath FC and Tiptree Jobserve FC), which will jointly have 3 teams for 2009/10 season and 4 teams for 2010/11 season and will use the pitch as their home ground.”

“3.4 In addition to the local Tiptree teams referred to above, there will be capacity for additional games to be played on the community pitch during a typical season, which could be further increased through cancellations and shortened cup runs etc. Therefore, as arranged through the proposed booking system (to form part of the ‘Community Use Scheme’ required by a recommended planning condition as suggested by Sport England), which would be administered by CUFC, other organised community teams would be eligible to book the use of the pitch.”

3.3 In addition the new application is supported by and updated Transport Statement, an updated Flood Risk Assessment and a Noise Assessment Report. These documents are also available for scrutiny on the Council website.

3.4 Unlike the previous submission this current application is supported by a separate application under reference 091117. This separate submission is also for the use of the land for football pitches and other related matters as set out in 091115, but also makes provision for the provision of a building providing changing room facilities, amongst other facilities, for two community teams and two changing rooms for match officials. Details of this separate application are the subject of Item No. 7.4 in this Committee Meeting Agenda.

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

4.1 The site lies with an area of white land i.e. No Notation as designated in the Adopted Review Colchester Borough Local Plan – March 2004.

4.2 The LDF Site Allocations Submitted DPD and the related Proposals Map shows the site allocated for public open space. The DPD is due to be submitted to the Planning Inspectorate at the end of November 2009.

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

5.1 090217 – Change of use of agricultural land to sports field, minor regarding and drainage of playing area, with associated vehicle parking area and vehicular access from Grange Road. Community usage of one pitch proposed. Refused. This application is the subject of an appeal to be held at a public inquiry in January 2010.

#### **6.0 Principal Policies**

6.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
CO4 – Landscape Features  
CO8 - Agricultural land  
P1 – Pollution  
L14 – Public Rights of Way  
L15 – Footpaths, cycleways and bridleways  
L16 – Sports causing noise or disturbance

6.2 Local Development Framework Core Strategy (December 2008)  
ENV1 – Environment  
ENV2 – Rural Communities  
PR1 – Open Space and Recreational Facilities

#### **7.0 Consultations**

7.1 The Highway Authority would not wish to make further comment to the formal recommendation of the 4th June 2009 submitted in association with application number 090217.  
Their previous recommendation was for permission subject to conditions.

7.2 The Environment Agency comments as follows:-

“Flood Risk

A Flood Risk Assessment (FRA) has been received in support of the development proposal. After careful consideration by our Development & Flood Risk team, we would advise the Council that we accept, in principle, the findings of the FRA. The FRA submitted demonstrates that infiltration shall be used to dispose of the surface water generated on site; this shall in turn create no increase of flood risk off site. The proposed infiltration plans would be acceptable for the site as it has been proven that the 1 in 100 year storm event including climate change would be stored on site prior to infiltration taking place. It should be noted that while the proposed infiltration disposal of surface water is acceptable in principle, we would object to the discharge rate proposed in section 3.12 of the FRA that might be used if infiltration was not suitable. This rate is the current 1 in 100 year storm event run off, the site should mimic current rates as such discharge should be restricted to the current 1 in 1 year storm event.

The system proposed for the site will require future maintenance and possible replacement. We have been advised separately by letter dated 22nd September 2009 from Colchester United FC that it is their intention to provide and maintain the proposed drainage system, including soakaways as outlined in the scheme.

We are content for the matter of infiltration discussed above to be dealt with at the discharge of condition stage for the surface water management scheme.

Environment Agency position

We will object to the planning application unless the planning conditions set out below be appended to any planning approval granted.”

7.3 The Landscape Officer is satisfied with the landscape content of the proposal subject to minor amendments.

7.4 Environmental Control comments remain unchanged from the previous comments i.e. no objection subject to conditions.

7.5 Natural England has no objection to the proposed development in respect of legally protected species, provided the mitigation as outlined in the report is incorporated into a permission or part of a suitably worded agreement or planning condition, if necessary.

7.6 The Campaign to Protect Rural Essex comment as follows:-

1. This is a Trojan horse to gain development for major urbanisation on the edge of Tiptree with the Applicant's intention to seek housing on the land adjoining.
2. The plans for the changing room facilities need to be carefully studied to ensure that this is not the basis for a social club or other 'add-ons'. The benefits for the local community need to be spelt out in detail.
3. The Council is urged to assess whether this application is in the interests of the local community and, if it grants approval, conditions are imposed to prevent any further development without the submission of another planning application.

- 7.7 The Council's Arboricultural Officer is satisfied with the arboricultural content of the proposal subject to conditions and confirmation that the details of the arboricultural monitoring for the site during the duration of the development process. This will require the provision of monthly monitoring reports to be provided to the local authority.
- 7.8 Sport England has submitted a lengthy response, which is reproduced in full as an Appendix 1. This response can be summarised that the proposed development is considered to offer significant benefits to community football directly and indirectly and the proposal is considered to clearly meet their planning policy objective and accord with Government Guidance in PPG17 on the provision of new sports facilities. Sport England would therefore support the principle of this planning application.
- 7.9 Sport England also advise that Sport Essex, the county sports partnership, have also confirmed their support for the principle of the development due to the community sports development benefits that are offered by the proposed development.
- 7.10 The British Horse Society County Access Bridleways Officer express concerns in that horses and their riders using the public bridleway would be at risk from footballs being mis-kicked onto the bridleway. Vulnerable users of the bridleway should have the same protection that a road carrying vehicular traffic would have. There could be issues with noise and excitement generated by football matches, which would need to be risk assessed when considering the positioning of the pitches.
- 7.11 Essex & Suffolk Water comment that they have no objection provided that they have unrestricted access to the main and valves at all times for the purpose of operation, maintenance and repair. The main is subject to a 10 metre wide easement and has restrictions within this area 5 metres either side of the main, not 3 metres as indicated in the Agent's letter to them.
- 7.12 Essex Cricket expresses their support for the proposed sports training ground. CUFC is one of our local professional football club's, which has an urgent need for a permanent training facility to help achieve its sporting excellence aspirations. The addition of a full size football pitch and changing room accommodation for use by local community teams, representing the highest standard in the area for such a facility – a rare opportunity which should not be missed.
- 7.13 Planning Policy comment as follows:-

*"The application relates to the provision of sports pitches with associated vehicular access and parking. I am satisfied that this application can be considered in isolation and is separate from the representations submitted in respect of the Site Allocations DPD. The provision of sports pitches is not considered to undermine the Core Strategy and the strategic objectives contained therein.*

*Relevant planning policies and guidance can be found in the following documents;*



National Planning Policy/Guidance

**PPG17** - Planning for Open Space, Sport and Recreation. Open spaces, sport and recreation all underpin people's quality of life and are therefore fundamental to delivering broader Government objectives. These include:

- *supporting a rural renewal - the countryside can provide opportunities for recreation and visitors can play an important role in the regeneration of the economies of rural areas. Open spaces within rural settlements and accessibility to local sports and recreational facilities contribute to the quality of life and well being of people who live in rural areas.*
- *promotion of social inclusion and community cohesion - well planned and maintained open spaces and good quality sports and recreational facilities can play a major part in improving people's sense of well being in the place they live. As a focal point for community activities, they can bring together members of deprived communities and provide opportunities for people for social interaction.*
- *health and well being - open spaces, sports and recreational facilities have a vital role to play in promoting healthy living and preventing illness, and in the social development of children of all ages through play, sporting activities and interaction with others.*
- *promoting more sustainable development - by ensuring that open space, sports and recreational facilities are easily accessible by walking and cycling and that more heavily used or intensive sports and recreational facilities are planned for locations well served by public transport.*

*The countryside around towns provides a valuable resource for the provision of sport and recreation, particularly in situations where there is an absence of land in urban areas to meet provision... local authorities should encourage the creation of sports and recreational facilities in such areas.*

**PPS7** – Sustainable Development in Rural Areas, includes reference to facilitating the provision of appropriate sport and recreation facilities in the countryside around urban areas. In judging proposals for development of high quality agricultural land consideration must also be given to amenity value, access to infrastructure and maintaining viable communities.

Regional Policy

*Policy ENV1 – requires areas and networks of green infrastructure to be identified and created to ensure an improved and healthy environment for communities. Tiptree experienced significant growth with the Grove Road development and this has not been matched by green infrastructure, including green spaces for recreational use.*

*Policy SS8 complements Policy ENV1 in recognising the importance of the urban fringe. It acknowledges that some parts of the urban fringe will be used to accommodate urban extensions and where this happens it will be important to manage the adjoining countryside to ensure amongst other things the needs of residents for access and recreation are provided for.*

### Local Policy

Local Policy is contained within the adopted Local Plan (saved policies) and the adopted Core Strategy. The site is White Land in the Local Plan (land with no notation.) The relevant policies are detailed below;

- Core Strategy Policy PR1 and Table PR1 – the Council aims to provide a network of open spaces, sports facilities and recreational opportunities that meet local community needs and facilitate active lifestyles. The table identifies the need for sports pitches in Tiptree.
- Core Strategy ENV1 – unallocated land outside of settlement boundaries will be protected and development strictly controlled. However there is recognition that some development needs or is compatible with a rural location and in such cases various criteria should be met.
- Core Strategy ENV2 – outside village boundaries the Council will favourably consider small scale leisure and tourism schemes.
- Local Plan Policy L16 – sets out what factors to consider when assessing a proposal for sporting activity causing ‘noise or disturbance.’ This is intended to cover sports such as war gaming or combat games. Football (predominantly training) is not considered a noisy sport.
- Site Allocations Submission DPD and the related Proposals Map shows the site allocated for public open space.

### Other Issues

A significant area of land is required for this facility which it would be extremely difficult to accommodate within an urban area or on previously developed land. The applicants were asked to consider a number of other sites all closer to Colchester but all were greenfield sites, suggesting in accordance with Policy ENV1 this is a use which needs to take place in a rural location. Ownership issues, high land values and hope value prevented any other sites being suitable.

It was also pointed out that players do not necessarily reside in Colchester so would be travelling by car to training whether it be in Colchester or Tiptree. The need to travel by car will not change. The use of the community pitch by local teams would reduce the need for them to travel. (There has been a shortage of sports facilities locally which has necessitated teams having to travel to Langham to play their games.)

The community pitch and facilities should be available to the community as a whole (see CBC Playing Pitch Strategy) Appropriate management would be required to ensure wider use or the Council could consider taking over the pitch to be run in conjunction with Tiptree Sports Centre and subject to a commuted sum for maintenance agreed as part of the application. Although the intention to improve junior football facilities at Warriors Rest is acknowledged the proposals do not form part of this application and cannot therefore be secured. Further information from the PPG17 Study is attached as Appendix 2.

The scheme should include cycle and pedestrian access and cycle parking to better link the site with the village and improve accessibility for local people.

### Conclusions

*There is no objection to the provision of sports pitches subject to;*

- 1. full community use of the community pitch and changing facilities to address the shortfall identified in the Core Strategy; This should be secured by legal obligation which should also control cost of using the facilities (possibly linked to cost of similar facilities at Tiptree Sports Centre), maintenance of the community pitch and public part of the building.*
- 2. highways issues being resolved;*
- 3. adequate parking and access for cyclists and pedestrians. The pedestrian and cycle access points should be unobstructed at all times whilst the facility is open – to be secured by condition/legal agreement.”*

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

8.1 Tiptree Parish Council object to this proposal on the grounds that it is outside the village envelope and does not form part of the LDF. The Parish Council's policy is to actively oppose residential or commercial development outside of the village envelope unless there is substantial gain to Tiptree.

8.2 Feering Parish Council objects strongly to the proposal:-

- Road infrastructure is inadequate to cope with the potential increase in traffic implicit in this application. The impact on traffic flows through Feering and Kelvedon would be significant from traffic going to and from the site.
- Detrimental impact on the community sporting facilities already available at Thurstable School by the provision of similar facilities elsewhere in the village.
- Question the compatibility with CBC's Green Transport Policy given the distance between the proposed training ground and the club's facilities in Colchester.
- Concern that Tiptree has been allowed to develop from a village into a small town, without supporting upgrades in its infrastructure, including independent access to/from the A12 and this is having a detrimental impact on the surrounding rural villages. If CBC are minded to approve an application for this site, a S106 agreement should be required to provide Tiptree with its own independent access to/from the A12.

8.3 Messing-cum-Inworth Parish Council support this application with the proviso that more community facilities are included as part of the development i.e. more pitches, changing rooms and other sporting facilities. Concern is also expressed at possible flood light pollution.

## 9.0 Representations

9.1 The publicity of the application resulted in excess of 230 objections being received. The majority of these objections are in the form of a standard letter. In the interests of brevity this standardised response is reproduced as Appendix 3. The points raised are, however, summarised as follows:-

1. Reasons given for the development  
The development is for a professional football club, a profit- making organisation, that has no association with Tiptree. Future developments planned for the site are not 'essential' for sport in the countryside.
2. The Community Pitch  
This will be restricted at very prescriptive times. Local teams will be prevented from using the pitch at week-ends. The pitch is not a community pitch according to CBC & Sport England definitions since it is not readily available to the community at large.
3. New cycleway and footpath  
The new route along the northern edge of the site delivers users directly onto the carriage way of Vine Road: there is no footpath on either side of the road at or near the exist point.
4. Development Traffic and highway safety issues  
The design of the site drainage system will require 4,500 cubic metres of material to be excavated, exported & replaced by imported stone requiring a high number of heavy vehicle movements. The Transport Statement states that development traffic may use Vine Road.
5. CBC refusal of the previous application in June 2009 Both of the new applications state the intention to use the community pitch before the changing rooms will be available. This is a point of concern raised by the Planning Committee and has not been fully addressed.
6. Location  
The recommendation of the Council's 'Open Space, Sport and Recreational Study 2007 in respect of Tiptree was that any new sporting facilities should be sited at Tiptree Sports Centre to enhance the facilities.
7. Green Links  
The security fence effectively severs a green link by sealing off significant portions of the hedgerows from wildlife and open aspects of the land.
8. Applications do not conform to planning policies at National and Local levels

9.2 In addition to the aforementioned standardised letter of objection 14 other individual letters of objection have been received. The objections contained within these letters are summarised as follows:-

- Additional traffic on the roads, with a dangerous junction at Vine Road/Grange Road. Poor access to the site. Use of substandard crossroads junctions (Grange Rd/Kelvedon Rd, Vine Rd/Maldon Rd & Grange Rd/Braxted Rd).
- No proper assessment of the inadequacies of the routes and junctions which could be used by users of the site.
- It does not appear that a coach can use the access and any larger vehicle cannot turn out of the site without encroaching into the opposing traffic stream.
- Site is outside of the village envelope on “greenbelt” and is unnecessary and inappropriate. The land should return to agricultural use.
- Commercially oriented private company. Few people in the area would benefit.
- Noise
- Threat of a much larger complex or use as a private club with bar, restaurant, sports medical facilities, thereby resulting in a large number of vehicle trips. CBC may wish to restrict the use by condition or by a legal agreement as conditions may not be robust enough.
- Ecological issues – animal and bird habitation would be affected
- Use of floodlights
- Plenty of agricultural land adjacent to the football stadium at Cuckoo Farm
- Issues regarding the use of Sustainable Drainage System (SUDS). It was originally proposed to use a system requiring a high volume of dry stone. Has an alternative scheme been agreed by the Environment Agency?
- Raising of ground levels and related issues with Essex & Suffolk Water.

9.3 The occupier of 15 Harrington Close, Tiptree, has submitted a lengthy letter of objection to the proposed development. Whilst this letter can also be viewed in full on the Council website, the main objections are summarised as follows:-

- Proposals are unsustainable contrary to the lynchpin of current planning policy (PPS1, PPS6 & PPG13). The new training ground for CUFC will increase the need to travel by car. The trip generation estimates in the Transport Statement are likely to be higher than suggested.
- Trip Generation Estimates. The proposed level of use is underestimated, thereby undermining the accuracy of the technical studies. The proposals are likely to be a high traffic generator.
- Community provision. The application does not provide a ‘community pitch’ in line with the Council’s own definition. This is a commercial enterprise by a private limited company in the countryside, with strictly limited and peripheral ‘community’ benefits for a strictly limited number of people in the local community
- Shortfall of Outdoor Sports Facilities.
- Significant impact in terms of noise generation

- The proposals are not appropriate for Tiptree as a settlement. In line with the strategic hierarchy of settlements, and in view of the fact that CUFC's stadium is in Colchester, the lower order settlement of Tiptree should not be considered a suitable location for such a major facility. The most suitable location for the training facility would be in Colchester where the RSS & Core Strategy state that development should be concentrated. In Tiptree development should be appropriate in scale and nature to local housing and employment needs. The local teams (e.g. Tiptree Heath FC) could be accommodated elsewhere and may not, at first, have any changing facilities on the site.
- The proposals are premature in relation to the LDF and are piecemeal. Proposals for the application site should be considered through the LDF process so a proper analysis of alternative sites can be considered.
- Visual Impact of the car park, erection of fencing, sports pitches and two storey building on an unallocated, Greenfield site.
- Applicant has argued that development as proposed would be acceptable in the greenbelt under PPG2 as a sports facility. The proposed development with its parking, buildings and fences, goes beyond the spirit of PPG2.
- Contrary to PPS7
- Highway safety issues
- Pedestrian and Cyclist facilities
- Loss of high quality agricultural land. Contrary to Local Plan policy CO8. Part of the site is grade 2 agricultural land and not completely grade 3 as claimed.

9.4 In excess of 100 copies of a standardised letter supporting the development have been received. The reasons for supporting the proposal are summarised as follows:-

- CUFC is our local professional football club, which has an urgent need for a permanent training facility.
- Provides for a high quality playing pitch surface with provision for a full size football pitch and changing room accommodation for use by local community teams, representing the highest standard in the area for such a facility
- It is supported by the Council's Technical Officer and Sport England.

## **10.0 Report**

10.1 The previous application, which was reported to the Planning Committee, considered all the objections and responses from the statutory and non-statutory consultees. It examined the Planning Policy issues (at National and Local levels), the environmental and ecological issues, highway and road traffic matters, sustainability in terms of the distance of the site from the CUFC stadium, and amenity related issues. Having weighed up all the material considerations, this report recommended that planning permission for the change of use of this site outside of the built-up area of Tiptree for sports pitches should be granted.

10.2 Members, however, were concerned that, despite the recommendations from Planning Policy, Sport England, Natural England, the Highway Authority, Environmental Control, the application was unsatisfactory in terms of the community provision and the lack of facilities related to the use (i.e. changing rooms/showers and toilet facilities).

- 10.3 It is acknowledged that, whilst the proposed development was not acceptable in this regard, no other objections were raised in terms of adverse environmental, highway, noise issues, sustainability or other planning policy related matters such as have been set out in the objections to this re-submission. This remains the case in that the two applications are still supported by the majority of the consultees.
- 10.4 This report therefore will focus on these two previously stated grounds for refusal.
- 10.5 In terms of the number of proposed football pitches and the illustrative layout of the pitches, the applications remain the same. It is still proposed to provide a total of five pitches five. Four of these will be dedicated solely to use by CUFC for training purposes. The remaining pitch will be provided for community use.
- 10.6 In terms of the community the Design & Access Statement states that the two local teams Tiptree Heath FC and Tiptree Jobserve FC will use the community pitch as their home base for local weekend fixtures. For qualitative reasons this pitch can only be used for up to three times per week.
- 10.7 The principal difference is that it is also envisaged that within the capacity and availability limits, other local community teams will also be able to book the use of the community pitch. This use could be further increased through cancellations and shortened cup runs etc. The D&A Statement states that the detailed arrangements for the community use will be the subject of a management plan, which is intended to be covered by a planning condition as recommended in the previous report to the Planning Committee.
- 10.8 The other major difference between the current applications and the previous submission is that the community sports element also includes a new building providing changing room accommodation, showers and toilets, for two community teams and two changing rooms for match officials. The Design & Access Statement states that this accommodation will be designed to be suitable for both male and female teams, and that it will meet the standards recommended by the FA and the Football Foundation. The community users will also have access to a canteen area where post match gatherings can be held. Full details of the accommodation/facilities to be contained within this building are reported in the accompanying application 091117 (Item 7.4 on this agenda).
- 10.9 Concerns have been expressed that the application as submitted proposes that the football pitches will be made available for use prior to the new building accommodation the changing rooms and associated facilities being erected and completed. This concern is acknowledged and appreciated. The Applicant has since confirmed that it is now the intention to construct this building in association with the provision of the pitches. As this is seen as an essential component of the community use, it is recommended that this provision should be secured by an appropriate condition.
- 10.10 It is perhaps unfortunate that CUFC propose to enclose the site with a two metre high fence, to be erected as permitted development. It is confirmed that this fence does constitute permitted development in that it is located a considerable distance from any adjoining highways and is separated from the adjacent highways by intervening structures (e.g. hedges and the proposed 1.2 metre high bund). This fence is similar to the fence erected on the Warners Rest Site in Maypole Road, Tiptree.

- 10.11 It is recognised that there is a need to restrict access to the site in order to protect the sports pitches from unauthorised use and from potential damage. This fence is to have access gates for maintenance purposes.
- 10.12 There have been concerns expressed from residents as to the use of sustainable drainage schemes (SUDS). The Applicant has been discussing this matter with the Environment Agency. Following on from these discussions, it is noted that Environment Agency has confirmed that the proposed SUDS is acceptable, subject to conditions.
- 10.13 The Development Team has suggested that the community use elements of the proposal should be secured by a legal agreement, which would also control the cost of using the facility (possibly linked to the cost of the similar locality at Tiptree Sports Centre), maintenance of the community pitch and public part of the building.
- 10.14 The previous report in respect of 090217 recommended that this community element be controlled by condition (as recommended by Sport England). The use of conditions is generally considered to be preferable to legal obligations. The use of condition to achieve this objective has also been agreed between the Council and the Applicant in the Statement of Common Ground forming part of the Public Inquiry into the refusal of 090217.
- 10.15 In order to remain consistent it is recommended that any consent should be the subject of an appropriate condition rather than a legal obligation.

#### Recommendation

- 10.16 The recommendation remains as set out in respect of 090217.

### **11.0 Background Papers**

- 11.1 ARC; HA; HH; PTC; NLR; NR; EWT; Kelvedon Parish Council; CPREssex

#### **Recommendation**

The recommendation to Committee is that the Government Office for the Eastern Region be advised that Colchester Borough Council is minded to approve the submitted planning application, as amended, subject to the conditions as set out below. If the application is not called in for determination then Committee authorises the Head of Environmental and Protective Services to issue the planning permission.

#### **Conditions**

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

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

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



## 2 - Non-Standard Condition

The permission hereby granted relates to the amended plans hereby returned approved.

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

## 3 - C10.15 Tree & Natural Feature Protection: Protected

No work shall commence on site until all trees, shrubs and other natural features not scheduled for removal on the approved plans, are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. No access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

## 4 - 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.

## 5 - 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.

## 6 - C11.11 Landscape Design Proposals

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

These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

#### 7 -C11.12 Landscape Works Implementation

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

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

#### 8 - 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.

#### 9 - Non-Standard Condition

Prior to the removal of the area of hedgerow to the Grange Road frontage as indicated on the approved drawings, a destructive reptile search shall be carried out under the supervision of a qualified ecologist and any protected species shall be carefully translocated to a safe area within the site. The destructive search and hedgerow removal shall be undertaken outside of the bird nesting season.

Reason: There is evidence that the site is/is likely to be of importance for nature conservation and it should be further investigated as advised by Natural England.

#### 10 - Non-Standard Condition

None of the hereby permitted sports pitches shall be brought into use until one sports pitch has been laid out and made available for community use. Thereafter one sports pitch (which shall be of an adult pitch specification with minimum dimensions of 100 metres in length and 65 metres in width) shall be made permanently available on the site for such community use during all permitted playing times.

Reason: To ensure that the approved scheme incorporates an appropriate level of community use.

#### 11 - Non-Standard Condition

Prior to the commencement of the use a Community Use Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of access, pricing policy, hours of use, management responsibilities and include a mechanism for review. The approved Scheme shall be implemented upon commencement of use of the development.

Reason: To secure well managed safe community access to the sports facility.

#### 12 - Non-Standard Condition

Prior to the commencement of development, a scheme for the provision and implementation of surface water drainage, incorporating sustainable drainage principles, shall be submitted and agreed, in writing with the Local Planning Authority. The scheme shall incorporate the surface water drainage strategy outlined in the Flood Risk and Drainage Assessment Report Reference E530-01 REV.A. April 2009. The scheme shall be constructed and completed before occupancy of any part of the proposed development.

Reason: To ensure a satisfactory method of surface water drainage.

#### 13 - Non-Standard Condition

Prior to the proposed access being brought into use, vehicular visibility splays of 160m x 4.5m by 160m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. The existing frontage hedge may be retained subject to it being reduced to and maintained at or below the prescribed height.

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.

#### 14 - Non-Standard Condition

Prior to commencement of the proposed development, a size 2 vehicular turning facility, of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free of obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

#### 15 - Non-Standard Condition

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 10m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

#### 16 - Non-Standard Condition

Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 18m from the nearside edge of the carriageway of the existing road.

Reason: To ensure that the largest vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety.

#### 17 - Non-Standard Condition

The public's rights and ease of passage over Public Footpath No. 14 (Tiptree) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way in accordance with Policy 3.5 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member Decision dated 19 October 2007.

#### 18 - Non-Standard Condition

The development shall not be occupied until such time as the car parking area, indicated on the approved plans, including any spaces for the mobility impaired has been hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

#### 19 - Non-Standard Condition

Prior to commencement of the proposed use commencing, the provision for parking of powered two wheelers and bicycles, as indicated on the approved plan, or any may subsequently be agreed in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To promote the use of sustainable means of transport in accordance with EPOA Vehicle Parking Standards and Policy 4 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member Decision dated 19 October 2007.

#### 20 - Non-Standard Condition

Prior to the proposed use commencing, the permissive cycle routes as indicated on the approved plan have been provided entirely at the Applicant/Developer's expense.

Reason: To make adequate provision for the additional cycling traffic regenerated as result of the proposed development and to promote the use of sustainable means of transport in accordance with EPOA Vehicle Parking Standards and Policy 4 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member Decision dated 19 October 2007.

#### 21 - Non-Standard Condition

Prior to the use commencing the improvements to the junction of Grange Road and Vine Road as indicated on the approved drawing have been provided entirely at the Applicant/Developer's expense.

Note: This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in section 278 of the Highways Act 1980.

Reason: To make adequate provision for the additional vehicular traffic generated within the highway as a result of the proposed development in the interests of highway safety.

## 22 - Non-Standard Condition

Any proposed new boundary hedge required following provision of the vehicle visibility splays shall be planted a minimum of 600mm back from the highway boundary.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

## 23 - 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. Condition 24 shall comply with this standard.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

## 24 - 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 one 1/3 octave band which exceeds the two adjacent bands by more than 5dB as measured at all boundaries near to noise-sensitive premises.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

## 25 - Non-Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light' for zone E2. This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to the 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: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

## 26 - Non-Standard Condition

The user of the Colchester United Training Pitches hereby permitted shall not operate outside of the following times:-

10.30 a.m. to 1.00 p.m. Monday to Saturday.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

### 27 - Non-Standard Condition

At no time shall the boundary of any sports pitch be laid out or located closer than 40 metres to a residential curtilage.

Reason: In the interests of protecting local residential properties from noise nuisance.

### 28 - Non-Standard Condition

Prior to the commencement of use of the development a Travel Plan, which shall include monitoring shall be submitted to and approved in writing by the Local Planning Authority. The provisions of the Travel Plan shall be adhered to at all times unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

### 29 – Non Standard Condition

Prior to the commencement of development (or such other date or stage in the development as may be agreed in writing with the Council), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing by the Local Planning Authority:

- i) Preliminary risk assessment which has identified all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors and potentially unacceptable risks arising from contamination of the site.
- ii) A site investigation scheme based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- iii) The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The scheme shall be implemented as approved unless otherwise agreed in writing with the Council.

Reason: To ensure that the proposed development does not cause pollution of Controlled Waters and that development complies with approved details in the interests of protection of Controlled Waters.

### 30 – Non Standard Condition

Prior to the works commencing details of a construction management plan shall be submitted to the Local Planning Authority for approval, written approval shall be obtained and the measures within the construction management plan shall be fully implemented. The construction management plan shall include measures dealing with the following:-

- i) A construction access to be formed onto Grange Road (either in the location of the proposed access or to the east if ecological restrictions concerning the hedgerow dictate) using an agreed bound material. If a temporary access is formed it shall be restored following the construction period.
- ii) Routing measures for all construction and delivery traffic.
- iii) An excess soil storage area to be formed close to the proposed car park area.
- iv) Removal of excess soil from the site, which will be disposed of at Tiptree Quarry landfill site unless otherwise agreed in writing with the Local Planning Authority.
- v) Hours of operation to be applied.
- vi) Dust suppression measures including wheel washing arrangements.

Reason: In the interest of highway safety and amenity.

### 31 – Non Standard Condition

The proposed pedestrian and cycle access points shall remain unobstructed at all times whilst the facility is open.

Reason: To ensure unrestricted access to the site and the facilities provided therein.

## **Informatives**

### **Informatives from Highway Authority**

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

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 to the Local Transport Plan 2006/2011 and refreshed by Cabinet Member decision dated 19 October 2007.

All works affecting the highway shall be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838696.

The applicant is reminded of their duties and responsibilities with regard to the line of Public Footpath 14 to the north east of the site. Should any works affect the line of the right of way these must be carried out in agreement with the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600.

The applicant is advised that the Highway Authority will not allow the line of Public Footpath 14 to the north east of the site to be used by vehicles to access the development site in accordance with the Department for the Environment Food and Rural Affairs Guidance for Local Authorities Rights of Way Circular 1/09.

In the interests of promoting sustainable modes of transport, and limiting the development's effect on the highway, in accordance with policies numbers 4 and 6 in Appendix G of the Local Transport Plan 2006/11 as refreshed by Cabinet Member Decision 10 October 2007 the developer has agreed to implement a Travel Plan. The Travel Plan, which must incorporate a scheme of monitoring by the Essex County Council, is supported by a non-returnable £3,000 fee payable by the Developer.

### **Informatives required by Environmental Control**

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

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.

All car parking and service areas shall be sited/screened to minimise any noise impact on nearby residential premises and be of a non-gravel construction.

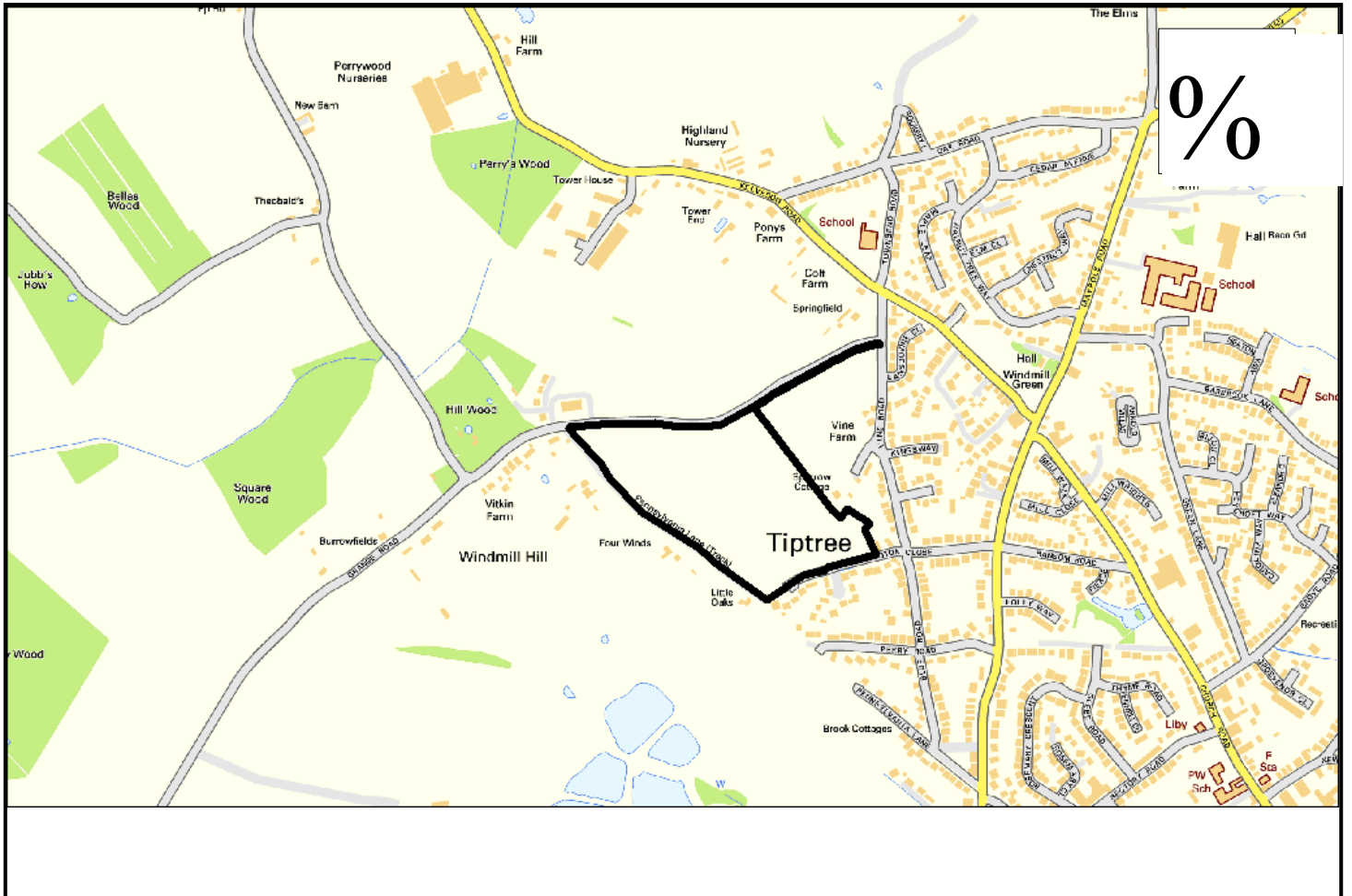
### **Informatives required by Essex and Suffolk Water**

Before works are commenced on site, please contact Mr Keith Lambird (Mobile Tel: 07714064822) and arrange for the route of our 36th Steel Strategic Water Main to be traced and marked out.

The car park may be constructed over our easement, but no structures e.g. lighting columns may be erected in the easement.

The cover to our Washout access pit (approximately 90 metres from the Grange Road boundary) must be kept clear at all times.





**Application No:** 091117

**Location:** Land Adjacent (South), Grange Road, Tiptree, Colchester

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

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**7.4 Case Officer: Nick McKeever**

**EXPIRY DATE: 24/11/2009**

**MAJOR**

**Site:** Land Adjacent (South), Grange Road, Tiptree, Colchester

**Application No:** 091117

**Date Received:** 25 August 2009

**Agent:** Mr John Lawson

**Applicant:** Colchester United Football Club Ltd

**Development:** Change of use of agricultural land to sports field, minor regrading and drainage of playing area, erection of associated building for changing rooms and ancillary accommodation, water tank, vehicle parking, vehicular access from Grange Road and provision of cycleway/footway links to Harrington Close and Vine Road.

**Ward:** Tiptree

**Summary of Recommendation:** Government Office for the Eastern Region be advised that Colchester Borough Council is minded to approve the submitted planning application

## **1.0 Planning Report Introduction**

- 1.1 This is one of two applications (reference 091115 & 091117) submitted on behalf of Colchester United Football Club. The application 091115 is a re-submission of 090217 to create new football pitches on land at Grange Road, Tiptree.
- 1.2 This previous application was submitted to the Planning Committee on 25 June 2009 with an Officer recommendation for approval. Members resolved to refuse the application for the following reasons:-

*“The site for this proposal is located within an area of white land i.e. no notation as allocated in the Adopted Review Colchester Borough Local Plan – March 2004. Additionally, policy ENV 1 of the Local Development Framework Adopted Core Strategy (December 2008) states, inter alia:*

*‘Unallocated green field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough.’*

*As new development within such areas is subject to restriction, the Council would wish to ensure that development proposals accorded with the aims of relevant policies in the Adopted Local Plan and the Adopted Core Strategy. To this end, the Council considers that the submitted scheme fails to include a sufficient degree of community use within the development to justify the use of this unallocated white land for an alternative purpose. Furthermore, the Council is concerned that the submitted application does not include provision for changing and toilet facilities required for the development, as a means of facilitating community use.”*

The current application seeks to address this refusal.

## **2.0 Site Description**

2.1 The proposal remains as previously submitted and described in the Report that accompanied the application when it was referred to the Planning Committee. This previous report is reproduced as an Appendix (see 090115). Details of the proposal are set out within paragraphs 3.1 – 3.10.

2.2 The new application is however accompanied by a revised Design and Access Statement. Whilst this document can be viewed in full on the Council website extracts of the more salient points are reproduced as follows:-

“1.3 Consequently, this planning application includes further clarification of the extent of community use as agreed with the Council's Parks and Recreation Manager and a separate planning application has also been concurrently submitted, which includes details of CUFC's proposed changing facilities including accommodation for community teams.

Therefore, in short it is considered that the measures referred to in this Statement and associated planning applications address the Council's specific reasons for refusal.”

“1.7 The overall intention is to establish a high quality Football Training Centre for CUFC use with state-of-the-art facilities, to support the growth of the Football Club and complement its new stadium at Cuckoo Farm in north Colchester. Although privately owned, CUFC is a community based organisation and recognises its responsibilities in this respect. Following discussions with Council officers and Sport England, this application includes the use of one of the pitches by the community. The community pitch, for qualitative reasons can only be used for up to three times a week. Within this utilisation capacity it is envisaged that Tiptree Heath FC and Tiptree Jobserve FC will use a pitch as their home base for local weekend fixtures. In addition, also within the capacity and availability limits other local community teams will also be able to book the use of the community pitch too.

The detailed arrangements for the use of the community pitch will be the subject of a management plan, which is intended to be covered by a planning condition as recommended by officers.”

- “3.2 Consequently, an integral part of CUFC’s scheme is for the provision of a full size football pitch, which would be dedicated to community use. This would be secured through a planning condition, which has been agreed with the Council’s planning and sports officers. The community pitch would also be made available prior to the overall sports use commencing. Also, the playing surface of the community pitch will be maintained to a high standard suitable for local league purposes and in the interest of maintaining a quality playing surface, will be limited to a utilisation rate of a maximum of 3 matches per week.”
- “3.3 The Club’s policy is to promote an inclusive approach to the use of the community pitch with the objective of supporting ‘grass roots’ sports development and to help meet the identified local shortfall in sports pitch provision at Tiptree in particular. With this approach in mind, CUFC has identified two local football clubs (Tiptree Heath FC and Tiptree Jobserve FC), which will jointly have 3 teams for 2009/10 season and 4 teams for 2010/11 season and will use the pitch as their home ground.”
- “3.4 In addition to the local Tiptree teams referred to above, there will be capacity for additional games to be played on the community pitch during a typical season, which could be further increased through cancellations and shortened cup runs etc. Therefore, as arranged through the proposed booking system (to form part of the ‘Community Use Scheme’ required by a recommended planning condition as suggested by Sport England), which would be administered by CUFC, other organised community teams would be eligible to book the use of the pitch.”

- 2.3 In addition the new application is supported by and updated Transport Statement, an updated Flood Risk Assessment and a Noise Assessment Report. These documents are also available for scrutiny on the Council website.
- 2.4 The application 09117 is a consolidating submission for the use of the land for football pitches and other related matters as set out in 091115, and for the provision of a building providing changing room facilities, amongst other facilities, for two community teams and two changing rooms for match officials.
- 2.5 This application proposes the erection of a building, comprised of a mix of two storey and single storey elements, located close to the north-western corner of the site and adjacent to the proposed car and coach parking area.
- 2.6 The design of the new building seeks to reflect a vernacular weatherboarded barn, albeit with a modern approach, with midstreys and associated outbuildings. To this end the external materials are drawn from the vernacular palette to include red facing brick and clay plain roof tiles.
- 2.7 The submitted floor plans show the following facilities:-

#### Ground Floor

Gym, four Changing Rooms, Laundry, Boot Room, Physiotherapy Room and Reception Area.

## First Floor

Office, Balcony overlooking the sports pitches, Canteen, Kitchen, Media & Meeting Room, Plant, Store, Training Room W.C's

The application also includes an 11cubic metre water tank located to the west of this main building.

The building, water tank and car/coach parking area are all shown located to the north of the Essex & Suffolk Water main, and associated valve area, which crosses the site from Grange Road to the north.

### **3.0 Land Use Allocation**

- 3.1 The site lies with an area of white land i.e. No Notation as designated in the Adopted Review Colchester Borough Local Plan – March 2004.
- 3.2 The LDF Site Allocations Submitted DPD and the related Proposals Map shows the site allocated for public open space. The DPD is due to be submitted to the Planning Inspectorate at the end of November 2009.

### **4.0 Relevant Planning History**

- 4.1 090217 – Change of use of agricultural land to sports field, minor regarding and drainage of playing area, with associated vehicle parking area and vehicular access from Grange Road. Community usage of one pitch proposed. Refused. This application is the subject of an appeal to be held at a public inquiry in January 2010.

### **5.0 Principal Policies**

- 5.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
CO4 – Landscape Features  
CO8 - Agricultural land  
P1 – Pollution  
L14 – Public Rights of Way  
L15 – Footpaths, cycleways and bridleways  
L16 – Sports causing noise or disturbance
- 5.2 Local Development Framework Core Strategy (December 2008)  
ENV1 – Environment  
ENV2 – Rural Communities  
PR1 – Open Space and Recreational Facilities

### **6.0 Consultations**

- 6.1 The Highway Authority would not wish to make further comment to the formal recommendation of the 4th June 2009 submitted in association with application number 090217.  
Their previous recommendation was for permission subject to conditions.

6.2 The Environment Agency comments as follows:-

“Flood Risk

A Flood Risk Assessment (FRA) has been received in support of the development proposal. After careful consideration by our Development & Flood Risk team, we would advise the Council that we accept, in principle, the findings of the FRA. The FRA submitted demonstrates that infiltration shall be used to dispose of the surface water generated on site; this shall in turn create no increase of flood risk off site. The proposed infiltration plans would be acceptable for the site as it has been proven that the 1 in 100 year storm event including climate change would be stored on site prior to infiltration taking place. It should be noted that while the proposed infiltration disposal of surface water is acceptable in principle, we would object to the discharge rate proposed in section 3.12 of the FRA that might be used if infiltration was not suitable. This rate is the current 1 in 100 year storm event run off, the site should mimic current rates as such discharge should be restricted to the current 1 in 1 year storm event.

The system proposed for the site will require future maintenance and possible replacement. We have been advised separately by letter dated 22nd September 2009 from Colchester United FC that it is their intention to provide and maintain the proposed drainage system, including soakaways as outlined in the scheme.

We are content for the matter of infiltration discussed above to be dealt with at the discharge of condition stage for the surface water management scheme.

Environment Agency position

We will object to the planning application unless the planning conditions set out below be appended to any planning approval granted.”

6.3 The Landscape Officer is satisfied with the landscape content of the proposal subject to minor amendments.

6.4 Environmental Control comments remain unchanged from the previous comments i.e. no objection subject to conditions.

6.5 Natural England has no objection to the proposed development in respect of legally protected species, provided the mitigation as outlined in the report is incorporated into a permission or part of a suitably worded agreement or planning condition, if necessary.

6.6 The Campaign to Protect Rural Essex comment as follows:-

1. This is a Trojan horse to gain development for major urbanisation on the edge of Tiptree with the Applicant's intention to seek housing on the land adjoining.
2. The plans for the changing room facilities need to be carefully studied to ensure that this is not the basis for a social club or other 'add-ons'. The benefits for the local community need to be spelt out in detail.
3. The Council is urged to assess whether this application is in the interests of the local community and, if it grants approval, conditions are imposed to prevent any further development without the submission of another planning application.

- 6.7 The Council's Arboricultural Officer is satisfied with the arboricultural content of the proposal subject to conditions and confirmation that the details of the arboricultural monitoring for the site during the duration of the development process. This will require the provision of monthly monitoring reports to be provided to the local authority.
- 6.8 Sport England has submitted a lengthy response, which is reproduced in full as Appendix 1. This response can be summarised that the proposed development is considered to offer significant benefits to community football directly and indirectly and the proposal is considered to clearly meet their planning policy objective and accord with Government Guidance in PPG17 on the provision of new sports facilities. Sport England would therefore support the principle of this planning application.
- 6.9 Sport England also advise that Sport Essex, the county sports partnership, have also confirmed their support for the principle of the development due to the community sports development benefits that are offered by the proposed development.
- 6.10 The British Horse Society County Access Bridleways Officer express concerns in that horses and their riders using the public bridleway would be at risk from footballs being mis-kicked onto the bridleway. Vulnerable users of the bridleway should have the same protection that a road carrying vehicular traffic would have. There could be issues with noise and excitement generated by football matches, which would need to be risk assessed when considering the positioning of the pitches.
- 6.11 Essex & Suffolk Water comment that they have no objection provided that they have unrestricted access to the main and valves at all times for the purpose of operation, maintenance and repair. The main is subject to a 10 metre wide easement and has restrictions within this area 5 metres either side of the main, not 3 metres as indicated in the Agent's letter to them.
- 6.12 Essex Cricket expresses their support for the proposed sports training ground. CUFC is one of our local professional football club's, which has an urgent need for a permanent training facility to help achieve its sporting excellence aspirations. The addition of a full size football pitch and changing room accommodation for use by local community teams, representing the highest standard in the area for such a facility – a rare opportunity which should not be missed.
- 7.13 Planning Policy comment as follows:-

*"The application relates to the provision of sports pitches with associated vehicular access and parking. I am satisfied that this application can be considered in isolation and is separate from the representations submitted in respect of the Site Allocations DPD. The provision of sports pitches is not considered to undermine the Core Strategy and the strategic objectives contained therein.*

Relevant planning policies and guidance can be found in the following documents;

#### National Planning Policy/Guidance

**PPG17** - *Planning for Open Space, Sport and Recreation.* Open spaces, sport and recreation all underpin people's quality of life and are therefore fundamental to delivering broader Government objectives. These include:

- *supporting a rural renewal - the countryside can provide opportunities for recreation and visitors can play an important role in the regeneration of the economies of rural areas. Open spaces within rural settlements and accessibility to local sports and recreational facilities contribute to the quality of life and well being of people who live in rural areas.*
- *promotion of social inclusion and community cohesion - well planned and maintained open spaces and good quality sports and recreational facilities can play a major part in improving people's sense of well being in the place they live. As a focal point for community activities, they can bring together members of deprived communities and provide opportunities for people for social interaction.*
- *health and well being - open spaces, sports and recreational facilities have a vital role to play in promoting healthy living and preventing illness, and in the social development of children of all ages through play, sporting activities and interaction with others.*
- *promoting more sustainable development - by ensuring that open space, sports and recreational facilities are easily accessible by walking and cycling and that more heavily used or intensive sports and recreational facilities are planned for locations well served by public transport.*

*The countryside around towns provides a valuable resource for the provision of sport and recreation, particularly in situations where there is an absence of land in urban areas to meet provision... local authorities should encourage the creation of sports and recreational facilities in such areas.*

**PPS7** – *Sustainable Development in Rural Areas*, includes reference to facilitating the provision of appropriate sport and recreation facilities in the countryside around urban areas. *In judging proposals for development of high quality agricultural land consideration must also be given to amenity value, access to infrastructure and maintaining viable communities.*

#### Regional Policy

*Policy ENV1 – requires areas and networks of green infrastructure to be identified and created to ensure an improved and healthy environment for communities. Tiptree experienced significant growth with the Grove Road development and this has not been matched by green infrastructure, including green spaces for recreational use.*

*Policy SS8 complements Policy ENV1 in recognising the importance of the urban fringe. It acknowledges that some parts of the urban fringe will be used to accommodate urban extensions and where this happens it will be important to manage the adjoining countryside to ensure amongst other things the needs of residents for access and recreation are provided for.*



### Local Policy

Local Policy is contained within the adopted Local Plan (saved policies) and the adopted Core Strategy. The site is White Land in the Local Plan (land with no notation.) The relevant policies are detailed below;

- Core Strategy Policy PR1 and Table PR1 – the Council aims to provide a network of open spaces, sports facilities and recreational opportunities that meet local community needs and facilitate active lifestyles. The table identifies the need for sports pitches in Tiptree.
- Core Strategy ENV1 – unallocated land outside of settlement boundaries will be protected and development strictly controlled. However there is recognition that some development needs or is compatible with a rural location and in such cases various criteria should be met.
- Core Strategy ENV2 – outside village boundaries the Council will favourably consider small scale leisure and tourism schemes.
- Local Plan Policy L16 – sets out what factors to consider when assessing a proposal for sporting activity causing ‘noise or disturbance.’ This is intended to cover sports such as war gaming or combat games. Football (predominantly training) is not considered a noisy sport.
- Site Allocations Submission DPD and the related Proposals Map shows the site allocated for public open space.

### Other Issues

A significant area of land is required for this facility which it would be extremely difficult to accommodate within an urban area or on previously developed land. The applicants were asked to consider a number of other sites all closer to Colchester but all were greenfield sites, suggesting in accordance with Policy ENV1 this is a use which needs to take place in a rural location. Ownership issues, high land values and hope value prevented any other sites being suitable.

It was also pointed out that players do not necessarily reside in Colchester so would be travelling by car to training whether it be in Colchester or Tiptree. The need to travel by car will not change. The use of the community pitch by local teams would reduce the need for them to travel. (There has been a shortage of sports facilities locally which has necessitated teams having to travel to Langham to play their games.)

The community pitch and facilities should be available to the community as a whole (see CBC Playing Pitch Strategy) Appropriate management would be required to ensure wider use or the Council could consider taking over the pitch to be run in conjunction with Tiptree Sports Centre and subject to a commuted sum for maintenance agreed as part of the application. Although the intention to improve junior football facilities at Warriors Rest is acknowledged the proposals do not form part of this application and cannot therefore be secured. Further information from the PPG17 Study is attached as Appendix 2.

The scheme should include cycle and pedestrian access and cycle parking to better link the site with the village and improve accessibility for local people.

### Conclusions

*There is no objection to the provision of sports pitches subject to;*

- 1. full community use of the community pitch and changing facilities to address the shortfall identified in the Core Strategy; This should be secured by legal obligation which should also control cost of using the facilities (possibly linked to cost of similar facilities at Tiptree Sports Centre), maintenance of the community pitch and public part of the building.*
- 2. highways issues being resolved;*
- 3. adequate parking and access for cyclists and pedestrians. The pedestrian and cycle access points should be unobstructed at all times whilst the facility is open – to be secured by condition/legal agreement.”*

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

7.1 Tiptree Parish Council object to this proposal on the grounds that it is outside the village envelope and does not form part of the LDF. The Parish Council's policy is to actively oppose residential or commercial development outside of the village envelope unless there is substantial gain to Tiptree.

7.2 Feering Parish Council objects strongly to the proposal:-

- Road infrastructure is inadequate to cope with the potential increase in traffic implicit in this application. The impact on traffic flows through Feering and Kelvedon would be significant from traffic going to and from the site.
- Detrimental impact on the community sporting facilities already available at Thurstable School by the provision of similar facilities elsewhere in the village.
- Question the compatibility with CBC's Green Transport Policy given the distance between the proposed training ground and the club's facilities in Colchester.
- Concern that Tiptree has been allowed to develop from a village into a small town, without supporting upgrades in its infrastructure, including independent access to/from the A12 and this is having a detrimental impact on the surrounding rural villages. If CBC are minded to approve an application for this site, a S106 agreement should be required to provide Tiptree with its own independent access to/from the A12.

7.3 Messing-cum-Inworth Parish Council support this application with the proviso that more community facilities are included as part of the development i.e. more pitches, changing rooms and other sporting facilities. Concern is also expressed at possible flood light pollution.

## 8.0 Representations

8.1 The publicity of the application resulted in excess of 230 objections being received. The majority of these objections are in the form of a standard letter. In the interests of brevity this standardised response is reproduced as Appendix 3. The points raised are, however, summarised as follows:-

1. Reasons given for the development  
The development is for a professional football club, a profit- making organisation, that has no association with Tiptree. Future developments planned for the site are not 'essential' for sport in the countryside.
2. The Community Pitch  
This will be restricted at very prescriptive times. Local teams will be prevented from using the pitch at week-ends. The pitch is not a community pitch according to CBC & Sport England definitions since it is not readily available to the community at large.
3. New cycleway and footpath  
The new route along the northern edge of the site delivers users directly onto the carriage way of Vine Road: there is no footpath on either side of the road at or near the exist point.
4. Development Traffic and highway safety issues  
The design of the site drainage system will require 4,500 cubic metres of material to be excavated, exported & replaced by imported stone requiring a high number of heavy vehicle movements. The Transport Statement states that development traffic may use Vine Road.
5. CBC refusal of the previous application in June 2009 Both of the new applications state the intention to use the community pitch before the changing rooms will be available. This is a point of concern raised by the Planning Committee and has not been fully addressed.
6. Location  
The recommendation of the Council's 'Open Space, Sport and Recreational Study 2007 in respect of Tiptree was that any new sporting facilities should be sited at Tiptree Sports Centre to enhance the facilities.
7. Green Links  
The security fence effectively severs a green link by sealing off significant portions of the hedgerows from wildlife and open aspects of the land.
8. Applications do not conform to planning policies at National and Local levels

8.2 In addition to the aforementioned standardised letter of objection 14 other individual letters of objection have been received. The objections contained within these letters are summarised as follows:-

- Additional traffic on the roads, with a dangerous junction at Vine Road/Grange Road. Poor access to the site. Use of substandard crossroads junctions (Grange Rd/Kelvedon Rd, Vine Rd/Maldon Rd & Grange Rd/Braxted Rd).
- No proper assessment of the inadequacies of the routes and junctions which could be used by users of the site.
- It does not appear that a coach can use the access and any larger vehicle cannot turn out of the site without encroaching into the opposing traffic stream.
- Site is outside of the village envelope on “greenbelt” and is unnecessary and inappropriate. The land should return to agricultural use.
- Commercially oriented private company. Few people in the area would benefit.
- Noise
- Threat of a much larger complex or use as a private club with bar, restaurant, sports medical facilities, thereby resulting in a large number of vehicle trips. CBC may wish to restrict the use by condition or by a legal agreement as conditions may not be robust enough.
- Ecological issues – animal and bird habitation would be affected
- Use of floodlights
- Plenty of agricultural land adjacent to the football stadium at Cuckoo Farm
- Issues regarding the use of Sustainable Drainage System (SUDS). It was originally proposed to use a system requiring a high volume of dry stone. Has an alternative scheme been agreed by the Environment Agency?
- Raising of ground levels and related issues with Essex & Suffolk Water.

8.3 The occupier of 15 Harrington Close, Tiptree, has submitted a lengthy letter of objection to the proposed development. Whilst this letter can also be viewed in full on the Council website, the main objections are summarised as follows:-

- Proposals are unsustainable contrary to the lynchpin of current planning policy (PPS1, PPS6 & PPG13). The new training ground for CUFC will increase the need to travel by car. The trip generation estimates in the Transport Statement are likely to be higher than suggested.
- Trip Generation Estimates. The proposed level of use is underestimated, thereby undermining the accuracy of the technical studies. The proposals are likely to be a high traffic generator.
- Community provision. The application does not provide a ‘community pitch’ in line with the Council’s own definition. This is a commercial enterprise by a private limited company in the countryside, with strictly limited and peripheral ‘community’ benefits for a strictly limited number of people in the local community
- Shortfall of Outdoor Sports Facilities.
- Significant impact in terms of noise generation

- The proposals are not appropriate for Tiptree as a settlement. In line with the strategic hierarchy of settlements, and in view of the fact that CUFC's stadium is in Colchester, the lower order settlement of Tiptree should not be considered a suitable location for such a major facility. The most suitable location for the training facility would be in Colchester where the RSS & Core Strategy state that development should be concentrated. In Tiptree development should be appropriate in scale and nature to local housing and employment needs. The local teams (e.g. Tiptree Heath FC) could be accommodated elsewhere and may not, at first, have any changing facilities on the site.
- The proposals are premature in relation to the LDF and are piecemeal. Proposals for the application site should be considered through the LDF process so a proper analysis of alternative sites can be considered.
- Visual Impact of the car park, erection of fencing, sports pitches and two storey building on an unallocated, Greenfield site.
- Applicant has argued that development as proposed would be acceptable in the greenbelt under PPG2 as a sports facility. The proposed development with its parking, buildings and fences, goes beyond the spirit of PPG2.
- Contrary to PPS7
- Highway safety issues
- Pedestrian and Cyclist facilities
- Loss of high quality agricultural land. Contrary to Local Plan policy CO8. Part of the site is grade 2 agricultural land and not completely grade 3 as claimed.

8.4 In excess of 100 copies of a standardised letter supporting the development have been received. The reasons for supporting the proposal are summarised as follows:-

- CUFC is our local professional football club, which has an urgent need for a permanent training facility.
- Provides for a high quality playing pitch surface with provision for a full size football pitch and changing room accommodation for use by local community teams, representing the highest standard in the area for such a facility
- It is supported by the Council's Technical Officer and Sport England.

## **9.0 Report**

9.1 Issues relating to the provision of the 5 football pitches have been set out within the report relating to the other application 091115 (Item 7.3 on this agenda).

9.2 The report relating to application 091117 will concentrate therefore upon the issues relating to the proposed new building providing the changing rooms and other facilities.

9.3 The location of the building in this north west corner of the site is considered to be acceptable on the basis that:-

- It is located at the point furthest away from the main concentration of residential properties to the south (Vine Road/Harrington Close). As such the use will have minimal impact upon residential amenity.
- It will relate in a satisfactory manner to a cluster existing buildings in this part of Grange Road (e.g the Waterworks and a small group of dwellings)

- This is otherwise an under utilised part of the site – the land further to the south is the area where the football pitches are to be located
- It is well screened by existing hedges and trees
- It is located in close proximity to the proposed access and car/coach parking area

9.4 The Applicant had two approaches to the design and layout of the buildings; a modernistic building or a more vernacular approach. It is considered that the vernacular approach, albeit with modern elements, is the more suitable and appropriate within this otherwise rural landscape.

9.5 The design of the buildings has been subject to modifications and amendments as recommended by the Urban Design Officer. These amendments have resulted in a building which is attractive and sympathetic to its setting.

9.6 Whilst this new building provides facilities beyond that may reasonably be required purely for community use, it is considered that it is acceptable in terms of its scale, form and design.

9.7 The Applicant is aware of local concerns that the building could be used for other general leisure uses with associated highway and amenity issues (e.g. a sports and leisure centre – uses within Use Class D1.). It is on this basis that CUFC have suggested an appropriate condition restricting the use.

9.8 In conclusion it is considered that this new building, together with the provision of a community use sports pitch, will provide the community element that Members considered the previous application failed to provide. As a fundamental part of the community use element it is crucial that this building is to be provided concurrently under the provision/use of the sports pitches. Any consent should be conditioned accordingly.

9.9 The new building is attractive in its own right and is sympathetic to its rural setting.

## **10.0 Background Papers**

10.1 ARC; HA; HH; PTC; NLR; NR; EWT; Kelvedon Parish Council; CPREssex

### **Recommendation**

The recommendation to Committee is that the Government Office for the Eastern Region be advised that Colchester Borough Council is minded to approve the submitted planning application, as amended, subject to the conditions as set out below. If the application is not called in for determination then Committee authorises the Head of Environmental and Protective Services to issue the planning permission.

### **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 - C3.4 Samples of Traditional Materials

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

Reason: To ensure that the proposed development is visually [satisfactory/attractive] and enhances the appearance of the locality.

## 3 - Non-Standard Condition

The permission hereby granted relates to the amended plans hereby returned approved.

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

## 4 - C10.15 Tree & Natural Feature Protection: Protected

No work shall commence on site until all trees, shrubs and other natural features not scheduled for removal on the approved plans, are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. No access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

## 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 -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.

## 8 - 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.

## 9 - 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.



#### 10 - Non-Standard Condition

Prior to the removal of the area of hedgerow to the Grange Road frontage as indicated on the approved drawings, a destructive reptile search shall be carried out under the supervision of a qualified ecologist and any protected species shall be carefully translocated to a safe area within the site. The destructive search and hedgerow removal shall be undertaken outside of the bird nesting season.

Reason: There is evidence that the site is/is likely to be of importance for nature conservation and it should be further investigated as advised by Natural England.

#### 11 - Non-Standard Condition

None of the hereby permitted sports pitches shall be brought into use until one sports pitch has been laid out and made available for community use. Thereafter one sports pitch (which shall be of an adult pitch specification with minimum dimensions of 100 metres in length and 65 metres in width) shall be made permanently available on the site for such community use during all permitted playing times.

Reason: To ensure that the approved scheme incorporates an appropriate level of community use.

#### 12 - Non-Standard Condition

Prior to the commencement of the use a Community Use Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of access, pricing policy, hours of use, management responsibilities and include a mechanism for review. The approved Scheme shall be implemented upon commencement of use of the development.

Reason: To secure well managed safe community access to the sports facility.

#### 13 - Non-Standard Condition

Prior to the commencement of development, a scheme for the provision and implementation of surface water drainage, incorporating sustainable drainage principles, shall be submitted and agreed, in writing with the Local Planning Authority. The scheme shall incorporate the surface water drainage strategy outlined in the Flood Risk and Drainage Assessment Report Reference E530-01 REV.A. April 2009. The scheme shall be constructed and completed before occupancy of any part of the proposed development.

Reason: To ensure a satisfactory method of surface water drainage.

#### 14 - Non-Standard Condition

Prior to the proposed access being brought into use, vehicular visibility splays of 160m x 4.5m by 160m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. The existing frontage hedge may be retained subject to it being reduced to and maintained at or below the prescribed height.

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.

#### 15 - Non-Standard Condition

Prior to commencement of the proposed development, a size 2 vehicular turning facility, of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free of obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

#### 16 - Non-Standard Condition

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 10m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

#### 17 - Non-Standard Condition

Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 18m from the nearside edge of the carriageway of the existing road.

Reason: To ensure that the largest vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety.

#### 18 - Non-Standard Condition

The public's rights and ease of passage over Public Footpath No. 14 (Tiptree) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way in accordance with Policy 3.5 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member Decision dated 19 October 2007.

#### 19 - Non-Standard Condition

The development shall not be occupied until such time as the car parking area, indicated on the approved plans, including any spaces for the mobility impaired has been hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

#### 20 - Non-Standard Condition

Prior to commencement of the proposed use commencing, the provision for parking of powered two wheelers and bicycles, as indicated on the approved plan, or any may subsequently be agreed in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To promote the use of sustainable means of transport in accordance with EPOA Vehicle Parking Standards and Policy 4 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member Decision dated 19 October 2007.

#### 21 - Non-Standard Condition

Prior to the proposed use commencing, the permissive cycle routes as indicated on the approved plan have been provided entirely at the Applicant/Developer's expense.

Reason: To make adequate provision for the additional cycling traffic regenerated as result of the proposed development and to promote the use of sustainable means of transport in accordance with EPOA Vehicle Parking Standards and Policy 4 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member Decision dated 19 October 2007.

#### 22 - Non-Standard Condition

Prior to the use commencing the improvements to the junction of Grange Road and Vine Road as indicated on the approved drawing have been provided entirely at the Applicant/Developer's expense.

Note: This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in section 278 of the Highways Act 1980.

Reason: To make adequate provision for the additional vehicular traffic generated within the highway as a result of the proposed development in the interests of highway safety.

#### 23 - Non-Standard Condition

Any proposed new boundary hedge required following provision of the vehicle visibility splays shall be planted a minimum of 600mm back from the highway boundary.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

#### 24 - 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. Condition 25 shall comply with this standard.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

#### 25 - 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 one 1/3 octave band which exceeds the two adjacent bands by more than 5dB as measured at all boundaries near to noise-sensitive premises.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

#### 26 - Non-Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light' for zone E2. This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to the 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: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

#### 27 - Non-Standard Condition

The user of the Colchester United Training Pitches hereby permitted shall not operate outside of the following times:-

10.30 a.m. to 1.00 p.m. Monday to Saturday.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

#### 28 - Non-Standard Condition

At no time shall the boundary of any sports pitch be laid out or located closer than 40 metres to a residential curtilage.

Reason: In the interests of protecting local residential properties from noise nuisance.

#### 29 - Non-Standard Condition

Prior to the commencement of use of the development a Travel Plan, which shall include monitoring shall be submitted to and approved in writing by the Local Planning Authority. The provisions of the Travel Plan shall be adhered to at all times unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

#### 30 – Non Standard Condition

Prior to the commencement of development (or such other date or stage in the development as may be agreed in writing with the Council), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing by the Local Planning Authority:

- i) Preliminary risk assessment which has identified all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors and potentially unacceptable risks arising from contamination of the site.
- ii) A site investigation scheme based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- iii) The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

- iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The scheme shall be implemented as approved unless otherwise agreed in writing with the Council.

Reason: To ensure that the proposed development does not cause pollution of Controlled Waters and that development complies with approved details in the interests of protection of Controlled Waters.

### 31 – Non Standard Condition

Prior to the works commencing details of a construction management plan shall be submitted to the Local Planning Authority for approval, written approval shall be obtained and the measures within the construction management plan shall be fully implemented. The construction management plan shall include measures dealing with the following:-

- i) A construction access to be formed onto Grange Road (either in the location of the proposed access or to the east if ecological restrictions concerning the hedgerow dictate) using an agreed bound material. If a temporary access is formed it shall be restored following the construction period.
- ii) Routing measures for all construction and delivery traffic.
- iii) An excess soil storage area to be formed close to the proposed car park area.
- iv) Removal of excess soil from the site, which will be disposed of at Tiptree Quarry landfill site unless otherwise agreed in writing with the Local Planning Authority.
- v) Hours of operation to be applied.
- vi) Dust suppression measures including wheel washing arrangements.

Reason: In the interest of highway safety and amenity.

### 32 – Non Standard Condition

The proposed pedestrian and cycle access points shall remain unobstructed at all times whilst the facility is open.

Reason: To ensure unrestricted access to the site and the facilities provided therein.

### 33 – Non Standard Condition

The sports accommodation building shall only be used in association with and ancillary to the approved outdoor sports facility and for no other purpose within Class D2 of the Town and Country Planning (Use Classes Order 1987) as amended, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To clarify the intended use of the approved sports accommodation building.

## **Informatives**

### **Informatives from Highway Authority**

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

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 to the Local Transport Plan 2006/2011 and refreshed by Cabinet Member decision dated 19 October 2007.

All works affecting the highway shall be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838696.

The applicant is reminded of their duties and responsibilities with regard to the line of Public Footpath 14 to the north east of the site. Should any works affect the line of the right of way these must be carried out in agreement with the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600.

The applicant is advised that the Highway Authority will not allow the line of Public Footpath 14 to the north east of the site to be used by vehicles to access the development site in accordance with the Department for the Environment Food and Rural Affairs Guidance for Local Authorities Rights of Way Circular 1/09.

In the interests of promoting sustainable modes of transport, and limiting the development's effect on the highway, in accordance with policies numbers 4 and 6 in Appendix G of the Local Transport Plan 2006/11 as refreshed by Cabinet Member Decision 10 October 2007 the developer has agreed to implement a Travel Plan. The Travel Plan, which must incorporate a scheme of monitoring by the Essex County Council, is supported by a non-returnable £3,000 fee payable by the Developer.

#### **Informatives required by Environmental Control**

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

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.

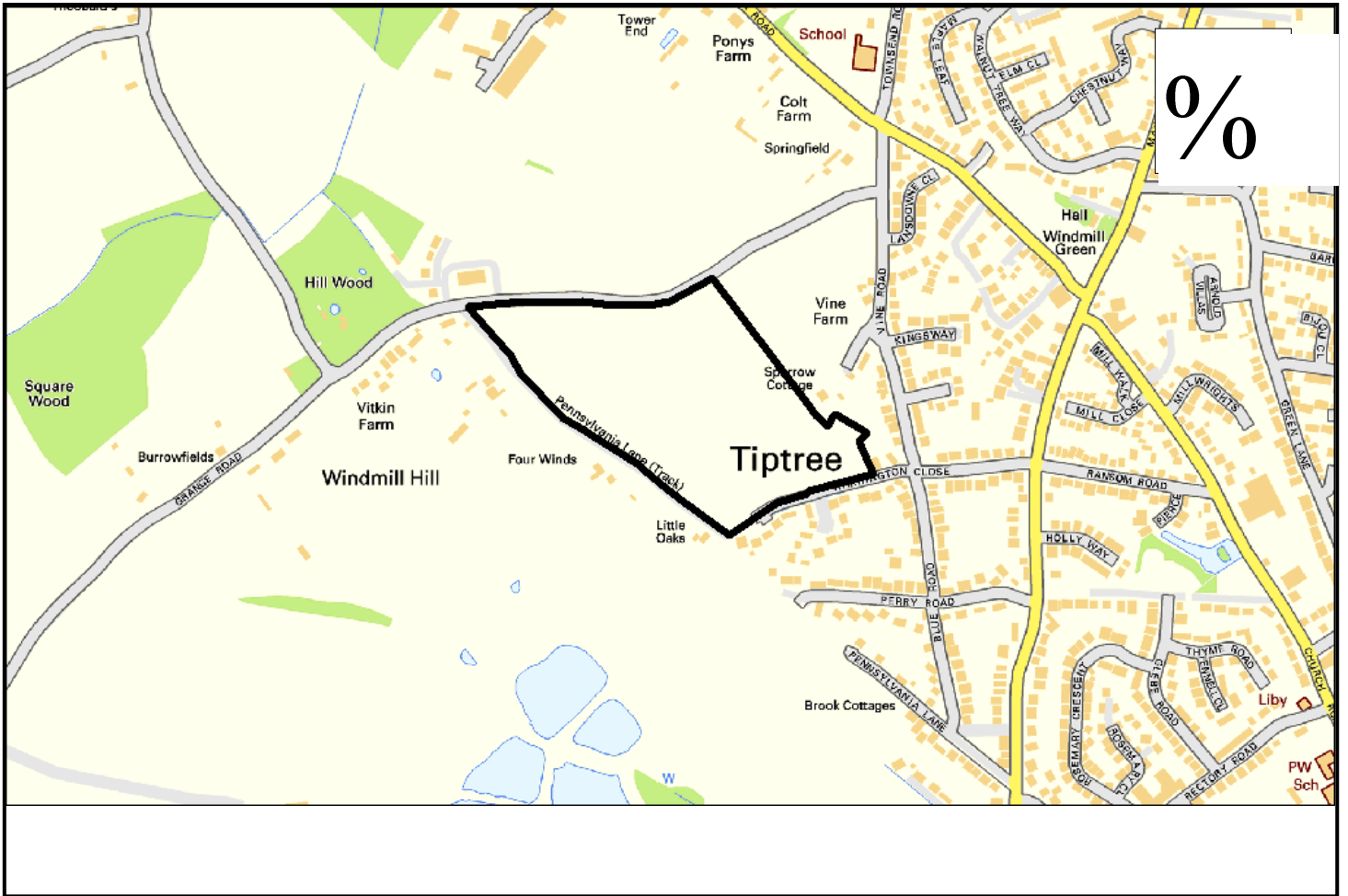
All car parking and service areas shall be sited/screened to minimise any noise impact on nearby residential premises and be of a non-gravel construction.

#### **Informatives required by Essex and Suffolk Water**

Before works are commenced on site, please contact Mr Keith Lambird (Mobile Tel: 07714064822) and arrange for the route of our 36th Steel Strategic Water Main to be traced and marked out.

The car park may be constructed over our easement, but no structures e.g. lighting columns may be erected in the easement.

The cover to our Washout access pit (approximately 90 metres from the Grange Road boundary) must be kept clear at all times.



**Application No:** 090217

**Location:** Land Adjacent (South), Grange Road, Tiptree, Colchester

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

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**7.2 Case Officer: Bradly Heffer**

**MAJOR**

**Site:** Land Adjacent (South), Grange Road, Tiptree, Colchester

**Application No:** 090217

**Date Received:** 17 February 2009

**Agent:** Mr John Lawson

**Applicant:** Colchester United Football Club Ltd

**Development:** Change of use of agricultural land to sports field, minor regrading and drainage of playing area, with associated vehicle parking area and vehicular access from Grange Road. Community useage of one pitch proposed.

**Ward:** Tiptree

**Summary of Recommendation:** Call in to Government Office

**1.0 Planning Report Introduction**

1.1 This report concerns a proposal, submitted on behalf of Colchester United Football Club, to create new football pitches on land at Grange Road Tiptree.

**2.0 Site Description**

2.1 The site for this proposal is an area of land (of approximately 9 hectares in size) located on the western side of Tiptree. Specifically, it is bounded by Grange Road, Pennsylvania Lane and Harrington Close. It was last utilised for agricultural purposes with the northern and western boundaries defined by established hedging and trees. The southern boundary with Harrington Close is currently open as is the eastern boundary except where it abuts the curtilage of Sparrow Cottage. In topographical terms the site is relatively level and, apart from the existing boundary hedging on the periphery there are no features of prominence within the site – the land having been used for arable farming.

2.2 The land use surrounding this site is for the most part predominantly rural in character, punctuated by sporadic development including the Waterworks site to the northwest and a row of dwellings that front on to the south side of Grange Road. To the south of Harrington Close, on the opposite side of Harrington Close, is residential development, the frontage of which faces across the application site.



### 3.0 Description of Proposal

3.1 The proposal put forward for consideration by Members is for the provision of 5 football pitches on the land. Four pitches would be utilised by Colchester United as a training facility while the fifth pitch would be for community use. The submitted plans also show the following:

- Creation of a new vehicular access of Grange Road, leading to a parking and turning area for vehicles as well as covered cycle parking spaces.
- Provision of a new footpath/cyclepath link from the new access, leading north eastwards on the southern side of Grange Road, terminating at the junction of Grange Road with Vine Road.
- Provision of a new 3 metre wide path (consisting of a 2 metre wide cycle path and 1 metre wide footpath) along the line of Footpath 14 Tiptree that would link Grange Road and Harrington Close.
- The construction of a 2 metre high perimeter fence around the boundaries of the site, punctuated at identified points by gates providing maintenance access.
- The creation of a 1.2 metre high bund on the south eastern boundary of the site.
- New hedging and tree planting on the site including the eastern boundary of the site and along the access visibility splays at Grange Road. A small copse is also shown at the north-western corner of the site.

3.2 It should be noted that although the proposal is for football pitches the scheme does not involve the provision of floodlighting.

3.3 By way of explanation, the Design and Access statement submitted with the application explains the background to the proposals. Extracts of the report are reproduced below for Members' information, while the full document is available for examination on the Council's website.

3.4 In relation to the need for the Training Ground the following comments are made:

'For many years the Club has used facilities at the University of Essex for training purposes and has had to compromise over its training needs by sharing facilities with the University's students. Other facilities have been used at the Garrison, Shrub End Community and Sports Centre and the Five Lakes leisure centre at Tolleshunt Knights. The University and Garrison sports pitches become unusable at certain times of the year and dispersing the training facilities across different sites has become increasingly unsatisfactory and inadequate for a professional club the size of CUFC. Shared use of school facilities has also been explored, as potential option (sic) for training purposes. However, limited access and availability to the facilities during weekdays precludes this as an adequate option. The size and quality of school pitches also poses a constraint to the Club from a professional standards point of view in the unlikely event that they would be available for use during the weekdays.

In addition, with the progress the Club has made in recent years, the time has now come to create a purpose designed facility, tailored to CUFC's own particular needs. Consequently, CUFC has identified a need for a new facility with permanent access to enable the Club to train on a daily basis and develop its sporting excellence.

Land at Grange Road, Tiptree which is in the Club's ownership would allow for such a sporting facility to be developed over a period of time as described below. The site is

relatively flat and suitable for laying out for sports pitch use. It covers an area of approximately 9 hectares and comprises former agricultural land (Grade 3). The site is well located in relation to the edge of Tiptree’.

Members should note that the site actually consists of Grade 2 and 3 agricultural land.

- 3.5 As alluded to above the current application represents the first in a series of proposals for this site. The first stage (identified as 1a) would consist of the provision of the pitches themselves which would require the installation of ground drainage, re-grading of the land and grassed pitch areas and a vehicle parking area. The pitches themselves would consist of four full sized football pitches for Colchester United, plus a further full sized pitch for community use. The accompanying statement identifies that it is likely that two of the four training pitches would be used at any time, with the community pitch used at weekends.
- 3.6 Leading on from this first stage (the subject of this application) it is stated that proposals to provide ‘...built facilities...’ i.e. changing facilities on the land (located at the northern end of the site near the proposed Grange Road access) will be submitted, constituting stage 1b.
- 3.7 The submitted statement also identifies a further stage (stage 2) explained as follows:  
  
‘This phase is associated with proposed residential development on the remainder of the farmland owned by the Club located on either side of Grange Road. This longer term programme is being promoted by the Club through CBC’s Local Development Framework (LDF) process and includes proposals for additional sports and community facilities as well as new housing.  
In addition to providing housing, the intention is to meet certain needs for the Tiptree community as identified in the adopted Core Strategy i.e. additional community sports facilities, which may consist of an all-weather 5-a-side pitch, a Community Sports Hall and allowance for 0.5 hectares of allotment land.’
- 3.8 By way of further clarification the following comment is included in the Design and Access statement  
  
‘...it should be noted that the initial sports and community use development described under Phases 1a (i.e. the subject of this planning application) and the changing facilities under 1b as set out above are not directly linked to the proposed LDF housing proposals and represent a stand alone scheme in this respect’.
- 3.9 The submitted information estimates that the maximum number of Colchester United players and staff using the site at any time would be approximately 58. The submission proposes that the Colchester United training pitches are used between 10:30am and 13:00pm Monday to Friday (with occasional use at weekends at the same time if the Club has a weekday evening match). The community pitch would be used for weekend matches between either 10:00am and 1:00pm or 2:00pm and 5:00pm. It is proposed that the community pitch would also be used for a two hour period between 10:00am and 5:00pm on Bank Holidays.
- 3.10 The documents submitted in support of this planning application (including the Design and Access statement, Transport Statement, Flood Risk Assessment and Noise Assessment Report) are available to view on the Council’s website.

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

4.1 The site for this proposal falls within an area of white land i.e. no notation as designated in the adopted Review Colchester Borough Local Plan – March 2004.

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

5.1 None

#### **6.0 Principal Policies**

6.1 Adopted Review Colchester Borough Local Plan – March 2004

DC1 – General Development Control criteria

CO4 – Landscape Features

CO8 – Agricultural Land

P1 – Pollution

L14 – Public Rights of Way

L15- Footpaths, cycleways and bridleways

L16 – Sports causing noise or disturbance.

6.2 Local Development Strategy Core Strategy – December 2008

ENV1 – Environment

ENV2 – Rural Communities

PR1 – Open space and recreation facilities.

#### **7.0 Consultations**

7.1 The Highway Authority did object to the originally-submitted scheme, but following discussions between that Authority and the applicant's agent a revised proposal is not objected to, subject to the imposition of conditions on a grant of planning permission.

7.2 The views of Planning Policy are as follows:

'The application relates solely to provision of sports pitches with associated vehicular access and parking. I am satisfied that this application can be considered in isolation and is separate from the representations submitted in respect of the Site Allocations DPD which is currently being prepared. The provision of sports pitches is not considered to undermine the Core Strategy and the strategic objectives contained therein.

Relevant planning policies and guidance can be found in the following documents:

National Planning Policy Guidance

PPG17- Planning for Open Space, Sport and Recreation

Open Spaces, sport and recreation all underpin people's quality of life and are therefore fundamental to delivering broader Government objectives. These include:

- Supporting a rural renewal – the countryside can provide opportunities for recreation and visitors can play an important role in the economies of rural areas. Open spaces within rural settlements and accessibility to local sports and

recreational facilities contribute to the quality of life and wellbeing of people who live in rural areas.

- Promotion of social inclusion and community cohesion – well planned and maintained open spaces and good quality sports and recreational facilities can play a major part in improving people’s sense of well being in the place they live. As a focal point for community activities, they can bring together members of derived communities and provide opportunities for people for social interaction.
- Health and wellbeing – open spaces, sports and recreational facilities have a vital role to play in promoting healthy living and preventing illness, and in the social development of children of all ages through play, sporting activities and interaction with others.
- Promoting more sustainable development – by ensuring that open space, sports and recreational facilities are easily accessible by walking and cycling and that more heavily used or intensive sports and recreational facilities are planned for locations well served by public transport.

The countryside around towns provides a valuable resource for the provision of sport and recreation, particularly in situations where there is an absence of land in urban areas to meet provision... local authorities should encourage the creation of sports and recreational facilities in such areas.

PPS 7 – Sustainable development in rural areas – includes reference to facilitating the provision of appropriate sport and recreational facilities in the countryside around urban areas. In judging proposals for development of high quality agricultural land consideration must also be given to amenity value, access to infrastructure and maintaining viable communities.

### Regional Policy

Policy Env 1 – requires areas and networks of green infrastructure to be identified and created to ensure an improved and healthy environment for communities. Tiptree experienced significant growth with the Grove Road development and this has not been matched by green infrastructure, including green spaces for recreational use.

Policy SS8 - complements Policy Env1 in recognising the importance of the urban fringe. It acknowledges that some parts of the urban fringe will be used to accommodate urban extensions and where this happens it will be important to manage the adjoining countryside to ensure amongst other things the needs of residents for access and recreation are provided for.

### Local Policy

Local Policy is contained within the adopted Local Plan (saved policies) and the adopted Core Strategy. The site is within White Land in the Local Plan (land with no notation). The relevant policies are detailed below:

- Core Strategy Policy PR1 and Table PR1 – the Council aims to provide a network of open spaces, sports facilities and recreational opportunities that meet local community needs and facilitate active lifestyles. The table identifies the need for sports pitches in Tiptree.

- Core Strategy ENV1 – unallocated land outside of settlement boundaries will be protected and development strictly controlled. However, there is recognition that some development needs or is compatible with a rural location and in such cases various criteria should be met.
- Core strategy ENV2 – outside village boundaries the Council will favourably consider small scale leisure and tourism schemes.
- Local Plan Policy L16 – sets out what factors to consider when assessing a proposal for sporting activity causing ‘noise or disturbance’. This is intended to cover sports such as war gaming or combat games. Football (predominantly training) is not considered a noisy sport.

### Other Issues

A significant area of land is required for this facility which it would be extremely difficult to accommodate within an urban area or on previously developed land. The applicants were asked to consider a number of other sites all closer to Colchester but all were greenfield sites, suggesting in accordance with Policy ENV1 this is a use that needs to take place in a rural location. Ownership issues, high land values and hope value prevented any other sites being suitable.

It was also pointed out that players do not necessarily reside in Colchester so would be travelling by car to training whether it be in Colchester or Tiptree. The need to travel by car will not change. The use of the community pitch by local teams would reduce the need for them to travel. (There has been a shortage of sports facilities locally which has necessitated teams having to travel to Langham to play their games.)

The community pitch and facilities should be available to the community as a whole (see CBC Playing Pitch Strategy). It is disappointing to see the proposed use is for 2 specified local teams. Appropriate management would be required to ensure wider use or the Council could consider taking over the pitch to be run in conjunction with Tiptree Sports Centre and subject to a commuted sum for maintenance agreed as part of the application. Although the intention to improve junior football facilities at Warriors Rest is acknowledged the proposals do not form part of this application and cannot therefore be secured.

The scheme should include cycle and pedestrian access and cycle parking to better link the site with the village and improve the accessibility for local people.

### Conclusions

There is no objection to the provision of sports pitches subject to:

1. full community use of the ‘community pitch’ to address the shortfall identified in the Core Strategy
2. highways issues being resolved
3. adequate parking and access for cyclists and pedestrians

7.3 The Council's Countryside Sites Manager comments as follows:

'There is a localised shortage of football pitches in Tiptree and it is known that local clubs are playing outside the area in order to find 'home' venues. The proposal shows provision for a community pitch which is to be welcomed. If it is to be allocated for designated local teams it is probable that here will be a league requirement to provide changing room facilities in the proximity of the pitch. This is not provided for in the submitted application.

Further detail is requested on the community use of the pitches and how this pitch will be made available for hire and use. There is also concern over the limited parking facilities. With the number of pitches being provided there will be insufficient car parking capacity for more than one pitch to be used at a time unless teams are brought in by coach'.

7.4 The Parks and Recreation Manager comments as follows:

'The arrangement for community use at weekends appears reasonable and helps to meet the demand for adult pitches, particularly on Sunday mornings. The indication of the local teams who would be using the pitches is helpful but that must not be exhaustive. To help address the demand for pitches alternative clubs should have the opportunity for booking these pitches so that they are truly a community benefit. I would consider it reasonable that a maximum of 3 games per week are permitted on the community pitches.'

7.5 The Environmental Control officer has no objection to the proposal subject to the imposition of conditions. Similarly, the Contamination Officer has no objection subject to various conditions being imposed.

7.6 The Council's Trees and Landscape Officer and Arboriculture Officer do not object to the scheme subject to the imposition of conditions.

7.7 Sport England has expressed its support for the scheme and makes the following comment as part of its response letter:

'If securing the community use of the football pitch that is proposed for community use is material to the determination of the application, I would recommend that a planning condition is imposed on any planning permission requiring a community use scheme to be submitted and approved prior to the completion of the development.'

7.8 The Environment Agency has no objection to the proposal subject to the imposition of conditions.

7.9 Essex and Suffolk Water has no objection but includes informatives for the applicant in its response.

7.10 Natural England does not object to the proposed development subject to the imposition of a condition.

7.11 Essex Wildlife Trust has a holding objection to the proposal for the following reason:

‘Although a phase 1 survey has been completed there are no further protected species surveys produced to support the findings of the phase 1.

Due to this EWT is unable to assess if there are any likely significant effects on protected species. Before any decision can be made EWT recommends that the applicant produce further surveys focusing on the impacts on Bats and Reptiles.’

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

8.1 Tiptree Parish Council’s comments on the initial proposals were as follows:

‘Parish Council objects on following grounds:

Highways – Grange Road narrow and no footway. Dangerous junction Grange Road/Vine Road.

Noise – Doubtful regarding noise level calculations method. True levels could fall short of PPG24 requirements.

Health and Safety – Bridleway runs alongside field and is often used by horses. Noise from whistles could have dangerous effect on horses and hence riders.

Environment – Concern on effect on bats in present tree hedgerows.’

8.2 Following submission of amended plans the following comment was received:

Tiptree Parish Council object to this application on the following grounds –

Highway concerns – safety on surrounding roads

Lack of footway

Inappropriate development in the countryside

Loss of visual impact and amenity

Flood risk

Inadequate transport links.

## **9.0 Representations**

9.1 At the time this report was drafted, the Council had received in excess of 460 letters objecting to the scheme. This figure includes responses to the initial consultation and as a result of reconsultation following submission of the amended plans. Copy letters received from the majority of respondents are included as an appendix to this report in order that Members may read the contents in full.

9.2 Furthermore two letters have been received from agents retained on behalf of Tiptree West Side Action Group. Again, these are reproduced in full as an appendix to this report.

9.3 Other objections relate to the following areas:

- The proposal will have a detrimental impact on the road network and roads in the vicinity of the site will not be able to cope with the additional traffic. The roads are in a poor state and are used by heavy traffic generated by the aggregate site located further along Grange Road to the west.

- This proposal represents the first in a series of proposals to develop in this area, including residential development. The character and appearance of the area, and amenity of residents, would be seriously damaged if this application went ahead. Car parking facilities, fencing and floodlighting would further damage the character of the environment.
- The proposal will effectively destroy existing wildlife habitat and its amenity value to local residents.
- The scheme would only be of benefit to outsiders and not the village itself. Colchester United's stadium is 20 miles away and training facilities should not be provided in Tiptree. Alternative facilities could be provided that are more convenient to the club and its facilities. Layer Road is still available for development.
- The proposal will place an extra burden on village facilities and local policing.
- The development would give rise to flooding and noise problems. It is also bound to give rise to litter, vandalism and hooliganism problems.
- The scheme involves land outside of the village envelope.

9.4 The local consultation has also prompted 13 responses that express support for the scheme.

9.5 Feering Parish Council objects to the proposal on the grounds that the current road infrastructure is inadequate to cope with the potential increase in traffic that would be generated by the proposal. It is also stated that if Colchester Borough Council are minded to approve this application it should be a requirement of a S106 agreement that Tiptree is provided with a separate access to and from the A12. Furthermore Kelvedon Parish Council has written to confirm that it supports the comments made by Feering Parish Council.

9.6 Campaign to Protect Rural Essex has sent a letter commenting on the proposals. The following comments are made:

CPRE Colchester Group has considered the above application. We do not wish to object to the principal of playing fields on the application site (or in this general location). We do, however, have considerable reservations in relation to the above application.

We note that the proposal is for use as a training facility for Colchester United with some limited use by the wider community in the shape of two local football teams. The facility is therefore primarily to serve a Colchester based organisation rather than to benefit local residents and the village of Tiptree itself. We do wonder why Colchester United have not opted for a facility closer to their stadium, with the facilities that offers for the club. Perhaps they should be asked to demonstrate that no land is available around Colchester itself.

No changing facilities are proposed in the application although it appears that it is the applicant's intention to provide such facilities at a future date. Nor are floodlights proposed, at this stage at least. It seems to us that that is proposed is a facility of very limited usefulness and that inevitably further applications will come forward for an intensification of activity on this site. Such potential intensification of activity and, hence, built development does cause us concern because of its likely impact on the wider countryside and local residents amenity as well as the traffic implications. We would also be very concerned were floodlights to be proposed because of their impact on the night sky.



There is also the issue of the applicant's intention to seek permission for housing on land adjoining. Clearly, this is not part of the present application but it does reinforce our concerns that the current application is a Trojan horse for major urbanisation on the edge of Tiptree.

We would urge the Council to consider very carefully whether the current proposal is sensibly located for the applicant's needs, whether it provides any real wider community benefits and whether the facility as applied for is viable (or will inevitably be followed by other applications for intensification). If the answer is no to any of these questions then we suggest the proposal should be refused.

If the Council is minded to approve the application, we would ask that conditions are imposed and/or a legal agreement is entered into to prevent any further development without the submission of a further planning application."

- 9.7 The following comment was received from the Ramblers Association when it was consulted on the first scheme:

'We note that the marking of the public footpath is different on the various drawings; on the OS placement it appears to pass through the field but the individual drawings show it alongside. It is hard to tell whether it will be to the east or west of the new hedging. If the plan is to enclose footpath 14 between a fence and a hedge at any point, it should retain sufficient width for mechanical hedge-trimming vehicles to pass. If the fence is to be solid, it would make the path into an urban-type alley, completely unsuitable in this situation.

We are very concerned at the entrance, which will be more or less opposite footpath 4. Walkers using these footpaths (4 and 14) will be progressing along this narrow road just where drivers will be concentrating on turning in and out of the sports field. Perhaps a continuation of footpath 14 inside the hedge (also fenced) to exit with the drive might be an option but this should obviously be guided by normal highway exit constraints.

Our main concern is in the matter of public health. We assume the sports pitches will regularly be used by gatherings of thirty or more people. In our experience of gatherings (of walkers) of this number, the most essential provision is for public conveniences. We object to the plan.'

- 9.8 At the time this report was written the further comments of the Ramblers Association had not been received. Therefore any further response will be made available at the Committee meeting.

## **10.0 Report**

- 10.1 At this point the land that is the subject of this application is not allocated for development. In the adopted Local Plan the site falls within white land i.e. land having no notation. In the Local Development Framework Site Allocations Consultation document the site does fall within an area identified as possibly suitable for mixed use development, including residential use. Nevertheless, it is important to emphasise that this particular proposal should be viewed as a stand-alone proposal, to be determined on its own merits, notwithstanding the changes in land use allocation that may arise in the future.

- 10.2 Planning Policy response to this application is an important consideration, given the land use allocation of the site in the current Local Plan and also the possibility of development taking place in the area in the future as part of the LDF procedure. The Policy response has identified various national, regional and local level policies that are relevant to the proposal and these are described in some detail. A fundamental issue is the fact that the land would be used for an alternative purpose in advance of any conclusion to the LDF specific site allocation process. Indeed the development proposal is a departure from the current plan and has been advertised as such. Nevertheless, it is noted that policy PR1 of the adopted Core Strategy does identify the provision of sports pitches as a requirement for Tiptree. This follows on from the Council's Playing Pitch Strategy document that has informed the relevant Core Strategy policy. The submitted scheme does propose a football pitch on the site, which would be reserved for community use.
- 10.3 Furthermore the advice is that the proposal does not conflict with policies ENV1 – Environment and ENV2 – Rural Communities of the adopted Core Strategy. These policies relate to the environment and rural communities and, again Planning Policy is satisfied that the principle of the development taking place on this land would not conflict with the aims of these policies. The advice concludes that the proposal would be acceptable in planning policy terms with the provisos that the community pitch offers full use to the community, highway issues are resolved and adequate parking and access for cyclists and pedestrians is provided. The 'community' element of the proposal is clearly of fundamental importance – not least to address the aim of policy PR1. Supporting information initially submitted on behalf of the applicant indicated that the community pitch would be available for use by two named Tiptree football teams that currently use the Warrior's Rest site. Notwithstanding this, it was considered that the use of the pitch should not be restricted solely to the two identified teams but should be available for wider local use. In addition to the concluding comments of Planning Policy, this point is also made in the consultation response of the Council's Parks and Recreation Manager as is the matter of frequency of use. Sport England has also commented on this issue. Members are advised that to this end, it is proposed that appropriately-worded conditions would deal with this particular issue.
- 10.4 Members are advised that when this application was originally submitted the proposals attracted a recommendation of refusal from the Highway Authority. Following this, the applicant's agent liaised with that Authority in order to address the areas of concern. This resulted in a revised Transport Statement and new plan being submitted that incorporated the following alterations:
- Improvement of the Grange Road/Vine Road junction.
  - Provision of additional footpaths and cycle paths, specifically along the length of Grange Road towards Vine Road and adjacent to most of the length of footpath 14 that runs adjacent to the eastern boundary of the application site.
  - Enlargement of the vehicle parking area that would be created adjacent to the new access to the site off Grange Road.
  - An increase in the vehicular visibility splays at the proposed site access with Grange Road.

10.5 The range of additional works listed above is proposed in order to address the Highway Authority's concerns regarding access to the site and the issue of highway safety. For example, the car park serving the development has been enlarged in order that the number of spaces acknowledges the emerging Essex Planning Officers Association parking standards for this type of development. The following information is included in the Transport Statement Addendum document:

'It is relevant to note that the new EPOA Consultation Draft Parking Standards identify that, for team sports, a maximum of 20 spaces per pitch plus 1 space per 10 spectator seats should be provided. On this basis, it is proposed to provide the maximum provision of 40 spaces for the two sports pitches plus an additional spectator allocation of 5 additional spaces. In accordance with the new EPOA guidance, 3 car parking spaces will be suitable for people with disabilities.'

10.6 The enlargement has also resulted from the Highway Authority's requirement that a coach should be able to turn within the site. The plan also shows parking provision for 2 minibuses. The path proposed on the eastern end of the field, adjacent to footpath 14, would link from the entrance to the site to Harrington Close and a further new path would travel eastwards along Grange Road, ending at the Grange Road/Vine Road junction. These paths would be useable by pedestrians and cyclists and are provided as a response to concerns over accessibility to the site by non-car modes. Another concern was the overall accessibility of the proposal, given that the football club, based on the northern side of Colchester, and the Grange Road site in Tiptree are geographically remote from each other. Information submitted with the application does indicate that the football club's current training facilities do not meet its requirements and the search for a site of the necessary size in an urban location has not proved successful. This process is acknowledged in the response of the Planning Policy officer. On this basis the identified site, which is owned by the applicant, has been put forward as a suitable location to create a permanent training ground for the club.

10.7 A particular concern raised by many objectors is the suitability of the existing road network to cater for the additional traffic generated by the development. This concern is based on the generally narrow roads in the area and the fact that lorry traffic is generated by the aggregate works to the west along Grange Road. The submitted Transport Assessment comments on traffic generation as follows:

'As a worst case, CUFC has identified that a maximum of 20 cars could be expected per training session. This is made up of: 10 cars for players, 5 cars for playing and office staff and a possible 5 cars for visitors...The training ground would be used up to five times a week throughout the year with the exception of 4 – 6 weeks in the summer for close season. On this basis and taking the 'worst case' identified above the training ground could give rise to 210 two-way vehicle movements per week.'

- 10.8 The Assessment goes on to identify that ‘...a community football match would give rise to 18 car arrival and departure trips on the robust basis that all players/staff arrive/depart by car.’ The Assessment identifies that when the site is used for five training sessions and two community football matches this could attract a total of 300 two-way vehicle movements, utilising the ‘worst case’ scenario described above. Members are advised that a traffic survey was also undertaken on Grange Road during September 2008 and the Assessment concludes that the traffic generated by the proposed use would not use the road during the periods of heaviest use i.e. 8:00am to 9:00am and 5:00pm to 6:00pm. The Assessment concludes that, using the ‘worst case’ scenario for traffic generation ‘...this would result in a weekly traffic impact of just 3% on Grange Road, north of the proposed access. This increase in traffic flow is considered to be immaterial and within normal variations of traffic flow at Grange Road. Indeed ECC define a ‘material impact’ on links and nodes where development traffic constitutes 5%...’
- 10.9 Following further liaison between the applicant and the Highway Authority, and as part of the package of amendments, the scheme now proposes a travel plan that would include transporting players on minibuses from the football stadium to the Grange Road site. The Transport Assessment, as amended, describes the arrangements as follows:
- ‘...CUFC intend for the majority of players to meet at the Community Stadium Colchester and travel to the site would be by either minibus or car share. The applicant is proposing to provide a dedicated minibus shuttle service to ferry players to and from the training ground and Community Stadium at Colchester. Players would rendezvous at the Community Stadium and transfer to the training ground by 17 seater and/or 7 seater mini bus(es). At the end of each training session players would be transferred back to the Community Stadium, using the same minibus transport, which would be made available for use at each training session. This arrangement would also continue to operate following the provision of on-site training facilities when provided.’
- 10.10 In terms of more local trips to the site it is noted that the named Tiptree teams that would use the site would have to travel to the site from their current location at Warrior’s Rest (at least until on-site changing facilities were provided). Additionally the current scheme proposes the provision of new cycle and pedestrian facilities that would link the site to the wider highway network, and secure cycle parking facilities.
- 10.11 On the basis of the proposed arrangements the Highway Authority has withdrawn its objection to the proposal on the grounds of sustainability issues. Again a condition of a planning approval on this site would be to secure the proposed travel plan as well as the other highway works proposed under the amended proposal.

- 10.12 Given that the site is rural (albeit on the periphery of the village) the issue of impact on ecology is an important consideration. Members are advised that as a consequence of the proposal hedgerow removal is required along the Grange Road frontage of the site (to enable a vehicular access to be provided), and also further eastwards towards the Grange Road/Vine Road junction where new footpath/cycleway works are proposed. The remaining hedgerows on the site (in particular the established feature along the length of Pennsylvania Lane) would remain and additional hedgerow planting would be carried out along the eastern and southern boundaries. A new small copse of trees is also shown at the north-eastern corner of the site. Other site works shown would include the provision of a 2 metre high green plastic-coated metal fence (punctuated by access gates for maintenance) around the site, set 2 metres in from existing and proposed hedgerows. Similar fencing has been used on the Warrior's Rest site in Tiptree. The Design and Access statement identifies this particular aspect of the works as permitted development.
- 10.13 The application is accompanied by an ecological report that has been considered by Natural England and Essex Wildlife Trust. Initially, Natural England did originally recommend refusal of the scheme on the basis that the information made available was inadequate to properly judge the impact of the proposals on ecology. However, subsequently confirmation has been received that Natural England does not object to the proposals, subject to the imposition of a condition relating to the proposed works to the hedgerow along Grange Road. At the time of writing this report Essex Wildlife Trust's comment is a holding objection on the basis that further survey work is required. While the request of Essex Wildlife Trust is noted it is the case that Natural England does not object to the development, and does not require further survey work to be carried out prior to determination of the application. Any further comment received by Essex Wildlife Trust will be reported at the meeting.
- 10.14 The impact of the proposed development on the environment is obviously a key consideration in this case. At the present time the land is undeveloped and is rural in character. As a result of the development this character will alter. The land itself would be re-graded in order to create level playing surfaces, a new vehicular access and tarmac parking area would be created, new boundary fencing would be erected, and a 1.2 metre high bund located on the southern end of the site etc. Notwithstanding these changes it is felt that cumulatively the overall impact of the development on visual amenity would not be so harmful as to merit a rejection of the scheme on these grounds. The surface of the land would remain grassed, (with the obvious exception of the parking area) and although the land would be fenced this fencing would allow views across the land as it would not be of solid construction. Where individual pitches are created there would be the provision of goal posts, corner flags etc but again these elements in themselves are not considered to be particularly visually intrusive or detrimental to amenity. As mentioned earlier in this report the scheme does also include the provision of new hedge planting which would assist in softening the overall impact of the development. A further amenity consideration is the impact of the use in terms of noise nuisance. The use of the land for football training and matches will obviously give rise to noise from players, spectators etc. as will the vehicular movements associated with the use. To this end it is noted that the Council's Environmental Control officer does not object to the proposal, again subject to the imposition of conditions on any grant of planning permission. Importantly the officer has identified that a minimum distance should be maintained between the edge of pitches and the nearest residential curtilages (this being 40 metres). This is an

important consideration as Members should bear in mind that the position of the pitches themselves is not fixed. Due to ongoing wear and the need to allow the playing surface to recover the position of pitches will vary over time. Plans submitted with the application do show a possible pitch layout but this would not be 'set in stone' for the reason set out above. Nevertheless, the relocation of pitches would have to be carried out with regard to the minimum distance identified by Environmental Control. Another important consideration with regard to noise nuisance is the proposed hours when the facility would be used. (see paragraph 3.9 of this report). These hours of use do not give rise to objection from Environmental Control and would appear to be reasonable, given that the site is adjacent to residential development, particularly to the south, and the amenity of these dwellings is an important consideration.

10.15 Members will note the very extensive number of objections that have been received following local consultation on the scheme. The level of concern clearly demonstrates that there is strong local objection to the proposals. It is also noted that Tiptree Parish Council has also objected to the scheme. These concerns are of course fully acknowledged and appreciated. However, the principle of locating such a use on the land is identified as being acceptable in planning policy terms as stated in your Policy Officer's response, and the various impacts of the development in terms of highways, visual and residential amenity, ecology etc can be satisfactorily mitigated subject to the imposition of conditions. It is also felt important to re-emphasise that this scheme must be considered as a stand alone proposal, notwithstanding the ongoing LDF site allocation process.

10.16 As mentioned previously, given the current allocation of the site i.e. white land having no notation the proposal has been advertised as a departure and therefore the matter would have to be referred to Go-East were Members minded to accept the officer recommendation of approval subject to suitable conditions being imposed.

## **11.0 Background Papers**

11.1 HA; HH; PTC; NLR; FPC; NR; EWT; PP; Kelvedon Parish Council; CPREssex Ramblers Association

### **Recommendation**

The recommendation to Committee is that the Government Office for the Eastern Region be advised that Colchester Borough Council is minded to approve the submitted planning application, as amended, subject to the conditions as set out below. If the application is not called in for determination then Committee authorises the Head of Environmental and Protective Services to issue the planning permission.

### **Conditions**

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

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

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

## 2 - Non-Standard Condition

The permission hereby granted relates to the amended plans hereby returned approved.

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

## 3 - C10.15 Tree & Natural Feature Protection: Protected

No work shall commence on site until all trees, shrubs and other natural features not scheduled for removal on the approved plans, are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. No access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

## 4 - 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.

## 5 - 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.

## 6 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

#### 7 -C11.12 Landscape Works Implementation

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

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

#### 8 - 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 for its permitted use.

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

#### 9 - Non-Standard Condition

Prior to the removal of the area of hedgerow to the Grange Road frontage as indicated on the approved drawings, a destructive reptile search shall be carried out under the supervision of a qualified ecologist and any protected species shall be carefully translocated to a safe area within the site. The destructive search and hedgerow removal shall be undertaken outside of the bird nesting season.

Reason: There is evidence that the site is/is likely to be of importance for nature conservation and it should be further investigated as advised by Natural England.

#### 10 - Non-Standard Condition

None of the hereby permitted sports pitches shall be brought into use until one sports pitch has been laid out and made available for community use. Thereafter one sports pitch (which shall be of an adult pitch specification with minimum dimensions of 100 metres in length and 65 metres in width) shall be made permanently available on the site for such community use during all permitted playing times.

Reason: To ensure that the approved scheme incorporates an appropriate level of community use.



#### 11 - Non-Standard Condition

Prior to the commencement of the use a Community Use Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of access, pricing policy, hours of use, management responsibilities and include a mechanism for review. The approved Scheme shall be implemented upon commencement of use of the development.

Reason: To secure well managed safe community access to the sports facility.

#### 12 - Non-Standard Condition

Prior to the commencement of development, a scheme for the provision and implementation of surface water drainage, incorporating sustainable drainage principles, shall be submitted and agreed, in writing with the Local Planning Authority. The scheme shall incorporate the surface water drainage strategy outlined in the Flood Risk and Drainage Assessment Report Reference E530-01 REV.A. April 2009. The scheme shall be constructed and completed before occupancy of any part of the proposed development.

Reason: To ensure a satisfactory method of surface water drainage.

#### 13 - Non-Standard Condition

Prior to the proposed access being brought into use, vehicular visibility splays of 160m x 4.5m by 160m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. The existing frontage hedge may be retained subject to it being reduced to and maintained at or below the prescribed height.

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.

#### 14 – Non Standard Condition

Prior to commencement of the proposed development, a size 2 vehicular turning facility, of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free of obstruction at all times for that sole purpose.  
Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

#### 15 – Non Standard Condition

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 10m of the highway boundary.  
Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

#### 16 – Non Standard Condition

Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 18m from the nearside edge of the carriageway of the existing road.  
Reason: To ensure that the largest vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety.

#### 17 – Non Standard Condition

The public's rights and ease of passage over Public Footpath No. 14 (Tiptree) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way in accordance with Policy 3.5 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member Decision dated 19 October 2007.

#### 18 – Non Standard Condition

The development shall not be occupied until such time as the car parking area, indicated on the approved plans, including any spaces for the mobility impaired has been hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

#### 19 – Non Standard Condition

Prior to commencement of the proposed development the provision for parking of powered two wheelers and bicycles, as indicated on the approved plan, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To promote the use of sustainable means of transport in accordance with EPOA Vehicle Parking Standards and Policy 4 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member Decision dated 19 October 2007.

#### 20 – Non Standard Condition

No works in connection with the proposed development shall commence until such time as the permissive cycle routes as indicated on the approved plan have been provided entirely at the Applicant/Developer's expense.

Reason: To make adequate provision for the additional cycling traffic regenerated as result of the proposed development and to promote the use of sustainable means of transport in accordance with EPOA Vehicle Parking Standards and Policy 4 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member Decision dated 19 October 2007.

#### 21 – Non Standard Condition

No works in connection with the proposed development shall commence until such time as the improvements to the junction of Grange Road and Vine Road as indicated on the approved drawing have been provided entirely at the Applicant/Developer's expense.

Note: This condition requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in section 278 of the Highways Act 1980.

Reason: To make adequate provision for the additional vehicular traffic generated within the highway as a result of the proposed development in the interests of highway safety.

#### 22 – Non Standard Condition

Any proposed new boundary hedge required following provision of the vehicle visibility splays shall be planted a minimum of 600mm back from the highway boundary.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

### 23 – 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. Condition 24 shall comply with this standard.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

### 24 – 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 one 1/3 octave band which exceeds the two adjacent bands by more than 5dB as measured at all boundaries near to noise-sensitive premises.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

### 25 – Non Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light' for zone E2. This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to the 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: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

### 26 – Non Standard Condition

The user of the Colchester United Training Pitches hereby permitted shall not operate outside of the following times:-

10.30 a.m. to 1.00 p.m. Monday to Saturday.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area by reason of undue noise emission and/or unacceptable disturbance.

### 27 – Non Standard Condition

At no time shall the boundary of any sports pitch be laid out or located closer than 40 metres to a residential curtilage.

Reason: In the interests of protecting local residential properties from noise nuisance.

### 28 – Non Standard Condition

Prior to the commencement of use of the development a Travel Plan, which shall include monitoring shall be submitted to and approved in writing by the Local Planning Authority. The provisions of the Travel Plan shall be adhered to at all times unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

## **Informatives from Highway Authority**

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

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 to the Local Transport Plan 2006/2011 and refreshed by Cabinet Member decision dated 19 October 2007.

All works affecting the highway shall be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838696.

The applicant is reminded of their duties and responsibilities with regard to the line of Public Footpath 14 to the north east of the site. Should any works affect the line of the right of way these must be carried out in agreement with the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600.

The applicant is advised that the Highway Authority will not allow the line of Public Footpath 14 to the north east of the site to be used by vehicles to access the development site in accordance with the Department for the Environment Food and Rural Affairs Guidance for Local Authorities Rights of Way Circular 1/09.

In the interests of promoting sustainable modes of transport, and limiting the development's effect on the highway, in accordance with policies numbers 4 and 6 in Appendix G of the Local Transport Plan 2006/11 as refreshed by Cabinet Member Decision 10 October 2007 the developer has agreed to implement a Travel Plan. The Travel Plan, which must incorporate a scheme of monitoring by the Essex County Council, is supported by a non-returnable £3,000 fee payable by the Developer.

## **Informatives required by Environmental Control**

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

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.

All car parking and service areas shall be sited/screened to minimise any noise impact on nearby residential premises and be of a non-gravel construction.

## **Informatives required by Essex and Suffolk Water**

Before works are commenced on site, please contact Mr Keith Lambird (Mobile Tel: 07714064822) and arrange for the route of our 36<sup>th</sup> Steel Strategic Water Main to be traced and marked out.

The car park may be constructed over our easement, but no structures e.g. lighting columns may be erected in the easement.

The cover to our Washout access pit (approximately 90 metres from the Grange Road boundary) must be kept clear at all times.



Creating sporting opportunities in every community

Your ref: 091115  
Our ref: APP/19/2009/224

28 September 2009

Nick McKeever  
Planning Officer  
Colchester Borough Council  
PO Box 889  
Town Hall  
Colchester  
CO1 1FL

Dear Mr. McKeever,

**CHANGE OF USE OF AGRICULTURAL LAND TO SPORTS FIELD, MINOR REGRADING AND DRAINAGE OF PLAYING AREA WITH ASSOCIATED VEHICLE PARKING AREA AND VEHICULAR ACCESS FROM GRANGE ROAD AND PROVISION OF CYCLE/FOOTWAY LINKS TO HARRINGTON CLOSE AND VINE ROAD (RESUBMISSION OF 090217) - LAND ADJACENT (SOUTH) GRANGE ROAD, TIPTREE, COLCHESTER**

Thank you for consulting Sport England on the above planning application. As the proposal does not affect an existing playing field, the consultation is not statutory under the terms of the General Permitted Development Procedure Order 1995 (as amended).

The proposal involves the change the use of agricultural land to a playing field that would accommodate five senior football pitches, including a pitch that would be dedicated to community use, together with ancillary changing facilities, car parking and vehicular access. The application represents the first phase of a wider development for providing Colchester United Football Club (CUFC) with a modern football training centre.

The application is a resubmission of a previous planning application (090217) that was refused planning permission on 25 June 2009. I understand that an appeal has now been made against this decision and that a local inquiry will be held. The current application would appear to be similar to the previous application apart from further detail being provided about the extent of community use of one of the proposed pitches to help address one of the reasons for refusal of the previous planning application. A concurrent planning application has also been submitted for the same development plus changing facilities to serve CUFC and the community. This related planning application (091117) has been submitted to address the other reason for refusal relating to the previous planning application.

Planning Policy Objective 7 of Sport England's Planning for Sport and Active Recreation: Objectives and Opportunities document (September 2005), supports the development of new facilities that will secure opportunities to take part in sport. I have considered the information provided in support of the planning application and would make the following comments on the benefits to sport that the proposal would offer:

- The development would provide a dedicated training centre for CUFC. The club currently has to share facilities on sites such as the University of Essex and Colchester Garrison. This creates problems because the club does not have priority over the use of these facilities and the quality of the facilities is not of the standard required for accommodating the training needs of a professional football club e.g. pitches become unusable during the winter period due to the surfaces not having the capacity to accommodate intensive use by CUFC and other users of the sites. It is advised that the majority of professional football clubs now have dedicated training facilities and in view of the club's recent progress in the football league and the opening of the new community stadium at Cuckoo Farm, the provision of a purpose built football training centre would be considered to be complementary to the development of CUFC. The provision of a dedicated training facility for CUFC may also offer the benefit of freeing-up pitch capacity at the facilities in Colchester that they currently use which may allow greater use of the facilities by other users and help address local needs.
- One of the football pitches is proposed to be dedicated for community use i.e. to be used by community football teams rather than CUFC. This would help address an identified local facility deficiency in Tiptree. Colchester Borough Council's Open Space, Sport and Recreation Study (2007) identified that outdoor sports facility provision in Tiptree did not meet the Council's quantitative standards and the south west of the village suffered from poor accessibility to outdoor sports facilities. Furthermore, the quality of outdoor sports facilities in Tiptree was identified as being relatively poor compared to facilities elsewhere in the Borough. The provision of a new football pitch in the west of the town dedicated for use by community football teams would therefore help contribute towards addressing this identified deficiency. I understand that the community pitch would be used by Tiptree Heath FC and Tiptree Jobserve FC as well as other community teams if the physical capacity of the proposed pitch permits.
- The provision of a community pitch on the application site will allow Tiptree Heath and Tiptree Jobserve football clubs to relocate to the application site and use it as their home ground. These two local football clubs are based at Warriors Rest sports ground in Tiptree and their relocation would allow this sports ground to focus on junior/mini football which is not possible at present due to the senior pitch needs of the two senior clubs. CUFC are proposing to make a significant investment into the improvement of facilities at the Warriors Rest sports ground which would involve the provision of a new clubhouse and improved football pitches for Tiptree Minors FC which would allow six pitches to be marked out. I understand that some of these proposals are currently being implemented.

On the basis of the above, the proposed development is considered to offer significant benefits to community football both directly and indirectly and the proposal is considered to clearly meet our planning policy objective and accord with Government guidance in PPG17 on the provision of new sports facilities. Sport England would therefore support the principle of this planning application. I can advise that Sport Essex, the county sports partnership, have also confirmed their support for the principle of the development due to the community sports development benefits that are offered by the proposed development.

With respect to the preparation, design and layout of the site for playing pitches, Sport England's guidance note "Natural Turf for Sport" (March 2000) provides detailed guidance on how new playing pitch sites should be planned, designed, managed and maintained if this is relevant to the consideration of the

planning application. This document can be downloaded from Sport England's website at [www.sportengland.org/facilities\\_planning/putting\\_policy\\_into\\_practice/playing\\_fields.aspx](http://www.sportengland.org/facilities_planning/putting_policy_into_practice/playing_fields.aspx). Due to importance of providing a playing surface that will have the capacity to maximise potential community use, I would recommend that a planning condition is imposed on any planning permission requiring the submission and approval of a ground conditions assessment prior to commencement of construction. Such an assessment would include a scheme to address any topographical or drainage issues and also a recommended playing field maintenance regime which responds to the ground conditions of the site. A template planning condition (condition 10) is set out in Sport England's schedule of standard planning conditions which are on our website at [www.sportengland.org/facilities\\_planning/planning\\_contributions/local\\_frameworks/part\\_5.aspx](http://www.sportengland.org/facilities_planning/planning_contributions/local_frameworks/part_5.aspx)

I welcome the related planning application for built facilities to support the training centre. It will be important that clubhouse facilities are provided on the site as it is an essential ancillary facility to support the use of any playing field especially a playing field to be used a training centre by a professional football club and as a base for local adult football teams. A separate response has been made to the planning application that incorporates the clubhouse facilities.

In view of one of the reasons for refusing the previous planning application related to including an acceptable level of community use of the football pitch that is proposed for community use, I would recommend that a planning condition is imposed on any planning permission requiring a community use scheme to be submitted and approved prior to the completion of the development. A community use scheme (usually in the form of a formal community use agreement) would secure the proposed community use of the pitch over a long term period and would therefore help ensure that one of the main sports development benefits of the proposed development outlined above is secured in practice. A community use agreement sets out a club's policy and arrangements for community use of its sports facilities and covers matters such as hours of use, types of bookings accepted, pricing policy, restrictions on community use etc. I have noted that applicant would be prepared to accept such a condition being imposed. The agreement is usually between a club and the relevant local authorities (e.g. Colchester Borough Council and/or Tiptree Parish Council). For information, Sport England's model community use agreements can be downloaded from our website at [www.sportengland.org/facilities\\_planning/planning\\_contributions/local\\_frameworks/part\\_5.aspx](http://www.sportengland.org/facilities_planning/planning_contributions/local_frameworks/part_5.aspx) if more detail about the content of a community use agreement is required. A model planning condition (condition 17) for community use schemes is available on our website.

I hope that these comments can be given full consideration when a decision is made. I would be grateful if you could advise me of the decision on the application, when available, by e-mailing or sending me the decision notice.



## Appendix 2

### Additional comments from the PPG17 Study and Playing Fields Strategy

Tiptree PC in response to the Open Space, Sport and Recreation Provision and Needs Assessment questionnaire 2007 identified that there were currently two CBC owned football pitches located near Warriors Rest. These pitches were heavily used and the PC stated that the town had less pitches than they needed in terms of outdoor sports facilities. The PC confirmed that they had many youth football teams but not enough pitches. Although they did recognise that there was another playing field in Tiptree its location was not considered accessible nor adequate for the potential 1500+ children of school age in Tiptree.

It could therefore be argued from this that the proposal would be responding to a locally identified shortage of football pitches/outdoor sports facilities and is therefore appropriate in terms of scale.

The PC identified the need generally for more outdoor facilities for all ages in Tiptree.

### Playing Pitch Strategy information

The current total playing pitch area in Tiptree is 9.2ha with 4.2ha (43.9%) having secured community use.

There are currently 24 football teams in Tiptree divided as follows

Adult male	5
Adult female	3
Junior male	5
Junior female	5
Mini soccer	6
Total	24

In terms of supply and demand the Playing Pitch strategy identifies a current shortfall in terms of football pitch provision

Adult	- 0.8
Junior football	- 4.4
Mini football	- 2.0

This equates to a current shortfall of -7.2 pitches.

The study has predicted a future shortage of -9.1 pitches by 2021 based on current team generation rates and anticipated population growth.

#### Future predicted shortfall

Adult football	-1.5
Junior football	-5.1
Mini Soccer	-2.5
Total	-9.1

The playing pitch strategy concluded that there is a general surplus of adult pitches Borough wide but not in Tiptree. There will continue to be a particular demand for additional junior and mini soccer pitches in the future in Tiptree. The FA has forecast the number of youth players to increase by 10% over the next five years. The Active People survey indicates that 7.1% of the active population now play football regularly, making football the fifth most popular sport in the UK in terms of participation.

There are 4 adult pitches at Tiptree Sports Centre and 1 mini pitch. One of the adult pitches is a 3<sup>rd</sup> Generation synthetic pitch and this is currently only used for training despite the fact that these pitches are now considered OK for playing on too. Even if this pitch was actively used for games as well as training the current shortfall would not be addressed although it would help lessen pressure locally.

The report highlighted that demand for pitches is growing and that CBC should be planning now to address any existing and future shortfalls particularly for junior and mini soccer football pitches.

The report also recommended in order to ensure that there are sufficient facilities so as not to constrain demand (and to allow for the rest and recovery of pitches) a strategic reserve equivalent to an additional 10% of demand should be maintained at all times.

Pitches should also be protected under the Local Development Framework and any new developments taking place should contribute to new pitch development/pitch improvement through S106 agreements. Community use for 1 pitch should therefore be secured through conditions and or Sec 106 agreements. Securing one of the proposed 5 pitches for community use will help meet existing deficiencies even if not addressing them completely.

24 SEP 2009

Name:

MR. B.A. LWEET

Address:

RAINBOW COTTAGE

49 BLUE ROAD

TIPTREE CO5 0TX

Signed:

B.A. Lweet

Date:

9.9.09

M.V.M

Mr. N. McKeever  
 Planning officer  
 Planning Services  
 Colchester Borough Council  
 P.O. Box 889  
 Town Hall  
 Colchester CO1 1FL

Dear Mr. McKeever,

**Planning Applications 091115 AND 091117 – CUFC: Land Adjacent (south) Grange Road, Tiptree**

Further to your letter of 25<sup>th</sup> August 2009, I write formally to **OBJECT** to the above applications.

**Reasons given for the development**

The development is for a professional football club, Colchester United Football Club (CUFC), a profit making organization operating in the sporting industry, not the leisure industry, that has no association with Tiptree. The reasons given for the development are put simply as "inconvenience with the current facilities available nearer to their base/head office in Colchester". This is insufficient reason to target a rural district such as Tiptree for their company development and expansion plans. There is no proven need for the development relative to the needs of the locality/district. The applications are for a commercially oriented private limited company operating for a profit and are unsuitable and inappropriate for this location which has poor public transport facilities as confirmed at the Core Strategy examination in 2008 and the Local Plan examination in 2004.

Future developments planned for the site (850m<sup>2</sup> CUFC club house, 1273 m<sup>2</sup> community sports hall, 5-a-side all weather pitch) are not "essential" for sport in the countryside and will result in intrusive development contradicting the Landscape Character Assessment. Full details of these facilities (height, colour, location) should be included so that the true scale, layout and impact of the applications can be established.

Recommendations have been made via the Core Strategy to site new sports facilities at Tiptree Sports Centre and to improve the facilities at Tiptree Sports Centre.

**The Community pitch**

Great emphasis is placed on the offer of a community pitch in response to the study initiated by CBC *Open Space, Sport and Recreation Study – Colchester Borough Council 2007*. The use of the community pitch will be restricted primarily to two named local clubs at very prescriptive times, and where these times conflict with CUFC use, local teams will be prevented from using the pitch at the time when it would be most needed, week-ends.

CBC defines a community pitch in their Core Strategy evidence document *Playing Pitch Strategy (March 2008)* in para. 4.5 and 4.6 as follows: "In line with 'Towards a Level Playing Field; A manual for the Production of a Playing Pitch Strategy' (Sport England and CCPR 2003), our definition of 'community pitches' is those pitches with 'secured community use', recognizing that this has a considerable bearing upon the value of facilities both individually and collectively to the **community at large**." Clearly the pitch is not a **community pitch** according to the CBC and Sport England definitions since it is not readily available to the community at large

About 33% of the "local teams" do not reside in the catchment area for Tiptree; some members live as far away as Colchester, Peldon and Hatfield Peverell and therefore the facility will be for only approximately 43 local individuals for a maximum of 6 hours per week (312 hours per year). Therefore the inference that there is a shortage of pitches for these local teams is not strictly true. The CBC study *Open Space, Sport and Recreation Study –*

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Colchester Borough Council 2007 upon which the claimed shortage of local pitches is based, did not take account of catchment areas and domiciles relative to local team membership when the pitch availability survey was conducted.

#### **New cycleway and footpath as per changed application description**

The new cycleway and footpath along the northern edge of the site, terminating at the Vine Road/Grange Road junction, delivers users directly on to the carriageway of Vine Road; there is no footpath on either side of the road at or near the exit point. It is a requirement to provide safe crossing points where paths are introduced as defined in Transport Policy TA2, namely: *"The design and construction of facilities and infrastructure will be improved to make walking and cycling more attractive, direct and safe. Quality and convenient pedestrian crossings will be promoted to facilitate safe and direct movement across busy roads."*

#### **Development traffic and highway safety issues**

The proposed design of the site drainage system will require 4,500 m<sup>3</sup> of material to be excavated, exported and replaced by imported stone requiring a high number of heavy lorry movements. The Transport Statement clearly states in para 4.36 that development traffic may use Vine Road; a residential road that serves as a school walking route which is so narrow in places that it has vehicle passing points.

#### **CBC refusal of the application in June 2009**

These applications are resubmissions of 090217 that was refused at committee on 26<sup>th</sup> June 2009. Application 091117 now includes the 850m<sup>2</sup> clubhouse and a large water tank. Both applications state the intention to use the community pitch before changing rooms will be available; a point of concern raised by the planning committee and one, which in spite of the applicant's claims, has not been fully addressed. CBC Planning committee refused the application on planning policy grounds as follows:

*"The site for this proposal is located within an area of white land i.e. no notation as allocated in the Adopted Review Colchester Borough Local Plan – March 2004. Additionally, policy ENV1 of the Local Development Framework Adopted Core Strategy (December 2008) states, inter alia":*

*"Unallocated greenfield land outside of settlement boundaries (to be defined /reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such area development will be strictly controlled to conserve the environmental assets and open character of the Borough."*

*"As new development within such areas is subject to restriction, the Council would wish to ensure that development proposals accorded with the aims of relevant policies in the Adopted Local Plan and the Adopted Core Strategy. To this end, the Council considers the submitted scheme fails to include sufficient degree of community use within the development to justify the use of this unallocated white land for an alternative purpose. Furthermore, the council is concerned that the submitted application does not include provision for changing and toilet facilities required for the development, as a means of facilitating community use."*

**In refusing the application the Council took into account the following policies:**

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

- DC1 – General Development Control Criteria
- CO4 – Landscape Features
- CO8 – Agricultural Land
- P1 – Pollution
- L14 – Public Rights of way
- L15 – Footpaths, cycleways and bridleways
- L16 – Sports causing noise or disturbance

#### **Local Development Framework Core Strategy**

- ENV1 – Environment
- ENV2 – Rural Communities
- PR1 – Open space and recreation facilities.

Given the previous refusal reasons by CBC, the fact that the above listed policies still apply in full and the fact that the applications have not changed in the intended manner of implementation from the original application 090217 (it is still intended to utilize the community pitch before changing rooms are available), there are sufficient grounds to refuse both these applications (091115 and 091117).

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Listed below are additional objection points on National, Regional and Local policies (Adopted Local Plan 2004 and Adopted Core Strategy 2008).

### Location

The recommendation of *Open Space, Sport and Recreation Study – Colchester Borough Council 2007* in respect of Tiptree was that any new sporting facilities should be sited at Tiptree Sports Centre to enhance the facilities there in line with the Hub Sports Centre principle of CBC. The report recommended the following:

- OSF1:** promote the availability of sports facilities across the borough and ensure that facilities are accessible to all sectors of the local community. This should include increasing signage to sites and maximizing public transport links.
- OSF2:** actively pursue community use at school sites to maximize the number of residents that have access to local facilities.
- OSF5:** maintain/improve Tiptree Sports Centre as it provides a core sports facility to the town.

### Green Links

The plan to surround the development site with security fencing is in effect severing a green link by installing the security fencing across the entire depth of the site North to South effectively sealing off significant portions of the hedgerows from wildlife and the open aspect of the land.

### The applications do NOT conform to the following policies:

#### **PPS1: Delivering Sustainable Development (2005)**

This states the importance of providing *access for all* to leisure and community facilities. The community pitch is primarily targeted at two specified clubs.

#### **PPS6: Planning for Town Centres (March 2005)**

This states quite clearly (2.28) that the development has to be proven as necessary and then if so, should be located on a *sequential* site. The development is not proven and the location is not sequential.

#### **PPS7: Sustainable Development in Rural Areas**

The objectives of PPS7 are to:

- to promote sustainable (local) economic growth and diversification, the continued protection of the open countryside for the benefit of all,
- discourage the development of 'greenfield' land, and the siting of intrusive development, where such land must be used, ensuring it is not used wastefully.
- promote good quality, sustainable development that respects and, where possible, enhances local distinctiveness and the intrinsic qualities of the countryside.

Reference should be made to the Landscape Character Assessment for guidance on land management issues. The applications offer minimal local employment provision (1 full time person for a 22 acre site) and contradict the Landscape Character Assessment references for Tiptree (F2 – Tiptree Wooded Farmland) where it states in the land management recommendation (Tiptree – F2) to preserve and enhance the environment.

#### **PPS9: Biodiversity and Geological Conservation (August 2005)**

The study submitted with the applications makes no mention of the known presence in spring/summer months of skylarks (a Red listed species) which requires open farmland as habitat.

#### **PPG13: Transport (March 2001)**

Reference is made to the need to reduce travel by car, but the proposal is in fact promoting it due to the distance of Tiptree from CUFC's base in Colchester, a daily round trip of approximately 30 miles. Reference is also made to the footpath in Harrington Close for access to the compound by local teams but access is at the opposite side of the site to Harrington Close and can only serve to encourage more convenient travel by car to the main site entrance in Grange Road, especially when approximately 33% of local team members live outside the Tiptree catchment area.

**PPG24: Planning and Noise (September 1994)**

The noise assessment did not make a valid comparison with the environment that will result from the development in that it did not replicate/simulate the impact noise of footballs on the security fencing (nearest to the existing housing) as 48 players train together. The noise element nuisance will be at its greatest on week-ends and bank holidays when village teams will play on both days, with supporters, and residents will be seeking to enjoy leisure time. Currently, the local village team can be heard from the vicinity of the site when they use their village centre ground about a mile away.

**PPG17: Planning for Open Space, Sport and Recreation (May 2006).**

Taking the applicants points in turn in relation to PPG17:

The claim that the site (behind a security fence) may be of public value and could "perform multiple functions such as strategic functions, religious festivals, travelling fairs" on manicured football pitches is far fetched.

Paragraph 20:

"In identifying where to locate new areas of open space, sports and recreational facilities, local authorities should:

- promote accessibility by walking, cycling and public transport, and ensure that facilities are accessible for people with disabilities:
- locate more intensive recreational uses in sites where they can contribute to town centre vitality and viability:
  - avoid any significant loss of amenity to residents, neighbouring uses or biodiversity;
  - improve the quality of the public realm through good design:
  - look to provide areas of open space in commercial and industrial areas;
  - add to and enhance the range of existing facilities:
  - carefully consider the security and personal safety, especially for children:
  - meet the regeneration needs of areas, using brownfield in preference to greenfield sites:
  - consider the scope for using any surplus land for open space, sport or recreational use, weighing this against alternative uses;
  - assess the impact of new facilities on social inclusion."

The applicant makes it clear that built facilities will follow these applications and therefore these should be considered in determining the applications. It is claimed the facilities to be delivered by future phases are "essential facilities for outdoor sport" and as such should be allowed on greenfield but shies away from revealing the details and location to avoid prejudicing each application.

However PPG17 paragraph 30 says clearly that non-essential facilities such as indoor leisure facilities (also planned in future phases) will be considered inappropriate unless there very special circumstances. The applicant is claiming the development (in a non-sequential location) is adjacent to the village and will meet the needs of the community (e.g. a single pitch with restrictive access). The applicant further claims that a more central urban location is not available.

***Clearly greenfield development is discouraged and it is highly likely that other sites more local to Colchester that consist of 9 hectares or more could be found. There are no special circumstances that warrant this private development on a greenfield site; no essential facilities have been specified. The relative cost to the applicant of obtaining a more central urban site nearer to Colchester is not a planning issue.***

**Regional Planning Guidance****C1: Cultural Development**

The applicant claims that the development will strengthen the "local sporting facilities for CUFC" and the local community within Tiptree.

***It has already been shown that this is not a community pitch by the CBC and Sport England definition and there is no reason why Tiptree should have any involvement with CUFCs professional sporting needs.***

**Local Policies – Adopted Core Strategy - December 2008****ENV1- Environment**

The relevant sections of this policy are as follows:

- Unallocated greenfield land outside settlement boundaries will be protected and where possible enhanced in accordance with the Landscape Character Assessment report.
- Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough

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- *Where new development needs, or is compatible with a rural location it should demonstrably be appropriate in terms of its scale siting and design; and*
  - *Protect, conserve or enhance landscape and townscape character.*
- The applications do not meet the requirements of ENV1 and the Landscape Character Assessment.***

**ENV2 Rural Communities**

The relevant sections of this policy are as follows:

- *The Council will support appropriate development of infill sites and previously developed land within settlement boundaries.*
- *The Council will support appropriate small-scale development outside settlement boundaries as appropriate to local employment needs.*
- *Development outside but contiguous to village settlement boundaries may be supported where it constitutes a rural exception site.*

***The applications do not meet ENV2 requirements and do not provide any significant local employment opportunities for 22 acre site. The applicant further claims that the provision of a single community pitch should override all other considerations.***

**CF1: Community Infrastructure**

There is no community infrastructure offered by this development; such facilities must be accessible by the local community. All assets will remain in the private ownership of CUFC. There is an offer of restricted access to a privately owned pitch. It would be expected that the community pitch would be secured by a S106 agreement as alluded to for the facilities delivered from future phases.

***The applications do not meet CF1 requirements.***

**PR1: Open Space and Recreation Facilities**

The policy is designed to secure community driven and community tailored open space accessible by the whole community. Only one pitch will be available on a restricted basis to selected teams (43 Tiptree residents at most). Other teams wishing to use the pitch will have to wait for cancellations etc. by the preferred teams to be granted use. The applications do not address the overall needs of the community.

***The applications do not meet PR1 requirements.***

**Colchester Borough Local Adopted Local Plan (March 2004)****Countryside Policies**

Countryside Policy Objectives in terms of the countryside are:

- to safeguard and enhance natural rural resources and to safeguard the historic character of the countryside.
- to resist non-essential development in the countryside in order to protect its open and undeveloped character.
- One very important aspect generated by the Borough's rural resources is the public's perception of the countryside – a "peaceful area" in which small villages and hamlets lie undisturbed by major developments, heavily trafficked roads, pylons, intrusive lighting and excessive road signs.

**CO3: Countryside Conservation Areas**

The applicant claims that because the applications would not be allowed in a conservation area it must by *default* be automatically allowed outside a conservation area.

The reference to this policy is somewhat irrelevant and serves no purpose.

**CO8: Agricultural Land (loss of)**

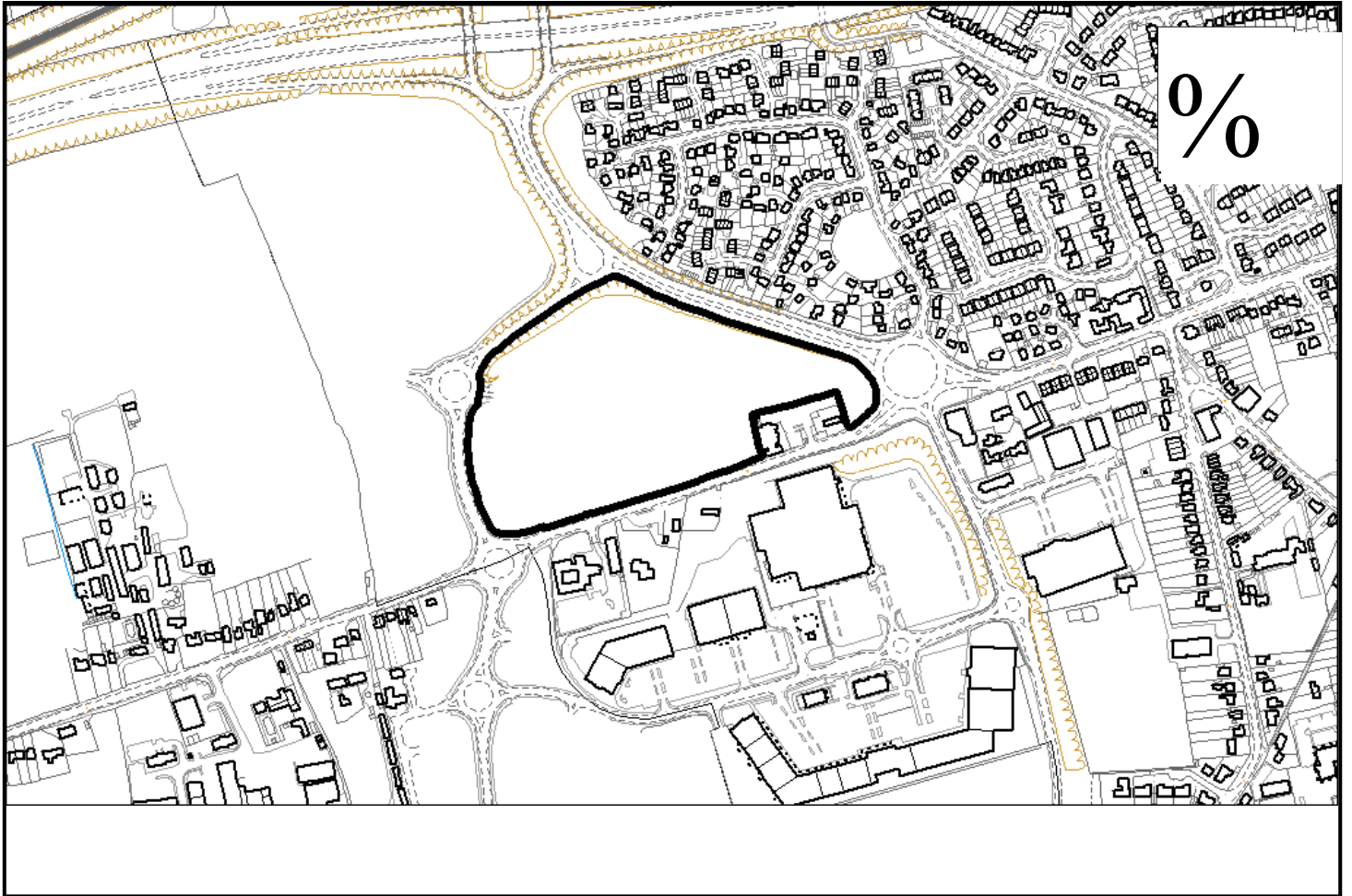
There is no overriding need for this development which will lead to the loss of agricultural land. The applicant claims the land is predominantly Grade 3 but cannot be precise on 3a (better) or 3b (worse). It has been proven that the land is Grade 2 and Grade 3a which would normally prohibit development

**P1: Pollution (General)**

See reference to PPG24

The Noise Assessment Study, whilst deemed inadequate, does show noise levels will exceed the permitted/advised levels. The duration of the excess and the adverse impact on residents should not be dismissed as insignificant.

***The applications will therefore give rise to noise and most likely at a later date, light pollution to fully utilize the all weather 5-a-side pitch.***



**Application No:** 090692

**Location:** Land to North Of, London Road, Stanway, Colchester

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

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**7.5 Case Officer: John More**

**EXPIRY DATE: 21/08/2009**

**MAJOR**

**Site:** London Road, Stanway, Colchester

**Application No:** 090692

**Date Received:** 22 May 2009

**Agent:** Mr Sean McGrath

**Applicant:** Sainsbury's & Tollgate Partnership Ltd

**Development:** Erection of new food store with associated accesses, petrol filling station, car parking, cycle parking, servicing and landscaping.

**Ward:** Stanway

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

## **1.0 Site Description**

- 1.1 This roughly triangular 5.3ha site is bounded on all three sides by busy roads. Namely Essex Yeomanry Way (north-east side), London Road (south side) and the Northern dog-leg section of the Stanway Western By-pass (west and north sides).
- 1.2 It is generally level and covered with a blanket of rough grass with very little natural flora except for an Oak that sits towards the middle of the site, intermittent scrubby hedging on its southern edge and a line of maturing trees (mostly Oak) on the far north-eastern edge of the site, on the Essex Yeomanry Way embankment.
- 1.3 As Essex Yeomanry Way and the northern section of the Stanway Western By-pass are built on rising embankments, elevated views of the site are possible from the north-east and north.
- 1.4 The site does not directly abut any built development except at its south-eastern corner where it touches the rear and western site boundary of the Cherry Tree Harvester Restaurant. The Grasslands Estate lies further to the north-east across Essex Yeomanry Way.
- 1.5 Two existing residential properties, the Tollgate surgery and car sales uses look northwards across London Road towards the application site.
- 1.6 Historically the site has been undeveloped and is likely to be a remnant of a larger field once used for agricultural purposes in the mists of time.

## 2.0 Description of Proposal

2.1 This application seeks planning permission for the following proposed development:

- The construction of a new 13,979 sqm/150,470 sq.ft GEA supermarket at Tollgate North.
- A surface level car park providing 875 spaces including 38 disabled parking spaces and 36 parent and child spaces.
- Servicing provision for the new supermarket
- The construction of a new Petrol Filling Station including car wash, jet wash, kiosk & forecourt.

2.2 The application involves the transfer of retail activity from the existing Sainsbury's store on Tollgate West to the proposed site. Sainsbury's are looking to improve the 'customer experience' but have little or no room to expand on the existing site. Competition in Colchester in the convenience goods sector is fierce and Sainsbury's wish to concentrate on and widen food sales as well as widen aisles, reduce shelf heights adjust layout to improve convenience to customers and slightly expand the range of some items sold.

2.3 The current proposal is for a store with a Gross Internal Area (GIA) of 13,313sqm. This is 2,163sqm above the consented outline scheme (11,150sqm GIA) and 3,311sqm above the existing store (10,000sqm GIA).

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

Planning Statement  
Employment land assessment  
Retail assessment  
Transport assessment  
Design and Access statement  
Flood risk assessment  
Habitat survey  
Desk based archaeological assessment  
Geo-environmental assessment  
Acoustic report  
External car park lighting statement  
Tree survey and arboricultural report  
Landscape Strategy  
Great Crested Newt survey  
Renewable Energy & Energy Efficiency Assessment

### 3.0 Land Use Allocation

#### 3.1 Employment Zone (Adopted Review Borough Local Plan 2004)

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

### 4.0 Relevant Planning History

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

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

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

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

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

4.6 **071108: Outline application for mixed development of new retail superstore, associated parking and petrol filling station. (approved 8th May 2009)**

### 5.0 Principal Policies

5.1 Adopted Regional Spatial Strategy (East of England Plan)

SS1 Achieving sustainable development

E1 Job growth

E3 Strategic employment sites

E5 Regional structures of town centres

5.2 Local Development Framework

Core Strategy:

SD1 - Sustainable Development Locations

SD2 - Delivering Facilities and Infrastructure

SD3 - Community Facilities

CE1 - Centres and Employment Classification and Hierarchy

CE2 - Mixed Use Centres

CE2b - District Centres

CE3 - Employment Zones

UR2 - Built Design and Character  
PR2 - People-friendly Streets  
TA1 - Accessibility and Changing Travel Behaviour  
TA2 - Walking and Cycling  
TA3 - Public Transport  
TA4 - Roads and Traffic  
TA5 - Parking  
ENV1 - Environment  
ER1 - Energy, Resources, Waste, Water and Recycling

5.3 Adopted Review Colchester Local Plan 2004 saved policies:

DC1- Development Control considerations  
UEA11 - Design  
CF1 - Infrastructure and Community Facilities Provision  
EMP1 - Employment Allocations and Zones

5.4 Government Guidance

PPS1  
PPS6  
PPS13

## 6.0 Consultations

6.1 **Spatial Policy Team** has been concerned at the piecemeal increase in the size of the new store proposed. Accordingly expert advice has been sought as to whether the proposal is appropriate in all circumstances. The conclusion on this is that based on the information submitted the application satisfies the sequential approach and the assessment of impact (as required by PPS6) subject to sufficient controls over the function of the store. If minded to approve the application they recommend imposing conditions controlling the amount of comparison goods (non-food) to 30% of the sales floorspace and the ability of the store to offer other retail services.

6.2 In view of the other retail services already provided in the existing store (dry cleaners, pharmacy etc) it would be unreasonable to prevent these operating in the new store. In terms of other comparison floorspace however it is appropriate to control this, not least because of the uncertain impact on existing local shops and centres as well as the town centre. Table 9 of the applicants original submission identifies that the split between convenience (74.8%) and comparison (25.2%) remains constant between the existing store, the consented scheme and the proposed store, therefore the 30% recommended by the Council's consultants would appear to be appropriate. However in recognition of the need for flexibility, particularly at different times of the year, it is suggested that a condition is imposed or planning obligation secured to ensure that no more than 40% of the sales floorspace is devoted to comparison goods (using definition of comparison goods in the Mapinfo Information Brief 08/02 or subsequent publications.)

6.3 Previous comments apply with regard to;

1. the need to secure the change of use of the existing store from retail use to employment use.
2. the need to safeguard land for future expansion of the Western Bypass if required – safeguarded for 20 years if possible.

6.4 **Senior Curator of Natural History** at Colchester Museum comments on the various surveys submitted in support of this application. In particular he comments the biodiversity interest of nutrient poor areas of grassland, bare ground habitats and ephemeral pools are often overlooked and such 'brownfield' sites are still undervalued in conservation terms. This could, to some extent be compensated for, by the creation of south-facing gravelly banks, nutrient poor grassland etc. as part of the landscaping proposals rather than the usual importation of soil and planting of alien trees and shrubs that normally characterise such developments. There would also be considerable benefits from the incorporation of green/brown roofs on the buildings which would provide similar conditions for wildlife as exist presently at ground level.

*Officer comment: Green and brown roofs were discussed with the architects; however, these were discounted due to the design approach taken.*

6.5 **The Landscape Officer**, following discussions with the applicant's consultant and amendments to the landscape strategy, is satisfied with the proposal and recommends the inclusion of conditions.

6.6 **Environmental Control** recommends the inclusion of conditions and advisory notes dealing with noise and sound insulation, light pollution, refuse storage and recycling.

6.7 **Essex County Council Highways** would not wish to raise an objection to the application subject to a list of requirements. These requirements are to be secured via conditions and S106 agreement.

*Officer comment: The requirements are essentially the same as were attached to planning permission reference 071108 (either by obligation or condition). However, this proposal to enlarge the previously consented scheme requires additional mitigation as follows:-*

1. *Index linking the previous £125,000 contribution from the date of the S106 Agreement attached to planning permission reference 071108 plus a further £25,000 (the latter figure is likely to be spent on improving capacity at the Western Bypass/London Road Roundabout).*
2. *To avoid queuing the enlargement of the site access to provide a minimum of 2 lanes for traffic exiting the proposal site.*

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

6.8 **The Highways Agency** has issued a direction that planning permission not be granted for a specified period. The reason given for the direction is there is insufficient information presently available to the Secretary of State to determine whether the proposed development would generate traffic on the trunk road to an extent that would be incompatible with the use of the trunk road as part of the national system of routes for through traffic. The direction shall be maintained until sufficient information has been received.

*Officer comment: As indicated above the Highways Agency has been working with the applicants highways consultants to ensure that:*

- *The development now proposed gives rise to an impact at the Trunk Road which is no more material than that which has already been consented; or*
- *That the impact of the development can be accommodated in a way which results in 'nil detriment' to the operation of the Trunk Road and its junctions*

*The Highway Agency has given a recent update indicating that there remain a number of technical errors which need to be addressed before the Highways Agency can issue a revised formal recommendation. The applicant's consultants are currently working to resolve these.*

6.9 **The Environment Agency** has no objection to the proposals subject to controlling conditions.

6.10 **Natural England** has no objection to the proposed development in respect of legally protected species as they are not aware that they are likely to be adversely affected by the proposal.

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

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

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

7.1 Stanway Parish Council raises no objection to this application, but does have several concerns:

1. Increase in the size of the store will mean an increase in overall traffic, and the traffic survey has not covered a wide enough area. The impact will not be limited to roads adjacent to the site but has the potential to increase problems all around Stanway, particularly on the Old London Road.
2. The service entry route appears insufficient and may cause the potential for the laying up of vehicles on nearby roads.
3. Access for local traffic via walking and cycling. There is limited scope for access.
4. Existing wildlife and habitat is provided with ongoing care.
5. Reuse of current site must be for employment purposes.

*Officer Comment: The Highway Authority, their consultants and the Highways Agency have assessed the proposal and the supporting documentation. Additional information and survey work has been requested and undertaken by the applicant's consultants who are working with the Highway Authority and Agency to provide the information required. The application was accompanied by a detailed landscape strategy, this and a management strategy would be controlled by conditions attached to any permission. It is proposed to control the reuse the current site for employment purposes.*

## **8.0 Representations**

8.1 Colchester Cycling Campaign is concerned at the lack of "Cycling Town" travel sustainability shown in the plans for the enlarged Sainsbury's store - application 090692. All major retail developments should have not just ECC-proscribed levels of cycle parking but they should also pay to create safe and seamless cycle routes connecting any new development with the surrounding neighbourhood. They are concerned that increased traffic levels will increase the perception of danger and the desirability of using local roads for cycling. The current store is difficult to get to by cycle and this might have influenced Sainsbury's impression of Colchester cycling, as well as the town's aspirations for increasing cycling. With a scheme of this size it should be installing a crossing/underpass to help people get from homes in the Lucy Lane area.

8.2 CCC would like to see the following as part of a s106 agreement for this new application:

- A Sainsbury's-funded tunnel or crossing for a separated cycle/ pedestrian link beneath/across Essex Yeomanry Way allowing bike/foot access from the Lucy Lane estate and Eight Ash Green.
- a Sainsbury's-funded separated cycle/pedestrian link between the tunnel and London Road, crossing in front of the store with cycles/peds having priority over motor vehicles in the car park • Sainsbury's funding for a separated cycle/pedestrian facility on the south side of London Road from a point at least 300m east of the Tollgate roundabout into London Road and continuing to the Tollgate West roundabout. This will include an elephants' feet crossing of Tollgate Road and Tollgate West with wide central islands.
- Partial funding by Sainsbury' (without time limit) for a future foot/cycle connection (separated cycle/pedestrian link) between Tollgate East and Villa Road (allowing foot/cycle access from the Winstree Road/ Wheatfield Road area of Stanway.
- Partial funding by Sainsbury's (without time limit) for future separated cycle/pedestrian link from Lakelands, to include installation of any crossings.
- cycle parking to ECC standards adjacent to the main door of the store, with separate, covered and more secure cycle parking for staff.
- Sainsbury's should fund an area-wide ped/cycle study to identify schemes to connect it with the local community. This should cover a radius of 2 and 6 km respectively. We would suggest a bonded sum to implement the outcomes of the study.

*Officer Comment: The content of the S106 agreement was discussed and agreed by the Council's Corporate Development Team. The content of this is discussed in full later in the report.*

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

## **9.0 Report**

### Background

- 9.1 The existing store comprises 10,000sqm Gross Internal Area (GIA).
- 9.2 Planning permission ref: 071108 granted outline permission for a new food store, parking, filling station etc. of GIA 11,150sqm on this site earlier this year. A S106 agreement was signed to accompany the permission.
- 9.3 The current proposal is a full application and proposes a store, parking, filling station etc with a GIA for the store of 13,313sqm. This is 2,163sqm above the consented outline scheme and 3,311sqm above the existing store.
- 9.4 The previous outline planning permission has established the principle of the retail development on this site subject to certain restrictions. This application proposes a larger store with an amended design and layout. The main issues are therefore the retail impact of this larger store and the changes to design and layout.

### Employment land impact and employment opportunity

- 9.5 The principle of this development and the employment land swap was established by the outline planning permission granted. This proposal repeats the commitments required by the outline permission which are set out below.
- 9.6 The proposed S106 Agreement (currently in draft form) as negotiated with the Planning Service requires the existing retail use of superstore south of London Road to cease upon opening of the new store north of London Road for at least 2 years. Employment use of the site will then be sought. Retail use can only reoccur in the future if planning permission is granted for such a use. Clearly this allows all parties to review the situation in the future in the light of changing employment/retail policies as part of the LDF process.
- 9.7 With this agreement in place the proposal would not raise any new issues in terms of employment land impact and employment opportunity.

### Retail Impact

- 9.8 The Council commissioned a review of the Retail Impact Assessment submitted with the application. The conclusions are set out below.

#### *"Conclusions on the Sequential approach*

*The applicant has satisfied the sequential approach in respect of an assessment of more central sites. We have some concerns as to whether the flexibility point has been fully explored and the Council may wish to obtain further information to satisfy itself on this point. However, on balance and in our experience, it will be a difficult exercise for Sainsbury's to combine their existing store with vacant sites or units in the town centre*



*to create a superstore and there must be some doubt about its feasibility. Furthermore, we appreciate that Priory Walk has a distinct and separate function from the Stanway store. Therefore, although the matter is not clear cut, in our view the sequential approach has been satisfied.*

#### *Conclusion of the Impact Assessment*

*The amended Indigo impact assessment provides a more robust exploration of the trade impact from the additional floorspace and other impact matters in paragraph 3.22 have been considered. In general, we are persuaded that the impact from the additional floorspace will not be unacceptable; however there is a small gap in the consideration of the level of diversion from smaller stores. We appreciate that to some extent that shopping patterns will have changed already when the original store opened and we expect the diversion due to the application proposals from small stores in designated centres to be marginal. Therefore, if the Council is minded to approve the application then we recommend conditions controlling the ability of the store to trade as a one-stop shop through controls over the amount of comparison floorspace and the retail service offers from the store.*

#### *Future of Sainsbury's at Priory Walk*

*As explained above, we accept the argument that the Priory Walk store will trade at or near its company average. Indigo have stated that Sainsbury's has no intention of closing their Priory Walk store. We have not been instructed to comment on Section 106 matters, although we should point out that the additional floorspace should not be considered as a 'small increase' as suggested by Indigo, especially since it represents a very similar quantum of floorspace as the existing Priory Walk store in the town centre. We recommend that the Council should satisfy itself that this store will not close following the opening of the replacement Sainsbury's at Stanway.*

#### *Restrictive Conditions*

*The thrust of the justification for the additional floorspace is based on a large proportion of this floorspace selling convenience goods. There is limited evidence provided on the impact from a large amount of additional comparison floorspace. Indigo have also stated that they will accept an identical condition as condition 9 attached to the extant permission. This allows for 50% of the floorspace to be devoted to comparison goods.*

*If the Council is minded to approve the application, we recommend that a more stringent condition is imposed. This will ensure that the store does not operate as a one-stop-shop and does not compete with existing centres. There is arguably a 'fallback' position in the form of the extant permission. However, in the application, Indigo state that approximately 25% of the store will be devoted to comparison goods. In light of the extant permission and to allow for some flexibility, we suggest that the condition is amended to allow for 30% of the sales floorspace to be devoted to comparison goods (using the definition of comparison goods in MapInfo Information Brief 08/02 or any subsequent publications).*

*For further confidence on the acceptability for the impact from this additional floorspace, if minded to approve the application we recommend the Council considers imposing a condition restricting the extent of retail service uses within the store (for example dry cleaning services, key cutting services, shoe repair, photographic services, opticians, pharmacy services dispensing medicines by prescription or post office counter services). However, this matter should be investigated with the applicant, since we are unaware of what level of retail services are already on offer at the existing store.*

#### *RTP Concluding Comments*

*The key issue for the Council to decide on retail policy terms is the acceptability of this additional floorspace compared to the extant permission, bearing in mind that it will create a very large superstore in an out of centre location. The extant permission is a material consideration, although this should not deter the Council from seeking robust and thorough information to support its decision.*

*Based on the information submitted, it is our advice that the application now satisfies both the sequential approach and the assessment of impact, subject to sufficient controls over the function of the store. If minded to approve the application, we suggest the Council considers conditions controlling the quantum of comparison goods to 30% of the sales floorspace and the ability of the store to offer retail services.”*

- 9.9 With regard to consideration of imposing a condition restricting the extent of retail service uses within the store (for example dry cleaning services, key cutting services, shoe repair, photographic services, opticians, pharmacy services dispensing medicines by prescription or post office counter services) RTP indicate that this matter should be investigated with the applicant, since RTP are unaware of what level of retail services are already on offer at the existing store. As you may be aware the existing store currently provides a number of retail services including a pharmacy and dry cleaners (which also provides key cutting and photo processing services and offers banking facilities). The applicants propose to offer these services in the replacement store. Any conditions imposed must pass the tests set out in Circular 11/95. Given that these activities already occur in the existing store and that no such condition is attached to the extant outline permission, it would be unreasonable to restrict an activity which already occurs and there would be no impact justification for doing so.
- 9.10 In terms of the comparison goods floor space, condition 9 of the extant consent represents a cogent fall-back position, and is, therefore, a significant material consideration to take in to account when considering the imposition of a more restrictive condition upon the current proposal. Under the terms of Condition 9, up to 50% of the net retail sales area of the permitted scheme may be used for the sale of comparison goods. The approved net retail sales area is 7,635m<sup>2</sup> and, therefore, 3,818m<sup>2</sup> of this sales area may legitimately used for comparison goods sales.

- 9.11 The current planning application seeks permission for 9,027m<sup>2</sup> net sales area. Should 50% of this floorspace be devoted to comparison sales, the total non-food offer would amount to a maximum of 4,514m<sup>2</sup>, this is 696m<sup>2</sup> of additional non-food floorspace over and above the fall-back position which equates to approximately 8% of the total net retail sales area proposed by this application.
- 9.12 The Council's consultants note that the thrust of the justification for the additional floorspace is based on a large proportion of this floorspace selling convenience goods and that there is limited evidence provided on the impact from a large amount of additional comparison floorspace.
- 9.13 Given that the fall back position is for 50% of the net retail sales area of the permitted scheme may be used for the sale of comparison goods it does seem a large leap to now propose a 30% limit on comparison goods. A condition limiting comparison goods (but excluding chemists and cosmetics) to no more than 42% of the sales area would be a reasonable restriction as this would not reduce the comparison floor space already permitted by the outline scheme.
- 9.14 This has been discussed with the applicants who would accept such a restriction.

#### Design and layout

- 9.15 In terms of creating a sense of place that reinforces the fact that you are arriving in Colchester where high quality is important the site dominates the approach to the town from the west. It is vital to deliver a building and site layout that makes a statement worthy of this gateway location.
- 9.16 In seeking to achieve this the applicants have worked with council officers to ensure that the quality of the original design concept is not watered down through incremental changes to the scheme.
- 9.17 The existing Sainsbury's store as negotiated with the then Planning Department was at the time of its construction in the 1980s something quite exceptional and innovative. It used steeply pitched traditional clay plain tiled roofs, orangey- red bricks, midstreys and gables to convey a traditional north-Essex agricultural 'barn like' character rather than the then usual basic steel framed, nondescript warehouse looking building with a low pitched industrial style roof. The styling of the existing Tollgate store is now much derided in designer quarters. This is due in large part to the a hackneyed overuse of this style across the country where such a character was out of context. Despite that, it remains a building with presence that whilst dated continues to wear well.
- 9.18 The opportunity to make a fresh new high quality design statement is being taken with the current site. The applicant has been encouraged to move away from the increasingly used single span curved roof over an open, unobstructed floor solution to designing large modern retail and factory buildings. Several recently constructed buildings in Colchester have been designed in this idiom with differing public reaction. (from pleasure at seeing refreshingly honest contemporary (not vernacular-pastiche) styling to displeasure at seeing what is seen derogatively as "aircraft hanger" design.

- 9.19 The new superstore will unusually for most buildings be seen on all sides and so requires in effect four principal elevations. Again unlike most buildings it will be seen by the public from different levels (due to the fact that Essex Yeomanry Way rises to meet the A12 interchange).
- 9.20 Consequently the roof needs to be a strong design feature in its own right such as to create visual interest. The architect has chosen to create a series of pyramidal pavilion features with glazed lantern-lights at their apex. This allows lighting to be installed in such a way as to allow a changing palette of colours to dance upon the roof. At night and particularly on misty autumn evenings this will imbue the building with a new and changing character to that seen in the daytime.
- 9.21 The entrance to the store is delineated with a glass tower that commands attention from the main approach to the superstore and subtly announces its presence from Essex Yeomanry Way without recourse to advance signage.
- 9.22 All parties have worked hard to create a building that will have the uncanny ability to change how it looks at different times of the day and night. The design objective has been to create an external façade that is art. How is it intended to achieve this? Large sections of the external elevations will be clad in differently coloured, textured, profiled and illuminated/non-illuminated segments of material to create a brilliant abstract collage. This collage will change colour as sunlight moves around the building due to the reflective quality of the materials. At night internal lighting of the building will add a further dimension to this abstract collage.
- 9.23 Access to the store has been carefully considered and all modes of transport are catered for. New footway and cycleway links are to be provided in addition to new safe crossing facilities all to link in with existing networks to provide good linkages with the existing communities around the site. Bus access is provided with new bus stops in London Road linked easily by path to the store entrance. This allows buses to take advantage of the much reduced traffic flows in London Road as opposed to joining shop traffic within the site.
- 9.24 Appropriate parking facilities for shoppers with children and disabled drivers can be provided along with appropriate facilities within store.

#### Trees and Landscape

- 9.25 The site is an island, bounded on all sides by roads. The key objectives of the landscape strategy submitted are to create a site specific landscape which takes reference from and connects with the local landscape; to use a planting palette which draws inspiration from indigenous landscape; to create a landscape which is suited to the local climate and light rainfall; to encircle the site in a landscape capable of partially screening the site; to allow specific windows through the vegetation to frame positive features occurring on the building i.e. Coloured glass windows and Sainsbury's signage; to densely screen the service yard; to plant trees in the car park to provide shade and break up the area into legible rooms.
- 9.26 The large oak tree within the site is in decline and now proposed to be removed, with suitable and multiple replacement trees proposed within the car park area.

## Highways

- 9.27 The fact that what is in effect being proposed is a swap of designated land uses north and south of London Road has meant that the impact of the development is reduced compared to a proposal to build a second superstore at Tollgate with the likely significant increase in visits to the area that would generate.
- 9.28 The application has been the subject of intense negotiation between the applicants highway consultants "Inter-modal" and Essex County Council and the Highway Agency.
- 9.29 The Highway Authority now raise no objection to the scheme subject to a list of requirements to be secured via conditions and legal agreement. The Highways Agency is still working with the applicant's highway consultants to ensure there is no detrimental impact on the A12 trunk road. The recommendation below reflects this situation.

## Parking

- 9.30 The parking area to the front of the store has now been further broken up with tree planting to offer screening and shade. 875 vehicle parking spaces are proposed. The Gross Internal Area for the store is 13,313sqm. The adopted parking standards are for a maximum of 1 space per 14sqm which in this case equates to a maximum of 950 vehicle spaces. The number of spaces proposed would not conflict with this standard.
- 9.31 The application proposes 40 covered and secure cycle spaces to be located close to the store entrance. While this is below the adopted standards of 1 space per 100sqm for staff and same again for customers, which equates to a minimum of 266 cycle spaces, it is considered reasonable and realistic in this context and could be kept under review through the travel plan.

## Flood Risk

- 9.32 The site is located in zone one, outside the areas where 1 in 1000 year flooding events might occur. The site specific flood risk assessment submitted by the applicants suggest flood risk management measures to deal with ground water flooding and overloading of the existing drainage network due to extreme rainfall or burst water main.
- 9.33 It is intended to use sustainable urban drainage systems (SUDS) to deal with surface water drainage on the site using infiltration to the ground below as opposed to piping water off site. The report concludes that the flood risks are acceptable and can be managed in a sustainable manner, with a positive contribution to reducing flood risk.
- 9.34 The Environment Agency have no objection to the proposals for surface water management but recommend conditions covering surface water issues be appended to any planning approval granted.
- 9.35 Officers agree with this assessment and the suggested conditions have been appended to the recommendation.

### Archaeology

- 9.36 The application is accompanied by an archaeological appraisal undertaken by Colchester Archaeological Trust. This concludes that Tollgate north is in an area of demonstrable archaeological potential (particularly Bronze Age, Iron Age, Roman, Anglo-Saxon and medieval periods) although recent evaluations carried out nearby (eg: medical centre, London Road) have failed to uncover any remains.
- 9.37 It is suggested that in the view of these comments and in the event that planning permission is granted an archaeological watching brief condition be added.

### Noise

- 9.38 The report submitted by Sharps Redmore Partnership identifies that night time noise within the loading bay will exceed the WHO (World Health Organisation) and BS (British Standard) nighttime guideline value of 46dB L Aeq, 1 hour façade by 1dB. The consultants suggest that building a boundary wall or acoustic fence around the yard to the height of a delivery lorry will effect a 5dB reduction in noise – well within the WHO and BS standard. The noise study concludes that given perimeter screening and refinements to wall/fence heights at the service yard the development is unlikely to give rise to unacceptable levels of noise at residential property either by day or by night.
- 9.39 In view of this comment it is suggested that additional noise attenuation around the yard is required by condition in order to ensure minimal disturbance. Experience has shown from other retail sites in Colchester that a 24hour retailer can reduce disturbance simply by swapping the traditional metal delivery cages with ones that have rubberised parts which prevent the empty cages from clanking and rattling when being moved around the yard or put back on the lorry. Again this element can be conditioned. It is also recommended (paragraph 7.2 above) that delivery layover arrangements be agreed by condition in order to avoid queuing of vehicles in London Road and possible associated noise nuisance)

### Sustainability

- 9.40 The Design and Access Statement indicates that wherever possible the design of the store will follow sustainable green principles. This includes materials choice and sourcing, rainwater harvesting where possible, maximise natural lighting, maximise energy efficiency including a biomass boiler system, and maximise natural ventilation. A Renewable Energy & Energy Efficiency Assessment was also submitted which considers the energy efficiency and renewable energy elements as part of the overall development.
- 9.41 In terms of on-site renewable energy, by using a biomass boiler plant to serve the heating demand for the Sainsbury store only, this would achieve 35% of the overall site consumption. This is well in excess of Core Strategy policy ER1 which encourages new development to provide over 15% of energy demand through local renewable and low carbon technology (LCT) sources.

- 9.42 Overall the scheme aims for a minimum BREEAM 'very good' rating to be achieved. This is in line with Core Strategy policy ER1 which encourages new non-residential developments to achieve a minimum BREEAM rating of 'very good'.
- 9.43 It is suggested that delivery of the above should be controlled by appropriately worded conditions.

#### Use of floorspace within the store

- 9.44 It is recommended that the amount of floorspace be controlled by condition and that the level of comparison goods floorspace be restricted along with the creation of additional new floorspace within any mezzanine area. This is recommended in order to protect the vitality and viability of the town centre and to afford the Council the ability to assess and control the traffic impact of such outcomes.

#### Access

- 9.45 All elements of the development have been designed in accordance with Approved Document M of the Building Regulations 2004. This incorporates and takes into account the Disability Discrimination Act 2004. All approaches to the building are to be level and trip free. The use of both contrasting and tactile paving will be adopted at all changes in level and at crossing points. The car park is designed to be "flat" offering cross gradients no greater than 1:60. There are no significant level changes which may impede access around the site for the physically disabled or the elderly. Escape from the building and development will be via appropriately lit and signed escape routes and fire exits.

#### Filling Station and Shop

- 9.46 The design and location of this aspect of the proposal is considered acceptable. It is recommended that further details of the car wash be provided (by condition) to ensure that the facility uses sustainable water conservation measures.

#### S106 Matters

- 9.47 As discussed in the report above the application before Committee is accompanied by a detailed draft S106. This is essentially a repeat of the S106 agreement negotiated with additional requirement generated by the enlarged area.
- 9.48 The key elements of the draft S106 are:-
- The new store operator will work with the Council, Job Centre Plus (JCP), Colchester Institute (CI) and other agencies to assist with the provision of a training course for retail skills. The operator will advertise any new job through the Job Centre Plus (as well as undertaking its own recruitment). It will also ensure that any graduate of the 'training course for retail skills' who applied for a job using the operator's application system is interviewed.

*Officer Comment:*

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

*S106 tests*

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

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

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

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

*S106 tests*

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

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

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

*S106 tests*

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



- The provision of highway improvements. These include additional footways, cycleways, new bus stop facilities, a toucan crossing and controlled pedestrian crossing all designed to improve accessibility and safety for customers using modes of transport other than the motor car.
- A contribution (£125,000 index linked from the date of the S106 Agreement attached to planning permission reference COL/1108/2007 plus £25,000 as a result of this larger proposal) for such highway and transport improvements as the Highway Authority considers necessary in the vicinity of the proposal site including, but shall not be limited to, improvements to the 'Teardop' Roundabout, Tollgate Roundabout and Western Bypass/London Road Roundabout.

#### *S106 tests*

*These are now well used and accepted requirements within S106s and are reasonable for a use that will be a high movement attractor. The required facilities will help to ensure that the site and its uses are accessible to a full and safe range of modes of sustainable transport. The contribution will deliver necessary highway improvements in the area as considered necessary by the Highway Authority.*

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

#### *S106 tests*

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

## **10.0 Conclusion**

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

## **11.0 Background Papers**

- 11.1 Planning Statement  
Employment land assessment  
Retail assessment  
Transport assessment  
Design and Access statement  
Flood risk assessment  
Habitat survey  
Desk based archaeological assessment  
Geo-environmental assessment  
Acoustic report  
External car park lighting statement  
Tree survey and arboricultural report  
Landscape Strategy  
Great Crested Newt survey  
Renewable Energy & Energy Efficiency Assessment  
ARC; HA; NR; Essex and Suffolk Water; PTC; NLR; CCC

## **Recommendation**

That the Head of Environmental and Protective Services be authorised to GRANT planning permission subject to:-

- a) The Highways Agency removing their direction to planning permission not to be granted for a specified period
- and
- b) The satisfactory completion of a S106 Agreement to secure amongst other things the elements set out in section 9 of this report.

and

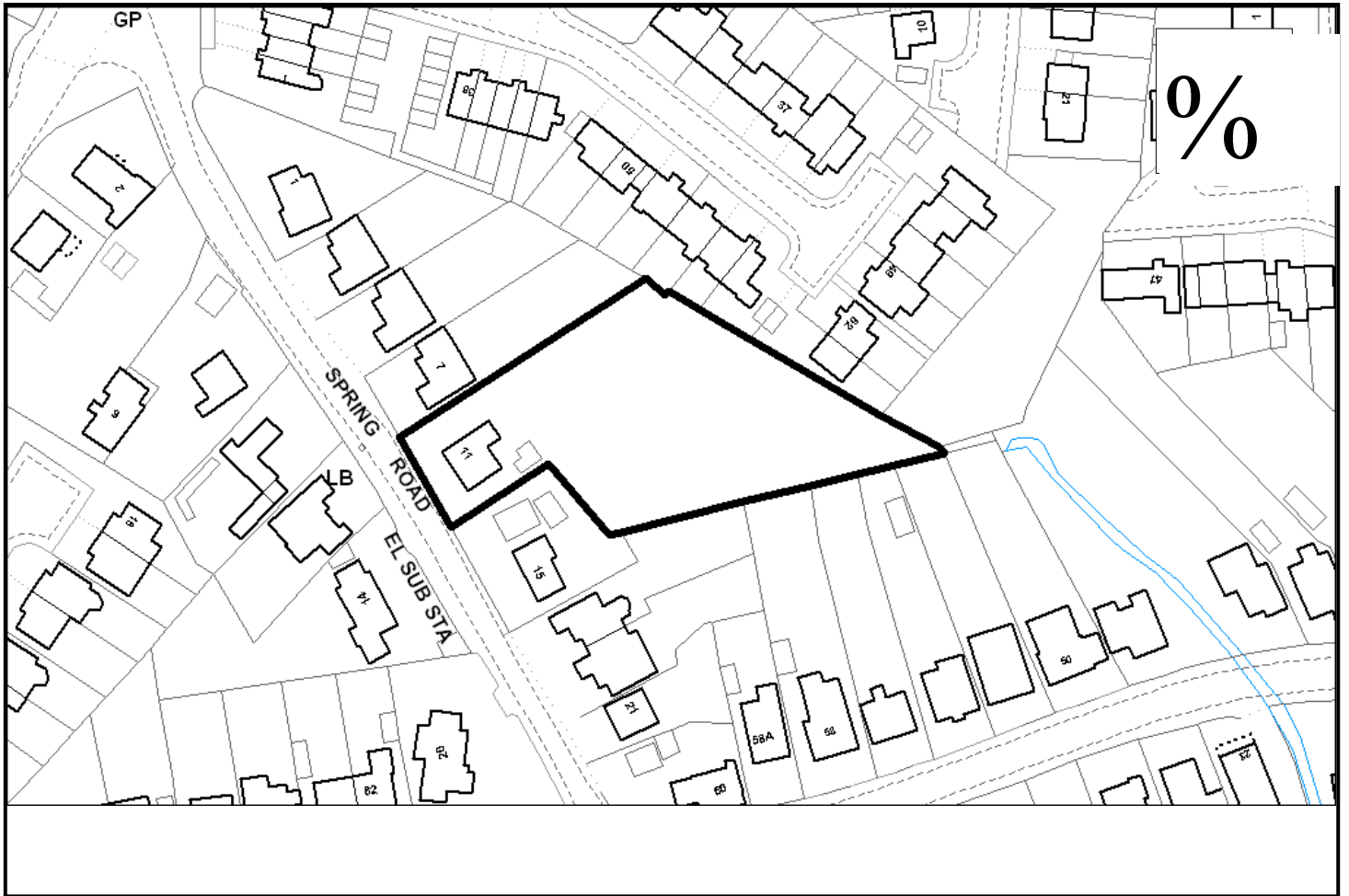
- c) The attaching of appropriate conditions and informatives as set out below, along with any additional conditions required by the Highways Agency.

and

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

Conditions shall include but not be limited to:-

- Time Limit
- Samples of materials and external finishes
- Restriction on the total gross/net retail floor area and restriction on the amount of sales area for comparison goods
- Restriction on the creation of mezzanine floorspace
- Recycling to be provided within the site
- Additional detail of yard enclosure, acoustic screening & delivery cages to be used.
- Requirement to agree a delivery vehicle layover strategy with the Council prior to commencement.
- Submission of landscaping/irrigation details.
- Tree retention
- Water storage on-site
- Archaeological watching brief
- Submission of drainage details (SUDS)
- Control over construction times, compound location and construction vehicle delivery routes
- Submission of lantern lighting detail
- Cycle parking provision
- Restriction on the use of car park for any purpose other than customer parking
- Highway conditions



**Application No:** 090897

**Location:** 11 Spring Road, Tiptree, Colchester, CO5 0BD

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

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**7.6 Case Officer: Nick McKeever**

**MINOR**

**Site:** 11 Spring Road, Tiptree, Colchester, CO5 0BD

**Application No:** 090897

**Date Received:** 21 July 2009

**Agent:** John Finch Partnership

**Applicant:** Granville Developments

**Development:** Reserved Matters application for demolition of existing bungalow and erection of 3no. chalet style dwellings and 1no. bungalow.

**Ward:** Tiptree

**Summary of Recommendation:** Conditional Approval

**1.0 Site Description**

- 1.1 This site is an irregular shaped plot of land, approximately 0.27 ha in area. It is currently occupied by a small bungalow located adjacent to Spring Road. It lies within a predominantly residential part of Tiptree, within an area of mixed character. The existing development within the vicinity consists of a range of single and two storey dwellings dating from the early to mid 20th Century. The buildings along Spring Road have a well defined building line, with the dwellings generally being set back from the road.
- 1.2 The ground levels fall in an easterly direction.
- 1.3 There are a number of semi-mature mature trees along the north-east and southern boundaries. These trees are the subject of a Tree Preservation Order The application is supported by a Tree Survey and Arboricultural Implication Assessment. Full details can be viewed on the Council website.
- 1.4 The application proposes the demolition of the existing bungalow and the erection of:-  
Plot 1 - 4 bedroom chalet style  
Plot 2 - 3 bedroom bungalow  
Plot 3 - 4 bedroom chalet style  
Plot 4 - 3 bedroom chalet style
- 1.5 The external materials are shown on the submitted drawings as being red facing bricks, render and red/brown clay plain tiles.
- 1.6 The development is to be accessed via a shared private drive off Spring Road, located adjacent to the northern site boundary. Full details of the access and the development are contained within the supporting Design & Access statement, which can be viewed on the Council website.

- 1.7 The designs of the chalet dwellings and the bungalow have been amended to reflect the comments and recommendations of the Urban Design Officer and an amended layout now incorporates landscaping details e.g. surface treatment of the access.

## **2.0 Land Use Allocation**

- 2.1 Residential  
Potential contaminated land

## **3.0 Relevant Planning History**

- 3.1 071184 - Outline planning permission - Approved 28 September 2007

## **4.0 Principal Policies**

- 4.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
Design - UEA11& UEA13  
Landscape Features – CO4

## **5.0 Consultations**

- 5.1 The Highway Authority has no objection subject to conditions.
- 5.2 Environmental Control comment that the site lies within 250m of a former (or suspected) landfill site and recommend that the developer incorporate gas control measures in accordance with Approved Document C of the Building Regulations. The standard advisory notes for Demolition and Construction should be attached.

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

- 6.1 Tiptree Parish Council objects on the grounds of undesirable backland development, over development of the site, out of keeping with the surrounding area and poor visibility sight splays.

## **7.0 Representations**

- 7.1 One letter has been raised supporting the development, whilst another letter raises no objection.
- 7.2 The occupiers of 60 Saffron Way, Tiptree, have no objection to the building work but raise concerns relating to the trees. The canopy of the trees that extend the length of the rear garden of their property needs considerable cutting back. Trees with the refs T18, 20, 19 & 14 extend two-thirds across their garden and block light and sunlight from their kitchen and dining room. No objection is raised if the trees are cut back. The fence, which is at the boundary of the play area and No.11 should be reinstated with a substantial one as children have broken it down in order to retrieve their footballs.

7.3 The occupiers of 15 Spring Road, Tiptree raise the following issues:-

- They believe that a small section of land (as noted on the Arboricultural plans as “Additional required land”) may belong to them.
- A recently replaced tree with a TPO is not shown on the plans.
- Plot 4 will overlook their property.
- The development will increase traffic along Spring Road (which is only 5m wide at No. 11) and has no footpaths.
- There is no mention of a wall along the perimeter of 15 Spring Road.
- How will service vehicles access the site where the access road is only 4.1m wide?
- Most of the existing properties are single storey or of a low maximum height.

## 8.0 Report

8.1 Whilst the comments of Tiptree Parish Council are acknowledged, the principle of the demolition of the existing bungalow and the redevelopment of the site with four dwellings served off a private drive was established by the outline planning permission 071184 granted in 2007. This outline application was accompanied by a layout drawing showing the proposed layout of the access and the four dwellings. This layout demonstrated that the development could be accommodated within the site in accordance with the Council's policy standards without any loss of amenity to the adjoining dwellings or any detriment to the TPO'd trees.

8.2 Notwithstanding this all matters were reserved (i.e. layout, scale, appearance, access and landscaping). This application seeks approval for all of these reserved matters.

8.3 In this context the layout of the three dwellings to the rear of the site remains substantially in accordance with the outline permission. The significant difference is the position of the proposed access and the dwelling on the site frontage.

8.4 The following details of the access have been extracted from the Design and Access Statement and clarify this matter:-

01 The development is accessed directly from Spring Road from a shared private drive located adjacent to the northern site boundary. Although the indicative site plan submitted with the original outline application (0711840) showed the shared private drive adjacent to the southern boundary, further analysis on site has shown it is not possible to achieve the sight lines required by the Highway Authority in this location. The applicant's Highway Engineering consultants, Brand Leonard Limited, have consulted further with Essex County Highways and have agreed the reduced sight lines of 2.0m x 33m for the relocated access. It should be noted that, having considered all possible alternatives, it has been concluded that the re-sited driveway presents the only viable option to access the site without omitting Plot 1, and creating an unacceptable 'void' in what is currently a continuous and regular street frontage. Importantly, the existing amenity and privacy enjoyed by the occupiers of No. 7 Spring Road will be preserved by the provision of a 2m high brick wall and landscaped buffer immediately adjacent to the boundary to provide acoustic and visual separation.

02 With regard to the wider issues of accessibility, it is intended that the dwellings be designed to meet or exceed the standards required by the Building Regulations Approved Document M (2004), BS 8300 (2001) and the Disability Discrimination Act (1995).

8.5 In addition the application includes a drawing showing the proposed street scene. This drawing shows the relationship of the new dwelling on Plot 1 to the adjoining dwellings. Whilst No.7 Spring Lane is a single storey dwelling, the new building on Plot 1 is separated by the new access and is located a reasonable distance from this bungalow. No.15 Spring Road is a two storey dwelling and the new dwelling is shown as being appropriate in scale to this adjoining property.

8.6 Whilst the proposed dwellings at Plots 3 and 4 are chalet type buildings with bedrooms within the roof space, as the ground levels fall quite significantly within this part of the site, it is considered that these buildings with approximate ridge heights of 7.05m & 7.35m, can be accommodated without appearing out of context. The drawing showing the street scene also shows the relative levels of Plot 1 and the bungalow on Plot 2.

8.7 The Local Plan policy UEA13 seeks to ensure that new development does not have a detrimental impact upon the amenity of adjoining dwellings in terms of overbearing impact, proximity to boundaries, loss of daylight/sunlight to habitable rooms or loss of privacy. The proposed development accords with these standards. With regard to privacy, whilst Plot 4 has three dormers on the front elevation facing onto the rear garden of No. 7 Spring Road, two of these dormers serve non-habitable rooms (en-suite and bathroom). The third is a bedroom. This new property is, however, at a 90 degree angle to No.7 and does not overlook any habitable rooms. There is also to be a two metre high intervening brick wall. As such it satisfies the criteria set out in the Essex Design Guide (Adopted by the Council as SPG) in terms of privacy. Plot three has three bedrooms at an angle facing towards No.7 Spring Road but is located a satisfactory distance from it so as to satisfy the Council's standards with regard to the protection of privacy.

8.8 The comments submitted by the occupiers of No. 15 Spring Road are acknowledged. With regard to loss of privacy, Plot No. 4 has no windows in the first floor that directly overlook this property. There are two windows in the ground floor (a W.C. and a secondary window to the kitchen) but these will be screened by existing/proposed fences. The 2 metre high brick wall adjacent to the side of No. 7 Spring Road is required in order to screen the existing property from the new private drive. This situation does not apply to No. 15 Spring Road; hence there is no requirement for a screen wall.

8.9 The Applicant, Granville Developments, has confirmed that no part of the site forms part of the curtilage of any adjoining property.

8.10 With regard to highway related matters, it is acknowledged that the Highway Authority has no objection to the proposed development, subject to appropriate conditions.

## **9.0 Background Papers**

9.1 ARC; Core Strategy; HA; PTC; NLR



## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

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

Samples of the proposed bricks to be used 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 and the external materials specified in the submitted external finishes schedule 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.

#### **3 – Non Standard Condition**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no enlargement of the dwellinghouse(s), as permitted by Class A of Part 1 of Schedule 2 of that Order, including additions or alterations to the roof(s) as permitted by Class, A, B and C of Part 1 of Schedule 2 of that Order, nor the provision of any building or enclosure within the curtilage of the dwellinghouse(s) as permitted by Class A or Class E of Part 1 of Schedule 2 of that Order shall be carried out without express planning permission from the Local Planning Authority.

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

#### **4 – Non Standard Condition**

No work shall commence on site until all trees, shrubs and other natural features not scheduled for removal on the approved plans, are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. No access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

#### **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 – C11.11 (Landscape Design Proposals)

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

These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas. Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

#### 7 - C11.12 Landscape Works Implementation

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

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

#### 8 – C12.2 (Details of Walls or Fences)

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

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

#### 9 – Non Standard Condition

Prior to the proposed private drive being brought into use, vehicular visibility splays of 33m north by 2m by 33m south distance, as measured along, from and along the nearside edge of the carriageway, shall be provided 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.

#### 10 – Non Standard Condition

Prior to the proposed private drive being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of that access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. These splays must not form part of the vehicular surface of the access.

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

#### 11 – Non Standard Condition

Prior to commencement of the proposed development, a size 3 turning head shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To ensure that vehicle using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

#### 12 – Non Standard Condition

Prior to occupation of the proposed development, a (communal) bin/refuse collection point shall be provided within 25m of the highway boundary and additionally clear of all visibility splays at accesses.

Reason: To minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety.

#### 13 – Non Standard Condition

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

#### 14 – Non Standard Condition

Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 4.1m and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner, in the interests of highway safety.

#### 15 – Non Standard Condition

The existing access shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the highway verge to the satisfaction of the Highway Authority, immediately the proposed private drive is brought into use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

#### 16 – Non Standard Condition

Single garages shall have minimum internal dimensions of 6m. x 3m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety.

#### 17 – Non Standard Condition

This permission relates to the erection of 3 chalet style dwellings and 1 bungalow.

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

#### 18 – Non Standard Condition

All vehicles associated with the implementation of the planning permission hereby granted shall park within the site unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of residential amenity.

#### 19 – C10.18 (Tree and Hedgerow Protection)

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.

#### 20 – Non Standard Condition

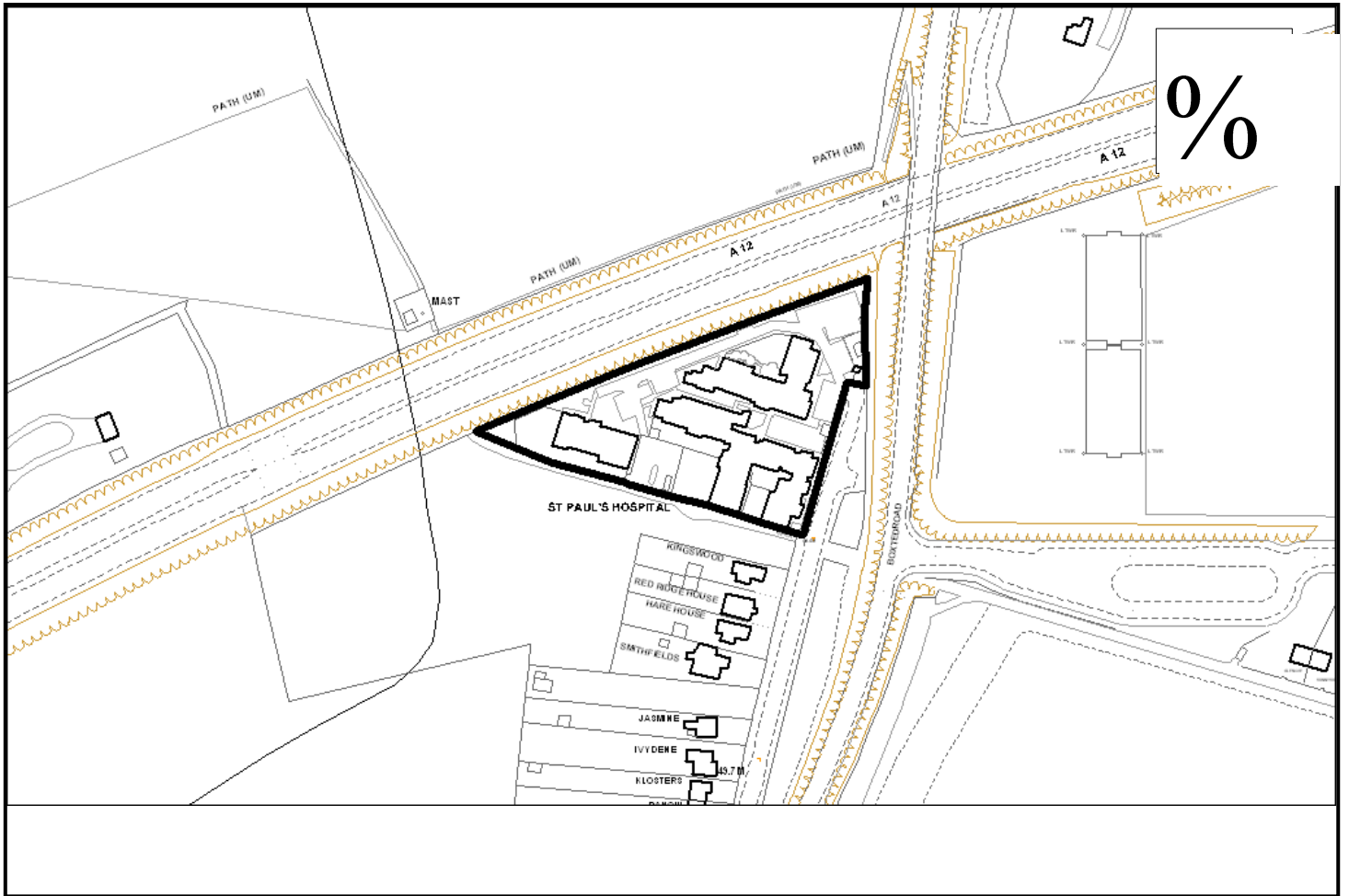
The developer shall incorporate landfill gas measures in accordance with Approved Document C of the Building Regulations and current official guidance on appropriate construction methods into all properties on the site at the time of construction of each of the required properties.

Reason: The site lies within 250m of a former (or suspected) landfill site and the Council wish to ensure that development only proceeds if it is safe to do so. The application as submitted does not provide details of these measures. This condition should not be read as indicating that there is any known danger for landfill gas in this locality.

## **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.

All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made initially by phone on 01206838696 or by email on [www.highways.eastarea@essex.gov.uk](mailto:www.highways.eastarea@essex.gov.uk).



**Application No:** 091084

**Location:** St Pauls Hospital, Boxted Road, Mile End, Colchester, CO4 5HE

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

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**7.7 Case Officer: David Whybrow**

**EXPIRY DATE: 19/11/2009**

**OTHER**

**Site:** St Pauls Hospital, Boxted Road, Mile End, Colchester, CO4 5HE

**Application No:** 091084

**Date Received:** 24 September 2009

**Agent:** Mr Simon Neate

**Applicant:** Care Aspirations Ltd

**Development:** Erection of a 3.9 metre high fence around perimeter of the hospital site.

**Ward:** Mile End

**Summary of Recommendation:** Conditional Approval subject to the receipt of satisfactory amended plans

## **1.0 Site Description**

- 1.1 St Pauls Hospital is described in the submitted application documents as a low-secure unit delivering comprehensive, multi-disciplinary treatment and care for patients demonstrating disturbed behaviour in the context of a serious mental disorder.
- 1.2 The complex consists of a series of courts and lodges located at the edge of the built up area to the north of the town and immediately south of the A12 trunk road. There is well established mixed planting on the A12 boundary and brick wall, railing and privet hedges to the front boundary with Boxted Road. There are a number of mature trees on this frontage. The remaining site boundary, to the south of the site facing the nearest dwelling, Kingswood, comprises chain link fencing beyond which is a 16.5m strip of vacant land.

## **2.0 Description of Proposal**

- 2.1 The proposal is for a 3.9m high anti-climb mesh fence enclosing the site perimeter. The site specification for low secure units indicates that a fence of 3m height may not prevent an escape but it will help to ensure it is not easy and will hinder and delay an escape attempt. A height of 3.5 or 3.9m will make escape more difficult.
- 2.2 For Members' information the proposed fencing would be constructed to the rear of the existing frontage wall and railings, avoiding trees. To the southern boundary the existing chain link fence is to be replaced by the higher anti-climb fencing. Planning permission already exists for a similarly designed 3m fence, approved under Ref: 090631.

## **3.0 Land Use Allocation**

- 3.1 Residential

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

- 4.1 090631 - Erection of three metre high fencing around perimeter of the hospital - Approved 30 June 2009
- 4.2 F/COL/05/0069 - New enclosure for water main booster set - Approved 9 March 2005
- 4.3 F/COL/04/1205 - New boundary treatments - Approved 16 August 2004
- 4.4 F/COL/03/0898 - Proposed spa room extension - Approved 25 July 2003
- 4.5 F/COL/02/0396 - 2 No. 8 bedroom residential care home at 2 storeys - Approved 24 June 2002
- 4.6 F/COL/02/0487 - Reconstruction of existing care home - Approved 9 August 2002
- 4.7 F/COL/00/1696 - Addition of bedroom and shower room to Elini House, demolish garages - Approved 15 March 2001
- 4.8 97/1705 - Change of use from residential (C3) to day care (D1) - Approved 29 January 1998
- 4.9 96/4004 - Determination under GDO Schedule 2, Parts 6 & 7, for the erection of - Prior Approval required 9 July 1996
- 4.10 950961 - Outline application for erection of one dwelling - Refused 28 September 1995
- 4.11 94/0465 - Extension and alterations to provide home for this with learning difficulties - Refused 24 July 1994
- 4.12 93/1583 – Application for Certificate of Lawfulness for use of property as domestic residence without compliance with agricultural occupancy condition No. 02 of COL/18/64 - Approved 11 February 1994
- 4.13 91/1522 - Extension of existing building to provide residential units for physically handicapped and adults with learning difficulties - Approved 24 February 1992
- 4.14 87/0952 - Change of use from farmhouse and farm buildings to staffed residential accommodation for mentally handicapped persons – Non Determination
- 4.15 87/1682 - Change of use from farmhouse and outbuildings to staffed residential accommodation for the mentally handicapped - Refused 23 November 1987

#### **5.0 Principal Policies**

- 5.1 Adopted Review Borough Local Plan
  - DC1 - Development Control considerations
  - UEA11 - Design
  - CO4 - Landscape Features



## **6.0 Consultations**

- 6.1 The Highway Authority do not wish to object to the proposals but recommend informatives to be attached to any consent granted.
- 6.2 Trees and Landscape, Tree Protection Officer, comments that as in the previous case, the amount of excavation is minimal because of the size of the proposed posts and the impact on trees is anticipated to be only small. Tree protection conditions are recommended.

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

- 7.1 None received

## **8.0 Representations**

- 8.1 Letters of representation have been received from 5 local residents and their contents are summarised as follows:-

1. The proposed fence will go inside an existing fence designed to mitigate the noise arising from patients left outside in their gardens to scream and shout. Noise can be heard at a number of dwellings down the road.
2. It is not correct for the applicant to say that the fence will be screened by existing trees and shrubs. The entire southern boundary faces our property where there are no trees or shrubs.
3. If permission is to be granted a noise insulated fence should be provided along the whole south boundary and suitable shrubs and trees are planted to screen the "hideous" security fence.
4. This home for persons with learning difficulties is developing into something comparable to a prison. A psychiatric intensive care unit could involve a change of use?
5. Historically, little regard has been demonstrated by the hospital for local residents including the issue of excessive client noise, especially shouting.
6. Could increase the need for external lighting and consequent light pollution escaping through the mesh fence.
7. A remote occupational therapy unit, also in this area of Boxted Road, may also need this level of fencing.

## **9.0 Report**

- 9.1 As described under "Site Description" this unit is categorised by the NHS as a low-secure unit and their guidelines state that while a 3m high external perimeter fence is the recommended height, 3.9m is advisable. Given that early approvals for the site refer to staffed residential accommodation for mentally handicapped persons your officers are satisfied that the current usage is in order from a planning point of view and does not involve a change of use of the premises.

- 9.2 The agent confirms that, if approved, and the 3.9m fence is erected, the existing 2m noise-insulated fence will remain in-situ. In addition they indicate that the 3.9m fence would not surround the entire hospital grounds as illustrated on the submitted drawing, but rather, would be used for certain parts of the perimeter. An amended plan depicting the extent of the acoustic fence and location of the 3.9m fencing as now proposed has been requested and will be available before the meeting. The agent has confirmed that they would be agreeable to a condition being attached to any consent granted requiring the retention of all close-boarded fencing on the southern boundary. Further, it has been confirmed that the existing fence will be retained even if the 3m fence were to be erected pursuant to the earlier permission.
- 9.3 The retention of existing acoustic fencing will address much of the concern raised in the representations but clearly Members will wish to consider the additional visual impact of the raised height of the proposed mesh fence. To the front of the hospital the fence will exceed the height of the existing wall and railings and will have its greatest impact on public views. The rear boundaries of the site are shrouded by trees and shrubs but the south boundary, as viewed from the adjoining dwellings, will also be significantly changed. The amended plans will clarify the degree of change.

## **10.0 Conclusion**

- 10.1 Provided that the revised drawings do not show an excessive length of fencing to the south and east boundaries as identified above it is recommended that permission be granted in this case as a variation of the earlier consent. It is clear from the submitted documentation that the higher fencing reflects current NHS advice while the Tree Protection Officer has confirmed that existing trees and hedges should not be affected by these proposals.

## **11.0 Background Papers**

11. ARC; Core Strategy; TL; NLR; HA

### **Recommendation**

Upon the receipt of satisfactory amended plans which confirm the extent of retention of existing acoustic fencing and clarify the length of a 3.9m high fence, approval be granted 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 - Non-Standard Condition

The proposed fence shall be dark coloured, further details of which shall be submitted to and agreed in writing by the Local Planning Authority before the development is commenced. The development shall be carried out strictly in accordance with the agreed details and the dark colour shall thereafter be retained in perpetuity.

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

## 3 - 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.

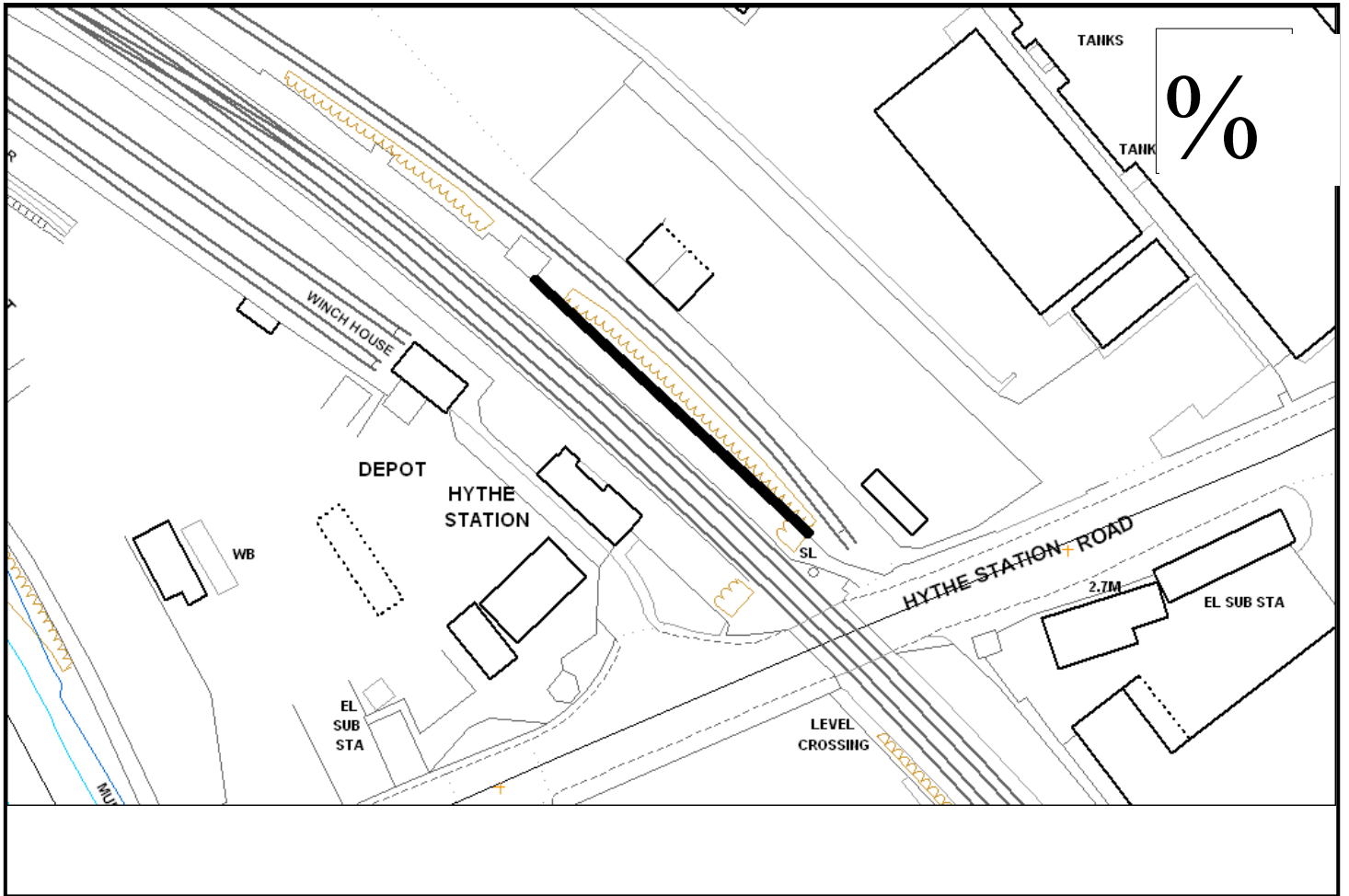
Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.

### **Informatives**

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

The applicant is reminded of their duties and responsibilities with regard to the line of public Footpath 231, Colchester to the south of the site. Should any works affect the line of the right of way these must be carried out in agreement with this authority and application for the necessary works should be made initially by telephoning 01206 838600.

The applicant is advised that this authority will not allow the line of public footpath 231 to the south of the site to be used by vehicles to access the development site in accordance with the Department for the Environment Food and Rural Affairs Guidance for Local Authorities Rights of Way Circular 1/09.



**Application No:** 091147

**Location:** Hythe Station, Hythe Station Road, Colchester, CO2 8JR

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

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**7.8 Case Officer: Bradly Heffer**

**EXPIRY DATE: 17/11/2009**

**OTHER**

**Site:** Hythe Station, Hythe Station Road, Colchester, CO2 8JR

**Application No:** 091147

**Date Received:** 22 September 2009

**Applicant:** Ms F Duhamel

**Development:** Erection of hoardings no greater than 2m high attached to fencing which borders the railway station. The hoardings will feature painting and poetry.

**Ward:** St Annes

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

1.1 This application is brought to Members for determination as it has been submitted on behalf of the Borough Council and therefore falls within the category of development that has to be determined by the Planning Committee. The site for this proposal is the recently redeveloped Hythe railway station at the Hythe, Colchester. Members will be aware that the station has been remodelled, in order to improve passenger access and the attractiveness of the station as a transport node - bearing in mind the ongoing regeneration throughout East Colchester which will result in significant new residential development in the area.

## **2.0 Description of Proposal**

2.1 This current proposal seeks permission to erect 2 metre high hoardings along the north eastern and south western boundaries of the station platforms where they abut other sites. The hoardings would be constructed of aluminium composite sheets covered with an anti-graffiti semi matt film. They would be used to display artwork and poetry and would also contain a hexagonal element that would display the name of the station. However the primary function of the hoardings would be to screen adjoining land uses which are currently visible from the station area.

## **3.0 Land Use Allocation**

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

## **4.0 Relevant Planning History**

4.1 090241 - Change of use from highway to allow open pedestrian access - approved with conditions 23rd June 2009.

4.2 090260 - Alterations and improvement works including resurfacing works, erection of shelters and benches - approved with conditions 23rd June 2006.

## **5.0 Principal Policies**

5.1 Adopted Review Colchester Borough Local Plan-March 2004  
DC1- Development Control considerations  
UEA11 - Design  
ECH1 – River Colne Regeneration Area.

## **6.0 Consultations**

6.1 Environmental Control has no comment to make on this application.

6.2 The Highway Authority has no objections to the proposal as submitted but would require the inclusion of an informative on a grant of planning permission.

## **7.0 Representations**

7.1 None received

## **8.0 Report**

8.1 The works that have taken place thus far at the Hythe Station are considered to have greatly improved its appearance and attractiveness. Certainly they have resulted in a much improved degree of pedestrian access, and the alterations have made casual surveillance easier, bearing in mind that the station itself is unmanned.

8.2 It is also observed that the adjoining and wider land uses are not of a particularly high visual standard - being established commercial uses that could be termed typical of an historic industrial location. On this basis the provision of the hoardings would assist in screening these uses from view, particularly for users of the station. It is also noted that the hoardings would be used to display artwork and poetry as opposed to general advertisements.

8.3 Members may be aware that a similar hoarding has been erected along King Edward Quay, that displays a visual history of the Hythe area whilst enabling screening of the industrial land to the rear. It is considered that a similar approach would be appropriate in this location.

8.4 Clearly as the regeneration of the Hythe area continues and individual sites are improved the need for screening elements in the future will reduce. However at this point in time the hoardings would serve a clear planning purpose and would further enhance the experience of passengers when using Hythe Station.

## **9.0 Background Papers**

9.1 ARC; HH; HA

## **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 hoardings hereby approved shall be used for the display of artwork and poetry as previously approved by the Borough Council and not for any general advertisements.

Reason: The hoardings have been approved on the basis of the submission and the Council is keen to ensure that they are utilised for the intended purpose and not as general advertisement hoardings which would create unnecessary extraneous clutter and would be harmful to overall visual amenity within Hythe Station.

### **Informatives**

All works affecting the highway shall be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made initially by telephone on 01206 838696 or by email on [highways.eastarea@essex.gov.uk](mailto:highways.eastarea@essex.gov.uk).



**Application No:** 091177

**Location:** Gnome Magic, New Dawn, Ipswich Road, Dedham, Colchester, CO7 6HU

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

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**7.9 Case Officer: Bradly Heffer**

**EXPIRY DATE: 10/11/2009**

**OTHER**

**Site:** New Dawn, Ipswich Road, Dedham, Colchester, CO7 6HU

**Application No:** 091177

**Date Received:** 15 September 2009

**Applicant:** Mr M Bridges

**Development:** Variation of Condition 04 of planning permission COL/03/0556 to allow for opening all year i.e January to December, Monday to Sunday with hours of operation to be from 6am to 10pm.

**Ward:** Dedham & Langham

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

1.1 The site for this proposal is the large, wooded curtilage area attached to a property known as 'New Dawn' Ipswich Road Colchester. The dwelling is one of a group of dwellings that front on to the 'old' Ipswich Road, which runs adjacent to the A12 Colchester – Ipswich trunk road. The site takes access (gated) directly off Ipswich Road, and the site is served by a large hardened parking area.

## **2.0 Description of Proposal**

2.1 Members will recall that this site has a series of previous planning permissions that have allowed a low-key tourism business - 'Gnome Magic' - to be operated from the site. The use consists of the display of tableaux of figures within the wooded garden area and the provision of a refreshment facility.

2.2 This current proposal seeks to vary the approved terms of the use, as imposed by condition, to allow it to take place throughout the year i.e. January to December and from 6:00am to 10:00pm on a daily basis Monday to Sunday. As part of the current proposal the applicant advises that the variation is required in the light of present market conditions and as a response to financial difficulties.

## **3.0 Land Use Allocation**

3.1 The site for this proposal lies in an area of no notation i.e. white land as designated in the adopted Review Colchester Borough Local Plan.

## **4.0 Relevant Planning History**

4.1 98/1523 - Change of use of land from residential to residential and tourism including erection of tea room. Approved with conditions 14<sup>th</sup> January 1999

- 4.2 F/COL/01/1277 - Application to extend period of temporary permission by amendment of condition 01 under COL/98/1523 regarding use of land for tourism including erection of tearoom. Temporary approval granted 19th September 2001
- 4.3 F/COL/03/0559 - Permanent planning consent to operate a low key leisure attraction with associated refreshments during 1st April - 30th September in any one year with hours of operation between 9am and 7pm each day. Approved with conditions 24th July 2003.
- 4.4 A/COL/06/0749 - Retention of Gnome Emblem on pole. Approved with conditions 20th September 2006

## **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Borough Local Plan-March 2004  
DC1- Development Control considerations  
L19 - Tourism and Visitor facilities
- 5.2 Local Development Framework Adopted Core Strategy  
ENV1 - Environment

## **6.0 Consultations**

- 6.1 The Environmental Control team has no comments to make on this application.
- 6.2 The Highway Authority advises that it has no objection to the proposal but due to the proximity of the A12 Trunk Road will defer to the Highways Agency.
- 6.3 The comments of the Highways Agency are as follows:

‘As the application will not adversely affect the A12 trunk road at this location, the Highways Agency does not intend to issue a direction.’  
The Agency raises no objection to the proposal.

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

- 7.1 Dedham Parish Council comments as follows:

‘We cannot understand why the Applicant would wish to open the specialist premise during the winter months for limited visitors to walk through a damp wooded area in the Autumn and Winter weather when one considers all the heating, lighting and wages overheads such a venture would attract.

However if there is an identifiable need to create a Christmas type venture then consideration should be given to a temporary permission to be granted in the period between mid November and the New Year only, to open later and close perhaps an hour later. With regard to the opening hours for the rest of the year we find no reason or justification to extend beyond the current agreement, as it is dark at the beginning and end of each day in the first and last months.

Apart from a Christmas type venture we find no reason to reconsider this application or to vary the original condition 4 of planning permission COL/03/0556.’

## **8.0 Representations**

8.1 As a result of neighbour notification, two letters have been received from local residents objecting to the proposals. One letter raises objection on the following grounds:

- The existing use constitutes a gross overdevelopment of a small site in an otherwise residential area within the Dedham Vale.
- The use has introduced a noise nuisance and has resulted in a loss of amenity for the occupiers of neighbouring properties. The introduction of the proposed variation in opening hours would result in greater disturbance, invasion of privacy and light pollution.
- The proposal would also cause serious impact on wildlife and cause further damage to woodland.
- The additional traffic movements would create increase highway safety problems and disturbances to the locality.
- Previous screening that should have taken place as a result of previous approvals has not been provided in accordance with the permissions granted.

8.2 The other letter suggests that the opening hours should be 8:30am to 7:30pm. It also states that the applicant is only trying to make a living and traffic generated by the use is not problematic.

## **9.0 Report**

9.1 Initially granted on a temporary basis, the commercial use of this site was granted permanent planning permission via planning application F/COL/03/0559. This permission enables the site to be used for the commercial purpose between the months of April and September. Furthermore the actual daily hours of operation are controlled by condition. The current proposal seeks to extend the permitted hours of use whereby the 'Gnome Magic' facility would be available to visit throughout the year and for a substantial period of each day. In the light of the above it is considered that the key issue to be determined in this case would be whether the proposed extension of use would potentially cause additional detriment to the amenity of the area that would warrant rejection of the application. It is noted that the application has not given rise to any adverse comment from the Council's Environmental Control division. However, having received the objection from the local resident, further comments were sought from Environmental Control. In particular Environmental Control was asked to provide details of any complaints that it may have received relating to this site. It has been confirmed to your officers that no complaints have been logged.

9.2 Clearly, the proposed extension in the period of the year when the use may be carried out would likely result in additional vehicular movements to the site. That said, the nature of the use is such that the extended periods of use in any year are unlikely to generate significant changes to the current levels of use, in your officer's view. This is because they would fall outside what could be termed the traditional tourist season i.e. May to September, and additionally the use in itself appears to be relatively low key. However, the proposed changes to the daily hours of operation are of concern given the location of the site within an established row of residential properties. The current control in place allows the use to commence from 9:00am in the morning. It is considered that this represents a reasonable start time in planning terms, given that the site is located in a row of established residential properties. Additionally a closing time of 9:00pm is again considered reasonable given the nature of the use and the fact that residential curtilages abut the site on two sides. On this basis the comments received from Dedham Parish Council regarding this proposal are fully acknowledged.

## **10.0 Background Papers**

10.1 ARC; HA; HH; Highway Agency; PTC; NLR

### **Recommendation - Conditional Approval**

#### **Conditions**

1 – Non-Standard Condition

The use hereby permitted shall only be open to the public between the hours of 9:00am and 9:00pm each day.

Reason: To safeguard the amenities of nearby residential properties.

2 – Non-Standard Condition

This permission is granted in recognition of the previously-approved application F/COL/03/0559 and is subject to the conditions attached thereto with the exception of condition 04.

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



**Application No:** 091197

**Location:** 61 Oaklands Avenue, Colchester, CO3 9ET

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

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**7.10 Case Officer: Mark Russell**

**EXPIRY DATE: 06/11/2009**

**OTHER**

**Site:** 61 Oaklands Avenue, Colchester, CO3 9ET

**Application No:** 091197

**Date Received:** 11 September 2009

**Agent:** Edward Gittins & Associates

**Applicant:** Mr B Andrews

**Development:** Proposed single storey side extension with front porch, rear single storey extension, conservatory and internal alterations. Resubmission of 090608.

**Ward:** Prettygate

**Summary of Recommendation:** Conditional Approval

## **1.0 Planning Report Introduction**

1.1 This application is before Committee because one of the consultees, and objectors, is an employee of Colchester Borough Council's Planning Department.

## **2.0 Site Description**

2.1 The site comprises the left hand property of a pair of 1930s semi-detached houses similar to most of those around it on Oaklands Avenue which is a spine road linking Straight Road with Dugard Avenue.

## **3.0 Description of Proposal**

3.1 The proposal is to build a single-storey extension to the (left hand) side of the property. Also proposed is a single storey projection incorporating the front part of the garage and a porch, and a rear extension comprising a shallow element measuring 2.6 metres in depth and a conservatory (4 metres in depth). A bedroom window is proposed for the front of the property to replace a side window which would be lost to the roof of the proposed garage.

## **4.0 Land Use Allocation**

4.1 Residential

## **5.0 Relevant Planning History**

5.1 090608 - Proposed two storey side extension with front porch, rear single storey extension, conservatory and internal alterations. Refused: 30th June 2009.

## **6.0 Principal Policies**

6.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations;  
UEA11 - Design  
UEA13 – Extensions

6.2 Core Strategy  
UR2 – Built Design and Character

## **7.0 Consultations**

7.1 None

## **8.0 Representations**

8.1 Objections have been received from the neighbouring properties on either side. These relate to:

1. The conservatory measuring in excess of three metres and thus failing to comply with SPD;
2. The proposed front bedroom window and garage/porch extension not being in keeping with other properties on the road;
3. Issues of asbestos when the existing outbuildings are removed;
4. The side extension appearing to overhang, and undercut the boundary with number 59 Oaklands Avenue.
5. Proposed bricks not matching the existing.

## **9.0 Report**

9.1 The previous application 090608 was refused for the following reasons:-

1. *The failure to provide a minimum of one metre gap at first floor level, which would lead to a cramped or terraced effect.*
2. *Being discordant with its context and failing to achieve good townscape due to this lack of a gap, and the wrap-around front extension and proposed integral garage within the two storey element.*
3. *Being overbearing on the neighbouring property, as the proposed conservatory depth was almost five metres.*

9.2 The proposed second storey to the side has now been omitted, this overcomes reason 1, and most of reason 2. The issue of the “wrap-around” element has been partially overcome with the new proposal which introduces an articulated feature at the front, thus distinguishing this element from the main side extension. The proposal could have offered a greater articulation and distinguished the porch from the garage, but it is felt that the modifications offered mean that the shortcomings of the design are not so critical as to be refusable.

- 9.3 Finally, the rear conservatory element has now been reduced to approximately 4 metres, and would be set in by approximately 0.4 metres (the agent claims the set in would be 0.475m) . This still fails the guidance, which suggests that three metres is a good limit, with extra depth allowed in relation to any separation from the boundary. In practice, this does not need to be complied with dogmatically. In context, the conservatory is to the north of the neighbouring property, thus there would be no loss of direct sunlight.
- 9.4 In terms of the 45 degree test from the mid-point of the neighbour's window, the conservatory does not infringe this line in elevation, but fails in plan. Thus, when considered against the guidance (as mentioned in the Council's "Extending Your House") it is in compliance with that Supplementary Planning Document. It is a moot point whether the conservatory could be considered overbearing, but given the compliance with the above, the marginal fail of the three metre guidance, and the orientation of the sun (plus the translucence of the conservatory which means little loss in terms of ambient light, which is partially lost due to the current hedge anyway) this seems difficult to refuse.
- 9.5 Turning to the objectors' comments, point 1. has been covered; point 2. is noted, but whilst the modifications to the front of the dwelling (new window and porch/garage) would make it look slightly different to many of the other dwellings around it, these differences are not felt to be so crucial as to make the scheme refusable.
- 9.6 Point 3 is not a Planning matter, but the applicants can be reminded of best practice in the decision notice.
- 9.7 Regarding point 4, the agent has confirmed as follows: "With regard to the concern of any encroachment on the boundary by eaves, soffits, guttering and foundations, I estimate the flank wall of the extension will be set back approximately 0.3m from the boundary. This gap is arrived at by measuring the distance of the existing house from the boundary, namely 4.05m, and deducting 3.75m for the extension measured off the proposed ground floor plan. I consider that, on this basis, there should be no direct effect on the boundary or the neighbour's airspace."
- 9.8 Regarding point 5, the agent has further confirmed: "I am told that LBC Commons are no longer available and our Client retains preference for the Heather Chiltern brick. He would be happy, however, to leave this to be agreed later".

## **10.0 Conclusion**

- 10.1 In conclusion, most of the previous reasons for refusal have been overcome, and those which have not are so marginal as to not stand up as reasons for refusal in their own right.
- 10.2 The proposal is therefore acceptable, and Members are advised to approve this application.

## **11.0 Background Papers**

- 11.1 ARC; Core Strategy; NLR; "Extending your House"



## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

#### **2 - C3.5 Materials to Match Existing**

The external materials and finishes to be used for the approved development, shall be of the same type and colour as those of the existing building unless otherwise agreed in writing by the Local Planning Authority.

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

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

Prior to the commencement of development the applicant shall submit details of boundary treatment between the proposed conservatory and the neighbouring dwelling 63 Oaklands Avenue. These details shall be agreed in writing and shall be implemented as such and retained as such at all times.

Reason: In the interests of residential amenity as it is not apparent that the existing hedge will provide sufficient screening between the conservatory hereby approved and the neighbouring dwellinghouse.

### **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.

#### **Informative relating to Asbestos removal**

The applicant is reminded that no part of the development should overhang or under-reach the boundary with the neighbouring dwelling.



**Application No:** 091242

**Location:** 24 Becker Road, Colchester, CO3 9XR

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

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**7.11 Case Officer: David Whybrow**

**EXPIRY DATE: 17/11/2009**

**OTHER**

**Site:** 24 Becker Road, Colchester, CO3 9XR

**Application No:** 091242

**Date Received:** 22 September 2009

**Agent:** Mr Richard Johnson

**Applicant:** Mrs A Titmas

**Development:** Ground floor extension forming a new bedroom. Convert existing study/playroom into a shower room.

**Ward:** Prettygate

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

1.1 There is a semi-detached dwelling in brick and tile finishes linked to the property to the south-west by a pair of former garages, now both converted to living accommodation.

## **2.0 Description of Proposal**

2.1 A single storey rear extension of dimensions 4.75 x 4m is proposed to the rear of the dwelling alongside the boundary to No. 22. This would have a pitched roof and be clad in materials to match the existing house.

2.2 The extension will provide a bedroom for a disabled resident and an ensuite bathroom would be created by converting part of the existing ground accommodation (presently a bedroom). Ramped access with handrails is proposed to both front and rear doors.

## **3.0 Land Use Allocation**

3.1 Residential

## **4.0 Relevant Planning History**

4.1 COL/93/0839 - Extension and alterations - Approved 27 July 1993

## **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Borough Local Plan  
DC1 - Development Control considerations  
UEA12 - Backland Development  
UEA13 - Development, including extensions, adjoining existing or proposed residential property
- 5.2 Core Strategy  
U2 – Built Design and Character

## **6.0 Consultations**

- 6.1 None

## **7.0 Representations**

- 7.1 The owner/occupier at No. 22 opposes the scheme having regard to the length and height of the structure and makes the following points:-
1. The extension will cover nearly 45% of the length of the side boundary.
  2. It will seriously affect the amount of light received by my property, especially in the mornings.
  3. The view from my dining room would be compromised.
  4. Adverse effect on the value of my house (not a valid planning issue). My property is currently for sale.

## **8.0 Report**

- 8.1 Your policy guidelines for single-storey additions adjacent to the site boundary suggest they should not:
- Extend more than 3m from the rear wall of the adjoining dwelling.
  - Result in the centre of the main window of a habitable room being within a combined plan and section 45 degree overshadowing zone.
- 8.2 As Members will be aware, these criteria seek to protect the light and outlook from rear facing windows in the adjoining property. The submitted proposal fails the first criterion and extends 4.75m into the rear garden. To that extent there could be held to be a degree of impact on the outlook of the occupants of No. 22. That said, there is not considered to be any material effect on the daylight enjoyed by that property. The orientation of the building is such that No. 22 lies to the south-west of No. 24 and will be little affected by the east - west track of the sun. Furthermore, the dining room referred to is served by 2 rear facing windows and that closest to the extension (to the rear of what was formerly a garage) cannot be regarded as the main window to this room.

## **9.0 Conclusion**

9.1 On balance, officers are satisfied this proposal will have a minimal impact on the light enjoyed by the neighbour and the effect of single storey work of no more than 2.2m height to eaves would not, in their view, impinge on the neighbours' outlook. Approval is recommended.

## **10.0 Background Papers**

10.1 ARC; Core Strategy; 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

On-site parking facilities for one vehicle shall be maintained at all times.

Reason: To ensure adequate parking provision so that the development does not prejudice the free flow of traffic or the general safety along the adjacent highway or the convenience and amenities of local residents.

#### **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:** 091262

**Location:** 1 Rosebank Road, West Mersea, Colchester, CO5 8NH

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

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**7.12 Case Officer: Bradly Heffer**

**EXPIRY DATE: 23/11/2009**

**OTHER**

**Site: 1 Rosebank Road, West Mersea, Colchester, CO5 8NH**

**Application No: 091262**

**Date Received: 28 September 2009**

**Agent: Mr David Webb**

**Applicant: Mrs A Weaver**

**Development:** Proposed alterations and extensions to existing detached house to provide accommodation for disabled daughter. Resubmission of 081459.

**Ward: West Mersea**

**Summary of Recommendation: Conditional Approval**

## **1.0 Planning Report Introduction**

1.1 This application relates to the provision of a single storey addition to a dwelling in West Mersea. While this type of application could normally be dealt with as a delegated matter by the Head of Environmental and Protective Services, it is considered appropriate by your officer to present the application to Committee for determination due to the particular planning history of the site.

## **2.0 Site Description**

2.1 The dwelling that is the subject of this application is a detached brick-built house, identified as 1 Rosebank Road, located in an established residential area on Mersea Island. It is located within a row of detached dwellings that face eastwards across Rosebank Road. Immediately to the rear is the large curtilage of the dwelling known as No.14 Victory Road.

## **3.0 Description of Proposal**

3.1 This application seeks permission for the provision of a single storey addition to the front of the dwelling in order to provide accommodation for a disabled member of the applicant's family. The extension would project eastwards by 2.6 metres from the front elevation of the dwelling and would be constructed in composition boarding in combination with a concrete tiled roof. The proposed extension would return around the north-eastern corner of the dwelling, and would join an existing garage that is attached to the northern side. The submitted plan shows the extension being used to provide an extension to an existing living area and also space for a carer's bedroom. The application is accompanied by a Design and Access statement that may be viewed on the Council's website.

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

4.1 Residential – as allocated in the adopted Review Colchester Borough Local Plan.

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

5.1 081459 – ‘Construction of a new single storey extension to the front elevation of a former flat roofed garage structure linked to the main property plus the formation of a new section of a parapet wall extending the existing front elevation in height and a new pitched roof extension with disabled ramp and landing.’ Application refused via notice dated 18th September 2008. A subsequent appeal against the Council’s decision was dismissed. For Members’ information copies of the Council’s decision notice and the Inspector’s decision letter are appended to this report.

#### **6.0 Principal Policies**

6.1 Adopted Review Borough Local Plan  
DC1 – General Development Control criteria  
UEA11 – Design  
UEA13 – Development, including extensions, adjoining existing or proposed residential property.

#### **7.0 Consultations**

7.1 None

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

8.1 West Mersea Town Council comments as follows:

‘Following discussion it was agreed to recommend CONSENT be granted in respect of this application.’

#### **9.0 Representations**

9.1 At the time this report was prepared one letter of objection has been received from a neighbouring resident. The comments made may be summarised as follows:

- The accommodation is unnecessary as the family has several spare bedrooms.
- The remodelling of the accommodation results in a separate and new access which seems unnecessary.
- No objection is raised to the removal of the existing window and blocking up the space to create a new window with obscure glass.
- If the proposal is permitted it would result a separate and independent unit of accommodation which is most undesirable.



## 10.0 Report

- 10.1 As mentioned previously in this report, the application premises have been the subject of an earlier application to provide additional accommodation for a person with a disability. This application was refused by the Council as it was considered that the extension proposed at that time would ‘...by reason of its size, location and design appear as an incongruous addition to the property. It would result in overdevelopment of an already cramped plot to the detriment of the visual amenity of the locality.’
- 10.2 An appeal against the Council’s refusal was unsuccessful. However, the Inspector’s decision letter did state inter alia ‘I...consider that an addition giving separate access would be desirable in allowing a more independent life. Whilst it would breach the front building line, some form of low, porch-like addition would not, in my judgement, appear out of place and in any event, I do not find the building line to be strongly evident in this area.’
- 10.3 It is considered appropriate to judge this current planning application in the light of the Inspector’s comments. On this basis it is noted that the extension would incorporate a lean-to roof (leading to a pitched element where the extension returns to the existing garage). The height of the roof scales at approximately 3.8 metres above ground level, which is not considered to be visually excessive. Furthermore the flank (north-facing) wall of the extension would be located approximately 4 metres from the south facing flank wall of No.2 Rosebank Road thereby avoiding unacceptable overshadowing problems. It is noted that an established hedge is located on the neighbour’s boundary at this point which would provide further screening of the extension.
- 10.4 As regards the impact of the addition on the front of the dwelling this is not considered to be so prominent as to appear incongruous in this setting. The extent of projection is 2.4 metres and the submitted plan shows a gap of 2.1 metres being retained between the proposed extension and the front boundary. The previously refused scheme proposed a projection of approximately 2.7 metres from the front wall.
- 10.5 While the comments received from the neighbouring resident are acknowledged it is considered that the following points are of relevance:
- Each application has to be considered on its own particular merits. In this case the key issues are considered to be the appropriateness of the proposed extension in design terms and the potential impact it may have on residential amenity and the character of the area.
  - The application is accompanied by a letter confirming the applicant’s daughter’s disabled status.
  - The imposition of a suitably worded condition could control the use of the new accommodation to avoid the creation of a separate dwelling unit.
- 10.6 In conclusion it is considered that this application represents a reasonable response to the previous concerns of the Council in rejecting an earlier extension proposal to the front of the property, and also to the comments made by the Inspector in relation to design, building line etc.

## **11.0 Background Papers**

### 11.1 ARC; PTC, NRL

#### **Recommendation – Conditional Approval**

##### **Conditions**

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

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

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

##### 2 - C3.1 Materials (general)

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

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

##### 3 - Non-Standard Condition

The permitted extension shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwellinghouse at No. 1 Rosebank Road, West Mersea.

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



Colchester Borough Council

Environmental & Protective Services

PO Box 889  
Town Hall  
Colchester  
Essex  
CO1 1FL

## Notice of Planning Decision

TOWN AND COUNTRY PLANNING ACT 1990  
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995

In pursuance of the powers exercised by it as District Planning Authority this Council, DOES HEREBY GIVE NOTICE of its decision to REFUSE PERMISSION for the development detailed below.

**APPLICATION NO:** 081459

**APPLICATION DATE:** 4th August 2008

**PROPOSAL:** Construction of a new single storey extension to the front elevation of a former flat roofed garage structure linked to the main property plus the formation of a new section of a parapet wall extending the existing front elevation in height and a new pitched roofed extension with disabled access ramp and landing.

**LOCATION:** 1 Rosebank Road, West Mersea, Colchester, CO5 8NH

**APPLICANT:** Mrs A Weaver, 1 Rosebank Road, West Mersea, Colchester, CO5 8NH

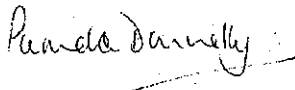
1. The Adopted Review Colchester Borough Local Plan (2004) Policy DC1 states that all proposals for development must be well designed, having regard to local building traditions, and should be based on a proper assessment of the surrounding built environment. Policy UEA11 also states that there shall be a high standard of design, with adequate regard to setting so that good standards of townscape are achieved. Policy UEA 13 of the Adopted Review Colchester Borough Local Plan resists extensions which are poorly designed or out of character with the appearance of the original building and which would result in a cramped appearance. Planning Policy Statement 1 (2005) states that 'Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted'.

**IMPORTANT – ATTENTION IS DRAWN TO THE NOTES ATTACHED**

DC1001MWD

The proposed front extension would, by reason of its size, location and design appear as an incongruous addition to the property. It would result in overdevelopment of an already cramped plot to the detriment of the visual amenity of the locality. Accordingly the development would be in harmful conflict with Local Plan policies DC1, UEA11 and UEA13. PPS1 states in its first key objective that 'Good planning ensures that we get the right development, in the right place and at the right time'. As this is not considered to be the optimum solution for this development, it can not be accepted.

Date: 18th September 2008

Signed:   
Pam Donnelly  
**Executive Director**

In determining this application the Council has taken into account the following policies:  
DC1 Development Control Considerations  
UEA11 Design  
UEA13 Development Adj. Existing or Proposed Residential Property



## Appeal Decision

Site visit made on 22 June 2009

by **John Papworth** DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email:enquiries@plns.gsl.gov.uk

Decision date:  
7 July 2009

**Appeal Ref: APP/A1530/A/09/2100197**

**1 Rosebank Road, West Mersea, Colchester, Essex CO5 8NH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Ann Weaver against the decision of Colchester Borough Council.
- The application Ref 081459, dated 30 July 2008, was refused by the Council by notice dated 18 September 2008.
- The development proposed is Construction of a new single storey extension to the front elevation of a former flat roofed garage structure linked to the main property. The proposal includes the formation of a new section of parapet wall extending the existing front elevation in height and a new pitched roof extension with disabled access ramp and landing. To permit full use of the former garage area as disabled accommodation for a family member.

### Decision

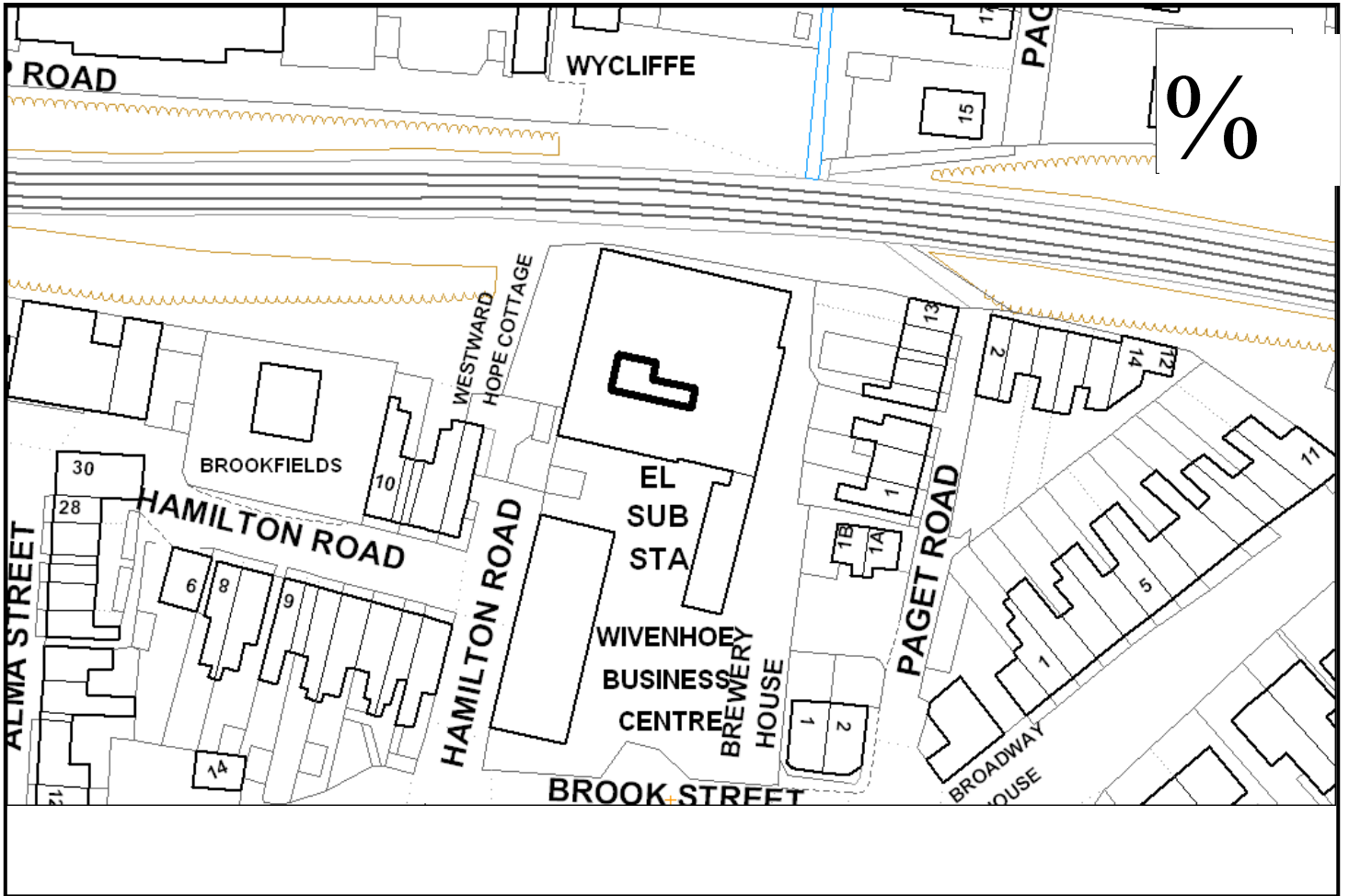
1. I dismiss the appeal.

### Reasons

2. The Council have objected to this design as being incongruous due to a poor physical relationship with the main building, among other comments. The main issue is therefore the effect of the development on the character and appearance of the Rosebank Road area of West Mersea. I have read the information supplied by the appellant and her daughter Sophie and consider that an addition giving separate access would be desirable in allowing a more independent life. Whilst it would breach the front building line, some form of low, porch-like addition would not, in my judgement, appear out of place and in any event, I do not find the building line to be strongly evident in this area.
3. However, I find the pitched roof at odds with that of the remainder of the building and with the flat roof behind which would still be seen in side views from the road, emphasising the incongruous nature of the proposal. This failing would be in breach of the aims of Local Plan Policy DC1 in seeking well designed proposals and Policies UEA11 and UEA13 which require designs to have adequate regard to setting and in the case of extensions, not to be out of character with the original building. For the reasons given above I conclude that the appeal should be dismissed and that the mitigating circumstances do not overcome the design's failings.

*S J Papworth*

INSPECTOR



**Application No:** 091073

**Location:** 14 & 16 Wivenhoe Business Centre, Brook Street, Wivenhoe, Colchester,

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

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**7.13 Case Officer: Andrew Tyrrell**

**OTHER**

**Site:** 14 & 16 Wivenhoe Business Centre, Brook Street, Wivenhoe, Colchester

**Application No:** 091073

**Date Received:** 28 August 2009

**Applicant:** Miss Angie Diggins

**Development:** Change of use from printers (B2) to dance studio (D2).

**Ward:** Wivenhoe Quay

**Summary of Recommendation:** Conditional Approval

## **1.0 Planning Report Introduction**

1.1 This application is referred to the planning committee as a consequence of an unresolved objection from Essex County Council Highway Authority. This relates to traffic generation from the proposed use, but the case officer does not share their concerns.

## **2.0 Site Description**

2.1 The site is within Wivenhoe Business Centre. The unit has already been changed from a former printer's works (B2 use) to a dance studio (D2 use). It is a relatively small unit, as can be seen from the photographs available on the night, or via the planning file on the internet. The other units at the site are a mix of industrial uses including a taxi call centre, pizza delivery business, a dental practice and hairdressers/tanning/beauty uses. Parking is available in a communal arrangement, with no spaces allocated to a specific unit.

## **3.0 Description of Proposal**

3.1 The proposal being considered is a change of use from B2 "General Industrial" use as a printer's to D2 "Assembly and Leisure" as a dance studio. The dance studio is effectively a modest wooden floored room with a piano in it.

## **4.0 Land Use Allocation**

4.1 The site is within the predominantly residential area, within the Wivenhoe Conservation Area.

## **5.0 Relevant Planning History**

5.1 C/COL/04/1774 - granted permission under delegated powers for a taxi call centre/base.

5.2 Application C/COL/07/0008 was approved by the planning committee in February 2007. This application was for the pizza delivery business, and was approved by the committee despite a highway objection similar to the one received against the current application.

## **6.0 Principal Policies**

6.1 Adopted Colchester Borough Review Local Plan (2004)  
DC1 – Development Control Considerations  
L1 – Indoor and outdoor Leisure and Entertainment Facilities  
T9 – Parking

6.2 Adopted Core Strategy (2008)  
SD2 – Delivering Facilities and Infrastructure  
SD3 – Communities Facilities  
CE2b – District Centres  
TA1 – Accessibility and Changing Travel Behaviour  
TA4 – Roads and Traffic  
TA5 – Parking

## **7.0 Consultations**

7.1 Essex County Council have objected, stating that “the proposal would lead to an increase in traffic in a location where there is already parking stress and access issues through the older streets of Wivenhoe. Any further traffic generation would be detrimental to highway safety and efficiency”.

7.2 Environmental Control had “no comments”.

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

8.1 The Town Council “welcome this initiative and wish the applicant every success in this venture”.

## **9.0 Representations**

9.1 None received

## **10.0 Report**

### Introduction

10.1 Essentially, this application can be split into two categories of considerations. Those relating to the general principle of this proposal, and then the highway issues that have caused concern. The report is consequently split into these two sections below.



### Non-Highways Related Matters

- 10.2 The application is considered to be a suitable use of a business unit comparable with other approvals at the site. Like the taxi call centre, hairdressers and the pizza delivery units, it generates some employment and provides a community-serving facility for Wivenhoe residents. In this respect it is a positive provision for residents of Wivenhoe. It is noted that this business centre is not allocated as an industrial employment zone, therefore the area has no specific policy restrictions against such a use.
- 10.3 The alterations have already occurred, which makes it easy to assess the impact. What is evident is that the dance studio is not a particularly large room, for example it is not as large as a community hall room. The unit as a whole measure some 557.75 square metres, although the dance room accounts for only a portion of this (entrance/access area making up the rest). According to the applicants, the maximum use of the room is by a class of 10 people, whilst there are 2 full-time and 3-part time employees.
- 10.4 Overall, it is considered that the use is complimentary to the other units within the business centre and would be acceptable on its non-highway planning merits.

### Highways Related Matters

- 10.5 As stated above, in terms of its highway planning merits, the Highway Authority have concerns over traffic generation. Given the size of the dance studio, it is considered that the number of students attending at any one time is reasonably limited, being a maximum of 10 persons.
- 10.6 On balance, these highway concerns have to be considered against the other, above-mentioned, policy-based support for ensuring that communities have access to facilities and services. It is the case officer's view that the weight of support that should be given to encouraging small enterprises outweighs the specific highway concerns relating to this proposal, given other developments that have occurred in the Wivenhoe area. There are higher traffic generating uses already allowed at the business centre and there is also a fall back position that this unit could operate as a B2 use anyway. This could include operations such as MOT test centres, etc, which would also generate traffic and arguably more significant parking issues. Members should also be aware that some of the existing business units attract much larger vehicles, including vans and lorries. A dance studio is most likely to create smaller private vehicles relating to picking up and dropping off students.
- 10.7 In response to the Highway Authority comments the applicant has replied that the build up of cars is not that great, as the majority of people walk or come with someone else. There is no way to control how people travel to this site so consideration to future travel trends should be considered. 10 students could in theory involve 10 cars, but it could also include no cars if everyone walked. Given the other businesses that operate in the locality, it is considered that to resist the dance studio would be inconsistent with other decisions, including the 2007 committee decision mentioned previously.

- 10.8 Thus, the application should be considered as being for up to 10 students at any one time (unless members want to limit it at different times). If a condition to limit the number of students in the day time were used then this would need to specify a maximum numbers of students for an identified daily time slot, and then the larger number in specified evening and weekend hours. There could be a case made for this, if it is felt necessary to limit the numbers during busier periods of the business centre, but it has not be included in the recommended conditions and would need to be added in by Councillors should they so desire. The argument for would be to limit traffic generation to hours when the centre is less busy, whilst the argument against such a condition would be that other units are not restricted in this way.
- 10.9 If members do want to limit the numbers of students at different times of the week it is worth noting that the applicant has stated that the studio is for private tuition only on Mondays and until 7pm on Tuesdays, with one car per hour during these times. After 7pm on a Tuesday there is one class (presently for 5 people and one car parked for the whole hour). On Wednesdays there is more private tuition and one person in one class, whilst Thursdays are private tuition until 7.30pm and then currently two people in the class afterwards. Friday is private tuition until 6pm, after which there is a drama class for 10 children (when the other business units are mainly closed). Again, on Saturdays there is a class for 10, but most business units are shut. On Sundays they have classes all day, but the other units are shut (apart from Dinners Direct, which shuts at midday).
- 10.10 Based on these hours, it would seem reasonable that if a condition limiting day time student numbers were to be employed then, based on the above, it might be reasonable to limit the studio to a maximum of 6 students before 7pm Mondays to Thursdays and before 6pm on a Friday, with a maximum of 10 students after the times in the week and at all times on weekends.

## **11.0 Background Papers**

11.1 ARC; HA; HH; PTC; C/COL/04/1774; C/COL/07/0008

### **Recommendation - Conditional Approval**

**Please note that if Members want the additional condition mentioned in the report above to be included then the case officer will word the condition as described. This additional condition is otherwise not included in the case officer recommendation.**

### **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 premises shall be used for dance studio purposes only and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

Reason: As this is the basis on which the application has been considered and further consideration would need to be given to other uses with regard to their impacts on the surrounding area, including traffic generation increases.

## 3 - Non-Standard Condition

The premises shall be used by no more than 10 persons (excluding staff) at any one time unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the amount of traffic associated with the use is limited to a reasonable amount, as this is the basis on which the scale of the use has been considered.

## 4 - Non-Standard Condition

No customers shall enter or remain on the premises outside of the hours of:

- 12:00 – 21:00 on Mondays to Fridays
- 12:00 – 17:00 on Saturdays
- 09:00 – 18:30 on Sundays and Bank Holidays

Reason: As this is the basis on which the application was submitted and considered, and to ensure that the impact of any other hours can be considered if they are ever proposed at a subsequent date, in order to consider the impact on the surrounding area.



## Site Location Plan

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**Complaint Reference:** 201486

**Site Location Address:** Hill House Farm, Colchester Road, West Bergholt, Colchester, CO6 3JQ

**Date Produced:** 28 October 2009

(MAP NOT TO SCALE)

## Planning Committee

Item  
**8**

5 November 2009

<b>Report of</b>	<b>Head of Environmental and Protective Services</b>	<b>Author</b>	<b>Cheryl Headford</b> ☎ 01206 282422
<b>Title</b>	<b>Land at Hill House Farm, Colchester Road, West Bergholt</b>		
<b>Wards affected</b>	<b>West Bergholt and Eight Ash Green</b>		

**This report concerns the unauthorised change of use of two barns, erected under agricultural permitted development to light industrial, storage and distribution use.**

### 1. Decision(s) Required

- 1.1 Members are requested to consider the information contained in this report and to authorise an Enforcement Notice requiring the cessation of the light industrial, storage and distribution use of both barns and the removal of timber, materials and plant machinery associated with the unauthorised use.
- 1.2 In terms of the period allowed for compliance, it is recommended that a period up to 30<sup>th</sup> January 2010 be allowed.

### 2. Reasons for Decision(s)

- 2.1 Both barns were erected as Agricultural Permitted Development, however, the first barn has not been in agricultural use for any significant period of time and second barn has never been in agricultural use. A change of use for light industry/storage is not considered to be appropriate in this location.

### 3. Alternative Options

- 3.1 Members could chose not to pursue enforcement action however, this would allow the breach of the planning permission to become immune from enforcement action after a given period of time.

### 4. Supporting Information

- 4.1 The unauthorised use of the barns was first brought to our attention in January 2009.
- 4.2 A site visit took place a couple of weeks later at which time it was noted that one barn was being used for the storage of timber. An employee of the land owner was present and he advised that one barn had only recently been built and had been in storage use since completion. The second barn was locked and therefore the contents at that time were not confirmed but understood to be storage of timber and agricultural equipment.

- 4.3 A meeting took place in the first week of February with the owner of the farm. During the meeting he explained that the storage of timber at Hill House Farm was only a temporary measure and that the timber had previously been stored in barns at Bourne Barn Farm for the past 6-7 years. However, this was also an unauthorised use of agricultural barns and would require planning consent to continue.
- 4.4 Intermittent checks of the site revealed that the barns appeared to be in continual storage use and complaints were received about the number of vehicles accessing the site, in particular that it was difficult for them to enter and leave in a safe manner via the narrow lane.
- 4.5 Following a discussion with a Principal Planning Officer a letter was sent to the owner advising that planning consent for a change of use of the barns at Hill House Farm would be unlikely to be considered favourably, however, a change of use at his other farm, Bourne Barn Farm, may be considered favourably. On this basis he was invited to submit an application by the end of March and it was agreed that we would not take any enforcement while the application was being determined.
- 4.6 An application was submitted by the deadline, but returned as incomplete. The resubmission was chased and finally validated on 18 May 2009 under reference 090436. Consent for the change of use of the barns was given on 13 July 2009.
- 4.6 On 12 August 2009 the owner was advised in writing that the unauthorised use of the barns at Hill House Farm should cease with effect from 30 September 2009; it was considered that this was sufficient time to make arrangements to transfer the commercial use/storage to the new location. It was further requested that both barns were put into agricultural use otherwise they would need to be demolished as they were not/or had not been, required for agricultural purposes.
- 4.7 Shortly prior to 30 September a request was received from the owner for extra time to move out of the unauthorised units. He was asked to submit his proposals in writing, this was received on 17 September 2009 and stated that the relocation of the grain and cattle, and re-adapting the use of the barns, had been in progress since the Council's first request, but it could not be completed until 30 December 2009.
- 4.8 The proposals in the letter were discussed with the Enforcement Manager and it was decided that authorisation to serve an Enforcement Notice should be sought, but not immediately served, so allowing for the unauthorised use to cease voluntary. However, if the use continued after the end of December 2009, the notice would be ready for immediate service. For this reason it was considered that 28 days compliance would be sufficient, as this gave an additional month to that provided by the owner.

## **5. Proposals**

- 5.1 It is considered expedient to serve an Enforcement Notice requiring the cessation of the unauthorised storage/distribution and light industrial use of the agricultural barns and the removal of timber, materials and plant machinery associated with the unauthorised use.

## **6. Strategic Plan References**

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

## **7. Standard References**

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

### **Background Papers**

Adopted Review Colchester Borough Local Plan – March 2004

Policies : DC1 Development Control Considerations  
CO1 Rural Resources  
CO10 Agricultural Diversification  
Core Strategy SD1 ENV1 ENV2

## 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.