

# Planning Committee

Town Hall, Colchester  
29 November 2012 at 6.00pm

## **This committee deals with**

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

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

# Information for Members of the Public

## Access to information and meetings

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

## Have Your Say!

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## **Material Planning Considerations**

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

- planning policy such as adopted Local Development Framework documents, for example the Core Strategy, Development Plan Documents (DPDs) and the Site Allocations DPD, Government guidance, case law, previous decisions of the Council
- design, appearance and layout
- impact on visual or residential amenity including potential loss of daylight or sunlight or overshadowing, loss of privacy, noise disturbance, smell or nuisance
- impact on trees, listed buildings or a conservation area
- highway safety and traffic
- health and safety
- crime and fear of crime
- economic impact – job creation, employment market and prosperity

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

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

## **Human Rights Implications**

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

## **Community Safety Implications**

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

## **Equality and Diversity Implications**

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

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

**Members**

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

**Substitute Members**

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

**Agenda - Part A**

(open to the public including the media)

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

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

**Pages**

**1. Welcome and Announcements**

- (a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
  - action in the event of an emergency;

- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

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

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

## **3. Substitutions**

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

## **4. Urgent Items**

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

## **5. Declarations of Interest**

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

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

reasonably regard as so significant that it is likely to prejudice the Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

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

## **6. Minutes**

**1 - 6**

To confirm as a correct record the minutes of the meeting held on 1 November 2012.

## **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. 121353 Land adjacent (south), Grange Road, Tiptree (Tiptree)

**7 - 31**

Variation/removal of conditions 27, 28 and 34 of planning permission 091627.

2. 121333 Mersea Court, High Street North, West Mersea (West Mersea)

**32 - 41**

Outline application for extension to provide 6no. additional flats. Resubmission of 120200.

3. 121334 Akhurst Court, Melrose Road, West Mersea (West Mersea)

**42 - 51**

Extension to provide 5no. additional flats. Resubmission of 120198.

4. 121763 33 Barrack Street, Colchester (New Town)

**52 - 58**

Extension to side of existing property to form an addition to the first floor residential unit.

## **8. Enforcement Report // Application no. 121353 Land adjacent (south), Grange Road, Tiptree**

**59 - 61**

See report by the Head of Environmental and Protective Services.

## **9. Exclusion of the Public**

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





# PLANNING COMMITTEE

## 1 NOVEMBER 2012

*Present :-* Councillor Theresa Higgins (Chairman)  
Councillors Nick Barlow, Nigel Chapman,  
Peter Chillingworth, Cyril Liddy, Jackie Maclean,  
Jon Manning and Laura Sykes

*Substitute Members :-* Councillor Barrie Cook for Councillor Helen Chuah  
Councillor Marcus Harrington for Councillor John Elliott  
Councillor Michael Lilley for Councillor Stephen Ford  
Councillor Sue Lissimore for Councillor Sonia Lewis  
Councillor Peter Higgins for Councillor Nigel Offen

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

### 50. Minutes

The minutes of the meeting held on 11 October 2012 were confirmed as a correct record.

### 51. 121547 14 Honywood Road, Colchester

The Committee considered an application for a variation/removal of Condition 17 of planning permission 111842 and Conditions 16 and 18 of planning permission 112480, relating to boundary treatments. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Mark Russell, Principal Planning Officer, attended to assist the Committee in its deliberations.

Richard Spooner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was concerned that he and other neighbours had not had the opportunity to consider the late amendment set out on the Amendment Sheet. He was concerned that such a late amendment did not comply with due process and neither did it comply with adopted policy for Backland and Infill. He considered that the feather-edged wood fencing was an improvement but asked that the application be deferred so the neighbours could give more consideration to the latest proposal.

Councillor Cope attended and, with the consent of the Chairman, addressed the Committee. He queried whether the amendments adhered to the Council's policies. He would be willing to agree the proposal on the Council's website for a compromise of half the vegetation retained and level planting along Honywood Road. He speculated whether this compromise would be further changed in the future. He would prefer the Committee to adhere to the conditions which have already been agreed. Repeatedly revisiting conditions undermines trust in the process.

The planning officer explained the sequence of events. In respect of the Backland and Infill Supplementary Planning Document, any required boundary treatment was dealt with on a case by case basis taking into account amenity value. In this case, individual specimens were not of great value and removing one or two holly trees did not constitute a great loss. Any proposed amendment would be assessed on its merits.

Members of the Committee considered it unfortunate that residents had not had sufficient time to consider the amended boundary scheme and in the spirit of the process being open and transparent by allowing residents time to look at the new scheme, they were minded to defer the application for a seven day consultation with residents and the ward councillor. If there were no further objections the Head of Environmental and Protective Services be authorised to approve the application. If there were further objections, the matter would come back to Committee.

*RESOLVED* (UNANIMOUSLY) that –

- (a) The application be deferred for a seven day consultation with residents and the ward councillors.
- (b) In the event that there were no further objections, 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.
- (c) In the event that further objections were received, the matter to come back to the Committee for determination.

## **52. 121476 High Woods Country Park, Visitors Centre, Turner Road, Colchester**

The Committee considered an application for internal remodelling to convert the existing public toilets into office space, and a new stand alone building for public toilets and additional office space. 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.

## **53. 121289 Colchester Leisure World, Cowdray Avenue, Colchester**

The Committee considered an application for internal remodelling and refurbishment, a single storey main entrance and cafe extension, and external works including drainage and relocation of cycling facilities. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations.

Members of the Committee were content with the proposal having had the opportunity to view the drawings and considered it would be a useful addition. Members of the Committee were particularly supportive of the additional cycle parking and the link with cycle routes.

It was confirmed that the majority of cycle parking would be under cover.

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

**54. Construction of a new 300 place primary school with external hard and soft play areas, canopy and 20 space car park**

**The Chairman agreed, pursuant to the provisions of Section 100B(4)(b) of the Local Government Act 1972, to consider the following item at the meeting as a matter of urgency because the deadline date for a response to the consultation by Essex County Council was 26 October 2012.**

The Head of Environmental and Protective Services submitted a report on a consultation by Essex County Council for a proposed 300 place primary school with external hard and soft play areas, canopy and a twenty-space car park. Appended to the officer report was a holding letter of objection to Essex County Council setting out in detail this Council's objections to the proposal which encompasses issues relating to design, heritage, landscape and arboriculture, community use, amenity, air quality, contamination and highway matters. The Committee was requested to endorse the holding letter of objection and to send officer/member representation to the Essex County Council Development and Regulatory Committee meeting. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Alistair Day, Principal Planning Officer, and Andrew Tyrrell, Planning Manager, attended to assist the Committee in its deliberations.

The planning officer referred to the site being allocated for educational use on the Garrison master plan and its location within a conservation area. There were a number of retained buildings around Abbey Field with strong character and classical design. Although the Design and Access Statement stated that the proposal should reflect the character of these retained buildings, he did not believe the proposal as submitted had achieved that objective. This view was supported by English Heritage. Amended drawings had been submitted subsequent to the committee report being written; however the proposed changes, which included superficial projections to the front elevation, and modification of the entrance, the arrangement of windows and changes to the brickwork, did not address the fundamental concerns that the planning officer had in respect of the proposed design and the detrimental impact the building would have on the character and appearance of the conservation area.

The planning officer stated that although the parking provision was below the standard, it was acceptable given the central and sustainable location of the site. In respect of cycle parking, the standards indicated 104 cycle spaces would be appropriate, and

whilst planning officers accepted that this figure was overly generous, the proposal to provide some twenty cycle spaces was considered woefully inadequate. Concerns were expressed regarding the robustness of the submitted Travel Plan and that this document would need to be strengthened. It was proposed to relax the parking regulations in Circular Road East to enable dropping off and picking up at the start and close of the school day, together with the provision of parking permits for the Napier Road public.

Rachel Moulton, LSI Architects LLP, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She referred to the application having been submitted to the Borough Council in September after a lengthy consultation process which included other organisations and the local community. The design was similar to baseline designs for a school of this size and as such was appropriate in this situation. She referred to the stepping of the elevations, the arrangement of the fenestration, the red and gold brick pattern and the string courses which provided detailed decoration. She considered the modified scheme to be a great improvement.

In response, the planning officer referred to the late submission which was set out on the Amendment Sheet. He did not consider the notice in the local press and the public consultation events held in a local school to be an appropriate way to conduct a pre-application consultation with a local authority. In contrast he described the close collaborative working arrangements this Authority had developed with major and smaller house builders, the Primary Care Trust and the medical centre on the Garrison site to produce buildings befitting a conservation area. It was not considered that the applicant had consulted widely enough or in sufficient detail.

Members of the Committee expressed their views on the following matters:-

- neither the Colchester Borough Ward Councillor nor the Essex County Councillor for the area had been invited to a consultation;
- the site is within a conservation area;
- a landmark building was considered to be appropriate for this prominent location;
- English Heritage had raised strong concerns but Members were uncertain whether those concerns had been relayed to Essex County Council and they wanted their response to be attached to the planning officer's letter of objection;
- the design was problematic in this location. It might suit some sites in Colchester but not this particular site;
- it would have no context and resembled a factory or a workhouse, these were not building types that would inspire children to learn;
- in particular the saw tooth design was awful and did not fit with the surrounding area;
- the entrance was atrocious. It was not sufficiently prominent and welcoming. It should be bigger;
- the design should have a wow factor and be sympathetic to the area by picking up on local elements, as in the nearby flats which take their cue from the surrounding retained buildings;
- in contrast there was respect for the idea of consistency, but an imitation of a garrison building would not be acceptable;

- the Travel Plan should be provided at the outset because it was difficult to get one at a later stage. Members wanted parents and staff to travel to the site by any means other than by car because of the Air Quality Management Area nearby at the end of Mersea Road;
- there were concerns that the cycle spaces provided within the site was inadequate, with Councillors recognising that from an early age schools promote cycle proficiency and they had observed significant shortages of cycle parking in other Colchester schools due to higher demand. Education was about a healthy lifestyle and the inadequate number of cycle spaces gave the wrong message;
- the cycle spaces should be covered and secure;
- parents could walk across Abbey Field;
- there were car parking problems at other schools in the Borough, the number of car parking spaces was inadequate. Ten classes, each with a teaching assistant equated to twenty spaces. There were concerns about parking in Napier Road;
- this area was desperately short of community space – evening rentals for schools were more and more important; it was an Ofsted criteria and a revenue stream;
- a number of Members expressed support for the letter of objection whilst others considered it to be restrained;
- the comments from the applicants in response to the lack of consultation demonstrated an arrogant attitude. Essex County Council appear to have a disregard for Colchester's planning officers.

The planning officer responded to these points. There needed to be a high quality design. It was accepted that there was a baseline design model in terms of how the school functioned internally. However there were concerns relating to the design of the elevations and how they related to the building's context. Planning officers were not looking for a copy of the old buildings but considered that the architecture should reinterpret the consistent characteristics in the area, whether this be in a contemporary manner or a more traditional approach. In terms of context and isolation, the design needed to be taken from the surroundings. If a poor precedent was set in this location it might influence the design for sites nearby which had not yet been developed. The design requirement was for a school that reflected its surroundings and was not about taking a lead from a building which was out of context.

It was intended that a Travel Plan would be subject to condition. There needed to be a more robust provision for cycle spaces and changing facilities which should be available from day one. As the Highway Authority, Essex County Council was able to determine whether or not the relaxation of Traffic Regulation Orders in Circular Road East was appropriate. This authority was reliant on Essex County Council for developing Travel Plans and it was hoped that what had been proposed was the basis of a more robust Travel Plan document, both for teachers and children. When the Garrison site was fully developed there would be around 1,500 homes surrounding Abbey Field and on the adjacent Hyderabad Barracks, all within walking and cycling distance, and it was hoped that these would be the preferred modes of travel. It had been suggested that the school had a community use outside school hours and the response had been that that was the responsibility of school governors. Undoubtedly the educational use would be the primary function, but it was hoped that such a building could embrace community facilities and that this could be secured through a legal

agreement.

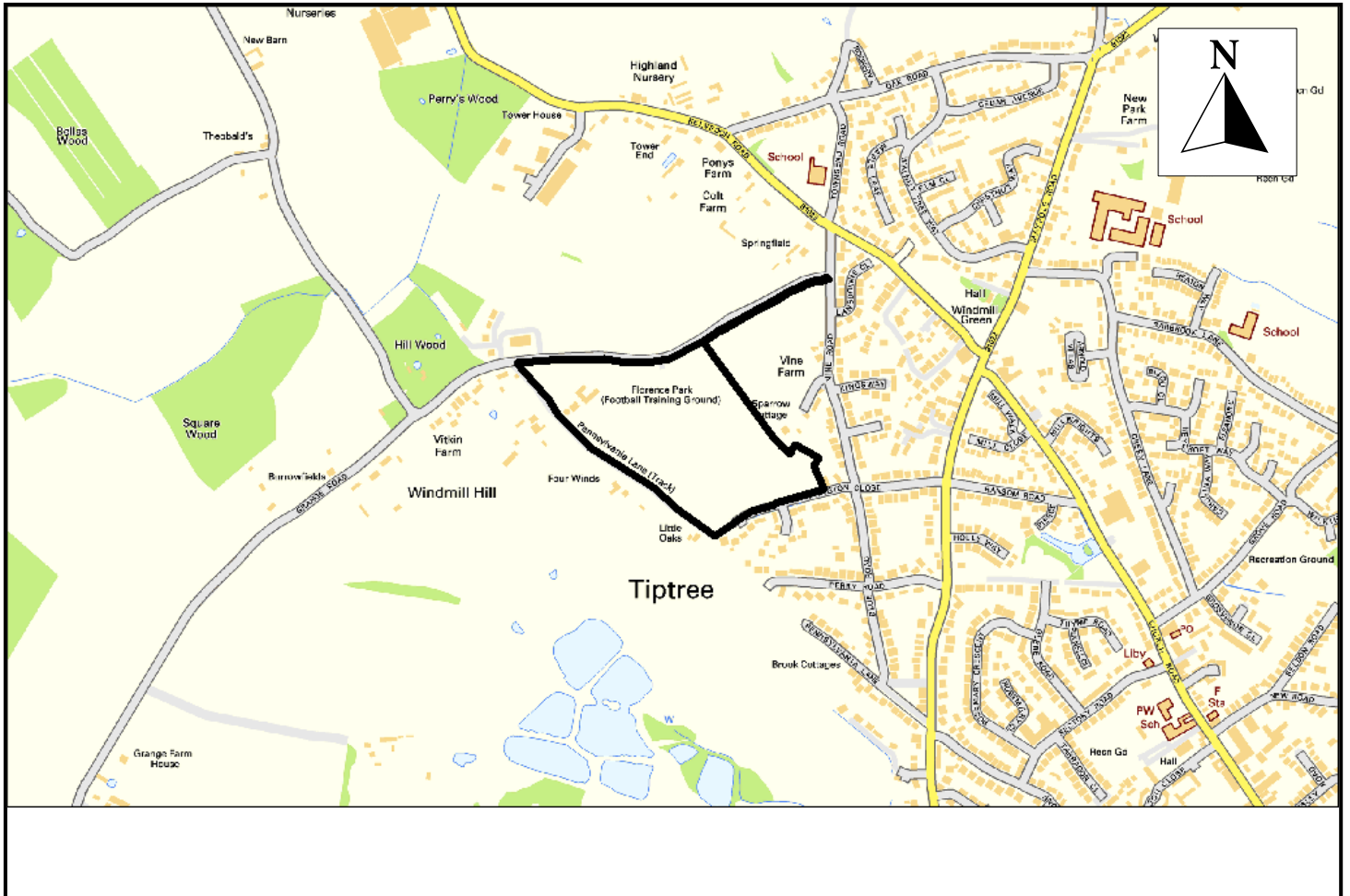
It was noted that representatives from Essex County Council were present at this meeting and able to hear Members' comments. The letter of objection could be strengthened by inclusion of the points put forward by Members of the committee. It was also suggested that a planning officer attend the Essex County Council committee meeting, and Members may wish one of their number to represent this Council.

The Planning Manager drew attention to the apparent lack of understanding of the context of the building. The Borough Council had been raising the quality of buildings in the area and bringing in the principle of localism. It was apparent that the lack of local involvement had resulted in a lack of local architectural understanding. It was suggested that this point should be strengthened in the Borough Council's reply to Essex County Council with more regard to context, understanding and locality.

Members requested that one of their number act as a representative at the Essex County Council meeting, and that this minute be attached to the letter of objection.

*RESOLVED* (UNANIMOUSLY) that –

- (a) The holding letter of objection be fully endorsed with the addition of the following comments :- the grave misgivings of the Planning Committee in respect of the design of the school, its failure to relate to the historic context, the poor approach and design of the main entrance, the underprovision of cycle parking and the absence of a robust Travel Plan, relaxation of the existing traffic regulations and the failure of Essex County Council to consult with Colchester Borough Council at an early stage of this proposal resulting in references to the wrong local characteristics.
- (b) Planning officers and committee members to attend the Essex County Council Development and Regulation Committee meeting.
- (c) A copy of this minute and advice provided by English Heritage to be sent to Essex County Council.



**Application No:** 121353

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

**Scale (approx):** NOT TO SCALE

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# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **29 November 2012**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

**7.1 Case Officer: Mark Russell**

**MAJOR**

**Site:** Land Adjacent (South), Grange Road, Tiptree, Colchester  
**Application No:** 121353  
**Date Received:** 20 July 2012  
**Agent:** Lawson Planning Partnership  
**Applicant:** Colchester United Football Club Ltd  
**Development:** Variation/removal of conditions 27, 28 and 34 of planning permission 091627.  
**Ward:** Tiptree

**Summary of Recommendation:** Delegate to Head of Environmental & Protective Services subject to the signing of a legal agreement

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

1.1 This application is referred to the Planning Committee because of the amount of objections and because of the public and wider interest which has been aroused.

## **2.0 Synopsis**

2.1 The following report sets out the Site history of the land to the south of Grange Road, Tiptree, (also known as Florence Park) which is in use as the Colchester United Football Club training ground.



- 2.2 The original proposal to extend hours of use to all day Monday to Friday (previously only two and a half hours per day) and to include use on Sundays (previously not permitted) is described in detail. This has, as a backdrop, a desire on the part of the club to maintain Category 2 status in the Elite Player Performance Plan (EPPP).
- 2.3 An amended set of hours is then discussed, this includes shortening the days to 3:30pm and having a day of non-use as well as longer hours in the late pre-season and weeks of non use prior to this.
- 2.4 Letters and emails from objectors (mainly residents) and supporters (mainly living more remotely) are looked at. These related to noise nuisance as well as Highway concerns and the fact that the club had flouted the existing conditions.
- 2.5 Also proposed is the relaxation of the 40 metre buffer (from pitch to houses) to relate only to existing and not proposed new houses.
- 2.6 The third strand of the application is to allow more than two pitches to be used at any one time.
- 2.7 The issue of noise is then looked at in some detail with analysis and findings from our Environmental Control team. This originally proposed a careful expansion of times, with the exclusion of Sunday usage, and a rewording of the condition allowing more than two pitches to be used at the same time, whilst accepting the change to the buffer condition. An amended set of hours is then discussed, and Environmental Control is broadly in agreement with this.
- 2.8 Highways issues, in terms of intensified use and possible conflict with school traffic are then considered and the Highway Authority's view on these points in the context of proposed speed restrictions are looked at.
- 2.9 The conclusion is then reached that the variation to condition 28 (the buffer) is allowed, condition 34 (more than two pitches up to six times a year) is allowed and the amended condition 27 (hours and days of use) is allowed.

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

- 3.1 Florence Park is a purpose built training facility comprising five pitches and a club house. It is surrounded by disused farmland (zoned for housing), existing houses and paddocks and Grange Road itself which still has a rural feel to it with hedgerows on one side and a new footway on the other.

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

- 4.1 The application proposal was initially as follows:

Condition 27: The use of the Colchester United Training Pitches hereby permitted shall not operate outside the following times: 10.00 am to 6.00 pm Monday to Saturday and 10.00 to 1.00pm on Sundays.

Condition 28: At no time shall the boundary of any sports pitch be laid out or located closer than 40 metres to a residential curtilage that was in existence on the date on which planning permission was originally granted.

Condition 34: The use of the proposed four training pitches shall be restricted to use by Colchester United Football Club (CUFC) only, or for any community use that may otherwise be agreed by CUFC, and shall be restricted to the use of a maximum of two of these training pitches at any time, unless otherwise agreed in writing by the local planning authority.

4.2 Following a meeting with the club's representatives, an amended proposal was put forward as follows:

Condition 27: The use of the Colchester United training pitches hereby permitted shall not operate outside the following times:

i) August - April (inclusive)

- Mondays, Tuesdays, Thursdays & Fridays – 09:30 – 15:30 (with half an hour lunch break);
- Wednesdays – no use (unless the club has a Thursday fixture, in which case the 'no train' day will be swapped for another weekday during the same week);
- Saturdays – 10:00 – 13:00;
- Sundays – 10:00 – 13:00 (limited to children's football)

(Note – Limitations referred to above under this Condition exclude other community use which is separately permitted)

ii) Mid-May - June

- No use of pitches (unless one of the six scheduled sessions referred to below, or as otherwise agreed);

iii) July

- Mondays to Fridays – 10:00 – 18:00 (with an hour lunch break 13:00 – 14:00);
- Saturdays – 10:00 – 13:00;
- Sundays – no use.

Condition 28: No change from the above

Condition 34: More than two pitches to be used at the same time on up to six occasions per year.

*OFFICER'S COMMENTS: Some slight re-wording is suggested, which tweaks the times, replaces the word 'pitches' with 'ground'. Also, specific types of use are allocated to the weekends to prevent general use.*

## **5.0 Land Use Allocation**

5.1 Open Space including sport and recreational facilities.

## **6.0 Relevant Planning History**

6.1 090217 – Change of use of agricultural land to sports field, minor regarding and drainage of playing area, with associated vehicle parking area and vehicular access from Grange Road. Community usage of one pitch proposed. REFUSED 1<sup>st</sup> July 2009;

6.2 091115 - Change of use of agricultural land to sports field, minor regrading and drainage of playing area, with associated vehicle parking, vehicular access from Grange Road and provision of cycle/footway links to Harrington Close and Vine Road.(Resubmission of 090217) REFUSED 9<sup>th</sup> November 2009;

6.3 091117 – Change of use of agricultural land to sports field, minor regarding and drainage of playing area, *erection of associated building for changing rooms* and ancillary accommodation, water tank, vehicle parking, vehicular access from Grange Road and provision of cycleway/footway links to Harrington Close and Vine Road. REFUSED 9<sup>th</sup> November 2009;

6.4 091627 – Change of use of agricultural land to sports field, minor regarding and drainage of playing area, erection of associated building for changing rooms and ancillary accommodation, water tank, vehicle parking, vehicular access from Grange Road and provision of cycleway/footway links to Harrington Close and Vine Road (resubmission of 091117). APPROVED 8<sup>th</sup> January 2010.

## **7.0 Principal Policies**

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

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

TA4 - Roads and Traffic

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

DP1 Design and Amenity

DP4 Community Facilities

DP17 Accessibility and Access

DP18 Transport Infrastructure Proposals

7.4 Further to the above, in the adopted Site Allocations (2010), Policy SA TIP1 allocates the land contained within the site at Grange for Open Space including sport and recreational uses.

## 8.0 Consultations

8.1 Environmental Control: Our Environmental Control section took a number of readings from nearby premises over a number of weeks. It concluded as follows:

### Condition 27

*Noise levels witnessed on Saturday mornings when a high level of activity was taking place dominated the entire area around the site and were intrusive at the worst affected properties. Noise from competitive matches, including the additional noise from spectators, elevated the levels in private gardens in excess of those predicted by Sharps Redmore. Regular competitive matches in addition to those taking place on the community pitch appear to have brought about an intensification that was not identified in the original application or acoustic reports.*

*Noise levels from standard mid-week training are only marginally lower at some properties than those experienced on Saturdays, but because training areas are restricted fewer properties are affected at any specific time.*

*In the interest of preventing significant impact on the amenity it is our professional opinion that the residents need to be protected from exposure to the noise levels by regulation of the hours.*

*Control of the activity within the hours applied for were initially considered, but having witnessed the noise we are of the opinion that such controls would prove impractical and difficult to enforce. We are also of the opinion that at times the noise is so intrusive that it can affect the residents' normal enjoyment of their properties and that some domestic or social activities may have to be arranged around those of the site. It is therefore important that the residents are aware of the hours the site is permitted to operate and have some respite at weekends, particularly as some residents already experience significant noise levels regularly mid-week.*

*We would therefore recommend that there is no change to the hours permitted on Saturdays and no activity on Sundays.*

*Noise levels from mid-week training sessions were also regarded as intrusive at the nearest properties and for the same reasons the residents need to know when they are likely to be disturbed.*

*We therefore recommend a maximum increase of one hour per day Monday to Friday/five hours per week, with any permitted hours fixed.*

### Condition 28

*We accept, to a degree, that persons moving to a new property are less likely to be disturbed by an existing activity.* However, in our experience, sometimes the focus is so concentrated on the new purchase, that not all environmental impacts are fully considered, particularly if viewings take place when the site is quiet.

*Having viewed outline plans for the proposed development to the north-east of the site, we understand that dwellings will be separated from the site by a footpath, cycle path and access road. Therefore, noise attenuation measures such as a reduced 20 m buffer, orientation of the units to shield private gardens and glazing/ventilation features can be conditioned on any subsequent application. We therefore have no objection to the condition being worded to apply to existing premises only. We suggest this applies to the date of determination of this application, as we are unsure of when the new properties to the south east of Sparrow Cottage were constructed.*

*During monitoring visits to the site it has been observed that a great deal of training actually takes place around the pitches, often close to the boundary with properties. Some areas appear to be particularly favoured, for example in front of Four Winds in Pennsylvania Lane. This activity is not covered by the original condition.*

*In order to provide some attenuation for noise produced by off-pitch activity, particularly for maximum levels, we recommend the following, additional, condition:-*

*At no time shall any training activity be located closer than 20 metres to a residential curtilage.*

*Note: A 40 m buffer would have been preferred, but appeared unreasonable owing to the constraints of the site.*

#### **Condition 34**

*Monitoring has shown that the highest noise levels have been recorded on Saturdays when competitive matches take place. These levels already exceed those predicted as a worst case by Sharps Redmore and are possibly exacerbated by spectator noise. Being competitive in nature, it is also possible that the noise from shouting from both players and coaches and the use of whistles also increases.*

*We understand that the applicant wishes to use more than two pitches simultaneously in order to host the occasional youth tournament. For the reasons previously explained, exposure to this level of disturbance should be restricted. We recommend that the condition is amended as follows:-*

*“... and shall be restricted to the use of a maximum of two of these pitches at any time, with the exception of five occasions per annum.” The local planning authority shall be notified in advance of each occasion.”*

Environmental Control also added the following commentary in terms of noisy equipment:

*Complaints have also been received regarding the use of the lawnmower/s. This has been witnessed and is loud when close to properties, a maximum noise level of 68.2 dBA being measured. We accept that regular ground maintenance is necessary and that the mower/s are continuously moving, but suggest the following conditions to ensure that such activity takes place within reasonable hours and the noise is controlled so far as is practicable:-*

*“Any equipment or machinery used for site maintenance which is clearly audible at the site boundary shall only be used between the hours of 09:00 and 18:00 Monday to Saturday.*

*Where practicable, any equipment or machinery used for site maintenance which is clearly audible at the site boundary shall be fitted with silencers.”*

- 8.2 With the **amended set of hours**, Environmental Control has reassessed its response, and has stated the following:

*‘The revised application represents a significant departure from the original application in terms of a substantial reduction in use from 51 to 28 hours per week during the playing season (August to April). It also provides a number of additional controls including a fixed mid-week rest day and a six week period between mid-May and the end of June during the off season when no training pitch use will take place.*

*We welcome the revised proposals, but note that regarding the mid-week rest day and mid-May to end of June period they refer to activity on the pitches. We have witnessed intrusive noise from off-pitch training activity and wish to ensure that mid-week rest days and off season periods are conditioned so that no activity is permitted that has the potential to impact on the residential amenity.*

OFFICER’S COMMENT: The reference to ‘pitches’ has now been re-worded to refer to the entire ground.

*We note that in July for four weeks prior to the season commencement the site is required for 7.5 hours per day Monday to Friday, plus three hours on Saturdays. Providing the off-season period preceding July is adequately conditioned we have calculated that this requirement provides no overall gain in the hours of use, based on the normal in-season hours applied for.’*

- 8.3 Consequently, Environmental Control has now revised its recommendation as follows:

**Condition 27 – Hours of use**

Mid-week

*We welcome the considerable reduction in mid-week hours from the 40 originally proposed to 22 and the inclusion of a rest day (normally Wednesday), subject to the controls previously discussed. In terms of amenity a rest day that is normally fixed will provide the residents with notice of a complete break from any potential training activity impact.*

*The current proposal still equates to 4.5 hours per week above those we originally recommended and we would prefer the mid-week hours to be reduced by an additional 30 minutes each day in order to narrow the period in which noise may affect residents.*

## Saturdays

*Saturdays already have permission for use between 10:30 and 13:00. The revised application is to extend this period by 30 minutes to 10:00, a considerable reduction from the additional increase of 5.5 hours (10:00 to 18:00) in the original application. We understand a 30 minute increase will not allow sufficient time for additional matches to be played over those already permitted.*

*There will be no Saturday matches from mid-May to July, a period which was included in the original application.*

## Sundays

*We understand that the applicants wish Sunday use only to apply to the younger youth teams, i.e. children under the age of 14 and this use is required between August to April (inclusive).*

*Recent monitoring of matches involving under 14s indicates that it is private gardens that could potentially be affected by under 14s matches on Sundays. No Sunday use of the training pitches is proposed during May, June or July.*

*In response to the original application we recommended that there should be no activity on Sundays. This was because monitoring of matches involving under 18s on Saturdays measured noise of significant levels and of an intrusive nature, including swearing. It also took into account the fact that the application would have potentially permitted activity on every Sunday throughout the year.*

*Having only previously assessed activity involving under 18s during competitive matches on Saturdays we undertook additional monitoring on Sunday 11 November to assess noise levels from matches involving children under 14.*

*Monitoring took place from the private garden of Four Winds in Pennsylvania Lane (Site 2 in the report) during the morning. During monitoring matches were taking place on the first team pitch, southernmost pitch and community pitch. Previous monitoring has shown Four Winds to be the property most affected by noise produced at the first team pitch.*

*Noise levels at Four Winds with a match taking place on the first team pitch were found to be approximately 6 dBA lower than those for the under 18 matches previously measured on Saturdays. It was also only slightly above the continuous ambient noise level and 4 dBA above the maximum ambient noise level. Under normal conditions 3dB is considered the lower limit of perceptible change. Note: The ambient noise level is the level measured with no site activity taking place.*

*Subjectively the noise at Four Winds was still audible, but the shouting of the players and ball strikes were noticeably quieter than matches involving older players, as were the whistles (we understand the club is now using quieter whistles than those used previously). Shouting from coaches and, occasionally, players was clearly audible for brief periods (often seconds rather than minutes), but it was not the prolonged or intrusive disturbance witnessed on previous occasions from under 18 matches. No swearing was observed during the period monitored.*

*It was noted that a youth match comprises four 20-minute periods and with breaks is approximately 10 minutes shorter than an adult match.*

*At the boundary of the rear garden with Sparrow Cottage (Site 3 in the report), with matches taking place on the nearest two pitches, noise levels were higher, as the property is closer to the activity, the private garden being just 40 metres from the edge of both pitches. The levels were 12 dBA above the continuous ambient noise and 25 dBA above the ambient maximum levels, which is significant.*

*This was a worse case scenario as there were matches on both of the nearest pitches. If, for example, Sparrow Cottage was just exposed to activity from the southernmost pitch, noise reduction from the rear fence and just one pitch being used would reduce the noise levels by approximately 8 dBA, thereby reducing it to 3.5 dBA above the ambient continuous noise level. This is just above the limit of perceptible change. However, maximum levels would remain approximately 17 dBA above the ambient maximums.*

*Previous monitoring has shown that Sparrow Cottage is the worst affected property, the private garden being just 4 metres from the site and 40 metres from the two nearest pitches. Other properties would be affected to a lesser extent because of distance attenuation and private gardens being screened by houses.*

*Subjectively the shouting, and to a lesser extent, ball strikes and whistles were clearly audible and intrusive for brief periods, but not as prolonged, intensive or intrusive as that observed during adult matches. Again no swearing was witnessed during monitoring.*

*It is our understanding that the under 14 matches would be rotated, thus potentially reducing exposure to individual properties.*

*It has recently been drawn to our attention that the separate permission for the community pitch allows for use between 10:00 to 13:00 and 14:00 to 18:00 on Sundays. It also allows for any pitch on the site to be allocated as the community pitch. If correct, this means there is existing permission for louder and more intrusive adult matches on any pitch, so an under 14 match would have no additional impact over and above what is currently permitted. However, we are aware that the community pitch is restricted to only three matches per week, so the level of Sunday use in addition to the rest of the week is limited. Also, community use only applies to one pitch at a time, so noise from adult matches could only be used as a comparison for assessing the impact of under 14 matches at one pitch.*

*It is private gardens that could potentially be affected by junior matches on Sundays. The revised application would allow for residents to have a break from Sunday activity during, May, June and July, the months when residents are most likely to be enjoying the use of their gardens. This should be conditioned so that no activity that would impact on amenity would be permitted.*

*If permitted, any Sunday use should be conditioned so that matches are restricted to under 14s only.*



OFFICER'S NOTE – All references to under 14 should be revised to under 15, as it is a possibility that an under 15 team may also soon be set up.

**Condition 34 – Number of pitches used concurrently**

*The original application requested that more than two pitches could be used at any one time on an occasional basis an unlimited number of times. The revised application requests the use of more than two pitches concurrently is restricted to six occasions per calendar year, a slight increase on our recommendation of five occasions.*

*We recommend this is conditioned to ensure that such occasions are adequately spaced so that they are not concentrated over any specific period.*

*We would also recommend that neighbouring residents are informed and given reasonable notice of when these occasions are likely to occur.*

*In general, we also suggest the following noise reduction controls are conditioned:-*

*The quieter whistles that we understand are available are used at all times.*

*Signage is clearly displayed around the site, including all areas used by spectators, to ask site users to respect the residential amenity in respect of noise, foul language and general behaviour.*

*A noise management plan is submitted to the LPA. This could include a section on the club website to inform residents of noise reduction controls, forthcoming activity, which pitches will be used etc. which would benefit residents.*

*In addition to the previous conditions regarding site maintenance equipment, we suggest regular servicing of mowers etc. is added to the condition regarding silencers to ensure noise is minimised.'*

- 8.4 Highway Authority: The Highway Authority did not originally object, but a second opinion was sought in case it had not been fully aware of the level of proposed and actual intensification when compared with the permission granted with 091627.
- 8.5 The applicants have described the manner in which off-site parking (namely at the Jobserve car park) is available and that this could be utilised to overcome the shortfall in parking on-site.
- 8.6 The Highway Authority has replied that 'In this Authority's experience parking facilities which are separated from the target site, and therefore require additional effort from the drivers, are not fully or efficiently utilised; something which also can't be enforced.'
- 8.7 By way of solution, it proposes: 'in the interests of highway efficiency and user safety the Highway Authority would ask that the applicant provides a sum of £2,500.00 to be held by the Highway Authority for a period of ten years to go towards implementation of public parking restrictions in Grange Road or local residential streets, in the event of an issue arising. After this period, if this Authority is satisfied that the highway environment has not been unduly affected, this money can be returned to the applicant.'
- 8.8 This shall be secured by a Section 106 agreement.

8.9 Sport England: As a statutory consultee, this body commented as follows: *‘Overall, the implications of varying the three planning conditions as proposed would appear to be positive from a sports perspective and would not be detrimental to the use of the playing field. On this basis, I can confirm that Sport England has no objection to the planning application as a statutory consultee and is supportive as a non-statutory consultee.’*

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

## 9.0 Parish Council Response

9.1 Tiptree Parish Council has commented as follows:

*‘The Parish Council unanimously opposes this application. The original conditions were imposed to protect residents, who now firmly believe that if this application receives your approval, this will be the first of many such requests for removal of conditions. You should not allow this to happen.’*

*Contained within the application is a reference to consultation with residents on this current proposal. At the Parish Council meeting on the 13<sup>th</sup> August, the Chairman took the opportunity to ask residents the form that the consultation had taken and was surprised to learn that, in fact, no consultation with residents has taken place. This must be addressed with the applicant.*

*The Parish Council was also dismayed to learn that the restrictions do not apply to the Community pitch. This is a major error on the part of Colchester Borough Council and should not have been allowed to happen. This effectively subjects residents to increased noise (and foul language) 24 hours per day and must be rescinded.*

*To sum up, Tiptree Parish Council is unanimously against this Planning application and trusts that Colchester Borough Council will take this view and the views of those residents living in close proximity to the training ground into account when reaching their decision.’*

9.2 Having been reconsulted on the new set of hours, the Parish Council maintained its objection as follows:

*The Parish Council considered that letter from the Lawson Partnership at its meeting on 12th November and voted unanimously to object to the proposals contained within. The Parish Councils’ concerns are -*

1. *This remains a substantial increase on the current planning permission.*
2. *The proposal is complex and variable and would be impossible to self regulate.*
3. *Totally disagree with the removal of Condition 28 - the Parish Council believe the 40m buffer zone should apply to all properties not just the existing properties.*

*Community Pitch - the original application did not include any S106 funding, although a 'community pitch' was agreed. Unfortunately the pitch is of little use to residents of Tiptree as it is only available to organisations that are affiliated to either CUFC or Job Serve.*

## **10.0 Representations**

10.1 Approximately 300 letters and emails were received, with approximately 90 from local residents opposing the scheme and over 200, largely from further away and some in other parts of the country, supporting the proposal. Petitions with many more names were also received.

10.2 The main points of objection were:

- Noise pollution;
- Bad language
- The club knew what the restrictions were;
- The community hasn't been listened to;
- Increased traffic;
- Possible introduction of floodlights;
- Supposed to be a training facility, not for tournaments and competitive games;
- The road is unsafe;
- New houses should not be so close to the training ground;

10.3 In support:

- The restrictions are unreasonable;
- The proposed hours are not in anti-social hours;
- The houses are far enough away;
- Allows pitches elsewhere to be freed up for use;
- EPPP Academy status would be threatened;
- Pitches can only be used for a certain amount of time anyway;
- Jobs are being created;

10.4 With the new set of hours, more representations objecting to the hours were received. They expressed similar views:

- Because of noise and swearing there should be no further extension of hours;
- The application has not been handled well and breaches of condition have not been acted upon;
- Threat of legal redress if the matter is not resolved satisfactorily;

10.5 Some extra letters of support were also received, but did not raise any new points.

10.6 Any further comments will appear on the amendment sheet and the full text of all of the representations received is available to view on the Council's website.

## **11.0 Parking Provision**

11.1 There are 45 car parking spaces (three for people with disabilities) and spaces for one coach and two minibuses. There is also a covered cycle park. In addition, overspill parking is available at the Jobserve car park which is in the same ownership.

## **12.0 Open Space Provisions**

12.1 n/a

## **13.0 Air Quality**

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

## **14.0 Report**

14.1 The consideration of this application entails a balancing of the needs of the club with the amenity of residents.

14.2 The set of hours which the club is now seeking differs from that sought at the time of the approved application 091627. Whether this is due to a change in circumstances, or was a pre-determined path of action, is irrelevant to the acceptability, or not, of the application which must be judged on its merits.

14.3 The club has stated that its youth programme and its participation in the EPPP are dependent on this application being approved. Also, the Club requires additional weekday flexibility to maintain its training programme. These are material considerations.

14.4 Environmental Control has expressed concerns about the proposal, but accepts the amended set of hours which have been proposed. This advice is a material consideration.

14.5 Almost 100 individuals (most of them living locally) in addition to many more on petition, have objected to the application, largely on the grounds of residential amenity. Their views, as well as any others which have been aired in support of the application, are also material considerations.

14.6 Any potential affect on the safe and efficient working of the Highway network is also a material consideration.

14.7 Whilst the following paragraphs look at all of these considerations and cover all of the proposed conditions, they focus largely on the proposed change in hours of use as this is the main point of contention.

14.8 Here the case for the football club (including the letters of support) is plainly spelt out, then the argument against this is considered, covering: i) Local opposition ii) Alleged loss of amenity, iii) The possibility that EPPP and Youth can survive without such an expansion of hours.

14.9 **The Case for the Application:** The general case for the application relates to a thriving youth programme, EPPP participation and ongoing investment to the betterment of the club, an approach which has led to a large number of representations in favour.

14.10 As the supporting documents state, the owner has invested £3.5 million in this training facility. Colchester United Football Club is a local employer and jobs are held to be at stake.

14.11 In terms of the first team, and setting aside the EPPP, the argument is made that a ½ hour fixed window of use is not likely to be sufficient for a professional football club and that this should be expanded. If not, there would be little advantage over the previous scenario where university or army land was used within a restricted set of hours.

14.12 The club is also at pains to point out that the overall level of daily use is also intended to be 'equivalent to the 2.5 hours per day as originally envisaged' and that 'the main difference is to allow for further flexibility of use and separate sessions as needed'. On this basis, the level of use would equate to only 10% of a 24 hour period. From your Officers' perspective, however, limiting the actual use to this level would be difficult, and there is no real guarantee that use would at this low level.

14.13 The main elements which are held to be at risk, should the application fail however, apart from flexibility of use for the professionals, are the youth programme and the participation in EPPP.

14.14 The club states that to comply with EPPP it is essential that it is awarded some flexibility in the hours it trains and in the training methods it employs.

14.15 The central tenets of EPPP are to:

- Increase the number and quality of Home Grown Players gaining professional contracts in the clubs and playing first-team football at the highest level
- Create more time for players to play and be coached
- Improve coaching provision
- Implement a system of effective measurement and quality assurance
- Positively influence strategic investment into the Academy System, demonstrating value for money
- Seek to implement significant gains in every aspect of player development

The plan aims to improve youth development by focusing on the following:<sup>[2]</sup>

- Allowing clubs to have more coaching time with their young players
- Helping clubs foster links with local schools in order to help young players get the best out of their football education as well as the academic side
- Allowing clubs that have earned a top category grading to recruit young talent from further afield than is permitted under the current rules

- Working with the Football League to review the current system used for determining compensation.
- 14.16 In reference to the above points, the club has included an Academy arrangement with the Thurstable School, as well as investment in Warrior's Rest (including a Multi Use Games Area or MUGA) which it cites as gains from an active youth policy and EPPP.
- 14.17 Whether the two items above are inextricably linked with EPPP is not certain, but they do appear as an intrinsic part of the overall youth policy which is quoted by the club Chairman as having risen from £170k per annum in 2006 to £1m per annum.
- 14.18 Colchester United F.C. now employs a full team of professional staff (19 full-time and 17 part-time employees) to oversee youth development and also the running of the training facility. This includes a full-time Educational Officer. Scholars (those players whose ages range between 16 and 18) are provided with an education that results in a B-Tech, which is the equivalent to 3 A Levels and will allow them to pursue further education at a university if they fail to make it in the professional game.
- 14.19 The club also states that it has received a £480,000 grant which it will have to reimburse should the facilities it requires not be at its disposal and its participation in EPPP be put at risk.
- 14.20 The further point is made that, due to financial restrictions on smaller clubs such as Colchester United, it is essential that home-grown, local talent is recruited in order to be able to compete.
- 14.21 The club's proposal has also been supported by approximately 200 individuals. Whilst it is recognised that the vast majority of these do not live in the locality, and indeed several of them live in different parts of the country, and also that many of these were generated through the club's own website, this does still represent to some extent a body of opinion in favour of the proposal.
- 14.22 In conclusion to this section, the club is claiming that it requires the proposed hours in order to operate its youth scheme including participation in EPPP, and to fail to do so would result in a closure of these features and a failure to invest in development which would be to the disadvantage of the club. The proposal does have many supporters, albeit that many are not local.
- 14.23 **The Case Against the Application:** This has, at its heart: i) The local opposition, ii) Alleged loss of amenity; iii) The possibility that EPPP and Youth can survive without such an expansion of hours.
- 14.24 **Opposition:** Almost 100 local residents, many from very close by, have voiced opposition to the proposal to expand hours of use. These have been based on amenity considerations and a recent experience of a changed noise climate which has not been positive.
- 14.25 Several people have cited incidents of shouting and loud referees' whistles and have also cited swearing as being a common problem.

- 14.26 An analysis of the objection letters has shown that these have come predominantly from Vine Road, Townsend Road, Queensway, Perry Road, Pennsylvania Lane, Oak Road, Meadow View, Lansdowne Close, Kelvedon Road, Keeble Close, Heycroft Way, Harrington Close, Grange Road and Blue Road. Thus, they are largely from roads in the immediate vicinity, from addresses which were part of the original mailing. These are the properties most likely to be affected and the objections have not come from any campaign or hype to add volume to the voice of disagreement and must be accepted as genuine opposition to the proposal.
- 14.27 It is accepted that the opposition is given extra colour by the fact that the development was originally allowed contrary to many local objections, and because the club has been seen to operate in breach of the existing conditions.
- 14.28 Locals have also taken issue with the fact that, despite being described as a training ground, the site is being used for competitive matches for the youth teams with the result that use is far more intensive than described at the time of application. This manifests itself with noise, an overfull car park and occasional carriage-way parking and added features such as a burger van. In addition, behaviour of users of the site has been mentioned, including shouting and the use of foul language.
- 14.29 Alleged Loss of Amenity: Environmental Control has carried out a number of readings over the past couple of months on weekdays, Saturdays and on one Sunday and these results have been summarised in the consultations section.
- 14.30 Noise levels taken on the Sunday were found to be not as prolonged, intensive or intrusive as those observed during adult matches, due to the lower scale of activity.
- 14.31 The conclusion from Environmental Control is that the level of noise, whilst at times uncomfortable and intrusive does not exceed tolerable limits, does not cause a statutory nuisance and does not give sufficient grounds for refusal.
- 14.32 To recap, on the basis of its noise analysis, Environmental Control felt that the amended set of hours, with some extra conditions are acceptable, and thus the amenity argument cannot be easily sustained.
- 14:33 **EPP/Youth Programme without Expanding Hours:** Whilst the club has persistently stated that the proposal is essential to the well-being of the youth programme and participation of EPPP, this has not been expanded upon in any great detail.
- 14.34 Remarkably the source document explaining the pre-requisites for participation in EPPP and for what is required to qualify for the various categories, is not publicly available.
- 14.35 Your Officers have, therefore, employed the services of a Solicitor with specialist knowledge in EPPP. His view has been sought into whether the proposal is actually essential to the continued participation in this scheme. Given that continued participation in this is a material consideration, this advice is key.

14.36 The advice given by the Solicitor has been categorical that the claims that the club are making are all valid. He also states: 'Matches have to take place there or at the main CUFC stadia' The only possible flexibility is applying to have some dispensation so that some activities (other than matches) can take place at a venue other than the main site.

14.37 The applicants have responded to this by stating:

*'No EPPP games have been played at Warriors Rest...(this) falls short of EPPP guideline criteria concerning the standard of changing facilities for teams & officials in particular & the facility needs to be self-contained rather than dispersed over several grounds. The audit programmed for February would therefore not be satisfied if warriors rest was to be used & the Club would lose its EPPP Category status & fold. In addition, vehicular access arrangements from Maypole Road are substandard & coaches cannot serve the Warriors Rest Ground. Parking is also limited & related health & safety considerations also weigh against use of the Warriors Rest Ground.'*

14.38 Whilst the statement about the facility having to be self-contained is not strictly true, Warrior's Rest cannot be used for EPPP for the other reasons given above. Further clarification has also been provided by the Applicant's Agent including confirmation that the Warrior's Rest Ground is fully utilised by Tiptree Jobserve Youth F.C. at weekends which runs a series of junior groups from run 'mini-kickers', Under 8 to Under 17 year old teams. Consequently, even if the Warriors Rest ground met EPPP standards (which it does not) there would not be capacity to accommodate the associated games.

14.39 In conclusion to this section, the club does require a fuller use of the ground, including weekend use for the youth teams, the lack of this will mean removal from the EPPP and an undermining of the youth programme with subsequent loss of jobs and having to re-pay money to the Premier League.

14.40 **Analysis:** From the above, a picture begins to emerge whereby much of what the applicants have requested under their amended proposal could be granted permission, and it is accepted that the proposal is, by and large, necessary under EPPP, with no other venue being realistically available. This is notwithstanding the fact that the proposal would affect, to some degree, residential amenity and is unpopular with many local residents.

14.41 The judgement does, therefore, come down to a choice between allowing the club's EPPP/youth programme to continue, or acceding to residents' wishes for a lower level of on-site activity.

14.42 By way of background, it is worth bearing in mind that application 09117 was not refused for reasons of amenity, but for the following reasons: *"The site for this proposal is located within an area of white land i.e. no notation as allocated in the Adopted Review Colchester Borough Local Plan – March 2004. Additionally, policy ENV 1 of the Local Development Framework Adopted Core Strategy (December 2008) states, inter alia:*

*'Unallocated green field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in*



*accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough.'*

*As new development within such areas is subject to restriction, the Council would wish to ensure that development proposals accorded with the aims of relevant policies in the Adopted Local Plan and the Adopted Core Strategy. To this end, the Council considers that the submitted scheme fails to include a sufficient degree of community use within the development to justify the use of this unallocated white land for an alternative purpose.'*

However, the reduced hours of 10:30 – 13:00 formed part of that application

- 14.43 The proposal to vary condition 28 (to allow pitches to be within 20 metres of any new housing), whilst being objected to in some quarters, has not led to any objection from Environmental Control. Furthermore, the current condition would prejudice the delivery of the adjacent allocated housing site. Your Officers do not oppose this variation.
- 14.44 The proposal to re-word condition 34 so as to be given dispensation to host tournaments has also been accepted by Environmental Control (albeit that there is a minor disagreement on the number of times this should be allowed to happen per annum). The likelihood is that such events would be akin to, or greater than, Saturdays in terms of levels of activities, for this reason such activities should be restricted to as few times as possible.
- 14.45 It is worth noting that the tournament events are not a pre-requisite for any given club to host in order to participate in EPPP (although there are certain requirements for a certain number to be held on a regional level). The benefits, however, would be recruitment and income generation for the club (as well as greater scope for community involvement) and Members may wish to reflect on these considerations.
- 14.46 The section on Sunday football, below, also makes it clear that more than two pitches are required for use on that day and your Officers have witnessed this condition being breached.
- 14.47 The argument has been made by some objectors that the competitive games being played on the site do not comply with the planning permission (i.e. "training ground"). The lawful use of the site, as granted under 091627, is D2 (Assembly & Leisure) restricted to use by Colchester United – this does not indicate that no competitive games can take place, and logically permits use by Colchester United to play against opponents for youth development purposes. A quick glance at the Land Use Gazetteer shows us that all of the following *Football ground, football stadium, football training building, football club field or pitch, football club premises, sports ground* are all D2.
- 14.48 It is noted that the way in which application 091627 and its predecessors were framed and the debate which followed did not focus on the possibility of competitive games. Therefore the argument that such activity may not have been expected by residents is a fair one. However, the fact of the matter is, under Planning law these games are not in breach of the permission nor of the conditions.

- 14.49 Therefore, one of the times seen as a chief nuisance (Saturday) is within what has been allowed under application 091627 and this will not change.
- 14.50 Extended week-day usage and any use on Sundays, however, require permission, and it is for the Local Planning Authority to judge whether that usage is acceptable.
- 14.51 Environmental Control has, after much analysis, suggested the new extension of time during the week is acceptable.
- 14.52 The requirements of the professional football club need to be considered. As stated at paragraph 14.10, a fixed 2 ½ hour window of use is not likely to be sufficient for a professional football club and that this should be allowed to be expanded. If not, there would be little advantage over the previous scenario where university or army land was used within a restricted set of hours.
- 14.53 A meeting was held with your Officers and the club's representatives in October to discuss the club's requirements and to seek a compromise. In this meeting the club claimed that a terminal week-day time of 15:00 would be acceptable. However, it has been pointed out that for a 90 minute training session to work after lunch the 15:30 terminal time is necessary, a fact that was not considered during negotiations.
- 14.54 Also at the same meeting it was stated that the wording of condition 27 should be tightened up and refer not just to the *pitches*, but to the entire ground (this to avoid use of the edge of the site outside of the permitted hours for pitches, which has resulted in an even greater loss of amenity due to the greater proximity to houses and gardens). The resubmission has retained the reference to pitches only, but your Officers have changed this to make reference to "training ground."
- 14.55 The final strand discussed at the meeting was that May and June would be quiet months (except where special events occurred, these being up to a maximum of six throughout a year). The resubmission reduced this to six/seven weeks by referring instead to "mid-May", but this has been changed back now to say "May and June".
- 14.56 June is always outside of the football season, most of May is also. However, it is understood that should the club's season be prolonged for any reason (such as fixture backlog or participation in the play-offs) that Colchester Borough Council would not take any action against it. The training ground is to assist the club, and should be available to it whilst the competitive season endures.
- 14.57 It is, therefore, proposed to reword that condition to include all of May and June, with an informative which recognises the particular requirements which may pertain should the season be extended.
- 14.58 The element which still needs to be addressed is weekend use. The proposal for the minimal increase in times on Saturday is not objectionable, the issue of Sunday needs to be carefully considered.
- 14.59 Currently no Sunday use is permitted (other than on the community pitch). But the hours of 10:00 – 13:00 are being sought. Environmental Control raised initial concerns about use on this day, and your Officers understand the concerns which have been raised by residents.

- 14.60 However, measurements taken on that day have shown that the noise climate is different from Saturday and your Environmental Control Officers do not feel that there is sufficient harm to propose refusal.
- 14.61 Readings taken from Fourways on Pennsylvania Lane show little in the way of noise. Whilst those taken from Sparrow Cottage on Vine Road show a higher level, if the activity were moved away by the equivalent of half a pitch, the problem would dissipate considerably.
- 14.62 Sunday morning usage is for children's teams at the younger end of the age scale, from under 9 to under 15 teams. These matches (usually three at the same time) are played on half a pitch. Therefore, if the half of pitch nearest to Sparrow Cottage, were excluded from use, then the principle source of nuisance would be much reduced.
- 14.63 The main reason for the different noise climate on Sundays is indeed because it is children playing rather than men or youths (this also means that there is little, or no, swearing). For this reason, the use can be conditioned to be limited to only that age group. In this way Sunday use can be tailored to the needs of the club whilst limiting the effect on amenity.
- 14.64 Therefore, with some management (careful use of pitches, restrictions to certain ages, use of quieter whistles) this can be brought down to even more acceptable levels.
- 14.65 It is therefore proposed that the amended hours applied for be agreed to, but limited to the specified age group and subject to a preclusion of the most sensitive half of pitch in order to protect residential amenity.
- 14.66 It is also worth noting that the level of weekend use described does not and will not occur every weekend. The under 16 and under 18 teams have 13 home games per season (played at the same time as each other) of which many have already been played this season as Florence Park was ready for use when other grounds were not.
- 14.67 Meanwhile the Sunday usage is likely to occur up to 28 times per year, which is about two-thirds of Sundays in the active months.
- 14.68 In all of these considerations, the community pitch also requires mention. The applicants have referred to use of this as potentially having just as much impact as the professional pitches.
- 14.69 The agreement reached by Colchester Borough Council in 2010 post permission relating to community use includes a long set of hours which go beyond those allowed on the other pitches. However, it also limits the number of times the community pitch can be used to three per week. Therefore, whilst acknowledging an argument that noise from a community game could potentially be more harmful than a children's or youths' game, the incidence of this is limited by condition and cannot be used as a very strong argument.
- 14.70 The club has also switched the day release schools scheme to Thursdays, thus meaning that Wednesdays will now be completely clean of any meaningful activity on site.

14.71 The issue of parking does require comment. Your Officers noted that the car park was packed to the brim, with some double parking, and the access road was also full of cars on 11<sup>th</sup> November 2012. One vehicle was also parked on some spare land next to Springfields. This follows previous incidences of the car park being full and carriageway or verge parking occurring. On 18<sup>th</sup> November, however, the arrangement was more satisfactory, with none of the above occurring.

14.72 The agent has pointed out that parking management measures include:

- Pre-booking of Florence Field parking spaces
- Advance written notice of parking arrangements to visiting teams
- Employment of a parking steward at the entrance to Florence Fields who directs visitors to either an on- site parking space or alternatively to the Jobserve car park.
- For the Saturday & Sunday sessions the car park is usually fully occupied, but is managed through the arrangements outlined above.

14.73 However, the existing situation of an over-parked car park on Saturdays is not relevant to this application as this scenario has occurred within the permitted times. Similarly, if it occurs during the week, this too is in compliance with the agreed conditions, albeit that the situation on the ground is not as described at the time of application.

14.74 The applicants have given reasons why this over-parking has happened, but this does not comply with promises made in relation to green travel and these repeated incidences must give cause for concern. It is clear that the above measures, in conjunction with use of the nearby Jobserve car park (90 spaces) are not working.

14.75 In addition, the Highway Authority has stated that use of another site, albeit nearby, is not an acceptable solution, and has asked for s.106 contributions towards possible mitigation. This, therefore, appears to be the reasonable solution.

14.76 It may also be advantageous to ask the club to provide additional parking on site to reflect the reality of the situation, rather than the claimed scenario. This would require a separate Planning application.

## **15.0 Conclusion**

15.1 In conclusion, the proposal to vary condition 28 relating to the buffer is held to be acceptable.

15.2 For condition 34 the amended proposal to restrict the use of more than two pitches is also held to be acceptable with certain provisos, which limit this to the Sunday children's games and six other occasions during the year.

15.3 The amended offer of hours for condition 27 is held to be acceptable on the basis of a reduced set of hours (terminating at 15:30 instead of 18:00) and restricted use on Sundays, and on the basis of two months largely without use (with the trade off of longer hours in July). The noise levels are not held to be sufficient to recommend refusal.

15.4 Considering the above, and Colchester United's participation in EPPP (on which this application hangs) and its ongoing youth development, the proposal is held to be acceptable and the conditions have been altered from those applied for to reflect this.

## **16.0 Recommendation**

16.1 Delegate to Head of Environmental & Protective Services subject to the signing of a legal agreement to secure payments for Highway improvements, and the following conditions:

**Condition 27** be varied as follows:

"The use of the training ground hereby permitted shall not operate outside the following times:

i) August - April (inclusive)

- Mondays, Tuesdays, Thursdays & Fridays – 09:30 – 15:30 (with half an hour lunch break between 12:15 – 12:45);
- Wednesdays – no use (unless the club has a Thursday fixture, in which case the 'no train' day will be swapped for another weekday during the same week);
- Saturdays – 10:00 – 13:00 (for use by C.U.F.C. under 16 and under 18 teams only);
- Sundays – 10:00 – 13:00 (for use by C.U.F.C. under 9 to under 15 teams only)

ii) May and June

- No use of pitches (unless one or more of the six scheduled sessions referred to below, or as otherwise agreed in writing with the Local Planning Authority);

iii) July

- Mondays to Fridays – 10:00 – 18:00 (with an hour lunch break 13:00 – 14:00);
- Saturdays – 10:00 – 13:00
- Sundays – no use.

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

**Condition 28** be varied as follows: "At no time shall the boundary of any sports pitch be laid out or located closer than 40 metres to a residential curtilage that was in existence on the date on which planning permission was originally granted."

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

**Condition 34** be varied as follows: "The use of the proposed four training pitches shall be restricted to use by Colchester United Football Club (CUFC) only, or for any community use that may otherwise be agreed by CUFC, and shall be restricted to the use of a maximum of two of these training pitches at any time, with the exception of Sunday mornings when the C.U.F.C. under 9s to under 15s teams may use half of three separate pitches and up to six further occasions per year as shall be agreed in advance in writing by the Local Planning Authority".

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

#### **Extra Condition**

The 'six further occasions' referred to above shall not be concentrated in the same period (being no more than two per calendar month).

Reason: In the interests of residential amenity and to avoid a concentration of such events during the quiet months of May and June.

#### **Extra Condition**

Neighbouring residents shall be informed and given reasonable notice (i.e. at least one week) of when the extra occasions are likely to occur. The applicants shall agree the scope of the notification within 28 days of this permission.

Reason: So that nearby residents may be kept informed of events on site in the interests of residential amenity.

#### **Extra Condition**

Any equipment or machinery used for site maintenance which is clearly audible at the site boundary shall only be used between the hours of 08:00 and 18:00 Monday to Saturday, and at no time on Sunday.

Reason: In the interests of residential amenity

#### **Extra Condition**

For Sunday usage by the children's/youths' teams, the half of pitch which is closest to Sparrow Cottage shall not be used.

Reason: In the interests of residential amenity

### **Extra Condition**

Within 28 days of this permission, the applicants shall provide details of the quieter whistles to be used on site, these details are to be agreed by the Local Planning Authority and only these whistles shall be used thereafter.

Reason: In the interests of residential amenity.

### **Extra Condition**

Within 28 days of this permission, a noise management plan shall be submitted to the Local Planning Authority which shall include a section on the club website to inform residents of noise reduction controls, forthcoming activity (including the rare instances of Wednesday usage), which pitches will be used and so on. Such details shall be agreed in writing by the Local Planning Authority and shall be made available at all times thereafter.

Reason: To allow residents to be aware of timetabled activities on site in the interests of residential amenity.

### **Extra Condition**

Within 28 days of this permission, the applicants shall provide details of signage which is to be clearly displayed around the site, including all areas used by spectators, to ask site users to respect the residential amenity in respect of noise, foul language and general behaviour. Such details shall be agreed in writing and shall be retained as such at all times.

Reason: In the interests of residential amenity.

### **Extra Condition**

Where practicable, any equipment or machinery used for site maintenance which is clearly audible at the site boundary shall be fitted with silencers.

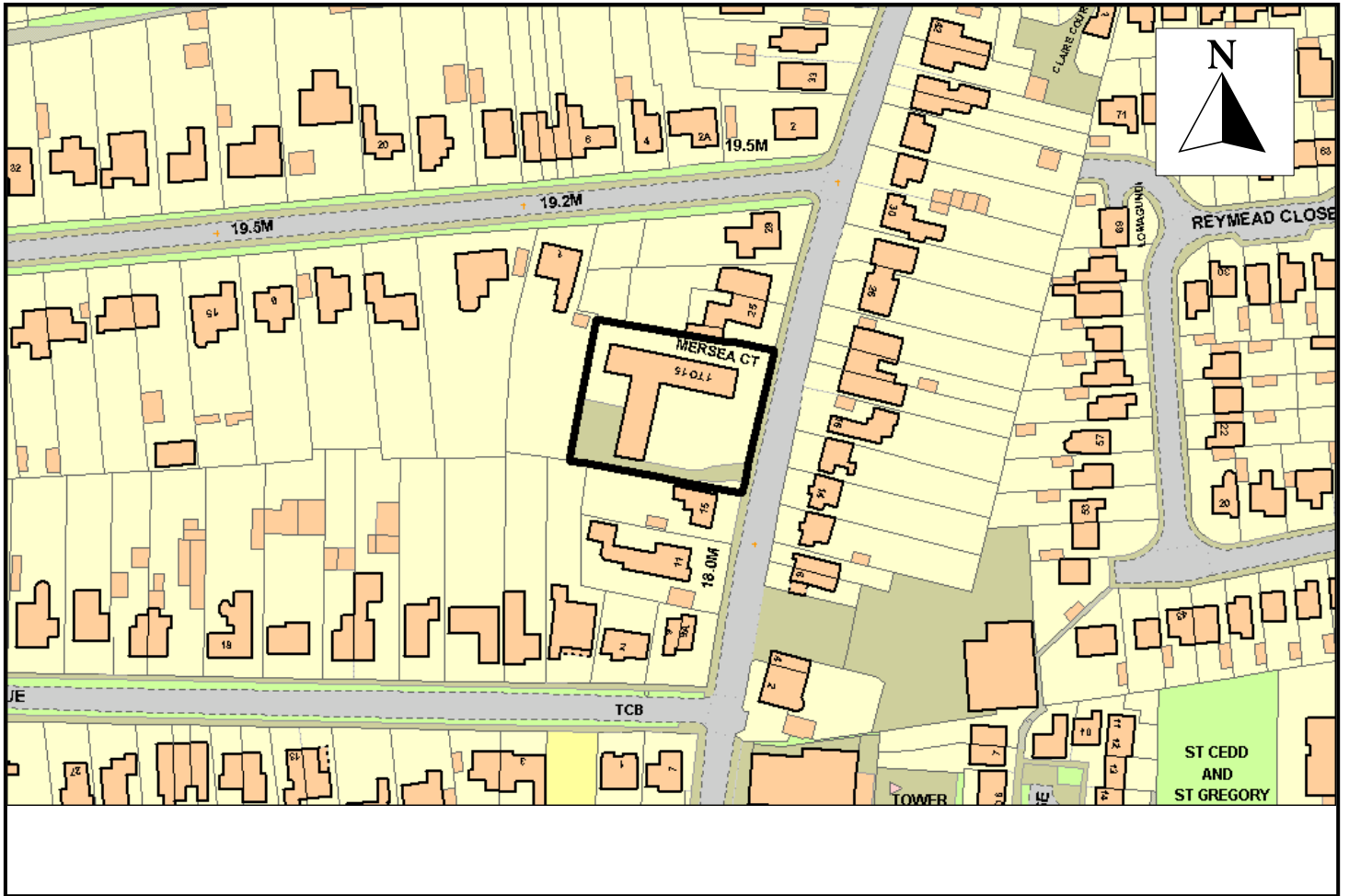
Reason: In the interests of residential amenity

### **Informatives**

(1) The permitted hours refer to use of the ground for playing football and training purposes and exclude setting up and clearing away periods which do not constitute playing or training and could operate outside of these hours.

(2) The applicants are advised that the equipment or machinery used for site maintenance should be regularly serviced so that the silencers function correctly in the interests of residential amenity.

(3) The applicants are advised to submit an application to provide the site with more car parking spaces, as the current arrangements are not always sufficient for satisfactory on site parking, and this needs to be resolved in the interests of Highway safety.



**Application No:** 121333

**Location:** Mersea Court, High Street North, West Mersea, Colchester CO5 8JU

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

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**7.2 Case Officer: Simon Osborn****MINOR****Site:** Mersea Court, High Street North, West Mersea, Colchester, CO5 8JU**Application No:** 121333**Date Received:** 18 July 2012**Agent:** Purcell Miller Tritton Llp**Applicant:** Mersea Island Trust**Development:** Outline application for extension to provide 6no. additional flats.  
Resubmission of 120200.**Ward:** West Mersea**Summary of Recommendation:** Conditional Approval**1.0 Reason for Referral to the Planning Committee**

1.1 This application is referred to the Planning Committee because the proposal is caught between different adopted parking standards and objections have been received to the proposal partly on these grounds.

**2.0 Synopsis**

2.1 The application proposes an additional 6 flats within a development where there are currently 14 flats. The report considers the proposal in the light of its adopted policies and standards. It considers that the scale and design of the proposal are acceptable in relation to the host building and the context of the area and that whilst there will be some impact on the residential amenity of the nearest neighbours this is not sufficiently onerous as to recommend refusal. The report goes on to consider the parking provision on the site, which is a more thorny issue. The proposal is unusual in that although the flats are self-contained, the intended clientele are for more elderly persons who are unlikely to own a car. The report concludes that the level of parking provision proposed is appropriate and, on balance, recommends approval of the application.

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

3.1 Mersea Court provides sheltered accommodation for elderly persons on Mersea Island. It currently contains 14 flats plus a community lounge and kitchen and surrounding garden. The building is L-shaped in form with a large frontage landscaped area that is open to view and a secondary amenity area to the north side. A small car park is provided at the rear of the site, accessed by a driveway on the south side of the site. The surrounding area is predominantly residential in character, with the shops and other services within the Mersea Rural District Centre generally being within walking distance. The site is flanked by two residential dwellings, a house at No. 15 High Street North to the south and a bungalow at 25 High Street North to the north.

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

4.1 This is an outline planning application with approval being sought for the scale, layout and appearance of the development. The reserved matters are access and landscaping. The application seeks planning permission for six additional flats within a new 2-storey wing in front of the existing building and will create a central landscaped courtyard. Each flat will comprise a living space with adjoining kitchen, a bedroom, a bathroom and a hall space. Each flat is to have its own front door and be self-contained. The plans make provision for parking at the rear of the site.

### **5.0 Land Use Allocation**

5.1 Predominantly residential

### **6.0 Relevant Planning History**

6.1 75/1211 and 1211A – demolition of Coronation Cottages and erection of group flatlets for old persons, approved 1975 and 1978

6.2 82/1044 – erection of garage, approved 1982

6.3 88/1195 – lounge extension, approved 1988

6.4 F/COL/05/0705 – erection of conservatory, approved 2005

6.5 120200 – outline application for 6 additional flats, withdrawn May 2012.

### **7.0 Principal Policies**

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)  
Planning Policy Statement 1: Delivering Sustainable Development

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

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR2 - Built Design and Character

TA5 - Parking

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

DP1 Design and Amenity

DP12 Dwelling Standards

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

DP17 Accessibility and Access

DP19 Parking Standards

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

Backland and Infill

Community Facilities

Vehicle Parking Standards

Sustainable Construction

Open Space, Sport and Recreation

Extending your House

The Essex Design Guide

External Materials in New Developments

## **8.0 Consultations**

8.1 ECC Highways – no comment further to its recommendation on 27 March 2012. This raised no objection to the proposal for 6 flats as not contrary to policies regarding safety, road hierarchy, parking standards, accessibility, efficiency/capacity: recommended a informative only.

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

## **9.0 Town Council Response**

9.1 West Mersea Town Council recommend consent is granted.

## **10.0 Representations**

10.1 Objections were received from 14 properties (14, 15, 16, 18, 20, 25 and 27 High St North; 1 and 3 Oyster Close and 1, 2, 5, 7 and 8 Mersea Court). These raised the following issues:

1. Loss of light and view to side lounge window of 15 High Street North and side bedroom window of No. 25.
2. Visually overbearing on street and nearby properties; out of character as too close to road.
3. Overlooks neighbouring gardens
4. Loss of attractive open space
5. Insufficient parking for carers, doctors and emergency vehicles will be worsened
6. Vehicles tend to park in High Street north causing nuisance and annoyance and potential highway safety issues
7. Loss of light and view for existing residents and new flats will look into the windows
8. Insufficient communal facilities at the premises for more flats.

10.2 Representations of support were received from 17 parties mainly on the grounds that Mersea needs additional specialist accommodation of then type proposed.

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

## **11.0 Parking Provision**

11.1 The current adopted parking standards for fully-self contained 1-bedroom flats is 1 space per dwelling plus 1 visitor space for every 4 units. The standard applied to a residential care home is 1 space per fulltime staff equivalent and 1 visitor space per 3 beds. The actual provision proposed by this application is 7 spaces for a total of 20 resident flats. The issue of parking provision is considered further within the main body of the report.

## **12.0 Open Space Provisions**

12.1 Policy DP16 requires a minimum of 25 square metres of private amenity space to be provided for each flat as communal space. No specific provision is made for sheltered accommodation within this policy. The scheme will leave approx 500 square metres of amenity land, mainly within the central courtyard, but also within a narrow strip to the north side of the building. This meets the minimum standards.

## **13.0 Air Quality**

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

## 14.0 Report

### Background

- 14.1 Mersea Court is a freehold property owned by Mersea Island Trust, formed in 1960 for the specific charitable purpose of providing warden supported sheltered accommodation for the elderly and infirm of Mersea Island. It currently contains 14 flats plus a community lounge, kitchen and garden. Residents have to be over 65 and the ages of current residents range between 74 years and 95 years; the average age is 84 and the median age is 82. The majority of residents have moved from larger properties that they are no longer able to confidently manage. Nonetheless residents differ from the usual care home population in the respect that the majority are still mobile to some extent. Existing tenants have Assured Shorthold Tenancies that can be terminated by 1 month notice by either party; tenants have no lease rights.

### Design and Layout

- 14.2 The existing building is set further back within the site than most dwellings on this side of High Street North. The proposed addition will be constructed to adjoin the existing building but will project forward of it to within about 1m of the pavement at the front of the site. The site is within a predominantly 2-storey residential area and the general scale of the building is considered appropriate to the context of the area. The proposal is well forward of most other buildings on this side of High Street North. This allows for a private landscaped courtyard to be provided behind the new wing. Setting this new wing further back into the site would have resulted in a much more awkward relationship with the existing building and would have resulted in a cramped internal courtyard. The prominent position of the building demands a strong townscape appearance. The existing building has a similar shell form to the existing building but with a more contemporary, well-articulated front elevation, which includes contemporary bay windows and a gabled end. Whilst the building is prominent in relation to the frontage, the building is set approx 6m in from the side boundaries and this spacing help ensure the building does not appear cramped in terms of layout.

### Neighbouring Amenity

- 14.3 The new wing is set about 6m from the side boundaries with 15 and 25 High Street North. The former is a 2-storey house, set within about 1m of the boundary and about 6m back from the road. It includes a large window in the side elevation, which faces toward the existing landscaped area, but will face the side wall of the gabled end of the proposed extension. The latter is a rendered bungalow, with a front door facing toward the application site and a large projecting bay window on the front corner of the bungalow. This window is set about 4m from the boundary with the application site and also currently faces toward the landscaped frontage, but will face the side wall of the proposed extension.

- 14.4 It is accepted that the proposal will have an impact on these respective windows in terms of loss of outlook; however, there is no right to a view over a neighbouring property. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide and the Extending Your House SPD. The proposed drawings show two high level first floor windows in the north side elevation and a rooflight in the south side roof slope of the proposed scheme; these ensure there is no unreasonable overlooking from first floor windows. Whilst the proposal will therefore have some impact on neighbouring residential amenity, it is considered that this is not sufficient so as to warrant refusal on these grounds.

### Parking

- 14.5 Policy 19 of the LDF Development Policies (October 2010) refers developers to the Essex Planning Officers Association Vehicle Parking Standards, which was adopted as SPD in 2009. The proposed scheme does not fall neatly within any particular parking category. The current adopted parking standards for fully-self contained 1-bedroom flats is 1 space per dwelling plus 1 visitor space for every 4 units. The standard applied to a residential care home is less onerous at 1 space per fulltime staff equivalent and 1 visitor space per 3 beds. The proposed development is providing flats that are self-contained; however, these are intended for a specific clientele, which is more characteristic of a residential care home in that it caters for elderly and infirm persons, albeit residents that are likely to have a greater degree of mobility than those in a care home.
- 14.6 The current provision at the site includes 4 spaces at the rear of the site. The actual provision proposed by this application is 7 spaces for a total of 20 resident flats. The applicant has sought to justify the level of parking on the basis of the standard that the Council requires for residential care homes. They make the point that most residents do not drive and the central location enables them to walk or to use mobility aids in order for them to access local shops and services. Currently only 2 residents at Mersea Court own a car. Thus their requirement for individual motor cars is virtually identical to that of the normal care home population. The level of provision proposed does meet the Council's adopted requirement for residential care homes. The issue is clearly a thorny one with some of the opposition to the scheme having raised concern that the proposal will force vehicles to park in the highway. It is noted that ECC Highways has not objected to the proposal, although this does not prevent the Council from refusing the application if it is considered that the scale of the proposal amounts to overdevelopment, which could include lack of parking on the site. Nonetheless, it is considered that the fairly central location of the development together with the more elderly nature of the clientele mean this proposal can on balance be considered acceptable on parking grounds.

## 15.0 Conclusion

15.1 The site lies within a predominantly residential area, where extensions to existing buildings can be accepted in principle subject to good design, meeting adopted standards and, there being no significant impact on neighbour amenity. The proposed extension will be prominent in the street because it is set forward of the buildings to either side. Nonetheless the elevational treatment is considered to form a satisfactory form of townscape. The proposed extension is set sufficiently far from neighbouring properties not to have a significant impact on neighbouring residential amenity. The proposed level of parking for the development is a more thorny issue, particularly as the proposal does not fit clearly into any one of the categories of development within its adopted Parking Standards. The case has been made by the applicant that the centrality of the location and the elderly nature of the clientele, most of whom do not own cars, should mean that the parking standard applied to residential car homes should be accepted. On balance, this is accepted by the Planning Officer. The recommendation is therefore one of approval.

**16.0 Recommendation** – Approval subject to the following conditions:

### Conditions

#### 1 - Non-Standard Condition/Reason

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to the access and landscaping have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

#### 2 - Time Limit for Outline Permissions Part 2 of 3

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

#### 3 - Time Limit for Outline Permissions Part 2 of 3

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 104, 900B, 904C, and 906C unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

#### 5 - Materials to be Agreed

Prior to the commencement of development, precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction shall have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

#### 6 - Non-Standard Condition/Reason

Prior to works commencing on the construction of the extension hereby permitted, the proposed parking area shown on drawing 901B shall have been provided for vehicle parking purposes and shall thereafter be retained solely for those purposes.

Reason: To ensure an appropriate level of off-street parking is provided for the development.

#### 7 - Non-Standard Condition/Reason

No additional windows shall be constructed in the north and south (side) elevations of the extension hereby permitted without the previous written consent of the Local Planning Authority.

Reason: To protect nearby residential amenity.

#### 8 - Non-Standard Condition/Reason

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.



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

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

#### 9 - Non-Standard Condition/Reason

The flats hereby permitted shall only be occupied by elderly or infirm persons over 65 years of age, unless otherwise agreed in writing by the Local Planning Authority

Reason: The level of parking provision for the site is more appropriate for residents that will be elderly or infirm and unlikely to be car owners.

#### 10 - Non-Standard Condition/Reason

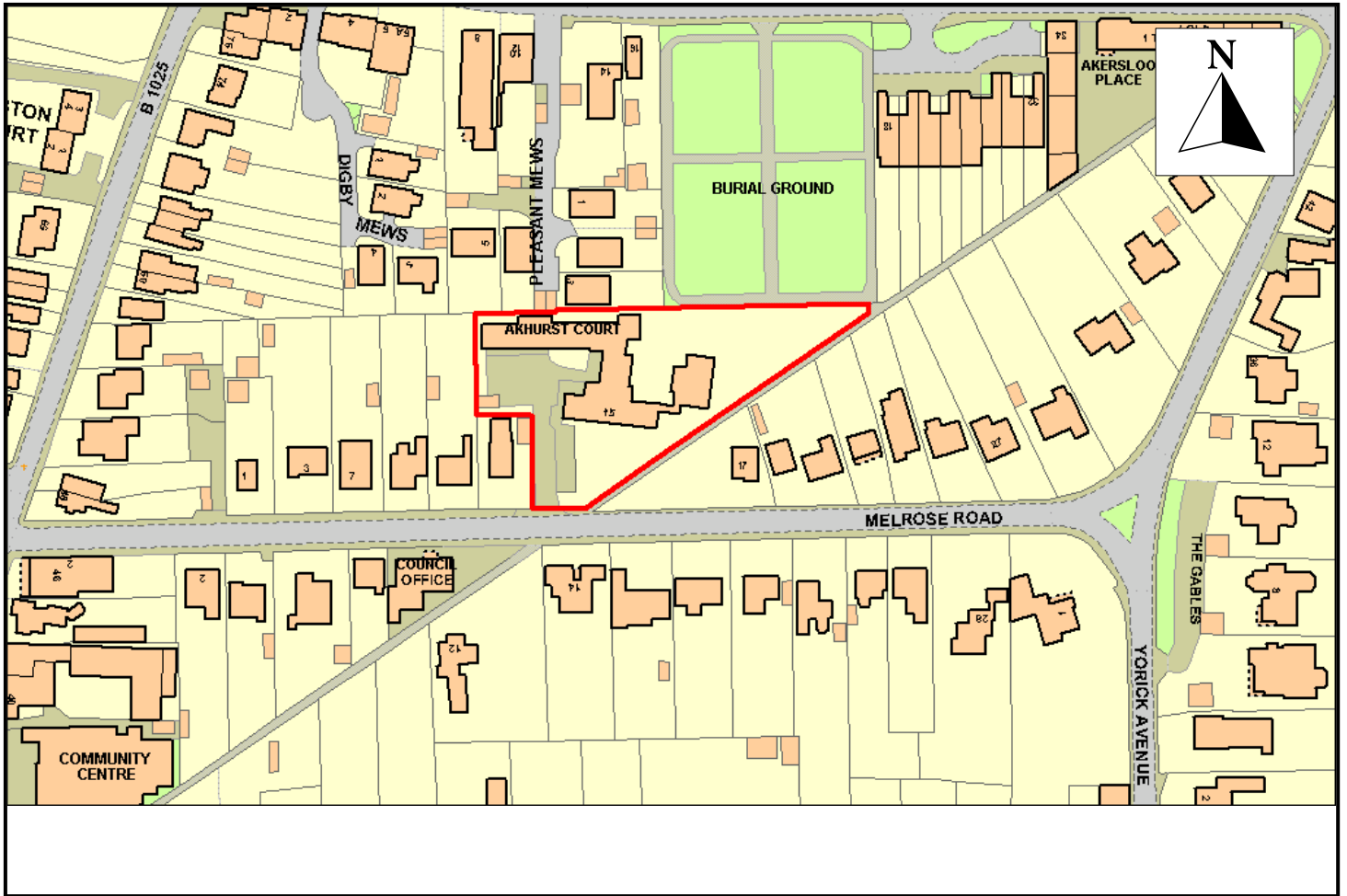
Prior to the commencement of any works, details of the articulated bays on the front elevation together with details of the eaves, cills, windows and headers shall have been submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory form of townscape, having regard to the prominent position of the proposal in relation to the street.

### **Informatives**

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

(2) All works affecting the highway should 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 08456 037631.



**Application No:** 121334

**Location:** Akhurst Court, Melrose Road, West Mersea, CO5 8JB

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

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### 7.3 Case Officer: Simon Osborn

**MINOR**

**Site:** Akhurst Court, Melrose Road, West Mersea, Colchester CO5 8JB

**Application No:** 121334

**Date Received:** 18 July 2012

**Agent:** Purcell Miller Tritton Llp

**Applicant:** Mersea Island Trust

**Development:** Extension to provide 5 no. additional flats. Resubmission of 120198.

**Ward:** West Mersea

**Summary of Recommendation:** Conditional Approval

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

1.1 This application is referred to the Planning Committee because the proposal is caught between different adopted parking standards and objections have been received to the proposal partly on these grounds.

#### 2.0 Synopsis

2.1 The application proposes an additional 5 flats within a development where there are currently 18 flats plus a warden's flat. The report considers the proposal in the light of its adopted policies and standards. It considers that the scale and design of the proposal are acceptable in relation to the host building and the context of the area and that whilst there will be some impact on the residential amenity of the nearest neighbour this is not sufficiently onerous as to recommend refusal. The report goes on to consider the parking provision on the site, which is a more thorny issue. The proposal is unusual in that although the flats are self-contained, the intended clientele are for more elderly persons who are unlikely to own a car. The report concludes that the level of parking provision proposed is appropriate and, on balance, recommends approval of the application.

#### 3.0 Site Description and Context

3.1 Akhurst Court provides sheltered accommodation for elderly persons on Mersea Island. It currently contains 18 flats plus a community lounge, kitchen, laundry facilities and extensive garden. The building is 2-storied and includes various previous additions. The surrounding area is predominantly residential in character, with the shops and other services within the Mersea Rural District Centre generally being within walking distance. The proposed extension is situated immediately to the east of the rear garden of No. 11 Melrose Road, a private 2-storey dwelling, and immediately to the north of a St John Ambulance Hall building.

## **4.0 Description of the Proposal**

- 4.1 This is an outline planning application with approval being sought for the scale, layout and appearance of the development. The reserved matters are access and landscaping. The application seeks planning permission for five additional flats within a part single storey and part two-storey extension (three additional flats on the ground floor and two on the first floor). Each flat will comprise a living space with adjoining kitchen, a bedroom, a bathroom and a hall space. Each flat is to have its own front door and be self-contained. The proposal extends an existing frontage wing across the site and creates a new landscaped courtyard between the proposal and the north wing. This results in the loss of an existing parking area. The plans make provision for parking on the site frontage.

## **5.0 Land Use Allocation**

- 5.1 Predominantly residential

## **6.0 Relevant Planning History**

- 6.1 77/1592 – toilet facilities, approved 1977
- 6.2 84/0045 – erection of garage for use by warden, approved 1984
- 6.3 97/1310 – proposed lift, kitchen and flat and relocation of office, approved 1997
- 6.4 99/0431 – erection of new flats and conversion of existing flat into 2 flats, new buggy-park and glazed link, approved 1999
- 6.5 120198 – extension to provide 6 additional flats, withdrawn May 2012.

## **7.0 Principal Policies**

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

The National Planning Policy Framework (NPPF)  
Planning Policy Statement 1: Delivering Sustainable Development

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

SD1 - Sustainable Development Locations  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
H4 - Affordable Housing  
UR2 - Built Design and Character  
TA5 - Parking

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

DP1 Design and Amenity  
DP12 Dwelling Standards  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP19 Parking Standards

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

Backland and Infill  
Community Facilities  
Vehicle Parking Standards  
Sustainable Construction  
Open Space, Sport and Recreation  
Extending your House  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

8.1 ECC Highways – no comment further to its recommendation on 23 March 2012. This raised no objection to the proposal for 6 flats as not contrary to policies regarding safety, road hierarchy, parking standards, accessibility, efficiency/capacity: recommended a informative only.

8.2 Environmental Control – recommended conditions relating to land contamination issues.

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

## **9.0 Town Council Response**

9.1 No comments recorded

## **10.0 Representations**

10.1 Objections from or on behalf of 4 properties were received (9, 10 and 11 Melrose Road and Flat D Akhurst Court). These raised the following issues:

1. Reduction from 14 existing spaces to 9 parking spaces will force vehicles onto oversubscribed highway.
2. Proposal will put constraint on emergency service access to building and turning on site.
3. Inappropriate backland development contrary to Council policies.

4. Drawings for application 99/0431 show 14 spaces for 21 flats and condition requires this to be used for parking purposes only. The Council consultation lists 26 addresses in Akhurst Court, whereas the application documentation suggests there are only 18.
5. Overlooking and overshadowing of garden and property of 11 Melrose Road
6. Loss of outlook for existing residents
7. Flat D (labelled as A on plans) will suffer major alterations (occupant is 94 years old).
8. Mersea island trust website indicates this is a block of flats not a residential or nursing home for elderly.

10.2 Representations of support were received from 20 people mainly on the grounds that Mersea needs additional specialist accommodation of then type proposed.

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

### **11.0 Parking Provision**

11.1 The current adopted parking standards for fully-self contained 1-bedroom flats is 1 space per dwelling plus 1 visitor space for every 4 units. The standard applied to a residential care home is 1 space per fulltime staff equivalent and 1 visitor space per 3 beds. The actual provision proposed by this application is 9 spaces for a total of 23 resident flats plus 1 warden's flat. The issue of parking provision is considered further within the main body of the report.

### **12.0 Open Space Provisions**

12.1 Policy DP16 requires a minimum of 25 square metres of private amenity space to be provided for each flat as communal space. No specific provision is made for sheltered accommodation within this policy. The scheme will leave at least 1200 square metres of garden land, which more than meets minimum standards.

### **13.0 Air Quality**

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

## 14.0 Report

### Background

- 14.1 Akhurst Court is a freehold property owned by Mersea Island Trust, formed in 1960 for the specific charitable purpose of providing warden supported sheltered accommodation for the elderly and infirm of Mersea Island. It currently contains 18 flats (2 of which can accommodate 2 people) plus a community lounge, kitchen, laundry facilities and extensive garden. The ages of current residents range between 70 years and 97 years; the average age is 84 and the median age is 87. The majority of residents have moved from larger properties that they are no longer able to confidently manage. Nonetheless residents differ from the usual care home population in the respect that the majority are still mobile to some extent. Existing tenants have Assured Shorthold Tenancies that can be terminated by 1 month notice by either party; tenants have no lease rights.

### Design and Layout

- 14.2 The proposal is for a 2-storey extension to an existing wing, which will run behind the St John Ambulance Hall toward the rear garden of 11 Melrose Road. The 2-storey element to the proposal is terminated by a parapet to match that on the existing end at a distance of about 6.5m from the side boundary with No. 11. A single-storey element is proposed within this space to within about 1m of this property. The site is within a predominantly 2-storey residential area and the general scale of the proposed extension is considered appropriate to the context of the area. Details of the design have been amended during the course of negotiations to provide a rhythm of brick and window/boarded columns, which is a more sympathetic pastiche of the host dwelling.

### Neighbouring Amenity

- 14.3 The proposed extension infills a space which is currently used for parking purposes. The new built form will therefore have an impact upon the closest residential property, No. 11 Melrose Road. This is a 2-storey dwelling with a single storey rear projection built close to the boundary with the St John Ambulance Hall. The single storey element has no window facing directly down the garden, but has fenestration facing onto the patio area to the rear of the main house. The rear garden for the property extends beyond the St John Ambulance Hall to the boundary with the Akhurst Court development. There is an element of overlooking from first floor windows of the existing northern wing of this development.
- 14.4 The proposal as submitted has been designed to minimize potential impacts on the neighbouring property. The 2-storey element to the proposal is set a minimum of 6.5m from the boundary fence of the neighbour and there are no windows on the end elevations facing directly towards the neighbour. There are first floor windows but these will only offer an obscure angle of overlooking toward the neighbouring garden. The proposed new wing lies to the NE of the rear of the dwelling of No. 11 and generally to the east of the garden. It is accepted there will be an element of overshadowing to part of the garden during morning hours, but this will only be for a part of the day. The new development will also be visible from the garden; however, the nearest part of the proposal is single-storey only with a roof line that hips away from the neighbour. It is accepted that the proposal will have an impact upon the

neighbour, but it is considered that the design of the proposal will not result in significant harm. Council policy includes SPD that sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved; the combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide and the Extending Your House SPD.

### Parking

- 14.5 Policy 19 of the LDF Development Policies (October 2010) refers developers to the Essex Planning Officers Association Vehicle Parking Standards, which was adopted as SPD in 2009. The proposed scheme does not fall neatly within any particular parking category. The current adopted parking standards for fully-self contained 1-bedroom flats is 1 space per dwelling plus 1 visitor space for every 4 units. The standard applied to a residential care home is less onerous at 1 space per fulltime staff equivalent and 1 visitor space per 3 beds. The proposed development is providing flats that are self-contained; however, these are intended for a specific clientele, which is more characteristic of a residential care home in that it caters for elderly and infirm persons, albeit residents that are likely to have a greater degree of mobility than those in a care home.
- 14.6 The current provision at the site includes 7 spaces at the front of the site adjacent to the internal access road and a parking area within the site adjacent to the existing where at least 5 cars can park. It is noted that an earlier planning permission for the site (reference 99/0431) included a condition that the parking areas shown on the approved drawing were to be provided and thereafter retained solely for such purposes. The approved drawing showed provision for 13 spaces plus a garage. The reason for the condition was to ensure satisfactory provision for parking was made for the proposal within the site. The fact that the development now proposed will prevent part of the site that has been used for parking purposes does not in itself prevent the applicants from making later applications to seek to use it for alternative purposes, nor does it prevent the Council from granting planning permission.
- 14.7 The actual provision proposed by this application is 9 spaces for a total of 23 resident flats plus 1 warden's flat. This is clearly below the level of provision currently found on the site. The applicant has sought to justify the revised level of parking on the basis of the standard that the Council requires for residential care homes. They make the point that most residents do not drive and the central location enables them to walk or to use mobility aids in order for them to access local shops and services. Currently only 2 residents at Akhurst Court own a car as well as the warden. Thus their requirement for individual motor cars is virtually identical to that of the normal care home population. The level of provision proposed does however meet the Council's adopted requirement for residential care homes. The issue is clearly a thorny one with some of the opposition to the scheme having raised concern that the proposal will force vehicles to park in an "oversubscribed highway". It is noted that ECC Highways has not objected to the proposal, although this does not prevent the Council from refusing the application if it is considered that the scale of the proposal amounts to overdevelopment, which could include lack of parking on the site. Nonetheless, and on balance, it is considered that the fairly central location of the development together with the more elderly nature of the clientele mean this proposal can be considered acceptable on parking grounds.



## 15.0 Conclusion

15.1 The site lies within a predominantly residential area, where extensions to existing buildings can be accepted in principle subject to good design, meeting adopted standards and, there being no significant impact on neighbour amenity. The proposed design is faithful to the pastiche of the host dwelling and has been designed so as to help minimize impact on neighbouring property. The proposed level of parking for the development is a more thorny issue, particularly as the proposal does not fit clearly into any one of the categories of development within its adopted Parking Standards. The case has been made by the applicant that the centrality of the location and the elderly nature of the clientele, most of whom do not own cars, should mean that the parking standard applied to residential car homes should be accepted. On balance, this is accepted by the Planning Officer. The recommendation is therefore one of approval.

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

### Conditions

#### 1 - Non-Standard Condition/Reason

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to the access and landscaping have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

#### 2 - Time Limit for Outline Permissions Part 2 of 3

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

#### 3 - Time Limit for Outline Permissions Part 2 of 3

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 103, 901B, 902A, 903D, and 905A unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

#### 5 - Materials to Match

The external facing and roofing materials to be used shall match in colour, texture and form those used on the existing building.

Reason: This is a publicly visible building where matching materials are a visually essential requirement.

#### 6 - Non-Standard Condition/Reason

Prior to works commencing on the construction of the extension hereby permitted, the proposed parking area shown on drawing 901B shall have been provided for vehicle parking purposes and shall thereafter be retained solely for those purposes.

Reason: To ensure an appropriate level of off-street parking is provided for the development.

#### 7 -Non-Standard Condition/Reason

No windows shall be constructed in the west (side) elevations of the extension hereby permitted without the previous written consent of the Local Planning Authority.

Reason: To protect nearby residential amenity.

#### 8 - Non-Standard Condition/Reason

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters, • ecological systems, • archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

#### 9 - Non-Standard Condition/Reason

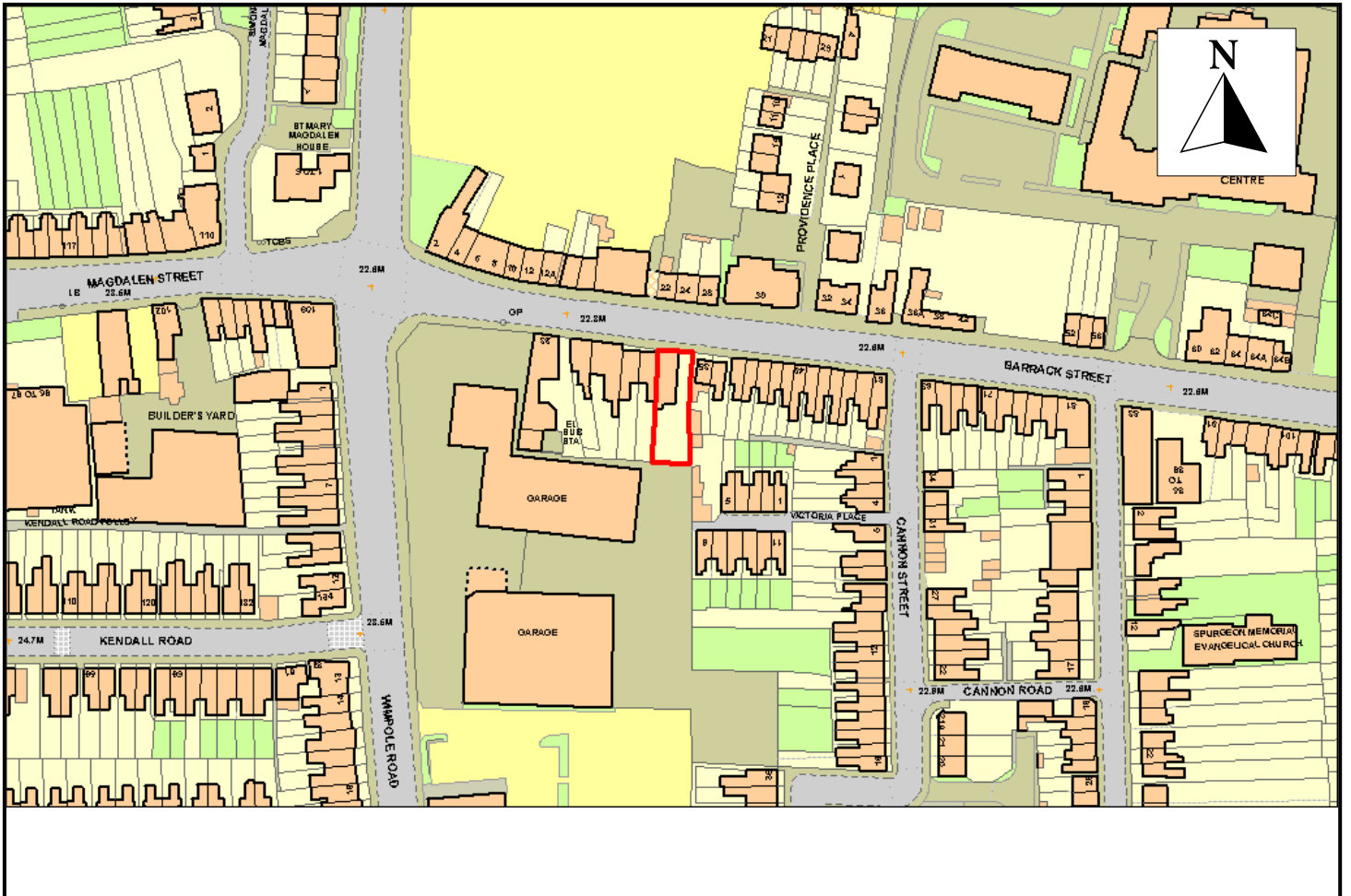
The flats hereby permitted shall only be occupied by elderly or infirm persons over 65 years of age, unless otherwise agreed in writing by the Local Planning Authority.

Reason: The level of parking provision for the site is more appropriate for residents that will be elderly or infirm and unlikely to be car owners.

#### **Informatives**

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

(2) All works affecting the highway should 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 08456 037631.



**Application No:** 121763  
**Location:** 33 Barrack Street, Colchester, CO1 2LL  
**Scale (approx):** 1:1250

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## 7.4 Case Officer: Carl Allen

**MINOR**

**Site:** 33 Barrack Street, Colchester, CO1 2LL

**Application No:** 121763

**Date Received:** 1 October 2012

**Agent:** Mr Steve Norman

**Applicant:** Mgs Electrical Installations Ltd

**Development:** Extension to side of existing property to form an addition to the first floor residential unit

**Ward:** New Town

**Summary of Recommendation:** Conditional Approval

### 1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the applicant is married to a member of staff.

### 2.0 Synopsis

2.1 The proposal for a side extension to provide a first floor extension to the residential flat is considered acceptable, with no detrimental impacts to either the local amenity or street scene. The design is considered acceptable and complies with Policy. Approval is recommended.

### 3.0 Site Description and Context

3.1 33 Barrack Street is an end of terrace building with a ground floor office (occupied by MGS Electrical Installations Ltd) and a first floor residential flat. The frontage of the building is to the north onto Barrack Street, to the east is a concrete vehicle access that leads to the rear with the neighbour of no.35 on the other side of the access. The rear is to the south and consists of a concrete parking area (approximately 13.6m x 9.5m). The east elevation of the first floor flat has four windows – one of which serves a bathroom and is obscured glazed. This part of Barrack Street consists of terraced dwellings, retail units (mostly with flats above) and vehicle sales.

### 4.0 Description of the Proposal

4.1 The proposal is for a side extension to no. 33 which would consist of a first floor extension to the flat above a vehicle access. The proposal would be approximately 3.5m wide, 5.8m long and 7.5m high. The proposal would provide a second bedroom to the flat. The external appearance would be a render finish to the walls and roof tiles to match the existing.

## **5.0 Land Use Allocation**

5.1 Mixed Use

## **6.0 Relevant Planning History**

6.1 110523 granted a change of use in 2011 of ground floor from Bookmakers (Class A2) to office.

## **7.0 Principal Policies**

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

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

UR2 - Built Design and Character

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

DP1 Design and Amenity

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

Backland and Infill  
Vehicle Parking Standards  
Extending your House  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

8.1 Highways – no objection.

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

## **9.0 Parish Council Response**

9.1 N/A

## **10.0 Representations**

10.1 Three letters of objections have been received. These relate to:

1. Loss of light to kitchen due to the extension.
2. Do not want to look at a block brick wall less than four feet from their kitchen window and main door.
3. Their dwelling does not have cavity walls and the extension could radically reduce air flow leading to damp.
4. Noise levels will increase due to vehicles driving through a 'tunnel' causing echo and reverberations.
5. Applicant gives examples of properties where cars access parking at the rear by driving underneath the building. These are either new or purpose built and do not impinge on existing dwellings.
6. Applicant states that economic conditions should be taken into account and help local businesses by supporting the application. This is irrelevant and should not be taken into account. If this plea is taken into account then so should be the potential for their property to lose value as a result.
7. Their access from the public highway would become an enclosed area indicative of an alley way.
8. Plans are unclear.
9. Deeds to 33 state that there is a right of access for 29 & 31 Barrack Street. This has not been taken into account. Would have to walk along a vehicular access as opposed to an existing pathway. This will put family members in danger. Existing drive is locked, vehicles park close to boundary and this disregard for the covenant on the deeds suggests continued disregard for residents. Access needs to be guaranteed during and after the build.
10. Own a small walkway into the car park of no.33 and don't want this built on.

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

## **11.0 Parking Provision**

11.1 There would be no change to the parking arrangements at the site.

## **12.0 Open Space Provisions**

12.1 n/a

## **13.0 Air Quality**

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

## 14.0 Report

- 14.1 The area of Barrack Street in the immediate vicinity is characterised by terraces on both side of the highway. The proposed side extension would continue this terraced form to the boundary of number 35, to the east. Number 35 is a semi-detached dwelling (the only semi-detached in the immediate vicinity) with a pathway between the boundary with the site. The path leads to the rear of the dwelling and a flat roofed single storey extension with a door that would appear to act as the main access into the dwelling. Given this path, the proposal would not result in the built form appearing as an excessively long terrace. The side elevation to which the extension would be attached has no merit and is a little messy including several bricked up windows. The inclusion of a drive through vehicle access is a little out of character of the immediate area but there are examples elsewhere along Barrack Street where this arrangement exists (Villa Court, for example). The proposed height would be the same height as Number 33 although it would be lower than the remainder of the terrace to which it would join. Parking spaces would not be lost as a result of the proposal. Highways have not objected to the proposal and so it concluded that the proposal would not put either vehicles or pedestrians at risk. The proposed design is considered to be acceptable and complies with UR2 and DP1.
- 14.2 Amenity issues such as the loss of light to a kitchen window and an increase in noise due to drive through acting as a tunnel have been raised. The proposed extension would be to the west of the closest neighbour (no.35) which has no openings in its gable end but does have a window and glazed door in its single-storey rear extension. Given the orientation of the proposed extension (west of the neighbour) there would be no overshadowing as a result of the extension. Regarding the drive through acting as a tunnel resulting in noise, this is highly unlikely to result in any meaningful increase in noise to neighbours given the proximity to the busy Barrack Street itself, the short length of 'tunnel', the limited amount of vehicles that could park at the rear and the slow speed that the vehicles would be travelling either when they entered from or exited onto Barrack Street. The proposal includes two windows to the neighbour – one of which repositions an existing side elevation window in the existing gable wall. The new window in the rear of the proposed extension would serve an en-suite and would be conditioned to be obscure glazed. Given these factors there would be no increased opportunity to overlook and the proposal accords with DP1.
- 14.3 The issue of covenants on deeds that concern a right of access to the rear of dwellings is not a matter that can be addressed by the planning process, although it should be noted that there would be an open area at ground level for vehicles and pedestrians to access. It would be applicant's responsibility to ensure that the access for pedestrians remained to comply with the covenant. The granting of planning permission would not override any ownership of walkways. A neighbour has commented that the proposal would reduce air flow to their dwelling and could result in damp problems. The proposed extension would for the most part be over one metre from Number 35. Given these relationships there should be no reduction in air flow reaching the neighbour's dwelling. However the granting of planning permission may or may not affect the applicant's rental income from the flat or the neighbour's property value and are not matters for consideration.



## 15.0 Conclusion

15.1 The design is considered acceptable and would continue a terrace in an area characterised by terraces. The proposal would not result in any detrimental amenity impacts.

## 16.0 Recommendation - Conditional Approval

### Conditions

#### 1 - Time Limit for Full Permissions

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Location Plan, Block Plan, Elevations and Layouts unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

#### 3 - Materials as Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that materials are of an acceptable quality appropriate to the area

#### 4 - \*Removal of PD - Obscure Glazing But Opening

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the first floor window in the south/rear elevation of the extension shall be glazed in obscure glass to a minimum of level 4 obscurity before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

### Informatives

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

(2) All works affecting the highway should 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 08456 037631.

**Informative Reason for Approval**

The proposal was considered to be acceptable in regards to design and the impact on the street scene and would not result in any detrimental amenity impacts such as overlooking, overshadowing, noise or highway safety issues, and therefore complied with the Council's Policies UR2 and DP1 and adopted Supplementary Planning Guidance/Documents.

## Planning Committee

Item

8

29 November 2012

<b>Report of</b>	<b>Head of Environmental &amp; Protective Services</b>	<b>Author</b>	<b>Mark Russell</b> ☎ 01206 506941
<b>Title</b>	<b>121353 – Land adjacent (South), Grange Road, Tiptree</b>		
<b>Wards affected</b>	<b>Tiptree</b>		

### 1.0 Introduction

- 1.1 This report is presented as a companion to the Planning report for application 121353.
- 1.2 It comes about following a series of complaints relating to breaches of condition at the Florence Park training ground and the gathering of evidence which has confirmed that breaches are, indeed, taking place.
- 1.3 The report sets out the three main options for Planning enforcement which are available to Colchester Borough Council if matters are not resolved under the above application.
- 1.4 The conclusion reached is that no enforcement action should be taken at this time as current usage appears to be in compliance with Officer recommendation for the above application:

### 2.0 Options

- 2.1 The three key options are:
- 1) A Stop Notice (including a Temporary Stop Notice);
  - 2) An Enforcement Notice;
  - 3) A Breach of Condition Notice.
- 2.2 A Stop Notice is usually issued in conjunction with an Enforcement Notice in order to ensure the cessation of a use before the period specified for compliance in the enforcement notice; i.e. before the enforcement notice takes effect. These are used rarely and usually in extreme circumstances and are used only when other measures have, or are likely to, prove unsuccessful in preventing a breach of planning control.
- 2.3 The disadvantage of using this method is that the Improper use of such a notice can result in the Council incurring claims for compensation.
- 2.4 An Enforcement Notice is served by a Council where:
- "There has been a breach of planning control, and
- it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations" (Town & Country Planning Act 1990 S.172 (1))

- 2.5 In this case, the Breach of Planning control is not an unauthorised change of use (as discussed in the Committee report, the site is being used for D2 'Assembly & Leisure' which is its authorised use), nor is there any unauthorised development. The breach is, therefore, a breach of conditions (including unauthorised hours of use, Sunday use and usage of more than two pitches at the same time).
- 2.6 The option of serving an Enforcement Notice alleging Breach of Condition(s) is therefore available to Colchester Borough Council.
- 2.7 The applicants are then given a time to appeal or comply (28 days, typically) after which time evidence gathering and prosecution can ensue.
- 2.8 The difference between this and the Breach of Condition Notice (below) is that the party on whom the notice is served may appeal the notice. They will inevitably appeal on "ground A" (namely that "permission should be granted") as well as any other grounds, for example alleging the activity isn't taking place or that the notice has not been correctly served.
- 2.9 Colchester Borough Council would then need to prepare a statement explaining why permission should not be granted. Effectively this is the same as a statement for a refused Planning permission.
- 2.10 Service of an Enforcement Notice would also have to be preceded by the service of a Planning Contravention Notice (PCN) so as to ensure that all owners are known to us. Failure to properly serve the Enforcement Notice on all interested parties would render it invalid.
- 2.11 A Breach of Condition Notice (BCN) is the final option. This contains a list of the alleged breaches and there is a minimum compliance period of 28 days. There is not an easy mechanism for appealing against a BCN and monitoring and prosecution can follow after the compliance period.
- 2.12 A disadvantage of the BCN is that all alleged breaches of conditions need to be itemised on the notice. Should one or more of the breaches be omitted, there is no second chance of serving a notice. This can make the service of a BCN very onerous and fraught with difficulties.
- 2.13 The alleged breaches of condition have been several during the setting up and use of Florence Park. However, the key conditions under discussion relate to hours/days of use (condition 27) and the use of in excess of two pitches at the same time (condition 34).
- 2.14 The current hours in which the ground is being used, those which have now been applied for, and those which your Officers feel are acceptable now broadly correspond with each other.
- 2.15 However, given that usage at the time of the first complaints was beyond what is now being applied for, it is possible that future breaches could occur.

### **3.0 Analysis**

- 3.1 Your Officers have recommended approval for the amended set of hours etc. as detailed in the Committee report for 121353. The current level of usage complies with these, and therefore there does not appear to be any outstanding enforcement issue.

- 3.2 Should Members choose to reject any part of application 121353, they may seek enforcement action against the matters outstanding (i.e. any use on site which does not comply with permission).
- 3.3 The best method would be an Enforcement Notice which should be served contemporaneously with the Planning decision. This would mean that both appeals would be heard together and would prevent a prolonged process of having two appeals spanning several months (during which time any breaches could continue unfettered, unless a Stop Notice were served).
- 3.4 If Members believe that a breach or breaches are likely to occur, then an Enforcement Notice may be prepared in anticipation of this. This may be the best course of action should further breaches materialise.
- 3.5 Members are reminded that Officers have recommended approval for the amended Planning application, and that such a notice would have to be justified were the application and notice go to appeal.

#### **4.0 Conclusion**

- 4.1 Given all of the above considerations, it is recommended that a Planning Contravention Notice be served to confirm the details of all owners and interested parties on the site.
- 4.2 That an Enforcement Notice be prepared and then served should any further breaches occur.



## **Colchester Borough Council Development Control**

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

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

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

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

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

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



## Colchester Borough Council Environmental Control

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

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

#### Best Practice for Construction Sites

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

#### Noise Control

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

#### Emission Control

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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



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

## **Class A1. Shops**

Use for all or any of the following purposes—

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

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

Use for the provision of —

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

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

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

## **Class A4. Drinking establishments**

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

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

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

## **Class B1. Business**

Use for all or any of the following purposes—

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

## **Class B2. General industrial**

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

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

Use for storage or as a distribution centre.

## **Class C1. Hotels**

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

**Class C2. Residential institutions**

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

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

**Class C3. Dwellinghouses**

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

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

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

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

**Class C4. Houses in multiple occupation**

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

**Class D1. Non-residential institutions**

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

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

(d) a dance hall,

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

**Sui Generis Uses**

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

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

**Interpretation of Class C3**

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

**Interpretation of Class C4**

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