

Planning Committee

Town Hall, Colchester
1 July 2010 at 6.00pm

This committee deals with

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

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

Information for Members of the Public

Access to information and meetings

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

Have Your Say!

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

Private Sessions

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

Mobile phones, pagers, cameras, audio recorders

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

Access

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

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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.

Equality and Diversity Implications

All applications are considered against a background of the Council's Equality Impact Assessment (EIA) Framework in order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination in relation to gender disability, sexual orientation, religion or belief, age, race or ethnicity. The legal context for this framework is for the most part set out in the Race Relations (RRA) and Disability Discrimination (DDA) legislation.

COLCHESTER BOROUGH COUNCIL PLANNING COMMITTEE 1 July 2010 at 6:00pm

Members

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

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

Agenda - Part A

(open to the public including the media)

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

An Amendment Sheet is circulated at the meeting and is available on the council's website by 4.30pm on the day of the meeting (see Planning and Building, Planning Committee, Latest News). Members of the public should 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 - 23

To confirm as a correct record the minutes of the meetings held on 3 June and 17 June 2010.

7. Planning Applications

In considering the planning applications listed below, the Committee may choose 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. 100183 Land rear of D'Arcy Road, Colchester, CO2 8BA (Harbour) **24 - 30**

Erection of a pair of semi detached dwelling houses (minor amendments to size and design of the pair of semi detached houses granted permission under ref: 071668 with parking facilities as previously approved.
2. 100704 Bluebells, Drakes Corner, Great Wigborough, CO5 7SA (Birch and Winstree) **31 - 38**

Retrospective application for stable block/hay store.
3. 100809 449 Ipswich Road, Colchester, CO4 0HF (St John's) **39 - 45**

Relocation of approved dwelling Plot 8 of planning approval ref: 090150 dated 12 May 2009.
4. 100886 6 East Mersea Road, West Mersea, CO5 8SJ (West Mersea) **46 - 51**

Construction of single storey outbuilding for holiday let accommodation.
5. 100915 St Ives Farm, St Ives Road, Peldon, CO5 7QD (Pyefleet) **52 - 58**

Variation of Condition 2 attached to approval 072151 (use for the overhaul, repair, sale and maintenance of contractors plant etc.) to permit the use for the sale of packaging tape, bubble wrap, shrink wrap and stock boxes and the manufacture of bespoke cardboard

boxes.

6. 100940 St Ives Farm, St Ives Road, Peldon, CO5 7QD (Pyefleet) **59 - 64**

Change of use to B2 from B1 with restriction Condition 2 removed. The use of the building to be restricted to occupation by Swiftboats.
7. 101011 Hill House Farm, Colchester Road, West Bergholt, CO6 3JQ (West Bergholt and Eight Ash Green) **65 - 72**

Change of use of farm buildings to a trampoline activity centre for those with physical disabilities and special learning needs. (Resubmission of planning application 100134).
8. 091325 140 High Street, Wivenhoe, CO7 9AF (Wivenhoe Quay) **73 - 82**

Construction of extended cellar, provision of outside seating, including removal of Highway Rights, minor elevational amendments and retention of existing store buildings, in connection with F/COL/06/0799.
9. 100780 12 St Clare Road, Colchester, CO3 3SZ (Lexden) **83 - 87**

Two storey extension (with rooms in the roofspace) to the south side and rear of the existing dwelling and outdoor swimming pool. Replacement of the existing roof.
10. 100481 Le Talbooth Hotel, Gun Hill, Dedham, CO7 6HP (Dedham and Langham) **88 - 93**

Removal of existing compound containing storage containers and portable toilet unit. New service building containing customer toilets, wash up facility and attic storage area.
11. 091357 Avon Way House, Avon Way, Colchester, CO4 3TZ (St Andrew's) **94 - 108**

New student accommodation in 2 blocks A and B forming a total of 38 new student bedrooms in 9 cluster flats. Each bedroom is en-suite and shares kitchen and lounge facilities with other bedrooms within a cluster flat.
- 8. Enforcement Report // Home Farm, Mersea Road, Peldon, CO5 7QG 109 - 111**

See report by the Head of Environmental and Protective Services.

9. Enforcement Report // Annex Building at 43 Peppers Lane, Boxted, CO4 5HL 112 - 115

See report by the Head of Environmental and Protective Services.

10. Revised Planning Service Enforcement Strategy 116 - 137

See report by the Head of Environmental and Protective Services.

11. Exclusion of the Public

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

PLANNING COMMITTEE
3 JUNE 2010

Present :- Councillor Ray Gamble* (Chairman)
Councillor Helen Chuah* (Deputy Mayor)
Councillors Peter Chillingworth*, John Elliott*,
Andrew Ellis*, Stephen Ford*, Theresa Higgins*,
Jackie Maclean*, Jon Manning*, Philip Oxford*
and Laura Sykes*

Substitute Member :- Councillor Wyn Foster for Councillor Ann Quarrie

Also in Attendance :- Councillor Dave Harris
Councillor Paul Smith
Councillor Tim Young

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

10. Minutes

The minutes of the meeting held on 19 May 2010 were confirmed as a correct record subject to the deletion of Councillor Ford from those indicated as present at the meeting and the addition of a substitute member, Councillor J.Young for Councillor Ford.

The minutes of the meeting held on 20 May 2010 were confirmed as a correct record subject to the addition of the word (UNANIMOUSLY) being inserted in the resolutions of minute nos. 5, 6, 7 and 8.

11. 091644 A12, Colchester Road, Boxted

The Committee considered an application for a roadside service area to include petrol forecourt and canopy, shop, Heavy Goods Vehicle (HGV) refuelling and canopy, HGV parking, car wash, jet wash, customer parking, underground fuel tanks, plant room and associated services. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Councillor Jon Manning (in respect of the University of Essex being his employer) declared a personal interest in the following item pursuant to the

provisions of Meetings General Procedure Rule 7(3)

12. 091357 Avon Way House, Avon Way, Colchester, CO4 3TZ

The Committee considered an application for a further two blocks, A and B, of new student accommodation forming a total of thirty-eight new student bedrooms in nine cluster flats. Each bedroom would be ensuite and would share kitchen and lounge facilities with other bedrooms within each cluster flat. The current proposal provides two blocks each of three storeys where they face the Avon Way House site and two storeys where they face the dwellings in Pickford Walk. The car parking provision was based on one space per five students. There would be 102 bedrooms within the previous scheme, 090498, and this current proposal, and based on one space for every five bedrooms gives a parking provision of twenty-one spaces which had been rounded up to thirty spaces. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee had 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 on the 29 April 2010 and at the meeting on that date the application had been deferred for two matters relating to onsite parking:-

- further discussions with the applicant in respect of increasing the parking provision to ensure it met with current policy,
- legal advice to be sought regarding the inclusion of the existing flats on the rest of the site within the parking allocation.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations. The proposal provided thirty parking spaces which would be sufficient in terms of parking provision for this development according to the adopted parking standards, but it could not be guaranteed that this would not add to parking pressures on the streets in the surrounding area. A petition containing 47 signatures was handed in as set out below:-

“We are opposed to additional buildings A and B which face Pickford Walk, 15 metres between the front of houses and back of the new block which will take away natural light and sense of privacy as a result of the building. We are concerned about additional cars parked on the road leading to congestion on a busy road.”

William Thomson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Blocks A and B are far too close and will be far too noisy. Their proximity will be oppressive and residents will lose natural light and privacy. He wanted the over bearing effect reduced. It had been stated that these flats were going to

be just two blocks. Excavation would be required if the 25 degree rule is to be observed but he was unable to determine if it had been observed. There was only fifteen metres distance between the houses in Pickford Walk and the new flats which is oppressively close. There will be 373 rooms with only 30 spaces; students will park wherever they can.

Cyril Ogunmakin addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. They had spent 12 months discussing this scheme. They had complied with every design requirement from the planning office including minimum distances. The outstanding issue is car parking. There are two gates onto Avon Way, one is closed to minimise noise. He had confirmed with officers and staff that they have not been charging £120 this year for parking spaces. They make no money from car parking and it is in the tenancy agreement for students not to bring cars. They have done everything they can to discourage car parking and complied with all design guidelines. He asked that the decision be made today.

Cllr Tim Young attended and, with the consent of the Chairman, addressed the Committee. There were problems with the design, appearance and layout, visual and residential amenity, loss of daylight, overshadowing, noise, etc. The parking situation in Buffet Way is causing problems and the application had been deferred for this reason. Mansion House have done nothing to address the issue. They have agreed the cycle links and cycle park, but there have been twenty-seven cars on pavements. Students were being charged £8 per week to park in the Avon Way site. The only reason the density is allowed is because it is student accommodation and he asked the Committee to investigate the density. He believed that non-students were living in this development. He requested that the application be refused.

It was explained that the development had taken account of the Council's guidelines. They have moved both blocks further away from the existing dwellings. The 25 degree line clears the buildings which are the two storeys adjacent to Pickford Walk. The parking situation is slightly more difficult. In respect of the previously approved scheme for Blocks C to F and the scheme for Blocks A and B sufficient parking is provided. However, it is not clear how many parking spaces are available for the pre-existing dwellings and the new arrangement may have a detrimental effect on the surrounding area. The amendment sheet explains that there are currently 74 flats on the site occupied by 254 students which would require 51 parking spaces. There is a condition for the new development requiring flats to be let only to students. Reference was made to a late letter sent in by Bob Russell MP expressing concern that residents had not been notified. However, it was confirmed that appropriate residents had been notified of the committee meeting and as the resident had contacted the MP before the meeting about not being notified the

resident was clearly aware that the item was on this agenda.

Members of the Committee reiterated that officers were not clear about the impact of the proposal on the surrounding area. It was recognised that the applicant and objectors want a resolution but the issue of parking is very important and the impact needs to be quantified. On this occasion officers were changing the emphasis of their advice to defer in order that the impact can be considered. It was recognised that this will disappoint the applicants. The conditions attached to the original permission for the existing blocks of flats could also explain who was permitted to occupy them.

RESOLVED (UNANIMOUSLY) that consideration of the application be deferred for clarification of the parking needs for this development and the adjoining Avon Way student accommodation.

Councillor Jon Manning (in respect of the University of Essex being his employer) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

13. 100433 16 Elmstead Road, Colchester, CO4 3AA

The Committee considered an application for the conversion of an existing house and the erection of a two storey rear extension to form eight bedsits together with a cycle and bin store and new boundary fences. 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. Essex County Council had not raised any objections on the basis of its proximity to essential facilities and the University. Additional parking spaces are to be provided on the front garden.

Stephen Egerton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The proposal complies with the Essex Design Guide. He was in agreement with the conditions limiting occupation to students. The issues raised by neighbours are car parking and he was happy to agree to two parking bays. There were numerous properties in Elmstead Road and Mascot Square occupied by students. A regulated agent will be appointed to manage the property.

Councillor T. Young attended and, with the consent of the Chairman, addressed the Committee. At the moment there was a happy mix of student and owner/occupiers but the balance could tip too far towards student accommodation. There was a lot of accommodation for students coming on stream. The proposal would be overbearing on 18 Elmstead Road because of the size of the extension. A single storey application was refused previously. It will produce up to eight cars for which there was no room. He would prefer the dwelling to be retained as a private dwelling. Eight bedsits would be too much for the area and out of character. He asked the applicant to rethink the development.

Some members of the Committee were concerned about the cycle and car parking spaces, but it was recognised that the proposed amendment to the car parking provision was within the guidelines. There were also concerns about the density produced by the extension. However, some members of the Committee were aware that the Council did not have a policy to maintain a mix of student/resident occupation. There was a recognition that this site was very convenient for the University and close to amenities making it a good site for students. There was a condition requiring occupation by students. The development may not be particularly attractive but it had been designed so it did not impinge on other properties. There was, therefore no reason to refuse the application.

It was explained that a tandem parking arrangement for three cars for an earlier scheme comprising a wide span single storey extension was unacceptable and had been refused; the subsequent appeal had been dismissed. This application has taken the surrounding buildings into consideration; the extension to the left has been stepped in from 14 Elmstead Road so that it fitted in with the building line and complied with the 45 degree line. The current proposal has been assessed and it complies with all the planning criteria in the Essex Design Guide; this scheme requires two parking spaces at the ratio of one parking space to five students. There is no policy to assist with determining whether an extension is too big an increase on the original building; the committee must judge the proposal on its own merits. In respect of a query regarding the front wall, it was explained that the proposal will entail the removal of part of the wall and the repositioning of street furniture and street lighting etc. In response to a query about the accessibility of the property it was explained that disabled access was not a planning matter.

RESOLVED (MAJORITY voted FOR) that –

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

Supplementary Planning Document.

(b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, including an amendment to Condition 4 to require two on-site car parking spaces and appropriate conditions relating to highway safety.

Councillor Ray Gamble (in respect of having called in the application in order that it could be considered by the Committee) 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) He made representations on the application in accordance with Paragraph 12(2) of the Code of Conduct for Members and then left the meeting during its consideration and determination.

14. 100752 449 Ipswich Road, Colchester, CO4 0HF

The Committee considered an application for a variation of Condition 7 of application 090150 to remove a sycamore tree, the subject of a Tree Preservation Order, fronting Evergreen Drive. The Committee had before it a report in which all information was set out.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations.

Councillor Gamble, St John's Ward Councillor, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to a recent application that had been submitted for the repositioning of the approved dwelling on plot 8 by ten feet and that this was the reason for this application. The question of amenity was considered previously when the planning application was being considered. Local residents had worked hard to get a Tree Preservation Order on the trees. What needs to be considered now was whether the removal of the tree impacted on local residents and the immediate neighbour in view of the prospect of the building on plot 8 being moved. He asked that the Committee do not agree to the removal of the tree on the grounds that a category C tree was better than no tree at all.

Councillor Smith attended and, with the consent of the Chairman, addressed the Committee. He made reference to the proximity of the site to Bullock Wood, a Site of Special Scientific Interest and an ancient woodland dating back to the 13th century. Many houses in Evergreen Drive have trees in their

front gardens and this tree is very significant in this particular location. Policies UEA12 and UEA 13 provide reasons for refusal. The tree is in poor quality because it has not been well maintained. The provision of a replacement tree is not a good enough reason for approval and he asked that the Committee give a clear message to the developer.

It was explained that the sycamore tree had been assessed by the arboriculturalist and on the basis of the BS guidance document the tree had been determined as Category C, not a fine specimen. Consequently, the tree was considered to be an undue constraint on the development of the site and it was therefore appropriate to agree to the application. In respect of the public benefit of retaining the tree, it was considered that it did have an impact on the street scene but it was not a good specimen. A replacement tree would have to be planted in the general vicinity of the tree to be removed.

Members of the Committee were aware of the poor quality of the tree and questioned why such trees were given a Tree Preservation Order designation. Having taken all relevant information into account it was considered that there were no good reasons to retain the tree. In order to secure the long term future of the replacement tree planting, Members requested that the officer look to serve a tree preservation order on these trees.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report together with a note that the new tree planting be given a Tree Preservation Order.

15. 072523 and 072522 The Old Oyster Sheds, Coast Road, West Mersea, CO5 8PA

The Committee considered application 072523 for the renewal of an existing approval C/COL/01/0526 to refurbish and renovate the timber frame walls and roof, re-erect walls and extend shed for use as a private oyster tasting and luncheon/dining suite. Application 072522 is an application for Conservation Area Consent. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee had made a site visit on 29 April 2010 in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site. The applications for The Old Oyster Sheds, Coast Road, West Mersea were withdrawn from consideration at that meeting in order that the Marine Management Organisation could be consulted on the development up to the high water mark. The report before the Committee set out a detailed response from the Marine Management Organisation.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to the committee's site visit and emphasised the special maritime character of the building which was now in a poor condition. He also referred to the planning history of the site and to the current proposals set out in the officer's report. The main consultation responses set out in paragraph 8 of the officer's report had been favourable to the scheme. Other representations, including those from West Mersea Town Council and the Victorian Society, were also set out in the report. There was no conflict with planning policies and it was considered that the building itself would be an asset to the area.

Councillor Steve Vince, West Mersea Town Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Town Council was opposed to the proposal and considered it represented over-development and in contradiction of planning policy; a restaurant was not a suitable use in this site. The recommendation for approval was in spite of objections from the Conservation Officer. They believed that the sheds had been left to fall down and that this scheme proposed they be demolished. The Town Council opposed the use of glass and steel and would have preferred a proposal that defined the character of West Mersea and enhanced the Conservation Area.

Richard Hayden addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the sheds needing to have some works done and that they wanted to provide a special structure for Mersea. The proposal included a timber structure to retain the character and environment. They were aware of the traffic issues and had made a provision for car parking further along Coast Road. He stated that he was a local resident and would not be involved with the project if it caused any harm to the area. The facility would be a fine food restaurant and would not in any way compete with any of the other eateries but would enhance Mersea's gastronomy. The proposal would generate employment in partnership with the Peldon Rose so it would not only provide employment in the facility itself. Deliveries would be made in the mornings and the closing times in the evening were conditioned to reduce the impact on residents.

It was explained that the Environmental Agency had not raised objections but had required an assessment. Works to the building were to be welcomed and it was believed the proposal would add to the character of the area. The basic outline of the building would be maintained and as much of the building as possible, which would retain its wooden appearance. Traffic is acknowledged as an issue but there was a proposal for parking provision along with proposals for transporting customers to the site by bus.

Members of the Committee considered it was a good proposal, sympathetic to the area and beneficial to residents. Others were aware that whilst it would not be appropriate to fossilise the area, anything done in the Conservation Area must be done with care and thought. Every case must be judged on its merits and whether it would make a significant difference to the Conservation Area and the environment. It was recognised that this application was for an identical use which already had an earlier permission. It was considered that the applicant had put forward a very good case, balancing economic need and environmental considerations. There was a request for a display within the building to explain the past history of the oyster sheds to customers.

It was explained that the issue of staffing would be dealt with as part of the legal agreement. In respect of a comment about the shutters it was considered that it would be appropriate to include a requirement for any materials used to be sympathetic to the building and the setting within Condition 8 which required the general submission of material samples and external finishes. In respect of concerns about traffic, this was more appropriately an issue for the change of use application which followed on the agenda. It would be possible to request that a historic reference be provided within the building.

RESOLVED (UNANIMOUSLY) that –

(a) In respect of application 072523:-

- Consideration of the application be deferred for completion of a Section 106 Agreement to secure consistency with the earlier consent C/COL/01/0526,
- Upon receipt of a satisfactory Section 106 Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the amendment sheet together with an amendment to Condition 8 to include a requirement for materials to be sympathetic; and an Informative be added to request a display within the dining area detailing the history of the building and its former uses.

(b) In respect of application 072522:-

- Consideration of the application be deferred for completion of a Section 106 Agreement to secure consistency with the earlier consent C/COL/01/0526,
- Upon receipt of a satisfactory Section 106 Agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the amendment sheet the application be approved with conditions as set out

in the report.

16. 071786 The Old Oyster Sheds, Coast Road, West Mersea, CO5 8PA

The Committee considered an application for a change of use to restaurant A3 Use Class of a previously approved private dining/corporate venue, together with additional parking. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee had made a site visit on 29 April 2010 in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site. The applications for The Old Oyster Sheds, Coast Road, West Mersea were withdrawn from consideration at that meeting in order that the Marine Management Organisation could be consulted on the development up to the high water mark. The report sets out a detailed response from the Marine Management Organisation.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to a remote area of car parking to be used and the fine dining experience being a quality standard in contrast to other uses which would seek to promote Mersea as a destination centre. A substantial volume of objections had been received including those from West Mersea Town Council. He referred to the amendment sheet which contained concerns about car parking and the character of Coast Road being spoilt by additional activity. However, it was considered that with appropriate conditions it would be possible to protect local amenity in terms of the impact resulting from car parking, cooking smells, lighting, outside storage and traffic activity including delivery vehicles.

Moray Graham addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He considered the proposal to be incongruous and its location inappropriate. The Highways Authority had expressed concerns about the site and the Planning Policy Team had recommended refusal due to the impact on residential amenity. The car parking facility would only be available from 1 October to 31 March and there is a year round restriction for on-street parking which will lead to on-street parking causing congestion and nuisance. He stated that PPS4 was not a blank cheque, in respect of any positive impact being weighed against negative ones. DC10 and DC12 related to the use of the existing building; DC16 relates to adverse impact on local trade. He did not believe the buildings were about to fall down. The 2007 committee report stated that the current proposal did not comply with principles adopted by the policy framework.

Richard Hayden addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to the provision of a parking facility on the boat park being available at the busiest time of the year when boats will be in the water in the summer. The building itself was in the narrow part of Coast Road whereas the car park was in the widest part of Coast Road. They had agreed to make up additional car parking, off road and hidden. In respect of alternative uses for the building, they had explored options at some length. There was a museum in West Mersea but their resources were such that they were not able to utilise the building. They had agreed to all requests by the planning office in respect of policy issues.

In response to a question from the Committee regarding the provision of a footway for the entire stretch from the remote car parking area to the restaurant, it was explained that there was an existing footway but that there was a stretch alongside the oyster bar which needed upgrading. It was intended that this work would be achieved by a Grampian condition at the applicant's expense. Reference was also made to the no waiting restrictions which operated during the winter and summer up to 6pm and there was a condition imposing a closing time of 10.30pm on the restaurant. It was also pointed out that any future use of the building would be just as likely to generate a requirement for car parking.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives to cover the matters indicated in the report and additional condition on the amendment sheet.

17. 100635 2 Malting Green Road, Layer de la Haye, CO2 0JH

The Committee considered an application for the construction of four single storey bed and breakfast units, owned and controlled by the existing public house. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee had 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, Principal Planning Officer, attended to assist the Committee in its deliberations.

David Twemlow addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. During the last 20 years applications for the site had been refused. The land has not been redesignated. He was concerned that such a development would cause

considerable loss of amenity to residents. He considered the units would increase noise and disturbance late at night and early in the morning. Their outlook would change permanently; the existing wall had been built to protect their privacy. He was concerned that two trees have been felled. He disagreed with the statement that the units would not be visible from the highway. The increased traffic will severely and adversely affect neighbouring properties and residents' quality of life. He asked the committee to uphold previous decisions.

Ginger Adams addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She was a long term resident in the village and part of the community. She was working to restore facilities in the village which had been lost. The aim of this proposal is to enhance the facilities they offer and improve their financial viability. They advertise events at Abberton Reservoir and like to offer accommodation in connection with ornithology. They have consulted the neighbours on their current proposals. She explained that EDF energy had felled the dead oak tree and they were advised to fell the ash tree because it was dangerous. She drew the Committee's attention to the disabled accommodation.

Members of the Committee had some concerns regarding the position the proposed development in relation to the village envelope; whether the situation for neighbours would be improved if the development was turned through 90 degrees; how high the trellis screen would be and would there be sensible planting to alleviate visual intrusion for neighbours; whether there was a right of way across the grassed area to the double gates in the fence along the southern boundary; and whether the overhead cables would go over the top of the proposed building.

It was explained that the site was inside the village envelope, and if members wanted further consultation with the Planning Policy Team on this matter they could defer the application.

RESOLVED (UNANIMOUSLY) that –

(a) The application be deferred to seek further comments by the Environmental Policy Team regarding the position of the building relative to the village envelope boundary; and to investigate the potential right of way to the existing gates.

(b) Subject to no adverse comments being raised by the Environmental Policy Team to the building straddling the Village Envelope boundary, the Head of Environmental and Protective Services be authorised to issue an planning permission subject to conditions and informatives as set out in the report and

on the amendment sheet, including an amendment to Condition 18, Details of Walls and Fences as Plans, to require submission of details of height and design of fencing.

18. Amendment to Planning Permission 071123 // Middlewick Ranges, Mersea Road, Colchester

The Committee considered a non-material amendment to planning permission 071123. The permission allows a 2.4 metre high security chain link fence surrounding the firing ranges to satisfy health and safety. The Ministry of Defence, Defence Estates, have requested that a 535 metre section of the fence be moved approximately 20 metres to the south of the approved location. The Committee had before it a report in which all information was set out.

Councillor Harris attended and, with the consent of the Chairman, addressed the Committee. He requested that the Committee agree this proposed amendment to planning permission 071123 and took the opportunity to thank the Army for all their consideration of the residents' request.

RESOLVED (UNANIMOUSLY) that the proposed realignment of part of the northern section of the security fence be approved as an amendment to the permission 071123 granted on 8 June 2007.

19. Variation to Legal Agreement // Balkerne Heights Development, Colchester

The Committee considered a variation to the legal agreement accompanying planning permission F/COL/01/1313. The legal agreement required, amongst other items, the transfer of a play area in the north part of the site to the Council together with a further three public open space areas, all with standard commuted sums. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that the variation to the legal agreement accompanying F/COL/01/1313 be authorised in order to allow one of the open space areas on the Balkerne Heights development to be maintained by a management company instead of being transferred to Colchester Borough Council.

PLANNING COMMITTEE
17 JUNE 2010

- Present :-* Councillor Ray Gamble* (Chairman)
Councillor Helen Chuah* (Deputy Mayor)
Councillors Peter Chillingworth*, John Elliott*,
Stephen Ford, Theresa Higgins, Jon Manning*,
Philip Oxford*, Ann Quarrie* and Laura Sykes*
- Substitute Members :-* Councillor Christopher Arnold
for Councillor Andrew Ellis*
Councillor Richard Martin
for Councillor Jackie Maclean*
- Also in Attendance :-* Councillor Henry Spyvee
Councillor Dennis Willetts

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

20. 100660 2 Margaret Road, Colchester, CO1 1RZ

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

Jane Seeley, Planning Officer, and Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. The proposal had originally been submitted for a detached house but had been amended to a semi-detached dwelling.

Sally Lille addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She considered the proposed new dwelling would make her garden feel enclosed and that once the garden was built on it will be gone forever. She did not believe there was a need to squeeze in more new dwellings into the town centre and asked the Committee to reject the application.

Lisa Moore addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She had taken the advice of the Urban Designer and tried to keep windows to a minimum on the rear elevation. Frosted glass was used where appropriate and a bedroom window had been removed.

Councillor Spyvee attended and, with the consent of the Chairman, addressed the Committee. He referred to four objections relating to a loss of natural light and the likelihood of the new house towering over the rear bungalow and

cutting out afternoon sunlight. The garden space was reduced and he asked that the officer clarify the private amenity space. Neighbours would lose two on-street parking spaces. He asked the Committee to consider the loss of on-street parking as an additional reason for refusal. In respect of garden grabbing, he has a copy from Hansard showing an exchange with the Secretary of State for Communities and Local Government which states that government guidance counts as a material consideration. This application would provide a good early test of the situation. In summary, this application would give rise to overbearing effect, loss of light, loss of garden and inadequate parking.

The Planning Officer referred to the Backland and Infill Supplementary Planning Document and confirmed that this proposal was in line with that guidance. It was considered that there would not be any conflict with the new government guidance. The street had no waiting restrictions which would prevent on-street parking. The properties in Margaret Road were able to park in their front gardens. The garden sizes of the new dwellings reflected the character of existing gardens in that road.

Members of the Committee referred to the development being within walking distance of the town centre and the station. Properties along that side of the road were mainly semi-detached and this proposal would convert a detached property into a semi-detached property so it was considered that it would fit in. The parking provision was an issue for some members because the minimum parking standard is 2.25 spaces for a two bedroom property. Several members accepted that the minimum parking standard was intended for larger developments and that two spaces could be considered as satisfactory for a single dwelling.

It was explained that whilst the parking standard did not specifically mention single dwellings, in the urban setting a parking standard of two space for each unit would be acceptable. The emerging policy for garden sizes was 60 square metres. The garden of the new dwelling was in line with that policy which also reflected the garden sizes in the area, however the garden of the host property would be slightly less. The Committee were advised to take account of the character of the area in respect of parking provision and garden amenity sizes.

RESOLVED (MAJORITY voted FOR) that –

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

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

21. 100805 Long Acre Bungalow, Colchester Road, Wakes Colne, CO6 2BY

The Committee considered an application for the demolition of an existing dwelling and erection of a new dwelling, detached garage and additional crossover. 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.

Jane Seeley, Planning Officer, and Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. She explained that the ridge height had been reduced and a garage removed and these changes had resulted in a better design for the village location. The relationship of the new house to both neighbouring properties was in line with the criteria used to assess that impact. The removal of the garage had improved the relationship to Millbank. A new unauthorised access has been created and the Highway Authority had advised that they have no objection to the second access. At the time the report was written revised drawings were out for consultation on the second access and comments from the neighbours were shown on the amendment sheet. Revised drawings showed the ridge height has been lowered.

Terry Blunden addressed the Committee on behalf of both Highview House and Millbank pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He did not object to the principle of development but did object to the scale. He considered the report contained numerous errors. He was concerned that there would be an overbearing effect on Highview House; at best they would lose natural daylight and evening sunlight. He considered the changes from the earlier application were cosmetic and that the development would be too large for the plot; the footprint had been twisted and skewed to fit. He considered that it created a precedence by squeezing a large house into a small plot and that it should be sympathetic to the area, a shallow 'T' or 'L' shape would be preferable.

Paul Dyer addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The site plan showed that the house fitted comfortably within the plot and was further away

from the two neighbouring properties. He referred to the recent reduction in ridge height and although it was still higher than Highview House it was now lower than Millbank. The proposed dwelling was no deeper than the existing bungalow. Highview House is larger in footprint than the proposed dwelling and on a smaller plot. The development accords with guidance in the Supplementary Planning Document (SPD) and there was no infringement of the 45 degree lines. He considered there would be only a minimum impact on the patio area of Highview House in the evening. The Countryside Design Officer had indicated that the traditional rural appearance of the dwelling was satisfactory.

Members of the Committee raised a number of issues. Although this proposal was an improvement on an earlier scheme there were still problems, particularly in respect of the design not taking account of neighbouring properties. The proposal does appear to fit in with the policy, but the SPD makes no mention of neighbours' amenity. Where the proposal is a replacement dwelling there is an opportunity to site it to fit in. The SPD gives the minimum which is acceptable in the town situation but that is not relevant to the village location. There was also a view that the proposed dwelling should be set on the lowest part of the plot which could lower the ridge height by another 1.5 feet. In addition the proposed garage was too close to living accommodation and had been removed but that may not be an adequate solution because members considered that a garage would be required, if not now then at some time in the future. Members wanted the application to be deferred to include a garage in an appropriate place on the site plan and the deferral would provide time for formal comments from the Highway Authority to be considered together with the potential for lowering the dwelling.

It was explained that the issue regarding the garage was a relevant point because one may be sought at a later stage and a drawing indicating an acceptable position for it would be useful. A consequence of identifying a site for a garage may also result in the footprint of the dwelling being moved off the footprint of the existing dwelling with a further improvement for the neighbouring dwellings.

RESOLVED (MAJORITY voted FOR) that consideration of the application be deferred for the further consideration of the following matters:-

- a revised drawing be requested from the applicant to show an acceptable position for a garage which may also require the repositioning of the dwelling;
- comments from the Highway Authority to be received and considered.

The application to be submitted to a future meeting of the Planning Committee for determination.

Councillor Laura Sykes (in respect of the agent being her neighbour) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

22. 091614 East Street, Colchester, CO1 2TQ

The Committee considered an application for a two bedroom flat. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that –

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

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

23. 100760 113 Winnock Road, Colchester, CO1 2DP

The Committee considered an application for a single storey side extension and associated alterations to a semi-detached dwelling within the Conservation Area. 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.

24. 100781 9 Braiswick, Colchester, CO4 5AU

The Committee considered an application for amendments to the design of a replacement dwelling, approved under application 081678 to include: the provision of a basement; amendment to the height and width to allow for increased levels of insulation; and a reduction in the amount of glass in the southern elevation. 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 Section 106 Legal Agreement to provide for a maintenance bond in the sum of £5,000 for use in connection with extraordinary maintenance which may be required as a result of construction traffic over the public footpath.

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

25. 100806 Silver Birches, Ipswich Road, Dedham, CO7 6HU

The Committee considered a retrospective application for change of use from woodland to garden use to include the retention of a cart lodge, a workshop, a storage container, gates and fencing. The Committee had before it a report in which all information was set out.

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

Councillor Richard Martin (in respect of having used the services of the agent, Mr E. Gittins) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Dennis Willetts (in respect of his membership of Eight Ash Green Parish Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

26. 100830 1 The Bungalows, Land rear of Brook Cottage and Huxtables Lane, Fordham

The Committee considered an application for the erection of a single detached dwelling and two garages, a resubmission of 090639. 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.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. She referred to the site visit and a further condition on the

Amendment Sheet requiring site sections and relationship of adjoining properties, particularly the property to the east opposite the public footpath.

Ms B. Everitt addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She did not believe that the development “harmonised with, and reinforces local distinctiveness and sense of place” as stated in the report, and questioned whether the proposal would be “a visual enhancement to Huxtables Lane” because it was such a grand design and scale. There were no other properties like it in the lane and she therefore considered it unsuitable. She considered it set a precedent and would ruin a quiet lane in a beautiful village.

Joseph Greenhow addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The site was within the village envelope and the adopted Local Plan and Core Strategy. He appreciated that garden sites required careful consideration in terms of suitable scale, design and location. This site had been created from two parcels of garden land so the development can be set back and retain a large garden to the rear. The dwelling had been designed by a chartered architect and he considered the detail introduced an interesting point of reference and made use of the natural topography.

Councillor Willetts attended and, with the consent of the Chairman, addressed the Committee. He considered the site to be very exposed because it could be viewed across the fields from the A1124. It was essential that the dwelling should fit in with the general ethos of design in the village, and whilst the report described it as Edwardian New England design, it could be regarded as Dallas design. He considered the design to be excellent and there were locations where it would fit in, however Eight Ash Green was not the right location. Residents would prefer a smaller design. He referred to another site in Eight Ash Green where there had been a proposal for a turret and officers took steps to ensure that turrets did not appear in Eight Ash Green. The building appeared intrusive and the architect should think however about how the building could be recessed into the side of the hill so it could not be viewed from the rest of the village.

Members of the Committee considered this to be a large property on a large plot within the village envelope. They considered it to be a different and interesting design which would be well hidden in the valley and would not be seen at all from the village apart from the view from the A1124. It would be set low on the site and follow the gradient. It did not water the character of the area and would make a better entrance to the existing row of leylandii and the backs of other houses and would enhance the village.

The planning officer’s suggestion that Condition 8, Comprehensive Boundary

Scheme, be amended so that all boundaries were included in the Boundary Scheme. Condition 9 specified that all Permitted Development Rights were to be removed.

RESOLVED (UNANIMOUS) 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 and on the Amendment Sheet together with an amendment to Condition 8 to include all boundaries in the Comprehensive Boundary Scheme.

27. Enforcement Action // Land at Pantile Farm, Peldon Road, Abberton

The Head of Environmental and Protective Services submitted a report on proposed enforcement action in respect of unauthorised business activities operating in buildings and on the land around Pantile Farm and the removal of a large timber building on the site. The Committee had before it a report in which all information was set out.

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

John Harrison addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the proposed enforcement action. He believed that the issues were more complex and asked officers to undertake further discussion. The site was half a mile from neighbours in both directions and screened with a six foot high fence at the entrance. He had not received any complaints. The site was being reclassified in the Local Development Framework as a local employment area, but he accepted that it would still need approval by certificate. He considered that enforcement was in conflict with the LDF. There were fifteen people employed on the site. There were no other sites suitable for the businesses. Three of the containers were exempt from enforcement although in 2005 the containers were fixed to the ground and could be accepted as the development shows four containers on site.

It was explained that the LDF was proposing part of the site to be allocated as an employment zone but this related to the original buildings on the site and

did not include the outside storage area. One of the key pieces of evidence is an aerial photograph taken in August 2000. A further period should not be allowed for the submission of planning applications to try and regularise the unauthorised uses and the timber building as requested by the owner because of the ten year rule, after which time the development would become lawful which is the reason this report is being considered at this time. The Council has been inviting a planning application from the owner since 2008 but no applications have been received and it is not considered reasonable to allow a longer period of time.

Members of the Committee were of the opinion that the policies were quite clear and the enforcement action did not prevent the owner's ability to submit an application at any time.

RESOLVED (MAJORITY voted FOR) that –

(a) An Enforcement Notice be served at Pantile Farm, Peldon Road, Abberton requiring that all outside storage at the site should cease, including all storage of building materials by the reclamation company, all but three of the storage containers on the site, and the two caravans all with a compliance period of six months.

(b) An Enforcement Notice be served at Pantile Farm, Peldon Road, Abberton requiring the removal of the black timber boarded building with a compliance period of two months.

28. Enforcement Action // Gun Hill Garage Site, Ipswich Road, Dedham

The Head of Environmental and Protective Services submitted a report on the service of a stop notice and enforcement notice in respect of an unauthorised office building on the site. It was considered expedient to take action to remove the building given the location in attractive countryside in the Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Countryside Conservation Area, and its unsympathetic design and external materials which are considered detrimental to the rural qualities of its surroundings.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. She explained that on 16 June 2010 it was observed that a large unauthorised building was being erected on the site which has been used as a car breakers yard and benefits from a certificate of lawful use. She requested that the Committee agree to an enforcement notice and, if considered appropriate, a stop notice being served in respect of the unauthorised building plus other unauthorised works in respect of fences being

erected. It may also be possible that auctions may take place in the future. This authority would give officers the ability to take action in respect of all unauthorised ongoing works on this site.

She also explained that a fax had been received from the agent on behalf of the owner requesting that the Committee be made aware of various points. They agree they have no planning permission which is due to erroneous advice and it was not their intention to breach or disregard planning control. They go on to make comments on the excessive nature of the use of enforcement action and that it would be inappropriate to use enforcement action to remove a building because it was not the building the Council would want to see on the site. It would be possible to ask the applicant to volunteer to remove the building. Finally the point was made that they consider it should be withdrawn from the Committee to allow further discussions to take place. She reiterated that this unauthorised development was within the AONB and was an inappropriate building.

RESOLVED (UNANIMOUSLY) that an enforcement notice and a stop notice, if considered appropriate, be served at the Garage Site, Ipswich Road, Dedham requiring:-

- the removal of unauthorised fencing and sliding gate, cessation of unauthorised auctions and any other unauthorised development with a compliance period of 1 month;
- the permanent removal of an unauthorised modular office building and hard standing and the reinstatement of the site to a neat and tidy condition with a compliance period of 3 months.



Application No: 100183

Location: Land off (Plots 7 & 8), D'Arcy Road, Colchester, CO2 8BA

Scale (approx): 1:1250

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Committee Report

Agenda item **7**

To the meeting of **Planning Committee**
on: **1 July 2010**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

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

7.1 Case Officer: Sue Jackson EXPIRY DATE: 09/07/2010 MINOR

Site: D'Arcy Road, Colchester, CO2 8BA

Application No: 100183

Date Received: 14 May 2010

Agent: Mr Steve Norman

Applicant: East Anglian Homes Ltd

Development: Erection of a pair of semi detached dwelling houses (minor amendments to size and design of the pair of semi detached houses granted permission under ref: 071668 with parking facilities as previously approved.

Ward: Harbour

Summary of Recommendation: Conditional Approval subject to completion of Unilateral Undertaking

1.0 Planning Report Introduction

1.1 This application is reported to Members as objections have been received and the officer recommendation is for permission.

2.0 Report Summary

2.1 The following report describes the proposal - a minor amendment to the size and design of an approved pair of semi-detached houses – and explains the amendments compared to the approved scheme. The neighbour objections are set out. Permission is recommended subject to conditions.

3.0 Site Description

3.1 The site Plots 7 & 8 forms part of a larger residential development on land to the rear of, and formally part of, rear gardens to properties in D'Arcy Road and Old Heath Road. Construction work is underway on other parts of the approved scheme.

3.2 There is a private right of way along the north boundary which provides vehicular access at the bottom of gardens in Cavendish Avenue. The other three boundaries are formed by gardens.

4.0 Description of Proposal

4.1 The proposal is to amend the size and design of the dwellings previously approved for Plot 7 & 8. The approved scheme is for a semi-detached pair of dwellings. The design is for a rectangular footprint of brick construction and slate roof. Each property has 2 bedrooms facing the private drive. The rear gardens are short at approximately 9m (the garden sizes are approximately 70 square metres and 120 square metres) and the first floor rear elevation has windows with obscured glazing to protect the privacy of adjacent neighbours.

4.2 Parking is provided to the side of the building comprising 2 parking spaces for each unit.

4.3 The amended scheme retains the fundamental principles of the approved scheme, a pair of 2-bed properties are indicated and the parking and obscure glazing to rear windows is unaltered. An 'L' shaped footprint is now indicated an amendment to the rectangular footprint approved. This involves extending the dwellings into the front garden by approximately 2-3 metres. A plan showing the existing and proposed footprint will be available at the Committee meeting. A new window is proposed in the side elevation looking towards the rear gardens of Cavendish Avenue. This window is approximately 13m from the bottom of the long rear garden of these properties.

4.4 The rear garden size is unaltered.

5.0 Land Use Allocation

5.1 Predominantly residential

6.0 Relevant Planning History

6.1 071668 - Planning permission for 9 dwellings.

7.0 Principal Policies

- 7.1 Adopted Review Colchester Borough Local Plan
DC1 - Development Control considerations
UEA11 - Design
UEA12 - Backland development
UEA13 - Development Adj. Existing or Proposed Residential Property
- 7.2 Core Strategy
UR2 - Built design and strategy
- 7.3 Supplementary Planning Documents
Backland and Infill Development
Parking Standards ECC Essex Planning Officers' Association 2009

8.0 Consultations

- 8.1 The Highway Authority has no objection.
- 8.2 Environmental Control has no objection subject to conditions.

9.0 Representations

- 9.1 One letter of objection has been received as follows:-

"Why bother going through the motions of asking if local residents have any comment etc. The area has already been spoilt by the building, still ongoing, of 9 dwellings on previously open garden land to the rear of D'Arcy Road. The whole area will no doubt continue to be transformed from a relatively pleasant green landscape to a typical urban concrete and cars environment. As long as the developers are happy and the Council are doing their best to meet the ridiculous housing targets of central government who cares what impact such developments have on the composition of the locality. Needless to say I am opposed to the application and needless to say my views will be totally ignored as before but the appearance of local democracy has been upheld."

10.0 Report

- 10.1 The main issue is the acceptability of the amended proposal compared to the approved development. The amendments are set out in the Description of Proposal. They represent only a small increase in the footprint of the building. Garden sizes and parking spaces are unchanged. The amenity of residents to the rear of the site is protected. The change to the designs are considered acceptable.
- 10.2 In conclusion it is considered the changes to the approved scheme are acceptable and permission is recommended.

11.0 Background Papers

- 11.1 ARC; Core Strategy; HA; HH; NLR

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

Conditions

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

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

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

2 - Non-Standard Condition

This consent is subject to all the conditions on Planning Permission 071668 with the exception of conditions 1, 7, 11 and 13.

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

3 - 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: The site lies within 250m of a former landfill site and the Local Planning Authority wishes to ensure that development only proceeds if it is safe to do so. This condition should not be read as indicating that there is any known danger from landfill gas in this locality.

4 - B6.8 Submission of Remediation Scheme

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

Reason: The site lies within 250m of a former landfill site and the Local Planning Authority wishes to ensure that development only proceeds if it is safe to do so. This condition should not be read as indicating that there is any known danger from landfill gas in this locality.

5 - B6.9 Implementation of Approved Remediation Scheme

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

Reason: The site lies within 250m of a former landfill site and the Local Planning Authority wishes to ensure that development only proceeds if it is safe to do so. This condition should not be read as indicating that there is any known danger from landfill gas in this locality.

6 - B6.10 Reporting of Unexpected Contamination

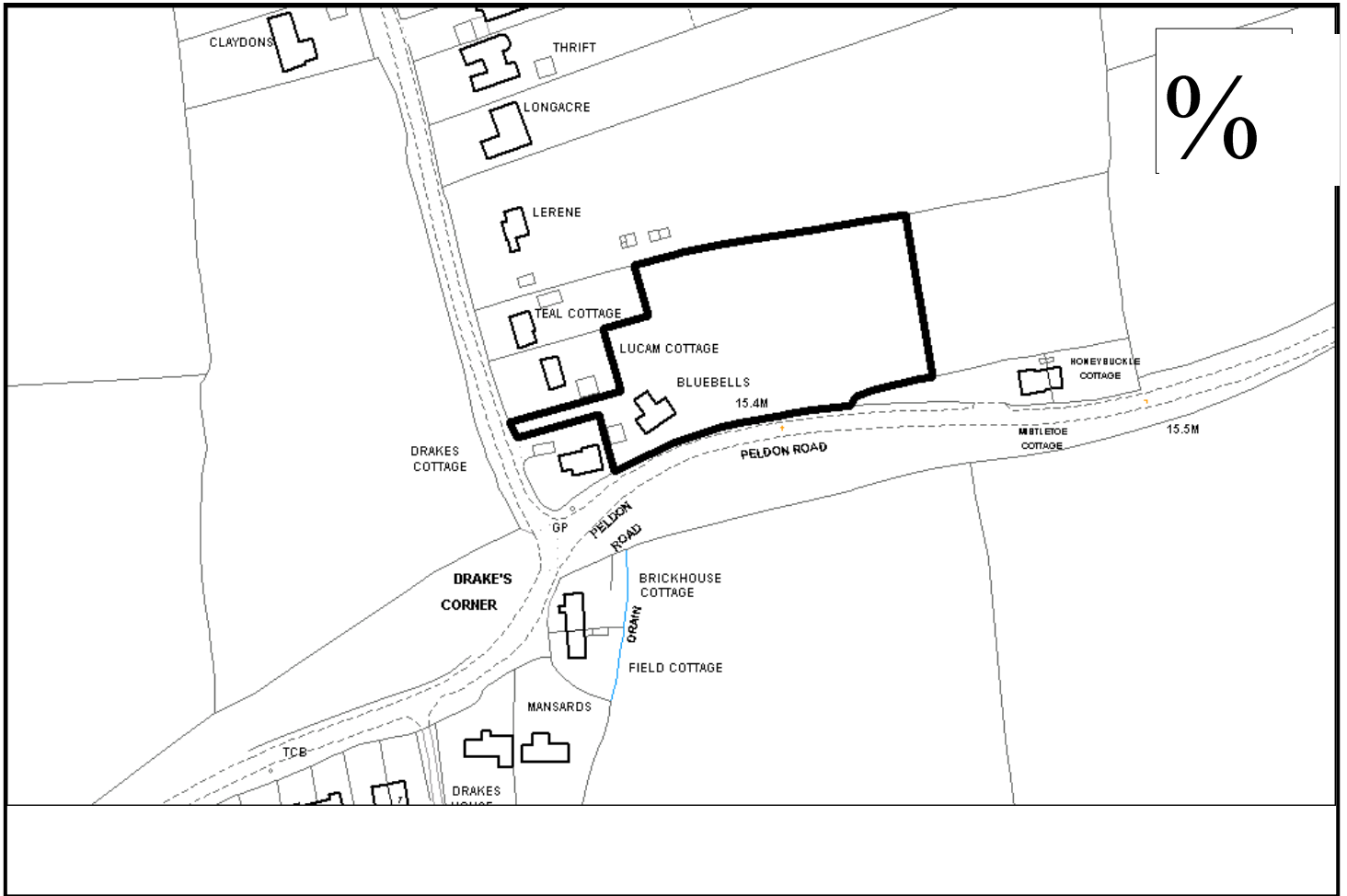
In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 3, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4, 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 5.

Reason: The site lies within 250m of a former landfill site and the Local Planning Authority wishes to ensure that development only proceeds if it is safe to do so. This condition should not be read as indicating that there is any known danger from landfill gas in this locality.

7 -B6.13 Validation Certificate

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 3 above.

Reason: The site lies within 250m of a former landfill site and the Local Planning Authority wishes to ensure that development only proceeds if it is safe to do so. This condition should not be read as indicating that there is any known danger from landfill gas in this locality.



Application No: 100704

Location: Bluebells, Drakes Corner, Great Wigborough, Colchester, CO5 7SA

Scale (approx): 1:1250

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7.2 Case Officer: Sue Jackson

EXPIRY DATE: 06/07/2010

Site: Bluebells, Drakes Corner, Great Wigborough, Colchester, CO5 7SA

Application No: 100704

Date Received: 11 May 2010

Applicant: Mr G Taylor

Development: Retrospective application for stable block/hay store

Ward: Birch & Winstree

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

- 1.1 This application is reported to committee for a decision as objections have been received and the officer recommendation is for permission. This is a retrospective application to use former agricultural land as domestic garden/paddock and to retain a stable. The application also proposes an extension of the stable to form a hay store.
- 1.2 The report explains the details of the application, planning history, consultations received and the objections raised by neighbours. It also describes the amendments made to the application in response to the neighbours concerns. Finally permission is recommended subject to conditions designed to protect the amenity of neighbours.

2.0 Site Description

- 2.1 The site comprises land to the rear of Bluebells School Lane (Drakes Corner) Great Wigborough. The house and a small area of rear garden are within the Village Envelope which comprises mainly frontage development; although Bluebells is the exception to this being set back behind the road frontage accessed by a private drive. The land the subject of the application is within a rural area, this land used as paddock and garden extends behind Teal Cottage and has a frontage onto Peldon Road. The land is predominantly flat and has established hedgerows to the side and rear boundaries it has land owned by adjacent residents on 3 sides with Peldon Road on the 4th.

3.0 Description of Proposal

- 3.1 Planning permission is sought to use agricultural land as part paddock part residential curtilage, retain a stable building and extend it to provide a hay store. The stable building is constructed of boarding with a slate roof. The application proposes a small extension to the rear to form a hay store; the roof will be extended to form a catslide roof. There is one horse on the site at present and the applicant has indicated there is no intention to increase the number.

4.0 Land Use Allocation

4.1 The land the subject of this application is outside the village envelope but as explained above land on 3 sides is in the ownership of neighbouring residents and on the fourth is a road.

5.0 Relevant Planning History

5.1 COL/94/0038 application to retain a pre-existing access, a condition on planning permission COL/91/1646 for a dwelling (Bluebells) required the removal of this access. Appeal allowed. This application is relevant to comments made by the Parish Council.

6.0 Principal Policies

6.1 Core Strategy
UR2 - Built Design and Character
ENV1 – Environment

6.2 Adopted Review Colchester Borough Local Plan
DC1 – Development Control considerations
P1 – Pollution
H12 - Extending Gardens into Open Countryside

7.0 Consultations

7.1 Environmental Control:-

“I have received a complaint regarding the position of the manure heap at these premises. An abatement notice was served on 15th April 2010. The nuisance has been abated and the owner has advised me he will be changing the bedding in the stables to reduce the amount on the heap in the future.

The owner has also advised me he will liaise with me so as not to cause a nuisance again. I have advised him the following conditions will be put onto any permission granted.”

(Officer comment: The conditions relate to storage of animal waste and restrict the use to domestic use only. For the full text please see conditions 6 and 7)

7.2 Following receipt of the objection letter Environmental Control has been re-consulted and asked to comment on the issues raised in particular the proximity of stables to residential properties. Any additional comments will be reported on the amendment sheet.

7.3 Environment Agency has assessed the application as having a low environmental risk and therefore has no objection to the proposed development subject to advisory comments. These include the storage and disposal of liquid and solid animal /vegetable wastes and associated contaminated waters and storage of oils, fuels and chemicals drainage systems.

8.0 Parish Council Comments

8.1 Great Wigborough Parish Council comment as follows:-

“We have no objection to the retrospective application for the stable block but would wish to see a condition applied that there should be no-horse related access (animals or vehicles) on or from the Maldon Road (Peldon Road.)

Officer comment - Peldon Road is a classified road and planning permission is required for a new access. However there is an existing access allowed at appeal (referred to in the planning history) which allows use for the paddock area.

9.0 Representations

9.1 Two letters of objection have been received one from the owners of Teal Cottage and the second from a relative supporting their objection. A third has been received from the neighbour's doctor.

9.2 Teal Cottage object for two principal reasons:-

1. The close proximity of the manure pile and stable building. The stable building has been sited directly to the rear of my property the direction in which the majority of windows and doors face. Smells, pests and dirt blow directly into the rear of my property making it impossible to open windows and doors use the garden or hang out washing. This will clearly be untenable with the warmer weather. With Mr Taylor having built the stable in November 2009 I can already demonstrate in full the nuisance impact caused. I have erected new fencing to try to alleviate the problem but to no avail. The plan submitted does not indicate an extension built at my property and the rear of the property is 9m further into the garden than shown.

9.3 Colchester Council does not appear to have specific conditions on the distance stables should be constructed from neighbouring properties but many do including Chorley Council which advises a minimum of 30 metres to adjacent residential properties.

9.4 The manure pile was established in December 2009 and by May 2010 it had grown to over 6 feet in height and approx 12ft around we were unable to use our garden, open windows or hang out washing. Environmental Control served a Nuisance Abatement order. This gives clear and unequivocal evidence that in the applied for position the manure heap gives rise to nuisance.

9.5 2. The stables offer considerable risk to my wife's health from her severe horse allergies, a situation Mr Taylor was aware of before he built the stables. My wife has attended Addenbrookes Hospital for a number of years for unsuccessful treatment to help alleviate her severe allergy to horses; exposure could cause her to go into full anaphylactic shock (see attached letter from Dr Woodcock). My Grandfather knows the applicant and spoke with him before the stable was erected and asked if it could be erected away from Teal Cottage this request was ignored and my wife is now unable to use the garden.

- 9.6 Alternative solutions. I have no objection to a properly managed stable being erected on the land. The plan shows Bluebells is bordered to the south by Peldon Road with no properties on the opposite side of the road the stables and manure placed in this part of the site would cause no nuisance to any neighbour
- 9.7 Further information
Whilst the plans show the manure pile 11m from my boundary it is on the boundary with Lerene Cottage.
The stable was completed in December 2009 and despite repeated requests an application has only just been made.
Mr Taylor did not take the opportunity to consult with neighbours Bluebells was build in the late 1980's and this plot has never been used as paddock only domestic garden.
- 9.8 A letter from the applicants grandfather re-iterates the point that he spoke to Mr Taylor before the stable was erected and made him aware of his granddaughter's severe allergy to horses and requested the stable was erected away from the boundary with Teal Cottage
- 9.9 The letter from Dr Woodcock confirms Mrs Knights suffers from a significant allergy to horses and has been investigated by the allergy specialists at Addenbrookes Hospital.
- 9.10 Members are advised the full text of these objections is available on the Council's website and includes details of the separation distances required by other local authorities together with photographs taken by the neighbour.

10.0 Report

10.1 This application raises are four main issues

- Land Use Policy/Planning History
- Impact on residential amenity
- Design
- Highways/parking

Land Use Policy/Planning History

10.2 The application seeks to regularise the use of land as a domestic paddock and garden. The authorised use of the land is not clear cut. Whilst no application has been received for a change of use from agriculture to garden in the 1994 application, (see planning history) the land was in the ownership of Bluebells and was described as paddock and this description was used by the Inspector. At the time the applicant suggested the use was more akin to domestic curtilage, and although the Inspector makes reference to this suggestion he indicates it for the local planning authority to take any action on this matter. In his letter of objection the owner of Teal Cottage states the land has been used as domestic garden since the late 1980s. If this is the case it would now be an authorised use and the stable would not require planning permission.

10.3 A small part of the application site is now clearly used as domestic curtilage and contains children's play equipment; however the majority is used as a paddock for a single horse. Reference to an aerial photograph of the area (a copy will form part of the presentation to Members) shows the site in relation to surrounding gardens and land which is owned by adjacent residents.

10.4 Policy H12 Extensions to Gardens in the Countryside states:

"A proposal for extension of a domestic garden into the open countryside will be permitted only if:

- (a) there is no material adverse impact on the surrounding countryside;
- (b) it would not mean the material loss of good agricultural land, or otherwise seriously interfere with a neighbouring agricultural enterprise;
- (c) it would not set a precedent for unacceptable extensions to gardens at one or more neighbouring properties. Applicants will be expected to relinquish their Permitted Development Rights over the new area of garden."

10.5 Your officer considers the aerial photograph clearly demonstrates the proposal will not have a material adverse impact on the countryside; lead to a loss of good agricultural land or set a precedent and the proposed uses are therefore considered acceptable. The land is in effect land-locked and could not easily be used for agriculture. Conditions are proposed which allow a small part of the site to be used as domestic curtilage and the larger part to be used as paddock only.

Impact on residential amenity

10.6 The representations from and on behalf of the owners of Teal Cottage are set out above. The rear boundary of this property is next to the paddock and close to the stable. Measurements taken on site indicate the stable is 3metres from this boundary. The objections relate to the storage of manure and the nuisance this has caused in the past. Environmental Control has recommended conditions requiring details of the manure storage and disposal to be submitted and agreed, the details will include the location of the manure storage. Your officer has also suggested to the applicant that they erect additional fencing to prevent the horse having access to the land to the rear of the stable building immediately adjacent to the boundary with Teal Cottage. The applicant has agreed to this amendment and the plan presented to Members will show the proposed position for this fence. A condition on the planning permission will require the erection and retention of this fence and will also preclude horses having access to this area. It is considered this represents a sensible compromise and whilst the stable will be only 3 metres away the side and rear elevations contain no windows or openings, the doors fronting onto the paddock.

Design

10.7 The building and proposed extension will be constructed of traditional materials, boarding and slate and does not impact on the rural character of the area

Highways/parking

- 10.8 The site contains ample parking to the front of the house. The access onto Peldon Road is authorised to serve the paddock only.

11.0 Conclusion

- 11.1 The use of the land is considered acceptable and subject to the amendments and safeguarding conditions proposed it is considered the amenity of neighbours is protected.

12.0 Background Papers

- 12.1 ARC; Core Strategy; HH; NR; PTC; NLR

Recommendation - Conditional Approval

Conditions

1 – Non-Standard Condition

This permission relates to the use of the land hatched blue on the returned approved plan as residential garden.

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

2 - Non-Standard Condition

The land edged green on the returned approved plan shall be used as paddock only and shall be used only in association with the dwelling known as Bluebells School Lane (Drakes Corner) Great Wigborough.

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

3 - Non-Standard Condition

Within 56 days from the date of this permission a 1.2 metre high ranch style fence (or other style of fence as agreed in writing with the local planning authority) shall be erected in the position marked in brown on the returned approved plan. The approved fence shall thereafter be retained to the satisfaction of the local planning authority.

Reason: To protect the amenity of adjacent residents.

4 - Non-Standard Condition

Within 56 days from the date of this permission a 1.2 metre high ranch style fence (or other style of fence as agreed in writing with the local planning authority) shall be erected in the position marked in orange on the returned approved plan. The approved fence shall thereafter be retained to the satisfaction of the local planning authority.

Reason: To avoid doubt as to the extent of the site which is authorised as residential garden.

5 - Non-Standard Condition

The area hatched black is excluded from use as a paddock and the horse and any subsequent horse/s ponies shall not use this area for any purpose

Reason: To protect the amenity of adjacent residents.

6 - Non-Standard Condition

Within 28 days from the date of this permission a detailed scheme for the siting and storage of manure within the site and its subsequent disposal shall be submitted to and approved in writing by the local planning authority in consultation with Environmental Control. The approved scheme shall be fully implemented to the satisfaction of the local planning authority within 14 days of its approval and the storage and disposal of manure shall be carried out in accordance with the approved scheme at all times thereafter.

Reason: To protect the amenity of adjacent residents.

7 -Non-Standard Condition

The building and associated paddock/grazing land hereby permitted shall only be used for the stabling of horses and storage of associated foodstuffs in connection with and for the personal enjoyment of the occupants of the application property. No commercial uses including a livery, riding establishment within the meaning of the Riding Establishments Act 1964, gymkhanas, industrial or other storage uses shall take place whatsoever.

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

Informatives

A copy of the Environment Agency notes are attached to this permission.



Application No: 100809

Location: 449 Ipswich Road, Colchester, CO4 0HF

Scale (approx): 1:1250

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7.3 Case Officer: Simon Osborn

EXPIRY DATE: 07/07/2010

Site: 449 Ipswich Road, Colchester, CO4 0HF

Application No: 100809

Date Received: 12 May 2010

Agent: David Webber Partnership

Applicant: Millenium Investments 2000 Ltd

Development: Relocation of approved dwelling plot 8 of planning approval ref 090150 dated 12th May 2009.

Ward: St Johns

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

1.0 Planning Report Introduction

1.1 The application is brought to Committee as representations have been received against the proposal from local residents to the proposed relocation of plot 8. The proposal requires the removal of one of the two sycamore trees on the Evergreen Drive frontage and permission for this was granted at your meeting on 3rd June 2010 under application reference 100752. The proposed amendment to the position of the house on plot 8 is considered acceptable to your Officers and the application is recommended for approval.

2.0 Site Description

2.1 The application site relates to a long rectangular parcel of land with frontages onto both Ipswich Road and Evergreen Drive. The original planning permission 090150 for 8 dwellings on this site envisaged the retention of two sycamore trees on the Evergreen Drive frontage. The removal of one of these two trees was approved under application 100752. Works to implement planning permission 090150 are well underway.

3.0 Description of Proposal

3.1 The application seeks to amend the position of the dwelling known as plot 8, a 4-bedroom dwelling house, by a distance of 3 metres nearer to Evergreen Drive than the position shown on the original planning permission, reference 090150. The house design, size, parking provision and details otherwise remain as originally approved.

4.0 Land Use Allocation

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

4.2 The retained sycamore tree is subject to TPO 35/01.

5.0 Relevant Planning History

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

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

100752: Variation of condition 7 of application 090150 to allow removal of one of the two sycamore trees fronting Evergreen Drive, approved 9.06.2010.

6.0 Principal Policies

6.1 Adopted Review Colchester Borough Local Plan Saved Policies-March 2004
DC1- Development Control considerations
UEA11 to 13 – Design Considerations
CO4 – Landscape Features

6.2 Adopted LDF Core Strategy- December 2008
UR2 - Built Design and Character

7.0 Consultations

7.1 Highways Authority stated no objection to this proposal as it is not contrary to its policies.

7.2 Environmental Control stated no further comments to 090150.

7.3 The Landscape Officer was satisfied with the landscape aspect of the application subject to conditions relating to landscaping design proposals and implementation.

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

8.0 Representations

8.1 Nine representations were received against the proposal, which raised the following issues:

1. The house should remain where it was originally approved. Plot 8 should not have a larger garden at the expense of existing properties.
2. The relocation will encroach even more on 33 Evergreen Drive and in particular impact on the light and outlook of the kitchen and landing windows and the rear conservatory;

3. The trees helped to screen the original development and the house should not be moved nearer the road.

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

9.0 Report

Introduction

- 9.1 Planning permission was granted in 2009 (090150) for the development of 8 dwellings on this parcel of land. The proposal removed a poor quality oak tree, but retained two sycamore trees, protected by a Tree Preservation Order. A subsequent application (100752) included an assessment from the Land & Sculpture Design Partnership that the sycamore furthest from the road was a relatively low quality C-category tree, which should not act as a constraint upon development. Officers agreed with this assessment and the application for removal of this tree was approved by Committee at its meeting on 3rd June 2010, subject to a replacement tree being planted on the Ipswich Road frontage.
- 9.2 This new application (100809) proposes to move the position of the 4-bedroom house (plot 8) 3 metres closer to the Evergreen Drive frontage. The proposal will increase the private amenity area for this property by approx 40 sq.m (from approx 130 sq.m to approx 170 sq.m). The parking provision remains unchanged to that previously approved with 2 spaces on the private drive.
- 9.3 The proposal would not have been feasible if application 100752 had not been approved. As application 100752 was approved, this application does not raise an issue with regard to the rear sycamore to be removed, but does raise other issues which need to be considered. These new issues are firstly, the impact of the revision upon the character of the area, and secondly, the impact upon the amenity of neighbouring properties.

Impact on Character and Appearance of Area

- 9.4 The proposed dwelling in its proposed revised position will be set approx 12m back from the edge of the pavement along Evergreen Drive. In this position it is recessed behind the general building line on this side of the road. It will also be sited behind the one remaining sycamore tree. It is accepted that with the loss of one of the two sycamore trees the proposed house will be more visible than the original approval envisaged. Nonetheless, the external appearance of the proposed dwelling is quite acceptable in its own right and within the context of the surrounding residential streets. It is therefore considered that the proposal will not have a significant impact upon the character and appearance of the area.

Impact on Neighbour Amenity

- 9.5 The nearest neighbours to plot 8 are 33 Evergreen Drive to the south and 1 and 3 Acorn Close to the north. The owners of 33 Evergreen Drive have in particular raised concerns regarding loss of light and outlook to their kitchen and landing room windows (in the side elevation) and the conservatory (at the rear). The nearest corner of the proposed dwelling (in its revised position) will be approx 9m away from the side facing kitchen window. The front of the proposed dwelling is approx level with the rearmost part of this kitchen window. The window will not therefore directly face onto the new house. The conservatory is on the rear of 33 Evergreen Drive with a garage between the side of the conservatory and the application boundary. The side of the proposed dwelling is at least 10m away from the side of the conservatory. The position of the new dwelling in its proposed new position does not result in the existing windows to this property being caught within a combined 45 degree plan and sectional overshadowing zone. The proposal therefore complies with the Essex Design Guide in terms of its impact on this property.
- 9.6 A representation was also received from 1 Acorn Close. The back garden of this property will face toward the side wall of the house in its proposed revised position. In the position originally approved, the side wall of the house was positioned primarily behind 3 Acorn Close, with only 1m projecting behind 1 Acorn Close. The position as now proposed will result in more of the house (approx 4m) projecting behind 1 Acorn Close. The proposed house is positioned to the south of this property and approx 6m from their rear boundary, and the side wall of the proposed dwelling will be positioned approx 18m from the rear elevations of both 1 and 3 Acorn Close. At this distance the proposal clearly satisfies the 45 degree guidance in the Essex Design Guide. The Essex Design Guide also refers to an alternative requirement for ensuring acceptable daylight to property interiors, when buildings directly face each other. This suggests that acceptable daylight in interiors is achieved if a 25 degree vertical angle from a point 2 metres above the floor level at the façade is not obstructed. Applied to the fronts of houses, this typically requires 10m spacing between houses fronting each other in a street. The situation here is different, but nonetheless, the proposed dwelling does not offend this requirement in terms of the light impact on the interiors of the dwellings in Acorn Close.
- 9.7 The proposed dwelling is positioned generally to the south of the properties in Acorn Close. The revised position is likely to result in some changes to the level of sunlight received by the rear gardens of these properties. In particular, the rear garden of 1 Acorn Close is likely to receive some less sunlight during the afternoons resulting from the proposed revision. The Essex Design Guide gives no guidance on this. However, as the proposed house is no bigger or closer to the boundary than the scheme previously approved, it is considered that it would be difficult to justify a refusal on these grounds for a relatively minor change to the position of the house.

Conclusion

- 9.8 The proposal will enable a larger garden to be provided for the house on plot 8 than was previously approved. The proposed amendment to the position of the dwelling will of course have some impact upon the nearest neighbours and the frustrations expressed are understandable. Nonetheless, in planning terms the size of the dwelling is no larger than that previously approved and is no closer to the side boundaries of the application site where they meet the boundaries of neighbouring properties. The revision position is likely to result in some changes to the pattern of sunlight received by neighbouring gardens, but in overall terms the impact of the change should not be significant. The proposal complies with the Essex Design Guide in terms of the impact of the proposal to the daylight received by the interiors of existing properties. The application is recommended for approval.

Section 106 Matters

- 9.9 The applicant has already paid a contribution to the Council, in accordance with your adopted policies, for all 8 dwellings. The proposed application does not require any additional contributions to be paid. However, the new application if approved does need to be linked in with the original undertaking so it is clear that the payment received relates also to this application as well as the original approval. This requires a supplementary agreement to the original Unilateral Undertaking.

10.0 Background Papers

- 10.1 ARC; Core Strategy; HA; HH; TL; NLR

Recommendation

APPROVE subject to the prior completion of a supplementary legal agreement under Section 106 of the Town and Country Planning Act 1990, linking this planning permission to the contribution previously paid in respect of application 090150.

On completion of the legal agreement, the Head of Environmental and Protective Services be authorised to grant planning permission 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

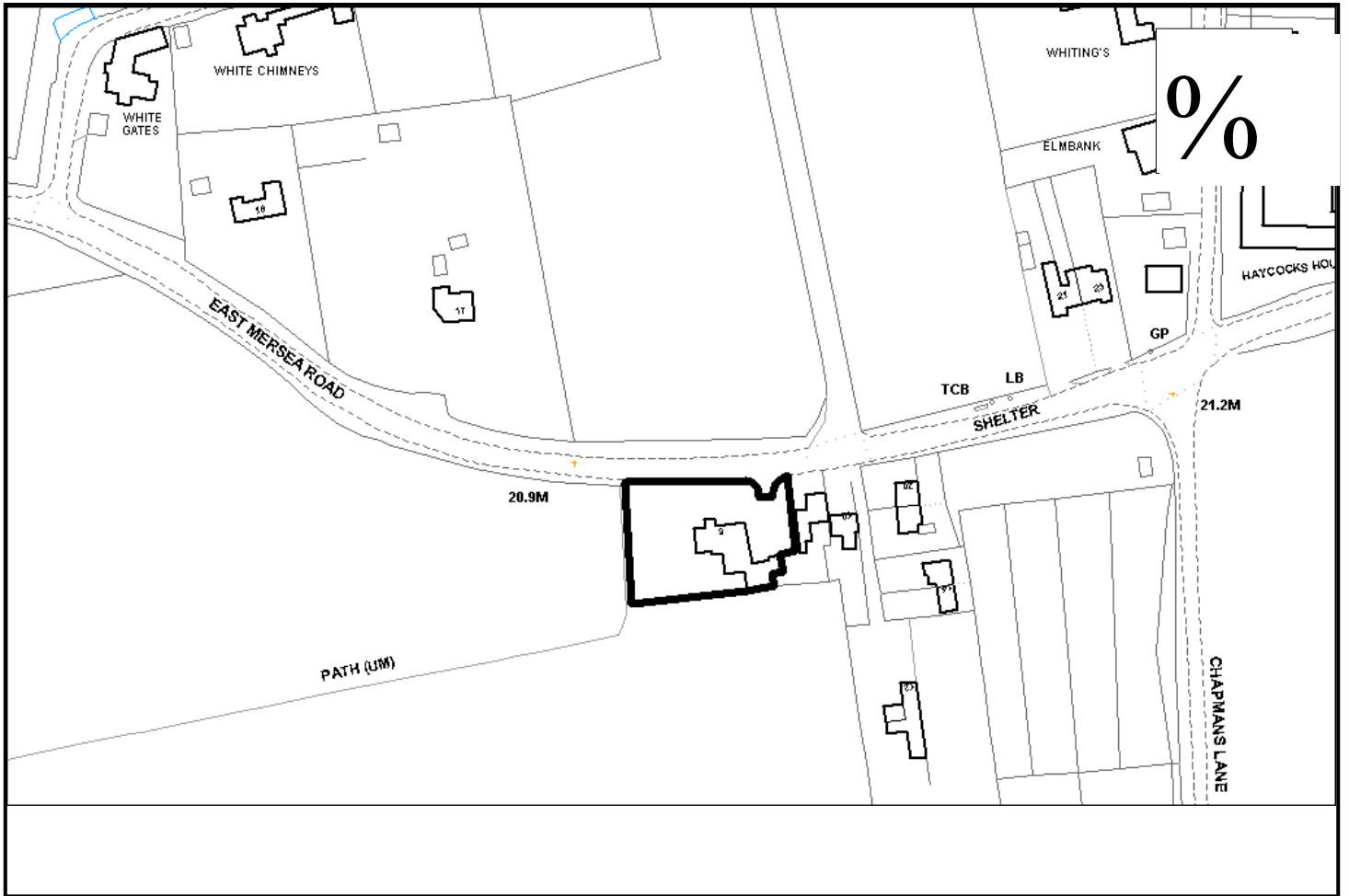
This permission relates to the variation in the position of the dwelling on plot 8 previously permitted by application 090150, as shown on the approved drawing reference 07:510:604 Rev A. All other terms and conditions of the original planning permission reference 090150 shall otherwise remain applicable, in force and extant.

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

Informatives

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

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



Application No: 100886

Location: The Old Forge House, 6 East Mersea Road, West Mersea, Colchester, CO5 8SJ

Scale (approx): 1:1250

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7.4 Case Officer: Nick McKeever

EXPIRY DATE: 02/07/2010

OTHER

Site: 6 East Mersea Road, West Mersea, Colchester, CO5 8SJ

Application No: 100886

Date Received: 7 May 2010

Agent: Sjc Design Ltd

Applicant: Mrs. Victoria Khan

Development: Construction of single storey outbuilding for holiday let accommodation

Ward: West Mersea

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application is brought to the Planning Committee in view of an objection by the occupiers of Forge Side, No. 8 East Mersea Road, West Mersea.

2.0 Site Description

2.1 The site is located within an area of open countryside. The existing dwelling forms part of a small cluster of dwellings on the south side of East Road. There is another small group of dwellings to north east. Apart from these existing dwellings, the site is surrounded by open countryside.

3.0 Description of Proposal

3.1 This application proposes the erection of a building approximately 4500mm in width, 8000mm in length and 5000mm to ridge height. It is to be located within the front garden area of The Old Forge House, 6 East Mersea Road and immediately in front of this existing dwelling. The building is to be clad in black timber weatherboarding with a plain tile roof covering.

3.2 The floor plans show the provision of a bedroom with en-suite on the lower ground floor, a lounge/dining area with a small galley kitchen on the upper ground floor, and a second twin-bedroom on the first floor.

3.3 The Applicant currently provides B & B accommodation within the existing dwelling and proposes that this new building will be an addition to this existing use, in the form of a holiday let.

3.4 Parking and vehicular turning facilities are provided within the front garden area immediately adjacent to the proposed new building. The application states that this parking area can accommodate at least four cars but that it is intended to provide one further space for the new use.

4.0 Land Use Allocation

4.1 Rural Area
Coastal Protection Belt
Potential Contaminated Land(Foundry)

5.0 Relevant Planning History

5.1 The property has been extended at first floor level under consents granted in the 1980's. There are no more relevant recent consents.

6.0 Principal Policies

6.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Countryside Conservation Area - CO3
Design – UEA11
Impact upon existing dwellings – UEA13
Contaminated Land - ???

6.2 Core Strategy
ENV1 - Environment
ENV2 – Rural Communities

7.0 Consultations

7.1 Environmental Control refer the developer to the 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.

7.2 In addition the potential contamination of the site from its historical use as a Forge has been discussed with the Council's Contaminated Land Officer. In view of the small scale of the proposed development it has been agreed that the Applicant should be advised of the possibility of any contamination of the site and of her responsibility for any possible investigation/remedial work that may arise during construction of the building.

7.3 The Highway Authority has been consulted. It is hoped to have their formal comments prior to the Committee Meeting.

8.0 Town Council's Views

8.1 It is hoped to have West Mersea Town Council's comments prior to the Committee Meeting.

9.0 Representations

9.1 The occupier of the adjacent dwelling 'Forge Side', No.8 East Mersea Road, has lodged an objection for the following reasons:-

- Old Forge House currently has 2 rooms dedicated to B& B accommodation. Adding more of this accommodation will elevate this to a commercial enterprise. This would impact upon the rural environment with increased noise pollution and set a precedent for further commercialization thereby devalue their property.
- Obstruct views from the landing & kitchen.
- Modern style chalet is not in keeping.

10.0 Report

10.1 The erection of any building within this frontage of the existing dwelling, immediately adjacent to the main road, will be a prominent feature within the street scene. The Applicant has, however, sought to minimise this impact by giving consideration to the scale and the design of the building.

10.2 The overall dimensions of this building are relatively modest having a footprint of 36 square metres. In terms of its design the building attempts to replicate the vernacular with a narrow span of 4500mm and by the use of traditional black finished softwood weatherboarding and plain roof tiles. In this context it is sympathetic to its rural setting.

10.3 On this basis it is considered that in terms of the scale and external appearance of the building, it satisfies the Council's design related policies and adopted SPD, and in particular the SPD on the use of external materials & finishes.

10.4 The concerns expressed by the adjoining occupier are acknowledged. However, the site lies within Mersea Island, which is one of the main tourist destinations within the Borough. In this respect the provision of additional tourist accommodation can be supported.

10.5 There clearly has to be a balance between any potential impact of the additional activity generated by the additional tourist accommodation and the benefits to local tourist facilities. This has to be a matter of judgement, but it is considered that the relatively modest scale of the proposal is not in itself likely to give rise to levels of activity that could cause a significant loss of amenity to the neighbouring dwellings or this area in general. It is also noted that Environmental Control has not raised any objections in this respect.

10.6 The submitted plans show the provision of 5 car parking spaces within the site. The parking standard for B & B accommodation is one space per bedroom. The plans show 2 bedrooms. The total provision for the existing dwelling and the annexe is 4 spaces. The applicant has been asked to confirm the number of bedrooms currently used as B & B accommodation.

10.7 Members will appreciate that, whilst the new building may have an impact upon the views from the adjoining dwelling, such views can not be protected under the current planning system.

11.0 Conclusion

11.1 It is considered that the proposed building, and the associated use for tourist accommodation is acceptable in terms of its scale, form and external appearance. Whilst the proposed use will increase the activity within the site, the scale of accommodation proposed is relatively modest, and as such it is not likely to have a significant impact upon the amenity of the neighbouring dwelling. Permission is recommended subject to no adverse comment being made by the Highway Authority.

11.0 Background Papers

11.1 ARC; Core Strategy; 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 - A3.16 Ancillary Use Only (2) (General)

The use of the annexe hereby permitted as a dwellinghouse shall remain ancillary and subservient to the primary use of the site and shall not become a separate or dominant use of that site without the prior written approval of the Local Planning Authority. The site to which this condition relates is defined on the application site location plan, drawing no. 266/III/i dated May 2010.

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

3 – Non Standard Condition

The development hereby permitted shall be implemented in all respects strictly in accordance with the approved plans, drawing nos. 266.III/i1, 5B/266/11-i1, 5B/266/12-i1, 5B/266/13-i1, 5B/254/14-i1, 5B/266/15-i1, 5B/266/17-i1.

Reason: To ensure satisfactory provision is made for the storage and disposal of manure.

4 - C3.2 Materials as Stated in Application

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

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity and helps to reinforce local character and identity.

5 – Non Standard Condition

The building hereby approved shall only be occupied as a holiday let and/or for purposes incidental to the enjoyment of the dwelling known as Old Forge House, 6 East Mersea Road, West Mersea.

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

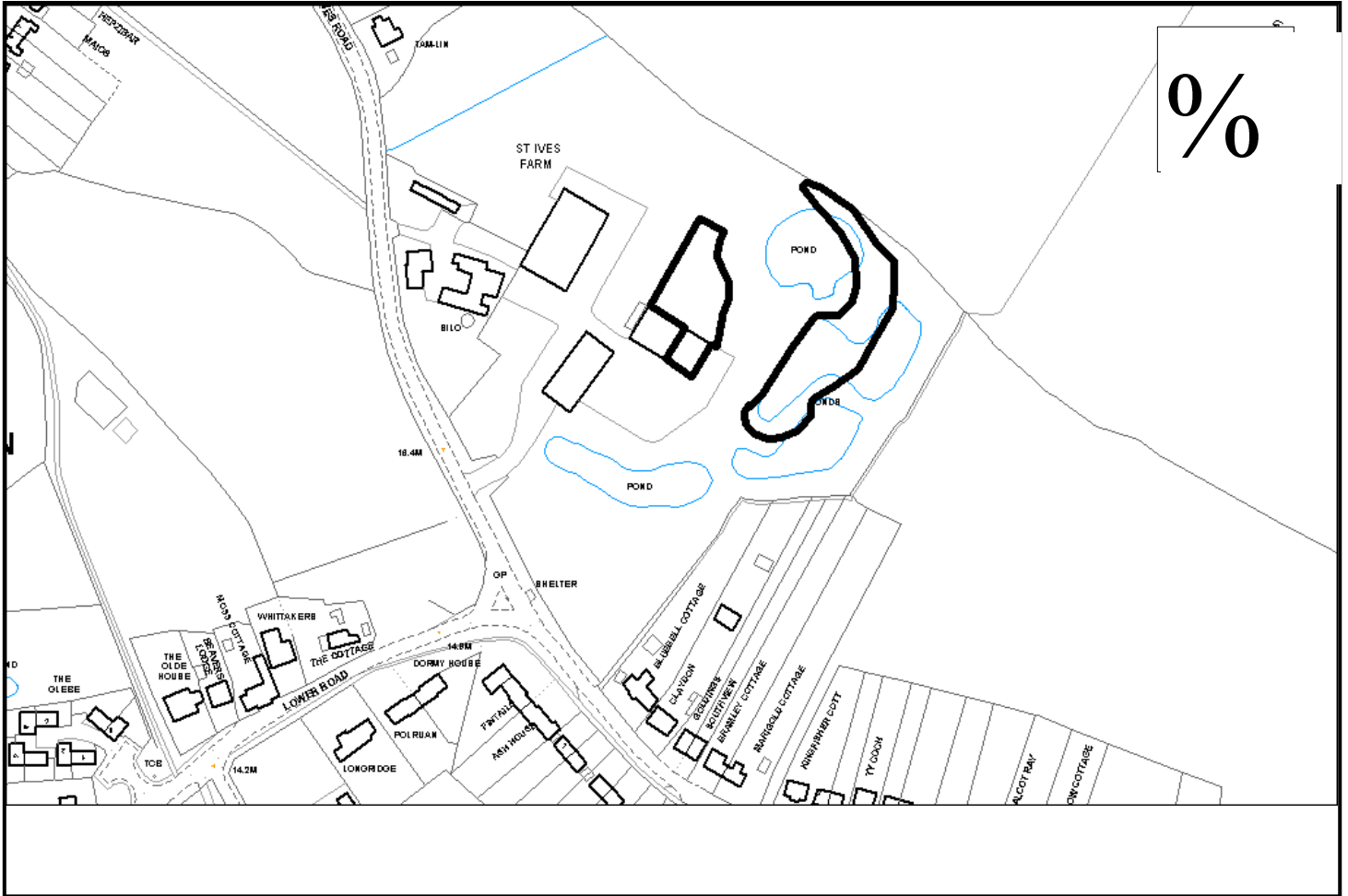
6 – D2.6 Car Parking Outline

The development hereby approved shall not commence until details of car parking/servicing/vehicle turning arrangements within the site have been submitted to and approved in writing by the Local Planning Authority and development shall not take place other than in accordance with those approved details.

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 Applicant's attention is drawn to the historic use of the site as a Forge and any potential contamination of the land that could be associated with this use.



Application No: 100915

Location: St Ives Farm, St Ives Road, Peldon, Colchester, CO5 7QD

Scale (approx): 1:1250

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7.5 Case Officer: Nick McKeever

EXPIRY DATE: 06/07/2010

OTHER

Site: St Ives Farm, St Ives Road, Peldon, Colchester, CO5 7QD

Application No: 100915

Date Received: 11 May 2010

Agent: Gordon Parker

Applicant: Hosplant Ltd

Development: Variation of condition 2 attached to approval 072151 (use for the overhaul, repair, sale and maintenance of contractors plant etc to permit the use for the sale packaging tape, bubble wrap, shrink wrap and stock boxes and the manufacture of bespoke cardboard boxes.

Ward: Pyefleet

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application is brought before the Planning Committee in view of an objection by the occupiers of Goldings, Mersea Road, Peldon.

2.0 Site Description

2.1 The site is an irregular shaped parcel of land located on the eastern side of St Ives Hill, Peldon and was originally a livestock farm with associated agricultural buildings and some agricultural lagoons. There are existing residential properties to the north, to the south and to the south west (Lower Road).

2.2 There are currently 3 commercial buildings within the site:-

- (1) Building 1. This is the largest of the three portal framed buildings currently erected on the site. It is occupied by Hosplant, who own the whole of the site.
- (2) Building 2. This is one of the original agricultural buildings which has been renovated and re-clad. This building has been subdivided and there are currently two tenants carrying out two different uses. Within Unit 1 is the business carried out by the Applicant and the subject of this application. The other tenant within Unit 2 uses this building for his boat repair and maintenance business. This use is unauthorised and is the subject of the other application currently on this agenda (Reference 100940)

- (3) The third building. This is a replacement of the original agricultural building and referred to as 'Building 4' on the submitted layout plan. The tenant of this building currently runs a steel frame fabrication business. This use is also unauthorised, although a separate application has now been submitted for this use (reference 100941).

- 2.3 The submitted site layout drawing shows an area marked for open storage immediately to the east of Building 2.

3.0 Description of Proposal

- 3.1 Planning permission 072151 was granted on 12th October 2007 for the redevelopment of a disused livestock farm site at St Ives Farm, St Ives Road, Peldon to form a new construction plant hire and agricultural sales and maintenance complex. The proposed occupiers of the site were Hosplant, a company which at that time had outgrown their site in Langham, and were actively seeking alternative premises within the Borough.

- 3.2 The permission included the formation of a new access onto St Ives Hill, Peldon, and the improvement of two existing agricultural barns, together with the erection of 2 buildings to replace two other agricultural buildings already on the site.

Condition 02 of the permission 072151 stated that:-

"The premises shall be used for the overhaul and repair, sale and maintenance of contractors plant, sale of associated spare parts and associated offices, all as stated in the application and for no other purpose in Class B1 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 unless otherwise agreed in writing by the Local Planning Authority.

Reason: The site lies within a rural area where development other than for agricultural purposes is not normally permitted. The Council has however, had regard to the particular merits of the application and in so doing would wish to avoid any doubt as to the scope of the permission hereby granted".

- 3.3 The application is retrospective and seeks to remove this condition as far as it relates to this particular building.

- 3.4 The unit is occupied by 24-7 Boxes and Packaging (Use Class B1). The business supplies packaging tape, bubble wrap, shrink wrap and stock cardboard boxes and constructs cardboard boxes on a bespoke basis. This work involves the use of electronically powered shutters and slicers and this is carried out within the building.

4.0 Land Use Allocation

- 4.1 Countryside Conservation Area

5.0 Relevant Planning History

- 5.1 0910061 - Removal of condition 2 of planning permission 072151. Approved 15/04/2010

- 5.2 071178 - Conversion of existing agricultural buildings and erection of new industrial buildings and offices - Withdrawn 19 June 2007
- 5.3 072151 - Conversion of existing agricultural buildings and erection of new industrial buildings and offices - Resubmission of Application No. 071178 - Approved 12 October 2007
- 5.4 79/1275 - Erection of two storey extension, renovation and alterations - Approved 5 November 1979
- 5.5 79/1984 - Erection of pig fattening hours and midden dungstore - Approved 19 May 1980
- 5.6 81/1604 - Erection of 3 car garage with first floor storage area - Approved 15 December 1981
- 5.7 90/0163 - Outline application for provision of rural amenity and erection of village housing - Appeal dismissed 31 October 1990
- 5.8 91/1390 - Outline application for erection of 3 no. houses – Refused 24 February 1992
- 5.9 93/1228 - Replacement of existing piggeries destroyed by fire. Complete removal of others - Approved 6 January 1994
- 5.10 F/COL/02/0375 - Application for local needs housing, change of use of land and existing buildings to community/employment and change of use of land to public open space - Withdrawn 10 November 2006
- 5.11 F/COL/94/1383 - Closure of existing field entrance and the formation of a new access to St Ives Farm - Approved 19 October 2004
- 5.12 100940 – Change of use to B2 from B1 with restrictions Condition 2 removed. The use of the building to be reconstructed to occupation by Swiftboats – Not yet determined.
- 5.13 100941 – Change of use to B2 from B1 with restriction Condition 2 removed. The use of the building to be restricted to occupation by Popper and Carter - Not yet determined.

6.0 Principal Policies

- 6.1 Adopted Review Borough Local Plan
 - Development Control Considerations - DC1
 - Countryside Conservation Areas - CO3
 - Design - UEA11
 - Development adjacent to existing dwellings - UEA13
 - Employment Uses in the Countryside - EMP4
 - Isolated Industrial Complexes - EMP5

- 6.2 Core Strategy
ENV1 - Environment
ENV2 - Rural Communities
UR2 - Built design and character

7.0 Consultations

- 7.1 The Highway Authority have been consulted. It is expected that their views will be available at the Committee meeting.

8.0 Parish Council's Views

- 8.1 Winstred Hundred Parish Council has no objection subject to:-

- Hours of use restricted to 08:00 – 18:00 Monday – Friday, 08:00 – 13:00 on Saturdays, and no working on Sundays and Bank Holidays

9.0 Representations

- 9.1 The occupier of Goldings, Mersea Road, Peldon objects for the following reasons:-

- This is a retrospective application violating the original permission.
- Noise, and in particular, the sound of the moving of lumps of steel. This is inappropriate and should be on an industrial estate.
- Additional traffic, particularly on St Ives Hill, which is not suitable for heavy vehicles.
- Further precedent

- 9.2 Another resident has written to confirm that no objection is raised to this B1 use but expresses concern as to any B2 uses, which could be inappropriate within this rural setting.

10.0 Report

- 10.1 The current use being carried out within Unit 1, Building 2, would fall within Use Class B1, albeit with ancillary retail use for the sale of packaging tape, bubble wrap etc. A B1 use is by definition a use that can be carried out within a residential area without detriment by way of noise or other forms of environmental pollution. If Members are minded to approve this application it is recommended that the condition 2 should be replaced by a condition restricting the use to that applied for.

- 10.2 Complaints from local residents relating to noise emanating from the site have been received and investigated. There is no evidence that the use being carried out within Unit 1, Building 2, has given rise to any noise related issues.

- 10.3 Local concerns regarding other unauthorised uses within the site (i.e metal portal frame construction in Building 4 and boat repairs within Unit 2, Building 2) are acknowledged. This has been the subject of on-going enforcement action by the Council's Investigation Team. As a result of this action two further applications have been submitted, one of which is also on this agenda (reference 100940).

11.0 Conclusion

11.1 It is recommended that planning permission for the use currently being carried out within Unit 1, Building 2, should be granted subject to the use being restricted to that applied for and a restriction of the hours of operation in accordance with the original consent for the use of the site by HOS Plant. The reason for these restrictions is to ensure that the Council can control the use of the site in the interests of the amenity of existing residential properties and of this rural area in general.

12.0 Background Papers

12.1 ARC; Core Strategy; HA; PTC: NLR

Recommendation - Conditional Approval

Conditions

1 - Non-Standard Condition

The premises shall be used for the manufacture of bespoke cardboard boxes and ancillary sales of packaging tape, bubble wrap, shrink wrap and stock cardboard boxes only and for no other purpose (including any other purpose in Class B1, or in any Use Class 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: For the avoidance of doubt as to the scope of the permission and to protect the amenities of the surrounding area.

2 – A4.15 Screening of Designated Storage Areas

No outside storage shall take place other than within the area identified on the approved plan returned herewith. The designated area for outside storage shall be screened from external view in a manner agreed in writing by the Local Planning Authority prior to any storage being undertaken.

Reason: In the interests of visual amenity and for the avoidance of doubt as to the scope of the permission hereby granted.

3 - C11.13 Advance / Screen Planting

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

Reason: To ensure an appropriate standard of visual amenity.

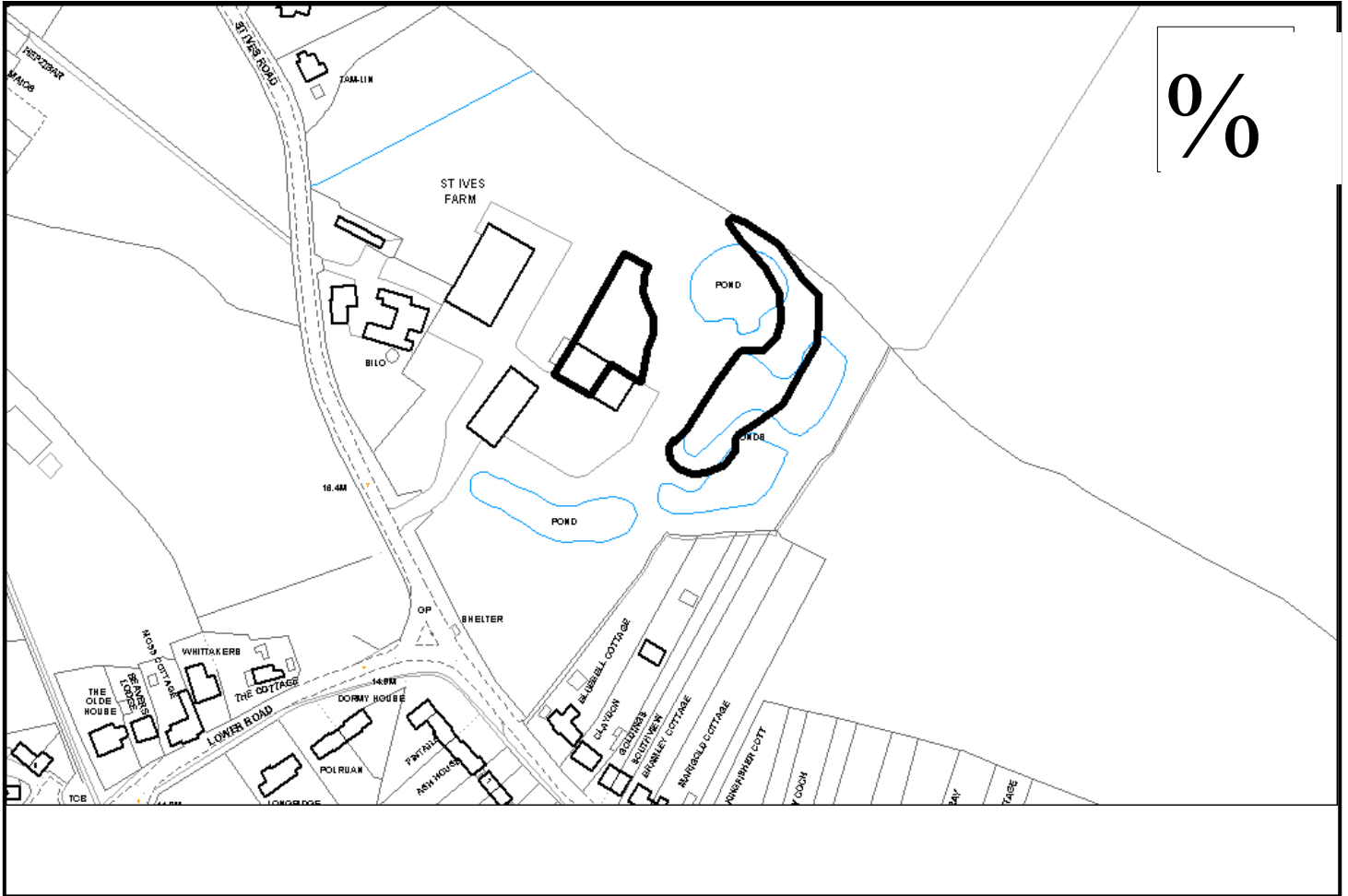
4 – Non Standard Condition

No machinery shall be operated, no process shall be carried out and no deliveries taken at, or despatched from the site outside the hours of 07:00 to 18:00 Mondays to Fridays, 07:00 to 13:00 Saturdays, and no time on Sundays or Bank Holidays.

Reason: For the avoidance of doubt as to the scope of this permission and in order to safeguard the amenity of nearby residential properties.

5 – Non Standard Condition

Plus any additional condition(s) recommended by the Highway Authority and Environmental Control.



Application No: 100940

Location: Unit 2, Building 2, St Ives Farm, St Ives Road, Peldon, Colchester, CO5 7QD

Scale (approx): 1:1250

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7.6 Case Officer: David Whybrow

EXPIRY DATE: 08/07/2010

OTHER

Site: St Ives Farm, St Ives Road, Peldon, Colchester, CO5 7QD

Application No: 100940

Date Received: 13 May 2010

Agent: Mr G H Parker

Applicant: Hosplant Limited

Development: Change of use to B2 from B1 with restriction Condition 2 removed. The use of the building to be restricted to occupation by Swiftboats.

Ward: Pyefleet

Summary of Recommendation: Conditional approval subject to no objections from Highway Authority and/or Environmental Control

1.0 Planning Report Introduction

1.1 This application is placed before Members as a result of representations received. It is a site with a lengthy planning history which will be set out in the body of the report. A second application concerning the adjoining Unit 3 is also considered on this agenda while a 3rd proposal, ref 100941 is still under consideration.

2.0 Site Description

2.1 The site is an irregular shaped parcel of land located on the eastern side of St Ives Hill, Peldon and was originally a livestock farm and associated agricultural buildings and some agricultural lagoons. There are existing residential properties to the north, to the south and to the south west (Lower Road).

2.2 There are currently 3 commercial buildings within the site:-

- (1) Building 1 - This is the largest of the three portal framed buildings currently erected on the site. It is occupied by Hosplant, who own the whole of the site.
- (2) Building 2 - This is one of the original agricultural buildings which has been renovated and re-clad. The present tenant uses this building for his boat repair and maintenance business, the subject of the present application. It has an area of 250 sq.m.
- (3) The third building - This is a replacement of the original agricultural building and referred to as "Building 4" on the submitted layout plan. The tenant of this building currently runs a steel fabrication business. This use is currently unauthorised and subject of application 100941.

2.3 The submitted site layout drawing shows an area marked for open storage immediately to the east of Building 2.

3.0 Description of Proposal

3.1 The application seeks variation of Condition 2 attached to permission ref 072151 (conversion of former agricultural buildings and erection of new industrial buildings and offices for use by Hosplant only) to enable the continued use of this unit by Swift Boats. Their business involves the repair and maintenance of wooden boats and sale of ancillary equipment. The submitted documents indicate:-

1. The unit has a floor area of 252 sq.m.
2. An open storage area to the rear of the building would be used by this and the unit adjacent (3).
3. Increased screening is proposed to the open storage area in the form of reinforcement of existing boundary hedge and raising and landscaping on existing earth bund.
4. The business originated on Mersea Island but outgrew the available accommodation.
5. There are presently 2 employees at the site perhaps rising to 3 in the future.
6. Hours of operation are 0700 - 1900 hours, 6 days a week with no use on Sundays and Bank Holidays.

4.0 Land Use Allocation

4.1 Countryside Conservation Area

5.0 Relevant Planning History

- 5.1 100941 - Change of use to B2 from B1 to enable use for steel fabrication by Popper and Carter - Not yet determined.
- 5.2 100915 - Variation of condition 2 attached to approval 072151 (use for the overhaul, repair, sale and maintenance of contractors plant etc to permit the use for the sale packaging tape, bubble wrap, shrink wrap and stock boxes and the manufacture of bespoke cardboard boxes – To be considered on this agenda .
- 5.3 071178 - Conversion of existing agricultural buildings and erection of new industrial buildings and offices - Withdrawn 19 June 2007
- 5.4 072151 - Conversion of existing agricultural buildings and erection of new industrial buildings and offices - Resubmission of Application No. 071178 - Approved 12 October 2007
- 5.5 79/1275 - Erection of two storey extension, renovation and alterations - Approved 5 November 1979
- 5.6 79/1984 - Erection of pig fattening hours and midden dungstore - Approved 19 May 1980
- 5.7 81/1604 - Erection of 3 car garage with first floor storage area - Approved 15 December 1981

- 5.8 90/0163 - Outline application for provision of rural amenity and erection of village housing - Appeal dismissed 31 October 1990
- 5.9 91/1390 - Outline application for erection of 3 no. houses – Refused 24 February 1992
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- 5.11 F/COL/02/0375 - Application for local needs housing, change of use of land and existing buildings to community/employment and change of use of land to public open space - Withdrawn 10 November 2006
- 5.12 F/COL/94/1383 - Closure of existing field entrance and the formation of a new access to St Ives Farm - Approved 19 October 2004

6.0 Principal Policies

- 6.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Countryside Conservation Areas - CO3
Design - UEA11
Development adjacent to existing dwellings - UEA13
Employment Uses in the Countryside - EMP4
Isolated Industrial Complexes - EMP5
- 6.2 Core Strategy
ENV1 - Environment
ENV2 - Rural Communities
UR2 - Built design and character

7.0 Consultations

- 7.1 Both the Highway Authority and Environmental Control have been consulted and it is expected their views will be available at the Meeting.

8.0 Parish Council's Views

- 8.1 Winstred Hundred Parish Council raise no objection but ask that conditions be applied in respect of:-
 1. Hours of work: 08.00 - 18.00 Mondays to Fridays and 08.00 - 13.00 Saturdays.
 2. Consent specifically enures for Swift Boats.

9.0 Representations

9.1 A local resident objects on the following grounds to this application and the companion proposal 100915 also reported on this agenda. The comments may be viewed in full on the Council's web-site.

1. This and other units have been let without first obtaining the necessary consent and in isolation of the relevant permission.
2. The various uses cause excessive noise and result in activity more suited to an industrial site, contrary to the spirit and intention of original condition.
3. The more businesses located here, the greater the traffic increase and problems in the narrow streets of Peldon.

9.2 A second neighbour emphasises her continued support and goodwill towards Hosplant, the owners of the site, who have shown a willingness to be helpful to neighbours and the local community and have transformed the site into a viable business unit. She is concerned however a the introduction of B2 uses which could be inappropriate within a rural setting such as Peldon. B2 use may be acceptable in the case of Swift Boats operated under a restrictive, "personal" condition but in the case of Building 4, would have the capacity to increase noise nuisance and impact adversely on the rural visual aspect.

10.0 Report

10.1 It will be seen from the representations that there is no objection to the Swift Boats operation itself but rather a concern that the cumulative effect of various business uses within the site will add to traffic on local rural routes and to noise and disturbance to nearby residents. There is, however, no evidence that this company creates any significant traffic activity nor undue noise. It is expected that the Environmental Control Team's response will reflect this. Indeed it can be said that boat repairs are very much a rural activity particularly related to the proximate coastal areas.

11.0 Conclusion

11.1 So long as no objections are raised by the Highway Authority and/or Environmental Control it is considered that the proposed activity, although falling within a B2 category, is of such a nature that it will not harm local amenity or be inappropriate to a rural setting. A "personal" consent is recommended.

12.0 Background Papers

12.1 ARC; Core Strategy; HA; HH; PTC; NLR

Recommendation

Upon receiving confirmation that the Highway Authority and Environmental Control do not wish to object to the proposals, it is recommended that planning permission be granted subject to the following conditions:-

Conditions

1 - A3.1 Premises Only to be Used for a Specific Use

The premises shall be used only be Swift Boats for the purposes described in the submitted documents and for no other purpose (including any other purpose in Class B2 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: For the avoidance of doubt as to the scope of the permission and to protect the amenities of the surrounding area.

2 - A4.15 Screening of Designated Storage Areas

No outside storage shall take place other than within the area identified on the approved plan returned herewith. The designated area for outside storage shall be screened from external view in a manner agreed in writing by the Local Planning Authority prior to any storage being undertaken.

Reason: In the interests of visual amenity and for the avoidance of doubt as to the scope of the permission hereby granted.

3 - C11.13 Advance / Screen Planting

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

Reason: To ensure an appropriate standard of visual amenity.

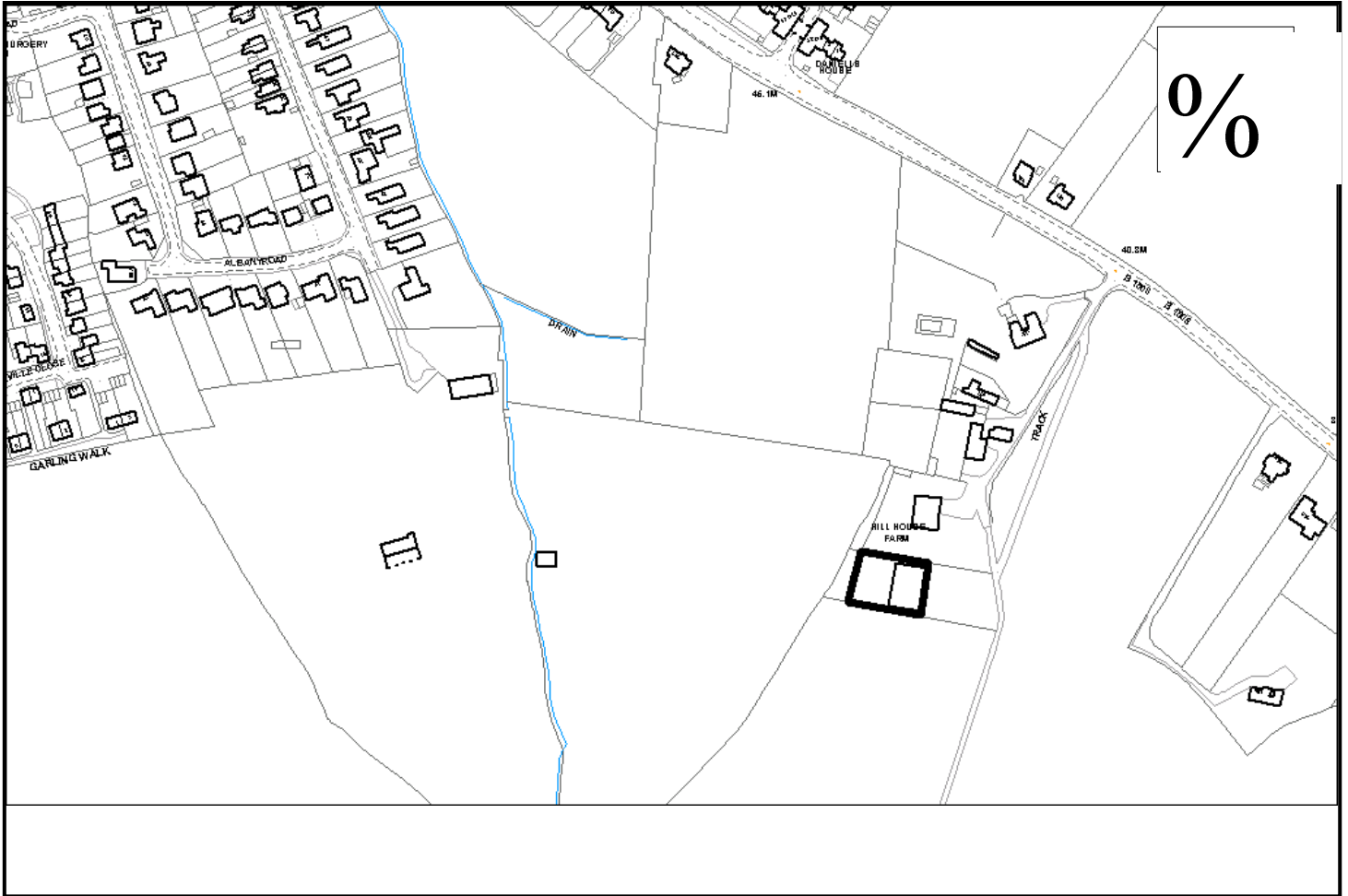
4 - Non-Standard Condition

The hours of operation of the use hereby permitted shall be as stated in the submitted application documents only - i.e. 07.00 - 19.00 hours Monday to Friday; 07.00 - 17.00 hours Saturdays and no use whatsoever shall take place on Sundays or Bank Holidays.

Reason: In the interests of local amenity and to ensure the use only takes place at the times referred to in the planning application.

5 - Non-Standard Condition

Plus any additional condition(s) recommended by the Highway Authority and Environmental Control.



Application No: 101011

Location: Hill House Farm, Colchester Road, West Bergholt, Colchester, CO6 3JQ

Scale (approx): 1:1250

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7.7 Case Officer: David Whybrow

EXPIRY DATE: 16/07/2010

OTHER

Site: Hill House Farm, Colchester Road, West Bergholt, Colchester, CO6 3JQ

Application No: 101011

Date Received: 21 May 2010

Agent: Mr Peter Le Grys

Applicant: Mrs Rosemary Amoss

Development: Change of use of farm buildings to a trampoline activity centre for those with physical disabilities and special learning needs. (Resubmission of planning application 100134)

Ward: W. Bergholt & Eight Ash Green

Summary of Recommendation: Refusal

1.0 Planning Report Introduction

1.1 This application is a resubmission of an earlier application 100134 refused under delegated powers and now the subject of an as yet undetermined appeal. The current application has generated considerable local interest and large numbers of representations. Since the refusal of planning permission additional information has been submitted with the application and this is placed before Members for their consideration.

2.0 Site Description

2.1 The application site comprises relatively modern agricultural storage buildings of 420 sq.m. floor area, set in open countryside, part of a Countryside Conservation Area south of Colchester Road, West Bergholt and south east of West Bergholt Village. Access from Colchester Road is by way of a former farm track which serves a number of other residential properties including Hill House Farm. A concrete hardstanding to the east of the building is shown as "existing car park". From the car park the site enjoys wide views over arable farmland.

3.0 Description of Proposal

3.1 The proposal is for change of use of farm buildings to a trampoline activity centre for those with physical disabilities and special learning needs. It is supported by additional information in the form of a planning statement, letters of support from agencies such as Headway Essex, Scope and Managers of Care Homes supporting the work of the applicant company, Bounceability. Full details may be inspected on the Council's website, but a summary of the main items raised in the resubmission are set out below:-

1. Bounceability is run by Mrs Amoss from a premises in Smeaton Close, the lease of which must be surrendered in Autumn this year.
2. Trampolining is a unique inspiration and essential activity and very special to those with physical disabilities or special needs.
3. The use at Smeaton Close commenced in 2000. The hall contains 4 trampolines with hoist, or steps to permit access to those with physical impairments. It is the only such facility in the region and serves numerous local care homes.
4. Hours of operation are 9.30 - 6.30 Mondays to Wednesdays, 9.30 - 7.30 Thursdays and 9.30 - 1pm Fridays. During a normal day 3 – 15 patients can attend at any one time, most arriving by minibus carrying up to 6 people.
5. Mrs Amoss runs the centre in conjunction with her mother plus 5 other part-time workers. She has lost her sight and in order to continue the business needs a location closer to her West Bergholt home. The operating costs of the business and rental for Smeaton Close also necessitate a relocation.
6. The buildings have been used for agricultural storage but this can be transferred to nearby Bourne Farm.
7. A petition with 297 signatures is submitted in support of the proposals.

4.0 Land Use Allocation

4.1 Countryside Conservation Area

5.0 Relevant Planning History

5.1 100134 - Change of use of farm buildings to a trampoline activity centre for those with physical disabilities and special learning needs - Refused 22 March 2010

5.2 080896 – New agricultural building – Prior Approval not required

5.3 AG/COL/05/0992 – New agricultural building – Details acceptable

6.0 Principal Policies

6.1 Adopted Review Borough Local Plan
DC1 - Development Control considerations
C01 - Rural resources
C03 - Countryside Conservation Areas

- 6.2 Core Strategy
 - TA1 – Accessibility and Changing Traffic Behaviour
 - SD3 – Community Facilities
 - ENV1 - Environment

7.0 Consultations

- 7.1 Environmental Control recommend conditions to be attached to any permission granted in respect of external lighting and no amplified sound.
- 7.2 Planning Policy comment as follows:-

"Planning Policy note this application is a resubmission of a previous application (100134) and generally agree with the reasons for refusal as detailed in the decision notice for the earlier application. The application site is in a rural location and outside of the defined Village Envelope of West Bergholt as shown in the Local Plan and also outside of the Settlement Boundary for West Bergholt as seen on the Submission Proposals Maps which when adopted will form part of the Colchester LDF. The site is therefore in the countryside and subject to the countryside policies such as Core Strategy Policy ENV1 which states that the Borough Council will conserve and enhance the natural and historic environment, countryside and coastline.

Core Strategy Policy SD1 directs development to the most accessible and sustainable locations across the Borough, the application site is in a countryside location and therefore it is not considered to be easily accessible. The applicant has outlined that the majority of the visitors to their business travel via minibus and are unlikely to use public transport but this is not considered sufficient justification to locate the development in a countryside location. They have also submitted a petition supporting the proposal which details the home location that users of their business travel from. Many of these home locations are outside of Colchester Borough and therefore if people are travelling into the Borough they ought to be directed to the most sustainable and accessible location which is Colchester Town and not to a countryside location.

Planning Policy are also concerned that the applicant does not seem to have considered other alternative locations across the Borough to locate their business. No evidence has been presented to detail consideration of the sequential test to site selection as required in Planning Policy Statement 4. The emerging Development Policies document also gives guidance for this type of application in Policy DP8 (Agricultural Diversification) and DP9 (Employment in the Countryside). DP8 is clear that the proposals will assist in retaining the viability of the farm whilst DP9 outlines that the applicant needs to demonstrate that the agricultural building is no longer needed for its original purpose. Although these policies are emerging the application fails to address the issues within the information submitted.

As outlined above the application is in a countryside location and not accessible by a range of transport options, therefore the Planning Policy Team considers this application to be contrary to the adopted policies in the Core Strategy as well as those emerging in the Development Policies document."

- 7.3 The Highway Authority previously raised no objections to the proposal and again do not raise an objection in this case.

8.0 Parish Council's Views

8.1 West Bergholt Parish Council objects to the proposal on the following grounds:-

1. The reason for refusal under Ref: 100134 continues to apply.
2. The change of use from agricultural use to a trampolining centre is not warranted and could create a precedent for future similar changes of use.
3. The change of use from agricultural use to a trampolining centre is not warranted and could create a precedent for future similar changes of use.
4. The site access onto Colchester Road is outside the 30mph limit with no footpaths and limited visibility splays.

9.0 Representations

9.1 14 letters of objection, e mails and on-line comments have been received raising the following concerns:-

1. Bounceability is open to members of the public at its existing location, so it is a public leisure facility not a private medical facility.
2. To permit leisure or commercial activities in the countryside could open the floodgates to such uses and detract from the quiet, rural surroundings.
3. Will attract more traffic to the area and create traffic hazards at the access point from Colchester Road and in the shared access drive.
4. Additional disturbance and noise pollution close to other private residences.
5. The use is better suited to an existing commercial area.
6. Will adversely affect wildlife as well as destroy the overall atmosphere of the rural setting.
7. The buildings are not suitable for conversion and are impossible to heat or insulate. They may not be high enough for the proposed purpose.
8. There is no pavement, street lighting or speed limit at the access from Colchester Road.
9. Lighting will be required to the detriment of the Countryside Conservation Area and rural atmosphere.
10. Access by foot or public transport is very poor.
11. Trampolining is an inherently dangerous sport. There are no proven therapeutic benefits from this activity and no similar facilities elsewhere in the country.
12. Bounceability allow access to able-bodied members of the public on a pay-as-you-go basis. It is not only a private medical facility.

9.2 A petition with in excess of 262 signatures, of mostly West Bergholt residents and those living in the area, objects to the use of the site for commercial purposes.

10.0 Report

10.1 The previous reason for refusal is set out for Members' information:-

“The site lies in open countryside outside the settlement of West Bergholt where there is a strong commitment to safeguarding and enhancing rural resources. Policy ENV1 in the Adopted Core Strategy states that the Borough Council will conserve and enhance Colchester's natural environment, countryside and coastline. Development will be strictly controlled in such areas to conserve the Borough's environmental assets and open character. While the Adopted Review Colchester Borough Local Plan and Adopted Core Strategy, offer broad support to the provision of a range of community facilities, the Adopted Core Strategy seeks to improve the accessibility of new development, concentrate development in highly accessible locations, change travel behaviour and enhance accessibility by encouraging development that reduces the need to travel (policy TA1).

Adopted Core Strategy policy SD3 indicates that the Council will promote facilities for local communities with particular regard to the needs of disadvantaged groups but these facilities should be located in centres or other accessible locations to maximise community access. This approach is reinforced by the advice contained in PPS4 – Planning for Sustainable Growth which applies, inter alia, to arts, culture & tourism development. This urges strict control over development in open countryside away from existing settlements and specifically seeks to deliver more sustainable patterns of development, reduce the need to travel, especially by car, and respond to climate change.

In this case the Local Planning Authority appreciate the useful and particular service provided by the applicant, however, no evidence has been provided with the application to demonstrate that the use requires a rural and non sustainable location where access by transport modes other than by motor vehicle are unavailable. Neither is the site shown to be redundant for the purposes of its present agricultural use. As such the Local Planning Authority cannot be satisfied that there are no better situated sites for the proposed use nor special grounds for permitting the proposed use at Hill House Farm. As such it is considered the proposal, if permitted, would be contrary to the national guidance and local policies as outlined above which aim to deliver sustainable patterns of development.”

10.2 Essentially, it is considered that the use proposed does not need a rural location and in general terms, Government policy advice, as reflected in established policy, seeks to locate such leisure uses in more sustainable locations accessible by a variety of transport modes. From the information submitted with the application officers were not satisfied that other alternative, more conveniently located premises had been investigated once it was known that the applicant's present premises in Colchester could no longer be secured.

10.3 The advice from the Environmental Policy Team endorses this view and the recommendation in this case remains for refusal. It has however been felt appropriate to place this matter before Members having regard to the fact that this may be regarded as a relatively low-key use with limited associated traffic activity considered acceptable by the Highway Authority and with environmental impacts - noise, lighting - which Environmental Control confirm can be adequately regulated by condition.

10.4 In particular Members are asked to give consideration to the benefits of the use as espoused by Headway Essex, Scope and other care facilities - i.e. trampolining offers an opportunity for individuals to develop balance, core stability, co-ordination, flexibility and helps with hidden difficulties such as planning, organisational skills, memory, attention and fatigue levels. Sensory and social interaction benefits are also referred to, taking place in a relaxed, fun but professional environment. Many consider Bounceability plays a major role in the support of their service users and report a great benefit to those users.

11.0 Conclusion

11.1 The proposed use has undoubted benefits for vulnerable people in society with special needs, and, if permitted with appropriate conditions, could perhaps take place without undue impact on the appearance or character of the Countryside Conservation Area or local residential amenity. That said, there are very clear, established policies which seek to direct new development to more sustainable locations and to resist non-essential uses taking place in the countryside. On balance it is considered that these latter considerations should prevail and refusal is again recommended consistent with the previous decision.

12.0 Background Papers

12.1 ARC; Core Strategy; HA; HH; PP; PTC; NLR

Recommendation - Refusal

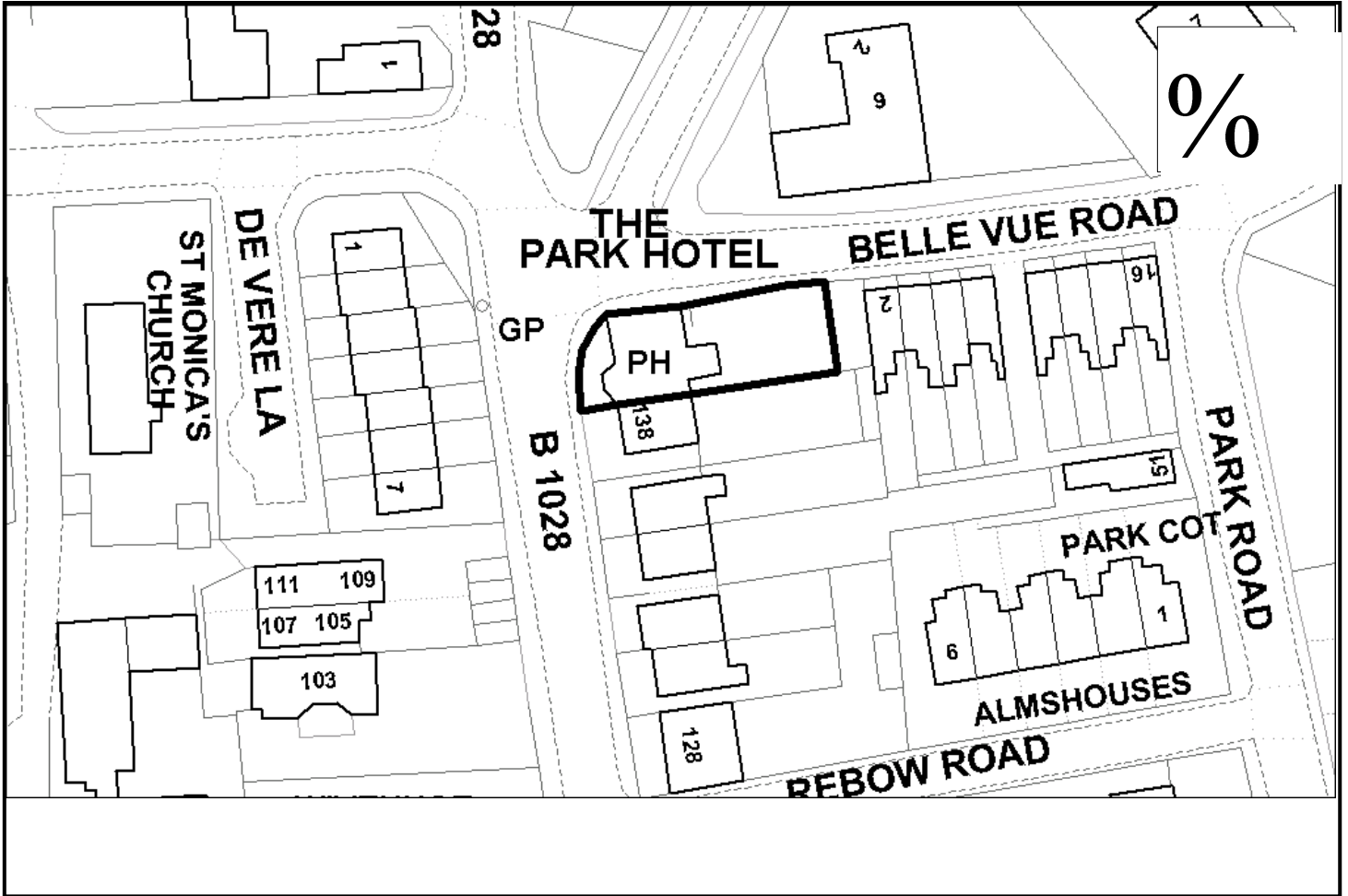
Conditions

1 – Non-Standard Refusal Reason

The site lies in open countryside outside the settlement of West Bergholt where there is a strong commitment to safeguarding and enhancing rural resources. Policy ENV1 in the Adopted Core Strategy states that the Borough Council will conserve and enhance Colchester's natural environment, countryside and coastline. Development will be strictly controlled in such areas to conserve the Borough's environmental assets and open character. While the Adopted Review Colchester Borough Local Plan and Adopted Core Strategy, offer broad support to the provision of a range of community facilities, the Adopted Core Strategy seeks to improve the accessibility of new development, concentrate development in highly accessible locations, change travel behaviour and enhance accessibility by encouraging development that reduces the need to travel (policy TA1).

Adopted Core Strategy policy SD3 indicates that the Council will promote facilities for local communities with particular regard to the needs of disadvantaged groups but these facilities should be located in centres or other accessible locations to maximise community access. This approach is reinforced by the advice contained in PPS4 – Planning for Sustainable Growth which applies, inter alia, to arts, culture & tourism development. This urges strict control over development in open countryside away from existing settlements and specifically seeks to deliver more sustainable patterns of development, reduce the need to travel, especially by car, and respond to climate change.

In this case the Local Planning Authority appreciate the useful and particular service provided by the applicant, however, no evidence has been provided with the application to demonstrate that the use requires a rural and non sustainable location where access by transport modes other than by motor vehicle are unavailable. Neither is the site shown to be redundant for the purposes of its present agricultural use. As such the Local Planning Authority cannot be satisfied that there are no better situated sites for the proposed use nor special grounds for permitting the proposed use at Hill House Farm. As such it is considered the proposal, if permitted, would be contrary to the national guidance and local policies as outlined above which aim to deliver sustainable patterns of development.



Application No: 091325

Location: Former Park Hotel, 140 High Street, Wivenhoe, Colchester, CO7 9AF

Scale (approx): 1:1250

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7.8 Case Officer: David Whybrow

OTHER

Site: 140 High Street, Wivenhoe, Colchester, CO7 9AF

Application No: 091325

Date Received: 13 October 2009

Agent: Tim Snow Architects Ltd

Applicant: Mr C Boreggio

Development: Construction of extended cellar, provision of outside seating, including removal of Highway Rights, minor elevational amendments and retention of existing store buildings, in connection with F/COL/06/0799.

Ward: Wivenhoe Quay

Summary of Recommendation: Conditional approval subject to satisfactory resolution of outstanding issues by Highway Authority and Design and Heritage Unit.

1.0 Introduction

1.1 This application was first reported to Committee on 21 January 2010 and was deferred in order to carry out consultation with the Highway Authority. Discussions were subsequently carried out involving the agent, Planning and Highway Officers leading to the receipt of amended drawings, to be described in the following report.

1.2 The revised plans, which also address issues raised by the Design and Heritage Officer, have been the subject of further consultation with Wivenhoe Town Council and local residents and their additional comments are also provided.

1.3 The previous report is set out below. Later information and responses are in bold print.

2.0 Planning Report Introduction

2.1 This application follows on from a planning approval granted in November 2006 for conversion of upper floors of the Park Hotel, Wivenhoe, to 5 flats, including an extension to the east elevation. The existing bar/restaurant at ground floor level was/is to be retained. Works to implement this approval are currently in progress.

3.0 Site Description

- 3.1 Park Hotel is a prominent three-storey, red brick Victorian building on the corner of Belle Vue Road and High Street and acts as a gateway to Wivenhoe's Conservation Area. There are dwellings immediately to the south and east of the site. That to the south is 3 storeys and those to the east are 2 storey with dormers.
- 3.2 The 2006 proposal was to demolish a small single-storey element on the Belle Vue road elevation, and to replace this with a three storey element to match the existing building. This, in addition to the first and second floors, and roofspace of the existing building, would be converted to five flats. In addition, off-road residential parking and a small area of amenity space was proposed.

4.0 Description of Proposal

4.1 It is proposed to amend the original approved scheme in the following respects:-

1. Extension of the cellar area under the new extension to create a larger kitchen area - this is a response to technical difficulties arising from the shallow foundations of the original building. A design review determined that the construction of a new basement was a viable alternative, creating an improved kitchen facility.
2. The existing outbuildings to the east of the site to be retained - the agent indicates that although in poor condition they are easily repaired, provide useful storage and form a part of the historic content of the Hotel. They are attached to the flank wall of No. 2 Belle Vue Road. The retention of these buildings involves a reduction in parking spaces from 5 to 4.
3. Alterations to proposed elevations including modest changes to the fenestration, additional obscure glazed windows to south elevation (a formerly modest blank wall), changed window head details in some cases and re-arrangement of conservation rooflights.
4. Outdoor seating - the area fronts onto the High Street and will be contained by a low brick wall and railings and paved in brick paviors. The agent suggests this will add vitality to this area of town and provide passive surveillance over the adjacent open areas. There is some doubt as to the extent of highway rights over this area which will be clarified with the Highway Authority before the meeting.
5. Revised Belle Vue Road gateway - the pedestrian visibility splay required by the previous consent is not achievable. The gate seeks to address this issue and will secure the rear of the property for the safety of the bar/restaurant staff and occupants of the flats. An automatically operated, sliding gate is now proposed rather than hinged double gates.

5.0 Land Use Allocation

- 5.1 Currently used as a public house, but zoned as residential in Wivenhoe's Conservation Area.

6.0 Relevant Planning History

- 6.1 F/COL/06/0799 - Conversion of upper floors and roof space to 3 No. 1 bed plus 2 No. 2 bedroom flats - Approved November 2006
- 6.2 F/COL/02/0971 - Rooftop telecommunications base station – Approved November 2006
- 6.3 WIV/22/64 - Construction of car park and vehicular access - Approved 1 May 1964

7.0 Principal Policies

- 7.1 Adopted Review Colchester Borough Local Plan
 - DC1 - Development Control considerations
 - UEA1 - Character of Conservation Areas
 - UEA2 - Extensions with Conservation Areas
 - UEA11 - Design
 - UEA13 - Extensions
- 7.2 Adopted Core Strategy
 - H3 - Housing Diversity
 - UR2 - Built design and character
 - ENV1 - Environment

8.0 Consultations

- 8.1 Environmental Control recommend conditions/informatives to be attached to any consent granted regarding noise and sound insulation and odour control, and add:-

"Environmental Control has no objections to the principle of this application, however are concerned about the layout. For example, the positioning of kitchens on a party wall is likely to cause noise nuisance. We therefore recommend the orientation is examined to prevent noise transmission problems."

- 8.2 The following response has been received from your Design and Heritage team:-

"The former Park Hotel is a three storey red brick Victorian building that neatly turns the corner of the High Street and Belle Vue Road. Planning permission has previously been granted for the alteration and extension of the fine Victorian building (Ref: F/COL/06/0799). The current application seeks various amendments to the approved scheme; including extending the cellar, the retention of the existing outbuildings, minor elevation changes and the alteration of the proposed boundary treatments.

There is not an objection to the proposal to extend the cellar under the new extension or to retain the existing outbuildings. It is noted that the revised design of the north and east elevations has been the subject of negotiations with the case officer and it is assumed that the submitted designs are in-line with these discussions. It will be important to ensure that the architectural detailing is appropriate to the period of this building.

The proposed boundary treatments require further consideration and have been the subject of further negotiations, which, it is anticipated, will result in the submission of amended plans before the meeting."

9.0 Town Council's Views

9.1 Wivenhoe Town Council has grave reservations concerning the development which is placed at the busiest junction in the town and within the Conservation Area. It is totally inappropriate for the following reasons:-

1. It would restrict public access in the vicinity of a pedestrian crossing.
2. The safety of pedestrians is going to be compromised.
3. The drawings show a stairwell adjacent to a pedestrian crossing which is totally inappropriate.
4. The existing highway rights to the front and side of the development should be maintained.
5. The line of sight for car users at this junction should not be encroached upon.
6. The railings on both sides of the junction indicate that the junction has had several accidents in the past.
7. The proposal of a low wall would severely restrict the width of the pavement and present a danger to pedestrians and mothers with prams who use the pedestrian crossing regularly.

10.0 Representations

10.1 Letters of representation have been received from residents of Quay Street and 2 properties in De Vere Lane. The views expressed are summarised below:-

1. It is proposed to create 5 flats but reduce the amount of parking space by virtue of retention of the store building. It is estimated that only 4 spaces would be available for residents plus staff at the bar and restaurant.
2. The space available for pedestrian pavement will be significantly reduced as a result of the outdoor seating area. As this is a heavily used area, pedestrian safety will be compromised. Highway rights may well have accrued as a result of years of pedestrian use.
3. The adjacent junction is very busy with 5 roads converging. The method of delivering goods should be taken into consideration.
4. The application does not refer to any opening hours of the bar/restaurant and there could be noise disturbance from customers sitting outside at late hours, especially if music or sports events were broadcast into this outside area. Conditions should be imposed to prevent this.
5. The proposed outdoor seating area will result in a restriction of sight lines available to the adjacent junction in addition to changing the character of the street scene.

These letters may be inspected in full on the Council's web-site. It is understood that Councillor Ford shares these concerns.

10.2 A member of Wivenhoe Business Association (WBA) supports the proposal and occupies premises directly opposite the site. They comment that the hotel use has not disrupted their business in any way and they look forward to seeing the transformation of the building. They suggest it is exciting to see a new venture that will bring increased local facilities and employment.

11.0 Report

- 11.1 As indicated in the preamble to this report this is a variation of the 2006 consent. The elevational changes that have been introduced have been the subject of discussion with officers and are considered acceptable to the Design and Heritage team provided that suitable enclosure is established to the outdoor seating area.
- 11.2 For the most part the concerns expressed in representations concern the impact upon highway safety and the specific question of whether highway rights are prejudiced by the proposals. The agent suggests that pre-submission discussion with the Highway Authority indicates that Essex County Council consider that the highway rights may have accrued on the High Street frontage and also to a lesser extent in Belle Vue Road. The agent himself considers there to be little evidence either way in respect of the existence of highway rights and both parties have agreed that this application will seek to remove such rights in order to clarify matters. The formal views of the Highway Authority and clarification of their position are anticipated before the meeting.
- 11.3 The remaining issues raised by objectors relate to parking levels and impact on local amenity. The proposals will result in a reduction in on-site car parking from 5 to 4 spaces but given the highly sustainable location of this site close to the village centre and main bus routes it is not considered that the extent of car parking facilities will be a decisive factor in this case.
- 11.4 As regards amenity concerns, the creation of a small, enclosed outdoor seating area adjoining existing residential property may have a limited impact on the occupiers' amenity but in the light of the established use of the site and busy nature of the adjoining roads and footpaths, it is unlikely that this will give rise to undue noise and disturbance. An informative is recommended to reinforce this point by requesting that the applicant uses his best efforts to ensure users of this space act in a neighbourly fashion.
- 11.5 The Environmental Control team have not expressed concern at this aspect of the proposals and on balance it is concluded that provided the Highway Authority and the Design and Heritage Unit issues can be resolved before the meeting, the application merits support.

12.0 Additional Report

12.1 The amended drawings have attempted to achieve greater space for pedestrians using the footpath of the junction of High Street and Belle Vue Road by setting back the new wall and railings at least 1.5m from the safety barrier which is itself set within the pavement, back from the carriageway edge. Additional detail of boundary wall treatments has also been submitted and a supplementary Design and Access Statement has been furnished by the architect. This can be inspected on the Council's web-site. For the most part it considers the question of the extent of highway rights over the site frontage. The land registry title plan shows the proposed external seating area and land alongside the hotel in Belle Vue Road in the applicant's ownership. This would not preclude highway rights but the Highway Authority's view has been that there would be no benefit gained by the accrual of highway rights and if such rights existed they would not object to their removal. In addition they agreed that if a 1.5m footpath width could be maintained behind the traffic barrier by setting back the enclosure to the seating area this would be a satisfactory compromise.

12.2 The formal comments of the Highway Authority are expected before the Meeting.

13.0 Additional Wivenhoe Town Council Comments

"The Town Council still have grave reservations concerning the removal of highway rights to the front and side of the building. The site is on a junction of five busy roads, adjacent to a pedestrian crossing, a bus route, and on route for articulated vehicles visiting a busy supermarket opposite. By narrowing the pavement to the side and front of the building, pedestrians, travelling in opposite directions, are forced to step into the road to pass. Furthermore wheelchairs and double buggies are unable to negotiate these restricted widths without great difficulty.

Wivenhoe Town Council believe the retaining wall to the front of the building and the wall to the side are a threat to pedestrian safety and highway rights must be maintained around the whole perimeter of this development."

14.0 Additional Representations Received

14.1 Wivenhoe Society consider that reducing the width of the pavement on the Belle Vue Road elevation is totally unacceptable. The existing pavement is already narrow as in other parts of Wivenhoe. Inhospitable pavements encourage car use, the reduction of which Colchester Borough Council pays lip service to.

14.2 A further e-mail expresses the view that there will not be enough pedestrian access and should be improved before the building works continue.

14.3 2 e-mails express support for the scheme and consider the hotel redevelopment will be a great asset to Wivenhoe and the immediate area and prevent the building falling into neglect and decay.

15.0 Conclusions

- 15.1** The previous report concludes that the scheme is generally acceptable as a variation of the 2006 consent with no undue effect on local amenity and with clear benefits for the satisfactory refurbishment of this prominent building and its curtilage. As before, the determination of the application turns on the impact on highway safety and whether the revised layout addresses these concerns, and also whether highway rights are prejudiced by the proposal.
- 15.2** The evidence to date is indeterminate in respect of highway rights and in their statements thus far the Highway Authority have not considered this a vital factor. They have indicated informally that they will be raising no objection to the revised proposal but would require the parking/turning area to the rear to be marked out, surfaced and enclosed and any pedestrian visibility splays provided by suitable means. So long as the Highway Authority's formal views are favourable, as indicated, it is recommended that permission be granted.

16.0 Background Papers

16.1 ARC; Adopted Core Strategy; HA; HH; NLR; PTC

Recommendation

Upon receiving confirmation that the Highway Authority find the amended plans acceptable, it is recommended that planning permission 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 - C3.20 Surfacing Materials to be Agreed

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

Reason: To ensure the use of an appropriate choice of materials having regard to the importance of this scheme in the Conservation Area and to ensure that the choice of materials will harmonise with the character and appearance of other buildings and development in the area.

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 as described in the submitted application documents, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the use of an appropriate choice of materials having regard to the importance of this scheme in the Conservation Area and to ensure that the choice of materials will harmonise with the character and appearance of other buildings and development in the area.

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

The screen walls and boundary treatments as indicated on the approved plans shall be erected before the commencement of the use hereby approved and shall be retained thereafter.

Reason: In the interests of the appearance, visual amenity and character of the Conservation Area.

5 - Non-Standard Condition

All rooflights shall be selected from the conservation range, the precise details of which shall be agreed in writing with the Local Planning Authority prior to their installation.

Reason: In the interests of the appearance, visual amenity and character of the Conservation Area.

6 - Non-Standard Condition

All bathroom windows on the south elevation of the building, as extended, shall be in obscure glass at least equivalent to Scale 4 or 5 in the Pilkington Glass Scale of Obscuration and shall be maintained as such at all times. No additional windows or openings shall be created in this elevation other than as may have been previously agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity and privacy.

7 –A2.2 - Development to Accord With Revised Plans

The development hereby permitted shall be implemented in all respects strictly in accordance with the revised drawing no[s]591/B/019C and 022C received by the Local Planning Authority on 11 June 2010.

Reason: For the avoidance of doubt as to the scope of this consent and in order to ensure a satisfactory form of development in the interests of highway safety and visual amenity.

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.

Your attention is drawn to the concerns of the Council's Environmental Control team regarding the internal layout of the building. For example, the positioning of kitchens on a party wall is likely to cause noise nuisance and the orientation of rooms should be examined to prevent noise transmission problems. Additionally, residential units directly above a pub/restaurant creates potential for nuisance from noise and odour from general use and the extraction system. A high standard of internal insulation against noise generated by the business will be required and all residential units should be designed so as to comply with BS 8233 taking into account all local noise sources including those from the business located below.



Application No: 100780

Location: 12 St. Clare Road, Colchester, CO3 3SZ

Scale (approx): 1:1250

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7.9 Case Officer: David Whybrow

OTHER

Site: 12 St. Clare Road, Colchester, CO3 3SZ

Application No: 100780

Date Received: 26 April 2010

Applicant: Mr Ramin Carbiner

Development: Two storey extension (with rooms in the roofspace) to the south side and rear of the existing dwelling and outdoor swimming pool. Replacement of the existing roof.

Ward: Lexden

Summary of Recommendation: Conditional Approval subject to the receipt of satisfactory amended drawings.

1.0 Planning Report Introduction

1.1 This householder application has been called in by Councillor Mrs Lewis because of its potential impact on the Fitzwalter/St Clare Road Area of Special Character.

2.0 Site Description

2.1 12 St Clare Road is a substantial detached house set within a generous plot with mature trees in the rear garden. There is good spacing to the dwelling to the north (No. 10) with timber fencing and shrubs to the site boundary. No. 14 is located close to the site's southern boundary and is much extended to the rear. All dwellings in the immediate locality are 2 storey, detached.

3.0 Description of Proposal

3.1 The application proposes 2-storey additions to the south and rear elevations together with an open swimming pool to the rear and pergola-style car port to the north elevation, to the front of an existing garage.

3.2 The side extension maintains a gap of 5.3m to the site boundary and would be constructed in hipped roof form with materials to match the existing dwelling - rough-cast render above red brick and re-roofing in a plain tile. To the rear of this extension a gabled wing will incorporate recessed balconies at 1st and 2nd floor level. A further 2 storey addition to the rear is proposed in more contemporary styling with a flat roof, extensive glazing and timber boarded finishes. The original drawings incorporated a roof terrace above this extension. Officers have requested amended plans deleting this roof terrace in order to prevent overlooking of neighbouring gardens.

3.3 The submitted drawings also indicate new walls and gates to the front garden boundary. The agent has been asked to amend this frontage treatment through the submission of further drawings and to provide greater detail of the proposed car port.

4.0 Land Use Allocation

4.1 Residential
Area of Special Character

5.0 Relevant Planning History

5.1 None

6.0 Principal Policies

6.1 Adopted Review Borough Local Plan
DC1 - General Development Control considerations
UEA11-13 - Residential design and amenity considerations
UEA21 - Areas of Special Character

6.2 Adopted Core Strategy
UR2 - Built design and character
ENV1 - Environment

7.0 Consultations

7.1 The Highway Authority have no objection to the proposal.

7.2 The Archaeological Officer requests a "watching brief" condition as the site lies within a late Iron Age and Roman cemetery area.

8.0 Representations

8.1 Councillor Hardy raises two concerns about the application:-

1. The large balcony appears to overlook No. 10.
2. The "fortress-like" brick wall to the front which appears in stark contrast with other frontages in the area of special character. Councillor Mrs Lewis concurs with these comments and has concern that 2 rooms are described as studios.

Officer Comment: The issues raised by Councillor Hardy have been pursued by officers and amended drawings are anticipated in order to address these matters.

8.2 The occupiers of 10 and 7 St Clare Road have written letters of representation which may be viewed on the Council's web-site. The chief items of concern are:-

1. The proposed new roof is nearly a metre higher than the existing and will exclude sunlight from my garden particularly in Spring and Autumn (No.10).
2. The proposed car port will be constructed alongside my boundary fence and more information is needed in terms of its construction and means of fixing to avoid damage to my fence (No. 10).
3. The use of grey slate would be inappropriate to the area (No. 7).
4. My main worry is the extra vehicular activity and noise associated with construction work. This should be controlled by condition (No. 7).

9.0 Report

9.1 In general terms this property sits within a generous plot such that additions will have limited effect on the amenity of adjoining dwellings. No. 14 has been similarly extended to the rear and will not be significantly affected by the proposals. There is also good spacing to No. 10 such that a small increase in the overall roof height will have limited effect on the light or outlook this property currently receives.

9.2 Amendments have been requested in respect of removal of balcony, revisions to frontage treatment and further details of proposed car-port and it is expected these drawings will be available before the meeting.

9.3 Policy ENV1 in the Adopted Core Strategy seeks the protection and enhancement of sites of local importance while in the Adopted Review Colchester Borough Local Plan Policy UEA21 indicates that all these spaces around buildings, trees, open spaces and other aspects of the environment which create the area's character will be protected. Given that this proposal maintains a generous gap to the southern site boundary affording views of the wooded area to the rear and provided that the requested amendments are in sympathy with the general character of the area, it is recommended that permission be granted.

10.0 Background Papers

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

Recommendation

Upon receipt of satisfactory amended drawings, permission 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 - A2.2 Development to Accord With Revised Plans

The development hereby permitted shall be implemented in all respects strictly in accordance with the revised drawings.

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

3 - C2.2 Archaeological Excavation and Evaluation

No development shall take place within the application site until the applicant, or their agents or successor in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

Reason: To ensure that any remains of archaeological importance are properly recorded.

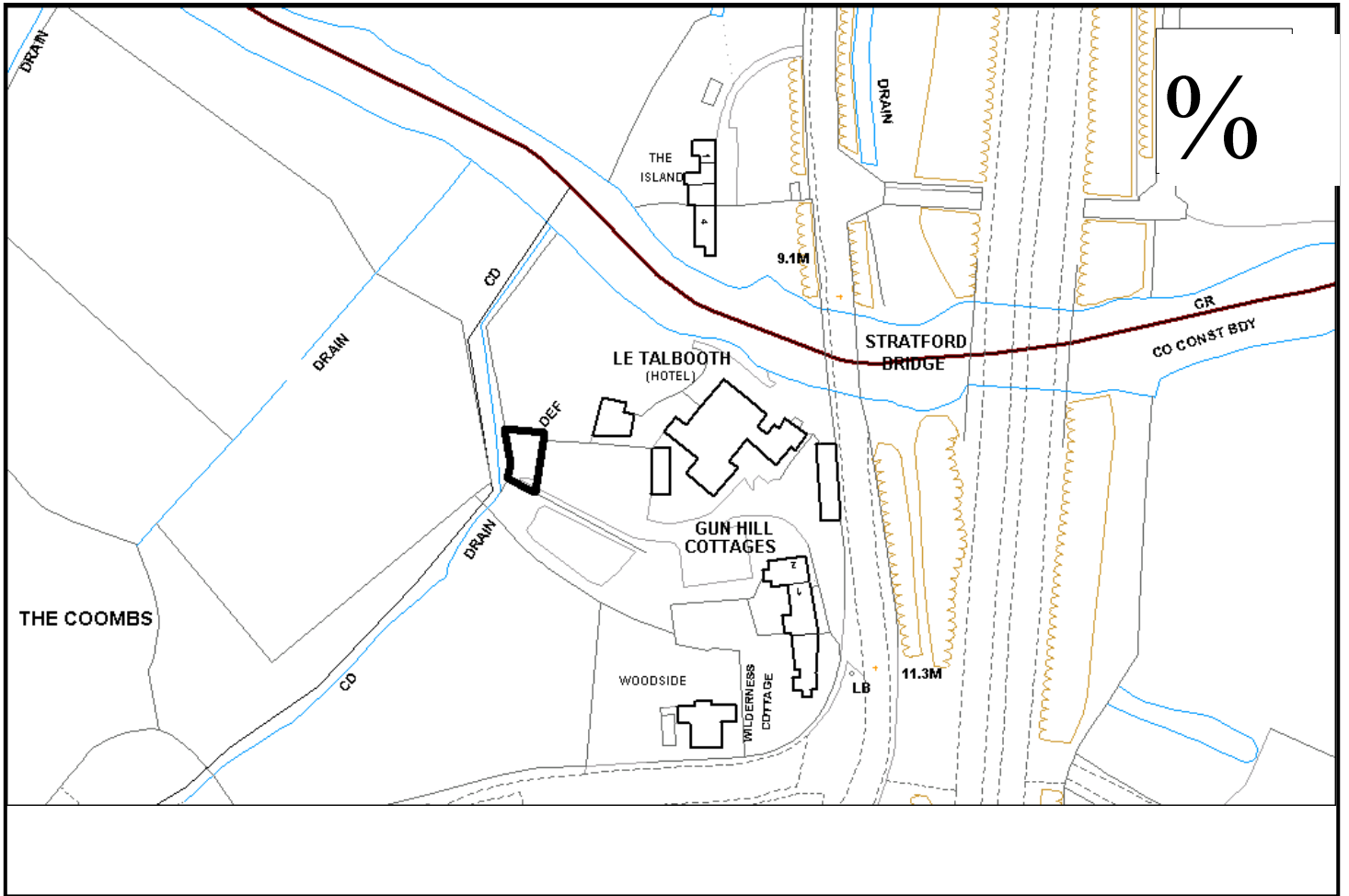
4 - C3.5 Materials to Match Existing

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 detract from the appearance of the existing building and the character of the area.

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: 100481

Location: Le Talbooth Restaurant, Le Talbooth Hotel, Gun Hill, Dedham, Colchester, CO7 6HP

Scale (approx): 1:1250

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7.10 Case Officer: Andrew Huntley

OTHER

Site: Le Talbooth Hotel, Gun Hill, Dedham, Colchester, CO7 6HP

Application No: 100481

Date Received: 12 March 2010

Agent: Kevin Hall

Applicant: Mr Paul Milsom

Development: Removal of existing compound containing storage containers and portable toilet unit. New service building containing customer toilets, wash up facility, and attic storage area.

Ward: Dedham & Langham

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application is referred to the Planning Committee because Dedham Parish Council has raised an objection to the proposal, which cannot be overcome by condition.

2.0 Synopsis

2.1 The main planning issues relating to this case are the proposal's design, its impact on the character of the area and setting of the listed building. Amended plans have been received removing the dormer windows from the service building. The proposed building is of a traditional design and sits comfortably within the site and would not have an adverse impact on the setting of the listed building. The proposal is therefore considered to be acceptable and in accordance with development plan policies.

3.0 Site Description and Context

3.1 The site of Le Talbooth Hotel contains a mixture of old and new buildings that have been extended and altered over time. The principal building on the site dates from C16 and is of an exposed timber framed and rendered construction with a peg tiled roof. The building has been extensively extended but still retains much of its vernacular charm. This building is listed grade II* for its special architectural and historic interest and the entire site is located within the Strafford St Mary Conservation Area. The application site is located at the western edge of this hotel site where there are poorly designed customer toilets and a storage building.

4.0 Description of the Proposal

- 4.1 Planning permission is sought for a new service building located where the existing toilets and service building are at the western edge of the hotel site. The proposed service building will include new toilet facilities and storage space for the hotel.

5.0 Land Use Allocation

- 5.1 The site falls within the Dedham Vale AONB and is located within the Strafford St Mary Conservation Area. The application site is also adjacent to the listed hotel building.

6.0 Relevant Planning History

- 6.1 There is no relevant planning history to this site.

7.0 Principal Policies

- 7.1 The following policies from the adopted Colchester Borough Review Local Plan (March 2004) are relevant to the consideration of this application:
DC1- Development Control considerations
CO2 – Dedham Vale Area of Natural Beauty
UEA2 - Building within Conservation Areas
UEA5 – Altering Listed Buildings
UEA11 - Design
UEA13 - Development, including Extensions, Adjoining Existing or Proposed Residential Property
- 7.2 In addition, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are also relevant:
SD1 - Sustainable Development Locations
UR2 - Built Design and Character
TA5 - Parking

8.0 Consultations

- 8.1 In consultation on the planning application, expert opinions were sought from the Council's Design and Heritage Unit. Their response stated that the application was acceptable in design terms subject to the removal of the dormer windows and that the building would not harm the historic setting of the listed hotel. It was also stated that the removal of the existing buildings would improve the general setting of the listed building.

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

9.0 Parish Council's Views

9.1 The Parish Council have raised two concerns, stating:

Firstly, the height of the ridge as shown, we consider will cause more shadow to the area around the car park and would dominate the backdrop of this amenity area, as the proposed structure is at the top end of the site on rising ground levels.

Secondly, that a condition be placed on any approval to clarify that at no time is any part of the structure (particularly the first floor or loft) to be used for human habitation.

10.0 Representations

10.1 The number of people who have expressed their support for this application is zero and the number of objections received is also zero.

11.0 Report

11.1 The main issues in this application are considered to be as follows:

- Design and Layout
- Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Highway Matters
- Other Matters

Design and Layout

11.2 The site of Le Talbooth Hotel contains a mixture of old and new buildings that have been extended and altered over time. The principal building on the site dates from C16 and is of an exposed timber framed and rendered construction with a peg tiled roof. The building has been extensively extended but still retains much of its vernacular charm. This building is listed grade II* for its special architectural and historic interest and the entire site is located within the Strafford St Mary Conservation Area.

11.3 The assorted buildings and structures proposed for removal are located some 30m + to the west of the principal listed building and are separated from this building by an existing store building and a car park. The buildings proposed for demolition are not considered to be of interest; indeed their removal provides the opportunity to improve the general setting of the listed building and that of the conservation area.

11.4 The size (span) of the proposed new service building is larger than that traditionally associated with vernacular outbuildings. That said, the proposed new service building is unlikely to have a significantly detrimental impact on the setting of principle listed building. Amended plans have been received omitting the dormer windows from the proposal as this forms an alien feature in non-domestic outbuildings.

11.5 Therefore it is considered that the proposed outbuilding is satisfactory in terms of its design and its impact on the setting of the listed building.

Impact on the Surrounding Area

- 11.6 The site lies within the conservation area so it is important to ensure that any proposal preserves or enhances the character of the area. The site is also adjacent to a listed building. Due to the acceptable design, scale and height of the proposed building and its siting, it is considered that the proposal would not have a detrimental impact on the surrounding area.

Impact on Neighbouring Properties

- 11.7 The proposal would not have any impact on neighbouring properties due to the site's location and the distance to the nearest dwelling. Therefore, it is considered that the proposal is acceptable in regard to its impact on residential amenity.

Highway Issues

- 11.8 The proposed new service building does not raise any issues in regard to highway matters.

Other Matters

- 11.9 The only matters that need consideration are the objections raised by Dedham Parish Council. As considered earlier in the report, the design of the proposal is considered to be acceptable and the fact that the building would be at the western side of the hotel complex, would mean that it would have very little impact in regard to shadowing. It is not considered that this proposal would dominate the site and would generally improve upon the existing buildings, which are visually poor. If any part of the service building were to be used for residential purposes, then this would require planning permission in its own right. Therefore, it is not considered necessary to attach a condition ensuring that the service building or any part of it is not used for residential purposes.
- 11.10 Therefore, the objections raised by the Parish Council do not warrant the refusal of this application.

12.0 Conclusion

- 12.1 In conclusion, the design of the service building is acceptable and would not have a detrimental impact on the character and appearance of the area or the setting of the listed building.

13.0 Background Papers

- 13.1 ARC; Core Strategy; DHU; PTC

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

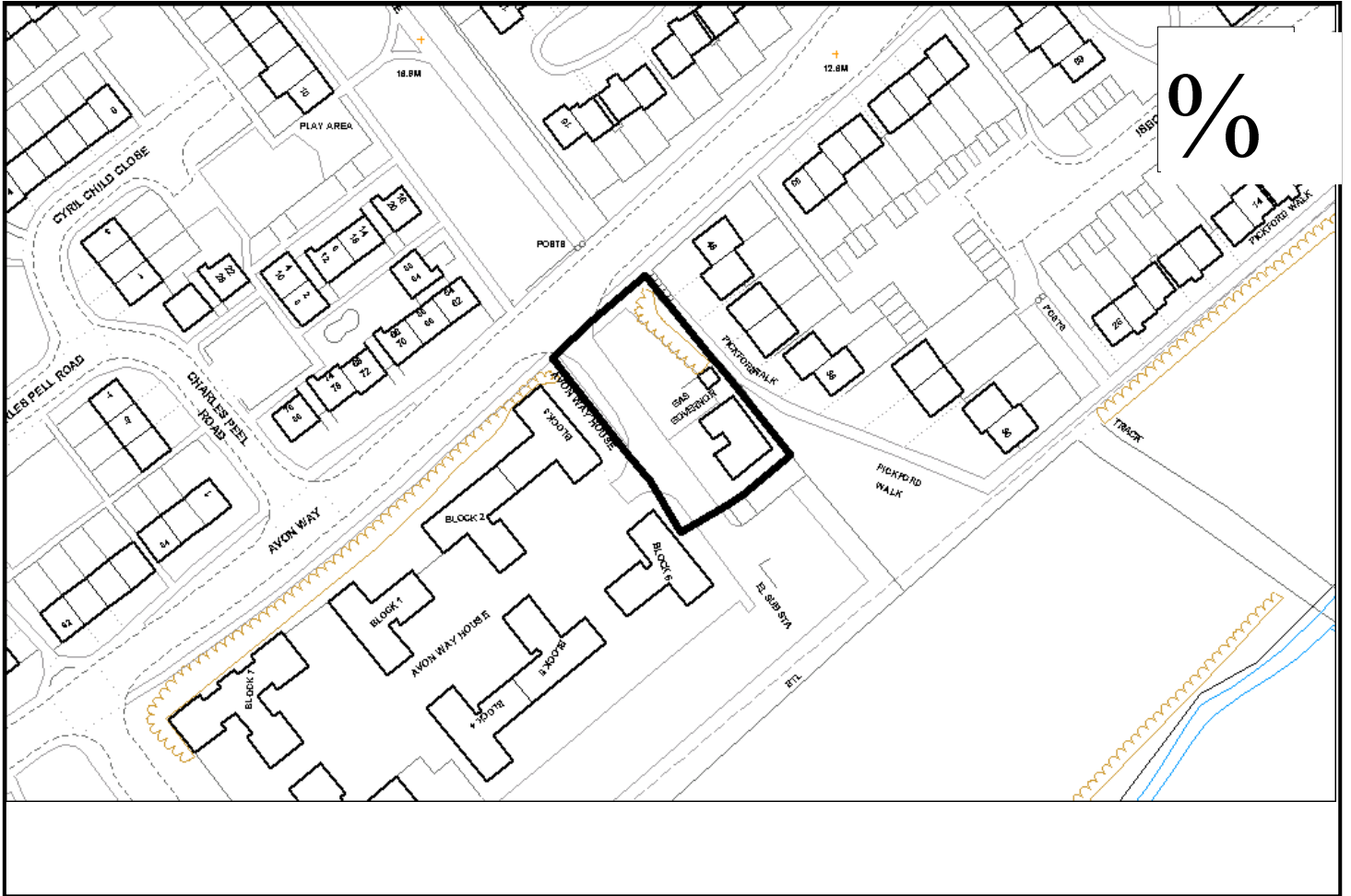
Samples of all materials to be used in the external construction and finishes of all parts of the proposed development, shall be selected from the local range of traditional vernacular building and finishing materials and shall be submitted to and agreed in writing by the Local Planning Authority before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

Reason: To ensure that the development does not harm the character or appearance of the adjacent Listed Building and the Conservation Area.

3 - Non-Standard Condition

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

Reason: To ensure that the development does not harm the character or appearance of the adjacent Listed Building and the Conservation Area.



**Avon Way House, Avon Way, Colchester
091357**

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Case Officer:	Bradly Heffer
Site:	Avon Way House, Avon Way, Colchester, CO4 3TZ
Application No:	091357
Date Received:	29 October 2009
Agent:	Mr Mike Brearley
Applicant:	Mr Owain Thomas
Development:	New student accommodation in 2 blocks A and B forming a total of 38 new student bedrooms in 9 cluster flats. Each bedroom is en-suite and shares kitchen and lounge facilities with other bedrooms within a cluster flat.
Ward:	St Andrews
Summary of Recommendation:	Conditional Approval subject to the signing of a Section 106 Agreement

Introduction

Members will be aware that this application has been presented to Committee for determination on a number of occasions – the last of which was at the meeting held on 3rd June 2010. At that meeting Members resolved to defer the determination of the application in order to establish the parking needs for this development, and the existing student accommodation immediately adjacent to the site in Avon Way. Furthermore, information was requested regarding any occupancy restrictions that may be in place in relation to the existing accommodation.

Previous Report presented to Planning Committee 3 June 2010

1.0 Site Description

- 1.1 *Members will recall that this site has been the subject of a previous application to erect student accommodation.*
- 1.2 *This current proposals seeks permission for the erection of a further two blocks of accommodation, identified as A and B on the submitted plans. The submitted scheme identifies an area of land (approximately 1315 square metres in size) located to the north-east of the existing buildings on the site. It is bounded to the north-west by Avon Way and to the north-east by Pickford Walk, which is fronted by a series of established semi-detached properties facing towards the application site. Immediately to the south east of the site is a hardened area currently utilised for vehicular parking. Under the previously-considered scheme this part of the existing site would be occupied by a new accommodation building. To the south west of the site are existing blocks of accommodation that comprise the existing Avon Way House site.*

1.3 *The submitted plans show the provision of two blocks that are of three storey height where they face on to the Avon Way House site and two storey height where they face the dwellings in Pickford Walk. The buildings would be constructed using a combination of red brick, cladding and render walls, single ply membrane roofs and aluminium polyester powder coated windows. In terms of accommodation proposed, Block A would provide 2 x 4 bed flats and 1 x 2 bed flat. Block B would provide 1 x 6 bed flats, 3 x 5 bed flats, 1 x 4 bed flat and 1 x 3 bed flat.*

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

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

2.0 Land Use Allocation

2.1 *Residential*

3.0 Relevant Planning History

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

4.0 Principal Policies

4.1 *Adopted Review Colchester Borough Local Plan*

DC1 - General Development Control Criteria

UEA11 - Design

UEA13 - Development including extensions adjoining existing or proposed residential property.

4.2 *Local Development Framework Core Strategy (December 2008).*

H2 - Housing Density

UR2 - Built design and character

PR1 - Open Space

TA2 - Walking and Cycling

TA5 - Parking

5.0 Consultations

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

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

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

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

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

6.0 Representations

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

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

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

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

7.0 Report

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

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

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

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

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

Site Layout

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

Block A

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

Block B

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

Materials and Massing

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

7.4 *Members will note the changes are illustrated on the currently submitted plans. The key elements are the realignment of the internal road (to enable relocation of the blocks, further away from the nearest properties in Pickford Walk) and revisions to the building design to reflect the topography of the site. As a planning judgement it is considered that the position of the proposed accommodation blocks in relation to the dwellings in Pickford Walk would not be of such detrimental impact to support a refusal of the proposal on this basis. The plans illustrate that there would, at the closest point, be a distance of 15 metres between properties (existing and proposed) which exceeds distances found elsewhere in new residential areas, build under Essex Design Guide Standards. The Guide identifies a 10 metre spacing in order to afford proper penetration of daylight etc. This scheme comfortably exceeds this level at its nearest*

point. The fact that the proposed blocks are designed in order to drop to a two-storey height where they face Pickford Walk would further mitigate their overall impact on these properties.

- 7.5 A second significant issue is that of parking provision on the site. This current scheme would result in the loss of a further 7 spaces, therefore reducing the overall number to 30 spaces (including 4 disabled spaces).
- 7.6 Members will also be aware that the Council has recently adopted new minimum parking standards. However, this application was submitted prior to the formal adoption. Notwithstanding this situation, the applicable standard requires that 1 space should be provided per full time equivalent staff plus 1 space per 5 students.
- 7.7 The total number of bedrooms that would be created by the previous scheme (090498) and this current proposal would total 102. Therefore the development in its entirety would generate a need for 21 spaces (i.e. 102 divided by 5) as a rounded up figure. 30 spaces in total are offered as part of the overall development proposals for the Avon Way site. Additionally, it is noted that the particular tenancy agreement that the developer has with occupiers '...actively discourages...' students from bringing their own cars. Furthermore, the provision of bus tickets and cycle/footpath links would help to encourage other modes of transport to access the Essex University campus. Notwithstanding the above, it is fully appreciated that the issue of problems created by on-street parking in the vicinity of the application site have given rise to strong objections being made by respondents and Ward Councillors.
- 7.8 In summary, the revised scheme that is put forward for consideration by Members is considered to be a reasonable attempt to address Members' previous concerns about the potential impact of the development on the amenity of neighbouring dwellings in Pickford Walk. Additionally, it is considered that the provision of parking facilities in this case is reasonable given the occupancy restriction that would be applicable and also that other modes of transport are encouraged i.e. cycle/pedestrian links and a period of free bus travel (recommended condition no. 18).

8.0 Background Papers

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

Recommendation

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

Conditions

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

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

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

2 - B6.6 Site Characterisation

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

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

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

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

3 - B6.8 Submission of Remediation Scheme

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

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

4 - B6.9 Implementation of Approved Remediation Scheme

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

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

5 - B6.10 Reporting of Unexpected Contamination

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

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

6 - B6.13 Validation Certificate

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

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

7 -B7.3 Programme to be Agreed

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

Reason: In order to safeguard amenity in this location.

8 - B7.4 Fencing Around Site

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

Reason: To protect the amenities of the locality.

9 - B9.1 Refuse Bins

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

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

10 - B9.2 Recycling Facilities

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

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

11 - C3.1 Materials (general)

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

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

12 - C3.21 Hard Surfacing

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

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

13 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals. Implementation timetables.

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

14 - C11.12 Landscape Works Implementation

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

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

15 - C11.17 Landscape Management Plan

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

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

16 - C12.2 Details of Walls or Fences

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

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

17 - Non-Standard Condition

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

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

18 - Non-Standard Condition

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

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

19 - Non-Standard Condition

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

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

20 - Non-Standard Condition

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

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

21 - Non-Standard Condition

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

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

Informatives

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

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

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

Additional Report for Planning Committee 1 July 2010

For Members' information, at the last Committee meeting a petition was received containing 46 signatures, in which objection was raised to the proposal on the following grounds:

"We the undersigned are opposed to the additional proposed building of blocks A and B by the Mansion Group, which would face Pickford Walk, Colchester. We feel that a distance of 15m between the front windows of the houses in Pickford Walk, to the proposed flats would take away natural light and any sense of privacy. As a result of this proposed building, we are also concerned about the additional cars being parked along Avon Way and surrounding roads, leading to further traffic congestion of an already very busy road".

In accordance with Members' requests the following information is provided:

1. Under application 090490 Members resolved to grant planning permission for the erection of 81 new student bedrooms in 20 flats. This accommodation would be provided in 4 blocks, identified on plan as blocks C, D, E and F. Under the current adopted standards this development would require that 16 car parking spaces were provided on site (i.e. 1 space per 5 students)
2. Under this current application 091357 permission is sought for 38 student bedrooms in 9 flats. This gives rise to a requirement for 8 spaces (a rounded up figure based on the 1 space per 5 students standard).

Therefore, in total, the combined developments would require the provision of 24 spaces (16 + 8). The plan that accompanies this application shows the provision of 30 spaces to serve the entire development proposed under applications 090490 and 091357 – thereby exceeding the standard by 6 spaces.

As regards the existing blocks immediately adjacent to the application sites for 090490 and 091357, the applicant advises that there are 74no. student flats on the site, accommodating a total of 254 students. Under the current parking standards the existing development would give rise to a requirement for 51 spaces (a rounded up figure based on the 1 space per 5 students standard). Therefore in total the existing development and the combined new developments would require the provision of 75 spaces in total. As 30 are offered there is a shortfall of 45 spaces using the current standard. It is nevertheless acknowledged that the parking standards applicable at the time the original development was approved may have differed from those applicable at the current time.

Given this calculation, officers sought the further views of the Highway Authority on the current proposal – and in particular the issue of parking provision. This also follows from concerns expressed by Ward Councillors, local residents and the Local MP.

The following revised recommendation of refusal dated 15 June 2010 has been received:

“ The recommendation submitted dated 9 November 2009 has recently been withdrawn by the Highway Authority following additional information being received. It would appear that whilst the site does provide vehicle parking this is underused as there is a cost involved to the students.

This proposal would see additional bedrooms being provided and therefore a greater amount of students linked with a reduction in parking provision. There is no proposal put forward to improve the uptake of onsite parking and therefore the Highway Authority would wish to raise an objection to the above application for the following reason:

The proposal as submitted would lead to additional parking in the highway in an area where there is already a high level of parking stress. The proposal is therefore detrimental to the interests of the highway. “

Additionally, the applicant company has now provided a range of information that includes *inter alia* a proposed revised plan showing the provision of 57 spaces on the application site, a copy of which is appended to this current report. Furthermore, it is stated that should Members decide, the proposed parking on the site would be available to students at a reduced charge or without charge. The further views of the Highway Authority were sought on the additional information and it has indicated that it is now in a position to make a recommendation of no objection subject to provision of the 57 parking spaces at no cost to the students.

Members should also note that the applicant company has provided details of the original planning permissions for this site granted under application refs: COL/130/72 and COL/884/72. The first application was described as follows:

‘Erection of six three storey blocks (36 bedrooms per block) of residential accommodation for students, one caretaker’s bungalow and three garages.’

This application wasn’t subject to a restrictive occupancy as such, although it is acknowledged that student accommodation is referred to in the description of the development.

The second application ref COL/884/72 was described as follows:

‘Erection of student residences and formation of car park’.

Members are advised that this permitted scheme included a condition 07 as follows:

‘The accommodation hereby permitted may only be occupied by students associated with the University of Essex.’

It would therefore appear that the occupancy of the existing units was restricted by the imposition of the identified condition.

In conclusion it is noted that the view of the Highway Authority has revised to one of no objection, on the basis of the additional car parking spaces proposed by the applicant company and also the fact that the applicant company advises it is willing to rescind the parking charges for students to park on the site. As is noted from the original report to Members the proposals also include the provision of travel packs to the occupiers of the proposed flats and a convenient link to a footway and cycleway route to the University campus.

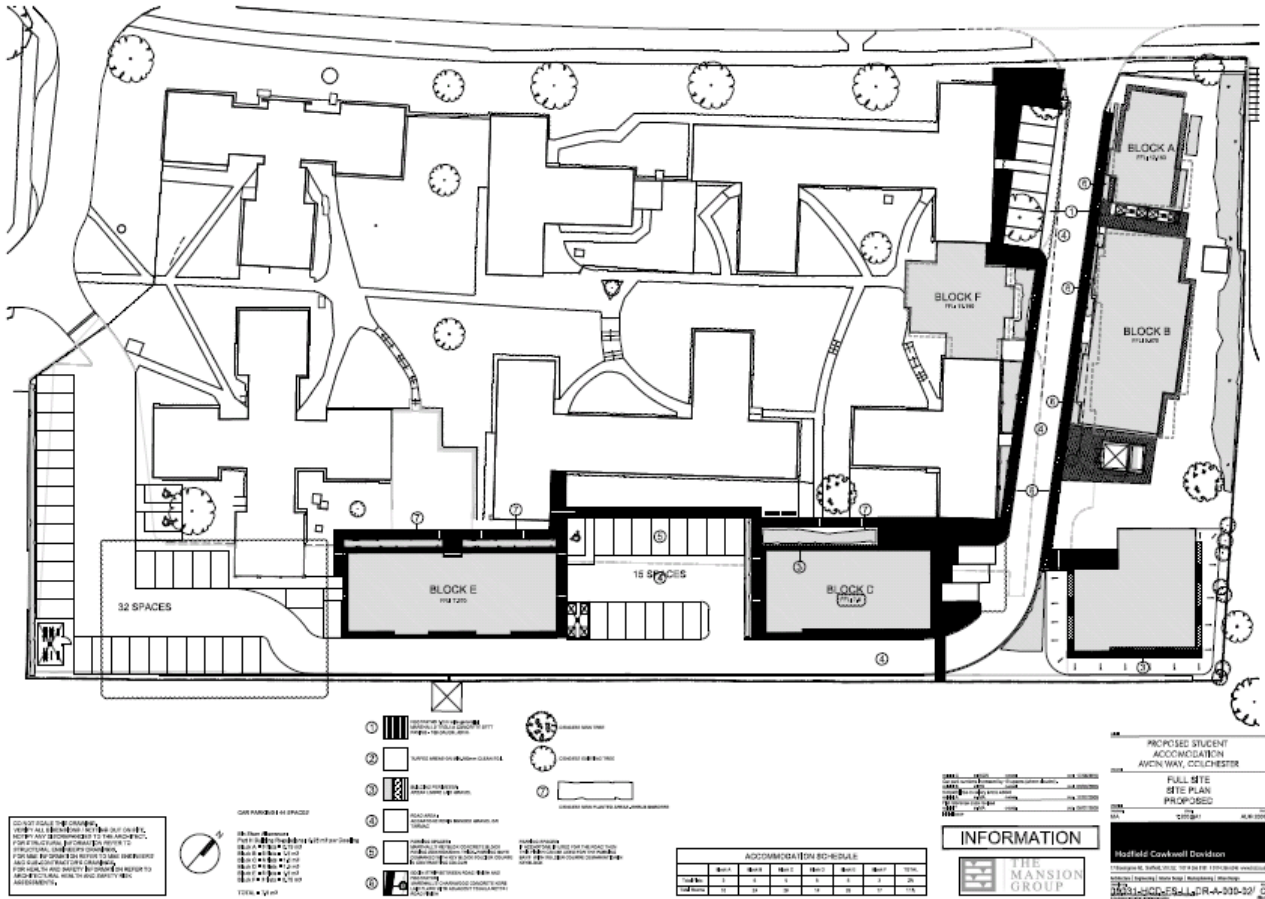
AMENDED RECOMMENDATION for COMMITTEE of 1 JULY 2010

On this basis it is proposed that the application be deferred and delegated authority be given to the Head of Environmental & Protective Services to GRANT planning permission subject to:

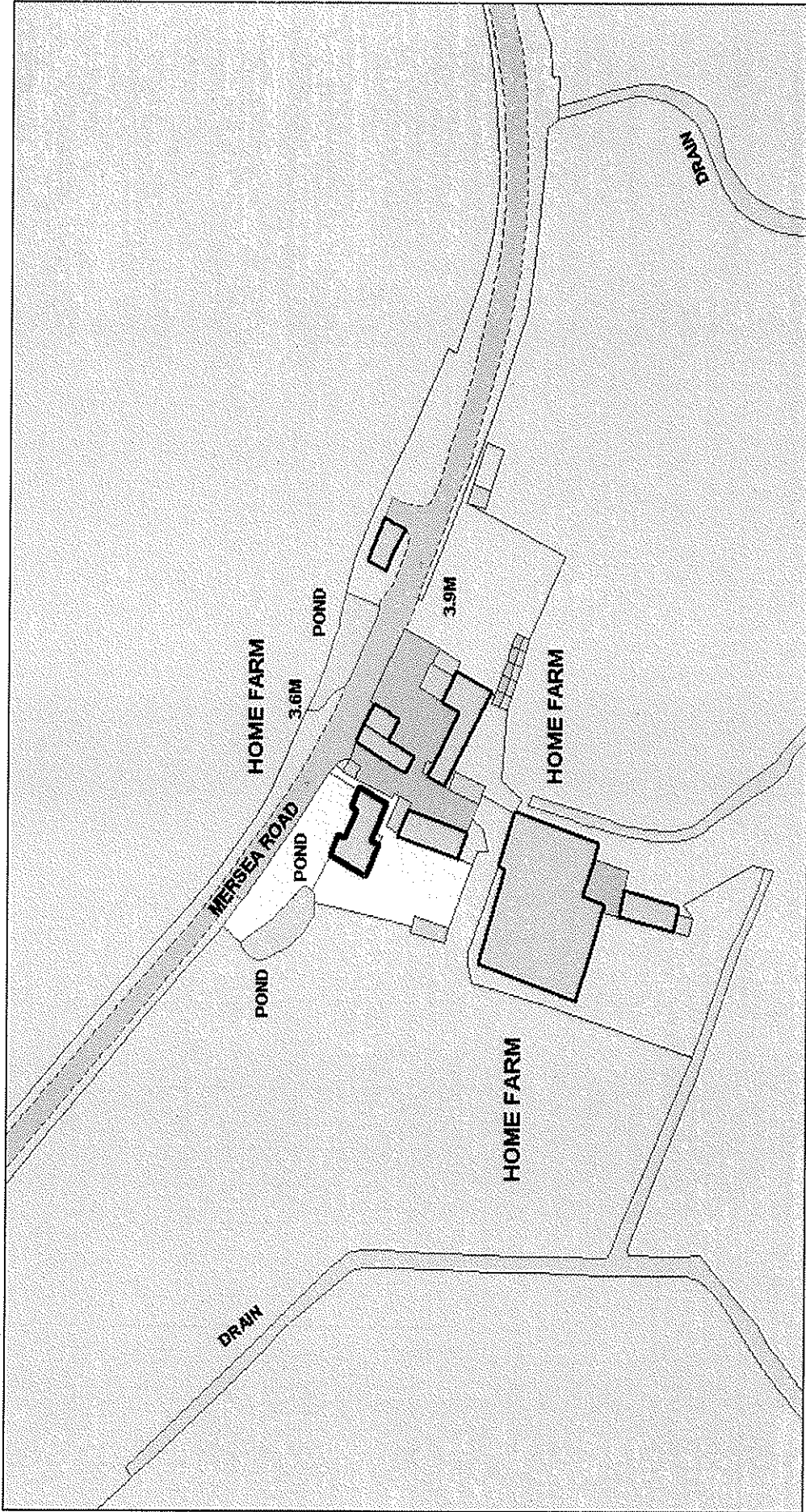
The applicant first submitting a satisfactory signed legal agreement providing the agreed sum towards pedestrian and cycle infrastructure improvements and the making of all on-site parking available to students living on the all the site without a charge being levied upon commencement of the development and thereafter such parking shall remain free to such qualifying student residents.

And subject to:-

The conditions attached to the previous report and an additional condition that would attach the grant of permission to the plan indicating the provision of 57 spaces on the site prior to occupation of any of the new floorspace and the retention of these spaces for the use of students thereafter.



Plan showing 57 car parking spaces



Site Location Plan

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Application Reference: 194269

Site Location Address: Home Farm, Mersea Road, Peldon, Colchester, CO5 7QG

Date Produced: 21 June 2010

(Map Not to Scale)

Planning Committee

Item
8

1 July 2010

Report of	Head of Environmental and Protective Services	Author	Sarah Hayes ☎ 01206 282445
Title	Home Farm, Mersea Road, Peldon		
Wards affected	Pyefleet		

This report concerns the installation of UPVC windows in a Grade II Listed Building (LB) without the necessary LB consent.

1.0 Decision(s) Required

- 1.1 Members authorise the issue of a LB enforcement notice requiring the removal of the UPVC windows and the installation of wooden windows more appropriate to the building with a compliance period of eight months.

2.0 Reasons for Decision(s)

- 2.1 The UPVC windows are inappropriate and adversely affect the special interest of the listed building.

3.0 Alternative Options

- 3.1 No Action – If no action is taken the Council has failed to protect the heritage of the borough and this particular listed building.
- 3.2 Prosecution – The windows which were removed, although of timber rather than UPVC, were not themselves of historic merit or appropriate to the building. It is not considered appropriate to prosecute in this case, as no historic fabric has been lost.

4.0 Supporting Information

- 4.1 Home Farm is a Grade II Listed Building. It is described in the listing as C14 or C15 hall house with gabled crosswings. The building is timber framed and plastered with a red plain tile roof. It also has a two storey wing, with the remainder being one storey and attics. The wings were originally jettied but are now underbuilt and they are hipped at rear. There is a three window range of modern casements. It has a centre rear wing extension and a flat headed dormer. The service wing at east end has exposed frame internally.
- 4.2 Carrying out works to a listed building for which LB consent is required, without the necessary consent being obtained, is a criminal offence. Government guidance is that prosecutions should only be brought if they are in the public interest and it is not necessarily appropriate to prosecute in every, or indeed most, cases. The criteria to be considered indicate that prosecution would not be appropriate in this case. However, the harm caused by the unauthorised work to the building should be remedied.

- 4.3 A complaint was received that UPVC windows had been installed in September 2008. The owners are elderly and do not appear to appreciate the seriousness of the situation. They insisted that they had not been aware that the building was listed. Although this is not a defence against prosecution, it could be the case. The house was listed in 1965, and as the current owners inherited the house no search would have been carried out which would have made them aware of the listing. However, they were aware of the listed building status of a barn at the farm, which was not listed until 1982.
- 4.2 The UPVC windows installed were designed to match the timber windows, which were removed. The owners have produced some old photographs showing the timber windows and it is clear these are of a modern design and not of historic significance. On being made aware of the situation, the owners agreed to replace the windows. However, LB consent was required for this change. In order to progress the matter a site visit was carried out to photograph each window and to complete the application form. Subsequently, advice was provided to the window manufacturer who was to provide the drawings to accompany the application. It was agreed that the drawings would be checked prior to the application being submitted. The application has not been submitted, although this appears to be due to failure to be able to cope with the process rather than a refusal to comply with it.
- 4.3 The service of a LB enforcement notice will obviate the need for an application and will provide the owners with exact details of the windows which will need to be installed. This has been explained and the owner has agreed that it is an acceptable way forward.

5.0 Proposals

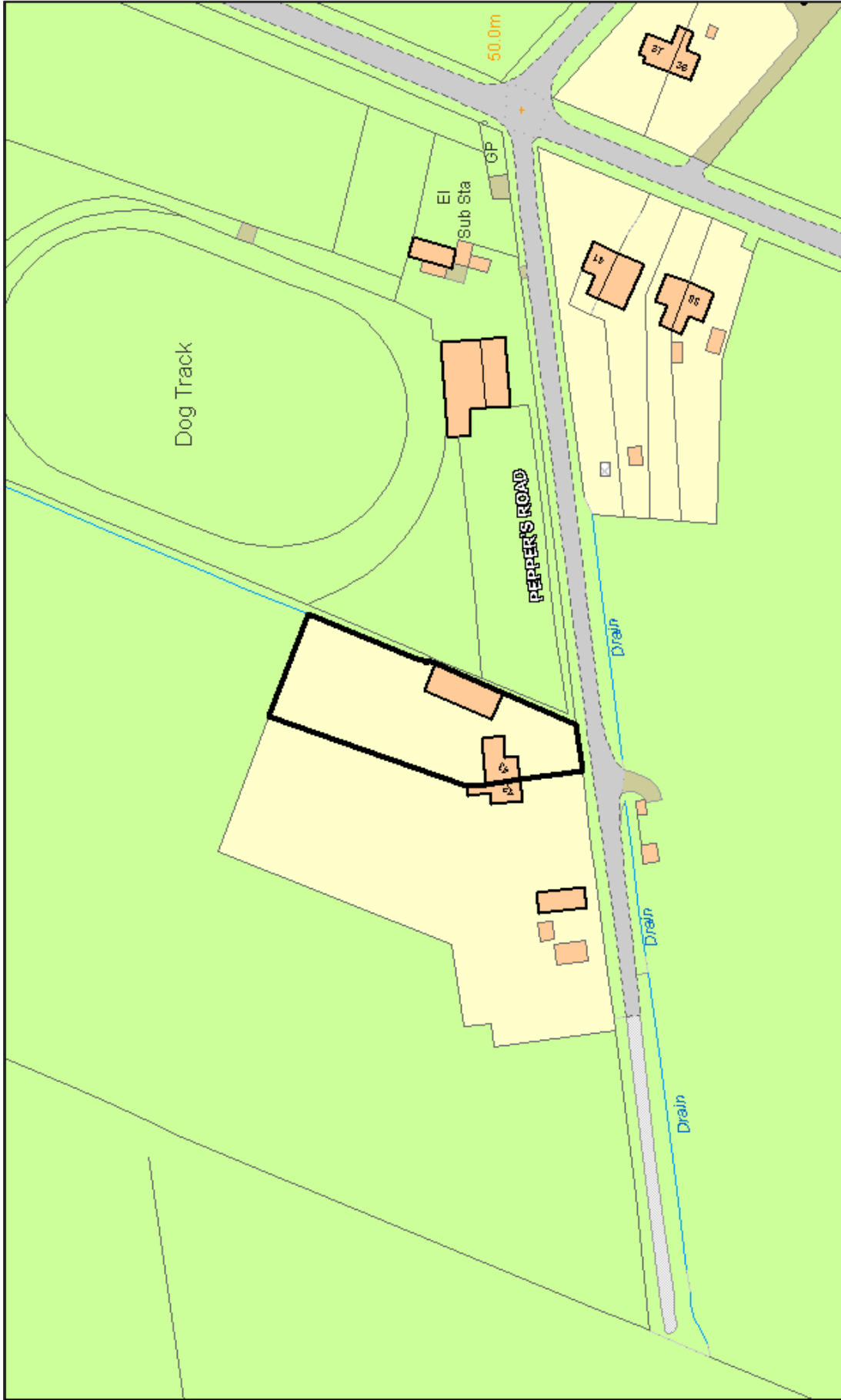
- 5.1 A LB enforcement notice is issued requiring the removal of the existing UPVC windows and the installation of wooden windows of a more appropriate design to those which were removed.

6.0 Equality and Diversity Implications

- 6.1 The Council's Equality Impact Assessment for enforcement matters can be found on the Council's website, www.colchester.gov.uk. Use the following links from the home page to get to the Equality Impact Documents for the Environmental and Protective Services Team. Council and Democracy > Policies, Strategies and Performance > Diversity and Equality > Equality Impact Assessments > Planning – Enforcement

7.0 Standard References

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



Site Location Plan

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Complaint Reference: 130320

Site Location Address: 43 Peppers Lane, Boxted, Colchester, CO4 5HL

Date Produced: 23 June 2010

(MAP NOT TO SCALE)

1 July 2010

Report of	Head of Environmental and Protective Services	Author	Cheryl Headford ☎ 01206 282422
Title	Annex Building at 43 Peppers Lane, Boxted, Colchester		
Wards affected	Fordham & Stour		

This report concerns the unauthorised change of use of annexed accommodation to a separate unit of accommodation and the change of use of a storage area to a further unit of accommodation and seeks authorisation to serve an Enforcement Notice.

1. Decision(s) Required

- 1.1 Members are requested to consider the information contained in this report and to authorise that an Enforcement Notice should be issued requiring:
- a) The cessation of use of the former storage area as a separate unit of accommodation and removal of kitchen and bathroom which facilitate the unauthorised use.
 - b) The cessation of use of the annex accommodation as a separate unit of accommodation.
 - c) The removal of fencing affording a private garden to the annex building, facilitating the unauthorised use.

with a compliance period of four months.

2. Reasons for Decision(s)

- 2.1 The land surrounding 42 Peppers Lane is outside of the village envelope in an area of open countryside and is part of the Boxted Straight Road Special Policy Area.
- 2.2 It is considered that the proposed development is contrary to the policies of the Local Plan which seek to ensure that new residential development is located within proposed housing allocations or village envelopes unless there are exceptional circumstances. Development that does not need a countryside location and which could reasonably be located elsewhere in the Borough will be refused.
- 2.3 A new development would result in haphazard and wholly unnecessary residential development contrary to policy and would introduce additional domestic traffic into a classified rural road, in a location not intended for further development and where there are no footways nor street lighting.

3. Alternative Options

- 3.1 Members could choose not to pursue enforcement action; however, this would result in the establishment of an unacceptable use of agricultural land in the open countryside.

4. Supporting Information

- 4.1 The alleged breach was brought to the Council's attention at the end of April 2009. It relates to an annex to the dwelling house at no 43 Peppers Lane.
- 4.2 Building regulations exist in 1991 for the change of use of what was a swimming pool to a building, consisting of annex accommodation with a storage area to the rear and a garage to the front of the building. No planning application was submitted, but if the use was ancillary or annex to main house, this would not be needed.
- 4.3 The annex accommodation consists of a double bedroom, fully fitted bathroom, fully fitted kitchen and lounge. The annex is billed separately by utility companies and for council tax. At the rear of the building (the former storage area) further self contained accommodation has been created, consisting of a fully fitted kitchen open plan to the lounge area, bedroom and fully fitted bathroom. The creation of this second unit of accommodation was made a few months prior to our initial visit in 2009.
- 4.4 The curtilage of the main dwelling has been divided off to provide a secluded private garden area around the annex.
- 4.5 A site meeting took place in early May 2009 and the situation was discussed with the owner and his agent.
- 4.6 The owner of the property also owns and lives in the adjoining property (no 42). He has tenants living in the main house at no 43, while one part of the annex to 43 is being used as a primary residence for his daughter and her boyfriend. The former storage area at the rear of the annex (at the time of our visit) was being used by his parents, who were visiting.
- 4.7 Land Registry details show that the property was first registered to the current owner in December 2006.
- 4.8 Council tax details show that the previous owner of no 43 ceased paying council tax from September 2006. At this time the annex was not rated as paying separate council tax, this was included in the main house rating.
- 4.9 The annex first came into Council Tax in October 2006 when it was occupied by the owner's wife. At the same time, according to council tax records, the main house (no 43) was being rented out to tenants. This is when the breach commenced as the occupier of the annex had no relationship with, and was not dependant on, the main house.
- 4.10 In July 2008 the wife moved out and the annex is now occupied by the daughter of the owner of no 43 (the landlord), together with her boyfriend, as a primary unit of accommodation. The former storage area is still kitted out for independent occupation, but is not currently being lived in on a permanent basis.
- 4.11 The owner claims that the annex was completely self contained when he purchased it; the only alteration was to create the second unit of accommodation for when his parents stay.

- 4.12 The current owner states that he was aware the annex was used for the previous owner's parents, but questions whether the use was dependant on the main dwelling and whether the use was ancillary or primary.
- 4.13 The owner was advised he could make a certificate application if he had evidence to show that the annex had been used independently from the main dwelling for more than 4 years. However, despite allowing several months, neither he nor his agent have been able to obtain the required evidence and therefore no certificate application has been submitted. The second annex at the rear, would not be immune from action and therefore should be converted back to a storage area, as yet, it still remains as self contained accommodation.

5. Proposals

- 5.1 Members are requested to authorise the service of an Enforcement Notice requiring the:
- removal of all kitchen and bathroom fittings to the former storage area, facilitating the unauthorised use and the cessation of the use of the area as a separate unit of accommodation
 - the cessation of the use of the annex accommodation as a separate unit of accommodation.
 - the removal of the fencing affording a private garden area to the annex, facilitating the unauthorised use.

6.0 Equality and Diversity Implications

- 6.1 The Council's Equality Impact Assessment for enforcement matters can be found on the Council's website, www.colchester.gov.uk. Use the following links from the home page to get to the Equality Impact Documents for the Environmental and Protective Services Team. Council and Democracy > Policies, Strategies and Performance > Diversity and Equality > Equality Impact Assessments > Planning – Enforcement

6. Standard References

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

Background Papers

- DC1 of the Adopted review Colchester Borough Local Plan, March 2004
- SD1, SD2, ENV1, ENV2 &TA1 of the LDF Core Strategy

1 July 2010

Report of	Head of Environmental and Protective Services	Author	Vincent Pearce ☎ 282452
Title	Revised Planning Service Enforcement Strategy		
Wards affected	all		

This report concerns proposed revisions to the Council's current Planning Service Enforcement Strategy to reflect the more pro-active approach desired by members

1. Decision(s) Required

- 1.1 Members are requested to agree and adopt the revised Planning Service Enforcement Strategy reproduced as an appendix to this report.
- 1.2 Members are requested to agree the delegation of authority to the Head of Environmental and Protective Services to review the Planning Service Enforcement Strategy annually and amend it where appropriate in the light of such a review.
- 1.3 Members are advised that the Legal Services Manager has confirmed that these are matters that rightfully sit with the Planning Committee to determine.

2. Reasons for Decision(s)

- 2.1 As part of a current review of the way the enforcement team works and as a result of Member feedback through a series of planning workshops held in May and June 2010 it is considered time to review the current longstanding strategy. It was originally intended to review the Strategy annually but resources have not permitted this. Increased capacity created in the team now allows the Planning Service move towards a more pro-active enforcement regime as generally desired by the Planning Committee.
- 2.2 This report is put before Members as part of the Planning Service's ongoing programme of improved service delivery and responsiveness. Members are asked to endorse the revised Strategy as it represents a shift in emphasis towards a more pro-active regime

3. Alternative Options

- 3.1 Retain the current protocol. The current protocol is considered to place excessive emphasis on the use of negotiation to secure solutions and experience has demonstrated that in many cases this has been used to delay the taking of enforcement action to the detriment of securing remedies to the harm being caused by breaches. Members have for some time been expressing the opinion that such cases have harmed public confidence in the enforcement system as operated by the Council. Retaining the current Strategy would not satisfactorily address this issue.

4. Supporting Information

4.1 The revised Draft Strategy is attached as Appendix 1.

5. Strategic Plan References

5.1 Depending on the nature of the alleged breach the draft Strategy could touch on each of the Strategic Objectives and priorities.

6. Consultation

6.1 Members workshops were held in May and June 2010.

7. Publicity Considerations

7.1 None

8. Financial Implications

8.1 None

9. Equality, Diversity and Human Rights Implications

9.1 An EqIA has been prepared and the Strategy is not considered to raise any adverse impacts.

10. Community Safety Implications

10.1 The taking of enforcement action can on occasion result in improved community safety

11. Health and Safety Implications

11.1 The taking of enforcement action can on occasion result in improved health and safety implications.

12. Risk Management Implications

12.1 The greatest risk associated with not revising the current Strategy is that of harm to the reputation of the Council through the perception that it is impotent or unwilling to take robust action to secure appropriate and effective remedies to serious breaches of planning control. Any situation that reduces public confidence in the enforcement system brings the integrity of the Council and the Planning Service into question.

Background Papers

Current Enforcement Strategy

http://www.colchester.gov.uk/Info_page_two_pic_2_det.asp?art_id=2336&sec_id=2860

Planning Services

A NEW PRO-ACTIVE STRATEGY for the ROBUST ENFORCEMENT of PLANNING CONTROL JUNE 2010

1 Introduction

- 1.1 Fair and effective planning enforcement is essential to protect the quality of life for the people who live, work and visit Colchester; and the quality of the Borough's built and natural environment. A decision about enforcement can have implications for many people, either directly or indirectly. Residents and businesses alike have the right to expect that the Council will maintain the integrity of its planning processes and that harmful activities will be dealt with fairly, equitably and effectively.
- 1.2 In order to give a good public service it is vital for the Council to give its customers guidance on what it has to do by law. It is also necessary to explain how the service operates in practice i.e. how the demands on it are balanced against the available resources. The benefit of having this strategy will be to:

- Make clear the Council's pro-active ethos towards tackling breaches of planning control
- Set out what action will be taken by the Planning Service to investigate an alleged breach of planning control
- Explain the scope of planning enforcement
- Openly define priorities
- Set measurable standards for service delivery
- Explain how the service operates and investigations are carried out
- Explain enforcement procedures and enforcement actions

2 The principles of good enforcement

- 2.1 In 1998 the Government in consultation with business, local authorities and other interested parties produced a Concordat setting out the Principles of Good Enforcement Practice. Colchester Borough Council signed up to the Concordat in June 1998. The Council is committed to the following principles:

Standards

To publish clear standards of service and performance

Openness

To provide information and advice in plain language on the rules and discuss problems with anyone experiencing difficulties

Helpfulness

To provide a courteous and efficient service

Complaints about Service

To provide well-publicised, effective and timely procedures, and explain rights of appeal

Proportionality

To take appropriate action when it is expedient

Consistency

To carry out duties in a fair, equitable and consistent manner.

3 Application of the principles to Planning Enforcement

- 3.1 The Council operates within the requirements of the relevant legislation, Government policy and guidance (detailed in Appendix A). When deciding whether it is expedient to take enforcement action consideration will always be given to the objectives and policies of the Council's adopted planning policies. There will be similar approaches to similar circumstances, but consistency does not mean uniformity. Each case will take into account the often unique and special circumstances, the level of harm, and any history of previous breaches.
- 3.2 The Council's Officers will carry out enforcement work to the highest professional standards with due regard for courtesy, responsiveness and openness. Complainants' details will not be revealed (see Section 6). This strategy sets Performance Standards, the results of which will be published. Transparency of our decision-making is essential so that all involved in the enforcement process understand and have confidence in the basis on which the service is provided. The Council's scheme of delegation sets out the appropriate level of decision making (copies will be made available on request). Officers will explain the rights of complaint and appeal throughout the process.
- 3.3 The Council's resources are not limitless. It is necessary to target available resources to have maximum effect. In planning terms this means where there is the most harm to amenity or the environment, not necessarily a response to who is complaining or how vociferously. It also means that the Council's Planning Enforcement process is focussed on those who are responsible and who are best placed to remedy the problem.

4 The scope of Planning Enforcement

- 4.1 The Council deals with over 2000 applications for planning permission, listed building consent, advertisement consent and applications to carry out work to “protected” trees. However, some developments take place without the necessary planning permission, sometimes in all innocence, but this is a breach of planning control (defined in s171A of the Town and Country Planning Act 1990).
- 4.2 The vast majority of applications are approved, often with detailed conditions attached. The Council is aiming to take a positive approach to monitoring planning permissions. Some conditions require details to be approved prior to commencement of the development. Failure to do this is also a breach of planning control and can render any subsequent development as unauthorised. It is beneficial to all parties if any failure to comply with a condition is addressed at an early stage.
- 4.3 Carrying out development without an appropriate planning permission or failing to comply with a condition are **not** criminal acts. However, other breaches under different sections of the Planning Act and under Listed Building legislation do carry a criminal liability, for example:
- unauthorised work to an Listed Building which harms its special character
 - listed building works not in accordance with a listed building consent
 - unauthorised advertisements
 - unauthorised demolition of an unlisted building in a Conservation Area
 - unauthorised works to “protected” trees
 - works to “protected” trees not in accordance with a consent granted by the authority
- 4.4 In taking enforcement action or bringing a prosecution the Council has regard to the “harm” that is being caused to “interests of acknowledged importance”. In some situations works or developments are done in ignorance, rather than intentionally. It should be noted that in such circumstances the person responsible should not always expect to be given an opportunity to remedy the situation through negotiation before enforcement action is considered or taken by the Council where the breach in question is causing serious and immediate harm.

- 4.5 Where the breach of planning control has been a deliberate act and unacceptable “harm” is being caused the person/s carrying out that breach can expect the Council to take a robust approach to taking enforcement action or bringing a prosecution. That approach will not allow protracted negotiation, particularly where the objective is, or appears to be, to unnecessarily stall or delay the Council from taking appropriate legal action.
- 4.6 Where the Council believes that a breach is one that would not have been approved had a planning or other relevant application been made it will not invite a planning application to regularise that breach. In taking enforcement action where serious harm has been identified the Council is mindful of the fact that the person/s causing that harm by their actions has a statutory right of appeal whereas the person/s experiencing the harm do not.
- 4.7 Consequently in applying its strategy the Council will set out to ensure that its enforcement principles take full account of the ‘harm’ being experienced by complainants as well as having appropriate regard to the contravenors circumstances.
- 4.8 The Council is mindful of the perception that its previous strategy appeared to give undue opportunity to persons breaching planning control to resist attempts by the Council to remedy these breaches by the taking of enforcement action through a less than genuine expression of interest from the perpetrator in engaging in further negotiation to find a solution.
- 4.9 Protracted investigation and negotiation where clear harm is being caused has in the Council’s view eroded public confidence in the Council’s operation of the enforcement process. This new pro-active and robust strategy sets out to restore public confidence in the system whilst safeguarding the key principles of fair justice.

5 What is harm?

- 5.1 Planning Enforcement operates to protect the public interest. Harm can result from breaches of planning control in terms of the effect on visual or residential amenity, on highway safety, on the amenity of the public in general, the occupiers and users of surrounding land and buildings or the environment in general. There may be noise nuisance, loss of daylight or privacy for example to those living or working nearby.
- 5.2 Harm may occur through unauthorised work to Listed Buildings or if the conditions attached to the consent are not properly complied with. It may also result from the demolition of an unlisted building in a Conservation Area or unauthorised works to “protected” trees.
- 5.3 When a breach is identified, the law requires the Council to consider whether it is “expedient” to take enforcement action. This decision is a matter of exercising discretion. The Council follows tests set in legislation, its adopted planning policies and current Government advice.

5.4 **It is important to understand that enforcement action is not taken simply because development or works have commenced without the necessary approval; each case is individually assessed to determine what harm is being caused.**

5.4 The assessment of harm does not include private interests, such as loss of value to property, competition, loss of view, trespass or breach of covenant.

6 Making a Complaint

6.1 Anyone can complain if they are concerned that there has been a breach of planning or listed building control. To avoid misunderstanding, all complaints should be made in writing to Planning Services via the Council's website or via its Customer Service Centre. (addresses can be found in Appendix B)

6.2 Complainants will be asked to identify themselves and provide an address and phone number so that they can be kept informed of what the Council decides. This information is treated as confidential. The alleged contravener is not told who has made a complaint, although they sometimes make assumptions.

6.3 It helps Investigating Officers if as much information as possible can be provided:

- about the complaint,
- the name and address of the alleged contravener,
- the location of the site,
- what has happened; for how long, or is happening now
- an explanation of the harm that it is causing.

6.4 In cases of emergency, complaints may be dealt with by telephone. Complainants will need to be in possession of as much relevant information as possible and relate it calmly and clearly.

6.5 Complainants may be very concerned and angry about a breach of planning or listed building control, but this anger should not be vented on Council staff. Their job is to attempt to resolve problems in the public interest. They operate most effectively when assisted in investigations.

6.6 The Council will use its discretion as to whether it will investigate anonymous complaints depending on the seriousness of the harm identified in the allegation and the reason for requesting anonymity. Complainants concerned about possibly revealing their identity or having difficulties putting their case may wish to discuss the matter with their Parish/Town or Ward Councillor. Any complaints where there is evidence that the complainant has not acted honestly or is motivated by non-planning concerns, will not normally be investigated.

7 What happens to complaints?

7.1 All breaches of planning, advertisements, protected trees, listed building and conservation area control will be investigated (all other complaints will be re-directed to the most appropriate Council department or outside agency). These complaints will be registered and allocated to an Officer to be investigated. All enforcement complaints will be acknowledged within 3 working days of receipt and the complainant will be given the name and contact details of the Investigating Officer.

7.2 The Council receives a large number of planning and listed building complaints each year. They all need to be progressed as quickly and efficiently as possible, but investigations may take a little time to complete if it is a complex task to actually determine the nature and extent of a breach or even determine whether there has been a breach of control. In view of limited resources, it is necessary to give priority to cases where there is the greatest harm in planning terms. This enables enforcement staff to maximise their impact and enables important proactive enforcement work to be undertaken.

8 Declarations of Interest

8.1 Enforcement Officers – Any Investigation Officer is required to follow the Council's protocol for declaration of interests. If that interest is of a personal, financial or any other nature likely to be prejudicial then that officer will take no part in the investigation and will refer the matter and interest to his/her line manager.

8.2 Councillors – When referring a complaint to the Planning Service any Councillor will identify why the matter has been referred and whether or not they do so on behalf of anyone else – giving appropriate details. The Council's agreed protocol for declaration of interests' as set out in the Constitution must be followed.

9 Prioritisation of complaints and performance standards

- 9.1 The Council has established a set of priorities to reflect the importance it places on the quality of life for its residents and businesses, and the need to protect the special character of the Borough. The categories are intended as a set of guiding principles, rather than attempting to list every possible eventuality.
- 9.2 Regardless of who has made the complaint, the Investigating Officer will prioritise it in terms of its importance to planning. Prioritisation of the complaint then sets a performance standard for the first site visit.

Priority One (A) – first site visit immediate to 2 working days from receipt of complaint (performance standard - 100%)

- actual (or apprehended) breach of control causing serious threat to health and/or safety of the public (e.g. traffic hazard, storage of hazardous materials)
- actual (or apprehended) breach of control causing serious threat, permanent or irreparable damage to the built, historic or natural environment e.g. loss of a protected tree, damage to a listed building, Site of Special Scientific Importance (SSSI), Scheduled Ancient Monument etc)*
- works being undertaken in contravention of an Enforcement Notice, Stop Notice or Injunction

(* effective action in respect of these breaches will require support from specialist officers within the Council's Conservation and Design Team, and in some case, action will need to be taken in conjunction with English Nature)

Priority Two (B) – first site visit within 5 working days of receipt of complaint (performance standard 80%)

- breach of control which conflicts with planning policy and is unlikely to be given planning permission without substantial modification
- breach of control seriously detrimental to amenity through noise, smell, congestion, visual intrusion etc.
- breach of listed building, protected trees or conservation area controls not included in priority one

Priority Three (C) – first site visit within 10 working days of receipt of complaint (performance standard 75%)

- breach of control causing problems which may be resolved by limited modification or the imposition of conditions on a permission

- land or building whose condition adversely affects the amenity of the surrounding area

Priority Four (D) – first site visit within 15 working days of receipt of complaint (performance 50%)

- breach of control of a minor/temporary nature raising limited planning or listed building concerns

10 Site Visits

10.1 Planning and Listed Building legislation gives authorised Officers extensive rights to enter land and buildings, at any reasonable hour, to carry out investigations and other duties. Because of the nature of enforcement work it is often not prudent or possible to give advance notice of an intended visit. Only where considered necessary and appropriate will 24 hours notice will be given if access is required to a dwellinghouse.

10.2 On site visits Investigating Officers will have regard to the Human Rights Act 1998 (HRA), the Regulation of Investigatory Powers Act 2000 (RIPA) and the Police and Criminal Evidence Act 1984 (PACE) and any Act/s that amend or revoke this legislation or become relevant. An investigating officer may, where she/he considers an offence has occurred, interview an alleged contravener 'under caution' (PACE) where appropriate. They will work within the principles of the Concordat and seek the full co-operation of the owner/occupiers. If access is denied the Council may consider seeking warrant entry. Refusal of entry (to an officer exercising their right of entry in accordance with their powers) will be regarded as wilful obstruction and the person may be prosecuted.

10.3 After the first site visit (and also during the investigation process) the Investigating Officer will consider whether it is necessary to re-consider the prioritisation of the complaint.

10.4 The Council will not tolerate any of its staff being threatened with or subjected to physical or verbal abuse in the course of the performance of their official duties and will take appropriate legal action where necessary.

11 What about the subject of the complaint?

11.1 Whenever possible, a person contacted by an Investigating Officer about an alleged breach of planning control will have the allegation explained to them orally and in writing. They will not be told the name of the person making the complaint (the Council treats this information as confidential). They will be given the opportunity to explain what has happened. What the Investigating Officer is told, what they see on their site visit(s) and any information, plans, documents etc that are submitted will be carefully considered. Sometimes it may also be necessary to carry out additional investigations.

11.2 In undertaking these investigations, Officers will have regard to the Human Rights Act 1998 (HRA), the Regulation of Investigatory Powers Act 2000 (RIPA), Police and Criminal Evidence Act 1984 (PACE) and any Act/s that amend or revoke this legislation or become relevant. An investigating officer may, where she/he considers an offence has occurred, interview an alleged contravener 'under caution' (PACE) where appropriate. They will also work within the principles of the Concordat.

12 How long does it take to deal with a complaint?

12.1 Dealing with an enforcement complaint is often a relatively speedy process but it can sometimes be a lengthy and complex process. Investigations may need to be carried out e.g. inspection of the Council's records, interviews with the alleged contravener(s), the complainant(s), neighbours(s) and liaison with other agencies, to assess whether there has been a breach of planning or listed building control. Where a breach of control has taken place the harm will then have to be assessed.

12.2 The time taken for a satisfactory resolution can vary considerably from one complaint to another. If enforcement action is taken there is often a right of appeal. In consequence it is not possible to give an average time for dealing with an enforcement complaint, but it is felt that the performance of the service should be measured. A standard has been set of resolving 80% of enforcement complaints within 3 months of receipt. [For the purpose of the strategy "resolve" covers: establishing no breach, an application submitted, the appropriate notice(s) served, continued monitoring, negotiated settlement or not expedient to pursue the breach.]

13 No further action / No breach

13.1 After investigations it may be decided not to take any further action because the breach is so minor/technical or because there is no breach of control. In these circumstances the Head of Environmental & Protected Services has delegated powers to close the investigation. All persons who have been involved in the complaint will be notified, in writing, of the decision within 10 working days of it being made.

13.2 Any further or new allegations will be treated as new complaints and further investigations will be carried out.

14 Negotiations to resolve a breach

14.1 If there is a breach of control the Council will, whenever it is possible, talk to the person responsible, in an effort to resolve the matter, although Government advice is that negotiations should not be allowed to hamper essential enforcement action. Where the breach is significant, causing serious harm and would not be regularised with a retrospective planning application the Council may well move to taking urgent enforcement action without negotiation with the contravener.

14.2 Where urgent enforcement action is not required the Investigating Officer will explain, and then confirm in writing, what the person has done wrong and ask them to put it right either by stopping, rectifying the matter or if an assessment is made that permission would be granted, by inviting a retrospective planning application. A suitable period will be set for a response. The Council will not thereafter engage in protracted exchanges with a contravener where this is unlikely to result in the speedy remedying of a breach.

15 Enforcement action

15.1 If the negotiated approach fails or is not feasible, then it may be necessary to move towards enforcement action. The first step is usually to serve a statutory notice (a requisition for information), such as a Planning Contravention Notice, to find out information about the land, the people who have interests in it, and the alleged contravention. This and other formal notices (see Appendix C) are used to establish the facts before deciding whether to take action. Failure to return a notice by the set date, giving false or misleading information are criminal offences, which the Council will treat very seriously.

15.2 A variety of enforcement options exist and the method chosen will reflect the degree of harm and individual circumstances. The scope of individual enforcement powers are covered in more detail in Appendix C. Once a decision to take enforcement action has been made all parties will be notified of the decision within 10 working days.

Enforcement Notice: this specifies what the recipient has done wrong and what has to be done to put matters right. It specifies a time before it comes into effect, this is the period in which an appeal has to be made.

Stop Notice: in exceptional circumstances where the breach continues to cause serious harm to public amenity the Council may in addition consider serving a Stop Notice or applying to the Court for an **Injunction** to prevent the harm from continuing until the outcome of an appeal is known.

15.3 The Council maintains a public register of all enforcement notices and stop notices that have been served.

16 Enforcement Appeal

16.1 An appeal against an enforcement notice is handled by the Planning Inspectorate. If an appeal is lodged the notice is held in abeyance until the appeal is determined.

16.2 On appeal a notice may be quashed and if an appeal was made on planning grounds, a planning permission granted. Alternatively, it may be upheld as it stands or its terms may be amended by the Inspector. Despite the potentially lengthy process we will endeavour to keep you informed and let you know the outcome.

17 Compliance

17.1 If the appeal is unsuccessful or no appeal is made the period for compliance specified in the notice take effect. Failure to comply with the requirements of the notices within the specified period is a criminal offence and the Council will consider bringing a prosecution.

18 Other enforcement actions

18.1 Some of the other enforcement actions which the Council may consider taking, depending on the circumstances of the case, are listed below:

- service of a Breach of Condition Notice (BCN) when certain types of conditions have not been complied with (there is a criminal liability for failure to comply)
- service of a s215 notice when the condition of land is adversely affecting the amenity of an area
- prosecution for failure to comply with the requirements of a Breach of Condition Notice or s215 Notice
- prosecution for the display of unauthorised adverts
- service of a Listed Building Enforcement Notice
- obtaining an injunction and/or prosecution for unauthorised works which have affected the character of a Listed Building
- prosecution for unauthorised works to protected trees

19 Prosecution

19.1 The Council will use its discretion in deciding whether to prosecute and have regard to the criteria usually applied by the Crown Prosecution Service. Prosecution will normally only be pursued where it is considered expedient and when:

- it is judged that the actual harm is significant or irreparable
- it is appropriate in the circumstances to draw attention to the need for compliance with the law.

19.2 In support of prosecution the Council will seek an order to cover its costs to minimise the cost of any action to the citizens of Colchester. Publicity may be given to successful prosecutions to advise the public of the Council's actions and to deter others.

20 Complainning about the Enforcement Service

- 20.1 The Council is committed to providing a high quality service and so welcomes constructive criticism of how it can make improvements to its planning enforcement procedures. However, sometimes things can go wrong. A complaint about the Council's Planning Enforcement Service should be made in the first instance to the Planning Services Manager.
- 20.2 A service complaint will be investigated and a response made in writing, within 10 working days from receipt. The letter will explain what action if any, is to be taken. Any complaint will be dealt with thoroughly, fairly and as confidentially as possible. If the matter requires further investigation a revised response date will be set. Where the investigation is complex and it is likely to take more than 10 working days to complete the complainant will be advised in writing of this within the initial 10 working days. That letter will set out the likely timetable for resolution.
- 20.3 If you are dissatisfied with the handling of your complaint you should write to the Head of Environmental & Protective Services setting out the nature of your complaint and this will be investigated. You will be advised in writing of the outcome of this investigation in accordance with the same timetable as that set out in 20.2 above.
- 20.4 If you are not satisfied with the decision/s taken by the Council you can make a formal complaint to the Council's Monitoring Officer. A leaflet about making a formal complaint can be obtained from the Council's web site or any Council office or. There is also recourse to the Local Government "Ombudsman" (see appendix B).

21 Setting Performance Indicators

- 21.1 There are currently no national performance indicators for planning enforcement, probably because there is no consistency between local planning authorities about what constitutes a complaint and because much enforcement work is a matter of local discretion. However, many Councils, do set local standards for measuring delivery of the enforcement service. Having considered some of the standards set by other Councils, together with a perception of how the Council has been performing over recent years, delivery standards have been set in this strategy. They may however, need to be re-assessed and refined in the light of experience and available staff resources:

The Planning Service commits to the following:-

- acknowledging all enforcement complaints within 3 working days of receipt
- making the first site to investigate the complaint within the specified period below:-

100% on a Priority One complaint (immediate to 2 working days from receipt of the complaint)

90% on a Priority Two complaint (within 5 working days of receipt of the complaint)

90% on a Priority Three (within 10 working days of receipt of the complaint)

90% on a Priority Four complaint (within 15 working days of receipt of the complaint)

resolving 80% of enforcement complaints within 3 months of receipt

notifying all parties to a complaint of the Councils decision (whether or not to enforce) within 10 working days of making the decision.

22 Review of the Strategy and Enforcement Practices

22.1 The strategy as a statement of what the service intends to deliver will be reviewed each year. The reviews will be more frequent if required in respect of procedural issues.

22.2 A quarterly report will be presented to the Council's Planning Committee summarising:-

- The investigation activity undertaken by enforcement officers in the preceding quarter
- Progress on all outstanding investigations where a breach has previously been identified and remains unresolved
- Successfully concluded actions
- Performance against targets
- An analysis of enforcement related appeal decisions issued in the preceding quarter
- annual performance as measured 01 April one year to 31 March the next year

22.3 The comprehensive performance management of the enforcement team will require managers to regularly analyse:-

- the workload of the team (incidence of complaints and referrals)
- how the prioritisation categories have worked in practice
- the number of complaints requiring no further action
- the number of cases moving to formal action: planning contravention notice, breach of condition notice, enforcement notices, etc

- the number of appeals and their outcome
- the number of prosecutions instituted and their outcome
- customer feedback and complaints about the service
- staffing levels and the pressures on the service
- achievement of performance standards

22.3 This will enable the strategy to be revised and refined, staff managed and developed and procedures improved to provide a more efficient and effective enforcement service.

22.4 This process will also consider the implications of any new legislative requirements.

Appendix A

Legislation, National Policy Framework and Practice Advice

Primary legislation

Town and Country Planning Act (as amended) 1990

Planning (Listed Buildings and Conservation Areas) Act 1990

Human Rights Act 1998

Regulation of Investigatory Powers Act 2002

Police and Criminal Evidence Act 1984

Secondary legislation

Town and Country Planning (Use Classes) Order 1987

Town and Country Planning (Control of Advertisement) Regulations 1992

Town and Country Planning (General Permitted Development) Order 1995

Town and Country Planning (General Development Procedure) Order 1995

Circulars

DETR Circular 10/97 - Enforcing Planning Controls: Legislative Provisions and Procedural Requirements

National Policy Advice

PPG 18 Enforcing Planning Controls (1991)

Practice Advice

DOE: National Planning Charter Standards 1994

RTPI Practice Advice Note 6 Enforcement of Planning Control (1996)

DETR Enforcing Planning Control: Good Practice Guide for Local Authorities 1997

Appendix B

Useful Contact Names and Addresses:

Our website www.colchester.gov.uk

Geoff Kirby

Head of Environmental & Protective Services
Colchester Borough Council
PO Box 889
Town Hall
Colchester
Essex CO1 1FL

Geoff.kirby@colchester.gov.uk

Vincent Pearce

Planning Services Manager
Colchester Borough Council
PO Box 889
Town Hall
Colchester
Essex CO1 1FL

Vincent.pearce@colchester.gov.uk

Andrew Tyrrell

Development Manager
Colchester Borough Council
PO Box 889
Town Hall
Colchester
Essex CO1 1FL

Andrew.tyrrell@colchester.gov.uk

Beverley Jones

Head of Environmental & Protective Services
Colchester Borough Council
PO Box 889
Town Hall
Colchester
Essex CO1 1FL

Beverly.jones@colchester.gov.uk

If you are not satisfied with the service you receive a formal complaint should be submitted. If you are not satisfied with the outcome of the investigation of your complaint you should contact:

Andrew Weavers
Monitoring Officer
Colchester Borough Council
PO Box 889
Town Hall
Colchester
Essex CO1 1FL

Andrew.weavers@colchester.gov.uk

Appendix C Enforcement Tool Kit

This is a summary of the various tools available to investigate complaints and deal with breaches of planning control. The local planning authority must assess, in each case, which tool or mix of tools is best suited to dealing with the particular breach of planning control to achieve a satisfactory, lasting and cost effective remedy. Any enforcement action should be commensurate with the breach of control to which it relates.

S330 Town and Country Planning Act 1990 – this power is used to obtain (requisition) information at an early stage of the enforcement process. It involves serving a notice on occupiers of premises and/or person receiving rent. This form of notice may also be used for investigations in relation to the Planning (Listed Building and Conservation Areas) Act 1990.

S16 Local Government (Miscellaneous Provisions) Act 1976 – this provision is primarily intended to enable the local planning authority to serve a notice to establish (requisition) information about the ownership and other interests in the land.

Planning Contravention Notice (PCN) – this is the main method for local planning authorities to obtain information (possibly including a formal meeting) about suspected unauthorised development.

[For all these notices it is an offence to fail to comply with the requirements of the notice within the period set for its return or to make false or misleading statements in reply.]

Enforcement Notice – this is served when the authority is satisfied that there has been a breach of planning control and that it is expedient to take action. An enforcement notice requires remedial steps to be taken within a specified time period. Failure to comply with a notice that has taken effect is a criminal offence. The recipient(s) of a notice have a right of appeal to the Secretary of State. An appeal suspends the effect of the notice until it is determined. If an appeal is lodged all complainants and neighbours will be advised of the appeal and how to make representations to the Planning Inspectorate.

Listed Building Enforcement Notice – this may be served if unauthorised works have been or are being carried out to a listed building.

Similarly a **Conservation Area Enforcement Notice** may be served where development (including demolition) has been carried out without the necessary Conservation Area Consent.

Breach of Condition Notice (BCN) – used as an alternative to an enforcement notice to remedy failure to comply with certain types of conditions placed on planning permissions. It can only be used to secure complete compliance there is no “under enforcement”. It does not apply to breaches of control related to listed building, advertisement or protected trees. It may only be served on the person having control of the land to which the condition relates. There is no right of appeal; failure to comply with the notice is an offence.

Stop Notice – when the effects of unauthorised activity are seriously detrimental or causing irreparable harm and immediate action is justified, this notice may be served to ensure that the activity (or selected activities) does not continue if an appeal is lodged against the Enforcement Notice. There are compensation liabilities if the enforcement notice is quashed but these are not related to the planning merits of the case. There is no right of appeal; failure to comply with the notice is an offence. The Government has recently introduced Temporary Stop Notices but these can only be applied in limited circumstances.

Temporary Stop Notice - Where the local planning authority consider that there has been a breach of planning control and it is necessary in order to safeguard the amenity of the area that the activity that amounts to the breach should stop immediately the planning authority can issue a temporary stop notice. This differs from the normal stop notice powers because the temporary stop notice does not have to wait for an enforcement notice to be issued. In addition the effect of a temporary stop notice will be immediate, it will not be necessary to wait three days before the temporary stop notice takes effect or give reasons why the temporary stop notice will take effect immediately.

Injunction – the authority can apply to the County Court or High Court for an injunction in respect of an actual or apprehended breach of planning or listed building control, even when the identity of the person is unknown. An injunction can be sought whether or not other enforcement action(s) have been taken.

Default powers – the Council may enter land to take the necessary steps to secure compliance when an enforcement notice is in effect but has not been complied with. The costs of the work are charged to the landowner.

S215 Notice – under this section of the Town and Country Planning Act 1990 an authority may serve a notice on the owner or occupier of the land, if it appears that the amenity of the area is adversely affected by the condition of the land. Such a notice may deal with buildings as well as land. The recipient may challenge the notice in the Magistrate's court. Failure to comply with the notice is an offence. The Council may also use default powers.

Unauthorised works to protected trees – It is a criminal offence to:

- cut down, uproot or wilfully destroy a tree protected by a Tree Preservation Order or in a Conservation Area
- wilfully damage, top or lop a tree protected by a Tree Preservation Order/in a Conservation Area in a way that is likely to destroy it

If any of these are carried out the Council will consider whether or not to prosecute.

Advertisements – it is an offence for any person to display an advertisement in contravention of the Town and Country Planning (Control of Advertisement) Regulations 1992. The Council will consider whether or not to prosecute.

Control of works to Listed Buildings – under the Planning (Listed Buildings and Conservation Areas) Act 1990 it is an offence to demolish a listed building or carry out works/alterations, which affect its character, without the authority's prior consent. It is also an offence to demolish unlisted buildings in Conservation Areas without a prior consent.

End of Planning Service Enforcement Strategy 06/10

INDEX TO PLANNING APPLICATIONS CODES

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

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

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

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

INTERNAL CONSULTEES

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

REPRESENTATIONS ETC

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

EXTERNAL CONSULTEES (2 character codes)

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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