

# Planning Committee

Town Hall, Colchester  
30 April 2009 at 6:00pm

## **This committee deals with**

planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

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## 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  
30 April 2009 at 6:00pm**

**Members**

Chairman : Councillor Ray Gamble.  
Deputy Chairman : Councillor Stephen Ford.  
Councillors Peter Chillingworth, Mary Blandon,  
Nigel Chapman, Helen Chuah, Mark Cory, John Elliott,  
Wyn Foster, Chris Hall, Sonia Lewis and Nigel 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:-

**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 16 April 2009.

## 7. Planning Applications

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

1. 090156 Former Cavalry Barracks Buildings, Butt Road, Colchester, CO2 7TN (Christ Church)

Proposed change of use and conversion of existing buildings to create 54 no. dwelling units (including 2 no. live/work units) and 2 no. commercial units (including 81 sq.m. of extensions) at area J2B Colchester Garrison.

2. 090150 449 Ipswich Road, Colchester, CO4 0HF (St John's)

Erection of 8 dwellings with associated access drives and parking.

3. 090332 32 Egret Crescent, Colchester, CO4 3TX (St Anne's)

Construction of two storey rear extension and conservatory together with internal alterations to provide en-suite and inclusive of a new window and associated works.

4. 090384 Highway Verge, Boadicea Way, Colchester, CO2 7XF (Shrub End)

Application to determine whether prior approval is required for Vodafone 11.4 metre high replica telegraph pole and equipment cabinet.

5. 081938 3 Priory Street, Colchester, CO1 2PY (Castle)

Continued use of building and rear amenity area for worship.

6. 090021 48 St. Christopher Road, Colchester, CO4 0NB (St John's)

Siting of a single Tomra recycling unit and associated works.

7. 090022 19 Bromley Road, Colchester, CO4 3JF (St Anne's)

Siting of a single Tomra recycling unit with associated works.

8. 090265 Tesco Store, Highwoods Square, Colchester, CO4 9ED  
(Highwoods)

Various changes to the car park and access arrangement to include:- Relocation of recycling area; New keep clear road markings on roundabout; Road widening on access road; Road widening by petrol filling station exit; New road layout by petrol filling station entrance; Additional card barriers to control access to staff parking.

9. 090274 Playing Field, Robletts Way, Wormingford, Colchester, CO6 3AF  
(Fordham and Stour)

Provision of two portakabins for use as changing facilities at Wormingford Wanderers Football Club.

10. 090286 10 High Street, Colchester, CO1 1DA  
(Castle)

Replacement signage including externally lit redecorated fascia, new projecting sign and applied logo to shopfront. Resubmission of 081933.

**8. Consultation in respect of a planning application in Maldon District for the construction of a wind farm at Bradwell 8 - 10**

See report by the Head of Environmental and Protective Services.

**9. Application 071734 Residential Development - Collins Green, School Road, Messing 11 - 12**

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**  
**16 APRIL 2009**

*Present :-* Councillor Ray Gamble\* (Chairman)  
Councillors Mary Blandon\*, Nigel Chapman\*,  
Peter Chillingworth\*, Helen Chuah\*, Mark Cory,  
John Elliott\*, Stephen Ford\*, Wyn Foster\*, Chris Hall  
and Sonia Lewis\*

*Substitute Member :-* Councillor Jon Manning for Councillor Nigel Offen\*

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

**Councillor Hall was not present for the determination of the application agreed under the en bloc arrangements, minute no. 253 refers.**

**250. Minutes**

The minutes of the meeting held on 2 April 2009 were confirmed as a correct record.

**251. 090020 Garrison Area P1, Ypres Road, Colchester**

The Committee considered an application for the erection of a residential care home, use class C2, comprising 60 bedrooms for residential care, extra care sheltered apartments, a staff overnight facility and associated car parking. The number of extra care sheltered apartments had been reduced from 38 in the application description to 37, see Amendment Sheet. The site currently has permission for residential use, class C3. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

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

Robert Taylor, Taylor Wimpey Project Manager for the Garrison Development addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Klh Architects were specialists in this sort of development. This was a well designed building which would be a credit to the area. It was in the right position adjacent to the Medical Centre and overlooking a nature reserve. It was a good scheme for which all suggestions and guidance received from planning officers had been taken on board.

Councillor Harris attended and, with the consent of the Chairman, addressed the Committee. He referred to the need for this type of facility in Colchester and he noted that the issues on which he had intended to address the Committee were addressed on the Amendment Sheet. The site was within walking distance to the town. The

proposal is for three storeys, one storey less than the outline residential permission, which would lessen the potential impact of the development on residents. He wanted the boundary railings, now in a poor state of repair, to be improved and also requested a condition restricting the delivery times of goods to the care home to ensure that residents nearby are not disturbed. He questioned whether the number of parking spaces was sufficient and requested a notice encouraging users to avoid undue noise in the car park area in the interests of protecting the amenity of neighbours.

Members of the Committee raised the following issues:-

- whether there were sufficient parking spaces;
- the distance of the new building from nearby dwellings being within the parameters in the Design Guide which effectively protected residents' amenity;
- a request for a condition requiring the concrete boundary wall to be improved, the railings to be painted white, the pointed top of the railings made less dangerous, the red brick entrance to be made more presentable, and the Highways Authority to ensure the grass verge was maintained;
- opposing views were voiced on the demand for, or excess of such facilities;
- there was general agreement that this was a good scheme and that it should remain as a care home and furthermore, that it should not be extended in the future;
- the comment from Adults Health and Community Well Being regarding the need for an ambulance access or covered area for people alighting from vehicles was supported.

It was explained that Essex County Council had confirmed that there is a need for this type of facility, particularly the extra care units. The scheme formed part of the overall garrison development and the units would count towards the 2,600 dwellings required. It had been specifically designed for C2 use, residential institution, and whilst it could be converted to conventional apartments, it would not be possible to provide sufficient parking spaces, hence the additional condition restricting the use to residential institution on the Amendment Sheet. Any external alteration would require a separate planning application. The parking provision followed guidance for residential institutions which when calculated was 47 spaces. It was also mentioned that it was unlikely that the frail and elderly extra care residents would require car parking. A note could be added to require signage in the car park to remind users to keep the noise levels down. Conditions could be added covering the refurbishment of the boundary wall and railings, to secure the ambulance access/covered area and to restrict the times of deliveries to the care home.

*RESOLVED* (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a Deed of Variation to link this application to the original Section 299A agreement.

(b) Upon receipt of a satisfactory Deed of Variation, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives to cover the matters listed in the report together with the following

additional matters:-

- a scheme for the repair of Berechurch Road boundary wall and improvements to railings (white painted);
- deliveries to care home restricted to the hours of 8.30am to 6.00pm, or as may otherwise be agreed with the local authority;
- provision of covered entrance to foyer for ambulance use as suggested by Essex County Council Well Being Officer;
- signage to be placed within the car park area encouraging users to avoid undue noise in the interests of protecting the quiet and amenity of the adjoining residential area.

(c) The Case Officer to write to Essex County Council Highways advising them of the Committee's concern over the poor condition of the roadside verge to Berechurch Road.

## **252. 090234 57 North Station Road, Colchester, CO1 1RQ**

The Committee considered an application for a change of use from Class A1 (retail) to Class A3 (restaurant and cafe). The site falls within Mixed Use Area C and the application if granted would result in the loss of a retail use in a part of North Station Road which is already heavily dominated by A3 and A5 uses. 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.

Mr Garrett addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He had lived in the area for 53 years and would be affected by the proposal which was close to his property. When he moved to the locality there were three such establishments, now there are fifteen between the bridge at Middleborough and The Albert roundabout; the area was saturated with eating establishments and the mix was too biased towards eating and fast food establishments. There was insufficient parking and people would be forced to park illegally and on footpaths forcing pedestrians into the road. There would be an increase in noise, particularly from extraction units, smells, traffic and litter. Delivery drivers would use his road as a rat run.

Mr Yamak addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He commented that this was a commercial and mixed use area. He believed that the application was in line with the council's planning policies. It was proposed that the A3 use was to be a Turkish restaurant which would bring character to the town, especially in the current recession. Ten outlets in the street had closed and it will be a benefit for there to be a restaurant here. There were no Turkish restaurants in Colchester. Any noise would be restricted to opening hours and could be controlled. Litter could be dealt with by litter collections. Local parking was provided in two car parks close to the river.

Councillor Barlow attended and, with the consent of the Chairman, addressed the Committee. This site was within the North Station Regeneration Area which had been omitted from the report. Generally it is A3/A5 use within the block. There was no differentiation between a restaurant and a chip shop within the bracketed A3/A5 use which had been used in the assessment of the mix of development types in the vicinity. This is an application for A3 use only and he wanted consistency.

Members of the Committee commented on a number of issues. If the area was included as one of the regeneration areas in the Core Strategy this would allow for regeneration and growth. There was some recognition that the area was not currently a good approach to the town. There were queries on whether conditions could be imposed to prevent this outlet from becoming a takeaway facility, whether an environmental impact study on the extraction unit could be investigated, whether this proposal would be an upmarket outlet, and what was the likelihood of the unit continuing as a retail shop.

It was explained that whilst the application is not clear cut, the planning officer has walked the area and come to the conclusion that this is in a part of the street where there are a lot of A3/A5 outlets. North Station is a regeneration area and a gateway into the town within which the public realm, including the shops, is prominent. The planning policies which applied to the area were CE2, which promotes a mix of development types, and Local Plan policy TCS7 which gives guidance for development proposals within this mixed use area. The effect of these policies was explained in paragraphs 8.3 to 8.5 of the report. The quality of the establishment cannot be controlled by planning, the designation of 'restaurant' covers the whole range. In this particular part of the street there is a concentration of one use which is considered to be contrary to the applicable policies. The recommendation is based on current policies which require that the mix of uses be maintained. In addition, it must be demonstrated to the council that it is possible to control the adverse impacts on the area. It was important not to accept the principle of the use and then find it cannot be controlled.

*RESOLVED* (UNANIMOUSLY) that the application be refused for reasons that it is contrary to policies CE2 and TCS7, relating to retaining a mix of uses in the Mixed Use Area C, as set out in the report.

### **253. 090254 37 Welshwood Park Road, Colchester, CO4 3HZ**

The Committee considered an application for a two storey rear extension to an existing nursing and residential care home. The extension is to allow for an internal rearrangement to upgrade bedrooms and washing facilities in line with Government legislation. There would be no increase in the number of occupants from the current maximum capacity of 34 residents and there should not be a significant increase in activity at the premises as a result of the proposal. 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.

**254. 090274 Playing Field, Robletts Way, Wormingford, Colchester, CO6 3AF**

This application was withdrawn from consideration at this meeting by the Head of Environmental and Protective Services.

**255. 081848 Land adjacent to All Saints Church, Halstead Road, Eight Ash Green**

The Committee considered a reserved matters application for plots 13, 14 and 15 of outline permission O/COL/02/0306. The three plots each comprise two storey four bedroom dwellings with garaging to form a frontage onto Blind Lane. 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.

Mr Ambrose addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Blind Lane was not maintained by the Highways Authority, the borough council or the parish council, but by those residents whose properties front on to it at their own cost. The Highways Authority reaffirm that its upkeep is not their responsibility. The building plot has never had an access onto Blind Lane which is a footpath. The new estate road and Blind Lane will form a horseshoe, but the Blind Lane/Halstead Road junction is at a bend in Halstead Road where accidents will occur. Other issues are location and position. The proposed dwellings have grown in size and footprint. Their height is over powering and out of keeping with the area as they are 1 to 2 metres higher than the existing older adjacent properties.

Councillor Willetts attended and, with the consent of the Chairman, addressed the Committee. The local community is mainly concerned with the highways aspect. The junction opposite this development is part of the road running from the A12 to West Bergholt. When the application first came forward, the borough council and ECC Highways Authority both wanted to see Blind Lane stopped up. There is no visibility to the right when exiting from Blind Lane. He was relieved to see from Condition 10 there will be a vision splay but he was unclear what vision splays can be provided because of the geometry of the area and the small lots of land owned by the development fronting on to whole side road. He considered it would not be possible to provide a standard sight splay. The number of houses represents a significant impact. He questioned how the dangerous exit from this development was going to be allowed; what style of site splay could be provided; and how was it going to be made safe as part of this development.

It was explained that outline approval was granted in the knowledge of the access arrangements onto Halstead Road. There will be an access from Halstead Road on

to Blind Lane which can be used by the three new dwellings proposed. It is proposed to improve the visibility splay and it is possible to achieve the standard visibility splay to the left on land which is within the applicant's site, however the wall of the neighbouring property does not allow a standard sight splay to the right. Residents will be able to exit via Blind Lane and on through the new access road serving the other part of the development, but it is not possible to enforce a one-way exit route, nor is it considered appropriate to condition a mini roundabout at the Blind Lane junction. Legal advice has been obtained that the applicants have demonstrated that they have right of access over the land. The Highway Authority were mindful of the history of the site. Whilst the new dwellings were larger than vernacular buildings they were considered to be along traditional lines.

The Chairman reminded members of the Committee that they should look at the situation as it stands. Members of the Committee considered this to be a difficult situation and had some sympathy with objectors regarding access. The mini roundabout appeared to be a possible solution but there will be traffic problems. The properties were well designed which has been confirmed by the design team and many villages have large houses fronting on to the road. It was suggested that the Highway Authority be notified of the Committee's views and proposed that a study be undertaken to see if the situation can be improved.

*RESOLVED* (MAJORITY voted FOR) that –

- (a) The application be approved with conditions and informatives as set out in the report.
- (b) The Case Officer to write to Essex County Council Highways with a request that consideration be given to the installation of a mini-roundabout or other appropriate highway improvements within the highway adjacent to the Blind Lane access.

**256. 090021 48 St Christopher Road, Colchester, CO4 0NB**

Consideration of this application was deferred to the next meeting on 30 April 2009 to enable video footage to be shown of the recycling unit in operation.

**257. 090022 19 Bromley Road, Colchester, CO4 3JF**

Consideration of this application was deferred to the next meeting on 30 April 2009 to enable video footage to be shown of the recycling unit in operation.

**258. Enforcement Action // Land at 185 Shrub End Road, Colchester**

The report was withdrawn from consideration at this meeting by the Head of Environmental and Protective Services.

**259. Enforcement Action // Roberts Farm, Mount Bures, CO8 5AZ**

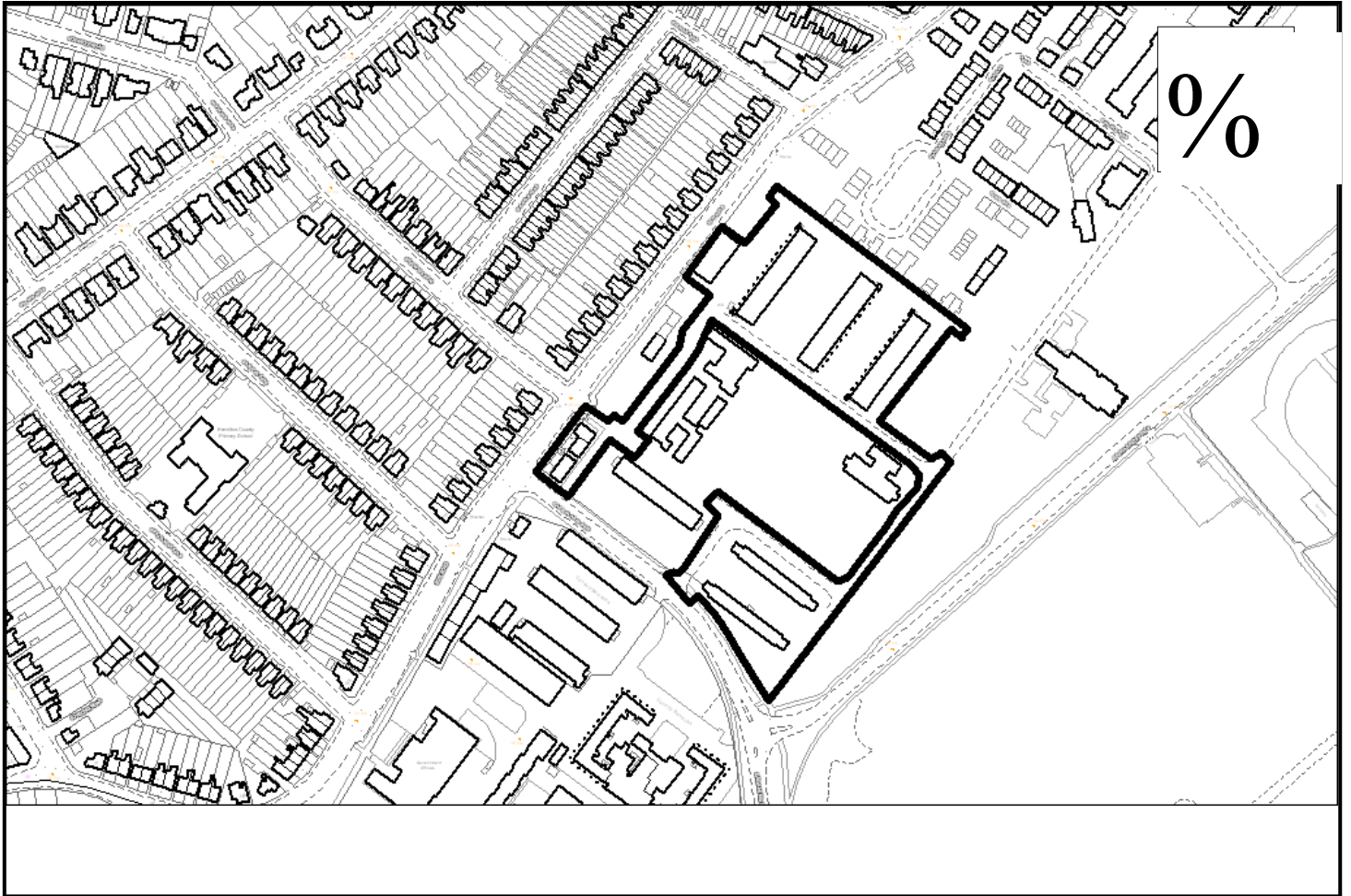
The report was withdrawn from consideration at this meeting by the Head of Environmental and Protective Services.

**260. Deed of Variation // Horkesley Green Development, Formerly Tile House Farm, Great Horkesley**

The Head of Environmental and Protective Services submitted a report seeking authorisation for an existing legal agreement under Section 106 to be varied by a deed to change the status of affordable housing units from shared ownership to social rented accommodation to be let and managed by Colne Housing Society Limited. The Committee had before it a report in which all information was set out.

David Whybrow, Development Manager, attended to assist the Committee in its deliberations. It was explained that this matter related to only four affordable units on the Mersea Homes part of the scheme. The request had been made because of market forces. Further comments from the landlord clearly indicate that if circumstances changed they would have no objections to the tenure reverting back to shared ownership.

*RESOLVED* (UNANIMOUSLY) that the proposed deed of variation to the original Section 106 agreement be endorsed to provide for a change of tenure from shared ownership to social rented on four units on the Mersea Homes part of the scheme.



**Application No:** 090156

**Location:** J2B - Garrison Site, Butt Road, Colchester

**Scale (approx):** NOT TO SCALE

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## Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **30 April 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: Alistair Day**

**EXPIRY DATE: 12/05/2009**

**MAJOR**

**Site:** Butt Road, Colchester

**Application No:** 090156

**Date Received:** 10 February 2009

**Agent:** Klh Architects

**Applicant:** Taylor Wimpey Developments Plc

**Development:** Proposed change of use and conversion of existing buildings to create 54 no. dwelling units (including 2 no. live/work units) and 2 no. commercial units (including 81 sq.m. of extensions) at area J2B Colchester Garrison.

**Ward:** Christ Church

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

## **1.0 Planning Report Introduction**

- 1.1 The application for the conversion and alteration of retained former garrison buildings (CAV1, CAV3, CAV4, CAV5, CAV6, CAV7 and CAV8) have been brought to the Planning Committee for the following reasons:
1. An objection has been received to the proposed development from a local resident and;
  2. The Planning Committee's endorsement is required for a legal agreement to link the proposed development to the requirements of the S299a legal agreement that was signed as a part of the outline planning approval for the Garrison Urban Village development.

## **2.0 Site Description**

- 2.1 The application site, which forms part of Area J2 of the Garrison Urban Village development, lies to the north east of Circular Road West and to the south of Butt Road. The north east boundary fronts onto Area J1 which is a new residential and mixed use development and is currently under construction. To the south east of the application site are the former garrison paddocks with Circular Road North and the Abbey Field beyond.
- 2.2 Area J2 is essentially split into three parts. The site of the former garrison paddocks has planning approval for the erection of contemporary style apartment buildings with associated ancillary development and an area of land proposed for public open space. The former garrison buildings identified for retention in the S299a garrison legal agreement occupy approximately a third of the site in land area. The remainder of the site will contain the main estate road (which has planning approval) and new-build housing (which is currently the subject of a separate reserved matters planning application).
- 2.3 The site forms part of the Regimental Cavalry Barracks that were constructed in 1862-3 and formed the earliest cavalry barracks at the Colchester Garrison. The buildings identified for retention in the 299a legal agreement comprise: CAV 1 (The Guard House) which is partially incorporated within the boundary wall to the north of the junction of Butt Road and Circular Road West and is aligned north east to south west; CAV 3 (The Straw and Hay Store) which again is partially incorporated within the Butt Road boundary wall, aligned north east to south west and located immediately adjacent to one of the former gateways into the barracks site; CAV 4, 5 & 6 (Troop Stables with soldier accommodation over) are located to the south east of CAV 3 and set parallel to each other on a north east to south west alignment and; CAV 7 & 8 (Soldier Quarters) are aligned south east to north west and run parallel to Circular Road West. There are a number of mature trees that are located within the general vicinity of these buildings.

## **3.0 Description of Proposal**

- 3.1 The current application seeks permission for the change of use and alteration of the retained buildings (described in the above paragraph) to provide 54 residential units (including two live work units) and two commercial B1 office units.

## **4.0 Land Use Allocation**

- 4.1 Garrison Regeneration Area - Zone C (Le Château and Cavalry Barracks): predominantly residential. The site forms part of the Garrison Conservation Area and a Tree Preservation Order (TPO) covers many of the trees in the area.

## **5.0 Relevant Planning History**

- 5.1 090244 – Reserved Matters application for erection of residential development of 122 new dwellings (outline application O/COL/01/0009) – Still to be determined
- 5.2 090251 - Conservation Area application for the demolition of CAV9, CAV 12 and IC9 - Still to be determined
- 5.3 080629 - Proposed electrical sub station to serve areas J1 and J2. – Approved 19 May 2009
- 5.4 080150 - Demolition of vacant MoD buildings – Withdrawn 18 March 2008
- 5.5 073112 - Reserved matters application for residential development to build 115 new dwellings and the proposed future refurbishment and conversion to residential use of CAV2 (Part) and CAV10 existing buildings – Refused 27 February 2007
- 5.6 071602 - Provision of new access road – conditional approval 3 September 2007
- 5.7 O/COL/01/0009 - A new urban village comprising residential development (up to approx 2,600 dwellings) mixed uses including retail, leisure and employment , public open space, community facilities, landscaping, new highways, transport improvements and associated and ancillary development. - Approved in outline June 2003

## **6.0 Principal Policies**

- 6.1 Core Strategy:
- SD1 – Sustainable Development Locations
  - SD2 – Delivering Facilities and Infrastructure
  - H1 – Housing Delivery
  - H2 – Housing Density
  - H3 – Housing Diversity
  - H4 – Affordable Housing
  - UR1 – Regeneration Areas
  - UR2 – Built Design and Character
  - PR1 – Open Space
  - TA2 – Walking and Cycling
  - TA5 – Parking
  - ER1 – Energy, Resources, Waste, Water and Recycling

- 6.2 Adopted Review Colchester Local Plan:  
DC1 - General Development Control considerations  
UEA1, 2 & 3 - Conservation Areas  
UEA 7 – Archaeology  
G1 – Colchester Garrison  
UEA 11 - Design  
UEA12/13 - Design considerations  
P1 – Pollution General  
P2 – Light Pollution  
L15 - Footpath, cycle ways and bridleway  
CF3 – Access  
T1 - Transport (general)  
T2 – Provision for Cycling  
UT5 – Satellite Dishes  
H4 - Affordable Housing  
H13 - Housing density  
EMP2 - Employment

## **7.0 Consultations**

- 7.1 Environmental Control Officer recommends that conditions are attached to cover the potential risk for contamination.
- 7.2 The Landscape Officer is satisfied with the general landscape strategy for the retained buildings but has requested various minor amendments.
- 7.3 The Arboricultural Officer has not raised an objection to this application.
- 7.4 The Housing Development Officer has not raised an objection to this application.
- 7.5 Development Team noted the application.
- 7.6 The Highway Authority (HA) has no objection to this application. With particular reference to the proposed commercial use the HA noted that there will be a Traffic Regulation Order restricting on-street parking on the proposed estate road layout. Given this, and the likely size and frequency of vehicles visiting the commercial units, it is not considered necessary to upgrade the road layout previously approved under application 071602.
- 7.7 Natural England do not raise an objection to the proposed development in respect of legally protected species provided the mitigation as outlined in the submitted report is incorporated into a suitably worded planning condition.
- 7.8 English Heritage recommends that this application is determined in accordance with national and local policy guidance and on the basis of your specialist conservation advice.

## 8.0 Representations

- 8.1 One letter has been received objecting to this proposal on grounds that it will result in increased development, traffic, pollution, noise, disturbance and loss of amenity.

*Officer Comment:*

*The principle of redeveloping this area is established by the approved outline planning application. The current scheme proposes the retention and conversion of existing historic buildings that not only make an important contribution to the character and appearance of this part of the Garrison Conservation Area but also the wider built heritage of Colchester. The impact of the proposed garrison development on the local highway network was considered at the outline planning application stage and the level of development proposed is considered acceptable.*

## 9.0 Report

### Background

- 9.1 The Garrison Urban Village development was granted outline planning permission in June 2003.
- 9.2 The Master Layout Plan that was approved in discharge of condition 1 of the outline planning approval identifies Area J2 (which form part of the current application site) for predominantly residential development and indicates a minimum development of 210 dwellings across this site.
- 9.3 The Council's Supplementary Planning Guidance for the Le Cateau and Cavalry Barracks (which includes this site) identifies the stable blocks with troop accommodation over (CAV 4, 5 & 6) and the Soldiers Quarters (CAV 7 & 8) as being suitable for conversion to residential use. The guidance suggests that CAV 1 and CAV3 could be used for residential or small scale commercial use.
- 9.4 The conversion and alteration of the retained buildings in Area J2b forms an integral part of the Garrison Urban Village development and accords with the planning principles established by the outline planning approval and the relevant policy guidance.

### Use

- 9.5 The use of the retained buildings is dictated by the constraints of their built form and the need to integrate the new uses into an area proposed predominantly for residential development.
- 9.6 The current application proposes the conversion of: CAV 1 into 2 no. commercial (B1) units of 1915 ft<sup>2</sup> and 1739ft<sup>2</sup> respectively; CAV 2 into 2 no. live work units (2 bed plus 450ft<sup>2</sup> of studio space); CAV 4 & 5 into 5 no. 4 bed dwellings and 4 no. 3 bed dwellings; CAV 6 into 16 no. 2 bedroom flats and 2 no. 1 bedroom flats and CAV 6 & 7 each into 8 no. 2 bedroom flats.
- 9.7 The total development proposed is 54 residential units and 3645 ft<sup>2</sup> of commercial floor space.

## Context

- 9.8 To the north east of the application site is Area J1 which is currently being redeveloped by Bovis Homes and Lexden Restoration and comprises a mixture of traditional Victorian style houses, contemporary style apartments and the conversion of the retained historic garrison buildings to residential and small scale employment uses. This development provides a pedestrian / cycle link from the pocket park through to Area J2 and a road link along the south east boundary of the site.
- 9.9 The north west boundary to the site, along the Butt Road frontage, is formed by the existing garrison wall. Beyond this is in an area of Victorian housing.
- 9.10 The former garrison paddocks area is located to the south east of the application site. This site has an extant planning permission for the erection of contemporary style apartment buildings and will provide an area of public open space which is intended to serve the residential development on Area J2.
- 9.11 Circular Road West forms the south west boundary of the application site. Beyond this road is Area K of the garrison Urban Village development which is proposed as a neighbourhood centre (no proposal submitted to date) and an area of land that has been retained by the MOD to accommodate the 56 Provost Company of the Royal Military Police.
- 9.12 It should be noted that this application stands in isolation from the previously approved highway layout and the new build housing proposed by Bovis Homes, which is currently the subject a separate planning application, and, at the time of writing this report, remains undetermined.

## Design and Layout

- 9.13 The proposed development is predetermined by the form of the existing buildings and the need to retain or restore their original architectural character and the contribution that they make to the appearance of this part of the Garrison Conservation Area. It is intended to sympathetically repair and restore the original architectural features of the buildings. These works include the replacement of upvc windows with purpose made timber windows and the replacement of plastic rainwater goods with cast iron guttering and down pipes.
- 9.14 CAV 1 is to be converted to B1 office use and includes the only new-build extension. The proposed extensions are located behind the boundary wall and involve the infilling of the existing light wells. The proposed extensions are similar in scale to the existing buildings and will be obscured from public view for the most part by the Butt Road boundary wall. The external verandas are to be retained and refurbished and will form canopies over the respective entrances. The forecourt to CAV 1 will provide a total of 11 car parking spaces, including two disabled parking bays and will be appropriately landscaped to enhance the setting of this building.

- 9.15 The proposed conversion of CAV 3 to live work units involves the replacement of the central section of the rear roof (adjacent to the boundary wall) with a glazed roof structure to create a covered multi purpose space. The proposed alteration to the fenestration and doorways follows the pattern of the existing openings and thereby retains the essential character of the original building.
- 9.16 The proposed conversion works to CAV 4, 5 and 6 seek to follow the existing structure and fenestration pattern of these buildings as closely as possible. To the front elevations of CAV 4 and 5, the existing window cills beneath the balcony are to be lowered by a single pane to improve the relationship to the room behind. On the rear elevation of these buildings, the existing windows are to be modified to create new doorways with sliding timber shutters. New glazed veranda structures are proposed to link groups of new door openings and improve the scale of the elevation relative to the enclosed garden spaces. With the exception of the glazed veranda, similar alteration works are proposed to CAV 6. The space between CAV 4, 5 and 6 is to be landscaped to provide areas of private amenity space and car parking. The proposed space between CAV 4 and 5 is however of a very different character to that between CAV 5 and 6. The latter space has the existing first floor balconies facing inwards on both buildings which create the perception of the buildings fronting onto one another. This space is maintained as an open privately shared space. The space between CAV 4 and 5 is much wider and will be partially enclosed by rear garden walls. A new footpath / cycle link from north to south is to be facilitated through this space and will link the pocket park in Area J1, through Area J2 to Circular Road West.
- 9.17 The conversion of CAV 7 and 8 utilises the extensive fenestration pattern and existing central staircase to create 8 flats in each block. The scheme proposes the reinstatement of the glazed verandas to the central section of the building that face each other. The central space between the buildings will create a formal shared private amenity space.
- 9.18 The boundary wall to Butt Road is to be retained along with the two existing entrances and piers, which are to be opened to provide pedestrian links between Butt Road and the development site.

#### Trees & Landscape

- 9.19 Following the initial comments from the Arboriculture Planning Officer, a revised tree survey and Arboricultural Implications Assessment was submitted and this is considered satisfactory.
- 9.20 There are ongoing discussions with the Landscape Officer relating to the details of the scheme and in particular the design of the proposed pedestrian / cycle link between CAV 4 and 5. It is expected that these issues will be resolved prior to the meeting of the Planning Committee.

#### Accessibility

- 9.21 The site is relatively flat and well suited to a high degree of mobility access. Entrance to the buildings will be designed to provide level thresholds to ground floor entrances.

### Amenity

- 9.22 The current application involves the conversion of the retained garrison building and will not have a detrimental impact on the private amenity of existing residential properties by virtue of their location and the boundary wall that screens the development from Butt Road. The proposed new build housing on this site will be designed to respect the private amenity of the converted buildings.
- 9.23 The townhouses proposed within CAV 4 and 5 are provided with private courtyard style gardens which equate to approximately 75.5m<sup>2</sup> per unit and will have a private balcony area. The apartment units in CAV 6 will have access to some 469m<sup>2</sup> of shared private amenity, which equates to approximately 20 sq.m per unit). CAV 7 and 8 will have access to some 1762m<sup>2</sup> of shared private amenity space, albeit only 1397m<sup>2</sup> can be described as private space. In addition to the private amenity, the proposed dwellings will be in close proximity to the area of public open space that is to be provided within Area J2 and Abbey Field. In view of this, the proposed private amenity areas are considered acceptable.

### Highways

- 9.24 The proposed new road network within Area J2 is the subject of a previous planning application and work has started on the construction of roads permitted by this approved scheme.
- 9.25 New footpath and cycle ways are proposed that will both link into the existing surrounding networks routes and integrate with those proposed as a part of the redevelopment of the remaining parts of Area J2. The reopening of the historic entrance gates in the Butt Road boundary wall will particularly help to integrate the proposed residential development in Area J2 with the established residential areas to the north west.
- 9.26 78 parking spaces (including 6 disabled bays) are provided for the residential units which equates to 1.4 spaces per unit. 11 parking spaces are proposed for the commercial units, which equates to 1 space per 30m<sup>2</sup>. Cycle parking will also be provided as a part of the development. The proposed parking provision is considered acceptable given the site's close proximity to the existing and proposed facilities and public transport routes.

### Affordable Housing

- 9.27 The 299a legal agreement requires 33 affordable housing units to be provided within Area J2 and these will be provided within the new-build element of this area. In view of this, it is not necessary for any further units of affordable housing to be provided as a part of this application.

### S106 Matters

- 9.28 The application will need to be subject to a deed of variation to the original S.299a agreement which formed part of the outline planning permission for the Garrison Urban Village. This is required to link any development provided with the requirements and the trigger points on the original S.299A agreement.



9.29 The original S.299A agreement dated 30 June 2003 was made between the Council, Essex County Council and The Secretary of State for Defence under S.299A of the Town and Country Planning Act 1990 (as amended). It relates to provision of Affordable Housing, Educational provision, Highway Works, community and health facilities, transport contribution schemes, recreational facilities, provision of open space and landscaping, provision of cycleway improvements, miscellaneous contributions and any other conditions specified therein.

## **10.0 Conclusion**

10.1 In conclusion it is recommended that the application be approved.

## **11.0 Background Papers**

11.1 ARC; HH; TL; AO; HO; HA; NE; EH; NLR

### **Recommendation**

That this planning application is deferred and the applicant advised that the Council is minded to grant a conditional approval provided that:

- A mechanism is put in place to ensure a deed of variation is signed to link this application to the original S.299a agreement.

On the signing of such an agreement the Head of Environmental and Protective Services be authorised under delegated powers to grant planning permission subject to appropriately worded conditions to cover the following:

- Time limit
- Development to accord with approved plans
- Recording of the buildings
- Access and highway design
- Drawings showing architectural details
- Windows to be in painted timber
- External building and surface finishes and materials
- Details of rainwater goods
- Detailed design of boundary treatments
- Hours of work / delivery
- Sound insulation
- Details of odour / fume control
- Control of light pollution
- Contaminated land and remediation
- Good practice relating to construction work etc
- Drainage details
- Tree Protection
- Landscape, implementation and monitoring of works
- Refuse / Recycling storage.
- Cycle storage facilities
- Street furniture

- Removal of PD rights
- Entrance gates on Butt Road to be reopened and refurbished to provide links onto Butt Road
- Provision of the pedestrian cycle link to Area J1
- Opening hours for commercial units
- Commercial units to be used as B1 use only
- Bat mitigation strategy

### **Informatives**

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



**Application No:** 090150

**Location:** 449 Ipswich Road, Colchester, CO4 0HF

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

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**Site:** 449 Ipswich Road, Colchester, CO4 0HF

**Application No:** 090150

Date Received: 17 March 2009

Agent: David Webber Partnership

Applicant: Millenium Investments 2000 Ltd

Development: Erection of 8 dwellings with associated access drives and parking.

Ward: St Johns

## **1.0 Planning Report Introduction**

1.1 This application is referred to the planning committee as a result of objections received. Despite these objections, the case officer recommends approval. The merits of the case are discussed below.

## **2.0 Site Description**

2.1 The site is the former ATS site at 449 Ipswich Road. The site has two frontages, stretching back from Ipswich Road (west boundary) to Evergreen Drive (east boundary). It has an area of 0.27 Hectares.

2.2 To the north, residential gardens of the properties in Acorn Close back on to the site boundary at 90 degree angles. These gardens are typically 13 metres in length. Number 453 Ipswich Road is also adjacent to the site, with the orientation of this property and garden running parallel with the application site.

2.3 To the south, the site is adjacent to 2 properties and their gardens. Again, they run parallel with the site. Their addresses are 447 Ipswich Road and 33 Evergreen Drive.

## **3.0 Description of the Proposal**

3.1 The proposal is for 8 dwellings. These are a mixture of two storey dwellings and single storey bungalows. The two-storey properties are located on the street frontage to Ipswich Road and Evergreen Drive, with the bungalows behind these properties in the middle of the site.

3.2 The 2 dwellings fronting Ipswich Road take access from that street, with one shared driveway. All other properties are accessed from the Evergreen Drive boundary of the site. The access driveway into the middle of the site is located to the southern part of the site, with a turning head and parking areas. In front of the single dwelling fronting Evergreen Drive are 3 trees, 2 of which are to be retained as they offer some amenity value to the public environment.

## **4.0 Land Use Allocation**

4.1 The site is allocated for residential use.

## **5.0 Relevant Planning History**

- 5.1 In 1997, outline application 97/0031 for 6 dwellings was refused. The reasons for refusal included, poor townscape, loss of amenity, cramped overdevelopment and vehicular activity causing pollution. This decision was never tested at appeal; instead an application for 2 dwellings fronting Evergreen Drive was approved (98/0346). A subsequent application for 4 bungalows was then refused, on the same basis as the 1997 application.
- 5.2 2 years later, outline application O/COL/00/1772 gave outline planning permission for 3 dwellings at the site. This was a planning committee decision. The consent was never implemented.
- 5.3 Full application F/COL/03/0937 for 31 flats was withdrawn. Subsequently, application F/COL/04/0173 was then submitted for 24 flats. This application was refused by the committee. No appeal was lodged.
- 5.4 C/COL/05/0894 applied for a change of use of the then existing commercial garage and residential dwelling to an A3 unit (restaurants, snack bars, cafes) with a residential unit at first floor level. This was recommended for approval by the case officer, but was later refused by the planning committee. The subsequent appeal A/06/2008372/NWF was dismissed.
- 5.5 Most recently, application 080683 for 9 dwellings at the site was withdrawn. The amended application for 8 dwellings presented now was negotiated by various officers following the withdrawal of this application.

## **6.0 Principal Policies**

6.1 The Core Strategy policies listed below are relevant:

- SD1 – Sustainable Development Locations
- H1 – Housing Delivery
- H2 – Housing Density
- H3 – Housing Diversity
- UR2 – Built Design and Character

6.2 The Local Plan policies listed below are also relevant:

- DC1 – Development Control Considerations
- CO4 – Landscape Features
- UEA11 – Design
- UEA12 – Backland Development
- P1 – Pollution (General)
- P4 Contaminated Land

6.3 In addition, regard should be had to national and regional guidance, particularly PPS1 and PPS3, as well as the East of England Plan. Relevant sections of these documents will be referred to within the report. Finally, car parking standards are currently set out in the adopted EPOA Car Parking Standards, whilst design advice is also adopted from the Essex Design Guide. Again, references to these will be made where relevant.

## **7.0 Consultations**

7.1 Urban Designers have stated that the layout is acceptable. Their main concern was amending the properties facing onto Ipswich Road, which has been achieved. The proposal now accords with their wishes, which was for 1930's style designs on this streetscene.

7.2 Environmental Health have no objections subject to several conditions which are included in the recommendation below.

7.3 The Environment Agency have no objection. They have requested an informative and have asked for a letter from them to be included with any approval.

7.4 The Highways Authority have raised no concerns or objections against the development. They have asked for several conditions to be included on any approval, which have been included in the recommendation below.

7.5 The Tree Officer is satisfied with the arboricultural impact of the development. See below for further comments in relation to the objections received from the public

## **8.0 Representations**

8.1 There have been 10 objections received. 1 of these was from a Ward Councillor (Paul Smith). The issues raised in the objections are as follows:

- Overdevelopment of the site – should only be 6 dwellings;
- Insufficient parking provision – should be 2 spaces and garage per dwelling;
- Loss of privacy – Overlooking and glare from headlights turning in/out to site;
- Evergreen Drive has an existing parking problem;
- 2 accesses off Evergreen Drive is madness – not even suitable for 1 either;
- Turning circles into accesses are insufficient and would lead to congestion;
- Accesses in blind spot from Bullock Wood and Acorn Close;
- Pollution – noise and fumes from cars close to rear garden boundaries;
- Roads not wide enough for wide vehicles – emergency services, bin men;
- Existing speeding and traffic congestion problem in Evergreen Drive;
- Access should be solely from Ipswich Road;
- Oversubscribed schools;
- There should be no damage to the trees fronting Evergreen Drive;
- Construction and lorry delivery traffic, noise, turning, blocking driveways etc;
- Pedestrian safety from extra traffic - schoolchildren use the footpaths;
- The development is poorly designed;
- Bungalows do not fit into the surrounding townscape/streetscene;
- Loss of light from plots 6 and 7 to 9-13 Evergreen Drive;
- Ipswich Road access dangerous on a busy road;
- Would provide better access for thieves and increase crime;

- There is too much hard landscaping - flooding and drainage issues;
- There would be an adverse impact on wildlife; and
- No contribution towards social housing and community facilities.

## 9.0 Report

### Density

- 9.1 It has been suggested that the development is too dense, and should be reduced to no more than 6 dwellings. At a size of 0.27 Hectares in area the site would require 8.1 dwellings to meet the minimum suggested density advocated by PPS3 of 30 dwellings per hectare. This does accept that regard should also be given to local context. Therefore, 8 dwellings are considered to be the appropriate amount of development secured at this site. Previous refusals relate to only half or parts of the site, which then resulted in overdevelopment because the area was smaller. However, against current density rates and policies the whole site should have 8 dwellings. The density offers an efficient use of the site without appearing cramped. The layout also has reasonable relationships to the surrounding urban fabrics in terms of its building to open space ratio. This complies with the overarching aims of the planning system set out in PPS1.

### Design and Layout

- 9.2 One objection raised against the development is that it is poorly designed. This is a point that is contested herein by your officers and is at odds with the urban designers views. It is accepted that development near to existing properties such as this may give rise to objections but these are quite subjective and emotionally charged. Taking a more objective view it must be considered what else would be expected at the site if this development were not approved. As stated above, 8 dwelling is right for the site. It is hard to envisage how this number of dwellings could be achieved in a superior design and layout form.
- 9.3 This proposal has been negotiated for some time. During this time several officer have had some input into its design and layout. None of these professionals have concluded that the design and layout is unacceptable, otherwise negotiations would not have been continued. In fact, the urban designer has commented that the scheme is acceptable, now that it has been amended to change the design of the 2 Ipswich Road fronting dwellings. It is also recommended by the case officer that the design and layout is acceptable and meets all the requirements that are usually negotiated for backland developments.
- 9.4 Backland development always faces a number of constraints, particularly with regard to site size, shape and consequent relationships to neighbouring properties. Therefore, given these considerations, this backland development appears as a far better than average scheme. As discussed in more detail below, the scheme has managed to meet all relevant standards adopted for impact on neighbours and still tick the boxes for basic and more detailed design elements. Subsequently, the scheme is considered to be superior to some other examples of backland development schemes that have been approved within recent years. Both street frontages are presented with appropriate dwelling designs (1930s pastiche dwellings to Ipswich Road and a modern dwelling on Evergreen Drive surpassing the 1970s design with which it is surrounded), there is retention of visually important trees to the east, as well as landscaped frontages at either end. Internally within the site, the access vista has been given

some form of visual stop, with a pergola attempting to add interest to this access way, and the properties have been designed and orientated so that they meet adopted standards on distances from windows etc.

- 9.5 Consequently, the scheme does include 5 bungalows. The argument has been made that bungalows do not fit into the surrounding townscape/streetscene. However, this argument is weak in that the bungalows will not form part of the streetscene. They are within the site, and will only be visually prominent when viewed from within the site, therefore not affecting the wider visual reading of the Ipswich Road or Evergreen Drive highways. A mixture of dwelling types is appropriate and accords with our Core Strategy policies. Housing diversity is also advocated by PPS1 and PPS3, as well as the East of England Plan.
- 9.6 Finally, it has been suggested that the site as a whole would provide better access for thieves and increase crime. It is considered that the design and layout does not offer routes through the existing road network. Additionally, the properties at this site offers natural surveillance, with no hidden corners or private public spaces whereby intruders to residential properties that already exist could gain access in a secluded location. Therefore, it appears to meet designing out crime standards. This is surely more secure than the current derelict site, which is invitation to vandalism and offers less-supervised access to rear gardens.
- 9.7 To conclude, the designs of the individual properties are considered to be acceptable. They meet our standards in terms of private open space provision and have a satisfactory spatial orientation. This results in a better than average backland scheme, whereby it would surpass the quality of some other previously approved schemes within the borough in terms of its design and layout.

#### Impact on Neighbouring Properties

- 9.8 There have been several objections referring to pollution, most frequently in the form of noise and fumes from cars which would access the site and then park close to rear garden boundaries. Whilst it is noted that this was a reasons for refusal in the mid-90s, these decision were never tested against appeal. Given the involvement of planners and urban designers in this scheme, an appeal against a refusal is a high probability. It is seriously doubted that this argument would withstand such an appeal and the case officer would not recommend that too much weight be given to it. Instead, greater consideration should be given to the precise location of the access way and parking spaces.
- 9.9 The access way into the site that comes under the most objections is the longer access from Evergreen Drive. This is located along the southern boundary, but would have a landscape buffer between the road and the boundary. Beyond this, most of the access way is not adjacent to the property or its sitting out area. It is not common practice to protect beyond these areas (as set out in the Essex Design Guide). It is also hard to argue that there would be significant noise or pollution problems caused by access to 5 bungalows given the frequency of traffic expected.



- 9.10 Another argument raised is the impact on privacy. The only loss of privacy would be from first floor windows. The bungalows in the middle of the site can not have any impact on privacy as they have no overlooking windows. This leaves the 2 Ipswich Road end properties and the 1 property facing Evergreen Drive. These properties have no side facing windows, meaning that only the rear windows come into question. In applying the adopted standards for measuring loss of privacy, a 30 degree line should be taken from the mid-point of these properties and extended outwards to a distance of 25 metres. This results in a very small slither of the bottom ends of rear gardens to Acorn Close being overlooked. These parts of the gardens are well away from the protected sitting out areas, therefore we have no policy basis to refuse the application and it can only be concluded that there is no unacceptable loss of privacy.
- 9.11 The glare from headlights turning in/out to site is an issue that could not be given great weight at appeal, given that the Local Planning Authority has previously approved schemes with accesses in the same positions. Furthermore, the frequency of this occurring would be limited, and the times of day/night when headlights are on are likely to coincide with the curtains of the property being drawn closed. Therefore, the issue would be remedied anyway. Every property on the vista of a junction in the borough would be in the same scenario, yet this issue has not been recognised as a valid ground to refuse applications before.
- 9.12 The properties are also adequately distanced from the surrounding properties to avoid having any impact on light. It has been claimed that there would be a loss of light from plots 6 and 7 of the scheme to numbers 9-13 Evergreen Drive; however, these properties are single storey bungalows and separated from the dwellings by garden areas. Thus, the adopted Essex Design Guide standards are met.

#### Highway Safety

- 9.13 Several issues have been raised with regard to highway safety in general. These include the contradictory objections that the Ipswich Road access would be dangerous on a busy road against the objection that all access should be from Ipswich Road instead of Evergreen Road. Perhaps this is symptomatic of people being subjective on the matter depending on where their own properties are. Therefore, being objective, it is considered by the case officer that access as proposed is appropriate for several reasons. Firstly, the Highway Authority has no objections from this as the professional expertise advising on the matter (making it incredibly hard to refuse and resists appeal on these grounds). A refusal contrary to the expert advice would undoubtedly result in an award of costs at appeal on the basis of it being unreasonable. Secondly, and in the case officers view more importantly, if access were all from one point on the site, whether it be on Ipswich Road or Evergreen Drive, the layout would be seriously compromised. Finally, it should be noted that there have been previous approvals that included accesses at these points within the site and that there were existing accesses which have never officially been abandoned.
- 9.14 Similarly, it is not considered that the proposal will make a significant difference to pedestrian safety from extra traffic, even accepting that schoolchildren use the footpaths. Likewise, the existing Evergreen Drive parking problems are not considered to be significant enough to warrant the refusal of the application. Parking on the highway is not a given right, it is an assumed right that people take for granted. Significantly, the Highway authority has raised no concern over this matter.

- 9.15 Construction and lorry delivery traffic, noise, turning, and blocking driveways can be a problem for a limited time whilst construction is taking place. However, this has always tended to be regarded as part and parcel of development. All new development can not be stopped because of temporary delays. The best that can reasonably be achieved with regard to this is a condition limiting traffic movements, whereby no construction vehicles are allowed to access the site during peak traffic hours. Storage of materials does not need to be conditioned as any obstruction of the highway would be an offence that the Highway Authority have jurisdiction over. Similarly, a restriction on where the workers parked their vehicles would be unreasonable. If they were parked over existing accesses then this is now an offence that the police enforce.
- 9.16 The Highways Authority are satisfied that it is perfectly safe for there to be 2 accesses off Evergreen Drive, and are also satisfied that the turning circles into accesses are sufficient to allow access for vehicles without problem. The Highway Authority has raised no objection to the proximity to other junctions. Furthermore, the access into the site would allow for services to access the properties in a satisfactory manner. There is a turning space for a fire engine provided on the site, with bin collection points within the adopted distance from Evergreen Drive. This would result in dustcarts being parked at the end of the access for a short time whilst the waste collectors walked to and from the collection point; however this meets the current standards for waste collection. It is also considered that the dust carts spend time in this street during its normal rounds anyway, therefore the length of time spent in the Evergreen Drive highway is unlikely to be noticeably longer.
- 9.17 Existing speeding and congestion is not considered to be exacerbated by this development. If anything, additional accesses might serve as a deterrent to speeding, although this is unlikely. This is an existing problem that will occur regardless of the outcome of this development.
- 9.18 Mention should be made to the Essex Planning Officers Association Parking Standards. The objectors have stated that there would be insufficient parking provision and that there should be 2 spaces and garage per dwelling. They refer to a recent news piece on the television in which an elected representative referred to these standards. However, the current standards remain the maximum standards, which this development meets. Any future changes to adopted parking standards must be disregarded and only the current standards applied in decision making. Decisions influenced by unadopted standards would be undermined at appeal on the basis that these future changes are still subject to change and might never come into force. Only when they are formally confirmed and adopted can they be used. It should be noted that the future car parking standards have already been delayed by over 12 months and have been changed several times due to rounds of consultation (highlighting the risk of “jumping the gun”).

#### Other Issues Raised

- 9.19 There has been an argument that there is too much hard landscaping, which could result in flooding and drainage issues. The Environment Agency has raised no objection based on drainage or flooding. The landscaping would also be subject to conditions, however this argument is not considered to have a significant enough weight to refuse the application. There is a reasonable amount of soft area within the site, although if Councillors were minded to give more weight to this issue then they

could consider a condition removing all permitted development for hardstanding in the rear amenity spaces afforded to the new development. Such a condition has not been included in the recommendation below.

- 9.20 There is not enough evidence to refuse the application base on impact on wildlife. There are not protected species known to be on the site. There is no standing water for newts, nor physical structures for perching birds/bats.
- 9.21 The development is below the thresholds for any contribution towards social housing and community facilities. Due to its scale, the impact on schools is also considered negligible.
- 9.22 The impact on trees fronting Evergreen Drive is considered to be acceptable to the Tree Officer. The Oak to be felled is in a poor state of health and is a “C” category tree, which means that it should not be used as an obstacle to development. The buildings do not harm the root protection areas of other retained trees within the site, including the 2 Sycamore trees near Evergreen Drive.

## **10.0 Conclusion**

- 10.1 To conclude the design and layout of this development are considered to be acceptable on their merits. The properties with prominent positions in the existing streetscenes will be of suitable designs that will enhance the two adjacent frontages from the existing

## **11.0 Background Papers**

- 11.1 ARC; HH; NR; HA; TL; NLR

### **Recommendation**

The application be deferred in order that a Unilateral Undertaking is completed whereby a contribution to Open Space, Sport and Leisure is made in accordance with the Council's Supplementary Planning Document. Once completed, the Head of Environmental and Protective Services be authorised to grant planning permission for the proposed development, subject to the following conditions:-

### **Conditions**

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

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

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

- 2 - C3.1 Materials (general)

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

Reason: The application has insufficient detail for approval to be given to the external materials; and [to ensure that the development does not prejudice the appearance of the locality/to ensure that the development has a satisfactory appearance in order to protect and enhance the visual amenity of the area).

### 3 - 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 extensions, garages, or other buildings shall be erected other than those expressly authorised by this permission.

Reason: To allow further consideration of any future development in order to monitor and protect the amount of amenity area provided for each dwelling.

### 4 - Non-Standard Condition

No windows, doors, voids or openings of any kind shall be inserted, placed or formed above ground floor level in the north or south facing flank walls or roof slopes of the buildings hereby permitted, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To allow further consideration of any windows or openings that face onto the existing properties to assess the impact on privacy in more details at such a time as they might be proposed.

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

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

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

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

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

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

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

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

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

## 8 - Non-Standard Condition

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

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

## 9 - 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.

## 10 - 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.

#### 11 - Non-Standard Condition

Prior to commencement/occupation of the access a 1.5 metre 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 inter-visibility between the pedestrians and users of the access and the existing public highway for the safety and convenience of users of the highway.

#### 12 - Non-Standard Condition

Prior to the first occupation of the development vehicular visibility splays shall be provided with dimensions of 2.4m x 60m as measured from the nearside edge of the carriageway as far as can be achieved within the site frontages. The area within each splay shall be kept clear of any obstruction above 600mm in height and shall be retained thereafter for visibility purposes.

Reason: To provide adequate visibility between users of the access and users of the adjacent highway in the interests of highway safety and convenience.

#### 13 - Non-Standard Condition

Prior to the first occupation of the development hereby permitted all redundant area of the existing accesses shall be removed and the footpath resurfaced and kerb reinstated for use as approved in writing by the Local Planning Authority.

Reason: To ensure that the footpath is suitably conditioned for highway users and that the accesses meet with current standards in the interests of highway safety.

#### 14 - 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.

#### 15 - Non-Standard Condition

Any gates provided at the vehicular access shall only open inwards and shall be set back a minimum of 4.8 metres from the nearside edge of the carriageway.

Reason: To enable vehicles using the access to stand clear of the highway whilst gates are being opened and closed.

#### 16 - Non-Standard Condition

Prior to first occupation of the development hereby permitted the turning spaces shown on the approved plans 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.

#### 17 - Non-Standard Condition

The Evergreen Drive vehicle accesses shall be constructed at right angles to the existing carriageway and shall be provided with a dropped kerb to the satisfaction of the Local Planning Authority.

Reason: To ensure that vehicles can enter and leave the highway in a safe and controlled manner.

#### 18 - 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.

#### 19 - 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.

#### 20 - 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.

#### 21 - Non-Standard Condition

Prior to the commencement of development, an investigation and risk assessment, must be submitted to and approved, in writing, by the Local Planning Authority 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 investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report 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' and 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).

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

## 22 - Non-Standard Condition

Prior to the commencement of development 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, shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

## 23 - Non-Standard Condition

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

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

## 24 - Non-Standard Condition

In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must then be undertaken in accordance with the requirements of the Local Planning Authority, and where remediation is necessary a remediation scheme must be prepared to the approval, in writing, of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is also subject to the approval in writing of the Local Planning Authority and 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 submitted for 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 shall then be carried out in accordance with its terms prior to the commencement of development, 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 shall be submitted to and approved, in writing, by the Local Planning Authority

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

#### 25 - Non-Standard Condition

Prior to the first occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed.

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

#### 26 - Non-Standard Condition

No construction work relating to this permission shall be carried out on any Sunday or Public Holidays nor before 0700 hours or after 1900 hours on any weekday or before 0800 hours or after 1300 on Saturdays.

Reason: The site is surrounded by other residential properties whereby unlimited hours of construction could temporarily affect neighbouring amenity and some form of limited working time is considered to be reasonable.

#### 27 - Non-Standard Condition

No construction, delivery, or any other vehicle other than passenger only vehicles shall enter or exit the site between the times of 0800 – 0930 hours and 1600 – 1800 hours on any weekday.

Reason: To ensure that there is no unnecessary congestion of the nearby public highways during peak traffic times caused by larger vehicles.

### **Informatives**

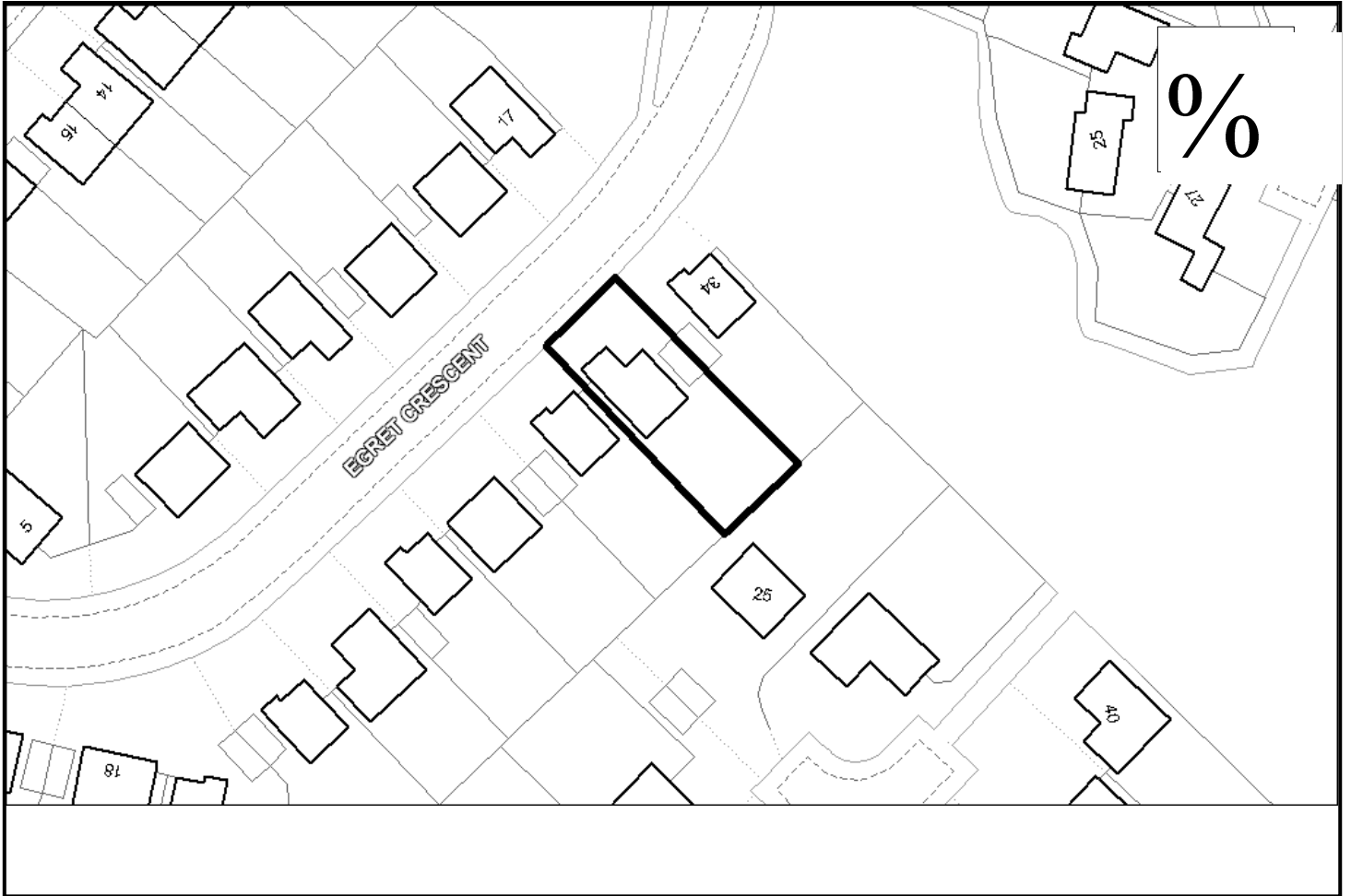
All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highways Authority. Application for the necessary works should initially be made by telephoning 01206 838600.

PLEASE NOTE that the developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Colchester Borough Council's Environmental Control Team prior to the commencement of the works.

PLEASE NOTE that the erection of flow control structures or any culverting of a watercourse requires the prior written approval of the Environment Agency under s.23 of the Land Drainage Act 1991 or s.109 of the Water Resources Act 1991. The Environment Agency resists culverting on nature conservation and other grounds and consent for such works will not normally be granted except for access crossings.

PLEASE NOTE that further site investigation should also include characterisation of the soil profile, sufficient to be able to establish whether there is made ground on the site. Due to the former use of the site for car repairs, the sampling suite should include chemical sampling of petroleum hydrocarbons.

PLEASE NOTE - The contents of the attached letter from the Environment Agency. If this letter is not attached please contact the Local Planning Authority.



**Application No:** 090332

**Location:** 32 Egret Crescent, Colchester, CO4 3TX

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

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**7.3 Case Officer: Nick McKeever**

**EXPIRY DATE: 05/05/2009**

**OTHER**

**Site:** 32 Egret Crescent, Colchester, CO4 3TX

**Application No:** 090332

**Date Received:** 10 March 2009

**Agent:** Mr Michael Bowler

**Applicant:** Mr Robert Penny

**Development:** Construction of two storey rear extension and conservatory together with internal alterations to provide en-suite and inclusive of a new window and associated works.

**Ward:** St Annes

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

- 1.1 The property is a detached two storey dwelling house forming part of a predominantly residential area. The dwellings in the immediate vicinity of the site are mainly detached. The site backs onto the rear garden of a detached dwelling No. 25 Dunnock Way.
- 1.2 The rear garden of the site, and the land beyond, falls quite steeply towards Salary Brook, which lies to the south-west of the site.
- 1.3 The application proposes the erection of a two storey extension at the rear of the property to provide an extension to the existing ground floor lounge and a master bedroom on the first floor. The existing small third bedroom is to be used to gain access to the proposed bedroom and to provide an en-suite bathroom. The extension is approximately 3.75 metres in length and 4.0 metres in width. The external materials are to match the existing.
- 1.4 It is also proposed to erect a pvcu conservatory on the east facing elevation of the new two storey extension.
- 1.5 The Applicant is employed by Colchester Borough Council.

## **2.0 Land Use Allocation**

- 2.1 Residential

## **3.0 Relevant Planning History**

- 3.1 None

#### **4.0 Principal Policies**

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

#### **5.0 Consultations**

- 5.1 None

#### **6.0 Representations**

- 6.1 None

#### **7.0 Report**

- 7.1 The proposed two storey extension is relatively modest in scale and has been designed to take into account the requirements of the relevant Local Plan Policy UEA13, and in particular its relationship to, and the potential impact upon, the adjoining dwellings either side of the property.
- 7.2 In this context the submitted drawing number 5207/09/2a shows compliance with the 45 degree line taken from the rear wall of the extended dwelling, No.30 Egret Crescent. There are no windows within the flank wall of this adjoining dwelling.
- 7.3 The other property that adjoins the site, No. 34 Egret Crescent, is separated from the site by the existing, detached double garage, such that it is not directly affected by the two storey extension or the proposed conservatory. The high level window within the elevation of the extension overlooking No.34 shows that due regard has been taken of the need to safeguard the existing privacy currently enjoyed by that dwelling.
- 7.4 The property to the rear, 25 Dunnock Way, is set at a much lower ground level. The rear garden of this property is currently overlooked by the existing two rear facing bedroom windows, although there is some screening provided by existing trees and taller shrubs. The extension will bring one rear facing bedroom window nearer to the boundary with No.25 Dunnock Way. The distance from the boundary is approximately 15 metres and this will be reduced to approximately 11.2 metres.
- 7.5 In this context it has to be borne in mind that, under the October 2008 amendment to the Town and Country Planning (general Permitted Development) Order, the permitted development rights for development within the curtilage of a dwellinghouse permits the erection of a two storey extension up to a maximum of three metres, where this would be more than 7 metres from the rear boundary of the dwelling. Under these circumstances it is considered that the extension at 3.75 metres beyond the rear elevation of the host building is not likely to have a significantly greater impact upon the amenity of No.25 Dunnock Way. It is also acknowledged that no objections have been received from any of the adjoining occupiers. The application has only been referred to the Planning Committee on the basis that the Applicant works for the Council.

7.6 Having due regard to all of these considerations it is considered that the proposal is acceptable.

## **8.0 Background Papers**

8.1 ARC

### **Recommendation - Conditional Approval**

#### **Conditions**

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

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

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

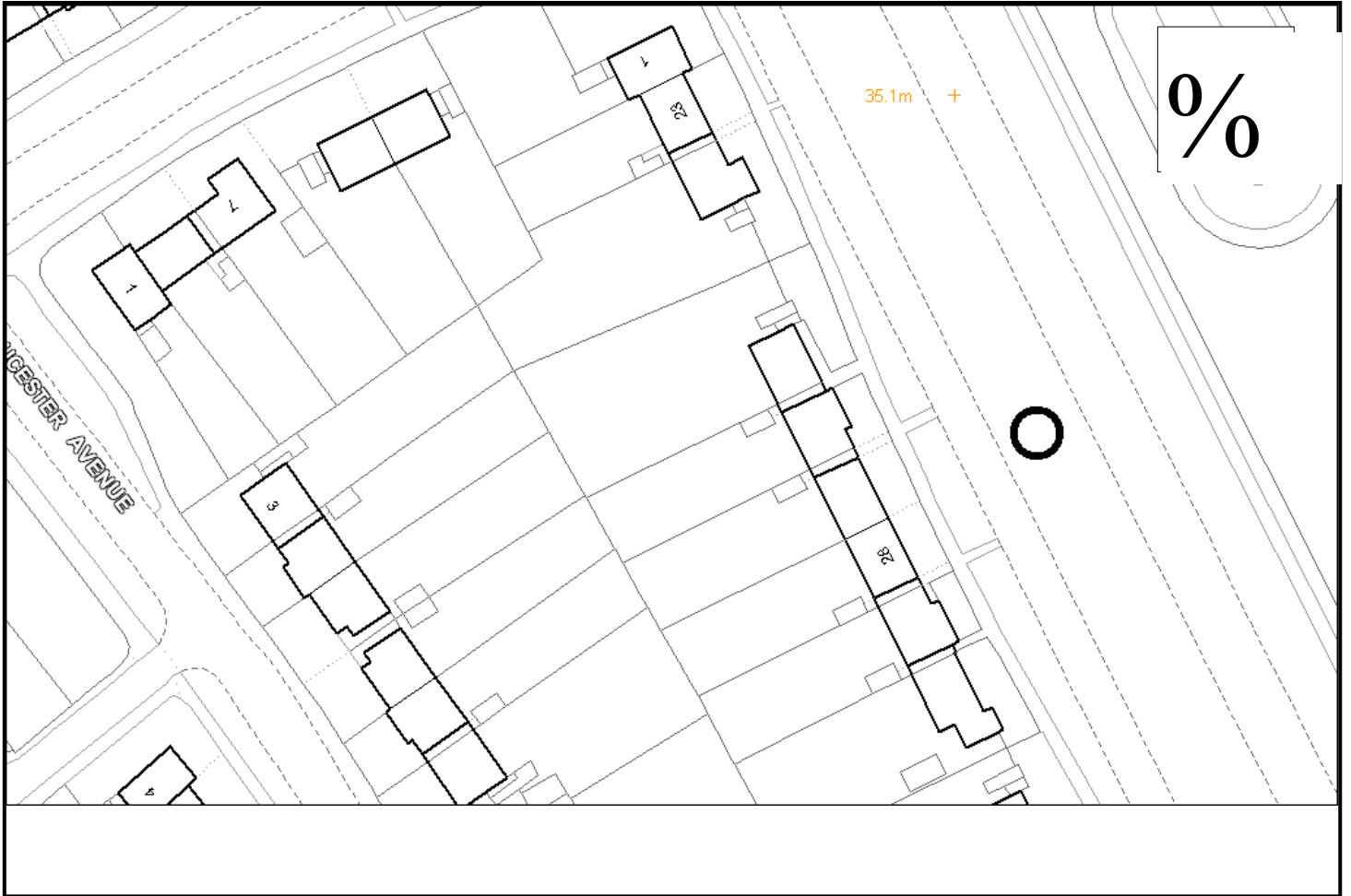
2 - A7.11 No New Windows

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 windows other than those expressly authorised by this permission shall be constructed above ground floor level in the side elevations of the two storey extension hereby permitted.

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

#### **Informatives**

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



**Application No:** 090384

**Location:** Site on, Highway Verge, Boadicea Way, Colchester, CO2 7XF

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

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**7.4 Case Officer: Mark Russell**

**EXPIRY DATE: 17/05/2009**

**OTHER**

**Site:** Highway Verge, Boadicea Way, Colchester, CO2 7XF

**Application No:** 090384

**Date Received:** 23 March 2009

**Agent:** Mr Charles Brown-Pico Consultants

**Applicant:** Vodafone Limited

**Development:** Application to determine whether prior approval is required for Vodafone 11.4metre high replica telegraph pole and equipment cabinet.

**Ward:** Shrub End

**Summary of Recommendation:** Prior Approval not Required

## **1.0 Planning Report Introduction**

- 1.1 This application is submitted under Part 24 of Schedule 2 of the General Permitted Development Order 1995. The application is to determine whether prior approval of the Authority will be required as to the siting and appearance of the development.
- 1.2 The application documents are dated 19th March 2009, and the front page carries the words "by recorded delivery". It is therefore prudent to take 19th March as "day one", notwithstanding the fact that the application was not registered until 23rd March. This being the case, day 56 (the absolute final day in which the Local Planning Authority can make any determination) can be construed as Wednesday 13th May 2009. Members will recall that failure to make a determination will lead to permission by default.

## **2.0 Site Description**

- 2.1 The site is on the grass verge, which separates the residential access road on the southern side of Boadicea Way, from Boadicea Way proper. The verge is reasonably well-screened by mature and semi-mature trees.

## **3.0 Description of Proposal**

- 3.1 The proposal is to install an 11.4 metre high replica telegraph pole and equipment cabinet and an electrical metre cabinet.

## **4.0 Land Use Allocation**

- 4.1 Highway Verge



## **5.0 Relevant Planning History**

- 5.1 North end of Boadicea Way): PA/COL/04/1758 – Refused 2nd November 2004; PA/COL/05/0097 – Refused 8th March 2005; PA/COL/06/0886 – Refused 5th July 2006. Appeal allowed 4th January 2007
- 5.2 090129 - Application to determine whether prior approval is required for Vodafone 11.4metre high replica telegraph pole and equipment cabinet. Withdrawn 11th February 2009.

## **6.0 Principal Policies**

- 6.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations;  
UT4 - Telecommunications

## **7.0 Consultations**

- 7.1 None

## **8.0 Representations**

- 8.1 Three letters of objection have been received, as detailed below:
- 8.2 A resident of Boadicea Way pointed out that the wrong post-code had been referenced on the application (CO2 7XF instead of CO2 9BE); that the contractors had stated that the mast was “definitely” going to be installed; asked why a mast-share with the equipment at the other end of Boadicea Way was not possible; stated that the existing Vodafone signal was adequate; that the previous (withdrawn) application was only 30 metres away from this site; asked what the difference was, as the children from Kingsford School would have to walk past the mast anyway; that the equipment cabinet at the other end of Boadicea Way had been graffitied, and that the Council should pay for cleaning it up; that the mast would be higher than, and not adequately camouflaged by, the trees.
- 8.3 The above letter also contained a petition of sixteen signatures from ten nearby households.
- 8.4 One letter from a resident of Layer Road complained that despite objections to this type of application, the Planning Authority “let it plough on”.
- 8.5 Councillor Lynn Barton has written in to object on behalf of residents, citing: visual impact, asking why a mast-share is not possible, asking whether sufficient research has been done to find alternative sites, and also citing proximity to a children’s play area and school.

## 9.0 Report

- 9.1 Previous application 090129 was withdrawn as the applicant had not advised the nearby Kingsford School, and this omission did not comply with best practice. During a subsequent site meeting with the applicants' agent it was decided that the location should be moved slightly north to increase the distance (and thus reduce the perceived concerns of danger) from the Kingsford School, and to seek a position closer to taller trees.
- 9.2 Proposals for telecommunications equipment, in the form of masts or mock-telegraph poles, usually lead to concern from nearby residents. This is often due to health concerns.
- 9.3 Government guidance, however, in the shape of Planning Policy Guidance Note 8 (Telecommunications) advises us that: "It is the Government's firm view that the planning system is not the place for determining health safeguards. It remains central Government's responsibility to decide what measures are necessary to protect public health. In the Government's view, if a proposed mobile phone base station meets the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines for public exposure it should not be necessary for a local planning authority, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them." (Para 30). In this case the ICNIRP Certificate has been provided, and this is sufficient for the purposes of determining that aspect of the application.
- 9.4 Regarding issues of siting: Members may be aware of the appeal decision relating to the refused application PA/COL/06/0886 on the northern section of Boadicea Way, closer to the junction with Shrub End Road. This appeal was upheld, and the Inspector noted that the lack of alternative sites weighed in the application's favour, also that the proposal was not visually dominating, notwithstanding the fact that it would be taller than surrounding trees.
- 9.5 Your Officer has been involved with various mast applications and enquiries for the past five years in this part of Shrub End, and it has become apparent that there is not an enormous amount of available sites. MOD land and the playing fields have previously been discounted, and it is apparent that Highway land, especially land which is screened by trees, is probably the best option.
- 9.6 The application at Committee tonight is for a very similar proposal to that allowed at appeal, but is on the southern stretch of Boadicea Way. The apparatus would also be 1.4 metres higher than at appeal. This would obviously be more dominant than the appeal case, and would appear as an overlarge telegraph pole.
- 9.7 The cabinets also need to be considered. The application describes "equipment cabinet and an electrical metre cabinet." The latter cabinet is virtually imperceptible next to the larger "equipment" cabinet. Regarding this larger cabinet, this is of a similar type and dimension to that which was allowed at appeal. That was, however, not subject to any condition and is stark and bold in its setting. This compares unfavourably with the cabinet on Layer Road (opposite Holly Court, and also allowed at appeal) which is a holly green colour and sits in to its surroundings much more effectively.

- 9.8 For the above reason it is argued that the equipment cabinet of this application should be of a similar colour, to be agreed prior to determination, and thus forming part of the application (it is not possible to condition Prior Approval applications). The applicant has agreed to this colour.
- 9.9 Regarding the outstanding points raised by objectors, and for clarification, the site was moved as far as was operationally possible away from the school, not due to health concerns, but on the advice of your Officer who advised that proximity to the school would be cited by objectors and also to locate the pole amongst higher trees than had first been intended. In the event, the move was only thirty metres from the site of the withdrawn application 090129. The option of mast sharing would be visually unsightly, and this was discounted. The applicant did, indeed, appear to state the wrong post-code on the application form (CO2 9BE being the code for neighbouring addresses, and thus presumably also the correct code for the highway verge). However, all of the supporting documents, the site notice which was posted, and indeed the activity of the operators have left no doubt as to the intended location. Regarding the point about graffiti, Colchester Borough Council cannot be held responsible for this. Finally, it is not for a Local Planning Authority to question whether a mast is necessary or not.

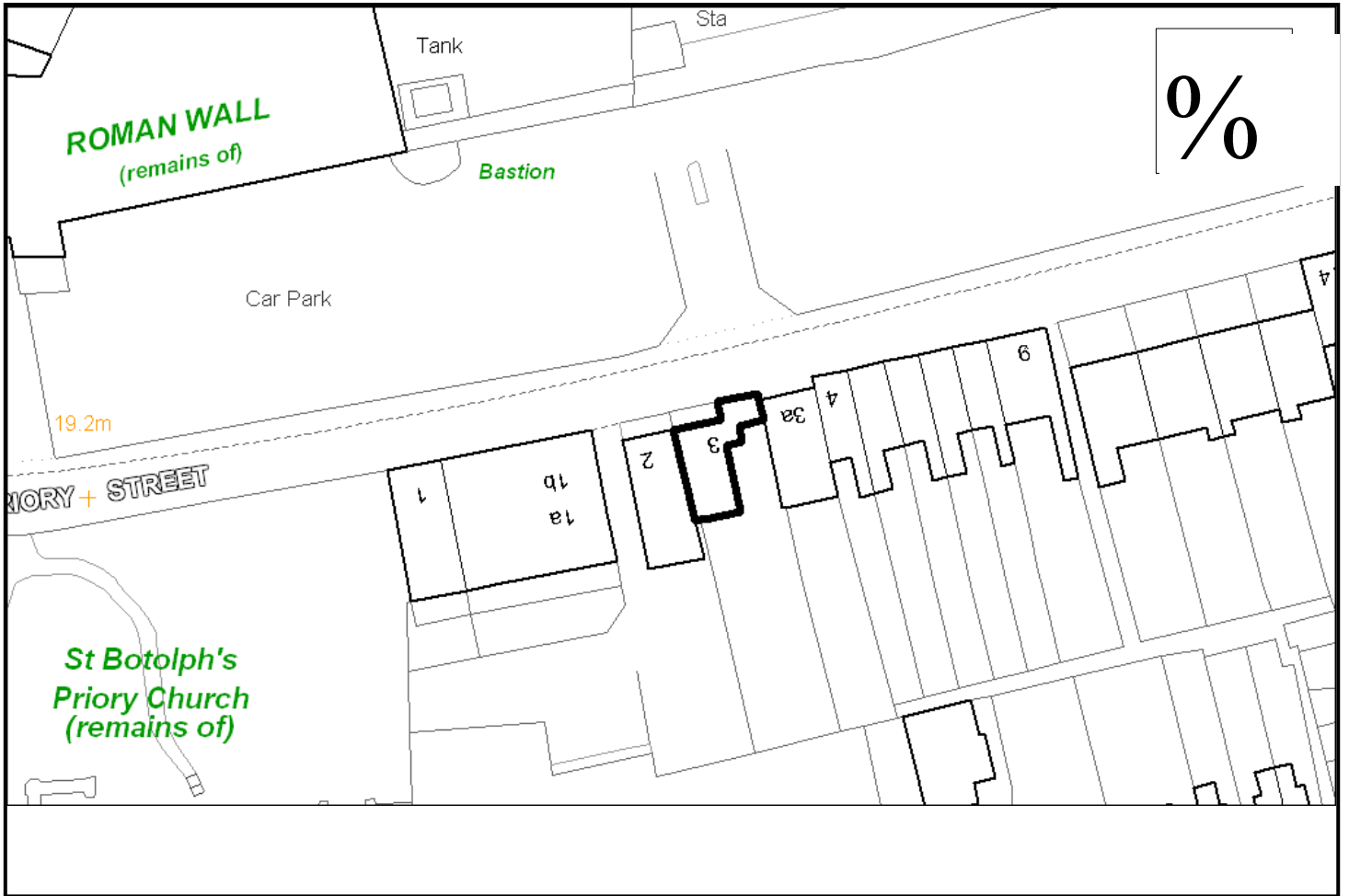
## **10.0 Conclusion**

- 10.1 The application is held to be acceptable, considering appeal decisions that have been given in this area. Consideration has been given to the colour of cabinets. For this reason, Prior Approval is not required.

## **11.0 Background Papers**

- 11.1 ARC; NLR

## **Recommendation - Prior Approval Not Required**



**Application No:** 081938

**Location:** 3 Priory Street, Colchester, CO1 2PY

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

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**7.5 Case Officer: Mark Russell**

**EXPIRY DATE: 20/01/2009**

**Site: 3 Priory Street, Colchester, CO1 2PY**

**Application No: 081938**

**Date Received: 24 November 2008**

**Agent: Pps Ltd**

**Applicant: Colchester Islamic Cultural Association**

**Development: Continued use of building and rear amenity area for worship.**

**Ward: Castle**

**Summary of Recommendation: Conditional Approval**

## **1.0 Planning Report Introduction**

**1.1 This item was deferred from Committee on 5 February for a site visit and to seek further information regarding numbers of worshippers and frequency of religious services, ground levels and boundary treatments including security measures.**

**1.2 It was further deferred on 19<sup>th</sup> February with the following resolution:**

**“Members were not satisfied with amount of details provided and concerned over issues of impact on neighbours and safety.**

**Officers to negotiate with applicants and neighbours and respond on following matters:-**

- 1. Consideration of public safety issues in respect of numbers of visitors to premises.**
- 2. Likelihood of future expansion of congregation.**
- 3. Ability to place restriction on numbers of visitors to premises.**
- 4. Review proposed boundary/planting treatment – high wall/fence on boundary with No. 4 not acceptable – need softer boundary and set back enclosure. Condition of wall on boundary needs attention.**
- 5. Display of coffins in open during funeral prayers should be restricted if possible.**
- 6. Security issues to be addressed.**

**Officers to observe prayer meeting to gauge visitor numbers and extent of use of outdoor area for prayers.”**

### **1.3 The agent has responded, briefly, as follows:**

- 1 Fire brigade have inspected No 2 and fire and safety risk assessments will be carried out on No 3.**
- 2. Likely expansion is considered to be 10 to 15% over next 10 years.**
- 4. The mosque committee agree to the revised boundary arrangement.**
- 5. Coffin can be covered if required but funerals are not an everyday event with 2 in the last 3 years.**
- 6. Security assessment will be undertaken.**

**1.4 No response was given to point 3, but it does not appear that there is a way of limiting attendance, any more than there is in any place of worship. The answer to number 6 is not very thorough, but security issues (namely, unwelcome visitors using the entrance to gain access to the rear, and other gardens) do appear to have been overcome by the agreed boundary treatment between the site and numbers 3a and 4 Priory Street which is detailed in the conditions at the foot of this report.**

**1.5 Your Officer witnessed, unobserved from Priory Street, the passage of foot traffic to and from the Mosque on Friday 6<sup>th</sup> March and counted approximately 140 people arriving, predominantly in small numbers, largely on foot but some in cars (and using the Priory Street car park) between 11:45 and 13:30, with a further selection of about 50 people arriving shortly afterwards.**

**1.6 The outside activity, as witnessed from the Priory grounds was relatively quiet, with only small groups of people sitting out praying. Although the call of the Imam could be heard, it was scarcely audible above the noise of people, including drinkers, using the benches in the Priory grounds. Your Officer spoke to the residents of 34 St. Julian Grove, which is the house that is faced by the worshippers (it being in the direction of Mecca) and they have not experienced any disturbance or discomfort. Overall, the feeling was that the use will not lead to nuisance once the issue of boundary treatment to 4 Priory Street is resolved.**

## **2.0 Site Description**

**2.1 The site comprises the left-hand side property of a pair of semi-detached houses and a rear garden which has been laid to hardstanding. This is in Colchester Conservation Area 1, and next to the grounds of St. Botolph's Priory. The other side of the pair (No. 2) is currently already under authorised use as mosque.**

## **3.0 Description of Proposal**

**3.1 The proposal is a retrospective one, to regularise the use of 3 Priory Street for worship, and also to use the rear garden for this purpose. The former garden of 3a is also part of this application.**

**3.2 The application also seeks to regularise the hardstanding, which requires planning permission in itself.**

#### **4.0 Land Use Allocation**

4.1 Residential in a Conservation Area.

#### **5.0 Relevant Planning History**

5.1 For 3 Priory Street:

080327 - Change of use from garden area to car parking area. Refused: 17th April 2008.

5.2 For 2 Priory Street:

92/0352 - Change of use as a meeting place for Colchester Islamic Cultural Association. Approved 8th June 1992;

5.3 93/0343 - Single storey rear extension and porch. Approved 3rd June 1993; 93/1559 - Single storey rear extension and alterations. Approved 10th March 1994;

F/COL/01/1857 - Single storey rear extension to form enlarged prayer room. (Renewal of COL/93/1559). Refused 22nd February 2002;

F/COL/02/1281 - Extension to Prayer Room (re-submission Of COL/01/1857). Approved 6th September 2002.

#### **6.0 Principal Policies**

6.1 Adopted Review Colchester Local Plan (March 2004):

DC1- Development Control considerations;  
UEA1 – Conservation Areas;  
UEA2 – Alterations affecting Conservation Areas;  
UEA5 – Listed Buildings (setting of);  
UEA7 – Setting of Ancient Monument;  
P1 – Pollution

#### **7.0 Consultations**

7.1 The Highway Authority did not object.

7.2 Environmental Control has requested that use of the rear area be restricted to silent Friday prayer, silent funeral prayers, and Eid prayers, also that a 1.8 metre high wall should be erected to the boundary with 4 Priory Street, and that the existing 1.8m fence between the site and 3a Priory Street should remain as such.

OFFICER'S NOTE: Whilst the congregation is, indeed silent, the Imam does call (and the congregation does not respond) thus there is not complete "silence", but any sound is very limited.

## 8.0 Representations

- 8.1 Two letters of objection were received from neighbouring dwelling 4 Priory Street and nearby 9 Priory Street. The points raised in these objections were as follows:
1. This is the only non-residential use in a long stretch of Priory Street;
  2. Increased footfall for this non-domestic use;
  3. Removal of walls between the properties would result in the loss of smaller dwellings;
  4. The facility could be located in an existing, disused, church building;
  5. Increase in parking, especially in light of the proposed future reduction of parking spaces on Priory Street itself;
  6. Encouraging off-street parking (against policy);
  7. The freeholders of 4 and 5 Priory Street had not been contacted regarding the application;
  8. The use does not improve the character of the area;
  9. The opening up of the rear has led to an increase in crime/the fear of crime;
  10. If the premises are becoming inadequate, then the organisation should look at moving to a different site;
  11. Potential noise due to the call to prayer (even without amplification);
  12. Funerals are not appropriate in this location, especially in view of windows of neighbouring residences;
  13. Ground levels mean that privacy is further invaded;
  14. Drainage may be insufficient;
  15. Fear of day-long use of the rear garden by a possible future user.
- 8.2 Objector's wished to make it clear that their objections were not based on any opposition to the Colchester Islamic Cultural Association itself.
- 8.3 An additional letter was also received from 9 Priory Street complaining that the neighbour consultation deadline, and that on the public notice, differed. It claimed that this had led to confusion, and also stated that insufficient time had been allowed for comment, and that more neighbours should have been consulted.

*OFFICER'S COMMENTS: All immediate neighbours were notified, as was the case with the previous application. In all nineteen properties were consulted, and each one was given 21 days to respond, so the claim that these had "only a few days to respond" is incorrect.*

*Neighbours are notified immediately that an application is lodged. If the application also needs to be advertised with a site notice and in the local press, then this is done a very short time later. These advertisements are weekly, and thus there is often a slight discrepancy between the two deadlines for comment. Clearly the later date is the cut-off (although in practice Colchester Borough Council accepts even later comments) and there does not appear to be any confusion on this point.*



*Regarding the earlier point 7, that freeholders of 4 and 5 Priory Street were not notified, letters were sent to the “Owner/Occupier” of each of these properties on 12th December. Details of the freeholders’ addresses, whilst these may be held for purposes of Council Tax, are not available for the purposes of neighbour notification due to Data Protection. Clearly both freeholders were aware of the application whether by being notified by their tenants, or by the public or press notice, given that representations have been made by them.*

## **9.0 Report**

- 9.1 Priory Street is a largely residential street, with some commercial properties at the St. Botolph's end, but also with several religious institutions – such as the Mosque, a Synagogue, the Catholic Church and the Spiritualist church. The principle of religious use in this location (at number 2) was also sanctioned in 1992, under planning application 92/0352.
- 9.2 The principle of use of the building at number 3 is also acceptable, and should comply with policy DC1 which seeks to protect residential amenity. Environmental Control has not requested that any sound insulation measures should be imposed.
- 9.3 There is no doubt that when the mosque is in use, and particularly before and after worship, there is briefly a large number of people outside the building, but in the context of a site so close to other town centre uses including the surface car park, this can be argued to not contrast too starkly with the prevailing pattern of activities.
- 9.4 It is the rear, outside use which seems to raise the most concerns. These concerns manifest themselves in terms of disturbance and loss of privacy to neighbouring properties, as well as visual blight due to the amount of unrelieved hardstanding which has been laid. This latter point is also of relevance when viewed from the grounds of the Grade I St. Botolph's Priory. Photographs in the Committee presentation indicate what the gardens used to look like prior to this planting.
- 9.5 The hardstanding has also had the effect of raising the ground levels considerably when compared to neighbouring gardens. Whilst the fence between 3a and 4 is not a very high one to begin with, this dates from a time when both properties were residential gardens, and well planted in the case of numbers 3 and 3a. For residents of number 4, and indeed any of the next few houses, to be confronted by a large number of people – sometimes up to three figures – must be very unsettling, and this is obviously exacerbated when taking into account the ground levels.
- 9.6 The applicants have, therefore, been advised that, if permission is granted, this will be on the basis of a renewed surface treatment and extensive planting which would have the effect of screening the mosque garden from neighbouring properties, and from the grounds of the priory. They have agreed to plant out the entire area which used to form the garden of 3a (approximately five metres in depth) and to place a fence between this and number 3, but with a personal gate for access to the garden for its maintenance.
- 9.7 The proposed level of outdoor use does require some further explanation. The applicant has advised that this breaks down into three elements: Friday prayer, funeral prayers, and Eid as follows:.

- 9.8 Friday Prayer. This lasts from 12:30 to 13:30. Whilst the Imam does speak to the gathered worshippers, there is no call to prayer using amplification, and no verbal congregation response. There is no music or singing.
- 9.9 Funeral Prayers: A prayer service where only the Imam speaks, and lasting 30 minutes. There is no verbal congregation response. There is no music or singing. The coffin is placed outside during the prayers. The applicant advises that there have been three such services in the last three years.
- 9.10 Eid Prayers: These take place twice a year, (currently towards the end of the year) and have variable dates attached to them. Prayers last for 45 minutes.
- 9.11 It would appear, therefore, that the level of outdoor usage is not extensive, but without a doubt it may be unnerving for neighbouring properties to have a large number of people in the rear, being addressed by an individual. Some separation and screening is, therefore, a way of offsetting this.

The 2007 application was refused for the following reasons:

“It is considered that the replacement of the private garden area with a slab of concrete for parking is harmful to the character and appearance of the Town Centre Conservation Area. Furthermore the proposal would result in loss of privacy and security to the rear garden areas of the neighbouring properties fronting Priory Street and a lack of private amenity space for No 3 Priory Street, harmful to the amenity of the residents. For the reasons above the proposal would be contrary to Local Plan policies DC1, UEA1 and UEA11 and fails to take the opportunities available for improving the character and quality of the area contrary to PPS1.

The proposal would result in a large area for private car parking in this sustainable town centre location, promoting the use of the private car, contrary to the sustainable development objectives of PPS1.”

- 9.12 The first clause has been addressed by the above commentary, and can be resolved by condition. The second point has been mostly resolved by the reinstatement of a wooden barrier between the former gardens of numbers 2 and 3, which has limited the parking area to the former garden of number 2, which is a much reduced area for parking. A condition is suggested which confirms this as a permanent fixture, thus preventing future access to the rear of number three by motor vehicles.
- 9.13 Regarding the other points raised: 3) This does not require planning permission; 4) and 10) It is not for the Local Planning Authority to suggest better venues, but to judge the merits of each application; 8) With effective planting and boundary treatment, the character of the area should be properly re-instated; 14) should be ameliorated by the proposed planting and different surface treatment; (15) is overcome by a personal condition.

## **10.0 Conclusion**

10.1 In conclusion, and whilst the objections are noted, the application is held to be acceptable in this location, and is recommended for approval, with conditions to ensure satisfactory planting and boundary treatments, to limit car parking, to lay new surface treatments, to have hours of use restrictions and to have a personal condition of use.

## **11.0 Background Papers**

11.1 ARC; HA; HH; NLR

### **Recommendation - Conditional Approval**

#### **Conditions**

##### **1 – Non-Standard Condition**

Within 28 days of this permission, details of the means of enclosure between the outdoor prayer area and the proposed planting area 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, and should be of a minimum height of 1.8 metres above ground level. These details shall be agreed in writing by the Local Planning Authority and shall be implemented within 56 days of permission, and shall be retained thereafter.

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

##### **2 - Non-Standard Condition**

Within 28 days of this permission, details of tree and/or shrub planting and an implementation timetable shall be submitted to, and approved in writing by, the local Planning Authority. This shall be to the boundaries of St. Botolph's Priory and number 4 Priory Street, and in the case of the latter shall be to a depth of approximately 5 metres to the boundary with 4 Priory Street (on the line of the former boundary of the gardens of 3 and 3a Priory Street) and shall be of the "instant hedge" variety to a minimum of 1.8 metres in height. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the local Planning Authority.

Reason: In the interests of visual and residential amenity and to soften the appearance of the development as seen from St. Botolph's Priory.

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

A permanent barrier shall remain in place between the former gardens of 2 and 3 Priory Street at all times, of such a height and design to prevent the passage of motor vehicles.

Reason: To avoid overuse of motor vehicles in this predominantly residential, town-centre location.

#### 4 - Non-Standard Condition

The premises shall not be used other than between the hours of 8.00am and 10.30pm.

Reason: To protect the amenity of the occupants of residential properties in this area.

#### 5 - Non-Standard Condition

No *amplified* music or sound shall be played, nor dancing take place on the premises, including the outside area.

Reason: To protect the amenity of the occupants of residential properties in this area.

#### 6 - Non-Standard Condition

The permission hereby granted shall be for the use of Colchester Islamic Cultural Association only.

Reason: Colchester Borough Council wishes to control the use of this building and curtilage against the use by future users which may not be acceptable.

#### 7 -Non-Standard Condition

Use of the external area to the rear of number 3 Priory Street shall be restricted to silent Friday prayer, silent funeral prayers and Eid prayers at the times and durations specified in the application only.

Reason: In the interests of residential amenity.

#### 8 - Non-Standard Condition

The existing 1.8 metre high fence along the rear boundary with number 3a shall be maintained as such at all times.

Reason: In the interests of residential amenity.

#### 9 - Non-Standard Condition

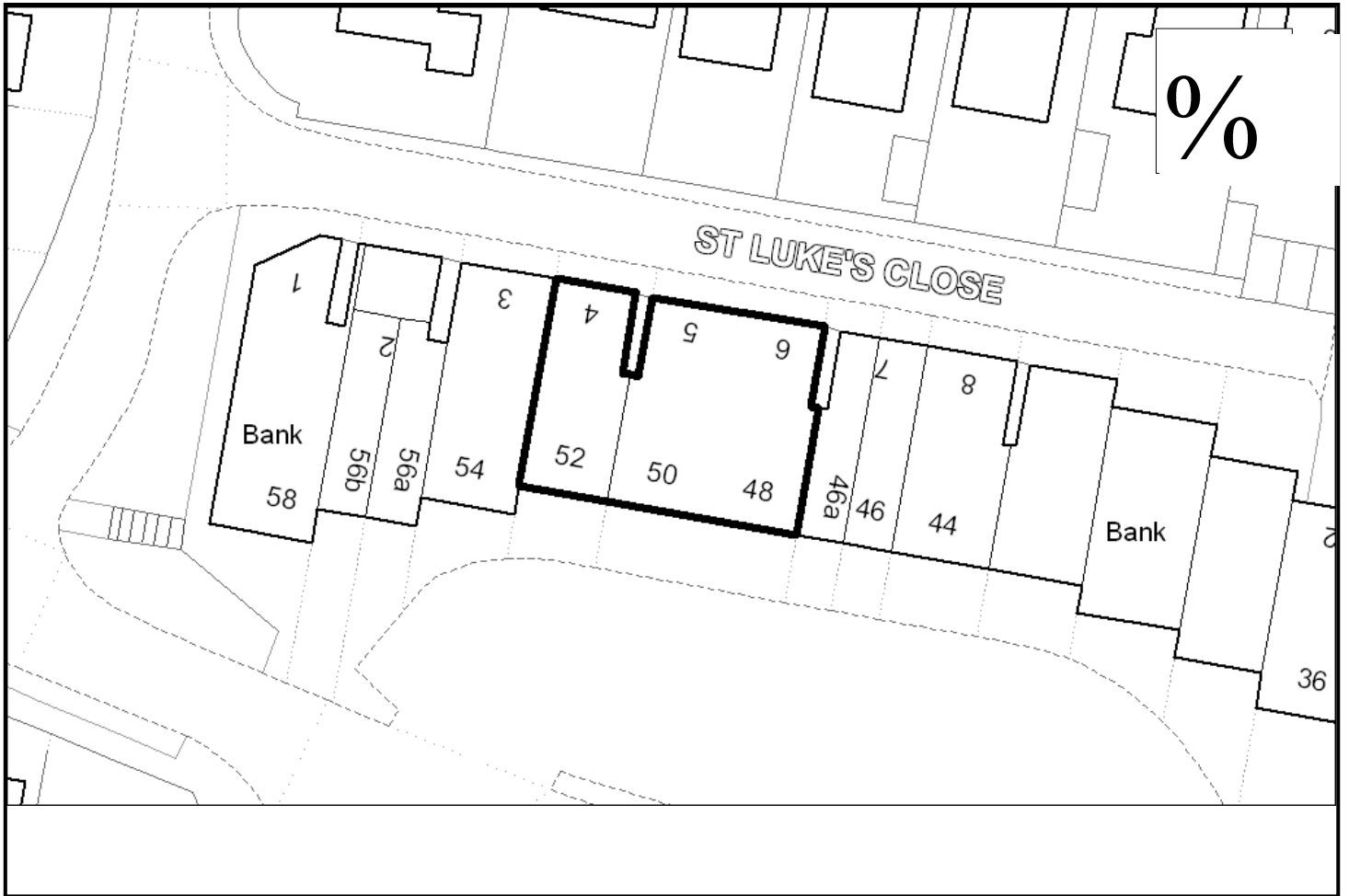
Prior to the installation of any boundary treatments, the applicants shall submit details of ground levels from which all measurements shall be taken. These shall be agreed, in writing, by the Local Planning Authority prior to any boundary measures being agreed.

Reason: For avoidance of doubt, in the interests of residential amenity.

#### 10 - Non-Standard Condition

Prior to planting, the applicant shall remove all hardstanding on the planting belt to the boundary of 4 Priory Street, and to the boundary with St. Botolph's Priory.

Reason: To enable the planting scheme to thrive.



**Application No:** 090021

**Location:** Tesco Express, 48 St. Christopher Road, Colchester, CO4 0NB

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

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**7.6 Case Officer: Andrew Tyrrell**

**OTHER**

**Site:** 48 St. Christopher Road, Colchester, CO4 0NB

**Application No:** 090021

**Date Received:** 8th January 2009

**Agent:** Mr Graham Ling Wills Gee Limited

**Applicant:** Tesco Stores Limited

**Development:** Siting of a single Tomra recycling unit and associated works

**Ward:** St Johns

**Summary of Recommendation:** Conditional Approval

**1.0 Planning Report Introduction**

**1.1 This application is returned to the committee after being deferred on the 19<sup>th</sup> of February 2009 for a demonstration of the recycling unit, which took place at the Westside Centre, Stanway, on the 2<sup>nd</sup> April 2009.**

**1.2 One objection has also been received from Colchester Civic Society.**

**2.0 Site Description**

2.1 The site is a Tesco Express store in the shopping parade on St. Christopher's Road. This parade has a cluster of shops, including a newsagents, florists and bank. Above the shops are residential units, with rear access off St Luke's Close.

2.2 Parking is located at the front of the site, off the main road. There are bottle banks and recycling facilities in the car park area.

**3.0 Description of Development**

3.1 The proposal is for a recycling unit that crushes cans and plastic bottles at a 10:1 ratio of compaction. The recycling unit would be located adjacent the Tesco frontage, and the dimensions are 116 x 68 x 150cm (width x depth x height). The footway is approximately 5m wide at points in front of Tesco and the adjacent newsagents is staggered forward of the Tesco frontage, with the pavement tapering round to accommodate this.

**4.0 Land Use Allocation**

4.1 Local Shopping Centre

## **5.0 Relevant Planning History**

- 5.1 There is no particularly relevant history to this proposal, although 2 other applications have been made simultaneously by Tesco for these units. Each case should be determined on its own merits, and one of these applications has already been refused on the basis that it was within the town centre conservation area, where it would not fit in with its historic surroundings. The other application (at the Bromley Road Tesco store) is also to be considered by the planning committee as part of this committee meeting agenda.

## **6.0 Principal Policies**

- 6.1 Adopted Review Borough Local Plan  
DC1 - Development Control Considerations  
UEA11 – Design  
P1 – Pollution (General)
- 6.2 Adopted Core Strategy  
ER1 – Energy, Resources, Waste, Water and Recycling

## **7.0 Consultations**

- 7.1 ECC Highways – No objection
- 7.2 Environmental Control – Any approval should limit operating hours to 7am to 10pm daily.
- 7.3 Street Services – Support the proposal in principle as it may increase the recycling habits of Tesco customers. However, the Council only benefits if we receive the recycling tonnage figures from Tesco regularly. Therefore, they are keen to explore a condition to ensure this is secured.
- 7.4 Colchester Civic Society – In favour of recycling but there are some disadvantages to these units. Servicing and emptying require front access, thereby blocking the pavement once the unit is opened. Removal of sacks will presumably require lorry parking in an area where parking is already a problem. It is not clear if the unit will take up public highway space. Applicant should be persuaded to withdraw and discuss with local residents.

## **8.0 Representations**

- 8.1 None received

## **9.0 Report**

- 9.1 The main issues are the design and visual appearance, highway movement, and noise pollution.

## Design and Visual Appearance

- 9.2 The design of the unit is essentially a box with an opening in the middle, similar is basic design to a post box but on a larger scale. The appearance is reasonably contemporary to match the technology. The units would be green as is expected as a common cliché for most recycling paraphernalia. A silver-gray model was originally intended but these have been unsuccessful in terms of standing out for visual attention and have now been abandoned by the manufacturer. There is also an optional add-on horizontal feature that can be included at the top of the machine (usually with advertisement of its recycling function), however this feature is considered to be unnecessary given the writing on the machine itself. Therefore, it is suggested that this feature be restricted by condition.
- 9.3 In this instance, the backdrop for the unit would be the Tesco window frontage, which at this site is covered with an internal window advert stating that the opening hours are from 6am to 11pm. Consequently, the shop frontage from top to bottom is bright red and blue, with white writing. Therefore, given the backdrop, it would be hard to argue that a green machine would be harmful to the area as it is already a colourful and visually stimulating area. It is also noted that the shops predominantly have typical plastic fascia adverts and this shopping parade has a characteristic of bright plastic materials.

## Highway Movements

- 9.4 The unit is of limited width, taking up less than 68cm of the adequate pavement width. Essex County Council Highways Authority has been consulted upon the application and have confirmed that they have no objection to a machine of this size being placed on the pavement in this location. Therefore, the Colchester Civic Society concerns about obstructions to the pedestrian footpath appear to be unfounded as there is adequate room for all users to pass any recycling unit. Given this, a refusal on the grounds that the unit would obstruct the pedestrian footpath is unlikely to withstand an appeal.

## Noise Pollution

- 9.5 The recycling unit is located beneath residential units. However, it operates at less than 70 dBA. An additional acoustic survey provided on 2 April 2009 has confirmed that this noise level is usually below the background noise levels at this site due to the vehicular movements. Therefore Environmental Control has recommended that it would be acceptable with operating hours limited to 7am – 10pm daily. A condition is recommended to this effect. This will also limited noise from any vehicles associated with people using the unit, however it is anticipated that most users will be passers by and not people making purpose-made journeys to recycle in this unit. It is noted that there are bottle banks in the car park area, and the noise generated by these could be just as much of a disturbance.



## Other Matters

- 9.6 Street Services have asked for a condition to secure recycling tonnage figures. However, this would not pass the six tests for planning conditions, being unnecessary to make the proposal acceptable in planning terms. Therefore, the condition should not be included on any approval.
- 9.7 The Civic Society are concerned that servicing and emptying require front access, thereby blocking the pavement once the unit is opened. Whilst this could occur, it is unlikely to be for significant amounts of time and would not justify a refusal in the officer's opinion. Waste removal would be by personnel working in the store itself with waste taken to the back with other Tesco packaging. Therefore, it is insignificant over and above the existing Tesco waste storage.
- 9.8 Lorry parking will not be required and the unit is unlikely to significantly increase the vehicular movement related to Tesco's overall operation. The Highway Authority also has controls outside of planning should a public highway be obstructed.

## **10.0 Conclusion**

- 10.1 Subject to appropriate conditions the application appears to be acceptable on its merits. The design of the unit is standard but will not have any material harm on the streetscene or public domain. The pavement will still be useable for people of all abilities. Furthermore, the noise can be limited to sociable hours.

## **11.0 Background Papers**

- 11.1 ARC; HA; HH; Street Services; Colchester Civic Society

## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

- 2 - Non-Standard Condition

The "Tomra Recycling Unit" hereby approved shall not operate other than between 7am and 10pm in any one day, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

### 3 - Non-Standard Condition

The “Tomra Recycling Unit” hereby approved shall be no more than 1.5metres in height, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: To clarify the scope of this permission, as the horizontal “add-on” feature that is shown in some of the submitted drawings appears to serve no functional purpose and is considered to be unnecessary to the recycling operation of the unit, to ensure that the visual impact of the unit is minimised.

### 4 - Non-Standard Condition

The opening through which recyclable materials are placed into the unit shall be closed and made inaccessible from 10pm on any one day and 7am on the following day unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the machine is safe and secure outside of its operating hours and does not offer opportunities or incentive to crime, anti-social behaviour or other public nuisance.

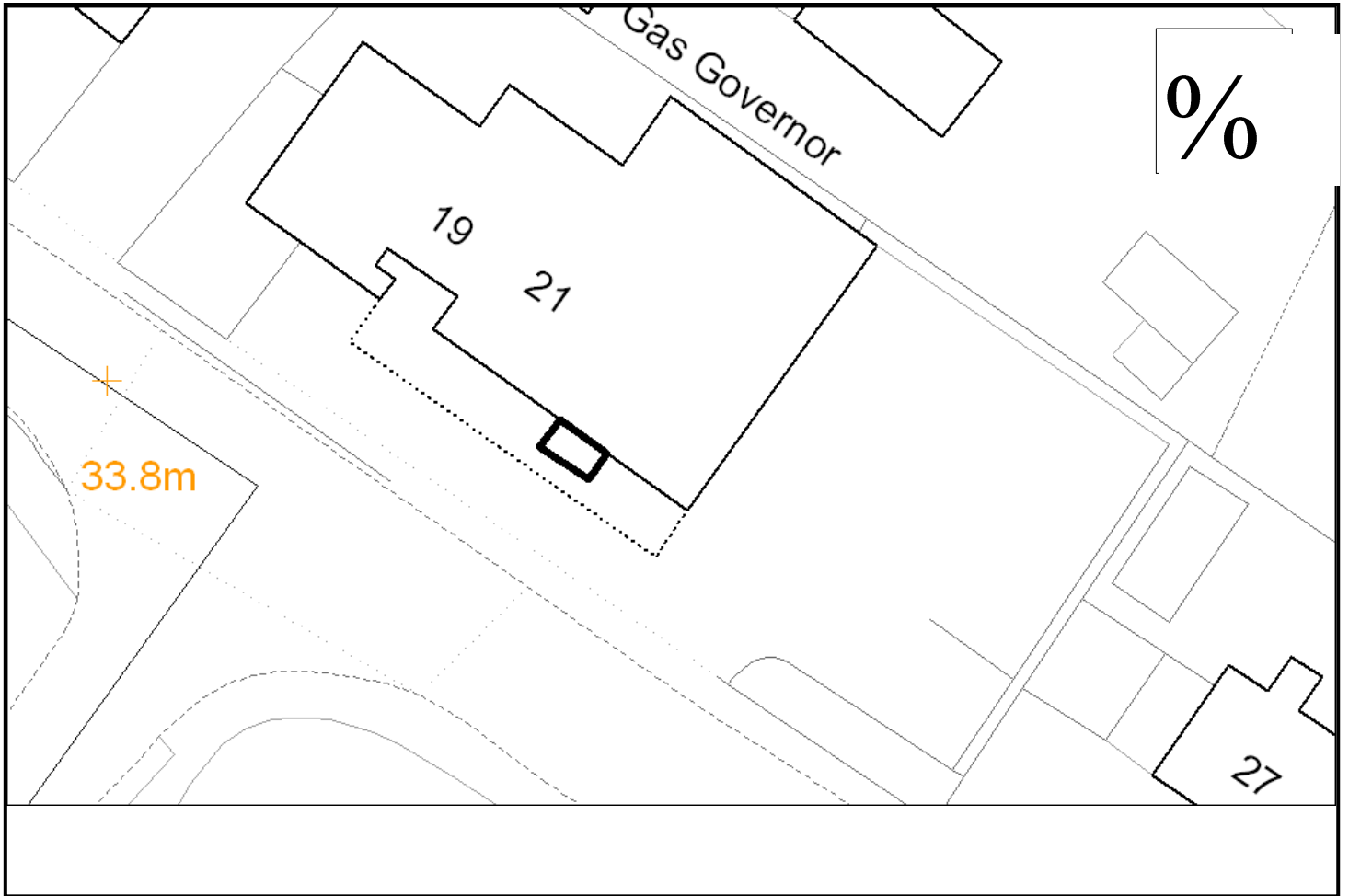
### 5 - Non-Standard Condition

The “Tomra Recycling Unit” hereby permitted shall be removed within 28 days after it is no longer operated for recycling purposes for a continuous period of 56 days or more.

Reason: To ensure that the unit is removed once its use ceases, so that the street environment does not become cluttered by redundant apparatus.

### **Informatives**

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



**Application No:** 090022

**Location:** Tesco Express, 19 Bromley Road, Colchester, CO4 3JF

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

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**7.7 Case Officer: Nick McKeever**

## **OTHER**

**Site:** 19 Bromley Road, Colchester, CO4 3JF

**Application No:** 090022

**Date Received:** 8th January 2009

**Agent:** Mr Graham Ling

**Applicant:** Mr H Clifford

**Development:** Siting of a single tomra recycling unit with associated works

**Ward:** St Annes

### **1.0 Site Description**

- 1.1 This shop is located on the Bromley Road, Colchester opposite the junction with Hawthorn Avenue. To the south is the Hazelmere County Junior and Infant School; immediately to the north are sports grounds with associated Club, pavilion and tennis courts. Immediately to the south east is the car park & service area that serve the existing commercial units. The site lies within a predominantly residential area.
- 1.2 The Tesco Express is a single storey building, which fronts onto the Bromley Road. It is set back approximately 7 metres from the back edge of the carriageway, with a hard paved forecourt area in between.
- 1.3 The application seeks planning permission for the installation of an automated recycling machine on this forecourt area, immediately in front of the Tesco Express front window. The dimensions are given as being 116,0cms in width, 67,4 cms in depth and 150,0 cms in height. It is fixed to the ground by eight bolts located inside the unit. The unit compacts or flakes recyclable materials, metal cans and plastic bottles which it sorts by means of recognition software and can hold up to six times the volume of normal uncompacted waste materials.
- 1.4 It is linked via broadband to a central depot and notifies this depot when maintenance or servicing is required. The unit can operate 24 hours or during store opening hours
- 1.5 Full details and specifications are included within the application and can be viewed on the Council website.

### **2.0 Land Use Allocation**

- 2.1 Residential

### **3.0 Relevant Planning History**

- 3.1 The site is a long established small group of commercial units.

## **4.0 Principal Policies**

- 4.1 Adopted Borough Local Plan  
Development Control Considerations - DC1  
Design - UEA11& UEA13  
Pollution (General) - P1

## **5.0 Consultations**

- 5.1 The Highway Authority does not wish to object to the proposals.
- 5.2 Environmental Control has no comments.
- 5.3 Colchester Civic Society, whilst in favour of re-cycling, objects to this and the units to be located at the two other Tesco sites within the Borough for the following reasons:-

“Servicing and emptying appear to require front access, thereby blocking the pavement once the unit is opened. Removal of full sacks will presumably require lorry parking in an area where parking is already a problem.

It is not clear from the application if the unit would take up public highway space, which would be a further objection.

Can the applicant please be persuaded to withdraw the application and discuss them with residents before resubmission”.

## **6.0 Representations**

- 6.1 None

## **7.0 Report**

- 7.1 This is one of three applications on three separate sites within the Borough. One of these has already been refused because it was in the historic conservation area of the town centre. Application 090021, Tesco Express, 48 St. Christopher Road, Colchester was submitted to the Planning Committee on 19th February 2009 and was deferred (also returning for consideration in this committee meeting agenda).
- 7.2 Unlike the aforementioned site at 48 St. Christopher Road, 19 Bromley Road does not have any residential units above the premises neither are there any dwellings immediately adjacent. Under these circumstances potential noise pollution is not considered to be an issue hence Environmental Control has not submitted any objections.
- 7.3 The proposed unit will sit well back within the forecourt area and will be read against the backdrop of the building. Under these circumstances the unit will not be an unduly prominent or discordant feature within the street scene.
- 7.4 As the unit is to be located close to the building, there will remain a relatively generous area between the Bromley Road and the unit so that pedestrian movement will not be restricted by the unit itself or the servicing/maintenance of the unit.

## **8.0 Background Papers**

### **8.1 ARC; HA; HH; CC**

#### **Recommendation - Conditional Approval**

##### **Conditions**

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

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

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

###### **2 – Non-Standard Condition**

The “Tomra Recycling Unit” hereby approved shall not operate other than between 7am and 10pm in any one day, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

###### **3 – Non-Standard Condition**

The “Tomra Recycling Unit” hereby approved shall be no more than 1.5metres in height, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: To clarify the scope of this permission, as the horizontal “add-on” feature that is shown in some of the submitted drawings appears to serve no functional purpose and is considered to be unnecessary to the recycling operation of the unit, to ensure that the visual impact of the unit is minimised.

###### **4 – Non-Standard Condition**

The opening through which recyclable materials are placed into the unit shall be closed and made inaccessible from 10pm on any one day and 7am on the following day unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the machine is safe and secure outside of its operating hours and does not offer opportunities or incentive to crime, anti-social behaviour or other public nuisance.

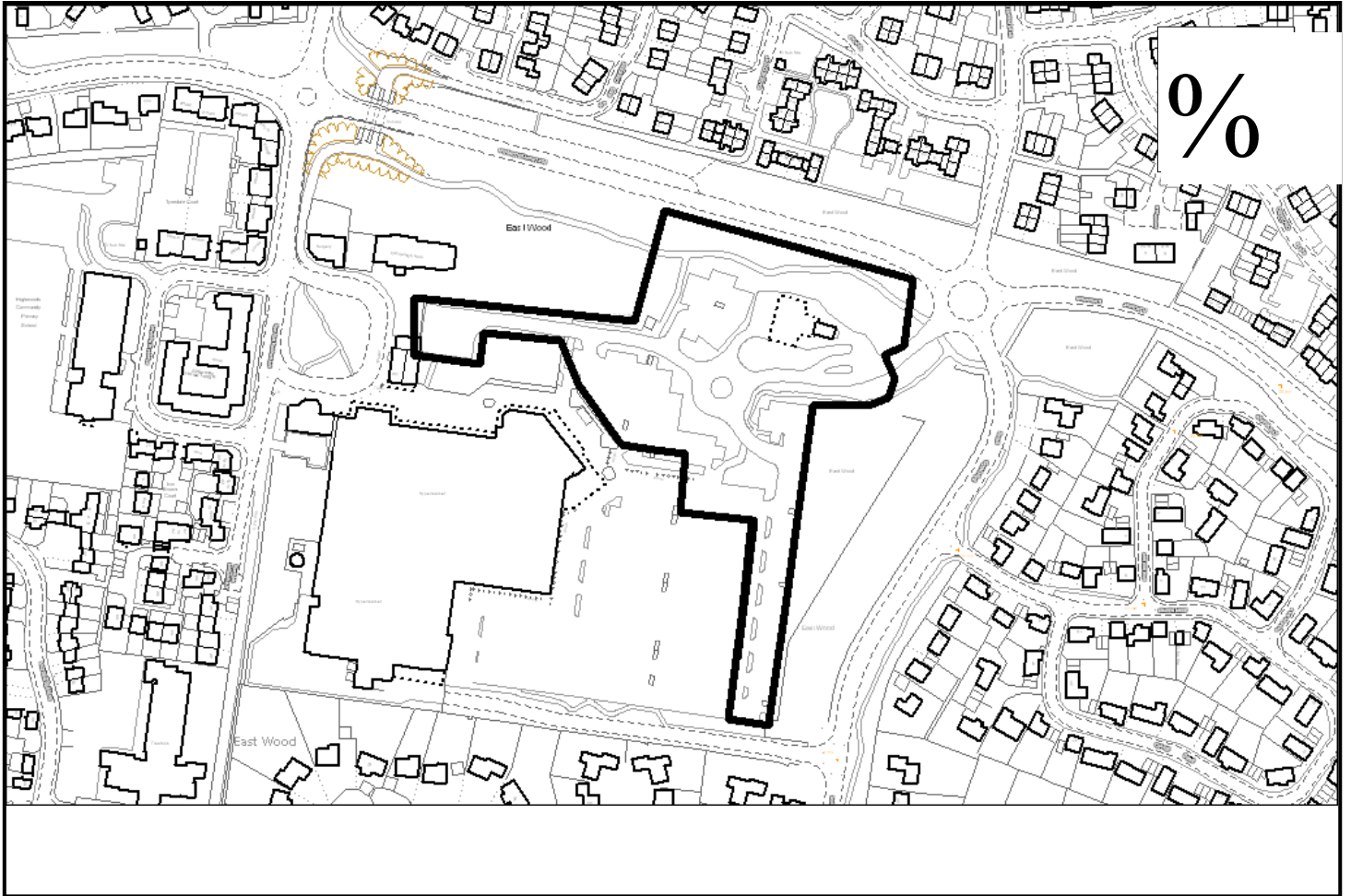
###### **5 – Non-Standard Condition**

The “Tomra Recycling Unit” hereby permitted shall be removed within 28 days after it is no longer operated for recycling purposes for a continuous period of 56 days or more.

Reason: To ensure that the unit is removed once its use ceases, so that the street environment does not become cluttered by such redundant apparatus.

**Informatives**

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



**Application No:** 090265

**Location:** Tesco Stores Ltd, Highwoods Square, Colchester, CO4 9ED

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

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**7.8 Case Officer: Nick McKeever****OTHER****Site:** Highwoods Square, Colchester, CO4 9ED**Application No:** 090265**Date Received:** 27 February 2009**Agent:** Plan-It**Applicant:** Tesco Stores Limited**Development:** Various changes to the car park and access arrangement to include:-  
- Relocation of recycling area - New keep clear road markings on roundabout - Road widening on access road - Road widening by petrol filling station exit - New road layout by petrol filling station entrance -**Ward:** Highwoods**Summary of Recommendation:** Conditional Approval**1.0 Site Description**

1.1 The site lies to the north of the Borough, located off Highwoods Approach and within a predominantly residential area. The site is bounded by Eastwood Drive, Highwoods Square, and Highwoods Approach. The main Store building is located to the west of the site, to the east of the building is the main car parking area, to the north west is the Tesco Petrol Filling Station (PFS), a smaller car park and the current recycling area. The area around the PFS is enclosed by established trees. There is also a substantial belt of established trees along the eastern boundary of the site with Eastwood Drive.

1.2 This application proposes numerous small works, relating mainly to the car parking area, the access in the proximity of the PFS and the relocation of the recycling area within the existing car parking area to the south of the PFS. Full details of the numerous works are set out on the submitted Drawing No. 2326p###Q.dgn. The main works are summarised as follows:-

- The widening of the access road from Highwoods Approach and adjacent to the PFS and small internal roundabout. The widened access will incorporate an extra dedicated lane, as well as the PFS access altered and the widening of the forecourt area.
- The small parking area to the west of the PFS is to be altered
- The relocation of the existing recycling area from within this small parking area to the south adjacent to the tree belt along Eastwood Drive.
- Amendments to the car park layout and the disabled parking area.

- 1.3 The alterations are aimed at improving the overall site circulation and access arrangements within the Tesco Store site.
- 1.4 The works will entail the removal of a number of trees located adjacent to the PFS and access road. The proposal includes the planting of a number of replacement trees and an area of low shrub planting. Full details are contained within the Landscape Supporting Statement submitted as part of the application. This document can be viewed in full on the Council's website.
- 1.5 The trees to be removed are shown on a drawing forming Appendix 2 to this document. An extract from this statement is reproduced as follows:-
  - 3.3 The trees that are to be removed include a number located in the area adjacent to the the Petrol Filling Station (PFS) and access road and the small separate area of car parking to the west of the PFS. None of the trees shown as removed are likely to have been present at the time the TPO No. 5/55 was imposed, with the exception of Tree No. 39 (refer Appendix 2) which may have been present but, which is currently of extremely poor structure and has been significantly reduced in the past. This tree is of only short term potential and its removal is fully justified on the basis of sound arboricultural management
  - 3.4 Many of the larger tree specimens which are located adjacent to the existing PFS have been managed in the past. Most have been significantly reduced in height and the majority are showing signs of decline. Within this copse, all the Sweet chestnut trees have had their central leaders removed leading to significant die back throughout their main trunks and, some are at a point where they have structural defects such as their early loss expected due to collapse.
  - 3.5 A number of replacement proposed trees and an area of low shrub planting are included as part of the proposals and this additional planting is illustrated on ASP3 Planting Plan. The tree species have been chosen to reflect the species that currently exist within the site and will be of a suitable size so as to have an immediate positive effect. It is considered the replacement tree and shrub planting will fully mitigate against those trees to be removed as part of the car park and access improvements.

## **2.0 Land Use Allocation**

- 2.1 Local Shopping Centre  
Tree Preservation Order Essex County Council No. 5/55

## **3.0 Relevant Planning History**

- 3.1 090266 - New egress point out of the car park onto the service road. Refused under officer delegated powers

## **4.0 Principal Policies**

- 4.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
Design - UEA11& UEA13  
Landscape Features – CO4

## 5.0 Consultations

5.1 The Highway Authority comment that, having regard to the whole scheme including the proposals detailed in the application 090266 and the benefits to the highway network, the Highway Authority does not wish to object to the proposals as submitted.

5.2 Environmental Control comment as follows:

"Environmental Control has recently received complaints about an accumulation of general waste around the existing recycling area. This has at times built up to unacceptable levels. We therefore wish to take this opportunity to require Tesco to have a management plan in place to prevent this from recurring. Environmental Control requests that a management plan be submitted to the planning authority for approval. Having been approved any installation shall thereafter be retained and maintained to the standard agreed.

We have also been informed from a nearby resident that the re-cycled glass bins are at times emptied during the night time period and this has caused disturbance. We would therefore also recommend that collection of recycled waste is restricted to between the hours of 07.00 - 23.00".

5.3 The Council's Arboricultural Officer comments as follows:-

"Regarding the Tree Survey & Arboricultural Implication Assessment:

1.2 I am in agreement with the conclusions of the report provided. The trees to be lost as a result of the proposed improvements are of poor quality and have been subject to very heavy inappropriate reduction work in the past or are small trees that could be re-sited or replaced in different locations.

1.3 It is noted that the entire access is likely to require lifting and replacing as a result of the proposal. The trees immediately adjacent the access road do require protection during this operation as it does have the potential to affect roots of the trees in this area. Details of how these trees will be protected during the construction process should be provided.

2.0 Conclusion

2.1 The above considerations need to be addressed before a full assessment of the proposed developments effect on the local landscape can be made or suitability of design confirmed.

3.0 Recommendation

3.1 Refusal as currently proposed subject to revision/additional information."

## 6.0 Representations

6.1 This application, together with the application 090266, has generated in excess of 80 objections. The objections relating to this particular application are summarised as follows:-

- There appears to be little or no justification to relocate the recycling area. The proposed location will be nearer to residential properties along Eastwood Drive and in a busier position than at present.
- Lack of maintenance of the existing facility. Containers are not being emptied by the various agencies contracted to do so. Bags of household waste containing food are frequently scavenged by fogs and rats.

- Large vehicles need to access the facility on a regular basis in order to empty the various “bins”. This is often done in the middle of the night causing considerable noise (particularly from the glass “bin”).
- Loss of more trees. Lack of tree management.
- Main purpose is to increase the visibility of the store for vehicles travelling up Highwoods Approach.

6.2 Councillor Oxford has written to express concerns as to:-

- Loss of trees.
- The relocation of recycling area seems silly given that the existing site has better lighting, further from residential properties and benefits from existing CCTV coverage at the PFS.
- Loss of amenity.
- Increase noise when the recycling containers are emptied and greater impact upon dwellings.

## **7.0 Report**

7.1 The relatively minor works within the car parking area will not have any significant impact upon the Tesco site in general or upon the amenity of this residential area.

7.2 With regard to the works to the access in and around the immediate vicinity of the PFS it is acknowledged that the Highway Authority are fully supportive of these works as part of a wider package to improve the traffic circulation. Notwithstanding the works associated with the proposed new egress onto the service road along the western boundary of the site, which are the subject of a separate application (090266), the only issue that has a wider impact is the removal of some of the existing trees.

7.3 In this context the comments of the Arboricultural Officer are acknowledged. The Agent, Plan-It, has been advised of these comments and requested to provide details of the proposed methods of protecting the existing trees prior to the Committee Meeting.

- 7.4 Apart from the issue of the trees, the aspect of the package of works that appears to be of main concern to the nearby residents is the relocation of the recycling works. The alternative position that has been selected is immediately adjacent to an area of relatively dense tree planting. This belt of trees provides a buffer between the existing dwellings along Eastwood Drive. On this basis the trees will screen the site so that the visual impact upon these properties will not be significant. What is of more concern is the management of the facility and the potential impact in terms of the noise and disturbance caused by the emptying of the storage bins.
- 7.5 In this context it is noted that Environmental Control have flagged these up as issues that need to be addressed in terms of the submission and approval of a Management Plan and a restriction upon the emptying of the bins, and in particular the glass bins.
- 7.6 Subject to the concerns of the Arboricultural Officer being addressed, approval is recommended with appropriate conditions.

## **8.0 Background Papers**

- 8.1 ARC; HA: HH; NLR; TL

### **Recommendation - Conditional Approval**

#### **Conditions**

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

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

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

- 2 - Non-Standard Condition

Prior to the use of the new recycling area becoming operational a Management Plan for the use and maintenance of this facility this shall be submitted to and agreed in writing by the Local Planning Authority in consultation with Environmental Control. Having been approved the recycling area shall be retained and maintained to the standard agreed.

Reason: In the interests of visual amenity.

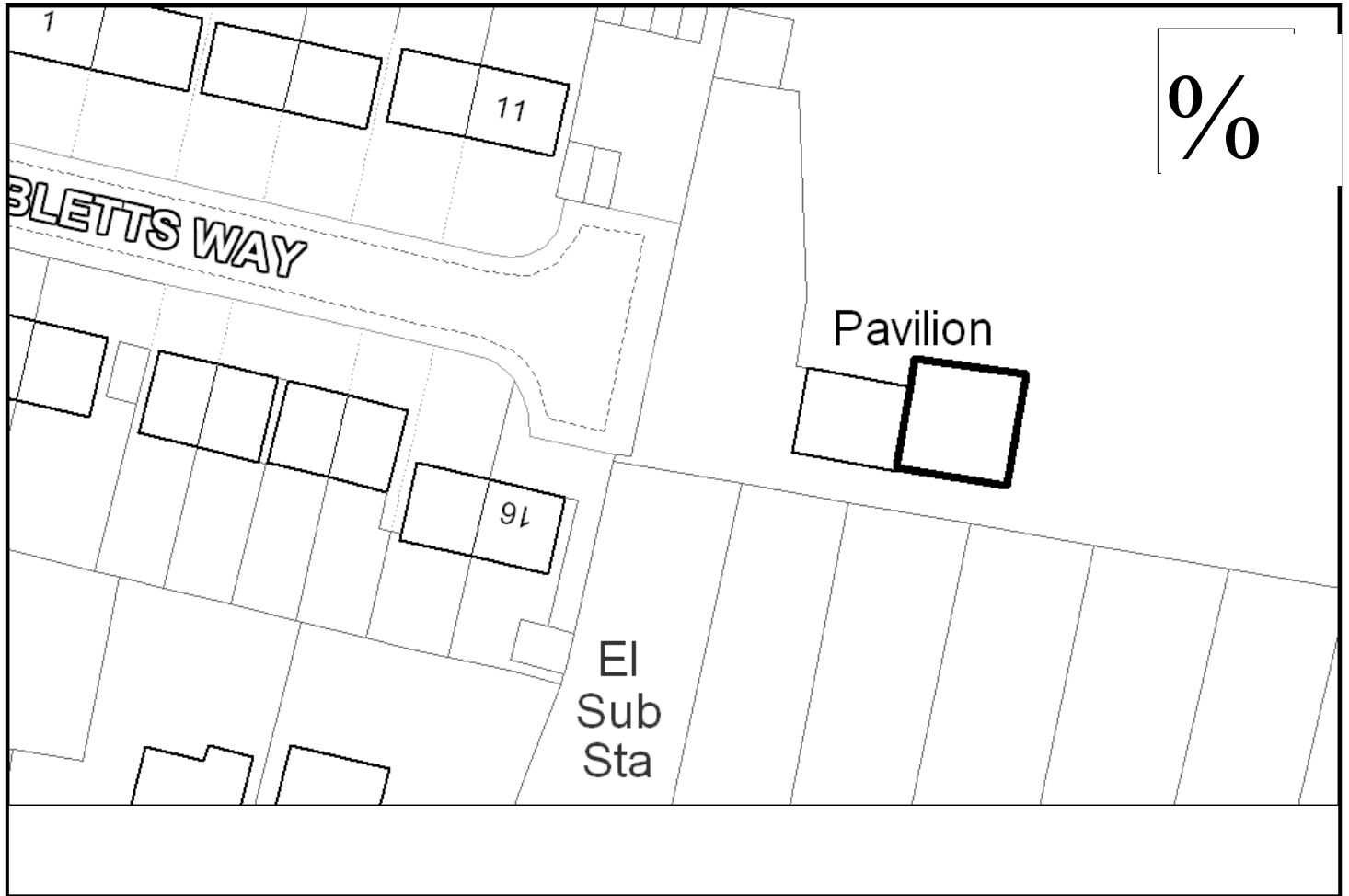
- 3 - Non-Standard Condition

The collection of re-cycled waste from the recycling facility shall not be undertaken at any time other than between the 07:00 hours and 23:00 hours.

Reason: In order to safeguard the amenity of nearby residential property.

#### **Informatives**

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



**Application No:** 090274

**Location:** Sports Pavillion, Playing Field, Robletts Way, Wormingford, Colchester, CO6 3AF

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

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## 7.9 Case Officer: Mark Russell

## OTHER

**Site:** Playing Field, Robletts Way, Wormingford, Colchester, CO6 3AF

**Application No:** 090274

**Date Received:** 2nd March 2009

**Agent:** Hurley Porte And Duell

**Applicant:** Mr R Batten

**Development:** Provision of two portakabins for use as changing facilities at Wormingford Wanderers Football Club

**Ward:** Fordham & Stour

**Summary of Recommendation:** Conditional Approval

### 1.0 Planning Report Introduction

1.1 This application was deferred from the last meeting in order to notify objectors of the Committee meeting. Additional comments from the Colchester Cycling Campaign and an amendment to Condition 4 have been included.

### 2.0 Site Description

2.1 The site is near to an existing pavilion, adjacent to gardens and on the edge of the Playing field at Wormingford. This is accessed via the residential cul-de-sac Robletts Way.

### 3.0 Description of Proposal

3.1 The proposal is to install two render-finish, black felt-roofed portakabins, to be used as changing facilities for footballers. These would be 5 metres x 2.7 metres (x 2.7 metres high) and 10.4 metres x 2.7 metres (x 2.7 metres high). The intention is to place them 2 metres from the pavilion, and 2 metres apart. These would be on the "blind side" of the pavilion, as seen from Robletts Way, and would be only partially visible from it. The portakabins would be on concrete piers to enable them to be linked to the pavilion's drainage system. These portakabins are required to allow the Saturday team to progress from the Colchester and East Essex League to the Essex and Suffolk Border League. Footballers also use the field and facilities on Sundays, and for mid-week training.

### 4.0 Land Use Allocation

4.1 Playing field

## **5.0 Relevant Planning History**

- 5.1 F/COL/01/0353 - Erection of protective fence, part western boundary. Approved 10th May 2001

## **6.0 Principal Policies**

- 6.1 Adopted Review Colchester Local Plan  
DC1- Development Control considerations

## **7.0 Consultations**

- 7.1 None

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

- 8.1 No comments have been received from Wormingford Parish Council.

## **9.0 Representations**

- 9.1 Five letters of objection were received from residents of 3, 5, 6 9 and 12 Robletts Way, along the following lines: Players and spectators driving at speed and parking inconsiderately; the portakabins being ugly and a danger that they would become permanent, music being played too loudly and bad language; Not all of Robletts Way was consulted.
- 9.2 The resident at 12 Robletts Way also complained that she had been notified late and that the application was “being pushed through very quietly” she added that the applicant “left it to the last minute so not many complaints would be heard” also stating “it’s disgusting that our feelings have not been taken into consideration.”
- 9.3 Colchester Cycling Campaign has requested that secure cycle parking be provided, if it does not already exist.

## **10.0 Report**

- 10.1 Clearly there is an existing issue with use of the playing field by footballers as far as residents of Robletts Way are concerned. The questions to ask are: 1) Would the portakabins make this any worse? 2) Would they be visually unacceptable?
- 10.2 On the first point, it is difficult to see how any more traffic will be generated. The Saturday team wishes to progress to the Essex and Suffolk Border League which is one step up the football non-league pyramid, but which does not command any payment on entry and does not differ from current use.
- 10.3 On the second point, the portakabins are utilitarian in appearance. These are painted of a render finish, however, and can therefore be painted to a more suitable colour.



- 10.4 The positioning of the portakabins is logical, being on the same line as the pavilion and on the blind side of the pavilion to Robletts Way. Where it falls down, slightly, is that the units would stand proud of the front line of the existing pavilion. The pavilion is about 7.7 metres in depth, and the proposed units would come to a line 2.7 metres proud of this line. The arrangement is slightly odd, especially with the smaller unit being pulled away from the fence.
- 10.5 The alternative would be to arrange the new units on their long axes, along the fence which borders the rear gardens to the properties on Main Road (Chilton Cottages). This border is well-screened by mature trees, and the applicant has been asked to consider this possibility.
- 10.6 The comments from 12 Robletts Way are very hard to understand and do not bear up to scrutiny. All of Robletts Way was consulted, and all parties given at least 21 days to comment. Nothing has been “pushed through quietly” and all feelings have, of course, been taken into consideration.
- 10.7 The response from Colchester Cycling Campaign is noted, but as there does not appear to be an intensification, and is not a change of use, this is felt to be reasonable.

## **11.0 Conclusion**

- 11.1 Whilst a permanent building would be more satisfactory with the portakabins re-arranged and coloured green, temporary permission is held to be acceptable.

## **12.0 Background Papers**

- 12.1 ARC; NRL

## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

- 2 – Non-Standard Condition

Prior to the commencement of development, the applicant shall provide details of colours of the portakabins hereby approved. These details shall be agreed in writing by Colchester Borough Council, and shall be implemented and maintained as such at all times.

Reason: In the interests of visual amenity.

### 3 – Non-Standard Condition

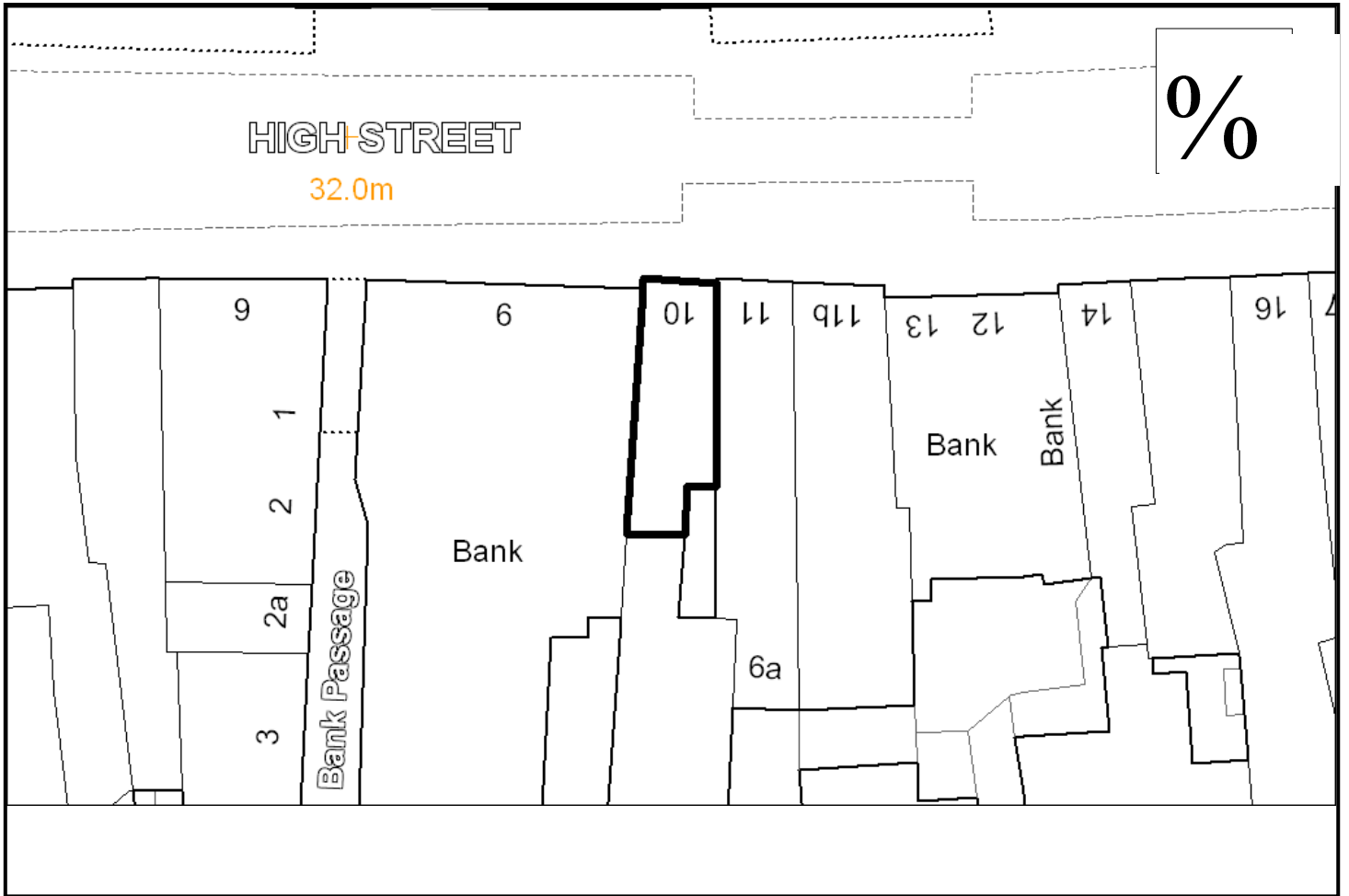
The permission hereby granted is temporary only, and shall cease at the close of the season 2011/2012.

Reason: In the interests of visual amenity as Colchester Borough Council would wish to see a more permanent resolution to Wormingford FC's requirements.

### 4 – Non Standard Condition

The development hereby permitted shall be implemented in all respects strictly in accordance with the revised drawing nos 100\_A and 101\_A.

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



**Application No:** 090286

**Location:** Kentucky Fried Chicken, 10 High Street, Colchester, CO1 1DA

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

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**7.10 Case Officer: Andrew Huntley**

**OTHER**

**Site:** 10 High Street, Colchester, CO1 1DA

**Application No:** 090286

**Date Received:** 3 March 2009

**Agent:** Hone Edwards Associates

**Applicant:** Kfc (Gb) Ltd

**Development:** Replacement signage including externally lit redecorated fascia, new projecting sign and applied logo to shopfront. (Resubmission of 081933).

**Ward:** Castle

**Summary of Recommendation:** Advertisement Consent

## **1.0 Site Description**

1.1 The site is located on the southern side of the High Street, within the Town Centre Conservation Area. The area is mixed use in character with a number of shops, banks, offices within the vicinity. The premise is currently used by a fast food restaurant and has a fairly traditional frontage.

## **2.0 Description of Proposal**

2.1 Replacement signage including externally lit redecorated fascia, new projecting sign and applied logo to shop front. (Resubmission of 081933).

## **3.0 Land Use Allocation**

3.1 Town Centre  
Conservation Area

## **4.0 Relevant Planning History**

4.1 082100 – Change of use from A1 to A3 and A5 (Withdrawn)

## **5.0 Principal Policies**

5.1 Adopted Review Borough Local Plan:  
DC1 - Development Control considerations  
UEA16 – Advertisements within Conservation Areas

- 5.2 Core Strategy:  
SD1 – Sustainable Development Locations  
UR2 – Built Design and Character

Planning Policy Guidance 19

## **6.0 Consultations**

- 6.1 None

## **7.0 Representations**

- 7.1 One letter of objection has been received from the Civic Society stating that they consider the fascia and the door to be unduly obtrusive and would prefer something more restrained within the Conservation Area and in the vicinity of important listed buildings.

## **8.0 Report**

### Introduction

- 8.1 The application has come to Committee as there has been an objection from Colchester Civic Society. Advertisement application 081933 proposed an internally illuminated box sign, measuring 800 x 1600 x 205mm and used modern materials. This application was refused under delegated powers due to its height, size and use of non traditional materials of the sign. It was considered that that sign would be unduly prominent and excessive at this position and result in advertising clutter, which would have had a detrimental impact on the character and appearance of the conservation area.
- 8.2 This revised application proposes eternally applied lettering and corporate logo on the existing fascia, which will be repainted. This would be externally illuminated by a trough light located at the bottom of the fascia The main considerations within this revised application are:
- Public Amenity
  - Other Considerations

### Public Amenity

- 8.3 It is the policy of the Local Planning Authority, as contained within Policy UEA16 of the adopted Review Colchester Borough Local Plan (2004) and Planning Policy Guidance Note 19 (Outdoor Advertisement Control), that applications for advertisements be assessed in terms of amenity and public safety. These policies state that advertisements should not be excessively obtrusive in the street scene, or result in advertisement clutter to the detriment of visual amenity. Advertisements should be well designed and sited and preserve or enhance the character and appearance of the conservation area.

- 8.4 While the applied lettering and logo may not be all that traditional in terms of materials, they would be more in keeping with the character and appearance of the Conservation Area than the existing raised lettering, which presently exists. Policy UEA16 allows for discreet external illumination so there can be no objection in principle to such illumination. Although no details are provided within the application, this can be resolved by an appropriate condition.
- 8.5 Overall, the proposed works are relatively minor and are considered to be an improvement to what presently exists. The proposal would not harm the character or appearance of the Conservation Area or public amenity.

#### Other Considerations

- 8.6 An objection has been received by the Colchester Civic Society stating that they consider the fascia and the door to be unduly obtrusive and would prefer something more restrained within the Conservation Area and in the vicinity of important listed buildings. As this is an advertisement consent application, the new door does not form part of this application and can not be a consideration. The advertisement has already been considered earlier in the report and it is considered that the objection from the Civic Society does not in this instance, outweigh local policy and national guidance.

### **9.0 Conclusion**

- 9.1 The advertisement proposal is acceptable on public amenity grounds as it would preserve the character and appearance of the conservation area.

### **10.0 Background Papers**

- 10.1 ARC; NLR

### **Recommendation - Advertisement Consent**

#### **Conditions**

- 1 - A1.7 Advert Consents (time and standard requirements)

Unless an alternative period is specifically stated in the conditions below this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

5. No advertisement shall be sited or displayed as to obscure or hinder the ready interpretation of any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).'

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

## 2 - Non-Standard Condition

Prior to the sign hereby permitted being illuminated, full details of the external means of illumination (to include size, colour, design, position and specification of lamp fixtures) shall be submitted to and agreed in writing by the local planning authority. The illumination shall be retained as approved thereafter.

Reason: To ensure a satisfactory visual appearance.



## Planning Committee

Item

8

30 April 2009

<b>Report of</b>	<b>Head of Environmental and Protective Services</b>	<b>Author</b>	<b>Sue Jackson Vincent Pearce</b>
<b>Title</b>	<b>Consultation in respect of a planning application in Maldon District for the construction of a Wind Farm at Bradwell</b>		
<b>Wards affected</b>	<b>Not applicable</b>		

**This report provides details of a planning application for the construction of a Wind Farm at Bradwell in Maldon District.**

### 1.0 Decision Required

- 1.1 Members are requested to consider the planning history set out below and to confirm a letter should be written to PINS confirming this Council's support for the application.

### 2.0 Planning History

- 2.1 In April 2006 the Council was consulted as an adjoining authority by Maldon District Council on an application for a wind farm at Bradwell comprising 10 turbines each 121metres high, a sub-station building, anemometer mast and ancillary infrastructure.
- 2.2 The application included an Environmental Statement (ES) and visual assessment. Your officers were concerned that this Council had not been consulted regarding identification of principal viewpoints used to inform the study and that the Council's Landscape Character Assessment had not been included in the ES. In addition the ES did not consider the impact on Layer Marney Tower, a Grade 1 listed building, or West Mersea Conservation Area.
- 2.3 Officers objected to the application due to the visual impact of the development on Colchester Borough in particular principal viewpoints to the south of the borough. The Leader of the Council, at that time, Councillor Robert Davidson formally wrote to Maldon District Council urging them to approve the proposal as Colchester's policies on encouraging sustainable development and energy were changing and it was likely that the Council would in future be likely to support such schemes.
- 2.4 Maldon District Council refused planning permission and an appeal against the refusal was considered at a public inquiry. Colchester Borough Council chose not to attend the Inquiry. The appeal was allowed.
- 2.5 This Council has been notified by The Planning Inspectorate (PINS) that the appeal decision has been quashed by the High Court and a new Public Inquiry is to take place. The Borough Council has been given until 1<sup>st</sup> May 2009 (extended from 21<sup>st</sup> April) to make further comment to PINS.



- 2.6 Whilst officers have concerns about the visual impact of the turbines it is accepted that the proposal represents a sustainable form of energy which is compatible with:-
- The Council’s corporate objective to be cleaner and greener as set out in the Strategic Plan 2009 – 2012 along with, priority for healthy living, reduce, reuse and recycle and on this basis the application should be supported by the Council.
  - Core Strategy, Adopted December 2008, Policy ER1 - Energy, Resources, Waste, Water and Recycling:- Which states amongst other things that “The Council will encourage the delivery of renewable energy projects....”
- 2.7 Members will be aware that Draft policy DP24: Conserving Energy and Promoting Renewable Energy Sources (from the LDF Development Policies regulation 25 consultation (January 16 – February 2009) states|:-
- “Planning permission will generally be supported for development proposals for renewable energy generation where there are no significant impacts on the local environment in relation to noise, vibration, smell, visual intrusion, residential amenity, landscape characteristics, biodiversity, culture heritage (sic), the water environment, the treatment of waste products, and highway and access considerations.”
- 2.8 It has to be accepted that if approved the turbines will change the character of the landscape hereabouts. They will introduce a completely new and clearly man-made element into views.
- 2.9 The publics’ perception as to whether turbines are a ghastly eye-sore and blot on the landscape or an exciting and powerful expression of man’s ability to harness the bounty of nature is mixed and tends to be very personal.
- 2.10 Against this emotive ‘aesthetics’ backdrop the Committee is required to decide whether it wishes to support the proposal. Turbines are currently an inevitable consequence of the drive to generate electrical power in a way that is less damaging to the environment than some of the conventional alternatives. (certainly where wind power is concerned).

### **3.0 Financial Implications**

3.1 None

### **4.0 Strategic Plan References**

4.1 The application meets the corporate objectives and priorities of this Council

### **5.0 Risk Management**

5.1 There are no risk management issues

### **6.0 Publicity Considerations**

6.1 As a party notified of the appeal, the Planning Service has not consulted local people further.

### **7.0 Human Rights Implications**

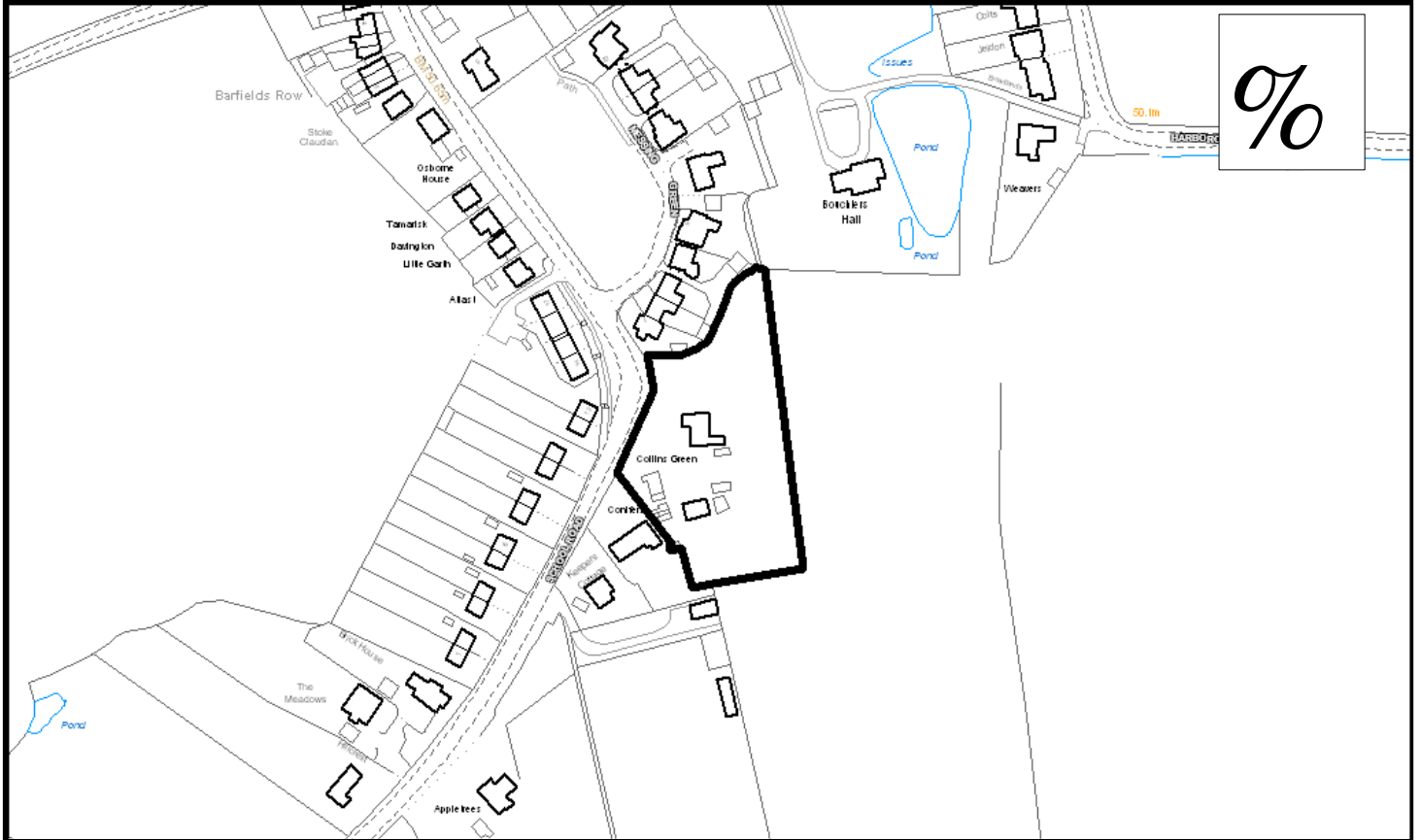
7.1 None

**8.0 Community safety implications**

8.1 None

**9.0 Health and safety implications**

9.1 None



**Application No:** 071734  
**Location:** Collins Green, School Road, Messing, Colchester, CO5 9TH  
**Scale (approx):** 1:1250

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## Planning Committee

Item  
**9**

30 April 2009

<b>Report of</b>	<b>Head of Environmental and Protective Services</b>	<b>Author</b>	<b>Sue Jackson</b> ☎ 01206 282450
<b>Title</b>	<b>Application 071734</b>		
<b>Wards affected</b>	<b>Residential Development - Collins Green, School Road, Messing, Birch &amp; Winstree</b>		

Members will recall they considered a retrospective application for amendments to the appearance of plots 1 and 2 Collins Green, Messing at the committee meeting on the 2<sup>nd</sup> April. The application was refused planning permission. It was indicated an enforcement report would be presented to the meeting on the 30<sup>th</sup> April.

Unfortunately your officers were unable to gain access to the site until the afternoon of Friday 17<sup>th</sup> April, the deadline for writing reports for the meeting was the Thursday 16<sup>th</sup> April.. It has not been possible, therefore, to prepare accurate "as built" plans from the measurements taken on site, compare them to the approved plans, discuss the matter with applicant or consider what action is required.

Members to note this update and a detailed report will be prepared for the meeting on the 21 May 2009.

