

Planning Committee

Town Hall, Colchester
9 July 2009 at 6.00pm

This committee deals with

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

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

Information for Members of the Public

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Material Planning Considerations

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

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

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

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

Human Rights Implications

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

Community Safety Implications

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

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
9 July 2009 at 6:00pm**

Members

Chairman : Councillor Ray Gamble.
Deputy Chairman : Councillor Stephen Ford.
Councillors Mary Blandon, Helen Chuah, Mark Cory,
John Elliott, Andrew Ellis, Theresa Higgins, Sonia Lewis,
Jackie Maclean, Jon Manning and Ann Quarrie.

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, John Bouckley, Nigel Chapman, Peter Chillingworth, Barrie Cook, Beverly Davies, Wyn Foster, Mike Hardy, Pauline Hazell, Peter Higgins, Martin Hunt, Michael Lilley, Sue Lissimore, Richard Martin, Nigel Offen, Lesley Scott-Boutell, Laura Sykes, 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 members of the public should ask for a copy to check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm on the day before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Pages

1. Welcome and Announcements

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

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

- action in the event of an emergency;
- mobile phones switched 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 - 7**

To confirm as a correct record the minutes of the meeting held on 25 June 2009.

7. Planning Applications

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

1. 090398 Swift Construction Group Limited, North Lane, Marks Tey (Marks Tey) **8 - 22**

Proposed demolition of existing building, construction of 1no. 2 bedroom dwelling, adjacent to North Lane. New headquarter office building (B1 A use) and a new nursery crescent building providing B1c use light industrial use (7 units) and 1 unit retaining the existing B8 storage and/or distribution. A proportion of the existing hardstanding area is to be retained. All complete with reconfigured access road and associated parking, hard and soft landscaping.

2. 090416 Lordswood Road, Colchester (Shrub End) **23 - 28**

Amendments to part residential development approved under ref: F/COL/04/1998 to replace 14no. flats and 14no. houses with 8no. 2 bed houses, 17no. 3 bed houses and 3no. 4 bed houses, together with minor amendments to garden area of plot 22R, external works, parking areas and open space.

3. 090688 Willow Grove, Grove Hill, Langham (Dedham and Langham) **29 - 39**

Demolition of existing bungalow and erection of 4/5 bedroom barn style property with detached triple bay garage and temporary siting of mobile home.

4. 082055 Marks Tey Railway Station, Station Road, Marks Tey (Marks Tey) **40 - 58**

Extension to existing car park to provide 154 spaces (gross) together with new access, lighting, CCTV, signage, ticket machines and associated drainage and infrastructure.

5. 090471 Gwynlian, Kelvedon Road, Tiptree **59 - 74**

(Tiptree)

Change of use of land from agriculture to private gypsy caravan site including hardstandings for four caravans, the erection of a communal dayroom/utility building and the formation of a new access. Resubmission of 082030.

8. Enforcement Report // Collins Green, School Road, Messing 75 - 79

See report by the Head of Environmental and Protective Services.

9. Tree Preservation Order 22/77 // Application to fell Mature Oak Tree 80 - 83

See report by the Head of Environmental and Protective Services.

10. Exclusion of the Public

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

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
9 July 2009 at 6:00pm**

Agenda - Part B

(not open to the public or the media)

Pages

11. **Tree Preservation Order 22/77 // Application to fell Mature Oak Tree**

The following report contains exempt information (information likely to reveal identity of individual) as defined in paragraph 2 of Part 1 of Schedule 12A to the Local Government Act 1972.

See background documents to the report by the Head of Environmental and Protective Services.

PLANNING COMMITTEE
25 JUNE 2009

Present :- Councillor Ray Gamble* (Chairman)
Councillor Sonia Lewis* (Deputy Mayor)
Councillors Mary Blandon*, Mark Cory*,
Andrew Ellis*, Stephen Ford, Jackie Maclean*,
Jon Manning* and Ann Quarrie*

Substitute Members :- Councillor Laura Sykes
for Councillor Helen Chuah*
Councillor Richard Martin
for Councillor John Elliott*
Councillor Nick Barlow
for Councillor Theresa Higgins*

Also in Attendance :- Councillor Kevin Bentley

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

Councillor Ellis was not present for the determination of all applications agreed under the en bloc arrangements, having declared a prejudicial interest in one of those items, minute nos. 34, 35, 37 and 38 refer.

31. Minutes

The minutes of the meeting held on 11 June 2009 were confirmed as a correct record.

32. 090468 1-5 Culver Walk, 77-85 Culver Street East, Colchester

The Committee considered an application for the demolition of first and second floors of nos. 1 to 5 Culver Walk and nos. 77 to 85 Culver Street East, Colchester. 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.

Mark Russell, Planning Officer, attended to assist the Committee in its deliberations. The plans included raising the height of the building together with infilling above the entrance to British Home Stores.

Andy Cullen addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The intention is to

continue the upgrading of this area in a similar style to the Phase 2 submission which has already been approved. The redevelopment will attract retailers and increase footfall. This Phase 3 development continues with replacement facilities and a new two storey entrance on the corner. English Heritage required retention of the Lucams which will be clad in green copper.

Members of the Committee were generally in support of the proposal.

However, there were two issues raised regarding the York stone paving.

Firstly the applicants did not own all of the land in Culver Street East up to the retail units on the opposite side which meant they were unable to repave beyond the extent of their ownership. It was suggested that an informative be added to prompt negotiations with third parties to try and include in the renovation the paving outside the applicant's control. Secondly there were views both in favour of and in opposition to sealing the paving to enable it to be kept clean. The resealing was expensive to maintain because it would need re-sealing from time to time. This area was not particularly a food and drink highway, unlike the High Street where the paving has suffered. Other issues were if any application was received in the future for a coffee kiosk, it should be designated as a separate area. There was a request that the street furniture be improved, a comment prompted by the poor quality of the recycling bins. There was also a query on any maintenance programme for the scheme.

RESOLVED (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report.

Councillor Ray Gamble (in respect of being a Colchester United Football Club season ticket holder) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

33. 090217 Land adjacent (south) Grange Road, Tiptree

The Committee considered an application for a change of use of agricultural land to a sports field with minor regrading and drainage of the intended playing area together with an associated vehicle parking area with vehicular access from Grange Road. Community use of one pitch is proposed. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

David Whybrow, Development Manager, attended to assist the Committee in

its deliberations. He explained that at any one time there would be a maximum of 58 players present using a maximum of two pitches during the conditioned hours of use. The community pitch would be available for use during weekends for two sessions per day, from 10am to 1pm and from 2pm to 5pm. There were no changing facilities in this application however it was understood that a separate planning application, referred to as 1(b) for changing facilities was to be submitted. There is no proposal for flood lights in this application. The Highway Authority had withdrawn their objection to the proposal upon receipt of amended plans. This sort of facility is difficult to locate in an urban location and although other sites were considered this site is the preferred option. Some consultees had responded that the facility was welcomed provided it was available to the community. Other consultees who had objected had since withdrawn their objections in the light of additional information. Tiptree Parish Council had submitted objections to the scheme for various reasons as had 460 plus members of the public, all of which were set out in the report. Thirteen letters of support had also been received. The Local Development Framework indicated that this land would be suitable for mixed use, which would be residential and leisure uses. The recommendation of approval was a result of the positive responses from various consultees and the considerations of the Policy Team. The Amendment Sheet contained amendments to some of the conditions.

John Lawson, representing Colchester United Football Club, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Club were striving for excellence but a major barrier is a fit for purpose training facility. For a club of this size their current facilities were inadequate. They had looked at other sites including one at Mile End but all had various constraints. The Tiptree site was considered to be ideal. It would be a low key open space use, compatible with its surroundings. They had worked hard on the design and with other consultees. The revised scheme comprised five pitches of which only two would be in use at any one time. One pitch would be a community sports pitch which would fulfil a recognised need for local clubs. All trees and hedgerows would be retained. A dedicated minibus service and pedestrian and cycle links are to be provided. The principle of use is established and a changing room proposal would be brought forward which would allow the club to transfer to Tiptree. He asked the Committee to support the officer's recommendation to approve the application.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. He was speaking as one of the five local councillor representatives. He is also speaking on behalf of public objectors. There had been no consultation with the local community. He has not been approached by the applicant and no attempt has been made to talk to residents. He asked that the matter be deferred for consultation with the local residents. He was

puzzled that there were no changing facilities with this application which, if this is a fully fledged training facility, it must meet appropriate requirements. This site was a considerable distance from the Stadium whereas the current training ground at Essex University was closer. It was not possible to speculate on applications which do not exist. There have been 464 letters of objection; residents had studied the plans and sought professional advice. He urged the Committee to reject the application or defer it for further consultation and asked that consultation with local people be a high priority. He also requested that any amended application come before the Committee.

Members of the Committee had a number of concerns. This application is very important for the local community. However this proposal was purely a commercial application from a professional football club and this facility did not need to be in Tiptree but could be located anywhere. The community pitch was to be allocated to a couple of teams and as such was not a community pitch. It was considered the local community should get some form of benefit from the facility. Tiptree Parish Council had objected to the application and were keen to get the whole 30 acres earmarked as open space for recreation.

The Parish Council had wanted the application to be deferred and the Development Team officers asked to secure a Section 106 to transfer the balance of the field, 7 acres, to the Council so it would be a genuine council facility for community use for the whole area. In that form it was believed that many local people would accept it. There was a view however, that given the history of failed Section 106 agreements for Tiptree which have never actually delivered, the residents may have lost faith in the Council's ability to gain benefits on their behalf.

The lack of facilities was raised as an issue. Training grounds for similar clubs have facilities such as toilets, changing rooms, showers and physiotherapy facilities. Without such facilities the proposal constituted a field with five football pitches. In effect the application when judged on its merits was not fit for purpose for a professional football team without the necessary facilities.

The community use proposed in the application was for useage by two organisations in Tiptree and as such was considered to be inadequate and not a true community facility. It was considered that they are only community facilities if they are not only for two organisations. It was suggested that the application should be deferred for the Development Team to re-negotiate the community pitch provision. Members of the Committee were also uncertain that one community pitch would be sufficient; more pitches will be needed especially in bad weather. The location of the community pitch was also raised as an issue. Currently it was in the middle of the professional pitches whereas it would be better located at the south end.

The applicants did not appear to have consulted directly either with the Parish Council or the local people and this was raised as an issue. This comment was directed at the applicant as the local authority has consulted as it is required to do.

In response to the issues raised it was explained that whilst the facilities were an issue, they formed phase 1(b) of the proposals. If approved the programme would be that the pitches were prepared and ready for use by 2010 which allowed time for the facilities to be applied for and built. It was agreed by planning officers that the use would not be acceptable without such facilities. The issue regarding the location of the proposal in Tiptree had been addressed by the Policy Team which had suggested various alternative sites to look at. For one reason or another they were discounted. This was not an application on which a Section 106 package was being sought. The matter had been considered by the Development Team and the policy view was set out in the report. The community gain was in the form of the community pitch. In respect of the comment made about wear and tear of pitches, the community pitch would be used at weekends only and would have time to recover during the week. The Club pitches would be subjected to more use, however the level of their use would permit recovery time and the limited hours of use would be governed by condition. It was recognised that liaison between the applicant and residents did not take place in this case. It was not possible to say if the training facility would grow into something greater but lighting is not proposed at the moment. In respect of the suggestion for a deferment, from an officer point of view this proposal has run the full gamut of consultation and generally has been of a favourable nature. Members concern about the lack of facilities was understood. Also understood were members concerns with regard to the community use but the proposed conditions have attempted to address these. It would be possible for the Committee to defer consideration of the application for lack of changing facilities and detail of the scope of the community use. The Policy view is that if this was simply a proposal by Colchester United Football Club it would not be in the right location; the community element is important. Members must determine this application on its merits.

RESOLVED (UNANIMOUSLY) that the application be refused on the grounds that the facilities are inadequate and there is a lack of information on how the proposal is going to benefit the community in terms of scale and scope.

34. 090460 Borrow Pits North and South Langenhoe Marsh, Fingringhoe

The Committee considered an application for the extraction of clay from two new borrow pits for the construction of an access berm adjacent to the

seawall on Langenhoe Marsh. Following extraction of clay the borrow pits will be landscaped to create two conservation lagoons. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that subject to there being no objections to the application prior to 26 June 2009, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

35. 090608 61 Oaklands Avenue, Colchester

The Committee considered an application for a proposed two storey side extension with front porch, rear single storey extension, conservatory and internal alterations. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that the application be refused on the grounds set out in the report.

36. 082055 Marks Tey Railway Station, Sstation Road, Marks Tey

This application was withdrawn from this meeting by the Head of Environmental and Protective Services to permit consideration of further information submitted by the applicants in order that members have what the applicants believe to be all relevant information before them.

Councillor Andrew Ellis (in respect of having previously used the applicant's services) 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 left the meeting during its consideration and determination.

37. 090390 Homagen, Chappel Road, Great Tey

The Committee considered an application for an amendment to a proposal approved under application 081527 to retain one window at the rear of the barn and insertion of one window to the side of the barn. 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.

38. 090499 Highwoods Square, Colchester

This application was withdrawn from this meeting by the applicant.

39. 090533 Visitor Centre, Turner Road, Colchester

The Committee considered an application for an extension to the visitor centre to provide a new classroom office/kitchen area and toilet facilities including a DDA accessible w.c. The Committee had before it a report in which all information was set out.

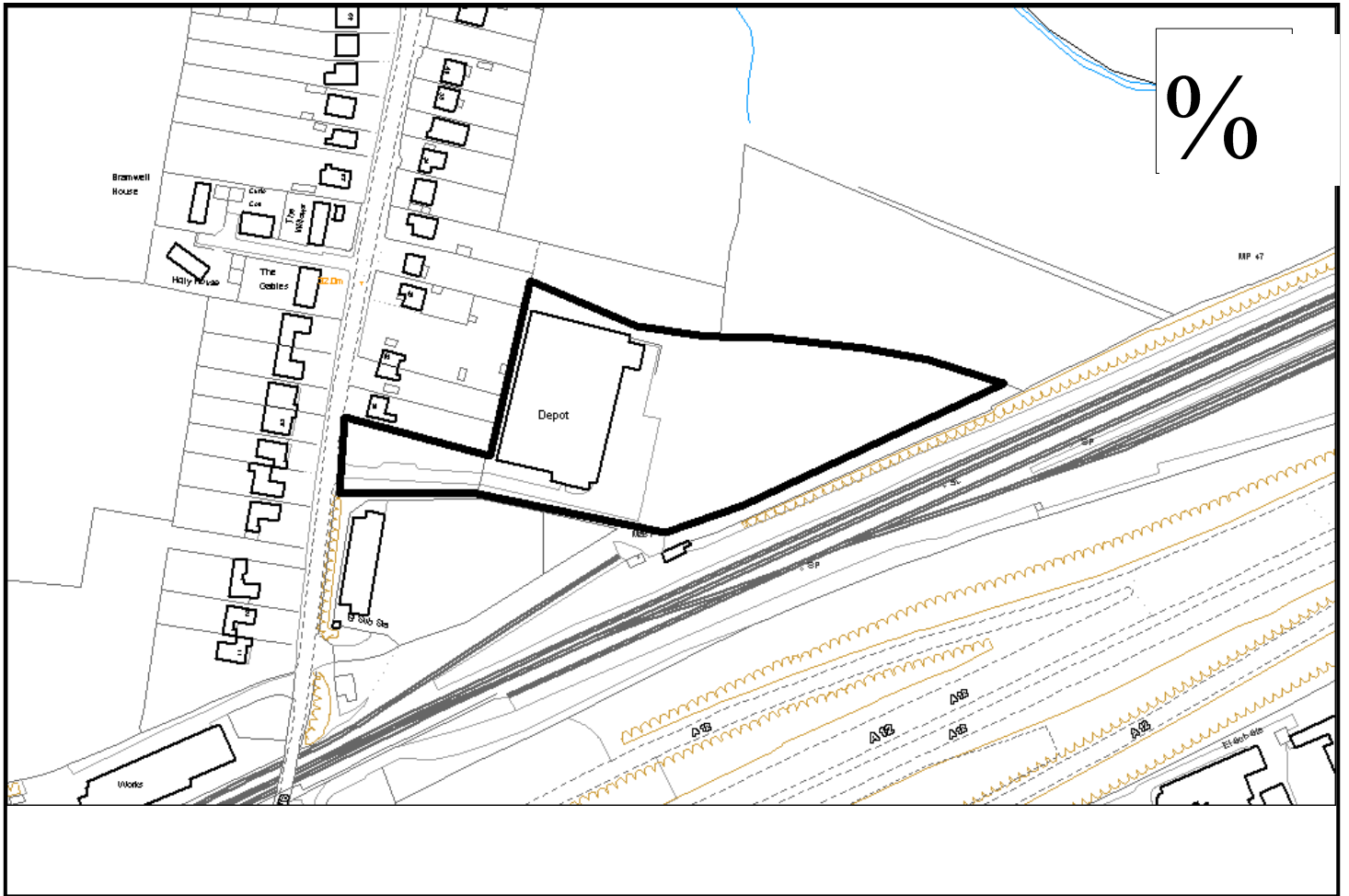
RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report.

40. Section 106 Requirements // Garrison Area P1, Ypres Road, Colchester

The Head of Environmental and Protective Services submitted a report on a planning gain/mitigation package proposed by the Development Team to provide a sum of £65,720 to secure the maintenance of the public open space / green link for a period of 25 years. The sum described for the purpose above is considered to satisfy the tests prescribed in Circular 1/97.

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

RESOLVED (UNANIMOUSLY) that the proposed Section 106 legal agreement be agreed as described in the report.



Application No: 090398

Location: Swift Construction Group Ltd, Swift Construction Group Ltd, North Lane, Marks Tey, Colchester

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **9 July 2009**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

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

7.1 Case Officer: Mark Russell

EXPIRY DATE: 17/07/2009

MAJOR

Site: **Swift Construction Group Ltd, North Lane, Marks Tey, Colchester**

Application No: **090398**

Date Received: 17 April 2009

Agent: Mr G Parker

Applicant: Mr N Moye

Development: Proposed demolition of existing building, construction of 1no. 2 bedroom dwelling, adjacent to North Lane. New headquarter office building (B1 A use) and a new nursery crescent building providing B1c use light industrial use(7 units)and 1 unit retaining the existing B8 storage and/or distribution. A proportion of the existing hardstanding area is to be retained. All complete with reconfigured access road and associated parking,hard and soft landscaping.

Ward: Marks Tey

Summary of Recommendation: Conditional Approval subject to a positive response from the Arboricultural Officer and the signing and dating of a Unilateral Undertaking

1.0 Site Description

1.1 The front of the site is within the Village Envelope of Marks Tey, the rest is without. It currently comprises a vacant parcel of land which has had planning permission previously granted for a dwelling. The majority of the rest of the site comprises unused warehousing, with a large open area to the back which has been used for outside storage. The site is currently owned and occupied by Swift Construction Limited.

2.0 Description of Proposal

2.1 The proposal, as the lengthy description suggests, is to demolish the existing warehouse buildings and to replace them with a new headquarter office building for Swift, a new nursery crescent building providing seven units of B1 (light industrial) use, and 1 unit retaining the existing B8 storage/distribution use. Some of the existing hardstanding area is also to be retained, and new hard and soft landscaping is proposed. It is also proposed that the access road be reconfigured. Finally, the erection of a two-bedroom dwelling is proposed at the front of the site.

2.2 The proposed nursery crescent would comprise units of between 195 sq.m and 381 sq.m. These would measure approximately four metres in height. The proposed walls would comprise a blue/grey brick plinth and white and grey flat micro-rib composite cladding. The roofs would be proprietary metal composite cladding (grey).

2.3 The proposed main office building would measure approximately 400 sq.m. and comprise two storeys, reaching ten metres in height. This flat roofed building would be a similar height to the ridges of the existing warehouse buildings. The walls would be red facing brickwork and white flat metal composite cladding, with a green sedum flat roof.

2.5 A total of 69 parking spaces are also proposed, including four spaces for disabled users.

2.6 Behind the buildings is a proposed parking area for several lorries. These would have easy access to the proposed B8 (warehouse) building, but would access the parking area via a service road to the south.

2.7 Still further beyond this is an area of land within the ownership of the applicant which is described as "hardstanding" and measuring almost 5,000m², and over which the applicant is claiming to have established rights for outside storage in connection with the authorised use of the main site.

3.0 Land Use Allocation

3.1 Village Envelope to front, unallocated to rear

4.0 Relevant Planning History

4.1 072262 - Vehicular access and parking - APPROVED WITH CONDITIONS 10 October 2007

4.2 090589 - Single storey side extension - APPROVED WITHOUT CONDITIONS 19 June 2009

- 4.3 95/0997 - Outline application for erection of B8 warehouse unit, office unit, one 'residential' unit. Widening/ improvements of roadway - APPROVED WITH CONDITIONS 05 October 1995
- 4.4 97/0934 - Details for the erection of 1 No. three bedroom detached chalet bungalow with detached garage (Outline Application COL/95/0997) - WITHDRAWN 28 October
- 4.5 98/0008 - Details for the erection of 1 no. three bedroom detached chalet bungalow with detached garage (outline application COL/95/0997) - APPROVED WITH CONDITIONS 19 February 1998
- 4.6 RM/COL/03/1702 - Proposed warehouse - APPROVED WITH CONDITIONS 10 February 2004

5.0 Principal Policies

- 5.1 Adopted Review Colchester Local Plan:
DC1- Development Control considerations;
UEA11 - Design;
UEA12 - Infilling and Backland Development;
UEA13 - Development, including Extensions, Adjoining Existing or Proposed;
P1 – Pollution;
EMP1 - Employment Zones
EMP2 – Development outside of Employment Zones
T3 – Travel Plans
H7 – Development within Village Envelopes
- 5.2 Core Strategy
CE3 – Employment Zones
UR2 - Built Design and Character
ENV1 – Environment
- 5.3 Local Transport Plan (Essex County Council)
Appendix G

6.0 Consultations

- 6.1 The Highway Authority did not object to the application subject to improvements to the existing site access including a visibility splay, and a dropped kerb and tactile paving crossing in North Lane at the existing site access. These, and other, conditions are listed at the foot of this report.
- 6.2 Environmental Control replied as follows:

“Environmental Control has a history of complaints related noise from the current activities at this site. We believe that this proposal will be beneficial in terms of improvement in the structure and layout of the new buildings and securing some control of noise levels and hours of operation. (The site currently has unrestricted hours of operation).”

DC0901MW 01/02

Many conditions were proposed, especially relating to possible land contamination amongst other issues. These are covered at the foot of this report.

- 6.3 Environmental Policy did not object to the proposal. In a long response it weighed up the pros and cons, making mention of the fact that most of the site is not allocated for this use, but at the same time recognising that an extant use, with unrestricted hours of use, is in place. Policy asked for the prevention of mezzanine floors being provided in the light industrial units (to ensure the units are of a size that are more likely to be favourable to smaller, "nursery" rural businesses, and for the prevention of the change of use from light industrial to office use
- 6.4 The Arboricultural Officer is looking at the report which was submitted with the application, and a response is anticipated shortly.
- 6.5 Development Team considered the application and echoed all of the above recommendations.

7.0 Parish Council's Views

- 7.1 Marks Tey Parish Council has no objections.

8.0 Representations

- 8.1 One letter of support was received from a nearby neighbour. This stated that there were problems with the current use of the site, and that it was ugly, and that some of the buildings contained asbestos. Overall, the careful re-use of the site with considerate owners and better buildings and a tidier site, along with the creation of jobs, was seen as positive.
- 8.2 One objection was received from a resident of North Lane, as follows:

"The development at swifts he ,if it is for swifts own use only I have no objections as you dont know they are there. However should other firms operate out of there the road and bridge cannot I feel take the increase in volume of traffic there are regular "close shaves" on the bridge and leading up to it. The parish council are aware of the problem, a serious accident is waiting to happen." (sic)

- 8.3 A letter of mixed response was received from a near neighbour on North Lane, as follows:

"I am very concerned about the transfer of North Lane from a rural country road into an industrial area. We already have the problem of the Network Rail three acre site (with no planning permission). I am not convinced that all this commercial development should be allowed in what is green belt countryside and contravenes the Colchester Borough Council's Environment and Rural Communities Policies. I am not against the Swift new business park.

In principal, however when you also take into consideration the new car parking application for Network Rail (App Num 082055) with the new proposed car park exit only about 15 to 20 metres away from the Swift sites entry, exit, route, WITH THREE RESIDUAL DRIVES in North lane in this 15 to 20 metres, it would be very dangerous for the local residents to stop, reverse into their drives, and then try to exit from their homes in between these two sites, exit and entry points. As I have stated there should be no problem with the new proposed Swift site. The problem is if you allow the Network Rail exit point as well.”

9.0 Report

- 9.1 The application breaks down into two elements: the residential property and the employment use. The first of these is easily dealt with. The principle of a dwelling here is acceptable as it is within the Village Envelope, and has been sanctioned by previous permissions. The design is considered to be fresh, without looking too out of place, and acceptable in this location, with the usual conditions that materials should be agreed.
- 9.2 The second matter, that of the proposed employment use, is of a different and far more complex nature which requires lengthy explanation.
- 9.3 If the application were submitted on another site such as this, within a countryside location outside of a Village Envelope and not within a proposed Employment Zone, then it would be refused out of hand as being against policy.
- 9.4 However, the Local Planning Authority has to weigh in its consideration the fact of an existing established use on site, which also has no hours of use restrictions. In addition, the potential level of use on the site needs to be considered also.
- 9.5 The land and buildings in question were previously used by Adco, and are currently used by Swift Construction Limited which is operating a B8 (storage and distribution) business. Current site usage is at a reasonably low level, and several of the warehouses are empty.
- 9.6 As the authorised use is B8, this can be changed to a B1 use without any need for a planning application. B1 covers office as well as light industrial. Given that no restrictions exist on site in terms of hours of use and also given that access arrangements are not ideal, failing to act to improve the situation could be seen as a negative option.
- 9.7 The applicant has also stated that, as B1 includes the possibility of use as a call centre, this could entail large numbers of workers arriving by car at all hours of day and night.
- 9.8 The applicant has also stated that, by default, B8 usage pertains to the entire landholding, including the tapering section to the rear, and that open storage of unlimited height is, therefore, permissible across it. The applicant's main case is, therefore, that the proposal represents an improved offering.
- 9.9 The applicant's mention of possible use as a call centre, of storage across the site including all the way along the North Lane frontage, and 24 hour working, should not be seen as the idle threats which they might at first appear to be.

- 9.10 Whilst there is no way of proving or disproving that a call centre user is interested in the site, despite what the applicant may claim, it is a fact that such a user could move in, with resultant unsociable hours of movement to the detriment of residential amenity. For this reason, the proposal has to be considered positively.
- 9.11 Regarding the mention of unlimited outside storage across the site, the applicant's agent has long corresponded with this Authority and insisted that this is the case. This point is particularly relevant to the large open area to the rear of the site which is, like the rest of the site unallocated, and therefore seen as countryside. Your Officers accept that there is some credibility in this claim, and have suggested on several occasions that the applicant submit a Certificate of Lawfulness to regularise this. Thus far no such Certificate has been submitted, and thus the status remains unclear. This application is therefore seen as an opportunity to resolve the matter.
- 9.12 It is therefore proposed that the principle of the B1 nursery units be supported, but that the outside storage area be constrained both by height and by area. The applicant has suggested seven metres for the latter. For the former, a drawing has been appended to the file, by your Officer, with a proposed demarcation line which would have less visual impact, and could also open up the possibility of extra planting.
- 9.13 Turning to the specifics of the proposed design, this is an unashamedly fresh approach, and a move away from the traditional agricultural/industrial feel of the older buildings on site. At four metres in height for the crescent, the majority of buildings would be very modest in scale, and in site coverage would be less than at the moment (although as seen externally the bulk would be similar). Even the proposed headquarters, at 10 metres in height, is no higher than the existing warehouse buildings, although it is a continuous plane rather than the slopes and ridges of the existing.
- 9.14 The development would be visible from North Lane, and from passing trains, its views across open country to the north largely offset by a line of tall trees which are outside of the site. It has to be remembered, of course, that landscape impact is an existing issue.
- 9.15 The proposed improvements to the access, including visibility splays and dropped kerbs, are also seen as a major positive contribution.
- 9.16 The comments from the neighbour regarding the desire for there not to be multi-users on site is noted, but this contingency could easily occur now, without the need for a planning application. In addition, the proposed changes to the highway are deemed to ameliorate the situation.

10.0 Conclusion

- 10.1 Given the existing permitted levels of use, and the possibility that these might one day be implemented, also given the proposed Highway improvements and the creation of jobs, the application is seen as being on balance acceptable. Members are, therefore, requested to approve this application.

11.0 Background Papers

- 11.1 ARC; Core Strategy, HA; HH; PP; PTC; NLR, TL

Recommendation - Conditional Approval subject to a positive response from the Arboricultural Officer, and the dating of a Unilateral Undertaking for open space, sport and recreation.

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 commencement of the development shall take place until such time as the following have been provided or completed to the satisfaction of the Highway Authority:

- a. Improvements to the existing site access as shown in principle on the planning application drawings. Improvements to include a visibility splay measured a minimum of 2.4 metres back from the carriageway edge and maintained clear to the ground at all times
- b. A dropped kerb/tactile paving crossing in North Lane at the existing site access

Reason: To ensure the proposal complies with the County Council’s Highways and Transportation Development Control Policies, as originally contained in Appendix G of the Local Transport Plan 2006/2011 and refreshed by Cabinet Member Decision dated 19 October 2007.

3 - Non-Standard Condition

Prior to commencement of the development the planning application drawings shall be amended and submitted to and approved in writing by the Local Planning Authority in conjunction with the Highway Authority to show the following:

- 1. The proposed improvements to the existing site access designed to physically prevent all vehicles turning left in and right out
- 2. A visibility splay measured a minimum of 2.4 metres back from the carriageway edge (the extent of the applicant’s ownership/control and public highway also shown) o
- 3. The proposed footway into the site relocated to the north of the improved existing site access
- 4. A continuation of the footway which surrounds the proposed ‘nursery crescent’ building to link up with the proposed footway into the site mentioned above. This will require the 9no. retained parking spaces located on the north side of the site access road to be relocated further north and behind the footway The approved details shall be implemented to the satisfaction of the Local Planning Authority and Highway Authority prior to commencement of the development.

Reason: To ensure the proposal complies with the County Council’s Highways and Transportation Development Control Policies, as originally contained in Appendix G of the Local Transport Plan 2006/2011 and refreshed by Cabinet Member Decision dated 19 October 2007.

4 - Non-Standard Condition

Prior to the commencement of development, the applicant shall provide details, to be agreed in writing, with the Local Planning Authority and Highway Authority to ensure no mud and/or debris is deposited on the public highway by any vehicle associated with construction of the proposal. This scheme shall be complied with at all times.

Reason: In the interests of Highway safety.

5 - Non-Standard Condition

The cladding sound insulation performance for the units shall not be less than the sound reduction index values as listed in the table at paragraph 7.2 in the report compiled by Sharpes Redmore on 11th March 2009.

Reason: In the interests of residential amenity.

6 - Non-Standard Condition

Parking shall be laid out as per the approved drawings, and shall remain as such at all times.

Reason: To provide sufficient parking for users of the site.

7 -Non-Standard Condition

Prior to the dwelling hereby permitted being brought in to use, the applicant shall provide details of an acoustic fence between it and the access road. These details shall be agreed in writing by the Local Planning Authority and shall be installed as such prior to the dwelling being occupied, and shall remain as such at all times thereafter.

Reason: In the interests of residential amenity in the dwelling hereby permitted.

8 - Non-Standard Condition

Prior to the commencement of development, the applicant and Local Planning Authority shall agree an amended drawing which shows more circulation space about the southern edge of the buildings hereby approved. These details shall be implemented as such and retained at all times.

Reason: To allow adequate circulation space for long vehicles in the interests of Highway efficiency.

9 - Non-Standard Condition

A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 5dBA above the background prior to [the use hereby permitted commencing/the building hereby approved coming into beneficial use]. The assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the local planning authority prior to [the use hereby permitted commencing/the building hereby approved coming into beneficial use]. All subsequent conditions shall comply with this standard.

Reason: In the interests of residential amenity.

10 - Non-Standard Condition

The use hereby approved shall not commence until the building has been constructed/modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and approved in writing by the local planning authority. This shall comply with the initial noise condition.

Reason: In the interests of residential amenity.

11 - Non-Standard Condition

The B1 use hereby approved shall not be carried out anywhere on the site except within the buildings indicated on the approved plans.

Reason: In order to comply with the initial noise condition.

12 - Non-Standard Condition

Any plant, equipment or machinery on the premises shall be constructed, installed and maintained so as to comply with the initial noise condition. The noise generated by such equipment shall not have any one 1/3 octave band which exceeds the two adjacent bands by more than 5dB as measured at all boundaries near to noise-sensitive premises.

Reason: In the interests of residential amenity.

13 - Non-Standard Condition

The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme devised by a competent person for the control of [fumes, odours, dust, smell]. Such control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

Reason: In the interests of residential amenity.

14 - Non-Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light' for zone E2 (E2- rural, small village or dark urban areas); This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to [the building hereby permitted coming into beneficial use/the use hereby permitted commencing] a validation report undertaken by competent persons that demonstrates compliance with the above shall be submitted to the planning authority for approval. Having been approved any installation shall thereafter be retained and maintained to the standard agreed.

Reason: In order to reduce sky glow and safeguard the amenity of neighbouring residential properties by controlling the undesirable, disruptive and disturbing effects of light pollution.

15 - Non-Standard Condition

Prior to being discharged into any watercourse, surface water sewer or soakaway all surface water drainage shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To avoid unnecessary contamination.

16 - 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 the below conditions 16 to 19 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 avoid unnecessary contamination.

17 - Non-Standard Condition

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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 P1 of the adopted Local Plan (March 2004)].

18 - 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 P1 of the adopted Local Plan (March 2004)].

19 - 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 P1 of the adopted Local Plan (March 2004)].

20 - 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 16 "Site Characterisation", and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 17 "Submission of Remediation Scheme", 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 18 "Implementation of Approved Remediation Scheme".

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 P1 of the adopted Local Plan (March 2004)].

21 - 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 [17] "Submission of Remediation Scheme" above. This certificate is attached to the planning notification.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy P1 of the adopted Local Plan (March 2004)].

22 - Non Standard Condition

Open storage of materials shall be limited to a height of seven metres.

Reason: In the interests of visual amenity.

23 – Non Standard Condition

Open storage shall be limited to an area corresponding with the line on the drawing hereby returned, or to any other line as may be agreed in writing with the Local Planning Authority, but shall not be unrestricted across the entire site.

Reason: In the interests of visual amenity.

24 - Non Standard Condition

The use hereby permitted shall be limited to light industrial (class B1 (C)) only, and not office or Research and Development.

Reason: For avoidance of doubt as to the scope of this consent, and so as not to compete with more suitable locations for office use.

25 - Non Standard Condition

Hours of use condition – to follow, as the hours proposed by the applicants are unclear, and may be difficult to enforce.

26 - Non Standard Condition.

No mezzanines shall be inserted within the units hereby permitted.

Reason: To ensure that the units hereby approved remain of a size suitable for use as smaller "nursery" rural businesses.

27 - Non Standard Condition

Prior to the commencement of development of the dwelling hereby approved, materials shall be submitted to, and agreed in writing by, the Local Planning Authority. The materials shall be used as such.

Reason: In the interests of visual amenity

28 - Non Standard Condition

Samples of the materials to be used on the external finishes of the dwelling shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The development shall only be carried out using the approved materials.

Reason: In the interests of visual amenity.

29 – Non Standard Condition

Samples of the materials to be used on the external finishes of the employment buildings shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The development shall only be carried out using the approved materials.

Reason: In the interests of visual amenity.

30 - Non Standard Condition

Notwithstanding the provisions of the General Permitted Development Order 1995 (as amended in 2009) or any Order revoking and re-enacting that Order with or without modification), Part 1, Class B of that order (i.e. addition or alteration to its roof, including any dormer) is hereby removed.

Reason: In the interests of visual and residential amenity.

31 – Non Standard Condition

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

Means of enclosure.

Hard surfacing materials.

refuse or other storage units, signage, lighting).

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

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

32) Further conditions on tree protection measures to follow.

Informatives

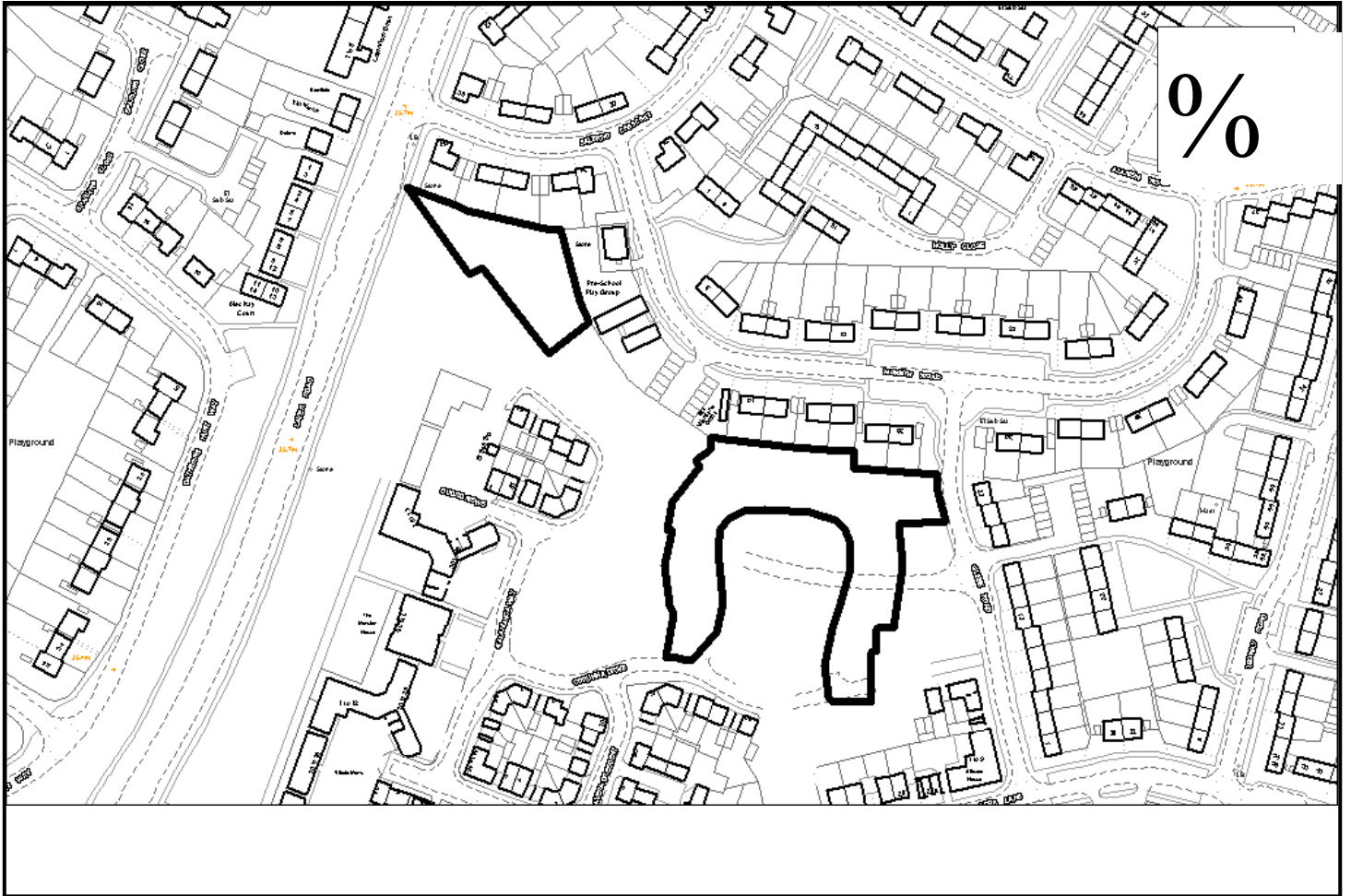
Prior to any works taking place in the public highway the developer shall enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.

All cycle and motorcycle parking shall be convenient, covered and secure.

Any proposed traffic calming shall be laid out and constructed having consulted the emergency services and bus operators.

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

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



Application No: 090416

Location: Fortuna Park, Lordswood Road, Colchester

Scale (approx): 1:1250

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7.2 Case Officer: John More

EXPIRY DATE: 16/07/2009

MAJOR

Site: Lordswood Road, Colchester

Application No: 090416

Date Received: 16 April 2009

Agent: Bdg Design (South) Ltd

Applicant: Countryside Annington (Colchester) Ltd

Development: Amendments to part residential development approved under ref: F/COL/04/1998 to replace 14no. flats and 14no. houses with 8no. 2 bed houses, 17no. 3 bed houses and 3no. 4 bed houses, together with minor amendments to garden area of plot 22R, external works, parking areas and open space.

Ward: Shrub End

Summary of Recommendation: Conditional Approval subject to signing of a deed of variation

1.0 Site Description

- 1.1 The site forms part of the partially completed larger residential development known as Fortuna Park, approved under application number F/COL/04/1998. The site has been cleared but was formerly married quarters for the armed forces. The site is broken into two areas known as phases 4 and 5.
- 1.2 Phase 4, the northern boundary abuts existing residential properties fronting Mareth Road while the north-eastern boundary adjoins a pre-school playgroup, also fronting Mareth Road. Other boundaries are with the existing approved residential development and public open space.
- 1.3 Phase 5, the northern boundary abuts existing residential properties in Mareth Road, while to the east a small section of revised development fronts Glebe Road. Elsewhere the site shares back boundaries with the existing approved residential development and fronts onto the public open space containing an approved Local Equipped Area of Play (LEAP).
- 1.4 Access to both phases is from the existing estate roads off Lordswood Road, except for plots 1R and 2R which have direct access for parking from Glebe Road.

2.0 Description of Proposal

- 2.1 The application proposes a replan of phases 4 and 5 and would contain 8no dwellings on phase 4 and 21no dwellings on phase 5. It would replace 14 houses and 14 flats (28 units) with 28 houses (8 two bed, 17 three bed and 3 four bed). The scale of the proposed dwellings would be two-storey. The proposal would utilise the approved highway layout with access to both phases from the existing estate roads off Lordswood Road, except for plots 1R and 2R which have direct access for parking from Glebe Road. The proposed revised layout retains the approved open spaces including the “village green” element of public open space containing the LEAP.

3.0 Land Use Allocation

- 3.1 Predominantly Residential

4.0 Relevant Planning History

- 4.1 F/COL/04/1998 - Demolition of 100 no. existing vacant residential properties and construction of 261 residential dwellings, together with associated open space and highway works – Approved 26th January 2005.

5.0 Principal Policies

- 5.1 Local Development Framework

Core Strategy:

SD1 - Sustainable Development Locations

SD2 - Delivering Facilities and Infrastructure

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR2 - Built Design and Character

PR1 - Open Space

PR2 - People-friendly Streets

TA1 - Accessibility and Changing Travel Behaviour

TA2 - Walking and Cycling

TA3 - Public Transport

TA4 - Roads and Traffic

TA5 - Parking

- 5.2 Adopted Review Colchester Local Plan 2004 saved policies:

DC1- Development Control considerations

UEA11 - Design

UEA13 - Development, including Extensions, Adjoining Existing or Proposed Residential Property

L4 – Provision of new Public Open Space

6.0 Consultations

- 6.1 The Highway Authority does not object to the proposal and recommend the highway work informative.
- 6.2 The Environment Agency has assessed the application as having a low environmental risk and therefore we have no objection to the development proposal.

7.0 Representations

- 7.1 No comments received.
- 7.2 Full text of all consultations and representations are available to view on the Council's web-site.

8.0 Report

Background

- 8.1 Planning permission was granted for the demolition of 100 existing vacant residential properties and for the construction of 261 new residential dwellings, together with associated open space and highway works in 2005 (ref: F/COL/04/1998). This proposal seeks to replan two areas of this approved residential development to respond to the change in market conditions. It would replace 14 houses and 14 flats (28 units) with 28 houses (8 two bed, 17 three bed and 3 four bed). It therefore is a simple replan of the units proposed raising issues of the layout and design, amenity and landscaping. The proposal would utilise the approved highway layout with access to both phases is from the existing estate roads off Lordswood Road, except for plots 1R and 2R which have direct access for parking from Glebe Road.

Design and layout

- 8.2 The phase 4 replan area proposes 8no dwellings on an area of approximately 0.23 hectares equating to a density of 35 dwellings per hectare. The phase 5 replan proposes 21no dwellings on an area of 0.48 hectares equating to a density of 44 dwellings per hectare. These densities would accord with guidance contained in PPS3 and the adopted Core Strategy and would sit well in the context of the approved and partially constructed layout.
- 8.3 The proposal contains a mix of 2, 3 and 4 bed houses and interfaces well with the approved layout. The proposed dwellings are two storeys in scale which respects the existing neighbouring residential properties and the approved new development. The design approach was set by the existing approval, which is partially completed; this proposal follows that design approach and is considered acceptable. The materials proposed would also follow the approved scheme so the entire development appears as one.

Trees and Landscape

- 8.4 The location of the green spaces was established by the previous consent and have been retained in the current proposal. The proposed layout would provide good natural surveillance over these areas of open space promoting a safe living environment.

Amenity

- 8.5 The layout has been carefully thought out and is not considered the proposal would result in harm the amenity of neighbouring residential properties.

Highways

- 8.6 The proposal does not alter the approved highway layout and no objections have been received from the Highway Authority in terms of highway safety.

S106 Matters

- 8.7 The proposal was presented to the Council's development team who noted the application but did not require any additional contributions to those already secured by S106 agreement in conjunction with the original full planning permission for the site. The application will need to be subject to a deed of variation to the original S.106 agreement which accompanies the full planning permission for the site. This is required to link any development provided with the requirements and the trigger points contained in the original S.106 agreement.

9.0 Conclusion

- 9.1 The proposed replan areas would fit in well with the approved layout and the existing residential properties and would provide a mix of houses. It would not harm the amenity of the area or interests of highway safety. A mechanism can be put in place to ensure that the entire negotiated planning gain package of the previous approval is secured. The proposal accords with adopted policy and approval is therefore recommended.

10.0 Background Papers

- 10.1 ARC; Core Strategy; HA; NR

Recommendation

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

- A deed of variation is signed to link this application to the original S.106 agreement

On the securing of the above deed of variation the Head of Environmental and Protective Services be authorised under delegated powers to grant planning permission subject to appropriately worded conditions to cover the following:

Conditions

- Time limit
- Approved drawings
- Removal of PD rights for means of enclosure to the front of the dwellings
- Retention of garages approved for the parking of a motor vehicle
- Schedule of materials for dwelling types to be agreed
- Samples of materials to be submitted and agreed
- Rainwater goods coloured black
- Schedule of materials for hard surfaces as shown of landscape strategy unless otherwise agreed
- Details of boundary treatment shall be as approved by previous application unless otherwise agreed
- Boundary wall to have a brick on edge coping and bricks to be agreed
- Soft Landscaping details
- Landscape management plan
- Tree protection
- Retention of existing trees and hedgerows unless shown to be removed
- Travel packs to be provided for each dwelling
- Pedestrian visibility splays on all accesses

Informatives

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

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

7.3 Case Officer: Andrew Tyrrell

EXPIRY DATE: 15/07/2009

MINOR

Site: Willow Grove, Grove Hill, Langham, Colchester, CO4 5PJ

Application No: 090688

Date Received: 20 May 2009

Agent: Pps Ltd

Applicant: Ms Lucy Glancey

Development: Demolition of existing bungalow and erection of 4/5 bedroom barn style property with detached triple bay garage and temporary siting of mobile home.

Ward: Dedham & Langham

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

- 1.1 This application is referred to the Planning Committee at the request of Councillor Garnett.
- 1.2 The main issue is whether or not the design approach taken is the most appropriate for this location, or if this results in a harmful impact on the surrounding countryside due to excessive scale and mass. The area is outside of the Area of Outstanding Natural Beauty (AONB).

2.0 Site Description

- 2.1 The site is located on the top of Grove Hill. The site contains one dwelling of single storey height. The footprint of this dwelling is approximately square, and sited to the southern end of the site (with the site sloping downwards to the north). The property is of no particular architectural merit and offers little value to the surrounding area, whilst being unobtrusive to the countryside. The main village of Langham is found further to the south.
- 2.2 The site is well established and subsequently has a reasonable amount of natural screening and vegetation. This includes several mature trees. The access is directly off Grove Hill, with entrance solid gates. Grove Hill is a narrow lane with several turns and crests along its overall distance.

2.3 To the north is Grove Cottage, located downhill, whilst on the opposite side of the road (western) is Grove Farm. This farm has several barns and agricultural outbuildings, including one immediately adjacent the highway verge. This is a typical agricultural building and is consequently of quite a grand scale for a rural location. Again, it is of no particular architectural merit and is not a historic barn; however such buildings are typical of this locality and do contribute to local character to some degree.

3.0 Description of Proposed Development

3.1 The application proposes the demolition of the existing single storey dwelling and its replacement with a larger two-storey dwelling of a barn-style design.

3.2 The proposal also includes the temporary siting of a mobile home for the residents to live in during construction. This mobile home has been placed on the site already, apparently for 2-3 months.

4.0 Land Use Allocation

4.1 The site is designated as a countryside conservation area. There are no other designations on the land. The site is currently in residential use.

5.0 Relevant Planning History

5.1 In 1962 an application for the erection of a dwelling was refused and a subsequent appeal dismissed (reference LEX/138/62). In 1965 an application for the stationing of a caravan was also refused (LEX/504/65). Later, in 1979, application 79/1516 gave permission for the erection of a double garage. None of these applications were considered under current planning policies and therefore have little impact on the consideration of the current proposal.

6.0 Principal Policies

6.1 The following adopted Colchester Borough Review Local Plan (2004) policies are relevant:

- DC1 – Development Control Considerations
- CO3 – Countryside Conservation Areas
- CO4 – Landscape Features
- UEA11 – Design
- P7 – Energy Efficiency
- H9 – Replacement Dwellings in the Countryside

6.2 In addition, the following policies of the adopted Colchester Borough Core Strategy (2008) are also applicable:

- UR2 – Built Design and Character
- ENV1 – Environment
- ER1 – Energy, Resources, Waste, Water and Recycling

7.0 Consultations

- 7.1 Trees and Landscaping – Agreement to the landscape recommendations within the report provided, subject to conditions (set out in the recommendations below).
- 7.2 Conservation and Design – The design of this property is acceptable and was advanced in negotiations by an urban designer at a pre-application stage. Early informal advice was that a barn style approach is appropriate if accurately portrayed. Previous recommendations to hip the roof and reduce the span of the gabled elements have been taken onboard in the submitted drawings.
- 6.3 ECC Highways – No objection subject to suitable conditions (set out in the recommendations below).

7.0 Parish Council's Views

- 7.1 Langham Parish Council – Objection:

The applicant seeks to demolish a small bungalow redeveloped within the last 40 years and to erect a 4/5 bedroom barn-style property and detached double garage on this site, within the open countryside.

The Local Plan makes it clear that the historic character of the countryside will be protected by resisting non-essential development to protect its open and underdeveloped character. It also takes account of the effect of development on the character of villages and the surrounding countryside. In cases where villages are reached through country lanes, as is the case herein, new development should be of a scale, size and appearance that does not harm the character of the area. The Borough also tries to retain a mix of housing size stocks with particular retention of small housing for lower-income residents. This application does not conform to these policies.

Policy H9 states that any replacement dwelling must be acceptable by virtue of its scale, form, design, siting and materials and also reinforces the local vernacular style and sense of place. Policies DC1, CO1 and CO2 also have a bearing.

We note that both neighbouring properties have listed building status, namely Langford Hall and Grove Cottage. The new property will have an adverse visual and landscape impact on the adjacent Black Brook Valley and Dedham Vale, both conservation area and AONB.

Finally, we cannot trace any time limit set for the temporary siting of the mobile home, which has already been placed on the site.

8.0 Representations

- 8.1 No public representations have been made.

9.0 Report

Context and Design

- 9.1 The application involves a substantial increase in the physical size of the dwelling and is within the countryside. Policy H9 does state that substantial increases in size will be resisted, however this is one of many considerations. There should be some degree of demonstrable harm caused by the increase in size, rather than a black and white interpretation of this policy, which would restrict the design options on most properties. Instead, it is considered by the case officer with advice from the conservation and design team that some flexibility should be offered where a more appropriate design solution can be achieved by exceeding the 33.3% offered as a suggested limit within the supporting text. As this suggested percentage is not in the policy itself it carried less weight and it should be understood in any decision making that this is not an exact cut-off point.
- 9.2 In terms of Policy H9, any replacement dwelling must be acceptable by virtue of its scale, form, design, siting and materials and also reinforces the local vernacular style and sense of place. The immediate proximity of this site is rural hinterland dispersed with agricultural farm buildings. Indeed, directly opposite the highway is bound by a large agricultural building, part of a larger farm complex. The close relationship of this building with the road makes it highly visible. Subsequently, the appointed planning agent has picked up on this theme and approached the Council about a barn-style design for the replacement dwelling. Barn style approaches, by virtue of their nature, require a reasonable scale and bulk in order to replicate a barn authentically, agricultural buildings needing to be accessible to large machinery.
- 9.3 On this basis the design approach is considered to be reflective and respectful to the local character of the area and typical of the countryside. Therefore, a slightly larger scale is consequential of the more appropriate design approach taken. If it is agreed that this is the most appropriate design approach, the crux of the matter then becomes whether or not this approach can avoid having a harmful impact on the countryside.

Impact on the Surrounding Countryside - Scale and Layout

- 9.4 Policies make it clear that the character of the countryside will be protected from harmful development. Therefore, consideration should be given to what effect this development would have on the character of the surrounding countryside. It is considered by the case officer, that the existing property adds no value to the countryside, so its demolition would offer the opportunity to provide a more suitable property. Given that the site is opposite an existing farm holding the barn style dwelling proposed would be in keeping with the character of these buildings and would sit comfortably in its setting. The design of the building is complimentary to its context and can not be reasoned to be harmful to character in its design and appearance.

- 9.5 The country lane that passes the site, like many lanes in the area, has several examples of agricultural buildings along its length. These are often of a scale, size and appearance that compares with this dwelling. On this basis, it is considered that there are limitations to the harm caused by the new property in terms of any adverse visual and landscape impact on the adjacent Black Brook Valley. Although it would be visible, would it cause harm? In terms of the AONB, this is a reasonable distance from the site and views towards the property from within the AONB would be limited. Also, from nearby listed buildings there is no impact due to the existing landscape screening in these sites as well as the retained and additional landscaping on site that would be required by condition. Therefore, the site would be expected to be integrated into its immediate setting through suitable landscaping.

Impact on Neighbours

- 9.6 As stated above, the listed buildings of Langford Hall and Grove Cottage are not affected by the development. Both of these are located a significant distance from the proposed building. The proposed property would also have no impact on light, privacy or any other amenity.

Landscaping

- 9.7 As with all new developments, any permission given should be subject to landscaping conditions that require the agreement and implementation of a satisfactory landscaping scheme. This offers the opportunity to mitigate some of the additional bulk of the property through more appropriate planting to this rural area.

Other

- 9.8 Arguments made against the property have included that this would set a precedent for further development in the area. This argument is limited in that every planning application should be judged on its own merits and in this case there are important features that are not relevant to other sites. Specifically, this application is different because of the immediate proximity of other agricultural buildings that means that this building would blend into the existing setting.
- 9.9 Another argument against the property is one of sustainability. It has been pointed out that the property is weak on the energy efficiency front. A weakness of the scheme is that there is no provision detailed within the application for any green features such as grey water systems, solar heating, or other renewable energy source. This has been discussed with the applicant and they are considering what opportunities they can take. If any proposals are received prior to the committee meeting to add renewable energy to the scheme then this will be reported via the amendments sheet.
- 9.10 Whilst the Borough attempts to retain a mix of housing sizes with particular retention of small housing for lower-income residents, this policy does not carry the weight necessary to refuse an application on its own. It is likely to be held unreasonable to limit people's right to develop their land on this basis, therefore serious thought should be given to including this reason in any refusal.

9.11 Finally, the time limit set for the temporary siting of the mobile home would be until the first occupation of the new dwelling. It is correct that the caravan has already been placed on the site, although this is a separate issue and should not affect the outcome of this item.

10.0 Conclusion

10.1 In summary, the design of a barn-style dwelling is most fitting to this specific site due to the surrounding buildings already found opposite. A barn-style design would not work in small scale, therefore it is argued that some flexibility should be taken over the replacement dwelling policy (which recommends a maximum increase of 33.3% of the size of an existing dwelling). Whilst the increase proposed herein will make the dwelling more visible, this does not in itself make it more harmful. The development would not be harmful to its immediate environment and is of limited views from the AONB and nearby listed buildings. Therefore, the degree of harm caused is considered to be minimal by the case officer.

11.0 Background Papers

11.1 ARC; Core Strategy; TL; CD; HA; 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 caravan/mobile home hereby approved for temporary use on the site during the construction of the proposed replacement dwelling shall be removed from the site within 7 days of the first occupation of the approved dwelling.

Reason: For the avoidance of doubt as to the scope of the permission, as the caravan has only been permitted on this basis, to set a suitable timescale for its removal and to ensure that only one dwelling is present on the site in accordance with policy.

3 - 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: There are insufficient details regarding some of the materials proposed within the application to ensure the use of an appropriate choice of materials having regard to the prominence of this site in the countryside.

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

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

Reason: The approved development represents a significant increase in the amount of development on site and consideration needs to be given to any subsequent development, including dormer windows as these would not normally be found in barn roof faces and any other extensions or outbuildings.

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

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

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

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

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

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

7 -C10.18 Tree and Hedgerow Protection: General

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

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

8 - Non-Standard Condition

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

Reason: To ensure that the work is undertaken in a satisfactory manner and as agreed by the Local Planning Authority in determining this application.

9 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting). Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

10 - C11.12 Landscape Works Implementation

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

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

11 - Non-Standard Condition

Prior to first use of the access, vehicular visibility splays with dimensions of 43 metres by 2.4 metres as measured from and along the nearside edge of the carriageway shall be provided on both sides of the access. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times thereafter.

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

12 - Non-Standard Condition

Prior to the first use 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 users of the access and the existing public highway for the safety and convenience of users of the highway.

13 - Non-Standard Condition

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

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

14 - Non-Standard Condition

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

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

15 - B9.1 Refuse Bins

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

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

16 - B9.2 Recycling Facilities

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

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

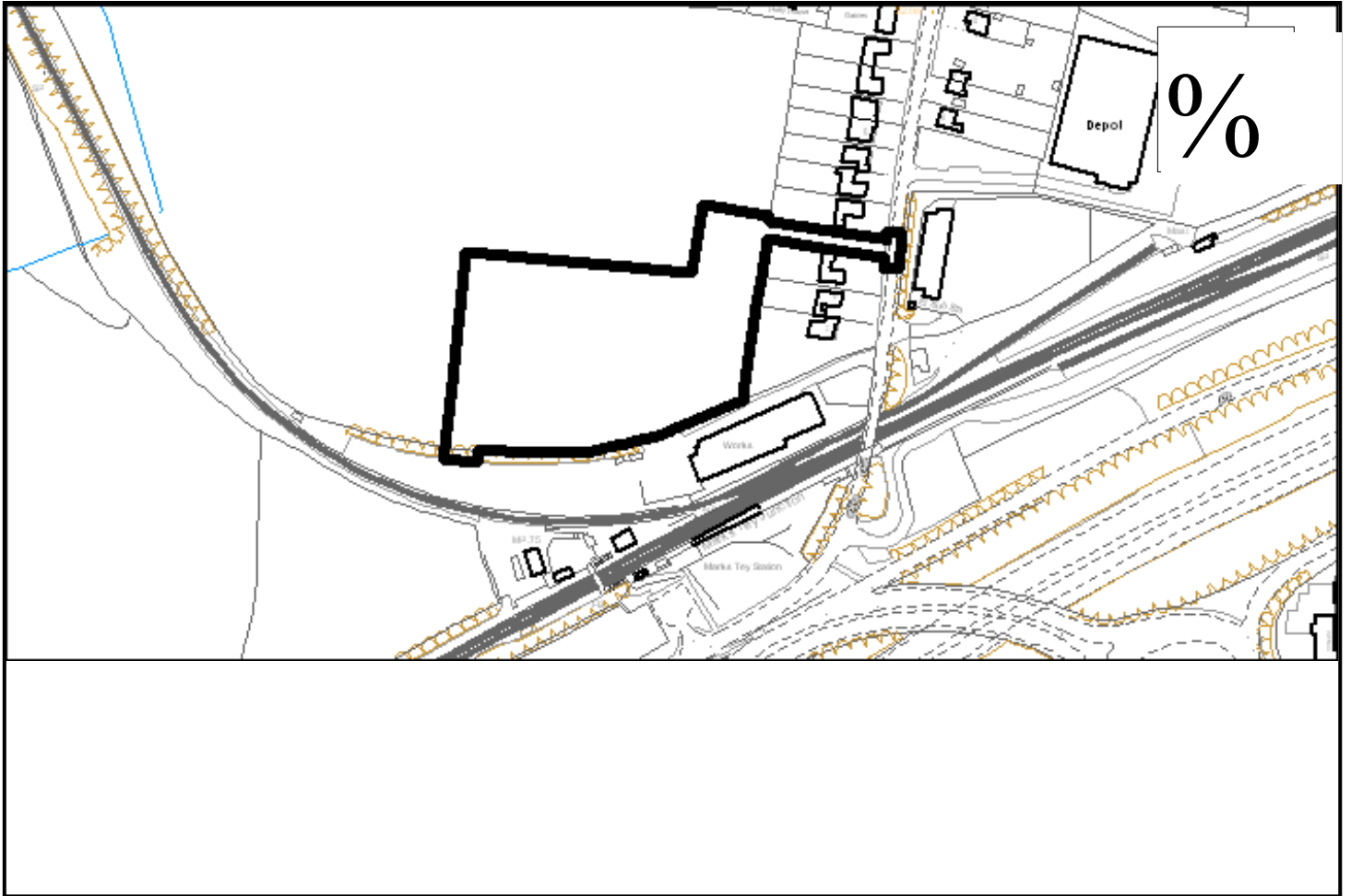
Informatives

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

Any technical interpretation of the tree and landscaping conditions should be sought externally from relevant professional consultants (i.e. arboricultural specialists). Details of local practices are available without prejudice through Arboricultural Officers on 01206 282469 (AM only). In the interests of efficiency any clarification of technical requirements should initially be discussed between the relevant professionals.

Any works affecting the highways should only be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. Application for the necessary works should initially be made by telephone on 01206 838600.

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



Application No: 082055

Location: Land At, Marks Tey Railway Station, Station Road, Marks Tey, Colchester

Scale (approx): 1:1250

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7.4 Case Officer: John Davies

OTHER

Site: Marks Tey Railway Station, Station Road, Marks Tey, Colchester

Application No: 082055

Date Received: 4 December 2008

Agent: Collins & Coward Limited

Applicant: National Express East Anglia And Network Rail

Development: Extension to existing car park to provide 154 spaces (gross) together with new access, lighting, cctv, signage, ticket machines and associated drainage and infrastructure

Ward: Marks Tey

Summary of Recommendation: Refusal

1.0 Planning Report Introduction

1.1 This report was deferred from the last Committee meeting to permit consideration of further information submitted by the applicants in order that members have what the applicants believe to be all relevant information before them.

1.2 Any additional information received will be reported on the Amendment Sheet.

1.3 The previous report is reproduced below:-

2.0 Site Description

2.1 The application site comprises a parcel of agricultural land situated immediately to the north of Marks Tey Station and extending to 1.3 ha. The land adjoins other agricultural land to the west and north and a row of houses (Nos. 11-17 North Lane) along its eastern boundary. The latter forms part of a small settlement of houses on both sides of the road defined as part of a Principal Village (Marks Tey) in the Local Plan, the majority of which lies to the south of the A12/A120 interchange.

2.2 Marks Tey Station is on the Great Eastern Mainline between London and Norwich and is also the southern junction to the Sudbury-Marks Tey branch line (also known as the Gainsborough Line). The line is operated by National Express East Anglia (NXEA) under franchise from Network Rail. Marks Tey station has two existing car parking areas operated by NXEA. The north car park, accessed from North Lane, has 130 spaces and the south car park accessed from Station Road has 90 spaces. In addition to these car parks there is a privately run car park to the south of Station Road which has a capacity of around 50 spaces. This car park has been in use with the benefit of a series of temporary permissions first granted in January 1997 and most recently in January 2006, which expired on 31 January 2007. The car park is,

however, on un-even, un-made ground with no marked parking spaces and therefore is less than ideal. Permission has not been renewed and the use of the land for car parking is therefore unlawful. In total, the station has around 270 car parking spaces.

3.0 Description of Proposal

3.1 The proposal is for the change of use of the site from agriculture to use as a car park extension to the station. The car park would provide 154 spaces and would be linked by a ramp to the existing north car park. It also includes the provision of a new egress onto North Lane in between nos. 17 and 19. The proposed egress could either be used by all cars using the existing car park and its extension or only by those cars using the car park extension. Access into the existing car park and extension would continue to be from the existing access on North Lane. The scheme would provide a net increase of 150 spaces due to the loss of 4 spaces in the existing car park in order to provide the access link. This would increase capacity provided by NXEA by 68% and car parking as a whole by 55% and result in 420 car parking spaces overall. In addition, it is proposed to increase cycle parking by installing cycle racks to accommodate 12 bicycles in the car park. The proposals include lighting and CCTV provision together with hedgerow planting and fencing to screen the car parking area.

3.2 The main justification for the increased car parking is set out in a letter from NXEA and the Planning Statement which are summarised as follows:

- There has been annual railway passenger growth at Marks Tey Station of 7% per annum since 2004. in the national context official statistics indicate that:
 - Passenger journeys have increased across the East of England by 57% from 1995/6 to 2004/5
 - Rail journeys increased nationally by 24% between 1981-2 and 1998-9
 - Greater Anglian Region is expected to grow peak passenger journeys by an average of 19% by 2021 and by 28% if additional capacity is provided.
- Capacity of the station car parks especially during weekdays is unable to cope with demand and are full by 9am on weekdays. Network Rail survey indicated 91% car park capacity in 2006. This leads to use of cars rather than rail by commuter passengers and off peak leisure passengers resulting in increased road congestion. Cars are parked in surrounding roads and pubs. Increased numbers of complaints by users about lack of sufficient parking at the station.
- Other factors influencing demand:
 - Increased planned residential development in Colchester. Means increased demand for use of Marks Tey station and this would be preferable to additional demand on North Colchester Station.
 - Sudbury Branch line- additional parking would provide greater support to users if this line fails
 - Effects are worse in Winter months when more people use their cars.

3.3 Location of car park in countryside and outside Village Envelope can be justified on the grounds that:

- It is located adjacent to an existing car park
- No other locations satisfy operational needs
- Essential to meet increased passenger demand for rail travel
- Landscape mitigation proposals

3.4 The application is accompanied by a Planning Statement, DAS and a Transport Assessment. In addition, during the course of the determination of the application further information has been provided in respect of:

- Consideration of alternative sites for additional car parking
- Impact on trees
- Noise report assessing impact of traffic noise

3.5 This application is part of a regional programme of car parking expansion proposals to increase car parking provision at railway stations. Marks Tey is one of 14 stations where car parks are being expanded mostly with the benefit of permitted development.

4.0 Land Use Allocation

4.1 No notation

5.0 Relevant Planning History

Application Site:

5.1 87/2196- Change of use of agricultural land to provide additional station car parking- Refused 23.6.88. Dismissed on appeal on 21.4.1989.

5.2 072690- Extension to existing car park to provide 150 spaces together with new access arrangements, lighting and CCTV- Withdrawn 28.5.08

5.3 This is the third application for car parking on this land. The first was back in 1988 under application 87/2196. This proposal was for use of the whole of the area of the southern part of the field for parking to meet a shortfall of parking of between 50-100 spaces but no details of layout or parking numbers were provided. Access was proposed in between nos 17-19 North Lane. The application was refused by the Council on grounds of unacceptable incursion of urban development into the rural area to the detriment of the visual amenity and rural character of the area and the impact of noise, fumes and disturbance on the amenity of nearby residents caused by increased traffic. At appeal, the Inspector considered that the needs for additional parking did not override what she considered to be 'significant planning objections to the proposal'. These were firstly, that the development, taking into account proposed landscaping and degree of visibility of the site, would 'result in a major incursion into

the open, rural area and would be detrimental to the character of that area.’ On the second issue, she considered that the residents of the bungalows backing onto the site would suffer a substantial loss of amenity in terms of noise and disturbance and, in particular, the residents of the bungalows either side of the proposed exit would suffer from noise and loss of privacy.

Private car park site:

- 5.4 97/0908- Temporary use of land as car park- approved 6.11.97
- 5.5 T/COL/00/1118- Non compliance to condition 01 of COL/97/0908 to allow continued use of land for car parking- temporary approval 8.9.2000
- 5.6 C/COL/05/1918- Change of use of land as car parking- approved 18.1.06

6.0 Principal Policies

- 6.1 Adopted Review Colchester Borough Local Plan Saved Policies-March 2004
 - DC1- Development Control considerations
 - CO4- Landscape Features
 - T9 – Car parking
 - P1 – Pollution (General)
 - P2 – Light Pollution
- 6.2 Adopted Core Strategy-December 2008
 - TA1 – Accessibility and Changing Travel behaviour
 - TA3- Public Transport
 - ENV1- Environment
- 6.3 East of England Plan-
Transport Policies
- 6.4 Government Documents-
Delivering a Sustainable Railway White Paper July 2007
PPG13-Transport

7.0 Consultations

- 7.1 Spatial Policy Team-

“The documents submitted with the application make a case for the need for additional station parking. The East of England Plan encourages improvements to the railway as part of a package of measures to facilitate significant growth to 2021. The July 2007 Rail White Paper ‘Delivering a Sustainable Railway’ states that car parking provision can be part of an effective environmental response if it encourages people to make the longer part of the journey by train, rather than simply drive. Adequate car parking capacity is a key part of increasing overall capacity and improving access to the network. The Table in Appendix F to the Planning Statement indicates a high level of utilisation for the car park at 91% in 2006.

Policies TA1 and TA3 in the adopted Core Strategy encourage improved accessibility by enhancing sustainable transport links and encourage modal shift towards sustainable modes particularly at the urban gateways (although Marks Tey Station is not identified as one of the urban gateways).

The Adopted 2004 Local Plan until 2007 included Policy T10, which stated that provision will be made for adequate public off-street car parking at local railway stations (with Marks Tey being given priority). The Policy was not saved for use after 27th Sept 2007 as it was considered too specific for the LDF and is covered by T9 and the transport chapter. Policy T9 refers to a gradual reduction in the general demand for car parking facilities based on steady, phased improvements in public transport services. Paragraph 11.54 of the Local Plan states that the Council wishes to ensure adequate provision for public off-street car parking at local shopping centres, railway stations ... to avoid haphazard on-street parking ... and refers to Marks Tey station in this regard.

Policy ENV1 in the Core Strategy states that the Council will conserve and enhance its natural environment and countryside outside of the settlement boundaries. Where development needs or is compatible with a rural location, 7 criteria are listed as appropriate for further consideration – these include the provision of any necessary mitigating or compensatory measures. Other saved Local Plan policies of relevance include DC1, P1 and P2.

The proposal will increase car movements within the immediate vicinity of the station; however, it is anticipated that this will lead to an overall reduction in the number of longer car journeys in the region by encouraging people to take the train for the longer part of their journey. The EEP refers to July 2007 Rail White Paper, which in turn gives encouragement to providing better access to stations/production of station travel plans. Provision of car parking is one part of improving access to stations - car parking provision is part of an effective environmental response if it encourages people to make the longer part of the journey by train, rather than simply to drive. Future growth in Colchester area to at least 2021 and investment in the railways is likely to increase numbers of people looking to access Marks Tey Station. The lack of a wider Travel Station Plan is disappointing, but it may be difficult to refute the need/ sustainability aspect of the proposal.

The submission is however, disappointing in a number of respects:

- The absence of a Station Travel Plan (encouraged by the July 2007 Rail White Paper), and/or consideration of access by more environmentally friendly means of transport to the main line train station (including increased pedestrian and cycle use, improving bus services, and increased passenger use of the branch line).
- It does not clarify why the site occupied until 2010 by the temporary Network Rail Offices would not be suitable for additional long-term parking – although it is noted that the lack of a footway on the other side of North Lane may not facilitate safe pedestrian crossing at this point.
- It does not clarify why an additional exit point to the new car park is considered necessary – it is noted that this will have an additional impact on the countryside resulting from the access between the highway and the car park.

If permission is granted substantial landscape planting for the proposed new parking area and the new access road would be considered appropriate and a necessary mitigating factor referred to by Policy ENV1 in the Core Strategy. “

7.2 Transportation Policy Manager:

“We are not opposed to car park expansion but this expansion appears excessive especially in comparison with rail industry forecast growth and the traffic growth calculated for the LDF.

The proposal only follows part of national and regional policy in car park expansion and does not look at other improvements as the policies suggest. Alongside car park expansion we would expect investment in other modes.

They have not evidenced some of the claims for the expansion – reduction in longer car journeys, and some of the claims for expansion are tenuous e.g. branch line failure and winter months.

Guarantees need to be made that this proposal will not undermine the vitality and operation of this Community Rail Partnership line.”

7.3 Environmental Control requested an acoustic report to consider the effect of acoustic fencing along the exit road. Unfortunately, the submitted report has not addressed this issue. However, with further consideration we feel that the visual impact of an acoustic fence is likely to be unacceptable to the residents that live next to the exit road.

We specifically did not request an environmental noise assessment of the car park exit road as we believe that the impact on the nearest bungalows could not be adequately assessed using standard guidelines.

The acoustic report predicts road traffic noise during the daytime expressed as a LA10, 18hr with reference to the peak hourly traffic flow of 111 vehicles per hour. The predicted peak hourly traffic flow for the year 2017 is 121 vehicles however this is not likely to affect the calculations significantly.

The predictions are in accordance with the Calculation of Road Traffic Noise (CRTN) methodology. This is aimed at calculating the noise impact of an increased volume of traffic on a road. However, we believe that this will not be useful for assessing the impact of cars travelling at low speed on an exit road and slowing down to join the North Lane junction. In this case the noise will be largely dependent on the gear selected and will not be typical passing road traffic noise.

In this case the bungalows will be subjected to a new source of noise to the side and rear of them and occurring within 3.5 metres of two of the bungalows. During the peak hours we believe that the enjoyment of these properties (especially the garden areas) will be significantly affected although accept that this will not be the case over the whole of the daytime period.

The night-time assessment has been based on maximum noise levels and the report predicts a significant impact on the residential properties if the vehicles were to use the proposed exit.

The report indicates that the noise levels from the car park activities would have a negligible impact on the neighbouring properties. Environmental Control wish to point out do not raise any objections to the car park extension itself but only to the new exit.

- 7.4 Tree Officer- no objection in response to the submitted Tree Survey and Arboricultural Implication Assessment. There is likely to be minimal impact on trees within the rear gardens of houses fronting North Lane.
- 7.5 Landscape Officer- no objection to proposal subject to following amendments:
- In order to help adequately screen the development from the open countryside, the 2m landscape strip currently shown to the perimeter of the car park area also needs to be extended to bound the western verge and exposed northern boundary of the proposed access road.
 - In order to help strengthen local landscape structure both visually and ecologically the strip of land that development would isolate between the access road and the existing development edge should be planted up with a native shrub and tree belt.
 - In order to help prevent any adverse effects on the adjacent rural landscape any proposed lighting should be confirmed as being no greater than Category E2 as set by The Institute of Lighting Engineers.
- 7.6 Highways Agency- raise no objection. Comment that “Given that the proposal is for an extension to the car park for the railway station, and that the Highways Agency wishes to promote sustainable travel, we are willing to accept a minor increase in flows to achieve a greater modal shift from road to rail, thus having potentially fewer vehicles on the trunk road network as a whole.”
- 7.7 Highways Authority- do not raise an objection subject to the following recommendation:
1. No occupation of the development shall take place until such time as the following have been provided or completed to the satisfaction of the Highway Authority:
 - The provision of a new egress onto North Lane as shown in principle on planning application drawing number MT/NWK/599/003 rev prepared by Morgan Tucker Consulting Engineers. This shall include a 90m x 2m x 75m visibility splay maintained clear to the ground at all times. Details to be agreed with the Highway Authority
 2. Other requirements:
 - Measures shall be provided to ensure no mud and/or debris is deposited on the public highway by any vehicle associated with construction of the proposal. Details to be agreed with the Local Planning Authority and Highway Authority
 - The above is required to ensure the proposal complies with the County Council’s Highways and Transportation Development Control Policies, as originally contained in Appendix G of the Local Transport Plan 2006/2011 and refreshed by Cabinet Member Decision dated 19 October 2007
 - The requirement contained in 1 above shall be imposed by way of negative planning conditions or planning obligation agreements as appropriate
 - Prior to any works taking place in the public highway the developer shall enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
 - All highway related details shall be agreed with the Highway Authority

- Number of parking spaces, including disabled, cycle and motorcycle shall be in accordance with those standards set down within Essex Planning Officers Association, Vehicle Parking Standards, August 2001. Further all cycle and motorcycle parking shall be convenient, covered and secure

7.8 The Highway Authority have since added to their recommendation a further requirement under section 2, whereby all vehicles using the new car park must use the new egress at all times.

8.0 Parish Council's Views

8.1 Marks Tey Parish Council objects to the application on the grounds of its impact on the local area and on local residents in particular. Consider there are serious issues about traffic flow on North Lane and over the narrow bridge, about the management of egress and there are quality of life and environmental concerns.

9.0 Representations

9.1 Objections have been received from many residents living on North Lane on the following grounds:

- Increase in traffic on North Lane (to add to that already using Net Rail Depot and Swift Industrial Park)
- Area is already a heavily trafficked location and North Lane has very poor visibility for vehicles crossing the bridge over the railway lines
- There are empty spaces in the car park during the day. One neighbour counted 30 free spaces at 13.45 on 8 December 2008.
- Lighting of car park will cause nuisance at night
- Gap between nos. 17/19 is narrow and expect additional congestion at this proposed exit
- Exit will generate nuisance to adjoining properties
- Other links to Marks Tey station should also be explored in addition to increased car parking capacity
- Benefits will be to people outside Colchester
- Traffic survey within application confirms that the A120 roundabout is operating at capacity.
- A Travel Plan needs to be produced with any expansion plans- consideration of a rail bus service to nearby villages and estates should be considered as means of reducing existing car park demand.
- Development on agricultural land and part of Colne Valley SSSI contravenes Policy ENV1 Environment in Core Strategy
- Increased risk of flooding from hard surface works and unclear where surface run-off will go as proposed not to go into existing drainage system
- There are many small traffic incidents in North Lane and many are not reported.
- Why can't the Network Rail site be used for additional car parking?
- Safety of new exit close to Network Rail site access point.
- The existing access/egress into the car park from North Lane has poor pedestrian facilities with no path, lighting and poor surface
- New car parking will not reduce roadside parking which results from drivers not willing to pay car park charges

- Improvements to flow of traffic on A120 roundabout likely to hinder not help vehicles exiting from Station Road.
- Increased security risk to houses backing onto car park
- Traffic surveys were carried out in August 2007- do not account for holiday period for commuters and schools.

9.2 Ward Councillor Elizabeth Blundell strongly objects to proposal on the following grounds:

- Loss of Greenfield site leading to loss of amenity to neighbours and increased flooding from additional hard surfacing
- Lighting cause intrusion to neighbours
- Impact of additional cars, noise and fumes in North lane
- Bridge not capable of taking additional traffic
- Additional car parking will not reduce congestion at Colchester station because:
 - Many users drive to Marks Tey because of parking closer to platforms and cheaper fares
- Additional parking should not be justified as back up to Branch line
- Do not accept that existing parking is at capacity
- Likelihood of additional traffic from the development site on the east side of North Lane
- Suggest use of the operational railway site to the south of the bridge as car park

10.0 Report

10.1 The main issues are as follows:

- Change of use of agricultural land not zoned for development in the adopted Plan
- Assessment of need for additional parking
- Consideration of alternative sites
- Alternative transport modes and impacts on branch line
- Highway access issues and increased traffic
- Impacts of proposals on neighbours
- Impacts on trees and landscape

Change of use issue

10.2 The site is agricultural land, which according to the application form has not been farmed since 1989. It is stated as being in the ownership of Mr Melrose of Scotties Farm, Easthorpe. It is not contended that the land is not capable or not viable for continued agricultural use. The site benefits from an existing agricultural access off North Lane in between Nos 17 and 19. The land has no notation although it adjoins the Marks Tey Village Envelope drawn around the properties on both sides of Station Road to the east.

- 10.3 Policy ENV1 dealing with development in the countryside states that unallocated greenfield land outside of settlement boundaries will be protected and development will be strictly controlled to conserve the environmental assets and open character of the Borough. There are 7 criteria that any development that needs or is compatible with a rural location should demonstrably meet.
- i. be in accord with national, regional and local policies for development within rural areas, including those for European and nationally designated areas;
 - ii. be appropriate in terms of its scale, siting, and design;
 - iii. protect, conserve or enhance landscape and townscape character, including maintaining settlement separation;
 - iv. protect, conserve or enhance the interests of natural and historic assets;
 - v. apply a sequential approach to land at risk of fluvial or coastal flooding in line with the guidance of PPS25;
 - vi. protect habitats and species and conserve and enhance the biodiversity of the Borough;
 - vii. provide for any necessary mitigating or compensatory measures.
- 10.4 With regard to Point (i) the applicant's case is that there is a need for more car parking at the station which cannot be met elsewhere on any other land and it is appropriately located as an extension to one of the existing car parks. The provision of additional car parking at railway stations is in accord with national and regional policy if it means that it facilitates a shift from use of the car to rail for commuter and other journeys. National, regional and local plan policies are considered in greater detail in the next section where the need for additional parking is considered.
- 10.5 Point (ii)- the car park will have a visual impact on the countryside as it will extend the boundary of the station northwards into an existing field and would create a visual impact of hard surfacing, cars, lighting, fencing together with the access road which will extend further north to the proposed exit on North Lane. These impacts can be mitigated to some degree by screening and controls on the nature and use of the lighting.
- 10.6 Point (iii) – the Landscape Officer considers that, subject to some amendments to the proposed screen planting, the proposal would not have an adverse impact on the landscape character of the area.
- 10.7 Point (iv)- there are no particular impacts on natural or historic assets.
- 10.8 Point (v)- there are no flood risk issues.
- 10.9 Point (vi)- there are no ecology implications arising from the development.
- 10.10 Point (vii)- mitigation of the development impact is proposed in respect to landscape screening and enclosure of the car parking, lighting design to limit possible glare and overspill problems,

Assessment of need

- 10.11 The applicant's case is briefly set out earlier in the report. They argue that the existing car parking facilities at the station are at operational as opposed to absolute capacity and there is a need to provide additional parking in order to support and encourage more people to use the train for the longest part of their journey rather than the car. There have been challenges by objectors to the applicant's assertion that the existing car parking is at capacity and on two separate visits to the North car park by your Officer around 25 free spaces have been counted . The applicant's clarify operational capacity on the basis that the car park needs to provide sufficient capacity to meet the needs of annual season ticket holders, which means they are guaranteed a space every day. Use of the car parks by occasional or non season ticket holders fluctuates on a daily basis and uses up some of the capacity, which means that on some days there may be free spaces but from an operational point of view the car park is deemed to be full if it can't always accommodate season ticket holders.
- 10.12 Government advice and guidance on car parking at stations is set out in the following paragraphs.
- 10.13 The White Paper 'Delivering a Sustainable Railway' includes improved access to stations as a key aim in encouraging increased use of the railway. With regard to car parking provision at stations it states:

"Car park provision can be part of an effective environmental response if it encourages people to make the longer part of the journey by train, rather than simply drive. Evidence from Passenger Focus indicates that station car parks are becoming capacity constrained and future growth will inevitably increase such pressures. The Government believes that adequate car park capacity is a key part of increasing overall capacity and improving access to the network. The Government is concerned at the slow progress in delivering increased car parking provision in cases, such as the West Coast Main Line, where there is a clearly established need. Car parks ought to be one of the easiest facets of station access to improve, because they have a rapid commercial pay-back period, both from the parking fees charged and from the additional passenger business generated. Car parking expansion needs to be managed in the context of the wider parking policies of the area in question so as to ensure that passengers have a range of good quality ways of accessing rail services."

- 10.14 The Regional Transport Strategy (RTS) within the East Of England Plan states:

"The existing transport network and the scope for service improvement was an important factor in shaping the spatial strategy of the RSS, which seeks to reduce dependence on car travel. The RTS recognises that transport solutions which manage use of the car, while improving the scope for alternatives, may be the best way to meet demand, particularly in urban areas."

10.15 Policy T1 aims to increase passenger and freight movement by more sustainable modes and Policy T2 seeks a reduction in distances travelled and a shift towards greater use of sustainable modes. Policy T5 states that improvements to inter-urban public transport should be focussed on the Regional Transport Nodes, which includes Colchester. This includes improvements to rail services to enhance capacity and passenger comfort. The RTS states:

“There are a range of rail improvements, which can be delivered by local authorities and the railway industry using a variety of funding sources, including station upgrades, new stations, support for new services and minor works such as additional passing loops or signalling enhancements. Support will be given to proposals to improve rail services to regional transport nodes and to improve comfort and capacity on crowded routes in the light of the priorities in the July 2007 Rail White Paper, ‘Delivering a Sustainable Railway’, the Regional Planning Assessment for the Railway and the rail industry’s Route Utilisation Strategies.”

10.16 The overall objectives of PPG13 (Transport) are to:

1. promote more sustainable transport choices for both people and for moving freight;
2. promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling, and
3. reduce the need to travel, especially by car.

10.17 It however acknowledges that ‘The car will continue to have an important part to play and for some journeys, particularly in rural areas, it will remain the only real option for travel.’

10.18 With particular regard to parking at railway stations it advises that *‘The provision of parking at urban and suburban rail stations can increase the potential catchment population for rail services, but can at the same time exacerbate road congestion in the surrounding area. At main line stations it may also discourage travellers from using local bus or train services to connect to longer distance services. Parking may also result in lower density development in the immediate vicinity of the station.’*

10.19 Former Policy T10 in the Local Plan promoted the provision of additional car parking at local railway stations and with priority to Marks Tey Station. The supporting statement indicated that there were serious problems at inter alia Marks Tey Railway Station needing attention as a priority. This policy was not ‘saved’ in September 2007 as it was considered too specific and already covered by Policy T9 on car parking.

10.20 It is clear from the above guidance that the provision of additional car parking at stations is supported at all policy levels. It is also evident that parking capacity is being increased at many other stations in the region.

Consideration of alternative sites

- 10.21 The applicants have provided an assessment of alternative sites in the vicinity of the station for car parking. This looked at 10 possible sites. All are discounted in the assessment for various reasons. The sites assessed included the sand/gravel depot and Network Rail Depot to the south-east of the station. These were discounted on grounds that these sites were still operational and in any case would involve pedestrians having to cross North Lane to get to the station. A number of woodland landscaped areas close to the A12 were also considered but discounted on grounds of lack of pedestrian/vehicle access. No additional capacity for more parking was identified on the station itself. The existing south car park on Station Road has no further capacity. Consideration of deck parking was discounted on cost grounds.
- 10.22 The applicants have advised that the Network Rail site is not controlled by NXEA and is required for ongoing operational use by Network Rail. The undertaking by Network Rail is that when the re-signalling and route upgrade on the main railway line is complete or by 31 January 2010 (whichever is the earlier) the office buildings will be removed. However, the land remains operational land of Network Rail. This position has previously been confirmed in writing to the Planning Service by the National Town Planning Manager of Network Rail in December 2007 in which it was indicated that the site would be retained for operationally essential functions and as an important access to the railway for the purposes of planned and emergency maintenance works. Therefore, the land is not and will not be available for car parking as an alternative to the application site.

Alternative transport modes and impacts on branch line

- 10.23 Government guidance promotes measures to reduce car use in favour of greater use of alternative means of access. It encourages measures to increase accessibility to railway stations by varied means- foot, bicycle, bus, etc. as well as the car. Both the White Paper and the RTS encourage the formation of Station Travel Plans as a means of improving accessibility and customer choices. Colchester North Station is one of a number of pilot station travel plan projects currently being implemented. Officers have promoted the creation of a Station Travel Plan at Marks Tey with the applicants as a means of assessing existing travel behaviour and considering measures to increase accessibility to stations and travel choices. In response the applicants have indicated the East of England Planning Assessment does not require a comprehensive improvement in one development. There is an immediate need and opportunity to provide for car parking now. Other improvements for other modes would take place in future. Such comprehensive improvements are part of a long-term project.
- 10.24 With regard to impact on the Branch line NXEA have confirmed that there will be no impact on the branch line. NXEA are under contract to the DfT to operate this rail service until the end of their franchise which is at present is 31 March 2011, with an option to automatically extend this to 31 March 2014 subject to performance criteria. The applicants point out that increasing car parking at Marks Tey serves the whole catchment of the station of which Sudbury is one small part.

Highway access issues and increased traffic

- 10.25 The withdrawn application 072690 proposed the use of the existing access, however, County Highways would not agree to increased use of the access without improvements to safety. Various improvements have been discussed between the applicants and County including improvements to sightlines, re-alignment of North lane and possible traffic signal controls of traffic using the bridge. However, none of these proposals were acceptable to Highways and consideration turned towards alternative access points.
- 10.26 The applicants traffic survey counted a total of 219 vehicles using the station Road/North Lane/ Car park access/Network Rail facility junction in the AM peak (0715-0815). Of these 58 were going into the station car park. In the evening peak (1715-1815) 227 vehicles passed through the junction of which 47 were exiting the car park. The assessment of the increase in traffic generation has been based on the proportional increase in car parking spaces on existing together with an additional factor to allow for potential for demand from a wider area than is currently the case. This resulted in an estimated increase in AM peak hour trips into the car park from 58 to 78 and PM peak movements out of the car park from 47 to 64. when these figures are extrapolated forward to the year 2017 which the Highway Authority require the assessment to be based , the 'in' and 'out' car trip figures for the peak hour are increased to 145 vehicles entering the car park in the morning peak hour and 121 cars leaving during the evening peak hour. This is assuming the egress serves the existing and proposed car park. If it serves only the extension it is likely that the peak hour movements would still be around 64 car movements assuming vehicle movements are split pro rata in relation to the size of the existing and extended car parks.
- 10.27 The proposals are accepted by both the Highway Authority and the Highways Agency both of whom accept that increased traffic attracted to the station will be justified on the basis of the wider benefits of increased rail use.

Impacts of proposals on neighbours

- 10.28 A significant consideration is the impact on neighbours of an increase in parking provision on this site which is likely to be expressed in terms of the effects of increased traffic generally and particularly on the new access road in terms of noise, fumes and general disturbance and impacts from external lighting. Such concerns are reinforced by the objections from neighbours living on North Lane who are concerned about the impact of additional parking provision on their amenity. The main areas of concern are the car parking area itself and the access road leading to the exit on North Lane.
- 10.29 The car parking area does not cover the whole of the southern part of the field and its eastern boundary is approximately 40 metres from the rear garden boundary of 11 North Lane. The car parking area would be enclosed by fencing and new hedgerows to provide visual screening.

- 10.30 The proposed access road would follow a parallel northbound route approximately 9 metres from the rear boundaries of properties in North Lane, which are enclosed by timber fencing of various types. It would then turn right to follow the existing access towards North Lane in between nos.17 and 19. This access is only an agricultural field access and given the fact that the field has not been used agriculturally for many years it appears to be very little used if at all. It is 9 m wide and enclosed on either sides by timber fencing and a flank wall of No.17. The proposals are for this to be a single track exit only with a passing place for occasional ingress by a tractor or other agricultural-related vehicle.
- 10.31 Your officers have major concerns over the impacts of using this access as an egress to the enlarged car park as it would result in the worst case of up to 121 evening peak hour traffic movements within very close proximity of residents' dwellings and rear gardens. These concerns are shared by officers in Environmental Control. In response the applicants commissioned a noise survey and report to assess the impacts. This concluded that during the day time average noise levels would not be increased above measured background levels but that at night time (after 11pm) there would be harm to amenity from car movements when background noise levels were lower. These findings have not been accepted by Environmental Control, who consider that the analysis was not appropriate to this situation where the character of noise impact, particularly in the peak hour, is likely to be of streams of traffic queuing, changing gear, slowing and speeding. Compared to what residents currently experience on North Lane itself the additional traffic movements behind and to the side of Nos 17 and 19 are likely to be highly significant and detrimental to their amenity. Saved Local Plan Policy P1 states that development, including traffic movements, likely to harm the amenities of people living nearby by reason of inter alia noise, smell and fumes will not be permitted.
- 10.32 The previous appeal decision in 1988 is also relevant. As set out earlier in this report the Inspector considered that use of the southern part of the field as car parking and the access road would result in unacceptable loss of amenity to neighbours in terms of noise, disturbance and loss of privacy. Although the area now proposed for parking is smaller than then, this is still a significant consideration in the assessment of the proposals which should only be set aside if the current proposals can provide satisfactory mitigation of these impacts. Environmental Control's main concerns relate to the access road and the impact of car noise on the amenity of neighbours both in the evenings and night time and they conclude that given the proximity of the road to dwellings there would be harm to amenity with no satisfactory mitigation possible. An acoustic fence on either side of the road would raise visual amenity issues for the residents and the street scene.
- 10.33 Other concerns are that neighbours living close to the access road will suffer a loss of privacy and outlook as a result of the access road. This will affect in some cases, such as No.17, their outlook and views over the countryside from gardens, which would need to be enclosed by higher fencing in order to provide screening to the road.

- 10.34 The applicants, mindful of concerns expressed in the Noise Report about noise impacts after 11pm, have suggested that the egress could be closed to traffic at 11pm. This would mean that cars exiting the car park after this time would have to use the existing access. This would involve very few car exit movements and the applicants contend that this would be a negligible difference from the present situation in terms of impact on highway safety.
- 10.35 With regard to external lighting it is proposed that details of lighting would be subject to a condition but that it would be expected to be designed to be down lighters so as to concentrate lighting within the car parking area. Lighting would automatically switch off after the last train service each night. It is considered that such lighting could be designed not to give rise to harm to neighbour amenity. However, such lighting would inevitably have an impact on the character of the countryside.

Impacts on trees and landscape

- 10.36 The applicants have commissioned a tree survey and assessment of the impact of the development on trees which are located in the rear gardens of nos 17 and 19 North Lane. The report concludes that the surveyed trees are relatively small and not yet large enough to have developed root systems extending beyond the gardens in which they are growing. They therefore would not constrain development of the access road. It is nevertheless advisable to place any services as far from the trees as possible to prevent any conflicts in future. Any services should be placed along the southern edge of the access road. The Landscape Officer has no objection to the proposals subject to some additional planting either side of the access road. The applicants have indicated agreement to such changes and details of a planting scheme could be agreed as part of compliance with landscape conditions.

11.0 Conclusions

- 11.1 The main questions raised in this application can be summarised as a series of sequential questions as follows:

1. Is there a need for an increase in parking at the station and is the size of increase appropriate?

Government policy supports investment in the railways to encourage greater use and this includes provision of additional car parking as is clear in particular from the Railway White Paper. This views car parking provision as a quick and easy way to increase capacity and greater access to the rail network. Evidence of increased use of the railway over the last 25 years and anticipated further increases up to 2021 support the case that there is a need for additional parking capacity. At Marks Tey there is survey evidence of a lack of sufficient car parking in absolute terms and according to the rail operator there is insufficient operational parking. This is consistent with the Council's own view as expressed in former policy T10, which acknowledged the need for additional parking at the station. Parking need is also being addressed at many other stations in the Eastern region, which is evidence that this is an issue not confined only to this station. However growth estimates up to 2021 of 19% and 28% (assuming additional rail capacity) suggest that only more modest increases in car parking are necessary of the order of 42 and 62 spaces respectively over and above existing NXEA provision. NXEA are looking to provide additional car

parking to meet long term growth needs and consider that it is not reasonable in investment terms to restrict increased parking to a level that may only be justified in the short term. The future of the private car park (50 spaces) is uncertain in planning terms given the lapse of the temporary permission. However, given that it has been in existence for over ten years it is not considered that its possible loss should be treated as additional car parking demand. It is therefore considered that there has not been provided sufficient justification for the size of the proposed car park over and above what is justified on the grounds of future rail expansion. Consideration has also been given to alleged parking on surrounding streets and public houses as evidence of latent demand. However, if the motivation for such parking is to avoid or pay less for car parking the additional parking capacity may not attract such users. In the light of the foregoing considerations it is considered that whilst there is an acceptance in principle of the need to increase parking to encourage more people to use trains it is considered that the amount of parking proposed is excessive and not adequately justified.

2. Is it accepted that extra parking can only be provided on this land?

In order to assess this question your Officers asked the applicants for a list of alternative sites for car parking and an assessment of why they were not appropriate. This was provided and it was concluded that the proposed site was the best solution assessed against criteria of availability and accessibility to the station platforms. The possible use of the Network Rail site is not an option given its intended retention by Network Rail for operational purposes.

3. Is it acceptable to provide an egress to the car park onto North Lane?

The foregoing assessment of the impact of the access road on neighbours' amenity indicates that there would be harm to the living conditions of residents by reason of vehicle generated noise, fumes and general disturbance associated with the egress taking account of the pattern of usage which is likely to be most used during the weekday evening periods.

11.2 In conclusion it is considered that there is support at National, Regional and Local level policy for additional parking at Marks Tey Station and this is not disputed. The main concerns are that given the lack of alternative existing brownfield sites within or adjoining the station, the proposed additional car parking is on agricultural green field land. It is considered that insufficient justification has been provided for the amount of parking proposed. Given the constraints on increased use of the existing car park access, it is proposed that a new egress be provided close to existing houses. Such a proposal is considered harmful to residential amenity and a similar proposal was resisted at appeal in 1989. Circumstances have not changed to warrant a different view and it is not considered reasonable in equity that nearby residents should suffer a serious loss of amenity in return for the wider sustainability benefits of increased train travel over use of the car.

11.3 For the above reasons this application is recommended for refusal.

12.0 Background Papers

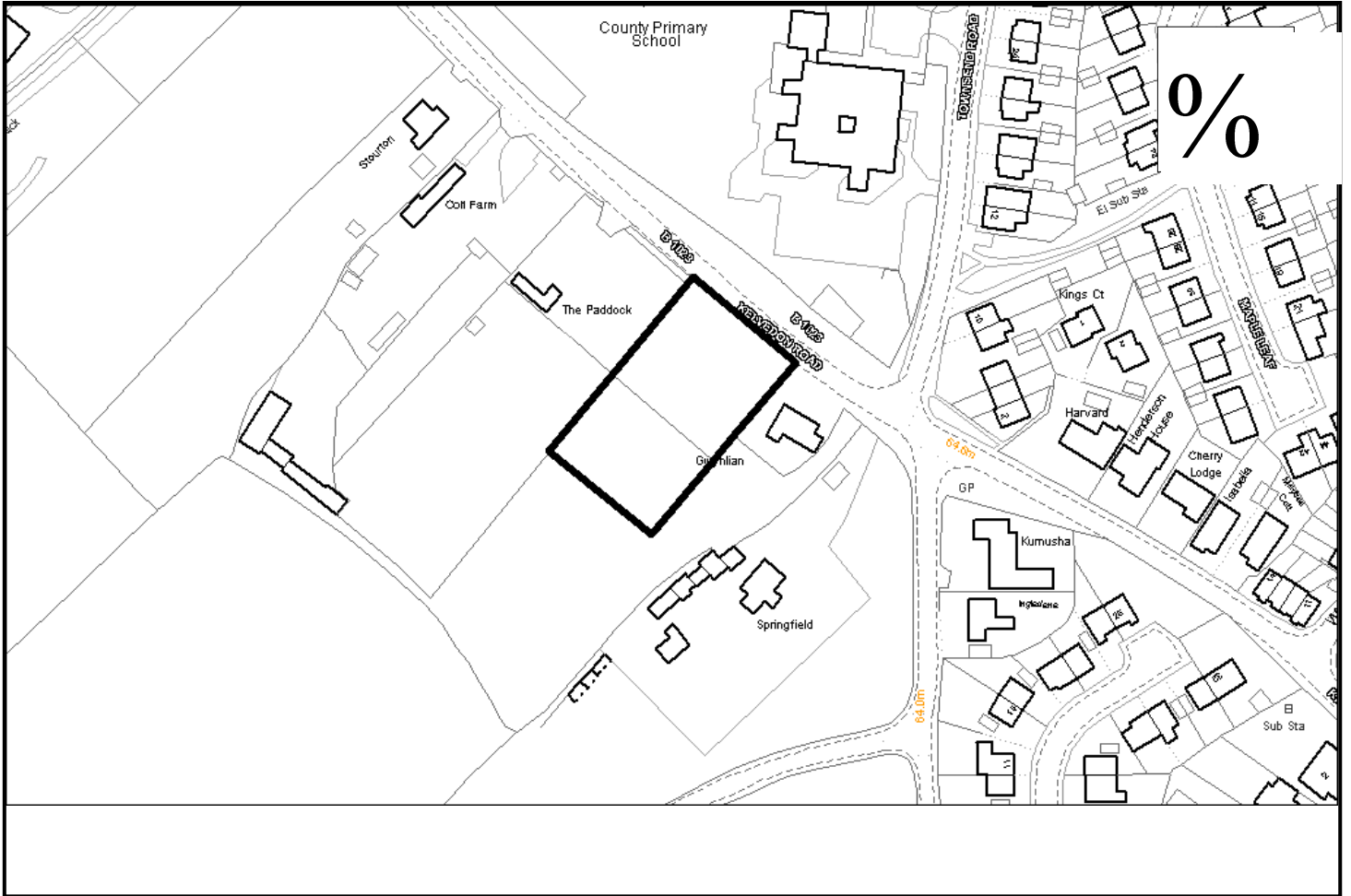
11.1 ARC; Core Strategy; Spatial Policy Team; Transportation Policy Manager; HH; TL; AO; HA; Highways Agency; PTC; NLR

Recommendation - Refusal

Reasons for Refusal

It is considered that insufficient justification has been provided in support of the amount of proposed car parking, which appears to be significantly greater than that justifiable on forecast railway growth for the region up to 2021. In the absence of suitable alternative sites for car parking close to the station there is considered to be insufficient justification for the extent of incursion onto former farmland within the countryside and which has no allocation for development. Such incursion would be detrimental to the character and appearance of the countryside contrary to Policy ENV1 in the adopted Colchester Core Strategy-December 2008 and Policy DC1 (e) of the Adopted Review Colchester Borough Local Plan –March 2004.

The proposed access road would be likely to give rise to harm to the amenities and living conditions of residents on North Lane and, in particular, the occupiers of Nos. 17 and 19 North Lane whose side curtilages adjoining the proposed access to North Lane. The formation and use of the road for car traffic exiting the car park would give rise to unacceptable levels of noise, fumes and general disturbance particularly during the weekday peak evening periods. This would impact on their enjoyment of their dwellings and use of garden areas. The road would also impact to varying degrees on the privacy of those occupiers some of whom enjoy outlook over fields to the rear and who would be likely to have to erect screening on the boundaries to limit the effects of the roadway on their existing outlook. The proposals are therefore considered to be contrary to Policy P1 of the Adopted Review Colchester Borough Local Plan –March 2004 as it is considered that proposed vehicle movements would harm the amenities of people living nearby.



Application No: 090471

Location: Land adj to, Gwynlian, Kelvedon Road, Tiptree, Colchester

Scale (approx): 1:1250

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7.5 Case Officer: Nick McKeever

EXPIRY DATE: 01/06/2009

OTHER

Site: Gwynlian, Kelvedon Road, Tiptree, Colchester

Application No: 090471

Date Received: 6 April 2009

Applicant: Mr S Taylor

Development: Change of use of land from agriculture to private gypsy caravan site including hardstandings for four caravans, the erection of a communal dayroom/utility building and the formation of a new access. Resubmission of 082030.

Ward: Tiptree

Summary of Recommendation: Conditional Approval

1.0 Site Description

- 1.1 This 0.22ha parcel of land forms part of a field on the southern side of the Kelvedon Road, Tiptree. Immediately to the south-east is a detached bungalow known as Gwynlian; to the north-east is an existing Private Gypsy Caravan Site owned by Mr Nelson Taylor, the Applicant's uncle. Beyond this is another established Gypsy Site (Colt Farm), owned by another uncle, Mr James Taylor.
- 1.2 There is an area of open farmland further to the south. To the north on the opposite side of the Kelvedon Road is Baynards Primary School and an established residential area.
- 1.3 The site is enclosed on two sides by close boarded fences, together with a post and rail fence along the rear boundary, and has an otherwise open frontage onto the Kelvedon Road. The surface of the site has mainly been covered with crushed hardcore and an additional vehicular access was formed in the north-western corner of the site. Currently stationed on the south-western boundary of the site is a single mobile home.
- 1.4 The application seeks permission for the use of the site as a Private Gypsy Caravan Site and the provision of hardstandings for two mobile homes and two touring caravans with associated parking. Also included is the erection of a communal dayroom/utility building.
- 1.5 The mobile homes are to provide permanent accommodation for the Applicant's two sons, Mr Don Taylor and Mr Steven Taylor, and their respective families.
- 1.6 The application also proposes the closure of the two existing vehicular access points onto Kelvedon Road and their replacement by a new single access in a central position on the site frontage.

1.7 Included with the application is a Design & Access Statement incorporating a Supporting Case. This document provides details of the personal background of the Applicant and his family and of their gypsy status. This document can be viewed in full on the Council website.

2.0 Land Use Allocation

2.1 Employment Zone

3.0 Relevant Planning History

3.1 The current application is a resubmission of 082030, which was withdrawn on 30th January 2009.

3.2 F/COL/07/0113 – Retention of existing utility building/dayroom, hardstanding and access and change of use of land to a private gypsy caravan site. Approved. This application relates to the parcel of land immediately adjacent and in the ownership of the Applicant's relative.

4.0 Principal Policies

4.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Employment Zones - EMP1
Core Strategy Policy Gypsies, Travellers and Travelling Showpeople – H5
Circular 1/06

5.0 Consultations

5.1 Essex & Suffolk Water comment that they cannot accept any buildings or structures within 3 metres either side of their main, which is protected by an easement. There should be no trees, hedges, shrubs or non-boundary fences erected within three metres on either side of the outside edge of the water main, nor should the level of the surface of the land be altered.

5.2 The Highway Authority have no objection subject to conditions being imposed.

5.3 The Landscape Officer comments as follows:-

“It should be noted, as pertinent to this application, that although no longer evident on site a protected hedgerow was removed to the front of the site in 2004 against which the then owners of the land were successfully prosecuted by the Council, under the ‘Hedgerows Regulations 1997’, for the unauthorised removal of the hedge. The owners (including the current applicant) were also served with a ‘Hedgerow Replacement Order’ in 2005 (copy of applicants Order attached below) requiring the applicant under the Regulations to replant the hedge to the site frontage in its original position (as shown on the attached plan which accompanied the Order), which has to date not been implemented despite annual reminders. Legally therefore there is a pre-existing requirement for the applicant to plant a replacement hedge to the front of the site with single gateway rather than splayed access which assumedly would have implications in highways safety terms. I would therefore recommend that the

application needs to take account of the fact that (although not currently planted out) there legally is a protected hedge to the site frontage (set back 1m or so from the kerb line) with only a single field gateway access”.

5.4 The Landscape Officer advises against the application/site layout as currently proposed.

6.0 Parish Council's Views

6.1 Tiptree Parish Council would like to see the application reduced to 3 pitches only with reduced parking and the site used for residential use only.

7.0 Representations

7.1 8 letters of objection have been received. The objections are summarised as follows:

- Land is not allocated for residential use
- Traffic issues – site is close to a busy crossroads and opposite a primary school.
- Essex County Council are obliged to provide a number of sites for gypsies but Colchester in general and Tiptree in particular are seen as a “soft touch”. There are already 3 sites in Kelvedon Road alone.
- The site has been subject of enforcement notices which have been ignored.
- Noise, pollution & health issues associated with the gypsy way of life
- Encroach on neighbouring properties
- Lack of consultations
- Precedent for similar sites in Tiptree
- Adverse impact upon property values [not a planning issue]

8.0 Report

8.1 The proposed site lies on the fringe, but outside of, the predominantly residential area as defined in the Tiptree Inset to the Adopted Colchester Borough Local Plan Proposals Map. It is, however, designated as a new Employment Zone, and subject to the relevant Local Plan policies EMP1 and TIP3. This particular issue is referred to in the body of this report.

8.2 The applicant is a member of the Taylor family, who are of gypsy status, details of which have been provided in the Supporting Statement, and long standing residents within the Tiptree area. The mobile homes are to provide accommodation for the sons, and their families, of Mr S Taylor, who currently lives in Tiptree. The accommodation is, therefore, accommodation for members of the existing gypsy family.

8.3 In this context it may be useful to briefly explain the history of the sites currently occupied by members of the Taylor family.

- 8.4 The site immediately to the north-west is owned by Mr Nelson Taylor. Planning permission has been granted under reference F/COL/07/0113 for the retention of an existing utility building, hardstanding and access and the change of use of land to a private gypsy caravan site. This consent is personal to Mr N Taylor and his immediate relatives. It grants permission for up to 4 mobile homes/touring caravans. The utility room/dayroom is not to be used for separate residential occupation.
- 8.5 The other site at Colt Farm contains a number of mobile homes and other buildings. This is occupied by the brother of Mr N Taylor and his family. The buildings on this site are Lawful in planning terms.
- 8.6 The report submitted to the Planning Committee in respect of the application F/COL/07/0113 for the use of the adjacent site as a Private Gypsy Caravan Site covers the same issues that apply to this current application. The main body of this previous report is reproduced as follows:-

“Previous application COL/04/2333 was refused for 3 reasons – inappropriate use of employment land, lack of demonstrated need for gypsy accommodation in locality and adverse effect on local landscape. An appeal was subsequently lodged and public inquiry arranged only to be adjourned in order that the Council could provide more evidence in relation to demand and provision of gypsy/traveller sites and the demand for employment land.

At this point it is worth reminding the Committee of the previous report, set out in full in Appendix 1 and specifically its conclusions in relation to the criteria for proposed gypsy site location under Policy H6. Those conclusions still apply, i.e.

1. The site is not located in protected or specially designated countryside.
2. It would not be unduly prominent in open countryside.
3. It would allow good access to retail and community facilities, particularly schools.
4. It would have little direct impact on residential amenity.
5. Conditions could be imposed on any consent granted in order to achieve a suitable level of screening.
6. The applicant’s family are all bona-fide gypsies.

The previous report had regard to Circular 1/94 which has now been superseded in 1/06. Its main intentions are, inter alia, to:

1. Increase significantly the number of gypsy and traveller sites in appropriate locations in order to address underprovision over the next 3-5 years.
2. To underline the importance of assessing needs at regional and sub-regional levels for Local Authorities to develop strategies to ensure needs are dealt with fairly and effectively.
3. To identify and make provision for the resultant land and accommodation requirements.
4. To promote more private gypsy and traveller site provision in appropriate locations through the planning system.

In the present case the applicants have now produced additional evidence (which first became available at the Public Inquiry) in respect of their longstanding connections to the Tiptree area and their need to locate here for reasons of providing healthcare support to parents and education for their children. There is a general acceptance at County and Borough level that there is an unmet need for gypsy/traveller sites and even if a site is provided at Severalls Lane, this is not going to provide suitable space for the applicants because of the above circumstances, their Tiptree connections, and not within the time-scale required.

Members should note that the site has been significantly reduced in size by comparison with the earlier proposal and is tailored to the amount of accommodation required.

With regard to the employment issue, the land here has not been set aside for a particular identified need but for future growth. Since it was allocated the land does not appear to have attracted any interest amongst developers. In any event, the application site occupies only a very small proportion of the overall employment zone.

Having regard to these matters the advice of the barrister acting for the Council is that the application is in line with Policy H6 and Circular 1/06 guidelines and the applicants have adequately demonstrated a need for a site in the locality. She considered that the third reason for refusal (landscape impact) could be dealt with by conditions.

It is accepted that a recommendation of approval will be unpopular with local people but it is felt this is a proper reaction to a lack of official gypsy site provision in the locality and to a demonstrable lack of current demand for employment land locally. It is noted that work is ongoing in respect of both gypsy sites and demand and supply for employment land, in association with the LDF. Members may therefore consider a temporary approval is justified here pending progress on, and greater certainty on, these items”.

- 8.7 In terms of current planning policy the main change has been the adoption of the Local Development Framework Core Strategy. The relevant policy contained in this document is H5 – Gypsies, Travellers, and Travelling Showpeople:-

“The Council will identify sites to meet the established needs of gypsies, travellers and travelling showpeople in the Borough. A suitable site for gypsies and travellers is being provided in Severalls Lane, Colchester; and additional sites will be identified (in the Site Allocations DPD) as required to meet future need. Although no need for sites for travelling showpeople has been identified, the matter will be kept under review.

The Council will seek to locate sites within reasonable proximity to existing settlements, and with access to shops, schools and other community facilities. Sites should also provide adequate space for vehicles and appropriate highway access. Any identified need for ‘transit’ (temporary) sites for gypsies and travellers will be met in appropriate locations related to the current working patterns of the travelling community”.

- 8.8 In the context of this policy this site lies on the fringe of the built up area of Tiptree and is relatively convenient to the facilities and services provided therein. There is a primary school virtually opposite the site. The site is located on a main bus route into Tiptree and in overall terms can be considered to be a sustainable site.
- 8.9 At the present time relatives of the applicant live on the two approved/Lawful sites immediately adjacent to the site. These existing gypsy sites appear to be well laid out and maintained, such that they do not have an adverse impact upon the visual amenity of the area in general. The proposed site would appear as a continuation of this existing caravan site.
- 8.10 It can be seen from Policy H5 that there is a requirement for adequate on-site parking and appropriate access arrangements. The previous application 082030 was withdrawn following a recommendation for refusal by the Highway Authority. This current application has been resubmitted following negotiations with the Highway Authority to secure the removal of the two existing access points and the provision of a new access laid out to the standards required by that Authority. Satisfactory provision is made for on-site parking. The Applicant has recently carried out works to close the existing two access points and has formed a new access as shown on the submitted drawings. Your Officers recently visited the site and can confirm that this new access accords with the dimensions shown on these drawings.
- 8.11 Prior to the unauthorised use and development of this and the adjoining site, an established, ancient hedgerow ran along the entire length of the site. This protected hedgerow was removed. Since its removal a replacement hedge has been planted along the frontage of the two existing and lawful sites. This hedge is now well established and appears to be maintained at the required height so as not to interfere with required sight splays onto the Kelvedon Road. The Applicant has recently planted a hedge along the length of his site so that it appears as a continuation of the existing replanted hedge. Further planting is to be carried out to thicken this recently planted section. The Landscape Officer's comments were made prior to the hedge having been replanted.
- 8.12 The comments submitted by Essex & Suffolk Water relating to the presence of their water main is acknowledged. The submitted site layout plan indicates the approximate location of this main. As far as can be determined the recently formed access appears to lie just outside of the 3 metre easement.
- 8.13 Comments made in respect of the consultation process are acknowledged. The required consultation procedures have been carried out, including the advertisement in the local press and the posting of a site notice.
- 8.14 Members will appreciate that the impact upon property values is not a material planning consideration.
- 8.15 It is considered that the proposed use would appear to comply with the aims of governmental advice and Development Plan policies to help gypsy and travellers to provide for themselves and to allow them to secure the kind of sites they need.

9.0 Background Papers

- 9.1 ARC; HA; PTC; NLR; Essex & Suffolk Water

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 proposed vehicular access shall be formed where shown on the submitted plan numbers 112-08-01 Rev B.

Reason: To ensure a reasonable degree of intervisibility between drivers of vehicles using the new access and those in the existing highway, in the interests of highway safety.

3 - Non-Standard Condition

Prior to the proposed access being brought into use, vehicular visibility splays truncated at the site boundary's of 90m (northwest) by 4.5m by 90m (southeast) as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

4 - Non-Standard Condition

Prior to the occupation of any of the proposed pitches being permitted, the proposed private drive shall be constructed to a width of 6m for at least the first 10m within the site, tapering one-sided over the next 6m to width of 5m throughout the site and shall be provided with a 105m radius kerbed bellmouth connection to the carriageway of Kelvedon Road.

Reason: To ensure that all vehicles using the private drive do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

5 - Non-Standard Condition

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 10m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

6 - Non-Standard Condition

Prior to the site being permitted to be occupied, the existing access at point "X" shown on the returned plan shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the highway verge/footway/kerbing to the satisfaction of the Highway Authority.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

7 -Non-Standard Condition

The development shall not be occupied until such time as the parking area, indicated on the approved plans, including any spaces for the mobility impaired has been hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

8 - Non-Standard Condition

Prior to commencement of the proposed development, details of the provision for parking of powered two wheelers and bicycles, of a design which shall be approved in writing with the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To promote the use of sustainable means of transport in accordance with EPOA Vehicle Parking Standards and Policy 4 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member decision dated the 19 October 2007.

9 – A replacement hedgerow shall be planted along the site frontage in a position to form a continuation of the existing hedgerow along the frontages of the two adjoining plots to the north-west of the site, in accordance with details to be agreed in writing prior to the occupation of the site. The hedge shall be maintained for at least five years from the date of planting. In the event that the 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 standard of visual amenity in the local area.

Informatives

This condition requires a Legal Agreement between the Applicant and the Highway Authority using the powers in Section 278 of the Highways Act 1980.

All works affecting the highway shall be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made initially by phone on 01206 838696 or by email on www.highways.eastarea@essex.gov.uk.

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.

6.1 Case Officer: Mr D Whybrow**Site:** Plot 2, The Paddock, Kelvedon Road, Tiptree, Colchester, Essex**Application No:** F/COL/07/0113**Date Received:** 15th January 2007**Agent:** Mr M Green - Green Planning Solutions**Applicant:** Mr N Taylor**Development:** Retention of an existing utility building/dayroom, hardstanding and access and the change of use of land to a private gypsy caravan site.**Ward:** Tiptree**Planning Report Introduction**

This application was previously considered by Members at their meeting on 15 March 2007. Members were minded to refuse the application but the matter was deferred so that consideration could be given to the reasons for refusal and the legal implications of those reasons in the event that the matter proceeds to appeal.

Legal advice has been taken in response to this resolution and Counsel will attend the meeting in order to advise Members.

For information, the previous report is set out below:-

Site Description

This is a part-retrospective application for retention of an existing utility building/dayroom, hardstanding and access and the change of use of land to a private gypsy caravan site at Plot 2, The Paddock, Kelvedon Road, Tiptree. The proposal is for 2 gypsy families to occupy the site, each having a mobile home and touring caravan and sharing the use of the dayroom/utility block. An existing close boarded fence encloses the site, a hedgerow has been planted along the site frontage and the site is surfaced in shingle.

The application is accompanied by a supporting statement, incorporating a design and access statement and witness statements by the applicants. These will be available for inspection in the Members' Room before the Meeting. The most salient points are:-

1. One family are already living at the site. They are the applicant's daughter, son-in-law and 2 grandchildren.
2. The 2nd site is for the applicant's son, daughter-in-law and their 4 children.
3. The utility building will provide washing, cooking, toilet and dayroom facilities.
4. To accommodate 2 families, 4 caravans are proposed, two of which can be mobile homes and 2 tourers.
5. All potential occupants have gypsy status; there is an unmet need nationally, regionally and locally for gypsy site provision. DCLG figures show 385 caravans on unauthorised sites in Essex out of a total of 841 caravans and there is currently no local authority owned site in Colchester Borough, with the Council acknowledging an unmet need since 2003.

6. Up to date advice in Circular 1/06 makes it clear that privately owned gypsy sites should be the norm with publicly owned sites for those unable to afford their own land.
7. The applicant has strong family connections with Tiptree and extended family groups are important to Romany Gypsies. The applicant's daughter provides regular assistance to her parents who live approximately 100m away, particularly her father who has health problems and attends hospital regularly. Her daughter attends Baynards School, her son was receiving private tuition locally having previously travelled with his father but now has a place at Baynards and the 3 school age children in the 2nd family (the applicant's son, daughter-in-law and children) all attend schools in Tiptree.
8. Family members have from time to time occupied Council housing in Tiptree but do not like that way of life.

Land Use Allocation

Employment Zone

Relevant Planning History

COL/00/0919 - Outline application for residential development and employment (B1) use - Refused July 2000

COL/04/2333 - Change of use from paddock to stationing of 2 mobile homes, hardstanding and utility room - Refused April 2005 (Appeal held in abeyance).

Principal Policies

Essex and Southend on Sea Replacement Structure Plan

H2 - Housing Development

H3 - Location of new housing

H6 - Accommodation for gypsies

Adopted Review Colchester Borough Local Plan

DC1 - General Development Control considerations

H6 - Gypsy sites

EMP1 - Employment Zones

TIP3 - Employment provision - Tiptree

Human Rights Implications

In the consideration of this developments impact on Human Rights particularly, but not exclusively, to:

Article 8 - The right to respect for private and family life,

Article 1 of The First Protocol (Protection of Property) - The right to peaceful enjoyment of possessions,

it is considered that:

The proposal would have an impact on an individual's human rights, but having considered the level of impact and in the general interest of the public and in accordance with planning law, the proposal is considered to be reasonable.

Community Safety Implications

Help to reduce the fear of crime
Help to reduce the occurrence of crime

Positive	Negative	Nil Effect
		3
		3

The development would be expected to achieve 'secured by design' in terms of its layout

Yes	No	Not Applicable
		3

Consultations

ECC Highways Department recommend refusal for the following reasons:-

1. The proposal would lead to the introduction of a further unnecessary point of access onto the highway and would therefore be unnecessarily harmful to highway safety, by introducing further points of conflict (Local Plan Policy DC1, Essex Structure Plan Policy - T7 Road hierarchy and LPT2, Appendix G, applies).
2. Furthermore the proposal would create a further precedent for the creation of other points of access onto this frontage, to the further detriment of highway safety.

It is also noted that were amended plans to be submitted showing a single point of access for both the land edged red and blue, a footway across the whole site frontage edged blue and red and the access finished in a clean, stable, free draining material, then the Highway Authority would consider the application more favourably.

The Trees and Landscapes Officer has concerns over the impact of access and visibility splay requirements on the frontage hedge and has requested further details before a decision is taken.

Environmental Control have no comment.

(Note: The agent has been advised of the Highway Authority and Tree and Landscape's comments and any response will be reported at the meeting).

Parish Council's Views

Tiptree Parish Council recommend refusal on the grounds that the application is contrary to policy in that the site is allocated for industrial use.

Representations

23 letters of objection have been received, raising the following concerns:-

1. Our objections are the same as before; the scope of the development exceeds that of the earlier application and is at least part retrospective (a caravan and day room are already in situ) showing a lack of respect for planning laws.
2. The applicant's health needs could apply to many people in the village and do not justify an exception to planning policy here.
3. If approved, the proposal would encourage similar use on the larger site and a caravan site would be created.
4. Inappropriate use of an employment zone and loss of "green" area.
5. Detriment to highway safety due to sub-standard visibility.
6. The protected hedge along the site frontage has only partly been replanted following its destruction.

7. Greater use of the access by caravans etc would increase danger for pedestrians and increase hazards on a heavily trafficked, narrow road where the statutory speed limit is regularly exceeded and lorries have difficulty passing.
8. The unauthorised works - hardstanding and buildings - should be removed and land reinstated, cleared of all debris and hedgerow replanted.
9. The retention of the existing buildings and change of use to a private gypsy site is not at all in keeping with the setting of the land (letter written on behalf of joint owner of site, Mr Steve Taylor).
10. Planning law is biased towards the gypsy community and there is discrimination against non-gypsies.

Report

Previous application COL/04/2333 was refused for 3 reasons – inappropriate use of employment land, lack of demonstrated need for gypsy accommodation in locality and adverse effect on local landscape. An appeal was subsequently lodged and public inquiry arranged only to be adjourned in order that the Council could provide more evidence in relation to demand and provision of gypsy/traveller sites and the demand for employment land.

At this point it is worth reminding the Committee of the previous report, set out in full in Appendix 1 and specifically its conclusions in relation to the criteria for proposed gypsy site location under Policy H6. Those conclusions still apply, i.e.

1. The site is not located in protected or specially designated countryside.
2. It would not be unduly prominent in open countryside.
3. It would allow good access to retail and community facilities, particularly schools.
4. It would have little direct impact on residential amenity.
5. Conditions could be imposed on any consent granted in order to achieve a suitable level of screening.
6. The applicant's family are all bona-fide gypsies.

The previous report had regard to Circular 1/94 which has now been superseded in 1/06. Its main intentions are, inter alia, to:

1. Increase significantly the number of gypsy and traveller sites in appropriate locations in order to address underprovision over the next 3-5 years.
2. To underline the importance of assessing needs at regional and sub-regional levels for Local Authorities to develop strategies to ensure needs are dealt with fairly and effectively.
3. To identify and make provision for the resultant land and accommodation requirements.
4. To promote more private gypsy and traveller site provision in appropriate locations through the planning system.

In the present case the applicants have now produced additional evidence (which first became available at the Public Inquiry) in respect of their longstanding connections to the Tiptree area and their need to locate here for reasons of providing healthcare support to parents and education for their children. There is a general acceptance at County and Borough level that there is an unmet need for gypsy/traveller sites and even if a site is provided at Severalls Lane, this is not going to provide suitable space for the applicants because of the above circumstances, their Tiptree connections, and not within the time-scale required.

Members should note that the site has been significantly reduced in size by comparison with the earlier proposal and is tailored to the amount of accommodation required.

With regard to the employment issue, the land here has not been set aside for a particular identified need but for future growth. Since it was allocated the land does not appear to have attracted any interest amongst developers. In any event, the application site occupies only a very small proportion of the overall employment zone.

Having regard to these matters the advice of the barrister acting for the Council is that the application is in line with Policy H6 and Circular 1/06 guidelines and the applicants have adequately demonstrated a need for a site in the locality. She considered that the third reason for refusal (landscape impact) could be dealt with by conditions.

It is accepted that a recommendation of approval will be unpopular with local people but it is felt this is a proper reaction to a lack of official gypsy site provision in the locality and to a demonstrable lack of current demand for employment land locally. It is noted that work is ongoing in respect of both gypsy sites and demand and supply for employment land, in association with the LDF. Members may therefore consider a temporary approval is justified here pending progress on, and greater certainty on, these items.

Background Papers

ARC; COL/04/2333; HA; TL; NLR; PTC

Recommendation

On the basis that a suitable response is made by the agent to the matters raised by the main consultees, it is recommended that planning permission be granted subject to the following conditions:-

Conditions

1 - Non Standard (Non Standard Condition)

There shall be no more than 4 mobile houses/touring caravans stationed at the site at any time and they shall be occupied only by Mr N Taylor and his immediate relatives. When their occupation of the site ceases, all mobile homes, structures, materials and equipment brought onto the land in connection with the use shall be removed from the site within 1 month of that date.

Reason: For the avoidance of doubt as to the scope of the permission and in order to safeguard the visual amenity of the locality.

2 - Non Standard (Non Standard Condition)

The utility building/dayroom shall be used only for those purposes as described in the submitted application documents i.e for washing, cooking and toilet facilities and to serve as a day-room. At no time shall the building be used for separate residential occupation.

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

3 - Non Standard (Non Standard Condition)

Prior to the use of the site as a private gypsy caravan site for 2 families, full details of the means of access to the site, including its width and appropriate visibility splays consistent with "Places, Streets and Movement" shall be submitted to and agreed in writing by the Local Planning Authority. The details as agreed shall be implemented within a period of 1 month from the date of this planning approval and any sight splays shall be maintained free of obstruction at all times thereafter.

Reason: In the interests of visual amenity.

4 - C10.18 (Tree and Hedgerow Protection: General)

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

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

5 - C11.14 (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.

6 - Non Standard (Non Standard Condition)

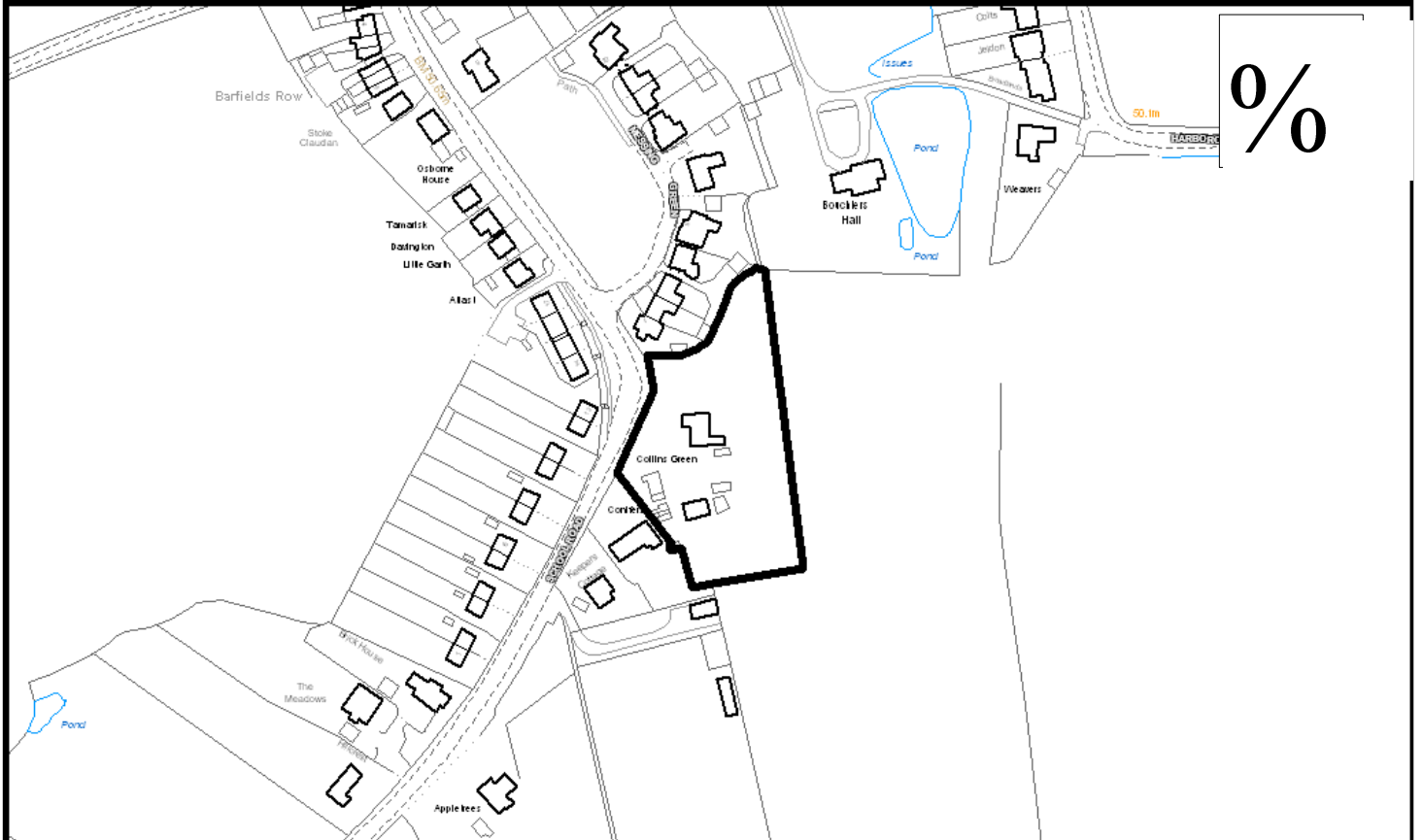
No commercial activities shall take place on the land, including the storage of materials and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

Reason: For the avoidance of doubt as to the scope of this consent and in the interests of local amenity.

7 - Non Standard (Non Standard Condition)

The use of the site as hereby approved shall be discontinued on or before 31 March 2010, or as described in Condition 1, whichever is the sooner.

Reason: The site lies outside any area intended for residential development and permission has only been granted in the light of the particular circumstances of the applicant at the present time. The Local Planning Authority therefore wish to review the matter in the light of circumstances applying at the end of the temporary period.



Location: Collins Green, School Road, Messing, Colchester, CO5 9TH

Scale (approx): 1:1250

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Planning Committee

Item
8

9 July 2009

Report of	Head of Environmental and Protective Services	Author	Vincent Pearce ☎ 01206 282452
Title	Plots 1 & 2 and 3 & 4, Collins Green, School Road, Messing		
Wards affected	Birch & Winstree		

This report concerns the unauthorised material changes made to the external appearance and scale of the nearly completed units 1&2 and 3&4 within this small infill development

1. Decision(s) Required

- 1.1 Members are requested to consider the information contained in this report and authorise the issuance and service of an Enforcement Notice requiring:-
- a. the removal (by cutting out) of the currently unauthorised brick on edge lintel detailing to all windows on the front elevations **and**
 - b. the insertion of new decorative stone (or reconstituted stone if appropriate in appearance) lintels of a type to be agreed in writing and in advance with the local planning authority **and**
 - c. the removal of unauthorised plastic cills and the cutting in of decorative stone (or reconstituted stone if appropriate in appearance) cills of a type to be agreed in writing and in advance with the local planning authority **and**
 - d. The addition of quoin detailing on the front elevations as shown on the approved drawings. (The use of stone slips of a type to be agreed in writing and in advance with the local planning authority is likely to be acceptable subject to appearance and convincing profile) **and**
 - e. The removal of the unauthorised plastic pedimented door hoods and replacement with simple timber lead covered flat hoods with timber pilasters of a type and appearance to be agreed in writing and in advance with the local planning authority **and**
 - f. The installation of swept metal railing detail to the front door of plots 1 & 2. This detailing to be of a type and appearance to be agreed in writing and in advance with the local planning authority **and**

g. The addition of decorative cornice detailing below eaves on the front elevations to plots 1 & 2 of a type and appearance to be agreed in writing and in advance with the local planning authority **and**

h. The proper making good of any brickwork damaged by the removal of unauthorised elements.

1.2 In terms of the period allowed for compliance it is recommended that 1 month be allowed after the 28 day period after which the Notice takes effect.

1.3 **It is highly recommended that Members make a 'joint' site visit prior to the meeting, if at all possible, in order to have a reasonable understanding of the topography and context of the site as well as having had the benefit of seeing the houses as built bearing in mind the potential severity of other options open to the Council in this case.**

2.0 Reason for Decision

2.1 The development as built does not accord with the details of the planning permission granted 14th September 2007 (CBC. reference 071734) and the required alterations are required to improve the external appearance of the buildings to a level that is considered acceptable in this pretty rural location.

2.2 Furthermore the applicant has carried out unauthorised building work particularly in respect of the dwellings on plots 1 & 2 which have significantly increased the height and mass of the buildings with consequent harm to the visual appearance of the buildings. The required remedial works (beyond those approved by the relevant planning permission) have been designed to disguise the otherwise unacceptable and ungainly proportions of the front elevations to plots 1 & 2. This disturbing to the eye ungainliness is as a result of excess brick to void ratios and the unnatural amount of brickwork above the head of first floor windows and below the eaves.

2.3 Failure to undertake these works, considered to be the minimum possible to achieve some level of restoration of balance and harmony in the elevations, would render the development unacceptable and such as would not have received planning permission.

3.0 Alternative options

3.1 The **Do nothing option** is no longer relevant since the retrospective planning application to regularise the unauthorised works was refused planning permission on 7th April 2009. (CBC reference 090211).

The reason for refusal of the retrospective application was cited as:-

“Plots 1 & 2 as constructed represent significant changes from the approved plans including the insertion of additional brickwork, different levels and lack of architectural details. The resultant building has an aesthetically unpleasant appearance that will detract from the appearance and character of the development as approved under the permission 071734 and detracts from their setting within the established village street scene. In this respect the development is contrary to the Adopted Review Colchester Borough Local Plan – March 2004 Policy UEA11 and to the advice contained within planning Policy statement 1 (PPS1)”

3.2 The **part demolition option** is potentially a reasonable option if members disagree with the weight given by your officer to what has been described as the likely beneficial impact that the suggested remedial works will have. If members take that view then the minimum demolition necessary to rectify the harmful visual impact caused by the unauthorised increase in height is:-

- Removal of the entire roof and the removal of some 800mm of brickwork below the current eaves level. The subsequent replacement of the roof. This will also have a significant impact on the building's rear elevation where the two storey extension has also been built too high. It will also mean the loss of the room in the roof. These alterations would do nothing to restore the missing architectural detail to the front elevations

4.0 Supporting information

4.1 Since the refusal of the retrospective application back in April 2009 your officers have been attempting to negotiate with the developer a possible way forward that will prove acceptable to the Council.

4.2 Those negotiations whilst amicable have been slow because of the time it has take to gain access to the site, the need to take accurate measurements and assess all the discrepancies that have occurred and because the developer has been reluctant to agree to carry out any remedial work until recently.

4.3 There has been a dispute between parties as to what materials were or were not agreed with the Council. There is no dispute that Ibstock Leicester red bricks were approved. The issue revolves around whether the Council agreed to the dropping of the quoin detailing. There has never been any agreement to the wholesale raising of brickwork.

4.4 The developer has explained that when setting out plots 1 & 2 and 3 & 4 it became apparent that he had to make changes as the slope within the site was greater than expected. In order to get a sensible garden slope and level access to rear/side doors & paths (having had to cut into the slope) for Building regulation approval (with the NHBC not the Council's Building Control service – as was his prerogative). In effect this meant that plots 1& 2 ended up with finished floor levels lower than envisaged on the submitted and approved drawings. Indeed the relationship between plots 1 & 2 and 3 & 4 changed such that the developer has suggested that he needed to raise the brickwork on plots 1 & 2 in order that the ridge heights between the two pairs of plots remained harmonious rather than stepped in an exaggerated manner. The fact that it also meant that a room could be fitted into the roof cannot easily be overlooked. It doesn't easily account for the fact that the rear gabled additions on plots 1 & 2 were also raised higher than approved and that boarding was used in places.

4.5 It should be noted however that much of the front elevation to these properties will be concealed from public view from the road by two significant boarded and pitched roofed garages to be built on the sites frontage.

- 4.6 It should also be noted that the dwellings on plots 3 & 4 were permitted with the unusually high brickwork above first floor window head level. Here however the exaggerated proportions are disguised by the introduction of approved dormer windows in the roof which help to restore the visual balance and prevent a 'top heaviness' from occurring.
- 4.7 It is intended to present a range of imagery at the Planning Committee meeting to fully describe the nature of the unauthorised discrepancies and explain the consequent harm. A mock up of the recommended remedial measures has also been prepared by the Service to illustrate their impact.

5.0 Conclusion

- 5.1 It is considered expedient to take the enforcement action described in section 1 of this report in order to ensure that the harm currently being caused to the appearance and character of these buildings is suitably mitigated and the quality of appearance originally envisaged is achieved.

6.0 Strategic Plan references

- 6.1 No direct link to the 9 key objectives.

7.0 Standard references

- 7.1 This matter does raise human rights issues in respect of the developer's right to make a living. However it should be noted that if he had implemented the permission as approved there would have been no threat of enforcement action to face. The recommended enforcement action is designed to ensure that no lasting visual harm is caused in the common interest.

8.0 Background papers

ARCBLP March 2004
UEA 11



Planning Committee

Item

9

9 July 2009

Report of	Head of Environmental and Protective Services	Author	Liam McKarry 01206 282469
Title	Tree Preservation Order 22/77 – 14 Stammers Road, Colchester.		
Wards affected	Mile End		

This report concerns an application to fell the large, mature oak tree in the rear garden of 14 Stammers Road

1.0 Site Description

- 1.1 See attached plan. This is a domestic suburban property with a small to medium sized rear garden. It is surrounded on all sides by other suburban properties and back gardens. The Oak tree in question is large and relatively close to properties.

2.0 Description of Proposal

- 2.1 Application to fell the large, mature oak tree in the rear garden of 14 Stammers Road due to reasons detailed within report.

3.0 Consultations

- 3.1 Non applicable – No need for CBC consult public or other statutory bodies.

4.0 Report

- 4.1 An application to fell 1 x Oak tree in the rear garden of 14 Stammers Road, Colchester was received on 5th June 2009. This tree is currently protected under TPO 22/77.

5.0 History:

- 5.1 The Arboricultural Planning Officer, Liam McKarry, has been involved in ongoing liaison regarding this matter, whereby the tree was reassessed to ascertain whether the tree still merited preservation under the newer guidance. As can be seen from the attached Tree Evaluation Method for Preservation Orders (TEMPO) scoring the tree does still merit protection under the guidance.
- 5.2 Whilst the score is toward the low end of the scale, it does show that the oak tree does still have amenity value to the public and should therefore continue to be protected.

6.0 Current Application

6.1 The current application details the following as the reasons for felling (copied directly from application):

- Size of tree in relation to the immediate properties
- Risk of damage to individuals and the properties (falling debris)
- The council has received previous complaints from neighbours in relation to the tree
- The TPO is placed on trees that have high amenity value or are special in some way to the public as a whole – This is not the case with the Oak tree in our garden.
- TPOs are made to protect trees where their removal would have significant impact on the local environment by the wider community. Again this is not the case.
- The owners of the properties within the immediate vicinity of the tree have written to Mr McKarry expressing their concerns and views over the size and location of the tree.
- The financial burden of having to fund regular reductions to the tree
- The tree has severe impact on the quality of our life. This is also the same for our neighbours
 - This issue has a detrimental impact on my health – have been under the GP
 - Common law states that individuals have a right to enjoy their property
 - Our rear garden is in total shade from approx 3pm onward during the summer months
 - We have no natural light on the rear of our house
 - Our son has no friends round during the summer months
 - We are unable to put up our sons swimming pool due to the shade and the fact it is constantly filled up with debris
- We held a very rare barbeque 2 weeks ago and at 4pm, those guests who had not put coats on, left. This was on the then hottest day of the year.
- Due to the above issues, we have tried to sell our house but have experienced difficulties due to the trees location. No-one with a family wants to buy a house whereby the garden gets no sun in the afternoon.

6.2 To respond to the points in order:

- Given the age of the tree, the size has altered in only a minimal way since the owners of 14 Stammers Road and the adjacent properties moved into said houses. All current occupiers bought these houses with the tree in situ looking almost exactly the way it does now.
- Risk of damage is perception. To date the applicant has not submitted any evidence showing that this is anything other than his opinion. No professional has confirmed that the tree presents a current risk to either persons or property through the failure of large branches, nor was a history of large branch failure evident upon inspection.
- Any complaint that is received by Colchester Borough Council regarding trees protected by a tree preservation order would be recorded on the TPO file, which is a publicly available document, upon inspection of the file the only correspondence we have regarding this tree are applications for reduction works by a neighbour, which received consent, an application for reduction works by the applicant, which again received consent and the correspondence relating to the current issues which include lengthy discussion with both the applicant and Cllr Goss regarding why felling of the tree requires further information and again recently about why revocation of the order is not possible. The only letters from neighbours received are very recent and are as a result of the applicant asking them to write to us to explain why they wish the TPO

to be revoked. The officer's opinion then, as well as now, was that the reasons provided were not sufficient to warrant revocation of the order.

- The Town and Country Planning Act 1990 and the Town and Country Planning (Trees) Regs 1999 (amended 2008) *'do not define 'amenity', nor do they prescribe the circumstance in which it is in the interests of amenity to make a TPO. It is the Secretary of States view that TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and it's enjoyment by the public. Local Planning Authorities should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees, or at least part of them should be visible from a public place'*. (Tree Preservation Orders – A Guide to the Law and Good Practice; DETR 2000). It is my view that the recent TEMPO scoring, provided in the appendix, does show that the tree has a level of public amenity despite it being in the rear garden of 14 Stammers Road. To date (and within this application) no counter argument or amenity evaluation has been provided to refute this scoring. Irrespective of this point and all others regarding the validity of the TPO in question, the validity of a confirmed TPO cannot be called into question after the statutory timeframe provided when it was served and confirmed.
- See previous point.
- See response to point 3 previously. To summarise the reasons that revocation has been requested by neighbours:
 - Lack of light to gardens
 - Perceived risk of branch failure (no evidence provided except for anecdotal information)
 - Possible fire damage on November 5th or due to lightening strikes.
 - Leaf fall in autumn.

These reasons for revocation are subjective and are not backed up with any evidence. Also these issues are the same as when the properties were purchased after the land searches were undertaken.

- It is appreciated that the applicants comments regarding the financial burden of owning a tree of this size and age, however, the TPO was present at the time the property was purchased and a copy of the order is lodged with the deeds as part of the land charge searches. The cost of this tree is no different to any other owners' duty under the Occupiers Liability act.
- It is very difficult to comment on the impact on quality of life as no real information is provided to back up the claims made. It is known that the applicant has health issues but it is unknown that they are intrinsically linked to this tree. If this could be demonstrated then it would likely be an exemption under the Town and Country Planning (Trees) Regs 1999 (amended 2008) as an actionable nuisance and the applicant could get the tree felled. The same is true of common law right to enjoy property – whilst this is true, this is only a factor if there has been some unlawful interference with that right and currently no measurable or quantitative data has been provided to show that this right has been affected.
- With regard to light into the garden area and the rear of the property, this is measureable and again no data has been provided to show that to be the case. It can be agreed that as a result of the size of the tree it likely does cast a large shadow in late afternoon but this is not to say that sunlight isn't available at other times of the day.
- It is not possible to comment on the last reason for requiring the tree to be felled, except to say that obviously lots of properties are purchased across the UK with large trees in close proximity, including all the properties surrounding this tree.

7.0 Conclusion

- 7.1 Whilst the application made by the applicant contains a great number of reasons it is unfortunate that none of them are borne out with evidence to back them. Currently the request is basically on the basis of his dislike to the tree in question for a number of personal reasons. CBC have never, and would never, refuse consent to allow professionally justifiable works, but to date a justified reason to fell the Oak tree at the rear of 14 Stammers Road has not been provided. Information/reasons provided currently are anecdotal and emotive but are not substantiated in fact, your officer recommends to refuse permission to fell this tree on the basis of the information provided being inadequate. Should evidence be provided by a relevant professional to demonstrate either an exemption to the legislation or back up the reasons provided then felling of the tree may be possible.
- 7.2 It should also be noted that an application to undertake reduction work and crown thinning would be favourably received such as to reduce the overall size and density of the tree.

8.0 Background Papers

- 8.1 See appended information relating to application.

9.0 Recommendation

- 9.1 Refusal to fell 1 x Oak tree in the rear garden of 14 Stammers Road

INDEX TO PLANNING APPLICATIONS CODES

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

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

INTERNAL CONSULTEES

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

REPRESENTATIONS ETC

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

EXTERNAL CONSULTEES (2 character codes)

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