

# Planning Committee

Town Hall, Colchester  
15 November 2012 at 6.00pm

## **This committee deals with**

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

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

# Information for Members of the Public

## Access to information and meetings

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## **Material Planning Considerations**

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

- planning policy such as adopted Local Development Framework documents, for example the Core Strategy, Development Plan Documents (DPDs) and the Site Allocations DPD, 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 among the most common issues that 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
- effects on property values
- restrictive covenants
- loss of a private view
- identity of the applicant, their personality or previous history, or a developer's motives
- competition
- the possibility of a "better" site or "better" use
- anything covered by other legislation

## **Human Rights Implications**

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

## **Community Safety Implications**

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

## **Equality and Diversity Implications**

All applications are considered against a background of the Council's Equality Impact Assessment (EIA) Framework in order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination. The legal context for this framework is for the most part set out in the Equality Act 2010.

**COLCHESTER BOROUGH COUNCIL  
PLANNING COMMITTEE  
15 November 2012 at 6:00pm**

**Members**

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

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

**Agenda - Part A**

(open to the public including the media)

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

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

**Pages**

**1. Welcome and Announcements**

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

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

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

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

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

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

## **3. Substitutions**

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

## **4. Urgent Items**

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

## **5. Declarations of Interest**

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

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

Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

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

## 6. Minutes

The minutes of the meeting held on 1 November 2012 will be submitted to the next meeting on 29 November 2012 for confirmation as a correct record

## 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.

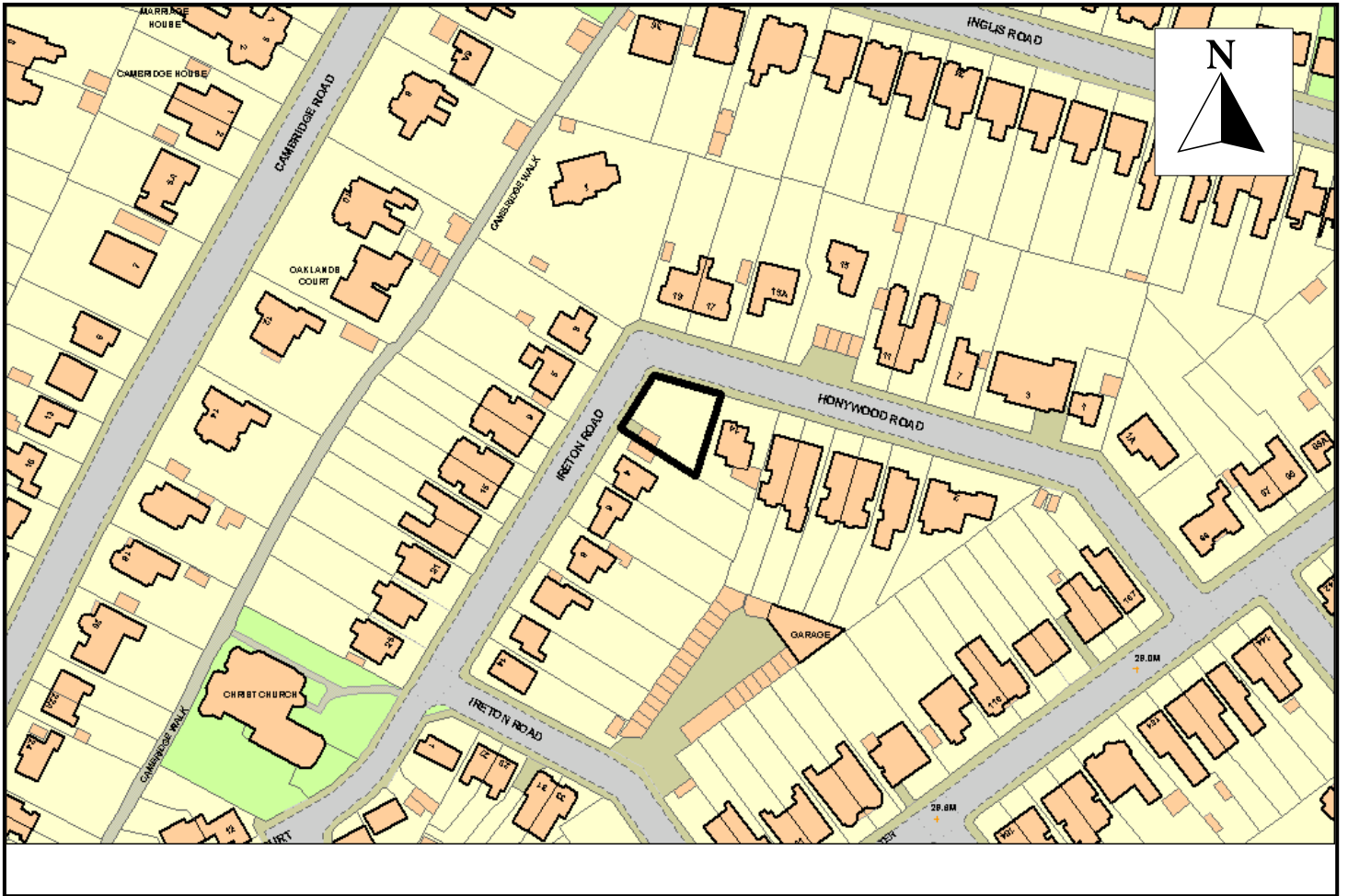
1. 121547 14 Honywood Road, Colchester **1 - 8**  
(Christ Church)  
  
Variation/removal of Condition 17 of planning permission 111842 and Conditions 16 and 18 of planning permission 112480 (relating to boundary treatments).
2. 121189 Units 3-5 Albany Gardens, Haven Road, Colchester **9 - 16**  
(Harbour)  
  
Application for removal or variation of Condition 56 attached to planning permission F/COL/02/1306, that requires the use of the identified workspace units for B1 (Business) purposes.
3. 120846 Pearl Walk, Wivenhoe **17 - 29**  
(Wivenhoe Quay)  
  
Conversion of 3no. commercial units into residential use comprising 3no. 2 bedroomed ground floor apartments.
4. 121676 12 Ash Grove, Wivenhoe **30 - 36**  
(Wivenhoe Cross)  
  
Proposed single storey side and rear extension to form enlarged kitchen, study, third bedroom with ensuite and utility room.

## 8. 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).







**Application No:** 121547

**Location:** 14 Honywood Road, Colchester, CO3 3AS

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

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# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **15 November 2012**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

## 7.1 Case Officer: Mark Russell

**OTHER**

**Site:** 14 Honywood Road, Colchester, CO3 3AS

**Application No:** 121547

**Date Received:** 22 August 2012

**Agent:** Mr Steve Norman

**Applicant:** Mr William Anthony

**Development:** Variation/removal of condition 17 of planning permission 111842 and conditions 16 and 18 of planning permission 112480 (relating to boundary treatments).

**Ward:** Christ Church

**Summary of Recommendation:** Conditional Approval

### 1.0 Reason for Referral to the Planning Committee

1.1 This item was deferred from the Committee of 1<sup>st</sup> November in order to give residents more time to consider late amendments which showed a timber fence instead of brick piers and railings. The matter is to be delegated to Officers if all matters are resolved.

- 1.2 This application was originally referred to the Planning Committee because of a call in from Councillor Cope:

*"I support Richard Spooner's objections and consider that, with your official agreement, he has provided enough material to qualify as a planning policy objection to the application. I therefore ask that the application be called in so as to enable the arguments that he has ably provided to be made before the committee.*

*I remember the last time this went to committee we were already saying that the planning system was being stretched if not actually abused by repeated applications relating to the same development after the committee had already made a decision relating to the proposals on the site -- which incidentally, hadn't been adverse to the developer anyway. I wrote to you to ask that you "hold the line" on the last determination as might behove the planning authority, and which might be expected in any other circumstances where a determination had already been made by the committee. What's different about this one that allows the developer to "go behind" decisions of the committee apparently innumerable times? Are there precedents where previous decisions of the committee are repeatedly treated in this way?"*

## **2.0 Synopsis**

- 2.1 The application before Members is to vary conditions relating to boundary treatment and retention of trees. The site history of this new dwelling is briefly explained and the proposal for the removal of corner vegetation and its replacement with railings and holly hedge planting is described. The report looks at objections mainly based on visual amenity and describes an amended scheme which, it is hoped, is acceptable to all parties. Approval of the amended scheme is then recommended.

## **3.0 Site Description and Context**

- 3.1 The site is part of the former garden on 14 Honywood Road which now contains a newly-built four storey detached dwelling which is nearing completion. The house has been built in a style which is sympathetic with its surroundings.
- 3.2 To the northern and western edges of the site is an established group of smallish, mature and semi-mature trees which are predominantly holly, comprising two lines of trees on the Ireton Road side. These sit behind an existing close-board fence which is approximately 1.8 metres.

## **4.0 Description of the Proposal**

- 4.1 The proposal is to vary condition 17 of permission 111842 which states: 'The development hereby approved shall comply in all respects with the submitted drawings "Front Ireton Road", "Side - Honywood Road", "Layout", and the submitted elevations and floor plans, received 23rd September, unless otherwise agreed in writing by the Local Planning Authority.' These drawings show the retention of the group of trees described above. The new proposal involves new drawings which show the trees to be removed and replaced by ornate railings back planted with smaller holly specimens.

- 4.2 The proposal is also to vary condition of 16 of permission 112480 which states: “The development hereby approved shall comply in all respects with the amended drawings WA/1A REV A, WA.2A REV A and WA.3A REV A , unless otherwise agreed in writing by the Local Planning Authority.” This drawing also shows the retention of the group of trees described above. The reason for this seeming duplication is that application 112480 varied conditions on the original permission. Effectively, reference to application 111842 is not really required as it was permission 112480 (with a small rear extension) which was actually implemented. The proposed conditions, and decision notice, would therefore refer only to permission 112480.
- 4.3 The final limb of the application is to remove condition 18 of 112480, which quite clearly states:
- “In connection with the landscaping and boundary conditions above, the fence and existing planting to the north-western corner shall not be removed.”
- 4.4 In conclusion, and for the absolute avoidance of doubt, the proposal as submitted was to remove all of the fencing and trees on the Ireton Road aspect, and those for the six metres nearest to the corner on the Honeywood Road aspect, and to replace them with iron railings and capped brick piers to a height of approximately 1.2 metres, back-planted with low holly bushes.
- 4.5 Also in the proposal drawings, but not described in the application, are a cycle shed of 1.7 x 1.7 metres and a waste/recycling storage unit of 800mm x 1 metre is also shown.
- 4.6 The proposal was amended to include retention of the existing fence and trees on the Honeywood Road side, and retention of it on the Ireton Road side to such as point as where the front-facing windows begin (three metres along). It was then further amended to replace the proposed brick and railings with a feather-edged timber fence.

## **5.0 Land Use Allocation**

- 5.1 Residential

## **6.0 Relevant Planning History**

- 6.1 110165 - Erection of detached dwelling house with an associated garage and parking facilities. WITHDRAWN 17<sup>th</sup> March 2011.
- 6.2 111842 - Erection of detached dwelling house with an associated parking facilities. Resubmission of 110165. APPROVED 18<sup>th</sup> November 2011.
- 6.3 112480 - Minor material amendment to permission 111842 (erection of a detached dwelling house with associated parking facilities) to permit the addition of a single storey garden room. APPROVED 23<sup>rd</sup> February 2012.

## **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:  
The National Planning Policy Framework (NPPF)

- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
SD1 - Sustainable Development Locations  
H1 - Housing Delivery  
UR2 - Built Design and Character  
TA5 - Parking  
ENV1 - Environment
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP12 Dwelling Standards  
DP19 Parking Standards
- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:  
Backland and Infill  
Vehicle Parking Standards  
Sustainable Construction  
Open Space, Sport and Recreation  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

- 8.1 Highway Authority - No objection
- 8.2 Environmental Control – No objection

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

## **9.0 Parish Council Response**

- 9.1 n/a

## **10.0 Representations**

- 10.1 Four letters of objection from three nearby households were received.
- 10.2 These letters covered the following points:
- The existing trees and hedges should be preserved;
  - The applicants should not repeatedly attempt to overrule the Council's decisions;
  - The justification (based on security) is spurious;
  - The proposed treatment is not in keeping;
  - Extra elements were been included on the drawings (i.e. the bike shed and the refuse/recycling store) without being described in the application

- 10.3 An additional objection has been received from the occupier of the host dwelling 14 Honywood Road complaining that they had not been consulted and also stating concern that there was a proposed removal of their front and side fences.

*OFFICER'S RESPONSE – By an oversight the original 14 Honywood Road was not consulted.*

*The applicants have indicated that some references from the original application have been left on the plans by mistake and that these fences will not be touched in any way.*

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

## **11.0 Parking Provision**

- 11.1 n/a

## **12.0 Open Space Provisions**

- 12.1 n/a

## **13.0 Air Quality**

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

## **14.0 Report**

- 14.1 This site will be well known to Members, having been to Committee twice previously (once for the house itself, once for the rear extension). The current application simply looks at issues of boundary treatment (and two smaller elements added into the side garden).
- 14.2 The issue of security has not been accepted as a reason for recommending the current proposal. The only issue which has been considered is that of visual amenity.
- 14.3 Much store has been held in the vegetation on this corner, which local residents consider to be a positive feature. It could have been removed at any time prior to the first application and prior to development, but has been retained and is protected by condition because of its positive contribution.
- 14.4 This means that any application to alter or remove it must be of a high quality in what is a high quality environment (albeit not a conservation area).
- 14.5 Your Officer had discussions with the applicants prior to the submission of this application, and the idea of railings and piers, with back-planting, was mooted. This would preserve, to some extent, the green corner, albeit much reduced. Your Officer did suggest removing the piers and having railings only, to enhance the green look, but this was not followed up.

- 14.6 It became clear during consultations that the desire amongst residents to preserve the green corner as it is now was very strong. In order to accommodate this, a scheme was looked at which would preserve the corner as much as possible, whilst at the same time allowing more light into the front windows.
- 14.7 The compromise solution was to preserve the Honywood Road aspect and to preserve the first three metres of the Ireton Road aspect. This is near to the point at which the front-facing windows begin. From that point on, the pier and railings with newly planted low-set holly bushes could fill the front elevation.
- 14.8 This proposal then evolved further with the brick piers and railings being replaced by 1.2 metre high feather-edged fencing and back planting with a deciduous native hedge such as Hornbeam or Beech.
- 14.9 This new option has been posted on the website and has gone out to consultation. Any additional comments received will be put on the amendment sheet.
- 14.10 The remaining frontage treatment to Ireton Road does not have a precedent in the immediate locality, but is of a high quality and is held to be acceptable. It is noted that there is not a uniform pattern of frontage treatment, although wood does predominate.
- 14.11 The existing corner fence is to be chamfered down at an angle of 45 degrees to meet the new fence, amended drawings on the Committee presentation illustrate this point.
- 14.12 The depth of the vegetation will have to be carefully agreed. It is predominantly two trees deep, and at a certain point on the Honywood Road aspect may have to be reduced to a depth of one tree to allow a little more space and light. This will have to be the subject of a suitably-worded condition.
- 14.13 The question of height has been raised. It is felt that the planting does need to be tidied up, and thus there will have to be pruning. It is therefore suggested that a minimum height of three metres be retained at all times.
- 14.14 On other matters, the small point of the shed and the recycling store have now been covered by the submission of a drawing. These are held to be acceptable.

## **15.0 Conclusion**

- 15.1 The amended scheme, with about half of the vegetation retained and new low level planting on the remaining part of the Honywood Road aspect, with timber fencing, is held to be a good compromise and Members are requested to approve this application.

## Recommendation

All conditions from Planning permission 112480 to be repeated/deleted/re-worded, including the following:

- Condition 16 re-worded as follows:

The development hereby approved shall comply in all respects with the amended drawings WA/LP-1 Rev C, WA/LP-2 Rev B WA/1A REV A, WA.2A REV A and WA.3A REV A, and the drawing marked "Miscellaneous" unless otherwise agreed in writing by the Local Planning Authority.

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

- Condition 18 re-worded as follows:

The fence and existing planting to the north-western corner shall be retained at a minimum height of three metres as indicated on the approved drawings. The new 1.2 metre high feather edged fencing on the Ireton Road side shall match the existing in type and colour and shall be back-planted with a native type of hedge of a species and height to be agreed in writing by the Local Planning Authority. This shall be planted within 56 days of this permission and shall be retained at all times thereafter. Should any of the existing or proposed trees or hedges die, be removed or fail to thrive they shall be replaced within 28 days.

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





**Application No:** 121189

**Location:** Units 3-5 Albany Gardens, Haven Road, Colchester, CO2 8HT

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

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**7.2 Case Officer: Sue Jackson**

**Due Date: 21/01/2013**

**MAJOR**

**Site:** Units 3-5 Albany Gardens, Haven Road, Colchester, CO2 8HT

**Application No:** 121189

**Date Received:** 22 October 2012

**Agent:** Mr Robert Mathison

**Applicant:** Cube Developments Ltd

**Development:** Application for removal or variation of condition 56 attached to planning permission F/COL/02/1306, that requires the use of the identified workspace units for B1 (Business) purposes.

**Ward:** Harbour

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

## **1.0 Reason for Referral to the Planning Committee**

1.1 This application is referred to the planning committee because the parking provision does not meet the Councils adopted standards

## **2.0 Synopsis**

2.1 The report will describe the application proposal and then discuss the material considerations. The recommendation is one of approval subject to a unilateral undertaking and appropriate conditions.

## **3.0 Site Description and Content**

3.1 The site is part of the Albany Gardens development fronting Haven Road. The specific location is a building 4 storeys high which fronts the road. It forms part of the mixed use negotiated on Albany Gardens development approved under application F/COL/02/1306. The ground floor has permission for retail the first business/storage use associated with the ground floor. The upper floors were originally approved for live work units but now have permission for residential use.

## **4.0 Description of the Proposal**

4.1 The application proposes the change of use of the first floor from commercial use associated with the ground floor retail use to residential use 3 flats 2 1-bed and 1 2-bed units.

## **5.0 Land Use Allocation**

- 5.1 Conservation Area  
Neighbourhood Centre  
Predominantly residential

## **6.0 Relevant Planning History**

- 6.1 F/COL/02/1306 – Albany Laundry Site, Haven Road, Colchester - Mixed Use development comprising 200 dwellings (including 9 live/work) – Conditional Approval 18 February 2004
- 6.2 F/COL/04/0500 – Albany Laundry Site, Haven Road, Colchester - Variation of Conditions 4C, 4D and 59 of planning permission – Conditional Approval 21 June 2004
- 6.3 F/COL/04/0562 – Albany Laundry Site, Haven Road, Colchester - Variation of Condition 4a and removal of Condition 4b of planning permission – Conditional Approval 18 May 2004
- 6.4 F/COL/04/0561 – Albany Laundry Site, Haven Road, Colchester - Variation of Condition 14 of planning permission F/COL/02/1306 – Conditional Approval 18 May 2004
- 6.5 112182 – Units 3-5, Haven Road, Colchester - Removal/variation of a condition – Conditional Approval 9 November 2006

## **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
H1 - Housing Delivery  
H2 - Housing Density  
UR1 - Regeneration Areas  
TA5 - Parking  
ENV1 - Environment

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

DP1 Design and Amenity

DP3 Planning Obligations and the Community Infrastructure Levy

DP4 Community Facilities

DP5 Employment Uses and Protection of Employment Land and Existing Businesses

DP7 Local Centres and Individual Shops

DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP19 Parking Standards

DP20 Flood Risk and Management of Surface Water Drainage

7.4 Site Allocation Policies

Adopted Borough Site Allocations Policies (October 2010) SA EC1 Residential development in East Colchester

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

Community Facilities

Vehicle Parking Standards

Open Space, Sport and Recreation

External Materials in New Developments

## 8.0 Consultations

8.1 Environmental Control:-

Should planning permission be granted Environmental Control wish to make the following comments:- No Comment.

8.2 The Highway Authority raises no objection to this proposal as it is not contrary to the following policies:-

A) Safety - Policy DM1 of the Highway Authority's Development Management Policies February 2011

B) Road Hierarchy - Policies DM2-5 of the Highway Authority's Development Management Policies February 2011

C) Accessibility - Policy DM9-12 of the Highway Authority's Development Management Policies February 2011

D) Efficiency/Capacity - Policies DM13-15 of the Highway Authority's Development Management Policies February 2011

**INF01:** 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 to the Area Highways Office (08456 037631)

### 8.3 Environment Agency comments:

Thank you for consulting us on the following application. We have considered these proposals against the physical site constraints and our statutory consultations remit. In this instance we will not provide a bespoke response to this application because we have reviewed the proposals and consider them to have a low environmental risk.

### 8.4 Planning Policy comments:

“The application involves floorspace on the first floor of the building that was identified for commercial B1 (office) purposes by the original application for this development (F/COL/02/1306). Adopted Development Policy DP5 is relevant no objection in principle subject to acceptable marketing.”

## 9.0 Parish Council

N/A

## 10.0 Representations

10.1 None

## 11.0 Parking Provision

11.1 Parking provision is one of the material considerations in determining this application and the issues raised are set out in the report section together with the other material considerations.

## 12.0 Open Space Provisions

12.1 The application includes a unilateral undertaking to secure the required contribution towards open space. Albany Gardens development includes areas of public open space.

## 13.0 Air Quality

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

## 14.0 Report

14.1 The Material Considerations are:

- Loss of commercial floorspace
- parking provision

### Loss of commercial floor space

#### 14.2 Information submitted with the application states:-

“Throughout our 5 years of ownership, the first floor has been marked separately and together with the ground floor in line with the current planning consent. The Fishing Tackle Shop, located on the ground floor, who has been in occupation for almost five years, (despite paying very little rent over that period) did occupy the first floor for a short period but it fell vacant a couple of years ago and has remained vacant ever since. The properties have been marketed for five years. There has been little success or demand for this combination here. Our client cannot let the upper parts for commercial use and is facing enormous financial pressure from receiving virtually no income for these. The proposal seeks to obtain permission to market the first floor units as three separate residential properties with a remodelled separate entrance and stairs to the street level.’

#### 14.3 The applicant has provided sufficient information to demonstrate the premises have been appropriately marketed. The site is within a residential area and the principle of residential use is therefore acceptable. The application has been considered by the development team and no objection was raised to the loss of this small area of commercial floor space.

### Parking provision

#### 14.4 The parking provision for the 3 units is a single parking space this does not meet adopted standards but is the only space allocated for this commercial floor space it is therefore not possible to increase the parking provision. The Albany Gardens development was approved when maximum parking standards were applied to residential development and this site had an average of 150% with some units having 1 and some 2 spaces. Limited parking was provided for the commercial units on the basis they would be mainly serving the adjacent residential population. The development requires 1 space for each 1-bed unit and 2 spaces for the 2-bed unit plus a visitor space a total of 5 spaces. There is shortfall of 4 spaces. The site is within an urban area where a relaxation of parking standards can be considered. Applications to convert other commercial premises to residential use on the Albany Gardens site have been reported to the planning committee where there has been a similar shortfall in parking space numbers and Members have accepted that it is not possible to improve parking provision application 112182 and F/COL/05/0730 are relevant.

#### 14.5 The Parking Standards Document under the section titled Parking Standards in Urban Areas states:-

“For main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development. Main urban areas are defined as those having frequent and extensive public transport and cycling and walking links, accessing education, healthcare, food shopping and employment”.

### Amenity Provisions

- 14.6 The three units will not have private amenity space however they are close to open space within the development. Other flats on this development do not have individual amenity provision. The site is close to development fronting the river where new public open space has recently been approved.

### Impacts on Surrounding Properties

- 14.7 It is considered the residential use itself will not impact on the amenity of surrounding properties.

### **15.0 Conclusion**

- 15.1 It is considered the applicant has marketed these units appropriately and has been unsuccessful in finding an occupier. The commercial floor space is located below existing residential use and is it likely any use other than residential would not be acceptable due to a loss of amenity to the residents above. Despite the lack of on site parking spaces planning permission is recommended.

### **16.0 Recommendation**

- (1) APPROVE subject to the signing of a unilateral undertaking to secure the appropriate community and open space, sport and recreation facilities contributions
- (2) On completion of the unilateral undertaking the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

### **Conditions**

#### 1 - Time Limit for Full Permissions

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

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

#### 2 - \*Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 223/105 and 223/100 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

### 3 - Non-Standard Condition/Reason

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

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

### 4 - Non-Standard Condition/Reason

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

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

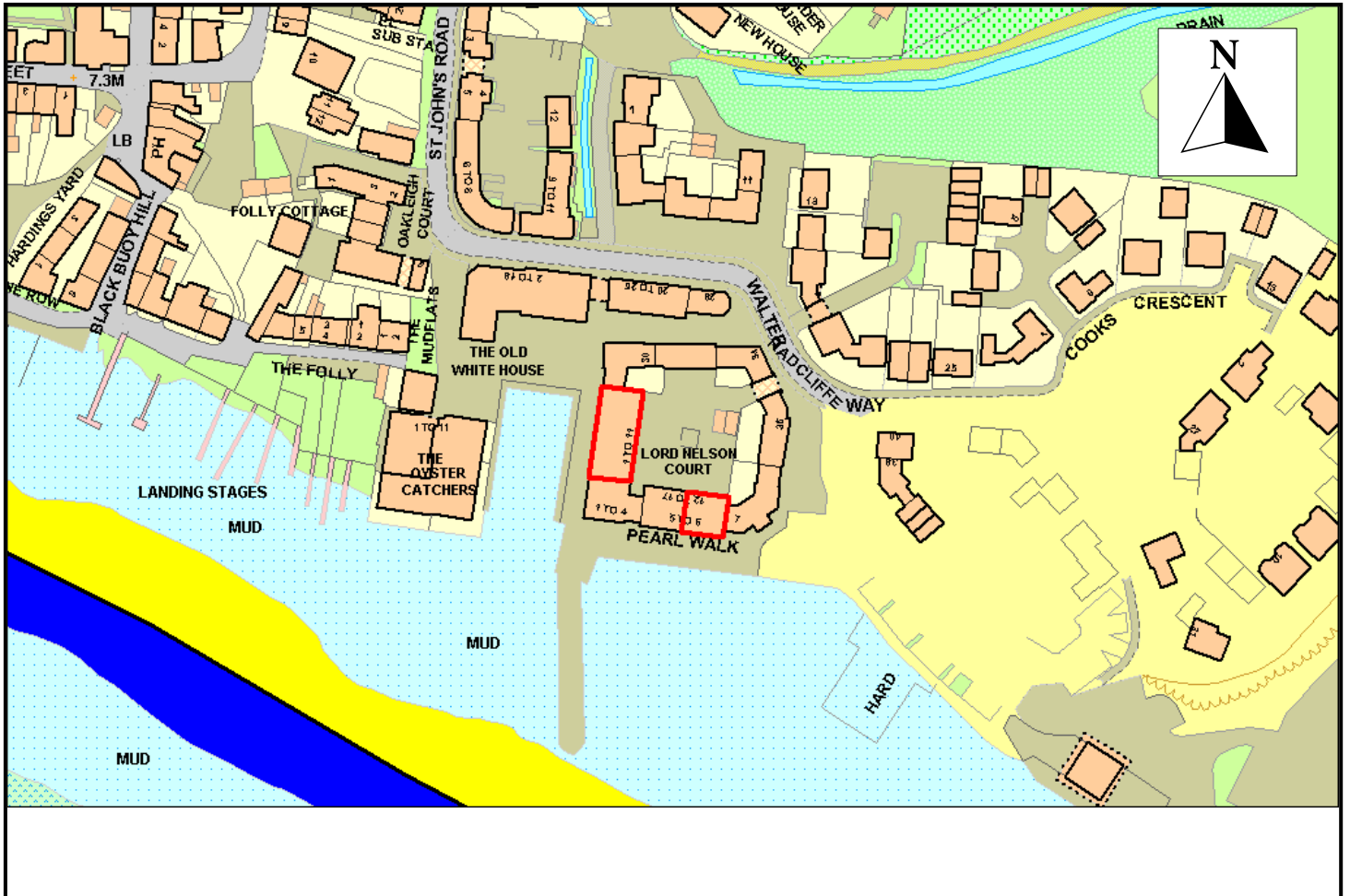
### **Informatives**

(1) 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.

### **Reason for Approval**

The principle of residential development is acceptable. Whilst the Council's adopted parking standards cannot be met the site has been appropriately marketed. Any other alternative commercial use could have an adverse impact on the amenity of existing residents. Residential use is therefore considered acceptable.





**Application No:** 120846

**Location:** Pearl Walk, Wivenhoe, Colchester

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

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### 7.3 Case Officer: Sue Jackson

## MINOR

**Site:** Pearl Walk, Wivenhoe, Colchester

**Application No:** 120846

**Date Received:** 17 May 2012

**Agent:** Mr Alan Cudmore

**Applicant:** Taylor Wimpey East London

**Development:** Conversion of 3no. commercial units into residential use comprising 3no. 2 bedroomed ground floor apartments.

**Ward:** Wivenhoe Quay

**Summary of Recommendation:** Conditional Approval subject to signing of Section 106 Agreement and Unilateral Undertaking

### 1.0 Introduction

1.1 This application was considered by the Planning Committee meeting at the meeting on the 19<sup>th</sup> July. The following information regarding late offers on the units was reported on the amendment sheet.

1.2 Councillor Ford had been given the following information:-

“This proposal is being made on the grounds that the units are not selling as business units. However I know for certain that at least 3 offers, at or close to the asking price, will be put before the applicant's board this Friday 20<sup>th</sup> July - the day after this application is considered. Two of these offers were made a while ago and one is about to be made by someone I know. There is clearly interest in their use as business premises; the nearby business centre is already fully occupied.”

1.3 Members deferred the application for 6 months to allow:-

- (a) the marketing of the units to continue and
- (b) the recent offers to be fully investigated

1.4 Although it is only 4 months since the application was deferred the applicant has requested the application be reported back to the committee for determination.

1.5 Since July one of the offers has been successful and the application has been amended so it now relates to the change of use of three of the commercial units to 3 2-bed apartments.

1.6 The earlier report to Members is set out below but has been amended to refer to three units not four. New information submitted on behalf of the applicant in respect of the marketing plus further explanation on some of the issues raised by Members at the meeting is added in **bold type**.

1.7 **Further clarification regarding marketing is set out below:-**

#### **Marketing Update**

**In line with the Committee's request, the site has continued to be marketed since the Committee for B1 use and details of all interest received is now provided in the correspondence from Fenn Wright. Unit F received an offer from a local resident which was accepted in July 2012. The sale of this unit is nearing completion. The smaller units A, B and C (each 69.1m<sup>2</sup>) have continued to and consistently since 2007 received little interest from potential occupiers.**

**Given that Unit F is under offer, Unit F is now proposed to be excluded from the current planning submission. The enclosed planning application forms and plans have been revised to reflect this. The exclusion of Unit F from the application creates a neat commercial frontage to Pearl Walk, while the units fronting the dock to the side become residential.**

#### **Provision of Affordable Housing**

**The original proposals for change of Units A, B, C and F to residential included an offer to provide a single affordable unit off-site at Area L & N at Colchester Garrison (Unit 41). We can confirm that this offer will remain in respect of the change of use of just 3 units A, B and C should the Committee be mindful to approve the application. If the application is further delayed or refused, then this offer will have to be withdrawn as the development at Area L & N will be too far advanced.**

## **2.0 Reason for Referral to the Planning Committee**

2.1 This application is referred to the Planning Committee for the following reasons:-

- It has been called in by Councillor Ford as the proposal does not meet the adopted parking standard and due to concerns the proposal will result in the loss of commercial floor space.
- The parking provision does not meet adopted standards.
- The application includes a section 106 agreement.

## **2.0 Synopsis**

2.1 The report will describe the application proposal and then discuss the material considerations. The recommendation is one of approval subject to a section 106 agreement, a unilateral undertaking and appropriate conditions.

#### **4.0 Site Description and Content**

4.1 The application site is the former Cooks Shipyard, Wivenhoe located on the eastern edge of the town with a frontage to the River Colne. The specific location is a building called parcel E on phase 2. This building is roughly square shaped with a central parking area. It has 2 storey and 3 storey elements, 4 storey including the roof area. The ground floor comprises 6 commercial units fronting the quay and wet dock and residential units on part of the ground floor and all the upper floors and roof. The building has been constructed; the residential units and 2 of the commercial units are occupied. This application relates to the three vacant commercial units which have never been occupied.

#### **5.0 Description of the Proposal**

5.1 The application proposes the change of use of the 3 ground floor units to 3 2-bed apartments. It includes minor changes to the external appearance, these include new fenestration which respects the original appearance and the existing commercial units.

5.2 The application includes the following documents:

- transport statement report
- design and access statement
- flood risk assessment
- flood warning and evacuation plan
- addendum to the original contaminated land risk assessment
- marketing report

#### **6.0 Land Use Allocation**

6.1 Predominately Residential on the LDF Proposals Maps.  
Regeneration Area  
Conservation Area  
Public footpaths cross the site.

#### **7.0 Relevant Planning History**

7.1 O/COL/01/1799 - Outline planning permission approved on 5 November 2004 for erection of houses, flats, offices, fisherman's store and W.C. Refurbishment of wet dock, jetty, slipway and waterfront. Reconstruction of St John's Road and Walter Radcliffe Way.

7.2 RM/COL/05/1808 - Phase 2 - Reserved Matters approval - Removal of public footpaths, restoration of White House, fisherman's store, 6 commercial units, 12 houses and 42 flats, 7 polyfunctional spaces and associated parking for all the above.

- 7.3 110720 The application proposes removing condition 9 on the Cooks Shipyard site which restricts the use of the commercial buildings comprised in block B to B1a and B1b use and to allow their use for A1, A2, A3 and D1 it also proposes an extension of the opening times. **Members should note the application being considered by the Planning Committee on the 19<sup>th</sup> July 2012 relates to the same commercial units.**

This application was refused for the following reasons:-

- 1 The access roads to this site are narrow and constricted through the older parts of the village, or through residential areas, and applications of this nature bring with them potential for additional vehicular movements. The proposal would see traffic enticed into the area for a greater period of time and, by reason of the longer working hours, increase the frequency of servicing by larger delivery vehicles. The proposal is therefore unacceptable and would conflict with the interests of the existing highway users and the amenity of the existing residents.
- 2 The proposed variation of the condition to permit A1 A3 and D1 uses and to extend the opening times would have an adverse impact on residential amenity due to additional noise and general activity from vehicles and pedestrians and odour pollution associated with the uses.
- 3 The parking standards adopted in September 2009 set out the parking standards and requirements for delivery /service vehicles for all the uses proposed. Whilst they are maximum standards it is considered the proposed uses in particular A3 restaurant and D1 non residential institution would generate vehicles to the site which could not be accommodated in the limited parking spaces available to these units. This would result in a further loss of amenity to residents.
- 4 The site is within the Wivenhoe settlement boundary and is allocated as Predominately Residential on the LDF Proposals Maps. The Core Strategy provides the Centres and Employment Hierarchy and details the type of uses which are to be expected in each part of this hierarchy. Areas allocated as Predominately Residential are not found within the hierarchy and therefore A class uses on this scale are normally not in accordance with policy. The range of uses applied for as part of this application have not been justified sufficiently and therefore it is not possible to judge the scale and impact of the proposed A and D Use Classes on Wivenhoe and the surrounding area.

## 8.0 Principal Policies

- 8.1 The following national policies are relevant to this application:  
The National Planning Policy Framework (NPPF)

8.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA4 - Roads and Traffic
- TA5 - Parking

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

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP11 Flat Conversions
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage

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

- Community Facilities
- Vehicle Parking Standards
- Sustainable Construction
- Open Space, Sport and Recreation
- External Materials in New Developments
- Affordable Housing

## **9.0 Consultations**

9.1 The Highway Authority has raised no objection subject to a condition requiring the provision and implementation of a Travel Information and Marketing Scheme.

## 9.2 Senior Enterprise Officer:-

“Having had the opportunity to read the marketing history supplied by Fenn Wright it appears quite clearly that lack of parking spaces suitable for the intended end-use has been part of the reason why two-thirds of the spaces (4 of the 6) have not moved.

Taking an employment density per office worker of the generous level of 14 square metres per person (150.64 square feet), the number of resulting office staff, netting off space for a kitchenette and toilet area, would be around 4 in Units A-C and around 5-6 in Unit F. Assuming the pipeline of business expansion taps local wellsprings, as it has for the two sold units – and as it seemed to do for the two near-deals – we might assume probabilistically a Wivenhoe resident owner walking to work and three (four for Unit F) commuting staff. Of these commuting staff it would appear reasonable to have allowed for 2 arriving by car, added to which, as functioning businesses we would need another one minimum visitor parking space. So, my concern is that a viable proposition for the relevant commercial uses would be 3 parking spaces per unit, not the one we have conditioned. A second concern is that the developer was allowed to market the units in “shell and core” condition rather than in a ready to occupy state, adding another perhaps £10,000 to £15,000 to the cost of purchase.

However, given the lengthy and apparently well-run marketing campaign by Fenn Wright, it appears that we will have to concede that there are no current immediate occupiers for the remaining four units, although figures I have indicate that the ratio of B1 space to businesses in Wivenhoe indicates an immediate local undersupply of commercial space of this kind.

## 9.3 Urban Design Officer:

“Aesthetically the conversions appear to have respected the character of the building and reflect the rhythm of fenestration adequately.”

## 9.4 Contaminated Land Officer:

“The JJ Knight Roadworks Ltd re-assessment of the risks and the conclusion that the proposed change of use of Block E ground floor units, from commercial to residential, will not affect the existing remedial measures, already installed (e-mail of 19/6/12). This conclusion would appear reasonable.

Should permission be granted for this application, Environmental Protection suggest an informative is appended, to ensure that existing remedial measures remain effective for the proposed change of use.”

## 9.5 Environmental Control - Should planning permission be granted Environmental Control wish to make the following comments:- Demolition and Construction informative to be added

In addition to the details reported above, the full text of all consultation responses is available to view on the Council’s website.

## 10.0 Town Council Response

10.1 The Town Council has stated that:

“Recommendations: Overdevelopment of site. Inadequate parking. The Town Council supports the commercial aspect of the development and is disappointed that a relaxation in the original consent has resulted in this application. The Town Council would wish for the commercial units to be retained until the economy turns around. The original traffic survey was in support of the commercial units not residential. There is no provision for amenity space. Residential use will produce an overspill which could have an impact on the existing business units.

It should also be noted that in signing the lease for the Wet Dock, the Town Council is supporting the local fishing industry and residential.”

## 11.0 Representations

11.1 One letter of support and one letter of objection have been received.

11.2 The letter of support states this would be a great outcome for the 4 empty units.

11.3 The letter of objection is from the Wivenhoe Society and states:-

“The Wivenhoe Society wishes to object to the plans, as they stand, to convert four commercial units at Pearl Walk, Wivenhoe, into flats, on the grounds that the parking provision seems entirely inadequate. It would appear that only 4 parking spaces are provided in total for the four units. This may explain why it has been difficult to market them as commercial units. We are not clear as to the status of the piece attached to the planning committee meeting on May 23 of this year but this states

**“Advisory note on parking standards**

The residential parking standard for two bedroom flats and houses is two spaces per unit.

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

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

Following these guidelines the four flats should have a total of 9 parking spaces provided.

There is already a problem with on street parking in Walter Radcliffe Way and any parking to the riverside of the block concerned would greatly detract from the amenities of the area. No case has been made for relaxing the parking standards outlined above. The nearest bus stop is some way away and the station even further.

The Society would not object in principle to the commercial units being turned into flats but would suggest that three of them be turned into flats and the fourth should be used for parking provision subject to suitable fire and sound proofing to protect the amenities of the occupiers of the flats above”.

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



## **12.0 Parking Provision**

12.1 Parking provision is one of the material considerations in determining this application and the issues raised are set out in the report section together with the other material considerations.

## **13.0 Open Space Provisions**

13.1 The application includes a unilateral undertaking to secure the required contribution towards open space. The larger Cooks site includes an area of public open space a children's play area, public quay and a water meadow.

## **14.0 Air Quality**

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

## **15.0 Report**

15.1 The Material Considerations are

- Loss of commercial units
- Parking provision
- Highway issues
- Flood risk assessment
- Affordable Housing
- Design and Layout
- Impacts on Neighbouring Properties
- Amenity Provisions

### Loss of Commercial Units

15.2 The outline application submitted in 2001 envisaged a mixed use development; the subsequent approval of reserved matters included 6 commercial units on phase 2 and 941 square metres of B1 Business floorspace on phase 3. The 6 phase 2 units comprise the ground floor of a 3/4 storey building with residential on the upper floors and part of the ground floor. The commercial floor space on phase 3 comprises retail and B1 Business uses and is contained in a building with no residential floor space.

15.3 The application includes a marketing report. The report submitted by Fenn Wright states a comprehensive marketing campaign for the commercial units began in mid-2009. However from December 2007 they were marketed through informal channels. The report includes details of the marketing campaign which has been considered by the Councils Economic Development Officer and he is satisfied with its conclusions.

15.4 Members will note from the planning history an application was submitted last year for these 4 units to extend the range of permitted uses. This application generated significant objection from the occupants of other residential units in the building. The application was refused due to insufficient parking provision, additional traffic movements and adverse impact on resident's amenity.

15.5 Whilst the loss of commercial floor space is regretted it is considered the applicant has properly marketed the units without success and has sought to extend the range of uses which has been refused planning permission.

#### Parking Provision.

15.6 The four commercial units each have a single parking space and the proposed four flats will each have a single space. It is not possible to increase the number of spaces.

15.7 The development gained planning permission before the new parking standards were approved. The block comprises 22 residential units and 6 commercial units and a total 33 parking spaces (this includes some garages). There are 6 spaces for the six commercial units providing 27 spaces for 22 residential properties. At the time the application was determined the Councils adopted parking standard was a maximum standard. The development is in a sustainable location within walking distance of Wivenhoe railway station and the facilities in the town and the parking provision was considered acceptable.

15.8 The new adopted parking standard is a minimum standard and requires 2 parking spaces per 2-bed dwelling plus 1 visitor space per 4 units a total of 9 spaces is required. There is therefore a shortfall of 5 spaces.

15.9 However the Parking Standards Document under the section titled Parking Standards in Urban Areas states "For main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development. Main urban areas are defined as those having frequent and extensive public transport and cycling and walking links, accessing education, healthcare, food shopping and employment".

15.10 In this case it is not possible to increase the parking provision. Alternative uses such as retail, restaurant and public uses have been refused permission on grounds including traffic generation and impact on residential amenity. Whilst the parking provision for the proposed flats is below the adopted standard alternative uses would generate even more traffic so a residential use is considered to be an acceptable use. For the units to remain empty is not considered to be an acceptable option.

#### Highway Issues

15.11 The Transport Assessment contains the following conclusions:

- The proposed change of use is negligible in terms of traffic generation when compared to the whole of the Cooks Shipyard development and further to this it is expected that this change would effectively reduce the overall traffic generated by the development.
- The previous transportation study undertaken within the transport Statement in 2009 to support the previous layout revision has successfully demonstrated that the local highway layout operates well and that the site is adequately served in terms of public transport and local amenities
- It can therefore be concluded that the proposed change of land use of four commercial units to four residential units will have no detrimental impact on the local highway network and that there is no highway or transportation reason for this application to be refused.

15.12 The Highway Authority has raised no objection.

#### Flood Risk Assessment (FRA)

15.13 The original application documentation included a FRA however as a residential use is classed as a “more vulnerable use” than commercial a revised FRA was required. The revised documents which include a flood warning and evacuation plan have been considered by the Environment Agency who has raised no objection to the application. They indicate the Flood warning and evacuation plan should be considered by CBC Emergency Planners.

#### Affordable Housing

15.14 The applicant has offered to provide an affordable housing unit off site at the Garrison. This will be secured by a section 106 agreement and has been agreed by the Council’s Affordable Housing Project Officer. **The affordable housing for this part of the Cooks development is provided off site at the Flag this development is complete and occupied. Phase 3 includes on site provision but this development is also complete and sold so it is not possible to provide the unit on this phase. The applicant does not have any other development sites in Wivenhoe. The applicant has offered this unit on another site in their ownership on the basis that securing affordable housing is one of the Council’s corporate priorities.**

#### Design and Layout

15.15 The changes to the external appearance respect the character of the building and are considered acceptable.

#### Amenity Provisions

15.16 The four units will not have private amenity space however they front onto an area of public quay and are close to extensive areas of open space. **This building fronts a public area facing the river which provides an amenity for residents. In addition the Cooks site has an area of public open space and is close to the extensive public areas adjacent to the river from Wivenhoe to Arlesford.**

#### Impacts on Surrounding Properties

15.17 It is considered the residential use itself will not impact on the amenity of surrounding properties. Any impact will be associated with the parking provision. However it is considered that because of the adopted parking standard at the time the units were approved any use of these units could generate a parking requirement above the 1 space per unit provided.

### **16.0 Conclusion**

16.1 It is considered the applicant has marketed these units appropriately and has been unsuccessful in finding an occupier. The application to extend the range of permitted uses was refused planning permission. Despite the limited parking residential use is considered an acceptable use and permission is recommended.

## 17.0 Recommendation

- (1) APPROVE subject to outstanding consultees raising no objection to the prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990. The Head of Environmental and Protective Services to be authorised to complete the agreement to secure plot 41 at the garrison L+N as an affordable housing unit.

and the signing of a unilateral undertaking to secure the appropriate community and open space, sport and recreation facilities contributions

- (2) On completion of the legal agreement and unilateral undertaking the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

### Conditions

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

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

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

#### 2 - Non-Standard Condition

The development shall accord with approved plans drawing numbers 12.004/304 Rev A; 12.004/302 Rev A, 12.004/300 Rev A, 12.004/303 Rev A and 12.004/301 Rev A.

Reason: To ensure the development will be carried out as approved and because any changes must be agreed in advance in writing by the local planning authority.

#### 3 - Non-Standard Condition

The parking spaces shall be provided for their respective residential unit as indicated on drawing number 12.004/304 Rev A prior to the occupation of any of the residential units. The parking spaces thereafter shall be retained for parking vehicles ancillary to the development.

Reason: To ensure parking is provided for the residential units.

#### 4 - Non-Standard Condition

The bicycle parking facilities indicated on the approved plans returned herewith, shall be provided and made available to serve the units hereby approved before the units are occupied. These facilities shall thereafter be retained as such.

Reason: To ensure that adequate provision is made for cyclists.

#### 5 - Non-Standard Condition

The new brickwork, render and fenestration shall match the existing in all respects.

Reason: To ensure an acceptable appearance.

## 6 - Non-Standard Condition

Flood Warning and an Evacuation Plan shall be implemented in accordance with the submitted document "Flood Warning and Evacuation Plan" dated April 2012 submitted by Richard Jackson.

Reason: To ensure satisfactory flood warning and evacuation measures are put in place.

## 7 – Non Standard Condition

**Prior to the occupation of any of the dwellings hereby permitted the measures set out in the Richard Jackson Flood Warning and Evacuation Plan April 2012 shall be implemented in full.**

**Reason: To ensure residents are protected in time of flood.**

## Informatives

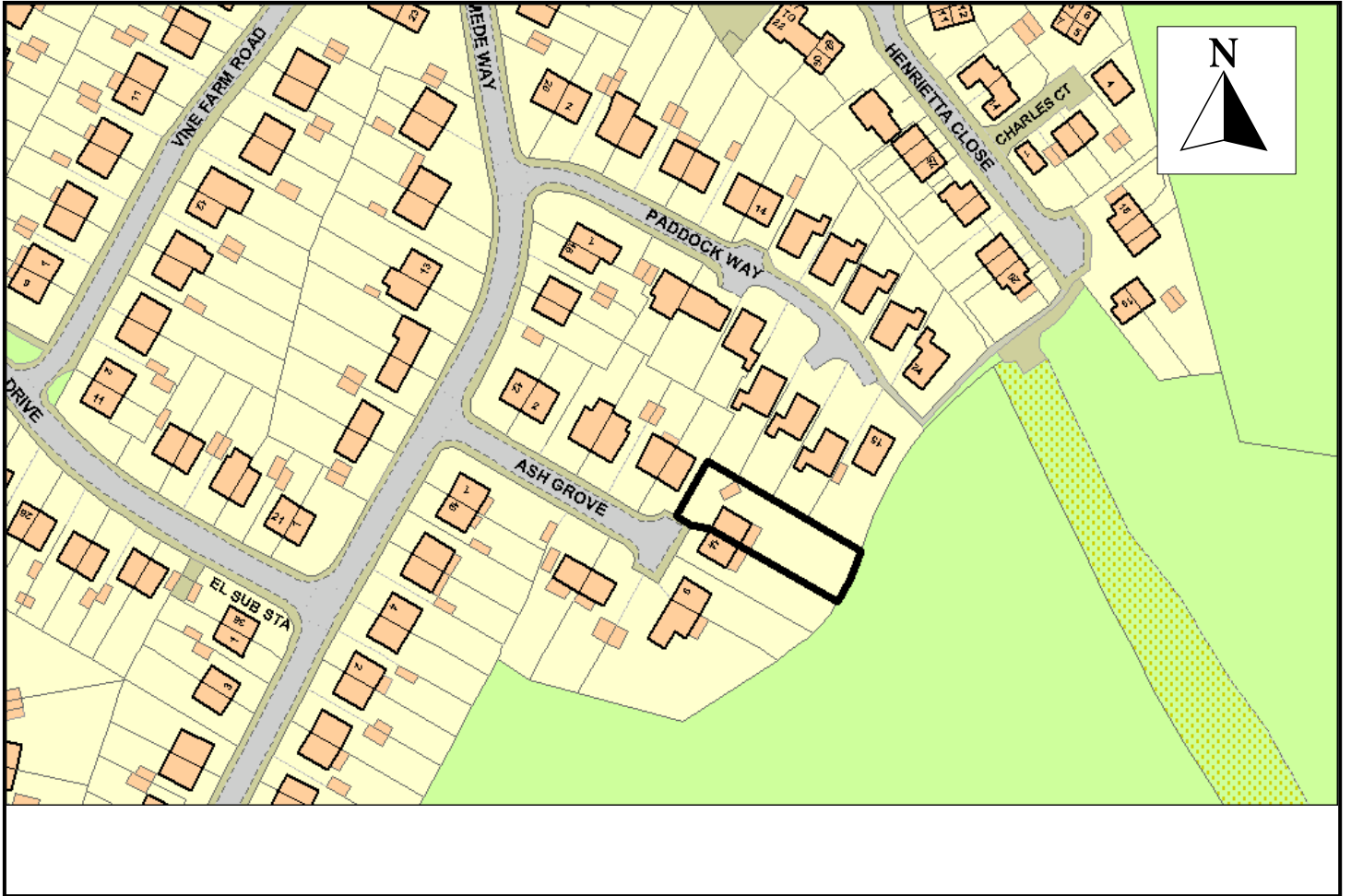
### (1) Land Contamination Informative:

The applicant is advised that the site to which this planning permission relates incorporates ground gas protection measures and protective, barrier potable water supply pipe-work. The developer should ensure that any permitted development works maintain the existing integrity of ground gas, vapour and potable water supply protection measures. If any changes are proposed which may adversely affect these protection measures, prior to the commencement of the permitted development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. The Local Planning Authority should be given prior notification of any proposed remediation scheme. The applicant is advised that this must be conducted in accordance with current official guidance, including 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'.

(2) 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.

## Reason for granting permission

The principle of residential development is acceptable. Whilst the development does not comply with the Council's Adopted Parking Standards it is not possible to increase the parking provision. The site has been appropriately marketed and an application for alternative uses has been refused permission due to adverse impact on the amenity of existing residents. Residential use is considered acceptable.



**Application No:** 121676

**Location:** 12 Ash Grove, Wivenhoe, Colchester CO7 9HJ

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

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**7.4 Case Officer: James Ryan**

**Due Date: 12/11/2012**

**MINOR**

**Site:** 12 Ash Grove, Wivenhoe, Colchester, CO7 9HJ

**Application No:** 121676

**Date Received:** 17 September 2012

**Applicant:** Mr R Preston

**Development:** Proposed single storey side and rear extension to form enlarged kitchen, study, third bedroom with ensuite and utility room.

**Ward:** Wivenhoe Cross

**Summary of Recommendation:** Conditional Approval

### **1.0 Reason for Referral to the Planning Committee**

1.1 This application is referred to the Planning Committee because it has been called in by Councillor Jon Manning due to the design and the impact on residential amenity, including outlook.

### **2.0 Synopsis**

2.1 This single storey side and rear extension is large but is acceptable in design terms. It will have an impact on the residential amenity of the neighbours in Paddock Way but the impact is within tolerable levels. Therefore the scheme accords with the Development Plan and an approval is warranted.

### **3.0 Site Description and Context**

3.1 Ash Grove is a cul-de-sac located in Wivenhoe. The dwelling in question is a simple semi-detached bungalow and is one of two pairs that sit at the end of the cul-de-sac. A garage sits at an angle to the main dwelling. The dwelling in the mirror image position (number 7 Ash Grove) has been extended in width. The site slopes slightly down to the dwellings that back onto the site in Paddock Way.

### **4.0 Description of the Proposal**

4.1 A single storey side and rear extension is proposed.

### **5.0 Land Use Allocation**

5.1 This site lies within a predominantly residential area where development such as that proposed is considered to be acceptable in principle.

## **6.0 Relevant Planning History**

6.1 There is no site history that is particularly relevant to the decision regarding this proposed development.

## **7.0 Principal Policies**

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

SD1 - Sustainable Development Locations

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

DP1 Design and Amenity

DP12 Dwelling Standards

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

Extending your House?

The Essex Design Guide

## **8.0 Consultations**

8.1 None

## **9.0 Town Council Response**

9.1 The Town Council has not objected to the proposal. They note that it should be within permitted development and that the views of neighbours should be taken into consideration. They have expressed concern regarding the loss of permeable land.

### *Officer's Comment*

*As this application has been made, the dwelling's permitted development tolerances are not relevant. The neighbour's comments will be considered later in the report. Development of this nature inevitably results in the loss of some permeable land however this is not a planning reason for refusal in its own right. In this instance the loss of permeable land is minor and is not materially harmful in terms of rainwater runoff.*



## **10.0 Representations**

10.1 Two objections have been received from the neighbours at 11 and 13 Paddock Way. They objected to the scheme on the following grounds:-

- The scheme almost doubles the size of the existing bungalow.
- The proximity to our bungalow is harmful.
- The scheme will be imposing on our garden and conservatory.
- We will suffer loss of light, outlook and overshadowing as a result of this proposal.
- The scale of development proposed is unacceptable in this small quiet area of assumed retirement bungalows.
- Some trees have already been removed.

### *Officer's Comments*

*The impact on amenity will be dealt with in the main body of the report. The scale of this single storey extension development is acceptable in a residential area such as this one. The fact that many of the bungalows in the vicinity are occupied by retired people does not mean that dwellings can not undergo extension works. The trees that have been removed on site were not protected.*

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

## **11.0 Parking Provision**

11.1 This scheme will retain sufficient off street parking on the frontage in line with adopted parking standards and is therefore acceptable in terms of parking provision.

## **12.0 Open Space Provisions**

12.1 This proposal will retain an area of private amenity space of 350 square metres, far in excess of the 60 square metres required for a 3 bedroom dwelling by policy DP16.

## **13.0 Air Quality**

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

## **14.0 Report**

### Design and Layout

14.1 The scheme does not propose any articulation between the old and the new. In this instance it will create a front elevation with a simple and balanced composition and will also result in a front door on the front elevation unlike the current situation. Therefore the design of the proposed development is considered satisfactory on its own merits.

- 14.2 The dwelling in the mirror image position at the end of the cul-de-sac (7 Ash Grove) already has a front elevation that has been extended in a similar manner which is a material consideration. Furthermore the extended element will be partially screened by the existing dwelling at 19 Ash Grove which has a hedge running along its common boundary with the application site in the front garden. Therefore the development is visually acceptable and would not detract from the appearance of the original building. Consequently the design and layout do not harm the surrounding area either.

#### Impacts on Neighbouring Properties

- 14.3 The application will have some impact on the neighbours at 11 and 13 Paddock Way. Built form will be brought nearer to the gardens of these neighbours than the existing situation. The test is whether the impact is materially harmful or not. Objections to the scheme were received from these neighbours. These related to oppressiveness, scale and loss of light.
- 14.4 These objections have been carefully considered but due to the single storey nature of the proposal and the fact that there will still be 2.6m of side isolation between the new flank wall and the common boundary it is considered that this scheme will not cause a materially harmful loss of outlook.
- 14.5 Any loss of early morning sun will also be within tolerable levels due to the single storey nature of the extension. Due to the orientation of dwellings in question the scheme will not cause materially harmful overshadowing or loss of sunlight – for much of the day the scheme will have little impact on the gardens of Paddock Way in terms of loss of sunlight.
- 14.6 Adopted SPD ‘Extending your House’ sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved. This proposal satisfies that requirement. Similarly, regarding loss of light, the combined plan and elevation tests are not breached and the proposal therefore satisfies the Council’s standards for assessing this issue as set out in the Essex Design Guide and the Extending Your House SPD.
- 14.7 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. The roof light windows that sit in the proposed extension serve the vaulted ceiling over the kitchen and therefore will not cause harmful overlooking.

#### Highway Issues

- 14.8 This scheme involves the removal of an existing garage. This is acceptable as there will be sufficient off street parking left on the frontage in line with adopted parking standards.

## Trees

- 14.9 There are two large oak trees located at the bottom of the garden with their stems just outside the site. As the stems are 25 metres away from the proposed extension it is not envisaged that this scheme will cause harm to the trees, but conditions are proposed to ensure they are not damaged during the construction period.

### **15.0 Conclusion**

- 15.1 To summarise, the proposed development fully accords with the Council's policy requirements. The two objections received were carefully considered but did not warrant a refusal of this single storey proposal. The scheme will not cause material harm to the neighbours in regards to oppressiveness or loss of light due to the 2.6 metres of side isolation that is retained to the common boundary and the orientation of the respective dwellings. Therefore this proposal is acceptable.

**Recommendation** - APPROVE subject to the following conditions:

### **Conditions**

#### 1 - Time Limit for Full Permissions

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

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

#### 2 - \*Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1208-02 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

#### 3 - Tree and Natural Feature Protection: Protected Areas

Prior to the commencement of development, all trees, shrubs and other natural features not scheduled for removal on the approved plans shall have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

#### 4 - Tree and Natural Feature Protection: Entire Site

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

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

#### 5 - 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, by the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

### **Informatives**

(1) 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.

### **Reason for Approval**

This single storey side and rear extension is large but is acceptable in design terms. It will have an impact on the residential amenity of the neighbours in Paddock Way but the impact is within tolerable levels. The representations received were carefully considered but the objections to the scheme on the grounds of impact on residential amenity and the scale of the development did not warrant a refusal of this single storey side and rear extension. The scheme accords with the Development Plan and is therefore acceptable.



## **Colchester Borough Council Development Control**

### **Advisory Note on Parking Standards**

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

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

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

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

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



## Colchester Borough Council Environmental Control

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

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

#### Best Practice for Construction Sites

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

#### Noise Control

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

#### Emission Control

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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

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

## **Class A1. Shops**

Use for all or any of the following purposes—

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

## **Class A2. Financial and professional services**

Use for the provision of —

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

## **Class A3. Restaurants and cafes**

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

## **Class A4. Drinking establishments**

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

## **Class A5. Hot food takeaways**

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

## **Class B1. Business**

Use for all or any of the following purposes—

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

## **Class B2. General industrial**

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

## **Class B8. Storage or distribution**

Use for storage or as a distribution centre.

## **Class C1. Hotels**

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



**Class C2. Residential institutions**

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

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

**Class C3. Dwellinghouses**

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

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

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

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

**Class C4. Houses in multiple occupation**

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

**Class D1. Non-residential institutions**

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

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

(d) a dance hall,

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

**Sui Generis Uses**

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

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

**Interpretation of Class C3**

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

**Interpretation of Class C4**

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