

Planning Committee

Council Chamber, Town Hall
22 January 2009 at 6:00pm

This committee deals with

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 West Stockwell 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.

Facilities

Toilets are located on the second floor of the Town Hall, access via the lift. A vending machine selling hot and cold drinks is located on the ground floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

Colchester Borough Council, Angel Court, High Street, Colchester
telephone (01206) 282222 or
textphone 18001 followed by the full number that you wish to call
e-mail: democratic.services@colchester.gov.uk
www.colchester.gov.uk

Material Planning Considerations

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

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

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

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

Human Rights Implications

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

Community Safety Implications

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

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
22 January 2009 at 6:00pm**

Members

Chairman : Councillor Gamble.
Deputy Chairman : Councillor Ford.
Councillors Chillingworth, Blandon, Chapman, Chuah, Cory, Elliott, Foster, Hall, Lewis and Offen.

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 Arnold, Barlow, Barton, Bentley, Bouckley, Cook, Dopson, Fairley-Crowe, P. Higgins, T. Higgins, Hunt, Lilley, Lissimore, Maclean, Manning, Martin, Pyman, Quarrie, Sykes, Tod, Turrell and 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. An amendment sheet is circulated at the meeting and members of the public should ask a member of staff for a copy to check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm on the day before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Pages

1. Welcome and Announcements

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

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

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

To confirm as a correct record the minutes of the meeting held on 8 January 2009.

7. Planning Applications

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

- 1. 082056 Site at the corner of Norman Way and Lexden Road, Colchester** **5 - 13**
(Lexden)

9.0 metre replica telegraph pole mast supporting a shrouded antennae unit containing 3 antennae (overall height including antennae support 12.0 metre) radio equipment housing and ancillary development.
- 2. 081852 Hawkins Road, Colchester** **14 - 25**
(St Andrew's)

Erection of 63 residential units and 823 sq.m. commercial floorspace with associated car parking and provision of river walkway connecting with Colne Causeway. Resubmission of 080021.
- 3. 081918 3 Darcy Road, Colchester** **26 - 28**
(Harbour)

Revisions to dwelling approved on Plot 1 of development granted permission under Ref: 071668
- 4. 081820 49-51 North Station Road, Colchester** **29 - 32**
(Castle)

Extractor fan and flue to rear of premises.
- 5. 082064 Stanway Green Lodge, Stanway Green, Stanway** **33 - 43**
(Stanway)

Extension and alteration to upgrade existing facilities to current standards and increase number of residents from 27 to 30. Resubmission of 081655.
- 6. 081940 220 Maldon Road, Colchester** **44 - 48**
(Christ Church)

Erection of building in rear garden to provide accommodation for

elderly parents.

7. 081945 269 Bergholt Road, Colchester **49 - 52**
(Mile End)

Change of use of ground floor premises from office to beauty therapist studio.

8. Performance Monitoring Report // Planning Application **53 - 63**
Determination, Appeals Analysis update and Planning
Agreement Performance Update for period 1 October to 31
December 2008

See report by the Head of Environmental and Protective Services

9. Exclusion of the Public

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

PLANNING COMMITTEE

8 JANUARY 2009

Present:- Councillor Gamble* (Chairman)
Councillors Blandon, Chapman, Chillingworth*, Cory,
Elliott*, Ford, Foster*, Hall, Lewis* and Offen*.

Substitute:- Councillor Sykes* for Councillor Chuah.

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

182. Minutes

The minutes of the meeting held on 18 December 2008 were confirmed as a correct record.

183. 081868 Wyvern, Maytree and Wyvern, Crown Street, Dedham, CO7 6AG

The Committee considered an application for the demolition of two existing bungalows and the erection of two replacement dwellings of two storeys with garaging, landscaping and outbuildings. The site is within the village envelope and part of the site is within the Conservation Area for which a separate Conservation Area Consent application has been submitted and which will be determined under delegated powers after it is known whether an approved scheme is in place. 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 and on the Amendment Sheet.

184. 081870 and 172 Lexden Road, Colchester, CO3 4BZ 081972

The Committee considered planning application 081870 and application 081972 for Conservation Area consent for the demolition of an existing dwelling and the erection of three two and a half storey houses and garaging together with minor alterations to an approved house on plot 1 under F/COL/04/2256. The site is within the Lexden Conservation Area. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

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

Members of the Committee made reference to conditions for sensor controlled security lighting which had been applied to the permission for plot 1 and a similar condition for this application was requested. Reference was also made to the close proximity of the site to houses in Byron Avenue and a condition for substantial hedging along the southern boundary was requested. Other queries were raised regarding arrangements for refuse collections, hours of work for

construction and an arrangement either to prevent non-residents from parking on the access road or for residents only parking to be indicated.

In response it was explained that Condition 19 required details of security lighting to be provided prior to the development taking place. Condition 5 required similar details in respect of soft landscaping and an informative could be added stating that a hedge is to be provided along the southern/rear boundary. Hours of work on construction, as set out in the advisory notes on page 46 of the agenda for this meeting, could be added as a separate condition. In respect of refuse collections, the usual practice is for refuse to be left out on the street frontage, and in respect of parking, neither the access road nor the turning area are scheduled as public highway and the owners/developers would be able to erect signs to prevent inappropriate parking.

RESOLVED (UNANIMOUSLY) that –

In respect of application 081870:

(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 additional conditions on hours of working as detailed above and an informative specifying the provision of hedging along the southern boundary.

In respect of application 081972:

(c) The application be approved with conditions and informatives as set out in the report.

185. 081939 28 Cape Close, Colchester, CO3 4LX

The Committee considered an application for a two storey side extension and a first floor rear extension. The Committee had before it a report in which all information was set out.

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

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. Reference was made to the proposed rendered finish being at variance with most of the surrounding properties. Also mentioned was the change in use of the first floor windows as a result of the proposed extension; the existing two clear bedroom windows would become one clear bedroom window and two obscured glazed windows serving a bathroom and an en suite room. It was recognised that the bedroom window created would be 2.5 metres nearer to no. 56 Rudsdale Way, but the proposal has been assessed based on the current window arrangement compared with the proposed window arrangement and it was considered that the proposal did not create excessive harm of overlooking to the rear. On-street parking in the adjacent narrow road was a particular problem at evenings, mornings and weekends, however there are currently two off-street parking spaces and as no increase in the number of bedrooms is proposed, this situation was not considered to be harmful. The noise and disturbance from the building works would be short term and controllable. In summary, albeit that this is an addition which will extend further backwards and would be rendered, it was considered that the proposal met all the Council's requirements.

Peter Jones addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He objected to the proposed extension on the following grounds: the render finish would be harmful to the appearance of the area and as such is unacceptable; the close proximity of the first floor rear window to the back of his property would be overbearing and have a detrimental appearance; the proposed side extension would be 1.8 metres higher and would be an invasion of privacy; Cope Close has seven houses with no car access or parking and parking problems already encountered would be magnified as the road was narrow and cars already have to park illegally on the pavement to allow other vehicles to pass, a situation which would be further accentuated if the property was to become a house in multiple occupation; the design is detrimental and the proposed two storey side extension would have an impact on sunlight and daylight to his property.

Members of the Committee had a number of concerns regarding the proposal. The whole area had been developed prior to the current Essex Design Guide coming into force and the existing back to back distance between properties in Cape Close and Rudsdale Way was already 5 metres below the Essex Design Guide standard. Some members of the Committee were of the view that if the proposed extension were to be permitted the back to back distance would be reduced to 18.5 metres which was considered to be materially significant. It was also considered that the difference in height between properties in Cape Close and Rudsdale Way was so significant that it materially affected the impact of the proposal on 56 Rudsdale Way. The external finish of most of the surrounding properties was brick whereas the proposed finish of the extension was painted render and some members were strongly of the view that, if permitted, the finish should be in brick. It was also believed that if this proposal was permitted, there would be the ability for other residents to cite fairness as a reason why they should also be permitted to erect an extension which would also be below the Essex Design Guide back to back standard.

It was explained that in respect of the back to back distance, the Committee would need to make a judgment on whether the proposal would make the situation materially worse than the circumstances which currently exist in terms of types of glazing to the windows and the opportunity for them to be opened.

RESOLVED (MAJORITY voted FOR) that the application be refused on the following grounds:-

- that the proposal would cause harm to the amenity of the neighbouring property to the rear by reason of a significant loss of privacy through overlooking; and
- the use of inappropriate external materials, that is render within an area of predominantly brick finish, which would make the proposed extension appear incongruous in the street scene.

186. Enforcement Action // 13 Dugard Avenue, Colchester, CO3 9EH

The Head of Environmental and Protective Services submitted a report seeking authorisation to take enforcement action requiring the removal of an opening window and its replacement with a single fixed pane having Pilkington Textured Glass to an obscuration level of at least 4 or 5. A compliance period of three months was proposed. The Committee had before it a report in which all information was set out.

The window had been inserted into a dormer extension, also unauthorised, in a new roof slope. It had been determined that the removal of the dormer would not be requested

because under the former legislation it would have been permitted development. However, the insertion of the second floor window constituted a breach of Condition 3 of planning permission F/COL/06/1928, the purpose of which was to safeguard the privacy of adjoining occupiers.

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

RESOLVED (UNANIMOUSLY) that an enforcement notice be served with a compliance period of three months requiring the removal of an existing opening window and the insertion of a single fixed pane window having Pilkington Textured Glass to an obscuration level of at least 4 or 5.

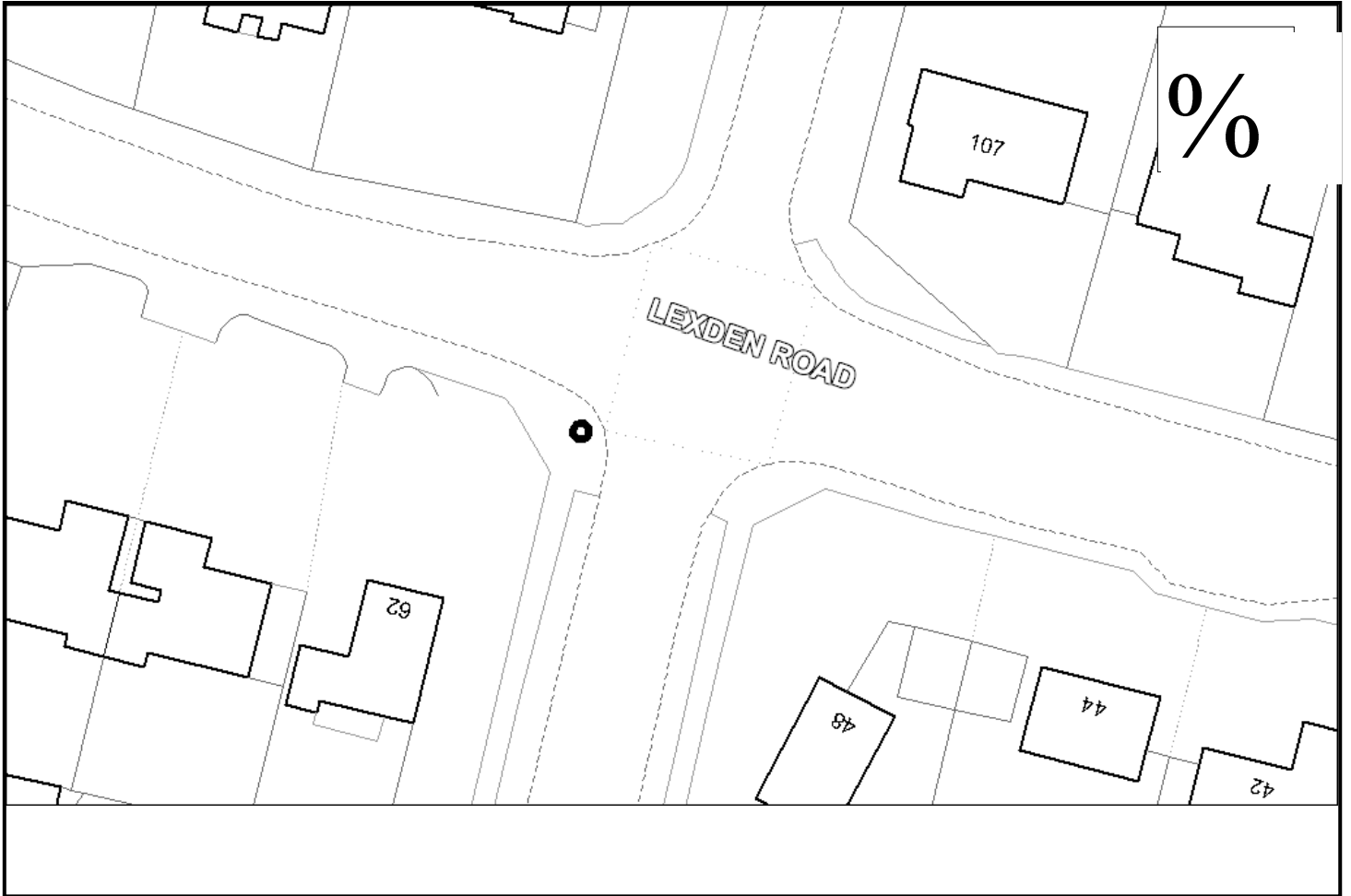
187. Enforcement Action // Queens Lodge, 3B Queens Road, Colchester

The Head of Environmental and Protective Services submitted a report seeking authorisation to take enforcement action in a conservation area requiring the removal of fencing and the erection of a brick wall to match with existing. The section of wall around Queens Lodge, which bounds West Lodge Road, represented a very distinctive example of Victorian brickwork and is an integral part of the character of Colchester Conservation Area No. 2. A compliance period of four months was proposed. The Committee had before it a report in which all information was set out.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. The site was in the Conservation Area and covered by an Article 4 direction which requires planning permission for the alteration of building and boundary treatments. Following discussion with the Council an application proposing rebuilding the brick wall reusing original bricks, where possible, was submitted. However the submitted design was for a plain wall which did not match the design of the original wall. This application was refused and the applicant had submitted an appeal against this decision.

Members of the Committee were aware that the owner has a very good reputation in Colchester. The wall had been in a dilapidated state and the Committee considered that the owner should have talked to the Council about it prior to its removal. It was stressed that the proposed action was not a reflection on the owners' reputation.

RESOLVED (UNANIMOUSLY) that an enforcement notice be served with a compliance period of four months requiring the removal of the fencing and its replacement with a brick wall to match the existing.



Application No: 082056

Location: Site on Corner of Norman Way, Lexden Road, Colchester

Scale (approx): 1:1250

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

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2008



Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **22 January 2009**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

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

7.1 Case Officer: Andrew Huntley

EXPIRY DATE: 30/01/2009

OTHER

Site: Site at the corner of Norman Way and Lexden Road, Colchester

Application No: 082056

Date Received: 4th December 2008

Agent: Savills

Applicant: Telefonica O2 Uk Limited

Development: 9.0 metre replica telegraph pole mast supporting a shrouded antennae unit containing 3 antennae (overall height including antennae support 12.0 metre) radio equipment housing and ancillary development

Ward: Lexden

Summary of Recommendation: Prior Approval Required (Approved)

1.0 Site Description

1.1 The site is located on a wide adopted highways verge at the junction of Norman Way and Lexden Road. The area is residential in nature. Lexden Road is one of the main routes into and out of town and is a highly trafficked road. To the west of the application site is a mature tree. The site also has Conservation Areas close by located to the west and to the east along Lexden Road.

2.0 Description of Proposal

2.1 9.0 metre replica telegraph pole mast supporting a shrouded antennae unit containing 3 antennae (overall height including antennae support 12.0 metre) radio equipment housing and ancillary development.

3.0 Land Use Allocation

3.1 None

4.0 Relevant Planning History

4.1 None on the application site itself but there has been a previous mast application on Norman Way to the south of the application site (REF: PA/COL/01/0125). This prior notification application was refused on the grounds of its siting and design and that insufficient evidence had been provided that consideration had been given to the potential health risk and as such, the proposal complied with safety guidelines.

5.0 Principal Policies

8.2 Adopted Review Colchester Local Plan:
DC1– Development Control Considerations.
UT4 – Telecommunications Development

Planning Policy Statement 1
Planning Policy Guidance 8

6.0 Consultations

6.1 None

7.0 Representations

7.1 In excess of 450 letters of objection have been received. These objections relate to the following issues:

- Siting and design
- Health concerns
- Highway concerns

and are discussed in more detail in the following report (“Other Matters”)

8.0 Report

Background

- 8.1 Masts below 15m in height and some other forms of telecommunications development that are “Permitted Development” require Prior Notification. Prior Notification applications give the Local Planning Authority 56 days to consider the siting and appearance of telecommunications equipment. Applications made under the prior notification procedure, only take into account the siting and appearance of the proposed equipment. If the Local Planning Authority does not make a decision within that period, the development is considered to be approved and can be implemented. The Local Planning Authority can not apply conditions to these Prior Notification applications.

Policy and Guidance

- 8.2 PPG8 states that telecommunications are an essential and beneficial element in the life of the local community and in the national economy. Fast, reliable and cost-effective communications can attract business to an area and help firms remain competitive, thus contributing to the achievement of other policy goals, including increased employment opportunities.
- 8.3 The aim of telecommunications policy is therefore to ensure that people have more choice as to who provides their telecommunications service, a wider range of services from which to choose and equitable access to the latest technologies as they become available.
- 8.4 The guidance reiterates the Governments commitment to the protection of the environment, especially areas designated for their sensitive nature, but advises that local authorities should respond positively to proposals especially where location is restrained by technical considerations. It is pointed out that wider environmental benefits may flow from telecommunications installations, for example the application of communications technology reduces the need to travel, and hence reduces vehicle emissions of carbon dioxide and other pollutants.
- 8.5 Local Plan Policy DC1 states that development proposals should be of a high standard of design and not have a detrimental impact on the character on an area. Policy UT4 states that telecommunications development will be permitted provided that its impact on the surrounding environment and amenities is minimised through careful siting and design, is harmonised with the character of the area and that regard will be had to the technical and operational constraints when considering proposals.

Siting and Appearance

- 8.6 So far as appearance is concerned the council can look at the visual impact of the proposal both in terms of the height, shape and colour etc. of the equipment and the effect it has on the appearance of an area. This means that a particular type of equipment might be acceptable in a suburban street but not in a conservation area. The same type of installation might be acceptable against the backdrop of woodland but not on an open space. The cumulative visual impact alongside other street furniture can give rise to objections of clutter. Failure to have thoroughly explored all other options could be a reason for refusal if the Council think that there could be preferable alternatives in the area of search. Factors concerning siting may involve:
- the height of the site in relation to surrounding land.
 - the existence of topographical features and natural vegetation.
 - the effect on the skyline or horizon.
 - the site when observed from any side.
 - the site in relation to areas designated for their scenic or conservation value.
 - the site in relation to existing masts, structures or buildings, including buildings of a historical or traditional character.
 - the site in relation to residential property, and
 - any other relevant considerations.
- 8.7 An examination of appeal decisions shows that a very strong visual amenity argument needs to be put forward to overcome the favourable policy presumption given by PPG8. In fact 70% of all telecommunications decisions where visual amenity has been an issue have been allowed. Evidence that designations of landscape value or green belt do not by any means rule out planning permission for major installations is also to be obtained from appeal cases. In (Walsall M.B.C. 19/1/00 DCS No.056-003-814) permission for prior approval was refused for a 15m. lattice mast with cabin. An inspector concluded that paragraph 22 of PPG8 (1992) stated that telecommunications development should only be rejected if there was a serious effect on amenity.
- 8.8 PPG8 requires the use of sympathetic design and camouflage to minimise the impact of development on the environment. It encourages the telecommunications industry to continue to develop innovative design solutions, in terms not only of the structure of masts and antennas but also the materials and colouring. A communication post designed to look like a mock 'telegraph post' has been allowed in an attractive and well wooded residential area of Hazlemere. The inspector accepted that the design proposed would not be out of place in the roadside setting nor be visually intrusive. (Waverley B.C. 26/1/01 DCS No.031-555-700).

- 8.9 This proposed mast's design also follows a mock telegraph approach and is within a roadside setting. The mast is therefore a simple slimline timber pole with the antennae on top covered by a shroud to match with the timber. While there are no telegraph poles in the immediate locality and notwithstanding the fact that telegraph poles are rarely 12m in height, the proposed mast would not appear visually incongruous within the streetscene. The masts slimline appearance would not have a detrimental impact on the character or appearance of the area and having regard to the appeal cases above, would therefore not have a serious effect on amenity. The proposed equipment cabinet one metre to the north west would not appear overly obtrusive and the proposed green colour will help the cabinet assimilate with the character and appearance of its surroundings and the nearby Conservation Areas.
- 8.10 Overall, it is considered that the siting and appearance of the proposal is acceptable and a refusal would unlikely be sustained on appeal.

Other Matters

- 8.11 The application contains information regarding 9 other sites that had been considered but not chosen. Most of these have been discounted on planning grounds due to the height of mast required and its likely impact on the character and appearance of the area or on technical limitations. Overall, it is considered that the applicant has satisfactorily demonstrated that they have explored all other options.
- 8.12 In excess of 450 letters of objection have been received in regard to this proposal, with many of those in the form of a standard letter template. The objections received relate to the following issues:
- Adverse impact on the character and appearance of the area.
 - Detrimental impact on the Conservation Area
 - Too large and obtrusive
 - Close to several schools
 - Potential health risks
 - Adverse impact on Human Rights (Article 2)
 - Need for the mast
 - Too many antennae in the area already
 - Better alternative sites
 - Would obstruct sight lines at a busy junction
- 8.13 The siting and appearance of the proposed mast has already been considered earlier in the report, which also covers alternative sites. The objections relating to potential health risks, proximity to schools, need & existing antennae, previous applications, impact on the Conservation Area and highways concerns are considered below.

Health Risks

- 8.14 The Government's acceptance of the precautionary approach recommended by the Stewart Group's report "mobile phones and health" is limited to the specific recommendations in the Group's report and the Government's response to them. The report does not provide any basis for precautionary actions beyond those already proposed within PPG8. In the Government's view, local planning authorities should not implement their own precautionary policies e.g. by way of imposing a ban or moratorium on new telecommunications development or insisting on minimum distances between new telecommunications development and existing development.
- 8.15 PPG8 advises that radiation safety issues and any relevant standards for exposure are a matter for the Health and Safety Executive as advised by the National Radiological Protection Board (NRPB). Code system operators must comply with standards for radiation safety under the Health and Safety at Work Act 1974 and associated regulations. They must demonstrate that exposure of employees and the public complies with NRPB exposure guidelines, which relate to the known thermal effects of Electro-Magnetic Fields (EMFs).
- 8.16 A draft Circular produced in December 1998 jointly by the DETR and the Department of Health Land Use Planning and Electromagnetic Fields stated that the NRPB consider there is no convincing evidence of a causal link between exposure to low level EMFs and cancer. The Circular advised that LPAs considering policies to set up a cordon sanitaire around telecommunications development should have regard to operators' responsibilities under Health and Safety legislation and the NRPB's view that there is no link between exposure to EMFs and cancer.
- 8.17 A World Health Organisation (WHO) draft report attached to the Circular relates to an International EMF project at WHO. It agrees with the NRPB position but acknowledges that there may be social/political rather than scientific reasons to distance masts from schools. That prudent avoidance element is not however contained in the Circular. The validity of public perception of danger as a material consideration is accepted in the circular but the weight given to this must relate to the particular facts of the case.
- 8.18 In the light of this concern the Government asked the NRPB, to set up an Independent Expert Group on Mobile Phones, (IEGMP), chaired by Sir William Stewart. The report of the group (the Stewart Report) was published in May 2000. In respect of base stations the report concluded that the balance of evidence indicates that there is no general risk to the health of people living or being near base stations on the basis that exposures are expected to be small fractions of the guidelines. However, there can be indirect adverse effects on well being in some cases. It acknowledges that biological effects may occur but considers these are very subtle and that there is as yet little evidence of harmful impact. The report states that the possibility of harm cannot be ruled out with confidence and that gaps in knowledge are sufficient to justify a precautionary approach.

- 8.19 In its response to the Stewart Report the Government has indicated its acceptance of the precautionary approach. In respect of base stations this approach indicates that emissions should meet the guidelines of the International Commission on Non-Ionising Radiation Protection (ICNIRP) for public exposure. The IEGMP also recommended as a precautionary measure the establishment of clearly defined physical exclusion zones around base station antennas, which delineate areas within which exposure guidelines may be exceeded. The NRPB already sets clear safety zones of 1 to 2.5m around antennas themselves.
- 8.20 **The Minister for Planning, in a letter to council leaders in June 2000, indicated the approach that should be taken in handling telecommunications applications. This is that if a proposed development meets the ICNIRP guidelines (as recommended by the IEGMP on a precautionary basis), it should not be necessary to consider the health effects further. It is not for the local planning authority to seek to replicate through the planning system controls under the health and safety regime. Enforcement of health and safety legislation in this area is a matter for the Health and Safety Executive (HSE) and not the local planning authority.**
- 8.21 Therefore, it is clear that the perceived health risk can not be a determining factor with this application and that to refuse this prior notification on such grounds would be unreasonable and likely result in an award of costs made against the Council in the event of an appeal.

Proximity to Schools

- 8.22 In the Governments view, local planning authorities should not implement their own precautionary policies eg by way of imposing a ban or moratorium on new telecommunications development or insisting on minimum distances between new telecommunications development and existing development.
- 8.23 Mention has also been made to the 'beam of greatest intensity' and that the applicants have not provided a map showing where this falls. While such a map would have been helpful, the application does show that with a typical installation, the beam of greatest intensity would fall approximately 70 metres from the installation. As such, the beam of greatest intensity would not fall on school grounds.
- 8.24 The fact that a proposed installation is close to a school, is not a reason to refuse this prior notification application. Such a reason for refusal would probably be considered unreasonable.

Conservation Area

- 8.25 A number of the objections letters have stated that the application site is located within a Conservation Area. This is not the case and as such, the Conservation Area policies do not apply. The proposal's impact on the area has already been considered earlier in the report.

Need & Other Antennae

- 8.26 The application has shown that there is a hole in the 3G network and that this proposal would substantially fill it. The need for the mast is not a matter that can be considered when determining this application as authorities should not seek to prevent competition between different operators and should not question the need for the telecommunications system which the proposed development is to support. The fact that there are other antennae in the area does not mean that this proposal is unacceptable or alters that fact that this proposal must only be considered in terms of its siting and appearance.

Previous Applications

- 8.27 While there have been applications for masts in the vicinity of the application site, most notably in 2001 with application PA/COL/01/0125, which was refused on the grounds of its siting and design and that insufficient evidence had been provided that consideration had been given to the potential health risk and that the proposal complied with safety guidelines. The report has already considered potential health risks in terms of planning policy. The fact that other nearby applications have been refused does not mean that this application is therefore also unacceptable. The application proposal needs to be considered on its own merits.

Highways

- 8.28 Under prior notification procedures an application can be refused if the siting would cause obstruction to people using the highway, for example by restricting the width of a footpath or blocking views across a road junction. Such issues rarely arise because the applicants will generally consult highway officers to agree a suitable site before making an application.
- 8.29 The mast is located approximately 7.5 metres back from the junction of Norman Way and Lexden Road and the cabinet some 5.5 metres back. Due to the distance from the mouth of the junction, vehicular visibility would not be affected by the proposal. Furthermore, it would appear that the site is located on Highway Authority land and as such, would require their consent in any event.

Conclusion

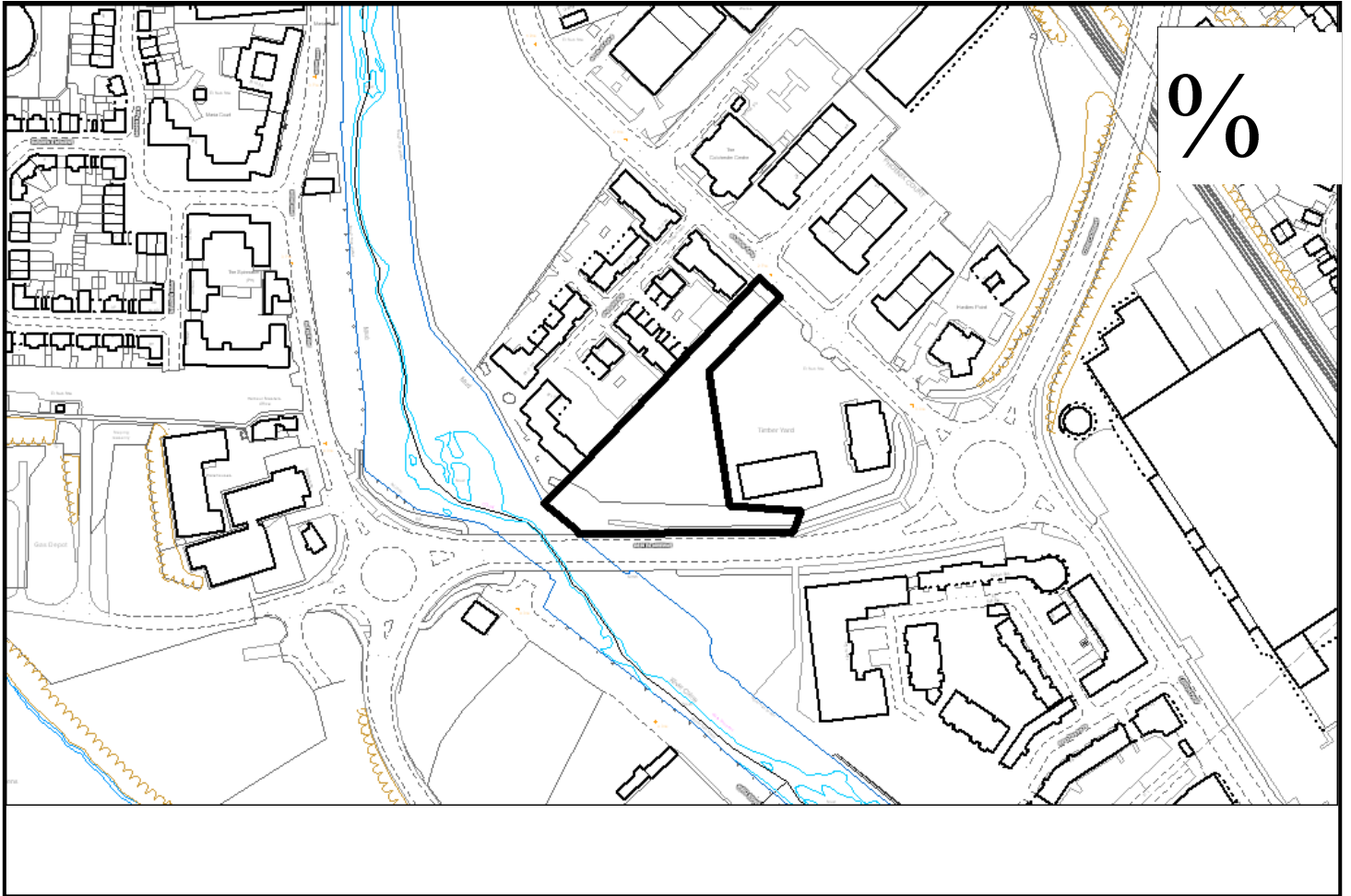
- 8.31 The proposed telecommunications mast is acceptable in terms of its design and appearance and would not harm local amenity. The application has demonstrated alternative sites have been considered and has shown the hole in network coverage. In this instance, the representations received do not outweigh Local Policy or Government Guidance. As such, it is recommended that prior approval is required and is approved.

9.0 Background Papers

- 9.1 ARC

Recommendation

The applicant be informed that Prior Approval is required and is hereby approved.



Application No: 081852

Location: Aim Hire Site, Hawkins Road, Colchester

Scale (approx): 1:1250

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

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2008

7.2 Case Officer: Bradly Heffer

EXPIRY DATE: 23/01/2009

MAJOR

Site: Hawkins Road, Colchester

Application No: 081852

Date Received: 24th October 2008

Agent: January's Chartered Surveyors

Applicant: Ferry Investments Limited

Development: Erection of 63 residential units and 823 sq.m. commercial floorspace with associated car parking and provision of river walkway connecting with Colne Causeway. Resubmission of 080021.

Ward: St Andrews

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

1.0 Planning Report Introduction

1.1 This report relates to a proposal to create a residential and commercial development on land known as the Aim Hire site, Hawkins Road Colchester. The site forms part of the East Colchester Regeneration Area.

2.0 Site Description

2.1 The site for this proposal is an area of brownfield land (of approximately 0.5 hectares in size) immediately adjacent to the Colne Causeway bridge, with a frontage on to the river. The bulk of the site is triangular in shape although a narrow link projects north-eastwards to Hawkins Road. The site itself is relatively level and is bounded by fencing. Immediately adjacent to the site, to the north-west, is a recent residential development (that replaced a commercial development) on a site known as Ballantyne. To the south-east of the site is a commercial development, occupied by Travis Perkins. The proposed development consists of a large single building fronting the river at the southern end of the site. The building comprises 823 square metres of commercial development on the ground floor (that could be utilised for A1, A2, A3 and B1 uses) and residential development above to provide 63 apartments (32 one-bed units and 32 two-bed units). The proposed building would be 7 storeys in height and would of contemporary design - similar to other large residential blocks that have been constructed in the Hythe area. Basement parking facilities would be provided to serve the development. Immediately to the rear (north) of the building would be another parking area to serve the development, consisting of 41 car parking spaces, together with a landscaped 'sitting out' area. To the south would be a landscaped area that would abut the riverside frontage area provided on the Ballantyne site, linking it with the Colne Causeway. The application is accompanied by a Design and Access Statement which is available to view on the Council's website.

3.0 Land Use Allocation

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

4.0 Relevant Planning History

4.1 080021 - Erection of 63 residential units and 823 sq. m commercial floorspace with associated car parking and provision of river walkway connecting with Colne Causeway.

4.2 This application was withdrawn prior to determination as the detailed content of the required S106 could not be agreed within the timescale.

5.0 Principal Policies

5.1 Adopted Review Borough Local Plan
DC1 - Development Control
ECH 1 - River Colne Regeneration Area
ECH 2 - Moler Works site
ECH 3 - Hythe Quay
UEA 11 - Design
UEA 12 - Character of Development
UEA 13 - Development including extensions adjoining existing or proposed residential development
CE 2 - Risk of flooding

6.0 Consultations

6.1 The Highway Authority has no objection to the application, subject to the imposition of conditions on any grant of planning permission.

6.2 The following comment has been forwarded from Environmental Control:

'I've had a look at the noise report and it looks pretty much how I thought it would. It says that the flats facing the road and Travis Perkins will need acoustic triple glazing, ratio 6:12:4 and the windows will need to remain closed and that they will, as a consequence, need trickle ventilation and possibly mechanical ventilation. Trickle ventilation is passive and requires little maintenance, but mechanical ventilation will need a maintenance programme. The flats at the back of the development should be ok because they are shaded by the ones at the front facing the road, forming a barrier. This is far from ideal, but the proposed measures for attenuation are likely to achieve the desired standards.'

Members are advised that these comments were also made on the previously-withdrawn application (ref. 080021).

6.3 It is anticipated that the final comments of the Environment Agency and the Council's Landscape and Tree Officers will be available at the Committee meeting.

7.0 Representations

7.1 None received.

8.0 Report

- 8.1 The proposal for a mix of commercial and residential development on this site is considered to accord with the aims of the Council in seeking to regenerate the Hythe as part of the East Colchester Regeneration Area. It is noted that size and appearance of proposed development is similar to that found elsewhere in the area - not least immediately adjacent on the former Ballantyne site.
- 8.2 Members are advised that the genesis of this current scheme lies in the previously withdrawn proposal (ref 080021) and principles of design and layout were established at this stage. Clearly, the scale of development that has taken place on the adjacent Ballantyne site has informed the size of the building proposed under this application. It is of similar character. Architectural interest would be provided through the palette of materials proposed, together with the insertion of balcony features and the use of timber and colours at appropriate points; an approach utilised elsewhere at the Hythe. The development will be highly visible from extensive public views and therefore, as a principle, a high quality development is necessary - not least to ensure that the overall standard of regeneration at the Hythe is of an appropriate quality.
- 8.3 In terms of development density the proposal equates to 126 units per hectare, given that the residential element of the scheme is over six storeys. However, this proposed density is similar to other developments at the Hythe that have achieved densities ranging between 150 to 200 dwellings per hectare. As regards the range of unit mix it is considered that the location does not readily lend itself to mass market appeal family housing, in terms of site coverage, aspect and external public space. In overall terms the amount and unit mix is considered to be acceptable.
- 8.4 In terms of parking provision, the combination of basement and surface parking would provide a total of 76 spaces. This comfortably exceeds the 100% provision requirement for the residential development. Additionally, the plans indicate the provision of cycle parking, both at surface level and within the basement parking area.
- 8.5 As regards the landscaping of the site, the submitted plans show the creation of a planted avenue off Hawkins Road (augmented by a public art feature). Additionally, tree planting and landscaping would be provided within the proposed surface car park and the sitting out area. Importantly the scheme also shows the provision of a pedestrian and cycleway provided within a hard/soft landscaped area between the proposed building and the riverside. This area would be an important element within the overall Wivenhoe Trail that runs through the Hythe.
- 8.6 Members are advised that this scheme has been considered by the Council's Development Team and, as a consequence, the following package (to be secured by S106 Agreement) is required to mitigate the impacts of the development:
1. Essex County Council education contribution - £20 805
 2. Affordable Housing (as an off-site contribution) - £234 805
 3. Leisure Services contribution - £41 611

8.7 Members are advised that the terms of the required S106 have been established since the submission of the previous outline planning application and a draft agreement has been prepared. It is anticipated that if Members agree with the recommendation the completion of the Agreement can be concluded swiftly.

9.0 Background Papers

9.1 HA; HH; NR; TL; 080021

Recommendation

That the application is deferred in order that the required S106 Agreement as outlined above can be secured. Once the Agreement is completed to the satisfaction of the Council, the Head of Environmental and Protective Services is authorised to issue a delegated planning permission for the development proposed under planning application 081852, subject to the following conditions:

Conditions

1 – A.15 (time limit for commencement)

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

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

2 - C3.1 Materials (general)

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

Reason: The application has insufficient detail for approval to be given to the external materials; and to ensure that the development does not prejudice the appearance of the locality.

3 - 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: The application has insufficient detail for approval to be given to the external materials and to ensure that the development has a satisfactory appearance in order to protect and enhance the visual amenity of the area.

4 - B3.3 Light Pollution

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

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

5 - B3.2 Light Pollution

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

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

6 - B8.1 Drainage Scheme Prior to Commencement of Work

Prior to the commencement of any work on site, a scheme of surface water and foul drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out prior to the occupation of the building/s hereby permitted.

Reason: To ensure satisfactory arrangements are made for the disposal of foul and surface water drainage.

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

The ground floor commercial premises shall be used for A1, A2, A3 & B1 purposes only as defined in the Use Class Order and for no other purpose 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.

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

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

Reason: To ensure that adequate provision [including parking] is made for cyclists taking account of highway safety requirements and national and local policy for cyclists.

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 – C8.1 Percent for Art

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

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

11 – 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 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.

12 - Non-Standard Condition

The height of the surface water outfalls shall accommodate the possibility of a retained high water level in the River Colne and be in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority before the development commences.

Reason: To ensure that the development does not prejudice regeneration proposals to construct a barrage across the downstream of the application site.

13 - Non-Standard Condition

Prior to any commercial unit(s) being occupied for A3 purposes, full details of equipment to be installed for the extraction and control of fumes and odours together with a Code of Practice for the future operation of that equipment shall have been submitted to and approved in writing by the Local Planning Authority (in consultation with the Director of Environmental Services). The use hereby permitted shall not take place other than in accordance with the approved details.

Reason: To ensure that the permitted development does not prejudice the local environment and/or the amenities of the area by reason of noise, fumes or odours.

14 - Non-Standard Condition

Prior to any commercial unit(s) being occupied for A3 purposes the unit(s) shall have been modified to provide sound insulation against internally generated noise in accordance with a scheme previously agreed in writing by the Local Planning Authority. The building shall be maintained in accordance with the approved scheme thereafter.

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

15 - Non-Standard Condition

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

Reason: To ensure appropriate parking is provided in accordance with Essex Local Transport Plan 2006 / 2011. Appendix G: Development Control Policies and Processes Policy 7 Vehicle Parking Standards

16 - Non-Standard Condition

Prior to the occupation of the building a car park management strategy for the site shall be submitted to and agreed in writing by the Local Planning Authority. This shall specify the level of car parking, how it will be allocated and controlled and shall include measures to prevent indiscriminate parking and encourage alternative modes of travel to the private car.

Reason: To ensure that vehicles can park off the highway and to promote the most sustainable approach towards travel.

17 - Non-Standard Condition

All car parking and servicing areas shall be designed and screened in such a manner as to prevent nearby residential premises being affected by vehicle exhaust fumes. Any scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works on this development.

Reason: To protect the environment of residential properties.

18 - Non-Standard Condition

No commencement of the development shall take place until such time as the processing and implementation of Traffic Regulation Orders and associated works required to maintain a 90m x 2.4m x 90 m visibility splay (clear to the ground at all times) at the proposed site access have been provided or completed to the satisfaction of the Local Planning Authority, in consultation with Essex County Council Highway Authority.

Reason: To provide adequate inter-visibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access having regard to Essex Local Transport Plan 2006 / 2011. Appendix G: Development Control Policies and Processes Policy 1.1

19 - Non-Standard Condition

No occupation of the development shall take place until such time as the following have been provided or completed to the satisfaction of the Local Planning Authority, in consultation with the Highway Authority:

1. Improvements to the proposed site access, which shall include a 90m x 2.4m x 90m visibility splay maintained clear to the ground at all times. The details of the improvements shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be carried out prior to any occupation of the development and retained as such thereafter. □2. A minimum 4 metre wide foot/cyclepath between the Colne Causeway toucan crossing and the riverside foot/cyclepath being provided as part of the adjacent Ballantyne Centre redevelopment. Works shall include the removal of the existing ramp between the Colne Causeway and the proposal site. The details of the foot/cyclepath shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be carried out prior to any occupation of the development and retained as such thereafter. □3. For the residential element of the proposal, a bus promotion and marketing campaign, which shall include among other issues free season tickets and timetable information as well as publicity (e.g. by poster and leaflet).

Reason: In the interests of highway safety and to ensure a satisfactory form of development.

20 - Non-Standard Condition

Measures shall be provided to ensure no mud and/or debris is deposited on the public highway by any vehicle associated with the construction of this proposal. Details of the proposed measures shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and shall be carried out to the satisfaction of that Authority.

Reason: In the interests of highway safety.

21 - Non-Standard Condition

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 22 to 25 inclusive have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 25 has been complied with in relation to that contamination.

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

22 - Non-Standard Condition

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

(ii) an assessment of the potential risks to: • human health, • property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, • adjoining land, • groundwaters and surface waters, • ecological systems, • archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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

23 - Non-Standard Condition

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

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

24 - Non-Standard Condition

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

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

25 - Non-Standard Condition

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 22, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 23 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 24.

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

26 - Non-Standard Condition

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 23 above.

This certificate is attached to the planning notification.

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

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: 081918

Location: 3 Darcy Road, Colchester, CO2 8BA

Scale (approx): 1:1250

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

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2008

7.3 Case Officer: Nick McKeever

EXPIRY DATE: 30/12/2008

Site: 3 Darcy Road, Colchester, CO2 8BA

Application No: 081918

Date Received: 3rd November 2008

Agent: Mr Steve Norman

Applicant: East Anglian Homes Ltd

Development: Revisions to dwelling approved on plot 1 of development granted permission under ref: 071668).

Ward: Harbour

Summary of Recommendation: Conditional Approval

1.0 Site Description

- 1.1 D'Arcy Road is a detached 2 storey dwelling house located within an established residential area. It is located on the north side of D'Arcy Road close to its junction with Old Heath Road.
- 1.2 Planning permission was granted on 31st July 2008 for the erection of 9 new dwellings on land at 1 – 5 D'Arcy Road. This development included the demolition of the existing dwelling at No.3 and the erection of a replacement 2 storey dwelling house.
- 1.3 The current application seeks approval for amendments to the approved replacement dwelling. These amendments include the deletion of the chimney, the re-arrangement of a door and windows serving the rear facing Breakfast Room and a change in the fenestration on the side facing Dining Room bay window The length of the dwelling has also been increased by 450mm.

2.0 Land Use Allocation

- 2.1 Residential

3.0 Relevant Planning History

- 3.1 071668 – Erection of 4 No. 3 bedroom houses, 2 no. 3 bedroom bungalows, 2 no. 2 bedroom houses and 1 no. 4 bedroom house. Approved 31st July 2008.

4.0 Principal Policies

- 4.1 Adopted Review Borough Local Plan
DC1 - Development Control Considerations
UEA11 - Design
UEA13 - Development, including extensions, adjoining existing or proposed residential property

5.0 Consultations

- 5.1 The Highway Authority has no comment to make.

6.0 Representations

- 6.1 The occupier of No.8 D'Arcy Road has expressed concern as to the foreseeable problems with parking and traffic using D'Arcy Road. This road is already very busy with parking problems. New houses/buildings are always being erected with no consideration for current the safety of the existing residents.

7.0 Report

- 7.1 The changes to the approved dwelling are very minor have no significant impact upon the overall appearance of the approved dwelling or upon the amenity of the adjoining residential properties. Apart from these minor amendments to the design of the replacement dwelling, the application does not include any changes to the overall development approved under the permission 071668.
- 7.2 Under these circumstances the objection by the occupier of No.8 D'Arcy Road are not considered to be material to this application and can not be sustained.

8.0 Background Papers

- 8.1 ARC; HA; NLR

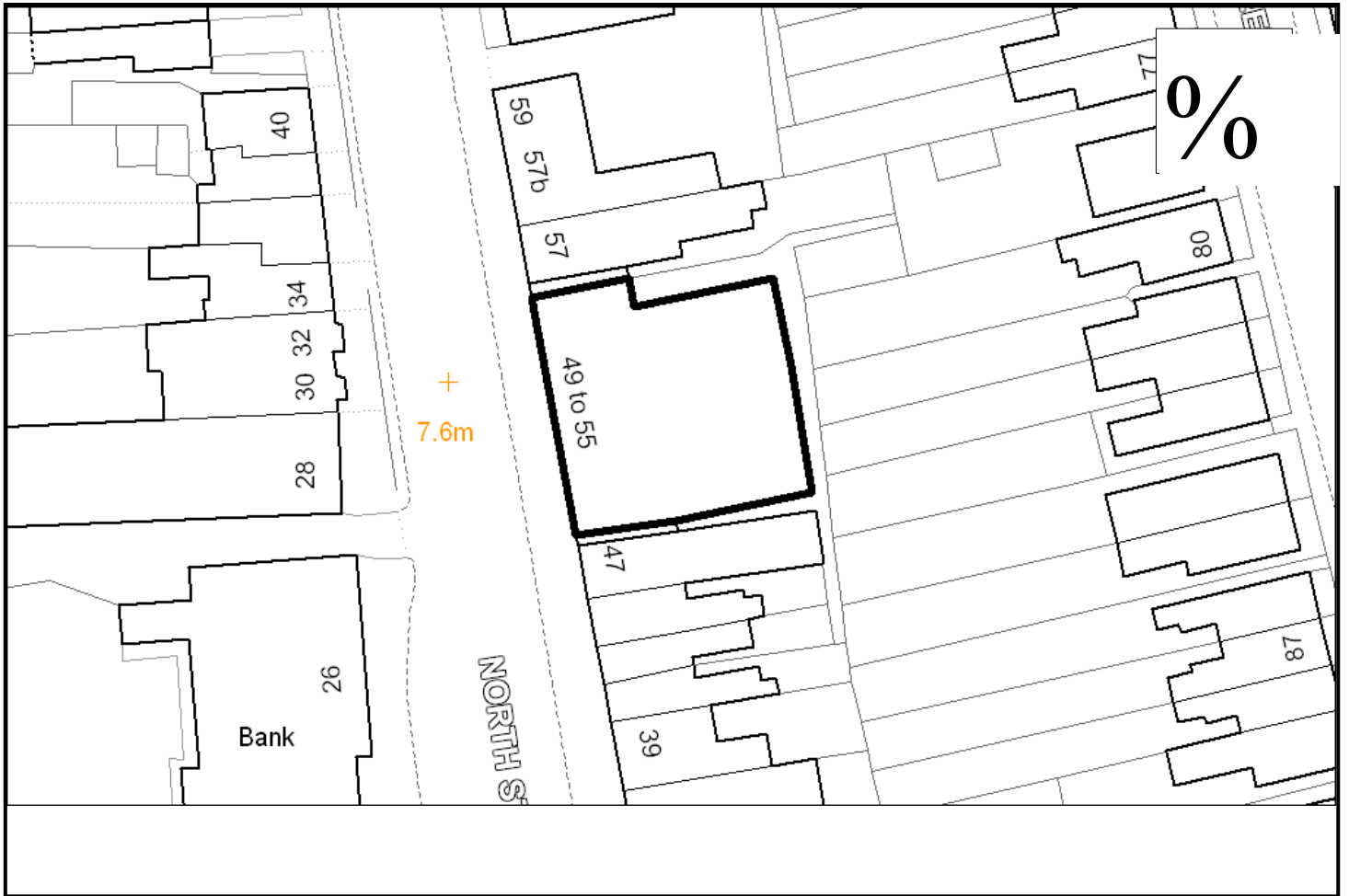
Recommendation - Conditional Approval

Conditions

1 - Non-Standard Condition

The permission hereby granted shall apply solely to the changes to the external appearance of the replacement dwelling and to an increase in the overall length by 450mm as shown on the approved drawings, and not to any other changes that may be shown on these drawings. Furthermore the conditions and informatives imposed upon the planning permission 071668 shall remain valid and applicable to the replacement dwelling at No.3 D'Arcy Road.

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



Application No: 081820

Location: Pizza Hut (UK) Ltd, 49-51 North Station Road, Colchester, CO1 1RQ

Scale (approx): 1:1250

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

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2008

7.4 Case Officer: John Davies

EXPIRY DATE: 28/01/2009

OTHER

Site: 49-51 North Station Road, Colchester, CO1 1RQ

Application No: 081820

Date Received: 2nd December 2008

Applicant: Hunter (Uk) Ltd

Development: Extractor fan and flue to rear of premises

Ward: Castle

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The application site comprises a hot food take-away unit on North Station Road trading as Pizza Hut. The property backs onto the rear gardens of houses in Albert Street and is separated only by a narrow access way.

2.0 Description of Proposal

2.1 The application seeks the retention of a kitchen extractor fan and flue located on the rear wall of the property. The existing flue is positioned against a gable wall and rises to a height of around 7 metres.

3.0 Land Use Allocation

3.1 Mixed Use Area Group C

4.0 Relevant Planning History

4.1 C/COL/03/0958- Change of use to café (Class A3 use) – Approved 25 July 2003

4.2 F/COL/04/0579- Take away Pizza hut- application for approval of kitchen extract ductwork external to building - Approved 6 July 2004

4.3 F/COL/04/1967- install extractor fan and flue to rear elevation of building- Refused 9 August 2005

5.0 Principal Policies

5.1 Adopted Review Colchester Borough Local Plan-March 2004
DC1- Development Control considerations
P1- Pollution
UEA11- Design

6.0 Consultations

6.1 Environmental Control recommend standard noise level conditions.

7.0 Representations

7.1 Two responses received from occupiers in Albert Street of which one raises objections on following grounds:

- Equipment is unsightly and generates objectionable levels of noise and smell not in keeping with a residential area.

7.2 Second respondent raises concerns about size of equipment and potential for fumes and smells to be extracted into rear garden backing onto the premises.

8.0 Report

8.1 The take-away unit was approved planning permission in 2003. In 2004 an extract duct proposal was agreed under application 04/0579 in a position on the side of the building in an alleyway between the application site and No.47. This was however not implemented. A duct was subsequently installed on the rear elevation, which was the subject of an application 04/1967 for its retention. This application was refused in August 2005 for reasons that insufficient information had been provided on noise impact and given that at the time the unit was causing a noise problem. The noise problem was dealt with by action by Environmental Control and since that decision further equipment has been relocated on the rear of the building. This application therefore seeks to regularize the original flue and additional plant. The applicant states that the amended location of the duct was in order to achieve the best possible reduction in noise and vibration and to maximize flow rate and efficiency. Location of the duct in the side alley would also have made access for maintenance in a safe working environment very difficult and impeded the fire access route.

8.2 The duct and fan are located at the rear of the building and not visible from North Station Road. The equipment is however at the bottom of the garden of 82 Albert Street and is visible to many of the other residents. Concerns raised about the appearance of the equipment are acknowledged as it is very prominent. However, there is a need for the equipment to deal with extraction of cooking smells and fumes and there are constraints over where such equipment can reasonably be located. However in terms of its visual impact it is viewed against the backdrop of an existing out building. Whilst its visual impact is less than ideal it is considered that it may be improved by painting the duct a matt black colour. A condition is proposed to secure this.

8.3 With regard to noise, there have been works carried out to insulate the fan so as to reduce noise levels. These works were carried around two years ago and have addressed concerns about noise raised by a neighbour at the time, which were investigated by Environmental Control. The comment from the neighbour about noise reported above has not previously been raised with either the Planning or Environmental Protection Services.

8.4 Members should also note that the flue part of the works may now have been in position for in excess of 4 years and therefore may have become lawful. The grant of planning permission would allow the imposition of conditions in order to regulate its appearance and function.

9.0 Background Papers

9.1 ARC; HH

Recommendation - Conditional Approval

Conditions

1 - Non-Standard Condition

Within 3 months of the date of this decision the approved equipment shall be painted matt black and it shall be retained permanently as such thereafter.

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

2 - Non-Standard Condition

Within 3 months of the decision a competent person shall ensure that the rating level of noise emitted from the site plant, equipment, machinery shall not exceed 5dBA above the background. The assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the Local Planning Authority. All subsequent conditions shall comply with this standard.

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

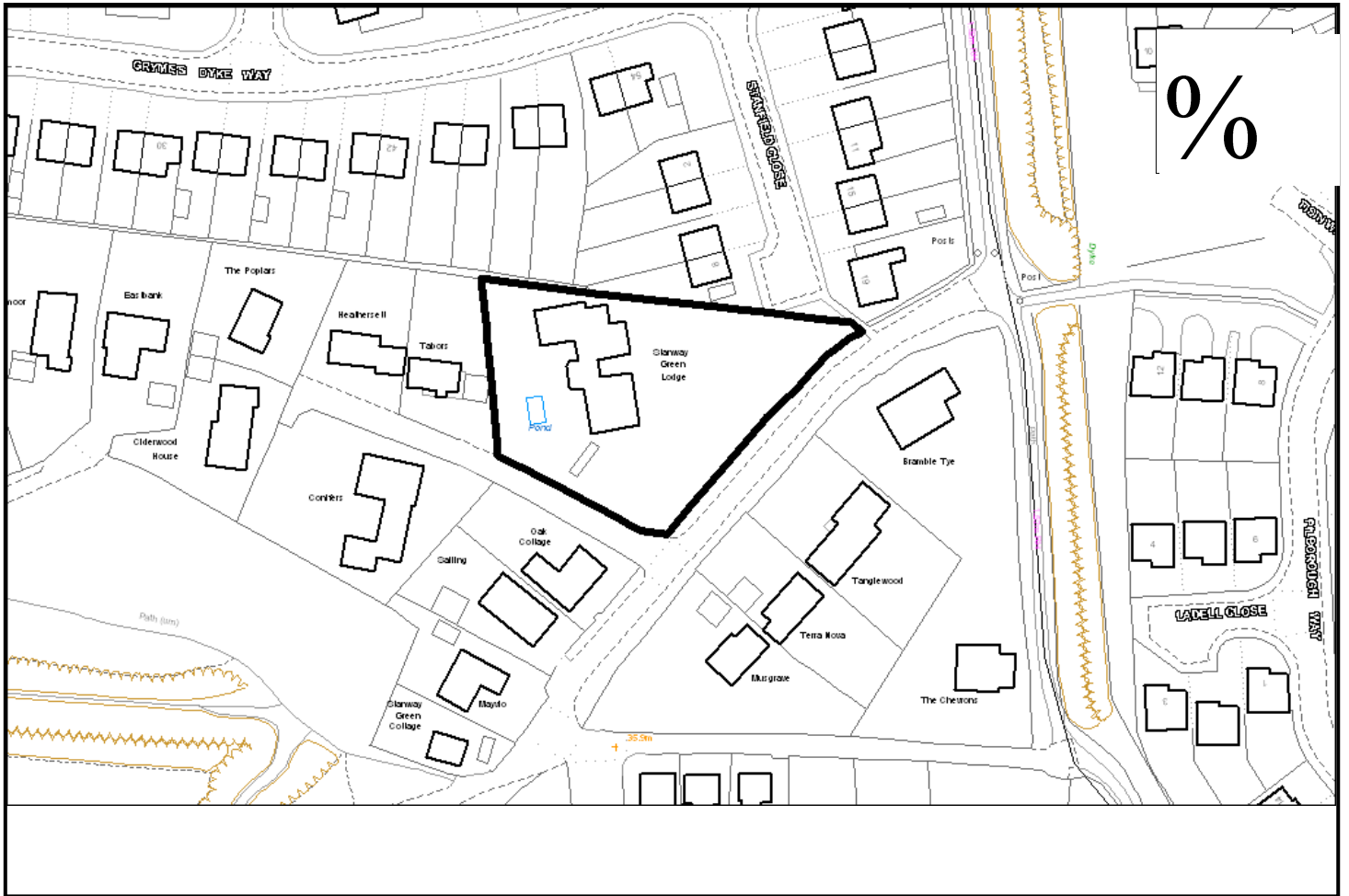
3 - Non-Standard Condition

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

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

Informatives

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



Application No: 082064

Location: Stanway Green Lodge, Stanway Green, Stanway, Colchester, CO3 0RA

Scale (approx): 1:1250

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

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2008

7.5 Case Officer: Mark Russell

EXPIRY DATE: 07/02/2009

OTHER

Site: Stanway Green, Stanway, Colchester, CO3 0RA

Application No: 082064

Date Received: 12th December 2008

Agent: Homa Design Ltd

Applicant: Stanway Green Lodge

Development: Extension and alteration to upgrade existing facilities to current standards and increase number of residents from 27 to 30. Resubmission of 081655.

Ward: Stanway

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application has been called in by Councillor Scott-Boutell as it is potentially divisive and she wishes for Committee to give it full consideration.

2.0 Site Description

2.1 The site comprises a former dwellinghouse which has been incrementally extended to form a care home for 27 elderly residents. The site is reasonably well-screened from other properties by a selection of mature and semi-mature trees. This generally well-planted area is close to the Stanway Green Area of Special Character. The site is surrounded on all four sides by residential properties.

3.0 Description of Proposal

3.1 The proposal, as described above, is to alter and extend the existing care-home, thus increasing the number of residents from 27 to 30. This will be achieved by internal reconfiguration, which will have the result of increasing the size of the individual rooms and removing the double rooms, and by erecting a double-storey element to the front (approximately 64m²) and two single-storey elements to the rear (approximately 80m² and 55m² respectively).

3.2 The previous application (081655) was withdrawn on 29th October 2008 on the advice of the Case Officer as refusal was being recommended on the grounds of invasion of privacy of neighbours and the loss of trees.

3.3 This application was submitted shortly before the Christmas break, and therefore not all representations and consultation replies had been received at the time of writing. As this application is identical to the previous one, save for the new planting proposals, most of the issues are as then. Any subsequent comments prior to the Committee will be reported on the amendment sheets.

4.0 Land Use Allocation

4.1 Residential

5.0 Relevant Planning History

5.1 85/0871 - Change of use from single dwelling to residential home for eight elderly residents. Approved 22 July 1985;

5.2 85/1361 - Single storey rear extension and internal alterations. Approved 21st November 1985;

5.3 87/1198 - Alterations and extension to elderly persons home. Approved 7th September 1987;

5.4 94/0045 - Erection of extension to existing elderly persons home. Approved 10th March 1994;

5.5 98/0214 - To increase number of residents by 2 more than limit imposed by Condition 5 of COL/94/0045. 18th June 1998;

5.6 F/COL/00/0833 - Extension to elderly persons home. Approved 25th August 2000;

5.7 F/COL/02/2019 - Extension(s). Refused 17th January 2003, appeal dismissed 10th October 2003;

5.8 081655 - Extension and alteration to upgrade existing facilities to current standards and increase number of residents from 27 to 30. Withdrawn, 29th October 2008.

6.0 Principal Policies

6.1 Adopted Review Colchester Local Plan:
DC1- Development Control considerations;
UEA11 – Design;
UEA12 – Backland Development;
CO4 – Landscape Features;
H2 – Specialist Accommodation;
P1 – Pollution

Local Transport Plan.
Policy 3.5 in Appendix G

7.0 Consultations

- 7.1 The Highway Authority referred to its previous comments. In these it had not objected, but asked for conditions to protect the bridleway which acts as an access to the site. This should be supported by a £5,000 bond.
- 7.2 The Arboricultural Officer was satisfied with the report submitted by the applicant's specialist, and stated that "The recommendations for the replacement hedge are acceptable. All other comments as per previous consultation". These previous comments suggested conditions to protect trees and natural features on the site.
- 7.3 Environmental Control did not object, but asked that, should permission be granted for the development, an advisory note on demolition and construction be included.

8.0 Parish Council's Views

- 8.1 Comments from Stanway Parish Council are awaited. Stanway Parish Council was previously supportive of the scheme.

9.0 Representations

- 9.1 At the time of writing (7th January 2009), due to the Christmas break, fewer representations had been received than previously. Two letters of objection had been received from neighbouring properties (26 previously) and three letters of support (19 previously) from relatives of residents of Stanway Green Lodge. Many more representations of support and objection are expected before the committee date, and these will be reported on the amendment sheet.
- 9.2 Apart from the amended planting proposals, the issues now are as before, therefore the previous objections and responses are discussed below.
- 9.3 Many of the letters featured the same concerns, which are as follows:
1. Loss of trees;
 2. Loss of screening;
 3. Building too close to boundaries with resultant overlooking and noise/cooking smells to neighbouring properties;
 4. Cramped overdevelopment with an urban appearance;
 5. Pedestrian and cycle links are not "well lit" as has been claimed;
 6. Overlooking issues to the front;
 7. Concern over how firefighters would access the site;
 8. Circulation space under part M of the Building Regulations would not be compliant;
 9. High volume of traffic would further increase;
 10. Undermining of rural/semi-rural character of the area;
 11. Quality of life for those around it would be destroyed;
 12. Highly prominent building in an elevated position is out of keeping with the area;
 13. Previous application had been refused at appeal – this should also be refused;
 14. Mix of traffic with horses on the bridleway not desirable;
 15. Stanfield Close is used as a dropping-off area for staff and so on;
 16. The extended property would be overbearing;
 17. Damage to the bridleway by construction traffic;

18. Overlooking due to the fall of the land;
19. Volume of refuse already causes problems to health;
20. Property is not domestic in scale;
21. Claims that the site is readily accessible from a bus-stop are untrue;
22. General issues of existing noise from the home;
23. Existing parking issues;
24. Large vehicles already have problems entering the site;

9.4 All of the letters of support for the application were from people with relatives at the home, or who worked at the home or had some other association with Stanway Green Lodge. These all stated that the home was well run and that it would benefit from improved facilities.

10.0 Report

- 10.1 Objectors have often mentioned the appeal of the refused application F/COL/02/2019 which was eventually dismissed. This has also led to a belief that the words of the Inspector in her decision of 10th October 2003 were tantamount to an embargo on future extensions. Certainly the Inspector's decision must be heeded, and many of the issues then were as now, but a key difference was that that application was for two-storey elements all the way around – the current application seeks two single-storey elements to the rear, with a double-storey element to the front. This must be treated on its own merits, and whilst it is accepted that the original dwelling Stanway Green Lodge has all but disappeared, it would not appear advantageous to dwell too much on this simple principle of design if this now institutional building is to be well-screened from public view by trees. For the record, your Officer feels that the proposed extensions are acceptable in design terms.
- 10.2 Policies DC1 and UEA12 seek to protect the amenity of neighbouring properties, similarly Policy P1 seeks to protect neighbours from nuisance of noise or odours.
- 10.3 Against this we must consider Policy H2 which states: "H2 Proposals for the provision of specialist residential accommodation for vulnerable groups in the community, such as the mentally ill, disabled people, the elderly and young, single, homeless people, will be granted planning permission..." with certain provisos – such as amenity space and so on.
- 10.4 Here is a potential conflict – Existing residential amenity against the need to provide specialist accommodation.
- 10.5 If the proposed extensions could be accommodated without harming neighbouring residential amenity then they should be allowed. It is clear that an increase of three residents would make no appreciable difference in overall terms in relation to traffic or noise generation.
- 10.6 The extensions do seem to fill the plot, arguably uncomfortably so, and issues of reduced amenity space and proximity to neighbouring properties have been raised. On the first, no satisfactory planning guidance exists, and the applicants have intimated that due to mobility issues, very little garden space is required.

- 10.7 Key to the proposal is its affect on neighbouring residential properties. During the previous application the applicant offered a revised parking layout which now means that the trees on the boundary of Stanfield Close would be preserved, alleviating residential and visual amenity concerns along the northern boundary
- 10.8 Nearby Oak Lodge would also potentially suffer some loss of privacy due to the proposed removal of two small trees on the southern boundary of the development site. However, new specimens are proposed for this location which should help to alleviate this concern.
- 10.9 Of particular concern, however, is the potential effect on the dwellinghouse "Tabors". The applicant is proposing the removal of three trees which currently provide some screening, particularly in the summer months. The loss of these (essential to the development - the building would undoubtedly undermine many of these, which could lead to their future loss as a direct result of the development) would open up views from the existing first floor windows of Stanway Green Lodge, into the garden and curtilage of Tabors. Because of the fall of the land, the height of these windows is actually approaching the height of second floor windows and the incidence of overlooking and feeling overlooked would increase unless evasive measures are taken.
- 10.10 With this in mind a scheme of replanting has been discussed with the applicant.
- 10.11 Your Officer visited the site on 12th November 2008, and assessed the current level of overlooking from the ground and first floor levels, then with the use of measuring poles the potential effect of a replacement hedge at about two metres in height was assessed.
- 10.12 It was found that the existing tree cover was largely ineffective at the southern (house) end of the site, and clear views of Tabors' conservatory and parts of its garden were available in the winter months, with the lower branches of the twin poplars appearing to offer little in the way of screening. This is also the case even when in leaf (see photographs in the presentation, which were taken from Tabors in mid-September, long before any leaf-fall).
- 10.13 Further north, the Norway maple appears to offer satisfactory screening, assisted by other extraneous foliage around it.
- 10.14 At the furthest (northern) end there is virtually no screening at all, although the potential for overlooking is less here anyway, given the relative lack of high-level windows.
- 10.15 Purely in terms of privacy, therefore, the loss of the poplars, and in particular the Norway maple, would have a negative effect.
- 10.16 The proposal, as discussed with the applicant at length is, therefore, to plant an "instant hedge" of approximately two metres in height. The hedge, depending on species, would obviously grow each year, and would be conditioned to be maintained at a desirable height of about three metres.

- 10.17 The hedge would have the affect of immediately securing some privacy, which at the house end will be a great improvement for the winter months, and should be a slight improvement for the summer months.
- 10.18 The middle section of the garden would have altered views of Tabors. The solid mass of the Norway maple would be gone, and in its place would be a lower hedge, but which would be higher than the current growth in the areas surrounding the maple. In the winter months this is seen as a slight gain, although in summer its effect is likely to range from neutral to slightly negative.
- 10.19 Finally, at the northernmost end, the hedge would have the instant effect of securing an as yet non-existent privacy.
- 10.20 Photographs are included in the Committee presentation which show the current scenario, and indications of where the line of sight would be with an initial two metre hedge, and then an eventual three metre hedge.
- 10.21 There is some public visual element to this too, with trees of eight, ten and eleven metres in height being tabled for removal. This fringe of trees, which is along the boundary with Tabors, clearly does form part of the sylvan character of the area. The arboricultural consultant has classified these trees on the boundary with Tabors as being grade C (our arboricultural Officer advises us "Category C trees will usually not be retained where they would impose a significant constraint on the development as is the case in this instance. The actual categorisation is in terms of the tree and basically advises that C category trees are downgraded because of impaired condition, presence of defects that, whilst not immediately hazardous or detrimental, do significantly limit the trees' safe useful life, due to previous unsympathetic management, pruning etc.")
- 10.22 Regarding the objections, many of the points raised have been dealt with in this section, a few points still require clarification. These are numbered in reference to the numeration in the objections section:
3. Cooking odours are a potential issue, but can be overcome by careful mitigation measures. The proposed "general waste and recyclable waste store" seem to be sensitively placed, across the track from Oak Lodge, rather than being close to a boundary. This is not to say that some noise nuisance is not possible;
 5. This may be a valid point, but the success or failure of this application does not hinge upon it;
 7. This is noted, but the Highway Authority has not objected;
 8. Building Regulations are, indeed, outside of the remit of Planning;
 14. The horse/vehicle mix is an existing one, not least with vehicles belonging to nearby residences;
 17. If permission is granted, the applicant will be required to provide a bond to be held against any required repairs to the bridleway;
 19. This is covered by separate legislation;
 21. As with point 5. above, the success or failure of this application does not hinge upon this. For the record, however, the bus route does seem distant from the application site;

23. The applicant is offering eleven parking spaces, this is an increase of two, and thus a proportionate increase. In terms of the Essex Planning Officers Association's Vehicle Parking Standards (August 2001), the scheme is arguably slightly deficient (30 rooms + the equivalent of nine full-time members of staff should mean just over twelve spaces), but the offering is an improvement on the current state of play.

11.0 Conclusion

- 11.1 This application seeks to maintain, and slightly increase, specialist accommodation for a vulnerable group. The necessary loss of the trees, some of which appear to have formed part of planting conditions for previous permissions, is noted. However, it is held that these do not provide adequate screening, especially in winter, and the proposed hedge would, in some ways, be an improvement. It is accepted that the view from Tabors would be altered, and that the hard edge of the roof may be visible where it was not previously, however this is not held to outweigh the other considerations and the application is therefore recommended for approval.

12.0 Background Papers

- 12.1 ARC; HA; TL; HH; PTC; NLR

Recommendation - Conditional Approval

Conditions

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

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

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

- 2 – Non-Standard Condition

The residential home as initially permitted under permission 85/0871, and hereby extended, shall have no more than 30 (thirty) residents living in it at any one time.

Reason: Colchester Borough Council has granted permission on the basis that individual room sizes need to be increased, and does not wish to see a further intensification of this site.

- 3 - Non-Standard Condition

Prior to the commencement of development, the applicant shall undertake a survey of the Bridleway running between the end of the Green and the application site access point, to the satisfaction of the Highway Authority. On the completion of development the same method of survey shall be carried out to assess any damage.

Reason: Access to the development site is along a public right of way known as Bridleway 17, Stanway. Whilst the Highway Authority has no objection to the principle of the development, the construction process could, through delivery of materials and passage of construction traffic, cause damage to the Bridleway surface over and above that caused through normal user passage. This bond is required in order to rectify excessive damage and wear having regard to Policy 3.5 in Appendix G to the Local Transport Plan of Essex County Council.

4 - Non-Standard Condition

Prior to the commencement of development, the applicant shall provide the Highway Authority with a £5,000 bond for use in connection with extraordinary maintenance required as a result of the construction traffic.

Reason: Access to the development site is along a public right of way known as Bridleway 17, Stanway. Whilst the Highway Authority has no objection to the principle of the development, the construction process could, through delivery of materials and passage of construction traffic, cause damage to the Bridleway surface over and above that caused through normal user passage. This bond is required in order to rectify excessive damage and wear having regard to Policy 3.5 in Appendix G to the Local Transport Plan of Essex County Council.

5 - C10.15 Tree & Natural Feature Protection: Protected

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

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

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

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

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

7 -C10.18 Tree and Hedgerow Protection: General

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

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

8 - Non-Standard Condition

The construction shall take place solely in accordance with the terms of the Methodology Statement received, which forms part of this permission, and no other works shall take place that would effect the trees unless otherwise agreed in writing by the Local Planning Authority.

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

9 - Non-Standard Condition

Notwithstanding the annotation on the drawings hereby approved, the applicant shall, prior to the commencement of development, submit, in writing, details of the type of instant hedge, to the Local Planning Authority. The hedging shall be no less than two metres in height. These details shall be agreed, in writing, by the Local Planning Authority and shall be implemented as such, and retained in perpetuity.

Reason: Whilst the principle of such planting has been agreed, Colchester Borough Council is keen to ensure that the hedging offers sufficient screening and is of a type which can be satisfactorily maintained.

10 - Non-Standard Condition

With the exception of the hedging mentioned in the above condition 9, which shall be amended from the drawings hereby approved, all planting shown on the drawings hereby approved shall be as per these drawings, and shall be planted in the first planting season following substantial completion of the development hereby approved.

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

11 - 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. This should include a programme of trimming the hedge so that its height remains at an acceptable level.

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

12 - Non-Standard Condition

Prior to the commencement of development, the applicant shall place a solid screen fence, of a minimum of 1.8 metres in height, along its boundary with Tabors. This fence shall remain in place until the commencement of hedge planting on that boundary, and shall only be removed concurrently with this planting.

Reason: To afford the inhabitants of that property a reasonable amount of privacy during construction and prior to the hedge planting.

13 - Non-Standard Condition

Car parking for the development shall be as illustrated on the plans hereby approved, and shall be put into place prior to the development hereby permitted being brought into use. The spaces shall be used solely for their designated purpose.

Reason: In order to provide adequate parking for workers and visitors to the site.

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: 081940

Location: 220 Maldon Road, Colchester, CO3 3BD

Scale (approx): 1:1250

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

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2008

7.6 Case Officer: Sue Fenghour

OTHER

Site: 220 Maldon Road, Colchester, CO3 3BD

Application No: 081940

Date Received: 12th November 2008

Agent: Mr R Young

Applicant: Miss G Blackmore

Development: Erection of building in rear garden to provide accommodation for elderly parents.

Ward: Christ Church

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

1.0 Planning Report Introduction

1.1 This application has been put forward for Committee consideration as it has been submitted by a member of staff.

2.0 Site Description

2.1 The development proposed is for a one bedroom annexe in the rear garden of 220 Maldon Road, Colchester.

2.2 In the accompanying Design and Access Statement it is explained that this accommodation is required for elderly parents who would take their meals in the main house. In the longer term the building could be used for a range of uses such as a study or playroom, all related to the residential occupancy of the main house. The applicant has indicated that she would be happy for any approval to be conditional upon the use being solely for the personal enjoyment of the occupants of 220 Maldon Road.

2.3 The building proposed is single storey, has an L shaped footprint and is set approximately 17m back from the rear of the main dwelling. The slab level would be set 1m below ground level as the terrain rises towards the rear boundary.

2.4 Following concerns raised by both the immediate neighbour and the Council's Tree and Landscape Officer, the footprint of the annexe has been 'flipped over' so as to avoid the Root Protection Area of the horse chestnut tree in the rear garden of 218 Maldon Road. Any accompanying letter from the applicants' arboricultural specialist states:-

"As is evident from the plan the proposed development does not significantly impact the Root Protection Area (RPA) for the Horse Chestnut tree in the neighbouring property, either with the full RPA or with the offset of 10%. The RPA will be protected by secured 'Heras' type fencing as per BS5837:2005 and as such can be conditioned to be so. I am sure you will agree that this is acceptable in terms of the construction and no further information will be required."

3.0 Land Use Allocation

3.1 Residential

4.0 Relevant Planning History

4.1 None

5.0 Principal Policies

5.1 Adopted Review Borough Local Plan
DC1 - General development control considerations
UEA11 - Design
UEA12 - Backland
UEA13 - Development adjoining residential buildings

6.0 Consultations

6.1 The Trees and Landscape Officer has no objections to the revised layout subject to conditions.

7.0 Representations

7.1 The immediate neighbour at 218 Maldon Road has raised a number of points. In brief these are:-

1. The need for shrubbery screening to be retained.
2. Possible drainage problems.
3. Some concerns over the height of the building.
4. The need for the use to be restricted to prevent a business use involving noise/increase in parking and no kitchen facilities.
5. Impact on the horse chestnut tree. (The letter is reproduced in full in Appendix 1).

7.2 In response the applicant has stated:-

1. She would be happy to accept conditions relating to screening and restriction of use to prevent any business use etc.
2. Expert advice will be taken on the removal of soil and impact on the fence.
3. There will be minimal disturbance to the garden and trees - a revised layout has been submitted.
4. It is the intention to keep impact on neighbours to a minimum - the slab level will be 1m below the existing ground level.
5. All services will be provided from the main house.

8.0 Report

8.1 The two major issues relating to this application concern possible impact upon the amenity of neighbours and upon the adjacent horse chestnut tree.

8.2 This proposal represents a form of backland development albeit on a low-key scale. However, the lack of a separate vehicular access combined with the applicant's intention to use it purely as an annexe ancillary to the main house and the modest scale and traditional form of the building all mitigate against the likelihood of any significant loss of amenity to neighbours.

8.3 The setting of the single storey building 1m below ground level, in recognition of the sloping terrain, and its position set back some 17m from the rear of the main property, further reduces any possible problems of overlooking or loss of light. (It should be noted that there are a number of garages set to the rear of the properties in the vicinity and in particular there is a large outbuilding to the rear of 224 Maldon Road from which it is understood an upholstery business operates).

8.4 Finally the revised position of the annexe now overcomes previous concerns relating to the possible impact on the adjacent horse chestnut tree.

8.5 No objections are therefore raised to this proposal subject to conditions relating in particular to safeguarding the adjacent tree and ensuring the long-term use of the annexe remains ancillary to the residential use of the main dwelling.

9.0 Background Papers

9.1 ARC; TL; NLR

Recommendation – Conditional Approval

Conditions

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

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

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

2 - A2.3 Devel to Accord With Original and Revised Plans

The development hereby permitted shall be implemented in all respects strictly in accordance with the revised block plan drawing no[s] 220SL,220F and 220, site plan and part section 2205.

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

3 - A3.5 Specified Ancillary Use Related to Main Use

The permitted building shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwellinghouse at 220 Maldon Road, Colchester.

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

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 [harmonises with/does not detract from] the appearance of the existing building and the character of the area.

5 - C10.15 Tree & Natural Feature Protection: Protected

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

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

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

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

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

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: 081945

Location: 269 Bergholt Road, Colchester, CO4 5AT

Scale (approx): 1:1250

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

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2008

7.7 Case Officer: Corine Walsh

OTHER

Site: 269 Bergholt Road, Colchester, CO4 5AT

Application No: 081945

Date Received: 11th November 2008

Applicant: Miss M Yexley

Development: Change of use of ground floor premises from office to beauty therapist studio.

Ward: Mile End

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The application site comprises the property and curtilage of 267 Bergholt Road, The proposal is limited to the ground floor of the property and part of its rear curtilage, which is set aside for parking. 267 Bergholt Road is a detached property and is located on the north east side of the road adjacent to a track which is designated footpath/bridleway No. 41 and runs north eastwards. The property is located in the urban area and has residential property neighbouring it on either side as well as opposite.

2.0 Description of Proposal

2.1 The application proposes the change of use of the ground floor of the property from office to beauty therapy facilities.

2.2 The premises has a history of business and retail uses, having originally been a shop and most recently an Estate Agents. Vehicular access is unaltered and is provided on Bergholt Road via the existing footpath/bridleway (No. 41) which provides access to a rear parking court.

3.0 Land Use Allocation

3.1 Residential
Proposed open space

4.0 Relevant Planning History

4.1 The site has been the subject of a number of uses. Having originally been build as a shop, the property has been used as a beer store, Off License and an Estate Agents.

5.0 Principal Policies

- 5.1 Adopted Borough Colchester Local Plan
DC1 - Development Control considerations

6.0 Consultations

- 6.1 The Highway Authority comment as follows:-

"No objection raised and no conditions are recommended, however 3 informatives should be attached to any approval, which relate to highway policy, works affecting the highway and the existence of footpath/bridleway 41."

7.0 Parish Council's Views

- 7.1 Myland Parish Council fully support the application.

8.0 Representations

- 8.1 Comments have been received from a neighbouring resident and a Housing Development Company which owns land to the rear of the property. The comments are summarised as follows:-
1. Insufficient detail of the proposal.
 2. Implication upon residential area in relation to use, parking and highway safety.
 3. Conflict between vehicles using the site and the adjacent track.
 4. Adequacy of parking facilities.

9.0 Report

- 9.1 The assessment of the application can be considered under the following headings:-
1. The principle of the change of use.
 2. Impact on amenity.
 3. Highway issues.

The Principle of the Change of Use

- 9.2 Having been originally constructed as a small neighbourhood shop within a residential street, the principle of this property in a commercial use is long established as the premises have been in some form of commercial use for many decades. Bergholt Road is predominantly residential with incidental business or commercial uses. In planning terms the principle of a Beauty Parlour in this residential street is acceptable.

Impact on Amenity

- 9.3 Whilst the site is surrounded by residential property, its use as a Beauty Parlour would not give rise to undue noise or disturbance and will impact on neighbouring property and the area in general in a similar way to the site's lawful use as an Estate Agents. Given the sites history the proposal is unlikely to result in any adverse impact on the locality.

Highway Issues

- 9.4 A bus stop exists outside the site which makes the premises accessible by public transport. Parking is available to the rear of the property consisting of four spaces, these are accessed from the highway via an existing connection with Bergholt Road. The access and parking arrangements have been assessed by the Highway Authority and no objections are raised.

10.0 Background Papers

- 10.1 ARC; HA; NLR; 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

The use hereby approved shall operate only between the hours of 08.30 and 20.30 Monday to Saturday and at no time on Sundays or Public/Bank Holidays.

Reason: To safeguard the amenities of neighbouring residents.

Informatives

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

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

The applicant is reminded of their duties and responsibilities with regard to the line of public Footpath/Bridleway 41 to the north western side of the site. Should any works affect the line of the right of way these must be carried out in agreement with this authority and application for the necessary works should be made initially by telephoning 01206 838600.

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

22 January 2009

Report of	Head of Environmental and Protective Services	Author	Vincent Pearce ☎ 282452
Title	Planning application determination performance monitoring, an appeals analysis update and a planning agreement performance update for the period 1 October 2008 – 31 December 2008		
Wards affected	All wards		

This report provides:- details of the performance of the Planning Service judged against Government National Indicators, summarises the details of 'allowed' appeals and sets out the levels of revenue received through S106 Agreements for the period 1 October 2008 – 31 December 2008.

1.0 Decision Required

1.1 Members to note the performance record of the Planning Committee and Planning Service.

2.0 Summary of performance report (Headlines)

- ◆ 'Major' application performance fell from 'above' to 'just below' the Government target in the period 1 October 2008- 31 December 2008.
- ◆ 'Minor' and 'other' application performance continued to significantly exceed the relevant Government targets in the same period.
- ◆ The number of planning applications received has continued to drop and is below the number recorded in the previous quarter. That said there is evidence that the decline has plateaued
- ◆ Appeals record (formerly BV204) has slipped since the previous quarter but overall remains on target (ie since April 2008).
- ◆ Delegated decision rate is reasonable but below the 90% target
- ◆ Legal agreement financial contribution receipts are significantly down

3.0 Reasons for Decision

3.1 This report is presented as part of the Service's ongoing commitment to comprehensive performance management and in response to Members' desires to monitor the performance of the Planning Service as judged against key National Indicators. (NI's)

4.0 Alternative Options

4.1 Not applicable

5.0 Supporting Information

5.1 None

6.0 Performance Assessment

6.1 This report will review performance against the following performance indicators

- NI157 (8 and 13 week performance)
- Former BV188 (delegated decisions)
- Former BV204 (appeals upheld)

■ NI 157 (8 and 13 week performance)

6.2 Key performance levels over the period were as described below:-

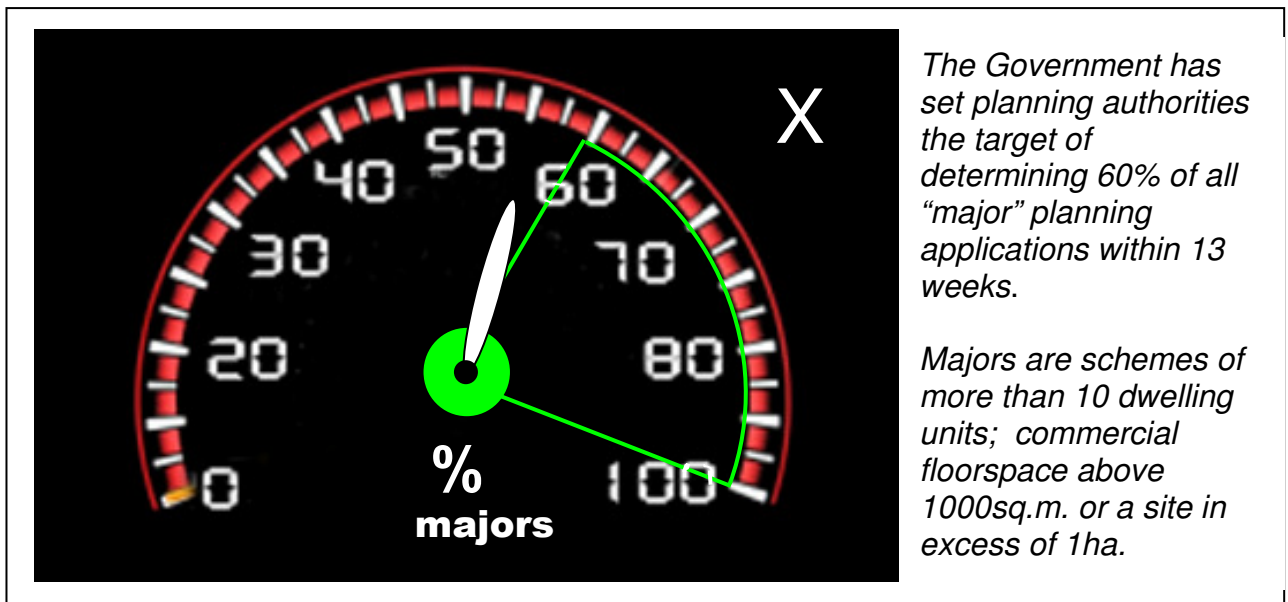


Figure 1: NI 157 "majors" performance 1st October 2008 – 31st December 2008

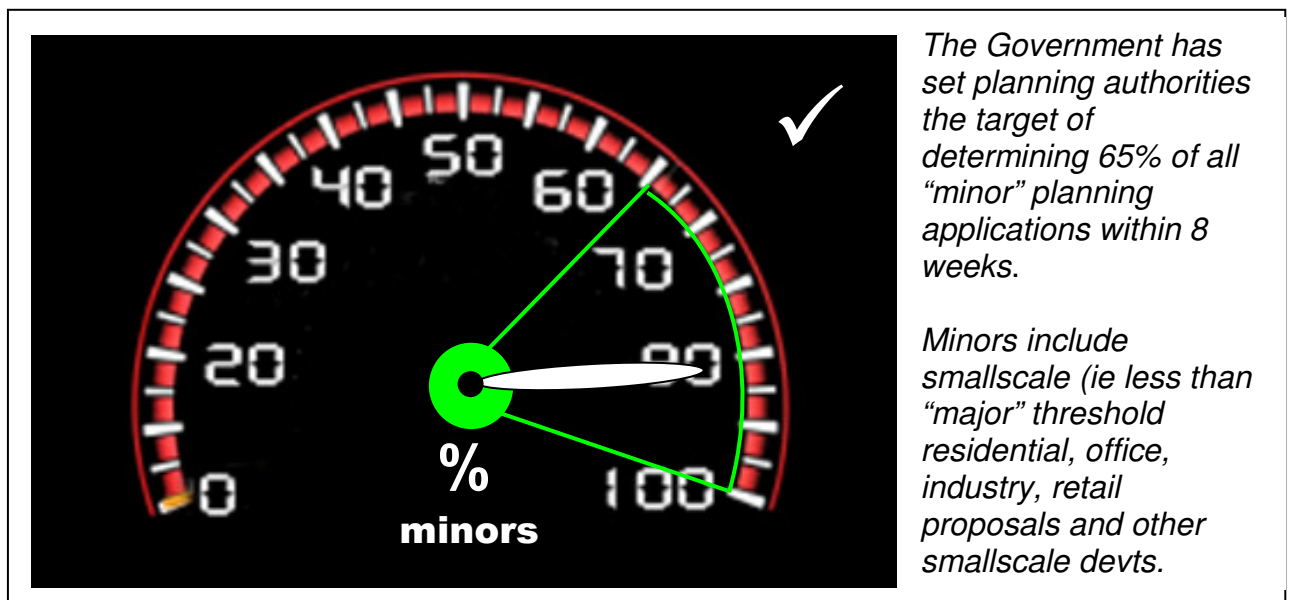


Figure 2: NI 157 "minors" performance 1st October 2008 – 31st December 2008

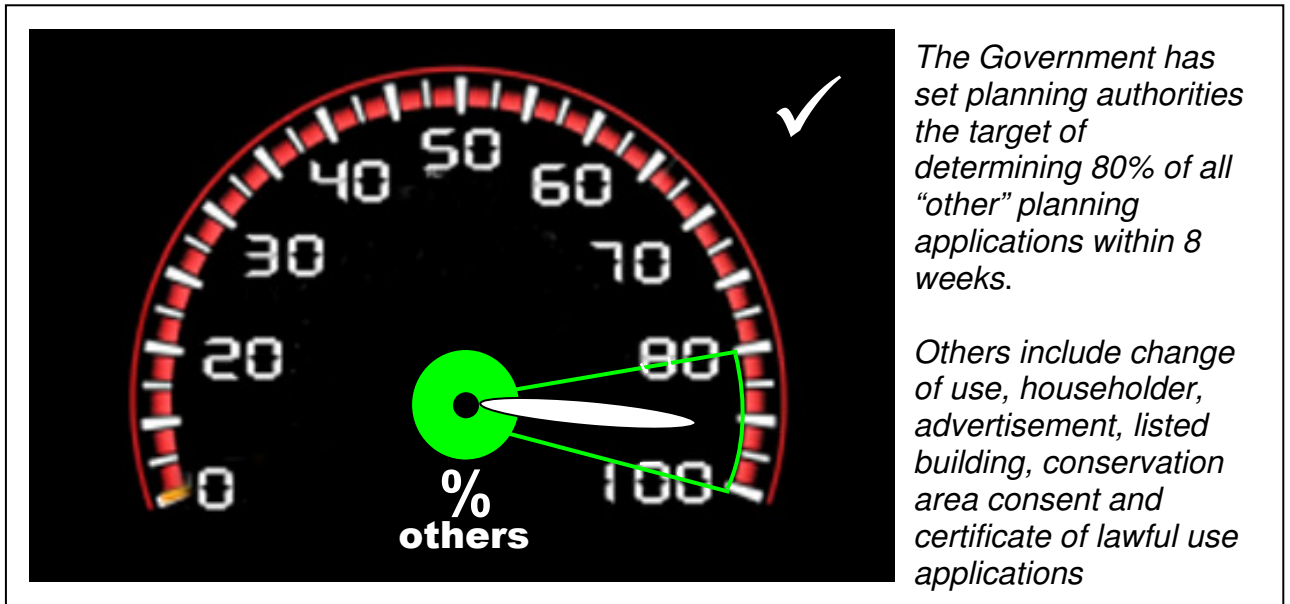


Figure 3: NI 157 "others" performance 1st October 2008 – 31st December 2008

■ **Former BV. 188 (Delegated decisions)**

6.3 During the period 1st October 2008 - 31st December 2008 the overall level of delegated decision making was 85.1% (down from the previous quarter). The Government's target is 90% and so performance sits close to the level the Government deems to indicate effective and efficient decision making.

■ **Trends in application numbers received**

6.4 The number of planning applications being received had been declining since April 2008 and this reflected the slow down in the housing market and all the economic effects associated with the "credit crunch". Looking at the monthly figures for valid applications received since the last quarterly report (Jul – Sept 08) for the months of October, November and December the downward trend plateaued at a position below the previous quarter. However because of the volatility of current economic conditions it is too early to say if this represents the bottom of the dip in numbers of applications being received.

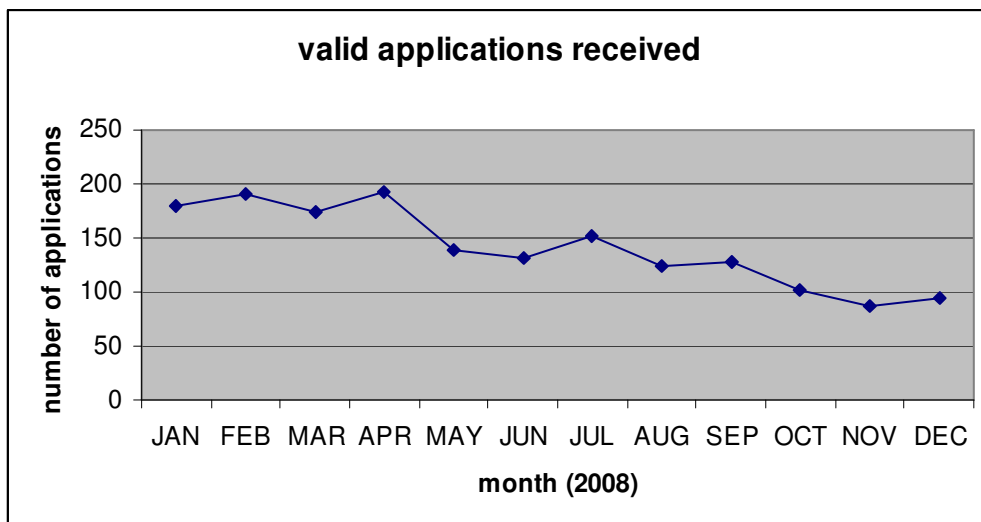


Figure 4: Valid applications received 1st January 2008 – 31st December 2008

■ Planning Service response to the slow down

6.5 Some planning officers from the Planning Service are now working on Planning Policy projects associated with the Core Strategy and other key initiatives in order to assist in the delivery of key pieces of major policy work. Many of these ordinarily would have necessitated new resources being brought into the Policy Service. However by utilising skills already available within the Planning Service best use of existing resources is being achieved.

■ Former BV. 204 (Appeals ‘Upheld’) (between 1st October 2008 and 31st December 2008)

6.7 In the period 1st October 2008 – 31st December 2008 twenty four planning appeal decisions were received (two appeals were withdrawn during this period and have therefore not been included). Of these twelve were dismissed (ie the Council’s case was supported and the decision to refuse was endorsed by the Inspector) and ten were upheld (ie. The Council’s case was rejected and the application at appeal was granted permission by the Inspector). **The Council’s success rate was therefore 54.5%. This is worse than the national average which tends to sit in the mid 60’s%. Another way of looking at the position is that our ‘upheld’ rate of 45.5% over the period is higher than (and so worse than) the national average which tends to be in the mid 30’s%**

6.8 This performance indicator (former BV204) measures the number of ‘upheld’ appeals against the total number of appeal decisions expressed as a percentage. The Government is seeking to ensure that planning authorities do not raise their NI157 performance simply by unreasonably refusing applications within the target time of 8 or 13 weeks.

6.9 However because performance in the previous quarter was at a record breaking level (100% success) the overall “upheld” appeal performance for the period 1 April 2008 – 31 December 2008 is on target.

6.10 As is customary this report will now analyse those appeal decisions that went against the Council.

1.

Reference: 081022

Address: **1 Cross Lane, West Mersea**

Proposal: Removal of condition requiring obscure glazing of circular window at first floor rear

Summary of Inspector’s Letter (decision dated 19th November 2008)

Main Issue

The Inspector noted that the main issue was the effect of the proposed development on the privacy of 4, 5 & 6 Cross Way & 3 Cross Lane.

Considerations

The Inspector was of the view that as the unobscured window is so small, is deeply recessed in a wall and is in the corner of a bedroom the breadth of view from it from a normal standing position within the bedroom is very restricted. He also noted that there was in any event already some overlooking of neighbouring properties from other first floor windows. Consequently the Inspector decided that obscured glazing was not required as there is no harm to privacy.

2.

Reference: 072069

Address: **Oliver's Orchard, Olivers Lane, Colchester**

Proposal: Removal of condition 5 requiring foaling shelter to be built in accordance with approved drawings (not as built)

Summary of Inspector's Letter (decision dated 5th December 2008)

Main issue

Whether the structure 'as built' harms the character and beauty of the countryside.

Considerations

The Inspector took the view that the structure as built (rather than as approved and required by condition 5) is of an attractive design. Whilst its design is unconventional for a field shelter and whilst it is bigger than other field shelters in the vicinity it is not out of context in its setting amongst other existing structures. She did not consider the impact on the character of the countryside to be detrimental and consequently removed the condition. The temporary consent (2 years) remains. The Council had expressed concern that the structure which contains a bucket toilet might be used as a cottage and that the site might be fragmented into a smaller parcel. The Inspector noted that residential use would require a fresh planning permission and there was no evidence that the owner intended to split up the site.

3.

Reference: 073108

Address: **9, Nursery Close, Stanway**

Proposal: rear extension and change of use from residential home to a nursing home for people with physical or mental learning difficulties

Summary of Inspector's Letter (decision dated 17th October 2008)

Main issue

- Effect of the proposal on the living conditions of occupiers of nearby dwellings with regard to traffic disturbance
- Effect of the proposal on the character and appearance of the existing building and area

Considerations

The Inspector took the view that the net addition of two residents and the attendant staffing implications represents a modest intensification of activity – "perhaps almost indiscernible in terms of overall traffic movement". Existing movements to day centres will not increase as existing vehicles have spare capacity and visiting and general activity tends to be concentrated during what are considered to be "sociable hours."

The Inspector noted that concerns from nearby residents about wear and tear to the road surface which is maintained by frontages (other than no.9) are not a material planning consideration. It was however also noted that the appellant had stated at the hearing that he is willing to contribute to the upkeep of the Close.

The proposed extension being single storey, of a simple and functional design and being positioned such as to avoid undue harm to the amenity enjoyed by adjoining occupiers and the visual amenity of the area was enough for the Inspector to conclude that the extension could be allowed as it will cause no adverse impact.

4.

Reference: 072783

Address: **Arbour Farm, Wormingford Road, Fordham**

Proposal: Alteration and side and first floor extension with remodelling of existing dwelling.

Summary of Inspector's Letter (decision dated 10th October 2008)

Main Issues

The effect of the proposal on the character and appearance of the surrounding countryside.

Considerations

The Inspector was of the view that the increase in roof height of some 2.2m would be no higher than a normal house and would be seen from the south against a backdrop of other outbuildings. He commented that the increased bulk of the building would be barely visible from Wormingford Road because of an existing hedgerow and evergreen hedge alongside the road itself. Similarly the extended building will be partly screened from the public footpath that runs north south to the west by trees and at a distance of some 200m the increased bulk will have no real significance.

The proposed remodelling was considered by the Inspector to improve the coherence of the main southern elevation and the general appearance of the building

He therefore concluded that the proposal would not have an adverse impact on the rural character of the countryside.

5.

Reference: 081044

Address **62, Blackberry Road**

Proposal: Change of Use from launderette to hot food takeaway

Summary of Inspector's Letter (decision dated 18th November 2008)

Main Issues

Effect of the proposed development on the living conditions of nearby residents in terms of possible cooking odours, noise and disturbance.

Considerations

The Inspector was of the view that modern properly installed and maintained extraction and filtration ventilation equipment is normally effective in reducing smell nuisance to tolerable levels. He also noted that it is not uncommon to find residential premises over takeaways. With appropriate ducting discharging above eaves level (and so above residential windows) being provided at reasonable cost the use should not create unacceptable odour nuisance.

The Inspector considered proposed opening hours of 11.00 – 22.00 hours on any day to be acceptable because planning Policy Guidance (PPG) note 24: Planning & Noise regards the reasonable period to expect people to be asleep to be 23.00 – 07.00 hours).

Although other nearby residential properties are separated by the parades own customer car park the Inspector did acknowledge that additional evening custom will bring increased potential for disturbance from car doors, engines and people. However he makes particular reference to the fact that that the newsagents within the parade also trades as an off licence and is itself open until 22.00 hours. This together with advice in

PPG24 led him to conclude that so long as the hours of opening were restricted, by condition, to 11.00 – 22.00 hours unacceptable levels of disturbance (to sleep) will not be generated.

Responding to local opposition on the grounds that other hot food takeaways exist in the vicinity and the proposal therefore was not needed the Inspector stated:-

“Opposition from local residents is not in itself a ground for refusing or granting planning permission, unless it is founded on valid planning reasons. There are several other hot food takeaway establishments in the locality. None the less, it is an aim of the planning system to provide for improved choice and competition and I consider that this does not amount to a reason to dismiss the appeal.”

He went on to reject opposition on the grounds of increased traffic as the Highway Authority had raised no objections on highway safety grounds.

He concluded that subject to the application of a conditions requiring:- submission of full details of extract equipment and the installation of approved ducting prior to the use commencing; the takeaway only to be open between 11.00 and 22.00 and another restricting operation of extract equipment to between the hours of 10.30 – 22.30 the proposal would be acceptable.

6.

Reference: 073153

Address : **89, Colchester Road, West Bergholt**

Proposal: Wall and railings

Summary of Inspector's Letter (decision dated 3rd November 2008)

Main Issue

Impact on the character and appearance of the area

Considerations

The Inspector opened by noting that the frontage was once bounded by a 6.7m conifer hedge. Whilst he felt that the wall and railings were somewhat elaborate and “may not be to everyone's taste” this wasn't sufficient reason to refuse planning permission. Having taken stock of the mixture of boundary treatments hereabouts and the semi-suburban context of the site he concluded that the wall and railings do not harm the character and appearance of the area.

7.

Reference: 080001

Address : **Border House, Station Road, Wakes Colne**

Proposal: removal of conditions 2 and 3 on permission to change the use of an outbuilding to an office

Summary of Inspector's Letter (decision dated 19th November 2008)

Main Issue

Are the conditions necessary

Considerations

Condition 2 requires a competent person to confirm noise from the site does not exceed 5dBA above the background prior to the permitted use commencing.

Condition 3 requires future compliance with this requirement and that the noise generated by equipment not to have any 1/3 octave band which exceeds the two adjacent bands by more than 5dBA as measured at all boundaries near to noise sensitive premises.

The Inspector took the view that this small double glazed office (2 person with no visitors) furnished with two desks, two computers, three printers, a photocopier and a fax machine would not cause disturbance to neighbours over and above that of a residential use.

He therefore granted permission without conditions 2 and 3 as they were unduly onerous in the circumstances and therefore unreasonable in the context of advice contained in Circular 11/95: Conditions.

8.

Reference: 080002

Address : **305, Mile End Road, Colchester**

Proposal: Removal of condition 5 attached to planning permission for a change of use from B1 (business use) to D2 (non-residential institution-in this case a dance studio)

Summary of Inspector's Letter (decision dated 15th October 2008)

Main Issue

Impact on highway safety of removing the condition

Considerations

Condition 5 required the installation of approved bollards approximately 2m back from the carriageway edge along the frontage prior to the use commencing in order to prevent parking on the footway.

The Inspector noted that the premise currently has a forecourt that is used for parking. Whilst vehicles do overhang the footway, pedestrians can pass by on the footway albeit in single file without a need to step into the carriageway. As the road here is wide and the appeal site is away from the bend in Mile End Road he felt there was plenty of room for two vehicles travelling along the road to pass without having to travel by close to the footway and any pedestrians thereon. If bollards were to be installed as required across the site frontage the Inspector felt that visitors to the appeal site would be likely to park 'part-on' and 'part-off' the footway thereby straddling the road and path. This he considered to be a more dangerous outcome than using the existing forecourt.

9.

Reference: 072792

Address : **2, Vale Close, Colchester**

Proposal: Single and two storey extension and alteration, erection of a detached garage

Summary of Inspector's Letter (decision dated 20th October 2008)

Main Issue

Will the design of garage/store roof be incongruous and out of character with the surroundings

Considerations

The Inspector disagreed with the Council's judgement on harm. Vale Close is characterised by buildings with modest pitched roofs. However the appeal site and the

location of the proposed garage at the entry to the Close means that the buildings are seen in the visual context of St John's Road where buildings have traditional roofs with steeper pitches similar to the proposed garage. This combined with the fact that the Council has already approved (071399) a front 'bay' extension to 2 Vale Close with an identically pitched gable to that of the proposed garage persuaded the Inspector to grant permission and uphold the appeal.

10.

Reference: 080693

Address : **Building 4, Moler Works, Colne View, Colchester**

Proposal: Erection of 15 dwellings four of which had been completed

Summary of Inspector's Letter (decision dated 2nd December 2008)

Main Issue

Effect of the proposal on the risk to the safety of the occupiers of the development from flooding.

Considerations

This was an interesting case in that it raised for the first time at appeal within the East Colchester Regeneration Area the planning issues around flood risk introduced as material planning considerations by Planning Policy Statement (PPS) 25: Development and Flood Risk.

The Colne Barrier protects low lying parts of Colchester that would be vulnerable to flooding. The appeal site is situated within flood zone 3a and has a high probability of flooding (1 in 200 year probability). In such a zone housing is not appropriate unless the Exception Test is passed.

As the proposal will bring about residential development in an area in need of regeneration by utilising previously developed land with associated sustainability benefits the Inspector accepted that the proposal did satisfy the first part of the Exception Test. (as the proposal would not adversely affect flood risk).

He then went on to consider if the proposal was safe.

The development is designed with residential units at first floor and above (not ground floor) in order to satisfy safety requirements associated with a 1:1000 year risk. This would mean the residential accommodation remains above flood water even with the failure of the Colne Barrier and the effects of rising sea levels caused by climate change.

The only outstanding issue therefore was the Environment Agency's concerns that there wasn't a safe evacuation route to dry land from the site.

At the Inquiry the appellants produced a revised and more accurate levels survey which demonstrated that whilst parts of the evacuation route would be wet the depth and speed of flow of flood water would not be unsafe for vulnerable residents to use.

The Inquiry also considered the implications of the fact that a safe evacuation route out of the "flooded" area to dry high ground had not yet been secured and part of the route in any event sits beyond the appellants control and may be blocked by development. The Inspector stated:-

"To better manage the residual risks from flooding associated with the development a draft flood warning and evacuation plan has been prepared. It and the flood risk

assessment make clear that occupiers would have several hours notice of a flood. For the first 15 hours of a severe flood residents would also be able to leave along the Colne Causeway to the east so in the worst case scenario of the path on the western route being blocked the majority of those people who wished to leave could do so. The remaining residents would remain dry and safe within the building. Whilst a flood would place the emergency services under considerable pressure, should any of the residents require urgent medical attention and the western route was blocked it was clarified at the hearing that the flood water would not be so deep as to prevent emergency vehicles from accessing the building.”

As a result he allowed the appeal.

11.

Reference: 080767

Address : **68, High Street, West Mersea**

Proposal: Creation of a vehicular access

Summary of Inspector’s Letter (decision dated 10th November 2008)

Main Issue

Effect of the proposal on highway safety and the free flow of traffic.

Considerations

The Inspector decided that one property would not generate sufficient traffic to generate a significant hazard. He noted traffic using the High Street would be likely to be local traffic familiar with the hazards of means of access all along this route. Consequently he allowed the appeal.

7.0 Section 106 Agreement monitoring

7.1 £88,663 was received through S106 open Space, Sports and Recreational Facilities SPD. during the period 1 October 2008 – 31 December 2008. No other contributions have been triggered.

7.2 This dramatic drop in receipts is further evidence of the impact of the current economic recession on the development industry in Colchester.

8.0 Financial implications

8.1 The massive drop in S106 financial contributions will have a significant impact on the Borough Council’s and County Council’s ability to deliver social and transport infrastructure for the people of Colchester in the short -term.

9.0 Strategic Plan References

9.1 Improving the performance of the Planning Service (Development Control) is identified as a priority within the Strategic Plan and the Service’s performance contributes, amongst other things, to the broad objectives of raising the performance/reputation of the Council, contributing towards making the Borough clean and green, promoting economic prosperity, tackling deprivation and making Colchester the prestige town of East Anglia.

10.0 Risk Management

10.1 There are no risk management issues to report this quarter.

11.0 Publicity Considerations

11.1 None

12.0 Human Rights Implications

12.1 None.

13.0 Community Safety Implications

13.1 None.

14.0 Health and Safety Implications

14.1 None.

Our vision is for Colchester to develop as a prestigious regional centre

Our goal is to be a high performing Council

Our corporate objectives for 2006-2009 are:



e-mail: democratic.services@colchester.gov.uk
website: www.colchester.gov.uk