

Planning Committee

Town Hall, Colchester
28 March 2013 at 6.00pm

This committee deals with

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

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

Information for Members of the Public

Access to information and meetings

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

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please refer to Attending Meetings and "Have Your Say" 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 or switched to silent before the meeting begins and note that photography or audio recording is not permitted.

Access

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

Facilities

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Evacuation Procedures

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Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates *The Planning and Compulsory Purchase Act 2004*, which requires (in law) that planning applications “*must be determined in accordance with the development plan, unless material considerations indicate otherwise*”.

The following approach should be taken:

- Identify the provisions of the Development Plan which are relevant to the decision and interpret them carefully, looking at their aims and objectives
- Identify and consider relevant material considerations for and against the proposal
- Consider whether or not the proposal accords with the Development Plan and, if not, whether material considerations warrant a departure from the Development Plan.

When applying material considerations the Committee should execute their decision making function accounting for all material matters fairly, reasonably and without bias. In court decisions (such as *R v Westminster CC ex-parte Monahan 1989*) it has been confirmed that material considerations must relate to the development and use of land, be considered against public interest, and be fairly and reasonably related to the application concerned.

Some common material planning considerations which the Planning Committee can (and must) take into consideration in reaching a decision include:-

- Planning policies, including the NPPF and Colchester’s own Local Plan documents
- Government guidance, case law, appeal decisions, planning history, “fallback” positions
- Design, scale, bulk, mass, appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations such as archaeology, listed buildings or a conservation areas
- Environmental issues such as impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism
- Social issues such as affordable housing, accessibility, inclusion, education, recreation
- The ability to use planning conditions or obligations to overcome concerns

The following are among the most common issues that are **not** relevant planning issues and cannot be taken into account in reaching a decision:-

- land ownership issues including private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses
- matters specifically controlled through other legislation
- unless they are “exceptional”, personal circumstances, including hardship

Strong opposition to a particular proposal is a common feature of the planning process. However, in the absence of substantial evidence of harm or support from the Development Plan is unlikely to carry much weight. The same principles apply in reverse where there is strong support for a proposal that is contrary to the Development Plan and there is harm (or lack of substantially evidenced benefit).

Inspectors and Courts (see *North Wiltshire DC V SoS & Clover, 1992*) have established that precedent can be a legitimate consideration, but it is not enough to have a “general anxiety” and there has to be evidence of a real likelihood that similar applications (in all respects) will be submitted.

Human Rights, Community Safety and Equality and Diversity Implications

All applications are considered against the background and implications of the:

- Human Rights Act 1998
- Crime and Disorder Act 1998 (and in particular Section 17)
- Equality Act 2010
- Colchester Borough Council Equality Impact Assessment (EIA) Framework

In order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination.

Using Planning Conditions and Considering Reasons for Refusing Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework reinforces this by stating that "*Planning should operate to encourage and not act as an impediment to sustainable growth*". Therefore, development should be considered with a positive approach. However, not all development is acceptable and almost every permission will require planning conditions in order to make them acceptable. Some will remain unacceptable and should therefore be refused. Circular 11/95 (The Use of Conditions in Planning Permissions) and Circular 03/2009 (Costs Awards In Appeals And Other Planning Proceedings) set out advice on the government's policy regarding the appropriate use of planning conditions and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to "unreasonable" behaviour. They derive from an interpretation of court judgments over the years and, although not planning law, are important material considerations. A decision to set them aside would therefore need to be well-reasoned and justified.

In terms of the Planning Committee, Circular 03/2009 makes it clear that "*Planning authorities are not bound to accept the recommendations of their officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority*".

The power to impose conditions is an important material consideration in any determination. Circular 03/2009 states that "*Whenever appropriate, planning authorities will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed*". Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. *The Circular adds that "A planning authority refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead."* Advice on the need to consider whether conditions may make a proposal acceptable which would be otherwise unacceptable is also to be found in Circular 11/95.

Any planning condition imposed on a development must be necessary, relevant to planning, relevant to the development to be permitted, reasonable, precise and enforceable. Unless conditions fulfil these criteria, which are set out in Circular 11/95, they are challengeable at appeal as *ultra vires* (i.e. their imposition is beyond the powers of local authorities). If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted.

In considering the reasons for that refusal, Circular 03/2009 makes it clear that planning authorities must "*properly exercise their development control responsibilities, rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason*". In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that public authorities act fairly and reasonably in executing their decision making functions, and that it is evident to all that they so do.

COLCHESTER BOROUGH COUNCIL PLANNING COMMITTEE 28 March 2013 at 6:00pm

Members

Chairman : Councillor Theresa Higgins.
Deputy Chairman : Councillor Helen Chuah.
Councillors Nick Barlow, Nigel Chapman, Peter Chillingworth, John Elliott, Stephen Ford, Sonia Lewis, Cyril Liddy, Jackie Maclean, Jon Manning, Nigel Offen, Philip Oxford and Laura Sykes.

Substitute Members : All members of the Council who are not members of this Committee or the Local Plan Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-
Councillors Lyn Barton, Mary Blandon, Mark Cable, Barrie Cook, Nick Cope, Beverly Davies, Annie Feltham, Marcus Harrington, Dave Harris, Jo Hayes, Pauline Hazell, Peter Higgins, Brian Jarvis, Michael Lilley, Sue Lissimore, Colin Mudie, Gerard Oxford, Will Quince, Lesley Scott-Boutell, Terry Sutton, Anne Turrell, Dennis Willetts and Julie Young.

Agenda - Part A

(open to the public including the media)

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

An Amendment Sheet is available on the council's website by 4.30pm on the day before the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Pages

1. Welcome and Announcements

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

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

- action in the event of an emergency;

- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Have Your Say!

The Chairman to invite members of the public to indicate if they wish to speak or present a petition on any of items included on the agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

3. Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

4. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

5. Declarations of Interest

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would

reasonably regard as so significant that it is likely to prejudice the Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

6. Minutes 1 - 14

To confirm as a correct record the minutes of the meeting held on 28 February 2013.

7. Planning Applications

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

1. 121313 Land to the north of Lion Quay, High Street, Rowhedge (East Donyland) **15 - 33**

Riverside centre

2. 130333 Pavilion, Mile End Recreation Ground, Fords Lane, Colchester. (Mile End) **34 - 38**

Application for prior notification of proposed demolition of unused w.c. block.

8. Reasons for refusal on application No. 120965//Change of use and development of land to form 'The Stour Valley Visitor Centre at Horkesley Park'. 39 - 43
(Fordham and Stour)

See Report from 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).

10. Amendment Sheet

44 - 46

See Amendment Sheet Attached.

**PLANNING COMMITTEE
28 FEBRUARY 2013**

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Nick Barlow*, Peter Chillingworth*,
John Elliott*, Cyril Liddy*, Jackie Maclean*,
Jon Manning, Nigel Offen* and Laura Sykes*

Substitute Members :- Councillor Mark Cable for Councillor Nigel Chapman
Councillor Barrie Cook for Councillor Helen Chuah
Councillor Michael Lilley for Councillor Stephen Ford
Councillor Marcus Harrington
for Councillor Sonia Lewis
Councillor Gerard Oxford for Councillor Philip Oxford

Also in Attendance :- Councillor Mary Blandon
Councillor Bill Frame
Councillor Will Quince
Councillor Lesley Scott-Boutell
Councillor Tim Young

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

100. 120965 Land and other property to the North of London Road and West of the A134 including The Chantry, The Chantry Lodge, Hillside and Nursery Site, Great Horkesley.

Councillors Barlow (in respect of having met the applicants in his previous capacity as Portfolio Holder), Cable (in respect of being the Council's representative on the Dedham Vale and Stour Valley Project and a volunteer for the National Trust, Flatford), Chillingworth (in respect of his membership of CPRE Essex) and Offen (in respect of his membership of CPRE Essex) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the change of use and development of land to form 'The Stour Valley Visitor Centre at Horkesley Park'. This would comprise a country park; art and craft studios ('The Chantry'); public gardens; a central building complex which consist of an indoor display ring, a Suffolk Punch breeding centre, entrance building, shop and café. It would also include: a number of attractions: 'field to fork', 'farming through the ages', 'active learning', 'nature watch', and a retained greenhouse as a 'demonstration nursery and gardens', and energy centre. The application also included an energy centre, main and overflow car parks, service yard, highway improvements, ancillary works and infrastructure provision.

The Committee had before it a report in which all information was set out together with further information on the 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.

The following officers attended to assist the Committee in its deliberations.

Vincent Pearce, Planning Services Manager
Sue Jackson, Principal Planning Officer
Andrew Tyrrell, Planning Manager
Karen Syrett, Spatial Policy Manager
Adam John, Landscape Planning Officer
Matthew Bradley, (Essex County Council Highways)
Martin Mason (Essex County Council Highways)

Jill Britton and Nancy McGrath of Britton McGrath Associates also attended.

Andrew Weavers, Monitoring Officer, addressed the Committee on issues of predetermination and confidentiality. Representations made by the Stour Valley Action Group included a Counsel's opinion expressing concerns about predetermination of the application and concerns regarding confidentiality of some of the documentation submitted by the applicant. The Council had obtained its own opinion on these issues.

In respect of predetermination, it was alleged that the statement made on the Council's website by the Planning Services Officer had pre-determined the application by indicating that the Planning Services recommendation would be favourable which would undermine the objectivity and reliability of the officer's report. The Monitoring Officer made clear that it was for the Planning Committee to determine the application and it needed to do so with an open mind and with no pre-determination. As the decision regarding the application was for the Committee, the officer's statement could not and would not have predetermined the application. No weight should be attached to the opinion expressed by the Planning Services Manager. In determining the application, the Committee needed to consider the officer's report, the merits of the application, relevant planning policies and the representations made to the committee and decide what weight to give to each.

In respect of confidentiality, the Monitoring Officer advised that the applicants had informed the Council that their business plan was commercially sensitive and exempt from access under the Freedom of Information Act. The Council was required to consider the information and apply the Act accordingly. The issue that arose was whether and/or on what basis the Committee was entitled to take into account confidential information in the course of determining the application in the light of its non-disclosure. The Council's barrister had advised that following two cases, the Committee could determine the application without breaching its duty to act fairly to all parties including the Applicant.

The Committee could therefore have regard to the confidential information and the advice received in respect of it because the Council could confirm that the Applicant submitted the documentation to it in confidence, that officers have received independent advice in respect of the documentation and that the officer's report reflects the gist of the information contained in the documentation and the

independent advice it received.

Karen Syrett, Spatial Policy Manager, addressed the Committee on the status of the National Planning Policy Framework (NPPF) and the Local Development Framework. Colchester remained in a strong position with a full suite of Local Plan documents. These consisted of the Core Strategy, Site Allocations and Development Policies Development Plan Documents which together constitute the Development Plan. The fact that these were adopted before the NPPF was of no relevance. The NPPF had been published in March 2012 and was a material planning consideration to be taken into account along with other such considerations. It was clear that development remained plan led, unless material considerations dictated otherwise.

Andrew Tyrell, Planning Manager, presented the main features of the application to the Committee.

Have Your Say

John Alexander, Nayland with Wissington Conservation Society, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The response from the Council's Planning Policy team indicated that the proposal was in breach of both national and local policies and that the development was not in accordance with the Development Plan. As the application should be decided in accordance with the Development Plan unless material considerations indicated otherwise, the Committee should start from a basis of refusal. The Planning Officer's recommendation relied on the economic benefits of the scheme, but the concerns about viability and the harm to the Dedham Vale outweighed any potential benefits. The Planning Officer's recommendation was based on a selective reading of a consultant's report. The Committee should uphold planning policy and refuse the application.

Will Pavry, Stour Valley Action Group, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The application would cause irrevocable harm to the Area of Outstanding Natural Beauty (AONB). It was not in accordance with the Development Plan and must therefore be refused. The deliverability and viability of the scheme was questioned, particularly at the maximum visitor numbers accepted by Britton McGrath. Visitor numbers and employment benefits from the scheme had also been overstated. The numbers of jobs likely to be generated were insignificant in the overall borough picture. Britton McGrath had alluded to a number of conditions that needed to be met if the scheme were to be viable including the display of Constable art work and the delivery of the Chinese Garden. None of these had been. Planning permission could only be granted if these conditions were met and they should not be relegated to the section 106 agreement. The application was not deliverable, unsustainable and contrary to planning policy.

David Green, Campaign for the Protection of Rural England (Essex), addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The proposed development was unsustainable and would damage the beauty and tranquillity of the Dedham Vale. The landscape could

be enjoyed from quiet country lanes and public footpaths. The importance of the landscape was recognised by its designation as an AONB. Since the previous application had been refused, the NPPF had been published but this was clear on the protection of AONBs. The heritage proposals were incompatible with local and national policies designed to protect the landscape and its quiet enjoyment. Development of appropriate scale and character, that enhanced landscape, supported the rural economy and opportunities for quiet enjoyment would be supported but the application failed on all counts and should be refused.

Robin Duthy addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The "pulling power" of an art gallery related directly to the fame of its holdings. Christchurch Museum had paintings by Constable, Gainsborough and Munnings available to view without charge, yet only attracted 60,000 visitors per annum. There was no evidence that the applicants had agreements in place for the display of works by Constable. Those artists whose works had been secured were relatively unknown and were "not even a footnote in art history." On the basis of those artists he would predict 5000 visitors per annum at best. To attract 25000 visitors per annum, the Chantry would need a collection independently valued at £20 million. Therefore this proposal was commercially unviable.

Chas Bazely addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. A Countryside Commission report on the Dedham Vale AONB stated that remaining areas of rural idyll were profoundly important. The main change from the previous application was the removal of buildings in the AONB. However, the 5 acre Chinese Garden, which would include walling, would be in the AONB. The Committee needed to consider whether a Chinese garden was needed in an area famous for its typically English landscape and if the art gallery was such an important element of the scheme why the applicant was still seeking to sell the Chantry after the application was filed. The Committee was being asked to agree the change of use with little clarity as to what use it might be put.

Roger Drury, Dedham Vale Society, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. A key reason for the refusal of the previous application was that the proposed use was unsuitable. This also applied to the current application. The application was contrary to the NPPF. The real environmental cost of the application was the 300,000 visitors and staff who would be reliant on car transport. The improved bus route was a fig leaf. The recommendation of approval was a consequence of the planning system being an engine for economic growth. However, development needed to be sustainable. The Localism Act was supposed to allow local people to shape their surroundings. The recommendation was overwhelmingly opposed by those it affected. It was a betrayal of all those who worked to put together the first class Local Development Framework

Parish Councillor Steve Clarke, Little Horkeley Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Horkeley Park overlooked Little Horkeley and if the

application were to be approved. Little Horkesley would suffer from noise and light pollution and increased traffic. The number of jobs and businesses in rural parts of the borough had increased significantly since 2003. The Local Development Framework supported small business in the rural economy. Horkesley Park could only damage trade in the town centre and have a detrimental impact on rural businesses. Horkesley Park offered an incompatible set of attractions.

Parish Councillor Matthew Pescott-Frost, Nayland with Wissington Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The AONB was currently free for everyone to enjoy. By contrast, visitors would be charged to visit Horkesley Park and it would offer nothing of historical interest. There were concerns that the development would lead to increased congestion and car parking in Nayland. Visitors to Horkesley Park from Ipswich and east Suffolk would travel through Nayland and other villages in the Dedham Vale. Nayland already suffered severe congestion at peak school times. If only 10% of visitors passed through Nayland this would cause an extra 100 journeys through the village. Essex County Council and Suffolk County Council had not taken sufficient account of the impact of the development.

Dr Kate Charlton-Jones addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The proposal would cause irreparable harm to one of East Anglia's finest landscapes. The character of the AONB was a combination of buildings and landscape. It was not defined by a line on a map. The landscapes in Constable's paintings were still recognisable today as residents had actively protected the landscape. The Dedham Vale was enjoyed by so many without charge. The character of the area as a piece of rural England was at stake. Horkesley Park was not viable, not sustainable, not wanted and not needed.

Councillor Nigel Chapman, Chairman of the Joint Advisory Committee of the Dedham Vale Area of Outstanding Natural Beauty, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. AONBs had been set up by legislation in 1949 and enjoyed the same planning status as National Parks. There were only 35 nationally. The AONB was vulnerable to development. A Country Park was not a recognised form of landscape in the area and therefore if the application were to be approved, the AONB would lose some of its character. The Chinese Garden would not reflect local character and would require buildings. The concentration of visitors at the predicted levels would impact on the tranquillity and character of the Dedham Vale. The sustainability of the scheme was questioned, particularly in view of the increased cost of fuel. The Committee needed to consider whether the application meets the requirements of the Development Plan and how to secure the return of the site to agricultural use should the development fail.

Georgina Harding addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She expressed concern that when the public representations had been received, the applicants had met with officers and Britton McGrath to prepare a new viability report. The Committee report had been rushed onto the website at the last minute and without the contents page.

The report was confusing. The proposed section 106 agreement was being used to resolve outstanding matters such as the Art Strategy and the design of the Chinese garden. This would allow important decisions to be taken by the applicant and officers without member scrutiny.

Charles Aldous, Dedham Vale Society and Colne Stour Countryside Association, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee had to do more than weigh up the advantages and disadvantages of the proposed development. The proper approach in designated areas such as an AONB was that major development should be refused unless there were exceptional circumstances. There were no exceptional circumstances. Officers had claimed that the application did not constitute major development in the AONB but the proposed development had to be considered as an integral whole and therefore the test in paragraph 116 of the NPPF applied. Policy DP22 was also relevant. The proposed development also conflicted with the Stour Valley Partnership Management Plan.

Morwenna Sudbery, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Concern was expressed about the impact on the tranquillity of the area and the impact of traffic. There were already a number of “rat runs” in the area, which had been overlooked by the Highways Authority.

Stephen Bunting, Bunting and Sons, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Bunting and Sons were an old family business that employed many local people. Many of the speeches made against the application were scare-mongering. The core development site was a redundant nursery. Full account had been taken of the reasons for the previous refusal. The application had been thoroughly and vigorously assessed and it had been concluded that there would be no significant adverse effect. There would be no draw on the public purse. Bunting and Sons were an experienced local firm who wanted to create a scheme that they could be proud of. There would be important economic benefits from the scheme.

Andy Sykes, Sykes Leisure Project, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Tourism Evaluation Report had identified that the tourism industry in Colchester was underperforming. Various strategies had been designed previously to promote Constable Country. There was a proven need for the development and Britton McGrath had confirmed that it had key elements required for a regional attraction. The projected visitor numbers of 316,000 per annum was realistic but Britton McGrath had agreed the development would be viable with reduced numbers. It would put Colchester on the tourism map.

Keith Brown, Visit East Anglia, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Visitors to the site would benefit tourism business and their suppliers. Tourism in East Anglia was of considerable value and generated significant employment. Rural tourism was growing in importance. There was a growing demand for quality and this development “ticked

all the boxes". It would be in easy reach of large number of consumers. Tourism in Colchester was not performing to its potential. The anticipated number of visitors was achievable. The business plan was robust and the scheme was viable and deliverable.

Lady Patricia Hopkins, Hopkins Architects, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The proposal re-used the site of redundant glasshouses. The aesthetic reflected traditional uses and its location. The modest timber framed buildings would improve the ambience of the area. The Chantry was suitable for its proposed use with the right curatorial expertise and appropriate lighting, security and atmosphere. Galleries were looking to loan out items from their reserve collections to galleries such as the Chantry.

Richard Stacey, RPS Group, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The amount of traffic that would be generated would be considerably less than from the previous application. The transport assessment report had been assessed by 3 highway authorities and none had objected on traffic flows and numbers. No significant weight should be attached to the Vectos report. A Travel Plan to enhance choice of modes of transport for visitors and employees was proposed. Most visitors would travel by car but this was not in itself contrary to policy. Visitors would mainly travel on the main roads and there would only be an imperceptible increase of traffic on local roads.

Professor Robert Tregay, LDA Design, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The statutory purpose of designations as an AONB was to conserve and enhance the natural beauty of the landscape and to improve the understanding of the appeal of the landscape. Landscape mitigation would ensure there was no impact on the AONB. Only the undeveloped part of the site was in the AONB. With the exception of garden walls the Chinese Garden would not constitute development within the AONB. The evidence did not support concerns about the impact of traffic and therefore the tranquillity of the area would remain. The scheme would improve access to the countryside in line with purpose of AONB designation.

Neil Mattinson, LDA Design, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Care had been taken to ensure the proposals took account of the sensitivity of the site. The Council's Landscape Officer had accepted the conclusions of the landscape assessment that the development would not affect the character of the countryside and the AONB. The landscape of the country park would be enhanced. There would be ecological benefits and increased bio-diversity. There was no evidence to support the assertions of harm. The setting of the church would not be affected.

Tony Collins, Collins and Coward, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The main concerns raised had been significant harm to the AONB and traffic. However, no evidence of harm had been produced. The Committee needed to look at facts when assessing the relevant policies. There was no harm to the landscape or

bio-diversity. Only one parish council within the borough objected. The Stour Valley Action Group which had been formed to object to the proposal had not produced evidence of harm and disregarded the benefits of the proposal. The argument that the development was a Trojan Horse for other development was a nonsense. The proposals had been subject to detailed scrutiny which had raised no objections so arguments based on fear of failure were not valid. A range of statutory consultees had not objected.

Joseph Greenhow, Joseph Greenhow Planning Ltd, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The fact that the proposal was a departure from the Development Plan was not unusual and was not a reason for refusal in itself. The Committee needed to consider the application on its merits. The NPPF, which was a material planning consideration, postdated the Development Plan and therefore greater weight should be accorded to it. The Development Plan had been found to be unduly restrictive at a recent appeal. The Committee needed to take account of paragraph 14 of the NPPF which stated the presumption in favour of sustainable development.

Emma Owen, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application and read extract from letters of support from Writtle College, a director of Natural England and the Suffolk Horse Society.

Parish Councillor Jean Dickinson, Myland Community Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The population of Myland would grow significantly as a consequence of further development. Residents, particularly children and the elderly, would need to be able to access rural pursuits and breathing space. Horkesley Park would provide this and would enrich the lives of the residents of North Colchester.

Robert Leng, Essex Chamber of Commerce, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Essex Chamber of Commerce supported the application as it would bring substantial investment, improve the tourism offer and create jobs. The development would create jobs from the outset. Local shops, restaurants and suppliers would all benefit. Colchester was punching below its weight in tourism and the development would increase the range of attractions in the borough. There would be a local employment plan to help ensure jobs went to local people. Whilst the number of jobs that would be created had been queried by officers, all employment was valuable.

Kate Bunting, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Whilst the proposal was supported by hundreds of local residents and other groups, the best informed people to judge the application were the Council's planning officers, who had recommended approval. Since 2009, the application had been redesigned on the basis of the previous refusal and the consultation responses. There was no reason to refuse the application and it was an excellent opportunity to create an attraction that would celebrate the local landscape. A robust mitigation strategy would be in place. The Chinese Garden would provide cultural benefits.

Visiting Councillors

Councillor Martin, attended and with the consent of the Chairman, addressed the Committee. Whilst the Planning Policy response relied on policy DP10 to oppose the application, this development would be of too large a scale for an urban area. The AONB was a misnomer as the landscape was the result of many generations of human activity. The application came from genuine country people of the type who had created the character of the AONB and the development would not upset that character. He congratulated planning officers for taking account of the planning needs of rural areas.

Councillor Arnold, attended and with the consent of the Chairman, addressed the Committee. There was a great deal in the proposal that was appropriate. However, the proposal would not be similar to a National Trust Centre. It was a commercial enterprise and would be business driven. The applicants would need to work the site hard. There was a fear that the projected visitor numbers would lead to conflict with and have adverse impact on existing uses of the area. It was accepted this was not the intention of Bunting and Sons. There was considerable doubt over the viability of the development. The need to ensure its viability could potentially lead to a desire to vary the attractions on offer and to further applications. If the applicants had engaged with the Local Plan process, site specific policies could have been put in place, but the applicants had shunned the process. If the application was approved it would send a message that the Local Plan and Development Plan were not sacrosanct.

In response to the Have Your Say! Comments and representations from visiting Councillors, officers responded in the following terms:-

Planning Policy

- The Council was committed to improving the tourism offer in the borough.
- It was the experience of officers that visitors offset the costs of overnight stays by reducing spend on attractions.
- The transport consultants, Vectos, had not been asked to respond to representations on their report.
- In terms of assessing demonstrable harm or impact the Committee may wish to consider what detail was available about the Chinese Garden, the impact of car parking, visitor numbers and the impact of special events.
- The Dedham Vale Management Plan required the Committee to consider the impact of new development on the Dedham Vale.
- The proposal not been put through the Local Plan process, even though there had been a long standing intention to redevelop the site.
- Good progress was being made towards the borough's projected job targets.
- Policy DP10 was relevant to this application.
- The Council had a good record of delivering country parks on the edge of urban areas.

Viability

- There was evidence that the scheme could be delivered in its entirety. Planning Officers were of the view that the scheme did not constitute major development in the AONB. Officers were satisfied that the scheme could be delivered and would be viable if all elements proceeded at the same time. The Chinese Garden could be delivered and officers confirmed that they had seen evidence from a range of private collectors indicating a willingness to lend item items to the applicants.
- Britton McGrath consultants outlined the process by which they had reported on the viability of the proposal. The key information on which they had based their reports was the level of capital investment and this had been “firmed up” as matters progressed. Each of the reports had been asked to consider different issues and were based on a growing amount of information. They reported objectively on the basis of their professional opinion.

Tranquillity

- Planning Officers were of the view that the scheme did not constitute major development in the AONB. If the Committee disagreed with this view, then the presumption in favour of sustainable development would not apply.
- Traffic assessments had looked at the main and local routes to the site and the predicted volume of traffic on these routes. The predicted levels were based on best practice. A number of routes had been analysed.
- The application proposed a number of attractions within the core development area. The operation of these attractions would need to be carefully controlled. The Council’s Environmental Control Team had assessed these attractions and had suggested measures to mitigate. Conditions would be imposed to restrict the increase in ambient noise levels. It was considered that these would not be greater than present levels,
- The site was in the least tranquil part of the AONB, as measured on the CPRE tranquillity map.
- There was no lighting proposed in the AONB.
- When considering the impact of the development, the Committee needed to take into account the topography of the site which was not flat,
- A significant management plan was proposed to cover landscaping and biodiversity issues.

Landscaping

- The landscape assessment submitted by the applicant had been subject to examination through field and desk study. The assessment complied with national guidelines and looked at visual and landscape impact.
- The screening element to the AONB constituted a line of poplars. The Council’s Arboricultural Officer was content with the viability of these trees in the short to medium term, allowing them to continue to act as a filter-screen whilst proposed planting matured.
- Hedging enclosing public footpaths could be designed to allow unimpeded views.

Traffic

- Essex County Council Highways Authority was a statutory consultee. It had assessed the application on highway safety and capacity. The assessment of the 2009 application had shown a substantial impact, but this application was smaller and likely traffic impact was decreased. Most traffic would be generated in off peak periods.
- There were no significant capacity issues in the area.
- The applicant had done as much as could be reasonably expected to encourage sustainable modes of travel.

Members of the Committee sought clarification as to whether and to what extent the application contravened planning policy. The Planning Services Manager confirmed that it did contravene some policies, but the test the Committee needed to apply was what harm resulted from any such contravention. As part of this consideration the Committee could examine issues such as sustainable travel, whether a rural site was a suitable site for an attraction of this scale and whether there was a characteristic of the site that made it an appropriate for this development. The Committee would also need to look at the impact on the AONB. The view of the Planning Officers was that the impact was positive. In looking at this issue the Committee would need to take account of environmental, economic and social factors and put its own weight on these factors.

When considering the application of planning policies, the Committee noted that the application supported some key policies but contravened others. A view was expressed that the application did not constitute sustainable development in accordance with the NPPF. Some members considered that without detailed information on viability the Committee could not be satisfied the application would meet the economic test. The application contravened sustainable development policies that sought to direct new development to urban areas. The application was also in contravention of policies ENV1 and DP10. However, Planning Officers stressed that the Committee needed to take account of the exceptional circumstances resulting from the application and the need for a countryside location for the site.

Concern was expressed that the applicants had not sought to engage with Local Plan process. However, Planning Officers confirmed that in their view this could not be sufficient grounds for a refusal of the application.

A view was expressed by some members which argued that the application would bring important social and economic benefits and did constitute sustainable development. In particular it was in line with policies to promote business and employment. Any increase in employment was to be welcomed and the proposals for apprenticeships were valuable.

Members of the Committee were of the view that viability was particularly crucial in respect of this application. If approved, this would permanently change the land use designation to D2. This would mean that were the development to fail, the site could effectively be treated as a brownfield site. Whilst it would be inappropriate for the Committee to speculate on future uses of the site, should the scheme not be

successful, the Committee needed to be satisfied that the project was viable. Therefore, members of the Committee expressed the view that the Committee needed access to all relevant information in order to assess viability. Some members felt that this had not been provided as the Committee did not have access to the business case or the detailed commercial information on which the assessments of viability had been made. Whilst the Britton McGrath reports had been made available, these had been heavily redacted.

In respect of viability, members of the Committee noted that the application proposed a diverse range of attractions, which may not attract visitors in the anticipated numbers. No evidence based on market research had been provided to demonstrate need. Some members expressed doubts about the viability of the proposals to develop the Chantry into an art gallery. If the Chantry were to be developed into an attraction of the appeal envisaged in the application, it would need to be able to safely house paintings worth approximately £25 million. The Committee had no evidence before it of how the Chantry could be made sufficiently secure and whether the costs of this had been properly built into the business plan. There was also concern that there was no detailed information about the Art Strategy or of the art that had been secured for display. There was considerable competition from other art based attractions in the area such as Christchurch Museum and Firstsite. Some members considered that insufficient information was before them in order for them to make an informed decision about the viability of this element of the scheme.

The cost, importance, the absence of details and viability of the Chinese Garden was also discussed. In response to members' concerns, Jill Britton, Britton McGrath Associates, confirmed that the Chinese Garden had always been part of the application. The scale of investment in the Garden became increasingly apparent. The delivery of the Chinese Garden was crucial to the viability of the development. However, members noted that it did not have information before it about the scale of investment required for the Chinese Garden or the planned return on investment.

A contrary view was expressed by some members of the Committee that the Committee should accept the conclusions of Britton McGrath, who had access to the relevant information, on the viability of the development.

In respect of the Committee's concerns about the availability of information on which to consider issues of viability, Planning Officers suggested that the Committee may wish to consider whether it should defer its consideration of the application to give the applicants an opportunity to respond to their concerns.

Concern was also expressed by some members that the application would have an adverse impact on the AONB. Harm would result from contravening policies designed to protect the AONB, which would leave the AONB vulnerable to further encroachment. It would also result from the enclosing of footpaths and the consequential loss of open vistas. The development was large scale and did not reflect the local landscape character. The increase in visitor numbers to the AONB that would be generated by the application could have an adverse impact on Flatford Mill and other sites at the heart of the AONB. Visitor numbers at these sites were carefully managed and this application with its emphasis on large visitor numbers was

not consistent with the approach taken by the National Trust to safeguard these sites.

In response Planning Officers indicated that proposals addressed the guidelines as set out within the Colchester Borough Landscape Character Assessment inasmuch as it could maintain cross valley views, subject to the sensitive design, and as it proposed the restoration of a woodland and pasture landscape on the valley sides. The development may also reduce visitor numbers on other sites in the AONB and therefore reduce the pressure on these sites. In response to queries from members about sound attenuation in the woodland strip, it was confirmed that trees planted out had no measurable impact on sound attenuation in themselves.

Concern was also expressed by some members about the impact on the Church. In response to these concerns, it was stressed to the Committee that English Heritage's concern was based on the harm caused by human activity, not though the impact of the development itself. It was the view of Planning Officers that the Church may benefit from increased human activity, but in any case concern about the impact of the Church were unlikely to be sufficient to warrant refusal of the scheme.

Some members were of the view that nearly all of the buildings associated with the development would not be in the AONB and the replacement of the existing redundant glasshouses would improve the site. The only building that would be in the AONB would be the walls in the Chinese Garden and these would be limited to the curtilage of the Chantry. Therefore the impact on the AONB was not significant.

In respect of highways issues, the Committee sought confirmation as to whether the Highway Authority had visited the site and whether it took account of satellite navigation routes when assessing travel impact. The Highways Authority confirmed that it had visited the site and that it used the Gravity Model to assess traffic impact. This was best practice. It did not take account of satellite navigation preferences. However, members of the Committee remained concerned that the application was in contravention of the Council's policies on sustainable travel and that there would be an increase of traffic on small country lanes. Members noted that the Travel Plan relied on a link road from the A12 that had not yet been completed and that traffic may use alternative routes through country roads or through the Dedham Vale.

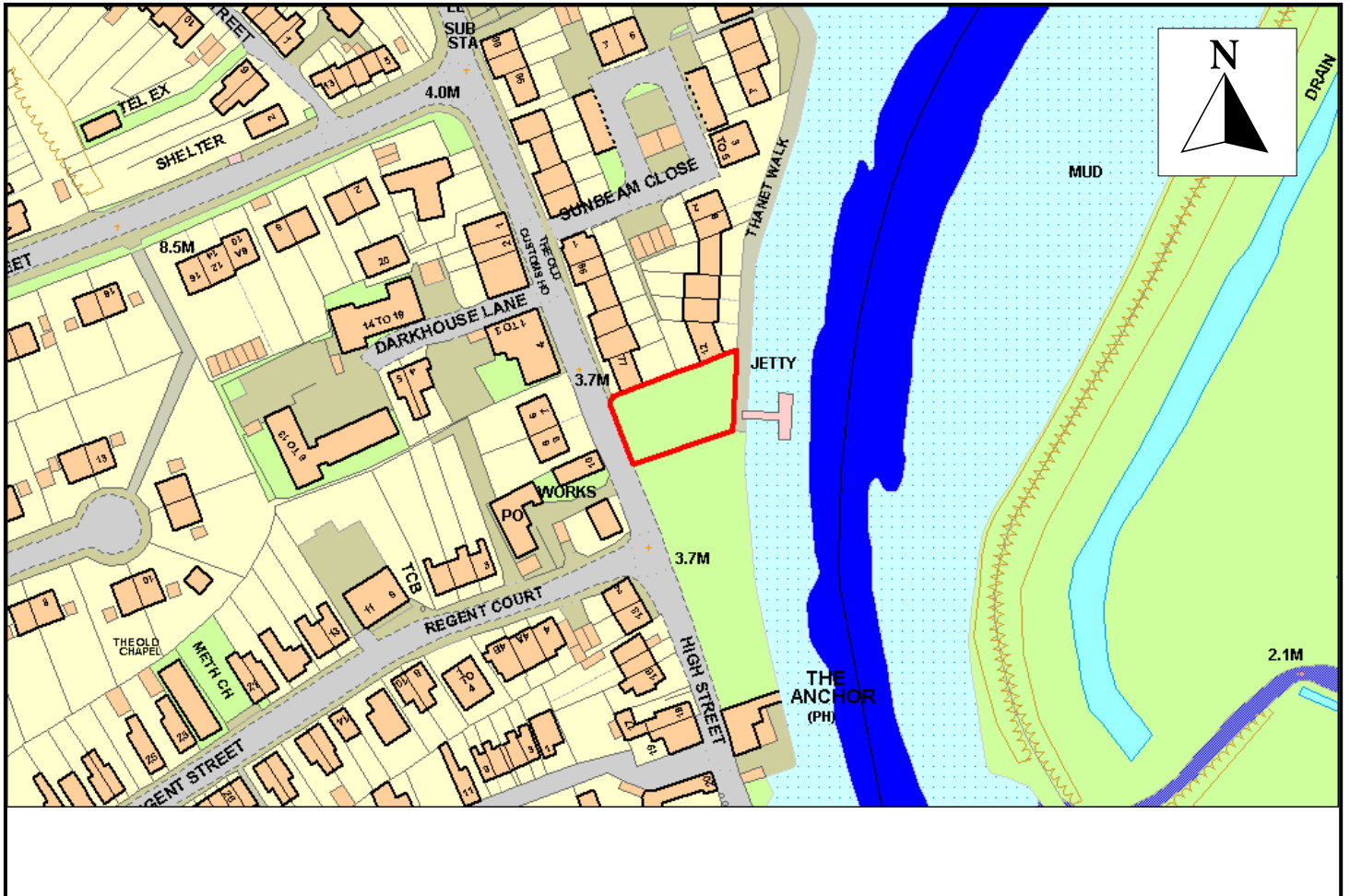
Following the conclusion of the Committee debate, the Committee indicated that it was minded to refuse the application and directed that the detailed reasons for refusal based on the concerns they had indicated in the course of debate should be referred back to a future meeting of the Committee.

RESOLVED (TEN voted FOR and FOUR voted AGAINST) that:-

- (a) The Committee were minded to refuse the application on issues related to the following matters-
- The Committee were not satisfied that the viability of the scheme had been demonstrated and therefore the Committee was not able to give weight to the benefits identified in the scheme;

- The Committee were concerned by the large scale of the development and its impact, the lack of detail, its location in an unsustainable location and in a rural area and the amount of traffic that would be generated and the consequent adverse impact on the AONB.

(b) Detailed reasons for refusal to be submitted to a future meeting of the Committee for approval.



Application No: 121313

Location: Land to the North of Lion Quay, High Street, Rowhedge, Colchester

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **28 March 2013**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

7.1 Case Officer: Sue Jackson

MINOR

Site: Land to the north of Lion Quay, High Street, Rowhedge, Colchester,

Application No: 121313

Date Received: 16 July 2012

Agent: John Bennett Architects

Applicant: Mr Keith Phillips

Development: Riverside centre.

Ward: East Donyland

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because objections have been received which cannot be resolved by the imposition of conditions and due to the lack of on-site parking provision

2.0 Synopsis

2.1 The key issues explored below are the planning history, the design of the building, the location of the site and parking provision

3.0 Site Description and Context

- 3.1 The site is located within Rowhedge High Street. The site faces the High Street and the rear boundary faces the river Colne but is separated from it by a riverside walk and cycleway. The depth varies between 33-25 metres. The north boundary faces residential properties and the south boundary an area of open space owned by Rowhedge parish council.

4.0 Description of the Proposal

- 4.1 The proposal is to erect a building described as the Rowhedge Riverside Centre. The main form of the building is 2 storey and 1 1/2 storey with some single storey elements. The ground floor contains display space of approx 40 square metres, a café approx 26 square metres, kitchen approx 8 square metres, shop approx 5.5 square metres plus a wc, shower and storage space. The first floor contains a multi-purpose room approx 32 square metres which leads to balconies on the east side facing the river and part south elevation facing the open space. The first floor also contains further display areas/circulation space and storage space within the roof void.
- 4.2 The external materials are described as weatherboarding with a white painted finish and the roof black onduline corrugated sheet.

5.0 Land Use Allocation

- 5.1 The site is within the settlement boundary for Rowhedge. The frontage is within the conservation area. The site is also within a flood risk zone.

6.0 Relevant Planning History

- 6.1 The principle of a heritage centre was established by outline planning permission O/COL/95/1053. This planning permission related to major housing development in Rowhedge and originally proposed 3 dwellings on this part of the site. Following representations from the Parish Council these units were omitted and a Section 106 Agreement signed in 2000 required this land to be given to the Parish Council for a riverside heritage centre.
- 6.2 F/COL/01/0207 - Erection of Riverside Centre - Approved conditionally 16th December 2002. Full planning permission for a permanent building.
- 6.3 F/COL/03/1893 - Temporary siting of relocatable single storey building to be Riverside Heritage Colne Campaign Office and Fund Raising Charity Shop - Refused 23rd December 2003.
- 6.4 F/COL/04/0523 - Temporary siting of relocatable single storey building to be Riverside Heritage Colne Campaign Office and Fund Raising Charity Shop - Refused 23rd December 2003 (Appeal dismissed 25th February 2005).
- 6.5 F/COL/05/0463 - Temporary siting of relocatable single storey building to be the Rowhedge Heritage Trust Campaign Office and fund raising charity shop - Approved 3rd May 2005.

- 6.6 071120 Extension of current permission F/COL/05/0463 for temporary siting of relocatable single storey building to be the Rowhedge Heritage Trust office and fund raising charity shop. Approved 6th June 2007
- 6.7 073073 – Renewal of planning permission F/COL/01/0207 – Erection of Riverside Heritage Centre – Pending
- 6.8 090704 Renewal of planning permission 071120 for the continued use of the of relocatable single storey building to be the Rowhedge Heritage Trust office and fund raising charity shop. Temporary Approval - 27/07/2009

7.0 Principal Policies

7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be “a presumption in favour of sustainable development”. There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- UR2 - Built Design and Character
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA5 - Parking
- ENV1 - Environment

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

- DP1 Design and Amenity
- DP4 Community Facilities
- DP14 Historic Environment Assets
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP23 Coastal Areas

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

Community Facilities
Vehicle Parking Standards
Sustainable Construction
External Materials in New Developments
Cycling Delivery Strategy

8.0 Consultations

8.1 Environmental Control has no objection subject to conditions.

8.2 The submitted flood risk assessment has been considered by the Environment Agency who raises no objection subject to conditions.

8.3 The Highway Authority comments as follows:-

“The Highway Authority does not object to the principle of the development but would wish to raise an objection to the above application for the following reasons:
No precise information has been provided by the applicant with regard to current use of the building and visitor numbers, or how the proposal would affect these figures. In this regard this Authority is unable to fully assess the impact the proposal will have on the road network in the vicinity of the site which already suffers from high levels of parking, and will lose two on-street parking spaces in order to construct the spaces shown on the proposal submission. As such this Authority cannot assess the proposals compliance with the policy.”

8.4 Following this response the applicant has provided further clarification as follows:-

- *An indication of the number of visitors to the existing building and an estimation of the proportion that drive walk, cycle or visit via the ferry.*

From the accounts we can deduce that we had around 2200 visitors to the Heritage Hut during the financial year July 2011 to June 2012. The Hut was open between March and November on weekends and bank holidays, ie around 75 days (between 11.00 am and 4.00 pm).

Estimation of Proportion of travel types

- | | |
|--------------------|-------------|
| • 5% by car | 110 people |
| • 10% by bike | 220 people |
| • 20% on the Ferry | 440 people |
| • 65% on foot | 1430 people |

- *The design and access statement refers to a range of uses for the new building, cultural and educational activities, and meeting place for people of all ages, base for youth activities village activities art and craft etc. Will all these activities be organised/managed by the Rowhedge Heritage Trust?*

The RHT will be the core user of the Riverside Centre but the aim is to open the facility to community groups with an emphasis on arts, culture, education and river based activities. Last year we held a meeting for groups interested in using the building and we had representatives of an art group, a crafting group, the regatta committee, and the sea scouts attended and expressed interest using the centre. We have also had interest expressed by the local school.

- *What is the estimated number of people who will attend these different events and the estimated number that will drive to the site? Do these events already take place in the village if so where?*

In year 2 of the business plan we aim to open the teashop at weekends all year and on Wednesdays for three months of this year. We will take into account that there will be a few extra events and that walking and cycling clubs will be coming for sandwich lunches. We estimate 6500 people:

- | | |
|--------------------|-------------|
| • 5% by car | 330 people |
| • 5% by bike | 990 people |
| • 10% on the Ferry | 660 people |
| • 70% on foot | 4500 people |

The riverside centre will not duplicate space used elsewhere in the village; the existence of the centre will spawn more educational, cultural and river based activities created by having a building in such a special location.

- *Will the building be available for private hire by groups or organisations within or outside Rowhedge? If so please provide details and an estimation of the number of attendees and the number that will drive to the site.*

The primary aim of the Riverside Centre will be to make it an additional community resource for the people of Rowhedge. However we will establish a policy for outside hire in keeping with the aims of the Heritage Trust; so for example if the Colne Estuary Strategy group wanted to run a seminar for up to 50 people (the maximum capacity of any of the spaces in the building) during the week this would be in keeping with the kind of usage planned.

The estimate of numbers is included in answer to the previous bullet point.

All hirers will be made aware of our parking policy which will be as follows:

- There is no parking available at the Riverside Centre except for two disabled parking bays. There is very limited parking available on the High Street – especially at weekends when the Anchor and Albion pubs are busy.
- We will encourage those who need to travel to Rowhedge do so by bicycle, on foot, by bus or coming from Wivenhoe or Fingringhoe by Ferry.
- If coming by car is unavoidable use the Village car park adjacent to the village hall and walk down through the village (a map will be provided).”

8.5 The Urban Design Officer comments as follows:-

“This is a design, scale and mass that has been largely agreed and as such the scheme is acceptable. What needs to be resolved is an appropriate shadow study; using midday, when the sun is at its highest does not show what the impacts are at more critical times of day. The proximity of the proposal to the Holm Oak on Lion Quay will also need to be considered for its impact on the tree. I note that a tree report has not been submitted”.

Officer comment: A tree report has been submitted.

8.6 The Arboricultural Officer comments as follows:-

“I am in agreement with the conclusions and recommendations made within the tree report provided.

A full schedule of implementation and monitoring needs to be submitted as part of the arboricultural report. This program (reporting to the Councils Planning and Arboricultural Officers) should:

- Confirm that the setting out and maintenance of tree protection will be regularly monitored by the relevant qualified professional, i.e. the Arboricultural Consultant.
- Include full contact information (e.g. the developer) for inspecting arboricultural consultants and a site specific inspection programme
- Confirm that a pre-commencement site meeting between all relevant parties including the, arboricultural consultant, site manager, tree surgeon, and engineer to clarify responsibilities will take place prior to works starting.
- Confirm that appropriate protective fencing is in place before any works commence on site (including soil stripping and demolition) in accordance with BS 5837:2012. Any subsequent reports should confirm all landscape & tree protection is still accordance with these recommendations.
- Agree to notify the Council of development start date
- Agree timetable monitoring of tree feature protection by the relevant professional (arboricultural consultant), usually monthly and provided in a written format
- Notify the Council through written report any arboricultural issues/compromises that occur during development
- Agree areas of no-dig construction and/or decompaction treatment will be signed off by the inspecting professional as implemented in accordance with agreed methodology and the Councils Planning and Arboricultural Officers accordingly notified on completion of any such works (on completion of site or by phase).

In conclusion, I am satisfied with the arboricultural content of the proposal subject to the above.”

9.0 Parish Council Response

9.1 The Parish Council have stated that:

“Although the Parish Council have no objections to the design of the building as the owner of the land we have concerns about the impact on the unstable land that the building is to be built on. Following a substantial subsidence of adjacent land we have taken advice on the whole quayside and have received advice that the whole quayside area is unstable and could easily collapse which means that we now have regular inspection to try to catch any problems early, therefore we would like to insist that a structural survey is carried out to gauge and problems that the new build could cause before planning permission is considered.

Concerns that also been raised about the lack of parking. The access to the only two disabled parking spaces would take away valuable parking space that existing currently along the river front which is an extremely busy area.

Consideration should also be given to loss of light to adjacent properties.”

10.0 Representations

10.1 16 letters of objection have been received stating:-

1. The proposed development would occupy a portion of one of the last two public open spaces giving access to the River Colne in the village. The entry in the land registry states that the land must be used for either a Heritage Centre or a public open space.
2. The parking spaces shown in the application are totally inadequate for the volume of business indicated for the Centre. As can be seen, the RHT propose to open from 08.30 to 21.30 on weekdays, 09.30 to 22.30 on Saturdays and 10.00 to 16.00 on Sundays, much of this coinciding with the periods of maximum utilization of parking areas.
3. Adjacent residential gardens would be overshadowed
4. The existing roadside parking areas are fully occupied for much of the time, as are those in adjacent streets. The drop down curbs to provide access to the two car and two disabled parking spaces, on the application, would result in the loss of at least two and possibly three, roadside spaces available to the general public. It would also mean a considerable reduction in the area of open space.
5. The imposition of additional demand from the Rowhedge Maritime Centre for parking, plus the loss of roadside parking spaces, would have a severe effect on local residents as well as having a detrimental effect on the businesses operating in the immediate location. (The Anchor Pub, Riverside Motors and the Rowhedge Convenience Store.)
6. The Rowhedge Heritage Trust, who manage the existing temporary structure “The Heritage Hut”, has not had a good relationship with residents from adjacent properties and this has resulted in incidents which have cost the taxpayers a considerable amount of money. The proposed building is very close to no. 77 and there is already an existing dispute, caused by the failure of the Rowhedge Heritage Trust to allow the owner access to his boundary fence, for maintenance.

7. The majority of the village feel that the project is supported by a small vociferous minority from the village and others from outside who would not be responsible for picking up the financial pieces should the project fail. This view in the village is somewhat reinforced by the fact that the current and former Chairs of the RHT both live outside the Parish. There is general concern regarding the financial viability of the project and if it does not run as a financial concern then the upkeep will fall on the villagers in general which is unfair.
8. The Rowhedge Heritage Trust has already been given a total of £70,000 by the Borough and County Councils to further the project without much visible result
9. The application form for the project asks for the building to be designated as A2 "Assembly and Leisure" and not A3 "Restaurant and Café". It is difficult to see how the building can survive without the sale of food and drink on a commercial scale.
10. There are a number of venues within the village which are running social events, (The Village Hall, the Football Club, the Church, the School, the two pubs and the British Legion) and another such venue would be searching around for much the same business.
11. Users of the building would take up the few available parking spaces before the nearby PH's, which rely on these spaces, open.
12. There have been two recent surveys to determine the views of the village. These are detailed in the application for the project but a précis of the results is as follows:-
 - 1) *David Davis poll: - For the proposal - 31, open space or other use - 134.*
 - 2) *EDPC poll: - For the proposal – 114, open space or other use- 81.*
 Refusal by the EDPC to hold a formal referendum even though there are conflicting results from the two polls it would seem that the only way to get an accurate view of the majority opinion is to conduct a formal referendum. (Which is an available option under local government legislation)?
13. There are major concerns in the village about the future of the mature Holm Oak which is growing on the adjacent Lion Quay. There is no survey report with the application. I am informed that there is an existing TPO application for the Holm oak.
14. There appear to be some errors in the consultation process.
15. The application has not been publically displayed near to the proposed site.
16. The Committee should refuse the application for the erection of the proposed building on the land adjacent to Lion Quay I understand that it has been proposed to the RHT that they seek provision of a site on the new port development application. This, they have, at present, refused to do.
17. There is no survey of the site to determine its suitability for a substantial building there is a watercourse and pipe draining into the river. part of the quay has already collapsed and is dangerous
18. The building is too large for the site information on the height of the building circulated in the heritage trust magazine gave the impression of a smaller building. There is insufficient room for tables and chairs without encroaching on the Lion Quay area.
19. The building is not in keeping with plans originally drawn up and agreed by the parish council the village has not been fully involved in the project
20. The shower and toilet for yachtsmen are unnecessary.
21. Refusal by the EDPC to hold a formal referendum
22. The business plan submitted to the council counters one made available to residents which indicates the building would only be open at weekends

23. revenue are falling at a time when the trust should be able to demonstrate increased income to accommodate the larger building and the additional financial strains that brings

24. the overall proposed cost is forecast to be £230,000 given the current economic climate and tight fiscal controls of charitable schemes the total funding looks excessive against overall reward to the public

10.2 A petition with 120 signatures has been received objecting to the application for the following reasons too large, too high and add to the parking problem in high street and surrounding area should be located on the proposed port development area.

10.3 12 representations have been received in support of the application

1. Great asset to village blend well on water front small building a very green building.
2. A badly needed facility in this village. The population has increased with the building of new estates and a facility such as is proposed can only help the growing population become an important part of the community.
3. The temporary building already provides a wonderful centre for residents and visitors of all ages, and is only limited by its facilities. A new building would provide opportunity for exhibition space which could house, amongst other things, some of our rich maritime heritage. It would give a covered meeting place for locals and visitors, and would act as a base for current water based activity. This will be a facility for everybody in the village to enjoy, whether studying local wildlife or learning about the past
4. A great deal of work and good will has gone into this project so far. This is an opportunity to extend the huge strides that have been taken already. It is an opportunity not to be missed!
5. Rowhedge still lacks a venue that celebrates its riverside heritage. This should include a museum which reflects its long and impressive history of fishing, boat-building and for the remarkable local men who worked and crewed on the great clippers of America Cup race fame.
6. The design has been carefully considered taking account of the maritime context and local traditional building practice and has had widespread approval at consultations
7. The building has widespread support from the community as demonstrated by 4 public consultation exercises and the backing of parish borough and county councillors
8. This site would not be in public ownership if it were not for the activities of the rowhedge heritage trust
9. There is no space standard to which riverside heritage centres are designed
10. This is a competent scheme run by a group who have professional expertise.

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

11.0 Parking Provision

- 11.1 There is currently no off road parking provision for cars or cycles. The application drawing indicates 2 disabled parking spaces in front of the building. Provision is also made for 3 cycle racks. The adopted parking standard requires a maximum of 1 space per 25 square metres, cycle parking a minimum of 1 space per 4 members of staff plus visitors on individual merits plus 1 disabled parking bay. The building is stated as having a floor area of 215 square metres and the staff in the long term will be 2 full time and 2 part time. The parking requirement for cars is therefore a maximum of 9 spaces (of which 1 to be a disabled bay) and a minimum of 1 cycle rack for staff and cycle racks for visitors on individual merits.

12.0 Open Space Provisions

- 12.1 The application does not require any open space provision.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Planning History

- 15.1 The application site is owned by the parish council and passed to them via a section 106 agreement in respect of application O/COL/95/1053 which requires the land to be used for a riverside heritage centre. The land was negotiated at the request of the parish council who commented on the application "so far as the dedication of land to the Parish Council is concerned this is now more important than ever due to the loss of certain Community facilities in the High Street area."
- 15.2 The section 106 agreement also included a clause requiring the site to be completed in a reasonable timescale due to concerns this site with a conservation area frontage should not be left undeveloped for an indefinite period.
- 15.3 Members will note from the planning history that some 13 years have passed since the land was given to the parish council. Whilst planning permission was granted in 2002 for a permanent building the necessary funds were not available and the building has not been erected. Since 2005 temporary planning permissions for a single storey building have been granted.

Parking

- 15.4 The lack of parking spaces has always been an issue. In 2000 when the original section 106 was negotiated the view was taken that if the parish had a need for this community facility then the benefits to the parish outweighed the disbenefits of any increase in parking along the High Street. When the full application was considered in 2002 the Highway Authority whilst not wishing to make a formal recommendation commented that the Planning Committee should note that the use is likely to exacerbate on-street parking difficulties in the area". The building approved in 2002 had a floor area of 225 sq m and had 4 small parking spaces (2 pairs of tandem spaces) plus 8 cycle stands parking.
- 15.5 This application proposes 2 disabled parking bays.
- 15.6 The applicant has stated:-

"Transport to and from the building by foot and cycle will be encouraged. Secure cycle racks will be provided and the local cycle and walking routes together with the ferry will be promoted. A cycle hire scheme will be considered. Bus and train timetables will be on display".

Further clarification has been submitted on this issue and forwarded to the Highway Authority.

Design and Scale

- 15.7 The building at 2 –storey high, 6.6m to the top of the ridge, is considered to be appropriate in scale to the residential properties adjacent to and opposite the site. The design and access statement describes the design as "a local maritime vernacular aesthetic"and "a certain complexity of form has been adopted as this tends to create a warmer more human feel" The design is considered to be appropriate to the riverside and conservation area location.

Comment on Representations

- 15.8 The representations make it clear there is disagreement within the community regarding the need for this facility, its finances and the impact on the village if it is unviable in the long term. Concern has also been expressed about the public consultation carried out and changes to the proposal since the public consultation. However none of these are not planning matters and are not for this Council to be involved in. This Council should determine the application its planning merits. The parish council own the land and the site was in fact secured at their request to allow the erection of a maritime centre. It is for the parish council to make a decision on the viability of the scheme, the business plan and to carry out appropriate public consultation. The parish council has indicated a structural survey should be insisted upon. The applicant has confirmed there will be a structural ground investigation before the foundations and structure are designed and that this can be a condition attached to any approval. However the Local Planning Authority does not have the expertise to determine this information which should be dealt with under the Building Regulations. An informative is proposed.

Impacts on Neighbouring Properties

15.9 The proposed building will not result in any overlooking as there are no first floor windows in the side elevation and the roof lights are set high in the roof slope. The application includes shadow projections showing shadowing of the adjacent residential properties at noon on the first of each month. Your officers have also carried out an overshadowing assessment. This indicates there will be limited overshadowing early in the morning during September and March but this is not considered to be unacceptable.

Other Matters

15.10 A tree survey has been submitted which includes recommendations to prevent the construction having an adverse impact upon a tree close to the site. The Arboricultural Officer is satisfied with the conclusions and recommendations of this report.

16.0 Conclusion

16.1 The proposed building is considered to be acceptable subject to conditions.

17.0 Recommendation – Approve subject to following conditions

18.0 Conditions

1 - Time Limit for Full Permissions

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 124203C, 124205 and block plan 1:500 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - Materials as Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that materials are of an acceptable quality appropriate to the area.

4 - Surfacing Material to be Agreed

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

Reason: There is insufficient information within the submitted application to ensure that these details are satisfactory in relation to their context and where such detail are considered important to the character of the area.

5 - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

6 - *Removal of PD - Part 3 of Article 3, Schedule 2 Changes of Use

Notwithstanding the provisions of Article 3, Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the building hereby approved shall be used as a "Riverside Centre" and the approved uses shall be substantially in accordance with those described in the submitted Design and Access statement dated 22nd June 2012 and the submitted Business Plan dated June 2011 and for no other purpose including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any Statutory instrument and re-enacting that Order with or without modification). The A1 (retail) and A3 (café) use shall remain incidental to the D2 use and this consent does not authorise an independent A1 or A3 use.

Reason: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further consideration to the impacts of a different use at this site at such a time as any future change of use were to be proposed.

7 -Vehicle Parking

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure that there is adequate parking provision for the mobility impaired.

8 - Cycle Parking TBA

Prior to the commencement of the development, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

9 - Non-Standard Condition/Reason

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 the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application. Informative: Please note that a competent person is defined as "someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience."

10 - Non-Standard Condition/Reason

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application. Informative: Please note that a competent person is defined as "someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience."

11 - Non-Standard Condition/Reason

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

12 - Non-Standard Condition/Reason

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note (EZ1 AONB; EZ2 rural, small village or dark urban areas).

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

13 - Non-Standard Condition/Reason

No external lighting fixtures shall be constructed, installed or illuminated at any time unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that there are no undesirable effects of light pollution.

14 - Non-Standard Condition/Reason

Any externally illuminated sign shall comply with the guidelines in the current "Institution of Lighting Engineers Guidance TR5 Brightness of Illuminated Advertisements".

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

15 - Non-Standard Condition/Reason

The development shall be implemented in accordance with the Flood Risk Assessment mitigation measures and prior to occupation all the following measures shall have been complied with:-

- The Riverside Centre should be registered with Floodline Warnings Direct.
- Floor levels to be set at 4mAOD.
- The building should be securely anchored to the ground.
- The provision of flood resilience measures as identified in page 6 of the Flood Risk Assessment.
- On site storage of surface water shall be provided up to the 1 in 100 year event inclusive of climate change for when the outfall is tide-locked.

Reason: To ensure appropriate mitigation is put in place to ensure the safety of users of the building in the event of flooding and satisfactory provision is made for the storage of surface water.

16 - Tree and Natural Feature Protection: Protected Areas

Prior to the commencement of development, all trees, shrubs and other natural features not scheduled for removal on the approved plans shall have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and 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.

17 - Tree and 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.

18 - Tree and Hedgerow Protection: General

The existing oak tree shall be retained and 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. This tree shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that this tree (or its replacements) die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, it shall be replaced during the first planting season thereafter to specifications agreed, in writing, by 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.

19 - Tree and Hedgerow Protection: General

No works or development shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

20 - *Restriction of Hours of Operation

The riverside centre hereby permitted shall not be open outside of the following times:

Weekdays: 8.30 am – 9.30 pm

Saturdays: 9.30 am – 10.30pm

Sundays and Public Holidays: 10.00am -9.00pm.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site.

21 - Non-Standard Condition/Reason

Prior to the commencement of development a scheme of environmental works including the construction of walls/fences/ railings/ bollards and other structures on the site shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full prior to the building being brought into use and shall thereafter be retained.

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

19.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

(2) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

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

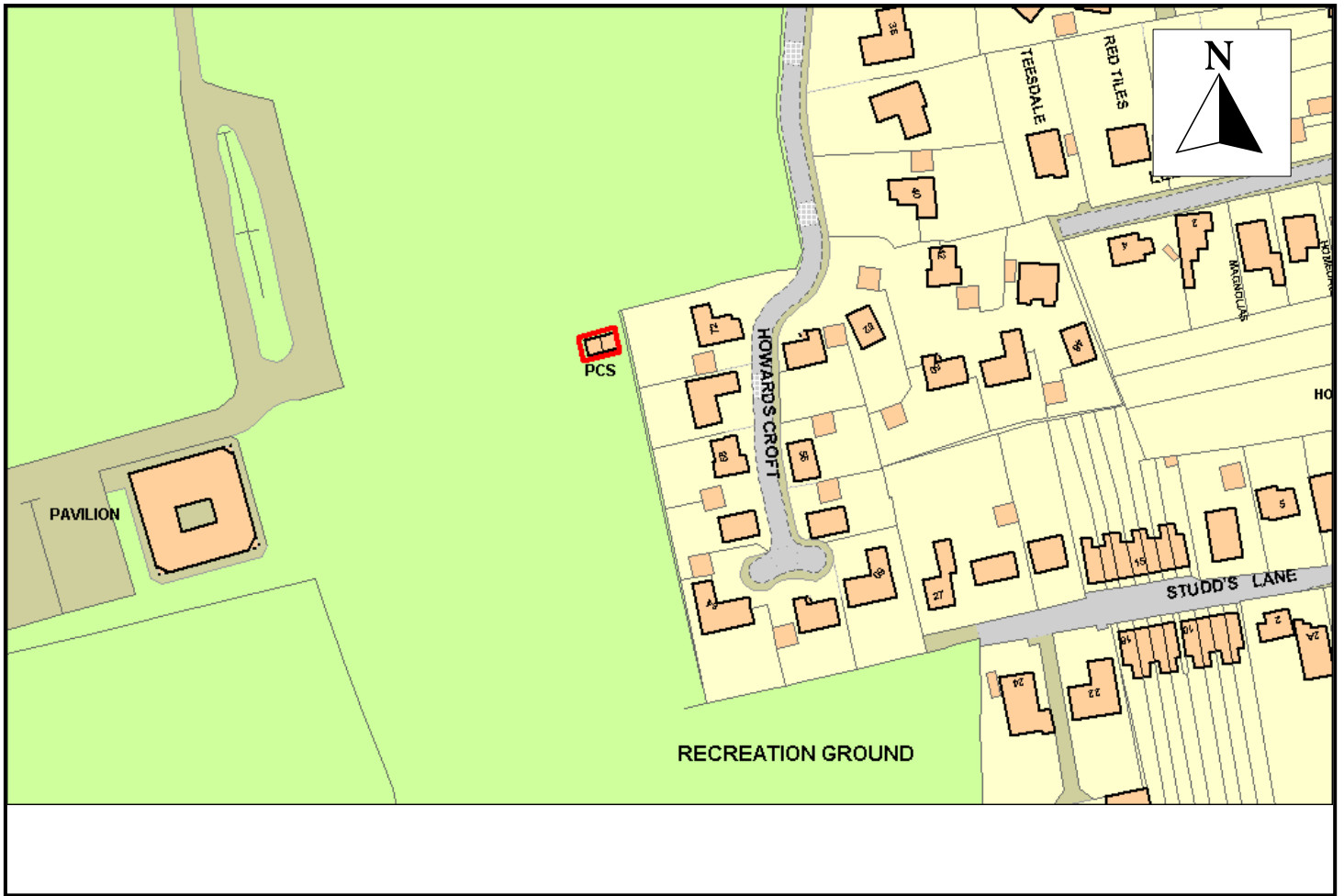
(4) Advice to Applicant:

Under the terms of the Water Resources Act 1991, prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 9 metres of the top of the bank of the River Colne, designated a 'main river', or tidal flood defence.

(5) Note: As the site is indicated as being unstable a structural ground investigation is required to inform the details of the foundation and structure.

20.0 Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Application No: 130333

Location: Mile End Sports Ground, Pavilion, Mile End Recreation, Fords Lane, Colchester, CO4 5FS

Scale (approx): 1:1250

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7.2 Case Officer: James Ryan

Due Date: 16/04/2013

OTHER

Site: Pavilion, Mile End Recreation, Fords Lane, Colchester, CO4 5FS

Application No: 130333

Date Received: 19 February 2013

Agent: Nps South East Limited

Applicant: Colchester Borough Council

Development: Application for prior notification of proposed demolition of unused w.c block.

Ward: Mile End

Summary of Recommendation: Approved without conditions

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

2.1 This application is for the prior notification of the demolition of a disused toilet block on the Mile End sports ground. The details supplied with the application are acceptable and no further information is required. Prior notification can therefore be granted.

3.0 Site Description and Context

3.1 The wider site is the Mile End Sport Ground located off of Fords Lane. The site houses football pitches, a pavilion and a children's play area.

3.2 The building in question is located close to eastern boundary of the site, near to the rear gardens of the dwellings in Howards Croft. It is small, flat roofed and of no architectural merit. It has not been used as a toilet for over 10 years and currently houses the irrigation system for the sports pitches. The irrigation system is to be relocated.

4.0 Description of the Proposal

4.1 This application proposes the demolition of the former toilet block. The site will be cleared and the land will be re-seeded or turfed.

5.0 Land Use Allocation

5.1 The land is allocated on the LDF Proposals maps as public open space.

6.0 Relevant Planning History

6.1 There is no planning history that is relevant to this scheme.

7.0 Principal Policies

7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be “a presumption in favour of sustainable development”. There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD3 - Community Facilities
PR1 - Open Space

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

DP1 Design and Amenity
DP15 Retention of Open Space and Indoor Sports Facilities

7.5 Regard should also be given to the following adopted Supplementary Planning Open Space, Sport and Recreation

8.0 Consultations

8.1 Environmental Services required confirmation that there is no asbestos in the building which has been provided by the agent. They also requested a strategy for the control of dust during the demolition which has also been provided by the agent.

9.0 Parish Council Response

9.1 The Parish Council have stated that they have no objection to the scheme.

10.0 Representations

10.1 Two representations have been received.

10.2 Councillor Goss supports the scheme and requested that the area be seeded afterwards. This is proposed and will therefore be carried out.

- 10.3 The neighbour at 72 Howards Croft also supports the scheme and noted the benefits of the removal of the building. This representation also noted the possibility of needing new drainage when laying the new turf and also requested the tidying up of the hawthorn hedge following the removal of the building, however these matters are beyond the scope of this prior notification application.

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

11.0 Parking Provision

- 11.1 As this is an application for the prior notification of demolition the parking provision is not relevant.

12.0 Open Space Provisions

- 12.1 As this is an application for the prior notification of demolition the open space provision is not relevant.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This is a prior notification application and is therefore not subject to any planning obligations.

15.0 Report

- 15.1 There is no planning reason for the retention of the building. Sufficient detail regarding the demolition has been provided. The land will be reseeded or turfed following the demolition which is entirely appropriate. No further information is needed.

16.0 Conclusion

- 16.1 The demolition of the building is acceptable on the basis of the information provided.

17.0 Recommendation - Approval of prior notification.

18.0 Recommended Reasons for the Decision

- 18.1 The proposal accords with the relevant policies in the Statutory Development Plan (as set out above). Having also had regard to all material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged planning importance.

19.0 Conditions

19.1 No conditions.

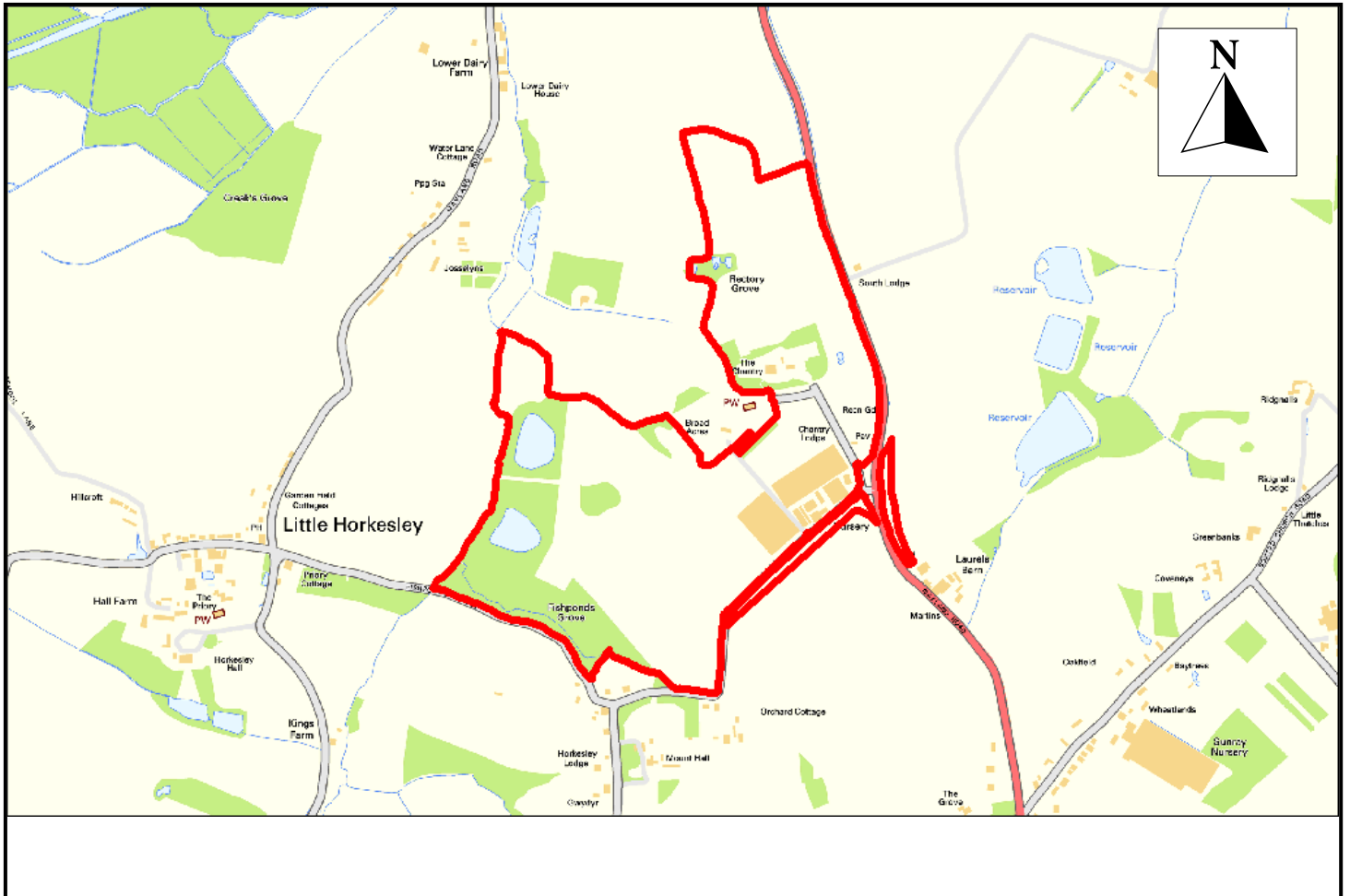
As this is an application for prior notification of demolition the Council can not impose conditions, however the demolition must be carried out in complete accordance with the information submitted.

20.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

21.0 Positivity Statement

21.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Application No: 120965

Location: Land & other property North of London Road & West, of the A134 Including, The Chantry, The Chantry Lodge, Hillside & Nursery Site, Hillside & Nursery Site

Scale (approx): 1:10000

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Planning Committee

Item

28 March 2013

Report of	Head of Environmental & Protective Services	Author	Sue Jackson ☎ 01206 282450
Title	Application 120965 - Change of use and development of land to form 'The Stour Valley Visitor Centre at Horkesley Park'		
Wards affected	Fordham & Stour		

This report concerns the reasons for refusal on application 120965

1. Decision Required

- 1.1 At the meeting of the Planning Committee on the 28th February Members considered application 120965 for "Change of use and development of land to form 'The Stour Valley Visitor Centre at Horkesley Park' comprising a country park; art and craft studios ('The Chantry'); public gardens; a central building complex to provide an indoor display ring, 'suffolk punch breeding centre', entrance building, shop, cafe, 'field to fork', 'farming through the ages', 'active learning', 'nature watch', and retained greenhouse as a 'demonstration nursery and gardens', and energy centre; main and overflow car parks, service yard, highway improvements, ancillary works and infrastructure provision".
- 1.2 Members voted that they were minded to resolve to refuse planning permission and required the detailed reasons for refusal to be submitted to them at a future meeting of the Committee for approval.

2. Reasons for Decision

- 2.1 Members are required to consider and agree or amend the reason for refusal to allow a formal decision notice to be issued.

3. Alternative Options

- 3.1 There is no alternative option.

4.0 Supporting Information

- 4.1 Members will recall application 120965 was considered at the meeting on the 28th February. Members voted ten to four that they were minded to refuse planning permission. Members resolved that the exact wording should come back to them for approval. The following reason is submitted which it is considered is reflective of the objections raised by Members and the discussion at the meeting. The LPA has sought a barristers opinion on the wording of the reason (but not the reason itself).

5. Proposals Reason for refusal.

Reason 1

The Council has determined that this application is not in accordance with the development plan (the Core Strategy Adopted December 2008 ('CS') and Development Policies Adopted December 2010 ('DP')). It also concluded that material considerations did not indicate that planning permission should nevertheless be granted, balancing the harmful effects of the development described at paragraphs 2 & 3 below against the public benefits, in terms of the local economy and employment in particular, that the applicant claims to arise from the proposal. The Council does not consider that the normal presumption in favour of sustainable development described in the National Planning Policy Framework ('NPPF') can be properly applied to the proposal in that, more specifically, it would not result in sustainable growth and expansion and would not generate sustainable rural tourism that respects the character of the countryside in accordance with NPPF paragraph 28.

The site is remotely located some 8km from Colchester Town Centre and poorly served by sustainable modes of transport. Whilst the application includes a package of sustainable transport measures, the applicant predicts that a maximum of 82% of the predicted 316,250 visitors will visit the site by private car. This is reflected in and reinforced by the proposed over-provision of car parking spaces. Having regard to the large scale of the development and the high number of visitors predicted to travel by private car, it is considered that the development is sited in an unsustainable location. The NPPF (Part 4) seeks, by contrast, to ensure that patterns of growth make the fullest possible use of public transport and that developments that generate significant movement are located where the use of sustainable transport modes can be maximised (taking into account NPPF policy on development in rural areas). The proposals run contrary to these strategic aims to achieve a sustainable pattern of development. The proposal is contrary to CS Policies SD1 (growth to be located in the most accessible and sustainable locations), CE1 (small scale employment developments in the countryside where travel needs and impacts low), TA1 (encouraging development that reduces the need to travel and not supporting development that are car-dependant or promote unsustainable travel behaviour) and TA4 (demand for car travel to be managed to prevent adverse impacts on sustainable transportation). It is also contrary to DP Policies DP9 (provision of small scale employment development in the countryside), DP10 (large scale tourist and leisure development focussed on urban areas), DP17 (development to enhance accessibility for sustainable modes of transport and give priority to (inter alia) public transport access) and DP19 (car parking standards).

The application site has an area of 47.4 hectares and over 75% is sited within the Dedham Vale Area of Outstanding Natural Beauty ('the AONB'). The intensity of proposed uses at and within the vicinity of the site, including human and associated vehicular movement and activity, would result in an alien and contextually incompatible development that is considered incapable of assimilation with the intrinsic character and beauty of the AONB and the wider countryside. The visitor numbers and traffic associated with the proposed operation including park-wide and special events would have an adverse impact on the AONB by reason of the uncharacteristic intensity of human leisure activity within this farmland landscape. No details of the Chinese Garden have been provided as part of the application and the Council has not been able to fully assess the qualities of this major component or its impact on the AONB. The proposal is contrary to CS Policies ENV1 (development needing or compatible with a rural location should demonstrably be in accord with other policies for development in rural areas, appropriate in terms of scale and protect conserve or enhance landscape character) and

ENV2 (small-scale tourism schemes appropriate to local employment needs minimising negative environmental impacts and harmonising to the local character and natural environment). It is also contrary to DP Policies DP1 (development to demonstrate social, economic and environmental sustainability) and DP22 (development only supported in or near the AONB where it makes positive contribution to special landscape character and qualities of the AONB and does not adversely affect the character, quality of views and distinctiveness of the AONB or threaten public enjoyment of these areas including by increased vehicle movement). The development would introduce an incongruous and harmful element into the AONB thereby harming its landscape and scenic beauty contrary to the NPPF (paragraph 115). NPPF (paragraph 116) states that permission should be refused for major developments in an AONB except in exceptional circumstances and where it can be demonstrated they are in the public interest; and these requirements are not satisfied. The proposal would also be incompatible with its context and in conflict with Policies SP2, SP5, SP7, EtA2, EtA3, EtA4, EtA5, TaT1, and TaT5 of the Adopted Dedham Vale & Stour Valley Management Plan 2010-15.

The Council considers that the harm resulting from the breaches of development plan and other planning policy would be such that planning permission should be refused (see paragraphs 2 & 3 above). For that harm to be justified to any degree and the development considered sustainable, it would be essential that the benefits claimed should be shown to be capable of viable and sustainable delivery. It is in this context that the Council has considered that the viability and financial sustainability of the proposal is a material planning consideration though its conclusions on these matters do not amount of themselves to a further reason for refusal. It has not been demonstrated to the Council's satisfaction that the proposed development is commercially viable and sustainable. The Council accepts its independent experts' conclusion that the proposal would attract less than 50% of the applicant's predicted visitor numbers. They also found, inter alia, that the lead price, penetration rates and average spend-per-head on both retail and catering operations would all be materially lower than predicted on behalf of the applicant. The Council is not satisfied that the applicant has provided sufficient information to provide an appropriate level of confidence of the satisfactory delivery of two components critical to delivery of a major attraction with a wide catchment, i.e. the Chinese Garden and Chantry Art Gallery. There is insufficient evidence that the Chinese Garden would be delivered. Material submitted confidentially to the Council in respect of the deliverability of the Chantry Art Gallery has not satisfied the Council that the deliverability of this key component of the proposal has been demonstrated.

6. Strategic Plan References

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

7. Publicity Considerations

- 7.1 As Members have already voted to refuse planning permission and this report is only to agree the precise wording of the refusal reason the normal notification has not taken place. However the applicant and the Stour Valley Action Group have been informed of the date of this meeting and the Horkesley Park webpage has also been updated with this information.

8. Financial Implications

- 8.1 The applicant has already indicated his intention to appeal. The reason for refusal needs to be robust and defensible at appeal to prevent the award of costs.

9. Equality, Diversity and Human Rights Implications

9.1 There are no significant equality, diversity or human rights implications.

10.0 Community Safety Implications

10.1 The decision does not have any community safety implications.

11. Health and Safety Implications

11.1 The decision does not have any health and safety implications.

12. Risk Management Implications

12.1 The decision does not have any risk management implications.

13. Background Papers

13.1 The report to Members dated 28th February 2013.

AMENDMENT SHEET

Planning Committee
28 March 2013

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 121313 – Land to the north of Lion Way, High Street, Rowhedge

Correction. Page 26, paragraph 15.8. The Sentence that starts 5th line down should read:-

“However none of these **are planning** matters and are not for this Council to be involved in.”

rather than:-

“However none of these are **not planning** matters and are not for this Council to be involved in.”

Anglian Water has commented in respect of foul drainage and has confirmed the system has available capacity.

Officer comment: A note is recommended on the decision notice advising the applicant to contact Anglian Water to discuss the most suitable point of connection.

The Highway Authority comments as follows

“Further information has been supplied by the applicant thus allowing further assessment of the proposal.

The Highway Authority would wish to maintain the objection to the above application for the following reasons:

The increase in visitor numbers associated with the proposal is thought to be sufficiently large to exacerbate the already difficult parking situation in Rowhedge. The applicant acknowledges that parking in High Street is problematic especially during the tourist season or weekends when the local hostelrys are busy.

Whilst the village hall car park is proposed as a suitable parking facility for visitors, experience would suggest that the separation from the application site would mean this would not realistically be use. Visitors would be more likely to try to park in High Street, or the surrounding residential roads thus creating an increased problem.

The increase in braking and turning movements in the highway will be detrimental to highway safety and efficiency.

Further, whilst it is recognised that the site already services as a small centre, it is noted that the parking provision does not comply with the current standards”

Officer comment: Whilst the Highway Authority objects to the application due to the lack of on-site parking the site was negotiated for this purpose at the request of the parish council. Members will need to take a view whether the benefits to the community outweigh the disbenefits resulting from the lack of on-site parking.

Agenda Item – Reasons for refusal on Application No. 120965 – Change of use and development of land to form ‘The Stour Valley Visitor Centre at Horkesley Park’

Statement of Positivity

The Local Planning Authority has acted positively and proactively in determining this application.

Prior to the submission of the planning application the subject of this decision the Council as local planning authority entered into a Planning Performance Agreement (PPA) with the applicant. Amongst other things this PPA identified the key planning issues likely to require careful consideration in any subsequent submission. These included the sustainability of the proposed development, its viability, its impact on the AONB and landscape, highways and traffic along with an appraisal of any new proposal against the reasons for refusal of an earlier unsuccessful proposal reference: 090231. The PPA identified how both parties would work collaboratively and how Community Engagement would be achieved.

The local planning authority has had detailed negotiations over the entire PPA period which has taken the proposal from pre-application through to presentation to the Council’s Planning Committee. The local planning authority has proactively sought views and explored issues raised by the public and statutory consultees directly with the applicants and has sought clarification, explanation, additional material and amendments where appropriate to respond to such contributions.

Whilst some material submitted with the application was provided to the local planning authority on a confidential basis by the applicants (as it contained sensitive financial details) the Authority has employed relevant independent expert advice to review this material in respect of those matters where such information is relevant to consideration of the merits of the proposal. The Council as local planning authority has also employed independent consultants to review other aspects of the proposal in order to provide additional perspective unrelated to that provided by the applicant, their supporters and those opposing the application.

In assessing the merits of the proposal the Council has had regard to all relevant material considerations, including planning policies and representations received and subsequently determined to refuse planning permission as the normal presumption in favour of sustainable development, as set out within the National Planning Policy Framework cannot be properly applied to the proposal.

The Chair of the Planning Committee, Councillor Theresa Higgins, agreed at the Committee meeting to discuss the Horkesley Park proposal she would, as she is duly authorised at her discretion, exercise her authority to suspend normal 'Have Your Say' rules and allow more than one person to speak for and one person against the proposal in a direct address to the Committee. This was publicly communicated well in advance of the meeting. This resulted in 36 minutes being allocated for speakers for (3 minutes each) and 36 minutes being allocated for speakers against (3 minutes each). This is further evidence of a positive and protective approach as it allowed all parties to make comprehensive representations to help inform the Committee.

Additionally the agenda for the relevant Planning Committee meeting was deliberately planned as a 'one-item' agenda to allow an entire evening to be dedicated to debating and considering the merits of the Horkesley Park proposal. Such was the level of public interest in the proposal both for and against the proposal that a larger venue was used that was capable of seating all of the people who wanted to attend the meeting.

The Planning Committee also made a full day's accompanied (by officers) site visit prior to the Committee meeting. During this visit members of the Committee extensively toured the application site and viewpoints around it, including north of the River Stour at Stoke by Nayland.

As a result of their own full consideration of the merits of the proposal and after considering the weighting given by officers in their recommendation to the various key planning considerations the Planning Committee determined that despite the proposal potentially containing a number of benefits these did not outweigh the identified disbenefits such as to warrant an exceptional approval of permission as a Departure from policy. The reasons for refusal fully describe these.



Colchester Borough Council Development Control

Advisory Note on Parking Standards

The following information is intended as guidance for applicants/developers.

A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.

The residential parking standard for two bedroom flats and houses is two spaces per unit. The residential parking standard for one bedroom units is one space per unit. One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development.



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

The Town and Country Planning (Use Classes) Order 1987 (as amended)

Class A1. Shops

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,
- (k) as an internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet where the sale, display or service is to visiting members of the public.

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
 - (b) professional services (other than health or medical services), or
 - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

Use for the sale of food and drink for consumption on the premises.

Class A4. Drinking establishments

Use as a public house, wine-bar or other drinking establishment

Class A5. Hot food takeaways

Use for the sale of hot food for consumption off the premises.

Class B1. Business

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
 - (b) for research and development of products or processes, or
 - (c) for any industrial process,
- being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2. General industrial

Use for the carrying on of an industrial process other than one falling within class B1 above

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided.

Class C2. Residential institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.

Class C3. Dwellinghouses

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Class C4. Houses in multiple occupation

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

Class D1. Non-residential institutions

Any use not including a residential use —

(a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,

(b) as a crèche, day nursery or day centre,

(c) for the provision of education,

(d) for the display of works of art (otherwise than for sale or hire),

(e) as a museum,

(f) as a public library or public reading room,

(g) as a public hall or exhibition hall,

(h) for, or in connection with, public worship or religious instruction, (i) as a law court.

Class D2. Assembly and leisure

Use as —

(a) a cinema,

(b) a concert hall, (c) a bingo hall or casino,

(d) a dance hall,

(e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

Sui Generis Uses

Examples of sui generis uses include (but are not exclusive to):

theatres, amusement arcades or centres, funfairs, launderettes, sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyards or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

Interpretation of Class C3

For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004.

Interpretation of Class C4

For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004.