

Planning Committee

Town Hall, Colchester
3 September 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
3 September 2009 at 6:00pm**

Members

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

Substitute Members : All members of the Council who are not members of this Committee or the Local Development Framework Committee. The following members have undertaken planning training which meets the criteria:-
Councillors Christopher Arnold, Nick Barlow, Lyn Barton, John Bouckley, Nigel Chapman, Peter Chillingworth, Barrie Cook, Beverly Davies, Wyn Foster, Mike Hardy, Pauline Hazell, Peter Higgins, Martin Hunt, Michael Lilley, Sue Lissimore, Richard Martin, Nigel Offen, Lesley Scott-Boutell, Laura Sykes, Jill Tod, Anne Turrell and Julie Young.

Agenda - Part A

(open to the public including the media)

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

An Amendment Sheet is circulated at the meeting and members of the public should ask for a copy to check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm on the day before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Pages

1. Welcome and Announcements

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

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

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

2. Have Your Say!

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

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

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

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

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

Councillors should consult paragraph 7 of the Meetings General

Procedure Rules for further guidance.

6. Minutes 1 - 9

To confirm as a correct record the minutes of the meeting held on 20 August 2009.

7. Planning Applications

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

1. 090752 St Botolphs Car Park, St Botolphs Circus, Colchester (New Town) 10 - 29

Redevelopment of part of the St. Botolphs Car Park, involving the construction of a part 2, part 3, part 4 storey magistrates court complex (incorporating double height court volumes) comprising 4 magistrates courtrooms and 1 youth/family courtroom with associated ancillary accommodation, provision of 18 on site staff car parking spaces, cycle parking and secure vehicle lock, with vehicular access off Magdalen Street (including associated off site highway alterations).

2. 090838 Blacksmiths Corner, Ivy Lodge Road, Great Horkesley (Fordham and Stour) 30 - 36

Erection of single detached dwelling and alterations to existing vehicular access.

3. 090906 2 Albertine Close, Stanway (Stanway) 37 - 41

Proposed detached dwelling - resubmission of 090507.

4. 090399 Primrose Cottage, The Street, Chappel (Great Tey) 42 - 49

Erection of a detached dwelling with associated parking facilities.

5. 090722 Plot 10, land off (formerly part of rear garden) no. 9 D'Arcy Road, Colchester (Harbour) 50 - 55

Erection of a 4 bedroom detached dwelling house.

6. 090785 30 St Clare Road, Colchester (Lexden) 56 - 63

Demolition of existing house including garage and outbuildings.
Erection of new detached house with detached garage.

7. 090848 Part garden of 110 Oaklands Avenue, Colchester (Prettygate) **64 - 70**

Erection of a bungalow with associated parking facilities for the new and existing properties (resubmission of 090418).

8. 090922 Coy View, East Road, West Mersea (West Mersea) **71 - 78**

Construction of new access to allotment.

9. 090360 Sports Ground, Colchester Road, West Mersea (West Mersea) **79 - 85**

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

10. 090486 Unit 1 Solus Development, William Harris Way, Colchester (Berechurch) **86 - 90**

Change of use from Class A1 Shop to Class A5 Hot Food Takeaway.

11. 090743 200 Ipswich Road, Colchester (Highwoods) **91 - 98**

Proposed change of use of part ground floor from residential to fast food takeaway restaurant, with extension to front and rear, as well as formation of car park to rear and associated access (resubmission of 090318).

- 8. Enforcement Action // Land at 111 Wilson Marriage Road, Colchester 99 - 102**

See report by the Head of Environmental and Protective Services.

- 9. Enforcement Action // Land at Furniture Zone, Turkey Cock Lane, Lexden Heath, Colchester 103 - 105**

See report by the Head of Environmental and Protective Services.

- 10. Exclusion of the Public**

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

**PLANNING COMMITTEE
20 AUGUST 2009**

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

(* No formal site visits were undertaken prior to this meeting.)

73. Minutes

The minutes of the meeting held on 6 August 2009 were confirmed as a correct record, subject to the word 'facia' being corrected to 'fascia' throughout minute no. 68.

Councillor Jon Manning (in respect of his partner's son living in the vicinity of the application site) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

74. 090843 Greenways, St Fillan Road, Colchester

The Committee considered an application for a proposed additional partial basement and other minor amendments to the previous scheme for a sixty-six bedroom care centre approved under application 090215. The Committee had before it a report in which all information was set out.

John More, Principal Planning Officer, attended to assist the Committee in its deliberations. The minor amendments included the installation of a kitchenette in each of the sixty-six bedrooms, comprising a basin, a refrigerator and a microwave.

Mr Jeremy Randall addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The main reason for the introduction of kitchenettes, comprising a small refrigerator, a basin and a microwave, is to enhance the quality of the bedrooms. The bedroom sizes had been increased in order to maintain their quality. All service accommodation will be moved into the basement area enabling the retention of sixty-six bedrooms. There were other minor adjustments made to elements of the scheme including the car park layout and some access ramps.

Some members of the Committee had concerns because there were originally two separate rooms in each flat which was considered to enhance the lives of the residents whilst the installation of a kitchenette in each bedroom created a bed-sit arrangement. There were also concerns about the kitchen facilities being in flats occupied by residents who had dementia. However, it was recognised that neither of these issues were planning matters. Other members of the Committee viewed the kitchen facilities as a positive feature by enabling residents to make their visitors a cup of tea and providing visitors with the scope to socialise with residents.

RESOLVED (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.
- (b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

Councillor Jon Manning (in respect of being a student at the University of Essex) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Mary Blandon (in respect of being related to the public speaker, Bob Russell, MP) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Ray Gamble (in respect of his close association with the public speaker, Bob Russell, MP) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

75. 090498 Avon Way House, Avon Way, Colchester, CO4 3TZ

The Committee considered an application, originally for the erection of 133 new student bedrooms in thirty flats split into six separate buildings. The application was considered at the Committee's meeting on 23 July 2009 and as a result of comments made by the Committee members the application had been amended to 81 new student bedrooms in twenty flats split into four separate buildings. All information was set out in the report and the Amendment Sheet explained the change of description together with the applicant's responses to other concerns expressed at the earlier meeting.

David Whybrow, Development Manager, attended to assist the Committee in its deliberations. He explained that students would need to apply for a parking space within the development. In the event that demand exceeded supply, a restrictive covenant would prohibit students from bringing a vehicle to the development. It was suggested that this restriction could be achieved by condition but it could equally be secured by inclusion in the legal agreement. The development would also be managed and gated.

Mr Bob Russell, MP, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The land on which Block F was to be built did not appear to be within the boundary of the site as indicated; paragraph 9.2 of the report explained that with the removal of Blocks A and B, Blocks C, D and E remained in the application for determination, Block F appeared not to be mentioned and this point needed clarification. The Council's Landscape Officer required the landscape scheme to include some areas within the site not in the applicant's ownership. He suggested that landscaping be required in the area where Blocks A and B would have been sited, thus preventing a further planning application for Blocks A and B in that area. He wanted to know what would happen if dwellings were not occupied by students, and what would happen if the car parking density was exceeded.

Mr Owain Thomas addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He confirmed that they were willing to accept the car parking restrictions as part of the legal agreement; he explained that whilst the applicant company did not own the land around Block F they had a license from the owners to build Block F. They intended to build Blocks A and B after they had consulted with the residents of Pickford Walk, ward councillors and Bob Russell,MP. They had dealt with all the issues raised at the last Planning Committee meeting.

Councillor J. Young attended and, with the consent of the Chairman, addressed the Committee. The data relating to car parking ownership was historical. Residents have reported on street car parking in Avon Way. She believed that there was a daily security presence when the University owned the site security, now however, there appeared to be none on the site. Students do not register to park because they know that checks are not being made. She welcomed the additional information about parking arrangements. She noted the absence of a condition regarding cycle storage and she also requested a condition to regulate the hours of working. She asked if the bungalow on the site would be left in situ. Whilst she did not want Blocks A and B built at all she recognised that a fresh application for Blocks A and B was likely, but was concerned about what would happen in that area in the intervening period. The site was still over developed.

Councillor T. Young attended and, with the consent of the Chairman, addressed the Committee. Comments from ward councillors did not appear in either the original or subsequent reports. He reiterated his previous point about the accommodation representing second class accommodation for students. Car parking was still an issue. The applicant had made it clear that a further application for Blocks A and B would be submitted but it would be unacceptable to residents because it will blight their lives. He had heard nothing to reassure him that fundamental issues had been addressed. The application contained flaws and did not stand on its own because of the issues relating to ownership and freehold.

It was explained that only Blocks A and B were being dropped from the scheme, Block F remained part of this scheme and would be built under licence. Blocks A and B would be built, but in the original scheme they faced on to Pickford Walk and provided a development of high scale and mass, but a more pleasant street frontage could be agreed. There were no strong grounds to prevent any development in that area and consequently there was no reason to landscape that area. Parking levels in this location are not so great. There is a standard note at the foot of the recommendation regarding hours of working.

Some members of the Committee remained dissatisfied with the application. The absence of a pedestrian crossing across Clingoe Hill was raised and was considered to be sufficient to prohibit the development being built on this site. The subway was designed to flood when there was rain and it was effectively a drain with a footpath alongside. The density of the development remained an issue, specifically whether condition 22 was necessary given that the development is specific to students, was considered to be sub-standard and not acceptable to anyone else. Parents often funded student accommodation and why should they pay for sub-standard accommodation. If this development is only suitable for students and not for others it should not be built. The report did not address the issue of facilities for disabled students; the doorways should be wide enough for disabled access. In respect of car parking, how was the restrictive covenant going to be enforced.

Comments on the application from other members of the Committee included the hours of working which should be made a formal condition. It was noted that the rooms were all single rooms and there was a lack of any family accommodation. It was very important that there should be no charges for car parking to avoid parking in surrounding streets, and the parking arrangements should be made part of the Section 106 agreement which the agent has indicated would be acceptable to their client. The cycle parking should be covered and secure. An Informative note was requested to cover the issue of disabled access and provision of wider doorways and ramps. Queries were

raised regarding whether the landscaping scheme could be achieved in the light of the ownership issues, and whether the University was responsible for letting the accommodation.

The officer explained that conditions such as hours of working were difficult for the planning team to enforce as they did not have sufficient capacity whereas an informative note was enforceable by the Environmental Health team which did have the resources. In respect of the subway at the bottom of Clingoe Hill, the Highways Authority had provided comments which suggested that they had looked at solutions to the flooding problem. The accommodation provided is not sub-standard, the scheme is of good quality and where there is a reduction in standards it is in respect of car parking only. The blocks themselves, the open areas and in environmental terms it is an attractive scheme. In this location this level of density might not normally be acceptable, but higher density does not equate to a sub-standard scheme. The local authority wanted the scheme to be accessible using as many modes of transport as possible and travel packs were required by the Highway Authority. Condition 19 covers cycle parking and requires a scheme to be submitted which could require the facility to be secure and well lit. It was not known if there would be a charge for car parking, but that could be dealt with by way of an informative if permission was granted. The bungalow is on that part of the site designated for Blocks A and B and whilst negotiations were being conducted for those blocks, the bungalow would remain in situ. Condition 22 covers the issue of persons permitted to occupy the buildings and for the purposes of this application the accommodation is specifically for EU students. If full occupation could not be achieved by the University of Essex the authority may be asked to reconsider Condition 22. There was no specific provision for disabled students in this scheme but that may be covered by the Disability Discrimination Act (DDA). In certain respects this is a very good scheme with good access to shops, open space and the University; it is an ideal site for this type of accommodation.

Members were hopeful that the scheme for Blocks A and B would be developed in consultation with ward members and residents. High density does not mean low quality. The development was specifically for students with good access to the University and was very close to local amenities with a very large supermarket close by. Colchester does build developments at this density and much higher in the town. This looks a good quality scheme and people do have a choice.

RESOLVED (SEVEN voted FOR, SIX voted AGAINST, the Chairman having exercised his casting vote FOR) that –

(a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution of £53,460 towards Open

Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document; two pedestrian/cycle links from the site to the cycle and footpath network at the south of the site; and an additional clause relating to a restrictive covenant within tenancy agreements with respect to vehicle ownership in the event of demand for parking spaces exceeding supply.

(b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and additional informatives regarding the developer to be advised that the Committee feel strongly that no charge should be made for parking spaces at the site; and the developer to have full regard to the requirements of the DDA and the needs of disabled residents.

76. 090800 Villa 7, Turner Village, Turner Road, Colchester, CO4 5JP

The Committee considered an application for a replacement building on the site of Villa 7 at Turner Village, part of Colchester General Hospital, for health related uses, education, training and research, in particular laparoscopy. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Development Manager, attended to assist the Committee in its deliberations. The main issue is the architecture. The replacement building was slightly smaller than the existing building and would utilise modern materials. Officers' view is that the proposal is a reasonable response to the situation providing the same building form but with the use of modern materials.

Mr Mills, representing Myland Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The report had altered the emphasis of the Parish Council's comments and had not been noted accurately. The Parish Council believed that the proposal would have a detrimental effect on the area and because of the loss of important public access they had applied for this to be an Area of Special Interest. The Parish Council supports the training concept but wants the materials of the new building to be the same as those used in the existing buildings.

Ms Lynam addressed the Committee on behalf of the applicant pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This is an important application for Colchester for a world class facility for keyhole surgery. Interest in the new initiative has been expressed

by China and the USA and it would reduce risk in surgical processes. There are no plans for expansion of the centre. The design of the interior of the building has been worked up with Professor Moxham. One of the early plans was to repair and refurbish the old building but it could not deliver what was required because of the nature of the spaces of the existing accommodation which was not capable of providing a world class centre and would not be fit for purpose.

Councillor Hall attended and, with the consent of the Chairman, addressed the Committee in his role as Heritage Champion. Heritage included the history of the site and not just the building being destroyed. Several Groups have come together to record historic buildings of Colchester which are not in themselves worthy of listing. Colchester has a very rich heritage but many have been lost: St Mary's, two wards in Essex County Hospital, Severalls, Essex Hall and much of Turner Village. If this demolition is approved it should be made clear to the hospital authorities that these villas are very important and should be developed sympathetically. Having spoken to the hospital authority they do say they want to bring other villas into use, and it was hoped that this would be achieved. This building is collapsing at one end and undermined by trees.

Members of the Committee were aware that the laparoscopy centre was needed and could not be housed in the existing building. However in planning terms the issue was not the activity for which the building would be used but its external appearance. The critical factor was whether the new building would fit in with the remaining villas in the village. There was a view that buildings should not be preserved just because they had been used as a hospital. An explanation of the materials to be used was requested and whether they would be out of place with the existing villas. Whilst the applicant had asserted that there were no future plans for the centre to expand, there was a view that if successful there would be a wish to expand, and it may expand to match the size of the other buildings. Modern looking buildings can sit well alongside older building if the contrast is planned. The proposal would enhance the area.

It was explained that the architectural treatment of the new building can reflect the style of buildings either side. Whether or not it expands is not a decisive consideration. The walls are in steel panels, the roof is a colour coated membrane and the windows are aluminium.

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

Councillor Jon Manning (in respect of his neighbour owning a garage in the vicinity of the application site) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

77. 090829 Glance Lodge, De Vere Lane, Wivenhoe, CO7 9AU

The Committee considered an application for the erection of a detached dwelling with associated parking facilities. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.

(b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the Amendment Sheet.

78. 090874 North Lane, Marks Tey, Colchester

The Committee considered an application for the continued use of the site as a temporary public pay and display car park, previously approved under C/COL/05/1918, for three years. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that the application for temporary planning permission be approved for a period of eighteen months terminating on 28 February 2011 with conditions and informatives as set out in the report and on the Amendment Sheet.

79. 090880 St John's Shopping Centre, St John's Walk, Colchester

This item was withdrawn from this meeting for consideration of late representations and for clarification on legal and planning policy issues.

Councillor Andrew Ellis (in respect of having engaged the services of the

applicant's agent) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

80. 090884 42 Peppers Lane, Boxted, Colchester, CO4 5HL

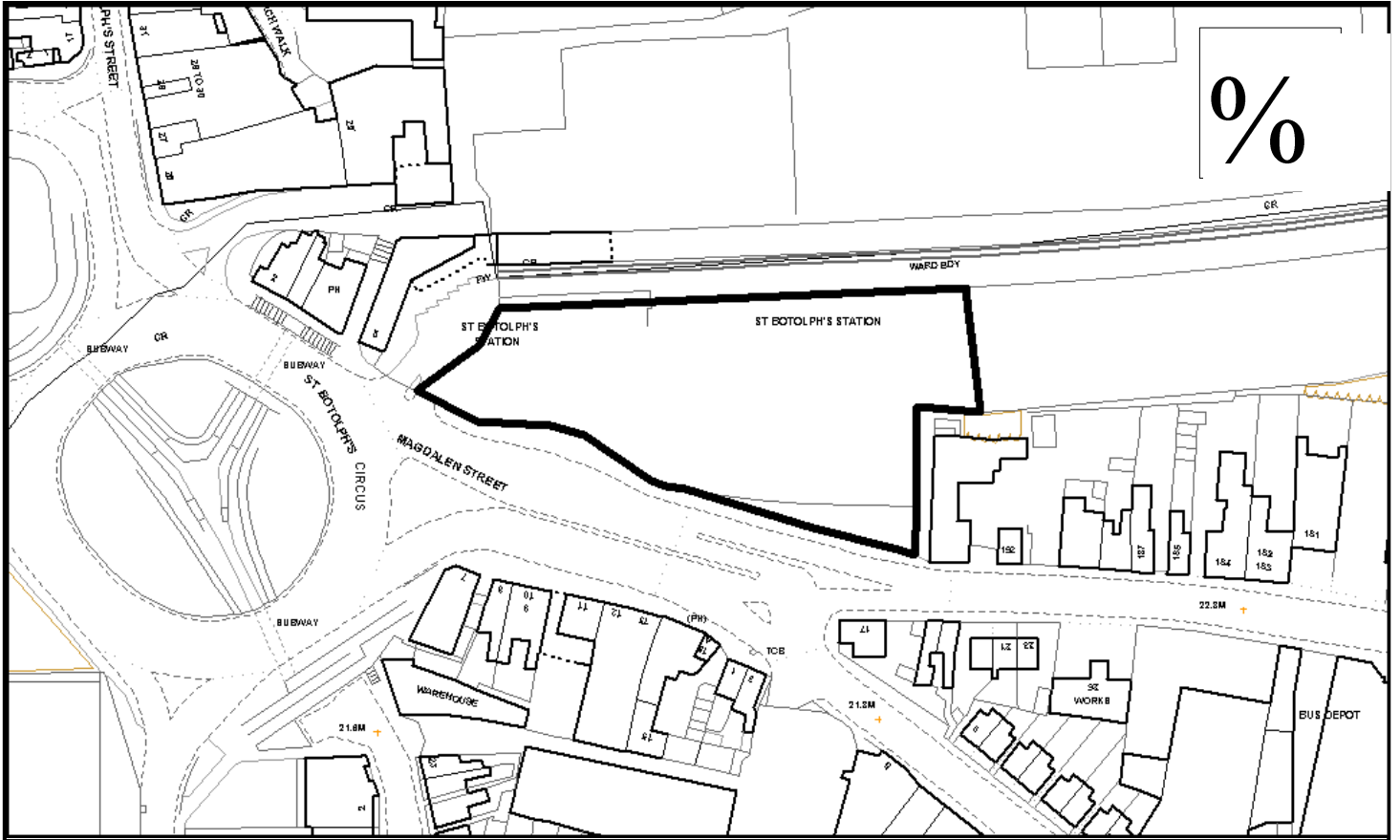
The Committee considered an application for a variation of Condition 1 of planning approval granted under 072199 to allow the owners of the adjacent property to keep a horse at the stables for private use. Condition 1 restricted the stabling of horses and storage of associated equipment and foodstuffs to the occupants of the application property and prohibited any commercial equestrian use. The Committee had before it a report in which all information was set out.

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

81. 090811 Church Lane, Little Tey, CO6 1HX

The Committee considered an application for the retention of an earth bund for a temporary period of three years. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

RESOLVED (UNANIMOUSLY) that the application for temporary planning permission be approved with conditions and informatives for a period of one year terminating on 31 August 2012.



Application No: 090752

Location: Part Site Of, St Botolpchs Car Park, St Botolpchs Circus, Colchester

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **3 September 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: John More

EXPIRY DATE: 14/09/2009

MAJOR

Site: St Botolphs Car Park, St Botolphs Circus, Colchester

Application No: 090752

Date Received: 15 June 2009

Agent: Mr P Smith

Applicant: Secretary Of State For Communities & Local Government

Development: Redevelopment of part of the St.Botolphs Car Park, involving the construction of a part 2, part 3, part 4 storey magistrates court complex (incorporating double height court volumes) comprising 4 magistrates courtrooms and 1 youth/family courtroom with associated ancillary accommodation, provision of 18 on site staff car parking spaces, cycle parking and secure vehicle lock, with vehicular access off Magdalen Street (including associated off site highway alterations).

Ward: New Town

Summary of Recommendation: Upon satisfactory completion of the S106 agreement and submission of suitable detailed amended drawings, the Head of Environmental and Protective Services be authorised to grant planning permission for the development, subject to suitably worded conditions and informatives.

1.0 Site Description

1.1 The application site is located adjacent to St Botolph's Circus and Colchester Town railway station, immediately to the north of Magdalen Street. It occupies a prominent

position on the edge of the town centre. The site forms part of a larger area which is currently used as a surface level car park and is predominantly covered with blacktop tarmac. There is a slight change in ground level across the site with a more significant change between the ground level within the site and Magdalen Street which is retained by a 4/5 metre high retaining wall in places. The site measures 0.34 hectares in area and forms an irregular shape.

- 1.2 The development is located adjacent to, but not within, Colchester Conservation Area No.1. Colchester Town station, which is listed grade 2 for its special architectural or historic interest, is located immediately adjacent to the application site. To the north of the site, the Church of St Botolph, the remains of the Priory and the town wall are all afforded statutory protection. Furthermore, opposite the site on the south side of Magdalen Street are two further listed buildings at No's 14 and 17 Magdalen Street.
- 1.3 The site occupies a strategic gateway location beside a transport interchange where several main routes into the town centre converge at St Botolph's Circus. At present the site is bleak, shabby and uninviting, whilst the unrelieved retaining wall constructed in dark coloured engineering bricks presents a dead frontage to Magdalen Street.
- 1.4 It is recommended that Members take the opportunity to visit the site prior to the committee meeting to fully appreciate the context, including the topography of the area, relationship with listed buildings and scheduled monuments and understand important views of the site from Magdalen Street, St Botolph's Circus and from the grounds of the Priory.

2.0 Description of Proposal

- 2.1 The scheme proposes the redevelopment of part of St Botolph's Car Park, involving the construction of a part 2, part 3, part 4 storey magistrates court complex (incorporating double height court volumes) comprising 4 magistrates courtrooms and 1 youth/family courtroom with associated ancillary accommodation. The application also proposes the provision of 18 on site staff car parking spaces, cycle parking area and secure vehicle lock, all taking vehicular access off Magdalen Street. This involves the construction of a new access, including associated off site highway alterations.
- 2.2 The architectural approach to the complex is contemporary and endeavours to achieve 'BREEAM Excellent' rating for sustainable development. The building rises to an equivalent of 5 storeys at its highest element facing the Colchester Town station, with other parts up to 4, 3, 2 and 1 storey. The main public access to the courts would be provided from the new station square with vehicular access from Magdalen Street.
- 2.3 In terms of the materials proposed, the court volumes would be expressed in natural terracotta tiles with terracotta louvres shading the glazing, glazed stair and circulation areas framed in Zinc with aluminium louvres and light coloured stack bonded brick to the north and south facades. A living green wall is proposed to enclose the secure staff car/cycle parking area. The roof would comprise green and brown treatments to deliver sustainable drainage solutions whilst providing opportunities for enhanced biodiversity.

- 2.4 The application was accompanied by a full suite of reports including a Design and Access Statement, Planning Statement, Transport Statement, Phase 1 Ecological Assessment, Archaeological Report, Site investigations report and Phase 1 Risk Assessment, Noise Assessment, Renewable Energy and “BREEAM” Assessment, all of which can be viewed on the councils web site.
- 2.5 The remainder of the existing car park outside the application site will continue its present use. During the construction period when the courthouse is being built, land would temporarily be made available along the northern boundary of the application site for access to the car park via a temporary access beside the station. After the courthouse has been completed this land would be made available for use as a combined footpath/cycleway. A new direct access to the remaining car park will be sought from a point yet to be determined on Magdalen Street.

3.0 Land Use Allocation

- 3.1 The site is allocated in the Local Plan as a Car Park. The St Botolph’s Quarter Master Plan which was adopted by the Council as supplementary planning guidance in June 2005 shows the site allocated for a magistrate’s court. Following the adoption of this document a Development Brief was prepared for the site which was adopted by the council as technical guidance to advise those preparing development proposals.

4.0 Relevant Planning History

- 4.1 In 1982 planning permission was refused for the erection of warehousing and distribution units on the site (81/1821).
- 4.2 In 1982 planning permission was refused for the construction of DIY centre for retail sale of DIY, home improvements, garden & associated products plus ancillary facilities including parking & access works (82/1241). The proposal was allowed at appeal following a public inquiry in 1983.
- 4.3 Following this, approval was granted for the details of the DIY Centre for retail sale of DIY, home improvement, garden and associated products plus ancillary facilities including parking & access works. (82/1241A)
- 4.4 There are various temporary planning permissions for the use of the site as a public surface car park. The most recent (98/0139) was granted in 1998 for a period of 5 years.
- 4.5 On the 2nd December 2008 outline planning permission was granted for demolition of existing car park to develop a Court House 3 storeys high. The Court House to contain 4 Magistrates and 1 Youth/Family Courts and their associated accommodation. Ancillary car parks and access roads to be constructed over 2 phases (O/COL/04/1513).
- 4.6 There is an outstanding application for the continued use of the car park as a car park. This is required as the previous temporary permission for the use of the car park has expired. While part of the car park may be covered by the proposed magistrates court, the remainder would be retained for parking during the construction process (090760).

5.0 Principal Policies

- 5.1 Local Development Framework
Core Strategy:
SD2 - Delivering Facilities and Infrastructure
SD3 - Community Facilities
CE1 - Centres and Employment Classification and Hierarchy
CE2a - Town Centre
UR1 - Regeneration Areas
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA4 - Roads and Traffic
TA5 - Parking
ER1 - Energy, Resources, Waste, Water and Recycling
- 5.2 Adopted Review Colchester Local Plan 2004 saved policies:
DC1- Development Control considerations
UEA1 - Character of Conservation Areas
UEA11 - Design
P4 - Contaminated Land
P7 - Energy Efficiency
T3 - Green Commuter Plan Requirements
CF1 - Infrastructure and Community Facilities Provision

6.0 Consultations

Highway Authority

- 6.1 The Highway Authority would not wish to raise an objection to the above application subject to the following:
1. No commencement of the development shall take place until such time as the following have been provided or completed to the satisfaction of the Highway Authority:
 - Any Party Wall Agreement required to facilitate the proposal
 - A temporary access off Magdalen Street (adjacent to St. Botolph's Roundabout) to serve that part of St. Botolph's car park which does not form part of the proposal site (as shown in principle on drawing number 200398/EAD/151 Rev. P3 prepared by Mott McDonald)

2. No occupation of the development shall take place until such time as the following have been provided or completed to the satisfaction of the Highway Authority:
 - The permanent removal of the temporary access mentioned above and provision of a new section of footway in Magdalen Street
 - The remodelling and reconstruction of the Magdalen Street/Military Road traffic signal controlled junction to provide direct access to the proposal site as shown in principle on drawing number 200398-TA-001 Rev. P3 prepared by Mott McDonald

3. Other conditions:
 - Prior to commencement of the development a construction management plan shall be submitted to and approved in writing by the Local Planning Authority in conjunction with the Highway Authority. Plan to include details of how the safety of all those using the temporary access mentioned above shall be maintained whilst the proposal is constructed. The approved details shall be implemented to the satisfaction of the Local Planning Authority and Highway Authority prior to commencement of the development
 - Measures shall be provided to ensure no mud and/or debris is deposited on the public highway by any vehicle associated with construction of the proposal. Details to be agreed with the Local Planning Authority and Highway Authority

Notes:

- The above is required to ensure the proposal complies with the County Council's Highways and Transportation Development Control Policies, as originally contained in Appendix G of the Local Transport Plan 2006/2011 and refreshed by Cabinet Member Decision dated 19 October 2007
- In making this recommendation the Highway Authority has assumed the proposal site internal layout will not be laid out and constructed to adoptable standards and that the applicant does not intend to offer it to the Highway Authority for adoption
- The requirements contained in 1 & 2 above shall be imposed by way of negative planning conditions or planning obligation agreements as appropriate
- Prior to any works taking place in the public highway the developer shall enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All highway related details shall be agreed with the Highway Authority
- Number of parking spaces, including disabled, cycle and motorcycle shall be in accordance with those standards set down within Essex Planning Officers Association, Vehicle Parking Standards, August 2001. Further all cycle and motorcycle parking shall be convenient, covered and secure
- Any proposed traffic calming shall be laid out and constructed having consulted the emergency services and bus operators
- The applicant shall grant an easement to enable the Highway Authority to maintain the traffic signal loops which will be located within the proposal site

- The applicant requires an easement from the Highway Authority to enable them to maintain their services which will be located in the foot/cyclepath which in turn will be located north of the proposal site.

Comment: The matters raised can be dealt with by way of conditions, legal agreement and informatives.

English Heritage

- 6.2 English Heritage has attended pre-application meetings as there are potential impacts on the setting of the conservation area, the setting of adjacent listed buildings such as the Town Railway Station and St Botolph's Church, and St Botolph's Priory and the Town Walls which are scheduled ancient monuments.
- 6.3 Whilst English Heritage has welcomed the most recent revisions to the design it has suggested that there is scope for the refinement of certain details notably to the tallest block adjoining the Town Station. Whilst they support the scheme they feel that further consideration should be given to this element before detailed planning permission is granted.
- 6.4 English Heritage initially raised concerns relating to the detailing and materials for the proposed court building, but did not object in principle to the height and general massing, or to the contemporary design approach. They suggested the need for articulation of individual elements, changes to the roofline and facing materials and more emphasis to be given to the pedestrian entrance from the new public square.
- 6.5 Following a presentation of a revised design they supported the revised roof forms, elevational changes, the use of terra cotta and buff brick along with the canting of the soffit to the cantilever above the entrance to give greater emphasis. They felt that the proposal would now contribute positively to the edge of the conservation area and to the setting of the St Botolph's Priory and that the elevations viewed from Magdalen Street and the Priory were now enlivened by the changes. However, they still have reservations with regard to the treatment of the tower element. They feel there is a need to create texture and interest and to bring a human scale to this block. Although in real terms it is not, at five generous storeys an abnormally high building, because of the scale of its immediate neighbours it appears in the rendered images to be particularly bulky. The diminutive columns on either side of the entrance and the horizontal emphasis of the large openings emphasise this characteristic.
- 6.6 The revised elevation on either side of the tower now have a strong vertical emphasis especially with regard to their glazing and they appear in harmony with the locality. English Heritage had hoped that on the tower the use of different alignments of the terracotta louvers within the large voids might create this texture and interest. This does not appear to have been reconsidered, but we are unsure whether in any case that this would have completely resolved this discordance.
- 6.7 Overall, English Heritage considers that the design has much to recommend it but would however urge further consideration to this important element.

- 6.8 English Heritage recommend that detailed planning permission should only be granted when this authority has satisfied itself that all of the unresolved design aspects of this important proposal have been fully resolved.

Essex County Fire and Rescue Service

- 6.9 Access for Fire Service purposes is considered satisfactory. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage. The architect is reminded that additional water supplies for fire fighting may be necessary and are urged to contact the Water Technical Officer at Service HQ. Dry rise fire mains may be required within the building, additional fire hydrants may be required and any existing hydrants affected by the building works will require resiting to suitable locations.

Anglian Water

- 6.10 Anglian Water have assets close to and within the site which may be affect the layout of the development and ask for an informatives to be attached to any permission granted.

Archaeological Officer

- 6.11 This site was evaluated in 2005 and no archaeological deposits were found. No Recommendation.

Environmental Control

- 6.12 Environmental Control have reviewed the Phase 1 Environmental Risk Assessment report which accompanied the application. The report contained a suitable detailed preliminary conceptual site model and is therefore acceptable as sufficient information to accompany the application for contaminated land purposes. The report concluded that further site investigation and risk assessment will be required before the site can be made suitable for use. Suitable conditions are recommended.

Heritage and Design

- 6.13 The main conservation issue raised by this application is the effect that the proposed development would have on the setting of nearby listed buildings and that of Colchester Conservation Area No.1.
- 6.14 Given the size of the proposed new Magistrates Court, there is not an objection to the adoption of a contemporary design solution; indeed to attempt to dress-up a building of its proposed height and width in a vernacular style would, in my view, appear contrived.
- 6.15 The five storey element of the proposed Magistrate Court ('the 'tower') responds to the desire for a focal point at the western end of the site. The erection of a building in this location that has a visual presence onto St Botolphs Circus was always likely to create an awkward juxtaposition with and dominate the modest listed Town Station. It is therefore important that scale and mass of the tower is broken down (through the use of materials etc) so that it relates to the more domestic scale of the surrounding buildings.

- 6.16 With regard to the current proposal, the terracotta clad element of the tower appears squat and heavy – a consequence of its proportions - and this is further exaggerated by the design and disposition of the proposed louvred openings and by it being viewed in conjunction with the more slender tower of St Botolph's Church. The bulk of the terracotta tower fails to reflect the historic grain of the area and, a consequence of this, will appear out of context with the local townscape. Visually, the squat nature of the terracotta tower could be reduced by incorporating stronger vertical elements within the façade. In contrast to the terracotta element of the tower, the stair tower has a strong vertical emphasis and assimilates much better into the surrounding townscape, particularly when viewed from a distance.
- 6.17 The main entrance to the Magistrates Court is via the proposed new public square. While this accords with the planning brief, it does generate a potential conflict between pedestrians and motorists (to the proposed public car park / potential bus station site); a more appropriate / convenient location for the main entrance would be off Magdalen Street. The proposed supporting columns to the entrance foyer visually lack sufficient stature to support the weight of the building above.
- 6.18 The Magistrates Court reinstates a built frontage to Magdalen Street which is welcomed. The architectural articulation of the façade generally provides rhythm and visual interest to this street frontage; the upper terracotta levels would benefit from the incorporation of visual relief panels / insertion of window to create visual interest to this part of the building. From the tower, the building steps so that the building reflects the scale of the buildings in Magdalen Street. On the rear elevation, the façade has a strong horizontal emphasis. In views from the Priory, the first floor echoes the horizontality of the existing boundary brick wall to the railway station and, based upon the drawings, would seem to work quite successfully. At the first floor mezzanine and second floor levels, the design and disposition of the rear elevation windows also have a strong horizontal emphasis, however, these appear visually uncomfortable when viewed from a distance and jar with the historic townscape.
- 6.19 The current proposal indicates hard landscaping to the foyer area of the Magistrate Court; the design of this landscaped area needs to be coordinated with the design proposals for the station public square. I would also question the proposals for an area of soft landscaping (grass) to either side of the entrance to the Magistrate Court from Magdalen Street; I would advise that this area is hard landscaped with tree planting incorporated if considered appropriate. I would also recommend that an audit of traffic signage / street furniture etc is undertaken in the general vicinity of the development site and that the opportunity is taken to reduce that amount of signage (street clutter) to the absolute minimum level required to comply with highway safety requirement.
- 6.20 While there is not an objection in principle to the development of this site for the new Magistrates Court, further refinement is still required to the treatment of the elevations and the 'apron' landscaping to the proposed buildings.

Urban Design

6.21 While the Essex Design Guide adopted by the Council does not provide sufficient guidance on the design of civic buildings, 'Better Civic Buildings' and 'Building in Context' by CABI provide the most relevant guidance and the design appraisal of the current proposal refers to it. Consideration of the design principles outlined in the adopted St Botolphs Car Park Brief and the St Botolph's Quarter Masterplan SPD has also been given in the current design appraisal.

1. Relation of the building to its specific site

The proposed building fits well within an awkward long triangular site, and the large double volume courts are set well to create level differences across the site, with the mass of the building rising in opposite direction to the fall of the site, terminating with a focal tower at the lowest point to the west. This allows for a smoother transition towards the eastern boundary to the predominantly 2 and 3 storey along and across Magdalen Street. The building provides a positive and imaginative response to the site constraints, gives consideration of the physical aspects of the site and the amount of accommodation needed is fitted on the site in an elegant and creative way. The needs for separate vehicular and pedestrian access are resolved in a convenient way.

2. Relation of the building to the wider setting

The new building reinstates the street pattern along Magdalen Street by providing a building frontage to what was a gap in the street, it provides containment of St Botolph's roundabout and the station square and forms a strong focal point.

The immediate area surrounding the site, with the large junction of 5 roads, the railway line, parcels of vacant land, and the adjoining town centre conservation area, is fragmented, the historic street pattern is disrupted and the local character is eroded. A new distinctive, modern and stylish building to embody HMCS aspirations sets a new context, while relating to its surroundings. An obvious architecture of a more contextual form, copying from historic styles and applying historic elements on an irregular building footprint will appear artificial, out of scale and out of character.

Although appearing dominant in relation to the station building, the court building also creates a presence suitable to its function. The most dominant element, the tower contains the law courts, provides a landmark, and together with a new civic space provides legibility for the wider setting and a focal point in an important arrival location. The building's larger footprint and height (in comparison to surrounding buildings), is resolved by the design principle of an assembly of building volumes with a distinct treatment to mark the different areas, and glazed elements to provide vertical emphasis. This design breaks the otherwise bulky building into a more human scale and finer grain series of connected buildings, to complement the scale and character of the surrounding area. The careful architectural articulation of facades provide visual interest and scales it down to reflect the surrounding buildings. Frontages with a variety of openings facing directly onto the public realm of Magdalen Street, the station square and most of the rail line frontage, provide activity and interest, and enhance the quality of the townscape in this area.

3. Materials use

The court complex endeavours to achieve 'BREEAM Excellent' rating for sustainable development, by using sustainable building principles incorporating natural cooling and ventilation, features to optimise solar heating, biomass boiler and green roofs. This is encouraged and welcomed by the Council. The building utilises a palette of robust, high quality materials. The main body of the building utilises bricks and terracotta tiles in an innovative and interesting way – and the combination of stack bonding and vertical and horizontal expression of the different floors and other important features provides a unifying rhythm and a human scale to the building. The brick and tile palette – a range of hues in terracotta red (main tower) and cream (rest of building) harnesses the local vernacular, while providing interesting shading variation. Interesting contrast is provided by extensive glazing and zinc cladding, and different alignment of terracotta louvres and aluminium solar shading. The detailing of the soffit to the cantilever and the supporting columns at the main entrance need to be refined to give a greater emphasis to the entrance. Concrete columns and white render will be unacceptable, and materials from the established palette should be considered instead.

4. Architecture suitable to the uses it contains

It is acknowledged that the building dominance is a desired feature. The clearly expressed court volumes' mass is consciously chosen to express a sense of gravitas and importance required by the HMCS. At the same time, the slanted cantilever and the glazed main entrance create a sense of openness and a friendly atmosphere. The use of different spaces and navigation around the building is resolved in a satisfactory way, with public, staff and secure entrances clearly separated.

5. General appearance of the building

The building is confidently modern in appearance, it is well presented and visually interesting on all elevations, with a potential to contribute positively to the adjacent conservation area and the setting of St Botolph's Priory. The composition in the pattern of solids and openings in all façades is well balanced, with the variety of window treatment and glazed circulation areas adding to the visual interest. There is originality in the detailing of materials and the way the building is put together, reinforcing the contrasting elements and at the same time providing a unifying rhythm to the whole building. Careful choice of materials provides the connection between traditional and contemporary architecture. The roof treatment is interesting, with a series of mono pitch roofs arranged to create an undulating roofline. The positioning of the Court logo and lettering need to be refined to provide a better fit with the modern building and the features on the main tower.

6. Contribution to the public realm

The complex is designed as a place and not an isolated building – it provides enclosure and a positive interface to the town station square, creating a new space with all public functions of the court facing the square. Two equally important elevations to Magdalen Street and to the cycle path provide active frontages with a series of windows. Natural surveillance along the cycle path is provided by an active frontage containing the primary public staircase and the public waiting areas on the first and second floor of the north façade.

The enhancement of the station square to provide a setting for the building is recognised by the applicant, however the design is not part of this application. The applicant need to ensure that the public square and landscape features on it are designed to appear as integral to the building, complementing the building palette and extending to the glazed main entrance. A public square concept design and specification should be submitted. High quality materials and attention to detail, ensuring that the property boundary is seamless, extending the hard landscape treatment along the northern 'public' façade and articulating the starting point of a 'Heritage route' running N-S will be sought. An opportunity to incorporate public art within the building, for example, in the aluminium solar shading along Magdalen Street need to be explored and discussed with the Council. The treatment of boundary walls needs careful detailing with more transparency added by the use of steel mesh and soft landscaping. Details of the vertical greening of the 2.5m boundary wall enclosing the car park will be required as part of the landscape strategy.

7. Impact of building in views and vistas

The stand-alone building has a positive impact on the wider townscape and will improve legibility by providing a focus for the St Botolph's roundabout and the station square. The tower provides more distant focal and sequence views on arrival on the train and from Southway Approach, thus enhancing the sense of arrival to town and improving legibility. Views of the courthouse from higher sites in the town centre are limited to momentary glimpses due to the existing tight urban fabric, and views from St Botolph's Priory gardens may also be limited to the upper part of the tower in the future, with the development of the Britannia car park. Due to the specific access, bulk and height requirements of the Court complex It has not been possible to reduce the height to extend to afford the long views from Magdalen Street towards the St Botolph's Priory and the Colchester centre townscape and roofscape. These views across town will however be possible from the public waiting area on the northern side of the new building. The short views from street level are lively, and the window arrangement, particularly on Magdalen Street frontage afford a close-up interaction with the proposed development. The green roof treatment would satisfy the somewhat limited distant views from the elevated town centre.

6.22 Approval is recommended provided additional information on the design of the square is provided and the refinements in detailing outlined above are addressed.

6.23 Comment

The Borough Council is commissioning the design work for the station square which would be part funded by S106 contributions from this development.

7.0 Representations

7.1 Bob Russell MP has written objecting to the application on the following grounds:

- Massive negative impact upon the setting of the historic Priory ruins which will result from the awful design and bulk of the proposed court house next to Colchester Town Railway Station.
- Those making the application have refused to meet Colchester Civic Society
- Strongly urge the Council to refuse the current application because it is not only totally inappropriate for the site but it will also have lasting visual damage to the setting of St Botolph's Priory and the listed building adjacent the site.

- 7.2 Colchester Cycling Campaign request retention of land between the courthouse and railway for use as a cycle route with the building designed to face both the railway and road. Staff cycle parking at this site should include individual cycle lockers or a secure caged area. There should be a separate and highly-visible public cycle parking area facing Magdalen Street. Off-site highways alterations should include consideration of Colchester's "cycling town" status.
- 7.3 Colchester Civic Society has written two letters objecting to the application. While the Civic Society continue to support the inclusion of a new court building as part of the St Botolph's Regeneration Scheme it should be one where considerable expenditure produces truly memorable outcomes, noting this will be the most significant public building planned for the town for perhaps 100 years and there should have been significant public involvement and scrutiny which has not happened.
- 7.4 Any building must serve its purpose but also impact positively on its setting. The Civic Society share English Heritages reservations relating to the tower element. They understand that a landmark building has been requested but such a tall slab would confuse the urban form and be an unfortunate and unwelcome intrusion in any long views. Such a design may sit well on a greenfield site but fails to function as a meaningful urban form. The roof line is dull and monotonously horizontal. There is a bewildering confusion of window shapes and sub divisions.
- 7.5 The Civic Society consider the new building should be immediately recognisable as a significant public building with an aura of justice but it has more the look of an educational building or a small power station. The architecture has no specific origin and could diminish Colchester's image as a historic town. The building should be as memorable as the Town Hall or Jumbo and add to the collective image of the place. They confirm that they are not suggesting an Edwardian Pastiche but the challenge remains.
- 7.6 The tower profile and silhouette deserves more thought, the mono-pitch roof is a cliché of the 1960's and aggressive in shape. The Society confirms that they will remain prepared to take part in discussions which might lead to a positive outcome and fully support English Heritage's Recommendation "that detailed planning permission should only be granted when your authority has satisfied itself that all of the unresolved design aspects of this important proposal have been fully resolved".
- 7.7 Two letters of objection have been received summarised thus.
- The LPA is required to ensure that new buildings are not annoying and offensive to residents and visitors to a Town
 - Current proposal promises to be an alien and damaging building in this location
 - Has no real symbolic content and could be mistaken for an expensive office or clinic
 - The building forms part of the setting of the conservation area with St Botolph's Priory and church close behind
 - The tall block would seriously intrude into the skyline when from many locations
 - This would be the wrong kind of skyline and its silhouette would damage many prospects

- It ought to be possible to rearrange the accommodation to produce a benign and articulated profile.
- Use could be made of more familiar materials without compromising modernity
- The station house would be dwarfed and overawed by the vast entrance block which crudely ignores and destroys it
- The new building would result in a scaleless cliff to Magdalen Street, monotonous in its blankness and undue length. Something of visual interest needs to happen
- View from St Botolph's roundabout the most damning, a bleak profiled box with seemingly arbitrary patterning threateningly poised over a sheet of glass
- The coat of arms would stare from its improbable setting
- CBC should fulfil its duty and rapidly dismiss this proposal
- So inappropriate and alien that it is difficult to take seriously
- Next time more care and effort should be put into a brief with public consultation part of the process
- There will be an impact when viewed from the priory, but this is more to do with the alien form and detail as much as the bulk

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

7.9 The applicant has written in response to the consultation responses. Their letter is attached as an appendix to the report for member's information, as is the Civic Society's response to the applicant's letter.

8.0 Report

Background

8.1 The principle of erecting a Magistrates Court comprising 4 Magistrates courts 1 youth and family court and the associated ancillary accommodation on this site was established by the 2008 outline planning permission. This permission gave detailed approval for the means of access to the site, while the siting, design, external appearance and landscaping were reserved matters.

8.2 The main issue in this case is the detailed design of the proposed courthouse and its impact on the surrounding area, including the setting of the conservation area, adjacent listed buildings and scheduled monuments.

8.3 Since the grant of the outline planning consent council planning, urban design and regeneration officers have been involved in detailed pre-application discussions involving the applicants design team, and English Heritage. The applicants also undertook a public consultation exercise. The proposal as submitted is a result of these discussions and consultations.

Policy context

8.4 The Core Strategy, saved policies in the Adopted Replacement Colchester Borough Local Plan and the St Botolph's Quarter Master Plan all support the redevelopment of this site for a magistrates court.

- 8.5 The adopted planning brief sets out the main principles for the redevelopment of this site. Key points of the brief are:
- New development should reflect the scale and grain of the existing and historic morphology;
 - New buildings should be similar in height to the existing buildings;
 - The western end of the development should provide a landmark building and a focal point to strengthen the townscape.
 - The building should front onto Magdalen Street where possible
 - Architectural detailing should articulate the building to reflect the massing, scale and grain of the surrounding area.
- 8.6 In terms of design, Core Strategy policy UR2 requires high quality and inclusive design in all developments. It requires design to be informed by context appraisals and to create places that are locally distinctive, people-friendly, provide natural surveillance and which enhance the built character and public realm of the area. Developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported. Core Strategy Policy UR1 requires the design and scale of development to be sympathetic to the character of the area and enhance historic buildings and features. It also requires regeneration developments to contribute toward improvements of the local public realm, infrastructure and community facilities, although the Council will consider the viability of developments in determining these contributions.
- 8.7 Saved Local Plan policy DC1 requires new development to be well designed and based on a proper assessment of the surrounding built environment. More specifically design policy UEA11 requires a high standard of building and layout design with a specific requirement for buildings to have adequate regard for their setting. New development should in general accord with the Borough Council's design, layout, parking, highway and space standards with good standards of townscape being achieved in terms of harmonious groups of buildings and the spaces between them. Policy UEA1 states that development considered detrimental to the setting of Conservation Areas will be refused.

Design and layout

- 8.8 The consultation responses provide a detailed commentary on the merits of the design and layout of the building proposed with various conclusions. The St Botolph's Master Plan and Development Brief for the site set the tone for the design and layout and the architects have use these documents to progress the detailed proposal now before you.
- 8.9 It is considered that the proposed building fits well within this awkward long triangular site. The building is broken down into its component elements to create level differences across the site, with the mass of the building rising in opposite direction to the fall of the site, terminating with a focal tower at the lowest point to the west, as required by the development brief.

- 8.10 The proposed building would complete the street frontage along Magdalen Street by providing a building frontage to what was an ugly gap in the street. It would also provide containment of St Botolph's roundabout and the station square and form a strong focal point.
- 8.11 Although appearing dominant in relation to the adjacent listed station building, the court building also creates a presence suitable to its function. The most dominant element, the tower contains the law courts and would provide a suitable landmark subject to appropriate detailing, and together with a new civic space provides legibility for the wider setting and a focal point in an important arrival location. In this instance the building dominance is a desired feature with the clearly expressed court volumes' used to express a sense of gravitas and importance required by a public court building.
- 8.12 The building's larger footprint and height in comparison to surrounding buildings is resolved by the design principle of an assembly of building volumes with a distinct treatment to mark the different areas, and glazed elements to provide vertical emphasis. This design breaks the otherwise bulky building into a more human scale using architectural articulation of facades to provide visual interest and scales it down to reflect the surrounding buildings. Frontages with a variety of openings facing directly onto the public realm of Magdalen Street, the station square and most of the rail line frontage, provide activity and interest, and enhance the quality of the townscape in this area.
- 8.13 The materials proposed stem from discussions with English Heritage following consideration of the drawings prepared for the public consultation exercise. The main body of the building would be constructed using bricks and terracotta tiles with a combination of stack bonding and vertical and horizontal expression of the different floors and other important features to provide a unifying rhythm to the building. Interesting contrast is provided by extensive glazing and zinc cladding, and different alignment of terracotta louvers and aluminium solar shading. The details of the soffit to the cantilever and the supporting columns at the main entrance need to be refined to give a greater emphasis to the entrance.
- 8.14 The building is well presented and visually interesting on all elevations, with a potential to contribute positively to the surrounding area. The solid to void ratio is well balanced, with the variety of window treatment and glazed circulation areas add to the visual interest. The roof treatment with a series of mono pitch roofs arranged to create an undulating roofline also adds visual interest to the building.
- 8.15 The design and positioning of the court logo and lettering need to be refined and provided in more detail. This can be controlled by a suitably worded condition.
- 8.16 The proposal would provide enclosure and a positive interface to the proposed public square, with all public functions of the court facing the square. Two equally important elevations to Magdalen Street and to the footpath/cycleway provide active frontages with a series of windows providing natural surveillance. The public functions of the court would be provided on the north side of the building overlooking the proposed footpath/cycleway.

- 8.17 While it would be ideal for the application to include a public square concept design and specification, the majority of the public square is outside the applicant's ownership or control. The Borough Council has taken on the responsibility for commissioning the design work for the new public square and is working closely with the applicants to complete this work as expediently as possible. This proposal would generate a contribution towards this work and the implementation of the public areas, while occupation of the building would be restricted until the hard landscape work within the application site had been completed in accordance with the approved design.
- 8.18 Overall officers support the design put forward, however we share English Heritage's view that further refinements to the tower element are required. It is considered that with further detailed design work to the tower element to improve its vertical emphasis, the proposed building would have a positive impact on the wider townscape and would improve legibility by providing a focus for the St Botolph's roundabout and the station square.

Impact on the Conservation Area and Listed Buildings

- 8.19 The main conservation issue raised by this application is the effect that the proposed development would have on the setting of nearby listed buildings and that of Colchester Conservation Area No.1. In terms of the impact on the setting of the conservation area it is considered the proposal, with suitable amendments to the tower element, would contribute positively to the setting of the conservation area. A view supported by English Heritage.
- 8.20 With regard to the setting of the listed station building, the desire for a focal point at the western end of the site was always likely to create an awkward juxtaposition with and dominate the modest listed Town Station. However, with suitable detailing to this tower element it is considered the proposal would be acceptable.

Highways and Parking

- 8.21 The highway access from Magdalen Street was approved as part of the outline planning permission granted last year. The current proposal shows a similar access from Magdalen Street with a greater level of detail. The Highway Authority do not raise any objection to the proposal submitted subject to the imposition of conditions and informatives which can be attached to any permission granted.
- 8.22 18 car and 10 cycle parking spaces are proposed for staff within the secured area accessed from Magdalen Street. 20 cycle spaces are proposed for the public under the covered entrance overhang. A separate secure vehicle dock is proposed for use by custody vehicles. In this context the parking provision is considered acceptable.

Other considerations

- 8.23 The court complex endeavours to achieve 'BREEAM Excellent' rating for sustainable development, by using sustainable building principles incorporating natural cooling and ventilation, features to optimise solar heating, biomass boiler and green roofs. This would exceed the aspirations set out in Core Strategy policy ER1.

S106 Matters

8.24 The proposal generates the requirement for a S106 Agreement to secure the following:-

- Contribution of £28,692 towards CCTV provision
- Contribution of £33,106 towards footpath/cycle path
- Contribution of £165,531 towards New Public Square Works
- Contribution of £11,035 towards provision of pedestrian signage
- Contribution of £55,177 towards public Art provision
- Contribution of £16,553 towards provision of traffic signs
- To allow the Borough Council to operate the car park on a pay and display basis until such time as the site is required by the developer to commence the development and to allow continued access to the remaining car park
- To provide a temporary access off Magdalen Street (adjacent to St. Botolph's Roundabout) to serve that part of St. Botolph's car park which does not form part of the proposal site (as shown in principle on drawing number 200398/EAD/151 Rev. P3 prepared by Mott McDonald)
- Not to commence development until the developer has entered into a highways agreement with Essex County Council in relation to the highway works in Magdalen Street
- The permanent removal of the temporary access mentioned above and provision of a new section of footway in Magdalen Street
- The remodelling and reconstruction of the Magdalen Street/Military Road traffic signal controlled junction to provide direct access to the proposal site as shown in principle on drawing number 200398-TA-001 Rev. P3 prepared by Mott McDonald

8.25 Members are advised that the requirements of the S106 Agreement described above are considered to satisfy the tests prescribed in Circular 1/97 in that they are:-

- necessary
- relevant to planning
- directly related to the proposed development
- fairly and reasonably related in scale and kind to the proposed development
- reasonable in all other respects

9.0 Conclusion

9.1 The principle of redeveloping the application site as a new magistrates court was established by the granting of outline planning permission in December 2008. Further the Core Strategy, saved policies in the Adopted Replacement Colchester Borough Local Plan and the St Botolph's Quarter Master Plan all support the redevelopment of this site for a magistrates court.

9.2 Officers consider that the proposal would regenerate this rather bleak and uninviting site which is at a gateway to the town centre and would act as an important catalyst for the regeneration of other sites in the St Botolph's Quarter. The proposal would provide an important facility in itself for Colchester but would also, through an appropriate legal agreement, contribute towards the station square, footpath/cycleway, public art, signage improvements and CCTV provision.

9.3 While your officers agree that there are further design refinements which could be made to the tower element, we are satisfied that this can be resolved through the submission of amended drawings. We are confident that the concerns raised by English Heritage can be overcome without a fundamental redesign of the whole tower element.

10.0 Background Papers

10.1 ARLP, SQMP, DB, HA; EH; ECC; AW; AO; DHU; NLR

Recommendation

That the application be deferred in order that the following can occur:

- amended drawings be submitted to the Council showing the tower element, including more details showing the window elements and how they would be broken up by louvre panels
- a S106 Agreement can be secured, which includes the following elements:
 - o Contribution of £28,692 towards CCTV provision
 - o Contribution of £33,106 towards footpath/cycle path
 - o Contribution of £165,531 towards New Public Square Works
 - o Contribution of £11,035 towards provision of pedestrian signage
 - o Contribution of £55,177 towards public Art provision
 - o Contribution of £16,553 towards provision of traffic signs
 - o To allow the Borough Council to operate the car park on a pay and display basis until such time as the site is required by the developer to commence the development and to allow continued access to the remaining car park
 - o To provide a temporary access off Magdalen Street (adjacent to St. Botolph's Roundabout) to serve that part of St. Botolph's car park which does not form part of the proposal site (as shown in principle on drawing number 200398/EAD/151 Rev. P3 prepared by Mott McDonald)
 - o Not to commence development until the developer has entered into a highways agreement with Essex County Council in relation to the highway works in Magdalen Street
 - o The permanent removal of the temporary access mentioned above and provision of a new section of footway in Magdalen Street
 - o The remodelling and reconstruction of the Magdalen Street/Military Road traffic signal controlled junction to provide direct access to the proposal site as shown in principle on drawing number 200398-TA-001 Rev. P3 prepared by Mott McDonald

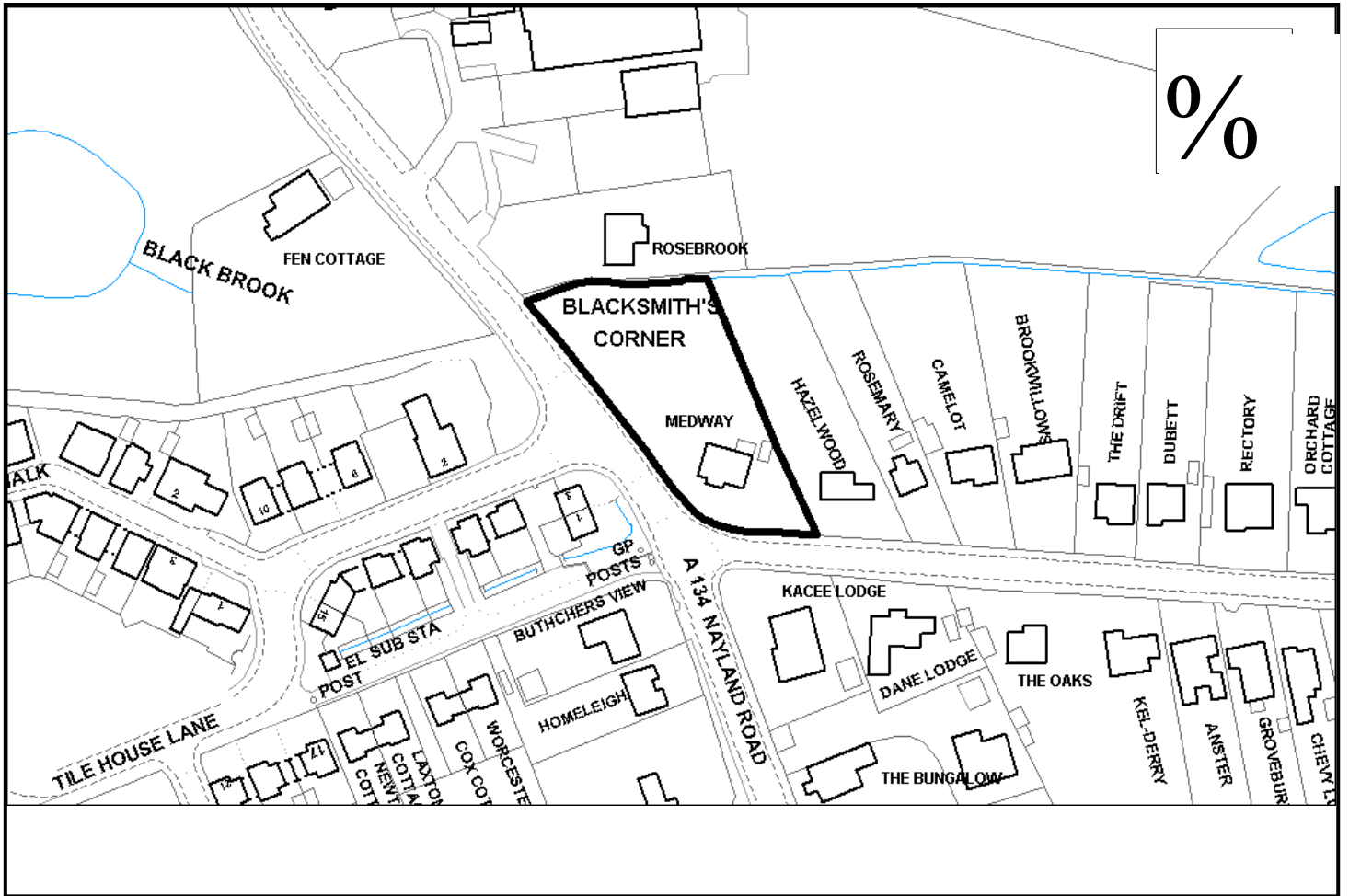
Upon satisfactory completion of the S106 agreement and submission of suitable detailed amended drawings, the Head of Environmental and Protective Services be authorised to grant planning permission for the development, subject to suitably worded conditions and informatives to cover the following:

Conditions

- Time limit
- Submission of more detailed drawings showing architectural elements including windows details, louver panels, Magistrates court coat of arms, green walls, vehicle entrance gates,
- Submission of detailed hard and soft landscape proposals
- Contaminated Land
- Material samples to be submitted and agreed
- A scheme indicating the provision of public art
- Details of public cycle parking to be submitted
- Vehicle and cycle parking to be provided prior to occupation
- Highway conditions
- Construction management plan
- Method to control mud on roads

Informatives

- The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.
- All works affecting the highway to be carried out by prior arrangement with and to the requirements and satisfaction of the Highway Authority and application for the necessary works should be made by initially telephoning 01206 838600.
- The applicant's attention is drawn to the need to enter into a Party Wall Agreement relating to the proposal site's Magdalen Street frontage
- The applicant's attention is drawn to the comments made by:
 - o Anglian Water;
 - o Essex County Fire and Rescue Service;details of which can be viewed on the Council's web-site.



Application No: 090838

Location: Land At, Blacksmiths Corner, Ivy Lodge Road, Great Horkesley, Colchester, CO6 4

Scale (approx): 1:1250

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7.2 Case Officer: Jane Seeley

EXPIRY DATE: 08/09/2009

MINOR

Site: Blacksmiths Corner, Ivy Lodge Road, Great Horkesley, Colchester

Application No: 090838

Date Received: 14 July 2009

Agent: Whymark Moulton

Applicant: Mr & Mrs A J Whitby

Development: Erection of single detached dwelling and alterations to existing vehicular access.

Ward: Fordham & Stour

Summary of Recommendation: Conditional Approval subject to Unilateral Undertaking and subject to the receipt of satisfactory comments from the Trees and Landscape Officer

1.0 Site Description

1.1 Blacksmith's Corner is to the north east of the junction of The Causeway, Nayland Road and Ivy Lodge Road. It currently supports a low key bungalow and a number of outbuildings and has 2 access points on to Ivy Lodge Road. The rear garden, which is mainly grassed, is at a lower level than the bungalow and The Causeway to the west. The boundary with this road has a good hedge and a number of trees. It is proposed to erect a detached dwelling within the garden that will front The Causeway and be opposite the Tile House development currently under construction. Access is from Ivy Lodge Road. The existing access close to the junction will be stopped up and the retained access altered.

2.0 Land Use Allocation

2.1 No notation

3.0 Relevant Planning History

3.1 O/COL/06/0182 - Demolish bungalow and outbuildings and erect 6 no single storey houses with adjacent garages , 5 no of which served by private drive – Withdrawn 17 March 2006

3.2 O/COL/07/0192 - Demolish existing bungalow and outbuildings and erect 2 no semi-detached and 1 detached dwelling house with garages and carport, all served by private drive – Withdrawn 30.3.2007

4.0 Principal Policies

- 4.1 Adopted Local Plan
 - DC1 - Development Control Considerations
 - UEA11 - Design
 - UEA12 - Backland Development
 - UEA13 - Development, including extensions, adjoining existing or proposed residential property
 - CO4 - Landscape features
 - H7 - Development within Village Envelopes
- 4.2 Core Strategy
 - ENV2 – Rural communities

5.0 Consultations

- 5.1 Trees and Landscaping:

Comments Awaited

- 5.2 Highways:

The proposal would lead to intensification of a substandard access by reason of insufficient visibility splays. However having regard to the improvements over the existing access arrangements no objections are raised subject to conditions

- 5.3 Urban Design:

The additional dwelling on this site will create an important 'stop' to the vista from the estate road at the Tile House development. The house will face the street and therefore have a positive contribution to the street scene.

The architectural style is sympathetic to the older elements of the village and also has references to the new development opposite. The internal site layout and parking arrangements are satisfactory.

6.0 Parish Council's Views

- 6.1 Comments awaited

7.0 Representations

7.1 1 email commenting:

- Development of the site threatens to irreparably damage an historic landmark in the village with its attractive backdrop of trees, shrubs and hedgerows in an area which is becoming increasingly built up. Whilst the scheme is scaled down from previous proposals for the site it is still highly intrusive and unwelcome.
- If it is the applicant's intention to move from the site on grant of planning permission this is inherently wrong as it leaves the neighbourhood to live with the consequences of the changed environment. There are concerns regarding additional traffic exiting onto Ivy Lodge Road and the dangerous junction with the A134 and the confusing mini-roundabout system serving the new estate (which will generate greater traffic flows as the estate is developed).

8.0 Report

8.1 Previous proposal for the development of this site have been withdrawn because of highway safety, design and amenity concerns. The current application is in line with advice offered during pre-application discussions with your Officers.

8.2 Whilst ECC Highways have indicated that the access is substandard they are not raising any objections to the proposal.

8.3 The rear of the proposed dwelling has been orientated towards a group of trees to the northeast of the site, this should avoid any undue overlooking of adjacent gardens from first floor windows. The access drive will introduce additional vehicular movements to the rear of Hazelwood the adjacent dwelling in Ivy Lodge Road. A large garage in the grounds of that property will provide some screening of the area immediately to the rear of the dwelling. It is not considered that the impact on residential amenity of the adjacent properties will be so adverse as to warrant refusal.

8.4 The overriding nature of Blacksmith's Corner is of trees and hedges, the existing bungalow is not a dominant feature. A submitted street scene illustrates that whilst existing hedging and trees will significantly screen the proposed dwelling it will provide an acceptable visual stop in views from the new estate road opposite whilst not have an adverse impact on the character of the area. The Tree Officer's comments are awaited on the proposal for the hedges and trees that do include the removal of some trees.

8.5 Conditions to ensure that the level of the house is as proposed in the drawings and that the existing hedging is retained are suggested.

9.0 Background Papers

9.1 ARC; Core Strategy; TL; HA; Urban Design; NLR; PTC

Recommendation - Conditional Approval subject to a Unilateral Undertaking for a contribution to open space provision and subject to the receipt of satisfactory comments from the Trees and Landscape Officer

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

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.

4 - 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.

5 - 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.

6 - C3.21 Hard Surfacing

Prior to the commencement of the development hereby permitted details of all materials to be used for hard surfaced areas within the site including roads/driveways/car parking areas/courtyards/etc shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

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

7 -Non-Standard Condition

Prior to the proposed access being brought into use, vehicular visibility splays of 45m east by 2m by the giveway line on the southbound approach to the Nayland Road A134 roundabout, as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm.

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

8 - Non-Standard Condition

Prior to the proposed access being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of that access and shall be maintained in perpetuity free from obstruction. These splays must not form part of the vehicular surface of the access.

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

9 - Non-Standard Condition

Prior to commencement of the proposed development, the vehicular parking and turning facilities, as shown on the submitted plan, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

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.

10 - Non-Standard Condition

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m. of the highway boundary.

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

11 - Non-Standard Condition

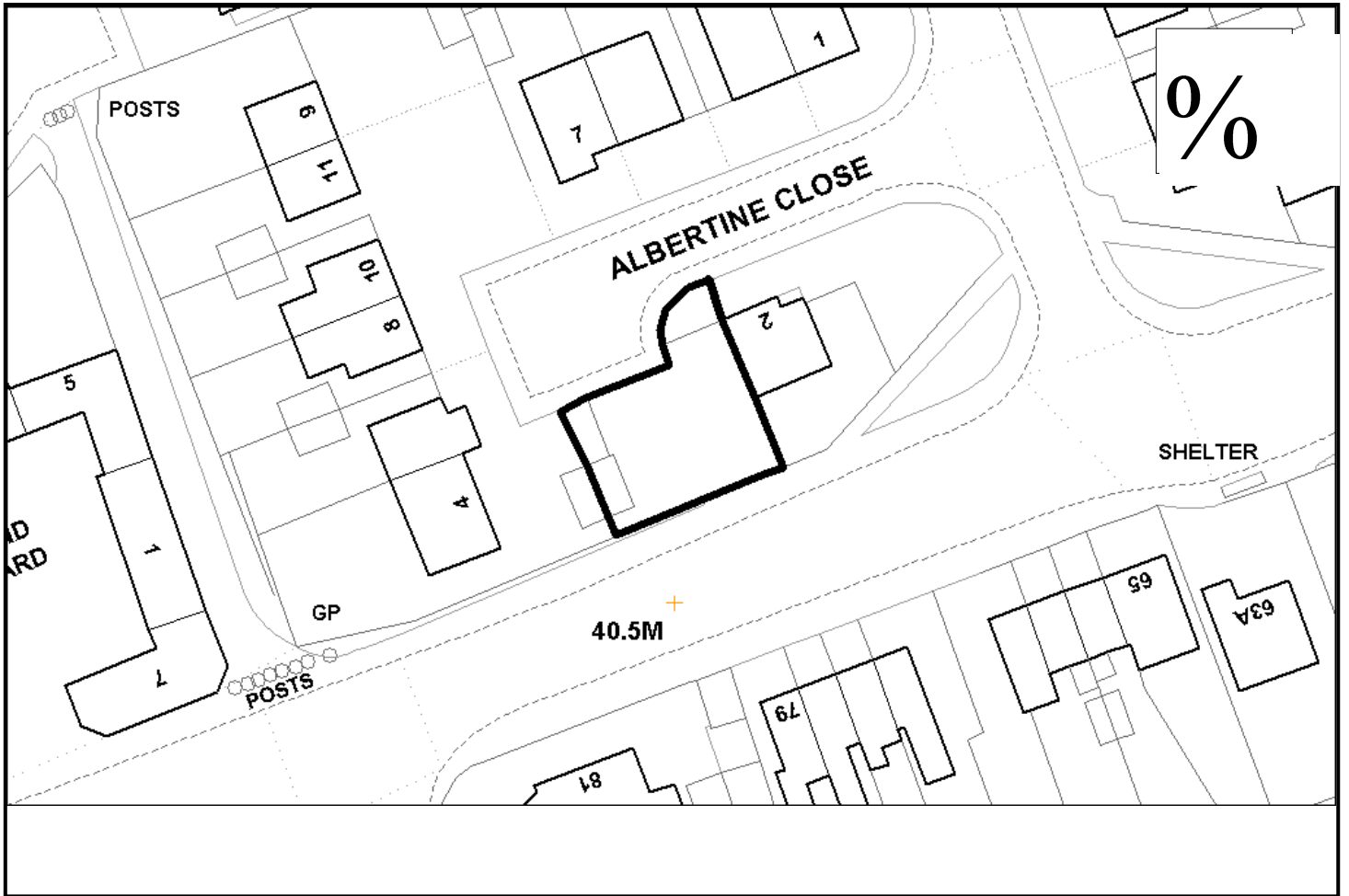
Any conditions required by the Trees and Landscape Officer

Informatives

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

It should be borne in mind that, unless otherwise stated, the base for conditions 7,8, 9 and 10 is policy 1.1 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member decision dated 19. October 2007 and the they are 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 phone on 01206 838696 or by email on www.highways.eastarea@essex.gov.uk.



Application No: 090906

Location: Land At, 2 Albertine Close, Stanway, Colchester, CO3 0JJ

Scale (approx): 1:1250

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7.3 Case Officer: Mark Russell

EXPIRY DATE: 09/09/2009

OTHER

Site: 2 Albertine Close, Stanway, Colchester, CO3 0JJ

Application No: 090906

Date Received: 15 July 2009

Agent: Mr Steve Dobbs

Applicant: Ms Lisa Smith

Development: Proposed detached dwelling-resubmission of 090507

Ward: Stanway

Summary of Recommendation: Conditional Approval subject to a Unilateral Undertaking

1.0 Site Description

1.1 The site measures 240m² and comprises part of the former garden of 2 Albertine Close. The Close is a small cul-de-sac of eleven houses, mostly bungalows, from the early 1970s and feeds on to Lucy Lane South, which links in to the main east-west distributor, London Road. The rear gardens of the host and proposed dwelling both back on to London Road itself, and are screened from it by a hedge.

2.0 Description of Proposal

2.1 The proposal is to erect a detached two bedroom bungalow with a kitchen, lounge, bathroom and hallway. The bungalow would be staggered back slightly from the host dwelling due to the shape of the road, and would be separated by about 1.8 metres from this dwelling.

2.2 Materials (bricks and tiles) are to match the existing dwelling, with white upvc windows and doors are also to match these.

2.3 The existing garage, which is physically separated from, but adjacent to, the site, will provide parking for the new dwelling (the host dwelling, having ceded this garage will use its own new garage to the left of its own plot).

2.4 Boundary treatment is to comprise the existing hedges and new fencing.

3.0 Land Use Allocation

3.1 Residential

4.0 Relevant Planning History

- 4.1 LEX/102/71 - Erection of 31 dwellings Original application: Approved: 7th July 1971
- 4.2 082062 - Proposed extension to bungalow with new garage (for host dwelling). Approved: 29th January 2009;
- 4.3 090507 - Proposed detached dwelling. Withdrawn 1st June 2009.

5.0 Principal Policies

- 5.1 Adopted Review Colchester Local Plan:
DC1- Development Control considerations;
UEA11 – Design
UEA12 – Infill
UEA13 – Extensions/New-build
- 5.2 Core Strategy:
UR2 – Built Design and Character

6.0 Consultations

- 6.1 Environmental Control requested a standard demolition and construction advisory note, and also asked for a condition relating to gas control measures.
- 6.2 The Highway Authority (HA) was not consulted on this application as Highways arrangements are unaltered. HA did not object to application 082062 which saw the host dwelling placing a garage next to the dwelling, and opening up an additional access on to Albertine Close.

7.0 Parish Council's Views

- 7.1 Stanway Parish Council has no objections.

8.0 Representations

- 8.1 Two letters of objection have now been received.

These are from numbers 10 and 11 Albertine Close and relate to issues over drainage and parking.

As previously reported, drainage is a Building Control issue. Parking is held to be satisfactory.

9.0 Report

- 9.1 This area, and the garden which forms the site, are both classed as residential. Given that the location is within the settlement limit of Colchester/Stanway, then the principle is acceptable provided other matters can be satisfied.

- 9.2 The original application (090507) was withdrawn on the advice of your Officer as it was poorly-conceived and did not fit the context of Albertine Close. Objections were raised by neighbours on grounds of overlooking, parking, drainage and cramped layout.
- 9.3 The revised application is a superior proposal, and fits well within its context, so matters of design are held to be satisfied.
- 9.4 It is true that the plot, when measured against others in the Close, is small. From the public realm, however, it sits well within the street-scene, and matches the pattern of development of the houses opposite. Amenity space, at 74.5m² exceeds the required minimum of 50m² in the Essex Design Guide.
- 9.5 Regarding point 2 of the previous objections, the issue of overlooking has now been removed as the initial application had been for a one and half storey dormer chalet.
- 9.6 Regarding point 3 of the previous objections, the garage plus space in front are acceptable in the context of current parking standards. The new dwelling should not, therefore, add to issues of parking as both it and the host dwelling have provided off carriageway parking.
- 9.7 Regarding point 4 of the previous objections, drainage in small developments such as this, is a matter for Building Regulations rather than Planning.

8.0 Conclusion

- 8.1 In conclusion this scheme is held to fit in to its context, and to be an acceptable addition to the Close, without adding any further burden to the situation regarding parking.

9.0 Background Papers

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

Recommendation - Conditional Approval subject to a Unilateral Undertaking for a contribution to open space provision.

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 developer shall incorporate gas control measures in accordance with Approved Document C of the Building Regulations and current official guidance on appropriate construction methods into the new property at the time of construction.

Reason: The site lies within 250m of a former (or suspected) landfill site and Environmental Control wishes to ensure that the development only proceeds if it is safe to do so. This condition should not be read as indicating that there is any known danger from landfill gas in this locality.

3 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no extensions or outbuildings shall be constructed (other than any expressly authorised by this permission or any other grant of express planning permission) on any part of the site without the prior written permission of the local planning authority.

Reason: In the interests of visual amenity and to ensure adequate private amenity space.

4 - Non-Standard Condition

Prior to the occupation of the dwelling hereby approved, details of fences and means of enclosure etc shall be submitted to and approved in writing by the local planning authority. The details shall include the position/height/design and materials to be used. The fences/walls shall be provided as approved prior to the occupation of any building/commencement of the use hereby approved and shall be retained thereafter.

Reason: In the interests of visual amenity.

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

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

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

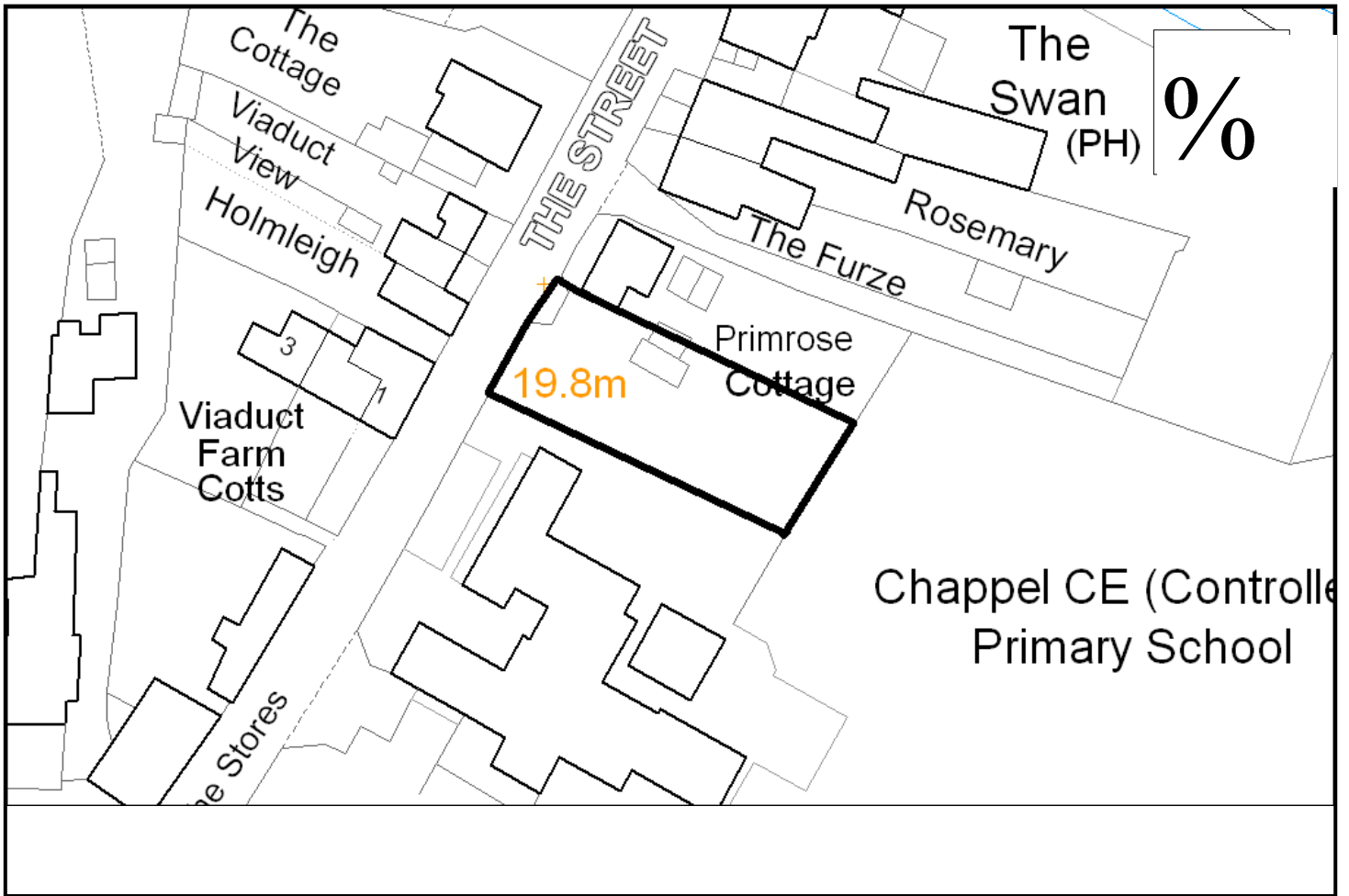
6 - C10.18 Tree and Hedgerow Protection: General

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.

Informative

The applicant's attention is drawn to the attached advice note on demolition and construction.



Application No: 090399

Location: Land Adjacent To, Primrose Cottage, The Street, Chappel, Colchester, CO6 2DD

Scale (approx): 1:1250

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7.4 Case Officer: John Davies

MINOR

Site: Primrose Cottage, The Street, Chappel, Colchester, CO6 2DD

Application No: 090399

Date Received: 25 March 2009

Agent: Mr Kevin Smith

Applicant: W Wendon

Development: Renewal of planning permission F/COL/03/2172 for proposed new dwelling and garage

Ward: Great Tey

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This report was considered at the Planning Committee meeting on the 11 June where it was resolved to defer decision for (a) negotiations on the design of the building, (b) for consultation on impact on the Conservation area, and (c) for receipt of Environment Agency comments on flood risk. It was further agreed that if it was possible to secure an improved design, no new issues were raised in consultation and no objection raised by the Environment Agency then the decision could be delegated to the Head of Service otherwise the matter was to be returned to Committee for further consideration.

1.2 This report updates Members on the position. The added text to the original report is in bold type.

1.0 Site Description

1.1 The application site comprises the side garden to Primrose Cottage. The dimensions of the application site are approximately 9m wide and 35m deep. The site falls within the Chappel Conservation Area.

2.0 Description of Proposal

2.1 The proposal is for a two-storey detached two bedroom cottage-style dwelling, with a double garage at the rear of the site to provide 1 garage space each to the existing dwelling and 1 space for the proposed dwelling. The access to the site is to be widened to provide vehicle entry and exit for both dwellings.

2.2 This application is the fourth renewal of planning permission following an original approval in 1989. The proposed scheme is substantially the same as that originally approved. The design comprises a two storey building with accommodation on the first floor within the roof space lit by two dormer windows to the front. Materials comprise a white rendered frontage, clay tiled roof, with areas of brick work and weatherboarding to the rear.

3.0 Land Use Allocation

3.1 The application site lies within the village envelope of Chappel, a Conservation Area and an Environment Agency Fluvial Flooding Area.

4.0 Relevant Planning History

4.1 COL/89/0727 - Proposed cottage and garage - approved 18 July 1989.

4.2 COL/94/0227 - Proposed cottage and garage (renewal of COL/89/0727) - approved 21 April 1994.

4.3 COL/99/0142 - Proposed cottage and garage (renewal of COL/94/0227) - approved 25 March 1999.

4.4 COL/03/2172- Proposed cottage and garage- Approved 26 March 2003

5.0 Principal Policies

5.1 Adopted Review Colchester Borough Local Plan-March 2004

DC1- Development Control considerations

UEA1- Conservation Areas

UEA2-Building within Conservation Areas

UEA11- Design

UEA12- Backland development/infill

UEA13- Residential development

P3- Development in Floodplains

5.2 LDF Core Strategy- December 2008

UR2- Built Design and Character

ENV1- Environment

6.0 Consultations

6.1 **The Environment Agency have confirmed no objection to the proposal subject to compliance with the previously agreed proposed ground floor level of 20.806 AOD.**

7.0 Parish Council's Views

7.1 The Parish Council's comments were previously reported to Committee on an Amendment Sheet and can be summarised as follows:

- This is a unique and historical site where no significant development since 19th Century.
- Importance of maintaining character of Conservation Area has increased greatly since 1989
- Many features of proposed design are at odds with Victorian character of area especially dormers and facing materials. Should have brickwork with similar detailing to adjoining buildings
- Increase in traffic in street and pupils at school raise concerns for road safety particularly for school children
- Another dwelling will increase demand for more parking and exacerbate existing problems
- Possible site for school expansion in the future.

8.0 Representations

8.1 One response received from neighbour raising the following objections:

- New building inappropriate in a unique narrow street of old buildings
- Narrow plot unsuitable for development
- Insufficient off street car parking is provided
- The Street has become much busier with traffic since planning permission was first granted due to increase in businesses and increased pupils at the school. Road lacks footway and additional dwelling will add to current problems when school starts and finishes.

8.2 A further 6 objections have been received from neighbours since the meeting on the following grounds:

1. Proposed dwelling out of character and would be an eyesore in the village.
Officer comment- design was considered at last meeting and was main reason for deferral.
2. Development would have over-bearing impact on school and cause over-shadowing and hinder future school expansion.
Officer comment- These issues were never raised as a concern when proposals were previously approved and future school expansion is not a material consideration.
3. Increase in traffic and parking demand
Officer comment - this issue was considered at last meeting.
4. No need for more housing
Officer comment - principle of development accepted in previous decisions and site is within Village Envelope.
5. Loss of view of viaduct
Officer comment - loss of view is not a planning consideration.

6. Loss of daylight to 1 and 2 Viaduct Farm Cottages

Officer comments - these properties are on the other side of The Street and it is not considered that the occupiers would suffer any discernable loss of daylight or sunlight as a result of the development.

9.0 Report

- 9.1 This application is a renewal of previous planning permissions for an infill dwelling on this site granted in 1989, 1994, 1999 and 2003. The last of these permissions expired on the 26 March this year. The observations raised concerning the position of the site within the conservation area were raised and considered during the processing of the previous applications. The position has not changed since. The comments of the objector are not considered to raise issues that would warrant refusal of the proposals.
- 9.2 The comments of the Environment Agency are awaited. The site is within a Fluvial Flood Risk Area. However, it is not expected that objection will be raised to the proposals on flood risk grounds as the Agency has given its approval to detailed plans submitted under the last application, which are no different in this application.
- 9.3 The proposed plans show that the height of the building is marginally greater than Primrose Cottage, which is as a result of flood mitigation measures and the need to ensure the floor level is above the 1: 100 year flood risk level. In addition, the proposals include the provision of a walled defence to the front door with flood gates. The increased height is not considered to be significant particularly as ground levels rise from north to south.
- 9.4 With regard to ecology issues under the consideration of the previous application the applicants submitted an ecological assessment with regard to the impact of the development on great crested newts. The Village Pond, where great crested newts are known to be present, lies approximately 100m away to the south east. The applicants have previously carried out a survey and report on this issue, which was agreed by English Nature. A condition is therefore recommended requiring that the recommendations of the report be fully implemented.
- 9.5 **Officers have negotiated alterations to the design and have agreed the following changes to the elevational treatment:**
- **Change from render to a red brick with buff brick quoins to corners**
 - **Change front bay window to casement window with brick arch over**
 - **Simplified door hood**
 - **Removal of finials from garage roof**

9.6 Officers suggested that the applicant change the dormer design from a gable to a lean-to form. However, the visual impact of this design was considered to be unsatisfactory and no improvement on the original proposal. It was not possible to completely remove the dormers as this would significantly reduce the accommodation in the roof space and creating a full two storey building similar to Primrose Cottage would raise the ridge line excessively above that property to the detriment of the appearance of the area. Accordingly, it was felt the best approach was to maintain the gabled dormers together with the other elevational changes. The Parish Council was consulted on this and they, on balance, consider this approach to be better subject to the inclusion of lead to the 'cheeks' or sides of the dormers rather than plaster.

9.7 These changes have been made to the latest plans and are presented back to Committee for further consideration.

10.0 Background Papers

10.1 ARC; NR; 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

A 5m x 2.5m hardstanding for vehicles shall be provided within the site, convenient to the front door of the dwelling.

Reason: In the interest of highway safety.

3 – Non-Standard Condition

Any garage erected, with its doors facing the highway, shall be sited a minimum of 6m from the highway boundary.

Reason: In the interest of highway safety.

4 – Non-Standard Condition

Parking facilities, in accordance with this Council's standards, shall be provided and maintained within the site.

Reason: In the interest of highway safety.

5 – Non-Standard Condition

The existing access shall be widened to a minimum of 5.3m as shown on the approved plan and any gates erected shall be sited a minimum of 4.5m from the nearside edge of carriageway of The Street.

Reason: In the interest of highway safety.

6 – Non-Standard Condition

The widened access shall be provided with 1.5m x 1.5m visibility splays on both sides, relative to the highway boundary and containing no obstruction exceeding a height of 0.6m.

Reason: In the interest of highway safety.

7 –Non-Standard Condition

No obstruction exceeding a height of 0.9m shall be permitted along the frontage of both the application site and Primrose Cottage, within 2.4m of the nearside edge of carriageway of The Street.

Reason: In the interest of highway safety.

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

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

Reason: 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.

9 – Non-Standard Condition

Samples of all materials to be used in the external construction and finishes of all parts of the proposed development, shall be selected from the local range of traditional vernacular building and finishing materials and shall be submitted to and agreed in writing by the Local Planning Authority before the development commences.

Reason: To ensure the use of an appropriate choice of materials having regard to the importance of this scheme in the Conservation Area and to ensure that the choice of materials will harmonise with the character and appearance of other buildings and development in the area.

10 - Non-Standard Condition

The development shall be carried out fully in accordance with the recommendations contained within the Preliminary Wildlife Assessment dated February 2009 prepared by Essex Ecological Services Limited.

Reason: In the interest of nature conservation as the site lies in close proximity to a site known to support a colony of great crested newts, which are a protected species.

Informatives

The attention of the applicant and developer is drawn to the requirements of condition 10. Great crested newts and their habitats are protected under the Wildlife and Countryside Act 1981 and it is an offence not to comply with the relevant provisions. The comments of English Nature are copied and attached for information purposes.

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 282747.

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: 090722

Location: Plot 10, Land Off (Formerly part of rear garden of No 9), D'arcy Road, Colchester, CO2 8BA

Scale (approx): 1:1250

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7.5 Case Officer: Nick McKeever

MINOR

Site: Plot 10, Land off (formerly part of rear garden of No. 9) D'Arcy Road, Colchester

Application No: 090722

Date Received: 15 June 2009

Agent: Mr Steve Norman

Applicant: East Anglian Homes Ltd

Development: Erection of a 4 bedroom detached dwellinghouse.

Ward: Harbour

Summary of Recommendation: Conditional Approval subject to Unilateral Undertaking

1.0 Site Description

1.1 The following is an extract from the Design & Access Statement supporting the application:-

"This Design and Access Statement accompanies an application for the erection of a new detached dwelling house on a development off Darcy Road, Colchester.

By notice dated 31st July 2007 planning permission was granted for the erection of 9 new dwellings on land at 1 - 5 Darcy Road, Colchester, a development that proposed the provision of an adoptable road that would be capable of serving additional land that was likely to become available for development in the future.

The development site is located on the north side of the road near its junction with Old Heath Road. To the north of the site there is a track that serves garages in the rear gardens of dwellings in Cavendish Avenue.

Additional land has become available to the west of the approved development site in the form of part of the rear garden of number 9 Darcy Road on part of which it is proposed to erect a new detached dwelling of a similar size, form, style and design as that already approved.

The additional plot/dwelling will be served by the approved adoptable road whilst the proposed property itself and access thereto has been designed to be user friendly and will comply in all respects with the requirements for disabled persons. The property /site could not be better situated for access to the public transport network, there being a bus stop a short distance away. Furthermore all local amenities/facilities shops etc are located within easy walking distance.

1.2 The proposed dwelling is two storey with four bedrooms. Apart from stating that the building is to be constructed in facing brickwork and tiled roof, the specific materials are not provided.

2.0 Land Use Allocation

2.1 Residential

3.0 Relevant Planning History

3.1 071668 – Erection of 4 no. 3 bedroom houses, 2 no. 3 bedroom bungalows. 2 no. 2 bedroom houses and 1 no. 4 bedroom house. Approved 14 August 2007.

3.2 081918 – Revisions to dwelling approved on plot 1 of development granted permission under ref: 071668. Approved 12 February 2009.

4.0 Principal Policies

4.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Design - UEA11, UEA12 & UEA13

4.2 Core Strategy
UR2 – Built design and character

5.0 Consultations

5.1 The Highway Authority has no objection to an amended site layout plan, which includes the approved size 3 turning head (071668).

5.2 Environmental Control recommends the standard advisory note on Demolition & Construction, together with a condition requiring the incorporation of landfill gas control measures within the building. This is on the basis that the site lies within 250m of a former (or suspected) landfill site.

6.0 Representations

6.1 The occupier of 19 Cavendish Avenue has submitted the following objections:

- This is an extension of an existing development, which has already begun to cause serious changes to the nature and atmosphere of this area.
- This is an attempt by the developers to maximise their profits by the addition of a house type that is more profitable to sell than the approved, and as yet un-constructed houses. It may be the case that the approved house types will get changed to large dwellings by way of another “minor” application.
- The developers should be made to build the approved dwellings before any extensions to the site are approved. This will permit the real effects of the scheme on this area.
- This is a “minor application”. If more land is made available the result will be a “major application”. The road as approved can cater for 25 dwellings. If extended further it could possibly cater for 50 houses and the entire space between Cavendish Avenue and D’Arcy Road becoming a total concrete jungle.

6.2 The occupier of this property raises issues of politics and the democratic system. These are not material considerations in the determination of this application.

7.0 Report

7.1 The principle of the residential development of some of the rear gardens of properties within D'Arcy Road has already been established through the planning consent 071668. Having regard to this it is considered that the extension of this approved development through addition of a further additional plot is also acceptable in principle.

7.2 The approved development is served by way of an adoptable road, rather than a private drive. This road is capable of accommodating further development. With regard to the development of further plots it is preferable, both in highway terms and in terms of satisfactory townscape, to have one point of access rather than a plethora of private drives running between the existing houses. This is a matter that the emerging Supplementary Planning Document on backland and infill development will be seeking to address.

7.3 In terms of the relevant Local Plan design policy, UEA11, the proposed dwelling is very similar to that approved under 081918, and is considered to be of an acceptable standard. The application lacks detail in terms of the external materials and in this respect samples would need to be submitted for prior approval.

7.4 With regard to the Local Plan policy UEA13, the development will not have a significant impact upon the amenity of nearby dwellings and in this respect it is compliant with this policy. The new dwelling is screened for properties to the North along Cavendish Avenue. In addition the "back-to-back" distances between the new dwellings and these existing properties exceeds the 25m recommended in the Essex Design Guide, adopted as SPG. The new dwelling is also shown as being more than 40m from the main rear elevation of Nos 7 and 9 D'Arcy Road.

8.0 Background Papers

8.1 ARC; HA; HH; NLR

Recommendation - Conditional Approval subject to a Unilateral Undertaking for a contribution to open space provision

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 - C3.3 Samples to be Submitted

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

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity [and helps to reinforce local character and identity].

3 – 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.

4 – Non Standard Condition

All boundary walls to be erected on this site shall be finished with a brick on edge coping and terminated at each end by either a pier or return. Where changes in the height of walls occur, the higher wall shall be raked smoothly downwards to the level of the lower wall.

Reason: To ensure that these walls, which will be prominent features within this housing area, have a satisfactory appearance, in the interest of visual amenity.

5 – Non Standard Condition

Faced common bricks shall not be used for 103mm thick boundary walls. The bricks to be used for such walls shall be of a type to be agreed in writing with this Council prior to the commencement of the development.

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

6 – Non Standard Condition

No new windows, doors, dormer windows or velux roof lights, or any other form of opening shall be inserted, placed or formed in any part of the roof or side flank walls (above ground floor level) of Plots 2 and 9 without the prior written consent of the Local Planning Authority.

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

7 – C10.16 (Tree and Natural Feature Protection: Entire Site)

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

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

8 - 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.

9 – 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.

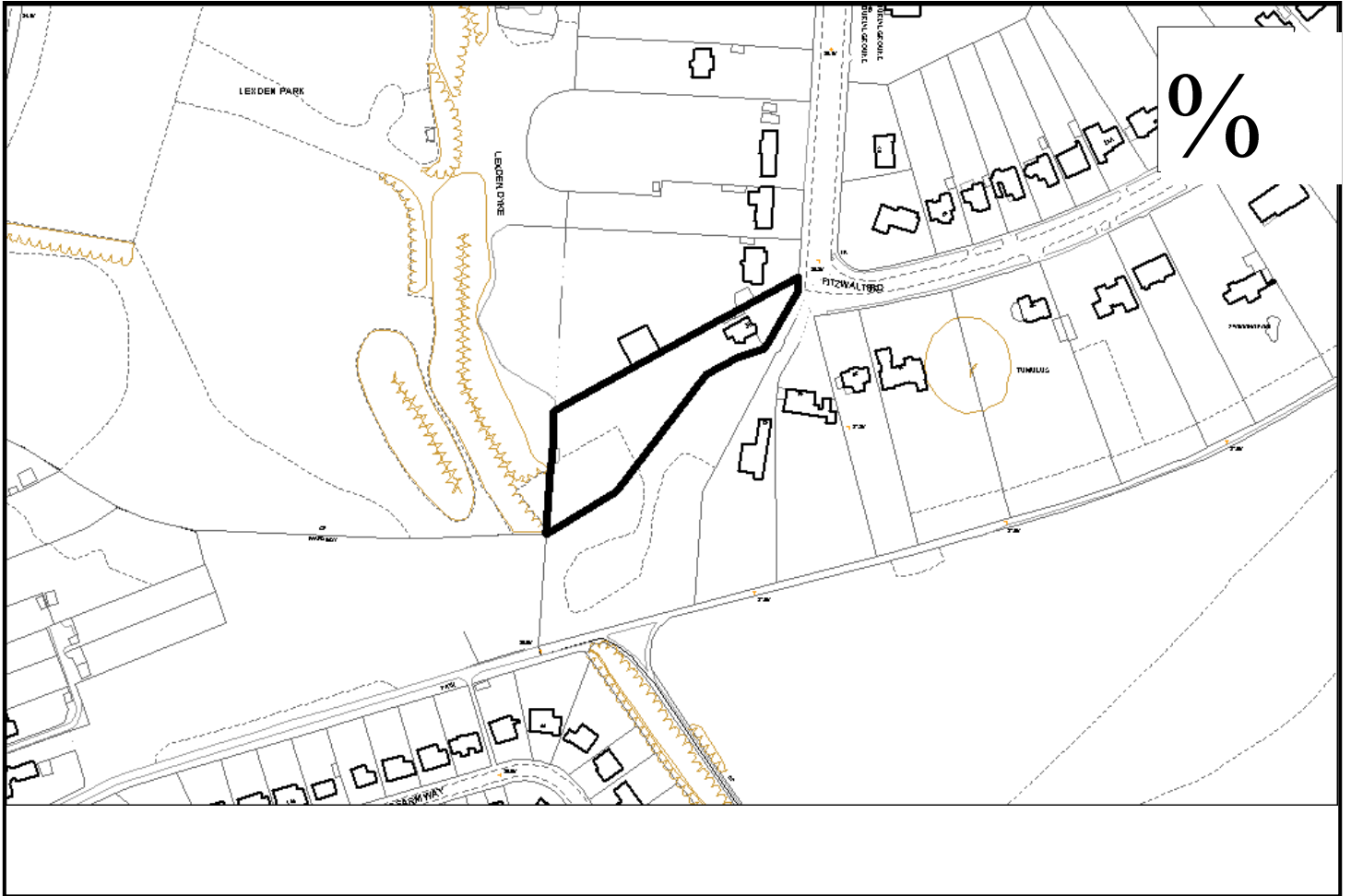
10 – Non Standard Condition

No development of the site shall take place until cross sections of the site and adjoining land and buildings, including details of existing ground levels around the buildings hereby approved and any changes in levels proposed, together with the proposed floor slab levels within that part of the site, 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.

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

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: 090785

Location: 30 St. Clare Road, Colchester, CO3 3SZ

Scale (approx): 1:1250

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7.6 Case Officer: John Davies**MINOR****Site:** 30 St. Clare Road, Colchester, CO3 3SZ**Application No:** 090785**Date Received:** 16 June 2009**Agent:** Homa Design Limited**Applicant:** Mr & Mrs J Nicholson**Development:** Demolition of existing house including garage and outbuildings. Erection of new detached house with detached garage.**Ward:** Lexden**Summary of Recommendation:** Conditional Approval**1.0 Site Description**

1.1 The application site comprises a dwelling and garden at the junction of St Clare Road with Fitzwalter Road. The application site is wedge-shaped with a narrow frontage onto St Clare Road but it widens significantly toward the rear of the site. The existing dwelling is a 2-storey house of modest appearance. Planning permission has been granted for substantial additions to the existing house with a long garage building to one side, but these additions have not yet been implemented. The existing house is set 15m back from the highway, which is broadly in line with the positions of most other dwellings in the vicinity. An exception to this, however, is 44 Fitzwalter Road, which was formerly part of the garden of the application site and has in recent years been completed and occupied. This latter dwelling is set approximately 70m back from the highway.

1.2 Trees on the site are protected by TPOs and the property is within an Area of Special Character.

2.0 Description of Proposal

2.1 This application seeks approval to build the development previously approved under application F/COL/06/1541 with the following alterations:

- The whole building is positioned 3 metres further back on the site
- Two additional dormers are shown in the roof on the flank (south-east) elevation
- Replacement of rendered parts of elevation with brickwork
- Height of building is increased by 300mm
- Side garage positioned 2m closer to the front
- Removal of 2 chimneys on flank south-east roof slope
- Re-positioning of ground floor window on ground floor flank elevation

2.2 The main change is to the siting of the building and the reasons for this are to provide more landscaped space immediately in front of the house, improve car circulation space for the side garage, and to provide greater separation to an oak tree on the frontage whose root protection area extends very close to the existing dwelling.

3.0 Land Use Allocation

3.1 Area of Special Character

4.0 Relevant Planning History

4.1 F/COL/03/1410 granted planning permission in 2004 for a new dwelling within what was then part of the rear garden of this property. Various amendments to the design were subsequently approved in 2006 by application F/COL/06/0459 as an amendment to the original permission. That dwelling has been constructed and is now known as 44 Fitzwalter Road.

4.2 F/COL/03/1984 granted permission in 2004 for a 2-storey rear extension and single storey side extension.

4.3 F/COL/06/1541 - Side and rear extension and new garage - Approved in 2006

4.4 071183 - Replacement dwelling - Refused June 2007

4.5 080467- Replacement dwelling (resubmission of 071183) - Refused. Dismissed on appeal

5.0 Principal Policies

5.1 Adopted Review Colchester Borough Local Plan-March 2004
DC1- Development Control considerations
CO4 - Landscape Features
UEA11 to 13 - Residential Design
UEA21 - Areas of Special Character

5.2. Adopted Core Strategy- December 2008
UR2- Built design and character
ENV1- Environment

6.0 Consultations

6.1 Tree Officer - no objections subject to conditions to safeguard trees.

6.2 Archaeological Officer requests standard archaeological watching brief condition.

7.0 Representations

7.1 Objection received from No.44 Fitzwalter Road on the grounds of:

- Previous planning history implies maintenance of separation between properties based on approvals for extensions to the existing dwelling and refusals of re-sited dwellings.
- Significant differences between this proposal and pp 06/1541
- Building is being enlarged in footprint and height as well as 3m relocation. Will be 55-65 feet closer to our house.
- Will have an overbearing impact and cause a loss of amenity in terms of overlooking to a bedroom and a lounge,
- Impact on street scene – building is out of scale and reduces openness in Area of Special Character.
- Dormer windows in roof were not previously approved
- There is a TPO Scots pine tree which is not included in the tree survey.

8.0 Report

8.1 The main issues for consideration are the impact of the changes on the siting and appearance of the building within an Area of Special Character, impact on the amenity of neighbours and impact on trees.

Impact on Area of Special Character

8.2 The reason for designation of Lexden Road, Fitzwalter Road and St Clare Road as an Area of Special Character under Policy UEA21 was based on large properties set in large grounds with ample space around the buildings and extensively treed gardens. In this context infill by smaller dwellings would detract from this spacious character and is normally resisted.

8.3 In this case there is no proposal to extend the building as approved under application 06/1541, but to relocate it 3 metres further back into the site. In effect in any view there is therefore no difference to the ratio of built to open space as a gap narrowed to the rear is increased at the front.

8.4 It is therefore considered that there is no demonstrable conflict with Policy UEA21 as the proposal does not involve infill by an additional dwelling, no increase in built footprint, there is no tree loss and no overall change in the relationship of built to unbuilt space. It is therefore considered that the proposals do not conflict with this Policy.

Impact on Amenity of neighbours

- 8.5 The main neighbours affected by the proposal are at No. 44 Fitzwalter Road and at 28 St Clare Road. With regard to No.28 there is good tree screening along the boundary and No 28 is positioned closer to the main road and forward of No.30 with the side wall of No.28 positioned about 30 degrees from the boundary so that the main rear windows face west whereas the rear wall of No.30 is SW facing. The difference in orientation, large garden and boundary enclosure indicates that this property would not be adversely affected by the re-siting. Notwithstanding this a condition is imposed requiring that windows in the flank elevation above ground floor level are obscure glazed. The neighbours at No.28 have not made any comments on the application.
- 8.6 With regard to the neighbours at No.44 Fitzwalter Road, they have raised objections to the re-siting and other changes to the scheme as summarised earlier in the report. The main amenity issues raised are the concern about overlooking and overbearing impact. No 44 is a single storey dwelling with roof level accommodation with windows to a bedroom and living room on the ground floor. The proposed re-sited dwelling would be 24 metres from the front of No.44 separated by a boundary fence and low hedge. The rear corner of No.30 faces towards no. 44 and therefore the rear and side elevations do not directly face No.44. There is a double bedroom at first floor level in the corner of No.30 which has a large window facing over the driveway to No.44 and patio doors enclosed by a Juliet balcony on the rear elevation, which restricts access onto a balustraded flat roof rear extension. The concerns of the occupiers of No.44 are understood, however, given the relationship of a back of a dwelling to the frontage of a dwelling in this case, the distance involved and orientation of windows it is considered that limited weight can be given to these concerns. It is however recommended that to prevent possible future use of the flat roof as a terrace that the balustrade be removed from the scheme so that it is less likely to be used for such purpose. Concerns raised about the additional dormers are noted. However, these are small in size and accord with the Essex Design Guide as incidences in the roof plane and do not directly face towards the house at No.44.

Tree Impacts

- 8.7 The application is accompanied by a Tree survey and impact assessment. This concludes that the development will not have any adverse impact on existing trees, but does recommend that two trees to the rear of the garden are removed on safety grounds. Two Category B trees (silver birch and oak) to the front of the building are potentially affected by works to provide a new driveway. Subject to 'no dig' construction methodology, the works can be carried out without harm to the trees. A Category A Scots Pine tree in the garden of No.44 close to the boundary has been assessed as not being affected by the development. The Tree Officer raises no objections to the proposals.

9.0 Conclusion

9.1 This report has assessed the proposed scheme on the basis of its impact on the area of Special character which is considered to be satisfactory. Consideration has also been given to impact on the amenity of neighbours and in particular No. 44 Fitzwalter Road, who have objected to the application. It is concluded that the resisting of the building by 3 metres from that approved would not give rise to overlooking or an overbearing impact sufficient to warrant refusal. However an additional condition is recommended to control use of the flat roof over a rear extension as a roof terrace. The proposals, if carried out in accordance , with the submitted tree survey and arboricultural impact assessment will not have an adverse impact on protected trees.

10.0 Background Papers

10.1 ARC; Core Strategy; TL; AO; 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 balustrade over the rear extension as shown on the drawings hereby approved is excluded from the permission and shall not be implemented as part of this approval. The Juliet balcony as shown on drawing no. 166-01-04 shall be provided prior to occupation of the dwelling and in accordance with details of its design which shall have been submitted to and approved by the Local Planning Authority. The balcony shall be retained as approved thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to prevent the use of the roof of the ground floor lounge as a balcony/sitting out area which could result in loss of amenity to neighbouring residential properties.

3 - 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.

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

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

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

5 - 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.

6 - Non-Standard Condition

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

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

7 -Non-Standard Condition

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

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

8 - Non-Standard Condition

The applicants shall commission a professional archaeological contractor to observe the excavations and allow sufficient time for the recording of any features and finds of interest.

Reason: To ensure that any remains of archaeological importance are properly recorded.

9 - Non-Standard Condition

The windows above ground floor level in the northwest side elevation of the extension hereby permitted 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.

10 - Non-Standard Condition

No new window or other openings shall be inserted above ground floor level in the north west, south west and south east facing elevations and roof slopes of the proposed extension without the prior approval in writing of the Local Planning Authority.

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

11 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification), no development within Classes A to F of Part 1 of Schedule 2 of the Order (i.e. any extension, outbuilding, garage or enclosure) shall take place without the prior written permission of the local planning authority.

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

Informatives

Your attention is drawn to the attached Guidance Note on the control of pollution during demolition and construction works.

7.7 Case Officer: John More**MINOR****Site:** Part Garden, 110 Oaklands Avenue, Colchester**Application No:** 090848**Date Received:** 29 June 2009**Agent:** Mr Steve Norman**Applicant:** Mr & Mrs J D Brew**Development:** Erection of a bungalow with associated parking facilities for the new and existing properties(resubmission of 090418).**Ward:** Prettygate**Summary of Recommendation:** Refusal**1.0 Planning Report Introduction**

1.1 This application is recommended for refusal. However, it is referred to the Planning Committee as there is a strong likelihood of appeal owing to a previous decision from 1988 opposite the site. The Committee's support for a refusal is sought on the basis that we should be seeking to raise standards of design and layout that are accepted in new developments.

2.0 Site Description

2.1 The site comprises the existing bungalow at 110 Oaklands Avenue, with its main garden area located to the side of the dwelling running parallel with Oaklands Avenue. There is a detached garage at the end of the garden with access onto Oaklands Avenue. A mature Laurel hedge forms the boundary with the footway which has recently been reduced in height to approximately 1m. The rear boundary is formed by a panel fence approx 1.5m in height and in a poor condition.

2.2 The site is located on the junction with Dugard Avenue. There is a 2 storey house to the rear which fronts Dugard Avenue. Opposite are two bungalows, no. 79 and 77a, the latter of which is a latter infill, similar to that proposed here, except it also includes some garden of the property to the rear. The property at the end of the garden is another bungalow fronting Oaklands Avenue. The bungalows in the area are of a bland design but are characterised by small projecting gable elements fronting Oaklands Avenue.

3.0 Description of Proposal

3.1 The application proposes the erection of a bungalow with associated parking and amenity land and parking facilities for the existing property.

4.0 Land Use Allocation

4.1 Predominantly residential

5.0 Relevant Planning History

5.1 In 1973 permission was refused for an extension to the bungalow to form an additional bungalow (App. No. 21302).

5.2 Earlier this year a similar application for the “erection of a bungalow with attached garage and associated parking facilities for the new and existing properties” was withdrawn (App. No. 090418). This proposal was for a slightly larger dwelling and was withdrawn when officers indicated it was to be refused under delegated powers.

6.0 Principal Policies

6.1 Local Development Framework

Core Strategy:

SD1 - Sustainable Development Locations

SD2 - Delivering Facilities and Infrastructure

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR2 - Built Design and Character

PR2 - People-friendly Streets

TA5 - Parking

6.2 Adopted Review Colchester Local Plan 2004 saved policies:

DC1- Development Control considerations

UEA11 - Design

7.0 Consultations

7.1 The Highway Authority would not wish to make formal comment further to the formal recommendation of the 26th May 2009 (the previous proposal). This required conditions and an informative which have been attached to the recommendation. These related to sight splays, materials and location of garage 6m back from the highway.

Officer Comment: This proposal has omitted the garage element.

8.0 Representations

8.1 Colchester Civic Society comments that removing the garage and replacing it with a parking space does not address the issue which formed the basis for their original objection, that neither plot will have sufficient usable amenity space.

- 8.2 One letter of objection has been received highlighting on-street parking issues along Oaklands Avenue, most of these non residents, causing people turning into Oaklands Avenue to drive on the wrong side of the road.

Officer Comment:

The application proposes parking for the existing and proposed properties in line with the adopted standards and the new widened access would result in less opportunity for on street parking. Residents may wish to write to the Highway Authority to request double yellow lines if non resident on street parking is causing a highway safety problem.

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

9.0 Report

Setting the scene

- 9.1 Opposite the site in Oaklands Avenue the only similarly property with potential for an infill plot was granted consent for a bungalow in 1988 (App. No. 88/1601). The site was built out and is now occupied by No. 77a Oaklands Avenue. The shape of the site is different to the current proposal in that the garden of the host property was narrower and therefore required part of the rear garden of the property to the rear. This gave it a deeper albeit odd L-shaped plot.
- 9.2 Any planning application must be determined on its individual merits taking into account current planning policy and government guidance along with all other material considerations. Clearly the property opposite is a material consideration. However, since its approval in 1988 planning policy has changed significantly.
- 9.3 The introduction of PPS1 and PPS3 at a national level, the East of England Plan at regional level and the Colchester Borough Core Strategy. These policies have changed the emphasis given to design and the quality of the built environment, giving this much greater importance in planning. At a basic level the stance has changed from one of "is it bad enough to refuse" to one of "is it good enough to approve", which is significantly different.

Policy context

- 9.4 Saved Local Plan policy DC1 requires new development to be well designed and based on a proper assessment of the surrounding built environment. More specifically design policy UEA11 requires a high standard of building and layout design with a specific requirement for buildings to have adequate regard for their setting. New development should in general accord with the Borough Council's design, layout, parking, highway and space standards with good standards of townscape being achieved in terms of harmonious groups of buildings and the spaces between them. The design and layout of the buildings should ensure that the amenity of adjacent property is not unreasonably affected.

9.5 Adopted Core Strategy policy UR2 seeks high quality and inclusive design in all developments. It requires design to be informed by context appraisals and to create places that are locally distinctive, people friendly, provide natural surveillance and which enhance the built character and public realm of the area. Developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported. Policy SD1 requires sustainable locations for all development while SD2 sets out the delivery of facilities and infrastructure in relation to new development. Policies H1, H2, H3, H4 deal with housing delivery, density and affordable housing. Policies PR2 promotes secure, attractive and safe people-friendly streets which should provide active frontages. Policy TA5 deals with car parking provision.

Design and layout

9.6 The design of the bungalow is bland and relatively featureless; however, having visited the site this would appear contextual for the area. A more heavily detailed proposal would appear out of place in the street scene. The appearance of the building is considered acceptable.

9.7 In terms of layout, the proposed bungalow would be out of character with the prevailing pattern of development in the locality due to its rather short rear garden depth of only 4m. It would on plan also appear to be rather cramped on the site for this reason in comparison to the neighbouring bungalow. However from a public perspective this lack of garden depth would not be readily perceivable and would not harm the street scene. Indeed the proposed building would appear to plug a gap in the built frontage to Oaklands Avenue as No. 77a does opposite.

9.8 In terms of amenity for the end users, while the private amenity space provided for the proposed dwelling would exceed the minimum 50sqm required for a two bed property (85sqm overall, 65sqm if the additional parking space is in use), it would constitute substandard quality amenity space due to its limited depth (4m) and would in your officer's view result in the proposed dwelling providing a poor quality living environment for future residents. Usable amenity spaces are usually defined as being 6m in depth. Given the fence that would be required to maintain privacy, the dwelling wall heights, and the orientation of the site, this area would be in shadow for much of the day and an unattractive if not unusable space.

9.9 Further, the site has not been provided with any cycle storage or any outbuildings. Given the limited depth of the rear amenity space, any approval would be recommended to include a condition removing permitted development rights for extensions and outbuildings on the basis that this would further reduce the amount of amenity space available. This raises a conflict with the need for cycle storage facilities and the likelihood that domestic storage in the form of a shed might be necessary. The provision of a storage shed would further reduce the garden area proposed.

9.10 Similar arguments can be made about the donor property whose rear amenity area would measure 5m in depth, although this property benefits from a larger garden area to the south/Dugard Avenue side.

- 9.11 While any future occupiers would purchase the properties with the knowledge of the size and layout of the private amenity areas and indeed may wish to purchase a property with a small garden, it would be bad planning to provide new properties with substandard quality amenity space. Refusal would be justified on these grounds alone.

Impact on Surroundings

- 9.12 As stated above the proposed building would sit comfortably in the street scene and appear to plug a gap in the built frontage to Oaklands Avenue, as No. 77a does opposite. It is not considered the proposal would have a negative impact on the surroundings.

Impact on neighbours

- 9.13 The proposed dwelling would be single storey in height. This means that there is no overlooking and little opportunity for the overshadowing of neighbouring dwellings or sitting out areas. On this basis the impact on neighbours is considered to be acceptable.

Highways and Parking

- 9.14 The application proposes parking for the existing and proposed properties in line with the adopted parking standards. Two parking spaces are proposed for the existing property while one permanent space and one additional grasscrete space is proposed for the proposed new bungalow.
- 9.15 In terms of on street parking, the new widened access would result in less opportunity for on street parking. However, this application is not the correct mechanism for resolving any existing on street parking issues in the area which would be under the control of the Highway Authority.

S106 Matters

- 9.16 In line with Open Space, Sports and Recreation facilities SPD the applicants have provided a signed Unilateral Undertaking in connection with payment of a Public Open Space contribution.

10.0 Conclusion

- 10.1 In summary, the design of the building is considered acceptable and there would be no harm to neighbours amenity or to the visual amenity of the street scene. However, the layout of the site would be out of character with the pattern of development in the area in terms of the rear garden depth, which officers also consider to be of substandard quality to be considered usable amenity space for future residents. While any future purchaser would be aware of the substandard amenity provision and indeed may wish to purchase a property with a small garden, on balance, when weighing up the merits of the proposal officers consider it should be refused on the grounds that the proposal fails to provide adequate useable private amenity space contrary to local and national policies.

11.0 Background Papers

11.1 ARC, CS, HA, NLR

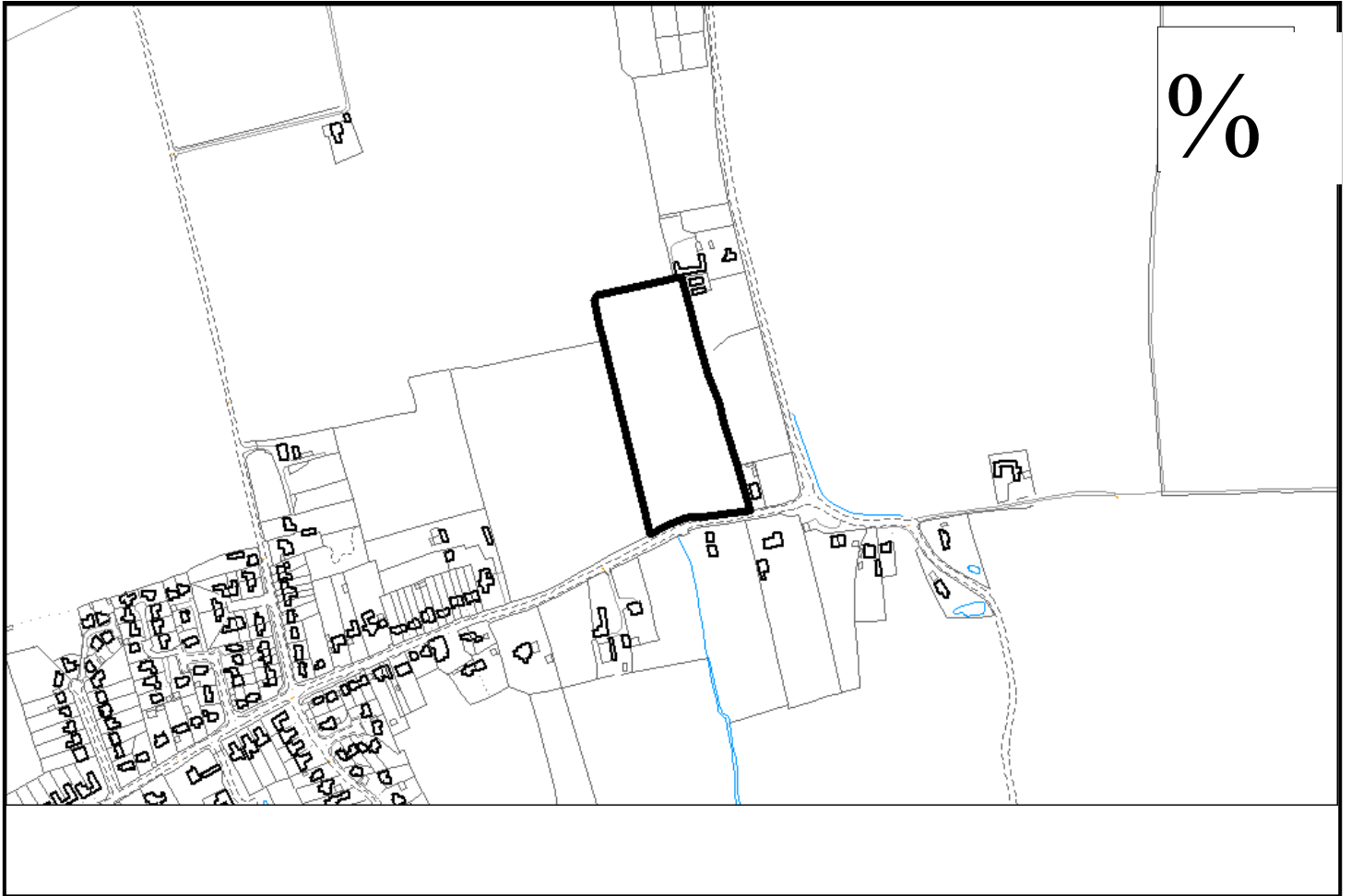
Recommendation - Refusal

Reasons for Refusal

This application has been considered against national planning policies set out in Planning Policy Statement 1 (PPS1), Planning Policy Statement 3 (PPS3). In addition, policy ENV7 of the East of England Plan (2008) is also relevant. At a local level, saved policies DC1, UEA11 of the adopted Colchester Borough Review Local Plan (2004) and policies SD1, SD2, H1, H2, H3, H4, UR2, PR2, and TA5 of the adopted Colchester Borough Core Strategy (2008) are also material considerations. Further detailed design advice is adopted in the form of the Essex Design Guide (1997).

PPS1 and PPS3 both state that “design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted”. PPS1 also states in its first key objective that “Good planning ensures that we get the right development, in the right place and at the right time”.

The size and shape of the site result in substandard quality amenity provision for the proposed dwelling. PPS3 states that it will be important to ensure that private gardens should be well designed. However in this instance the area along the side of the property is only 3.5m in width and doubles as an additional parking space while the area to the rear of the property is only 4m in depth. These are not considered to be usable depths for a private garden and would be unfavourably overshadowed and cramped areas taking into account the 1.8m fence that would be required to maintain privacy to neighbouring sites, the walls of the new bungalow and the orientation of the site. Furthermore, the site has not been provided with any cycle storage or any outbuildings that might be required for other domestic storage such as a shed. Given the substandard amenity provision already identified, any additional outbuildings would further reduce the amenity provision. For the reasons above the council considers that the proposal would not constitute good planning as it would fail to provide adequate useable private amenity space for the end user contrary to the aforementioned policies.



Application No: 090922

Location: Land North of and adjacent to, Coy View, East Road, West Mersea, Colchester, CO5 8SA

Scale (approx): 1:1250

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7.8 Case Officer: Nick McKeever

EXPIRY DATE: 15/09/2009

OTHER

Site: Coy View, East Road, West Mersea, Colchester, CO5 8SA

Application No: 090922

Date Received: 21 July 2009

Applicant: Mr David Tucker (West Mersea Town Council)

Development: Construction of new access to allotment

Ward: West Mersea

Summary of Recommendation: Conditional Approval

1.0 Site Description

- 1.1 The site comprises approximately 2 ha of land fronting onto East Road, West Mersea. Immediately adjacent to the South East corner and to the North East corners of the site are two existing residential properties. On the opposite side of East Road, to the South of the site, are other residential properties, forming part of a dispersed pattern of development. To the North and to the West is open countryside.
- 1.2 All the boundaries are enclosed by established hedges.
- 1.3 The application proposes the use and improvement of an existing vehicular access located to the South West part of this 2 ha field. The application is accompanied by a drawing showing the position of the access, the provision of a car parking/drop off area immediately behind the access point (approximately 78.6m x 229m), with allotment plots to the North of this parking area.
- 1.4 Planning permission is required for the formation of the access and the creation of the parking/drop off area, but not for the use of the land as allotments. This use constitutes an agricultural use.

2.0 Land Use Allocation

- 2.1 Countryside Conservation Area

3.0 Relevant Planning History

- 3.1 None

4.0 Principal Policies

- 4.1 Adopted Borough Local Plan
DC1 - Development Control Considerations
CO3 - Countryside Conservation Areas
- 4.2 Core Strategy
ENV1 - Environment
ENV2 – Rural communities

5.0 Consultations

5.1 The Highway Authority has no objection subject to the following conditions:-

1. Prior to the proposed allotment gardens being brought into use, the proposed vehicular access shall be constructed at right angles to the highway boundary, to a width of 5.5m. for at least the first 6m. within the site, tapering one-sided over the next 6m. to any lesser width and shall be splayed to an appropriate vehicular crossing of the highway verge.
To ensure that vehicles using the site access do so in a controlled manner and to ensure that opposing vehicles at the site access may pass clear of the highway, in the interests of highway safety.
2. The gradient of the proposed vehicular access shall be not steeper than 4% for at least the first 6m. within the site and not steeper than 8% thereafter.
To ensure that vehicles using the site access both enter and leave the highway in a controlled manner, in the interests of highway safety.
3. No unbound materials shall be used in the surface treatment of the proposed access within 6m. of the highway boundary.
To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.
4. Prior to the commencement of the proposed development details showing the proposed means of preventing the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority.
To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway, in the interests of highway safety.
5. Prior to the proposed vehicular access being brought into use, vehicular visibility splays of 90m. x 2.4m. x 90m. as measured along from and along the nearside edge of carriageway of East Road, shall be provided on both sides of the centre line of the proposed access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm.
To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

6. Prior to the proposed vehicular access being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary shall be provided on both sides of that access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. These splays must not form part of the vehicular surface of the access.
To ensure adequate intervisibility between drivers of vehicles using the site access and pedestrians in the adjoining highway, in the interests of highway safety.
7. Prior to the proposed allotment gardens being brought into use, a vehicular turning facility of a design which shall have been approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.
To ensure that all vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.
- N.B. 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 shall be made initially by phone on 01206 838696 or by e mail on highways.eastarea@essex.gov.uk.”

5.2 The Landscape Officer comments as follows:-

- 1.2 The Landscape Planning Officer surveyed the site on 21 July 2009; the site forms part of a protected landscape with a designated CCA.
- 1.3 As requested the hedge fronting the site was assessed, this hedge was found to be protected under the Hedgerows Regulations 1997 but on inspection was found to comprise principally bramble over dead elm. The only area still constituting ‘hedge’ was a 45m length to the far west of the hedgeline just beyond the existing gate that may be subject to highways sight-line requirements. However, even this was found to be in a deteriorating condition and when assessed was found not to be classified as “important” under the HR97 and could therefore be removed in order to facilitate development.
- 1.4 It is recommended that any detail proposals (possibly under condition) include a native hedge and hedgerow trees to be planted along the division line between proposed allotments and the remainder of the field and behind any required sight lines and that any car parking surfacing be complementary to the site’s rural setting.
- 2.0 Conclusion
- 2.1 In conclusion, I am satisfied with the landscape content of the proposal subject to the above.
- 3.0 Recommendation
- 3.1 Agreement to the landscape aspect of the application subject to para 1.4 and condition.

6.0 Town Council's Views

- 6.1 Not applicable

7.0 Representations

7.1 The following objections have been received from local occupiers:-

- The application is misleading in terms of the description of the location as Coy View. It has not been called this since 1999 but is now known as 201 East Road; The description "Construction of new access to allotment" implies that there will be one vegetable plot, whereas there will be 40 plots and parking for 40 cars.
- There is an existing access opposite Mortimers Farm, in close proximity to a footpath and at the end of the 30 mph speed limit.
- The proposed access is on a narrow stretch of road and is subject to additional traffic from the nearby Waldegraves Caravan Park during the summer months. There is no footpath and no street lights.
- The site is approximately 2.1 kms from the centre of West Mersea. A more centrally placed allotment site, such as behind the Wellhouse Green development, would enable safe access to the allotments on foot or by bicycle. the land at Wellhouse Green was gifted to West Mersea Town Council already has access and parking and is for use of all Mersea residents
- With a high density of tool sheds, greenhouses and polytunnels on all allotment sites, the incidence of theft, vandalism and damage to property is extremely high.
- There will be an increased noise and disturbance from the additional traffic, use of horticultural machinery and bonfire smoke. The allotments and associated parking in this rural area will have a negative impact upon the enjoyment of the existing dwellings.

8.0 Report

8.1 Members may recall that the West Mersea Town Council originally submitted an application for allotments on a parcel of land at Dawes Lane (Ref: 081997). This application was refused by the Committee in accordance with the recommendation made by the Highway Authority. In the consideration of this previous application members were advised that the use of land for Allotments was deemed to be within the definition of agriculture and as such planning permission is not required.

8.2 In this context Members will appreciate that, whilst there may be alternative land available for the allotments, this application can only be considered upon its own merits relative to the proposed improvement of an existing access and the use of the land for parking in connection with the allotments.

8.3 In terms of the improved access, whilst concerns as to the hazardous nature of this part of East Road are acknowledged, it is noted that the Highway Authority do not object in principle to the application.

8.4 It is noted that, in order for the access to meet acceptable highway standards, the access will need to be provided with 90m x 2.4m x 90m visibility splays, containing no obstruction over 600mm in height. This could have implications for the retention of the existing hedge and trees along the site frontage. Members will note that the Landscape Officer has carried out an inspection and assessment of this hedge and has stated that he is satisfied with the proposal, subject to appropriate conditions.

9.0 Conclusion

9.1 The use as allotments, and local concerns associated with this use, is not an issue in terms of the determination of this proposal. The proposed improvement of the existing access to serve the allotments meets with the approval of the Highway Authority and is recommended for permission by that Authority. Permission is recommended subject to appropriate conditions relating to the highway works, to the replacement hedge planting and in respect of an appropriate surface finish to the car parking area.

10.0 Background Papers

10.1 ARC; HA; HA; TL; NLR

Recommendation – Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

Prior to the proposed allotment gardens being brought into use, the proposed vehicular access shall be constructed at right angles to the highway boundary, to a width of 5.5m. for at least the first 6m. within the site, tapering one-sided over the next 6m. to any lesser width and shall be splayed to an appropriate vehicular crossing of the highway verge.

Reason: To ensure that vehicles using the site access do so in a controlled manner and to ensure that opposing vehicles at the site access may pass clear of the highway, in the interests of highway safety.

3 - Non-Standard Condition

The gradient of the proposed vehicular access shall be not steeper than 4% for at least the first 6m. within the site and not steeper than 8% thereafter.

Reason: To ensure that vehicles using the site access both enter and leave the highway in a controlled manner, in the interests of highway safety.

4 - Non-Standard Condition

No unbound materials shall be used in the surface treatment of the proposed access within 6m. of the highway boundary.

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

5 - Non-Standard Condition

Prior to the commencement of the proposed development details showing the proposed means of preventing the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway, in the interests of highway safety.

6 - Non-Standard Condition

Prior to the proposed vehicular access being brought into use, vehicular visibility splays of 90m. x 2.4m. x 90m. as measured along from and along the nearside edge of carriageway of East Road, shall be provided on both sides of the centre line of the proposed access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm.

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

7 -Non-Standard Condition

Prior to the proposed vehicular access being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary shall be provided on both sides of that access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. These splays must not form part of the vehicular surface of the access.

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

8 - Non-Standard Condition

Prior to the proposed allotment gardens being brought into use, a vehicular turning facility of a design which shall have been approved in writing by 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 ensure that all vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

9 - C11.11 Landscape Design Proposals

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

These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting).

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

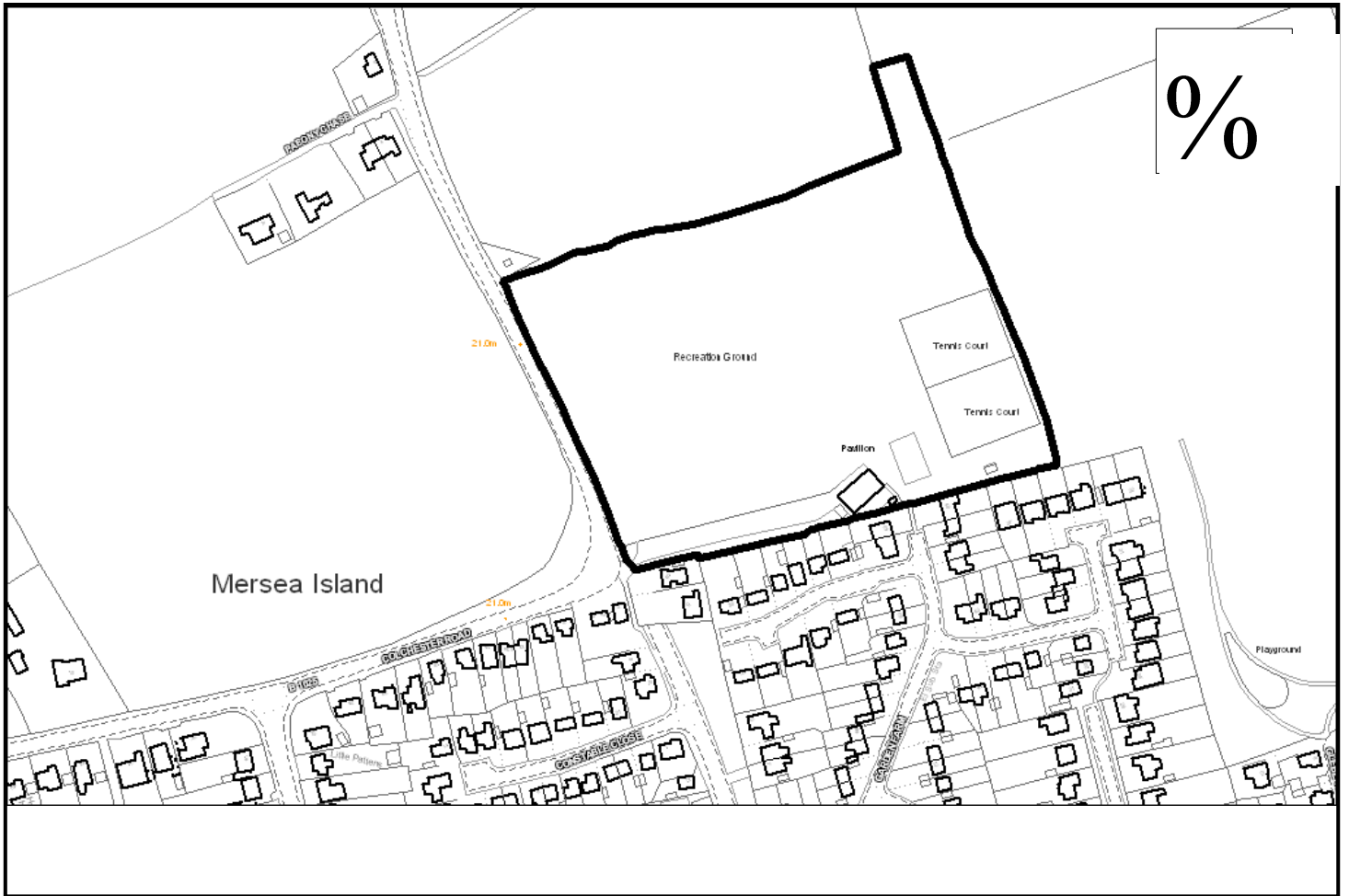
10 - C11.12 Landscape Works Implementation

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

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

Informatives

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 shall be made initially by phone on 01206 838696 or by e mail on highways.eastarea@essex.gov.uk.



Application No: 090360

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

Scale (approx): 1:1250

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7.9 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 Highways Authority 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.

1.7 The applicant has submitted an Arboricultural Report in response to a request from your Officers. This can be viewed in full on the Council website.

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
Landscape Features – C04

4.2 Core Strategy
ENV1 – Environment
ENV2 – Rural communities

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.

5.2 Environmental Control recommend conditions relating to site boundary noise and sound insulation of the building/extension plant & machinery. In response to additional information provided by the Applicant, they advise that a condition regarding lighting is not required. Environmental Control also would recommend a non-gravel construction of the car park surface only if there will be a significant increase in traffic compared with the existing level of use.

5.3 The Arboricultural Officer is satisfied with the arboricultural aspect of the application subject to conditions relating to the protection of trees and hedgerows on the site.

6.0 Town Council's Views

6.1 None received

7.0 Representations

7.1 4 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 they 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 (this objection was submitted prior to the submission of further details of the proposed opening hours).
- 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. Loss of existing football pitch & cricket outfield to provide the new parking.
- More emphasis should be placed upon sustainable means of transport, particularly bicycles, and bicycle racks should be provided instead of additional car parking.
- The oak & ash trees in the car park should be retained. Originally 25 oaks were planted to celebrate 25 years of Oyster Football Club.

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 Applicant has advised that all areas of the existing facility are currently used after daytime and evening sports activities but that the bar area and the function room is normally closed at 11:00 pm. If Members are minded to approve the development, the use should be restricted accordingly, in the interests of the amenity of the nearby residential properties.

8.9 The Applicant has also stated that it is not intended to provide any additional lighting of the site and that it is not intended to resurface the car park area. This is on the basis that the site has operated with the current surface finish to the car park for many years without cause for complaint by the neighbouring properties. The Applicant considers that the new car park area is further away from the neighbouring properties than the existing parking area and cannot see why there would be any increase in disturbance to the residents.

8.10 Environmental Control is aware that the existing building is used for functions and has no record of any complaints. They recommend the inclusion of the standard advisory note for Demolition and Construction.

8.11 The submitted Arboricultural Report advises that a 20m section of hedge at the site entrance will require removal in order to accommodate the required sight splay and that a planting scheme to restore any amenity loss should be considered. In addition an oak tree, a field maple, which is poor condition, and an Elm tree, will need to be removed. The oak and field maple can be moved and replanted in an alternative location. It is noted that the Arboricultural Officer is satisfied with the information contained within the submitted Arboricultural report.

8.12 Permission is recommended subject to appropriate conditions, including the restriction in the hours of use of the new facilities in order to safeguard residential amenity.

8.13 Local comment regarding the provision of cycle parking is a matter that has been referred to in the Highway Authority consultation. A condition requiring the submission and approval of cycle parking facilities is included.

9.0 Background Papers

9.1 ARC; HA NLR; HH; TL

Recommendation - Conditional Approval

Conditions

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

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

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

2 - 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 – Non Standard Condition

The building shall not be used after 23:00 hours.

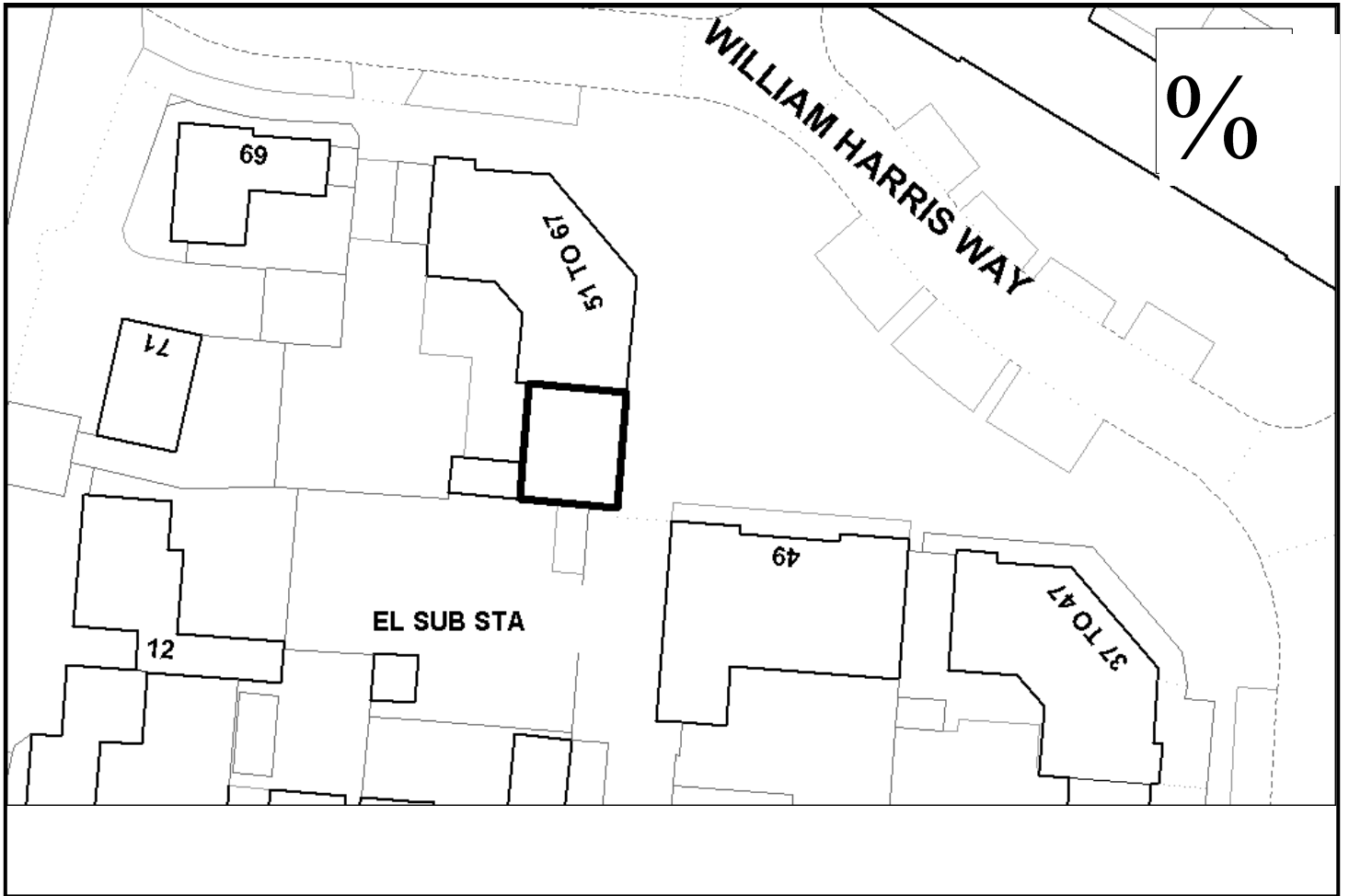
Reason: For the avoidance of doubt as to the extent of this permission and in order to safeguard the amenity of the nearby residential properties.

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.

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: 090486

Location: Unit 1 Solus Development, William Harris Way, Colchester, CO2 8WJ

Scale (approx): 1:1250

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7.10 Case Officer: Andrew Huntley

OTHER

Site: Unit 1 Solus Development, William Harris Way, Colchester, CO2 8WJ

Application No: 090486

Date Received: 3 July 2009

Agent: Morley Riches & Ablewhite

Applicant: Mr Abdel Fatab

Development: Change of use from Class A1 shop to Class A5 Hot Food Takeaway

Ward: Berechurch

Summary of Recommendation: Refusal

1.0 Site Description

1.1 The site is located on William Harris Way and forms part of a modern re-development off Berechurch Hall Road. The retail unit on the application site is on the main square and forms part of a modern block, which has retail units at ground floor and flats above them. The retail unit is currently vacant. To the rear of the unit are dwellings and a car parking area.

2.0 Description of Proposal

2.1 Change of use of brand new empty retail unit from Class A1 to Class A5 hot food takeaway. The application states that it is intended to provide Indian food.

3.0 Land Use Allocation

3.1 Residential

4.0 Relevant Planning History

4.1 COL/05/2071 – Reserved Matters application for erection of 212no. flats and houses, 5no. shop units and nursery. (Resubmission of RM/COL/05/1285). Approved 17th March 2006.

5.0 Principal Policies

5.1 Adopted Review Borough Local Plan
DC1 - Development Control considerations
UEA13 – Development, including extensions, adjoining existing or proposed residential property
P1 – Pollution (General)

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

5.3 Planning Policy Statement 1

6.0 Consultations

6.1 Environmental Control: Object to this application because there are no details on the ventilation and extract system proposed to be used. Also as the unit is extremely close to residential properties it would be very hard to eliminate the odour caused by Indian cooking so as not to cause a nuisance to the nearby residents.

6.2 ECC Highways: It is observed that these premises have been constructed without the benefit of off-street facilities for the parking, turning, loading and off-loading of delivery and service vehicles and without current EPOA standards of car parking. Since the current EPOA parking standards do not differentiate between retail and hot food take away units, the Highway Authority is unable to object to the application as submitted.

7.0 Representations

7.1 Six representations of objection have been received, including one from the Ward Councillor. The objections relate to the following:

- Food smells.
- The ventilation system would be unsightly.
- Litter problems.
- Anti-social behaviour.
- Out of character.

8.0 Report

Introduction

8.1 This application has come to Committee as it has been called in by the Ward Councillor. The main considerations within this application are whether the principle of a take away in this location is acceptable and if it is, whether such a use would be detrimental to residential amenity and the character of the area.

Principle

8.2 There is no specific policy that states a takeaway use in this location would be unacceptable in principle. The applicant has submitted as part of the application a letter from the Council's Urban Designer stating that there is no objection in principle to a takeaway. A takeaway as part of a neighbourhood centre would not be uncommon and is not considered to be unacceptable. As such there is no policy basis to refuse the principle of a take away.

8.3 Therefore, the determining factors within this application will be the proposal's impact on the character of the area and its impact on neighbouring amenity.

Residential Amenity

- 8.4 The application has not included any details of the proposed extraction equipment except to state that it would comply with Environmental Control guidelines. The Council's Environmental Control department has objected to this application because there are no details on the ventilation and extract system proposed to be used. Also as the unit is extremely close to residential properties it would be very hard to eliminate the odour caused by Indian cooking so as not to cause a nuisance to the nearby residents.
- 8.5 It is sometimes possible to attach conditions to such applications to ensure details of such extraction equipment are agreed and then implemented. However, following the above consultation response, it is considered appropriate to attach such a condition, as it may not be possible to satisfactorily achieve a system that would not harm neighbouring amenity.
- 8.6 Therefore, the application is unacceptable on residential amenity grounds, the applicant having failed to demonstrate that the proposal would not harm residential amenity.

Design and Character

- 8.7 As no details of the flue have been submitted within this application, it is not possible to ascertain precisely what impact it would have. This is unacceptable. It is likely that a ventilation flue for a takeaway would have to be large and it is difficult to see how such a flue could be incorporated onto the existing building without appearing visually dominant and incongruous. It is unfortunate that this modern building has not been designed to be able to incorporate such a use, without the need for external flues.
- 8.8 The lack of details in regard to the design of the extraction equipment is unacceptable and again it is not considered that a condition requiring subsequent details is appropriate and your officer is not convinced that a flue can be satisfactorily accommodated on this building.
- 8.9 Therefore, the proposal is unacceptable as the design of the extraction equipment and its impact on the character and appearance of the locality can not be ascertained.

Other Considerations

- 8.10 Six letters of objection have been received including one from the Ward Councillor. Some of the issues raised have already been addressed. In regard to litter and anti-social behaviour, there is no evidence to suggest either will be a problem and it is considered that a refusal on such grounds could not be sustained at appeal.
- 8.11 The Highway Authority has not objected to the application and therefore, no objections are raised in terms of highway safety and parking.

9.0 Conclusion

- 9.1 The application is unacceptable as no details have been provided in relation to the extraction equipment. Therefore, it is not possible to ascertain the proposals impact on neighbouring residential amenity or its impact in terms of design.

10.0 Background Papers

10.1 ARC; HH; HA; NLR

Recommendation - Refusal

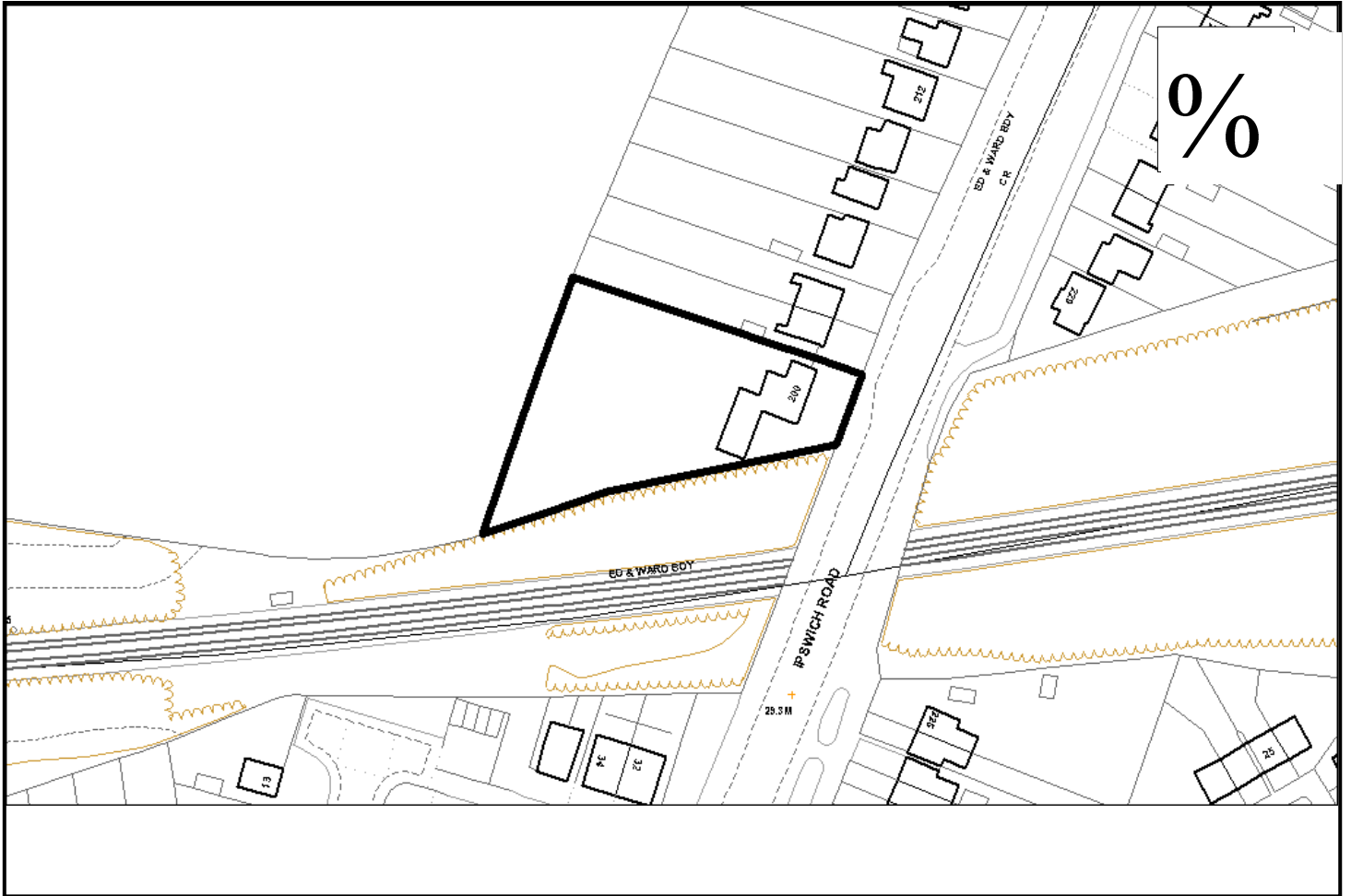
Reasons for Refusal

Adopted Review Colchester Borough Local Plan (2004) policies DC1, UEA13 and P1 seek to ensure that development proposals are of a high standard of design and do not adversely impact on the amenities of neighbours. This is backed by Policies SD1 and UR2 of the adopted Core Strategy (2008) and policy ENV7 of the East of England Plan (2008). Planning Policy Statement 1 (2005) states that proposals which do not make the most of the opportunities available should not be allowed.

In this instance, the application has failed to demonstrate that the extraction and ventilation system can be satisfactorily installed so as not to have a detrimental impact on neighbouring residential amenity in terms of noise and smells. The unit is extremely close to residential properties and it would be very hard to eliminate the odour caused by Indian cooking so as not to cause a nuisance to the nearby residents.

In addition, the application has also failed to demonstrate that an extraction and ventilation system can be acceptably designed so as not to appear visually dominant and incongruous to the detriment of the character of the area.

Therefore, the proposal is contrary to the above mentioned policies and Planning Policy Statement 1 (2005).



Application No: 090743

Location: 200 Ipswich Road, Colchester, CO4 0EP

Scale (approx): 1:1250

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7.11 Case Officer: Nick McKeever**MINOR****Site:** 200 Ipswich Road, Colchester, CO4 0EP**Application No:** 090743**Date Received:** 8 June 2009**Agent:** Mr Mike French**Applicant:** Mr Renu Ramanathan**Development:** Proposed change of use of part ground floor from residential to fastfood takeaway restaurant, with extension to front and rear, as well as formation of car park to rear and associated access.(resubmission of 090318)**Ward:** Highwoods**1.0 Site Description**

- 1.1 The site lies to the north of Colchester town centre and fronting onto the Ipswich Road. The area is designated in the Adopted Review Colchester Borough Local Plan (March 2004) Proposals Map Colchester Inset as being predominantly residential.
- 1.2 To the north of the site are other residential properties; immediately to the south is the main-line railway, with other dwellings beyond. Other residential properties are located to the north-east and to the south-east. To the west is the Highwoods Country Park.
- 1.3 The site consists of a detached, two storey building. This was formerly a dwelling house but now consists of a shop (Off-License) and residential on the ground floor, together with a flat roof single storey storage building. Residential accommodation is also provided on the first floor.
- 1.4 The forecourt area is laid to tarmac and provides on-site car parking for 200 Ipswich Road. There is a lay-by immediately to the front of Nos. 200 – 202 Ipswich Road.
- 1.5 The application proposes the conversion and extension of the existing front lounge and the ground floor area to form the fast food takeaway. At the rear a two storey extension 3.26m wide x 7.6m deep is proposed. This will provide a ground floor disabled toilet for use by customers, a small staff kitchen area as well as the counter and cooking facilities. On the first floor an additional bedroom is proposed (3.26m wide x 3.85m depth).

- 1.6 The plans show the provision of a new vehicular access between Nos.200 & 202 Ipswich Road leading to a new car parking area. This rear parking area is to be shared, with 7 spaces at the rear, and 2 to the front, being allocated to the two commercial properties. One of these front spaces will be for disabled parking. Three spaces are to be provided within the rear parking area to serve the residential unit at 200 Ipswich Road. Two further spaces are to be provided in the front garden of No.202 Ipswich Road in order to replace the existing garage that will be demolished in order to provide the new access.

2.0 Land Use Allocation

- 2.1 Residential

3.0 Relevant Planning History

- 3.1 This is an established commercial property with consents dating back to the 1960's.
- 3.2 F/COL/05/0614 – Single storey extension to existing off licence. Refused October 2005 due to a lack of adequate turning facilities and an increase in conflict between customer parking and other road and pedestrian users.
- 3.3 F/COL/06/0143 – Two storey extension to side and single storey extension to rear forming shop extension with additional residential accommodation above, plus car park to rear. Refused in August 2006.
- 3.4 F/COL/06/1635 – As for 06/0143 plus shared access with 202 Ipswich Road. Approved 21st November 2006.
- 3.5 090318 – Proposed change of use of part ground floor from residential to fast-food takeaway restaurant, with extension to front and rear as well as formation of car park to rear and associated access. Refused 12 May 2009. This is currently subject to an appeal.
- 3.6 The current application is a re-submission. The only difference is that the opening hours have been reduced from 10:00 am to 11:00 pm Mondays to Sundays/Bank Holidays to 10:00 am to 10: 00 pm Mondays to Saturdays (closed Sundays & Bank Holidays).
- 3.7 The application shows that No.202 Ipswich Road is owned or controlled by the Applicant (land edged blue on the submitted site plan). This is confirmed in the Design & Access Statement.

4.0 Principal Policies

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

5.0 Consultations

5.1 Environmental Control comment as follows:-

"Environmental Control wish to point out that even with advanced odour control systems there is still likely to be some residual cooking smells emanating from the establishment as they are not 100% effective. No objection subject to conditions and informatives."

5.2 The Highway Authority has no objection subject to conditions relating to the provision of 90m x 2.4m x 90m visibility splays, the provision of 1.5m x 1.5m pedestrian visibility splay, suitable surface treatment of the access, provision of the approved car parking and of cycle parking.

5.3 Colchester Cycling Campaign requests cycle parking be provided. If it affects the shared use foot/cycleway a safety study should be carried out. Priority must be given to cyclists.

6.0 Representations

6.1 Councillor Gerard Oxford objects on the basis that, even with the reduction in hours, there is a fear that it will increase traffic problems, due to limited parking and double yellow lines throughout the length of the Ipswich Road. There are already significant problems in the immediate area around the location including Highwoods Country Park, which suffers from drinkers leaving the rubbish in the Park and often anti-social behaviour fuelled by alcohol. The proposal would add food to the mix and result in increased litter, traffic problems and anti-social behaviour.

6.2 The following objections have been raised by local residents:-

- Out of character with the residential area
- Previous application for car park granted for retail use. This was conditional upon the forecourt parking being removed. The new application shows parking being put back on the forecourt area.
- Increased traffic adding to existing congestion and traffic related problems on the Ipswich Road. Drivers park illegally in and around the existing lay-by, thereby restricting visibility. Customers are likely to add to this indiscriminate parking.
- Additional noise, disturbance and litter
- Odour problems
- There are existing fast food outlets within the area (Ipswich Road & St.Johns estate). There is no need for an additional outlet.

7.0 Report

7.1 The site lies within a predominantly residential area. In this context the concerns expressed by local residents relating to the character of the area and the potential adverse impact upon the level of amenity currently enjoyed by residents is acknowledged and appreciated.

- 7.2 The previous application was refused solely on the basis that the use would give rise to additional noise, disturbance and associated forms of environmental pollution in the night-time and the weekends/Bank Holidays. The opening hours up to 11:00 pm seven days per week would have a significant impact as this is the time when residents would be expected to be benefiting from the peaceful enjoyment of their leisure time.
- 7.3 In this context the reduction in the opening hours is considered to be acceptable. It is also acknowledged that the rear garden of No.202 will to some extent act as a buffer between the approved car parking area and the nearest dwelling at No.204 Ipswich Road. The existing retail use of the site is currently open until 11:00 pm, seven days a week.
- 7.4 Members will appreciate that matters of anti-social behaviour, including noise and disturbance, are subject to other existing legislation and that it is not for the planning system to duplicate this legislation. The Applicant will be expected to make provision for litter bins.
- 7.5 With regard to highway related matters, it is acknowledged that the Highway Authority raise no objections to the proposal.
- 7.6 The proposed 10 space car park to the rear, and the associated vehicular access, accords with the plans previously approved under the planning permission COL/06/1635. These approved plans also show the provision of two car parking spaces on the forecourt to serve 200 Ipswich Road and two parking spaces on the front garden of 202 Ipswich Road.
- 7.7 No objections are raised to the proposed two storey extension on the basis that this complies with the relevant Local Plan Policy UEA13. The single storey front extension reflects the appearance of the existing shop front. The external materials are shown as matching the existing (i.e. soft red brick, render and concrete interlocking tiles).

8.0 Background Papers

- 8.1 ARC; HH; HA; CCC; 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 use hereby permitted shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a 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 commencing and thereafter be retained and maintained to the agreed specification and working order.

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.

3 - Non-Standard Condition

A competent person shall ensure that the rating level of noise emitted from the site (plant, equipment, machinery) shall not exceed 5dBA above the background prior to the use hereby permitted commencing. The assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the Local Planning Authority prior to the use hereby permitted commencing. All subsequent conditions shall comply with this standard.

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.

4 - 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 reduce sky glow and safeguard the amenity of neighbouring residential properties by controlling the undesirable, disruptive and disturbing effects of light pollution.

5 - Non-Standard Condition

Any lighting of the development shall comply with the figures specified in the current 'Institution of Lighting Engineers Notes for the Reduction of Obtrusive Light' for Zone E3. 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 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.

6 - Non-Standard Condition

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

Reason: To prevent blocking of the drainage system.

7 -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 use hereby permitted commencing. Such equipment as shall have been installed shall be retained and maintained to the agreed specification and in good working order.

Reason: To prevent blocking of the drainage system.

8 - Non-Standard Condition

The use hereby permitted shall not commence until provision, in accordance with details agreed in writing with the Local Planning Authority, has been made within the site and in the vicinity of the site for the disposal and collection of litter resulting from its use. Such equipment, arrangements and facilities as shall have been installed/provided shall thereafter be retained and maintained in good order.

Reason: To ensure that adequate facilities are provided for refuse storage and collection in the interests of the amenity of nearby properties.

9 - Non-Standard Condition

Prior to the proposed access being brought into use, vehicular visibility splays of 90m by 2.4m by 90m, as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm.

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

10 - Non-Standard Condition

Prior to the proposed access being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of that access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. These splays must not form part of the vehicular surface of the access.

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

11 - Non-Standard Condition

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m. of the highway boundary.

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

12 - Non-Standard Condition

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

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

13 - Non-Standard Condition

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

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

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.

3 September 2009

Report of	Head of Environmental & Protective Services	Author	Cheryl Headford ☎ 01206 282422
Title	Land at 111 Wilson Marriage Road, Colchester		
Wards affected	St Annes		

This report concerns an extension to a porch constructed without the benefit of planning consent.

1. Decision(s) Required

1.1 Members are requested to consider the information contained in this report and to authorise an Enforcement Notice requiring:

- The demolition of the extension to the original porch
- Removal, from site, of all materials arising from the demolition

1.2 In terms of the period allowed for compliance, it is recommended that 4 months be allowed.

2. Reasons for Decision(s)

2.1 It is considered that the extension results in a disproportionate enlargement of the property and is detrimental to the character and appearance of the dwelling and street scene and is therefore contrary to established residential design.

3. Alternative Options

3.1 Members could chose not to pursue enforcement action however, this would allow the breach of the planning permission to become immune from enforcement action after a given period of time.

4. Supporting Information

4.1 The porch extension was first brought to our attention on 5 July 2007. It was constructed using wooden panels to the outside (with plasterboard inside), UVPC windows and door, with corrugated sheeting to the roof. Wooden timbers extend out from beneath the roof sheeting.

4.2 A letter was sent to the owner advising that the extension would need planning consent, and that this was unlikely to be given. The owner was given the opportunity to either submit an application or to remove it. No application was forthcoming and the extension remained.

- 4.3 A Planning Contravention Notice was served in January 2008 and a response was received by the Council in February 2008. It was apparent that the owner did not wish to remove the extension and wished to make an application to retain it. A further letter was sent out advising how he should go about making an application. However, still no application was submitted and the extension remained.
- 4.4 In June 2008 a letter was sent advising that enforcement action was being considered to remove the extension, allowing a further 3 weeks for an application to be made.
- 4.5 A meeting finally took place with the owner in October 2008. He stated that he had further works to do to the porch extension, cutting back the overhanging wooden timbers. He was advised that it was unlikely that an application would be considered favourably if the extension remained constructed in wood and if he still intended to make an application he should consider alternative materials. He also stated that he wanted to undertake a further extension to provide for a toilet.
- 4.6 At the end of October a further letter was sent advising that a second wooden extension would not be considered favourably and once again requested that he remove the extension by the end of December 2008.
- 4.7 In February 2009 an application was submitted for a brick built extension to the porch and to provide for a toilet, however the application was not valid and was subsequently returned. It was finally validated in March 2009 as reference 090213.
- 4.8 In April 2009 permission was refused on the grounds that the scale and overall design of the development was at odds with the modest scale of the host dwelling, resulting in a disproportionate enlargement of the property. It was also considered detrimental to the character and appearance of the dwelling and to the streetscene in general and contrary to policy.
- 4.9 A letter was sent in May 2009 advising the owner to remove the extension within 8 weeks or service of an Enforcement Notice would be considered, unless an appeal had been lodged with the Planning Inspectorate.
- 4.10 In July 2009 the extension remained; no appeal had been lodged. The owner was therefore advised that a report for authorisation to serve an Enforcement Notice requiring removal of the extension was being prepared.
- 4.11 At the time of writing this report the extension remains and no appeal has been lodged.

5. Proposals

- 5.1 It is considered expedient to serve an Enforcement Notice requiring the demolition of the extension and removal of all materials, arising from the demolition, from site.

6. Strategic Plan References

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

Background Papers

Planning Decision Notice - Application No 090213

Core Strategy Statement - Policy UR2

Adopted Review Colchester Borough Local Plan – March 2004
Policies DC1 & UEA13



Site Location Plan

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Complaint Reference: 173948

Site Location Address: Lampitts Farm, Turkey Cock Lane, Lexden Heath, Colchester, CO3 8ND

Date Produced: 12 October 2009

(MAP NOT TO SCALE)

Planning Committee

Item
9

3 September 2009

Report of	Head of Environmental & Protective Services	Author	Cheryl Headford ☎ 01206 282422
Title	Land at Furniture Zone, Turkey Cock Lane, Lexden Heath, Colchester		
Wards affected	W. Bergholt & Eight Ash Green		

This report concerns the unauthorised siting and storage use of 3 containers

1. Decision(s) Required

1.1 Members are requested to consider the information contained in this report and to authorise an Enforcement Notice requiring:

- The cessation of using the land for the siting of 3 containers used for storage purposes
- The removal of 3 containers from site

2. Reasons for Decision(s)

2.1 The use of the containers for storage in association with the retail use of the site constitutes an expansion of the scale of the business, which is contrary to policies mentioned within this report (see Background Papers)

3. Alternative Options

3.1 Members could chose not to pursue enforcement action however, this would allow the breach of the planning permission to become immune from enforcement action after a given period of time

4. Supporting Information

4.1 The site was first brought to our attention in January 2008 as the business was trading in breach of a 'personal' use condition and trading new as well as secondhand/antique furniture. At this stage the storage containers were not part of the investigation.

4.2 In March 2008 an investigation into the containers commenced with the occupiers of the site. Because of their size, lack of mobility and fact that they had acquired a sufficient degree of permanence, they were considered to be a building operation. The owners were requested to cease the storage use and remove the containers, or submit an application to retain them.

- 4.3 In December 2008 an application was submitted (ref 082102) to allow for the change of use of a further outbuilding for the sale of furniture. This was given consent in February 2009 and it was understood that the contents of the containers would be transferred to the outbuilding and the containers removed from site.
- 4.4 In May 2009 a Planning Contravention Notice was served on the site requesting information as to when the containers would be removed. The day following service of this Notice a planning application (ref 090703) was received requesting consent to retain the containers for a temporary period of 12 months. The application was subsequently refused on 15 July 2009.
- 4.5 As noise from the use of the metal containers was having an adverse impact on the amenity of the neighbouring property, it is considered expedient to seek authorisation to serve an Enforcement Notice before the expiry of the appeal time. A letter was sent, on 5 August to the company explaining this and requesting the removal of the containers within a period of 28 days otherwise authority to serve an Enforcement Notice would be sought.
- 4.6 On 10 August 2009 Agents appointed by the company advised that they had been instructed to lodge an appeal and when the Enforcement Notice is received this will also be appealed and a request made to the Inspectorate to consider the 2 appeals in parallel.
- 4.7 At the time of writing this report the containers remain and no appeal has yet been received.

5. Proposals

- 5.1 It is considered expedient to serve an Enforcement Notice requiring the cessation of the use of the land for the siting of storage containers and the removal of the containers from site.

6. Strategic Plan References

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

Background Papers

Planning application ref 090703

Adopted review Colchester Borough Local Plan – TCS1, UEA 13

Core Strategy – CE1, TA1, EN2

INDEX TO PLANNING APPLICATIONS CODES

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

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

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

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

INTERNAL CONSULTEES

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

REPRESENTATIONS ETC

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

EXTERNAL CONSULTEES (2 character codes)

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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