

# Planning Committee

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

## **This committee deals with**

If you wish to come to the meeting please arrive in good time. Attendance between 5:30pm and 5:45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

## Information for Members of the Public

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## **Material Planning Considerations**

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

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

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

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

## **Human Rights Implications**

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

## **Community Safety Implications**

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

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

**Members**

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

**Substitute Members** : All members of the Council who are not members of this Committee or the Local Development Framework Committee. The following members have undertaken planning training which meets the criteria:-  
Councillors Arnold, Barlow, Barton, Bentley, Bouckley, Cook, Dopson, Fairley-Crowe, P. Higgins, T. Higgins, Hunt, Lilley, Lissimore, Maclean, Manning, Martin, Pyman, Quarrie, Sykes, Tod, Turrell and Young.

**Agenda - Part A**

(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief. An amendment sheet is circulated at the meeting and members of the public should ask a member of staff for a copy to check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm on the day before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

**Pages**

**1. Welcome and Announcements**

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

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

- action in the event of an emergency;
- mobile phones switched to off or to silent;
- location of toilets;
- introduction of members of the meeting.

**2. Have Your Say!**

The Chairman to invite members of the public to indicate if they wish to

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

### **3. Substitutions**

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

### **4. Urgent Items**

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

### **5. Declarations of Interest**

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

### **6. Minutes**

To confirm as a correct record the minutes of the meeting held on 18 December 2008

## **7. Planning Applications**

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

- 1. 081868 Wyvern, Maytree & Wyvern, Crown Street, Dedham, CO7 6AG** **5 - 18**  
(Dedham and Langham)

Demolition of existing dwellings (Wyvern within Conservation Area) and erection of replacement dwellings with garaging and associated landscaping
- 2. 081870 172 Lexden Road, Colchester, CO3 4BZ** **19 - 28**  
(Lexden)

Demolition of existing dwelling (no. 172 Lexden Road) and erection of 3 no. 2.5 storey houses and garaging thereto including minor alterations to approved Plot 1 (F/COL/04/2256).
- 3. 081972 172 Lexden Road, Colchester, CO3 4BZ** **29 - 32**  
(Lexden)

Demolition of existing dwelling (No. 172 Lexden Road).
- 4. 081939 28 Cape Close, Colchester, CO3 4LX** **33 - 37**  
(Prettygate)

Two storey side extension and first floor rear extension.
- 8. Enforcement Action // 13 Dugard Avenue, Colchester, CO3 9EH** **38 - 41**  
(Prettygate)

See report by the Head of Environmental and Protective Services
- 9. Enforcement Action // Queens Lodge, 3B Queens Road, Colchester** **42 - 44**  
(Christ Church)

See report by the Head of Environmental and Protective Services
- 10. Exclusion of the Public**

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





## **PLANNING COMMITTEE 18 DECEMBER 2008**

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

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

**Councillor Chapman was not present for the consideration and determination of all applications agreed en bloc, minute nos. 173 to 177 and 179 refer.**

### **171. Minutes**

The minutes of the meeting held on 4 December 2008 were confirmed as a correct record.

### **172. 081848      Plots 13, 14 and 15, Halstead Road, Eight Ash Green**

The application was withdrawn from consideration at this Planning Committee meeting by the Head of Environmental and Protective Services for clarification on matters concerning trees and landscaping. Comments are also awaited from the Highway Authority. The item will return to a future Committee.

### **173. 081889      Hallfields Farm, Manningtree Road, Dedham**

The Committee considered an application for the conversion of a redundant farm office/workshop to a single storey dwelling. The application is a resubmission of permission F/COL/05/0902 which was still valid. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

*RESOLVED* (UNANIMOUSLY) that –

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

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

### **174. 081794      Land between 16-19 Magdalen Street and Former Day Nursery, Brook Street, Colchester, CO1 2WA**

The Committee considered an application for a new vehicular/pedestrian junction to Brook Street to provide a future access to residential development. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

**175. 081915 Unit 4 Haven Road, Colchester**

The Committee considered an application for a proposed change of use from a storage area to a three bedroom residential apartment, the occupation of which would be tied to the existing ground floor commercial use, currently a fish and chip shop. The application is a resubmission of application 081610. The Committee had before it a report in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a legal agreement to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document, and for a deed of variation to an existing legal agreement that the occupation of the proposed apartment would be tied to the existing ground floor commercial use as a fish and chip shop.

(b) Upon receipt of a satisfactory legal agreement for a contribution towards Open Space and Recreational Facilities and a satisfactory deed of variation to an existing legal agreement to tie the occupation of the apartment to the existing ground floor commercial use, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

**176. 081924 7-9 High Street, Wivenhoe, CO7 9BE**

The Committee considered an application for a change of use from a vacated retail premises, Class A1 use to a gourmet grocer/coffee shop/gallery, mixed Classes A1/A3 use. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

**Councillor Chapman (in respect of having taken part in fundraising for Colchester Royal Grammar School) declared his personal interest in the following item which was also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and left the meeting during its consideration and determination.**

**177. 081934 6 Lexden Road, Colchester, CO3 3ND**

The Committee considered an application for an access ramp to a swimming pool at Colchester Royal Grammar School. The Committee had before it a report in which all information was set out.

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

**178. 081942 Little Acorns, Abbotts Lane, Eight Ash Green, CO6 3QL**

The application was withdrawn from consideration at this Planning Committee meeting by the Acting Head of Environmental and Protective Services because legal advice has been received that the Council should refrain from determining this planning application until the uncertainty of who the owner of the strip of land at the edge of the development is has been resolved, see Amendment Sheet.

**179. 081597 Smithfields, Peldon Road, Abberton, CO5 7PB**

The Committee considered a retrospective application to rebuild a derelict structure for use as farm accommodation for students who stay at the site as temporary agricultural workers and an artists studio. The Committee had before it a report in which all information was set out.

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

**180. 081677 The Food Company, 86 London Road, Marks Tey, CO6 1ED**

The Committee considered an application for erection of a new building to replace an existing storage building. The application was recommended for refusal by virtue of the Highway Authority's response that the proposal should be refused as it would increase or change the use of an existing access on a Strategic Route. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

David Whybrow, Development Manager, attended to assist the Committee in its deliberations.

Mr Mark Lynch, the applicant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The design of the proposed building had been negotiated over a long period on the basis that the Highway Authority would honour their original view that they would not object to the proposal on this site. Unfortunately, the Highway Authority has objected. When the existing pharmacy closes there will be a reduction in traffic. The proposed site will provide adequate off-road parking using an existing access, therefore no additional access will be required and on-road parking will be eliminated. The main issue with the existing pharmacy is the short term nature of the lease. If the application is refused an essential and much used local facility will be lost to the area and people will have to travel to a pharmacy in another area. He hoped the committee would be able to find in favour of the applicant.

Councillor Blundell attended and, with the consent of the Chairman, addressed the Committee. Marks Tey was designated as a local centre. The pharmacy currently has a three month rolling lease which is unsatisfactory because the pharmacy wants to make investments in it. The pharmacy owner has spoken to all other shops in the area to see if a lease might be available in the future. People use The Food Company car park which is safer than the pharmacy premises which is near a bus stop. The pharmacy plays a vital role in Marks Tey community providing general health advice and advice on smoking, and over the counter product sales. If it can move it will expand its facilities. Planning Policy considered the new location for the pharmacy would have minimal impact on the character of the area and is in favour of the application. Policy SD3 Community Facilities should be taken into account. If

local people have to travel to the nearest alternative pharmacy which is some miles away in Stanway, their carbon footprint will increase. The only reason for the recommendation of refusal is the Highway Authority's views. She hoped that members will support the application and enable the pharmacy to move. This will be an 'on balance' decision on which conditions could be imposed.

Members of the Committee commented that the pharmacy was also a very important facility for neighbouring wards. It is a very busy shopping centre and the need for the pharmacy cannot be disputed. The new site is better with car parking already provided; twelve spaces being for general public use. From a policy point of view there is no difficulty because the 'open countryside' character of the land has long gone. Residents in Marks Tey can walk to the pharmacy on the same side of the road. There had been a suggestion that a pedestrian crossing could be sited there which would assist shops on both sides of the road and planning officers could raise this issue with Essex County Council. The three monthly rolling lease was unsatisfactory. Traffic moves slowly along the London Road and a pedestrian crossing might improve traffic flow. Whether there would be an illuminated sign and the preference for it to be switched off when the pharmacy was closed.

It was explained that advertisements would be subject to the usual controls but there may be special provisions for signs relating to a medical usage.

*RESOLVED* (UNANIMOUSLY) that the application be approved with any conditions required by the Head of Environmental and Protective Services including:-

- standard time limit
- materials
- use as pharmacy only
- amended plan including triangular window in front gable
- hours of use (as per submitted application form)

Note to Officers to write to ask the Highway Authority to consider pedestrian crossing in London Road in area of the proposal.

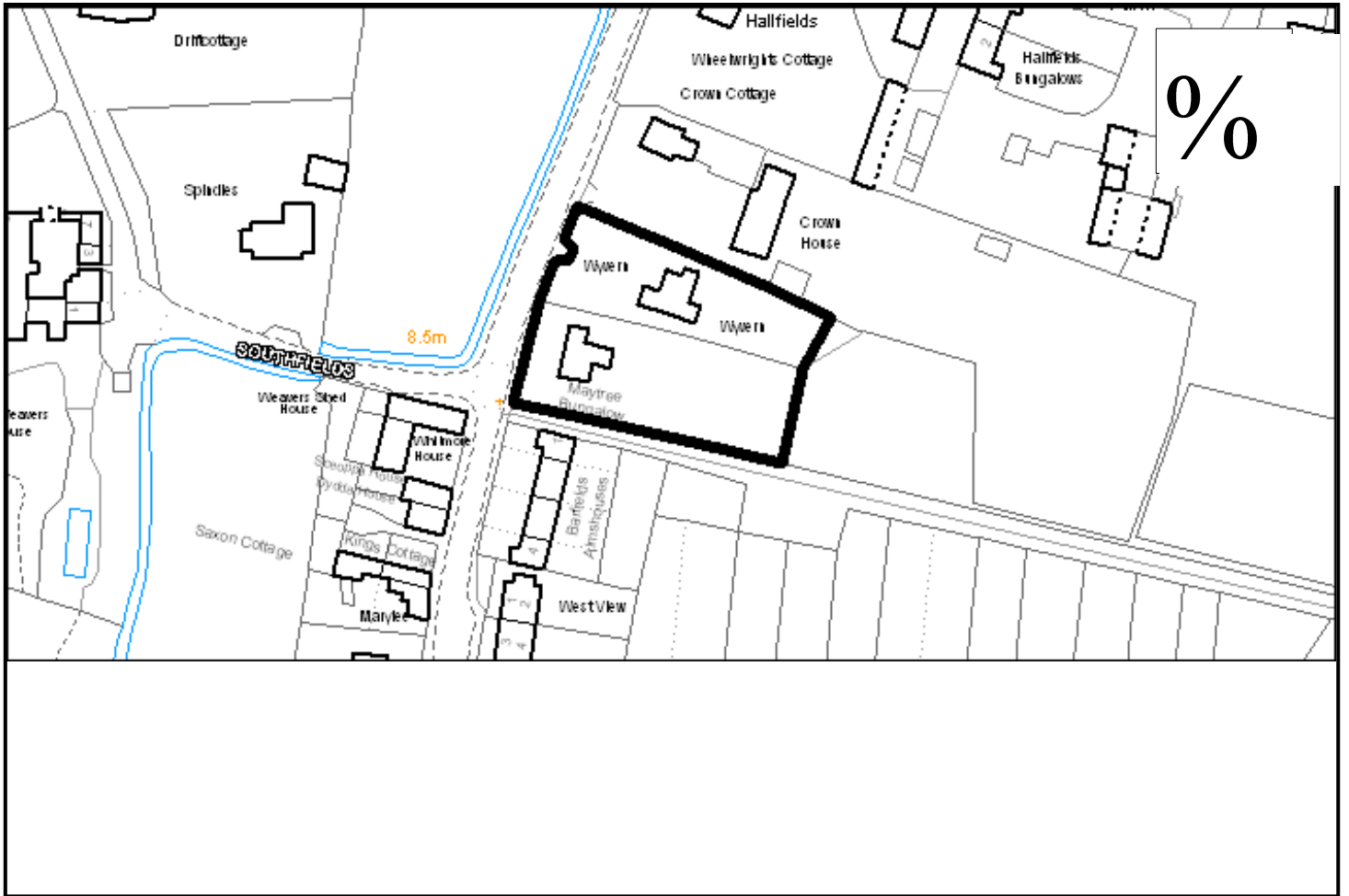
### **181. Garrison Urban Village // Deed of Variation to Legal Agreement**

The Head of Environmental and Protective Services submitted a report requesting that the Committee endorse the deed of variation to the 299a legal agreement to provide for the amendments as set out in the report. The Committee had before it a report in which all information was set out.

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

*RESOLVED* (MAJORITY voted FOR) that the proposed deed of variation to the original Section 299a legal agreement be endorsed to provide for:-

- the even distribution of affordable housing throughout the Garrison Urban Village development;
- the redistribution of parking spaces between the two public car parks in Napier Road;
- an alteration of the timeframe for the delivery on one of the LEAPs (play area) required within the Le Cateau and Cavalry Barracks development area.



**Application No:** 081868

**Location:** Wyvern, Maytree & Wyvern, Crown Street, Dedham, Colchester, CO7 6AG

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

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## Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **8 January 2009**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

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

**7.1 Case Officer: Andrew Tyrrell**

**EXPIRY DATE: 17/01/2009**

**MINOR**

**Site:** Wyvern, Maytree & Wyvern, Crown Street, Dedham, Colchester, CO7 6AG

**Application No:** 081868

**Date Received:** 21st November 2008

**Agent:** Andrew Stevenson Associates

**Applicant:** Messrs Parker & Grimwood

**Development:** Demolition of existing dwellings (Wyvern within Conservation Area) and erection of replacement dwellings with garaging and associated landscaping.

**Ward:** Dedham & Langham

**Summary of Recommendation:** Conditional Approval

### 1.0 Planning Report Introduction

1.1 The application is referred to the Committee as there is an unresolved objection from the Parish Council. The details of its comments are found below, in Paragraphs 6.1 and 6.2.

1.2 The Parish Council has not seen or commented on the amended plans. These were drawn with a view to resolving most of the Parish Council concerns. These might have been withdrawn if there were more time, however given the statutory timescales for determining the application there is not time to re-consult following the sought amendments. The case officer's responses are found in the main report.

## **2.0 Site Description**

2.1 The site is located on the east side of Crown Street, Dedham. It is also located opposite the entrance to Southfields. There is a public footpath to the southern boundary, which separates the site from the former almshouses. To the north is Crown House. The site is completely within the village envelope. Although only half of the site is within it, the development would also affect the Conservation Area. There is potential contamination at the site, but no known contamination.

2.2 At present there are two bungalows on the site. One is named Maytree (the most southerly dwelling), whilst the second is Wyvern (to the northern half of the site). Maytree is not occupied at present and the gardens have become overgrown. The building is also showing signs of neglect and detracts from the Conservation Area as a whole. Neither property has any particular architectural merits and Wyvern is set back from the street frontage where it has little visual prominence.

## **3.0 Description of Proposal**

3.1 There is a separate application for the demolition of the buildings on this site that is also affected by the outcome of this application. This will only be accepted if this replacement scheme is approved and thus, the case officer has delayed making a delegated decision on the Conservation Area Consent application until it is known whether an approved scheme is in place or not. There are no objections to that application, only to the proposal herein. Thus it does not need to be considered by the Committee in either circumstance of approval or refusal.

3.2 The proposal herein is to develop the site to form two replacement dwellings and associated landscaping, outbuildings etc. The plot widths would be equalled through a change in the boundaries within the site. The properties would be accessed from a single access point in the middle of the street frontage. This then splits into two gated driveways serving the individual dwellings.

3.3 The dwellings have been designed with two different design approaches. The designs were discussed at pre-application stages with the then Conservation Manager and then the current case officer. The basic concept was to use elements of designs found within the central Dedham area. The proposal was also discussed between the applicants and the Parish Council so that there was a chance for them to feed into the process too.

## **4.0 Land Use Allocation**

4.1 The site is in residential use and is allocated as Conservation Area (southern part only) and Dedham Vale Area of Outstanding Natural Beauty. It lies within the Village Envelope.

## **5.0 Relevant Planning History**

- 5.1 In 1980 permission was given to demolish a bungalow and replace it with 2 dwellings at this site. In 1987 a further permission was given to demolish a bungalow and replace it with 2 dwellings. In 1993 a proposed dwelling was refused at the site. None of these applications has particular relevance to this case as the policies have changed since then, but the principle of replacement schemes has been around for nearly thirty years.

## **6.0 Principal Policies**

- 6.1 Adopted Review Borough Local Plan  
DC1 – Development Control Considerations  
CO2 – Dedham Vale Area of Outstanding Natural Beauty  
CO4 – Landscape features  
UEA1 – Character of Conservation Areas  
UEA2 – Building within Conservation Areas  
UEA3 – Demolition within Conservation Areas  
UEA11 – Design  
L14 – Public Rights of Way

## **7.0 Consultations**

- 7.1 The Highways Authority has advised that it is satisfied with the scheme subject to several conditions which are all attached to the recommendation below.
- 7.2 The Design and Heritage Unit suggested that most of the design elements had been agreed by the previous Conservation Manager, but that there were some details that needed to be amended. There are some issues over the finer detail of the doors, windows and the roof eaves and cornices because there is insufficient detailing on the plans, however this can be conditioned. It also suggested a lower pitch roof to the garage of Maytree to reduce its visual impact; however this is a matter that was already discussed at pre-application stage and has consequently not been pursued since. Some amendments have been pursued, such as the removal of the porch on Maytree, with amended plans expected. Finally, there are details regarding the bonding and brickwork that can be addressed through condition.
- 7.3 The Trees and Landscaping Officers were consulted. They have no concerns about the scheme, but insist that the hedge be retained along the footpath boundary. This is addressed through condition.
- 7.4 Finally, Environmental Control has asked that standard informatives about demolition be included and that conditions to safeguard against any unexpected contamination found at the site should also be used as part of any permission granted.



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

- 8.1 The Parish Council was consulted on the original plans. On Maytree it considered the glazed lights above the hip gables (at the rear) to be unnecessary and ask if Velux windows could be used instead. However, it considered the glazed lights on the garage end (street end) to be in keeping as they could be easily maintained. It also questioned why there are blank (blind) windows and so many different window styles as they would expect the windows on each elevation to match accordingly.
- 8.2 With regard to Wyvern, the Parish Council is concerned that the architects attempt to give the effect of a weatherboarded rear extension will not be achieved properly. It would prefer the boarding to be removed and brickwork used. They also can not understand the roof detail between the two "rear extensions" as this is not carried through the master bedroom (1st floor) to the family room (ground floor). Its next area of concern is that the double-doors on the master bedroom are dangerous as they are full length and that full-length windows are being proposed on the en-suite with brick between the panes and wash basins attached to the 2 middle windows. It suggested that this is rethought, along with the valley roof design.

## **9.0 Representations**

- 9.1 One letter was received from a local resident. It was stated that they fully supported the proposal as it would enhance the area.

## **10.0 Report**

### Design and Appearance within the Conservation Area

- 10.1 The northern most property to replace "Wyvern" is designed in a traditional two-storey symmetrical (or double-fronted) Georgian manner, which is an approach that is seen in recent development in this part of Dedham and respects the history of the village centre, which expanded in the Georgian period. This property has a detached garage, also not untypical of recent developments in this street and nearby. The property is designed with single-storey "extension" elements, which would mean that a condition restricting further extension would be necessary to ensure that the design is not deteriorated through unsympathetic extensions in due course.
- 10.2 There are also details that can not be controlled through the current plans. The finer details of the dwellings could enhance or detract from their quality and are vital to the success of the scheme. However, there is not enough information regarding the materials of the proposal, the cornice and eaves detailing, the set back of windows and the types of windows to be used, and other matters that are addressed through the conditions below. This is also true of the replacement dwelling for "Maytree".
- 10.3 The southern property replacing the existing "Maytree" bungalow is designed in a 17th century style. It has a traditional "T" form for this period. It is primarily two storeys in height with single storey elements to the rear and extending forwards linking to the garage. This part of the site lies within the Conservation Area.

- 10.4 Overall, the design, scale and size of the properties is considered to be acceptable in general, subject to a few minor problems being resolved through amended plans prior to the Committee meeting and other matters being conditioned. The height and positioning within the site is as is satisfactory within the streetscene and the architectural approaches are respectful to their setting. Overall, the development would enhance the appearance of the streetscene and Conservation Area.

#### Impact on Amenities

- 10.5 The northern, Georgian, property would have one north facing window that is close to the existing windows of Crown House. Whilst protection is not common for front windows, the deep depth of the front area of the neighbouring property means that this does enjoy a high level of privacy at present. The remaining first floor window (originally there were two but the one which had greatest impact has been removed) serving bedroom number 4 is too acute to provide an angle of overlooking into the existing Crown House windows. A condition is required to ensure that no new windows are inserted in the elevation, particularly as one was originally proposed for bedroom 2. This would have needed to be obscure glazed because of the increased angle of outlook towards neighbouring windows whereby you would have been able to see in to them.
- 10.6 All other windows are considered to be acceptable in terms of their impact on neighbouring properties. To the south, there was a small concern over the bedroom window facing the almshouses. However, a combination of the ground level changes, the angle of outlook, distance and natural cover alongside the footpath means that there would be no adverse impact.
- 10.7 There are no concerns regarding overshadowing. The properties retain sufficient distances to their neighbouring dwellings and gardens.

#### Response to the Parish Council Comments

- 10.8 The Parish Council considers the glazed lights above the hip gables (at the rear) to be unnecessary and ask if rooflight windows could be used instead. This element will not be in a prominent position and will only be partially visible (if at all) from the footpath through hedges and trees. The use of glazing in this area also carries through the themes at the street end of the garage and other parts of the building. Therefore, the case officer does not consider that there are grounds to request rooflights instead.
- 10.9 With regard to the windows on Maytree, the use of blind windows on Maytree is to maintain the opening pattern within an otherwise blank wall where there is no need for a real window internally. However, the comments on the use of so many different window styles were considered to be perfectly valid. On this basis amended plans were requested and have addressed this issue in full.

- 10.10 With regard to Wyvern, the Parish Council is concerned that the architects attempt to give the effect of a weatherboarded rear extension will not be achieved properly. The “rear extension” is a full two-storey height and perhaps this concern arises because of this bulk, which is not as subservient as some extensions in the area. The use of weatherboarding does not seem appropriate on this property and as such the amended plans now indicate that the material will be a matching brick. Thus, this issue has been resolved.
- 10.11 The Parish Council has also questioned the roof detail between the two “rear extensions” as this is not carried through the master bedroom (1st floor) to the family room (ground floor). Essentially the problem here is that the plans lacked clarity and accuracy. The amended plans have clarified that the gap between the twin gables is bridged at ground floor so that the internal layout sits flush across the back at ground floor level. This will not be publicly visible.
- 10.12 The concern that the double-doors on the master bedroom are dangerous as they are full length is a matter that has also been addressed through a Juliet balcony. A larger balcony would not be acceptable because it would afford greater angles of overlooking sideways from the balcony area. However, a Juliet balcony is acceptable in this respect.
- 10.13 Similarly, the practicalities of the en-suite windows, has been addressed by the new plans. The two side windows have been frosted where the wall connects to the windows.

## **11.0 Conclusion**

- 11.1 Overall, the design and appearance of the dwellings is considered to be acceptable if the matters mentioned above are resolved by the amended plans. There are no adverse impacts on neighbouring dwellings that can not be resolved through the use of conditions. Generally, it is considered the replacement scheme would enhance the character and appearance of the Conservation Area.

## **12.0 Background Papers**

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

### **Recommendation - Conditional Approval**

#### **Conditions**

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

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

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

## 2 - Non-Standard Condition

Before the dwelling hereby permitted is first occupied the existing dwelling shall be entirely demolished and all materials resulting therefrom shall be completely removed from the site within 28 days of the first occupation of the replacement dwelling.

Reason: For the avoidance of doubt and to ensure satisfactory development.

## 3 - Non-Standard Condition

Notwithstanding the details that are set out in the submitted application, before the development hereby permitted commences, the external materials and finishes to be used shall be agreed, in writing, by the Local Planning Authority. The development shall be implemented in accordance with agreed details.

Reason: To ensure that satisfactory materials are used in this development which affects the setting of the Conservation Area where there is insufficient detail in the application and some materials, specifically the weatherboarding to the rear of Wyvern, are not considered to be the optimum solution.

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

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

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

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

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

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

## 6 - C10.18 Tree and Hedgerow Protection: General

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

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

## 7 -C11.11 Landscape Design Proposals

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

- Existing and proposed finished contours and levels.
- Means of enclosure.
- Car parking layout.
- Other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting).
- Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).
- Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

- Planting plans.
- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- Schedules of plants, noting species, plant size and proposed numbers/densities.
- Planting area protection or decompaction proposals.
- Implementation timetables.

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

## 8 - C11.12 Landscape Works Implementation

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

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

## 9 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no openings other than those expressly authorised by this permission shall be constructed above ground floor level in the north facing walls of the building known as Wyvern and shown on plan drawing number 05a submitted as part of this application, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To protect the amenities and privacy of adjoining residents.

#### 10 - Non-Standard Condition

Full details of the new brickwork including the bond, mortar mix and joint profile shall be submitted to and approved, in writing, by the Local Planning Authority before any work is commenced on site. The development shall be implemented in accordance with the agreed details.

Reason: For the avoidance of doubt where there are insufficient details on the plans and to ensure that the details accurately follow an authentic historic style for such a design of the building.

#### 11 - Non-Standard Condition

Additional drawings that show details of proposed new windows, doors, eaves, cornices, verges and cills to be used, by section and elevation, at scales of between 1:20 and 1:1 as appropriate, shall be submitted to and approved by the Local Planning Authority in writing, prior to commencement of any works. The development shall be implemented in accordance with the approved additional drawings.

Reason: For the avoidance of doubt where there are insufficient details on the plans and to ensure that the details accurately follow an authentic historic style for such a design of the building.

#### 12 - Non-Standard Condition

All windows shall be constructed in timber and painted white, and shall thereafter be retained as such.

Reason: To ensure that the windows have an appearance appropriate to the character of the building and the surrounding area.

#### 13 - Non-Standard Condition

All external rainwater goods and other pipes shall be formed in cast iron and shall be finished in black unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission as this is the basis stated within the submitted details and on which basis the application has been considered in terms of its impact on the Conservation Area.

#### 14 - A7.4 Removal of ALL Perm Devel Rights (residential

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification), no development within Classes A to E of Part 1 of the Schedule of the Order (any extension, outbuilding, garage or enclosure) shall take place without the prior written permission of the Local Planning Authority.

Reason: The amount of development on the site has increased and further consideration would need to be given to further development at such a time as it was proposed.

#### 15 - Non-Standard Condition

Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no fences, gates or walls, shall be erected within the curtilage of any dwellinghouse other than those expressed permitted by this permission.

Reason: The site affects the setting of a Conservation Area and further consideration would need to be given to any such development at the time that it was proposed.

#### 16- Non Standard Condition

The permitted annexe shown on plan drawing number 06a dated October 2008 shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Maytree.

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

#### 17 - Non-Standard Condition

The buildings hereby permitted shall only be 2 storeys in height with no habitable accommodation provided within the roofspace.

Reason: Further consideration would need to be given to such development at the time that it was proposed to ensure that there was no adverse impact on neighbouring amenities.

#### 18 - Non-Standard Condition

Prior to occupation of the development visibility splays with dimensions of 2.4 metres by 90 metres to the north and 2.4 metres by 90 metres as far as is achievable within the site to the south as measured from and along the nearside edge of the carriageway shall be provided on both sides of the shared access. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.

Reason: To provide adequate inter-visibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access.

#### 19 - D1.9 Visibility Splays

A 1.5 metre x 1.5 metre pedestrian visibility sight splay, free of obstruction above a height of 600mm, and relative to the back of the footway / overhang margin, shall be provided on both sides of all vehicular accesses prior to their operational use and thereafter retained.

Reason: To provide adequate visibility for drivers and to ensure the safety of pedestrians and vehicles.

#### 20 - D1.15 Surface of Private Drives

The first six metres of any private accessway as measured from the proposed highway boundary, shall be treated with a bound surface dressing as approved in writing by the Local Planning Authority prior to the development to which it relates being brought into use and thereafter retained in that form.

Reason: To ensure that no loose materials are spilt into the highway in the interests of highway safety.

#### 21- Non-Standard Condition

Prior to occupation of the development hereby permitted turning spaces enabling motor cars to enter and leave the highway in a forward gear, as agreed in writing by the Local Planning Authority, shall be constructed, surfaced and made available for use and shall be retained for that sole purpose.

Reason: To ensure appropriate turning facilities are provided so that vehicles can enter and leave the highway in a safe and controlled manner

#### 22 - Non-Standard Condition

Prior to occupation of the new shared access any existing accesses shall be permanently closed in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

#### 23 - Non-Standard Condition

Any gates to be provided at the access shall be positioned no less than 4.8 metres from the highway boundary and shall be constructed so as to only open into the site.

Reason: To allow vehicles to stand clear of the highway whilst the gates are opened. This recommendation is made in the interests of highway safety and efficiency.

#### 24 - Non-Standard Condition

Prior to occupation a footway measuring no less than 2 metres in width shall be constructed across the entire site frontage incorporating a suitably constructed vehicle crossover in accordance with current County Council Policy Standards.

Reason: In the interests of pedestrian safety.

#### 25 - B9.1 Refuse Bins

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

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

#### 26 - B9.2 Recycling Facilities

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

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



#### 27 - D4.4 Bicycle Parking (satisfactory arrangements)

The building/s or land subject to this permission shall not be brought into use for the purposes hereby approved until satisfactory arrangements for the provision of bicycle parking have been agreed in writing and implemented to the satisfaction of the Local Planning Authority.

Reason: To ensure proper provision for cyclists, including parking in accordance with the Local Planning Authority's standards.

#### 28 - B6.11 Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

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

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

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

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

#### 29 - B6.8 Submission of Remediation Scheme

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

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

### **Informatives**

The applicant is advised that it is a requirement of the Building Act 1984 that you must serve a demolition notice upon the Council prior to carrying out any demolition of buildings. Further advice may be obtained from the Building Control Section on 01206 282436.

The above Conditions 18-27 are required to ensure the proposal complies with the County Council's Highways and Transportation Development Control Policies as originally contained in Appendix G to the Local Transport Plan 2006/2011 and refreshed by Cabinet Member decision dated 19 October 2007.

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

The applicant is reminded of their duties and responsibilities with regard to the line of public Footpath 29 to the south of the site. Should any works affect the line of the right of way these must be carried out in agreement with the Highway Authority and application for the necessary works should be made initially be telephoning 01206 838600

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



**Application No:** 081870

**Location:** 172 Lexden Road, Colchester, CO3 4BZ

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

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**7.2 Case Officer: John Davies**

**EXPIRY DATE: 10/01/2009**

**MINOR**

**Site:** 172 Lexden Road, Colchester, CO3 4BZ

**Application No:** 081870

**Date Received:** 14th November 2008

**Agent:** Paul Newbold

**Applicant:** Alpine Landscapes

**Development:** Demolition of existing dwelling (no.172 Lexden Road) and erection of 3 no. 2.5 storey houses and garaging thereto including minor alterations to approved Plot 1 (F/COL/04/2256).

**Ward:** Lexden

**Summary of Recommendation:** Conditional Approval subject to the signing of a Unilateral Undertaking

## **1.0 Site Description**

- 1.1 The application site comprises the house and curtilage of No. 172 Lexden Road together with land to the front in between nos. 164 and 174 Lexden Road. The latter land has an extant approval for a dwelling and detached garage and a new vehicular access.
- 1.2 The site is part of the Lexden Conservation Area and No.164 is a Grade II listed building.
- 1.3 Surrounding existing development comprises a small flatted estate to the west (Victoria Court), houses fronting Byron Avenue to the rear and a terrace of three two storey houses to the east set back from the Lexden Road. (Nos.166-170 Lexden Road). The application site has no existing vehicular access, although there is an unimplemented consent for a vehicular access from Lexden Road adjacent to No.174.

## **2.0 Description of Proposal**

- 2.1 The application proposes the demolition of the house at 172 Lexden Road and the erection of four new houses arranged as two houses fronting Lexden Road and two towards the rear of the site with a car parking area in between serving all four houses. The houses on the frontage comprise a one and a half storey house and a two and a half storey house. Due to a difference in ground levels both have a similar ridge height. The one and a half storey house is largely the same as a dwelling approved on this plot on appeal in July 2006. In between the units a new vehicular access is

proposed leading to a parking area within the site. To the rear of the site a pair of two and a half storey semi-detached houses are proposed with gardens behind. Two parking spaces per unit are proposed in the form of a four bay cart lodge serving Plots 1 and 4 and parking spaces in front of plots 2 and 3.

2.1 The application is supported by a DAS and Tree Survey and Arboricultural Impact Assessment. A Unilateral Undertaking has also been submitted in respect of a contribution to Public Open Space, Sport and Recreation.

2.2 There is a separate application for Conservation Area Consent for demolition of the house at No.172.

### **3.0 Land Use Allocation**

3.1 Residential zoning  
Conservation Area

### **4.0 Relevant Planning History**

4.1 **Land to front:** F/COL/04/2256- Proposed 3 bedroom cottage with new double garage- Refused 13 June 2005. Allowed on appeal on 24 July 2006

4.2 **No.172:** F/COL/05/1153- Installation of driveway and dropped kerb- Refused 23 November 2005. Allowed on appeal on 18 October 2006.

### **5.0 Principal Policies**

5.1 Adopted Review Colchester Borough Local Plan-March 2004  
DC1- Development Control considerations  
UEA1/2- Conservations Areas  
UEA3- Demolition within Conservation Areas  
UEA11- Design

Core Strategy (Adopted December 2008)  
UR2- Built Design and Character  
PR1- Open Space

### **6.0 Consultations**

6.1 Highways Authority - no objection subject to conditions relating to pedestrian visibility, provision of vehicular turning area, surface finishes, gates, access gradient, drainage and footway crossing.

6.2 Tree Officer - no objection subject to imposition of conditions regarding tree protection.

6.3 Environmental Control refer to advisory notes on Control of Pollution during Construction and Demolition works.

## **7.0 Representations**

7.1 Comments have been received from two neighbours and the comments are summarised as follows:

- Need to ensure that there is adequate, safe access to houses at the rear (Nos 166-170) including provision of adequate lighting and wide paths
- Surfaces of access should not be gravel, which is too noisy.
- Object to houses at rear on grounds of excessive height facing houses in Byron Avenue
- Over-development of site leading to increased traffic generation in area.

## **8.0 Report**

8.1 The assessment of the application is under the following headings.

- Principle of development
- Design and visual impact on area
- Impact on amenity of neighbours
- Highway issues
- Landscape issues

### Principle of development

8.2 The site is in a location zoned for residential development and therefore there is no in principle objection to housing development. In addition, there is an extant approval for a dwelling on the frontage with a detached garage and vehicular access. This scheme is largely replicated in the form of the proposed Plot 1, although the provision of parking is to the rear as the approved garage on the frontage is to be developed by a house on Plot 4.

8.3 The proposed development would have a density of 55 dwellings per hectare, which is above the normal range of 30-50 dph. However, it is not considered that the development constitutes an over-development of the site by reason of its scale, amenity space and parking provision.

8.4 The submitted scheme includes a contribution of £19,180.33 towards Public Open Space, Sport and Recreation secured through a signed Unilateral Undertaking.

### Design and visual impact on area

- 8.5 The design of the proposed houses on the Lexden Road frontage are traditional symmetrically proportioned detached houses with pitched roofs and side chimneys. Both houses would have elaborately detailed central doors and door cases with either casement or sash timber windows. The houses to the rear are semi-detached with gable fronts and roof ridges running front to back. Proposed facing materials comprise red orange brick plinths with smooth cast colour washed rendered walls with plain tiled roofs to the houses and slate to garages. The designs and facing materials are considered appropriate to the character of the area. It is considered that the scheme would enhance the Conservation Area and be appropriate to the setting of the adjacent Listed building.

### Impact on Amenity of neighbours

- 8.6 Proposed Plot 4 is 3.4 metres from the side wall of Flat 3 of Victoria Court. There is a ground floor lounge window and 1st floor bedroom and stairwell windows to No.3 facing the development. These windows overlook the existing steps leading from Lexden Road up to the front of No.172, which would be converted to garden area. At present the outlook from these windows is obscured significantly by vegetation in the front garden of No.172. The lounge and bedroom window face behind the main range of Plot 4 and 25 degree angles drawn from the middle of the windows would not be intersected by the proposed building. Therefore the adopted daylight standards would not be breached. However, the presence of the building on Plot 4 would have an impact on outlook from these windows but it is not considered to be so great as to warrant refusal particularly given the existing situation.
- 8.7 The proposed Plots 2 and 3 to the rear of the site are between 14 to 16 metres to the rear boundary and are therefore broadly in conformity with separation distances in the Essex Design Guide which stipulates a minimum of 15 metres. These plots are also set in line with Nos. 166-170 Lexden Road and do not infringe a 45 degree angle from the rear corner of Plot 2. Plot 3 does marginally infringe the 45 degree angle from the rear corner of Victoria Court, however, this is not considered to constitute unreasonable impact on amenity.
- 8.8 Residents of nos.166-170 Lexden Road have existing rights of way over the site to their houses. In the approval of Plot 1 on appeal access was to be diverted to the side of the new dwelling with the replacement of the existing steps leading from Lexden Road by a ramp. The current scheme retains a proposed access along the side of Plot 1 together with access from the new drive way. Therefore the accessibility of residents would be improved by this scheme compared to the position if the appeal scheme alone was implemented. A condition is proposed regarding surfacing materials in order to secure a better treatment than gravel to the access way to the houses at the rear. In addition a condition for the provision of security lighting to the access path previously imposed in the appeal scheme is repeated in the conditions at the end of this report.

## Highway Issues

- 8.9 The Highway Authority do not raise any objections and their recommended conditions are incorporated into the recommendation. The scheme will be served by one access onto Lexden Road. This is considered an improvement on what might otherwise occur if the scheme was not approved, which is the formation of two access points to serve the approved house on Plot 1 and another to serve No.172. As stated earlier both of these consents are extant but un-implemented. This development is close to a pinch point on Lexden Road where there is often congestion and therefore the reduction from two to one access point (albeit serving more units) is to be welcomed.

## Landscaping Issues

- 8.10 The development (as in the extant consent for the development of the frontage by Plot 1) will result in the loss of most of the trees towards the front of the site. Trees to be retained include an ash tree in the path way in front of Nos.166-170 and two western red cedars at the rear of the site. The most visually dominant tree is an 18m high lime tree in the rear garden of Victoria Court. Whilst the development of Plot 3 would fall partly within the Root Protection Area of this tree, the Tree Officer is satisfied that it would not be unduly affected by development.

## **9.0 Background Papers**

- 9.1 HA; TL; HH; NLR

### **Recommendation**

Approve subject to the dating of the submitted Unilateral Undertaking for the provision of a contribution to Public Open Space, Sport and Recreation and the following conditions.

### **Conditions**

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

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

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

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

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

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



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

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

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

### 4 - C10.18 Tree and Hedgerow Protection: General

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

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

### 5 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

### 6 - Non-Standard Condition

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

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

#### 7 -A7.4 Removal of ALL Perm Development Rights (residential

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification), no development within Classes A to E of Part 1 of the Schedule of the Order (any extension, outbuilding, garage or enclosure) shall take place without the prior written permission of the Local Planning Authority.

Reason: To safeguard the visual amenity of the area, to protect the amenity of adjoining residents and to prevent the overdevelopment of the site by controlling future extensions, alterations and associated development.

#### 8 - Non-Standard Condition

No development shall take place until a method of site operation statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall include details of vehicle parking by site personnel and other contractors, details of on-site storage of plant and materials, arrangements for ensuring that soil and other material is not conveyed onto the public highway and hours of working on the site. Development shall be undertaken in accordance with the agreed details.

Reason: In order to ensure that the development can be carried out without causing unreasonable disruption to the flow of traffic on Lexden Road and without harm to the safety of road users.

#### 9 - Non-Standard Condition

Prior to occupation of the development hereby approved a 1.5 metres x 1.5 metre pedestrian visibility sight splay as measured from the highway boundary, shall be provided on both sides of the vehicular access. There shall be no obstruction above a height of 600mm as measured from the finished surface of the access within the area of the visibility sight splays thereafter.

Reason: To provide adequate intervisibility between the pedestrians and users of the access and the existing public highway for the safety and convenience of users of the highway and of the access having regard to Policies 1.1 and 3.4 in Appendix G to the Local Transport Plan.

#### 10 - Non-Standard Condition

Prior to occupation of the development hereby permitted a turning space enabling a motor car to enter and leave the highway in a forward gear shall be constructed, surfaced and made available for use and shall be retained for that sole purpose.

Reason: To ensure appropriate turning facilities are provided so that vehicles can enter and leave the highway in safe and controlled manner in accordance with Policy 1.1 in Appendix G to the Local Transport Plan.

#### 11 - Non-Standard Condition

No unbound material shall be used in the surface finish of the driveway within 6 metres of the highway boundary of the site.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety and in accordance with Policy 1.1 in Appendix G to the Local Transport Plan.

#### 12 - Non-Standard Condition

No gates shall be erected at the vehicular access.

Reason: To ensure vehicles using the access are unhindered in leaving or entering the Highway in accordance with Policy 1.1 in Appendix G to the Local Transport Plan.

#### 13 - Non-Standard Condition

The access shall be laid to a gradient not exceeding 4% for the first 6 metres from the highway boundary and not exceeding 8% thereafter.

Reason: To ensure that vehicles can enter and leave the highway in a safe and controlled manner in accordance with Policy 1.1 in Appendix G to the Local Transport Plan.

#### 14 - Non-Standard Condition

Prior to occupation of the development hereby approved the drainage system as shown on plan number 1472-08 shall be constructed and maintained permanently thereafter.

Reason: To prevent hazards caused by flowing water or ice on the highway in accordance with Policy 1.1 in Appendix G to the Local Transport Plan.

#### 15 - Non-Standard Condition

The principal access and footway crossing to serve the development shall be constructed in accordance with current County Council Policy Standards prior to commencement of any work upon any dwellings.

Reason: In the interests of highway safety in accordance with Policy 1.1 in Appendix G to the Local Transport Plan.

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

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

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

#### 17 - C12.2 Details of Walls or Fences

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

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

#### 18 - C3.20 Surfacing Materials to be Agreed

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

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

#### 19 - Non-Standard Condition

No development shall take place until details of external security lighting along the rights of way around the periphery of the site have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and retained and maintained thereafter.

Reason: In order to ensure the safety and security of users of the rights of way around the site.

### **Informatives**

You are referred to the attached advisory notes on the Control of Pollution during Construction and Demolition works.

Appropriate vehicle visibility splays for this location can be provided within the existing footway.

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

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



**Application No:** 081972

**Location:** 172 Lexden Road, Colchester, CO3 4BZ

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

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**7.3 Case Officer: John Davies**

**EXPIRY DATE: 10/01/2009**

**Site: 172 Lexden Road, Colchester, CO3 4BZ**

**Application No: 081972**

**Date Received: 14th November 2008**

**Agent: Paul Newbold**

**Applicant: Alpine Landscapes**

**Development: Demolition of existing dwelling (No.172 Lexden Road)**

**Ward: Lexden**

**Summary of Recommendation: Conservation Area Consent**

### **1.0 Site Description**

1.1 See associated report 081870 on same agenda

### **2.0 Description of Proposal**

2.1 Demolition of dwelling in a Conservation Area at 172 Lexden Road.

### **3.0 Land Use Allocation**

3.1 Residential  
Conservation Area

### **4.0 Relevant Planning History**

4.1 See associated report 081870 on same agenda

### **5.0 Principal Policies**

5.1 Adopted Review Colchester Borough Local Plan-March 2004  
DC1- Development Control considerations  
UEA3- Demolition within a Conservation Area

### **6.0 Consultations**

6.1 No comments to report

### **7.0 Representations**

7.1 No comments made in respect of demolition issue.

## **8.0 Report**

8.1 Proposals to demolish buildings in a conservation area need to be considered against the criteria set out in Policy UEA3. These state that consent will be granted where:

- a) demolition and/or redevelopment would make a positive contribution to the wider aim of preserving and enhancing the character of the conservation area, or
- b) the applicant is able to demonstrate the building is beyond reasonable repair; and
- c) the applicant can demonstrate that efforts have been made to sustain existing uses/find new uses; charitable or community ownership is not possible; or redevelopment would produce substantial benefits for the community which decisively outweigh the loss of the building.

8.2 In this case it is understood that the building is in a very poor physical condition and is suffering from structural defects. It is not of significant architectural merit in itself and being well set back from the main road it has a negligible visual impact on the character of the Conservation Area. Moreover, the rear of the property has been spoilt by a very large, two storey flat-roofed extension added in the past which is a wholly inappropriate alteration. For these reasons it is considered that the loss of the building would not detract from the character of the Conservation Area.

8.3 It is therefore recommended that consent be granted subject to the standard condition requiring that demolition not take place until a contract has been entered into to construct the replacement development in the interests of avoiding the premature creation of a demolition and construction site within the Conservation Area.

## **9.0 Background Papers**

9.1 ARC

### **Recommendation - Conservation Area Consent**

#### **Conditions**

1 - A1.6 LBs & Con Area Consents-time lim for comm of development

The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: In order to comply with the requirements of Section 18(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990, as amended by the Planning & Compulsory Purchase Act 2004.

## 2 - B7.2 Conservation Area Consent

The demolition of the building hereby permitted shall not be in any way commenced or undertaken before the applicant has satisfied the Local Planning Authority that a contract or other sufficiently binding arrangement for the carrying out of the works of the redevelopment of the site as permitted under Application 081870 or any subsequent application which has been granted by the Local Planning Authority has been made.

Reason: In order to prevent the premature demolition of the existing building and the creation thereby of an unsightly gap in the street scene, and in the interest of maintaining the visual amenity and character of this part of the Conservation Area.





**Application No:** 081939

**Location:** 28 Cape Close, Colchester, CO3 4LX

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

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**7.4 Case Officer: Andrew Huntley**

**EXPIRY DATE: 07/01/2009**

**Site:** 28 Cape Close, Colchester, CO3 4LX

**Application No:** 081939

**Date Received:** 11th November 2008

**Agent:** Pps Ltd

**Applicant:** Mr J Maller

**Development:** Two storey side extension and first floor rear extension

**Ward:** Prettygate

**Summary of Recommendation:** Conditional Approval

## **1.0 Planing Report Introduction**

1.1 This application has been called in by Councillor Wynn Foster on the grounds of the contentious nature of the proposal.

## **2.0 Site Description**

2.1 The site is located on the north western end of Cape Close. The area is residential in character and the property on the application site forms part of a wider estate of similarly designed properties. The property on the application site is a semi-detached two storey dwelling with an existing single storey rear extension and a detached single garage. The property is accessed from Cape Close by a footpath. Vehicular access is from Jeffery Close. The site has a large side garden but narrow rear garden. The site is bounded by substantial hedging.

## **3.0 Description of Proposal**

3.1 Two storey side extension and first floor rear extension.

## **4.0 Land Use Allocation**

4.1 None

## **5.0 Relevant Planning History**

5.1 None

## **6.0 Principal Policies**

- 6.1 Adopted Review Colchester Local Plan:  
DC1– Development Control Considerations.  
UEA11 – Design  
UEA13 – Development including extensions, adjoining existing or proposed residential property.

Planning Policy Statement 1

## **7.0 Consultations**

- 7.1 None

## **8.0 Representations**

- 8.1 Four letters of objection have been received and one petition with 13 signatures has also been received. The objections relate to the following issues:

- Size and design
- Materials
- Impact on daylight, sunlight and privacy
- Parking problems and additional access problems during construction
- Noise and disturbance during construction
- Potential use as a house in multiple occupation

## **9.0 Report**

### Introduction

- 9.1 The main considerations with this application are:

- Design and Character
- Residential Amenity
- Other Considerations

### Design and Character

- 9.2 The proposed first floor rear extension covers approximately two thirds of the existing single storey extension with a mono-pitched roof covering the rest. The rear extension is in accordance with existing design policy and is in keeping with the existing dwelling. The two storey side extension would benefit from being better articulated but it is in keeping with the existing dwelling and is subservient in scale and appearance. As such, the two storey side extension is considered acceptable in design terms. The use of render would provide a contrast to the existing property and a refusal on these grounds would likely not stand up at appeal.
- 9.3 The side and rear of this property is visible from public viewpoint from Jeffery Close. Due to the acceptability of the design, the extensions would not be harmful to the character and appearance of the area.

- 9.4 Therefore, it is considered that the design of the proposals are acceptable in design terms and would not harm the character of the area.

#### Residential Amenity

- 9.5 Due to the siting and orientation of the dwelling, the proposed first floor rear extension would not have a detrimental impact on neighbouring sunlight/daylight and would not appear visually overbearing. The two-storey side extension would not have an impact on sunlight or daylight due to its positioning and distance from neighbouring properties.
- 9.6 In terms of privacy, there are already two existing bedrooms at first floor level at the rear of the property with windows looking out toward No. 56 Rudsdale Way. This proposal would result in one bedroom window, a bathroom and en-suite room looking out toward No. 56 Rudsdale Way. Notwithstanding the fact the bedroom window would be 2.5m closer, the likely result would be a reduction in overlooking to No. 56 Rudsdale Way due to the nature of the proposed rooms use. The window at first floor level on the front elevation would overlook public areas and would not result in a detrimental level of overlooking.
- 9.7 Overall, the proposed extensions would not have a greater impact on neighbouring residential amenity than what presently exists.

#### Other Considerations

- 9.8 Four letters of objection have been received and one petition with 13 signatures has also been received. The representations relate to the following:
- Size and design
  - Materials
  - Impact on daylight, sunlight and privacy
  - Parking problems and additional access problems during construction
  - Noise and disturbance during construction
  - Potential use as a house in multiple occupation
- 9.9 Most of the issues raised have already been covered earlier in the report. With regard to parking and access problems, this proposal is for a side and rear extension, with no evidence that this would lead to any greater parking requirements than presently exist. A refusal on parking grounds would be unreasonable, especially as the current adopted car parking standards state that dwellings should have a maximum of 1.5 spaces. There may be existing parking problems in the area but this is not a reason to refuse planning permission for this proposal. While there may be additional parking problems during construction and additional noise and disturbance, this would be for a limited period of time and would not justify the refusal of planning permission. In regard to the use of the property as a House in Multiple Occupation (HMO), there is no evidence that this is the case and the inclusion of an en-suite would indicate that it is not. Furthermore, providing the property is used as a single dwelling then it is possible that it could be used as an HMO without the benefit of planning permission. This is not a justifiable ground to refuse planning permission for the proposed extensions. Having regard to the representations made, they do not in this instance, outweigh national and local policy.

## Conclusion

9.10 The design of the proposed extensions and its impact on the character of the area and neighbouring amenity are acceptable.

## **10.0 Background Papers**

10.1 ARC; NLR

## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

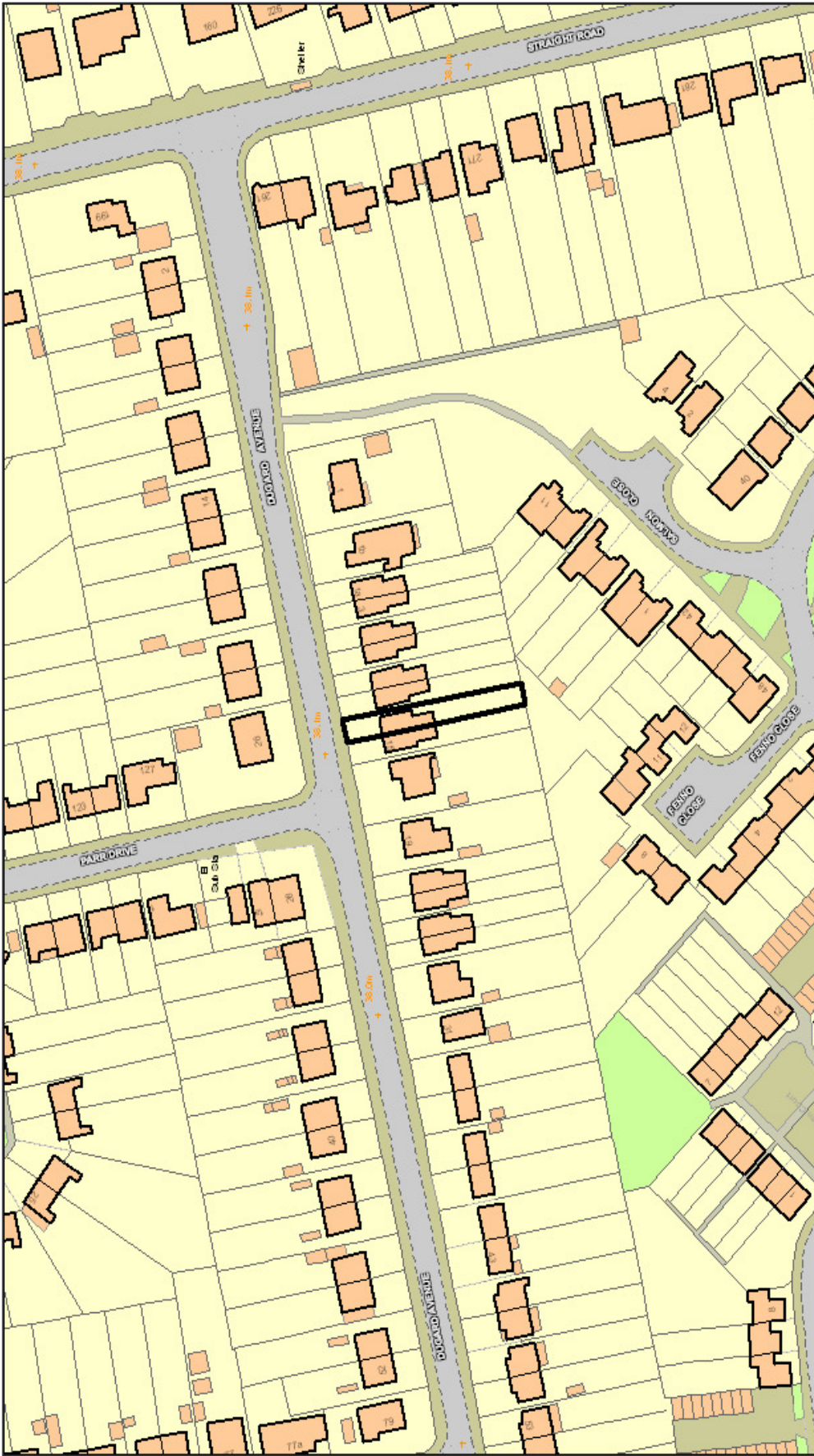
2 - Non-Standard Condition

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

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

### **Informative**

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



## Site Location Plan

MAP NOT TO SCALE

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**Notice Number:** 002068

**Complaint Reference:** 179286

**Site Location Address:** 13 Dugard Avenue, Colchester, CO3 9EH

**Date Produced:** 22 December 2008



## Planning Committee

Item  
**8**

8 January 2009

<b>Report of</b>	<b>Head of Environmental &amp; Protective Services</b>	<b>Author</b>	<b>Cheryl Headford</b> ☎ 01206 282422
<b>Title</b>	<b>Land at 13 Dugard Avenue, Colchester</b>		
<b>Wards affected</b>	<b>Prettygate</b>		

**This report concerns the insertion of a second floor window in breach of Conditions 3 of planning consent F/COL/06/1928**

### 1. Decision(s) Required

- 1.1 Members are requested to consider the information contained in this report and to authorise an Enforcement Notice requiring:
- The removal of the existing opening window; and
  - The insertion of a single fixed pane, that does not have the ability to be opened, having Pilkington Textured Glass to an obscuration level of at least 4 or 5.
- 1.2 In terms of the period allowed for compliance, it is recommended that 3 months be allowed.

### 2. Reasons for Decision(s)

- 2.1 The insertion of this second floor window constitutes a breach of Condition 3 of planning permission F/COL/06/1928, the purpose of which is to safeguard the privacy of adjoining occupiers.

### 3. Alternative Options

- 3.1 Members could chose not to pursue enforcement action however, this would allow the breach of the planning permission to become immune from enforcement action after a given period of time.

### 4. Supporting Information

- 4.1 The breach was first brought to our attention in April 2008.
- 4.2 The owner of the property had planning permission to build a rear first floor extension under reference F/COL/06/1928. Condition 3 of this consent states:

*No new window or other openings shall be inserted above ground floor level in the east and west facing elevations and roof slopes of the porposed extensions without the prior approval in writing of the Local Planning Authority.*

*Reason: In order to safeguard the privacy of adjoining occupiers.*

- 4.3 The first floor rear extension was constructed with a loft conversion above, providing for a bathroom. The conversion comprises a dormer extension inserted into the new roof slope, with an obscured glazed, opening window in the east elevation. This window is in breach of the above condition.
- 4.4 On 23 July 2008 a meeting was arranged with the owners to inspect the loft conversion and discuss other matters, which are not subject of this enforcement request.
- 4.5 On 29 July 2008 a letter was sent confirming the outcome of the meeting and advising that the new dormer breached not only condition 3 by the insertion of a window to the east facing roof slope, but also condition 2 - that the development had not been implemented strictly in accordance with the approved drawings. The owner was advised that if he wished to keep the loft conversion a retrospective application would have to be submitted to vary the conditions, and that this should be received at the Council by 1 September 2008. To date no application has been received.
- 4.6 On 11 September 2008 a chase letter was sent advising that if the application was not submitted within 14 days formal enforcement action would commence with the service of a Planning Contravention Notice.
- 4.7 No application was received so on 9 October a Planning Contravention Notice (PCN) was served. This notice requires a response to the questions asked within 21 days. On 4 November a chase letter was sent advising that the PCN was a legal document and that it was an offence to not reply to it. A further period of 7 days was given to respond. At the time of preparing this report the Council is still not in receipt of the returned questionnaire, nor has any other correspondence been received from the occupiers of this property.
- 4.8 On 18 November 2008 a further letter was sent advising that the Council would be seeking advice as to whether to proceed with a prosecution for failing to comply with a legal notice (PCN). The owner was also advised that a report to the Planning Committee for authorisation to serve an Enforcement Notice requiring works to regularise the breach of conditions under planning permission F/COL/06/1928 would be prepared.
- 4.9 It is now not considered expedient to pursue with prosecution for failure to reply to the PCN, but to concentrate on regularising the breach of planning legislation.
- 4.10 The Council is not requesting the removal of the dormer, as under the former legislation this would have been permitted development, we are only looking to resolve the breach of the condition relating to the insertion of windows to the east roof slope where there is a privacy issue.

## **5. Proposals**

- 5.1 It is considered expedient to take enforcement action to ensure the removal of the existing opening window and to replace it with a single, fixed pane, that does not have the ability to be opened, having Pilkington Textured Glass to an obscuration level of at least 4 or 5; these works will assure the amenity of neighbouring properties is adequately protected.

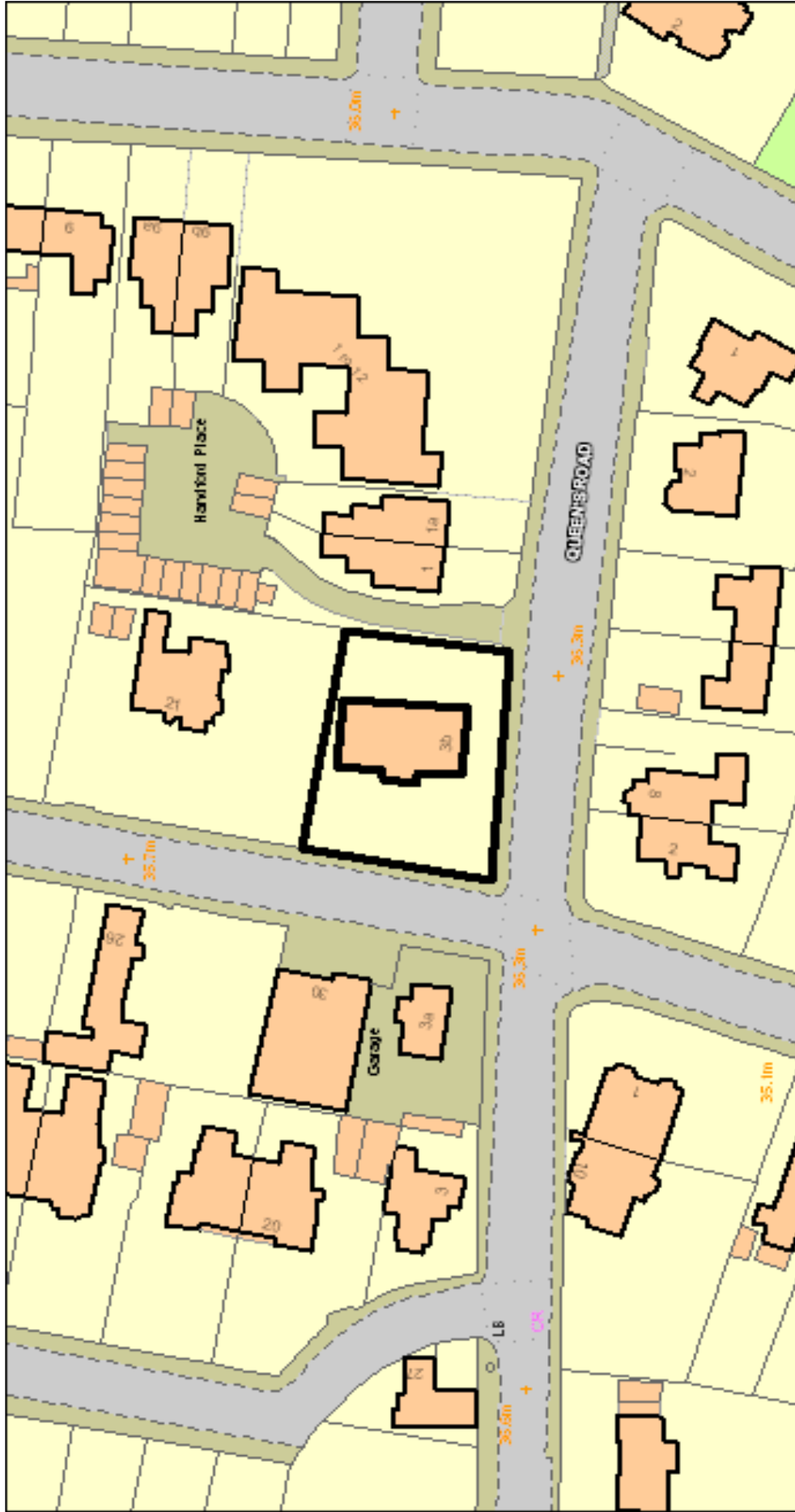


## **6. Standard References**

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

### **Background Papers**

Adopted Review Borough Local Plan – March 2004  
DC1  
UEA13



## Site Location Plan

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**Complaint Reference:** 174693

**Site Location Address:** West Lodge Road, Colchester

**Date Produced:** 22 December 2008

(MAP NOT TO SCALE)

## Planning Committee

Item

9

8 January 2009

<b>Report of</b>	<b>Head of Environmental &amp; Protective Services</b>	<b>Author</b>	<b>Cheryl Headford</b> ☎ 01206 282422
<b>Title</b>	<b>Land at Queens Lodge, 3B Queens Road, Colchester</b>		
<b>Wards affected</b>	<b>Christ Church</b>		

**This report concerns the demolition of part of a brick wall and the erection of fencing, without the benefit of Conservation Area Consent**

### 1. Decision(s) Required

- 1.1 Members are requested to consider the information contained in this report and to authorise a Conservation Area Enforcement Notice requiring the removal of the fencing and the erection of a brick wall to match with existing.
- 1.2 In terms of the period allowed for compliance it is recommended that 4 months be allowed.

### 2. Reasons for Decision(s)

- 2.1 The section of wall around Queens Lodge, which bounds West Lodge Road, represents a very distinctive example of Victorian brickwork and is an integral part of the character of Colchester Conservation Area No 2.

### 3. Alternative Options

- 3.1 Members could chose not to pursue enforcement action however this would allow the breach of planning consent to become immune from enforcement action after a given period of time.

### 4. Supporting Information

- 4.1 The breach was first brought to the Council's attention in January 2008. A site visit revealed that a 17.1m section of a 27m long side wall, which bounds West Lodge Road, had been demolished and replaced with fencing.
- 4.2 The building is situated in a Conservation Area and afforded additional protection by an Article 4 direction, which requires planning permission for the alteration of building and boundary treatments.
- 4.3 Queens Lodge is a care home owned by Colne Housing who were contacted and advised that consent was required to demolish the wall. The Council requested that they make a retrospective application for the demolition and for a replacement wall. They were advised that the fencing would not be considered appropriate and the application should show a like for like replacement wall.

- 4.4 In March Colne Housing responded stating that the wall was demolished for health and safety reasons as a matter of urgency as it was about to collapse. They requested a site meeting, which took place in April 2008, with the Conservation Officer (Alistair Day) to discuss a replacement. In the meeting Mr Day made it clear that only a like for like replacement would be likely to receive planning consent.
- 4.5 On 28 April 2008 a planning application was received (ref 080848) for the demolition and rebuilding of the wall. The application proposed rebuilding a brick wall reusing original bricks, where possible. However, rather than matching the ornate design of the original wall, it was proposed to erect a plain wall. This did not reflect the advice given by the Conservation Officer at the meeting in April.
- 4.6 In June 2008 the application was refused. It was considered that the proposed development represented the loss of a substantial section of an important wall and that its replacement, with an inappropriate and overly simplified design, would detract from both both the character and appearance of the Conservation Area, contrary to the policies set out below under Background Papers.
- 4.7 The agent for Colne Housing advised the Council that his client would be appealing against the decision. In August the agent was contacted stating that the Council intended serving an Enforcement Notice and requesting advice as to when their appeal would be lodged. The Council agreed that if an appeal was lodged early no enforcement action would be taken for the removal of the fencing, pending determination of the appeal.
- 4.8 The Council was later advised by the agent that his client would be resubmitting a revised application to erect a like for like replacement wall. However, this was not forthcoming and at the end of November the appeal against the refused consent was lodged.

## **5. Proposals**

- 5.1 It is considered expedient to take enforcement action to ensure that the rebuilding of this wall incorporates the recessed decorative panel detailing, which forms an integral part of the character and setting of the surrounding Conservation Area.

## **6. Strategic Plan References**

- 6.1 Reference is made in the Strategic Plan for the protection of the Borough's heritage.

## **7. Standard References**

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

## **Background Papers**

Adopted Review Colchester Borough Local Plan – March 2004

UEA1

UEA 2 (a), (c) & (e)

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

Our goal is to be a high performing Council

Our corporate objectives for 2006-2009 are:



e-mail: [democratic.services@colchester.gov.uk](mailto:democratic.services@colchester.gov.uk)  
website: [www.colchester.gov.uk](http://www.colchester.gov.uk)