

# Planning Committee

Town Hall, Colchester  
12 August 2010 at 6.00pm

## **This committee deals with**

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

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

# Information for Members of the Public

## Access to information and meetings

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

## Have Your Say!

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## Private Sessions

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

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## **Material Planning Considerations**

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

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

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

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

## **Human Rights Implications**

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

## **Community Safety Implications**

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

## **Equality and Diversity Implications**

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

# COLCHESTER BOROUGH COUNCIL PLANNING COMMITTEE 12 August 2010 at 6:00pm

## Members

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

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

## Agenda - Part A

(open to the public including the media)

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

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

## Pages

### 1. Welcome and Announcements

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

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

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

- location of toilets;
- introduction of members of the meeting.

## **2. Have Your Say!**

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

## **3. Substitutions**

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

## **4. Urgent Items**

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

## **5. Declarations of Interest**

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

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

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

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

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

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

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

public interest.

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

## **6. Minutes**

**1 - 6**

To confirm as a correct record the minutes of the meeting held on 29 July 2010.

## **7. Planning Applications**

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

1. 101311 88 and 90 Mersea Road, Colchester, CO2 7RH (Berechurch) **7 - 13**  
Two semi-detached houses (resubmission of 100446).
2. 101277 5 Millers Lane, Stanway, CO3 0PS (Stanway) **14 - 26**  
Proposed pair of 1 1/2 storey buildings to the rear (resubmission of 100740).
3. 100983 Butt Road, Colchester, CO3 3DS (Christ Church) **27 - 33**  
Proposed demolition of existing buildings within a Conservation Area.
4. 100763 East Road, West Mersea (West Mersea) **34 - 39**  
Design adjustments to previously approved Plots 1, 66, 67 and 69 under Application F/COL/05/0465.
5. 101267 6 Braiswick, Colchester, CO4 5AX (Mile End) **40 - 45**  
Resubmission of Application 091368 for the retrospective retention of store.
6. 101335 9 Sussex Road, Colchester, CO3 3QH (Lexden) **46 - 51**  
Change of use of land to garden (resubmission of 100730) without

compliance with Condition 2 (no entry point from Highfield Drive) and Condition 3 (tree planting scheme).

7. 100670 Unit 2 Turner Rise Retail Park, Petrolea Close, Colchester, CO4 5TU (Mile End) **52 - 57**

Variation of Condition 12 of planning permission COL/91/0887 to allow for the sale of sports goods, sports wear and related products and the associated installation of a 742sqm mezzanine floor and installation of lighting to footpath to the rear of 10-38a Peto Avenue.

8. 101077 Bromans Lane, East Mersea, CO5 8UE (Pyefleet) **58 - 64**

Conversion of former Dairy Building to two holiday letting cottages and amendments to conversion of barn granted permission under applications reference F/COL/99/1438 and LB/COL/00/0515.

**8. Enforcement Action // 33 North Hill, Colchester** **65 - 67**

See report by the Head of Environmental and Protective Services.

**9. Exclusion of the Public**

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





**PLANNING COMMITTEE**  
**29 JULY 2010**

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

*Substitute Members :-* Councillor Richard Martin for Councillor John Elliott\*  
Councillor Wyn Foster for Councillor Andrew Ellis\*

*Also in Attendance :-* Councillor Lesley Scott-Boutell  
Councillor Colin Sykes

(\* Committee members who attended the formal site visit.  
Councillors L.Sykes and Chillingworth were not present  
at the site visits referred to at minute nos. 57 and 59  
respectively.)

**53. Minutes**

The minutes of the meetings held on 1 July and 15 July 2010 were confirmed as a correct record, subject to minute no. 36 of the meeting held on 1 July 2010 being amended by the deletion of the word "no" in the eighth line of the seventh paragraph. The sentence to read "If there were alternative sites in Colchester then refusal was the correct decision."

**54. 100394 121A London Road, Marks Tey, CO6 1EB**

The Committee considered an application for a new workshop building for the maintenance of touring caravans. 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.

**55. 100646 Tubswick, Mill Road, Colchester, CO4 5LD**

This application was withdrawn from the agenda by the Head of Environmental and Protective Services for further consideration of matters raised in representations.

**Councillor Richard Martin (in respect of having used the services of the agent, Mr E. Gittins) declared a personal interest in the following item pursuant to the**

## **provisions of Meetings General Procedure Rule 7(3)**

### **56. 101124 Unit K1, Salmons Lane, Colchester, CO6 1RZ**

The Committee considered an application for a change of use of Shed K1 from agricultural use to storage B1 office use. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

Wanda Smith addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She was putting forward the objections from residents in East Gores Road. This is a countryside site not an urban area. There is potential for another four or five units. This is not about a single business but a business park in a rural location with no public transport which is not a sustainable location. There are more suitable sites nearby. This proposal is contrary to the diversification policy. East Gores Road is a quiet, single track road used by children walking to school.

William Sunnucks addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He had lived at the site since 1992 and for the first eight years an industrial scale broiler chicken unit had occupied the site with associated vehicle movements. In respect of the traffic issue, he had asked that the occupants of the units drive quietly, but the site does generate some traffic. The lane was not as quiet as it had been. The condition requiring the drive to be resurfaced with tarmac was a suggestion to reduce noise from vehicles travelling over a gravel drive. This application was in line with planning policy.

Members of the Committee considered that this development was a small increment for three cars which would be using the lane only at commuter times. The Committee were mindful that these were agricultural buildings which could generate traffic such as combine harvesters.

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

**Councillor Colin Sykes (in respect of being Chairman of Stanway Parish Council and the spouse of Councillor L.Sykes) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Laura Sykes (in respect of having visited the property in the past in connection with a matter unrelated to this application and being a member of Stanway Parish Council and the spouse of Councillor C.Sykes) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and she left the meeting during its consideration and determination.**

## **57. 101231 6 Columbine Mews, Stanway, CO3 0SG**

The Committee considered an application for a single storey front extension of 3.375 metres deep and 5.85 metres long. The Committee had before it a report in which all information was set out.

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

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. She explained that there was a minor amendment to the site plan which included a small triangle of land at the end of the rear garden. The detailed and reworded reasons for refusal were set out on the Amendment Sheet.

Ben Conway addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. His key objection was on the grounds of the adverse and detrimental impact on the character of the street scene. He considered the extension to be disproportionate and cramped which was made worse by parked cars. The extension occupied most of the front garden and would dominate the Mews. The pitch of the roof of the proposed extension was different from the pitch of the roof of the house. The proposal would be detrimental to the outlook of nos. 4 and 5 and was not consistent with policy. He believed there was sufficient room in the applicant's rear garden for an extension to provide additional accommodation.

Gary Miller addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He made reference to their childrens' medical conditions and as a result they would like to be able to have their meals close to the kitchen area to eliminate logistical issues, to avoid leaving their children unsupervised and to be able to manage them better. However, the kitchen was small and resulted in congestion. Their neighbours at nos. 1 to 4 Columbine Mews and a neighbour in Cornflower Close were all happy with the plans. They could not afford to move and did not wish their children to have to change schools.

Councillor C. Sykes, Chairman of Stanway Parish Council, attended and, with the consent of the Chairman, addressed the Committee. He confirmed that five neighbours supported the application and the parish council had no objections. Columbine Mews was fairly cramped by virtue of the solid walls of the properties in Cornflower Close which were either side of the entrance to the Mews. He did not believe that the extension would extend so far that it would harm the close. No. 3 has very little garden and most of the other dwellings have only modest gardens. This extension would take up most of the front garden as is the case with a property in Cornflower Close. If required it would be possible to achieve articulation and a different slope on the roof. He considered this proposal would appear more cramped than at present but not to the extent of being detrimental and no worse than other properties in the vicinity.

Councillor Lesley Scott-Boutell, Chairman of Stanway Parish Council, attended and,

with the consent of the Chairman, addressed the Committee in support of the objector at no. 5. Whilst it would not affect any amenity policies it would cram no. 5. She was not comfortable with the proposal which would leave only 1.4 metres of front garden. Front extensions on other properties opposite were part of the original design. The roof pitch was too shallow and would be different from the pitch of the roof of the house in order to connect to the front wall below the first floor windows. This application was purely function over form and contrary to the Essex Design Guide.

Members of the Committee were sympathetic to the needs of the family and considered that there was room for a smaller extension. They considered that this proposal was too large, it extended too far forward and was too overbearing. They wanted it set in from the sides of the house to achieve articulation and for the pitch of the roof and the tiles used to match those of the main roof.

It was explained that the issues raised by the objector related to design, residential amenity and highway impact. It was considered that there were no serious residential amenity issues, but there were issues of outlook, size and design, and impact on the street scene. The pitch of the roof extension did not reflect the roof pitch of the house. There was no objection to the loss of garden itself but those on properties with a contemporaneous front extension, the extension was set in so that it did not extend to the full width of the property, and the roof pitch matched that of the main roof; and this was the form of extension that would be acceptable. It was hoped that the applicant's agent could negotiate an acceptable compromise.

*RESOLVED* (UNANIMOUSLY) that the application be refused on the grounds as set out in detail and reworded on the Amendment Sheet, the substance being that the proposal:-

- is poorly designed or out of character with the appearance of the original building;
- does not enhance the character of the area and is discordant with the context;
- creates a cramped street scene;
- the pitch of the roof is too shallow;
- lacks articulation with the house and fails to promote the additive form.

#### **58. 100735 Shepherds Lodge, Coles Oak Lane, Dedham, CO7 6DR**

The Committee considered an application for the removal of Condition 03 of application COL/679/87 limiting occupation to persons wholly or mainly employed or last employed in agriculture. The Committee had before it a report in which all information was set out.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations. She explained that the property had only been marketed for rent and not for sale, so an additional condition was proposed to restrict any occupants of the property to a rental basis and it would not be permitted to be sold because it has not been marketed on a for sale basis.

Hector Wykes-Sneyd addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He stressed that his client did not wish to sell the property, but intended to rent out the property. However, in planning terms the issue was the occupation of the property not the ownership. He expressed uncertainty that advertising the property for sale would produce a different response from advertising the property for rent. He referred to the proposed additional condition to restrict the property to occupation by renting and asked that it include a time limit of five years.

In response to a query from a member of the Committee on the position if the property was part of a business and the business was sold, it was explained that the current owner could sell the property provided the new owner only rented out the property. The Committee were mindful that the property had been tested in the market for properties to rent but not in the market for properties for sale. If the owner's circumstances changed they would be able to submit a further application having gone through the process of a test in an open market sale.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report together with the following additional condition:-

The property known as Shepherds Lodge, Coles Oak Lane, Dedham shall not be sold and shall only be occupied on a rental basis. Reason: The submitted information indicates the property has only been marketed for rent and the application has been determined on that basis.

**Councillor Peter Chillingworth (in respect of having made comments on the application prior to the Committee's meeting) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) He made representations on the application in accordance with Paragraph 12(2) of the Code of Conduct for Members and then left the meeting during its consideration and determination.**

#### **59. 101079 Toad Hall, Colchester Road, Chappel, CO6 2AE**

The Committee considered an application for a rear extension and a new roof over the property to form additional rooms within the roof space. The application is a resubmission of 100712. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

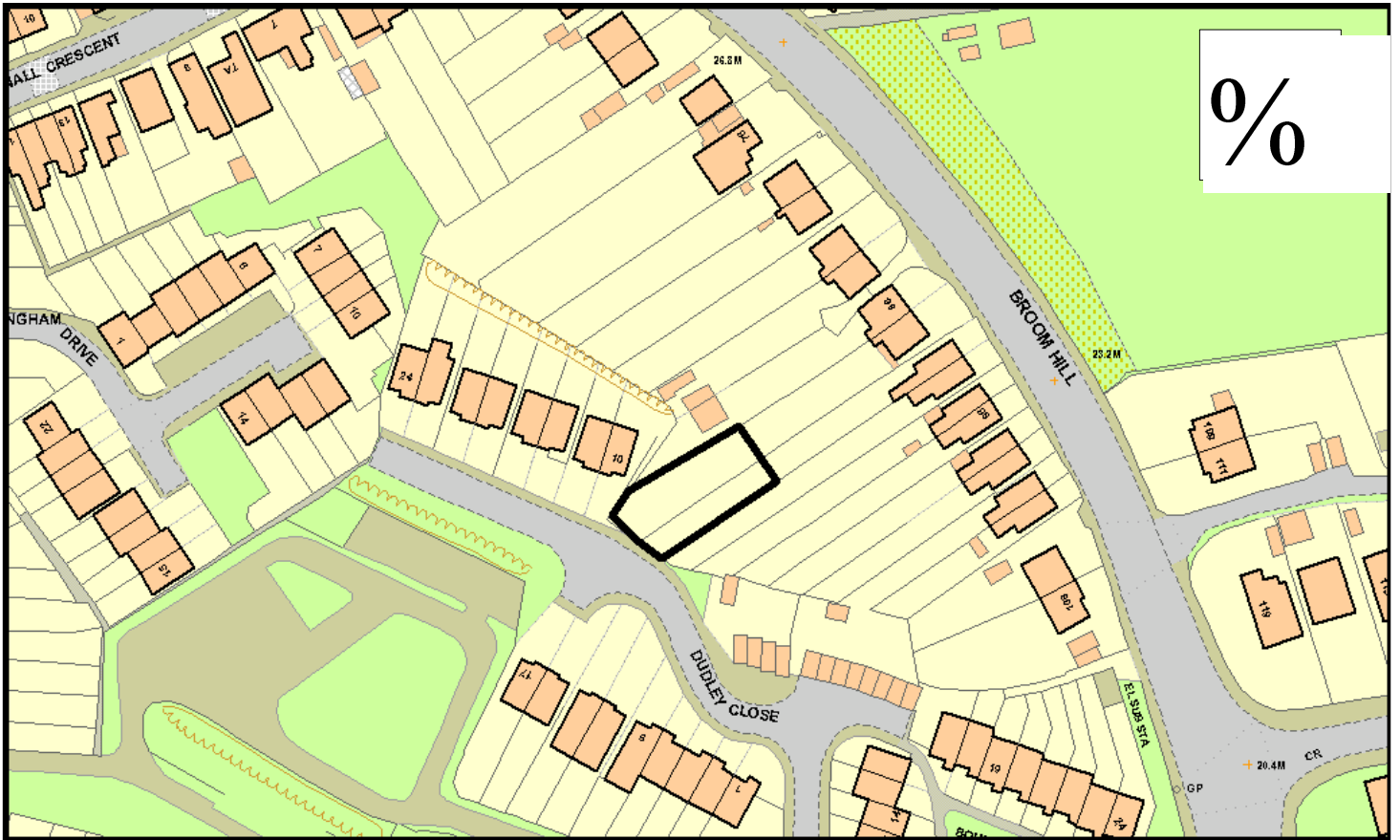
The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He explained that the application site was within the village envelope and the Countryside Conservation Area. Notwithstanding the difference in ground levels, the orientation was such that the increase in height and length of Toad Hall was not considered to interfere with the light to Holly Cottage.

Councillor Chillingworth addressed the Committee on behalf of Chappel Parish Council and the objector pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Neither party objected to the principle of the bungalow being improved and extended but the height was a concern. Holly Cottage was set fairly low and this would be a substantial two storey house with an increase in height of three metres to the ridge and will take light away from the patio area of Holly Cottage. He asked that the ridge line be reduced and the upper storey rooms be lit by roof light windows rather than dormer windows to provide the same accommodation. The neighbours arrived four months ago and immediately cut down the hedge and a few weeks later the application was submitted.

A member of the Committee believed that the objector's solicitors would have been aware of any applications prior to their purchase of Holly Cottage.

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



**Application No:** 101311

**Location:** Land R/O (Fronting Dudley Close), 88 & 90 Mersea Road, Colchester, CO2 7RH

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

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# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **12 August 2010**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

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

**7.1 Case Officer: David Whybrow**

**EXPIRY DATE: 24/08/2010**

**MINOR**

**Site:** 88 & 90 Mersea Road, Colchester, CO2 7RH

**Application No:** 101311

**Date Received:** 29 June 2010

**Applicant:** Mr Mark Plummer

**Development:** Two semi-detached houses (resubmission 100446)

**Ward:** Berechurch

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

## 1.0 Planning Report Introduction

1.1 This is a "full" application for 2 semi-detached dwellings submitted following an earlier refusal of a similar scheme on grounds of unsatisfactory layout. That decision (Ref: 100446) is the subject of a current appeal. The application has attracted a number of objections by local residents.

## 2.0 Site Description

2.1 88 and 90 Mersea Road are semi-detached 2 storey dwellings lying to the west of Mersea Road. They have long rear gardens extending to the south-west and dropping down in level to Dudley Close, a cul de sac of semi-detached, 2 storey dwellings and 3 storey terraced houses. The land not only slopes from Mersea Road to Dudley Close but also from north to south.



- 2.2 The area is residential in character and is so allocated in the adopted Local Plan.
- 2.3 The application site is roughly rectangular with an average depth of 27.5m and width of 14m. The front boundary is screened by conifers behind a low brick retaining wall. Garden land to Mersea Road properties adjoins its north-west and south-east boundaries and a multi-stemmed sycamore overhangs the latter boundary. There is a well developed hedge in addition to timber fencing to the eastern boundary of the nearest dwelling, 10 Dudley Close, and there is a garage court located a short distance to the south-east.

### **3.0 Description of Proposal**

- 3.1 2 semi-detached dwellings, each of 3 bedrooms and one with integral garage, are proposed.
- 3.2 A Design and Access Statement, sectional drawing and street elevation to Dudley Close have been submitted with the application and may be viewed on-line. It is indicated that the development would reflect the existing dwellings in Dudley Close, using a similar mixture of facing bricks and roof finishes and the dwellings will be designed to accord with "Lifetime Homes" criteria and have regard to DDA regulations.
- 3.3 A unilateral undertaking in respect of open space and recreation and community contributions has been submitted.

### **4.0 Land Use Allocation**

- 4.1 Residential

### **5.0 Relevant Planning History**

- 5.1 100446 - 2 semi-detached houses - Refused May 2010 (appeal pending).

### **6.0 Principal Policies**

- 6.1 Adopted Review Borough Local Plan  
DC1 - General Development Control considerations  
UEA11-13 - Residential design and amenity considerations
- 6.2 Adopted Core Strategy  
UR2 - Built design and character

### **7.0 Consultations**

- 7.1 The Highway Authority have commented that they would require revisions to the scheme in terms of improved dimensions for garage parking spaces before approval will be recommended. Amended proposals have been submitted and the further views of the Highway Authority should be available before the Meeting, to be reported on the Amendment Sheet.

## **8.0 Representations**

8.1 Representations have been received from Councillor Harris and 9 residents of the locality. All can be viewed on-line. The following is a summary of the matters raised:-

1. Overlooking of properties in Mersea Road will be an issue.
2. Consultation should have been carried out over a wider area of Dudley Close, Bourne Court and Mersea Road.
3. Extra traffic will have an effect on other householders in Dudley Close. The noise of traffic will also be disturbing and will involve loss of a safe environment for childrens play.
4. This is another example of back garden development, contrary to recent Government advice.
5. Our leisure area (spa and barbecue) will be overlooked.
6. The area has wildlife interest in the form of bats and birds. This will be destroyed by construction work.
7. Would create precedent for development of other rear gardens in locality. New houses are not needed; there are plenty at the Garrison, Abbey Fields, etc, on this side of town.
8. Will erode character of long gardens and views of trees and hedgerows which we regard as an asset to the area.
9. Schools in area are already overcrowded.
10. Negative effect on property prices (not a planning issue).
11. Will exacerbate existing parking congestion in Dudley Close, especially at night. The Close is also used for parking by shoppers, town workers and other local residents.
12. The properties will not match existing; the roof pitch is too steep and palette of materials does not include tile hanging, which is characteristic of houses in the area. A modern, environmentally friendly design would be more appropriate.
13. The higher roofline will block morning sun to my garden (10 Dudley Close).

## **9.0 Report**

9.1 In the case of 100446, the semi-detached form of the 2 houses was felt to broadly conform to the established building line and character of housing in Dudley Close. The site benefits from a frontage to the highway and therefore must be regarded as an infill rather than a backland location. At this time, the non-assertive elevational treatment of the houses was not considered objectionable and back-to back distances between the proposed properties and those in Mersea Road, at 40m or more, are considered more than adequate to protect the privacy and amenity of the existing dwellings, particularly when coupled with the higher ground levels of the latter. There was also considered to be a minimal impact on the nearest dwelling, 10 Dudley Close, by reason of the juxtaposition of houses, absence of overlooking, side-facing windows and intervening hedge and fencing.

9.2 The reason for refusal focused on the overdominance of car parking as proposed to the front of the houses and absence of front gardens. This resulted in a form of development out of keeping with its setting, detrimental to the character and appearance of the street scene and failing to "protect and enhance" the local environment as required by PPS1 and local policy, including adopted guidance for backland and infill development.

- 9.3 The present scheme has attempted to address this issue by abandoning forecourt parking and creating space to establish front gardens with driveways more in keeping with the prevailing form of development. The elevational treatment has also been improved since the last refusal.
- 9.4 The agent has been asked to amend the drawings in order to satisfy the Highway Authority's requirements and those revisions should be confirmed as acceptable in good time before the meeting. The provision of appropriately sized and convenient car parking arrangement on site will not lead to any deterioration in highway conditions in Dudley Close. The suggestion that the scheme will reduce on-street parking facilities in the locality is not in itself grounds for refusal.

## **10.0 Conclusions**

- 10.1 It is again considered that this scheme will cause little harm to the privacy or amenity of adjoining residents. The sectional drawings and street elevations submitted reinforce this point. On the basis that the earlier objection to the overdominance of parked cars has been overcome and front gardens can be created more in sympathy with the existing properties in Dudley Close it is recommended that permission be granted upon the signing of the Unilateral Undertaking.

## **11.0 Background Papers**

- 11.1 ARC; ACS; HA; CBC; NLR

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

### **Conditions**

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

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

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

- 2 - A2.1 Development to Accord With Approved Plans

The development hereby permitted shall be implemented in all respects strictly in accordance with the approved plans returned stamped approved with this decision.

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

### 3 - Non-Standard Condition

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

Reason: To ensure a satisfactory form of development, to secure the privacy and amenity of adjoining householders and in the interests of visual amenity.

### 4 - Non-Standard Condition

Details of the proposed finished floor levels of all buildings and the finished ground levels of surrounding property, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby approved. The development shall be carried out in accordance with the approved details.

Reason: To enable the Local Planning Authority to exercise proper and considered control over the development as whole and to protect the amenity of occupiers of adjacent properties

### 5 - Non-Standard Condition

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

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

### 6 - Non-Standard Condition

Vehicular parking space for 2 vehicles per dwelling shall be maintained at all times within the site.

Reason: To ensure adequate parking provision so that the development does not prejudice the free flow of traffic or the general safety along the adjacent highway or the convenience and amenities of local residents.

### 7 -Non-Standard Condition

Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres to the south east, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate intervisibility between vehicles using the access and those in the existing public highway in the interest of highway safety to ensure accordance with Policy 1.1 of the Highways and Transportation Development Control policies.

#### 8 - Non-Standard Condition

Prior to occupation of the development a 1.5m x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate intervisibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety to ensure accordance with Policy 1.1 of the Highways and Transportation Development Control policies.

#### 9 - Non-Standard Condition

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety to ensure accordance with Policy 1.1 of the Highways and Transportation Development Control policies.

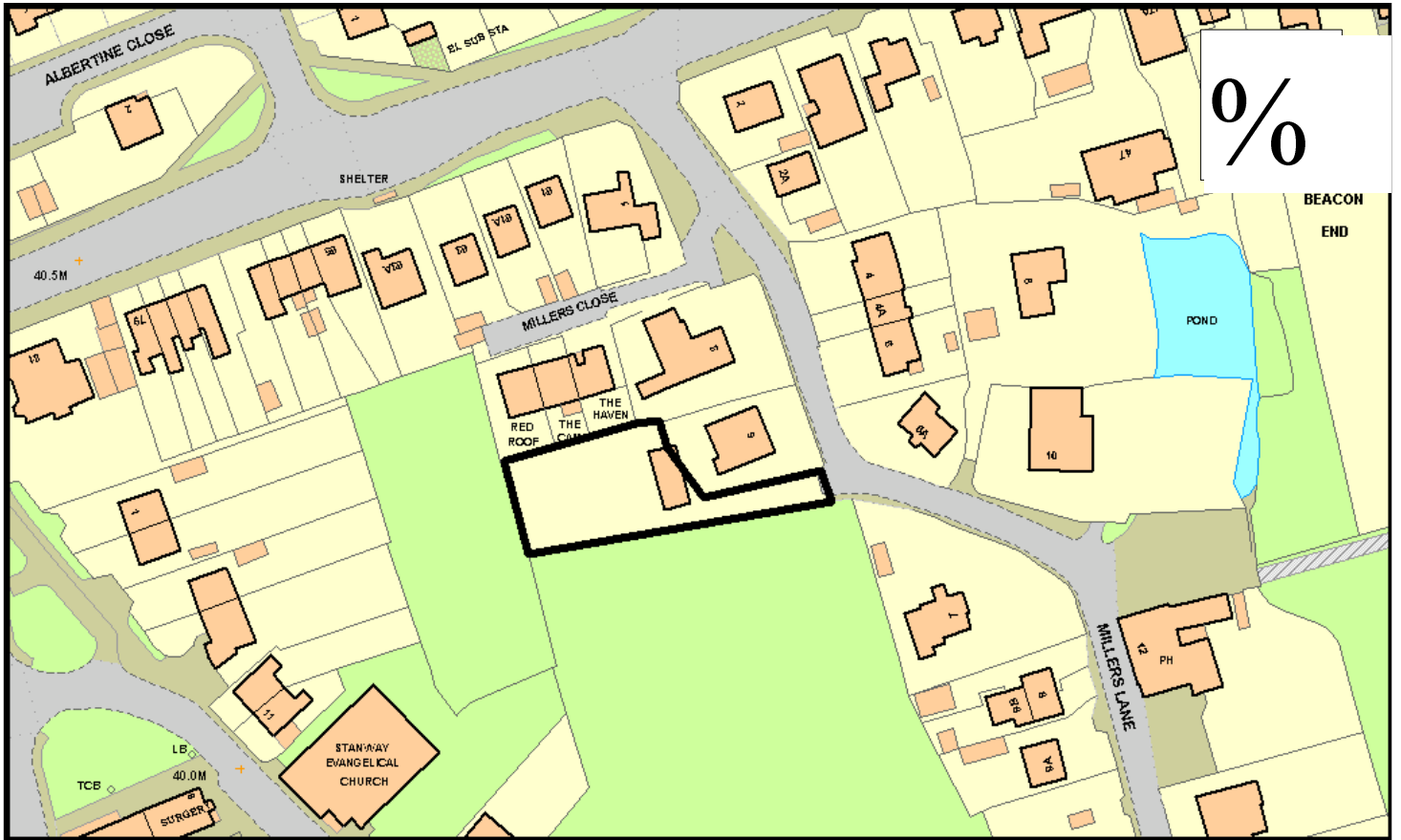
#### 10 - Non-Standard Condition

The vehicular hardstandings shall have minimum dimensions of 5 metres x 5 metres for each property.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy 7 of the Highways and Transportation Development Control policies and in accordance with current Parking Standards.

#### **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:** 101277

**Location:** 5 Millers Lane, Stanway, Colchester, CO3 0PS

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

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**7.2 Case Officer: Mark Russell****MINOR****Site:** 5 Millers Lane, Stanway, Colchester, CO3 0PS**Application No:** 101277**Date Received:** 25 June 2010**Agent:** Mr Steve Dobbs**Applicant:** Mr Michael Christie**Development:** Proposed pair of 1 1/2 storey buildings to the rear (resubmission of 100740)**Ward:** Stanway**Summary of Recommendation:** Conditional Approval subject to Unilateral Undertaking**1.0 Planning Report Introduction**

- 1.1 This application is before Members as it is non-householder proposal. Objections have been received, and the officer recommendation is for approval. A previous application (100740) was withdrawn on Officer advice as a desktop study was required in relation to possible land contamination.
- 1.2 The report describes the site and the proposal and also provides a summary of consultation replies, including objections from the Highway Authority, Parish Council and nearby residents. Responses are given to these objections, which are weighed up against the positive impact of the visual improvements that the scheme would bring. Finally, approval is recommended.
- 1.3 A Unilateral Undertaking in respect of open space, sport and recreation and community facility requirements has been submitted with the application.

**2.0 Site Description**

- 2.1 The site comprises the long back garden to the chalet/bungalow, 5 Millers Lane, which is bordered by 3 Millers Lane and the back gardens of Millers Close to the north, Silver Witch Green to the south, and a tree-filled wasteland to the east. The existing property is served by an access to the south which meets Millers Lane at a point where it kinks south-eastwards. In the centre of the site is a large outbuilding which has a longstanding commercial (dairy) use attached to it.
- 2.2 Millers Lane itself still has the feel of a country lane in some places and features a mixture of some very attractive buildings, some of which are very old, and others which have been built in the last decade but which are sympathetic with the older style. Other buildings are from the 1960s and 1970s and have a more utilitarian form.

### **3.0 Description of Proposal**

- 3.1 The proposal is to demolish existing commercial outbuilding, plus a smaller outbuilding on the boundary with 3 Millers Lane, and to build a pair of semi-detached, one and a half-storey, cottage-style dwellings.
- 3.2 These two bedroom cottages would face along the southern boundary, set back approximately 1.5 metres from it, with modest dormers to the front. Materials would comprise render and plain tiles, with chimney stacks in a red brick to be agreed by the Local Planning Authority. A modest lean to at the rear would provide extra habitable space.
- 3.3 Each dwelling would have two parking spaces, arranged in tandem fashion. The existing dwelling would also be provided with two spaces to the front. Block paving is proposed as a hard surface treatment.
- 3.4 For boundary treatment, 1.8metre wooden fence panels have been proposed for the external and internal boundaries.

### **4.0 Land Use Allocation**

- 4.1 Residential

### **5.0 Relevant Planning History**

- 5.1 071934 - Demolition of existing building and erection of 4 no. detached dwellings. Refused;
- 5.2 100740 - Proposed pair of 1 ½ storey buildings to the rear. Withdrawn.

### **6.0 Principal Policies**

- 6.1 Adopted Review Colchester Local Plan (March 2004):  
DC1- Development Control considerations;  
UEA11 - 13  
P1 – Pollution
- 6.2 Local Development Framework (December 2008)  
UR2 – Built Design and Character
- 6.3 Supplementary Planning Documents:  
Backland and Infill  
Parking Standards

### **7.0 Consultations**

- 7.1 The Highway Authority has referred your officer to a response given to application 100740 which asked for vision splays, unobstructed parking and manoeuvring space and no unbound materials to the driveway.



7.2 Environmental Control has not objected, and has given advice on further action which may be required in relation to possible land contamination. A standard “Demolitions and Constructions” advisory note is also advised.

7.3 The Design and Heritage Unit has no objections.

7.4 The Museum Resources Team have no comments.

## 8.0 Parish Council's Views

8.1 Stanway Parish Council has objected on the following lines:

- The scheme fails to make a positive contribution – in conflict with the Council’s backland guide;
- Highway safety requirements cannot be met in terms of the required visibility splay, the road is used by a large number of schoolchildren;
- Parking arrangements will cause cars to enter Millers Lane in a forward gear;
- The supposed existing commercial use is very low level – i.e. “The loss of dairy use is deemed irrelevant as it is not apparent that the site has operated as a dairy in the recent past, and when it did, the traffic was limited and in the very early morning.”

## 9.0 Representations

9.1 Letters of objection were received from two nearby residents.

9.2 The first, from the neighbouring resident of 3 Millers Lane was as follows:

**Noise & Disturbance:** There will be increased noise and disturbance from the occupants of the new dwellings as well as the movements and parking of cars adjacent to my property's boundaries.

**Highway Safety point 1:** There appears to be extremely limited parking associated with the development. This means that any deliveries, service calls or visitors will not be able to park and their only option would be to park in Millers Lane itself. As the name suggests, Millers Lane is a quiet lane off London Road which really only allows single file traffic. The site is situated immediately before a bend so there is an increased risk of accidents to other road users and the heavy construction traffic is a definite concern.

**Highway Safety point 2:** The absence of paths in Millers Lane. The lane is used as a short cut by many school children making their way to & from Stanway Primary and Secondary Schools and any increased traffic would be a significant hazard.

**Highway Safety point 3:** The extremely poor sight lines associated with the proposed access and the tripling of occupancy levels.

**Overdevelopment:** Local councillors are opposed to any plans to increase development in this area of Stanway.

**Overshadowing of New Dwellings:** I can't see any mention as to the extent of overshadowing of the trees on the proposed dwellings. This important factor appears to have been completely overlooked.

**Tree Root Protection:** There is no mention of an "aboricultural report" ensuring the protection of the tree root systems at the bottom of the proposed new site.

- 9.3 The second letter was from a ward Councillor who lives at 1 Millers Lane, and was in her capacity as a local resident. This objection was on similar lines to those of the Parish Council, with extra information on the highways issues, as follows:

"If this proposal is allowed then the extra traffic movements will take place throughout the day. This will impact on the school children making their way to and from school via Millers Lane onto Silver Witch Green. There is no footway in this section of Millers Lane that follows pedestrian desire lines.

Millers Lane is, as the name suggests, a non estate lane and the section that this proposal will affect has no footpath. It is obvious from the 1/1250 map that there is a double blind bend adjacent to the entrance for this application and a new build opposite not shown on the 1/1250 plan. As a local resident I am concerned about visitor parking already occurring in Millers Lane. There is little off road parking for the houses that front onto London Road backing onto Millers Close and Millers Close residents. Often the entrance to my drive is obstructed and frequently visitors to neighbouring properties park on my drive. In my view there is insufficient off road parking for visitors to these new properties which will exacerbate the ongoing parking issues in Millers Lane.

I am concerned also that this proposal might be deemed overbearing in relation to the bungalows in Millers Close and 3 Millers Lane."

## 10.0 Report

- 10.1 Several issues have been raised and these relate to:-

- The principle of the development.
- The effect on the amenity of neighbours, in particular 3 Millers Lane.
- Highway safety/parking issues.

### The principle of the development

- 10.2 It is no longer enough to simply state that such a development is acceptable, in principle. Garden land has now been reclassified from brownfield to Greenfield. This does not, however, equate to such an application being resisted in principle. The specifics of the proposal must be evaluated against relevant Local Plan policies: DC1, UEA11-13, Core Strategy policy UR2 and the Supplementary Planning Document "Backland and Infill." These documents span issues of design, amenity and highways concerns. Each of these are explored beneath.

### Design

- 10.3 Policy DC1 of the Local Plan states that: "All proposals for development....will be permitted only if they satisfactorily meet the following criteria where relevant.....

- b) The development will be well designed, having regard to local building traditions, and should be based on a proper assessment of the surrounding built and natural environment. Where necessary, a clear written statement setting out the design principles followed, and showing how local distinctiveness will be promoted and retained, will be required.

Policy UEA11 states, amongst other things:

- “(b) The buildings or building groups shall be well designed in themselves and have adequate regard to their setting...
- (d) Good standards of townscape should be achieved in terms of harmonious groups of buildings and the spaces between them.”

Policy UEA12 states:

“Where the character of existing residential development makes a positive contribution to the appearance of the area, infilling – including backland development – and minor extensions shall reflect that character.”

Core Strategy UR2 unifies much of this, promoting high quality design and enhancement of the built character.

- 10.4 The proposal has been based on an analysis of the area, and has drawn from the charming cottage style which is apparent opposite at the row of three cottages, as well as at the recent infill at 6a, and also other nearby properties. These examples indisputably give a positive contribution to the area.
- 10.5 In terms of townscape, the proposal has been unashamedly orientated to face out on to the neighbouring Silver Witch Green. This attractive area of local open space, which is of importance to the people of Stanway, when seen from the Villa Road aspect currently offers views of the dairy building at 5 Millers Lane, and the lichen mottled concrete interlocking tiles of the bungalows on Millers Close. This is a visually disappointing termination to what could be a special view. Two traditional cottages with small dormers, clay plain tiles and render all of which draw from the best vernacular references which Millers Lane has to offer, are seen as a far more preferable vista for many people to enjoy.
- 10.6 The view from Millers Lane itself as one approaches the bend in the road would be of the driveway leading to the side elevation of the cottages, with a traditional chimney stack punctuating the view and a gated area just in front of the cottages, softened with planting, to avoid any visual “leak”.

#### Amenity

- 10.7 The issue of amenity is covered by policy DC1 (a) which states “The development will not cause unacceptable harm through pollution to land, air and water or to people or natural resources.”

10.8 UEA12 states that development will be permitted if:

- "ii) There is no significant loss of amenity to neighbouring residential property by virtue of overlooking or from overshadowing.
- iii) There is no significant loss of amenity to adjoining residential property by virtue of noise and disturbance caused by traffic generated by the proposed development."

UEA11 and UEA13 reiterate these points.

10.9 The cottages have been deliberately designed to avoid any overlooking. The small first floor windows are to the front, overlooking the Green. To the rear is a Velux which is for light only and serves the stairwell. The ground floor windows to the rear will not produce loss of privacy with an adequate screening of 1.8 metres in height. This screening is desirable as, although there is an existing garden-to-garden scenario in terms of 5 Millers Lane and the bungalows of Millers Close, the proposal would orientate the new dwellings and their gardens towards Millers Close which would increase the feeling of, and incidence of, invasion of privacy, unless the height of the fence is increased.

10.10 In terms of possible overshadowing, 3 Millers Lane and to a lesser extent "The Haven" on Millers Close will be in a better position than at present due to the loss of the existing dairy building and other outbuilding. The Haven and the other two houses of Millers Close, "The Cam" and "Red Roof", would suffer some loss of sunlight when the sun was low. Currently only a 1.8 metre fence between number 5 and Silver Witch Green interrupts these bungalows' uninterrupted aspect. Instead, a building of up to 5.8 metres would be in evidence. At 15 metres away from the main rear line of the houses of Millers Close, though, this is acceptable in terms of amenity.

10.11 The aforementioned fence to the rear, at seven metres from the rear line of Millers Close would also produce some additional overshadowing, but it is worth noting that 5 Millers Lane could erect a two metre high fence at any time without requiring Planning permission.

10.12 The occupier of 3 Millers Lane has cited noise and disturbance. Undoubtedly three gardens instead of the present one would have more effect, but not unreasonably so.

10.13 The main effect of noise would be the movement of cars close to the boundary of that house. Members will, however, note that the parking bays are set away from the boundary, with the idea that a small buffer area, with a barrier and planting, be put in place to take the activities away to a point approximately two metres from the boundary.

10.14 Overall, there are not considered to be any issues of design or amenity which warrant a refusal.

#### Highway Safety

10.15 The issue of highway safety, however, is not as straightforward. This has been cited by several parties, including the Highway Authority. It is worth noting that the Highway Authority has not objected to the application, but has requested measures which do not appear to be possible to implement.

10.16 At application 100740, the Highway Authority requested the following:

- Visibility splays to the north and south of 2.4 metres by 43 metres;
- 1.5 metre x 1.5 metre pedestrian visibility splays;
- Parking and turning, as shown, to be left unobstructed;
- No unbound materials.

10.17 It does not appear that the first two of these is achievable, especially given the fact that the applicant does not own or control the land required for the desired splay to the south, namely Silver Witch Green. The situation can, however, be ameliorated by moving the access slightly northwards, and thus opening out the splay to the south. In this way the splay is almost achievable. The applicant owns land to the north (i.e. the front garden of 5 Millers Lane) to achieve a reasonable splay in that direction, although this would, again, be deficient.

10.18 The resultant interruption to the frontage will have to be remedied with boundary treatment.

10.19 In terms of parking, at 2 spaces each, the provision complies with standards.

10.20 On other matters raised, the development has been deliberately positioned to avoid the root protection area of the nearby elms, thus obviating an Arboricultural Assessment. Site contamination issues will be covered by conditions attached to the planning permission.

## **11.0 Conclusion**

11.1 In conclusion, whilst the objections are noted, because of the physical improvements to views across Silver Witch Common the application is held to be acceptable in this location. Whilst objections from residents, Parish and the Highway Authority are noted, visibility splays close to what is required are achievable, and in view of the existing and potential commercial use of the site the added use of the site is not held to be excessive. This application is recommended for approval, with conditions to ensure satisfactory materials and boundary treatments, adequate car parking and visibility splays which are as good as the site can accommodate.

## **12.0 Background Papers**

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

**Recommendation** – Upon the signing of the Unilateral Undertaking accompanying the application, planning permission be granted subject to the conditions set out below: contribution to Open Space and Community Facilities.

### **Conditions**

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

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

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

#### 2 - C3.1 Materials (general)

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

Reason: To ensure that the development does not prejudice the appearance of the locality.

#### 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 shall be constructed (other than any expressly authorised by this permission or any other grant of express planning permission), or freestanding buildings erected on any part of the site, or windows inserted, or an access created without the prior written permission of the local planning authority.

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

#### 4 - Non-Standard Condition

Prior to occupation of the development hereby approved, visibility splays with dimensions of 2.4 metres by maximum as measured from and along the nearside edge of the carriageway shall be provided on both sides of the access/junction. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.

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

#### 5 - 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 and of the access having regard to Essex Local Transport Plan 2006 / 2011 Appendix G : Development Control Policies and Processes Policy 1.1 General.

#### 6 - Non-Standard Condition

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety and in accordance with Essex Local Transport Plan 2006 / 2011 Appendix G: Development Control Policies and Processes Policy 1.1 General.

#### 7 -Non-Standard Condition

Prior to the occupation of the development the vehicular parking and turning facilities, as shown on the submitted plans, shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety to ensure accordance with Policy 1.1 of the Highways and Transportation Development Control policies.

#### 8 - Non-Standard Condition

A scheme of environmental works including the construction of walls and fences and planting of hedges on the boundary of the site, including the front and all internal boundaries, and the area between the parking spaces and 3 Millers Lane, shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The approved scheme shall be completed prior to the development being brought into use and shall be retained thereafter.

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

#### 9 - C11.14 Tree / Shrub Planting

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

Reason: To ensure an appropriate visual amenity in the local area.

#### 10 - Non-Standard Condition

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 11 to 14 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy P4 of the adopted Local Plan (March 2004).

#### 11 - Non-Standard Condition

The findings of the Phase One Desk Top Study (June 2010), submitted with this Planning application, shall inform the following conditions 12 – 15.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy P4 of the adopted Local Plan (March 2004).

#### 12 - Non-Standard Condition

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy P4 of the adopted Local Plan (March 2004).



### 13 - Non-Standard Condition

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy P4 of the adopted Local Plan (March 2004).

### 14 - Non-Standard Condition

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 13.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy P4 of the adopted Local Plan (March 2004).

### 15 - Non-Standard Condition

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 12 above.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy P4 of the adopted Local Plan (March 2004).

### **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.

The applicant is advised that the permission has been granted in the interests of visual improvements of the area. Any application to increase the style or size of the dwellings hereby approved is likely to be resisted.



**Application No:** 100983

**Location:** Area K1 (Abbey Field Urban Village), Butt Road, Colchester, CO3 3DS

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

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**7.3 Case Officer: Alistair Day**

**EXPIRY DATE: 18/08/2010**

**OTHER**

**Site:** Butt Road, Colchester, CO3 3DS

**Application No:** 100983

**Date Received:** 23 June 2010

**Agent:** Klh Architects

**Applicant:** Taylor Wimpey East London

**Development:** Proposed demolition of existing buildings within a conservation area.

**Ward:** Christ Church

**Summary of Recommendation:** Listed Building Consent

### **1.0 Planning Report Introduction**

1.1 This application has been brought to the attention of the Committee as an objection has been received to the proposed demolition of the buildings by a local resident.

### **2.0 Site Description**

2.1 The application site (known as Area K1) is situated to the east of Butt Road, with Circular Road West to the northeast and the site of the former PSA office building (demolished July 2010) to the south west. The Military Police station is located to the south.

2.2 Area K1 forms part of the former Cavalry Barracks and the layout of the buildings was originally arranged around the parade ground, located to the north east of the applications site. Positioned to the south west of the parade ground were four identical troop stable blocks aligned on a south east/north west axis. Two of the stable blocks (Sup 8 and SUP 9) are located within Area K; one of the stable blocks was demolished to make way for Circular Road West; a the fourth stable block is located on the adjacent development site (known as Area J2b). To the south and on the same alignment of these buildings is the officers' stable block (IC9) and a small modern 20th century building. The ablution house / wash house is located adjacent to the junction of Circular Road West and Butt Road.

### **3.0 Description of Proposal**

3.1 Conservation area consent is sought for the demolition of the stables blocks (SUP8, SUP9 and IC9), the ablution / wash house and a modern 20th century building.

### **4.0 Land Use Allocation**

4.1 Garrison Regeneration Area

## **5.0 Relevant Planning History**

- 5.1 100981 - Application for change of use and conservation for form MOD occupied single storey buildings (Blocks A, B C D1 & D2) to create 535m<sup>2</sup> (A1 Retail and A2 Financial and Professional services) accommodation, along with associated works - Pending
- 5.2 100982 - Reserved Matters application - Pending
- 5.3 090905 - Reserved matters application under outline consent O/COL/06/0783; siting; design; external appearance, means of access and landscaping for the erection of food store and shops with associated parking – Approved 7 October 2009.
- 5.4 O/COL/06/0783 - Demolition of existing offices and construction of food store and shops with associated parking – Approved 10 August 2006
- 5.5 O/COL/01/0009 - A new 'Urban Village' comprising residential development (up to approx 2600 dwellings) mixed uses including retail, leisure and employment, public open space, community facilities, landscaping, new highways, transport improvements and associated and ancillary development in accordance with and subject to the provisions of the master plan drawing reference 98.018/42d – Approved 30 June 2003

## **6.0 Principal Policies**

- 6.1 Adopted Review Borough Local Plan  
DC1 - Development Control considerations  
UEA1 - Character of Conservation Areas  
UEA2 - Building within Conservation Areas  
UEA3 - Demolitions within Conservation Areas
- 6.2 Adopted Core Strategy  
ENV1 - Environment  
UR1 - Regeneration Areas
- 6.3 PPS5: Planning for the Historic Environment

## **7.0 Consultations**

- 7.1 No objections have been received in respect of the demolition of buildings.

## **8.0 Representations**

- 8.1 One letter of objection has been received from a local resident and the issues raised can be summarised as follows:
- The observations are purely subjective in regard to the appearance and historic value of the buildings. We strongly disagree with this statement; we believe it is necessary to keep a range of buildings types in order to preserve the nature of an historic area.

- The report suggests that the buildings are no longer viable; we not believe that neglect is a valid reason for demolition, brick work structures of this type are relatively straightforward to refurbish. The statement that the original character has been lost due to part demolition for the severance is also subjective.

## 9.0 Report

- 9.1 Area K1 forms part of the Colchester Garrison Urban Village development, which was granted outline planning permission in June 2003; the site is identified for mixed use and residential development.
- 9.2 The Colchester Garrison Historical Buildings Assessment prepared by the Ingram Consultancy and submitted in support of the outline planning application, categorised the redundant garrison buildings according to their architectural and/or historic interest and their potential for adaption and reuse. The garrison legal agreement requires the retention of those building that have been identified as being of significance. The buildings proposed for demolition as a part of this application are not identified for retention in the garrison legal agreement.
- 9.3 Subsequent to the grant of the outline planning permission, the Council designated the Garrison Conservation Area; Area K1 falls within this conservation area.
- 9.4 The current application seeks conservation area consent to demolition three former stable blocks (SUP 8, SUP9 & IC9), the former ablution house (SUP4) and a mid 20th century building. In assessing proposals for the demolition of buildings with a conservation area, PPS 5 requires consideration to be given to the significance of the building(s).
- 9.5 Significance is defined in PPS 5 as “the value of a heritage asset to this and future generations because of its heritage interest. That interest may be of archaeological, architectural, artistic or historic.” In addition, paragraphs 55-57 of the Historic Environment Planning Practice Guide that was published concurrently with PPS 5, indicates that there are three elements that need to be understood when considering the significance of a heritage asset:
- The nature of significance
  - The extent of the fabric that holds significance; and
  - The level of importance of that interest.
- 9.6 Policy HE9.5 of PPS 5 notes that not all elements of a conservation area will necessarily contribute to their significance and when considering proposals local planning authorities should take into account the relative significance of the elements affected and its contribution to the significance of the conservation area as a whole. Where an element does not positively contribute to the significance of an area, the local planning authority should take into account the desirability of enhancing the conservation area, including where appropriate, through redevelopment.

- 9.7 Saved local plan policy UEA 3 states that the demolition of unlisted buildings in a conservation area will be granted if new development would make a positive contribution to the wider aim of preserving the conservation area and where the redevelopment would produce benefits for the community which would outweigh their loss.
- 9.8 A significant number of the original Cavalry Barracks building survive including (in Area J2B), the straw and hay store, three stables with accommodation above, soldier quarters, the sergeants mess, the riding school, the boundary wall and gates and the 1935 Regimental Institute; the officers quarters (in the military police compound) and stable blocks, ablution house, wagon sheds and boundary wall (in Area K). The surviving buildings in Area J2B create a distinct collection of former Garrison buildings of architectural and historic value, while the officers' quarters has been listed for its architectural significance. The majority of the surviving buildings on Area K are not considered to have the same architectural quality as the other retained Cavalry Barracks buildings.
- 9.9 Area K is now visually and physically separated from the main body of the Cavalry Barrack site due to the construction of Circular Road West and the erection of security walling and fencing to the military police compound; as a consequence of this, the surviving buildings within Area K no longer have any direct connection with the other retained Cavalry Barracks buildings, which has compromised and devalued their importance within the conservation area as a whole.
- 9.10 In terms of their architectural integrity, the buildings scheduled for demolition have all been unsympathetically altered in the past and are generally in a poor condition.
- 9.11 The three stable blocks are set parallel to one another, some 14m apart, with the southern most building set directly on the edge of the footpath to Circular Road West. The buildings are wide spanned single storey structures, constructed red and yellow brick and originally had slate roofs. Many of the original windows have been removed from these buildings, entrances have been enlarged or in-filled, the brickwork painted (presumably to disguise alterations) and the roofs recovered with what appears to be asbestos slates. The MoD has also recently demolished the south east ends of the buildings for land severance purposes thus reducing their value as historic buildings. Moreover to convert these buildings to alternative uses would result in the additional alteration works to the facades of the buildings which would further compromise their original design.
- 9.12 The ablution and wash house building is a small single storey building located near to the north west corner of the site. It is a small brick building that is sited adjacent to the boundary wall and, from the 1876 OS plan, appears to have had baths at the north east end and WCs at the south east end of the building; these elements have since been demolished. In the early 20th century an extension was constructed between the ablution house and the boundary wall. This building, like the stable blocks, has suffered from unsympathetic alteration and is not considered to be of architectural significance.

- 9.13 To the north west of IC9 is a small mid 20th century building that this proposed for demolition; this building is neither of architectural or historic interest.
- 9.14 It is considered that the architectural and historic interest within this part of the conservation area is derived from the continuity of the boundary wall to Butt Road, the relationship of buildings to the wall and the continuity derived from a consistent use of materials; it is these elements that need to be preserved and enhanced as a part of the redevelopment of this part of the conservation area rather than the retention of the buildings proposed for demolition. In accordance with the criteria set out in UEA 3, it is considered that the proposed demolition of the building would enable the redevelopment of this important site in a manner that would enhance the setting of this part of the conservation area and facilitate the delivery of public benefits, notably the provision of affordable housing, infrastructure and public transport improvements and the proposed neighbourhood centre.
- 9.15 The comments of the objector regarding the retention and reuse of the buildings on this site are noted. The Council has successfully sought to protect and retain buildings that make a positive contribution to the character and appearance of the Garrison Conservation Area or are individual architectural interest. In this instance, the buildings proposed for demolition are not considered to make a significant contribution to the character and appearance of this part of the conservation area and have not been identified for retention in the garrison legal agreement; the Council's adopted SPG for Cavalry and Artillery Barracks site; or the draft Garrison Conservation Area Appraisal. In view of this, the proposed demolition of the buildings outlined above is considered acceptable.

## **10.0 Background Papers**

10.1 ARC; Core Strategy; PPS5, NLR

### **Recommendation - Listed Building Consent**

#### **Conditions**

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

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

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

2 - Non-Standard Condition

The demolition of the buildings hereby permitted shall not be in any way commenced or undertaken before the applicant has satisfied the Local Planning Authority that a contract for the carrying out of the works of redevelopment of the site has been made and planning permission has been granted for the redevelopment for which the contract provides.

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



### 3 - Non-Standard Condition

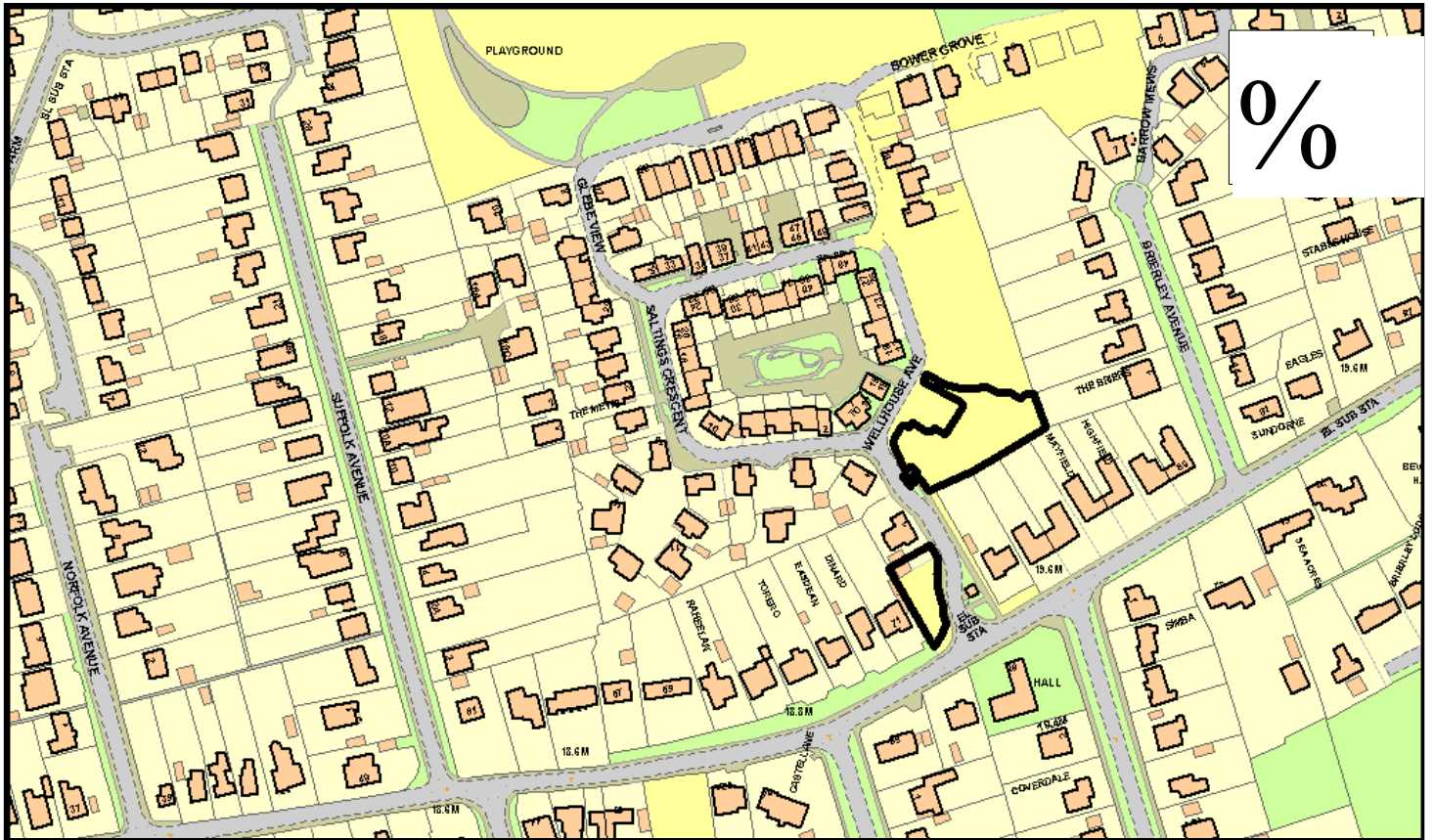
Prior to the commencement of development, a programme of building recording works shall be carried out by an appropriately qualified specialist and submitted to the Local Planning Authority. The scope of the building recording works shall be agreed by the Local Planning Authority and the works implemented in accordance with the agreed details.

Reason: To ensure that the historic and architectural character of the building is properly recorded in all its details.

### 4 - Non-Standard Condition

If hitherto unknown evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record together with recommendations for dealing with it in context of the approved scheme shall be submitted for written approval by the Local Planning Authority.

Reason: To ensure that the historic and architectural character of the building is properly recorded in all its details.



**Application No:** 100763

**Location:** Land to North of East Road, West Mersea, Colchester

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

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**7.4 Case Officer: Sue Jackson**

**EXPIRY DATE: 16/08/2010**

**OTHER**

**Site:** East Road, West Mersea, Colchester

**Application No:** 100763

**Date Received:** 21 June 2010

**Agent:** Mr David Rose

**Applicant:** Mersea Homes Limited

**Development:** Design adjustments to previously approved plots 1, 66, 67 and 69 under application F/COL/05/0465.

**Ward:** West Mersea

**Summary of Recommendation:** Conditional Approval

### **1.0 Planning Report Introduction**

1.1 This application is brought before members as an objection has been received and the officer recommendation is for permission

### **2.0 Report summary**

2.1 The application proposed different house types to four plots on the Mersea Homes development at East Road West Mersea. The report describes the approved and proposed house types, sets out the neighbour's objections and explains why permission is recommended.

### **3.0 Proposal**

3.1 This development known as "Wellhouse Green" constructed by Mersea Homes is nearing completion and many of the dwellings are occupied. Different house types are proposed for the following plots. Plot 1, on the junction of East Road with the new estate road (Glebe Avenue), plot 66 which has boundaries with properties in East Road and Brierley Avenue and plot 67 and plot 69 both having a boundary with East Road.

3.2 The most significant change is to plot 1 where there is planning permission to erect a 2-bed bungalow with a shallow pitched roof. The new house type has a steeply pitched roof with three bedrooms provided in the roof space. The proposed dwelling is sited slightly further away from the boundary with next door property and has a revised foot print. The proposed house type on plot 66 is a “T” plan instead of an “L” plan and includes 2-storey element approx 1.5 metres closer to the boundary with East Road. Plot 67; the new house type is also located closer to the boundary with East Road by approx 4 metres. The changes to the property on plot 69 include a small lean-to addition to the rear and a revised location for the double garage. The approved house type for plot 66 and 67 is a 2-bed detached house a 3-bed detached house is now proposed, the approved and proposed house type on plot 69 is a detached 3-bed house.

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

4.1 Residential

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

5.1 F/COL/05/0465 - Planning permission granted for the erection of dwellings, new access road and landscaping.

Since then approval has been given for several minor changes to parts of the development.

#### **6.0 Principal Policies**

6.1 Adopted Review Colchester Borough Local Plan  
DC1 - Development Control considerations  
UEA11 - Design  
UEA13 - Development, including extensions, adjoining existing or proposed residential property  
UEA14 - Greenlinks

6.2 Adopted Core Strategy  
UR2 - Built Design and Character

6.3 Adopted guidance  
Essex Design Guide for Residential and Mixed Use Areas  
Householder guide extending your home

#### **7.0 Consultations**

7.1 Environmental Control has no comments to make.

7.2 The Highway Authority has no objection.

#### **8.0 Town Council's Views**

8.1 West Mersea Town Council recommends consent.

## 9.0 Representations

9.1 A resident opposite plot 1 at 58 East Road has objected for the following reasons:-

The alteration to plot 1 will alter the street scene as there are single storey bungalows adjacent to the site. It will overpower the bungalow next door no. 71 and overlook no 71 and the house opposite no 58. No 58 will suffer loss of privacy from the upstairs window. The proposed development has increased the scale of development of that particular site.

## 10.0 Report

10.1 The main issues to be considered are:

- Design
- Impact on residential amenity
- Impact on the street scene
- Parking

### Design

10.2 With the exception of plot 1 similar house types have been approved on this development, and all the dwellings proposed reflect the high quality of design and materials used at Wellhouse Green.

### Impact on residential amenity

10.3 The amendment to plot 69 has no impact on residential amenity. The proposed house type for plot 66 indicates the building closer to the boundary with East Road and Brierley Avenue, the 2 storey element will be approximately 2 metres closer and the single storey element by the same amount. The plot has a garden of limited depth which varies from 4-5 metres to 8 metres. Whilst the Essex Design Guide requires a minimum separation of 25m, to protect privacy this is relevant where properties are parallel, in this case the new properties are at an angle to the rear boundary in East Road and in these circumstances the Design Guide indicates "that where the rear wall of the new house is at an angle of greater than 30 degrees privacy of adjoining residents is protected" - this is complied with. The application drawing indicates the position of both the approved and proposed dwellings and the 30 degree angle. The number of rear bedroom windows has also reduced from three to one. Plot 67 the issues raised are the same as plot 66. The property will be closer to the boundary with East Road, but again the 30 degree angle is complied with and the number of first floor bedroom windows has been reduced. The amendments to these plots are considered acceptable and a condition will be imposed to prevent any additional windows in the rear first floor wall or roof slope without the prior consent of the local planning authority.

- 10.4 The only representation relates to plot 1, in particular the increase in height and overlooking from first floor windows. The adjacent bungalow no 71 has windows in the side elevation but the 45 degree rule is satisfied and the front and rear walls of the new property are in a very similar position to those of no 71. There are no windows in the roof elevation adjacent to this property. There is a single bedroom window in the first floor front facing gable looking across the road towards no 58. The front elevation of plot 1 is approx 30 metres from the front elevation of no 58, well in excess of the 10 metres in the Essex Design Guide

#### Impact on the street scene

- 10.5 The proposed changes to Plots 66, 67 and 69 will result in no change; these plots are located within the main development, in a small private drive. Plot 1 located on the corner of East Road and the main new estate road will be visible in the street. A bungalow is approved on this plot and it is proposed to replace it with a steeply pitched roof "cottage" style dwelling with rooms in the roof space. Members will note a resident opposite the site in East Road has objected to this change of house type as it proposed within a row of bungalows. There is a row of bungalows on the north side of East Road and it is accepted the proposal will introduce a property with a steeper roof pitch, higher ridge and rooms in the roof space. However it will be located next to the main estate road which already punctuates the row of bungalows. It is considered this property will be seen as part of the new entrance to Wellhouse Green and will not look out of place. The property itself is well designed and will in fact enhance the appearance of the street. Photographs of East Road will be included in the presentation to Members.

#### Parking

- 10.6 The parking provision is not changed by this application, although some garages are re-positioned. The parking provision for plot 1, a single garage and a parking space is unaffected by the new house type, plot 66 it is proposed to reposition the garage but the provision of a single garage and at least 2 parking spaces is unaltered, plot 67 the single garage is repositioned but the provision of a single garage and a parking space is unaltered and plot 69 whilst the double garage is repositioned the provision of a double garage and at least 2 parking spaces is unaffected.
- 10.7 This parking provision is considered acceptable.
- 10.8 In conclusion the amendments are considered acceptable and planning permission is recommended subject to conditions

### **11.0 Background Papers**

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

## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

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

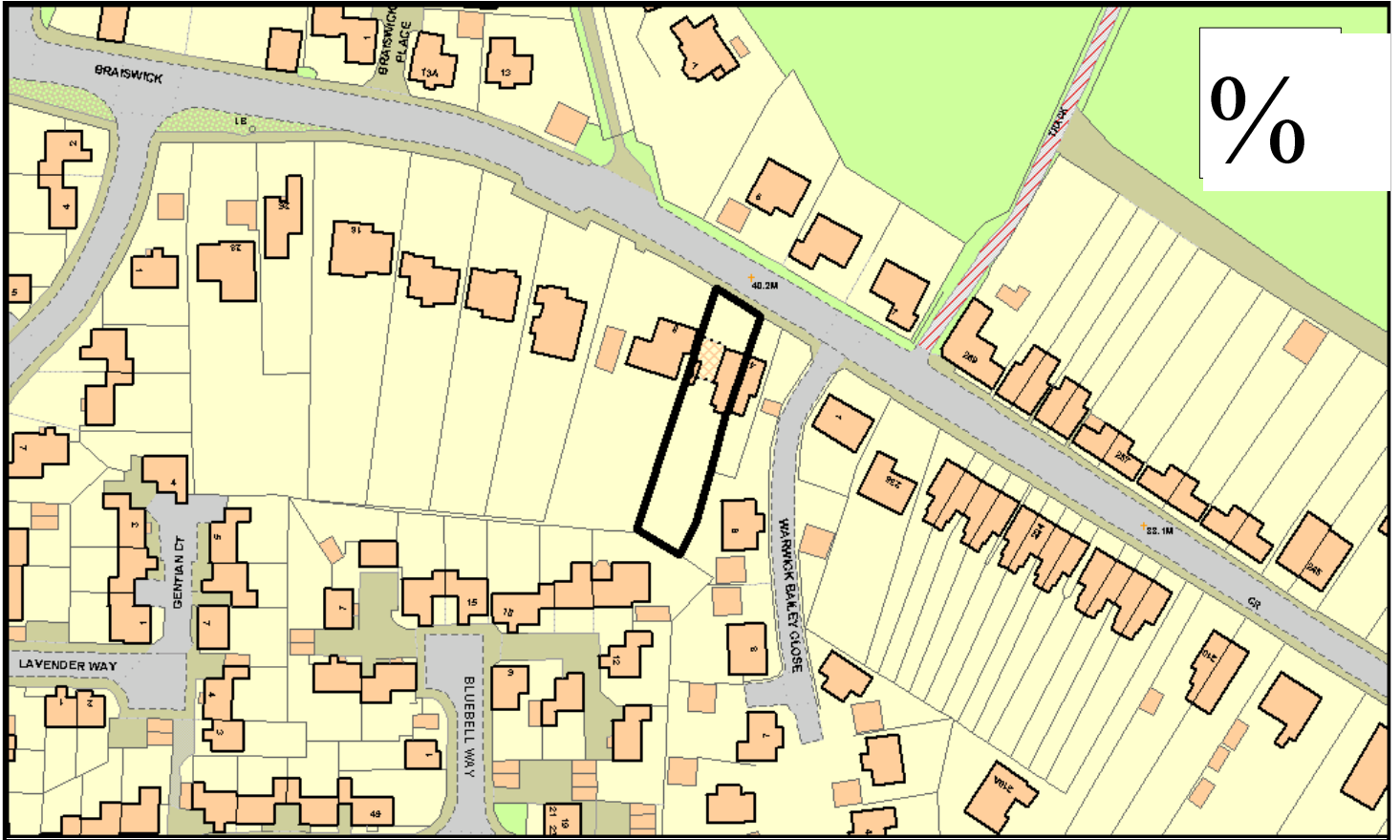
No windows or any other form of opening shall be formed in the first floor rear elevation or roof slopes of plots 1, 66, 67 and 69 without the prior written consent of the local planning authority.

Reason: To protect the amenity and privacy of adjacent neighbours.

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

The permission is subject to conditions 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 19 and 32 of planning permission F/COL/05/0645.

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



**Application No:** 101267

**Location:** 6 Braiswick, Colchester, CO4 5AX

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

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**7.5 Case Officer: Mark Russell**

**EXPIRY DATE: 18/08/2010**

**OTHER**

**Site:** 6 Braiswick, Colchester, CO4 5AX

**Application No:** 101267

**Date Received:** 23 June 2010

**Agent:** Mr Peter Johnson

**Applicant:** Mr S Harbrow

**Development:** Resubmission of application 091368 for the retrospective retention of store.

**Ward:** Mile End

**Summary of Recommendation:** Conditional Approval

## **1.0 Planning Report Introduction**

1.1 This application has been “called in” by Councillor Goss, stating that the development “overlooks properties and causes harm to the human rights of local residents”.

1.2 This application is the third one, for this site, the previous two (090443 and 091368) having been withdrawn for issues over trees and ownership.

1.3 The report describes the site and the proposal and details consultation replies including objections from nearby residents. Responses are then given to these objections, Finally, approval is recommended.

## **2.0 Site Description**

2.1 The site comprises part of a back garden area which serves the flats of 6, 6a and 6b Braiswick. The garden is largely laid out to grass, with a large Atlas Blue Cedar tree in the middle of it. The garden is surrounded by the residential dwellinghouses of 8 Braiswick, 6 Warwick Bailey Close and 14 Bluebell Way.

## **3.0 Description of Proposal**

3.1 The proposal is to retain a currently unauthorised storage building which was erected in early 2009. This building is 6 metres x 4 metres and is of breezeblock construction with a pitched, tiled roof. It has also had a small section of garden, convenient to it, cordoned off.

## **4.0 Land Use Allocation**

4.1 Residential

## **5.0 Relevant Planning History**

- 5.1 88/0081 - Conversion of semi-detached house into 2 single bedroom flats. Approved
- 5.2 96/1482 - Side extension to provide a one bedroom flat. Approved
- 5.3 F/COL/06/1801 - Erection of detached bungalow to the rear. Refused
- 5.4 090443 - Detached block & tiled store shed. Withdrawn
- 5.5 091368 - Resubmission of application 090443 for the retrospective retention of store. Withdrawn

## **6.0 Principal Policies**

- 6.1 Adopted Review Colchester Local Plan (March 2004):
  - DC1- Development Control considerations;
  - UEA 11 – Design
  - UEA 12 - Backland Development
  - UEA 13 – Development Adjoining Existing Property
  - CO4 – Landscape Features
- 6.2 Local Development Framework (December 2008)
  - UR2 – Built Design and Character

## **7.0 Consultations**

- 7.1 Following lengthy correspondence with the Tree Officer after the withdrawal of application 091368, all matters arboricultural are resolved.

## **8.0 Representations**

- 8.1 Three letters of objection were received from nearby residents at 14 Bluebell Way, 9 Warwick Bailey Close and 8 Braiswick.
- 8.2 The points raised are summarised as follows:

- The shed/store is already in place and the matter should have been dealt with earlier;
- The building is out of scale and keeping with the area and the street-scene;
- Most of the amenity space for 6b Braiswick has been removed;
- Use as a store will cause nuisance;
- Vehicles entering the site to service the store will be a nuisance;
- Gardens are no longer “brownfield”;
- This is the 5th attempt to develop the site;
- The building will be used for commercial purposes;
- General loss of amenity to surrounding properties;
- Combined with other sheds there are too many buildings in the garden;
- Loss of privacy to surrounding properties;
- The building has been misrepresented on the submitted plans;
- The building obstructs an allocated parking space;

- The applicant plans to “creep develop” the site, potentially to residential;
- The tree is being undermined;
- Not all interested parties were notified prior to the application being submitted;
- This is an undesirable precedent for backland development;
- The building is too close to surrounding properties.

## 9.0 Report

- 9.1 The proposed retention of the building described as a “storage building”, and the amount of time that it has taken to bring this proposal to Committee has angered the nearby residents. Ideally the matter would have been dealt with in 2009, but the applicant withdrew two previous applications for various reasons. The Local Planning Authority then had to consider whether or not to take enforcement action. Your officer felt that once the application came in, it could be recommended for approval with conditions to improve the facing, and to remove the window. For this reason no enforcement action was taken.
- 9.2 The fact that the application has taken so long, is retrospective, and might be a mask for an unauthorised use, or a Trojan horse for a residential application are not material considerations, notwithstanding that the applicant has previously attempted to gain permission for a bungalow (F/COL/06/1801).
- 9.3 The application should solely be looked at in terms of its design and the effect on the amenity of neighbours, under Local Plan policies DC1, UEA11-13 and Core Strategy UR2. Local Plan Policy CO4 also needs to be considered.
- 9.4 In terms of residential amenity, the building does not fail any guidance. It does not have an overbearing effect in terms of UEA13 (c). The word “overbearing” in the Essex Design Guide is informed by the Building Research Establishment, which states that (in reference to front-to-front) a line two metres from ground level, plus 25 degrees should not be infringed. This single storey building does not infringe such a line.
- 9.5 In terms of potential overshadowing, the building is five metres from the property boundary (8.5 metres from the building) of 6 Warwick Bailey Close, and 14 metres from the boundary (19 metres from the building) of 14 Bluebell Way. In the case of the latter, the building is to the north, so any overshadowing is unlikely. In the case of the former, it is to the north and west, so any loss of light would be negligible. The building is closest to the boundary of 8 Braiswick (approximately two metres), but at 15 metres from that house, the building has no effect on it at all.
- 9.6 On the question of privacy, the owners of 6 Warwick Bailey Close have submitted a photograph from their first floor bedroom window, which shows that the ground floor window of the building in question is visible, if obliquely and from above. This window, however, cannot be described as overlooking the neighbouring property although it may produce some discomfort. In any event, and to allay any such fears, the applicant has agreed to have the window removed on permission.
- 9.7 It is accepted that the views from the neighbours’ gardens have been affected, where once there was just a view of trees there is now the hard edge of the building as well.

- 9.8 In conclusion to this section, whilst views have been altered, the application is not held to have undermined the amenity of surrounding residential properties.
- 9.9 Design requires some attention. As it stands, the structure is brutal, with stark breeze-block walls (albeit with a satisfactorily tiled roof). The applicants have been advised that it will require a light coloured weatherboarding in order to be visually satisfactory.
- 9.10 On the other matters raised, the concerns over the Blue Atlas Cedar are noted, and our Arboriculturalist has given advice and conditions will be put in place to ensure the well-being of the tree.
- 9.11 The comments about ownership are also noted, but the Local Planning Authority is not aware of any issue here, and this is not material to the merits of the application.
- 9.12 The submitted plans seem to accurately reflect the size and position of the development.

## **10.0 Conclusion**

- 10.1 In conclusion, whilst neighbours' disquiet at the retrospective nature and lateness of this application, as well as fears for the future are noted, the proposal is not held to undermine residential amenity. Provided the building is satisfactorily faced, rear-facing windows are removed, and the tree is properly-protected, then the application is held to be acceptable.

## **11.0 Background Papers**

- 11.1 ARC; TL; NLR

### **Recommendation - Conditional Approval**

#### **Conditions**

##### **1 – Non Standard Condition**

The permitted building shall be used solely for storage purposes incidental to the flat 6 Braiswick and shall at no time be used for any trade, commercial, business or any other use in connection with inhabitation.

Reason: For avoidance of doubt as to the scope of this permission, as a business or residential use would not be acceptable in this location.

##### **2 – Non Standard Condition**

Within 28 days of permission the applicant shall submit details of facing materials. These shall comprise weatherboarding of a type and colour to be agreed. Such details shall be agreed in writing by the Local Planning Authority and shall be implemented as such within 28 days of this agreement, and remain so at all times.

Reason: In the interests of the visual amenity of the area, as the current breeze-block structure is visually unacceptable.

##### **3 – Non Standard Condition**

The existing roof tiles shall remain unless agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity as the existing roof materials are visually satisfactory.

#### 4 – Non Standard Condition

Within 56 days of permission, the applicant shall remove the south-facing window and shall fill the space in with matching materials and cover with facing treatment to match the rest of the building. This treatment shall remain as such at all times.

Reason: For avoidance of doubt as to the scope of this permission, and in the interests of residential and visual amenity.

#### 5 – 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 new windows shall be constructed in the building hereby approved without the prior written permission of the Local Planning Authority.

Reason: For avoidance of doubt as to the scope of this permission, and in the interests of residential and visual amenity.

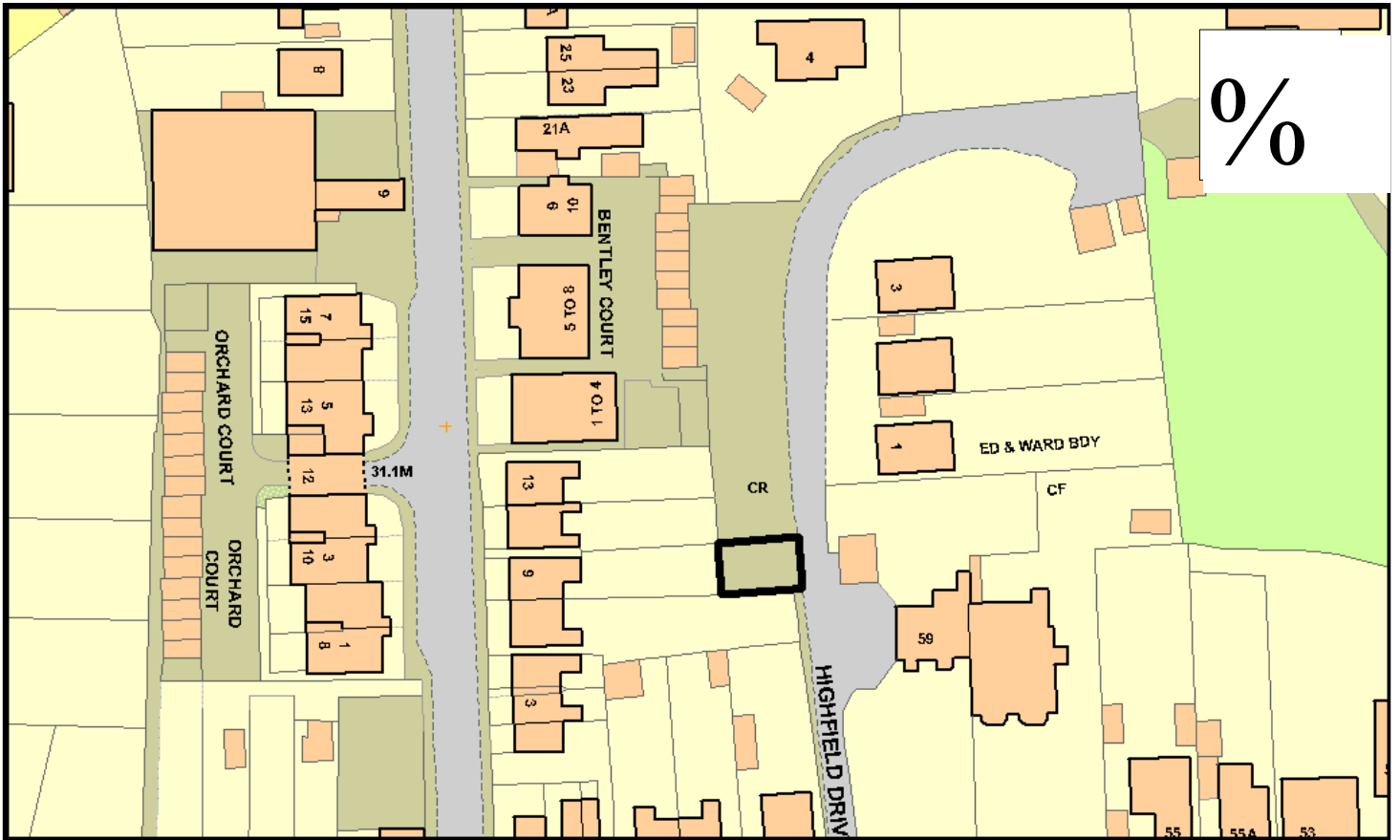
2) Weatherboarding

3) Roof tiles to remain as such.

4) Removal of window.

5) No new windows facing rear or sides, or on roof-slopes

6) Tree protection.



**Application No:** 101335

**Location:** 9 Sussex Road, Colchester, CO3 3QH

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

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**7.6 Case Officer: Mark Russell**

**EXPIRY DATE: 25/08/2010**

**OTHER**

**Site:** 9 Sussex Road, Colchester, CO3 3QH

**Application No:** 101335

**Date Received:** 30 June 2010

**Applicant:** Ms Emma Long

**Development:** Change of use of land to garden (resubmission of 100730) without compliance with conditions 2 (no entry point from Highfield Drive) and 3 (tree planting scheme).

**Ward:** Lexden

**Summary of Recommendation:** Conditional Approval

## **1.0 Planning Report Introduction**

- 1.1 This application is before Members as it is a non-householder proposal, objections have been received, and the officer recommendation is for approval. The previous application (100730) was approved under delegated powers, with conditions requiring a planting belt to a depth of three metres, and forbidding an entry point off of Highfield Drive. This free resubmission seeks to revisit the application and achieve permission without these conditions.
- 1.2 The report describes the site and the proposal and details consultation replies, including objections from nearby residents. Responses are given to these objections, which are weighed up against the needs of the applicants and the potential for betterment. Finally, approval is recommended.

## **2.0 Site Description**

- 2.1 The site, whilst described as Sussex Road, comprises land off of Highfield Drive (an unmade private track off of Lexden Road) which was formerly wooded and has been purchased by the owners of 9 Sussex Road. This adjoins the rear garden of that property.
- 2.2 The site itself is just outside Colchester Conservation Area 1, and just outside of a heavily wooded area, which contains several trees subject of Tree Preservation Orders.

## **3.0 Description of Proposal**

- 3.1 The proposal is to change the use of the site to garden for use by 9 Sussex Road. Whilst the existing use is not explicitly stated in the application, it can be described as "amenity land". The applicants wish to be granted change of use with no restriction on access, and without having to implement a planting programme.

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

4.1 Predominantly residential

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

5.1 100730 - Change of use of land to garden use. This will extend the garden to Highfield Drive. Approved: 10th June 2010.

#### **6.0 Principal Policies**

6.1 Adopted Review Colchester Local Plan (March 2004):  
DC1- Development Control considerations;  
UEA1 – Setting of Conservation Areas  
CO4 – Landscape Features

#### **7.0 Consultations**

7.1 Our Tree Officer had previously advised (100730) that the proposal did not affect any existing trees.

#### **8.0 Representations**

8.1 Three letters of objection were received from nearby residents at numbers 1, 2 and 4 Highfield Drive. None objected to the principle of the change of use, but had concerns as follows:

- Fear that a garage/hardstanding will be built;
- Extra traffic with consequent safety/wear and tear issues;
- Opportunity to replant the area should not be lost.

#### **9.0 Report**

9.1 Permission has already been granted, under 100730, for change of use to garden. The applicants have exercised their right to a free resubmission within 12 months of the decision. Their desire is to proceed without the obligation to plant, and with the possibility of having a vehicular access to the site.

9.2 The conditions in question were conditions 02 and 03 with reasons as follows:

- 02: No entry point shall be made from the garden onto Highfield Drive.  
Reason: To prevent the parking or waiting of vehicles on Highfield Drive which could cause obstruction on this narrow lane.



03: Prior to the change of use being implemented, the applicants shall submit a planting scheme for the eastern (rear) end of the garden to a depth of approximately three metres. This scheme shall consist of native tree specimens and shall be agreed in writing by the Local Planning Authority and shall be planted during the first planting season after the implementation of the permitted garden extension. In the event that trees and/or plants die, are removed, destroyed or, in the opinion of the Local Planning Authority, fail to thrive, 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 the visual amenity of this well planted area next to and within the Conservation Area.

- 9.3 Whilst the land is sandwiched between a Conservation Area and a site with several protected trees on it, it has no actual status or designation in itself. However, it can be seen as a transitional site between the two, and a planning application can be used as an opportunity for betterment.
- 9.4 To simply grant planning permission for this change of use, with no conditions at all, could lead to the fence being removed, hardstanding being laid, and outbuildings, such as a garage, up to 4 metres in height being erected within the rear section of the garden. Notwithstanding that this would be Permitted Development, this would be visually harmful and the planning application is an opportunity to mitigate against such an eventuality.
- 9.5 The options are, therefore, either to remove Permitted Development Rights for the new section of garden (including for the laying of hardstanding) or to insert other conditions to offset this potential visual intrusion.
- 9.6 The applicants have advised that a three metre planting belt will greatly reduce the available amount of garden area. This is a reasonable argument; therefore it is proposed that a thinner planting belt be put in place. However, even the smallest of trees will require three metres for crown spread. A depth of about one-and-a-half metres, however, should allow for the planting of a shrub which will act as a satisfactory visual transition to the protected trees and as a screen to any outbuilding. The Landscape Conservation Officer has advised that an evergreen species would be acceptable in this location, as there is a variety of deciduous and evergreen shrubs in the vicinity. This would have the added bonus of year-round visual protection.
- 9.7 The applicants have also stated that they do not intend to use the entrance onto Highfield Drive very often. However, there would be no way of controlling this, and the passage of vehicles would mean that the planting belt would not be an option.
- 9.8 The desire to access the rear, however, is understood, and it may be occasionally advantageous to be able to take equipment and materials in relation to the building of a shed, for example, through the back entrance. For this reason, it is proposed that a pedestrian access gate be allowed.
- 9.9 It is of note, although not a material consideration, that the owners have a deed of covenant allowing them access onto Highfield Drive. This, however, does not mean that planning permission should automatically allow this access.

- 9.10 It is also proposed that a condition be in place to agree boundary treatment (the existing fence, stained dark, with a personnel gate in it, would be an acceptable solution).
- 9.11 Finally, removal of permitted development rights for any hardstanding outside of the fenced area is proposed. This is in the further interests of visual amenity.
- 9.12 The applicants have indicated that, although the proposed restrictions might be seen as an improvement for them, they still might not agree with them. If this is the case, then they will have a right to appeal against any condition to the Secretary of State.

## **10.0 Conclusion**

- 10.1 In conclusion, the change of use has already been granted. The suggested planting is seen as a visually satisfactory method of softening the effect of any outbuildings which the applicants may build in their newly-extended garden. Vehicular access is not seen as appropriate, but a smaller pedestrian gate is reasonable. With these matters conditioned, the proposal is considered reasonable and approval is therefore recommended.

## **11.0 Background Papers**

- 11.1 ARC; TL; NLR

### **Recommendation - Conditional Approval**

#### **Conditions**

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

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

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

- 2 - Non-Standard Condition

Before the change of use occurs, the applicant shall provide details of the proposed boundary treatment. This shall include a dark coloured stain for the existing fence, and full details of the proposed pedestrian gate. Such details shall be agreed in writing by the Local Planning Authority and shall be installed as such and kept in place at all times.

Reason: In the interests of the visual amenity of the area.

- 3 - Non-Standard Condition

No gate or opening, other than that referred to in condition 2 above, shall be put in place without the written permission of the Local Planning Authority.

Reason: To prevent vehicular access onto or off of this lane and to protect the amenity of local residents.

#### 4 - 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 hardstandings shall be created outside of the fence of the garden without the prior written permission of the local planning authority.

Reason: To ensure that the development does not prejudice the appearance of the locality.

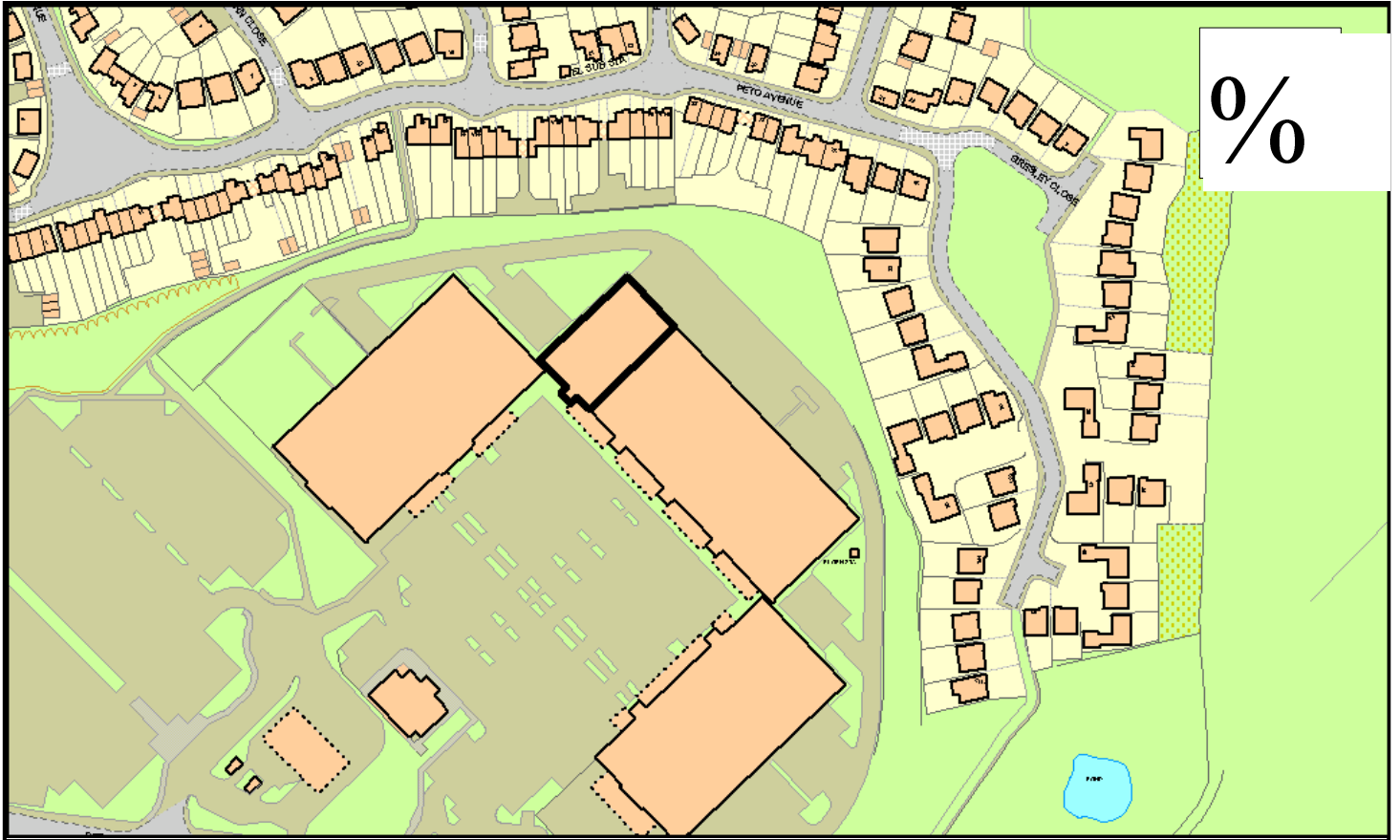
#### 5 - Non-Standard Condition

Before the change of use occurs, details of shrub planting and an implementation timetable shall be submitted to and approved in writing by the Local Planning Authority. This planting shall be of a sufficient depth to offer a suitable screen to soften the street scene and be of a make up (planting palette) that complements the character of existing established plant covers in Highfield Drive. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate level of amenity in the local area and protect the setting of the adjacent Conservation Area.

#### **Informatives**

The applicant is advised of the landscape guidance available at [http://www.colchester.gov.uk/Info\\_page\\_two\\_pic\\_2\\_det.asp?art\\_id=956&sec\\_id=506](http://www.colchester.gov.uk/Info_page_two_pic_2_det.asp?art_id=956&sec_id=506).



**Application No:** 100670

**Location:** Unit 2, Turner Rise Retail Par, Petrolea Close, Colchester, CO4 5TU

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

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## 7.7 Case Officer: Sue Jackson

**OTHER**

**Site:** Unit 2, Turner Rise Retail Park, Petrolea Close, Colchester, CO4 5TU

**Application No:** 100670

**Date Received:** 7 April 2010

**Agent:** Bidwells

**Applicant:** Glanmore Investments Ltd

**Development:** Variation of condition 12 of planning permission COL/91/0887 to allow for the sale of sports goods, sports wear and related products and the associated installation of a 742sqm mezzanine floor and installation of lighting to footpath to the rear of 10-38a Peto Avenue.

**Ward:** Mile End

**Summary of Recommendation:** Conditional Approval

### 1.0 Planning Report Introduction

1.1 This application is presented to Members as a neighbour has commented on the lack of information in respect of the proposed lighting to a path.

### 2.0 Report Summary

2.1 The following report explains the proposed variation of a condition to allow retail sales and the background to the proposal to provide lights to a nearby path. It sets out the comments from the Spatial Policy Team, other representations and explains the condition proposed to secure an acceptable lighting scheme. Finally permission is recommended subject to conditions.

### 3.0 Site Description

3.1 The application site comprises a unit at Turner Rise Retail Park forming approximately 25% of a larger building. Three substantial buildings front a large car park. They are located adjacent to the Asda Supermarket and have a boundary with residential development and the main London-Norwich railway.

### 4.0 Description of Proposal

4.1 The application seeks to amend the wording of Condition 12 of Planning Permission COL/91/0887 which restricts non-food sales. The proposal is to vary the condition to allow the sale of sports goods, sports wear and associated products. The application also includes the installation of a mezzanine floor to provide 742 square metres of floorspace.

4.2 The installation of lights on land in the applicant's ownership, adjacent to a public footpath, is also proposed.

4.3 The application is accompanied by a Design and Access Statement and a Retail Assessment and additional supplementary retail information. Copies are available on the Council's website.

## **5.0 Land Use Allocation**

5.1 Retail Warehousing

## **6.0 Relevant Planning History**

6.1 COL/01/0887 - Application for retail sales space (including food), showroom, offices, parking, housing, school, associated housing and bridge works and balancing pond. Permission granted in September 1993

6.2 100635 - Units 6 & 7 - Planning permission granted for sale of tenting, camping, caravanning and outdoor activity equipment.

6.3 Since 1993 there have been a number of applications to allow and amend the types of retail goods sold at this site.

## **7.0 Principal Policies**

7.1 Adopted Review Borough Local Plan  
DC1 - Development Control considerations

7.2 Adopted Core Strategy  
CE1 - Centres and Employment Classification and Hierarchy  
CE2 - Mixed Use Centres  
CE2a – Town Centre protection of new retail proposals to improve quality of public realm and built character  
CE2b – District Centres

## **8.0 Consultations**

8.1 Environmental Control has no comment.

8.2 The Highway Authority has no objection.

### 8.3 Spatial Policy comment as follows:-

"The original comments from Planning Policy noted that the application did not include evidence of a sequential test discounting Town Centre locations, which are the preferred location for retail uses in the Core Strategy's spatial hierarchy. The applicants have subsequently carried out such a test which is considered to adequately discount alternative Town Centre locations. A retail use is accordingly considered acceptable in the circumstances as long as any permission for A1 use is conditioned to limit it to sporting goods only. This is to ensure that any further proposed changes to retail uses in the unit or in Turner Rise as a whole are considered in terms of their impact on the Town Centre."

## 9.0 Parish Council's Views

### 9.1 Myland Parish Council comment:-

"The footpath lighting as discussed with Councillor Goss, referred to in 3.5 Design and Access Statement, should be of a non-light pollution type."

## 10.0 Representations

### 10.1 Councillor Goss supports the application and expressed his concern at the original comments from the Spatial Policy Team opposing the application. Councillor Goss makes further comment as follows:-

"I have already negotiated the lighting which is needed along the footpath from Asda to Peto Avenue - there has already been an attempted assault. This lighting will cost about 20K plus a significant investment by Cardales which will also include increased maintenance and lighting costs."

### 10.2 A residents of Peto Avenue has commented that whilst fully understanding and supporting the need for lighting he is concerned at the lack of information as there are no details of the exact location, height or light bleed.

## 11.0 Report

### 11.1 The application raises two main issues:-

- Policy issues.
- Impact on residents' amenity.

#### Policy Issues

### 11.2 The comments of the Spatial Policy Team are set out in the report. Objection was originally raised as the application documents did not include a sequential test, following submission of this information and additional clarification which was assessed by the Council's Economic Development Officer, the objection was withdrawn.

- 11.3 In their earlier response Spatial Policy also referred to Policy CE2B which refers to an improved public realm for Urban District Centres. In this context the lighting proposals are welcomed.

#### Impact on Residential Amenity

- 11.4 On the north boundary of the larger Turner Road site is a footpath that links Asda and the other units to residential development. It extends between the buildings and rear gardens of residential properties in Peto Avenue joining this road between Nos. 38A and 40. The path currently has only a single light. The application includes additional lighting of this path.
- 11.5 As the neighbour indicates full details have not been submitted. However, the applicant has indicated that as the precise details will need to be agreed with the Parish Council and the relevant lighting authority this is best dealt with by condition.
- 11.6 The location, height and any "light spill" will need careful consideration. Whilst the majority of the dwellings have boundary walls/fences with the path, others, particularly where there is a bend in the path, have little or no screening exacerbated by a difference in levels.
- 11.7 A condition is proposed requiring the scheme to be submitted to and agreed with the Local Planning Authority in consultation with Myland Parish Council prior to the implementation of the use of the unit and the approved scheme to be fully implemented in accordance with an agreed timetable. It is anticipated the Parish Council would liaise with residents.

#### **12.0 Conclusion**

- 12.1 Subject to a condition limiting the type of retail goods to sporting goods only as recommended by the Spatial Policy Team and a condition relating to the provision of footpath lighting planning permission is recommended.

#### **13.0 Background Papers**

- 13.1 ARC; Core Strategy; HH; HA; PP; NLR; PTC

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

##### **Conditions**

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

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

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



## 2 - Non-Standard Condition

The range of goods, sold in Unit 2 shall be limited to sports goods, sports wear and associated products in addition to the goods already permitted.

Reason: For the avoidance of doubt as to the scope of the consent hereby granted. Permission has only been granted in this instance due to the supporting information accompanying the application which indicates these sales would not have an adverse impact on the town centre.

## 3 - Non-Standard Condition

Prior to the use of the unit for the retail of sports goods, a detailed scheme for the provision of lighting to the footpath to the rear of 10-40 Peto Avenue shall be submitted to and approved in writing by the Local Planning Authority in consultation with Myland Parish Council. The scheme shall include the number, type and height of the lights, details of their maintenance/repair/replacement and a timetable for their installation. The approved scheme shall be installed in accordance with the agreed timetable and shall thereafter be retained to the satisfaction of the Local Planning Authority.

Reason: To ensure a satisfactory lighting scheme is provided and thereafter maintained to protect the safety of adjoining residents.

## 4 - Non-Standard Condition

The planning permission hereby granted is given in accordance with the terms of planning permission COL/91/0877 relating to this site and the extant condition attached thereto remain in force (with the exception of Condition 12 hereby approved as amended).

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

## 5 - B3.2 Light Pollution

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

Reason: To protect the amenities of adjoining residents.



**Application No:** 101077

**Location:** Bromans Farm, Bromans Lane, East Mersea, Colchester, CO5 8UE

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

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## 7.8 Case Officer: Sue Jackson

**MINOR**

**Site:** Bromans Lane, East Mersea, Colchester, CO5 8UE

**Application No:** 101077

**Date Received:** 7 June 2010

**Agent:** Mr D Whymark

**Applicant:** Mr & Mrs Martin Dence

**Development:** Conversion of former Dairy Building to two holiday letting cottages and amendments to conversion of barn granted permission under applications reference F/COL/99/1438 & LB/COL/00/0515

**Ward:** Pyefleet

**Summary of Recommendation:** Conditional Approval

### 1.0 Planning Report Introduction

1.1 This application is reported to members as an objection has been received and the officer recommendation is for permission.

### 2.0 Report Summary

2.1 The application relates to a vacant dairy building in the curtilage of Bromans Farm, the farm house is a listed building. The proposal is to convert the building into 2 holiday let cottages.

### 3.0 Site Description

3.1 Bromans Farm in Bromans Lane East Mersea is located close to the Cudmore Grove Country Park. The farm yard curtilage contains other buildings one of which has been converted into a holiday let. This building and the one the subject of this application are close to the farm house which is used to provide bed and breakfast accommodation.

### 4.0 Description of Proposal

4.1 The proposal is to convert a single storey former dairy building into two holiday letting cottages. The application also includes amendments to the existing holiday let cottage. The pruning back of shrubs at the site entrance with Broman's Lane is also proposed to improve visibility.

## **5.0 Land Use Allocation**

- 5.1 Countryside Conservation Area  
Coastal Protection Belt

## **6.0 Relevant Planning History**

- 6.1 101129 - Application for listed building consent to carry out the works described in this application. As no objection has been received to this application it can be determined under powers delegated to the head of Environmental and Protective Services and it is anticipated listed building consent will have been granted by the time of the Committee meeting.
- 6.2 F/COL/99/1438 and LB/COL/00/0515 - Planning permission and listed building consent granted for the conversion of single storey barn to a 2-bedroomed dwelling for holiday letting.

## **7.0 Principal Policies**

- 7.1 Adopted Review Colchester Borough Local Plan  
DC1 - Development Control considerations  
CO3 - Countryside Conservation Area  
CO10 - Agricultural Diversification  
UEA5 - Altering Listed Buildings  
UEA6 - Listed Barns or Agricultural Buildings  
UEA11 - Design
- 7.2 Adopted Core Strategy  
UR2 - Built Design and Character

## **8.0 Consultations**

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

## **9.0 Parish Council's Views**

- 9.1 No comments have been received.

## **10.0 Representations**

- 10.1 A resident of Bromans Lane has objected to the application due to increased traffic congestion and access. Broman's Farm is accessed via a narrow country lane and the existing access is hazardous. Other farm buildings have already been converted and the existing 3-bed bed and breakfast business adds significantly to the density and pressure on resources water and drainage. The proposal increases the likelihood of noise and disturbance to nearby neighbours. The applicants already have developed the site with a variety of businesses which cause noise and disturbance.

10.2 The following response has been received on behalf of the applicant:-

“In similar order for ease of reference:-

- 1) Highway safety: The turn into the site is being improved as agreed and suggested by the Highway Authority, prior to the application. Essex County Council recommend approval as an improvement to road safety; it will provide a passing place for vehicles (buses are prevented from using the lane) and a refuge for cyclists and pedestrians who now more commonly use the lane than in the past and as encouraged by the planning strategic policy, which wishes to increase tourism to secure the future, keeping shops and public houses open also for the benefit of local residents, whom would otherwise have to drive further for amenities.  
The development will reduce the risk of accidents by enhancing visibility at the corner mentioned in the objection by incorporating road safety improvements. In terms of vehicle movements there will be less than when the site was a working farm.
- 2) Density: One small redundant farm building was converted for occupation in part of the year by up to two people (usually single) with one car. The bed and breakfast accommodation is being reduced to only two people.  
The proposed use will have less pressure on water usage and drainage than when it was a dairy farm. Drainage is to be treated on site using existing plant that has been assessed as more than adequate by specialists APCO (Anglia Pollution Control Ltd of Clacton) and not the plant serving the existing holiday let.  
The development is in accord with sustainable growth in the rural area to encourage the tourist industry. The points raised on noise are dealt with in the next paragraph.
- 3) Noise and Disturbance: The owners can only think of one noise creating operation which was tree clearance on adjacent land not in their control during the Spring of this year, possibly occurring in April from memory. This was apparently coppicing hedgerow trees and is recognised as good practice every ten years and five years for pollarding. The noise level is less than when it was fully operational with pigs and a commercial dairy herd.  
The owners will not permit noise at their home as it would disturb both their enjoyment of the countryside and their visitors, despite the background of gunfire from the MOD Ranges, the explosions from the testing ground at Shrewburyness and the Stansted Airport flight path!  
There have been no complaints received about noise during the occupation of the present owners since 1971/2 and they undertake to manage noise issues for the benefit of themselves, visitors and neighbours with whom they would wish to enjoy the best possible relationships and are sensitive toward such relations and would welcome direct calls to overcome any issues immediately. They will provide any further reassurance requested to foster a mutually beneficial environment.

- 4) General: There is not a “variety of businesses” on the site, and there may be confusion with the use of adjacent buildings not in the ownership of the applicants. The owners are not aware of noise and disturbance as they would similarly request cessation both for their benefit and their holiday customers whom enjoy staying here on repeated occasions because of the peaceful aspects of the rural and coastal scene.

We hope this explanation will dispel any fears on the proposed use of the old farm and would welcome direct dialogue if any issues are in doubt as the owners would not wish to offend or annoy anyone.”

## **11.0 Report**

### 11.1 The three main issues raised by this application

- The impact of the conversion works on the appearance of the building (the building is treated as a listed building as it is a curtilage building to the listed farm house)
- The suitability of the use in the countryside
- The impact on neighbours

#### Impact of the conversion works

- 11.2 The building is divided into two elements by an internal wall other than one other internal wall the interior space is not sub-divided. The building is stepped taking account of the slope of the site, and is constructed of red brick and black weatherboarding with a pantiled roof. The building already contains several domestic scale openings.
- 11.3 The conversion will retain the basic form of the building but will introduce new internal walls, the majority of the existing wall will be retained although access will be provided to 2 rooms. The majority of changes are to the external appearance with the insertion of larger windows. These changes affect the courtyard elevation. A chimney is also indicated to each unit.
- 11.4 Each unit will have a small screened garden and a parking space within an existing building.
- 11.5 The drawing also indicates “woven fencing adjacent to the existing holiday, an external heat pump, a small log store and minor changes to the fenestration..”
- 11.6 The proposed works are considered acceptable and reflect the conversion works to the existing holiday let unit. The works to the existing holiday let building are also acceptable. The works are sympathetic to the appearance of the dairy building and do not adversely affect the character or setting of the listed farm house.
- 11.7 The improvement to visibility at the site entrance involves the removal of a small amount of frontage hedging and shrubs, however the large number of trees and shrubs behind the frontage will be retained.

### Suitability of the use in the countryside

- 11.8 The building is close to the Cudmore Grove Country Park on Mersea island where there are several caravan sites. The island is a popular tourist location and the proposal is considered acceptable.

### Impact on neighbours

- 11.9 It is accepted the site is served by a narrow lane but it is noted the highway authority has raised no objection subject to improved visibility at the site entrance. This will improve safety for drivers entering and leaving the site. Whilst the neighbour has objected due to noise and nuisance it is unclear whether this relates to the holiday let accommodation. The only noise would be from the additional traffic and use of the garden outside each cottage and it is considered this is unlikely to cause a serious loss of amenity.
- 11.10 In conclusion the development is considered acceptable and a conditional permission is recommended.

## **12.0 Background Papers**

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

### **Recommendation - Conditional Approval**

#### **Conditions**

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

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

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

- 2 – Non Standard Condition

The occupation of the building shall be limited to holiday lets, each let to be for a maximum of 4 weeks. The building shall not be let between 14 December to 14 January inclusive.

Reason: Permission has only been granted in this rural area for holiday purposes. A permanent residential use is not acceptable.

- 3 – Non Standard Condition

The development shall be carried out in accordance with the approved plans drawing nos. 02,10; proposed elevations, site sections, 8, 7, 5, 4, 03 unnumbered drawing logs and cycle store, proposed as built 11, 12 all validated 7 June 2010.

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

- 4 – Non Standard Condition

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the public highway in the interests of highway safety to ensure accordance with Policy 1.1 in the Highways and Transportation Development Control policies.

5 – Non Standard Condition

Prior to occupation of the development the vehicular access shall be amended as shown on approved drawing No. 10.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interests of highway safety to ensure accordance with Policy 1.1 in the Highways and Transportation Development Control policies.

6 – C3.5 (Materials to match existing)

The external materials and finishes to be used for the approved development, shall be of the same type and colour as those of the existing building unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character or appearance of the Listed Building/s on this and/or adjacent sites.





## Site Location Plan

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Application Reference: 228073

Site Location Address: 33 North Hill, Colchester, CO1 1QR

Date Produced: 3 August 2010

(Map Not to Scale)



## Planning Committee

Item

9

12 August 2010

<b>Report of</b>	<b>Head of Environmental and Protective Services</b>	<b>Author</b>	<b>Sarah Hayes</b> ☎ 01206 282445
<b>Title</b>	<b>33 North Hill, Colchester</b>		
<b>Wards affected</b>	<b>Castle</b>		

**This report advises Members that a Breach of Condition Notice (BCN) has been served under delegated authority requiring the removal of an unsuitable window and replacement with one which is more appropriate.**

### 1.0 Decision(s) Required

- 1.1 This report is to advise Members that a BCN has been served under delegated authority. The requirement of the notice is to remove a window which is not in accordance with a plan submitted to discharge a planning condition and to install a window which does accord with the plan.
- 1.2 A period of three months has been allowed for compliance.

### 2.0 Reasons for Decision(s)

- 2.1 33 North Hill is in Colchester Conservation Area 1. The condition was imposed to protect the character of the building and the contribution it makes to the appearance and character of the Conservation Area. The window which has been installed is not appropriate as it does not protect the character of the building or contribute to the appearance and character of the Conservation Area.

### 3.0 Alternative Options

- 3.1 The 'do nothing' alternative – If no action was taken the window would remain to the detriment of the Conservation Area.

## **4.0 Supporting Information**

- 4.1 In September 2009 application 091068 was submitted for the conversion of existing offices/counselling rooms to two residential flats. This was approved with a condition which stated:

*Additional drawings that show details of proposed new windows and doors to be used, by section and elevation, at a scale between 1:20 and 1:1 as appropriate, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works. The development shall thereafter be carried out in accordance with such details.*

The reason given for the imposition of the condition was:

*To protect the character of the building and the contribution it makes to the appearance and character of the Conservation area.*

- 4.2 Details of the proposed new windows and doors were agreed on 25 March 2010.
- 4.3 On 7 June 2010 a complaint was received that the window being installed was not in accordance with the approved drawing. Two visits were made to the site and the developer agreed to stop work on the window and front elevation until the matter was resolved.
- 4.4 At the request of the owner, a meeting with a principal planning officer and the investigation officer was held to discuss the new window and the background to the planning application. It was hoped that it might be possible to negotiate a change in the window that would avoid formal enforcement action being necessary. However, the owner made it clear that the window would not be changed unless a notice was served.
- 4.5 On 12 July, the Planning Service Manager authorised the service of a BCN, which was served on 30 July 2010.

## **5.0 Equality and Diversity Implications**

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

## **6.0 Standard References**

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

## INDEX TO PLANNING APPLICATIONS CODES

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

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

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

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

## INTERNAL CONSULTEES

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

## REPRESENTATIONS ETC

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

## EXTERNAL CONSULTEES (2 character codes)

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



## **Colchester Borough Council Environmental Control**

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

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

#### **Best Practice for Construction Sites**

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

#### **Noise Control**

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

## **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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