

# Planning Committee

Town Hall, Colchester  
21 May 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  
21 May 2009 at 6:00pm**

**Members**

Chairman : Councillor Ray Gamble.  
Deputy Chairman : Councillor Stephen Ford.  
Councillors Andrew Ellis, Mary Blandon, Helen Chuah,  
Mark Cory, John Elliott, 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 Nick Barlow, Lyn Barton, Kevin Bentley, John Bouckley, Peter Chillingworth, Robert Davidson, Wyn Foster, Martin Goss, Chris Hall, Peter Higgins, Martin Hunt, Michael Lilley, Richard Martin, Nigel Offen, Terry Sutton, 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. An amendment sheet is circulated at the meeting and members of the public should ask a member of staff for a copy to check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm on the day before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

**Pages**

**1. Welcome and Announcements**

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

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

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

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

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

## **3. Substitutions**

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

## **4. Urgent Items**

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

## **5. Declarations of Interest**

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

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

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

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

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

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

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

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

## 6. Minutes

The minutes of the meeting held on 30 April 2009 will be submitted to the next meeting.

## 7. Planning Applications

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

1. 090217 Land adjacent (South) Grange Road, Tiptree (Tiptree) **1 - 2**  
  
Change of use of agricultural land to sports field, minor regrading and drainage of playing area, with associated vehicle parking area and vehicular access from Grange Road, Community useage of one pitch proposed.
  
2. 090099 Culver & Lion Walks, 9-21 Trinity Square, 30-33 Eld Lane, 87 Culver Street East, Colchester (Castle) **3 - 19**  
  
Public realm works including landscaping and street furniture: Extension to BHS entrance to Culver Walk: Repointing of brickwork: Application of rendering/blind glazing onto existing brickwork on 7, 8, 9, 10 and 19 Culver Walk: Replacement of timber soffit with white opaque glazing in Lion Walk Shopping Centre (except Library): Provision of new glazed canopy at 6, 8, 9 & 10 Culver Walk: Lighting proposals.
  
3. 090215 St Fillan Road, Colchester (St John's) **20 - 31**  
  
Demolition of existing drop-in daycare centre and non-operational 36 bed care centre. Replace with 66 bedroom care centre.
  
4. 090452 Calver House, 44, 46, 48 and 38 Artillery Street, Colchester (New Town) **32 - 38**  
  
Construction of three no. 3-person, 2 bedroom bungalows for physically disabled people with associated parking.
  
5. 090463 Carlef, Ivy Lodge Road, Great Horkesley (Fordham and Stour) **39 - 44**

	Proposed replacement dwelling (demolition of existing bungalow).	
6.	090446 110 Coast Road, West Mersea (West Mersea)	<b>45 - 48</b>
	Variation of Condition 2 of planning permission 91/1483 to extend opening hours to 8am - 10pm	
7.	090523 4 Hillcrest Cottages, Greyhound Hill, Langham (Dedham and Langham)	<b>49 - 52</b>
	Erection of single storey rear extension (following demolition of existing single storey rear extension) and erection of car port on side of house.	
8.	081947 143 Coast Road, West Mersea (West Mersea)	<b>53 - 58</b>
	Removal of wall and replace with posts and chain.	
9.	090221 92 Coast Road, West Mersea (West Mersea)	<b>59 - 63</b>
	Change of use from store buildings to four ensuite bedrooms and 2no. pavillions for outside dining. Resubmission of 081553.	
10.	090264 65 Barbrook Lane, Tiptree (Tiptree)	<b>64 - 66</b>
	Stationing of demountable class room for pre-school playgroup without compliance with condition 02 of planning permission 080890 (Temporary Planning permission).	
11.	090360 Sports Ground, Colchester Road, West Mersea (West Mersea)	<b>67 - 72</b>
	First floor extension to existing sports and social club together with revised access and parking arrangements. Resubmission of 081756.	
12.	090375 4 Bargate Lane Cottages, Bargate Lane, Dedham (Dedham and Langham)	<b>73 - 77</b>
	First floor side extension over existing single storey side extension.	
<b>8.</b>	<b>Performance Report // Performance summary for the year 1 April 2008 - 31 March 2009.</b>	<b>78 - 87</b>

See report by the Head of Environmental and Protective Services

**9. Protocol for future mast applications // Findings and recommendation by Internal Audit resulting from their Inquiry and subsequent report into the Planning Services handling of the Lexden telecommunication mast Prior Notification application**

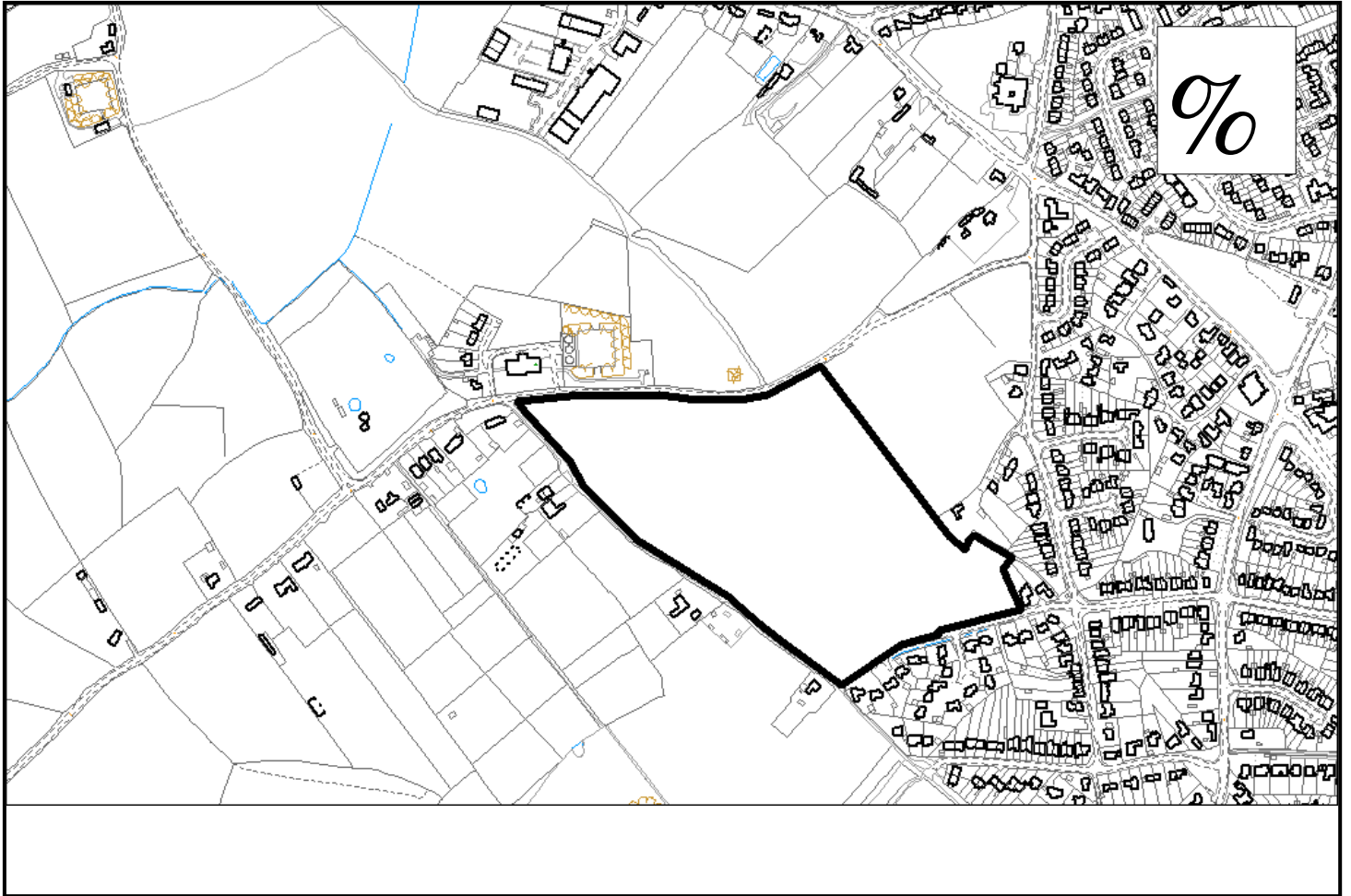
**88 - 121**

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).





**Application No:** 090217

**Location:** Land Adjacent (South), Grange Road, Tiptree, Colchester

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

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## Committee Report

Agenda item **7**

To the meeting of **Planning Committee**  
on: **21 May 2009**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

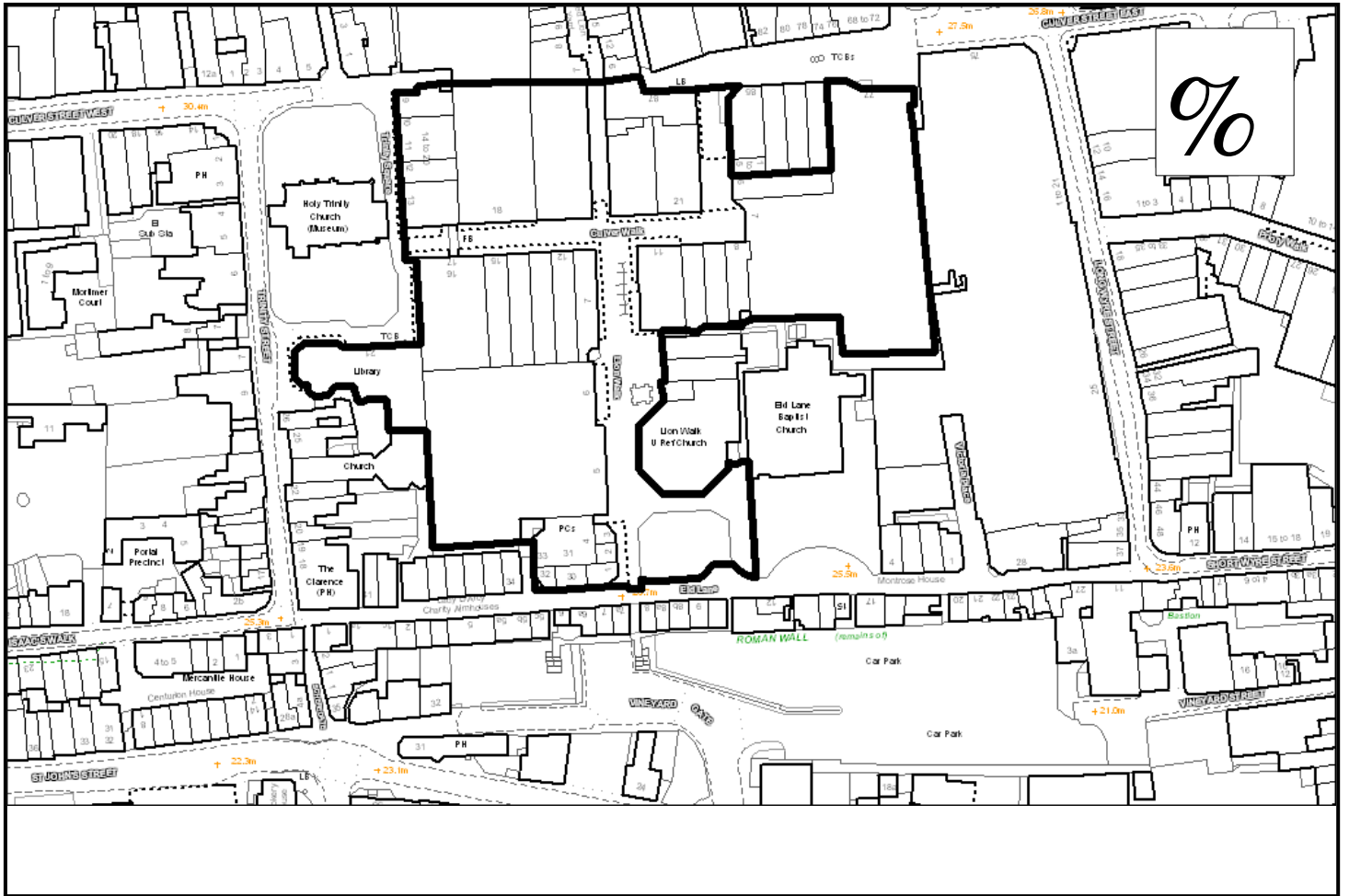
Relevant planning policy documents and all representations at the time this report was printed are recorded as BACKGROUND PAPERS within each item. An index to the codes is provided at the end of the Schedule.

### 7.1 Case Officer: **Bradly Heffer**

**MAJOR**

**Site:** Land Adjacent (South), Grange Road, Tiptree, Colchester  
**Application No:** 090217  
**Date Received:** 17 February 2009  
**Agent:** Mr John Lawson  
**Applicant:** Colchester United Football Club Ltd  
**Development:** Change of use of agricultural land to sports field, minor regrading and drainage of playing area, with associated vehicle parking area and vehicular access from Grange Road. Community useage of one pitch proposed.  
**Ward:** Tiptree

**A full report will be available in good time before the Committee Meeting.**



**Application No:** 090099

**Location:** Culver & Lion Walks, 9-21 Trinity Square, 30-33 Eld Lane, 87 Culver St. East, Colchester

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

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**7.2 Case Officer: Mark Russell**

**MAJOR**

**Site:** Culver & Lion Walks, 9-21 Trinity Square, 30-33 Eld Lane, 87 Culver St. East, Colchester

**Application No:** 090099

**Date Received:** 29 January 2009

**Agent:** Stanley Bragg

**Applicant:** Mr P Till

**Development:** Public realm works including landscaping and street furniture:Extension to BHS entrance to Culver Walk:Repointing of brickwork:Application of rendering/blind glazing onto existing brickwork on 7, 8, 9, 10, 19 Culver Walk:Replacement of timber soffit with white opaque glazing in Lion Walk Shopping Centre(except Library) Provision of new glazed canopy at 6, 8, 9, 10 Culver Walk:Lighting proposals.

**Ward:** Castle

**Summary of Recommendation:** Conditional Approval

**1.0 Site Description**

1.1 The site comprises the vast majority of the Lion Walk and Culver Walk precincts (but excludes most of the section facing on to Culver Street East). This is Colchester's largest shopping precinct and was designed in the early 1970s by the Frederick Gibberd Partnership.

**2.0 Description of Proposal**

2.1 The applicant's proposals for the precinct are covered by three separate planning applications, of which this is phase two. Planning permission has already been granted under F/COL/04/2019 to remove the first floor bridge link over Culver Walk - the applicant is describing this as phase one (permission also exists under F/COL/04/1576 to change the frontage of the BHS and Dolland & Aitchinson buildings).

2.2 An application has subsequently been lodged for phase three of the works (Planning Application 090468 - lodged 6 April 2009) for "Demolition of first and second floors of Nos. 1 to 5 Culver Walk and Nos. 77, 79, 81, 83 and 85 Culver Street East). Reconstruction of the same floors at these properties at higher floor heights with new elevations." This is due to be brought to Committee in June or July this year.

2.3 The proposal before Members today is multi-faceted, and is principally cosmetic. The exception to this is the proposal to bring forward the entrance to BHS on Culver Walk so that it is level with the other buildings in the area.

2.4 The other key proposals are to: Reface some of the walls in a mixture of render and opaque glass; Re-point the remaining walls with a cement mortar; Pave the entire area with York stone; Also to introduce further public realm works including landscaping and furniture.

### **3.0 Land Use Allocation**

3.1 Inner Core  
Colchester Conservation Area 1.

### **4.0 Relevant Planning History**

4.1 20668 - Redevelopment of 3 acres in the Lion Walk area as a Pedestrian Precinct comprising shops, offices, a Public House, Day Centre, Church, Church Hall, Public Lavatories, and Library on the maximum of 3 floors with basement servicing capable of being linked in due course with the proposed Culver Street Precinct. Approved 11th September 1972;

4.2 F/COL/02/1607 - Single storey partial front extension, enlarged shop-front openings, eaves projection with external illumination and adjustment to external street levels (Boots building). Approved 13<sup>th</sup> November 2002;

4.3 F/COL/04/0219 - Partial demolition of first floor and link-bridge, introduction of new elevations. Approved 8th June 2004;

4.4 F/COL/04/0220 - Demolition of first and second floor, reconstruction of these floors, introduction of new elevations, change of use from office to retail. Withdrawn 10th May 2004;

4.5 F/COL/04/1576 - Renewal of existing elevations and creation of an additional floor to the staircase (BHS, and Dolland & Aitchison). Approved 1st October 2004;

4.6 082065 - Proposed construction of a steel column in front of No.7 Culver Walk (BHS). Approved, 6th February 2009.

4.7 090648 - Demolition of first and second floors of no.s 1 to 5 Culver Walk and no.s 77, 79, 81, 83 and 85 Culver Street East. Reconstruction of the same floors at these properties at higher floor heights with new elevations – Application pending

### **5.0 Principal Policies**

5.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations;  
TCS4 – Inner Core  
UEA1 – Conservation Areas  
UEA2 – Buildings in Conservation Areas  
UEA5 – Listed Buildings

5.2 Core Strategy  
UR2 – Built Design and Character  
CE2a (Town Centre)

5.3 East of England Plan  
E5 – Retail/Town Centre

## 6.0 Consultations

### 6.1 English Heritage

“A planning application has been submitted for elevational changes and public realm works to the Lion Walk shopping centre. These have already been discussed with English Heritage and some changes to the original proposals have been made since December 2008.

English Heritage raises no objections to these submitted details but urges your council to ensure that samples of materials including lime mortar mixes, masonry paints, paving slabs and applied panels are agreed before work commences.

The Frederick Gibberd Partnership designed the Lion Walk shopping centre in the early 1970's. It is at the heart of the central conservation area and affects the settings of a number of listed buildings including the grade I Holy Trinity Church.

English Heritage has already commented that the scheme as built was of a higher quality than most of its contemporaries and that it is distinctive mainly due to its simple forms and the considered use of materials with a good quality red brick predominating beneath areas of hung artificial slates and some copper clad roofs.

We accept that justification can be made to changes in materials on the inward facing elevations. We are pleased that the elevations facing Trinity Square are to be retained as now, except for repointing of the brickwork in lime mortar. The precise sample panels should be agreed. Referring to the existing sample panels in Culver Street East, the central strip appears to have the most traditional appearance.

On the new render we have already recommended that a lime render be considered, and that lime or mineral (e.g. Keim) paints could give colours of greater depth, better weathering qualities and reflect the historic status of the surroundings.

Samples of glass panels should be carefully assessed to achieve finishes that are not over reflective or which may weather badly. We again urge caution with regard to patterning that may date very quickly. Signage should relate to the materials on which it sits. The Lion motif would be best in bas-relief or fret cut, rather than a “stuck-on” panel.

In Culver Walk East three of the four existing projecting gable ends are to be recreated in copper finishes and with something like their original projection. We feel that this is an acceptable improvement on the earlier proposals.

The paving scheme, if using Marshall sawn York stone, would be a positive enhancement.

Accordingly, English Heritage has no objection to a grant of planning permission, subject to samples of materials including lime mortar mixes, masonry paints, paving slabs and applied panels being agreed before work commences.

It is not necessary to consult us again on this application. Please send us a copy of the decision notice in due course. This will help us to monitor actions related to changes to historic places.”

## 6.2 Conservation And Design

“Lion Walk Shopping Centre was designed in the early 1970s by Frederick Gibberd. The shopping centre is composed of simple forms and geometric designs and, unusually for a building of this type and date, is faced with red brick with vertical slate and copper cladding; the latter materials are used on the upper floors to break down the bulk of the facades.

The use of red brick is fundamental to the design of the shopping centre as it frames the shop windows and entrances, provides a visually continuity throughout the development and helps to integrate the development with the surrounding historic townscape. Overall, the resultant design and simple palette of materials has created a complex that is locally distinctive and one that has stood the test of time (one of the key aim of the original developer). It is also important to note that the centre has not really suffered from incremental changes (the notable exception being the high level fascia treatment on the Boots and New Look units) and as a consequence of this integrity of the original design has remained intact.

The shopping centre is located within the Colchester Conservation Area No.1 and affects the setting of a number of listed and other historic buildings that are located adjacent to the periphery Lion Walk centre.

The main issues raised by the current application are the effect that the proposed development would have on character and appearance of the conservation area and setting of the listed buildings that are located adjacent to the development.

The current application proposes the introduction of new high level cladding (opaque glass and render) which replaces the existing slate and copper cladding and much of the brickwork at this level. The resultant effect of the re-cladding is that the brick framing to the shop windows / entrances is lost and the simple forms / rhythm of the ground floor facades is seriously compromised. An additional effect of the proposed re-cladding works is that the brick piers become visually disassociated from the upper floors of the building and in doing so the design of the facades is further undermined. The design of the facades must be considered as a single entity and given this, and the need to retain the integrity of the original design concept, it is recommended that the areas of original brickwork on the upper floor (generally proposed to be covered with a red coloured render) are not rendered over. This will not only retain a clear and logical visual link between ground and upper floors but also provide a visual continuity in terms of materials throughout the development.

The design of the original Lion Walk Shopping centre employed a limited pallet of materials and these play an important part in giving the centre a unified appearance. The current application proposes to introduce two further materials; opaque glazed panels and two type of render (red and white). There is concern that the use of three different types of surfaces finishes will introduce an unnecessary level of complexity to the upper levels of the facades and will create an 'anywhere' style of development rather than one that is locally distinctive. It has previously been advised that the introduction of any new materials must compliment the existing materials (red brick, copper and slate) and that only one new material should be introduced. I would advise that there is a simplification in terms of the proposed new materials; it is recommended above that the rendering with a red finish is omitted leaving the original brickwork exposed; in addition to this, I would recommend that only a single material is used to replace the slate cladding (rather than two materials as currently proposed).

In principle, there is not an objection to the proposal to remodel the entrance to BHS. It is, however, considered important that the design of remodelled entrance reflects the form / general design of the existing openings i.e. the opening should be framed by red brickwork. The current proposal whereby the reformed opening is framed by rendered side panels but has no 'solid lid' fails to reflect the design / pattern of the existing openings and, as such, will erode the overall integrity of design of the shopping centre. I would advise that the design of the remodelled entrance is amended to so that it appears as a glazed panel set within a brick frame.

There is not an objection to the proposal to re-point the existing brickwork with a lighter coloured mortar. A method statement needs to be submitted to ensure that the existing brickwork is not damaged by mechanical disk cutters etc.

The proposed public realm improvements (paving, lighting, new street furniture etc) are welcomed. Care does however need to be taken to ensure that these works integrate with the surrounding townscape in a logical manner.

It is noted that the refurbishment proposals only relate to part of the shopping centre. There is concern that by not considering a comprehensive scheme for the 'rejuvenation' of the Lion Walk Shopping Centre the proposed enhancement works will result in a series of ad-hoc changes; such changes will be potentially damaging to the overall appearance of the shopping centre.

*(Officer's note – planning application 090468 has subsequently been lodged on 6th April 2009, this covers the remaining section of the shopping precinct).*

Subject to the satisfactory resolution of the above, I would not wish to raise an objection to the proposed refurbishment of the Lion Walk Shopping Centre.”

### 6.3 Urban Designer

“The Lion Walk Shopping Centre was originally designed by Sir Fredrick Gibberd and Stanley Bragg Associates. It has served as one of the primary shopping places in the town since the early 1970's.



Typically for this period, the design was intended to be visually challenging to the context in which it sits. The library element, for example, crashes into the now highly valued context of Trinity Street. Here the obvious disrespect for scale and massing is now a harsh reminder of the modernist and brutalist period of architectural design.

The only true contextual element of the scheme is the choice of primary facing material; a red brick of reasonable match to the vernacular, orangey clay used in many historic Colchester buildings. In this scheme however the brick is found in dominant hanging soldier courses on jetties and with a black sunken mortar joint to amplify its general disregard for context.

The shopping centre has a partly completed refurbishment. Only implemented on the 'Boots' and 'New Look' shops is a dated scheme of wide white metal fascia add-ons that merely disguise the original architecture and make no attempt to repair the contextual relationship to the surrounding historic character.

Functionally the centre has the greatest footfall in the town centre, as illustrated in the Space Syntax study of 2002, recording far higher numbers of movements than the surrounding historic streets.

The current application seeks to resolve some functional problems that result from the architectural design. The overhangs of upper floors over shops create very dark areas and this is exacerbated by the darkness of the hanging artificial slate on some elevations. Given the popularity of the centre and its heavy usage some parts of the centre feel claustrophobic at the busiest times. The resolve is to bring light into the complex by replacing the hanging slate at first floor level with a lighter material. The application also proposes to whiten the underside of the overhangs. The refurbishment is completed by the resurfacing of the floor with a plain York Stone finish throughout the whole centre.

There are other elements of the scheme that seek to mitigate the introduction of the materials to lighten. A render finish is proposed around the panels that replace hung slate and it is intended to provide a buffer or intersection between the red brick and the new hanging material. It is also proposed that all the brickwork of the centre is to be repointed to lessen the impact of the original, visually aggressive black mortar.

It is clear that the application is attempting to make the centre more attractive to users and, with the internal alterations, to retailers that do not currently have outlets in Colchester.

What is not clear as yet is if all the new materials proposed destroy the aesthetic of the centre or enhance it. As an original design the centre has a vague heritage value but not one that is strong enough to be dominant in this debate. What must not happen however is that the proposals take away the distinctiveness of the original scheme and replace it with a style concept that is found in any shopping centre across the country.

In principle the reasons for changing the centre are justifiable in all but the heritage aspect but my concern is that the introduction of too many materials will have a negative impact on the continuity of the original scheme. Moving from a simple, small palette of the original scheme is an unnecessary complication in the confined space of the shopping centre.

Having given this scheme much consideration I believe that a single panel material can be used to replace the hung slate and the same material could be used to reline the underside of the overhangs. The vertical panel replacing the slate should not be glossy so as to avoid any dazzling that a reflective surface may make.

Replacing the floor surfacing will bring great benefit and together with the proposed introduction of art work in the form of the logo and motif for the centre and carefully chosen furniture and lighting the impact will be significant but respectful.

I do not believe that the (light coloured) repointing is appropriate. This is because much of the original complex is to be left with hung slate. The brickwork in these places will not benefit from the pointing and the aesthetic will be softened. Keeping the dark mortar and finding an appropriate panel colour and shape to replace the slate will keep the essence of the scheme in the centre and not dilute the identity of the complex where it interacts with the conservation area.

It is important to recognise that such investment that this application represents is rare in the current climate and against the stalling of regeneration projects in the town this application can be seen as an important display of Colchester ability to attract investment even in the poor financial climate.”

#### 8.5 Highway Authority

“The Highway Authority does not wish to object to the proposals as submitted.”

#### 8.6 Environmental Control

“Should permission be granted for development, Environmental Control recommends inclusion of the Demolition and Construction advisory note.”

Environmental Control also requested a condition relating to light pollution (contained at the foot of this report).

#### 8.7 Street Services

“My concerns are the areas on the edges that traditionally we have cleaned but now appear to form part of the centre. I would be very concerned about York stone here and would certainly object.”

#### 8.8 Landscape Conservation

“It is understood the proposed hard landscape/external works proposals have been commented upon by the Urban Planner, the simplified approach he advocates, forming a benchmark for the town as a whole, is supported by the Landscape Planning Officer.

Regarding the proposed approach to soft landscape, it is acknowledged this will necessarily be limited, however in order to maximise softening of the space the current proposals need to be considered for revision/augmentation to include the following:

The seating planting beds need to be confirmed as to be laid out with a planting pallet complementary to the prevailing climatic conditions, i.e. with drought resistant stock to the shrub and herb layer that will be robust, minimises the maintenance requirement and remain lush and vibrant under adverse conditions. Subtle lighting needs to be confirmed as to be used to highlight/up-light planting, particularly feature plants making the space less threatening at night whilst still highlighting the planting.

The site is characterised by a hard enclosure, therefore it is recommended these high walls & frontages be confirmed as to be planted in the vertical plain, where ownership and services permit. This improving views within and through the site by softening the space through the use of climbing plants. Steel climber wires will be needed to support a variety of climbing plants, chosen from locally characteristic plant palettes that avoid monotonous evergreen or standard climbers in favour of using more locally distinct ones. New lighting will also need to be incorporated into these green walls, where it will again contribute to the enhancement of the space at night. Any green walling approach (ownership and services permitting), will need to be more heavily applied closer to and enclosing the church square to the south to complement the soft character of this space.”

#### 8.9 Arboricultural Officer

“We need an Arboricultural Implication Assessment assessing the impact of changes to the paving stones adjacent the trees to be retained. It is likely that this may then generate a requirement for an Arboricultural Method Statement.”

*(Officer’s note – These considerations relate to the old Lion Walk churchyard, which contains all of the relevant trees. This area will be worked on in the medium term future and is covered by condition below. Further conditions requiring Arboricultural impact shall also be added).*

#### 8.10 Regeneration

“A planning application for this important shopping in Colchester Town Centre is welcomed by this team. The centre dates from the 1970’s and has received a very limited amount of improvement work since.

The alterations proposed to realign the current BHS frontage, lighten the dark timber soffit boarding, removal of the first floor office – which will increase the light and enhance that particular area, lightening the mortar and improvements to the pavements/lighting and street furniture are timely.

*(Officer’s comment – this first floor office removal already benefits from Planning permission and is not part of this planning application).*

We are extremely impressed that the owners have allowed their architect to work closely with the borough planners, heritage and urban design team throughout this process. We would recommend that this continues.

Investment in Lion Walk, we feel, shows a confidence in the town centre regeneration programme that the borough is currently working on and highlights the resilience of Colchester in these uncertain economic times.”

## 8.11 Development Team

Development Team noted the application.

## 9.0 **Representations**

9.1 Nearly 120 properties (many of them commercial, but some residential) and the Colchester Civic Society were consulted, eight site notices were posted, the application was advertised in the local press, and photomontages were displayed in Angel Court. Despite this, very little in the way of support or objection had been received by 27<sup>th</sup> April 2009.

9.2 Colchester Civic Society has responded as follows:

“Colchester Civic Society supports efforts to improve the town’s conservation areas. Although many aspects of this scheme are desirable, we cannot support the application in its entirety. English Heritage has commented that the, Gibberd designed, scheme as built was of a higher standard than most of its contemporaries and is distinctive mainly due to its simple forms and considered use of materials with a good quality re brick predominating. We are worried that the introduction of rendering and panels may remove the distinctiveness and create another characterless retail area, which was avoided in the 1970s. Neither are we convinced that re-pointing, even with lime mortar, will improve the appearance of the area.

English Heritage has made suggestions as to conditions and, if consent is to be granted, it is essential that conditions be painstakingly drawn up and rigorously enforced.”

9.3 David Green from Wakes Colne has commented as follows:

“I have inspected the above application drawings and have to say that I agree with the criticism voiced in the press. Colchester was lucky that it escaped the worst ravages of 1960s redevelopment. Later redevelopments from Red Lion onwards respected its historic character and strove to keep the town's identity and distinctiveness so that it did not resemble "anytown", a fate which sadly befell other towns and cities.

The proposed refurbishment seems to be a step backwards to the bland bad days of 1960's architecture. It does nothing to preserve or enhance the character of the town centre conservation area, in fact the exact opposite. I would urge your Council to refuse the proposal.”

9.4 Two nearby residents have also written in with questions about: working hours, and access to Culver Street West respectively.

9.5 Three letters, two objecting and one neutral, were published in the Essex County Standard on 24th April 2009. Both objectors spoke in favour of the red brick, whilst agreeing that some change was acceptable. The third letter asked for the render to be a yellow to match what the shops looked like in the 1970s.

## 10.0 Report

- 10.1 The Culver Walk and Lion Walk shopping centre has been widely praised for its careful use of forms and materials at a time when many other town centres were opting for concrete. As such it can be seen as one of the better decisions that Colchester Borough Council, and its predecessor Colchester Town Council, have made. Any change, therefore, must be of at least equal quality, especially given the Conservation Area location and proximity to Listed Buildings and other historic parts of the town centre.
- 10.2 The key external aspects of the shopping centre, are the side which faces the Saxon Holy Trinity Church, and the frontage onto Culver Street East which currently includes the distinctive roof-form of BHS and neighbouring units (this second aspect will be subject to application 090468 but indicative drawings have been provided). These have a profound effect on the setting of Listed Buildings, and Colchester Conservation Area 1. English Heritage (EH) has commented that it has no objection to the proposed treatments for either of these key aspects.
- 10.3 As a rule of thumb, the following changes are generally true for the majority of the development beyond the existing first floor link feature between HMV and Phones 4 U:
- 1) The existing copper roofs will remain;
  - 2) The existing hung slate will be replaced by a white or off-white material (a mixture of glass and render panels);
  - 3) The existing thin bands of red-brick (seven or eight horizontal courses, with a vertical hanging soldier course beneath) will be replaced by a coloured render, possibly terracotta;
  - 4) Most other areas of red brick will remain;
  - 5) The existing dark material under the jettied sections will be replaced by white opaque glass soffits;
  - 6) Powder-coated metal stall-risers will replace the existing which are a mixture of metal and brick;
  - 7) The entire area will be paved in York stone;
  - 8) The entirety of the remaining areas of red brickwork will be re-mortared with a lighter colour (the issue of mortar colour is discussed further below);
- 10.4 Many of the parties who have been consulted are in agreement with most of these proposals, although there have been some objection (See Section 9). However, as indicated in the consultation section above, the Conservation & Design Officer, amongst others, is concerned at the loss of the thin bands of brick (point 3, above), which would diminish and undermine the overall brick-dominant feel of the shopping centre, and would disassociate the remaining brick pilasters from the upper sections, as well as from the rest of the areas of brickwork throughout the development. Of course, Members could condition these elements to remain as red brick.
- 10.5 The applicant, however, insists that “the floating, unconnected brickwork sits uncomfortably beneath the proposed purity of the forms and materials above” and that the proposed rendered continuous band “visually connects all the different blocks. The texture of the render is the link between the smoothness of the glass against the roughness of the brick work below.”

- 10.6 Here is an obvious divergence of opinion which requires resolution, this is covered at the foot of this report.
- 10.7 The only non-cosmetic physical alteration to the buildings is that relating to the BHS frontage on to Culver Walk. This frontage has hitherto been set back by three metres from the frontage of the neighbouring line of shops (Currently occupied by Dolland and Aitchison and 02). It is now proposed to bring this fully in line. The frontage of the new BHS entrance will be mainly glazed. The extended footprint will have the result of reducing the frontage of the existing corner unit (which has had a high turnover of occupants, latterly the Calendar Club), and this will be subsumed either into BHS, or into the neighbouring unit (currently occupied by Samantha's).
- 10.8 The applicant has agreed with the (C&Ds) request that the glazing have a "lid" of hard material above it so that this glazed element can be framed by the darker material at the top (i.e. render, although C&D would prefer brick).
- 10.9 Regarding the mortar, Members may have become aware of various samples which have been placed on a section of wall on Culver Street East near to the old Dixons store (Currys Digital). Several colours have been looked at, and the initial idea was to have a lighter colour, which EH states "appears to have the most traditional appearance." Superficially this is an attractive proposition, the problem comes, however, when attempting to integrate such a treatment throughout the scheme. As our Urban Designer has pointed out, as part of the original complex (the area around, and including, the library) is to be left with hung slate, the brickwork in these places would not benefit from such pointing because of the stark contrast which would be created. This leaves us with a choice of: 1) either introducing different mortars for different areas; or 2) leaving the dark mortar as it is.
- 10.10 The first of these options throws up obvious aesthetic issues which would also undermine the integrity of the scheme (views in to Culver Walk, for example, from Holy Trinity, would include an arbitrary change of mortar material which it would be difficult to accommodate in a visually satisfactory manner). In addition to this, the C&D has also voiced some concerns that the lighter mortar might clash with the proposed white/off-white glass and render panels.
- 10.11 The second option has been discounted by the applicants who have no wish to retain the dark mortar as they wish to generally "brighten up" the shopping centre. Given the public realm improvements that the applicant is offering as part of this application, this point of view has to be taken into consideration.
- 10.12 At a meeting between your Officers and Stanley Bragg Partnership in mid-March, it was, therefore, agreed that a traditional grey-coloured cement-based mortar should be considered for use over the totality of the scheme. The applicant has also offered a sample panel of this so that Members may have some idea of the full effect of this. This is indicative, and the final choice of mix and colour would rest with Officers and would be covered by condition.

- 10.13 Regarding English Heritage's (EH) request for lime or mineral-based paints, your C&D has advised against this due to the incongruity of such traditional materials in a modern scheme. The Urban Designer has concurred as follows: "The EH proposal to use a lime render is difficult to justify. For conservation and historic work the texture and softness of lime render is an appropriate and complementary material but on the modernisation of a fairly typical 1970's shopping court this traditional texture and treatment would be far less appropriate. Given that the rendering proposed is all within the centre of the shopping court and will not relate to historic buildings and the wider conservation area there is little point in introducing a historic material. If the original design of the centre had included render the specification would have been for cement based render and paint finish, the lime render would age and develop patina inappropriate and unrelated to the other specified materials. The contemporary self coloured render of the application is a more suitable material to match the intention of the original design and the proposed refurbishment."
- 10.14 By the time of Committee, the applicants will have also provided some sample panels of the proposed white glass and white render. Whilst these may not be the final materials, they are intended to be an indication of what will finally be chosen, the final choice would rest with Officers and will be covered by condition.

## **11.0 Conclusion**

- 11.1 Opponents to the scheme have taken a traditional stance, and have spoken highly of the Gibberd design and its respect for simple forms and an uncomplicated palette of traditional, local materials. If Members feel that this in itself is the overriding consideration, then they must refuse this application.
- 11.2 If, however, the move away from the traditional palette and its replacement by what the applicant describes as something which is "much more attractive to retail tenants" which will "kick start the rejuvenation of Lion Walk" can be tolerated because of the benefits which the application brings – namely economic benefits, as well as environmental ones such as York Stone paving throughout, public art and new signage and street furniture – then Members must support this application.
- 11.3 A third option is to support the application, but with a condition asking that the proposed dark rendered sections be left out, and retained as red brick. This is the key point of objection from several parties, including the Conservation & Design Officer – the applicants have already made their views clear on this point, however, and might appeal this condition.
- 11.4 Whilst maintaining most of the forms from the original Gibberd scheme, the proposed materials represent a radical move away from the original development, and undoubtedly would give a more modern appearance – for good or for bad. The applicants claim that this will help to attract retailers and shoppers, whilst objectors claim that the uniqueness of the centre would be lost, and that the Centre would have an "anywhere" feel to it, rather than a local distinctiveness.

11.5 The comments from English Heritage, and from our own Conservation department, however, do not go far enough down the line to create a case for refusal for the proposed white materials, which could be sustained at appeal, should the applicants go down that route. This, when combined with the economic and other benefits highlighted above, mean that on balance Members are advised to support this scheme.

## **12.0 Background Papers**

12.1 ARC; EH; CD; Urban Designer; HA; HH; SS; TL; AO; Regen, Development Team

### **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 development shall comply with amended drawings 1304C, 1505C, 1506D, 1507B, dated 08.04.09, received 15th April 2009 and 5882/2305 B, dated February 09, received 8 May 2009, in addition to original drawings 1302, 1303, 1305A, 1307A, 1501, 1502, 1503A, 1504A, 1508A, dated January 2009, received 27th January 2009.

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

3 - Non-Standard Condition

Samples of render type/colour and glass type/colour shall be submitted within 28 days of permission. Details of these, including rustication, shall be agreed in writing by the Local Planning Authority and shall be implemented as such and retained at all times.

Reason: In the interests of visual amenity in this prominent location within Colchester Conservation Area 1.

4 - Non-Standard Condition

Details of proposed colour on the flashing/trim around the render and glass sections shall be submitted within 28 days of this permission. These shall be agreed in writing by the Local Planning Authority and shall be implemented and retained as such at all times.

Reason: In the interests of visual amenity in this prominent location within Colchester Conservation Area 1.



#### 5 - Non-Standard Condition

Details of proposed artwork shall be submitted within 28 days of permission and shall be agreed in writing by the Local Planning Authority. These shall be implemented and retained as such at all times.

Reason: In the interests of visual amenity in this prominent location within Colchester Conservation Area 1.

#### 6 - Non-Standard Condition

Detailed drawings showing the proposed street furniture shall be submitted within 56 days of this permission. These shall be agreed in writing by the Local Planning Authority and shall be implemented and retained as such at all times.

Reason: In the interests of visual amenity in this prominent location within Colchester Conservation Area 1.

#### 7 -Non-Standard Condition

Details of the mortar type and colour shall be agreed within 28 days of permission, and shall be implemented in a phased manner to be agreed with the Local Planning Authority, this agreement shall also be reached within 28 days of the permission.

Reason: In the interests of visual amenity in this prominent location within Colchester Conservation Area 1, and to ensure a comprehensiveness of development.

#### 8 - Non-Standard Condition

Detailed drawings showing the proposed type/specification of the stone paving and the bonding shall be submitted within 28 days of this permission. These shall be agreed in writing by the Local Planning Authority and shall be implemented and retained as such at all times.

Reason: In the interests of visual amenity in this prominent location within Colchester Conservation Area 1.

#### 9 - Non-Standard Condition

The type/specification of the stone paving and the bonding for the churchyard area shall be as per the rest of the development and shall be put in place within six months of the permission, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and in the interests of a subsequent comprehensive scheme of paving for the wider area.

#### 10 - Non-Standard Condition

Within 28 days of permission the applicant shall submit drawings showing the exact layout of glass and render, these details shall be agreed in writing with the Local Planning Authority and shall be implemented as such.

Reason: For the avoidance of doubt as to the scope of this permission, and to ensure that the change of materials is achieved in a visually satisfactory way.

#### 11 - Non-Standard Condition

Notwithstanding the details granted under planning permissions F/COL/04/0219 and F/COL/04/1576, these permissions (apart from the removal of the bridge, and the re-facing of the walls where this has been removed) are hereby approved.

Reason: The proposal hereby approved does not match with the development permitted under these applications.

#### 12 - Non-Standard Condition

Detailed drawings showing any under-lighting to the soffits shall be submitted within 28 days of this permission. These shall be agreed in writing by the Local Planning Authority and shall be implemented and retained as such at all times.

Reason: In the interests of visual amenity in this prominent location within Colchester Conservation Area 1.

#### 13 - 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.'* 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.

#### 14 - Non-Standard Condition

Detailed drawings showing the proposed "welcome mats" shall be submitted within 56 days of this permission. These shall be agreed in writing by the Local Planning Authority and shall be implemented and retained as such at all times.

Reason: In the interests of visual amenity in this prominent location within Colchester Conservation Area 1.

#### 15 - Non-Standard Condition

Detailed drawings showing the proposed soft-landscaping and green wall shall be submitted within 56 days of this permission. These shall be agreed in writing by the Local Planning Authority and shall be implemented and retained as such at all times.

Reason: In the interests of visual amenity in this prominent location within Colchester Conservation Area.

#### 16 - Non-Standard Condition

Detailed drawings showing a resolution to the material changes around the entrance to the covered part of Lion Walk/Red Lion Yard shall be submitted within 56 days of this permission. These shall be agreed in writing by the Local Planning Authority and shall be implemented and retained as such at all times.

Reason: For avoidance of doubt as to the scope of this permission, and in the interests of visual amenity in this prominent location within Colchester Conservation Area 1.

#### 17 - Non-Standard Condition

A method statement shall be submitted within 28 days of permission to ensure that existing brickwork is not damaged by mechanical disk cutters and other machinery. This statement shall be agreed in writing by the Local Planning Authority and shall be implemented as such.

Reason: For avoidance of doubt as to the scope of this permission, and in the interests of visual amenity in this prominent location within Colchester Conservation Area 1.

#### 18 - Non-Standard Condition

Prior to the submission of details relating to the above condition 9 (paving for churchyard), an Arboricultural Implication Assessment assessing the impact of changes to the paving stones adjacent to the trees to be retained shall be submitted. Any subsequent development shall comply with this assessment.

Reason: In the interests of preserving the health of the nearby trees.

#### 19 - Non-Standard Condition

If the above Arboricultural Implication Assessment generates a requirement for an Arboricultural Method Statement, this shall be submitted prior to any works being agreed for the churchyard area, and shall be agreed in writing and implemented as such.

Reason: In the interests of preserving the health of the nearby trees.

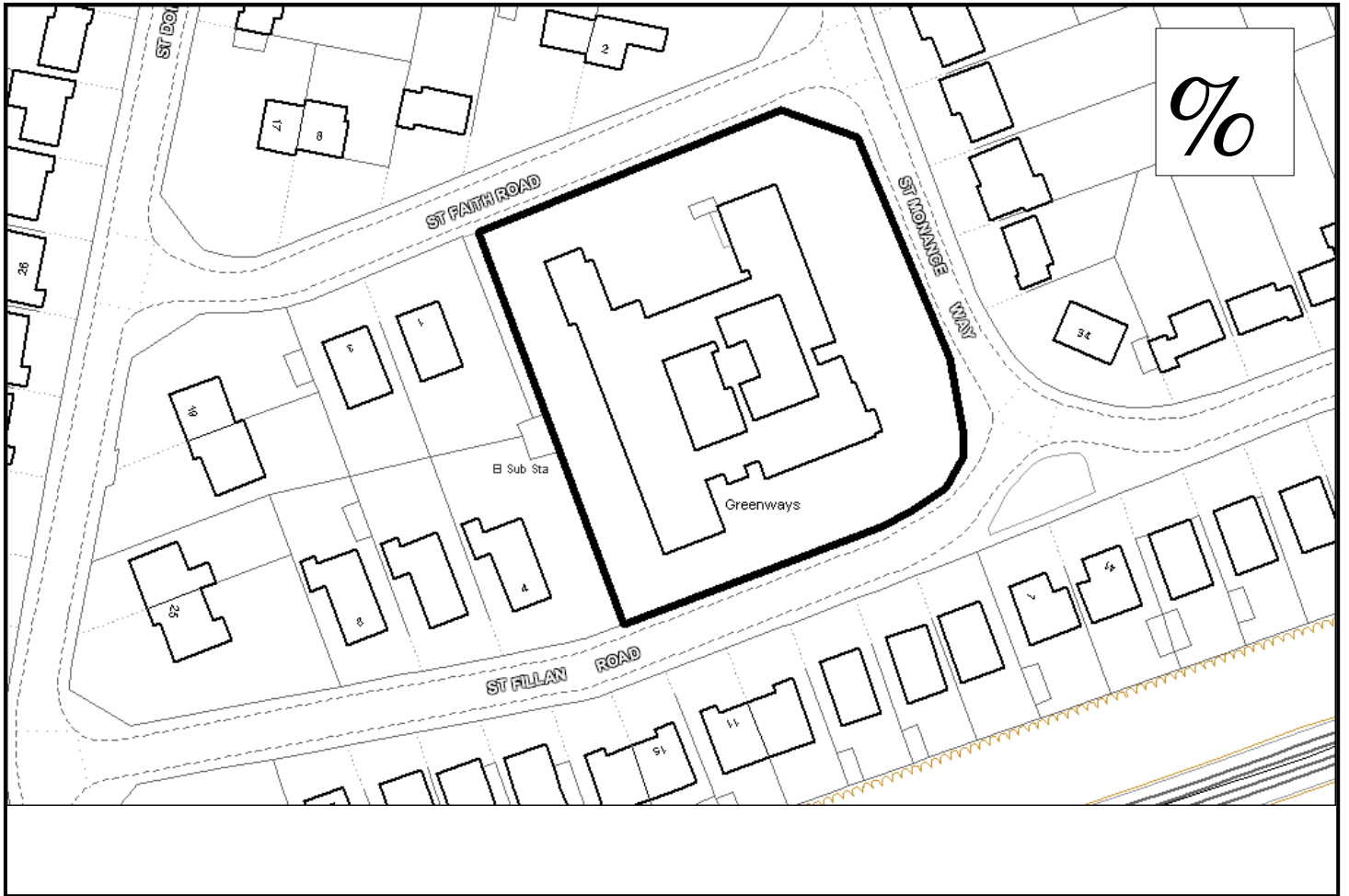
#### 20 - Non Standard Condition

Details of the proposed Yorkshire paving, including gauge and arrangement, shall be submitted within 28 days of permission. This shall include vertical, as well as horizontal, arrangement. These details shall be agreed in writing by the Local Planning Authority and shall be implemented as such.

Reason: For the avoidance of doubt as to the scope of this permission as inadequate information has been provided.

### **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.



**Application No:** 090215

**Location:** Greenways, St. Fillan Road, Colchester, CO4 0PT

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

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### 7.3 Case Officer: Bradly Heffer

**MAJOR**

**Site:** St. Fillan Road, Colchester, CO4 0PT

**Application No:** 090215

**Date Received:** 17 February 2009

**Agent:** Stephen Bradbury Architects Ltd

**Applicant:** Excelcare Equities Ltd

**Development:** Demolition of existing drop-in daycare centre and non-operational 36 bed care centre. Replace with 66 bedroom care centre.

**Ward:** St Johns

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

#### 1.0 Planning Report Introduction

1.1 This planning application relates to a proposal to redevelop a site at St. Fillan Road Colchester. The site is currently occupied by an established care centre for the elderly and the proposal seeks to demolish the existing buildings and replace them with a new development that would be used as a care home.

#### 2.0 Site Description

2.1 The site for this proposal is bounded by St. Fillan Road, St Monance Way and St. Faith Road in the St. Johns area of the town. The site itself is level and of rectangular shape. Currently the site is occupied by a collection of established two-storey and single-storey buildings, which appear to have been constructed in the 1960's/1970's. Vehicular and pedestrian access to the site takes place off St. Fillan Road (south) and St. Faith Road (north). A notable feature of the site is the established tree planting to the boundaries that makes a positive contribution to visual amenity in this area.

2.2 The surrounding form of development in the area comprises single and two storey dwellings and the character is that of an established residential area.

#### 3.0 Description of Proposal

3.1 The proposed development consists of the demolition of the existing group of buildings and their replacement with a new development of two storey buildings. The development would consist of a group of linked buildings arranged to address the public frontages of the site, with a fourth range immediately adjacent to the shared boundary with no.1 Faith Road and no.4 St Fillan Road. The redeveloped site would still be served by two accesses in approximately the same position as the current accesses. The grouping of the built form would create a central open courtyard within the building. In terms of the design the proposed development follows a traditional

architectural approach, with the use of brick, render, reconstituted stone and a tiled roof. The boundary of the property would be defined by the introduction of a new brick wall with railing infills. The submitted plans show the retention of the majority of trees on the site. Some tree removal is proposed towards the western boundary of the site. However, the plan also indicates proposed new tree planting elsewhere along this boundary as well as either side of the two vehicular accesses.

- 3.2 The proposed development would propose the provision of 66 rooms for the care of elderly persons. The following extract is taken from the applicant's Design and Access Statement for clarification of the current position:

'The 1 and 2 storey buildings on the site were previously operated as two separate uses (1) as a drop-off day centre for the elderly (119 sq. m) and (2) as a 36 bed space (34 bedrooms, with two double rooms) care centre for the elderly (1 688 sq. m). These uses operated as two separate functions, but shared the kitchen facilities. It should be noted that the day centre use remains operational but the care home has been vacant since last year.'

- 3.3 The Design and Access Statement, and all other supporting documents are available to view on the Council's website.

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

- 4.1 Residential – as allocated in the Adopted Review Colchester Borough Local Plan – March 2004.

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

- 5.1 87/2045 – Formation of a 10 bed group living unit on first floor. Application approved without conditions 14 March 1988.
- 5.2 F/COL/06/0157 – Extension and refurbishment to nursing home. Application approved with conditions 24 March 2006.

#### **6.0 Principal Policies**

- 6.1 Adopted Review Borough Local Plan  
DC1 – General policy and principles  
UEA 1 – Design  
UEA13 – Development, including extensions, adjoining existing or proposed residential property.
- 6.2 LDF Core Strategy  
Policy H3 – Housing Diversity

#### **7.0 Consultations**

- 7.1 As this proposal falls within the category of a major development it has been considered by the Council's Development Team. As a result a contribution of £20 032 has been requested for open space and recreation improvements.

7.2 The Highway Authority and the Council's Environmental Control Service have no objection but would require the imposition of conditions on a grant of planning permission.

7.3 The Council's Landscape Officer comments as follows:

'The proposal would appear not to have any substantially detrimental effect on public amenity in landscape terms. I would therefore have no objection to the application.'

Three conditions are also proposed for inclusion on a grant of planning permission.

7.4 The Council's Arboriculturalist has also no objection to the proposal subject to the imposition of conditions.

## 8.0 Representations

8.1 As a result of neighbour notification of the proposal 15 letters have been received from local residents. The comments received may be summarised (in no particular order) as follows:

1. Dust and debris from the demolition may cause local amenity disturbance.  
*Officer comment: This issue is fully acknowledged and demolition works are controllable under Environmental Health and Building Regulations legislation.*
2. The parking provision for the new development is inadequate and will result in vehicles parked in the highway to the detriment of highway safety.  
*Officer comment: This specific issue is examined further in the next section of this report.*
3. Whereas the existing building incorporates flat-roofed elements, the new proposal has pitched roofs only and, hence, a greater (and therefore adverse) impact on residential amenity.  
*Officer comment: The flat roofed elements of the existing building are single storey and located towards the eastern boundary of the site towards St. Monance Way. The replacement of these structures with two storey elements would create a development with a greater impact in the street. Nevertheless within the context of the surroundings it is not considered that the new development would be harmful to amenity. The development facing the site from St. Monance Way is two storeys and therefore the new two storey element would not appear incongruous. Additionally the overall impact would be further reduced by being set behind existing trees and associated open space.*
4. With existing levels of on-road parking and the narrow carriageways it is envisaged that emergency vehicle access to the site would prove difficult.  
*Officer comment: The site is served by estate roads that also serve established residential property. While the concern is acknowledged it is considered that sufficient room exists to enable emergency vehicle access to the site, in the same way as they could access other dwellings in the area.*
5. The use has given rise to occasional smell nuisances in the past and it is hoped that this problem can be avoided in the future.  
*Officer comment: The Council has not been made aware of this issue but if any pollution problems arise these may be addressed through Environmental Health legislation.*

8.2 Several comments have been received that comment favourably on the design of the building.

8.3 Ward Councillor Gamble comments as follows:

“We had about 20 people attend our viewing of plans session. I have their comments written and signed by a number of people that I will bring in when I can. Other comments may be sent to you direct by people who took away our sheets. Main issues:

- A unanimous view expressed that there are not enough parking spaces.  
*Officer comment: Please refer to report section below.*
- We looked through paperwork in vain for a staff travel plan, should there not be one?  
*Officer comment: The scale and type of proposal means that there is no requirement for a staff travel plan as such. However, a condition has been added to the recommendation that addresses this point.*
- Are there built-in ‘green’ considerations?  
*Officer comment: The Design and Access Statement advises at section 13.4 that ‘The design of the building has been analysed to provide for maximum heat insulation and maximum use of natural light’. Sections 12 and 13 of the Statement describe in detail the proposed energy efficiency elements of the scheme.*
- The owner of 1 St Faith Road was wanting assurance that the side wall nearest him will be no nearer than it is at present.  
*Officer comment: The plans show the boundary line in the same position as the current one.*
- Grave concerns about the ability of ambulances and emergency vehicles getting through with likely extra parking on the road (there is already a problem)  
*Officer comment: Please refer to comment made under previous section. It is noted that the Highway Authority has not queried the adequacy of the road network to cater for the development.*
- Reassurance wanted about landscaping/trees.  
*Officer comment: The submitted plan shows the retention of the majority of the trees on the site and new planting added. The Council’s arboriculturalist does not object to the impact of the development on the tree cover which, in your officer’s view is an important element on this site.*
- I have already told you that there is a concern about height although it was not mentioned today at all and generally the design was considered good.
- A desire that the artist’s impression is followed through in design and materials
- Not a planning issue but is the Day Centre to be retained?  
*Officer comment: The scheme has been designed as a residential care home as well as a day centre.*

8.4 Ward Councillor Smith has confirmed his full support for Councillor Gamble’s comments.

8.5 Councillor T Higgins states:

‘Travel Plan for workers at ‘Greenways’.



## 8.6 Colchester Civic Society states:

"Colchester Civic Society is unhappy about the parking provision. The Traffic Generation Report, based on activity at 3 homes in Cambridge and Milton Keynes, seems irrelevant. A more sophisticated analysis is required, to demonstrate that staff and visitors will not need to park in nearby streets."

## 9.0 Report

9.1 Although Members are aware that precedent does not represent a sound reason in planning terms to allow similar development, the fact that this site is currently used for day care purposes for the elderly is a material consideration in this case, in your officer's view. For example, the existing group of buildings on the site does have an impact on the amenity of the area and any scheme of replacement may be judged against this current impact. A key area where this comparison may be made is at the western boundary of the site where it meets dwellings in St. Fillan and St. Faith Road. It is noted that, currently, there is a two storey range facing the western boundary of the site and that there are 14 windows at first floor level, including windows serving bedrooms. Under the proposed scheme there would be 13 windows. Additionally, the position of the proposed building in relation to the boundary is virtually identical to the existing one. Lastly, in terms of height the new building would be 150mm higher at roof ridge height than that existing. In the light of the above it is considered that the impact of the development at this point, although different, is not materially worse than that existing. Given the proximity of the new use to neighbouring property at this point this is an important consideration in amenity terms.

9.2 Another key change proposed under this scheme is the removal of single storey elements – the new building being a combination of two storey and one-and-a-half storey elements (i.e. rooms provided in the roof space). The main change in this regard will be the 'experience' of the development when viewed from St. Monance Road. The new building would be taller at this point and slightly nearer to the street. In terms of impact on townscape this change is considered acceptable as the development in St. Monance Way is also two storey height and has a similar visual impact. Furthermore the fact that there would still be a landscaped open area between the proposed building and the boundary of the site with St. Monance Way would further lessen its overall visual impact.

9.3 In terms of design the building takes a traditional approach and incorporates materials such as brick, render, reconstituted stone and tiles. When judged against the existing group of buildings which, architecturally, have little merit in your officer's view, it is felt that there would be a tangible improvement to visual amenity as a result of the proposal taking place.

9.4 It is clear from the range of responses received from Ward Councillors, local residents and the Civic Society that lack of parking provision is seen as a key issue in this case. The fact that the surrounding roads are regularly used for on-street parking, and that this can cause problems in the highway, means that the traffic generated by the use is fundamentally important. Under the Council's adopted parking standards this type of use requires the following provision:

1 space per resident staff and 1 space per 3 bed spaces.

9.5 The applicant's agent has confirmed that there would be no resident staff in the building as a shift system would be operated (8:00am to 2:00pm, 2:00pm to 8:00pm and 8:00pm to 8:00am). On this basis there would be a total of 22 spaces on site to serve a proposed 66 bed spaces, in accordance with the Council's adopted parking standard requirement. That said, clearly a number of spaces would be occupied by shift staff. It is estimated that during the day the total number of staff at the site would be 17 whereas at night this would reduce down to 7. Further information was sought from the applicant's agent regarding parking issues and the following response has been received:

'Parking discs will be issued to staff, this is currently utilised by Exelcare at their London Care Centres. Staff will be encouraged to take public transport to work. Good public transport links with the local bus stop 5 minutes walk away. A secure lockable bicycle store will be provided to encourage staff to cycle to work. Car sharing will be encouraged and incentivised. Car sharing details can be posted on the home notice board. There will be a positive drive to recruit local staff.'

9.6 Additionally, the applicant has provided a parking policy statement that is included as an appendix to this report for Members information.

9.7 On the basis of the additional information provided it is noted that the applicant intends to take a proactive approach to reducing staff car parking demand and this approach is to be welcomed. In terms of location the site is accessible by public transport. Furthermore, if staff are sourced locally the likelihood of trips to the site being made by bus, car or foot increases. Certainly, in townscape terms, the areas of parking proposed would be integrated reasonably well with the arrangement of built form and would not be visually over dominant. Given these factors it is felt that the parking provision made in this case is acceptable.

9.8 In conclusion, it is felt that the submitted proposal represents an appropriate redevelopment of this site – given the existing site constraints and the fact that it is surrounded by established residential development. A conditional recommendation of approval is made, subject to the open space contribution being secured as identified by the Development Team.

## **10.0 Background Papers**

10.1 ARC; HA; HH; TL; NLR; LAS; WC

## **Recommendation**

That the application is deferred in order that a Unilateral Undertaking can be completed to secure the required contribution to open space and recreation. Upon successful completion of the unilateral undertaking the Head of Environmental and Protective Services be authorised to issue a delegated planning permission for the development, subject to the following conditions:

## **Conditions**

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

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

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

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

Prior to occupation of the development visibility splays with dimensions of 2.4m by 43 m as measured from and along the nearside carriageway shall be provided on both sides of both accesses. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.

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 and of the access having regard to policy 1.1 in appendix G to the Local Transport Plan.

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

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

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

### **4 - Non-Standard Condition**

Prior to the occupation of the development hereby permitted the parking and turning areas enabling a motor car to park, 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 facilities are provided so that vehicles can enter and leave the highway in a safe and controlled manner in accordance with policy 1.1 in appendix G to the Local Transport Plan.

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

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

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

#### 6 - 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 building hereby approved coming into beneficial use. The assessment shall be made in accordance with the current version of British Standard 4142. The noise level 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 building hereby approved coming into beneficial use. All subsequent conditions shall comply with this standard.

Reason: In order to ensure that the development does not cause noise nuisance to nearby residential property.

#### 7 -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 order to ensure that the development does not cause noise nuisance to nearby residential property.

#### 8 - Non-Standard Condition

The building hereby permitted shall not come into beneficial use until there has been submitted to and improved in writing by the Local Planning Authority as scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to the building hereby permitted coming into beneficial use and thereafter be retained and maintained to the agreed specification and working order.

Reason: To protect local properties from nuisance caused by fumes and odours.

#### 9 - Non-Standard Condition

Foul water drains serving the kitchen shall be fitted with grease traps maintained in accordance with the manufacturer's instructions prior to the building hereby permitted coming into beneficial use. Such equipment as shall have been installed shall be retained and maintained to the agreed specification and in good working order.

Reason: In order to avoid pollution of the local water system.

#### 10 - 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.

#### 11 - 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.

#### 12 - C11.17 Landscape Management Plan

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to any occupation of the development (or any relevant phase of the development) for its permitted use.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by the landscape.

#### 13 - 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.

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

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

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

#### 15 - 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.

#### 16 - 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 work shall take place that would affect the trees unless otherwise agreed in writing by the Local Planning Authority.

Reason: ???

#### **Informatives**

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

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

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

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

**Greenways Healthcare Limited- Greenways Care Centre****Parking Policy**

Attention of staff is drawn to the need to maximise the usage of the 22 car parking spaces provided.

11 car spaces are to be reserved for visitors and 11 spaces for staff usage.

With careful planning this amount of car parking should be adequate to meet the needs of staff working each shift at the home and for visitors

Wherever possible staff are encouraged to use public transport to reach the home, although it is recognised that staff on night shifts will have less scope to do so than those on day shifts.

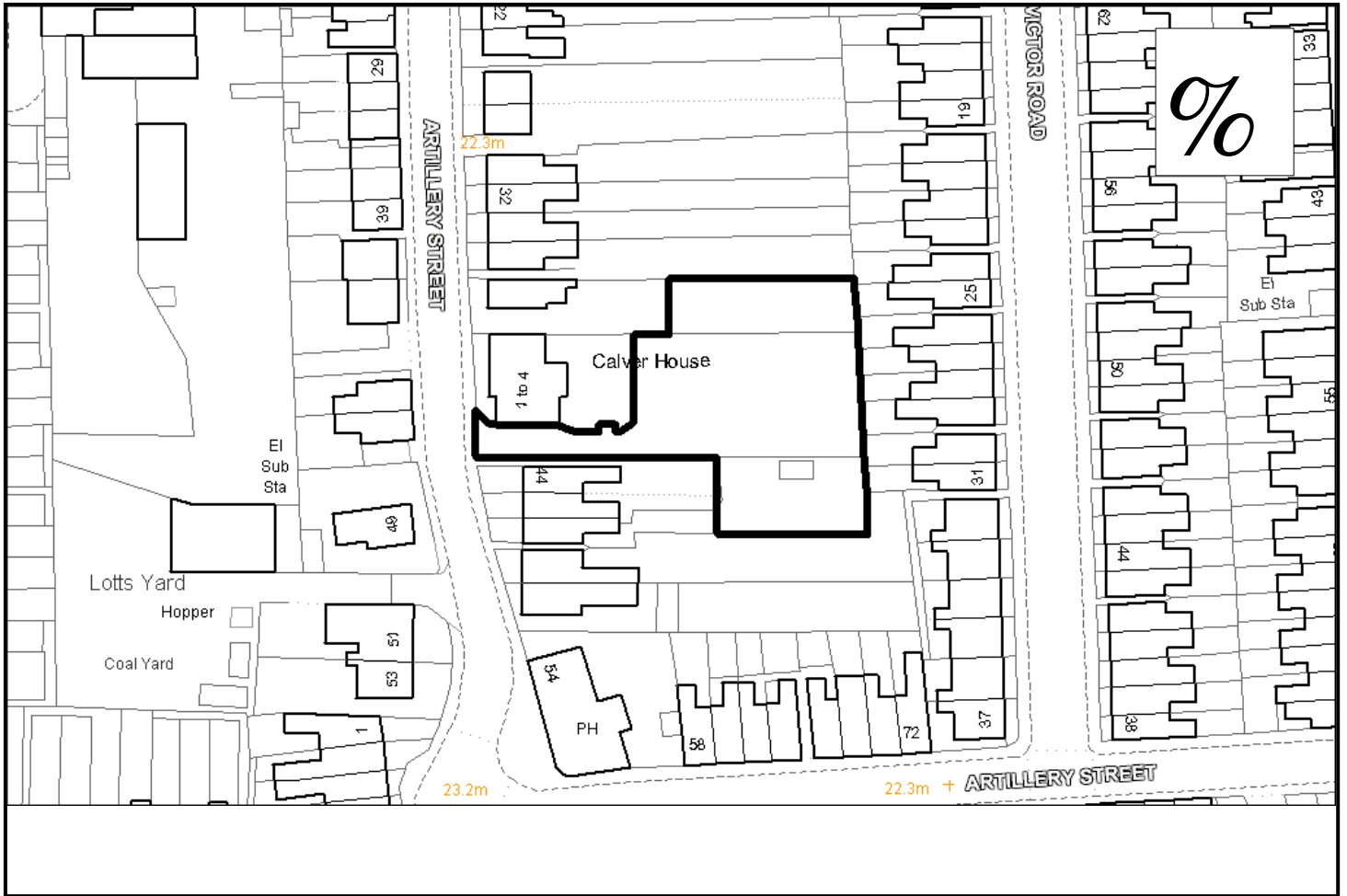
It is understood that the period of night shift tends to be outside normal visiting times therefore more use of the 11 visitor car spaces will be possible for staff unable to either car share or travel by bus.

The allocation of car spaces for each shift will be made by the home manager at time of preparing the shift rotas. Exceptional parking requirements for people with disabilities will be taken into account.

For local people who prefer to cycle to work provision for safe storage of cycles will be made on site.

Please ensure that only approved staff able to show the home parking discs utilise the parking facilities as unauthorised parking may result in cars being removed.

Osman Ertosun  
Director.



**Application No:** 090452

**Location:** Land to the rear of, Calver House, 44, 46, 48 & 38, Artillery Street, Colchester, CO1 2JC

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

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**7.4 Case Officer: David Whybrow**

**EXPIRY DATE: 27/05/2009**

**MINOR**

**Site:** Calver House, 44, 46, 48 & 38, Artillery Street, Colchester, CO1 2JC

**Application No:** 090452

**Date Received:** 1 April 2009

**Agent:** Mr Gordon Parker - Dellacourt Developments Ltd

**Applicant:** Colne Housing Society

**Development:** Construction of 3no. 3-person, 2 bedroom bungalows for physically disabled people with associated parking.

**Ward:** New Town

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

## **1.0 Site Description**

- 1.1 The site of 0.1 ha lies within an established area of Victorian 2 storey housing in New Town Ward. The land presently comprises concrete hardstanding used as a car parking area to the rear of Calver House and adjoining amenity/garden land. Access is by way of a single vehicle width private drive alongside Calver House and alongside the end-terrace at 44 Artillery Street.
- 1.2 The rear boundary to properties in Victor Road is screened by established trees. The remaining boundaries are chiefly screened by timber fencing.

## **2.0 Description of Proposal**

- 2.1 It is proposed to erect 3 two bedroom bungalows for residents with physical disabilities. Each is served by a car port convenient to the front door and gardens with an average area of about 80 sq.m. The proposals involve a reduction in the amenity area available to the Calver House flats but provides each with a car parking space and relocated clothes-drying area and bin store. A wall and railings is proposed to the rear of the flats' communal amenity area providing screening from the new bungalows.
- 2.2 The proposals incorporate new surface treatments, hard and soft landscaping to the courtyard in front of the bungalows and a new gateway feature to the site entrance designed to establish and reinforce a sense of place. The bungalows themselves are in red brick and slate and elevational features such as chimneys, stone window surrounds and barge-boards provide visual references to the Victorian period and single storey almshouses in the locality.
- 2.3 A Unilateral Undertaking has been submitted in respect of Open Space and Recreational contributions.

### **3.0 Land Use Allocation**

3.1 Residential

### **4.0 Relevant Planning History**

4.1 None

### **5.0 Principal Policies**

5.1 Core Strategy  
UR2 - Built design and character  
TA1 & TA4 - Accessibility and parking

5.2 Adopted Review Borough Local Plan  
DC1 - General Development Control considerations  
UEA12 & 13 - Residential design including backland development

### **6.0 Consultations**

6.1 Environmental Control have no comment but recommend the standard note on demolition/construction works accompanies any approval granted.

6.2 The Highway Authority have no objection to the submitted scheme.

6.3 The Housing Development Officer's observations are as follows:-

"I am writing in support of the application by Colne Housing Society to build three new wheelchair standard bungalows with carports on this site. This type of unit is in high demand but in very short supply and difficult to acquire through the Council's usual s106 planning gain approach. Our Portfolio Holder is also known to be very supportive of the provision of this sort of affordable home.

I have sought out the opinion of the Council's Assessment and Options Team regarding the need in this area for these units and they have confirmed a current need and are also very supportive of Colne's proposals. To this end I have worked with and encouraged Colne to work up these plans."

### **7.0 Representations**

7.1 5 letters of representations have been received from residents of Victor Road and occupiers of flats at Calver House. Their concerns may be summarised as:-

1. Loss of sunlight (Victor Road).
2. Increased noise pollution and exhaust fumes will exacerbate existing health problems (Victor Road).
3. Loss of privacy; fencing of more than 1.8m height is required if this development goes ahead.
4. Increased parking congestion and traffic difficulties in the already overcrowded New Town area.

5. Overdevelopment of site results in reduction of amenity space enjoyed by occupiers of flats (including disabled residents). In addition this space will be surrounded by drying area, bin store and wall and railings, reducing its amenity value.
6. Two ornamental trees will be removed to further detriment of visual amenity.
7. The parking allocated for Calver House (1 space per unit) is inadequate. There are disabled residents who must have convenient parking.
8. The proposals involve loss of shed and flats already lack general storage space.

7.2 Support for the Housing Development Officer's view have been expressed by Councillor Mrs Oxford, Elaine Webb, Medical Assessment Officer for Assessment and Options Team at CBC and also Ruth Hamnett, Adaptations Officer for CBC Life Opportunities.

## 8.0 Report

### Use

- 8.1 In basic land use terms, this is a site allocated for residential purposes. It is undoubtedly a backland situation in an area where such development is not typical, the prevailing form of residential development being terraced or semi-detached housing sited close to individual street frontages. Current Policy UEA12 is generally supportive of backland development where that development itself creates a satisfactory form of townscape and there are no significant adverse effects on neighbours.
- 8.2 More recently, a number of appeal decisions have emphasised the need for such schemes to have proper regard to their setting. Proposals must demonstrate a sympathetic layout with clear distinction between public and private spaces and the architectural treatment should take reference from the better elements of the local style. These principles underlie guidance currently being produced with a view to drafting new development control policy for inclusion in the LDF in the future.
- 8.3 As part of this work, the Local Planning Authority have been endeavouring to address the issue of comprehensive development in preference to piecemeal schemes. Comprehensively planned development will deliver the full potential of land and can better make the necessary contributions that ease the burden of housing intensification in urban areas.
- 8.4 This scheme of single-storey units cannot properly reflect the character of surrounding 2-storey housing but elevational features have references to the prevailing Victorian character. In relation to comprehensive development, there is no indication of adjoining gardens being considered ripe for development and the single-width, private drive access gives limited scope for upgrading to create an adoptable standard roadway into the wider backland area.
- 8.5 Essentially, if approved, the scheme will provide for much-needed wheelchair standard accommodation. In themselves units are attractively designed and set behind a courtyard landscaped and detailed to create a sense of place, and, so far as possible avoid overdominance by parked cars.

## Highways and Parking

- 8.6 The scheme replaces an existing parking area for 8 cars and to that extent does not involve any marked increase in traffic activity. The Highway Authority raise no objections on this basis. The 3 new properties are provided with 4 spaces and a further 4 bays are retained for the Calver House flats, representing a reduction in their current levels. In this location 1 space per unit would ordinarily be deemed acceptable and in accordance with current standards.

## Amenity

- 8.7 In the light of the current use of the site, the level of traffic likely to be generated and single-storey nature of the development, the adverse effect on the privacy, outlook and amenity of existing residents is unlikely to be compromised. A scheme of screening to site boundaries will be a requirement of any consent granted.
- 8.8 As raised in the representations the scheme involves a reduction in the amount of amenity space (including a shed) available to residents of Calver House; greater enclosure would be provided to this space and clothes drying area also reduced. That said, the space retained, at 100 sq.m. meets current amenity space standards for flats i.e. 25 sq.m. per unit, and privacy would be enhanced.

## S106 Matters

- 8.9 The application is accompanied by a draft Unilateral Undertaking in respect of the required Open Space and recreation contribution. This must be signed before any decision notice is issued.

## **9.0 Conclusion**

- 9.1 As in many cases of this sort, the issues are not wholly straightforward. Officers are mindful that the scheme delivers keenly required specialist housing, care has been taken to create an attractive grouping of individually detailed bungalows with good sized plots and carefully hard and soft landscaped public areas.
- 9.2 The proposal will not have any significant impact on the amenity of adjoining residents except where the generous parking and garden space enjoyed by Calver House residents will be curtailed. Even so, the scheme meets current spatial and parking standards for flats, particularly in this close-knit, urban setting and, on balance, the recommendation is for approval.

## **10.0 Background Papers**

- 10.1 ARC and Core Strategy; HH; HA; NLR; CBC; HD

## **Recommendation**

- (a) That the matter be deferred for the Unilateral Undertaking accompanying the application to be signed.
- (b) Upon completion of the Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant planning permission under delegated powers, 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 - A7.3 Ram of Perm Devil 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 enlargement of the dwelling house(s) including additions or alterations to the roof as permitted by Class A, B & C of Part 1 of Schedule 2 of that Order nor the provision of any building or enclosure within the curtilage of the dwelling house as permitted by Class E of Schedule 2 of that Order shall be carried out without express planning permission from the Local Planning Authority.

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

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

Before the development hereby permitted commences, the external materials and finishes to be used, which shall be substantially as shown on the approved drawings shall be agreed in writing by the Local Planning Authority. The details to be submitted shall include all new surface treatments. The development shall be implemented in accordance with agreed details.

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

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

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

Reason: To ensure a satisfactory and attractive form of development and protect the privacy and amenity of adjoining residents.

#### 5 - C12.5 Boundary Screening by Trees and Hedging

Where indicated on the approved drawing returned herewith the development hereby approved shall be screened by trees/ hedges/shrubs on the boundaries of the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority before any part of the development is begun. The planting of all [trees/hedges/shrubs] agreed shall be completed not later than the next planting season following [commencement/completion] of the [development] unless otherwise agreed in writing by the Local Planning Authority. Any tree, shrub or hedge planting that dies is diseased, becomes seriously damaged or is removed within five years of planting shall be replaced with another of similar size and species in the next planting season.

Reason: To ensure a satisfactory and attractive form of development and protect the privacy and amenity of adjoining residents.

#### 6 - D2.4 Residential Devel Altern-see also Cond A7.7

The car parking spaces and car ports hereby approved shall be [constructed strictly in accordance with the approved plans/hardened and surfaced] prior to occupation of the dwellings and thereafter shall be retained for parking vehicles ancillary to the development.

Reason: To ensure that vehicles visiting the site can park off the highway.

#### 7 -Non-Standard Condition

The bungalows hereby permitted shall be occupied only by physically disabled people as described in the submitted application documents.

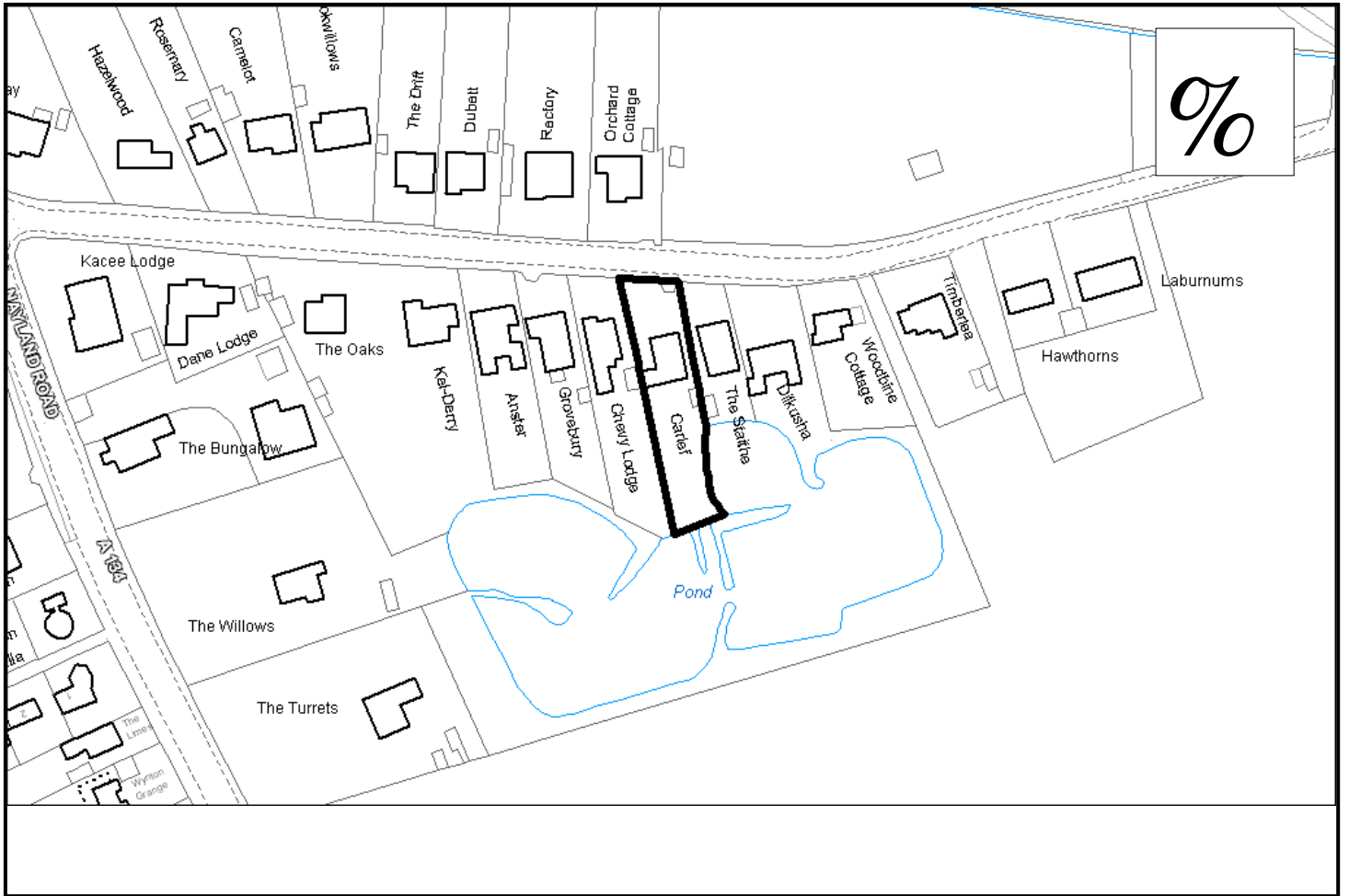
Reason: For avoidance of doubt as to the scope of the permission and in order to ensure this much needed type of accommodation is secured in perpetuity.

#### **Informatives**

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

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 shall be made initially by telephoning 01206 838600.

The applicant is requested to give consideration to the general storage needs of occupiers of flats in Calver House in the light of the removal of existing shed as required by these proposals.



**Application No:** 090463

**Location:** Carlef, Ivy Lodge Road, Great Horkesley, Colchester, CO6 4EN

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

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**7.5 Case Officer: Jane Seeley**

**EXPIRY DATE: 29/05/2009**

**MINOR**

**Site:** Carlef, Ivy Lodge Road, Great Horkesley, Colchester, CO6 4EN

**Application No:** 090463

**Date Received:** 3 April 2009

**Agent:** Nick Peasland Architectural Services

**Applicant:** Mr & Mrs R Mitchell

**Development:** Proposed replacement dwelling (demolition of existing bungalow)

**Ward:** Fordham & Stour

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

1.1 The application site is on the south side of Ivy Lodge Road. The area is characterised by mainly 20th Century ribbon style development that is mainly single storey. Currently the site supports a low key bungalow in a poor state of repair. It is proposed to replace the bungalow with a 2 storey dwelling with an attached single storey garage. In 2008 planning permission was refused for extensions to the bungalow. It was considered that the design of the resulting dwelling was inappropriate and that large glazed doors and a juliette balcony at first floor would give rise to undue overlooking of neighbouring properties.

## **2.0 Land Use Allocation**

2.1 Village Envelope

## **3.0 Relevant Planning History**

3.1 073020 - Rear and first floor extension to existing bungalow - Refused

## **4.0 Principal Policies**

4.1 Local Plan

DC1 - Development Control considerations

UEA11 - Design

UEA12 - Backland Development

UEA13 - Development, including extensions, adjoining existing or proposed residential property

H7 - Development within Village Envelopes

CO4 - Landscape features



- 4.2 Core Strategy  
ENV 1  
ENV 2

## 5.0 Consultations

- 5.1 The Trees and Landscape Officer comments as follows:-

“Recommend conditions to ensure retention of existing drive and tree protection during development.

- 5.2 The Urban Designer comments as follows:-

- a) The demolition of the existing bungalow creates the opportunity to improve the street scene
- b) The proposed dwelling has the character and sympathy to be satisfactory. This is judged by its politeness, detail and regard to local architecture references
- c) It is a nostalgic thirties style. The height is fractionally shorter than the pyramidal roof of Chevy Lodge making the building unimposing in the street scene.
- d) The relationship with The Staithe is appropriate due to the single storey garage. The space and pitches of the roof replicate the far side of The Staithe.
- e) Details, finishes and fenestration are appropriate; this is satisfactory design.

## 6.0 Parish Council's Views

- 6.1 No comments have been received

## 7.0 Representations

- 7.1 2 Letters have been received and are summarised below; the full text is available via the Council's website:
- a) The buildings on the south side of Ivy Lodge Road are predominately single storey; the roof line from the junction with the A134 to beyond the site is level. The proposed building is noticeably higher than this roof line.
  - b) A house will be out of keeping and overbearing because of its relative shape to the bungalows.
  - c) There will be a loss of privacy to the rear rooms and garden of The Staithe. The rear of new building is behind the main living area and kitchen giving views into these area. This will impact on privacy and will be detrimental in any sale.
  - d) The large first floor window will allow views into the house and garden.
  - e) All the bungalows along the south side of Ivy Lodge Road enjoy exclusive privacy. This development will deny this privacy to the adjacent dwellings and those further along the road.
  - f) Windows in the east elevation will overlook The Staithe; these should be conditioned to be opaque.
  - g) It is likely that the building will block evening sunlight into living quarters, particularly in the winter

- h) The Council have already refused permission for works to the existing property. The proposed design has the same characteristics as the refused scheme and therefore there is no basis to change the original decision. If planning permission is granted the inconsistency will be pursued at central and local government level.

## **8.0 Report**

- 8.1 Following refusal of planning permission in 2008 there have been lengthy negotiations regarding a suitable design for the development of this site. The applicants decided not to pursue an extension but to demolish the existing bungalow and rebuild. The submitted scheme is broadly in line with advice offered by the Council's Urban Designer. Whilst the development to the west of the site is single storey the street scene prepared by the applicant's agent demonstrates that a house can be satisfactorily assimilated in the street scene. This is achieved because the height of the new dwelling relates directly to the height of the pyramidal roof of the Chevy Lodge to the west and a single storey element has been introduced to the east so that the relationship with The Staithe is visually acceptable.
- 8.2 The impact of the development has been assessed in line with SPD 'Extending Your House?' There is no breach of this SPD with regards to The Staithe. There are, depending on what is considered to be the rear wall of Chevy Lodge (this bungalow has a number of rear additions), some breaches of the SPD. However a garage adjacent to the application site does provide some screening. Given that no objection has been received from the occupier of the dwelling it is considered that a pragmatic approach should be adopted.
- 8.3 The Staithe has a conservatory extension that links the original bungalow with a single storey garage that has been converted to living accommodation. The conservatory will be screened from ground floor windows to the rear/side of the new house by existing boundary fencing. There are high windows proposed in the first floor east elevation and the applicants have agreed that these be obscurely glazed. An appropriate condition is suggested. The rear first floor bedroom windows are significantly smaller than the door/window that resulted in a reason for refusal at the time of the previous application. There will be some oblique views from this window over the translucent roof of the neighbour's conservatory. However these are not considered to have such a significant impact on residential amenity as to warrant refusal. As the new dwelling is not directly to the west of the conservatory it is not considered that the loss of sunlight will be significant.
- 8.4 It is appreciated that the existing development in the locality gives rise to minimal overlooking. The introduction of first floor windows is likely to create some opportunities for views into neighbouring gardens. However on balance this is not going to be at such a level as to impact unduly on residential amenity.

## **9.0 Background Papers**

- 9.1 ARC; TL; NLR; Urban Design

## **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**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any Order revoking and re-enacting that Order with or without modification), no extensions shall be constructed (other than any expressly authorised by this permission or any other grant of express planning permission), or buildings erected on any part of the site without the prior written permission of the local planning authority.

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

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

The window/s to be provided above ground floor level in the east facing elevation shall be glazed in obscure glass with an obscuration level equivalent to scale 4 or 5 of the Pilkington Texture Glass scale of obscuration and shall be retained as such at all times thereafter.

Reason: In the interests of residential amenity and to secure the privacy of adjoining occupiers.

#### **4 - Non-Standard Condition**

No development shall take place until cross sections of the site and adjoining land, including details of existing ground and buildings levels around the building hereby approved, any changes in levels proposed together with the proposed floor levels within the building, and finished ridge height of the house in relation to the adjacent dwellings have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with those approved cross sections and specified levels.

Reason: To ensure the satisfactory assimilation of the dwelling into the street scene.

#### **5 - C3.1 Materials (general)**

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

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

#### **6 - Non-Standard Condition**

The existing gravel drive shall be retained, ie it shall not be lifted and replaced.

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

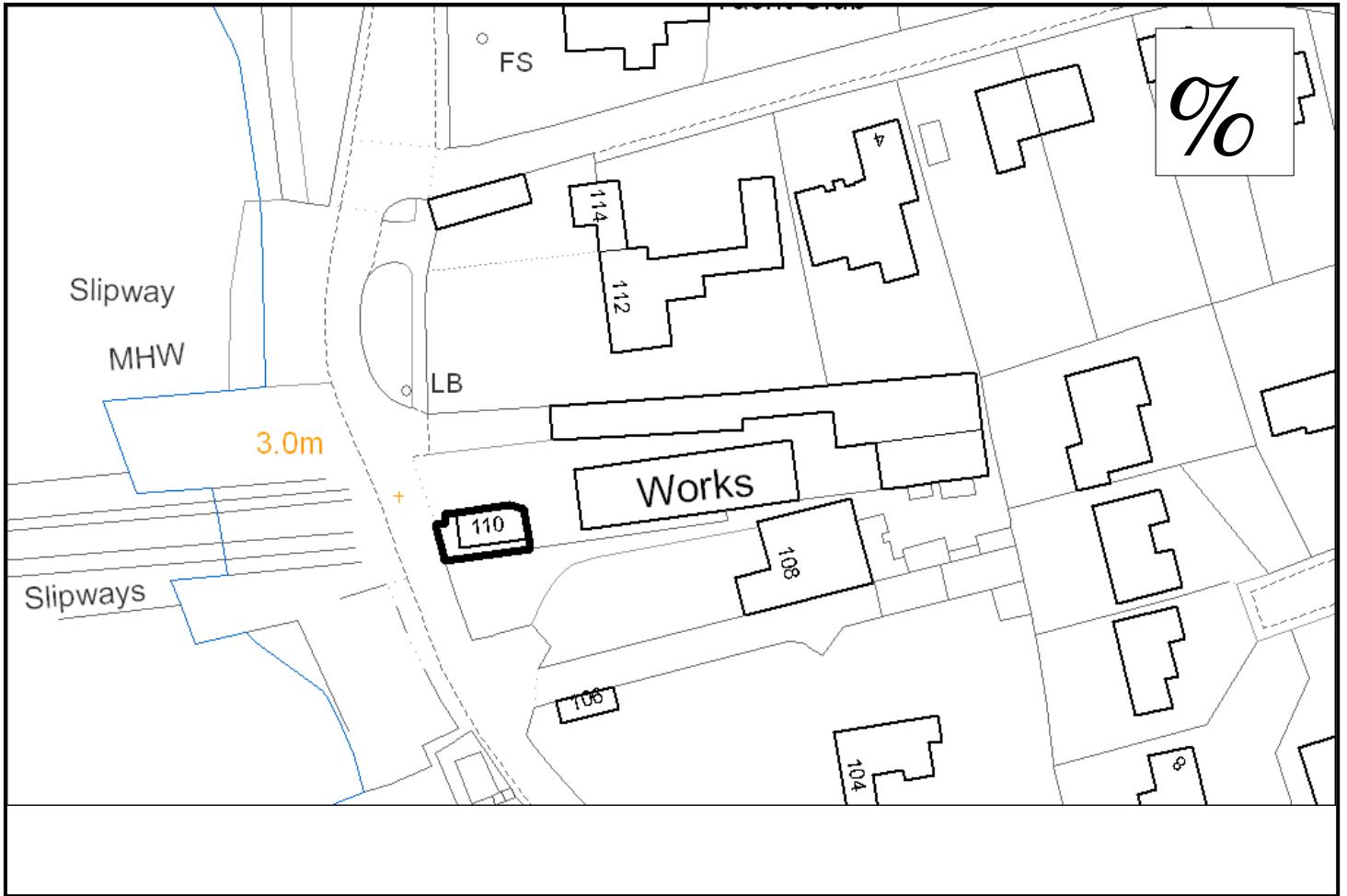
## 7 -Non-Standard Condition

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.

### **Informatives**

Your attention is drawn to the attached advisory guidelines relating to the control of pollution during demolition/building.



**Application No:** 090446

**Location:** Waterfront Cafe, 110 Coast Road, West Mersea, Colchester, CO5 8NA

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

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**7.6 Case Officer: Nick McKeever**

**EXPIRY DATE: 03/06/2009**

**OTHER**

**Site:** 110 Coast Road, West Mersea, Colchester, CO5 8NA

**Application No:** 090446

**Date Received:** 8 April 2009

**Applicant:** Ms Gillian Taylor

**Development:** Variation of condition 2 of planning permission 91/1483 to extend opening hours to 8am - 10pm.

**Ward:** West Mersea

**Summary of Recommendation:** Temporary Approval

## **1.0 Site Description**

- 1.1 This is an established use located within a group of commercial buildings on the Coast Road, West Mersea. Immediately to the north are residential properties, 112 & 114 Coast Road. Number 108 Coast Road is a restaurant. Car parking for the site is provided within the forecourt area.
- 1.2 The application seeks to extend the permitted opening hours 08:00am – 6:00pm to 08:00 am until 10:00 pm throughout the week.

## **2.0 Land Use Allocation**

- 2.1 Area of Special Character  
Flood Zone 2 & 3  
Potential Contaminated Land

## **3.0 Relevant Planning History**

- 3.1 Planning permission for a change of use from retail to the existing café use was originally granted in 1992 (reference 91/1483). In August 1994 a permanent permission, but personal to the Applicant, was granted under reference COL/94/0865. On 9th March the personal restriction was removed under the application COL/95/0051.
- 3.2 Under all of these consents the opening hours were restricted to 8:00 am – 6:00 pm.

## **4.0 Principal Policies**

- 4.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
Design - UEA11& UEA13  
Pollution (General) – PO1

## **5.0 Consultations**

5.1 Environmental Control has no comment to make.

## **6.0 Town Council's Views**

6.1 West Mersea Town Council recommends refusal due to the potential parking difficulties in the area but would be minded to recommend approval if the opening was restricted to 8:00 pm.

## **7.0 Representations**

7.1 The occupiers of 112 Coast Road object on the grounds that if the café is allowed to extend its hours, and possibly gains a drink licence, their quality of life will be seriously affected. There are already several places nearby which stay open in the evenings (The Victory PH, The Oyster Bar; The Coast Inn & The West Mersea Yacht Club) within earshot of their house.

## **8.0 Report**

8.1 The previous restrictions imposed upon this site were all removed in recognition that this was a relatively small scale enterprise that had not given rise to any complaints.

8.2 Whilst the site is located amongst a number of commercial properties, and screened from residential properties to the east by these existing commercial units, it is located immediately adjacent to the residential properties at 112 & 114 Coast Road. On this basis there is potential for possible noise and disturbance which could have an adverse impact upon the level of amenity currently enjoyed by these properties.

8.3 Thus having regard to all of these considerations, together with the fact that no objections have been raised by Environmental Control, it is considered that permission should be granted but for an initial period of one year only. This would allow the Council to monitor the emerging impact of the extended opening hours upon the amenity of the adjoining dwellings and of the area in general.

## **9.0 Background Papers**

9.1 ARC; HH; PTC; NLR

## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

2 - Non-Standard Condition

The café shall open only between the hours of 8:00 am and 10:00 pm and not at any other times.

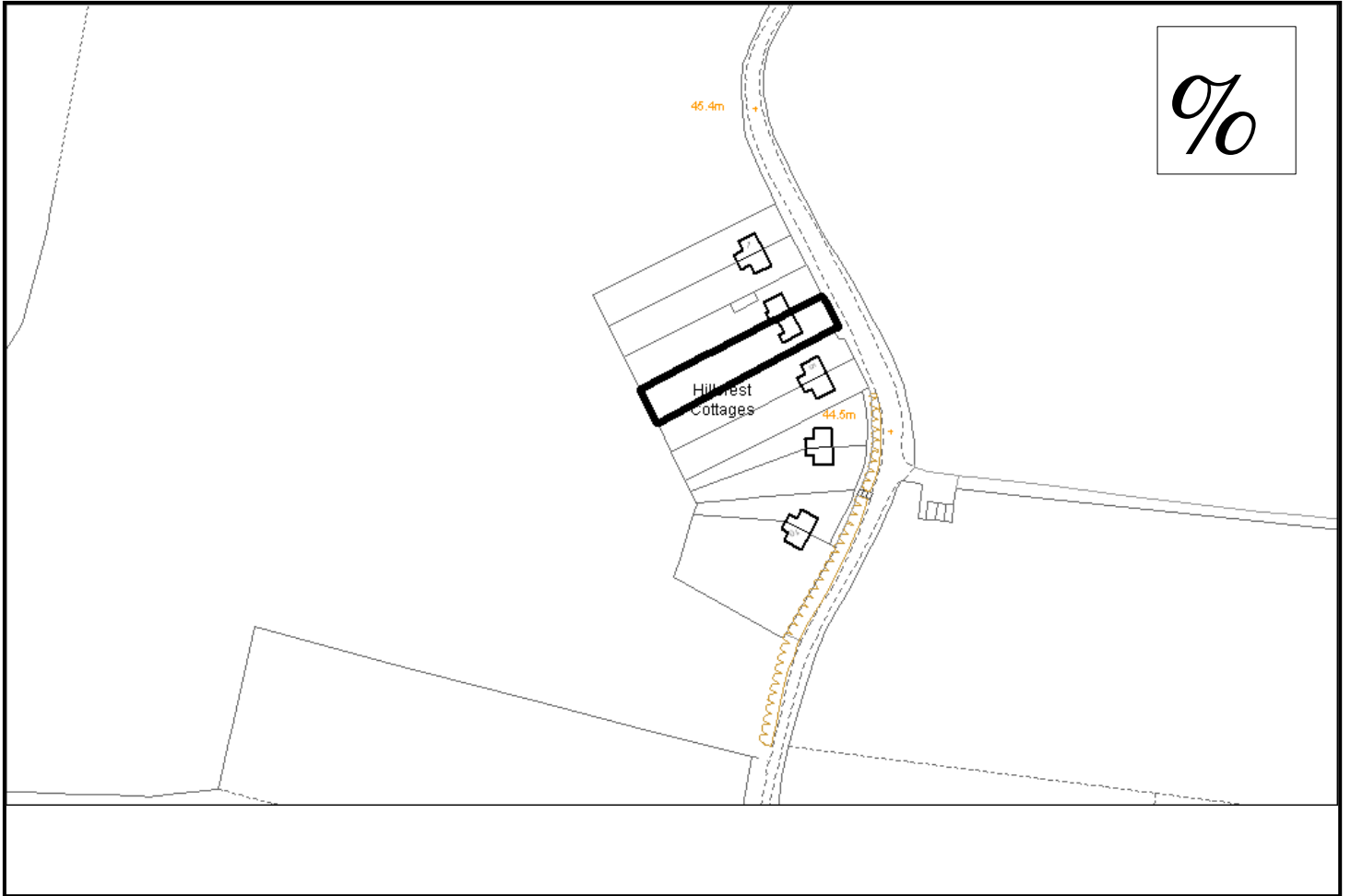
Reason: To safeguard the amenity of the nearby residential properties.

3 - Non-Standard Condition

The permission hereby granted shall be for a period of one year until 20 May 2009.

Reason: For the avoidance of doubt as to the scope of the permission and to safeguard the amenity of the area.





**Application No:** 090523

**Location:** 4 Hillcrest Cottages, Greyhound Hill, Langham, Colchester, CO4 5QE

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

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**7.7 Case Officer: Andrew Tyrrell**

**EXPIRY DATE: 11/06/2009**

**OTHER**

**Site:** 4 Hillcrest Cottages, Greyhound Hill, Langham, Colchester, CO4 5QE

**Application No:** 090523

**Date Received:** 16 April 2009

**Applicant:** Mr S McAdam

**Development:** Erection of single storey rear extension (following demolition of existing single storey rear extension) and erection of car port on side of house

**Ward:** Dedham & Langham

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

1.1 The site is one of approximately ten dwellings in a row of ribbon development along this stretch of Greyhound Hill, Langham. The properties are post-war period properties, originally in Council ownership. They are predominantly grey pebble-dash rendered, although use of materials has undergone change over recent years with new materials being introduced. The properties were originally minimally insulated, but recent weatherproofing has led to trends of smooth rendering and weatherboarding (in part). The rhythm of the properties has also altered slightly due to several extensions.

## **2.0 Description of Proposal**

2.1 The proposal is for a replacement single storey rear extension and a car port to the side elevation. The previous two storey element of the approved rear extension has been completed.

2.2 The application is presented to Planning Committee as the applicant is a former employee of the Council's Planning Service, only having left some 8 months ago. The applicant is known to the case officer in social terms outside of work, and is well known with all other planning officers in the service too.

## **3.0 Land Use Allocation**

3.1 The site lies within the Dedham Vale AONB, and within a Countryside Conservation Area. The land is not allocated for a particular development use, although it is currently part of a residential ribbon development constructed during the post-war period.

#### **4.0 Relevant Planning History**

4.1 There is an existing approval for this property granted by the Planning Committee last year (reference 080618). The applicant now wants to vary this approval through some amendments, notably changing a single storey extension to a car port.

#### **5.0 Principal Policies**

5.1 Adopted Review Borough Local Plan:  
DC1 - Development Control Considerations  
CO2 - Dedham Vale Area of Outstanding natural Beauty  
CO3 - Countryside Conservation Area  
UEA11 - Design  
UEA13 - Development Adj. Existing or Proposed Residential Property  
H8 - Extensions to Dwellings in the Countryside

5.2 Core Strategy:  
UR2 – Built Design and Character  
ENV1 - Environment

#### **6.0 Consultations**

6.1 None

#### **7.0 Parish Council's Views**

7.1 The Parish Council has raised no objection.

#### **8.0 Representations**

8.1 None received

#### **9.0 Report**

##### Design

9.1 The car port is a straightforward design with appropriate proportions. It is a subservient element. The materials proposed are considered to be satisfactory for such a development in this location.

9.2 The rear extension is also suitably designed. Again, it has a subservient appearance. Overall, the 2 metre increase in depth will not have a great impact, especially given the rearward siting. In general terms, the extension is very similar to one previously approved at 2 Hillcrest Cottages, two doors northwards.

9.3 The designs of the proposed elements are considered to be acceptable on their merits.

### Amount and scale

- 9.4 The dwelling is undergoing extension on 2 sides. In this instance, it is considered that the application site is more than capable of accommodating this development without detriment to the dwelling itself or the wider area.
- 9.5 The scale of development is appropriate to the dwelling itself, and each single element of the proposal is well-proportioned. The proposal is not excessive and can be achieved without detriment to the surrounding environment. The character of the main dwelling will still be retained as the extensions are sympathetically designed in accordance with design policy and advice in the adopted Essex Design Guide.

### Impacts on Amenities

- 9.6 There are no adverse impacts on neighbours. The extension passes the tests laid out in the Essex Design Guide in terms of angles of overshadowing and outlook.

## **10.0 Conclusion**

- 10.1 Overall, the proposal is well designed and will be without detriment to the dwellings appearance, the character of the area or the neighbouring properties. There are no concerns over the application

## **11.0 Background Papers**

- 11.1 ARC

## **Recommendation - Conditional Approval**

### **Conditions**

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

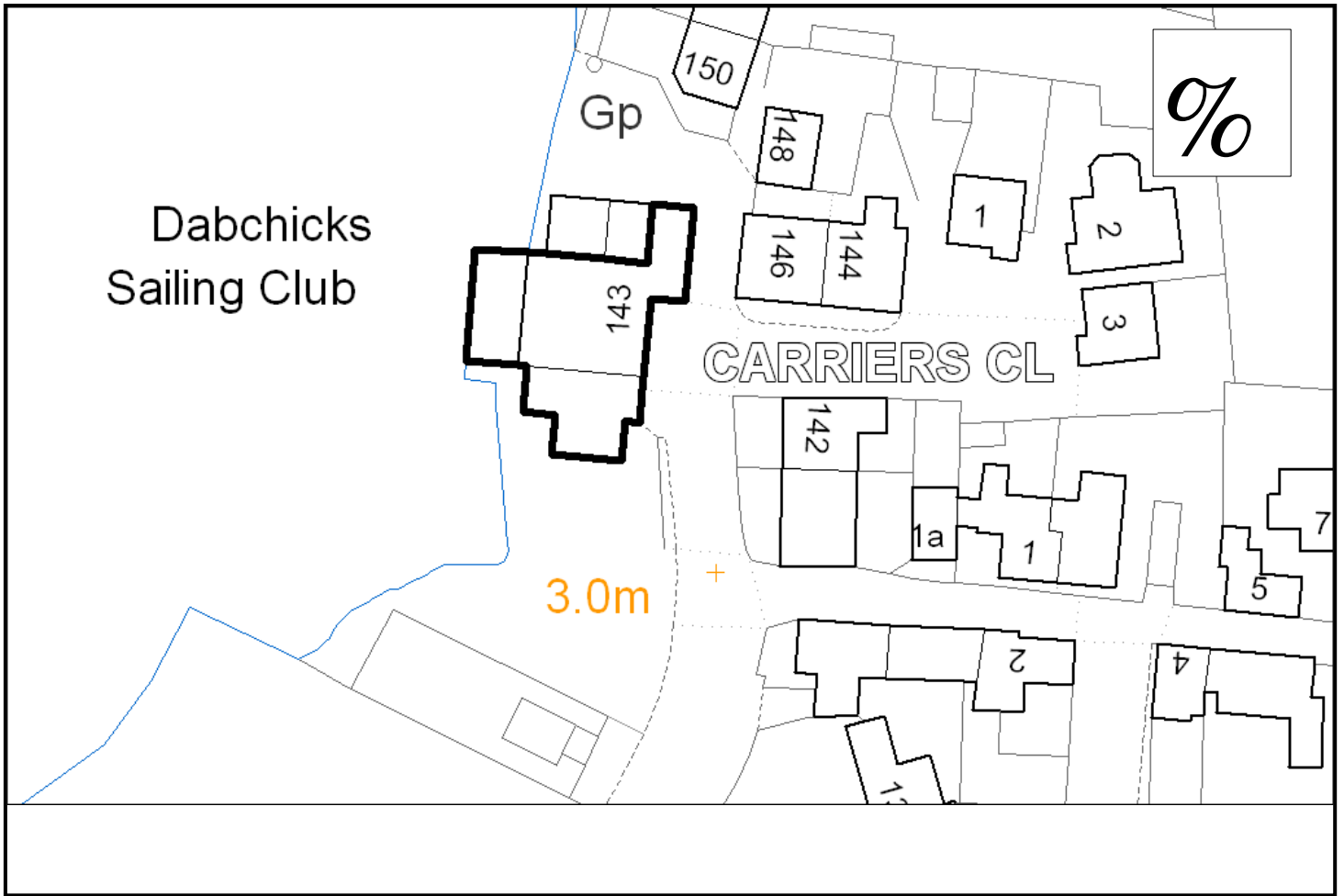
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

- 2 - Non-Standard Condition

The external materials and finishes to be used shall be as stated on the application form and as indicated on the approved plans and schedule returned herewith, unless otherwise agreed in writing by the Local Planning Authority.

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



**Application No:** 081947

**Location:** Dabchicks Sailing Club, 143 Coast Road, West Mersea, Colchester, CO5 8NX

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

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**7.8 Case Officer: Nick McKeever**

**OTHER**

**Site:** 143 Coast Road, West Mersea, Colchester, CO5 8NX

**Application No:** 081947

**Date Received:** 18th December 2008

**Applicant:** Mr Edward Allan

**Development:** Removal of wall and replace with posts and chain

**Ward:** West Mersea

**Summary of Recommendation:** Conditional Approval

**1.0 Planning Report Introduction**

**1.1 This application was considered by Members at the Planning Committee Meeting on 5<sup>th</sup> February 2009. It was deferred for negotiation of an amended scheme comprising white timber posts without chains set closer together. If the revised scheme was agreed delegated powers were granted to the Head of Environmental & Protective Services, if not the application would need to be returned to the Committee.**

**1.2 Whilst the matter has been discussed with the Applicant, and a meeting held at the site, the amendments required by Members have not been agreed. The Applicant has provided the following information regarding proposed changes to the scheme and in support of this proposal:-**

**“The club apron has previously had posts and chain along the road frontage in this location. They were removed about 20 years ago and replaced with the current brick wall structure.**

**This serves to delineate the street frontage of our site and restrict vehicular access to the single opening which is safer for pedestrians and easier to police to avoid “fly parking”. In the last few years the wall has become a maintenance problem due to the increased traffic from visitors. Most of them turn around at the junction beside our site and there have been several collisions with the wall, the height of the wall being such that it is not easily visible from within a car. Its low height and proximity to the kerb also means that it is not seen by driver/passengers when opening their door. It has been rebuilt once and is now damaged in 3 locations and needs rebuilding again.**

**We are a very successful club and run one of the largest youth training programmes in the country. We have 120 youngsters signed up for this year's programme with around 90 to 100 taking part on a Wednesday evening plus other evenings and weekends. With this number of youngsters around the club we need to be able to 'contain' them safely on the premises and avoid them running on and off the road. The current arrangement achieves this by keeping the access away from turning vehicles. We are responsible for the safety of the cadets and must have some system for ensuring cars do not reverse into their area.**

**The 'post and chain' solution achieves this and gets rid of the wall with its attendant risks, and, currently, loose bricks etc. We have given serious consideration to your previous comments and have discussed these on site with your Planning Officer and we would be prepared to install additional posts with heavy rope instead of chain.**

**We would still prefer to use white painted galvanised steel posts as the area is subject to regular flooding at high tides and we feel the timber posts would rot quickly in these conditions and also be more vulnerable if backed into by a car."**

**1.3 The Applicant suggests 5 no. posts, with heavy white rope looped between. 4 posts are new and the one at the right hand is existing. The end ones are 1130mm high and the middle ones are 900mm high.**

**1.4 The previous report to the Committee is reproduced herewith.**

## **2.0 Site Description**

2.1 The Dabchicks Sailing Club is located at the northern end of the Coast Road, West Mersea. It includes a two storey building with an apron for the storage of boats immediately to the south of this building. The boundary to the site is formed by a low brick wall. Residential properties lie to the north, east and to the south-east of the site.

2.2 The application proposes the removal of this wall and its replacement by 3 posts linked by a single chain. The posts are steel, 1130mm high and with a galvanised finish due to the regular exposure to salt water. The existing post by the vehicular entrance is to be retained.

2.3 The applicant indicates the replacement of the wall is justified on the basis that this wall has become a maintenance problem due to the increased traffic from visitors, most of whom turn around at the junction beside the site. The low height of the wall means that it is not easily visible from within a car.

## **3.0 Land Use Allocation**

3.1 Conservation Area covered by an Article 4 Direction.

## **4.0 Relevant Planning History**

4.1 None

## **5.0 Principal Policies**

- 5.1 Adopted Review Borough Local Plan  
Development Control Considerations – DC1  
Conservation Areas – UEA 1 & 2  
Design - UEA11

## **6.0 Consultations**

- 6.1 None

## **7.0 Town Council's Views**

- 7.1 West Mersea Town Council comment that there is a strong objection to the proposed chains and ask that, having regard to the conservation area status together with the potential restriction of riparian rights, for the chain to be omitted and for wooden posts to erected. These should be placed close enough together to prevent vehicle access.

## **8.0 Representations**

- 8.1 The occupier of 19 Firs Road objects on the basis that:-
  - (1) This is an encroachment upon the Village Green, Registration No. VG247 and will violate the Enclosure Act of 1857. Also residents have the right to hang their washing on the village green and should not be expected to hurdle over the proposed barrier.
  - (2) Effect riparian rights of access and egress
  - (3) Under the Marine Bill Act this will affect the coastal path and spreading room which this village green is perhaps the ideal spreading room
  - (4) Out of keeping with the conservation area
  - (5) The cover of the Planning Handbook 1995 showed the open and accessible natural Coast Road free from barriers.

## **9.0 Report**

- 9.1 The principle consideration in this particular case must be the impact of the proposed enclosure upon the character and setting of the conservation area, covered by an Article 4 Direction, and the impact upon the amenity of this part of the Coastal Road. The Article 4 Direction removes the normal rights to erect means of enclosure.
- 9.2 The existing low brick wall is of no particular merit and as such does not make a positive contribution to the setting of the conservation area.
- 9.3 The front boundary enclosures to the existing properties within this part of Coast Road are an eclectic mix with no uniform characteristic to them. On this basis the proposal to replace the existing wall with a series of posts linked by a low chain is acceptable in principle.



- 9.4 The onus upon development within a conservation area is that it should protect or enhance its setting and character. In this context the application as submitted does not provide sufficient details of the design of the posts. If Members are minded to approve the development it should be on the basis that full details of the design of the posts and chain should be submitted for prior approval.
- 9.5 Whilst the concerns of the Town Council and of the objector are acknowledged, it is considered that a low slung chain link between the posts would not present an impenetrable barrier to any people seeking to gain access onto this particular part of the Coast Road and would but would provide a sufficient deterrent to vehicles.
- 9.6 With regard to any encroachment onto the stated village green, this is not a matter for the Planning Authority and would not in its self prevent the granting of planning permission. The Applicant would need to seek the consent of the registered keepers of the green, although it is noted that the applicant has submitted Certificate A under Article 7 to the effect that nobody but the applicant was the owner of the land. The Applicant has stated that the site is not "Village Green" and the Sailing Club have a freehold to this land , which the Village Green is immediately adjacent.
- 9.7 This consideration would apply equally to the matter of any riparian rights.

## **10.0 Additional Report**

- 10.1 Comments made by the Applicant regarding the damage to the existing low brick wall and its continual maintenance is acknowledged. This damage was evident during you officer's recent visit to the site, where the wall was broken in two separate places.**
- 10.2 Since the previous consideration of the application, a map showing the area covered by the registered village green has been acquired. This map shows that the southernmost corner of the site is included within the village green.**
- 10.3 With regard to public access to this part of the village green, the site has an access located at the northern end of the existing wall. This access is to remain.**
- 10.4 Having regard to all of these matters, it is considered that the original recommendation for permission subject to the conditions set out below.**

## **11.0 Background Papers**

- 11.1 ARC; PTC; NLR

## **Recommendation – Conditional Approval**

### **Conditions**

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

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

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

## 2 - Non-Standard Condition

Prior to the commencement of development details of the design of the posts, together with full details of the proposed linking rope, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and retained in accordance with the approved details.

Reason: For the avoidance of doubt as to the scope of this permission and in order to achieve a satisfactory visual appearance having regard to the setting within the conservation area.

## 3 – Non Standard Condition

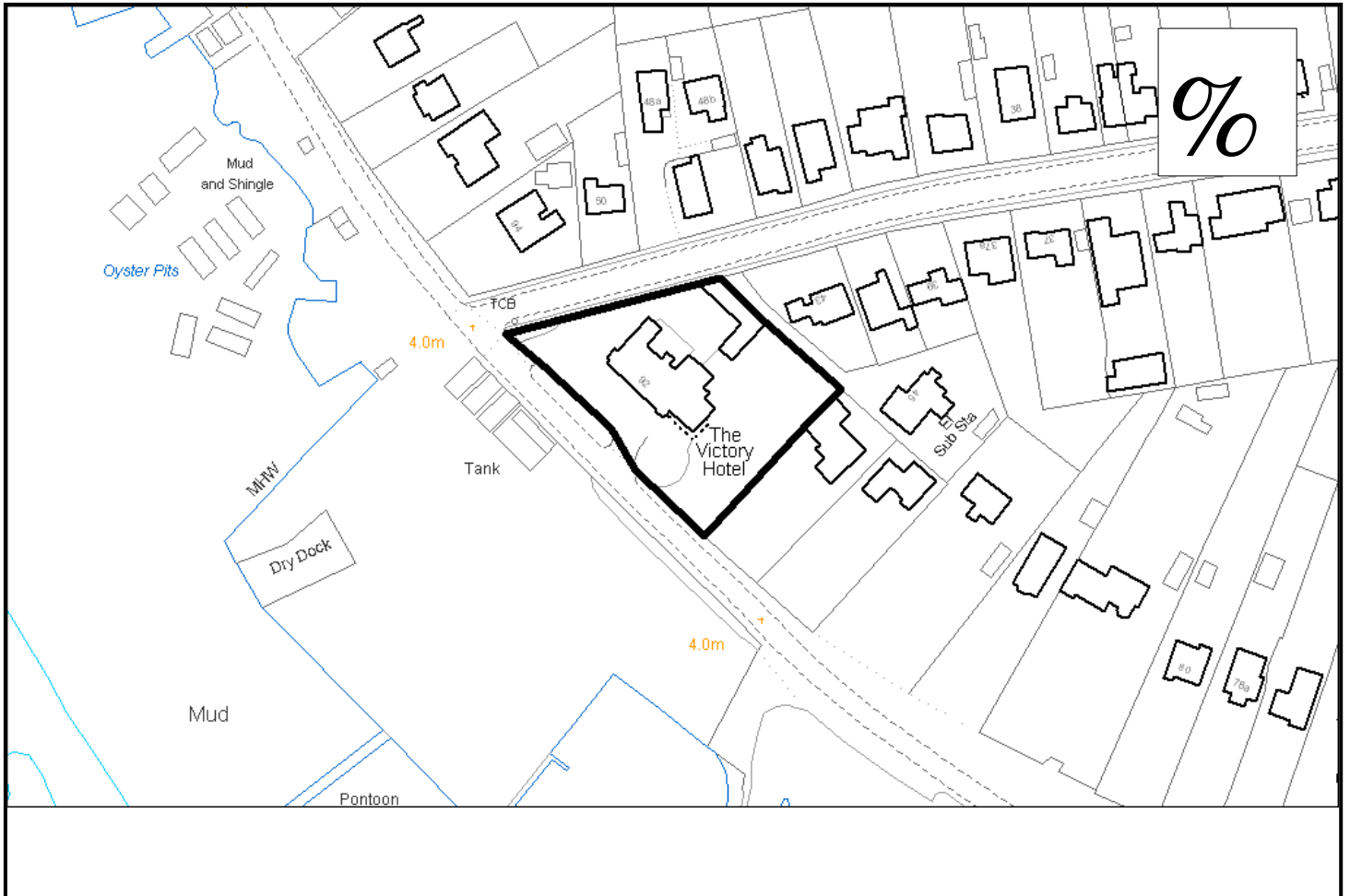
The permission hereby granted is for the erection of 5 No. posts with linking rope in accordance with the Applicant's letter received 23 April 2009.

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

## **Informatives**

The attention of the Applicant is drawn to the presence of the Village Green and that the consent hereby granted does not confer any rights to interfere with any land forming part of a registered Village Green without the permission of the owners of such land.

The attention of the applicant is drawn to any riparian rights that may apply to this land.



**Application No:** 090221

**Location:** The Victory, 92 Coast Road, West Mersea, Colchester, CO5 8LS

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

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**7.9 Case Officer: Nick McKeever****OTHER****Site:** 92 Coast Road, West Mersea, Colchester, CO5 8LS**Application No:** 090221**Date Received:** 2 March 2009**Agent:** Mr Russell Gook**Applicant:** Mr. Peter Tydie**Development:** Change of use from store buildings to four ensuite bedrooms and 2no. pavillions for outside dining. Resubmission of 081553.**Ward:** West Mersea**Summary of Recommendation:** Conditional Approval**1.0 Site Description**

- 1.1 The Victory PH sits on a 0.27 ha plot of land fronting onto Coast Road, West Mersea. The property is bounded on the northern, western and south- eastern sides by residential properties fronting onto Coast Road and Victory Road.
- 1.2 The application proposes the refurbishment and conversion of a group of outbuildings located along the north- eastern boundaries. Immediately adjacent is a private drive leading to an electricity sub-station and some dwellings. Immediately beyond this access drive lies No.43 Victory Road.
- 1.3 These existing out buildings, which are used for storage, are to be converted into 4 additional bedrooms with en-suite facilities for letting. The new bedroom facilities will have access through the rear of the host building to dining facilities. New PVCu windows and doors are to be inserted.
- 1.4 Parking is available within the existing forecourt area. The application proposes the closure of the existing vehicular access adjacent to Coast Road and the provision of 3 additional car parking spaces within this part of the site. Two further car parking spaces are to be provided to the rear of the Public House, adjacent to the existing outbuildings. No additional staff are to be employed.
- 1.5 In addition two new pavilions are to be attached to the existing restaurant area to be used for al fresco dining during the summer months. These pavilions will be canvas covered structures and will be removed during the winter months.

**2.0 Land Use Allocation**

- 2.1 Residential

### **3.0 Relevant Planning History**

- 3.1 A previous application for the same proposal was withdrawn on 20<sup>th</sup> November 2008 (reference 081553) to facilitate further discussions with your Officers and the Highway Authority.

### **4.0 Principal Policies**

- 4.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
Design - UEA11& UEA13  
T9 – Parking  
P1 – Pollution (General)  
Conservation Areas – UEA1 & UEA2

### **5.0 Consultations**

- 5.1 With regard to the previous application, the Highway Authority advised that they would not wish to object to the proposals were detailed plans to be submitted indicating how the 40 space car park is to be laid out and access, and how delivery and service vehicles will park and turn clear of the highway.

- 5.2 The following comments have been submitted by the Highway Authority in respect of the resubmission:-

"The Highway Authority recommends that the application be refused for the following reason:-

Insufficient information is provided within the application to demonstrate to the satisfaction of this Authority that the impact on the highway network caused by this proposal will not have unacceptable consequences in terms of highway safety and efficiency.

The applicant should be invited to provide such additional information as listed below:

1. Details of the existing and proposed floor areas of the Public House and of the proposed extensions and letting rooms.
2. Details of the layout and construction of the proposed service access.
3. Details of the layout of the proposed car parking provision.
4. Details of how the existing access at point "X" shown on the returned plan is to be suitably and permanently closed."

### **6.0 Parish Council's Views**

- 6.1 West Mersea Town Council recommends consent.

### **7.0 Representations**

- 7.1 The occupiers of Nos. 48, 48A & 48B Victory Road object on the basis that there are problems with parking within Victory Road so that they are at times unable to access their own private drive. As one of them is disabled this can prove to be most difficult.

## **8.0 Report**

- 8.1 The existing outbuildings appear to have a rather neglected appearance. The renovation and conversion will improve their appearance and give them a beneficial use without any detriment to the neighbouring dwellings, particularly with regard to the additional doors and windows. The only additional windows and doors face into the courtyard and the gardens of the Victory PH.
- 8.2 The main issue, therefore, is the need to achieve a balance between the provision of additional tourist facilities with the provision of on-site car parking and servicing facilities. The comments made by the Highway Authority in respect of the revised proposal relate to this issue. The Applicant withdrew the previous application in order to allow for further discussions with the Highway Authority with a view to resolving on-site car and cycle parking. A meeting was held on the site whence it was agreed that the existing car parking did not meet the standard set out within the Essex County Council car parking standards adopted by Colchester Borough Council. However, there was scope to provide one car parking space for each of the new bedrooms by the closure of one of the two existing access points onto the Coast Road, and by the provision of two spaces immediately adjacent to the converted outbuildings. Thus the status quo was to be maintained but parking made available to cater for the new accommodation. However, the recommendation of the Highway Authority on this resubmission differs from the views expressed on site.
- 8.3 The Applicant agreed that all deliveries are to be made to the rear of the Public House and, by reversing into the site, can exit in forward gear. This means that the vehicle movements take place on the public highway and not within the adjacent private drive. The Applicant has also agreed with the supplier that all deliveries will take place on a Friday between 09:00 – 13:00 hours.
- 8.4 Details of the layout and construction of the proposed service access, car parking provision within the site and the closure of the existing access can be secured by appropriate conditions. It is considered this modest extension for the use is acceptable and despite the objection from the Highway Authority will not seriously impact on highway safety.

## **9.0 Background Papers**

- 9.1 ARC; HA; NLR

### **Recommendation - Conditional Approval**

#### **Conditions**

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

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

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

## 2 - Non-Standard Condition

The existing access onto the Coast Road shown on the approved drawing as being blocked up shall be permanently closed in accordance with details to be submitted to and approved in writing by the local planning authority. This access shall be permanently closed prior to the occupation of any of the new accommodation.

Reason: In the interests of highway safety and residential amenity.

## 3 - Non-Standard Condition

The five additional parking spaces shall be provided in accordance with the details shown on the approved drawings prior to the occupation of any of the new accommodation and thereafter maintained as such thereafter.

Reason: In order to ensure the provision of additional on-site parking facilities in the interests of highway safety and the amenity of nearby residential properties.

## 4 – Non Standard Condition

Details of the layout and construction of the proposed service access and the layout of the parking area within the site shall be submitted to, and agreed by, the Local Planning Authority prior to the commencement of any works on the site.

Reason: In the interests of highway safety.

## 5 – D4.4 (satisfactory arrangements)

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

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

## 6 – Non Standard Condition

The development hereby permitted shall only be used in connection with the main use of 92 Coast Road, West Mersea and shall not be let or sold as an independent use.

Reason: To enable the Council to control the use of the site.

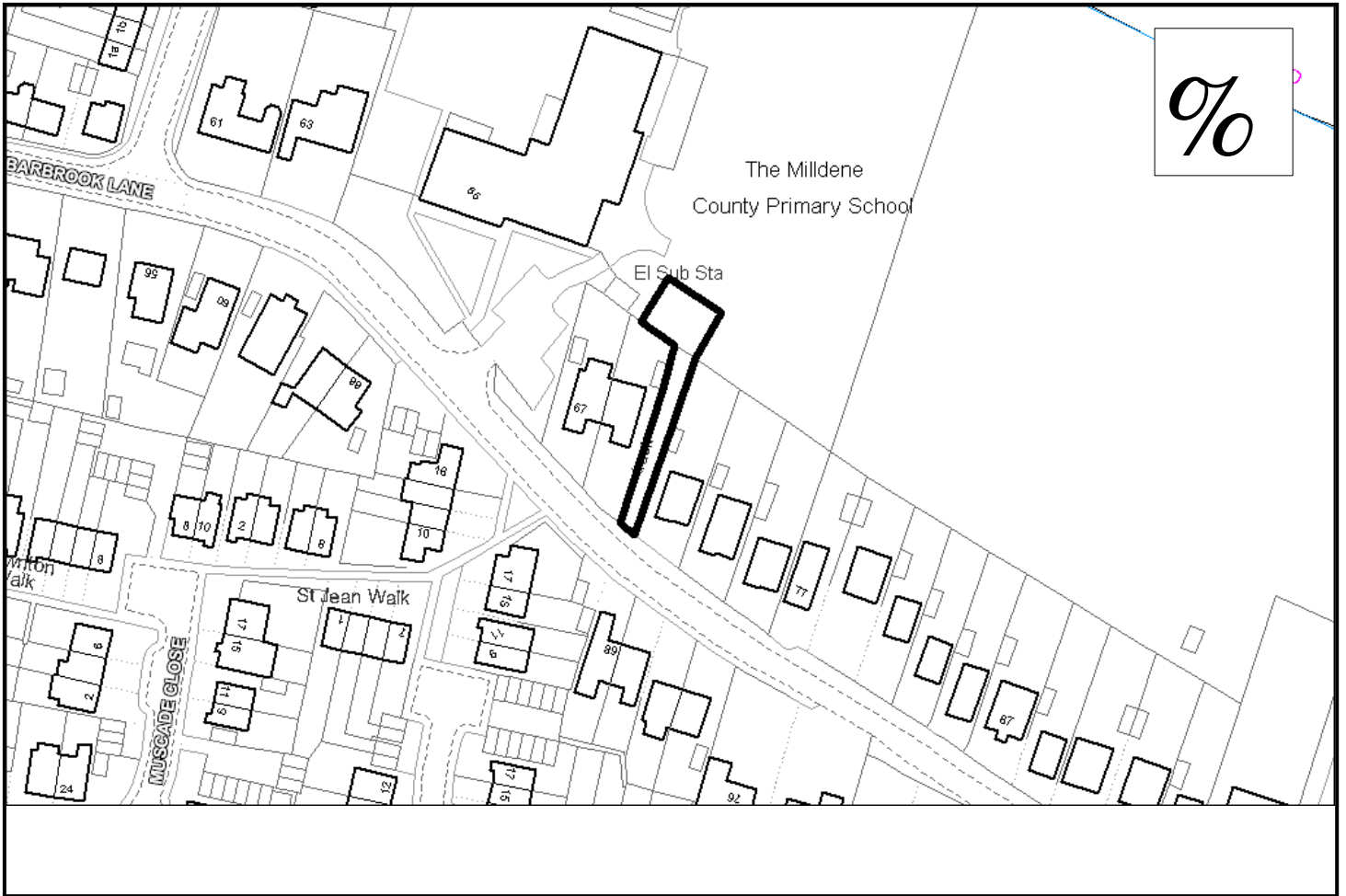
## 7 – Non Standard Condition

No new windows, door, roof lights or other form/opening shall be inserted in any extension on the roof slope of the building without the prior consent of the Local Planning Authority.

Reason: To protect the amenity of adjacent residents.

## **Informatives**

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



**Application No:** 090264

**Location:** Milldene CP School, 65 Barbrook Lane, Tiptree, Colchester, CO5 0EF

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

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**7.10 Case Officer: Nick McKeever****OTHER****Site:** 65 Barbrook Lane, Tiptree, Colchester, CO5 0EF**Application No:** 090264**Date Received:** 16 March 2009**Applicant:** Miss Rachel Evershed**Development:** Stationing of demountable class room for pre-school playgroup without compliance with condition 02 of planning permission 080890 (Temporary Planning permission).**Ward:** Tiptree**Summary of Recommendation:** Conditional Approval**1.0 Site Description**

- 1.1 This application proposes the retention and continued use of a relocatable classroom building on a permanent basis within the grounds of The Mildene County Primary School, Barbrook Lane. The building is used as a Pre-School Playgroup and has been located on the site since 2001 with the benefit of temporary planning permissions.
- 1.2 The building is located on part of the School playing fields, immediately adjacent to the rear gardens of dwellings along Barbrook Lane. It has an access between Nos.69 & 71 Barbrook Lane.

**2.0 Land Use Allocation**

- 2.1 Residential

**3.0 Relevant Planning History**

- 3.1 F/COL/01/1714 – Siting of demountable classroom (83.51 sq.m) for pre-school playgroup. Temporary permission granted 2nd January 2002.
- 3.2 080890 – Stationing of demountable classroom for pre-school playgroup. Temporary permission until 1st June 2013.

**4.0 Principal Policies**

- 4.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
Design - UEA11 & UEA13

## **5.0 Consultations**

5.1 None

## **6.0 Parish Council's Views**

6.1 Tiptree Parish Council only supports a five year extension of the planning permission.

## **7.0 Representations**

7.1 None

## **8.0 Report**

8.1 This building provides for a beneficial community use within the existing school grounds. These type of demountable buildings are frequently located within schools, often for very long periods of time, albeit usually by the successive renewal of temporary planning consents. In this case the building appears to be well maintained and in a location where it has no impact upon the street scene.

8.2 As far as can be determined, the continued use of this building for the established playgroup has not given rise to any complaints from local residents.

8.3 On this basis, and having regard to the particular circumstances, it is considered that the siting and use of the building on a permanent basis can be supported but on the basis that the consent is personal to the Tiptree Pre-school Playgroup.

## **9.0 Background Papers**

9.1 ARC; PTC

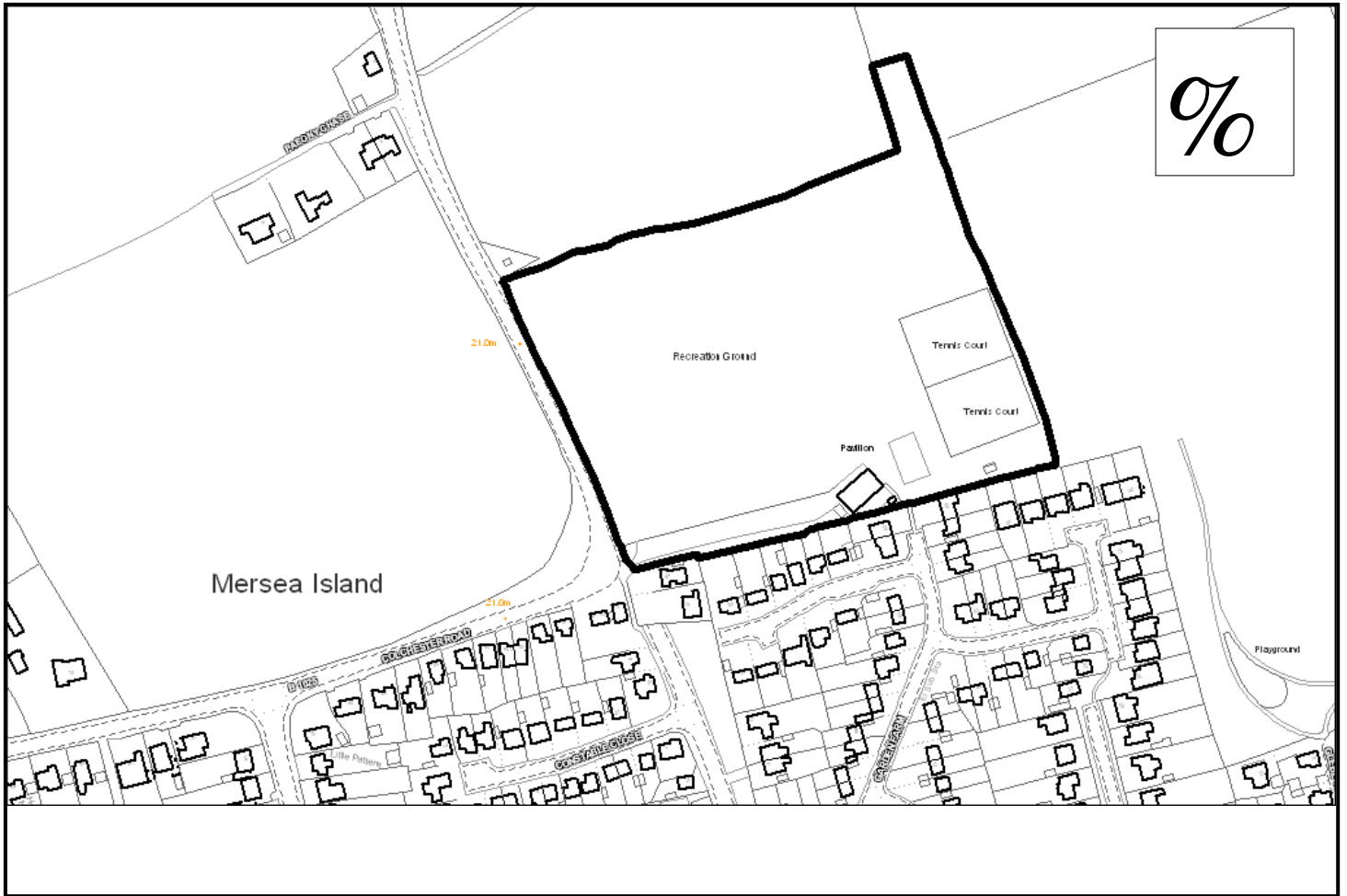
## **Recommendation - Conditional Approval**

### **Conditions**

1 - Non-Standard Condition

When the building ceases to be occupied by the Tiptree Pre-School Playgroup the use hereby permitted shall cease and the demountable classroom building removed from the site.

Reason: For the avoidance of doubt as to the scope of the permission as approval would not normally have been granted in this case but for the particular personal circumstances of the applicant.



**Application No:** 090360

**Location:** Sports Ground, Sports Ground, Colchester Road, West Mersea, Colchester, CO5 8RU

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

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**7.11 Case Officer: Nick McKeever****OTHER**

**Site:** Sports Ground, Colchester Road, West Mersea, Colchester, CO5 8RU

**Application No:** 090360

**Date Received:** 18 March 2009

**Agent:** Esposito Mclean Architectural Consultants Ltd

**Applicant:** Mr David Tucker

**Development:** First floor extension to existing sports and social club together with revised access and parking arrangements. Resubmission of 081756.

**Ward:** West Mersea

**Summary of Recommendation:** Conditional Approval

**1.0 Site Description**

- 1.1 The existing Sports and Social Club lies within land at Colchester Road, West Mersea, which contains sports pitches, car parking facilities and a number of single storey buildings. These buildings are located along the southern boundary of the site. The Sports and Social Club is the largest of these relatively small buildings.
- 1.2 To the south of the Sports & Social Club are residential properties within Garden Farm. The gardens of these dwellings abut the car parking area and the existing buildings on the site.
- 1.3 The western boundary of the site is screened by established hedges and trees. To the north, west and east is open countryside.
- 1.4 The application proposes a first floor extension to the existing Sports & Social Club building to provide an additional sports changing room and other facilities, together with a new function room within the first floor area. The existing facilities will be retained and refurbished as part of the proposals. The external materials are to be subject to the agreement of the local planning authority.
- 1.5 Access to the Glebe is off the Colchester Road. The application includes an area of land at the site entrance to be dedicated to the ECC Highways for possible future improvements to the entrance. The application also proposes a remodelled kerbed bellmouth access with 10m radii, together with 2.4m x 90m visibility splays. A size 3 vehicular turning space has also been provided within the site.
- 1.6 The plans show the retention of the existing car parking facilities. Allowance has also been made for possible future car parking in an area adjacent to the western boundary.

## **2.0 Land Use Allocation**

- 2.1 Residential  
Countryside Conservation Area  
Open Space  
Potential contaminated land

## **3.0 Relevant Planning History**

- 3.1 081756 – This is for the same proposal but was withdrawn for amendments to the design and to resolve highway related issues.

## **4.0 Principal Policies**

- 4.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
Design - UEA11& UEA13  
Pollution (General) – PO1

## **5.0 Consultations**

- 5.1 The Highway Authority has no objection subject to conditions relating to the provision of 90m visibility splays, provision of a 10m radius kerbed bellmouth connection with Colchester Road, provision of the car parking & turning facility and the provision of cycle parking.

## **6.0 Town Council's Views**

- 6.1 None received

## **7.0 Representations**

- 7.1 2 Letters have been received from the occupiers of nearby residential properties. The objections contained within these letters are summarised as follows:-
  - Adverse impact upon outlook over the playing fields and towards the estuary
  - Loss of privacy – windows within the side elevation, whilst do not directly overlook, they are at the same level as windows in the dwellings.
  - Noise & disturbance caused by the use for private functions. The opening hours are not given.
  - Car Parking – there is sufficient car parking already on the site. This new area could be used for skateboarding & motorbike racing. When hardcore is used it provides ammunition to throw at windows of neighbouring properties.

## **8.0 Report**

- 8.1 The existing Sports and Social Club building is a single storey building with a mix of pitched and flat roofs. To the rear is a storage compound, which is immediately adjacent to the garden of a dwelling. This existing building is of no architectural merit.

- 8.2 The main issues with this proposal are, therefore, the scale and design of the extended building and its relationship and impact upon the amenity of the residential properties that adjoin the site, and the impact of the use upon residential amenity.
- 8.3 The existing building is located in close proximity to the residential properties within Garden Farm, and in particular to number 49 Garden Farm. The previous application that was withdrawn was essentially a rectangular “box”. As such it presented an unrelieved mass and consequently a very bulky appearance. The revised scheme attempts to break down the form, and in particular the roof area, thereby reducing any visual impact.
- 8.4 With regard to the impact upon No.49, this adjoining dwelling has its main elevation facing west and east, and has a blank gable end facing onto the new building. As the extended building lies to the north of this and other dwellings in the immediate vicinity, it will not result in any overshadowing.
- 8.5 The privacy currently enjoyed by the existing dwellings is not prejudiced given that there are no windows within the rear (south facing) elevation. Whilst there are windows within the side elevations, these windows do not directly overlook the existing dwellings. The windows within the north-east facing side elevation look out on to the sports ground.
- 8.6 The other main issue is the impact of the use of the building upon the amenity of the residential properties which adjoin the site. The Applicant’s Statement in support of the application states that:
- “The Kitchen, Bar and Function Room are all open and used during evenings and weekends, variously by the three football clubs (Legionnaires FC, Mersea FC and Oyster FC, by the Cricket and Tennis Clubs, and by family members. In addition the facility is hired out for parties and weddings on a regular basis. In the past difficulty with parking has been experienced, and as a result the parking was increased in 2006 to provide parking for up to 60 cars, with an overflow area for a further 60 cars available if necessary”.
- 8.7 This Statement further states that it is estimated that up to 400 people, made up of various sports club players and families, use the facilities at various times during the year, and no increase in this number is envisaged.
- 8.8 The application as submitted does not provide any more details of the proposed hours that the new facilities will be open or frequency, particularly for private functions. Clarification of the likely opening hours has been sought and Environmental Control will be consulted on this additional information.
- 8.9 Environmental Control are aware that the existing building is used for functions and have no record of any complaints. They recommend the inclusion of the standard advisory note for Demolition and Construction.
- 8.10 Permission is recommended subject to no objections being made by Environmental Control in respect of the submitted details of the use of the extended premises and the proposed hours and frequency of the use being acceptable in planning terms and impact on residential amenity.

## **9.0 Background Papers**

### **9.1 ARC; HA NLR**

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

##### **Conditions**

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

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

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

###### **2 - C3.2 Materials as Stated in Application**

The external materials and finishes to be used shall be as stated on the application form and as indicated on the approved plans and schedule returned herewith, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposed development is visually [satisfactory/attractive] and enhances the appearance of the locality.

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

The remodelled access including vehicular visibility splays of 90m North x 2.4m x 90m South East (as far as the site boundary permits and shown coloured blue on the attached plans) 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 provided to the satisfaction of the Local Planning Authority prior to the development hereby permitted being brought into use. These facilities 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 first use of the proposed development the proposed private drive shall be constructed to a width of 5.5m and shall be provided with a 10m radius kerbed bellmouth connection with Colchester Road as shown on drawing numbered 1110/P2/01.

Reason: To ensure that all vehicles using the private drive access 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

The development hereby permitted shall not be occupied until such time as the car parking area and vehicular turning area of at least a size 3 standard as described in the Essex Design Guide as 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 vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

#### 7 -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 19 October 2007.

8 – Plus any additional conditions required following consideration of the additional information.

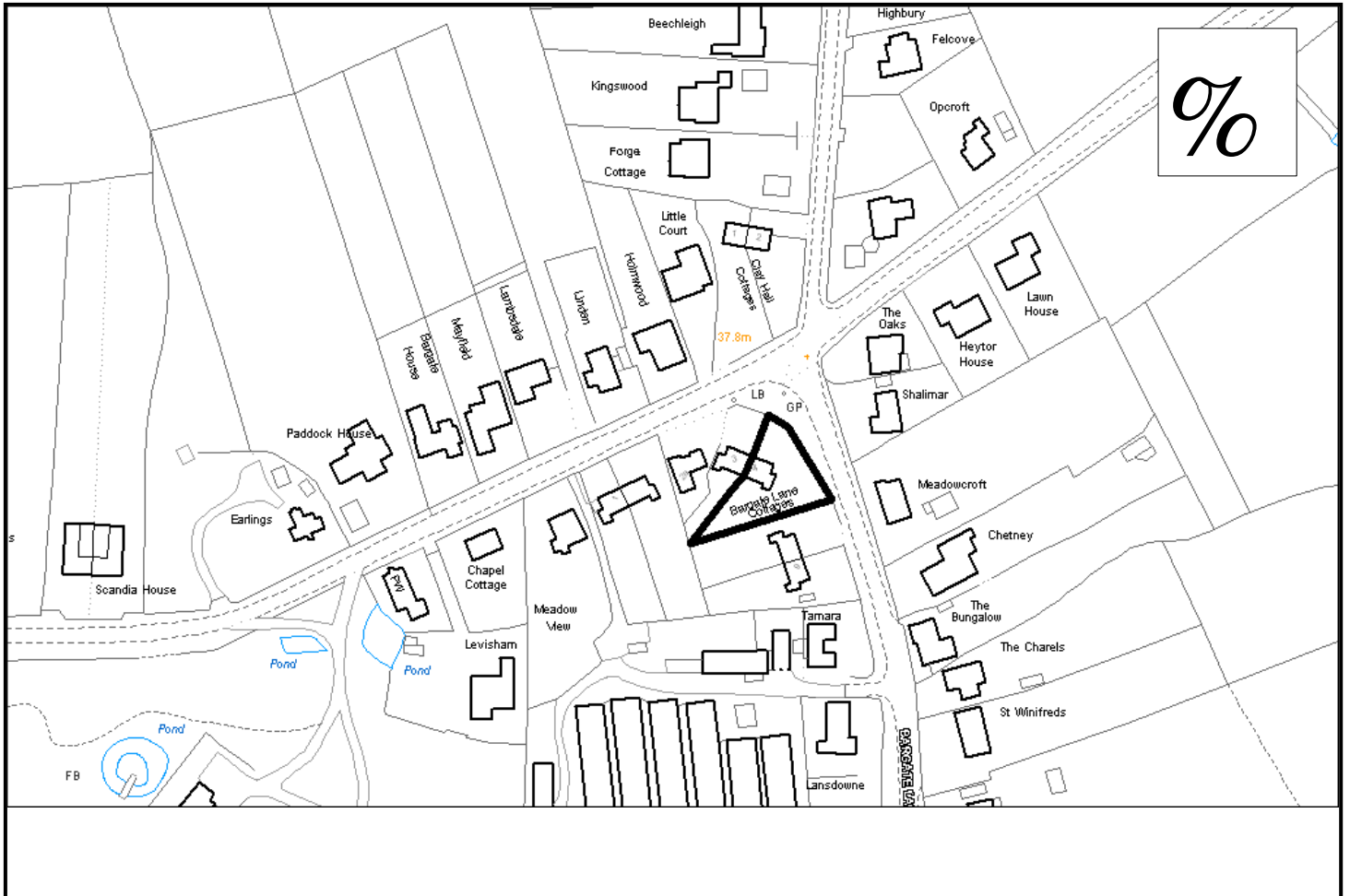
#### **Informatives**

Upon planning consent being approved, the area of land shown hatched on the western side of the application site adjacent Colchester Road, the B1025, as shown on the supporting plan numbered 1110/P2/01 being dedicated as highway under Section 228 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](mailto: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.





**Application No:** 090375

**Location:** 4 Bargate Lane Cottages, Bargate Lane, Dedham, Colchester, CO7 6BN

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

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**7.12 Case Officer: Corine Walsh**

**OTHER**

**Site:** 4 Bargate Lane Cottages, Bargate Lane, Dedham, Colchester, CO7 6BN

**Application No:** 090375

**Date Received:** 20 March 2009

**Agent:** Complete Construction

**Applicant:** Mr R Clarke

**Development:** First floor side extension over existing single storey side extension

**Ward:** Dedham & Langham

**Summary of Recommendation:** Conditional Approval

**1.0 Planning Report Introduction**

1.1 This application is referred to the Planning Committee as a result of objections received, despite these objections the case officer recommends approval.

**2.0 Site Description**

2.1 The property, 4 Bargate Lane Cottages, is one half of pair of semi-detached properties at the junction of Bargate Lane and Long Road East. The property is two storey and has been extended to the south east by means of a single storey extension. The proposal is to build over the existing extension to create a two storey side extension providing two additional ensuite bedrooms. The application site has a substantial curtilage, relative to its neighbours and there is as much garden land to the side of the property as there is to the rear.

**3.0 Land Use Allocation**

3.1 The site falls within a Village Envelope.

**4.0 Relevant Planning History**

4.1 890772 – Single storey side extension – Approved

4.2 02/1562 – Garage - Approved

**5.0 Principal Policies**

5.1 The relevant core strategy policies are as listed below:-

UR2 - Building design and character.

5.2 The Local Planning Policies which are considered relevant are:-

DC1 - Development Control considerations

UEA11 - Design

UEA13 - Development, including extensions, adjoining existing or proposed residential property

## **6.0 Consultations**

6.1 None

## **7.0 Parish Council's Views**

7.1 Dedham Parish Council have no objection to the proposal, however, they point out that neighbouring residents have raised objection.

## **8.0 Representations**

8.1 The application has attracted two letters of representation setting out objections to the proposal which are summarised as follows:-

1. Loss of privacy due to overlooking.
2. Overbearing effect.
3. Design, lack of articulation.

## **9.0 Report**

9.1 The principal objection to this proposal raised by two residents concerns overlooking from the proposal resulting in loss of privacy. As a result of the proposal, two first floor windows will be provided on the property's rear elevation and one provided in the end gable wall. The two rear windows will have an outlook to the south across the objector's garden and neighbouring gardens. Such a scenario is of course commonplace in residential situations and for this reason it is not possible to protect entire gardens from being overlooked by neighbouring property. However, the Council operates a policy, set out in the Essex Design Guide to protect the area of the garden immediately to the rear of the property This can be considered as the "outside room" of the property to the south. Some views will be possible from the proposed windows to the rear of the neighbour's garden, indeed this situation already exists where views from an existing bedroom window of the end of the neighbours garden are possible. As No. 4 is a corner property the degree of overlooking is increased. However, it is the view of officers that the proposal will not worsen this situation. A similar concern has been raised by the occupiers of a property on the other side of Bargate Lane relating to a small window proposed on the first floor of the end gable of the extension. This window lights an ensuite bathroom and can be conditioned to be obscure glazed, however, there is a significant degree of separation between the two properties and the situation proposed would be very similar to that which presently exists in Bargate Lane where properties face each other across the street.

- 9.2 The second issue concerns an overbearing effect to the property to the south. Officers consider that the plot has ample room to successfully accommodate the proposal and that there is a reasonable distance between the extension and the neighbouring property. This adjacent property has no side windows and consequently there can be no loss of outlook and accordingly the proposal could not be considered overbearing.
- 9.3 Finally, concerns have been raised in relation to a lack of articulation between the existing house and the proposed extension. Whilst it would be appropriate to articulate extensions where possible, in this case it not considered necessary. The original pair of semis meet at two halves of a central gablet. This gablet does not project forward of the front well of the dwellings to form a bay and is flush. The proposed extension repeats this feature and by doing so maintains the design characterised by its host. In any event the existing single storey extension to which the proposed is to be built above is not articulated from the original dwelling and therefore to articulate the extension would require the part demolition of the existing extension, which officers consider to be unnecessary and unlikely to be viable.
- 9.4 Whilst the views of the neighbouring residents are understood and raise matters which cause concern, the degree of overlooking and design issues are not considered to be at a level that would warrant refusal of planning permission, or would be contrary to Development Plan policy. For these reasons permission is recommended.

## **10.0 Background Papers**

10.1 ARC; NLR

### **Recommendation – Conditional Approval**

#### **Conditions**

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

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

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

2 - B4.3 Windows to be Obscure Glazed (2)

The window to be provided above ground floor level in the south east facing elevation shall be glazed in obscure glass of a type agreed in writing by the Local Planning Authority prior to its installation and shall be retained as such at all times thereafter.

Reason: In the interests of residential amenity and to secure the privacy of adjoining occupiers.

3 - C3.5 Materials to Match Existing

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

Reason: To ensure that the fascia sign does not appear unduly prominent or obtrusive in the street scene in the interests of visual amenity.

#### 4 – A7.11 No New Windows

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification), no windows, dormer windows, roof lights or any other form of opening other than those expressly authorised by this permission shall be constructed in any wall/roof slope of the extension of the building hereby approved.

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

## Planning Committee

Item  
**8**

21 May 2009

<b>Report of</b>	<b>Head of Environmental &amp; Protective Services</b>	<b>Author</b>	<b>Vincent Pearce</b> ☎ 01206 282452 <b>Geoff Kirby</b> ☎ 01206 507836
<b>Title</b>	<b>Planning application determination performance monitoring, an appeals analysis update and a planning agreement performance summary for the year 1 April 2008 – 31 March 2009</b>		
<b>Wards affected</b>	<b>All</b>		

This report provides:- details of the performance of the Planning Service judged against Government National Indicators, summarises the details of 'allowed' appeals and sets out the levels of revenue received through S106 Agreements for the period 1<sup>st</sup> April 2008 – 31<sup>st</sup> March 2009.

### 1.0 Decision Required

1.1 Members to note the performance record of the Planning Committee and Planning Service.

### 2.0 Summary of performance report (Headlines)

- ◆ 'Major' application performance was 'just below' the Government target in the period 1<sup>st</sup> April 2008 – 31<sup>st</sup> March 2009. !
- ◆ 'Minor' and 'other' application performance significantly exceeded the relevant Government targets in the same period. ✓
- ◆ The number of planning applications received rose steadily from December 2008 after a period of sustained decline from May 2008. ✓
- ◆ The delegated decision rate was just below the 90% target and is up on historic rates. ✓
- ◆ Appeals record (formerly BV204) was healthy. ✓
- ◆ Legal agreement financial contribution receipts are up on the previous year: 2007-2008 = £6.3m & 2008-2009 = £6.9m ✓

### 3.0 Reasons for Decision

3.1 This report is presented as part of the Service's ongoing commitment to comprehensive performance management and in response to Members' desires to monitor the performance of the Planning Service as judged against key National Indicators. (NI's)

## 4.0 Alternative Options

4.1 Not applicable

## 5.0 Supporting Information

5.1 None

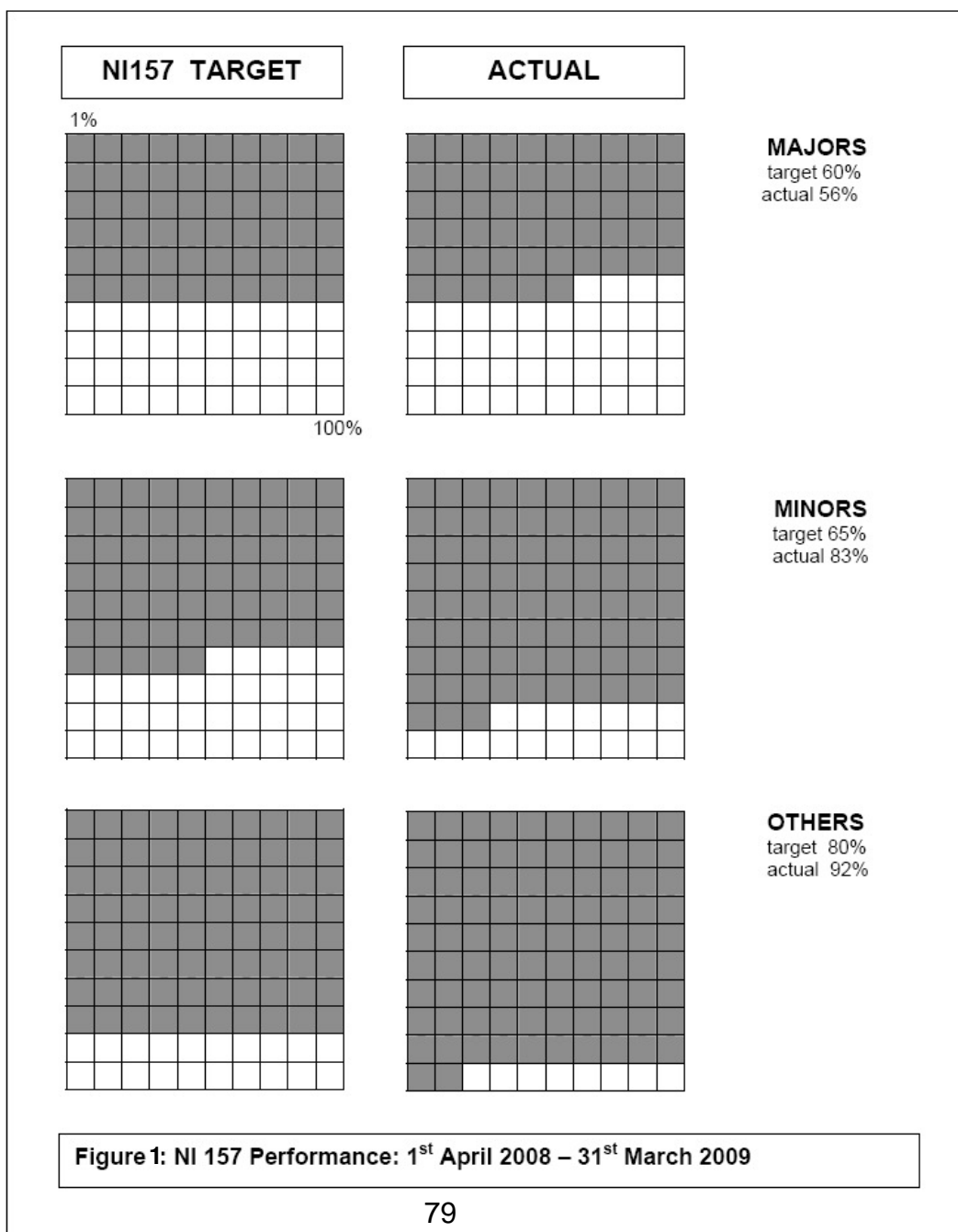
## 6.0 Performance Assessment

6.1 This report will review performance against the following performance indicators

- NI157 (8 and 13 week performance)
- Former BV188 (delegated decisions)
- Former BV204 (appeals upheld)

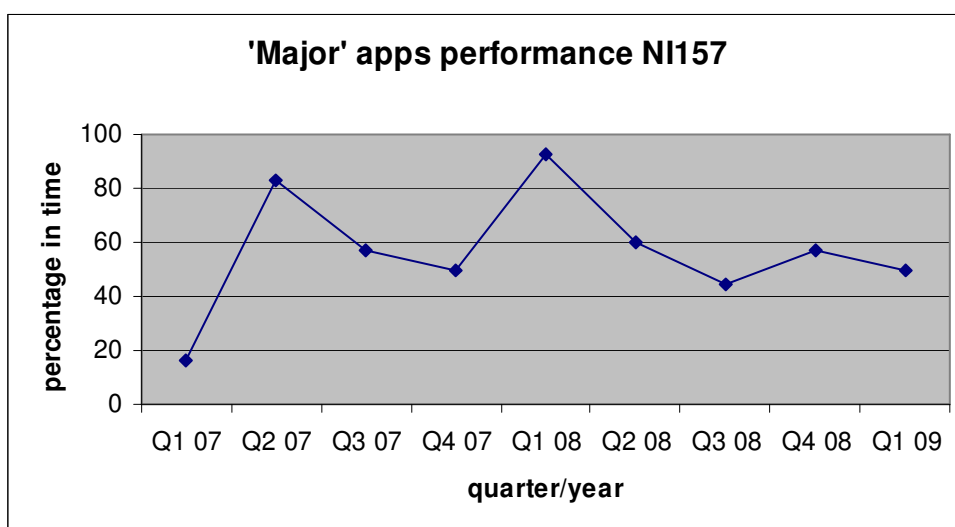
### ■ NI 157 (8 and 13 week performance)

6.2 Performance levels for the year 2008-2009 were as described below:-

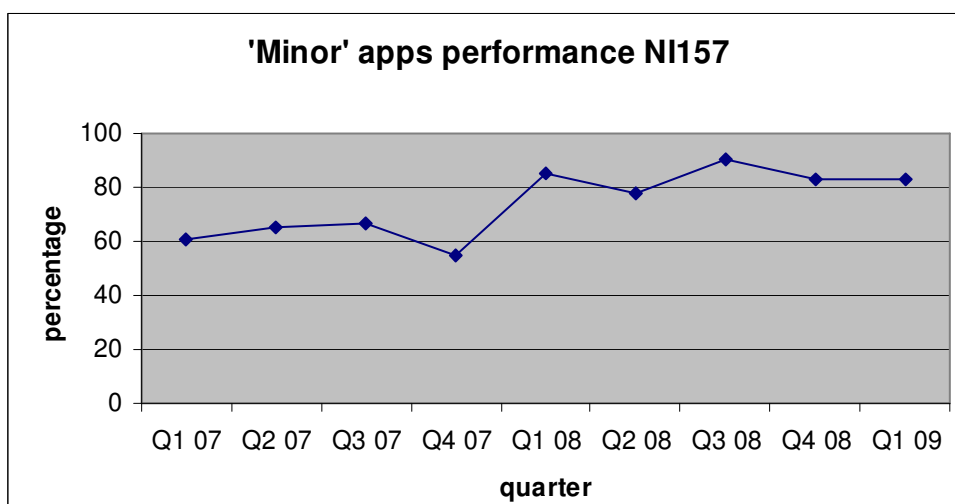


- 6.3 The really good news for the period is that performance in the ‘minors’ and ‘others’ categories far exceeded the national indicator targets.
- 6.4 Unfortunately performance in the ‘majors’ category at 55% was just below (8%) the national indicator target of 60%. Whilst this is disappointing it was not unexpected and had been predicted in earlier reports. Colchester is not alone in experiencing this drop in performance and our situation does seem to follow a reported national trend. The reason for this the effects of the credit crunch began to bite the number of major applications being submitted fell from previous years to 41 in 2008-2009, from a peak of 80. This meant that as historic ‘out of time’ applications with associated S106 Agreements were determined there was less opportunity to off-set their harmful impact on NI157 performance statistics with newer applications being processed ‘in time’.

■ **Trends: NI157**

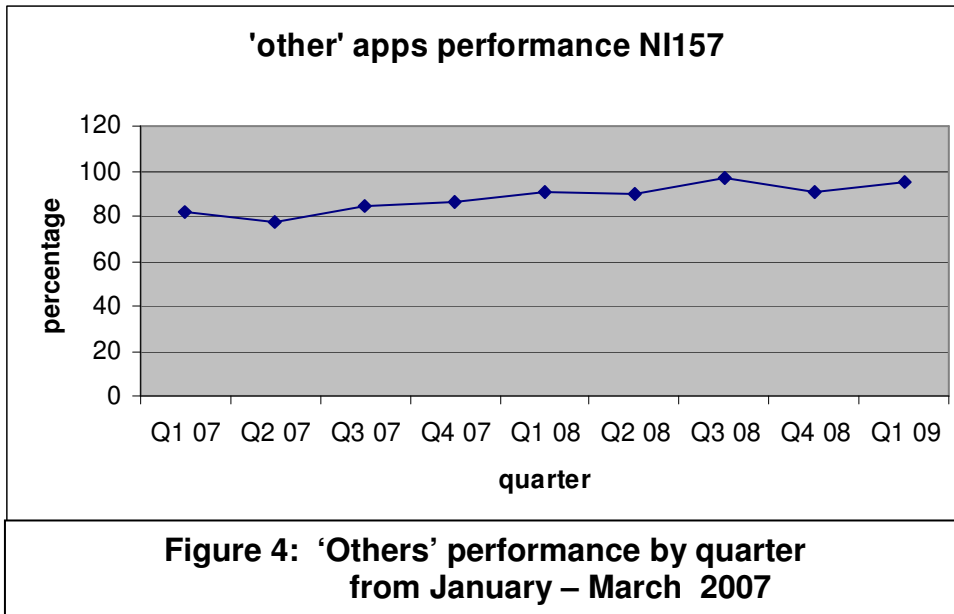


**Figure 2: ‘Majors’ performance by quarter from January – March 2007**

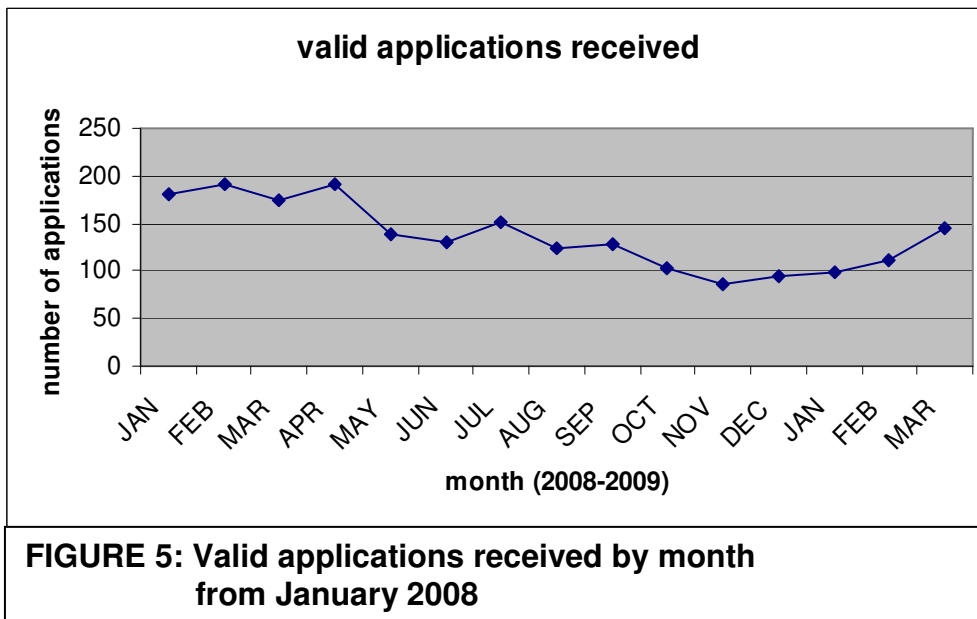


**Figure 3: ‘Minors’ performance by quarter from January – March 2007**





■ **Trends: Applications Received**



6.5 A particularly encouraging sign is fact that after a period of sustained decline from May 2008, there has been a month on month increase in the number of valid planning applications being received starting from December 2008.

6.6 Whilst it too early to say whether or not this heralds further more significant improvements in local economic prospects it is heartening to note that the number of applications received has climbed steadily from a low of 87 (November 2008) to 145 (March 2009) – The previous high point being 192 (April 2008).

## ■ Former BV. 188 (Delegated decisions)

6.7 During the period 1<sup>st</sup> April 2008 - 31<sup>st</sup> March 2009 the overall level of delegated decision making was 87.8% which is tantalisingly close to the Government's target is 90%. Performance therefore sits comfortably close to the level that the Government deems to indicate effective and efficient decision making.

## ■ Former BV. 204 (Appeals 'Upheld') (between 1<sup>st</sup> April 2008 and 31<sup>st</sup> March 2009)

6.7 Over this period, 57 planning appeal decisions were received (8 appeals were withdrawn during this period and have therefore not been included within the 57) 38 were dismissed (ie the Council's case was supported and the decision to refuse was endorsed by the Inspector) and 19 were upheld (ie. The Council's case was rejected) and so **the 'upheld appeal' rate against the Council was therefore 33.3%. This is a healthy rate and is in line with the national average which tends to sit in the mid- 30's%. (ie the Council's success rate was 66.6%)**

6.8 As is customary this report will now analyse those appeal decisions received since the last quarterly report that went against the Council.

### 1.

Reference: 080176

Address: **55 Firs Road, West Mersea**

Proposal: Construction of a boundary wall and detached garage

Summary of Inspector's Letter (decision dated 26<sup>th</sup> January 2009).

Inspector : John G Millard

- Delegated decision

### Main Issue

The Inspector noted that the main issue was the effect of the proposal on the streetscene.

### Considerations

The Inspector was of the view that although higher than other walls nearby the wall "does not look out of place but, in my opinion, contributes to the rich variety of boundary treatments seen in the locality without detracting from the spacious character of the area." He took the view that the part hipped, part gabled, pitched roof to the garage would not be unlike other roof forms in the area and whilst the structure would be unique in that part of the streets "uniqueness is not, in itself, an indicator of harm." As the area has a number of individual and unique structures he felt the garage would not look out of place.

### 2.

Reference: 081229

Address: **Unit 9 (Boots), Tollgate, West Stanway**

Proposal: Two totem signs (1.5m x 0.75m) with internal illumination

Summary of Inspector's Letter (decision dated 23<sup>rd</sup> February 2009)

Inspector: Noel Hutchinson

Delegated decision

Main issue

Whether the illuminated signs would affect the character and appearance of the appeal premises and their surroundings.

Considerations

The Inspector took the view that the signs were small with a slim profile and when seen against the mass of the building would appear modest. In the context of the wider retail park he took the view that they would not constitute clutters nor would they constitute excessive or inappropriate features. The Inspector did however endorse the condition suggested by the Council in that he applied a restriction that means only lettering and symbols can be illuminated. (and not the background of the signs). This will minimise the extent to which the signs impose themselves into the streetscene.

**3.**

Reference: 081593

Address: **Land adjacent to Rose Farm, Colchester Road, Peldon**

Proposal: Change of use of land to paddocks and stables

Summary of Inspector's Letter (decision dated 4<sup>th</sup> March 2009)

Inspector: Richard High

Main issue

Highway safety

Considerations

The Inspector took the view that as the site had been in use for the grazing of horses for many years there would be no material increase in traffic over the existing. Also the appellant had made efforts to improve safety at the existing entrance by setting back the gates and putting in a surfaced turning area on the site. He felt that further improvement could be achieved by cutting back the hedge to the north. Whilst normal vision splays could not be achieved the Inspector decided that with modest improvement to the access along the lines suggested (and not having to provide normal vision splays) the stable building could then proceed. He conditioned the prior approval of access improvements prior to commencement of construction of the stable building.

**7.0. Section 106 Agreement monitoring (financial contributions quarterly and yearly trend)**

7.1 **£88,663** was received through S106 during the period 1 October 2008 – 31 December 2008 (3<sup>rd</sup> Qtr).

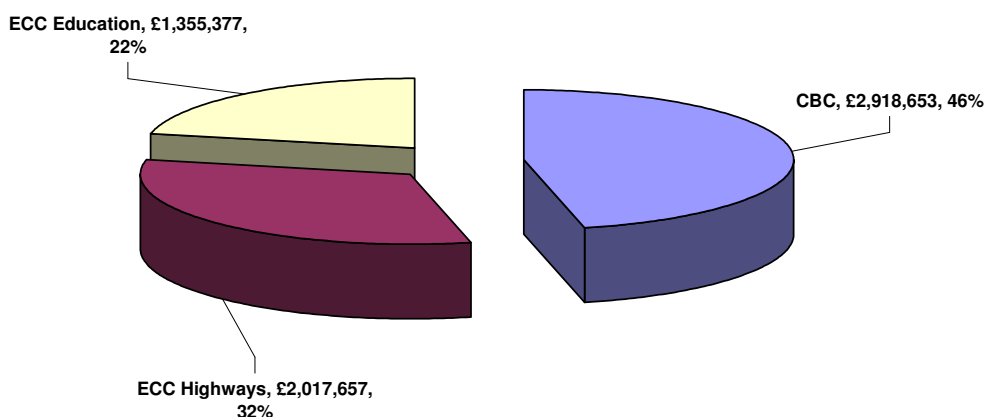
7.2 **£114,195** was received through S106 during the period 1 January 2009 – 31 March 2009 (final Qtr).

7.3 **£6.3m** was received through S106 during the period 1 April 2007 – 31 March 2008.

7.4 **£6.9m** was received through S106 during the period 1 April 2008 – 31 March 2009.

- 7.5 The increase in S106 income for the last year is bucking the reported trend of the current economic recession of development in Colchester; this is due to a large education payment generated from the Northfields (Galliford Try) site, it is expected that the S106 income will eventually show a dip and will then recover slowly after any increase in development activity.
- 7.6 The following charts and tables show the distribution of S106 sums collected for 2007 – 2008 and 2008 -2009.

**Figure 6: Section 106 Cash Income 2007 - 2008 = £6,291,687**

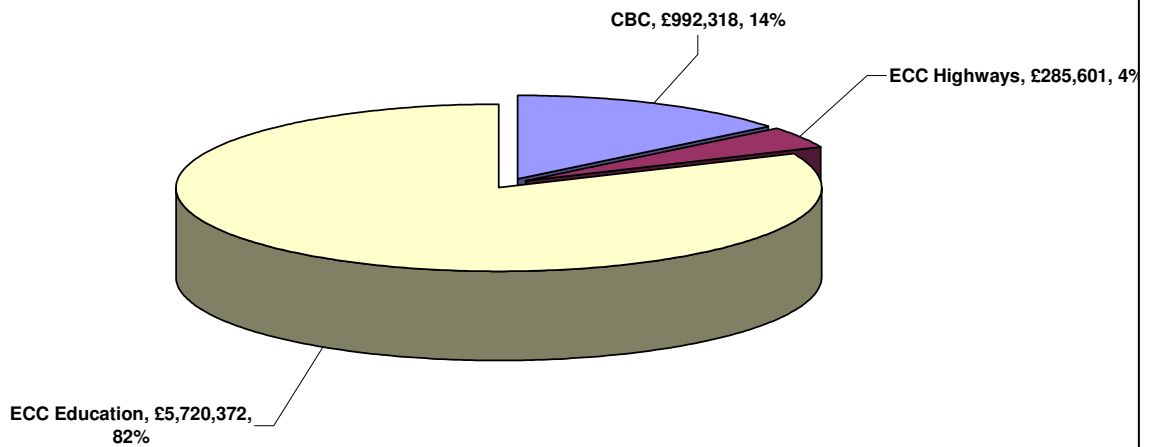


The 2007 – 2008 figures break down as follows:

CBC - Affordable Housing	£404,762
CBC - CCTV	£65,364
CBC - Community Contribution	£31,061
CBC - Infrastructure Improvements	£815,682
CBC - Leisure Off-site Provision	£1,178,493
CBC - Maintenance Sums	£296,505
CBC - Open Space Contributions	£105,755
CBC - Other	£21,031
ECC - Education Contribution	£1,355,377
ECC - Highway Bus Services	£5,400
ECC - Highway Bus Shelters	£23,050
ECC - Highway Contributions	£256,542
ECC - Highway Cycle Improvements	£6,053
ECC - Highway Transportation	£1,719,112
ECC - Highway Travel Packs	£2,500
ECC - Highway Travel Plans	£5,000
<b>Total:</b>	<b>£6,291,687</b>

**Figure 7: Breakdown of cash income 2007-2008**

**Figure 8: Section 106 Cash Income 2008 - 2009 = £6,998,295**



The 2008– 2009 figures break down as follows:

CBC - Affordable Housing	£64,000
CBC - Archaeological	£100,000
CBC - Community Contribution	£38,836
CBC - Play Areas	£87,438
CBC - Public Art	£50,000
CBC - Leisure Off-site Provision	£505,953
CBC - Maintenance Sums	£109,682
CBC - Open Space Contributions	£19,415
CBC - Youth Shelter	£16,994
ECC - Education Contribution	£5,720,372
ECC - Highway Contributions	£278,453
ECC - Highway Transportation	£2,348
ECC - Highway Travel Plan	£3,000
ECC - Highway Rowhedge Trail	£1,800
	£6,998,291

**Figure 10: Breakdown of cash income 2008-2009**

7.7 CBC is still recognised nationally as delivering best practice for the monitoring and delivery of S106 obligations, The Major Applications Support Team (MAST) delivered a further three: two day national workshops in 2008 – 2009 at the request of the Planning Advisory Service (PAS), bringing in a windfall income of £19,000. The MAST team also hosted approximately twenty external visiting authorities/agencies seeking to adopt our S106 practices.

## 8.0 Section 106 Agreement monitoring (Infrastructure delivery)

- 8.1 It is the intention of this report in future to give summary details as to how money received is being spent and how social infrastructure is being provided by developers through the development process. Particular emphasis will be given to the delivery of affordable housing, the Council's key priority.
- 8.2 It is interesting to note that whilst 2008-2009 has been a quieter year in terms of development activity and S106 contributions being triggered as a result of the impact of the credit crunch new ways of funding affordable housing have been coming forward.
- 8.3 Mike Taylor, The Council's Housing Development Officer in Strategic Policy and Regeneration has confirmed that in 2008/09, a total of in excess of thirteen million pounds in housing grant was successfully negotiated with HCA for supporting affordable housing schemes in Colchester. This nearly doubles the best ever year to date when just over seven million pounds for a two year programme was achieved a few years back.

This £13,129,379 grant has been used to:

- Bring forward to an early start on site **104** affordable homes that would have otherwise been 'mothballed' due to the recession.
  - Produce **168** affordable homes as additional affordable housing and are not part of any previously s106 provision
  - Taken **20** units out of unwanted shared ownership tenure and switched into permanent affordable rented or intermediate tenure housing
- 8.4 That makes **292** affordable homes in total that have had HCA grant allocated to them this year at an average grant rate of £44,964 per unit.
- 8.5 It should be noted that **91** of these units should have already been handed over to CBC for nominating with the remaining 201 to be delivered by March 2012. These will of course be in addition to any other affordable housing acquired during that time.
- 8.6 Considering the state of the current housing and financial markets CBC has still managed to produced this outcome which has shown just what can be achieved when CBC, Housing Associations and the Homes & Communities Agency all work together in a truly partnering spirit.

## 9.0 Financial implications

- 9.1 A possible future drop in S106 financial contributions could have a significant impact on the Borough Council's and County Council's ability to deliver social and transport infrastructure for the people of Colchester, dependant on the larger S106 related applications coming forward.

## 10.0 Strategic Plan References

- 10.1 Improving the performance of the Planning Service (Development Control) is identified as a priority within the Strategic Plan and the Service's performance contributes, amongst other things, to the broad objectives of raising the performance/reputation of the Council, contributing towards making the Borough clean and green, promoting economic prosperity, tackling deprivation and making Colchester the prestige town of East Anglia.

**11.0 Risk Management**

11.1 There are no risk management issues to report this quarter.

**12.0 Publicity Considerations**

12.1 None

**13.0 Human Rights Implications**

13.1 None.

**14.0 Community Safety Implications**

14.1 None.

**15.0 Health and Safety Implications**

15.1 None.

21 May 2009

<b>Report of</b>	<b>Head of Environmental and Protective Services</b>	<b>Author</b>	<b>Vincent Pearce</b>
<b>Title</b>	<b>This Special report considers the findings and recommendations by Internal Audit resulting from their 'Inquiry' and subsequent report into the Planning Service's handling of the Lexden telecommunication mast prior notification application.</b>  <b>It then describes the new processes introduced in response to Internal Audit's recommendations and my own Service investigation.</b>		
<b>Wards affected</b>	Lexden Ward with implications for all wards		

**This report provides a detailed look at the Internal Inquiry report, its findings, conclusions and recommendations along with an explanation of the steps subsequently taken to prevent similar errors occurring again.**

## **1.0 Decision Required**

**1.1 Members are asked to note the content of the report**

## **2.1 Reasons for Decision**

2.1 This report is presented as part of the Service's ongoing commitment to transparency and accountability.

## **3.0 Alternative Options**

4.1 Not applicable

## **4.0 Supporting Information**

1. Minute 224 from Planning Committee meeting of 5 May 2009
2. Planning Service Manager's internal investigation recommendations: February 2009
3. Internal Audit Inquiry report: March 2009
4. Process note 6: May 2009
5. New Committee report template for prior notification applications (telecommunications masts)

## **5.0 Background**

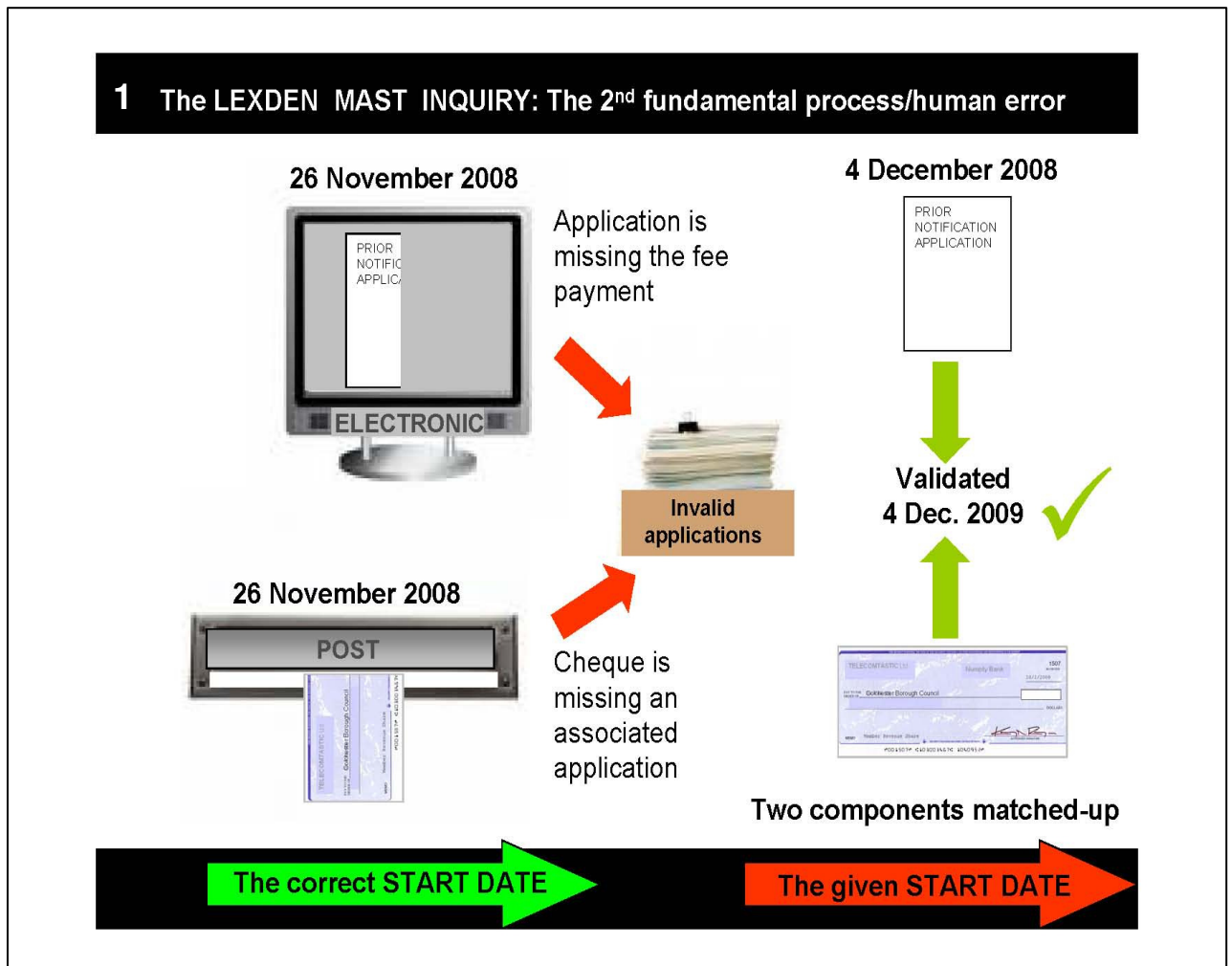
5.1 Members are likely to be familiar with the background to this matter as it has been widely publicised and has rightly been the subject of much debate. That said it is right that a brief outline of the key aspects of the matter be given as a preface to this report.



- 5.2 On 22 January 2009 the Planning Committee considered a report in respect of a prior notification application from O2 to erect a 12m high telecommunication telegraph pole on the corner of Lexden Road and Norman Way. Although officers were recommending approval despite massive local objection the Planning Committee voted to reject the proposal. At that time officers, the Committee and the public were all of the belief that the decision was being made within the 56 day deadline set out in legislation.
- 5.3 It subsequently transpired that because of an error made in calculating the '56 day' period from an incorrect start date the decision of the Planning Committee was actually out of time. This meant that the operator O2 could in fact erect the mast as failure to determine the matter within the prescribed 56 days meant that a 'deemed approval' had in fact already been 'granted by default'.
- 5.4 This caused understandable anger and dismay amongst the large number of local people who had objected, the Chair and Members of the Planning Committee, the ward Councillors – Councillors Sonia Lewis and Michael Hardy and the PortfolioHolder for Planning and Regeneration – Councillor Lyn Barton.
- 5.5 On 5<sup>th</sup> March 2009 I attended Planning Committee as Planning Service Manager and made a formal and unreserved apology to the Public, the Planning Committee, Ward Councillors and the PortfolioHolder for the error made and for the fact that it had effectively resulted in the subversion of the will of the Committee. (minute 224 attached as appendix 1 refers)
- 5.6 At that meeting I gave my personal commitment to actively search for an acceptable alternative site with O2 if they would agree to co-operate.
- 5.7 I also gave my assurance that the findings from the Internal Audit Inquiry would be made public along with an explanation by me as to the changes introduced as a result of the report's recommendations and my own investigation into the facts.
- 5.8 It should be noted that O2 readily agreed to co-operate in the search for an alternative site even though they were under no legal obligation to do so. This was welcomed. They too were mindful of the level of local hostility and the fact that the Planning Committee wished to oppose the location of the mast. They agreed to delay installation for a short period to allow the search for an alternative to be undertaken. Five sites were identified and O2 was prepared to submit a fresh prior notification application on one of these as an alternative to Lexden Road/Norman Way. Before that action could be completed O2 announced a voluntary national moratorium on the erection of new masts whilst they explore the potential for mast sharing with Vodafone across the country. That review is still underway. Savill's, O2's agents, confirmed that the search for an alternative site was therefore 'on hold' and that the Lexden mast would not be installed in the meantime. (until O2 had lifted the voluntary moratorium following the completion of the nation review and subject to an acceptable alternative site being found if mast sharing was not a feasible option for Lexden).
- 5.9 Having set out the background I will now move on to look at the Internal Audit Inquiry report's key findings.
- 5.10 The report prepared by Hayley McGrath, the Council's Risk & Resilience Manager (within Internal Audit) is reproduced in full as appendix 2 to this report.

## 6.0 The Internal Audit report (findings & conclusions)

- 6.1 In summary several issues and areas of weakness were identified and these all contributed to the outcomes described earlier in section 1 above.
- 6.2 At the heart of the whole problem was the fact that the application and the associated fee came into the Council via separate routes (application forms electronically and by the associated fee by post). The two elements were not initially matched up and so staff believed that an invalid application had been submitted.
- 6.3 When several days later they were matched up and **accepted as a valid application** the 56 day start date was **calculated from that point**.
- 6.4 The statutory requirement is that the 56 day start date must be calculated from the date of **receipt of a valid application**.
- 6.5 Because the application form and fee were both received by the Council several days prior to being accepted as valid by the Planning Service the 56 day start date given was incorrect and in reality was several days earlier – consequently true expiry date was earlier than calculated.
- 6.6 Diagrams 1 and 2 below explain the actual chain of events in diagrammatic form.



## 2 The LEXDEN MAST INQUIRY: The chronology of key events

### THE PROCESS FOLLOWED

Start date 4 December 2008  
Due date given 29 January 2009

### THE CORRECT PROCESS

Start date 26 November 2008  
Correct due date 20 January 2009

Committee date 22 January 2009  
Decision received 28 January 2009

Therefore the decision was apparently made and received within the time calculated and seemed 'in-time'

HOWEVER: The actual 'end date' was 2 days before the Planning Committee meeting of 22 January 2009

### The 56 Day calculation and it's significance

- 6.7 It was this initial error that caused the knock-on impacts.
- 6.8 In conclusion the Internal Audit report and my own investigation pointed to a number of contributory process weaknesses. These revolved around of the sequencing of events, the failure to account for submissions made using new technology (until recently applications and fees had come in to the Council via the post), the failure of the Government's Planning Portal (for electronic submission of application) to require mandatory electronic payment with submission (rather than it be optional) and instructions to staff as how to calculate key dates.
- 6.9 The conclusions reached in the Inquiry report are set out in full below:-

“

- 5.1 It was seen during the course of the investigation that the procedures within the planning service are clearly documented and all officers are aware of their responsibilities.
- 5.2 The likelihood is that this issue would not have occurred if payment had been received either with or after the application. It is very unusual for a payment to be received in advance of an application and the current procedures do not account for this.
- 5.3 It is recognised that this is not the first instance of a prior approval application being approved by default and the recommendation to have a specific procedure for these applications should be implemented as soon as possible.
- 5.4 All officers involved in the process were extremely co-operative during the course of the investigation and their assistance was greatly appreciated. There was a genuine desire to ensure that this issue cannot be repeated. “

## 7.0 The Internal Audit report (recommendations & changes introduced)

7.1 The final report of the Internal Audit Inquiry made 8 recommendations over and above those identified by me in my own internal investigation. The table below describes the recommendations and then indicates whether they have been fully implemented.

INQUIRY RECOMMENDATION	ACTION TAKEN
1. Introduce an agreed written procedure for dealing with prior notification applications that covers all steps, sets out responsibilities and defines calculation methodology	✓ Procedure note 6 introduced. (reproduced as appendix 3 to this report)
2. Key dates to be agreed by Development Manager when first viewed and entered clearly onto file	✓ Introduced with new protocol
3. The date an electronic submission was made to the planning portal and the date forwarded to the Council in electronic format should be confirmed to ensure the correct start date/valid date is calculated	✓ Check introduced with new protocol
4. Investigation should be undertaken with The Planning Portal to see if on-line payment can be made mandatory (rather than optional as at present) as part of their e-submission facility.	X Investigation has taken place and the Planning Portal currently has no plan to alter their on-line payment arrangements.
5. Use of a pending tray should be reviewed and if it is necessary to use one all contents should be reviewed on a daily basis.	✓ Resolved with new protocol
6. All applications and items or correspondence should be date stamped upon receipt, especially items that are going into the pending tray	✓ Resolved with new protocol
7. All date stamps should be annotated with the section and officer initials to ensure that a full audit trail can be followed	✓ Resolved with new protocol
8. Where it is necessary for an application to be considered by Committee it should be ensured that the report is sent to the next available meeting and decision notices should be sent out as soon as practical	✓ The newly introduced process note 6 sets early trigger dates and other actions designed to ensure that a decision is made in advance of the 56 day deadline and that decision is communicated to the applicant within the deadline.

**TABLE 3: Inquiry recommendations and actions taken**

- 7.2 I wish to emphasise that a key element in the new protocol is the introduction of an auto-generated early fail-safe 'warning' of the approach of the 56 day deadline to the case officer two weeks ahead of the actual 56 day deadline.
- 7.3 In addition electronic reports have been created to give managers an up to date progress report on all mast applications at any time.
- 7.4 Moreover a new Committee report template has been introduced for telecommunications prior notification applications. (see appendix 5). This sets out a standardised format within which the Government's stance in respect of telecommunications apparatus and planning is described, material considerations are identified in principle and required elements for inclusion/consideration within the report are prescribed to officersthat need addressing. It does not however restrict the ability of, or indeed the need for, the case officer to exercise professional judgement and balance in reaching a conclusion and then making a recommendation.

## **8.0 Conclusion**

- 8.1 It is clear that the Planning Service's procedure for dealing with prior notification applications was not as robust as it should or could have been.
- 8.2 I welcome the recommendations from the Inquiry and have made a series of significant changes to flawed 'previous' procedures to reflect the learning that has come out of the inquiry.
- 8.3 Staff are now fully aware of the new procedures and I fully expect the risk of errors occurring now to be significantly reduced as a consequence of all the new actions undertaken and procedures that have been put in place.
- 8.4 In the meantime I shall continue to work with O2/Savills to ensure that if a mast sharing opportunity cannot be found on an existing site within Lexden then the search for an acceptable alternative shall be resumed.
- 8.5 I wish to explain that the time delay between the Internal Audit report being finished and this report being presented to Committee is due my desire to demonstrate all of the changes to procedure that have been implemented. These have necessitated changes to :- process, individual responsibilities and software. I have been insistent on avoiding quick fix knee jerk solutions and therefore it has taken a little time to implement comprehensive changes.

## **9.0 Recommendation**

- 9.1 That Members note the content of the Inquiry reports referred to herein along with the content of this special report and acknowledge that comprehensive action has been taken to minimise the risk of similar errors occurring again.**

## **10.0 Risk Management**

- 10.1 The actions taken will now minimise the risk of a prior notification application going out of time and therefore any decision made by the Council in respect of prior notification applications should be enforceable in that deemed approvals by default should now be avoided.

## **11.0 Publicity Considerations**

11.1 None

## **12.0 Human Rights Implications**

12.1 It is right to note that the decision taken by the Planning Committee on 22<sup>nd</sup> January 2009 was done so in good faith. It is also right to say that the rights of objectors and the Committee to expect the applicant to be prevented from being able to erect the proposed telegraph pole mast by the decision taken were infringed.

## **13.0 Community Safety Implications**

13.1 None

## **14.0 Health and Safety Implications**

14.1 One of the key issues for objectors to the proposal was the perceived health risks that they associate with such masts.

**APPENDICES FOLLOW:**

## APPENDIX 1: Minute 224 from Planning Committee meeting of 5 March 2009

**“224. Telecommunications Mast // Application 082056 for Prior Approval on land at the corner of Norman Way and Lexden Road, Colchester**

The Committee had considered the above application at its meeting on 22 January 2009 and resolved that prior approval was required and was refused. In addition the applicant was to be advised that the Local Planning Authority was willing to negotiate to secure a suitable alternative site in the locality. Prior Notification applications give the Local Planning Authority 56 days to consider the siting and appearance of telecommunications equipment. If the Local Planning Authority does not make a decision within that period, the development is considered to be approved and can be implemented.

Vincent Pearce, Planning Service Manager, attended to provide the Committee with details of events leading to the failure to respond to this Prior Notification application as required within the 56 days which had led to the granting of approval by default.

He offered his personal and unreserved apology to the Planning Committee, and his personal and unreserved apology to all the objectors who believed that on 22 January the Committee took a decision to refuse the mast. This Committee believed they had time in which to formally resist the mast but unfortunately an error made by the Planning Service meant that the Committee was out of time in which to resist the mast. That fault sits with the Planning Service and not the Committee. He also wanted to extend an apology to ward Councillors Lewis and Hardy and the Portfolio Holder, Lyn Barton, because there has been a great deal of anger locally, some of which had been directed towards the Committee and ward members, but should rightfully be directed towards the Planning Service.

He had carried out his own investigation and the Audit Section of the Council has also carried out a separate investigation, both of which are now complete and a written report will be sent to the Head of the Service next week. There was a clear process error and a human error, which had compounded the situation with the result that the 56 days was miscalculated. The report goes into details, but effectively the errors deprived the opportunity to the Council to refuse the mast proposal. This appears to be the third occasion that the Council has made an error in respect of masts and this is the third occasion where a mast application has caused difficulty. The previous errors will be explained in the investigation report. It is not satisfactory that the will of the Committee and the views of the people of Lexden have been subverted. He is grateful to O2 and their agents who are willing to find an alternative site for the mast. They are under no compulsion to do so but they accept the feeling locally and wish to find a site that everyone finds satisfactory. He has provided a number of suggested sites which are currently undergoing technical analysis and expects a response within the next fortnight. During this time they will not install the mast and will review that position in the light of negotiations.

In response, the Chairman commented that the whole Committee and everyone who was involved was shocked, saddened and also very sorry about what has occurred. Vincent Pearce and his colleagues were working hard to find a solution.

Mr David Priest addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8. Residents and parents were relieved that common sense and local democracy had prevailed. They had been outraged at the receipt of letters informing them that the mast was approved by default and incredulous at the miscalculation of the dates. Now their focus is to prevent the installation of the mast from going ahead. He was grateful to the Council at senior level for the negotiations with O2 and the inquiry, but in regard to the process failures, he wanted an investigation into the decision by planning officers to recommend the application for approval in the light of the proximity of the site to the conservation area as one of the reasons for refusal. He believed it was usual for there to be a fence around the pole and the cabinet and he was concerned that a fence could be an eyesore; there was no mention of one in the officer report on the application. The immediate area around the cabinet is an emission danger zone which would raise further health concerns as hundreds of students pass daily. The footprint of the beam of maximum intensity had not been provided for this application, and yet it had been provided for the site at the Garrison Church. If the beam of maximum intensity extended to 200 metres this would flood two thirds of the St. Mary's site. He requested that the gathering of evidence leading to the officer's recommendation for approval be scrutinised. Residents were frustrated that there was little chance of a local challenge if negotiations fail; they will be relying on the Council to find another location but they also wanted to prevent any future applications for this site.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. He was grateful to Vincent Pearce for his apology and for the corrective action that has been taken. However, neither he nor Councillor Lewis had been involved in the investigation and there were aspects which involved ward councillors. He had asked the planning officer to inform him when the application had been received, but he had only been made aware of its receipt by a reporter in December. Although the objectors had been informed that the application had been approved by default, he had not. He considered that ward councillors should not be marginalised in this way and left unable to answer residents' questions. He asked that ward councillors be consulted before the remedial action was completed.

Councillor Willetts attended and, with the consent of the Chairman, addressed the Committee. He was of the opinion that there should be confidence in the planning process and in view of the number of occasions when there had been a process failure in this area he called for the resignation of the portfolio holder with responsibility for planning. He also considered it essential that both ward councillors be involved in any follow up from the investigation.

Vincent Pearce responded that he was more than happy to involve both ward councillors in any follow up from the investigation which will be reported early next week. There was no reason why the outcome of the investigation should not be put into the public domain as early as possible to make sure the process is transparent. In terms of the comments from Mr Priest, he accepted the comment that what had happened was not satisfactory. Whilst the error was entirely unintentional and could be fixed, nonetheless he recognised that residents were angry. On the question of the area of greatest intensity, there was information on this matter and it may be discussed in the course of a future application. There was no objection to extending the investigation to include all the points raised by David Priest.



Councillor Lewis thanked Vincent Pearce, David Whybrow and the Chairman for including her in discussions during the past week. She also wanted to reassure the residents of Lexden that she and Councillor Hardy had been in daily contact since the situation came to light. She welcomed the search for suitable alternative sites and understood and respected confidentiality in this respect. If any sites were deemed suitable by O2 they would have to go through the 56 day procedure but before that happened she wanted a meeting for herself and Councillor Hardy with Vincent Pearce to go through the process because in the event of another application they wanted to be aware of all the facts. She considered the previous decision was a good one and was extremely disappointed at the current situation. She hoped that work would continue to find an acceptable site. She asked whether two smaller masts would be a suitable alternative to one large one. On behalf of herself and Councillor Hardy she thanked the planning team, the Chairman and the Deputy Chairman.

Vincent Pearce explained that he would raise the matter with O2 but he suspected that there would be a loss of cover with smaller masts.

The Chairman commented that Councillors Lewis and Hardy had represented Lexden residents extremely well and a number of residents in turn did a good job in presenting their case through Mr Priest. He stated that whilst it was not possible to guarantee that a suitable alternative site would be found, planning officers were working to try and resolve the situation. He thanked all those who had attended and especially David Priest and visiting councillors.

*RESOLVED* that the information conveyed by Vincent Pearce, Planning Service Manager, be noted and the views expressed by David Priest, Councillors Hardy and Willetts and the Committee be taken into consideration in the Council's efforts to resolve the matter. “

## **APPENDIX 2: Planning Service Manager Initial Recommendations / Considerations**

- 1) Introduction of new protocol setting out responsibilities
- 2) New protocol to specify exact procedure for all, including date application received.
- 3) Refresher training for support staff and planners with particular emphasis on data entry (Systems)
- 4) Explore linking fee receipt and received date where applications are split between portal and separate fee paying mechanism (Systems)
- 5) Inclusion of a new action diary event requiring the confirmation of received date being checked and 56 day deadline being calculated against date received. (Systems)
- 6) An amber traffic light warning of impending expiry to be automatically created within planning system 3 weeks and then a red warning 2 weeks before the 56 day expiry date (Systems)
- 7) All case reviews to have regard to telecoms apps and traffic light warnings (Mgrs/PPOs)
- 8) A 'mast' officer to be designated (with back-up) to monitor all mast applications to ensure no slippages
- 9) Review performance monitoring techniques for start and end of processes (entering data, getting valid applications to planning officer and getting decision notice/letter out after decision taken.

Do we need to run a workshop for members and officers about the latest developments in telecom technology – run by a private specialist?

All to be in place by end March 2009.

# **Lexden Mast Investigation Report**

Prepared by Hayley McGrath, Risk & Resilience Manager  
for

**Roger Bailey**  
**Interim Head of Environmental & Protective Services**

13 March 2009

**Lexden Mast (082056) investigation**

## **1. Introduction**

- 1.1 The Interim Head of Environmental and Protective Services requested an independent investigation into the circumstances surrounding the approval, by default, of planning application number 082056 – the erection of a telecommunications mast in Norman Way, Lexden.
- 1.2 A review of the planning file, including all of the correspondence and documentation, was carried out. Interviews were also held with
  - The Planning Service Manager
  - The Planning Support Advisor
  - The Professional Support Service Manager
  - The Development Manager
  - The Planning Officer
- 1.3 These were to establish, as far as possible, what had happened to this particular application and to also gain an understanding of the general process for receiving and dealing with planning applications.

## **2. Background**

- 2.1 Planning applications for telecommunications masts under 15m in height have ‘prior approval’, with the planning authority only being able to consider siting and appearance as grounds for refusal. The planning authority must notify the applicant within 56 days of receipt if the application is to be refused. If no decision is made in this time the application is automatically approved and the planning authority cannot overturn the approval.
- 2.2 Application number 082056 was discussed at the Planning Committee meeting of 22 January 2009 and the committee refused the application. On the 28 January 2009 the refusal notice was sent to the applicant. However the applicant then contacted the planning department on 10 February 2009 and pointed out that as they had made the application on 26 November 2008, the 56 days had expired on 21 January 2009, the day before the committee meeting.
- 2.3 Circular 02/2008 Standard Application Form and Validation sets out the rules around calculating the 56 day period. S37 states:-

“For part 24 of the GPDO day 1 of the 56 day period also starts on the date of receipt of a valid application. This is unaffected by any requests for, or later receipt of, further information.”
- 2.4 The internal form ‘Check list for validity / fees’ that was completed, on 4 December, by the technical clerk has a box that asks if the application is valid and it specifically notes that ‘incorrect fee does not invalidate’.

The full details of the actions related to this application can be found at appendix 1 – Timeline.

### **3.0 Findings**

- 3.1 During the course of the investigation several issues and areas of weakness were identified. There were several factors that contributed to the delay in refusing the application and these are itemised below:
- 3.1.1 The initial contributing factor was the fact that the cheque for the fee arrived before the application. In this case the posted item arrived in less than 24 hours whilst the electronic document took possibly 48 hours to be dealt with. It is not known if there is a delay when being processed by the portal or how long it takes after an application is made before an email is sent to the relevant authority.
  - 3.1.2 This issue arose because it is not mandatory to make payment on-line at the same time as making an application on-line.
  - 3.1.3 This application had 'prior approval' and was therefore valid from receipt even if the payment hadn't been made, and therefore should have entered the 'processing' system straight away.
  - 3.1.4 When the application was put in the pending tray the probability is that it wasn't checked to see if the payment was already there. This is not known for sure but is the most likely explanation – the common practice for a lone cheque is to go to the pending tray and match it to an application, if there isn't one it goes in the tray. However it is not practice to sift through the tray for payment if the application is received separately – it is extremely uncommon for the payment to arrive first.
  - 3.1.5 Whilst the covering letter for the cheque was stamped on the day of receipt, 26 November, it is not practice to date stamp an application when it is printed off of the portal. The first stamp is when the complete application is passed to the admin team. Therefore when the admin team received the application they assumed that it was new, and stamped it as such, as there was nothing to indicate that it had been received eight days previously.
  - 3.1.6 The creation of the electronic file then relied on the date stamp from admin. The technical team would not question this date when the information was set up on the planning system, especially as it was only the date stamp on a separate letter that suggested that the date should be anything other than the 4<sup>th</sup>.
  - 3.1.7 All other processes, and officers, used the electronic file and planning system record (appendix 2) to work from.
  - 3.1.8 Whilst in this case it is not relevant as the committee meeting took place after the approval period ran out, there was a delay of four days before the decision notice was issued.
  - 3.1.9 As a general issue it was difficult during the investigation to follow the flow of the document as there are several different types of stamp on it and it is not known, in all cases, where they have come from.

## 4.0 Recommendations

- 4.1 Several possible actions were identified in the initial report of 2 March 2009, drawn up by the Planning Service Manager. As these actions have been listed in appendix 3 I will not repeat them here. However it is recommended that the actions in appendix 2 are considered alongside of the following recommendations to develop a robust process of dealing with all applications.
- 4.2 The principal recommendation relates to the process applied to 'prior approval' applications. Prior approval applications are different from other planning applications as they have mandatory timescales for making a decision. If the decision is not made in that time approval is automatically granted.
- 4.3 Therefore it is recommended that a specific procedure is drawn up for all 'prior approval' applications, not just those related to the telecommunications act. This should ensure that they are treated as valid as soon as they are received, even if there is supporting documentation missing or the payment hasn't been received. All staff involved in the process, including admin and technical, should be fully briefed on which applications have prior approval and that these should be referred immediately to the Development Manager. The procedure should also ensure that prior approval applications are treated as priority over other workloads.
- 4.4 Other recommendations apply to all forms of application and are as follows:
  - 4.4.1 The yellow case sheet that is used to record the key information for each application should be amended to include a 'valid date'. This must be completed by the Development Manager when the file is first viewed, before it is set up electronically. When the details are entered onto the system the dates must be taken from this sheet only, not from the application itself. This will ensure that all dates are verified by a senior officer, and any other officer who picks up the file will have immediate confirmation of the correct dates.
  - 4.4.2 The length of time, between an application being made on-line and the notification to the Authority, should be confirmed with the portal provider. This is to ensure that officers consider any potential delay when deciding on the 'valid' date.
  - 4.4.3 The possibility of making it mandatory to pay electronically when applying on-line should be investigated with the portal provider. This will ensure that no electronic applications will have to be put in 'pending' to await a payment.
  - 4.4.4 The use of a pending tray should be reviewed. If it is absolutely necessary to use one, it should be standard practice to review the contents on a daily basis to ensure that all items have been correctly matched.
  - 4.4.5 All applications and items of correspondence should be date stamped upon receipt, including and especially the items that are being put in the pending tray.
  - 4.4.6 All date stamps should be annotated with the section and officer initials to ensure that a full audit trail can be followed.
  - 4.4.7 Where it is necessary for an application to be considered by committee it should be ensured that the report is sent to the next available meeting  
Decision notices should be sent as soon as practical, no longer than 48 hours, following the committee meeting.

## 6.0 Conclusions

- 6.1 It was seen during the course of the investigation that the procedures within the planning service are clearly documented and all officers are aware of their responsibilities.
- 6.2 The likelihood is that this issue would not have occurred if payment had been received either with or after the application. It is very unusual for a payment to be received in advance of an application and the current procedures do not account for this.
- 6.3 It is recognised that this is not the first instance of a prior approval application being approved by default and the recommendation to have a specific procedure for these applications should be implemented as soon as possible.
- 6.4 All officers involved in the process were extremely co-operative during the course of the investigation and their assistance was greatly appreciated. There was a genuine desire to ensure that this issue cannot be repeated.

## Appendix 1

### Timeline for Application 082056

Items in normal font are known actions, items in *italic* font are assumed actions

#### 2008

- Sep/Oct – The planning officer met, in Lexden, with the applicant's representative and the two ward councillors for the Lexden area. This was to discuss possible sites and general issues as per the code of best practice.
- 10 Nov - Community meeting was held to discuss the proposals. CBC officers did not attend this meeting.
- 25 Nov - The planning application was made electronically on the planning portal – a central government system that then forwards the application to the relevant authority. However the fee was not paid at the same time. It is possible to pay the fee online but not compulsory, as many applicants are actually acting for clients who pay the fee themselves.
- 25 Nov - The applicant posted a cheque to CBC in respect of a planning application fee. Covering letter referred to the planning portal reference (the Government system used for making electronic applications) but did not specify what it was for. (copy at appendix 4)
- 26 Nov - The cheque was received by CBC (Planning post room) and the covering letter date stamped. The cheque was recorded as being received in the admin payment record book
- 26 Nov - The cheque and letter were put into the 'pending' tray, in the technical team area, to await the application.*

- 26 Nov - An email was received from the planning portal stating that an application had been made on-line and needed to be 'collected'.
- 27 Nov - CBC Planning Technical Team printed off the application from the planning portal. It stated that the fee was being sent separately. The printed application was not date stamped.
- 27 Nov - *The application was placed into the 'pending' tray, in the technical team area, to await payment. It is assumed that the tray was not checked to ensure that the payment had not already arrived.*

Nothing further is known about what happened to the two items, cheque and application, between 27 November and 04 December. It is assumed that both items were in the 'pending' tray and that they hadn't been matched as it was assumed that the payment would be received after the application.

- 04 Dec - *The application was matched with the cheque – this is not known for sure as no-one can remember doing it.*
- 04 Dec - The application and payment was passed back to the admin team to be lodged. This is known as the application was stamped as 'lodged' on 04 Dec but there is no recollection of who did this.
- 04 Dec - The application was passed from admin to the Development Manager to be allocated to a planning officer and technical clerk. The Development Manager would then complete a yellow case sheet for the application. However there does not appear to be one for this application.
- 04 Dec - The Development Manager passed the application to the allocated technical clerk to put onto the planning system and to gather the basic related information such as constraints.
- 04 Dec - When the application was put on the planning system the 'valid from' date that was used was the 4 December. It is not known why the 4<sup>th</sup> was used but it is assumed that this was because the date stamp on the application was the 4<sup>th</sup> (as it was not stamped when it was actually printed on the 27 November) and it was handed to the clerk on the 4<sup>th</sup>. The Development Manager does not specify the 'valid' date when giving an application to a clerk. It is left for the clerk to decide on the date – which is indicated by the 'lodged' date stamp. (Which for this application was 4 December on the application and 26 Nov and 4 Dec on the cheque covering letter).
- 04 Dec - The application was then passed back to the Development Manager along with the supporting documents to 'validate'.
- 04 Dec - The validated application was given back to the technical team to be scanned and indexed.
- 05 Dec - The application was scanned and was passed from the technical team to the principal planning officer for a final check and allocation to the planning officer.

From here the application was dealt with by the planning officer in the normal way. Letters to residents were sent out and there is a 21 day period for consultation. Due to objections to the application being received the matter had to be referred to committee for consideration. From the 4 December there were three committee meetings available, these were 18 December, 8 January and 22 January. However as the consultation expiry date was 26 December it was not



possible to go to the December meeting and due to the Christmas break it would have been difficult to get the report to the first January meeting (although not impossible).

## 2009

- 22 Jan - Application was considered by the Planning Committee. Officer report recommended approval - as experience has shown that approval is nearly always granted on appeal. However the committee refused the application on the grounds of public health and unacceptable visual impact.
- 28 Jan - Decision notice sent to applicant. It took four working days for the refusal notice to be sent as the planning officer had to formulate the reasons for refusal and the original report had been based on approval.
- 10 Feb - Letter received from applicant stating that the application had been valid from 27 November 2008 and therefore the deadline for refusing approval had been 21 January 2009. As the application had 'prior approval' and it had not been refused before the 56 day deadline the application was automatically approved.

## Appendix 2

### Planning System Record Screen

PLU - Planning Applications Update (LIVE)

Find Browse Personal D/b Update Additional Data Record Defaults Utilities Help Exit

Number 082056 Date 4/12/2008 Premises LQQ\*\*\*LEXD/1  
LA Ref [ ] Name Site on Corner of Norman Way  
Description 9.0 metre replica telegraph pole mast sup[ ] Address Lexden Road, Colchester

Application Details Consultees Payments Plotting Decisions & Appeals Statutory Returns

Type MPA Prior Approval  
Unit PDM Development Management  
Officer AXH Andrew Hartley

Applicant Details  
Name Telefonica O2 UK Limited  
Address 260 Bath Road, Slough, Berks SL1 4DX  
Tel [ ]

Agent Details  
Name Savills (L & P) Ltd  
Address "Wessex House", Priors Walk, East Borough  
Tel [ ]

Constraints  
 Constraints  
Attach Detach

Dates  
Target Response [ ] Response [ ]  
Application Valid 4/12/2008 Target Determ 30/1/2009  
8-Week Expiry 29/1/2009 NoD Issued 28/1/2009  
Extension [ ] Closed 28/1/2009

Building Regs Required

Fees  
Due 335.00  
Paid 335.00  
Outstanding [ ]

Status: Notice of Decision Issued  
Action QMH Prior Approval  
Assess Schedules Undefined Text Save Undo

Browse by Reference

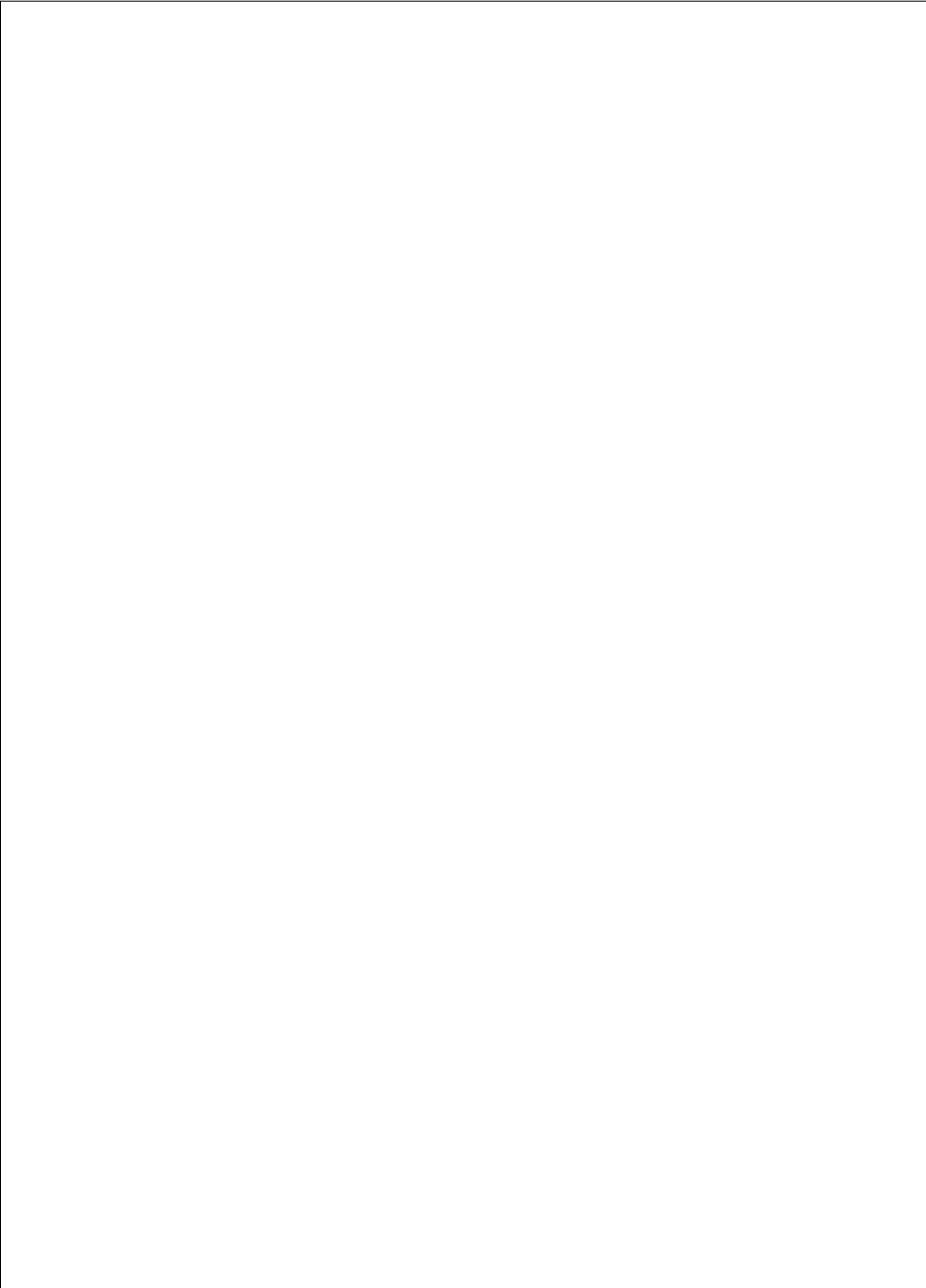
## Appendix 3

### Planning Service Manager Initial Recommendations / Considerations

- 1 Introduction of new protocol setting out responsibilities
- 2 New protocol to specify exact procedure for all, including date application received.
- 3 Refresher training for support staff and planners with particular emphasis on data entry (Systems)
- 4 Explore linking fee receipt and received date where applications are split between portal and separate fee paying mechanism (Systems)
6. Inclusion of a new action diary event requiring the confirmation of received date being checked and 56 day deadline being calculated against date received. (Systems)
7. An amber traffic light warning of impending expiry to be automatically created within planning system 3 weeks and then a red warning 2 weeks before the 56 day expiry date (Systems)
8. All case reviews to have regard to telecoms apps and traffic light warnings (Mgrs/PPOs)
9. A 'mast' officer to be designated (with back-up) to monitor all mast applications to ensure no slippages
10. Review performance monitoring techniques for start and end of processes (entering data, getting valid applications to planning officer and getting decision notice/letter out after decision taken.

Do we need to run a workshop for members and officers about the latest developments in telecom technology – run by a private specialist?

All to be in place by end March 2009.



(see overleaf)

# The Planning Service

## **Procedural Note: 6**

**An agreed internal protocol for handling telecommunication mast proposals under the 56 day 'Prior Notification' (PN) process.**

**Town & Country Planning (General Permitted Development) Order 1995.**

Schedule 2, Part 24, Class A - Development by [Electronic Code Communications Operators], para. (7)

2 May 2009

John More  
Sally Harrington  
Vincent Pearce



**The following protocol sets out the procedure that must be followed within the Planning Service when dealing with 56-day ‘prior notification’ telecommunications mast submissions.**

It is vital to decide the submission and notify the operator of the outcome within the **56 days** using the agreed methods of notification.

**No decision, or a decision not received by the applicant within 56 days is a deemed approval.**

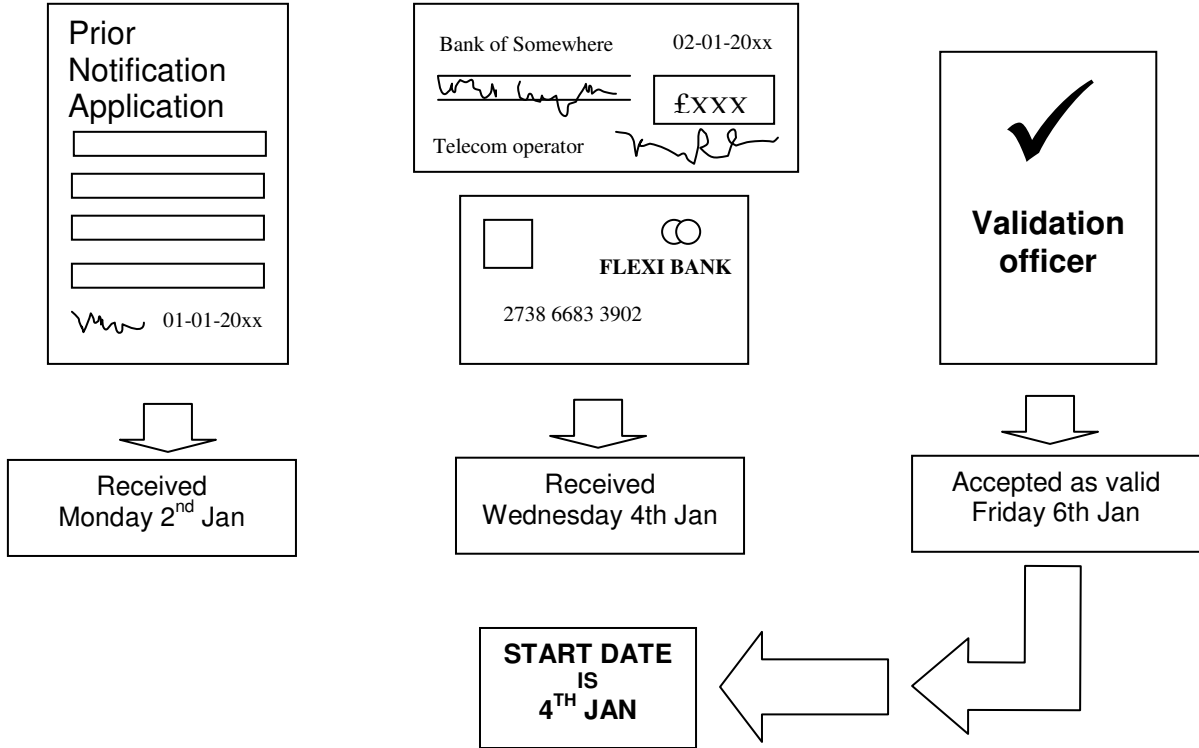
The success of this procedure critically depends upon accurately identifying the correct start date for the 56 day period, and therefore the correct end date.

**There can be no scope for procedural mistakes.**

**The basic rules to be applied**

**An application is only valid when the Council has received both the properly completed notification form and the correct fee.**

**If an application is determined to be valid, then the start date is calculated from the date that the last piece of information was received to make it valid, not the date of validation.**




**THE START DATE: an example**

**Received can either mean:**

- **stamped received in the post**
- **signed for if sent by recorded delivery**
- **the date electronically sent to the Council via the Planning Portal**

## The procedure

What	Who
<p>Ensure PSU date stamp reflects date received into the Council, not the date dealt with. Initial date stamp. Note: applications often received by recorded delivery</p>	Clerical Assistant
<p>Ensure that PN applications are given <b>priority</b> over all others</p>	All
<p>PN applications to be registered onto Civica upon receipt</p> <p>Enter date received into the Council in Civica.</p> <p>Enter date valid into Civica (using rules above) – not date of validation.</p> <p>The valid date will form the basis of the <b>due date</b> calculation. <b>The due date will be calculated with a built in 14 day cushion on Civica and this due date must be adhered to at all times.</b></p>	Professional Support Officer
<p>Ensure email and fax details of the applicant are available and entered into Civica. Request them if not.</p>	Professional Support Officer
<p>Put the <b>Civica generated due date</b> on the front of the file.</p>	Professional Support Officer
<p>Summary details of the application to be written on the MAST white board</p>	Professional Support Officer
<p><b>Validation</b> - The GPDO requires the PN applications to be accompanied by</p> <p><i>“a written description of the proposed development and a plan indicating is proposed location together with any fee required to be paid;”</i> and an ownership certificate. Please note that there is not a requirement to provide elevational drawings etc.</p> <p>Every agent/operator should be asked to provide a graph showing the zone of greatest intensity along with an OS map showing the geographic spread of the zone of greatest intensity.</p> <p>ICNIRP Declaration to be included.</p> <p>Request any additional information required to make a considered decision on the application, however, <b>you must not refuse to register the application</b></p> <p>.... The clock is ticking.</p> <div style="text-align: center;">  </div> <p>If there is any doubt about validity, action should be taken on the application while its validity is being resolved.</p>	Validating Officer
<p>Identify potential Planning Committee dates. Aim to get to first available planning committee, where required, and identify last possible committee date.</p>	Case Officer
<p>Upon validation the agent/application will be sent one of two standard</p>	Professional

confirmation responses (whichever is relevant) The valid application confirmation letter is attached as Appendix 1 to this process note	Support Officer
Notify all properties within a 250m buffer area around the application site including schools. Schools to be consulted via the Head Teacher and Chair of Governors, c/o the school address.	Professional Support Officer
Generate a site notice to enable the case officer to be able to put it up <b>by day 5 of the process at the latest</b> . Applications which do not accord with the Development Plan or the LDF or which are on a site with an area of more than 1 hectare also need to be advertised in the press. Advertise in the press if necessary.	Professional Support Officer & Case Officer (Validating Officer)
Case officer to update MAST white board with progress information	Case Officer
A delegated report must be produced on the file (if a Committee decision is not required) even if no objection is raised to the proposed siting and design.  It is not acceptable for 'no objection' to be conveyed allowing the 56 day deemed approval trigger to occur as this may be seen as the Planning Service having not responded in time.	Case Officer
In <b>all cases</b> the decision notice <b>must be faxed and emailed</b> .  Email confirmation of receipt of the notification email/fax should be obtained by phoning the applicant. This email confirmation from the applicant should be saved in Idox linked to the application.	Professional Support Officer
Decision note to be sent to the applicant by recorded delivery.	Clerical Assistant

## **General Ongoing Checks**

### **Principal Planning Officers**

- Check the validation date is correct and the due date has been correctly calculated (always go back to the original documents and records of when sent and received).
- When passing to Planning Officer make a point that application is a PN. If a new member of staff, check they are aware of the procedure for dealing with PN applications.
- Run off on a weekly basis the standard telecoms mast progress report in Civica and use data in 1:1 case reviews with team members as well as to manage own workload
- When passing the checked decision back to the PSO, remind the decision notice **must be posted and faxed and emailed** (where a named email address is given) before 5pm of day 56.

### **Planning Officers**

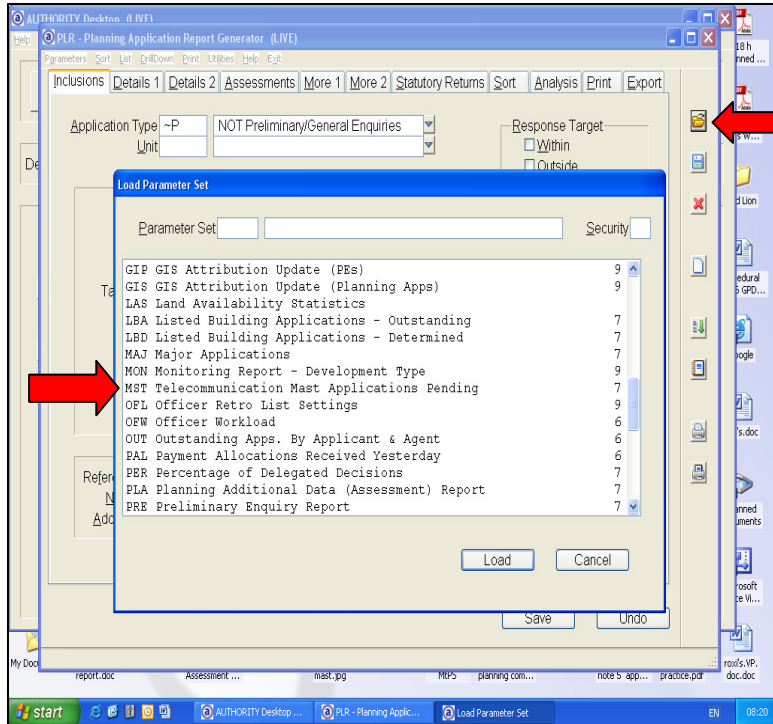
- Check the validation date is correct and the due date has been correctly calculated.
- Identify any additional information required, contact the agent and give a time limit for response.
- Check consultations are sufficient.
- Ensure that you have the agents name, address, phone number, fax number and e-mail address and record on file as this information will be needed at the end of the process
- Ensure draft decision is passed to PSO in time to allow final decision to be sent within timeframe. Remind PSO the application is a PN so has priority.
- Prior to the due date, check the decision has been faxed, posted and emailed to the agent and confirmation of receipt recorded (If you will not be available on the due date pass this responsibility to your PPO). (PPO's should be aware when due date is and who is dealing with app)



## Standard Report Details

This report produces a summary of prior notification applications along with the auto generated 56 day deadline date and a two-week advanced notice of expiry of the 56 day expiry date.

This will ensure proper monitoring of progress and should now form part of the 1:1 regular case reviews.



**Figure 1: Getting the ‘mast applications pending’ report from within Civica Authority**

Civica Authority> Planning Application Report Generator (PLR)> Load Parameter Set> MST (Telecommunication Mast Applications Pending)

## Flare (APP) Planning Performance Reports

Please Note: Current limit to produce accurate data for majority of reports set at 3000 records (this can be extended up to ~65,000 as required)

Parameter Set Programme PLR	Inclusion Parameters to Add before Sort (as appropriate)	Report Type	Assumptions Made or Limitations	Print/Export Report	Report Format	Export Type	Merge File	Original Name	Requested Parameters/Analysis
109 (BV109) Report	Decision Date Range (Tab 'More 2')	Analysis	-	Print	BV109	-	-	Planning applications BV109	Figures for major/minor/others
MAJ (Major Applications)	Decision Date Range (Tab 'More 2')	Listing	-	Export	MAJORREP	doreports	Major Applications Report.xls	Major applications	Major application with decision Reference, location, description S106/unilateral agreements Target date / Decision date Considered by development team – date Determined in/out of target
MST (Pending Telecom. Mast Applications)	-	Listing	-	Print	MAST_APPS	-	-	-	Reference, Site Location, Officer, Tech. Clerk & Target Date
UMA (Undetermined Major)	-	Listing	-	Export	MAJORREP	doreports	Undetermined Major Applications.xls	Undetermined major applications	Application reference, location, description Target date, Case

**Figure 2: Data entry fields for MST report**

## Specific actions introduced following the Special Report on Telecommunications masts: problems with ‘prior approval’ applications prepared by the Local Government Ombudsmen

- In the acknowledgement letter to the agent we now verify the date the application was received by the LPA and the date of day 56, the due date, and ask that they contact us by return if they dispute the calculation.
- We have established this internal protocol including the 250m radius buffer zone for the publicity for telecommunications development, in line with the Code of Best Practice.
- We use the standard committee report template (appendix 3) to ensure a consistent approach and save officer time. This requires proper consideration of the weight to be given to all material considerations, including health concerns and Government guidance on this issue. Merely restating Government guidance is insufficient.
- If we require further information before we feel able to determine an application, we identify this at an early stage. If the 56-day deadline for determining an application might be breached in consequence, we either invite the applicant to withdraw the application or require prior approval and refuse the application.
- We accurately log the date received and therefore the deadline date.
- We ensure that all PN applications are treated as a priority and have built into our process an auto generated 2 week cushion to ensure that there is ample time available for a decision notice to be posted, e-mailed and faxed correctly.

### Background Information - the crucial 56 day calculation.

There are currently three primary sources of advice on the subject:

#### **Circular 02/2008: Standard Application Form and Validation (12 March 2008)**

- “37. For prior notification/approval applications under Parts 6 and 31 of Schedule 2 to the GPDO, day 1 of the 28 day period within which local planning authorities must determine the application is the date of receipt of a valid application. **For Part 24 of the GPDO day 1 of the 56 day period also starts on the date of receipt of a valid application. This is unaffected by any requests for, or later receipt of, further information.**”

#### **‘The Validation of Planning Applications: Guidance for local planning authorities.’ – DCLG December 2007**

- “31. ...the time period from application to decision begins the day after a valid application and the correct fee (where a fee is payable) have been received. If the application has been submitted electronically it will be treated as having been delivered at 9am on the next working day after the day on which it was transmitted...”

#### **Special Report: Telecommunications masts: problems with ‘prior approval’ applications - Advice and guidance from The Local Government Ombudsmen**

**Using the advice from circular 02/2008 the start date must be calculated from the date of receipt of a valid application.**

- This means a properly completed notification form and
- A correct fee

**Appendix 1**

**Colchester Borough Council**

PO Box 889, Town Hall, Colchester CO1 1FL  
Telephone (01206) 282424 DX 729040 Colchester 15  
Textphone users dial 18001 followed by the full number  
that you wish to call

**Environmental & Protective Services**

Contact: Yana Griffiths

Phone: 01206 507828 Fax: (01206) 282598

E-mail: [planning.services@colchester.gov.uk](mailto:planning.services@colchester.gov.uk)

Your ref:

Our ref: 000001

Date: Test

**TEST LETTER**

Dear Sir or Madam

**Town and Country Planning Act 1990**

**Application No:** 000001

**Proposal:** Test record

**Location:** 92 Berechurch Road Colchester CO2 7QD

Thankyou for your electronic application received ..... together with the payment for £00000, which was received via the post on ..... We confirm that prior notification approval is required. The application was valid from ..... and therefore the 56 day period expires on .....

If, by .....,

- you have not been told that your application is invalid; or
- you have not been given a decision in writing;

then you may appeal to the Secretary of State for Communities and Local Government and the Regions under section 78 of the Town and Country Planning Act 1990. You must appeal within six months, using a form that you can obtain from The Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN ([www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)).

If you disagree with our methodology for calculating the 56 day period, you should advise us in writing by return.

Further information on 'What Happens Next' to valid planning applications can be found overleaf.

The Council is required to publish details of all planning applications received on the Council's website. Certain companies use the information for commercial purposes, and may subsequently contact you direct to offer various services. You are advised that the Council cannot control this, and is not party to any such approach.

Yours sincerely

**APPENDIX 5: New Committee report template for telecommunications mast prior notification applications**

<b>7. Case Officer:</b>	<b>EXPIRY DATE:</b>	<b>OTHER</b>
<b>Site:</b> Site at		
<b>Application No:</b>		
<b>Date Received:</b>		
<b>Agent:</b>		
<b>Applicant:</b>		
<b>Development:</b>		
<b>Ward:</b>		
<b>Summary of Recommendation:</b>		

**Planning report introduction**

The proposal constitutes permitted development under the terms of Schedule 2, Part 24, Class A of the Town and Country Planning (General Permitted Development) Order 1995, as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2001. Before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the Authority will be required for the siting and appearance of the development.

This is an application for a determination as to whether the prior approval of the Authority will be required to the siting and appearance of the development. The Local Planning Authority has 56 days to consider the application. If the Local Planning Authority does not make a decision within that period, the development is deemed to be approved and can be implemented. The Local Planning Authority cannot apply conditions to these prior approval applications.

**Site Description**

This can be kept simple as the agenda includes a map. Briefly describe the appearance of the site, any key features, existing uses, topography, flora, predominant character of area adjoining uses, proximity of nearby schools, open space and nature of proposed uses in the vicinity.

It is important to include a detailed description of the street furniture around the site – eg; existing telegraph poles street lights, bus shelters, post boxes, totem signs, cabinets and the like in order to provide a context for assessment of the proposal as excessive clutter, alien intrusion or unobtrusive.

## **Description of Proposal**

A fuller description than appears in the item heading is required. Include reference to:-

- proposed height,
- appearance,(describe mast style and give circumference measurements)
- associated apparatus, (eg cabinets, enclosures – describe dimensions accurately)
- describe the extent of the zone of greatest intensity (eg a circular band running 70 – 200m around the mast). Show this band on an OS map and highlight local schools and P.O.S./play areas.
- Any ICNRP certificates submitted.

## **Land Use Allocation**

As well as Local Plan allocation also include reference to Conservation Area, AONB, Regeneration Area, Special Character Area, Listed Building and mention designated public footpaths where these are affected.

## **Relevant Planning History**

Make sure you research the previous history and set it out It is important to refer to previous mast proposals on the site or in the vicinity or appeal decisions specifically related to those proposals.

## **Principal Policies**

Check status of policies, emerging, adopted, saved etc.

Local Development Framework

Core Strategy:

No relevant policies

Adopted Review Colchester Local Plan saved policies:

DC1– Development Control Considerations

UT4 – Telecommunications Development

Planning Policy Statement 1

Planning Policy Guidance 8

## **Consultations**

Do not paraphrase the Highway Authorities comments as we have undertaken not to summarise them. Seek clarification if the main thrust or recommendation of the comment is not clear

## **Comment:**

(Only use 'comment' to highlight a single point that does not need to be discussed in the report. e.g. Not a material planning consideration.)

## **Representations**

Describe the local consultation undertaken:-

- Site notices? How many?
- Was the standard 250m buffer used? If not why not?
- Were any schools notified

(Abbreviate where appropriate but ensure points are properly represented.)

### Comment:

Full text of all consultations and representations are available to view on the Council's web-site.

## **Report**

### Policy context

PPG8 states that telecommunications are an essential and beneficial element in the life of the local community and in the national economy. Fast, reliable and cost-effective communications can attract business to an area and help firms remain competitive, thus contributing to the achievement of other policy goals, including increased employment opportunities.

The aim of telecommunications policy is therefore to ensure that people have more choice as to who provides their telecommunications service, a wider range of services from which to choose and equitable access to the latest technologies as they become available.

The guidance reiterates the Government's commitment to the protection of the environment, especially areas designated for their sensitive nature, but advises that local authorities should respond positively to proposals especially where location is restrained by technical considerations. It is pointed out that wider environmental benefits may flow from telecommunications installations, for example the application of communications technology reduces the need to travel, and hence reduces vehicle emissions of carbon dioxide and other pollutants.

Saved Local Plan Policy DC1 states that development proposals should be of a high standard of design and not have a detrimental impact on the character on an area. Saved Policy UT4 states that telecommunications development will be permitted provided that its impact on the surrounding environment and amenities is minimised through careful siting and design, is harmonised with the character of the area and that regard will be had to the technical and operational constraints when considering proposals.

### Siting and Appearance

So far as appearance is concerned the Council can look at the visual impact of the proposal in terms of the height, shape and colour etc. of the equipment and the effect it has on the appearance of an area. This means that a particular type of equipment might be acceptable in a suburban street but not in a conservation area. The same type of installation might be acceptable against the backdrop of

woodland but not on an open space. The cumulative visual impact alongside other street furniture can give rise to objections of clutter.

Factors concerning siting may involve:

- the height of the site in relation to surrounding land.
- the existence of topographical features and natural vegetation.
- the effect on the skyline or horizon.
- the site when observed from any side.
- the site in relation to areas designated for their scenic or conservation value.
- the site in relation to existing masts, structures or buildings, including buildings of a historical or traditional character.
- the site in relation to residential property, and
- any other relevant considerations.

Discuss siting and appearance in relation to your site and context.

### Alternative sites

Failure to have thoroughly explored all other options could be a reason for refusal if the Council think that there could be preferable alternatives in the area of search.

Discuss alternative sites explored in proposal, have all reasonable alternatives been considered and are the assessments satisfactory?

### Health Risks

Paragraphs 29, 30 and 31 of Planning Policy Guidance 8 (PPG8) relate to health considerations.

*“29. Health considerations and public concern can in principle be material considerations in determining applications for planning permission and prior approval. Whether such matters are material in a particular case is ultimately a matter for the courts. It is for the decision-maker (usually the local planning authority) to determine what weight to attach to such considerations in any particular case.*

*30. However, it is the Government's firm view that the planning system is not the place for determining health safeguards. It remains central Government's responsibility to decide what measures are necessary to protect public health. In the Government's view, if a proposed mobile phone base station meets the ICNIRP guidelines for public exposure it should not be necessary for a local planning authority, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them.*

*31. The Government's acceptance of the precautionary approach recommended by the Stewart Group's report "mobile phones and health" is limited to the specific recommendations in the Group's report and the Government's response to them. The report does not provide any basis for precautionary actions beyond those already proposed. In the Government's view, local planning authorities should not implement their own precautionary policies e.g. by way of imposing a ban or moratorium on new telecommunications development or insisting on minimum distances between new telecommunications development and existing development.”*

The Minister for Planning, in a letter to council leaders in June 2000, indicated the approach that should be taken in handling telecommunications applications. This is that if a proposed development meets the ICNIRP guidelines (as recommended by the IEGMP on a precautionary basis), it should not be necessary to consider the health effects further. It is not for the local planning authority to seek to replicate through the planning system controls under the health and safety regime. Enforcement of health and safety legislation in this area is a matter for the Health and Safety Executive (HSE) and not the local planning authority.

The applicant has submitted a certificate of compliance with the ICNIRP guidelines (have they?), it should therefore not be necessary to consider the health effects further.

## **Conclusion**

A short conclusion which takes the reader logically to the recommendation. Channel all the various strands of your technical assessment together and show how you have weighted/balanced the various factors. Examples below.

*In summary, the siting and appearance of the proposed development are considered acceptable in this context. While the concerns of the objectors on health grounds are recognised as a material planning consideration, when balanced against the merits of this proposal, government guidance and planning policy, it is your officers opinion in this case that they would not carry sufficient weight to warrant refusal of the application. **OR***

*In summary, the siting and appearance of the proposed development are considered unacceptable in this context. The proposed 12m telegraph pole style mast will be situated a matter of only 2m from the front elevation of “..... Cottage” a grade II\* listed building. The proposed mast will therefore have an adverse visual impact on the setting and appearance of this fine listed building as a result of its visual intrusiveness, and uneasy and alien juxtaposition in an area where overhead cabling and telegraph poles do not exist, such infrastructure having been ‘undergrounded’ in the interest of enhancing the character of the XXX Village Conservation Area. The proposal is therefore contray to [policies]*

## **Background Papers**

### **Recommendation**

Chose one of the below

The applicant be informed that prior approval is not required in this case for the siting or appearance of the development.

or

The applicant be informed that prior approval is required, that the details submitted are acceptable and that prior approval is granted for the siting and appearance of the development.

or



The applicant be informed that prior approval is required and that prior approval is refused for the siting [and/or \(delete one\)](#) appearance of the development for the following reasons: [Insert reasons](#)

