

**COLCHESTER BOROUGH COUNCIL  
PLANNING COMMITTEE  
12 April 2012 at 6:00pm**

**SUPPLEMENTARY AGENDA**

**Part A**

(open to the public including the media)

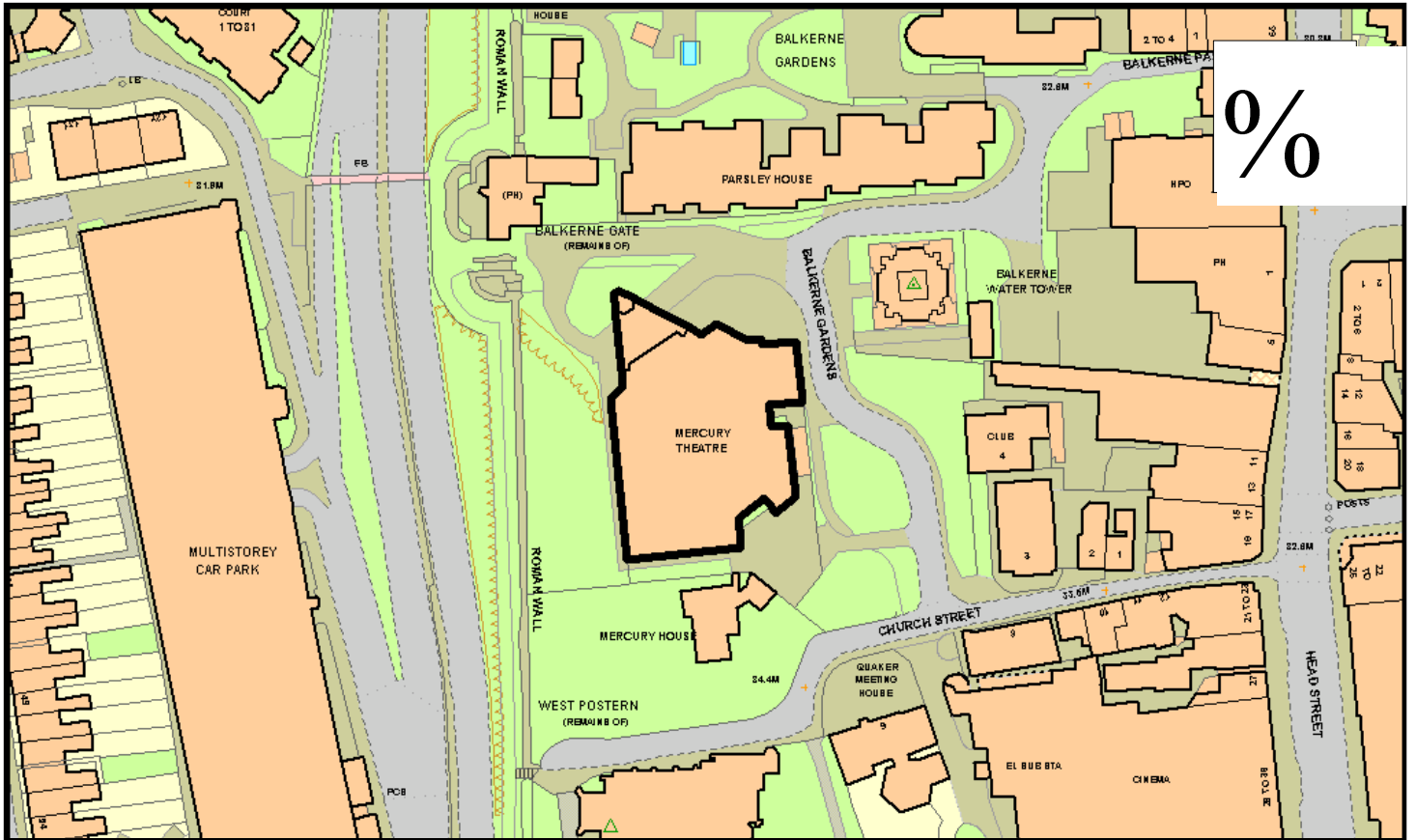
**Pages**

**. Amendment Sheet**

**30 - 31**

See Amendment Sheet attached.





**Application No:** 120321

**Location:** Colchester Mercury Theatre Ltd, Balcerne Passage, Colchester, CO1 1PT

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

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2012



# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **12 April 2012**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

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

## 7.1 Case Officer: Mr Lee Smith-Evans

**MINOR**

**Site:** **Balkerne Passage, Colchester, CO1 1PT**  
**Application No:** **120321**  
**Date Received:** 16 February 2012  
**Agent:** Mr Andrew Wade  
**Applicant:** Mr Lee Spalding  
**Development:** Replacement roof covering and replacement windows.  
**Ward:** Castle

**Summary of Recommendation:** Conditional Approval

### 1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because Colchester Borough Council is the applicant.

## **2.0 Synopsis**

- 2.1 The applications relates to some roof repairs which are unlikely to require permission in any case, as well as some window alterations which predominantly would also fall to be permitted development. However, a small element of the window alterations do materially change the appearance of the theatre and therefore would require permission. These are then considered to be acceptable and had the Council not been the applicant these would have been approved under delegated powers by the officer.

## **3.0 Site Description and Context**

- 3.1 The Mercury Theatre is an individual design and striking architectural piece. It is located between the Balcerne Gate and 'Jumbo' water tower both of which are, themselves, significant visual and heritage assets of the town centre. Architecturally, this is one of the most dramatic areas of the Town Centre Conservation Area.
- 3.2 The Mercury Theatre is on the list of Local Heritage Assets and is described as:

*“Theatre, by Norman Downie Associates, 1970-2. Brick on steel frame with reinforced concrete columns and beams, with hexagonal, slate-hung, tiered fly tower. Irregular plan that grows from the hexagonal stage, that projects into the auditorium (a larger hexagon, stretched) allowing it to function both as traditional proscenium and ‘semi-thrust’. Glazed foyer wraps round the auditorium, with a first-floor bar in the corner over the entrance, which is marked by the bronze figure of Mercury (after Giambologna) on the roof. Offices, workshops, restaurant etc. added round the edge. Windows high up under the projecting eaves, more hexagons. Yellow brick and glass extension (workshops and paint rooms) by Stanley Bragg Partnership, 1997-8. An original design by a local firm of architects, who were later commissioned to design a similar theatre in Salisbury, Wiltshire.”*

## **4.0 Description of the Proposal**

- 4.1 The application alters part of the fenestration on the western elevation which is the reason why this scheme requires consent. The alteration is a resolution of an area of glazing at the top of the internal stairway which has previously been altered internally but the external façade has never been appropriately made good.

## **5.0 Land Use Allocation**

- 5.1 Sui Generis

## **6.0 Relevant Planning History**

- 6.1 There have been numerous minor alterations and applications. A full list is available on the Council's web site.

## **7.0 Principal Policies**

- 7.1 At the national level, the National Planning Policy Framework is now relevant.
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
CE2a - Town Centre  
UR2 - Built Design and Character  
ER1 - Energy, Resources, Waste, Water and Recycling
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity

## **8.0 Consultations**

- 8.1 The Theatres Trust support the application.
- 8.2 Environmental Control makes no comment on the application.
- 8.3 The Conservation Officer is supportive subject to the details being agreed.
- 8.4 The Environment Agency makes no comment on the application.

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

## **9.0 Parish Council Response**

- 9.1 The site is not within a parish.

## **10.0 Representations**

- 10.1 No representations have been made.

## **11.0 Parking Provision**

- 11.1 N/A

## **12.0 Open Space Provisions**

- 12.1 N/A

## **13.0 Air Quality**

- 13.1 The proposal will not have an affect on air quality.

## **14.0 Report**

- 14.1 The replacement of the windows of the bar and first floor landings seeks a like for like replacement but with doubled glazed units to increase the thermal efficiency of the theatre. This has been achieved with the minimal aesthetic compromise by matching the size and proportions of window frames as closely as possible. There is an argument that they do not alter the appearance of the theatre but in any case they are considered acceptable.
- 14.2 The details of the replacement window scheme has been considered with regard to the interface between the existing simple construction methods of the buildings and the method for fixing a modern double glazed system. The chosen system has therefore been described in detail on the application drawings to ensure the relationship to the internal and external sills has been as faithful to the original as possible.
- 14.3 The need for this application has been generated by one area of glazing on the west elevation at the top of the staircase to the bar and audience access to the theatre room. This area of glazing is to be altered from the current, temporary arrangement, which has resulted in a poor and contrived external appearance. By resolving this issue the external appearance is much improved and more faithful to the original design. This improvement is considered to be desirable and should therefore be supported.
- 14.4 Works to the building also involve re-roofing the major areas of flat roof but members should note that these works do not require planning permission as they are a straight forward repair. As they have been included within the application they shall form part of the permission nonetheless.

## **15.0 Conclusion**

- 15.1 The replacement window system makes building more thermally efficient and replaces a poor quality, temporary aspect of the west elevation with a permanent and more sympathetic area of fenestration.

## **16.0 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 development hereby permitted shall be carried out in accordance with the details shown on the submitted drawings detailed below unless otherwise subsequently agreed, in writing, by the Local Planning Authority. X11 - 50550 02 REV A elevations X11 - 5050 03 Roof Plan PRS/TS/SK399 PRS/TS/SK398 131A TI.

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

## 3 – C3.5 Materials to Match Existing

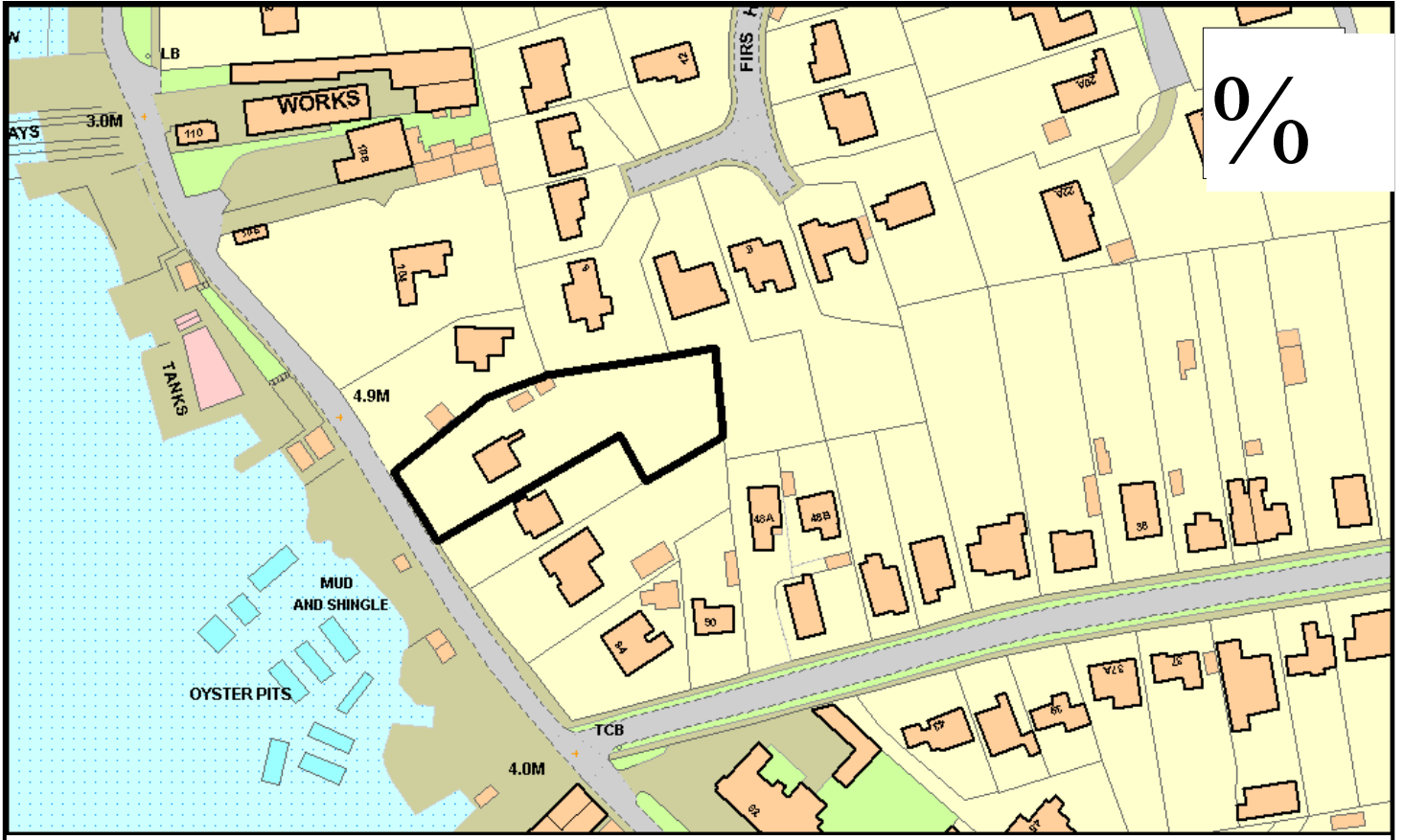
The external materials and finishes to be used for the approved development, shall be of the same type and colour as those of the existing building unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development harmonises with/does not detract from the appearance of the existing building and the character of the area.

## **Informatives**

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





**Application No:** 120270

**Location:** 100 Coast Road, West Mersea, Colchester CO5 8NA

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

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2012

**7.2 Case Officer: Mr James Firth Due Date: 18/04/2012 HOUSEHOLDER**

**Site:** 100 Coast Road, West Mersea, Colchester CO5 8NA

**Application No:** 120270

**Date Received:** 22 February 2012

**Agent:** Mr Anthony Cussen

**Applicant:** Mr Graham Rampling

**Development:** Application for removal or variation of condition 2 of planning approval 111470 to allow minor material changes to onsite construction details.

**Ward:** West Mersea

**Summary of Recommendation:** Conditional Approval

## **1.0 Introduction**

1.1 This application is referred to the Planning Committee because it is an application for minor material changes to application 111470 which was originally called in to Committee by Councillor Kimberley. The application has also attracted considerable local interest and objection. Although this current application has not been called in as the original decision was made by the planning committee it was considered appropriate to also report this proposal.

## **2.0 Synopsis**

2.1 This application is for the variation of condition 2 of planning approval 111470 which listed the approved drawings. The variation involves the submission of new drawings in order to allow for material amendments to the approved boat store which was granted permission on 3 November 2011.

2.2 This report will explain the background to the amendments, the changes from the approved scheme under application 111470. The main changes include an increase in the height of the side element of the boat store, changes to the location of pedestrian access doors and proposed new velux rooflight windows in the west facing elevation.

### **3.0 Site Description and Context**

3.1 The site contains a single detached residential property and the party constructed boat store, and is located within the conservation area at Coast Road. The site is also adjacent to a Listed Building at 102 Coast Road although it is not considered that the proposed development would affect its setting. The northern (side) boundary of the site adjoins the rear gardens of properties in Firs Hamlet and the south side boundary adjoins the end of the rear garden of number 96 Coast Road. The location of the boat store is on an area of land at the rear of the plot which runs behind the rear garden of number 98 Coast Road.

### **4.0 Description of the Proposal**

4.1 The application proposes the variation of condition 2 of planning approval 111470 to substitute the approved drawings for new drawings in order to allow for material amendments to the approved scheme.

4.2 The main changes include an increase in the height of the side element of the boat store from approximately 4 metres on the approved plan to approximately 5.3 metres, changes to include pedestrian access doors on the south (rear) elevation and the west (side) elevation, and proposed new velux rooflight windows in the west facing elevation.

### **5.0 Land Use Allocation**

5.1 Predominantly Residential  
Conservation area

### **6.0 Relevant Planning History**

6.1 Relevant planning history on the site includes applications 110583 and 110585 which were determined under delegated powers in 2011.

6.2 Application 110585 sought conservation area consent for the demolition of an existing garage and shed. These buildings were not considered to positively contribute to the conservation area and this application was approved.

6.3 Application 110583 sought planning permission for the erection of a boat store and improved access to Coast Road. This application was refused planning permission. The reasons for refusal included that the proposed boat store was higher and of a larger scale than the existing boat store at number 98 and would therefore be a prominent feature above it. It was considered that the long high ridge line would become a particularly prominent feature including when viewed from Coast Road itself. The scale and height of the proposed boat store in this backland area was therefore not considered to be in-keeping with the character of the area and would not preserve and enhance the character of the conservation area. The lack of compensatory landscaping and the potential for removal of vegetation/trees that would currently help screen the boat store was also a reason for refusal, as was the lack of an arboricultural impact assessment and method statement. It was also considered that the height and scale of the proposed boat store, in particular its greater height than the existing store at number 98, would also lead to some overbearing impact on neighbouring properties such as on the outlook of number 98 Coast Road.

- 6.4 A revised planning application was then submitted under application 111470. The revised application proposed a boat store that was reduced in overall height to 6 metres in order to be in keeping with the height of the existing boat store at number 98. Amended plans were submitted on 5 September 2011 which reduced the overall width to 7 metres. A hip was also proposed at the rear of the roof. Planting was also proposed and existing trees/shrubs retained and shown on the revised drawings.
- 6.5 Application 111470 was reported to Planning Committee on the 22 September 2011. The original recommendation in the Committee report was for approval subject to the Tree Officer being satisfied with the content of an Arboricultural Report which was submitted late. Prior to the Committee comments from the Tree Officer made clear that he was not satisfied and the recommendation was accordingly changed to refusal on tree protection grounds only using the amendment sheet. The application was deferred by the Committee and the minutes note the following from the Committee on the 22 September 2011:

*RESOLVED (UNANIMOUSLY) that –*

- (a) *Consideration of the application be deferred for consideration to be given to resiting the rear of building away from the site boundary in order to allow for the proper assessment of the impact of the development on nearby trees and hedge.*
- (b) *The Head of Environmental and Protective Services be authorised to grant consent under delegated powers with conditions and informatives as set out in report (subject to (c) below) in the event that suitable amended plans are received. In the event that suitable amended plans are not received, then the application is to be refused on tree protection grounds.*
- (c) *Should planning permission be granted that condition 3 be strengthened to clarify that the building should only be used for the storage of 2 boats for the private use of the applicant.*
- 6.6 Following the Committee meeting amendments to the location of the boat store were requested in accordance with the Committee's instruction. At this stage a revised drawing was submitted with showed the boat store would now be 3 metres from the boundary as requested by the Tree Officer and details of the landscaping/planting were also shown on the plans. The amended drawing submitted during these negotiations also showed a reduced height on the side element of the boat store, achieved by lowering the pitch to 30 degrees. The amended plans satisfied the Tree and Landscape Officers and permission was therefore granted on 3 November 2011.

## **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:  
National Planning Policy Framework (March 2012)

- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
SD1 - Sustainable Development Locations  
UR2 - Built Design and Character
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP14 Historic Environment Assets  
DP19 Parking Standards
- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:  
Backland and Infill  
Vehicle Parking Standards  
The Essex Design Guide

## **8.0 Consultations**

- 8.1 The Highway Authority was consulted and they state that they would not wish to make comment further to the formal recommendation made on the previous application on the 19 August 2011 (no objection subject to conditions).

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

## **9.0 Town Council Response**

- 9.1 West Mersea Town Council state that they were unable to determine from documentation supplied what changes were made to the original proposal. The comments state that following discussion it was agreed to recommend refusal on the following grounds:
- (i) Out of keeping with the street scene.
  - (ii) Compromises the amenity of neighbouring properties.
  - (iii) Boat store too large for the plot.
  - (iv) Potential highway problems caused by manoeuvring potentially large boats onto the highway.
  - (v) Poor access to the boat store.
- 9.2 The Town Council has been contacted in order to clarify the changes that are now proposed and should they submit further comments it is intended that these will be reported to the Committee using the amendment sheet.

## 10.0 Representations

10.1 Six objections were received to the current application. The issues raised are summarised below:

- In other cases when buildings are not built to the approved plans builders have to dismantle and rebuild them.
- The submitted plans were professionally drawn up for a supposed boat store, why are there now so many changes made without permission. Boat stores do not need expensive windows. I assume enforcement notices have already been issued.
- It was stated by the Case Officer at the time of the original application that the submitted plans at that time were for a building that was too large. Given the footprint has hardly changed since the original application this must be referring to volume. When the applicant decides to build bigger than approved the Council has little choice but to refuse. To do otherwise would set an unbelievable precedent.
- Staggered at the number of changes requested so soon after the plans were drawn up. Why has the applicant ignored CBC and the approved plans.
- Given it is a boat store limited to a maximum of two boats why does it now require additional roof space and additional side doors. Why is there now a need for two additional side doors.
- One of the original objections from CBC planning to the original design was the volume. They have reduced the volume and now are applying to increase it.
- When the building is for storing boats why are additional velux windows now required.
- The changes make the design more appropriate for use as a residential property.
- One can appreciate making changes after a change of site ownership or after a longer time
- Construction has continued in contravention of the plans. Why has this not been stopped. The Council have previously stated they will carry out enforcement.
- If a larger boat store with more doors was required a few months ago it should have been applied for at the time.
- Weakness and ineffectuality in the Council's planning policies allows people to build what they want irrespective of what has actually been approved.
- No amount of 'minor material changes' will improve the dominating presence of this industrial style erection in the garden of 100 Coast Road.
- Strongly object to the addition of roof lights in the roof aspect directly overlooking the rear garden, rear bedroom windows and rear kitchen/living area of number 98 Coast Road. This will lead to even more loss of privacy, together with more intrusion from night light spill and noise. The roof light windows will be visible from the highway and will do little to enhance the Conservation Area. It will not be possible to mitigate the impact with the proposed planting scheme.

- If the construction is to be used as identified as a 'boat store' i.e. for the storage of boats, then natural light is not required so the additional windows are neither justified nor necessary. If the 'boat store' has other intended uses (e.g. as a (boat) workshop) then additional natural light would be required which this raises a large number of issues not previously considered (e.g. noise nuisance in a residential area) and breaches granted planning consent.

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

## **11.0 Parking Provision**

- 11.1 The proposed amendments to the approved scheme do not impact on parking provision.

## **12.0 Open Space Provisions**

- 12.1 The proposed amendments to the approved scheme do not impact on open space provision.

## **13.0 Air Quality**

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

## **14.0 Report**

- 14.1 As set out in detail in section 6 (Planning History) above this is an application for minor material amendments to the boat store approved under application 111470. As the boat store already has permission the relevant issue under this application is whether the changes from the previously approved plans which are now proposed under this application are acceptable. The main changes from the approved plans are set out below:
- 14.2 The height of the side element of the boat store has been increased and the eaves height will now match around the whole building. It should be noted the higher main element of the building has not increased in height and is still shown at approximately 6 metres. The approved plan shows a lower 30 degree pitch on the side element of the boat store element giving a height of approximately 4 metres. The plan submitted under the current application now shows this side element would be approximately 5.3 metres in height. The height now proposed is marginally higher than the height which was shown on the plans previously reported to Committee on 22 September 2011. These earlier plans showed a height for this element of approximately 4.9 metres when measured off the plans. Following the Committee meeting on the 22 September 2011 when the applicant was asked to re-site the boat store away from trees as requested by the Committee, the applicant submitted a plan which appeared to voluntarily reduce the height of this element down to 4 metres by using a slacker roof pitch. This was therefore marked as the approved plan by the Council. The applicant has since stated that this plan was submitted in error and was intended to show only the increased distances to the boundaries rather than changes to the design.

Notwithstanding that this may have been an error, it was marked as the approved plan by the Council and therefore this minor material amendment application is needed to apply for the roof as it has been built.

- 14.3 The previous application was initially recommended for approval prior to the Tree Officer's objection being received on the late Arboricultural Report when the recommendation was then changed to refusal on tree protection grounds. It is also understood that the Committee did not previously raise concerns about the height of this element of the boat store when it was proposed to be approximately 4.9 metres. It is considered that the height now proposed of approximately 5.3 metres (as measured off the plans) is not significantly different from the height that was previously reported to Committee. This change is therefore not considered to result in a material increase in the harm of this element, given that it would retain its subservient appearance to the main part of the building. Although this element of the boat store would be more visible by virtue of the building having been moved away from the trees (3 metre separation to the boundary with number 96), it remains well separated from the rear elevations of any of the neighbouring dwellings. Whilst the objections concerning the scale of the building are noted it is not considered that materially greater harm would be caused by the proposed changes sufficient to justify a refusal. The overall height of the main ridge of the boat store would remain the same at approximately 6 metres.
- 14.4 The roof on the subservient element is now shown to run in-line across the rear of the boat store (south facing elevation) and does not include a step as was previously shown on the approved elevation drawing. The wall of the boat store would continue to 'step-in' by a small amount with the roof overhanging this element. This change is on the rear of the boat store and is not considered to cause greater harm than the approved design. This element is located behind the existing boat store at number 98 and would therefore not affect residential amenity or be visible from wider views. This roof design now proposed is again similar to the plan which was reported to Committee on the 22 September 2011.
- 14.5 The approved site plan showed a single pedestrian access door in the side elevation near to the front of the proposed boat store. Due to an error on the submitted plans this was not shown on the side elevation on the elevation drawings. This minor material amendment application shows a pedestrian door located in the side of the boat store in this location. It also shows an additional fire escape pedestrian door is proposed at the rear of the boat store. These doors are not considered likely to be harmful in design terms or to neighbouring residential amenity given they provide only pedestrian access into or out of the boat store.
- 14.6 The amendment application now proposes two velux rooflight windows in the east facing elevation and two velux rooflight windows west facing elevation (side elevations). The approved plans showed two velux rooflight windows in the east facing elevation and two windows in the east facing wall. There were no rooflight windows proposed in the west facing elevation on the approved drawing. The rooflight windows in the west facing elevation were also not shown on the plans previously considered by Committee on the 22 September 2011. Objectors raise concerns regarding the windows including loss of privacy, intrusion from night light spill and noise. Others question why additional light is needed and raise concerns regarding workshop uses. Given that this were clearly a newly proposed element of the scheme and not intended to correct an error on the plan the agent was approached by the Case Officer to highlight that these new roof lights were the subject of objections and amended plans



were invited if the applicant so wished. The agent has subsequently confirmed that they do not wish to amend the plans and has stated that the roof lights are required in order to provide natural light within the boat store. It is stated that the bottom edge of the roof lights are 4.3m above floor level therefore cannot be the source of overlooking and are at minimum 27.5m distant from the rear of the neighbouring dwelling.

- 14.7 The rooflights are proposed at high level in the roof slope of the boat store building. The building is already subject to condition under approved application 111470 restricting its use to that for the storage of two boats. In addition to that fact that the building only has permission for use as a boat store, the windows are high level and would therefore not allow for direct overlooking of the rear of number 98 Coast Road. The rooflights are located at a distance of approximately 27 metres from the main rear elevation of number 98 Coast Road and in this context any light spillage or noise is also not considered likely to be sufficiently harmful in order to justify a refusal. In this context the proposal is therefore considered to comply with Adopted Development Policy DP1 (2010) and is therefore recommended for approval. It is not considered that the rooflights would be harmful to the conservation area given the distance to Coast Road and the proposed amendments are therefore considered to adequately preserve and enhance the conservation area.
- 14.8 The new drawing shows different detailing to the glazing bars on the ground floor window. This would not impact on the conservation area given it would not be visible from outside the site and is again considered acceptable.
- 14.9 The submitted plans showing all of the proposed minor amendments under the current application and the current approved plans for application 111470 are all available on the Council's website or on the planning file.

#### Design and Layout

- 14.10 The layout and siting of the building would not change from the currently approved under application 111470. The changes detailed above are considered acceptable in design terms and would not result in any materially greater harm. The proposal would adequately preserve and enhance the character of the conservation area and is considered otherwise acceptable in design terms. The proposal is therefore considered to accord with the relevant planning policies particularly Core Strategy Policy UR2, Development Policy DP1, Development Policy DP14.

#### Scale, Height and Massing

- 14.11 As set out in paragraphs 14.2 and 14.3 above the scale and height of the side element of the boat store are proposed to be increased to a height of approximately 5.3 metres. Whilst the objections concerning the scale of the building are noted it is not considered that materially greater harm would be caused by the proposed changes sufficient to justify a refusal. The overall height of the main ridge of the boat store would remain the same at approximately 6 metres. The height of the side element now proposed is similar to that which the Committee previously considered at the 22 September 2011 meeting (approximately 4.9 metres).

### Impact on the Surrounding Area

- 14.12 The approved siting of the boat store is a considerable distance from Coast Road and it is not therefore prominent within the conservation area. It is not considered that the proposed changes would materially alter the appearance of the boat store from the wider area over the approved design.

### Impacts on Neighbouring Properties

- 14.13 It is considered that the changes to the proposed boat store would not result in unacceptable impacts on the amenity of neighbouring properties. The boat store retains considerable separation to the rear elevations of neighbouring properties. The particular concerns regarding the rooflights are dealt with in paragraphs 14.6 and 14.7 above. The rooflights are proposed at high level and at the distances involved are not considered to be unacceptably harmful to residential amenity.

### Amenity Provisions

- 14.14 The proposed siting and location of the boat store would remain the same and it is therefore not considered that any of the proposed changes would result in unacceptable impacts on amenity provision.

### Highway Issues

- 14.15 The alterations to the access arrangements are unchanged and the Highways Authority raises no further comments.

## **15.0 Conclusion**

- 15.1 The material minor amendments proposed to the boat store approved under application 111470 are considered acceptable in design and amenity terms. The proposal is therefore considered to accord with the relevant planning policies particularly Core Strategy Policy UR2, Development Policy DP1, and Development Policy DP14, and is therefore recommended for approval.

## **16.0 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 3 November 2011.

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 development shall be implemented in all respects strictly in accordance with drawing numbers 0916/01B, 0916/02, 0916/03 submitted to the Council on 22 February 2012, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

## 3 - Non-Standard Condition

The permitted boat store shall be used solely for the storage of two boats by the occupier of the dwelling at 100 Coast Road, used purely for recreational purposes, and shall at no time be used for any trade, commercial, business or other use. Additionally the gravel driveway hereby permitted shall be used solely by vehicles owned by or visiting the occupiers of 100 Coast Road for purposes incidental to the enjoyment of the dwelling and associated with the residential use and shall at no time be used for any trade, commercial, business or other use.

Reason: For the avoidance of doubt as to the scope of the permission and to protect the amenities of the surrounding area.

## 4 - Non-Standard Condition

The materials to be used in the external construction and finishes of the proposed development, shall match those previously submitted in discharge of condition no 4 of planning permission number 111470. These materials are natural slate roof material, Black 'Hardy Plank' Fibre Cement Boarding, Terca & Baggeridge Olde Essex Red Multi Brick.

Reason: To ensure that the development preserves and enhances the character and visual amenity of the Conservation Area.

## 5 - Non-Standard Condition

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

Reason: To reduce the undesirable effects of light pollution on the amenity of neighbouring residential properties. The height of the boat store at 6 metres combined with its orientation may result in external lighting having an unacceptable impact on the amenity of neighbouring residential should it be located on the higher parts of the building.

## 6 - Non-Standard Condition

Tree and/or shrub planting shall be implemented as shown on submitted drawing number 0916/01B in accordance with the accompanying information and implementation timetable previously submitted to the Council dated 3rd February 2012, received on 14th February 2012 and previously approved in discharge to condition no. 6 of planning permission no. 111470. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

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

#### 7 -Non-Standard Condition

No work shall commence on site until all trees, shrubs and other natural features shown to be retained 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.

#### 8 - 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.

#### 9 - Non-Standard Condition

All trees and hedgerows on and immediately adjoining the site shown on the approved plans to be retained 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 to be retained shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that these 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.

#### 10 - Non-Standard Condition

Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres to the east and 2.4 metres by 43 metres to the west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

#### 11 - Non-Standard Condition

Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

#### 12 - Non-Standard Condition

Prior to occupation of the development the vehicular parking and turning facilities, as shown on the submitted plans shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

#### 13 - Non-Standard Condition

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

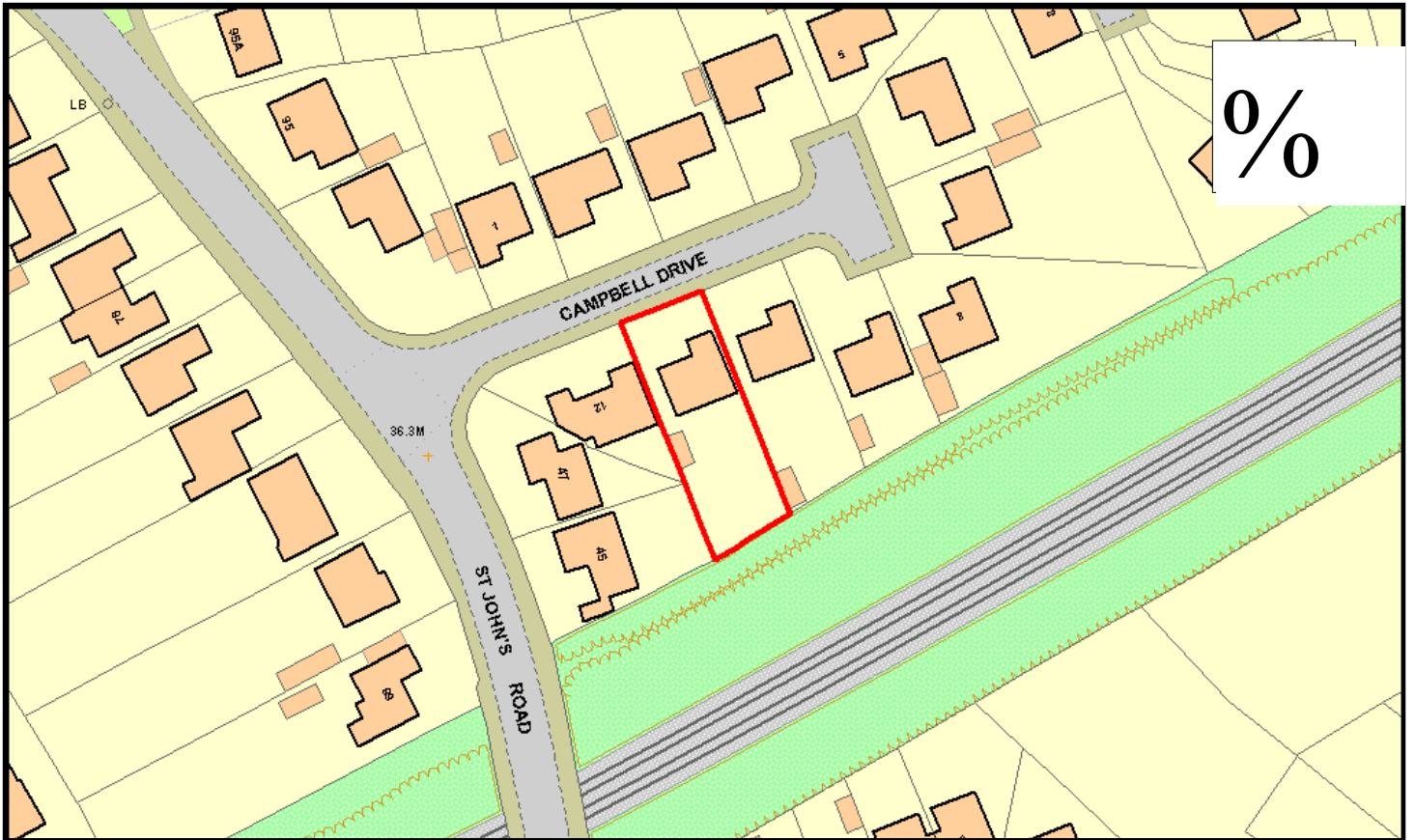
Reason: To avoid displacement of loose material onto the highway in the interests of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

### **Informatives**

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

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





**Application No:** 120352

**Location:** 11 Campbell Drive, Colchester, CO4 0JN

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

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2012

**Case Officer:** Simon Osborn      **Due Date:** 20/04/2012      **HOUSEHOLDER**

**Site:** 11 Campbell Drive, Colchester, CO4 0JN

**Application No:** 120352

**Date Received:** 24 February 2012

**Agent:** Mr Michael Bowler

**Applicant:** Mr & Mrs Stuart Barnes

**Development:** Proposed single storey rear addition.

**Ward:** St Johns

**Summary of Recommendation:** Conditional Approval

### **1.0 Reason for Referral to the Planning Committee**

1.1 This application is referred to the Planning Committee because it was called-in by Councillor Paul Smith because the pitched roof is out of character with the neighbourhood and will result in light issues for the neighbour.

### **2.0 Synopsis**

2.1 The proposed extension is assessed in line with the Council's adopted SPD guidance for house extensions. It is considered that the proposal would not have an unreasonable impact either upon the amenity of neighbouring properties or upon the character and appearance of the area. The proposal is therefore recommended for approval.

### **3.0 Site Description and Context**

3.1 The application site comprises a detached single-storey bungalow, within a short cul-de-sac of similar properties. There are neighbouring bungalows to either side in Campbell Drive and two properties in St Johns Road, with rear boundaries adjoining the western boundary of the application site. To the south of the property is the line of the Colchester to Norwich railway.

### **4.0 Description of the Proposal**

4.1 The application is for a single storey extension on the rear of the property to provide a sitting room. The extension will be 4.3m deep and 5.15m wide, with a hipped roof that is 4.7m above ground level at its highest point. Materials proposed as brick and concrete tile to match the existing dwelling.



## **5.0 Land Use Allocation**

5.1 Predominantly residential.

## **6.0 Relevant Planning History**

6.1 None

## **7.0 Principal Policies**

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

SD1 - Sustainable Development Locations

UR2 - Built Design and Character

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

DP1 Design and Amenity

DP12 Dwelling Standards

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

DP19 Parking Standards

7.3 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Extending your House

The Essex Design Guide

## **8.0 Consultations**

8.1 None

## **9.0 Parish Council Response**

9.1 Not applicable

## **10.0 Representations**

10.1 One letter of objection was received from 12 Campbell Drive, which raised the following issues:

1. Extensions to other bungalows have had flat roofs; this would be out of character with the area and set a precedent;
2. Loss of early morning sunlight will affect enjoyment of garden and have a detrimental visual impact;
3. The roof seems unnecessarily high and may be turned into future living space to the detriment of my privacy.

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

## **11.0 Parking Provision**

11.1 The existing driveway can accommodate in excess of 2 cars, which meets the required standard for off-street parking.

## **12.0 Open Space Provisions**

12.1 The proposal places no requirement for public open space provision. The existing rear garden is well in excess of the adopted minimum size standards.

## **13.0 Air Quality**

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

## **14.0 Report**

14.1 The Schedule to the Town and Country Planning (General permitted Development (Amendment) (No. 2) (England) Order 2008 grants planning permission for certain types of dwelling extensions. In the case of a single storey rear extension to a detached dwelling extensions up to 4m deep and 4m in height are permitted development. Extensions that are larger require planning permission. In this instance, planning permission is required because the extension is 4.3m deep and 4.7m high at its highest point.

14.2 Policy DP1 seeks to protect existing residential amenity and adopted SPD ('Backland and Infill Development', Essex Design Guide and 'Extending Your House') provide further guidance on the consideration of issues such as overbearing impacts, overshadowing and overlooking. 'Extending Your House' states that to prevent an extension being unacceptably overbearing it should fulfil the following criteria:

- Two storey projections should not infringe a 45 degree plan line drawn from the nearest corner of the main part of the adjoining dwelling
- Both two storey and single storey rear projections on the boundary should not exceed three metres beyond the main rear wall of the adjoining property plus one metre for each metre of isolation from the boundary.

Both the Essex Design Guide and 'Extending Your House' also suggest that obstruction of light and outlook from an existing window is avoided if the extension does not result in the centre of an existing window being within a combined plan and section 45 degree overshadowing zone.

14.3 In respect of 12 Campbell Drive, the proposed extension is 6.5m from the boundary between the 2 properties. The rear wall of this property is roughly in line with the existing rear wall of the application property. The proposal meets all of the criteria referred to in paragraph 14.2 both in respect of 10 and 12 Campbell Drive. As the extension is positioned to the east of the neighbouring garden, it is accepted that some early morning sunlight may be lost to the garden of 12 Campbell Drive as a result of this proposal. However, as this is for a relatively small percentage of the time over any one day, it is considered that an objection on the grounds of overshadowing could not be supported.

- 14.4 The objector refers to the design of the extension being out of character as it does not have a flat roof. However, a pitched roof design is more in keeping with the style of the original dwelling. It is moreover on the back of the property and will barely be visible from a public perspective.
- 14.5 Concerns have also been raised that the roof space to the extension could at some stage be turned into habitable accommodation, which could then affect the privacy of neighbouring properties. No form of habitable accommodation is shown within the roof space and a condition to prevent this has been proposed in the list of conditions. This would not prevent the insertion of rooflights, as it is considered unreasonable not to allow the applicant the opportunity to introduce further light into the lounge at a later date should the applicant so choose.

## **15.0 Conclusion**

- 15.1 The proposed extension fully complies with the Council's adopted SPD guidance for house extensions and it is further considered that the proposal would not have an unreasonable impact either upon the amenity of neighbouring properties or upon the character and appearance of the area. The proposal is therefore recommended for approval.

## **16.0 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 harmonise with the character of existing development in the area.

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

The development hereby permitted shall be constructed strictly in accordance with the approved drawing no. 5303/12/1 dated February 2012, unless otherwise agreed in writing by the Local Planning Authority.

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

#### 4 - Non-Standard Condition

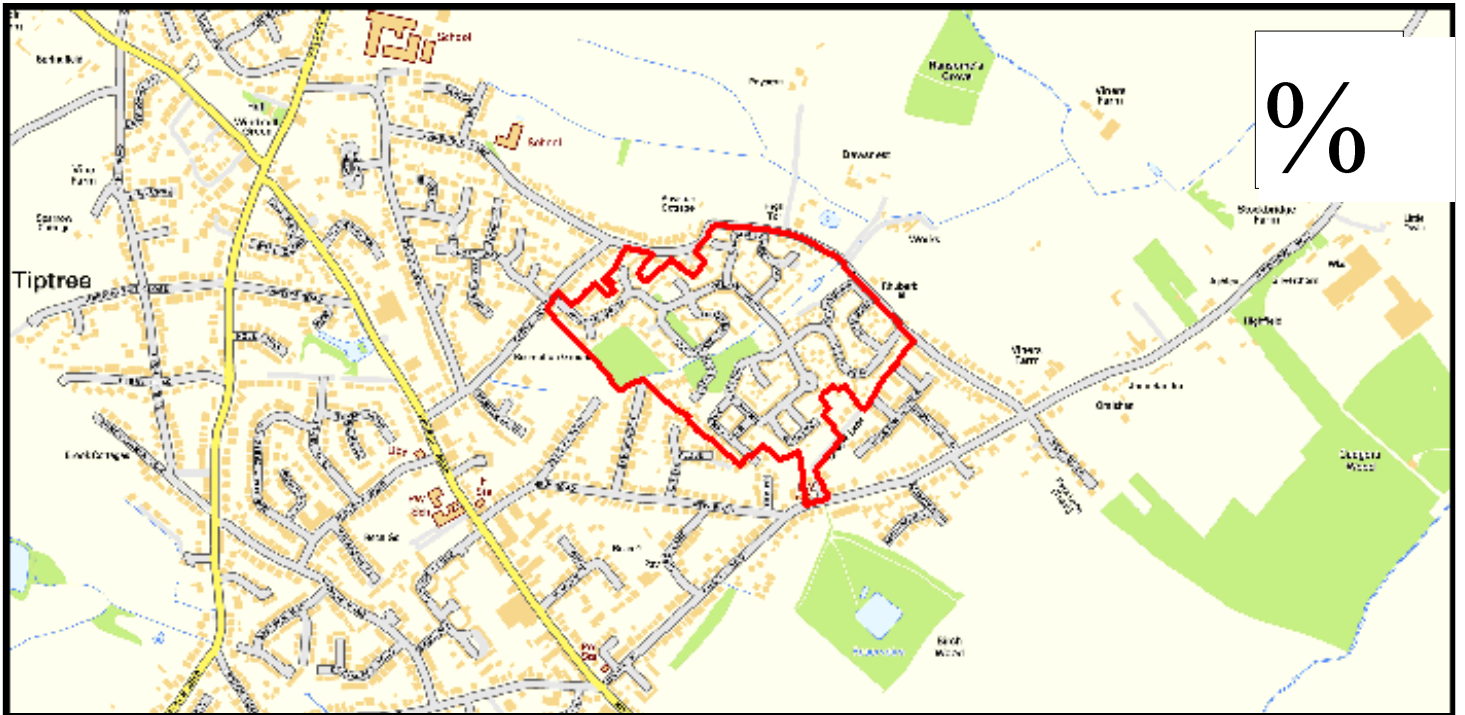
No form of habitable accommodation shall be created within the roof space of the extension hereby permitted without the prior agreement in writing of the Local Planning Authority

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

#### **Informatives**

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

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



**Application No:** 96/0367  
**Location:** Grove Road, Tiptree  
**Scale (approx):** Not to scale

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2012



## Planning Committee

Item

8

12 April 2012

### Report of

Head of Environmental & Protective Services

Author Bradly Heffer

### Title

Proposed variation to s106 agreement to enable transfer of cemetery land direct to Tiptree Parish Council – Grove Road, Tiptree  
Birch & Winstree

### Wards affected

**This report concerns the terms of a s106 legal agreement attached to a grant of planning permission for residential development at Grove Road Tiptree**

#### 1.0 Decision(s) Required

- 1.1 Members are requested to endorse an officer recommendation to vary the terms of an s.106 agreement attached to a grant of planning permission for a residential development on land off Grove Road Tiptree. The agreement as currently written requires that land allocated for cemetery purposes, and currently under the ownership of the developer of the site, is transferred to the Borough Council.
- 1.2 It is the aim of the proposed variation to allow the transfer of the land from the developer direct to Tiptree Parish Council.

#### 1.0 Reasons for Decision(s)

- 2.1 The cemetery land would be provided for the benefit of the village and the Parish Council would take on responsibility for the day-to-day management and maintenance of the land in question. The agreement as currently drafted would mean that ownership of the land would have to, in effect, be transferred twice – once to the Borough Council and following that, to the Parish Council. The variation would avoid this situation.

#### 3. Alternative Options

- 3.1 The alternative option is to retain the wording of the document as currently signed and, as a consequence, this would require that the cemetery land is transferred to the Borough Council for adoption and maintenance. As it is intended that the cemetery land will be controlled by the Parish Council it would be necessary for another transfer deed to be entered into that transfers the ownership of the land from the Borough Council to the Parish Council.

#### **4. Supporting Information**

- 4.1 Members are advised that under the outline planning permission granted under application COL/96/0367 planning permission was granted for the following development:

‘Outline application for erection of 400 dwellings (including 60 social houses). Provision of link road, playing field extension, cemetery and erection of community hall.’

This permission was subject to an s.106 legal agreement that required *inter alia* that 0.5 hectares of land, as identified on the approved plan, should be used as cemetery land.

- 4.2 The land was to be transferred to the Council prior to the occupation of 301 dwellings on the site. Members should note that the Agreement did not require the payment of a maintenance sum for the cemetery land.
- 4.3 Members are also advised that the overall Grove Road site has been completed for a number of years and the cemetery land should have been transferred to the Council by this time, in accordance with the Agreement. However, an ongoing issue associated with the transfer of the land was ensuring that a means of highway access to the land from Chapel Road was available. The Parish Council has been in consultation with the United Reformed Church (as owners of that part of the lane that would provide access) and a right of access is being agreed between the two parties.

#### **5. Proposals**

- 5.1 Under the proposed variation the terms of the agreement would be revised in order that instead of the land being transferred to the Borough Council it would transfer direct to the Parish Council. As the facility would be for the Parish it is appropriate for that Council to take on the ownership and maintenance responsibilities.

#### **6. Strategic Plan References**

- 6.1 The Planning Service contributes to all of the Council’s key objectives

#### **7. Consultation**

- 7.1 The proposed variation in the terms of the Agreement has been subject to consultation between the Planning, Legal Services and Life Opportunities sections of the Council and agreed with Tiptree Parish Council and the site developer.

#### **8. Publicity Considerations**

- 8.1 The use of the land as cemetery would remain unchanged from the original grant of planning permission and the associated Agreement. The change would be in relation to ownership and responsibility for maintenance. On this basis it is considered that the proposed variation to the Agreement would not require wider publicity.

**9. Financial Implications**

9.1 There is a cost implication to the Council, generated by the Council's Legal Services team in preparing the Deed of Variation to the Agreement.

**10. Equality, Diversity and Human Rights Implications**

10.1 None known

**11. Community Safety Implications**

11.1 None known

**12. Health and Safety Implications**

12.1 None known

**13. Risk Management Implications**

13.1 None known

**14. Background Papers**

14.1 CAA



# **AMENDMENT SHEET**

**Planning Committee  
12 April 2012**

## **AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED**

**LATE AMENDMENTS HAVE BEEN INCORPORATED INTO THIS  
AMENDMENT SHEET AND ARE SHOWN AS EMBOLDENED**

### **7.2 120270 – 100 Coast Road, West Mersea**

**Condition 3 amend wording to:-**

**“The permitted boat store shall be used solely for the storage of two boats by the occupiers of the dwelling at 100 Coast Road and the two boats shall be solely for purposes incidental to the enjoyment of the dwelling. The boat store shall at no time be used for any trade, commercial, business or other use. Additionally the gravel driveway hereby permitted shall be used solely by vehicles owned by the occupiers of 100 Coast Road, and used for purposes incidental to the enjoyment of the dwelling and associated with the residential use, or by vehicles visiting the occupiers of 100 Coast Road for purposes incidental to the enjoyment of the dwelling and associated with the residential use. The permitted gravel driveway shall at no time be used for any trade, commercial, business or other use.**

**Reason as before”**

7.3 120352 – 11 Campbell Drive, Colchester

Amended plans have been received from the agent showing the existing and proposed pitches as 30 degrees rather than 35 degrees as originally shown, leading to a small overall reduction in the roof height.

Officer Comment:

This small alteration has reduced the overall height of the roof, to approx 4.2-4.3m above ground level at its highest point. The amended plans were not seen by the Planning Officer until 10<sup>th</sup> April 2012 and it has not therefore been possible to re-notify the neighbour of the changes. The amended plans do not affect the original recommendation of approval, but condition no. 3 will need to be amended to reflect the amended plans, and should thus read:

“The development hereby permitted shall be constructed strictly in accordance with the amended drawing no. 5303/12/1b dated 2 April 2012, unless otherwise agreed in writing by the Local Planning Authority”.

**Councillor Paul Smith has withdrawn his objection to the proposal on the basis that the amended plans show the height from ground floor to the highest level of the roof ridge as 4.3m and the maximum height of the roof void as 1.5m.**

**COLCHESTER BOROUGH COUNCIL  
PLANNING COMMITTEE  
12 April 2012 at 6:00pm**

**SUPPLEMENTARY AGENDA**

**Part B**

(not open to the public or the media)

**Pages**

**There are no Section B Items**