

Planning Committee

**Council Chamber, Town Hall
15 May 2008 at 6:00pm**

This committee deals with

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.

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Material Planning Considerations

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

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

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

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

Human Rights Implications

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

Community Safety Implications

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

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
15 May 2008 at 6:00pm**

Members

Chairman : Councillor Gamble.
Deputy Chairman : Councillor Ford.
Councillors Chillingworth, Blandon, Chapman, Chuah, Cory, Elliott, Foster, Hall, Lewis and Offen.

Substitute Members : All members of the Council who are not members of this Committee or the Local Development Framework Committee. The following members have undertaken planning training which meets the criteria:-
Councillors Arnold, Barlow, Barton, Bentley, Bouckley, Cook, Dopson, Fairley-Crowe, P. Higgins, T. Higgins, Hunt, Lilley, Lissimore, Maclean, Manning, Martin, Pyman, Quarrie, Sykes, Tod, Turrell and Young.

Agenda - Part A

(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief. An amendment sheet is circulated at the meeting and members of the public should ask a member of staff for a copy to check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm on the day before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Pages

1. Welcome and Announcements

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

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

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

2. Have Your Say!

The Chairman to invite members of the public to indicate if they wish to

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

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

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

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

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

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

6. Minutes

To confirm as a correct record the minutes of the meeting held on 24 April 2008.

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. 080005 Land at Tile House Farm, Hayland Road, Great Horkesley
(Fordham and Stour) | 8 - 22 |
| Amendments to application F/COL/05/1807 involving layout and house type alterations. Erection of 80 dwellings. | |
| 2. 080561 Central Park House, 5 Military Road, Colchester
(New Town) | 23 - 26 |
| Minor alterations to internal layouts and the insertion of non-openable high level windows within the rear elevations of units 4 to 10 inclusive and a rear door within unit 7 to be used solely for the purposes of occasional maintenance and repair (approximately 2-3 times per year) | |
| 3. 080586 Shipwrights, 128 Coast Road, West Mersea
(West Mersea) | 27 - 32 |
| Relocation of boat paint shed | |
| 4. 080581 Shipwrights, 128 Coast Road, West Mersea
(West Mersea) | 33 - 35 |
| Demolition of boat paint shed situated to rear of Wyatt's engineering workshop. Rebuilding of new paint shed within site. | |
| 5. 080596 Adjacent to Cedarwood Cottage, London Road, Copford
(Copford and West Stanway) | 36 - 42 |
| Detached dwelling with attached garage and vehicular access. Resubmission of 073116. | |
| 6. 080602 Langenhoe Village Hall, Edward Marke Drive, Langenhoe
(Pyefleet) | 43 - 47 |

- Single storey side extension to village hall.
- 7. 080611 34 Beaconsfield Avenue, Colchester** **48 - 50**
(Christ Church)
- Single storey rear extension
- 8. 080618 4 Hillcrest Cottages, Greyhound Hill, Langham** **51 - 55**
(Dedham and Langham)
- Erection of porch and rear first floor extension to form en-suite and single storey extension
- 9. 080475 101 Harwich Road, Colchester** **56 - 61**
(St Anne's)
- Erection of new dwelling and conversion of existing shop into additional domestic accommodation.
- 10. 071479 Colchester Camping Caravan Park, Cymbeline Way, Colchester** **62 - 67**
(Lexden)
- Retrospective planning application for the retention of lighting (incidental to existing caravan park)
- 11. 071980 Land to rear of 11 Newbridge Road, Tiptree** **68 - 75**
(Tiptree)
- Reserved Matters application for erection of 16 no. residential dwellings
- 12. 080562 Hemps Green, Fordham** **76 - 80**
(Great Tey)
- Retrospective application for provision of access road.
- 13. 080573 Doucecroft School, Abbotts Hall, Abbotts Lane, Eight Ash Green** **81 - 86**
(West Bergholt and Eight Ash Green)
- Resubmission of 072518 to vary condition no. 5 (of application F/COL/04/0445) to allow the school to be open to pupils and boarders for no more than 48 weeks in each year, and allow 10 No. Boarders during the weekends unless otherwise agreed in writing by the Local Planning Authority.
- 14. 080646 48 North Hill, Colchester** **87 - 94**
(Castle)

Change of use from office to A3 (Restaurant) with opening hours of 12pm until 11pm

- 15. 080648 47 North Hill, Colchester (Castle) 95 - 103**

Change of use from office/residential to A3 (Restaurant) with opening hours of 12pm to 11pm

- 16. 080294 Garrison Church, Military Road, Colchester (New Town) 104 - 110**

Change in form of Dais at eastern end. Erection of iconstasis and side walls around chancel. Fitting of low icon shelf and candle tray and upper shelf along northern and southern walls at heights of 1.20 metres and 1.62 metres.

- 17. 080548 Bridge House, Severalls Lane, Colchester (Mile End) 111 - 115**

Erection of electric transformer substation with vehicular access

- 18. 072285 Cherry Tree Farm, London Road, Great Horkesley (Fordham and Stour) 116 - 125**

Change of use to permit the siting of a temporary agricultural workers dwelling (Resubmission of F/COL/06/1980)

- 8. Planning Application ref: 072287 // Cherry Tree Farm, London Road, Great Horkesley 126 - 148**

See report by the Head of Planning, Protection and Licensing

- 9. Enforcement Action // Land at 25 Straight Road, Boxted 149 - 152**

See report by the Head of Planning, Protection and Licensing

- 10. Enforcement Action // Land at Elm Farm, Elm Lane, Marks Tey 153 - 156**

See report by the Head of Planning, Protection and Licensing

- 11. Remedial Notice // HH/COL/06/0339, 15 Firs Chase, West Mersea 157 - 169**

See report by the Head of Planning, Protection and Licensing

12. 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

24 APRIL 2008

Present:- Councillor Chillingworth* (Chairman)
Councillors Blandon*, Elliott*, Ellis, Ford, Foster*, Hall, Hunt,
Lewis* and B.Oxford*.

Substitute Member:- Councillor Maclean for Councillor Quarrie

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

334. Minutes

The minutes of the meeting held on 10 April 2008 were confirmed as a correct record subject to the insertion of the following minute as the first minute and the subsequent sequential renumbering of all following minutes:-

"324. Minutes

The minutes of the meetings held on 13 and 27 March 2008 were confirmed as a correct record."

335. 080406 9 Rampart Cottages, Coach Road, Great Horkesley, CO6 4AU

The Committee considered an application for a two bedroom bungalow and garage. The application was a renewal of the extant reserved matters permission, 03/0171. 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.

336. 080456 247-279 Berechurch Hall Road, Colchester, CO2 9NP

This application was withdrawn from consideration at this meeting by the Head of Planning, Protection and Licensing.

337. 080462 and 080473 The Old Customs House, High Street, Rowhedge, CO5 7HG

The Committee considered planning application 080462 and listed building application 080473 for the conversion of the Customs House from light industrial use to a single dwelling together with a change of use of the ground floor adjoining structure from office use to residential and its conversion to form two dwelling houses, together with the change of use of the ground floor of adjacent Boat House to residential including associated access and parking provision. The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet.

RESOLVED (UNANIMOUSLY) that –

(a) In respect of planning application 080462 and listed building application 080473, consideration of both applications be deferred until 1 May 2008 for receipt of confirmation from the Environment Agency that they have no objections to the proposal in application 080462.

(b) Upon receipt of such confirmation from the Environment Agency by 1 May 2008, the Head of Planning, Protection and Licensing be authorised to grant planning consent and listed building consent with conditions and informatives as set out in the report.

(c) If such confirmation from the Environment Agency is not received by 1 May 2008 and their objection has not been overcome or they require further information/clarification, the Head of Planning, Protection and Licensing be authorised to refuse planning application 080462 on the grounds of the risk of flooding, and listed building consent 080473 on the grounds that it would be inappropriate to approve listed building consent given that the proposed scheme is unacceptable on planning grounds.

Councillor Blandon (in respect of her acquaintance with the applicant) declared her personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

338. 080467 30 St. Clare Road, Colchester, CO3 3SZ

The Committee considered an application for the demolition of the existing house which is located toward the front of the site and its replacement by a two storey dwelling towards the rear of the site, a two storey gatehouse at the front of the site and these two elements being linked by a single storey section. The application was a resubmission of application 071183. The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet.

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

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. The site was within a designated Area of Special Character and subject to UEA21 as explained in paragraph 8.1 of the report. It was considered that the proposal contradicted the aim of the policy in that it created a built form rearwards into the site. Further letters of objection referred to on the Amendment Sheet set out concerns about the impact of the built form upon the Area of Special Character.

Mr Ted Gittins addressed the Committee on behalf of the neighbours at 44 Fitzwalter Road pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. They were concerned about the harmful impact and amenity generally. They were not serial complainers but had chosen to object to this application. The character of the area was one of dwellings subservient to the character of the landscape setting. The current proposal constituted a massive and elongated form not in harmony with the built or natural environment. The form and scale was excessive and would dominate the setting contrary to UEA21, Area of Special Character, and it would be a curtain wall development. The rear elements were very close to the common boundary and would appear overbearing. The neighbours have indicated that should this application be approved their bungalow would be completely humbled by the colossus next to it.

Mr Nicholson, the applicant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The recent construction of the property next door had a significant effect on his property. His architect had consulted with Council planning officers to produce a scheme which complied with borough council policies. The scheme took into account comments made on the previous application at the previous meeting. The design would maintain and enhance the street scene and its surroundings. The scheme was not overbearing and was well spaced out. The habitable area was 4,520 square feet. Any risk of overlooking had been removed. This scheme was far better than the existing approved scheme because it reduced any overlooking. He would fully support any conditions required in respect of a landscaping scheme. He appreciated the area had a special character and wanted to make the most of it and not harm the area. Letters of support had been received from other residents.

It was explained that there were no issues in respect of trees and overlooking however there was a problem in respect of the built form and its impact on the area. Windows had been arranged so as not to create a serious problem, but the recommendation for refusal was in terms of the scale of the scheme and its impact on the area.

Some Members of the Committee regarded this area as the most beautiful part of Colchester. Whilst it was hoped that there could be some scope for agreement on what could be developed on the site there was general agreement that the bulk of the building was out of keeping with the area; the size of the 48 metre long development being incongruous in the street scene.

RESOLVED (NINE voted FOR and TWO ABSTAINED from voting) that the application be refused for reasons set out in the report.

339. 080470 Oakdene, Long Road West, Dedham, CO7 6ES

The Committee considered an application for the demolition of the existing substandard single storey dwelling in a poor state of repair and its replacement by a three bedroom house. 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.

340. 080500 East Road, West Mersea, CO6 4AU

The Committee considered an application for minor amendments to plots 49 to 56, previously approved under application number F/COL/05/0465. The application proposed different house types for these plots. The approved scheme was for eight detached dwellings: three two-bedroom dwellings, three three-bedroom dwellings and two four-bedroom dwellings. The amended scheme indicates eight detached dwellings, all having three bedrooms.

The Committee had before it a report in which all information was set out. The rear to rear privacy distances between properties in the new scheme and those in Brierley Avenue were reduced, but it was noted that the properties in Brierley Avenue had substantial gardens and no objections had been received.

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

Councillor Ellis (in respect of his spouse being a member of the Winstred Parish Council, an objector to the application) declared his personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

341. 080505 Former vehicle service station, Lower Road, Peldon, CO5 7QR

The Committee considered a reserved matters application to outline permission O/COL/06/1306 for the demolition of the petrol station and former owner's bungalow and the erection of five houses with private gardens and garages. The scheme proposed a pair of three-bedroom semi-detached houses and three four-bedroom detached houses. The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet. Amended plans had been received to address the comments of the Conservation Officer and the requirements of Condition 4.

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

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report with the deletion of Condition 4.

342. 080513 17 East Road, West Mersea, CO5 8EB

This application was withdrawn from consideration at this meeting by the Head of Planning, Protection and Licensing.

343. 080543 Land adjacent to Alefounders Barn, Wick Road, Langham

The Committee considered an outline planning application for a four bedroom dwelling on a rectangular shaped parcel of land behind properties known as The Rectory and Karamu which front onto Wick Road, and opposite the house and curtilage of Alefounders Barn. Both the application site and Alefounders Barn shared a vehicular access along a lane leading from Wick Road. The Committee had before it a report in which all information was set out.

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

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for the dating of a submitted Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 to provide for a contribution towards Open Space, Sports and Recreational facilities in accordance with the Council's Supplementary Planning Document.

(b) Upon the completion of a satisfactory Unilateral Undertaking, the Head of Planning, Protection and Licensing be authorised to grant planning consent with conditions and informatives as set out in the report.

344. 080551 2 Brookhouse Cottages, Brookhouse Road, Great Tey

The Committee considered an application for an extension and alterations to one of a pair of semi-detached dwellings to form a granny annexe. The adjoining semi-detached dwelling had

been extended in a similar way to that indicated in this proposal. The Committee had before it a report in which all information was set out, with further information on the Amendment Sheet.

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

345. O/COL/06/1867 Smythes Green, Layer Marney, CO5 9XG

The Committee considered an outline planning application for the demolition of commercial buildings comprising a petrol filling station, a small shop and forecourt car sales and their replacement with three new dwellings together with the retention of an existing detached modern dwelling. This was a revision of a scheme granted approval under COL/05/1596. 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.

346. 071479 Colchester Camping Caravan Park, Cymbeline Way, Colchester, CO3 4AG

The Committee considered a retrospective planning application for the retention of lighting which was incidental to the existing caravan park. The Committee had before it a report in which all information was set out with further information on the Amendment Sheet.

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations. The required lighting report had been received on the day of the Committee meeting and the Committee was requested to defer consideration of the application to the next meeting on 15 May to allow time for the content of the report to be considered.

RESOLVED (UNANIMOUSLY) that consideration of the application be deferred to the next Committee meeting on 15 May 2008 to permit Environmental Control sufficient time to give proper consideration to the content of the report.

347. 072956 East Street, Wivenhoe, Colchester, CO7 9BW

This application was withdrawn from consideration at this meeting by the Head of Planning, Protection and Licensing in order that the application can be advertised as affecting the setting of a listed building.

348. 072443 218A Old Heath Road, Colchester, CO2 8AU

The Committee considered a retrospective application for a change of use of a five bedroom first floor flat to six bedsit units. The bedsit units had been in use for several years and this application was a result of liaison between Private Sector Housing and Planning Enforcement.

The Committee had before it a report in which all information was set out. Objections had been received from the Highway Authority on the grounds of intensification of use of an inadequate vehicle turning facility within the site. However, it appeared that the occupiers were substantially non-car users whereas the former five bedroom flat could have been occupied by a number of people all of whom could be car owners.

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

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

Councillor Ellis (in respect having employed the services of the applicant's agent, Edward Gittins & Associates) declared his personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

349. 080412 Land to the rear of Barnfield, Park Lane, Langham, CO4 5NJ

The Committee considered an application for a change of use of an area of agricultural land, immediately abutting the rear garden of Barnfield, to private amenity space. Barnfield is a replacement dwelling adjacent to the corner of Park Lane and Wick Road. The site had been reduced in size during the course of the application so that it now terminated at a point level with that of neighbouring gardens. The Committee had before it a report in which all information was set out with further information on the Amendment Sheet.

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

350. 080415 Land adjacent to Sturgeons Farm, Middle Green, Wakes Colne, CO6 2BN

The Committee considered an application for a change of use of an area of land fenced pasture/paddock land to outdoor equestrian use including a new manege 20 metres by 50 metres for the purpose of schooling horses.

The Committee had before it a report in which all information was set out with further information on the Amendment Sheet. Subsequent to the report being published, the applicant had submitted an amended plan showing the proposed manege repositioned approximately 30 metres further from the objector's boundary. The consultation period had been extended by 10 days to allow for any further comments on the revised proposal.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred to allow the extended period of consultation on the amended plan to expire.

(b) If no new material issues were raised by objectors prior to 28 April 2008, the Head of Planning, Protection and Licensing be authorised to grant planning consent with conditions and informatives as set out in the report and on the Amendment Sheet.

351. 080294 Garrison Church, Military Road, Colchester

This application was withdrawn from consideration at this meeting by the Head of Planning, Protection and Licensing.

352. Land off Chapel Lane, Boxted // Service of a Section 215 Notice (untidy land) and an Enforcement Notice (removal of residential caravans)

The Committee considered a report by the Head of Planning, Protection and Licensing seeking authorisation for the issue of a Section 215 Notice requiring the tidying of the site by the removal of all vehicles, vehicle parts and tyres; household waste; white goods and building materials; all waste from arboriculture and garden works; the wooden chalet building and corrugated arc shelter. Authorisation was also sought for the issue of an Enforcement Notice requiring the removal of the residential caravans from the site.

Richard Button, Planning Team Manager (Regeneration), attended to assist the Committee in its deliberations.

Mr Winkworth, a neighbour of the site, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the proposal. They had not had any problems with any occupiers of the site, but it was getting to the stage where the site needed something done. Various items of domestic equipment:- beds, seats, washing machines, spin dryers and 2,000 tyres were stored on the site. Trees on a substantial part of the site had been cleared by burning and if the tyres were to catch alight it would be a serious problem.

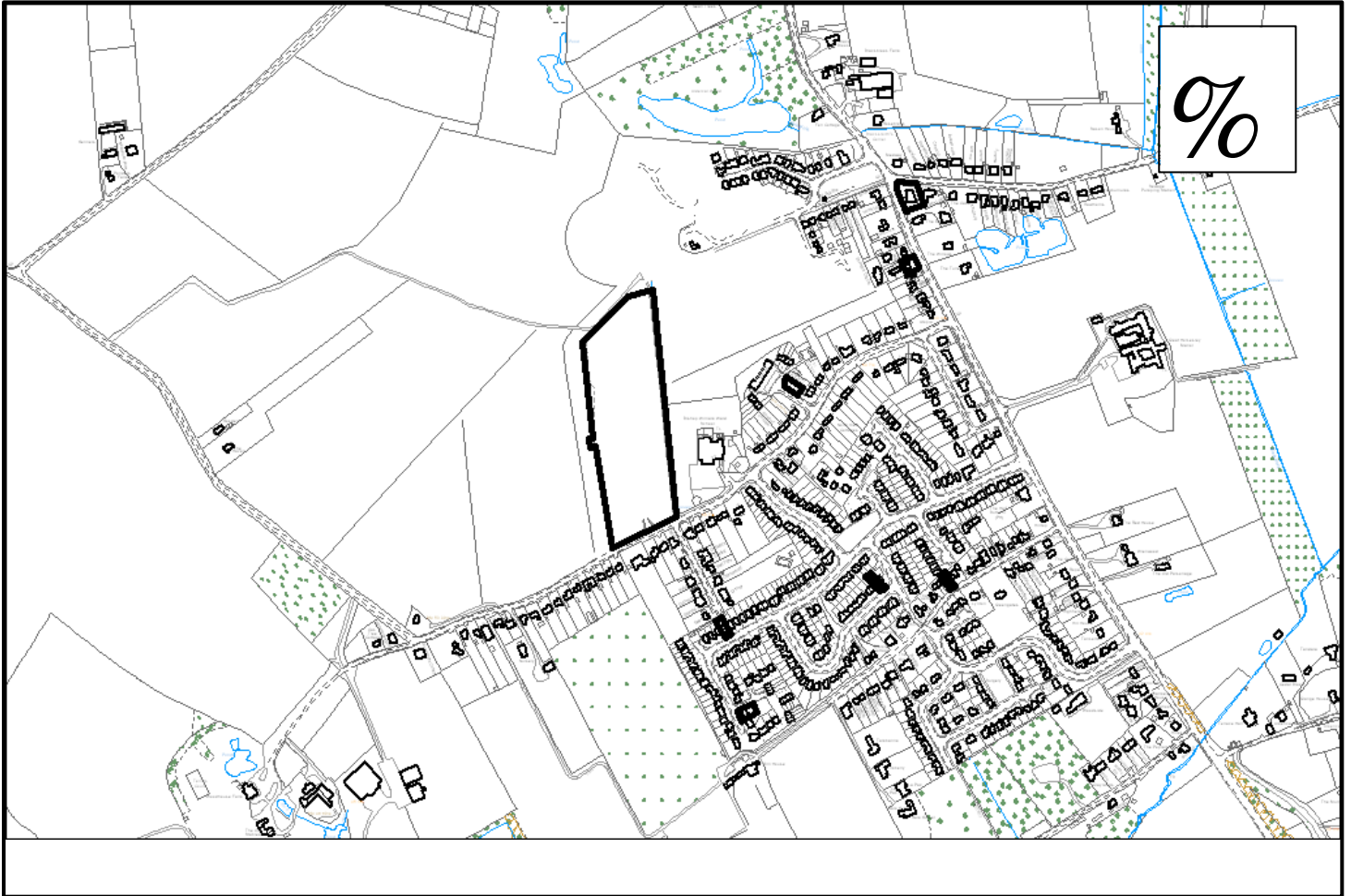
Councillor Chapman attended and, with the consent of the Chairman, addressed the Committee. The proposal was supported by the parish council and he endorsed the report. He acknowledged the support of the residents, but the site was a matter that needed sorting out. Many other routes had been explored to get the site tidied up.

Members of the Committee were disappointed that there was no photographic evidence available at the meeting to support the intended action proposed in the report, and were grateful for the evidence of the neighbour. The Committee were generally of the view that the Section 215 Notice should be served in the first instance before making a decision on whether to proceed with the Enforcement Notice in respect of the residential caravans. They took into account the fact that the village had not experienced any problems with the occupiers of the site and the removal of the caravans from this site would necessitate the occupiers finding alternative accommodation. In the event that a further report was submitted to the Committee in respect of the Enforcement Notice, a visit to the site was considered to be useful.

It was explained that it was important to consider the report against the background of the fact that there was a shortage of this type of accommodation in the borough. The build up of rubbish etc. had taken place over a relatively short period of time and appeared to be linked to the present occupiers of the property. The Committee were invited to consider serving the Section 215 Notice at this stage and defer consideration of the Enforcement Notice to give the occupants time to comply with the Section 215 Notice.

RESOLVED (UNANIMOUSLY) that –

- (a) The Head of Planning, Protection and Licensing be authorised to serve a Notice under Section 215 of the Town and Country Planning Act 1990 with a compliance period of two months requiring the removal of all vehicles, vehicle parts and tyres; household waste; white goods and building materials; all waste from arboriculture and garden works; the wooden chalet building and corrugated arc shelter.
- (b) Consideration of the service of an Enforcement Notice be deferred for a further report.



Application No: 080005

Location: Land at Tile House Farm, Nayland Road, Great Horkesley, Colchester

Scale (approx): 1:1250

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Committee Report

Agenda item **7**

To the meeting of **Planning Committee**
on: **15 May 2008**
Report of: **Head of Planning, Protection and Licensing**
Title: **Planning Applications**

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

7.1 Case Officer: **John Davies**

MAJOR

Site: Land at Tile House Farm, Nayland Road, Great Horkesley, Colchester

Application No: 080005

Date Received: 3rd January 2008

Agent: Architecture & Design Partnership Ltd

Applicant: Mersea Homes Ltd

Development: Amendments to application F/COL/05/1807 involving layout and house type alterations. Erection of 80 dwellings.

Ward: Fordham & Stour

Summary of Recommendation: Conditional Approval subject to S106 agreement

1.0 Site Description

- 1.1 The Tile House Farm site covers an area of 12.17 hectares and is located between Coach Road to the south and the A134 (Nayland Road) to the north-east and bounded by Aldercar Wood to the north and open countryside to the west. It comprises land that was formerly in agricultural use and which is currently being developed for residential and open space as a village extension. The residential scheme is known as The Grove.
- 1.2 To the east and south-east the site backs onto the rear gardens of residential properties fronting the A134 and Coach Road/Ramparts Close. Also close to the eastern boundary of the site is St John's Church. Further to the south the site borders William Ward Primary

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school and Coach Road itself. An existing farm track, known as Sandy Lane, leads from the farm buildings to Coach Road along the western edge of the school.

- 1.3 The site as a whole has been the subject of much local consultation going back to 1998 when public surveys of local opinions were undertaken by the Parish Council to inform the production of a Village Appraisal SPG. Since then there have been various workshops, consultation meetings and discussions between the Parish Council, villagers, planners and architects culminating in the adoption of a development brief for the site in 2005. The main focus of attention in drawing up the plans has been to secure land to provide a village green and community centre as part of a mixed use development including new housing. In 2006 planning permission was granted for new housing, open space and community centre. This comprised the development of 149 houses divided between two sites. Land extending to the north of Tile House Lane is being developed by Mersea Homes and a parcel of land to the west of Sandy Lane was to have been developed by Ingleton Properties. Between the two sites an area of landscaped public open space has been created providing a football pitch, Local Equipped Play Area (LEAP), areas for informal recreation, Church car park and new semi-mature tree planting and contoured landscaping. Land in the north-west corner of the site is identified as a suitable location for a new community hall building and car park area and areas for future development for tennis courts, bowls, etc. Vehicular access into the site is from both the A134 and Coach Road, although no through site access is possible in order to prevent short-cutting traffic. The proposals also include 1.19 hectares of strategic landscaping on the western boundary of the site to provide structural landscape screening to the scheme.

2.0 Description of Proposal

- 2.1 This application relates only to the Ingleton Properties part of the overall development, which comprised the erection of 67 no, three and four bedroom houses with vehicular access from Coach Road. This site is referred to in the submission as the Southern Residential Area (SRA). This site has been acquired by Mersea Homes, who wish to make material changes to the unit numbers, mix and layout of the approved scheme. The main changes are an increase in the number of units to 80 and with a shift in the overall mix by the inclusion of smaller housing units. The mix is to be changed as follows:

	2 bed	3 bed	4 bed
Approved scheme	None	35 (52%)	32 (48%)
Proposed scheme	16 (20%)	51 (63%)	13 (16%)

- 2.2 Although the increase in units is 13 on the SRA, the increase overall is only 11 units as two units were omitted from the total number of units to be constructed on the overall site following approved amendments to the layout on the Northern Residential Area (NRA) approved under application 073042.
- 2.3 The application is supported by a Design and Access Statement which sets out the justification for the changes and improvements to the approved scheme. Also a Flood Risk and drainage scheme has been submitted

3.0 Land Use Allocation

- 3.1 Village Appraisal adopted March 1998

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Tile House Farm Development Brief- adopted as Council Policy in a Guidance Note in June 2005

Land use allocation- village envelope and public open space

4.0 Relevant Planning History

4.1 In early 2006 planning permission was approved for 149 houses together with the following planning benefits subject of a s106 Agreement:

- (a) 6.02 ha of site to be drained, levelled and landscaped in accordance with agreed specification and transferred in phases as new public open space to CBC with maintenance contribution.
- (b) Provision of Locally Equipped Play Area (LEAP) on part of Public Open Space either provided by developer to an agreed specification or by way of financial contribution of £48,100 and maintenance contribution.
- (c) Construction of access road and car park including drainage and means of enclosure for use by Church
- (d) Works of enlargement and improvement to William Ward Primary School either to be carried out by developer or by contribution of £630,459 for works to be carried out by school.
- (e) Contribution of £403,298 towards additional secondary school places.
- (f) Provision of 25% affordable housing on the site.
- (g) Construction of a community hall building on the Public Open Space to an agreed size, minimum specification and siting.
- (h) Contribution of £15,700 towards provision of a Youth shelter and/or work of public art on the site.
- (i) Highway requirements in respect of new access points from the A134 and Coach Road together with improvements to bus stops and pedestrian facilities.

4.2 073042- Amendments to application F/COL/05/1807 involving layout and house type alterations - Approved 12 March 2008

5.0 Principal Policies

5.1 Adopted Review Colchester Borough Local Plan-March 2004

DC1- Development Control considerations

CO1- Rural resources

CO4- Landscape Features

CO5- Habitats

CO6- Protected Species

CO8 - Agricultural Land

UEA11 - Design

P1 - Pollution

P2 - Light pollution

CF1 - Infrastructure and community facilities provision

CF11 - Places of Worship

L4 - Provision of new public open space

L13 - Informal recreation

L14 - Public rights of way

L15 - Footpaths, cycleways and bridleways

H4 - Affordable housing

H7 - Development within village envelopes

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H13- Housing density

- 5.2 The site is the subject of an adopted Development Brief, which was approved in June 2005 and the key requirements were:
- Creation of village centre comprising..
 - o Landscaping and maintenance of Public Open Space- requirement for 6.02 ha
 - o Community hall and car park
 - Primary and secondary school contributions based on bespoke feasibility study
 - 25% affordable housing provision to be distributed evenly around the development
 - Highway improvements including for pedestrians and cyclists
 - St Johns Church car park and access thereto
 - Access to school grounds from open space
 - Children's' play space
 - Public transport improvements and sustainable transport
 - New access from Coach Rd and A134

6.0 Consultations

- 6.1 Trees and Landscape officer- no objections subject to imposition of same landscape conditions as under previous approved application
- 6.2 Highways Authority- no objections subject to conditions relating to provision of bridleway linking Coach Road and Tile House Lane and vehicular visibility splay.
- 6.3 Education Service- request additional contribution towards secondary schools provision based on the increase in house numbers.
- 6.4 Housing Officer- raises objection to lack of adequate 'pepper-potting' of affordable housing in scheme which is contrary to SPD and approved Development Brief.
- 6.5 Development Team- Application noted and agreed. Case Officer to discuss distribution of affordable housing units with developer and clarify status of open land to west of development.
- 6.6 Environment Agency- raise objection to proposal unless prescribed conditions concerning surface water drainage are included in decision.
Officer comment- the proposed conditions are acceptable to the Officers and are included in the recommendation. It therefore must follow that the Agency has no objection to the proposals.

6.7 Environmental Control- no comments

6.8 Museum Curator- no comments

7.0 Parish Council's Views

7.1 Great Horkesley Parish Council comments:

- Increase in number of dwellings without any justification

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- Would seek consequential increase in community benefits based on £3,000 per new housing unit. Seek improvements to St John's Church car park boundary hedge and access and for education provision.

Officer comment: The approved landscape scheme for the POS included a hedgerow planted up against the boundary of the Church on the basis that the existing hedgerow would be retained. The existing hedgerow has since been severely cut back. There has been no justification for why the development should contribute further to the needs of the Church.

- Accept that new proposals constitute an improvement on the original proposals.
- Western buffer zone- seek clarification on future purpose and management of this area. Role is as buffer zone between development and countryside and should also have distinct nature/environmental role.
- Sandy Lane- one member is concerned about its role as pedestrian/cycle route and vehicular access to proposed housing. Concerns about through traffic, parking, proximity to school entrance, satisfactory access for emergency/refuse services.
- Affordable housing clusters- opposed to dense clustering of affordable dwellings creating simple ghettos. Must be broken up but still allowing grouping to meet maintenance requirements of RSL
- Proposed larger units raises concern over community gain calculation
- Coach Road frontage- brief suggested 1-1.5 storeys to reflect existing housing stock. Proposed 3 bedroom standard estate type units are not in common with street scene.

8.0 Representations

8.1 4 letters of objection have been received raising following issues:

- Increase in house numbers cannot be coped with on existing Coach Road/A134 roads which are already at capacity (2 comments)
- Increase in numbers at expense of parking and amenity space
- House designs are now more in keeping with village and should have been for earlier development carried out on site.
- Layout results in permanent loss of vehicular access between the two housing areas i.e. replacement of turning head with private drive.
- Coach Road frontage does not pay sufficient regard to rural character of facing properties

9.0 Report

9.1 This application is for an alternative scheme for the development of the Coach Road part of the Tile House Farm development and falls to be considered not only against Local Plan policies and standards and the approved development brief, but also the approved scheme.

Layout and design

9.2 The proposed scheme includes a number of improvements over the approved scheme as follows:

- Greater amount of houses with frontage onto countryside to the west
- Reduction in number of proposed houses taking access from Sandy Lane
- Reduction in heights of houses generally and especially fronting onto POS

- Deletion of terraced housing blocks with frontage parking facing POS and replacement with smaller detached houses with rear parking.
- Fewer houses and less formal frontage onto Coach Road
- Clarification of proposed access to school for pedestrians on Sandy Lane

- 9.3 The SRA has an area of 2.68 hectares and the proposed density would be 30 dwellings to the hectare (dph), which is increased from 25 dph in the approved scheme. The approved Brief states that average density across the site should not exceed 30 dph as this would be incompatible with local village and rural amenity. The Coach Road frontage has generated the most interest. The current scheme proposes 5 two storey detached and linked dwellings, compared to the 4 pairs of semi-detached houses in the approved scheme. This design has a more informal layout more sympathetic to the character of Coach Road.
- 9.4 Garden sizes for the houses are generally consistent in size with those on the rest of the site and separation distances are generally in accordance with EDG standards.
- 9.5 Overall the changed mix results in smaller units (see table earlier in report) and in particular the inclusion of two bedroom units which make up a fifth of the overall mix and a reduction in the proportion of 4 bedroom units from 48% to 16%. This is also reflected in a reduction of two and a half and three storey houses in the scheme. Members will recall the concerns raised about tall buildings fronting the POS when the approved scheme was being considered. This was in respect to tall terraced blocks of houses with frontage car parking. The majority of houses facing the POS are now only two storeys.
- 9.6 In the approved scheme the layout resulted in a large number of houses in the middle western half of the site having back gardens facing onto the countryside. The proposed layout removes these so that all houses on this side of the site face westward.

Highways issues

- 9.7 The main junction access into the site from Coach Road remains as previously approved and has been formed on site and, as before, the layout is based on a main spine road leading through the site. There remains no through access linking with the northern site.
- 9.8 Notable changes to the layout are that there are two additional private drive accesses off Coach Road with each serving 1-2 dwellings. These are acceptable to the Highway Authority in terms of traffic safety and in design terms would be consistent with other private drives serving existing dwellings in Coach Road.
- 9.9 Another key change is the function of Sandy Lane. In the approved scheme this was shown as upgraded to a road serving 10 dwellings as a loop road linked to the main spine road. In the amended scheme its function is to be more restricted to serving only four dwellings fronting the road. Traffic calming and parking restriction measures are proposed in the lane in order to both allow access by service /emergency vehicles and restrict indiscriminate parking. These are to be developed in greater detail and submitted for approval under condition.
- 9.10 Parking provision within the scheme comprises 2-3 spaces per dwelling and is in conformity with EPOA Parking Standards.

Landscaping

- 9.11 In the approved scheme the frontage onto Coach Road was to be enclosed by a new continuous hedgerow set behind the footway and visibility splays. The proposed hedgerow treatment is to be retained although there will be gaps for the private drives.
- 9.12 There are no existing trees on this part of the site and officers have encouraged the developers to provide new trees within the residential layout as much as possible.

Affordable housing

9.13 The amended scheme proposes the inclusion of 20 affordable houses in a mix proportionate to the overall mix of houses on the site. These are to be located in groups comprising a terrace facing the countryside to the north-west of the site, a group facing the POS/community centre site in the north-east part of the site and two groups of four, 'back-to-back' houses towards the southern part of the site with one half facing the spine road and the other facing Sandy Lane. On plan there are effectively two groups of affordable housing comprising 12 units at the northern end of the site and 8 units towards the south-east corner. The groupings are comparable with the scheme approved for the NRA but is more concentrated than the approved scheme for the SRA, which had 3 affordable units at the northern end of the site, 7 units facing the school and 7 units in a group at the south-east corner with some fronting Coach Road. The applicants have provided statements in support of the layout of the affordable units in which they state:

- Mersea Homes provide high quality low cost accommodation for the affordable market which cannot be told apart from private homes- both have been designed to the same high standard specification, architectural brief, and use same high quality materials.
- Whilst there are two areas of affordable housing, there is further integration from that of the approved scheme. i.e. 4 plots front the main street in the core of the development, 6 are adjacent the community centre and overlook the POS, 6 units front the open countryside and benefit from a rural aspect and 4 units front the shared pedestrian/cycleway.
- Layout accords with adopted SPD on affordable housing which requires peppercorn in groups of no more than 20 units.
- Groupings are same as for NRA where groups of 12 and 8 units were agreed.

- Mersea Homes are partnering with Colne Housing Society to deliver affordable housing on two schemes within the Borough. At Wellhouse Green, West Mersea the approved scheme comprises 26 affordable units in one area enclosing a pocket park.
- Development Director of CHS states that "Mersea Homes offer a high quality , attractive and well designed home that integrates well with private dwellings".

9.14 Your Officers view is that it is regrettable that the developers have not followed the advice in the adopted Brief to spread affordable housing evenly around the development and to have produced a layout that is clearly less 'pepper-potted' than the approved scheme. However, it needs to be borne in mind that the proposed groupings are similar to those on the approved NRA and, based on a strict interpretation of the adopted SPD, are still below the 20 maximum grouping. Taking also into account the precedent at West Mersea and support for the scheme from the RSL provider, it is considered that there are no strong grounds for refusing the scheme on grounds of the layout of affordable housing.

Open land to west of site

9.15 This land was proposed for landscaped screening in the approved scheme in order to soften/screen the western edge of the development against views from the countryside. The proposed status of this land in this application is the same.

Southern boundary treatment to POS

9.16 A matter that can be reviewed as part of this application is the southern boundary treatment to the POS located on the boundary to the rear gardens of houses in Coach Road and Ramparts Close. Condition 6 on the previous approval required the provision of a 1.8 metre fence or alternative boundary treatment in order to provide a secure enclosure to the POS in the interests of safeguarding the amenity and security of neighbours. No such fence was approved as part of the landscape scheme for the enclosure of the open space and a number of complaints were received from residents that the approved proposed tree and shrub planting is not sufficient to provide adequate privacy and security in the short term. Mersea Homes argue that the provision of such a fence on the boundary would be practically difficult to erect as the position of the boundary is unclear and it would also entail building around or removing existing boundary vegetation. As such a new fence would inevitably be installed to some degree within the POS and would potentially create a maintenance liability for those responsible for the maintenance of the POS. However, in many cases there is already satisfactory screening in the form of trees, hedgerows and/or fencing negating the need for additional fencing to the rear of some of the gardens. However, in other cases such as Ramparts Close the rear boundaries are relatively open with only chestnut paling or low wire mesh fencing.

9.17 Officers accept that there is in some cases a need for fencing to provide privacy and security for residents against use of the POS, which had hitherto been agricultural land with little/or no public access. It is reasonable for such provision to be made by the developer as part of the POS scheme, although future liability for maintenance should be borne by the neighbours themselves. It is therefore recommended that a condition is imposed requiring fencing to be erected on the boundary of the POS but only to the rear of those properties which do not have existing adequate enclosure by either existing solid fencing or good planting.

Planning benefits

9.18 The approved scheme included a significant package of planning benefits which were agreed to both support the additional residential units and to provide community facilities to benefit the village as a whole. The package of benefits is set out above. It was accepted that the level of benefits exceeded those which might have been secured if only to support the residential development and, in particular, this is the case with the 6 hectares of new open space and community centre. Normally 10% open space would be expected to be provided within a scheme which on a 12 ha site would only have delivered a sixth of what is to be provided. The proposed increase in unit numbers (net gain of 11 houses) in this application needs to be viewed in this context. That is not to say that there are no additional gains as there is agreement to provide additional affordable units and an additional secondary education contribution in accordance with relevant policies.

Construction access

9.19 Conditions are proposed as before requiring details of construction traffic access serving the development and in particular including measures to avoid conflicts with the school and residents in Coach Road.

10.0 Background Papers

10.1 ARC; HA; TL; ECC; HO; Development Team; NR; HH; MR; PTC; NLR

Recommendation

APPROVE subject to the prior completion of a Deed of Variation of the existing legal agreement under Section 106 of the Town and Country Planning Act 1990. The Head of Planning, Protection and Licensing to be authorised to complete the agreement to provide the following:

- 1) additional affordable housing units
 - 2) an additional education contribution based on additional 11 residential units (subject to the implementation of permission 073042)
- (b) On completion of the legal agreement, the Head of Planning, Protection and Licensing be authorised to grant planning permission subject to the following conditions:

Conditions

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

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

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

2 – Non Standard Condition

Samples of all materials to be used in the external construction and finishes of all parts of the proposed development, shall be selected from the local range of traditional vernacular building and finishing materials and shall be submitted to and agreed in writing by the Local Planning Authority before the development commences , or in the case of a phased development, prior to the commencement of each phase. The development shall be implemented in accordance with the agreed details.

Reason: To ensure the use of an appropriate choice of materials having regard to the prominence of this site in the countryside.

3 - Non-Standard Condition

Additional drawings that show details of all architectural features, including doors, door cases, eaves, verges, cills, copings, arches, lintels, plinths, string courses, balconies, balustrading, chimney stacks and roof features, at a scale of between 1:20 and 1:1 as appropriate, shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development , or in the case of a phased development, prior to the commencement of each phase. The development shall thereafter be carried out in accordance with the approved details.

Reason: The drawings submitted are too small a scale for proper consideration to be given to these elements of the design and to ensure that the development has a satisfactory appearance.

4 - Non-Standard Condition

Notwithstanding the detail shown on the submitted drawings, the Local Planning Authority requires the prior submission of typical sample window joinery, including glazing bar details where appropriate, and doors, before the installation of any window/glazing unit. Where UPVC joinery is used, glazing bars shall be affixed to the external face of any glazing.

Reason: To ensure that non-timber joinery is of a high aesthetic quality in the interest of securing good townscape and character.

5 - Non-Standard Condition

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

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

6 - Non-Standard Condition

Where there is no existing solid fencing or no substantial tree/hedgerow enclosure a 1.8 metre high timber fence or other boundary treatment as agreed in writing by the Local Planning Authority shall be erected along the southern boundary of the proposed Public Open Space and the rears of properties fronting Coach Road and Ramparts Close within 3 months of the permission.

Reason: In order to provide a secure enclosure to the proposed public open space areas in the interests of safeguarding the amenity and security of adjoining neighbours.

7 - Non-Standard Condition

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

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

8 - Non-Standard Condition

Prior to the commencement of development a scheme detailing the proposed routes for delivery and construction vehicles to and from the site shall be submitted to and agreed by the Local Planning Authority in conjunction with Essex County Council. The scheme shall include details of how the developer will use best endeavours to ensure the agreed routes are adhered to.

Reason: To protect the amenity of residents.

9 - Non-Standard Condition

Prior to the commencement of development details of parking arrangements for delivery, contractors and workers vehicles and the siting of contractors site offices and storage compounds within the site shall be submitted to and agreed in writing with the Local Planning Authority. The scheme shall include details of how the developer will use best endeavours to ensure the agreed scheme is complied with.

Reason: To protect the amenity of adjacent residents.

10 - Non-Standard Condition

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

Reason: In order to ensure that the proposed residential development has adequate boundary treatments in the interests of privacy and visual amenity.

11 - Non-Standard Condition

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

Reason: To ensure the use of an appropriate choice of materials having regard to the importance of this scheme in the countryside.

12 - Non-Standard Condition

On the approved open space areas no external lighting fixtures for any purpose shall be constructed or installed until details of all external lighting proposals have been submitted to and approved by the Local Planning Authority; and no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the undesirable effects of light pollution on the amenity of neighbouring residential properties.

13 - Non-Standard Condition

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

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

14 - Non-Standard Condition

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

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

15 - Non-Standard Condition

Prior to any works or development commencing, or in the case of a phased development, prior to the commencement of each phase full details of both hard and soft landscape proposals for the housing site and structural landscape buffer land shall be submitted to and approved in writing by the local Planning Authority (see BS 1192: part 4). These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

16 - Non-Standard Condition

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

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

17 - Non-Standard Condition

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

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

18 - Non-Standard Condition

Surface water shall be discharged from the site at a rate of no greater than 20 litres per second, for all events up to and including the 1 in 100 year storm, inclusive of climate change.

Reason: To ensure that the flood risk to the site and the surrounding area is not increased as a result of the development.

19 - Non-Standard Condition

Storage shall be provided on site to accommodate the 1 in 100 year storm, inclusive of climate change, through a combination of permeable paving, utilisation of an existing ditch and a piped system, as detailed within the submitted Flood Risk Assessment dated March 2008.

Reason: To ensure a suitable method of surface water drainage that incorporates sustainable drainage principles.

20 - Non-Standard Condition

Prior to the commencement of development, details of who shall be responsible for the management and maintenance of the surface water drainage system shall be submitted to and agreed, in writing, with the Local Planning Authority.

Reason: To ensure that this system is maintained to function as intended in perpetuity.

21 - Non-Standard Condition

A minimum 3.0 metre wide bridleway between Coach Road and the East-West bridleway shall be provided north of the proposal site (as shown in principle on application drawing number 593.L.SRA 100 Rev A prepared by ADP Architects).

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

22 - Non-Standard Condition

A 90 x 2.4 x 90 metre visibility splay at the Coach Road/site access junction shall be provided and maintained clear to the ground at all times.

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

23 - Non-Standard Condition

Prior to works commencing on site a scheme detailing measures to ensure that no mud and/or debris is deposited on the public highway by any vehicle associated with construction of the proposal shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.

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

24 - Non-Standard Condition

Notwithstanding the information shown on the submitted Site Layout Plan further details at a smaller scale showing those measures to ensure that there is adequate access for service and emergency vehicles and to prevent indiscriminate parking along Sandy Lane shall be submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

Reason: In order to ensure there is adequate access for service vehicles and restrict parking along Sandy Lane.

Informatives

Non-Standard Informative

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

Non-Standard Informative

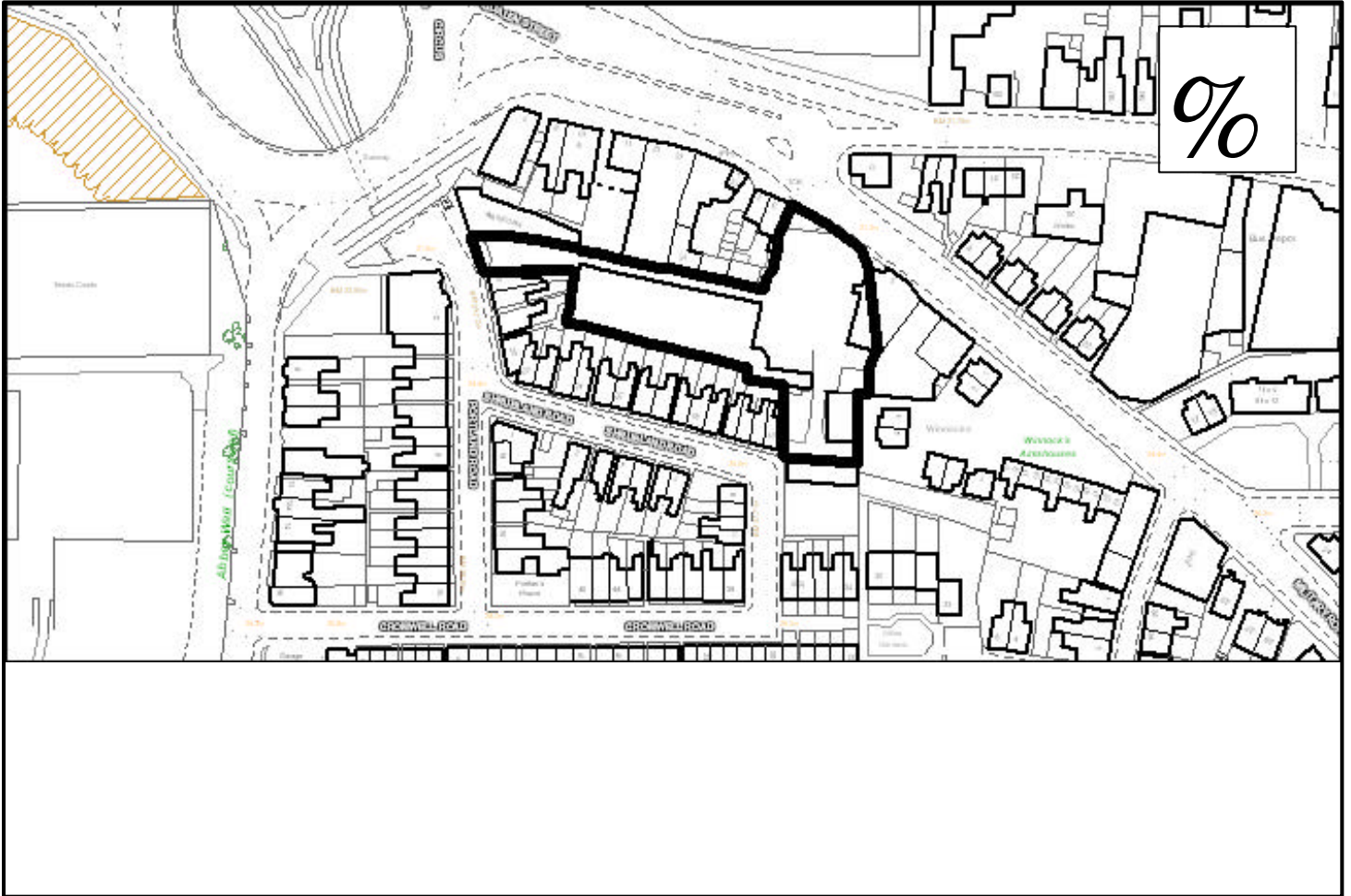
2. All highway related details shall be agreed with the Highway Authority

Non-Standard Informative

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

Non-Standard Informative

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



Application No: 080561

Location: J Green Properties, Central Park House, 5 Military Road, Colchester, CO1 2AA

Scale (approx): 1:1250

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7.2 Case Officer: Sue Jackson

EXPIRY DATE: 21/05/2008

MINOR

Site: Central Park House, 5 Military Road, Colchester, CO1 2AA

Application No: 080561

Date Received: 25th March 2008

Agent: M L Bowler-Architectural & Planning Services

Applicant: J Green Properties

Development: Minor alterations to internal layouts and the insertion of non-openable high level windows within the rear elevations of units 4 to 10 inclusive and a rear door within unit 7 to be used solely for the purposes of occasional maintenance and repair (approximately 2-3 times per year)

Ward: New Town

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The application site is located at the bottom of Military Road close to the junction with Magdalen Street. It contains a range of buildings and a parking area extending behind Military Road and Shrubland Road. The application relates to a substantial warehouse building sited behind Military Road and sharing a boundary with residential properties in Shrubland Road.

2.0 Description of Proposal

2.1 The application proposes amendments to a planning permission to convert the building into 10 flats. The principle amendment involves the insertion of non-openable high level windows within the rear elevation of 7 of the units plus a door in one unit.

3.0 Land Use Allocation

3.1 Residential

4.0 Relevant Planning History

4.1 F/COL/98/1222 - Conversion to form 10 residential flats – planning permission granted.

4.2 F/COL/05/1380 - Conversion to form 10 residential flats – planning permission granted.

5.0 Principal Policies

- 5.1 Adopted Review Borough Local Plan
UEA13 - Development, including extensions, adjoining existing or proposed residential property.
P1 - Pollution
UEA11 - Design

6.0 Consultations

- 6.1 None

7.0 Representations

- 7.1 A resident of Shrubland Road has written as follows:-

"Will residents be overlooked or will the level of the floors make this not possible. If so can patterned glass be fitted for our privacy. Our back windows vary from 18-30 ft from the boundary of these apartments. The other concern is the door to be used for maintenance. I would like reassurance that it will not be used by tenants for smoking outside."

8.0 Report

- 8.1 The approved application shows the existing building forming the boundary with rear gardens in Shrubland Road. Due to the difference in levels the ground floor is set 1.8 metres below the gardens. The proposal involves removing the building's rear wall and constructing it approximately 1m from the boundary. Kitchens are indicated in this part of each flat. Whilst these rooms will have an aspect onto a retaining wall, this amended scheme allows high level windows to light the kitchen. The approved scheme includes no windows to the kitchen.
- 8.2 The plan section indicates the bottom of the window 1.5m above the level of the floor. This drawing also shows the retaining wall above the top of the window.
- 8.3 The drawings indicate each kitchen served by 2 high level non-openable windows. One unit is to have a single high level window and a door. The applicant indicates the door will be used solely for the purposes of occasional maintenance and repairs approximately 2-3 times a year.
- 8.4 Provided conditions are imposed to ensure the development is carried out and retained as described it is considered the amenity of residents in Shrubland Road will be protected.

9.0 Background Papers

- 9.1 ARC; NLR

Recommendation - Conditional Approval

Conditions

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

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

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

2 - A7.11 No New Windows

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no windows, dormer windows or any other form of opening other than those expressly authorised by this permission shall be constructed in the rear north facing roof slope or wall of the building hereby approved.

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

3 - Non-Standard Condition

The retaining wall indicated on drawing number 5090/06/4 section 1-1 shall be constructed and retained at the height indicated.

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

4 - Non-Standard Condition

The windows hereby approved shall be installed so the bottom of each window is set a minimum of 1.5 metres above the finished floor level and shall thereafter be retained at this level.

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

5 - Non-Standard Condition

The approved windows shall all be non-openable and shall be retained as such.

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

6 - Non-Standard Condition

Within 1 month from the date of this decision the applicant shall submit a method statement to the Local Planning Authority for approval detailing the steps to be taken to ensure the door hereby removed remains closed and locked except when used 2/3 times a year for maintenance/repairs. The approved scheme shall be implemented thereafter.

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

7 - C3.3 Samples to be Submitted

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

Reason: To ensure that the development harmonises with the appearance of the existing building and the character of the area.

8 - C3.21 Hard Surfacing

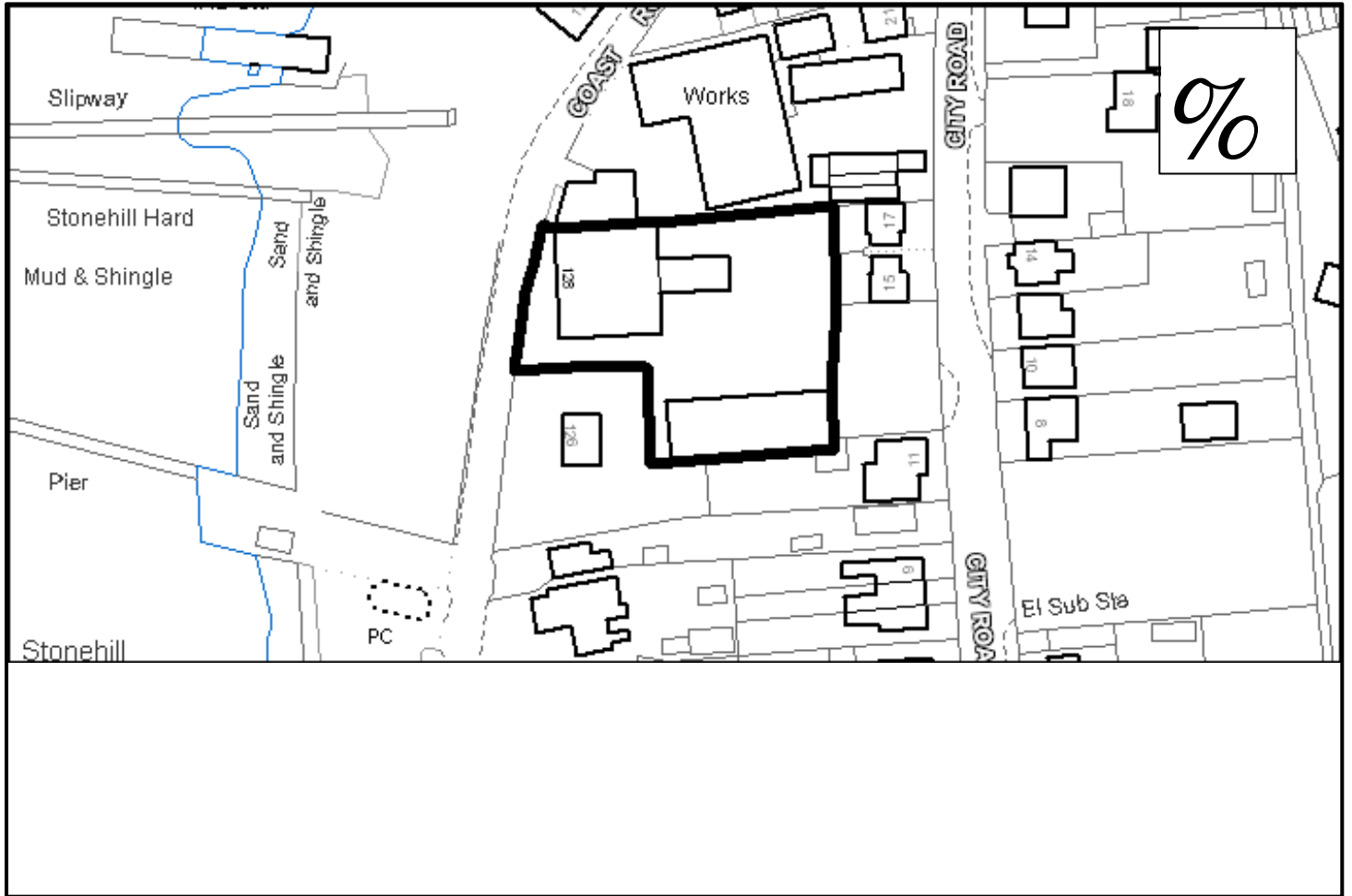
Prior to the commencement of the development hereby permitted details of all materials to be used for hard surfaced areas within the site including [roads/driveways/car parking areas/courtyards/etc] shall be submitted to and approved in writing by the Local Planning Authority. The development shall be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

Reason: To ensure that the development harmonises with the appearance of the existing building and the character of the area.

9 - Non-Standard Condition

This consent is subject to all the conditions on Planning Permission F/COL/05/1380 dated 8 November 2005.

Reason: To ensure a satisfactory form of development.



Application No: 080586

Location: William Wyatt Ltd, Shipwrights, 128 Coast Road, West Mersea, Colchester, CO5 8PE

Scale (approx): 1:1250

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7.3 Case Officer: Sue Jackson

EXPIRY DATE: 22/05/2008

MINOR

Site: Shipwrights, 128 Coast Road, West Mersea, Colchester, CO5 8PE

Application No: 080586

Date Received: 26th March 2008

Agent: Clive Richardson Associates

Applicant: William Wyatt Limited & P Clarke Boatyard Limited

Development: Relocation of boat paint shed.

Ward: West Mersea

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application and the following item for Conservation Area Consent are reported to the Planning Committee in case representations are received after the report writing deadline. This will allow the application to be determined within the 8 week period. These applications can be determined under powers delegated to the Head of Planning, Protection and Licensing and if no representations are received they will be withdrawn from the meeting.

2.0 Site Description

2.1 128 Coast Road comprises commercial premises opposite the waterfront at West Mersea. The site contains a storage/workshop unit on the frontage with a boat repair shop and boat yard to the rear.

3.0 Description of Proposal

3.1 The application proposes the demolition of a paint shed to the rear of the workshop and the erection of a replacement building in the boat yard.

4.0 Land Use Allocation

4.1 Conservation Area
Area of Special Character

5.0 Relevant Planning History

5.1 None

6.0 Principal Policies

- 6.1 Adopted Review Borough Local Plan
P1 - Pollution
CO1O - Agricultural Diversification
UEA2 - Building within Conservation Areas

7.0 Consultations

- 7.1 Environmental Control have no objection subject to conditions.

8.0 Parish Council's Views

- 8.1 No comments have been received from West Mersea Town Council .

9.0 Representations

- 9.1 None received

10.0 Report

- 10.1 Information submitted with the application indicates the existing paint shed is in a poor state of repair. The new building will allow a yacht to be moved in and out with ease, minimise other yacht movements and allow maximum use of the yard for yacht storage.

Design/External Appearance

- 10.2 The new paint shed will be of similar dimensions to the existing and will be clad in plastic coated profiled sheet steel.

Impact of Building

- 10.3 This part of Coast Road contains buildings in commercial use with a boat repair shop and sailmakers on adjacent land. The rear boundary abuts vacant land and residential properties. Whilst the new paint shed will be closer to these dwellings it is still well within the boat yard site. It is not considered there will be any greater impact on residents' amenity.

Policy Issues

- 10.4 Policy CE10 seeks to retain water related uses in this part of Coast Road and no objection is raised to this replacement paint shed which is used by the adjacent boat repairers.

11.0 Background Papers

- 11.1 ARC; HH

Recommendation - Conditional Approval

Conditions

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

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

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

2 - C3.19 External Colour Scheme to be Agreed

Prior to the commencement of the development hereby approved an external colour scheme shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme.

Reason: To ensure that the development preserves and enhances the character and appearance of the Conservation Area.

3 - Non-Standard Condition

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

Reason: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

4 - Non-Standard Condition

Any plant, equipment or machinery on the premises shall be constructed, installed and maintained so as to comply with the noise condition 4 above.

Reason: To ensure that the permitted development does not harm the amenities of the area by reason of undue noise emission.

5 - Non-Standard Condition

The building hereby permitted shall not come into beneficial use until there has been submitted to and approved in writing by the Local Planning Authority a scheme devised by a competent person for the control of fumes, odours, dust and smell. Such control measures as shall have been approved shall be installed prior to the building hereby permitted coming into beneficial use and thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that the permitted development does not harm the local environment and/or the amenities of the area by reason of air pollution, dust and smell.

6 - Non-Standard Condition

Prior to the commencement of the development a detailed contamination investigation and risk assessment shall be undertaken by competent persons and submitted to the Local Planning Authority. This submission to the Planning Authority is required to enable it to decide whether the details have taken account of an acceptable risk from contamination with regards to proposed end users, property, controlled waters and ecological systems. This investigation shall be undertaken in accordance with the Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers and DEFRA and Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11. It shall, where necessary, identify required remediation measures and programmes along with consequent impacts on development phasing.

Reason: To ensure that the site is currently in or is brought to a condition that poses an acceptable risk to future occupants, users, controlled waters, property and the greater environment from contamination in the soil and controlled waters. It also ensures that the site workers are not exposed to unacceptable risks from contamination during construction.

7 - Non-Standard Condition

A scheme to bring the site to a suitable condition in that it represents an acceptable risk will be implemented prior to the commencement of any other part of this planning permission (unless the scheme or parts of it require commencement of other parts of the permission). The scheme shall be submitted to the Planning Authority for approval prior to commencement of works. This shall be undertaken by competent persons and in accordance with the Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers and DEFRA and Environment Agency's 'Model Procedures for the Management of Land Contamination, CRL11.

Reason: To ensure that the site is currently in or is brought to a condition that poses an acceptable risk to future occupants, users, controlled waters, property and the greater environment from contamination in the soil and controlled waters. It also ensures that the site workers are not exposed to unacceptable risks from contamination during construction.

8 - Non-Standard Condition

Should contamination be found that was not previously identified during any stage of the application hereby approved or previous to this and not considered in any remediation scheme it shall be made safe and reported immediately to the Local Planning Authority. The site shall be assessed in accordance with Condition 6 and a remediation scheme shall be submitted for approval to the Planning Authority.

Reason: To ensure that the site is currently in or is brought to a condition that poses an acceptable risk to future occupants, users, controlled waters, property and the greater environment from contamination in the soil and controlled waters. It also ensures that the site workers are not exposed to unacceptable risks from contamination during construction.

9 - Non-Standard Condition

The developer shall notify the Local Planning Authority in writing of impending completion of the remediation works. Immediately on completion of such works a validation report undertaken by competent persons in accordance with the Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers and DEFRA and Environment Agency's 'Model Procedures for the Management of Land Contamination, CRL11 related to the agreed remediation measures shall be submitted to the Planning Authority for approval.

Reason: To ensure that the site is currently in or is brought to a condition that poses an acceptable risk to future occupants, users, controlled waters, property and the greater environment from contamination in the soil and controlled waters. It also ensures that the site workers are not exposed to unacceptable risks from contamination during construction.

10 - Non-Standard Condition

Prior to the occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed above.

Reason: To ensure that the site is currently in or is brought to a condition that poses an acceptable risk to future occupants, users, controlled waters, property and the greater environment from contamination in the soil and controlled waters. It also ensures that the site workers are not exposed to unacceptable risks from contamination during construction.

Informatives

Non-Standard Informative

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

Non-Standard Informative

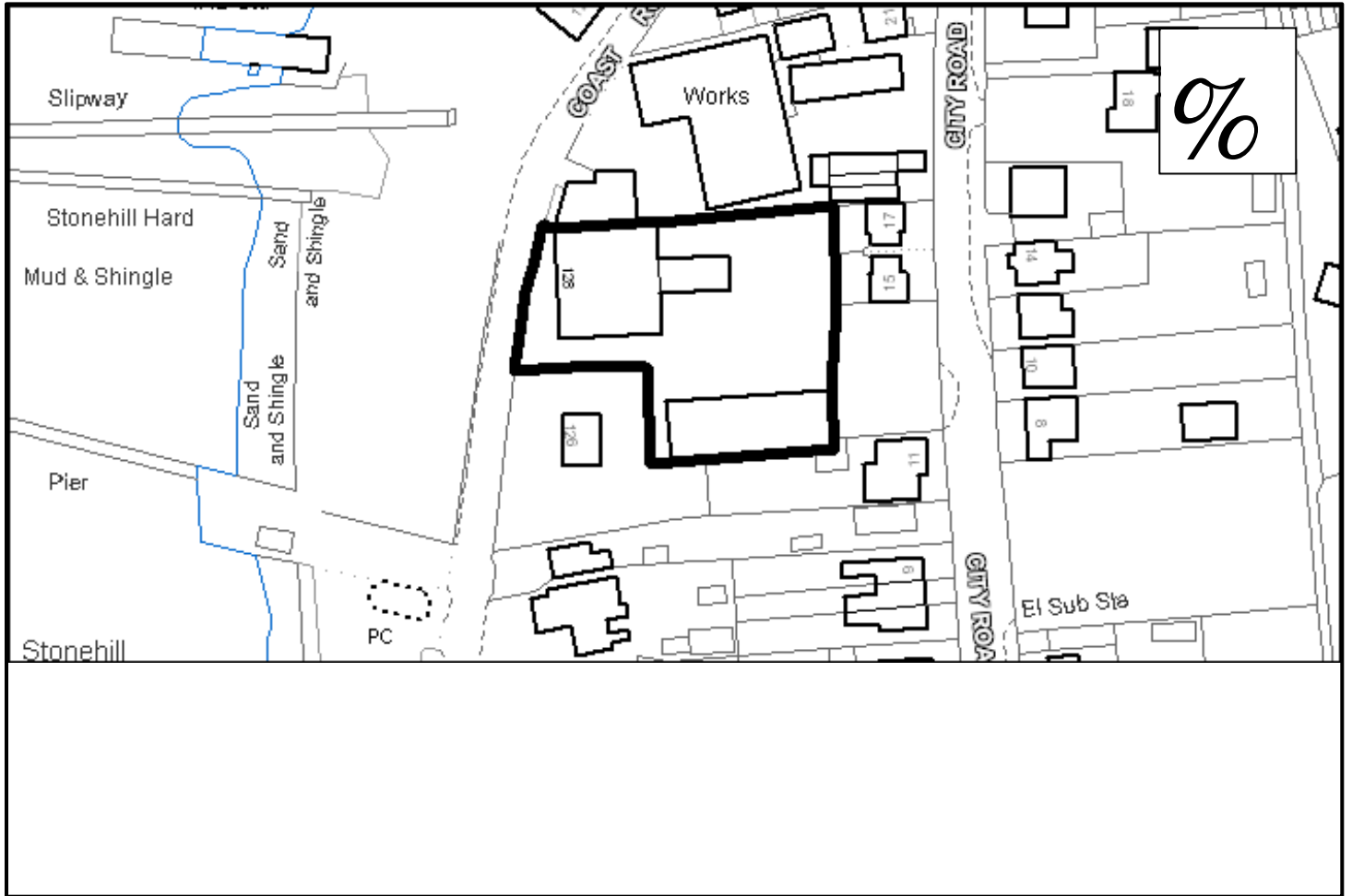
2. A competent person is defined as someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience.

Non-Standard Informative

3. The phased risk assessment should be carried out also in accordance with the procedural guidance and UK policy formed under the Environmental Protection Act 1990.

The site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

The Local Planning Authority has determined the application on the basis of the information made available to it.



Application No: 080581

Location: Shipwrights, 128 Coast Road, West Mersea, Colchester, CO5 8PE

Scale (approx): 1:1250

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7.4 Case Officer: Sue Jackson

EXPIRY DATE: 22/05/2008

OTHER

Site: Shipwrights, 128 Coast Road, West Mersea, Colchester, CO5 8PE

Application No: 080581

Date Received: 26th March 2008

Agent: Clive Richardson Associates

Applicant: William Wyatt Limited

Development: Demolition of boat paint shed situated to rear of Wyatt's engineering workshop-Rebuilding of new paint shed within site.

Ward: West Mersea

Summary of Recommendation: Conservation Area Consent

1.0 Description of Proposal

1.1 This application is for Conservation Area Consent to demolish the paint shed described in the previous item.

2.0 Land Use Allocation

2.1 Conservation Area
Area of Special Character

3.0 Relevant Planning History

3.1 None

4.0 Principal Policies

4.1 Adopted Review Borough Local Plan
UEA3 - Demolitions within Conservation Areas

5.0 Consultations

5.1 The Conservation and Design Manager has no objection to the removal of this building.

6.0 Town Council's Views

6.1 None received

7.0 Representations

7.1 None received

8.0 Report

8.1 The existing paint shed is an unattractive building with an asbestos sheeting roof and metal sheeting on the walls. Its removal will have no adverse impact on the Conservation Area.

9.0 Background Papers

9.1 ARC; CD

Recommendation - Conservation Area Consent

Conditions

1 - A1.6 LBs & Con Area Consents-time lim for comm of development

The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: In order to comply with the requirements of Section 18(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990, as amended by the Planning & Compulsory Purchase Act 2004.

2 - Non-Standard Condition

Prior to the commencement of development an appropriate asbestos survey shall be conducted by competent persons and submitted and approved by the Local Planning Authority. The demolition shall be carried out in accordance with the approved survey.

Reason: To ensure that hazardous asbestos is quantified, removed and disposed of appropriately without causing risk of contaminating soils or causing a risk of harm to human health.

3 - C1.2 Making Good Any Damage

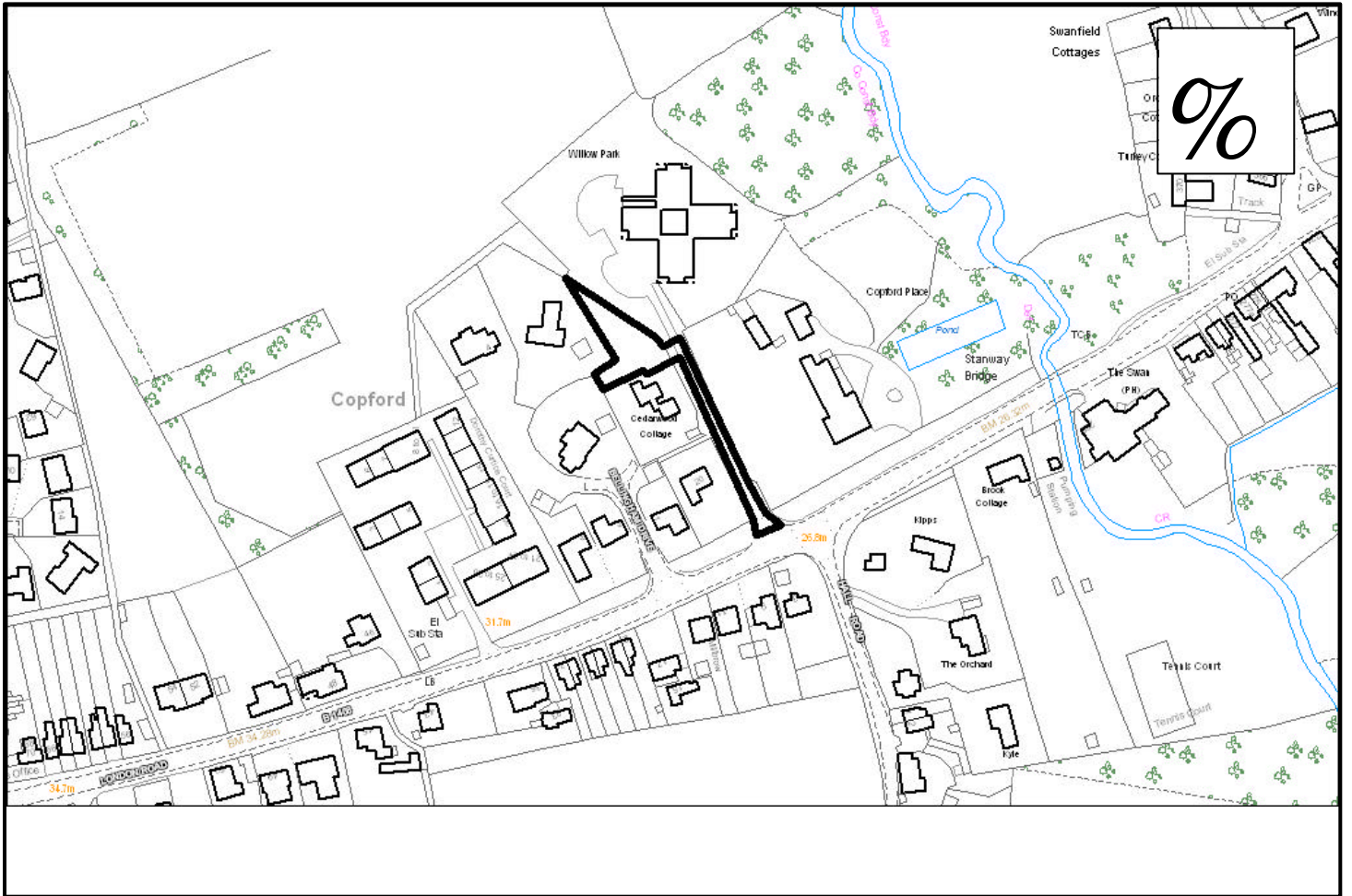
Following completion of the building operations for which consent is hereby granted any damage to the storage/workshop building shall be made good and all making good of the existing building shall be carried out using materials to be agreed with the Local Planning Authority so as to ensure there is a good match with historic materials.

Reason: In the interest of visual amenity in the Conservation Area.

Informatives

Non-Standard Informative

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



Application No: 080596

Location: Adj Cedarwood Cottage, London Road, Copford, Colchester

Scale (approx): 1:1250

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7.5 Case Officer: Nick McKeever

EXPIRY DATE: 23/05/2008 MINOR

Site: Adj Cedarwood Cottage, London Road, Copford, Colchester

Application No: 080596

Date Received: 27th March 2008

Agent: Mr Jeffrey J Emms

Applicant: Mr A Ellis

Development: Detached dwelling with attached garage and vehicular access.
Resubmission of 073116.

Ward: Copford & West Stanway

Summary of Recommendation: Conditional Approval subject to observations being satisfactorily agreed by Arboricultural Officer by 23 May 2008

1.0 Site Description

1.1 The site is an irregular shaped part of the garden of Cedarwood Cottage and lies within the village envelope for Copford. Established residential properties lie to the South fronting onto the London Road. To the east is Copford Park, a Grade 2 Listed Building, currently used as a care home. Immediately to the north is Willow Park Residential Home. To the west is a more recent infill development of six detached dwelling houses, known as Bellingham Drive.

1.2 Access to the site is via the existing access drive that leads to Willow Park.

1.3 The proposal is for a four bedroom detached dwelling, finished in soft red facing bricks with a clay plain tile roof.

2.0 Land Use Allocation

2.1 Village Envelope
Potential Contaminated Land

3.0 Relevant Planning History

3.1 073116 - Detached dwelling. Withdrawn

4.0 Principal Policies

4.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Design - UEA11, UEA12 & UEA13
Contaminated Land - P4

5.0 Consultations

- 5.1 The Highway Authority has no objections
- 5.2 Environmental Control require conditions relating to potential landfill gas contamination
- 5.3 The Arboricultural Officer comments that the submission should be in accordance with Arboricultural Advisory and Information Service Practice Note 1 & 12. Further details are required.

6.0 Parish Council's Views

- 6.1 The comments of Copford Parish Council will be made available at the Committee Meeting.

7.0 Representations

- 7.1 The occupiers of 3 Bellingham Drive object for the following reasons:-
- The development will upset the balance and destroy the openness & sense of place of the location
 - Over dominate & adversely affect their outlook and privacy
 - Loss of light, particularly in the mornings
 - Overdevelopment
 - Environment Agency has advised against the use of domestic gardens for infill housing as run-off poses a flood hazard

8.0 Report

- 8.1 As the site lies within the designated Village Envelope there can be no objection in principle in terms of land use to the residential development of this domestic garden area.
- 8.2 The site is an irregular shaped parcel of land tapering to a point at its northern extremity and has an overall area of 660 sq.metres. The proposed dwelling is to be located within the widest part of the site and the submitted drawings show that it can readily be accommodated within this part of the site without appearing cramped or out of context with its surroundings.
- 8.3 In terms of the amenity of the adjoining dwellings, there is more than adequate spatial separation between the proposed and the existing dwellings within Bellingham Drive. The nearest dwelling, No.3 Bellingham Drive is approximately 22 metres to the north west. Number 2 Bellingham Drive is approximately 25 metres to the south west.
- 8.4 Apart from bedroom 1 of the new dwelling which has a bedroom in the west facing elevation, windows within habitable rooms are either north or east facing (i.e. facing away from the dwellings within Bellingham Drive. The west facing window serving bedroom 1 does not directly overlook any habitable rooms within Nos. 2 and 3 Bellingham Drive. Both these properties also have a degree of screening afforded by their existing detached garages, these being located between these properties and the proposed new house.

- 8.5 There are no windows within the flank wall which faces onto Cedarwood Cottage.
- 8.6 The Willow Park Residential Home is a satisfactory distance from the new building. The first floor windows within the north facing elevation of the new house will look out over the car parking area and grounds of this Residential Home.
- 8.7 Having regard to these considerations the new dwelling will not be overbearing upon, or adversely affect the privacy of, the aforementioned dwellings or the Willow Park Residential Home.
- 8.8 The existing development in the immediate vicinity exhibits a wide range of architectural forms and finishes and can best be described as being eclectic. On this basis no objection is raised in principle to the design and external appearance of the dwelling.
- 8.9 The access to the site is off an existing private access road to Willow Park Residential Care Home, which has direct access onto the London Road, Copford. The appropriate notice under Article 7 of the Town and Country Planning (General Development Procedure) Order 1995 has been served upon the owners of this private drive. Any objections by the owners to the use of this access would need to be resolved between the affected parties and would not be material to the determination of this application.
- 8.10 The Essex Design Guide advises that any private drive forming part of fire access way must not be less than 3.7m in width between kerbs. In this instance the access is approximately 3.2m wide but currently serves residential uses and has no kerblines. It is bounded by grass verges. On this basis it is considered suitable to cater for the additional dwelling. The Design and Access Statement states that in this respect the access is compliant with Part B of the Building Regulations.
- 8.11 The Agent has been advised of the comments made by the Arboricultural Officer. In the event that these details have not been addressed to the satisfaction of your Officers before the 23 May, it is recommended that the Head of Planning, Protection and Licensing be granted delegated powers to refuse this application.
- 8.12 The applicant has submitted the required Unilateral Undertaking, duly completed and signed, in accordance with the relevant Supplementary Planning Document - Provision of Open Space, Sport and Recreational Facilities.

9.0 Conclusion

- 9.1 The proposed development amounts to an overall density of 16 dwellings per hectare. This extremely low density development reflects the pattern of development in the immediate vicinity of the site. The new dwelling has been positioned so that it sits comfortably within this irregular shaped plot without appearing cramped or having any significant impact upon the amenity currently enjoyed by the dwellings immediately adjacent to the site. The access is by way of an existing private drive, to which the Highway Authority has no objection.

10.0 Background Papers

- 10.1 ARC; HA; HH; TL; PTC: NLR

Recommendation

In the event that the Arboricultural Officer is satisfied that his observations have been satisfactorily addressed, it is recommended that permission should be granted, subject to the following conditions. If, however, these concerns have not been addressed before the 23 May (i.e. the due determination date), it is recommended that delegated authority be given to the Head of Planning, Protection and Licensing to refuse this application in line with the Arboricultural Officer's recommendation.

Conditions

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

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

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

2 - C3.4 Samples of Traditional Materials

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

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

3 - C11.11 Landscape Design Proposals

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

These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas. Hard signage, lighting).

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

4 - C11.12 Landscape Works Implementation

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

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

5 - C12.2 Details of Walls or Fences

Prior to the commencement of the development details of [screen walls/fences/railings /means of enclosure etc] shall be submitted to and approved in writing by the Local Planning Authority. The details shall include [the position/height/design and materials] to be used.

The [fences/walls] shall be provided as approved prior to the [occupation of any building/commencement of the use hereby approved] and shall be retained thereafter.

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

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

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

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

7 - C10.18 Tree and Hedgerow Protection: General

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

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

8 - Non-Standard Condition

Prior to the commencement of the development site investigations shall be conducted by a competent person(s) to assess any possible risks associated with the production of hazardous ground gas.

A detailed remediation scheme shall be submitted to:

- Remove the source of the hazardous gas and/or
- Incorporate into the proposed building necessary design or mitigation measures as required by the risk assessment

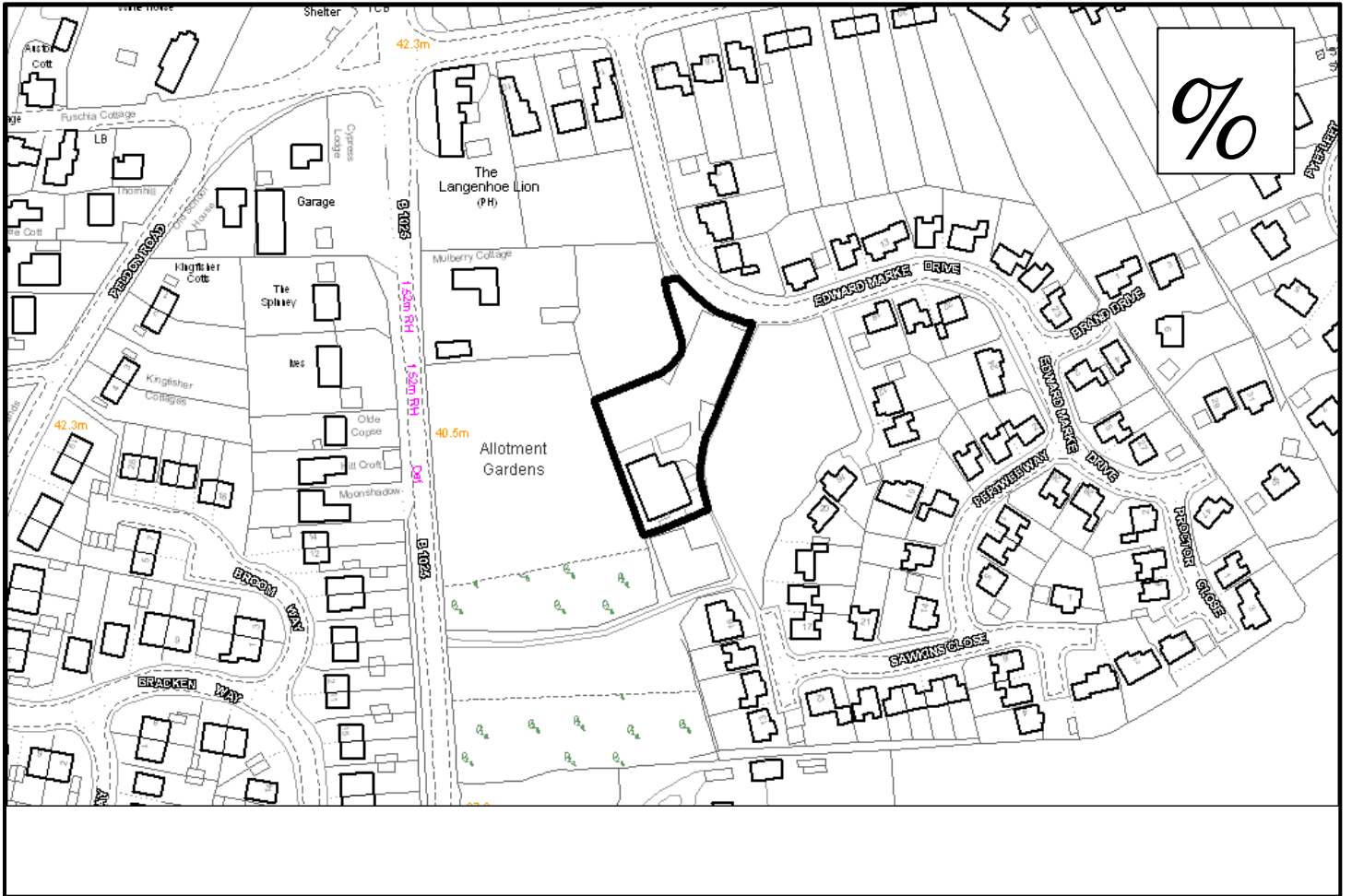
All of the aforementioned shall be to the written satisfaction of the Local planning Authority prior to the commencement of construction works.

Reason: The site lies within 250m of a former landfill site and the Local Planning Authority wishes to ensure that development only proceeds if it is safe to do so. This condition should not be read as indicating that there is any known danger from landfill gas

9 - B9.1 (Refuse Bins)

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

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



Application No: 080602

Location: Langenhoe Village Hall, Edward Marke Drive, Langenhoe, Colchester, CO5 7LP

Scale (approx): 1:1250

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7.6 Case Officer: Sue Jackson

EXPIRY DATE: 24/05/2008

MINOR

Site: Edward Marke Drive, Langenhoe, Colchester, CO5 7LP

Application No: 080602

Date Received: 28th March 2008

Agent: M L Bowler - Architectural & Planning Services

Applicant: Mr A J Frost

Development: Single storey side extension to village hall

Ward: Pyefleet

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The village hall is within the village of Abberton/Langenhoe. The specific location is off Edward Marke Drive adjacent to an area of public open space. The village hall and open space formed part of a residential development also accessed off this road. To the rear of the site are allotments and to the north and south are residential properties.

2.0 Description of Proposal

2.1 The application proposes the extension of the village hall into a grassed area. A small section of the car park will also be affected. The planning agent will be clarifying this matter. The extension to the north elevation will measure approximately 5m x 14m and is described as a small hall.

3.0 Land Use Allocation

3.1 Village Envelope
Open Space
Countryside Conservation Area

4.0 Relevant Planning History

4.1 92/1531 - Erection of 53 houses, sites for village hall, open space, estate roads and associated development - Approved 1993

4.2 93/1319 - Community hall and associated parking spaces - Approved 1994

5.0 Principal Policies

- 5.1 Adopted Review Borough Local Plan
P1 - Pollution
UEA11 - Design
UEA13 - Development, including extensions, adjoining existing or proposed residential property

6.0 Consultations

- 6.1 Environmental Control initially raised no objection subject to conditions. Following consultation on the neighbour comments the following amended response was received:-

"We have received 3 complaints regarding loud music since 2002, the last one was in August 2004. No formal action was taken with regards to these complaints, however, to prevent any noise outbreaks from the hall and the new extensions conditions regarding sound insulation are recommended."

7.0 Parish Council's Views

- 7.1 Langenhoe Parish Council comment as follows:-

"The Planning Committee has considered this application and support the proposal."

8.0 Representations

- 8.1 Three letters of objection have been received. The following comments are raised:-

1. The Village Hall is used for functions throughout the year and noise levels from functions can be heard from inside our home whether the windows are open or closed.
2. The hall is not in constant use at weekends - therefore there is no need to extend a hall that is underutilised.
3. Existing parking is inadequate and the extension will mean there is less parking.
4. Smokers gather outside and their talking/shrieking is very loud.

9.0 Report

- 9.1 The key issues are effect on residential amenity, effect on the existing building and car parking.

Design Issues

- 9.2 The extension is designed (and will be constructed of materials) to match the existing building.

Land Use

- 9.3 Following comment from residents and Environmental Control the planning agent has confirmed there is no intention to have music within the extension which will eventually be a quiet area. In light of the above I would suggest that the extension will serve to insulate the existing wall from sound and therefore the imposition of a sound insulation condition would not appear necessary. Clearly Environmental Control have adequate legislation to prevent any existing sound nuisance. You may wish to impose a condition prohibiting music etc from the extension.

Appearance

- 9.4 The village hall and extension will be visible from Edward Marke Drive.

Impact on Neighbours

- 9.5 Following the comment from the planning agent it is proposed to impose a condition preventing any music. It is considered this condition will prevent any adverse impact on residential amenity.

Parking Issues

- 9.6 There is a car park adjacent to the building. The extension will result in the loss of one parking space but this will leave a 40 space car park available. The planning agent will provide clarification on this issue.

10.0 Conclusion

- 10.1 It is considered this modest extension to the hall is acceptable and permission is recommended.

11.0 Background Papers

- 11.1 ARC; LP; HH; PTC; NLR; CAA

Recommendation - Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

No music or amplified sound shall be played in the extension hereby permitted at any time.

Reason: To safeguard the amenities of nearby residential properties.

3 - C3.5 Materials to Match Existing

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

Reason: To ensure that the development harmonises with the appearance of the existing building and the character of the area.



Application No: 080611

Location: 34 Beaconsfield Avenue, Colchester, CO3 3DJ

Scale (approx): 1:1250

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7.7 Case Officer: Nick McKeever

EXPIRY DATE: 24/05/2008

MINOR

Site: 34 Beaconsfield Avenue, Colchester, CO3 3DJ

Application No: 080611

Date Received: 28th March 2008

Agent: Mr & Mrs Soormally

Development: Single storey rear extension.

Ward: Christ Church

Summary of Recommendation: Refusal

1.0 Site Description

1.1 This is a two storey semi-detached dwelling house located in a residential area of late Victorian and Edwardian style properties.

1.2 The application is for a single storey rear extension. No dimensions are shown on the submitted plan but the dimensions as scaled from the plans are approximately 4.65m overall width x 7.8m overall depth. However the main body of the extension projects beyond the rear elevation by approximately 6.0m. The building is to be finished in soft red facing brickwork/natural slate and would provide a bathroom and a fourth bedroom. A supporting statement justifies this accommodation on the basis of the progressive disability of a dependant relative.

1.3 The application has been submitted to the Planning Committee on the basis that an immediate relative of the Applicants is employed by the Council.

2.0 Land Use Allocation

2.1 Residential

3.0 Relevant Planning History

3.1 F/COL/05/2037 - Single storey rear extension. Approved 7 February 2006.

4.0 Principal Policies

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

5.0 Consultations

5.1 None

6.0 Representations

6.1 The occupier of 32 Beaconsfield Avenue objects on the grounds that:-

1. The extension is large and will block out existing light
2. Not in keeping with this 1890's property
3. Set a precedent for similar size extensions
4. Encroachment of the building (i.e. the parapet) onto 32 Beaconsfield Avenue

7.0 Report

7.1 The extension approved under F/COL/05/2037 was for an enlarged kitchen and breakfast area and projected 3 metres beyond the rear wall of No.32 Beaconsfield Avenue. In this respect the extension complied with policy UEA13 and the associated SPD "Extending your House?"

7.2 This policy envisages that the maximum projection of an extension, where constructed immediately adjacent to the rear boundary, will be not more than 3 metres. The justification being that this would prevent the extension being overbearing upon the adjoining property and protect its outlook. The extension now proposed projects significantly beyond the distance permitted under UEA13 (c). Whilst the personal circumstances of the Applicant are appreciated the proposal is not acceptable in terms of the impact upon the amenity of the neighbouring property.

7.3 In general terms the external appearance and use of external materials are sympathetic to the existing building. The scale of the extension is, however, excessive and does not relate well to the host building as required by UEA13 (a)

8.0 Conclusion

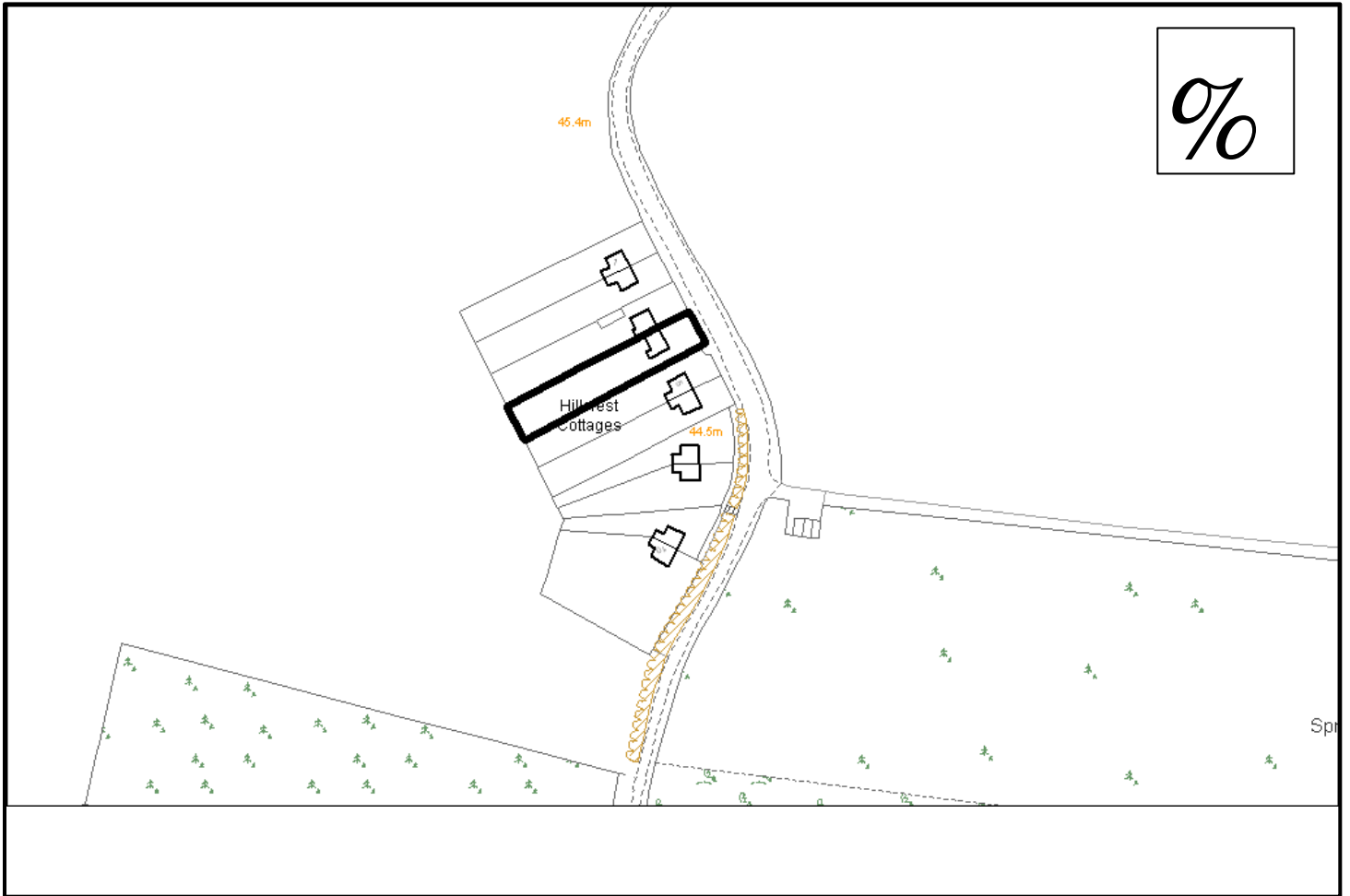
8.1 The application be refused on the grounds that it is contrary to the Local Plan policy UEA13 and associated SPD "Extending your House".

9.0 Background Papers

9.1 ARC; NLR

Recommendation - Refusal

1. The Adopted Review Colchester Borough Local Plan - March 2004 Policy UEA13 and Supplementary Planning Guidance " Extending your house?", seek to ensure that extensions to properties adjacent to existing dwellings do not have a detrimental impact upon the amenity of the adjoining dwellings in terms of overbearing impact or significant loss of outlook. In this context a single storey extension where it is to be located immediately adjacent to the rear boundary, should not project more than 3 metres beyond the main rear wall of the adjoining dwelling. The proposed extension extends significantly beyond this limit and as such is considered to be contrary to the aims of the policy, as well as the aforementioned guidance.



Application No: 080618

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

Scale (approx): 1:1250

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7.8 Case Officer: Andrew Tyrrell

EXPIRY DATE: 27/05/2008

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

Application No: 080618

Date Received: 31st March 2008

Applicant: Mr S McAdam

Development: Erection of porch and rear first floor extension to form en-suite and single storey side extension

Ward: Dedham & Langham

Summary of Recommendation: Conditional Approval

1.0 Site Description

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

2.0 Description of Proposal

2.1 The proposal retrospectively covers a porch (already constructed in December 2007), as well as including a proposed single-storey side extension and first floor rear extension. The porch just exceeds permitted development rights, with a gable roof approximately 3.3m high and a footprint of approximately 1.5 x 2.0 metres. The single storey side extension is approximately 2.55 x 7.0 metres with a lean-to style monopitched roof. The first floor rear extension extends approximately 1.8 metres beyond the existing rear elevation of the property.

2.2 The application is presented to Planning Committee as the applicant is an employee of the Council.

3.0 Land Use Allocation

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

4.0 Relevant Planning History

- 4.1 There is no history for this property. A two storey side extension was approved at number 2 Hillcrest Cottages in 2007 (071165). The design of the development was revised earlier this year (080257) after an enforcement inquiry. The enforcement issue was related to the extension having been built with different material finishes to those originally approved.

5.0 Principal Policies

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

6.0 Consultations

- 6.1 None

7.0 Parish Council's Views

- 7.1 The Parish Council has no objection.

8.0 Representations

- 8.1 None received

9.0 Report

Design

- 9.1 The porch is a straightforward design with a gable roof and appropriate proportions. The front facing elevation still retains a front door as a main feature of the dwelling. Overall, this design accords with the Essex Design Guide and is considered to be satisfactory. As the porch is already built, its impact is easy to assess, and it is considered to be acceptable. The porch is not finished in matching materials to the main dwelling, however this is not considered to be significant for such a small addition.
- 9.2 The proposed side extension is also gable ended. The lean-to roof slopes from the side of the existing dwelling and there are three rooflights in the roof slope. The extension is set back an adequate amount from the front of the main dwelling, which ensures that it remains subservient.

- 9.3 The proposed first floor rear extension extends upwards from existing walls and is not set in from the edge of the existing dwelling. However, the narrower width provides a staggered roof height to ensure that this element of the proposal is not excessive. As it is sited to the rear the visual impact of this element is less from the main viewpoints on the public highway.

Amount

- 9.4 The dwelling is undergoing extension on all three sides other than that where it is attached to the neighbouring property. Therefore, appropriate amounts of development are critical. In this instance, it is considered that the application site is more than capable of accommodating this development without detriment to the dwelling itself or the wider area.

Layout

- 9.5 The layout is dictated by the existing property. Overall, there is little change to the layout of the site or the dwelling.

Scale

- 9.6 The scale of development is appropriate to the dwelling itself, and each single element of the proposal is well-proportioned. The proposal is not excessive and can be achieved without detriment to the surrounding environment. The character of the main dwelling will still be retained as the extensions are sympathetically designed in accordance with design policy and advice in the adopted Essex Design Guide.

Landscaping

- 9.7 There is no landscaping proposal directly associated with these works, but the dwelling is already in domestic residential use and enjoys an associated level of landscaping. This is unlikely to be affected by the proposal.

Appearance

- 9.8 The appearance of the dwelling will be altered by the extensions, however all of the elements are designed in a satisfactory and subservient manner. Therefore, the proposed appearance respects and preserves the original character of the building and should not have any detrimental impact on the wider area. The subservient nature of the single storey side extension means that it will draw minimal attention. The first floor rear extension will be viewed only from limited angles and between other dwellings. The porch does not look out of place, which can be seen as it is already in situ.

Other Material Considerations

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

9.10 Consideration was given to removing Permitted Development Rights for any additional windows being inserted in the north elevation of the first floor extension, however this room is an en-suite room where any additional window would be likely to be obscure glazed to protect the applicants privacy too. The room is also provided with adequate light from the rear window, making another window unnecessary for a room of this size. Therefore, the balance of the impact a window would have and the likelihood that such a development would occur are not considered to be significant enough to warrant a condition.

10.0 Conclusion

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

11.0 Background Papers

11.1 ARC

Recommendation - Conditional Approval

Conditions

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

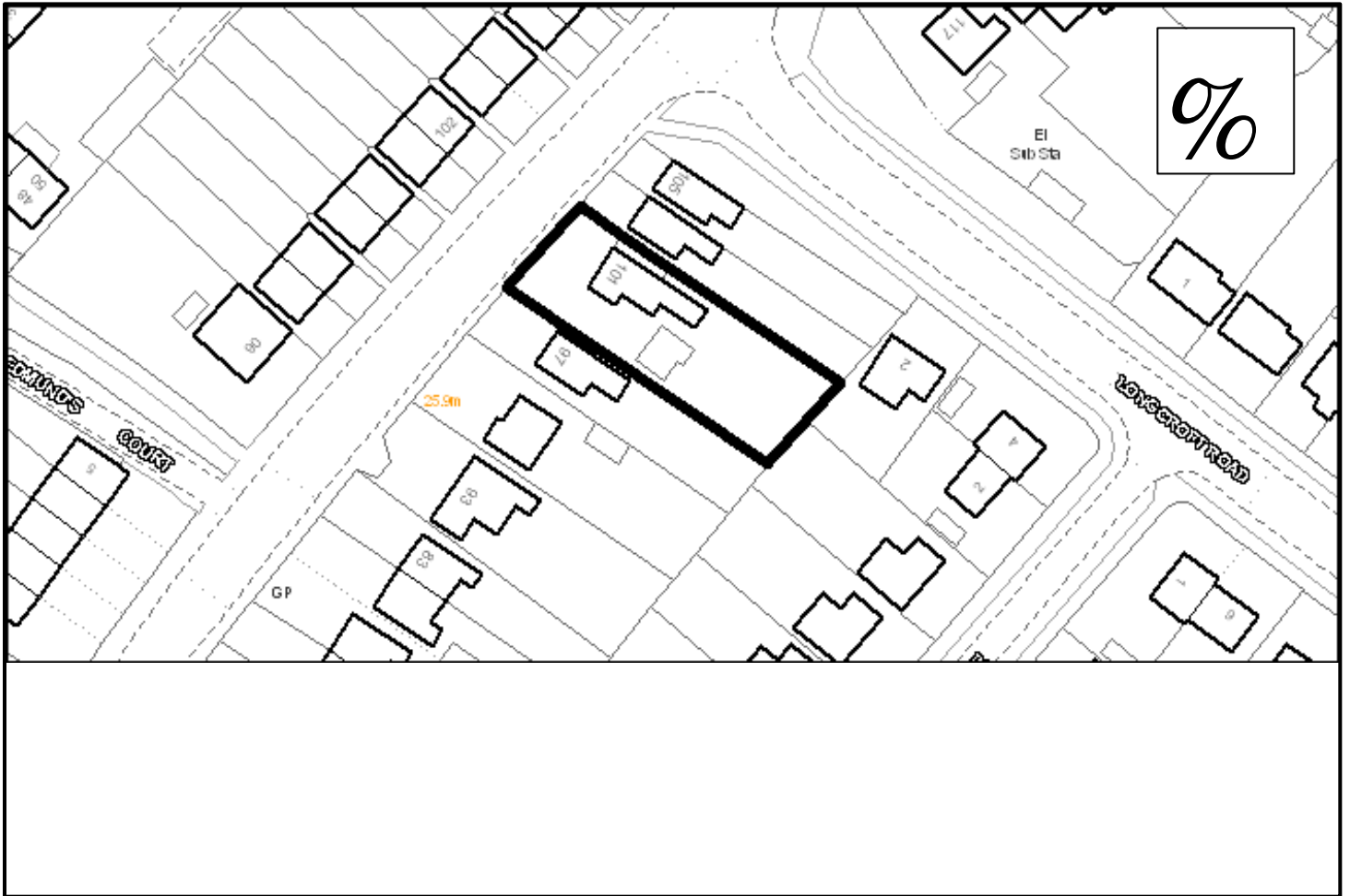
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2 - C3.5 Materials to Match Existing (amended)

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

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



Application No: 080475

Location: Youcef Boutedja (formerly), 101 Harwich Road, Colchester, CO4 3BX

Scale (approx): 1:1250

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7.9 Case Officer: Simon Osborn

MINOR

Site: 101 Harwich Road, Colchester, CO4 3BX

Application No: 080475

Date Received: 13th March 2008

Agent: Homa Design Ltd

Applicant: Mr & Mrs Bouteldja

Development: Erection of new dwelling and conversion of existing shop into additional domestic accommodation.

Ward: St Annes

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

1.0 Site Description

1.1 The application site comprises a vacant retail shop with a residential unit at the rear and above, set approximately 6.5m from the boundary with 97 Harwich Road. The surrounding area is predominantly residential in character. The frontage of the premises comprises an existing parking forecourt, and there is a bus stop immediately outside on the Harwich Road.

2.0 Description of Proposal

2.1 The application proposes the construction of a new dwelling, which will link into the existing building. The existing building will in turn be altered, with the former shop use being changed into residential accommodation and the front elevation being improved. A shared parking area of 3 spaces will be provided for the two dwellings and a turning area. The parking bays will be delineated from the line of the pavement by a new 600mm high wall or metal railing.

3.0 Land Use Allocation

3.1 Residential

4.0 Relevant Planning History

4.1 None

5.0 Principal Policies

- 5.1 Adopted Review Colchester Borough Local Plan - 2004
DC1 - Development Control Considerations
UEA11 to 13 - Residential Design
CF1 - Community Facilities
L5 - Leisure

6.0 Consultations

- 6.1 The Highways Authority stated no objection subject to a condition that all development is entirely clear of the limits of the highway.

7.0 Representations

- 7.1 A letter of no objection was received from 100 Harwich Road.
- 7.2 A letter on behalf of 97 Harwich Road commented that the lounge window of the new dwelling would overlook and the bathroom window should be obscure glazed. It was also noted that additional traffic movements could be problematic and that a better parking scheme might be devised in cooperation with this neighbour.
- 7.3 A letter was also received from Cllr Barrie Cook, raising concerns that the proposed 600mm high boundary wall would hamper use of the bus stop, as those with pushchairs or wheelchairs have been able to utilise the shop forecourt to assist access onto buses.

8.0 Report

Density

- 8.1 The site has an area of 0.0605ha and two dwellings on it represent a density of 33 dwellings per hectare. This is in line with the Council's recommended density of 30 to 50 dwellings per hectare for most residential areas.

Design

- 8.2 The new building together with the existing one will form a pair of semi-detached houses. The existing building has an unattractive shop frontage at ground level, with sash windows above and patterned boarding with the apex of the roof gable. The proposed new dwelling is of slightly smaller proportions than the original in view of its narrower width and picks up on this patterned boarding within the apex of the roof form. The original shop frontage is replaced, with a front door of traditional appearance with a canopy over.

Other Material Considerations

- 8.3 An objection was received from the immediate neighbour at No. 97 that the proposed lounge window will overlook their property. This window is at ground floor level and will face toward the flank wall of the neighbours (where there are no windows) and the side passage to the rear of their house. This is not considered unusual within a residential setting; in any case a condition can be imposed that requires a 1.8m high fence to be erected along this side boundary from the front of the neighbouring dwelling to the end of their rear garden. There is also an upstairs window to an ensuite, which could be obscure glazed.
- 8.4 This neighbour also suggested that the parking arrangements for both the proposed property and No. 97 could be combined. However, that would involve works outside the application site and goes beyond the consideration of this application. These comments can be put on as an Informative, should the applicant wish to explore this option further.
- 8.5 The local Ward Councillor raised concerns regarding the proposed new 600mm boundary wall, which will delineate the parking bays from the pavement. There is a bus stop immediately outside and due to the narrow footway (30 inches from bus pole to edge of site) the Ward Councillor is concerned that the proposed wall could impede access onto buses for wheelchair users and pushchairs, and would also prevent a bus shelter from being provided in this location.
- 8.6 The Highway Authority responded that the proposed application is a de-intensification of use (because of the loss of the shop), with improved parking and turning facilities, thus representing an improvement from the highway perspective. The swept path for turning within the site is very tight as it is. The proposed disabled parking space is located where it is to facilitate convenient use; it is slightly larger than the other two to allow it to be used effectively. Any reduction in size by moving the wall within the applicant's curtilage will probably make its use prohibitive.
- 8.7 The concerns of the Councillor are appreciated; nonetheless a wall up to 1 metre in height could be erected along the frontage without planning permission, and there is no right for members of the public to use the application site to ease their use of buses.

S106 Matters

- 8.8 A Unilateral Undertaking has been submitted with regard to a contribution towards public open space, sports and recreation facilities, in accordance with the Council's adopted SPG.

9.0 Conclusion

- 9.1 The proposed new dwelling is considered to be acceptable in principle in terms of its design and impact on the neighbouring properties. It is recognised that issues have been raised by the Ward Councillor regarding the accessibility of the bus stop, which have not yet been resolved. However, it is considered that this issue does not warrant the refusal of planning permission.

10. Background Papers

10.1 ARC; HA; NLR

Recommendation

Conditional Approval subject to the terms of the Unilateral Undertaking and the following conditions:

Conditions

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

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

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

2 - C3.4 Samples of Traditional Materials

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

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

3 - B4.5 No Additional Windows in Walls/Roof Slope

No new window or other openings shall be inserted above ground floor level in the southwest facing elevation of the proposed new building without the prior approval in writing of the Local Planning Authority.

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

4 - Non-Standard Condition

The window to be provided to the ensuite in the southwest side elevation of the proposed new building shall be glazed in obscure glass with an obscuration level equivalent to scale 4 or 5 of the Pilkington Texture Glass scale of obscuration and shall be retained as such at all times thereafter.

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

5 - Non-Standard Condition

Prior to the first occupation of the new dwelling the shop use shall be permanently ceased and the advertisement signage associated with it shall have been removed from the site.

Reason: For the avoidance of doubt and in the interest of amenity.

6 - Non-Standard Condition

The new dwelling hereby permitted shall not be occupied until a close boarded fence 1.8m high has been erected along the boundary of the property with No. 97 Harwich Road from a position level with the front of the proposed dwelling to the end of the rear garden.

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

7 - C12.2 Details of Walls or Fences

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

The fences/walls shall be provided as approved prior to the occupation of any building and shall be retained thereafter.

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

8 - A7.2A Op Plan-rem of PD rights-fences/walls front

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no gate, fence, wall or other means of enclosure shall be erected, constructed or placed within the curtilage of any dwelling forward of any wall of that dwelling which fronts onto a highway without the prior approval in writing from the Local Planning Authority.

Reason: In the interest of highway safety.

9 - Non-Standard Condition

Prior to the first occupation of new dwelling hereby permitted, details of the proposed lockable shed at the rear of the garden shall be submitted to and agreed in writing by the Local Planning Authority and the shed shall only be constructed in accordance with the agreed details.

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

Informatives

Non-Standard Informative

1. This development is subject to the terms of a Unilateral Undertaking with regard to a contribution towards public open space, sports and recreation facilities, which is payable prior to the commencement of the development.

Non-Standard Informative

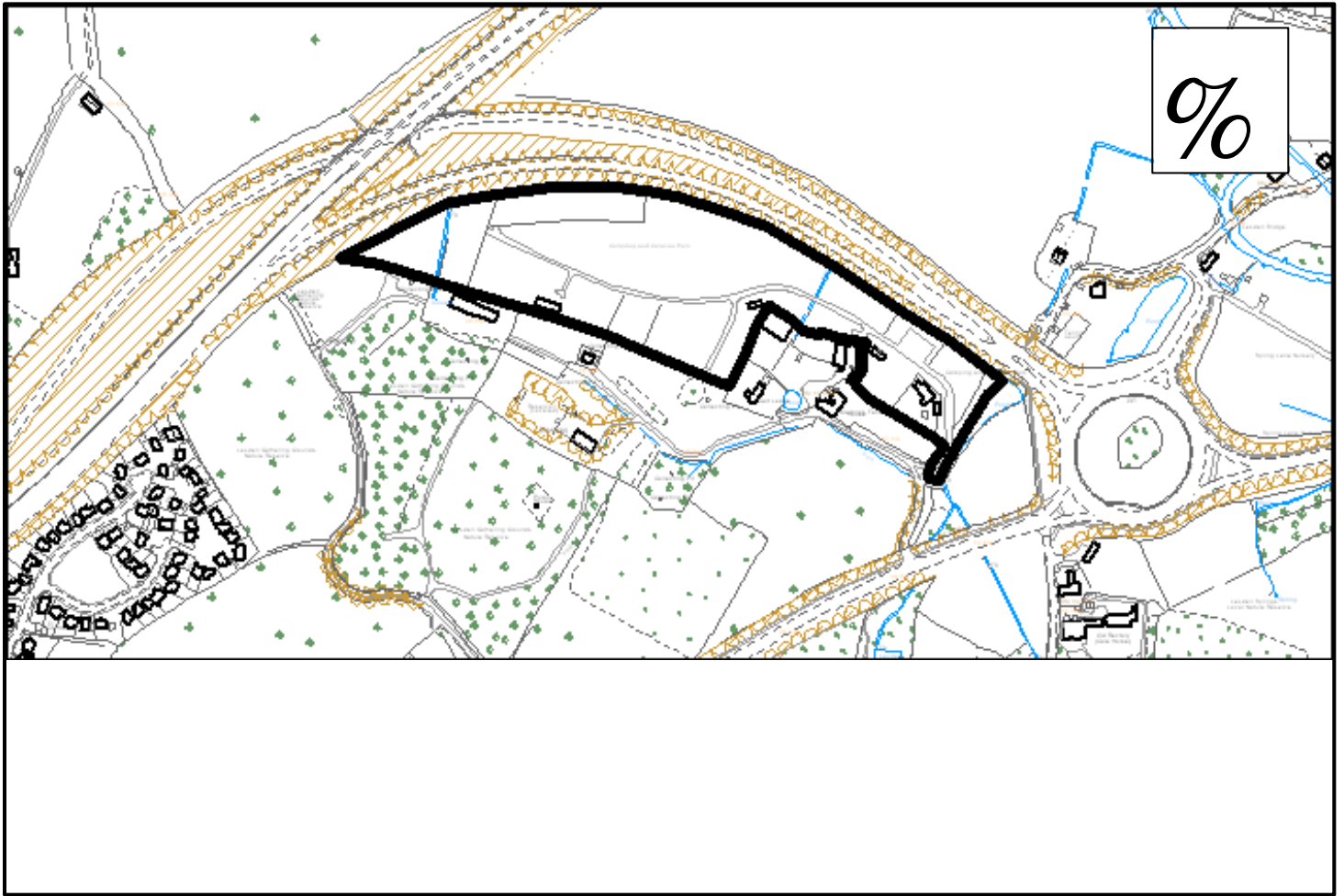
2. The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction and Demolition Works for the avoidance of pollution during the demolition and construction of works. Should the applicant require any further guidance they should contact Environmental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

Non-Standard Informative

3. All works affecting the highway are to be carried out by prior arrangement and to the satisfaction and requirements of the Highway Authority. Application for the necessary works shall be made initially by telephoning 01206 838600.

Non-Standard Informative

4. The neighbour at No. 97 commented that the parking arrangements for both the proposed property and No. 97 might be combined for the benefit of both parties. These comments are drawn to the attention of the applicant should he wish to explore this option.



Application No: 071479

Location: Colchester Holiday Park Ltd, Colchester Camping Caravan Park, Cymbeline Way, Colchester, CO3 4AG

Scale (approx): 1:1250

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7.10 Case Officer: Simon Osborn

MINOR

Site: Colchester Camping Caravan Park, Cymbeline Way, Colchester, CO3 4AG

Application No: 071479

Date Received: 18th May 2007

Agent: Mr Charles F Jones

Applicant: Colchester Holiday Park Limited

Development: Retrospective planning application for the retention of lighting (incidental to existing caravan park)

Ward: Lexden

1.0 Planning Report Introduction

1.1 This application was considered by Members in January 2008, when it was resolved that the application be deferred for 2 months for the receipt of a lighting survey/report to be carried out in accordance with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light and at the conclusion of 2 months the matter be reported back to the Committee for consideration.

1.2 The application was brought back to Committee on 24th April; however the matter was deferred following a Lighting Impact Assessment being received immediately prior to the meeting. Environmental Control has now had time to assess the report and agrees with its conclusions that the light readings comply with the guidance. The application is now recommended for approval, subject to conditions. The original report follows, with revised comments in bold text:

2.0 Introduction

2.1 This application is brought to Committee in view of the length of time it is taking for the agent to provide a lighting survey that shows compliance with the Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light. A consideration of the impact of the lights is best considered at night time and the advantage of bringing the application to Member's attention at this time of year (rather than delaying until the lighting survey is received) is that Members who are interested can visit the application site and its surrounds at a reasonable time (5.00 – 6.00pm) to consider the impact.

3.0 Site Description

3.1 The application site lies just outside the urban area of Colchester, in a Countryside Conservation Area. The site comprises touring caravans, administrative and toilet blocks etc associated with the camping and caravan site use. At the far end of the site from the reception is an area for caravan storage. The northern edge of the site is adjacent to the slip road onto the A12 and is generally depressed below the level of this road and surrounded by 4m height hedgerows. The southern perimeter of the site is bounded by two residential properties (Maltings Farm and Cart Lodge) and by the Anglian Water Authority site. This boundary is some distance away from Cymbeline Way (an average distance of 200m or so).

4.0 Description of Proposal

4.1 This is a retrospective application for the retention of 26 nos. 5m height lighting poles throughout the site, 20 of which are of black finished "Victorian" style, with a further 6 galvanised columns provided at the far end of the site to provide security lighting for the caravan storage areas.

5.0 Land Use Allocation

5.1 The site is allocated for Touring Caravan use in the Local Plan and is also part of a Countryside Conservation Area.

6.0 Relevant Planning History

6.1 The site has an extensive planning history including the following:

COL/78/0706 - layout of caravan park with 4 toilet blocks and administration building, approved 1978;

C/COL/00/0087 - caravan storage compound, approved 2000;

C/COL/02/0207 - additional area for 28 caravan storage, approved 2002;

F/COL/06/0462 - variation of condition to permit touring caravans to stay for a period of 21 consecutive days (and 45 touring caravans permitted on extended stay limitation from 1st April in any one year to 14th January in the following year), approved 2006;

071027 - relocation of existing warden/site manager mobile home, approved 2007.

7.0 Principal Policies

7.1 Adopted Review Colchester Borough Local Plan - 2004
DC1 - Development Control Considerations
L19 - Tourist and Visitor Facilities
C03 - Countryside Conservation Areas
P2 - Light Pollution

8.0 Consultations

- 8.1 Highways Agency - the application will not adversely affect the A12 trunk road at this location and the Agency does not intend to issue a direction and would not wish to comment further on the application.
- 8.2 ECC Highway Authority - does not wish to object to the proposals as submitted.
- 8.3 Environmental Control - should permission be granted, recommend inclusion of following condition: "Any lighting of the development shall fully comply with the figures specified in the current Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light. This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to the lights hereby permitted coming into beneficial use, a validation report undertaken by competent persons that demonstrates compliance with the above shall be submitted to the planning authority for approval. Having been approved any installation shall thereafter be retained and maintained to the standard agreed."

Environmental Control further stated that the calculations in the Lighting Report do comply with guidance (in the Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light). They suggest that the recommendations produced in the report for shielding the light column close to plots 50 and 53, nearest to Cart Lodge, are followed.

9.0 Representations

- 9.1 Objections were received from the neighbouring property known as Cart Lodge and on behalf of Lexden Conservation Group. The following issues were raised:
1. disregard for integrity of Countryside Conservation Area;
 2. caravans reflect an enormous amount of light;
 3. intrusion of light into the house and garden of Cart Lodge.

10.0 Report

Design

- 10.1 This is a retrospective application for the retention of 26 nos. 5m height lighting poles throughout the site, 20 of which are of black finished "Victorian" style which provide lighting for reception areas and touring caravans, with a further 6 galvanised columns provided at the far end of the site to provide security lighting for the caravan storage areas.
- 10.2 The northern edge of the site is adjacent to the slip road onto the A12 and is generally depressed below the level of this road and surrounded by 4m height hedgerows. The southern perimeter of the site is bounded by two residential properties (Maltings Farm and Cart Lodge) and by the Anglian Water Authority site. This boundary is some distance away from Cymbeline Way (an average distance of 200m or so). The nearest lighting pole to Cart Lodge is approx 18m from the rear boundary of this property. Whilst there are conifers growing along much of this rear boundary there is a gap at one end where the top of this lighting pole can be seen from over the fence.

- 10.3 The light poles themselves do not appear as significant features within the area, or from neighbouring property; it is the impact from the lighting which is the principal consideration of this application.

Other Material Considerations

- 10.4 The application site is just outside the urban area of Colchester and within a Countryside Conservation Area. It is also in very close proximity to the A12 slip road. The lighting from the higher level lampposts associated with the slip road appears far more intrusive within the wider area than the lights associated with the application site.
- 10.5 Nonetheless this is a Countryside Conservation Area and light pollution should be kept to a minimum. Environmental Control has not objected to the application, but recommended a condition that a report be submitted to demonstrate compliance with the guidance of the Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light.
- 10.6 As the development has already taken place, your officers considered that this information should be submitted by the applicant before bringing the matter to Committee. The applicant has appointed a lighting consultant to undertake the necessary survey work and the lighting pole nearest to Cart Lodge has also been turned off whilst awaiting the full report.
- 10.7 In my opinion the lighting appears relatively low key and not unreasonable for a site that offers tourist camping and caravan facilities for Colchester. However, in the absence of a validation report/full lighting survey, it cannot be said that the lights have been shown to be acceptable.
- 10.8 Despite chasing the matter the full report is still awaited. Given the lengthy delay your officers consider it would be appropriate to bring the matter to Committee now, whilst there are still long night-time hours so that any Members who are interested can visit the application site and its surrounds at a reasonable time (5.00 - 6.00pm) to consider the impact.
- 10.9 **The Lighting Report suggests that the existing installation complies with all the requirements of the Institute of Lighting Engineers guidance notes. The existing lighting installation presents no significant detrimental effect to the surrounding environment and is of less significance than lighting to the A12 and general sky glow from Colchester. However, it further suggests that measures could be taken to reduce the effect of lighting from the lighting column near plots 50 and 53 located at the rear of Cart Lodge: specifically, an obtrusive light shield applied to the rear aspect of the glazing of the luminaire and a light shield to part of the left hand side of this luminaire. This would dramatically reduce if not completely shield the light source from being seen from the upper storey levels of Cart Lodge.**

11.0 Conclusion

11.1 Your officer considers the applicant should be given a further three months to produce the full lighting report and provided this report satisfies Environmental Control, that the Head of Planning, Protection and Licensing be delegated to grant permission. If however, either (i) the report is not produced within this timescale, or (ii) it is found that the proposal does not meet the Technical Guidance and the applicant is not prepared to take mitigating action, then the application should be refused on the basis that the applicant has failed to demonstrate that the lights do not cause harm to the amenity of neighbouring property and the surrounding Countryside Conservation Area.

11.2 Environmental Control has accepted the Lighting Report submitted, including the recommendation for light shields to be applied to the lighting column closest to Cart Lodge. The application is now recommended for approval.

12.0 Background Papers

12.1 ARC; HA; HH; ECC; NLR

Recommendation – Conditional Approval

1 – Non Standard Condition

The lighting installation shall at all times be retained and maintained to comply with the figures specified in the current Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, with regard to sky glow, light trespass into windows of any property, source intensity and building luminance.

Reason: To safeguard the amenity of neighbouring properties by controlling the undesirable, disruptive and disturbing effects of light pollution.

2 – Non Standard Condition

Within two months of the date of this permission, a full obtrusive light shield shall be applied to the rear aspect of the glazing of the lighting column situated near plots 50 and 53, located at the rear of Cart Lodge, together with a full length section having a width of 1.5 inches to the left side of the luminaire, in accordance with the Lighting Impact Assessment submitted and received on 24-04-08, and these light shields shall thereafter be retained and maintained as approved.

Reason: To safeguard the amenity of neighbouring properties by controlling the undesirable, disruptive and disturbing effects of light pollution.



Application No: 071980

Location: Land to rear of, 11 Newbridge Road, Tiptree, Colchester

Scale (approx): 1:1250

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7.11 Case Officer: Nick McKeever

MINOR

Site: Land to rear of, 11 Newbridge Road, Tiptree, Colchester

Application No: 071980

Date Received: 20th July 2007

Agent: Anthony Rickett Architects Limited

Applicant: Miss T Goodman

Development: Reserved Matters application for erection of 16no. residential dwellings.

Ward: Tiptree

1.0 Planning Report Introduction

1.1 This application was deferred by the Planning Committee on the 4th October 2007 and the 18th October 2007 for the following reasons:-

- 1. 4th October - In order to clarify the external materials and colour finishes; and**
- 2. 18 October - To consider the re-positioning of the dwelling on Plot 1 in order to minimise the impact upon the existing dwelling 47 Winston Avenue.**

1.2 The report has now been re-drafted to take into account these changes and to address the comments made by the Highway Authority subsequent to the previous submissions to the Planning Committee.

2.0 Site Description

2.1 The site is an irregular shaped parcel of land of approximately 0.437ha with a frontage onto Newbridge Road. The northern boundary lies adjacent to Public Footpath 25 (Chapel Lane). It is surrounded by existing residential development of varying ages and architectural styles, including a 1960's style housing development in Winston Avenue and Churchill Road immediately to the east. To the north lies the more recent housing development on part of the former Tiptree Book Services site. 11 Newbridge Road is a detached, two storey Victorian dwellinghouse.

2.2 This application is for reserved matters following the outline planning permission O/COL/2058, where all matters were reserved. It proposes the erection of 16 no. two storey dwellinghouses comprising:-

- 8 x 2 bed houses
- 6 x 3 bed houses
- 2 x 4 bed houses.

2.3 The development embraces the principles embodied within the Essex Design Guide thereby forming an enclave of residential units of different character to the established development within Winston Avenue and Churchill Road. Conventional front gardens are replaced by paved areas having a variety of surface finishes whilst private areas are defined with railings and bollards. The external materials reflect the vernacular palette.

2.4 Parking is provided predominantly within garage courts away from the frontages to Newbridge Road and Chapel Lane

3.0 Land Use Allocation

3.1 Predominantly residential within the village of Tiptree.

4.0 Relevant Planning History

4.1 O/COL/03/2058 - Outline application for residential development. Approved 21 July 2004.

4.2 O/COL/06/1773 - Residential development of thirteen dwellings - Renewal of application Members resolution to approve subject to Section 106 Agreement. Application inactive as the reserved matters has been submitted within the prescribed period.

5.0 Principal Policies

5.1 Adopted Review Borough Local Plan
Development Control Considerations - DC1
Design - UEA12; UEA14
Contaminated land - P4
Car Parking - T9

6.0 Consultations

6.1 The Highway Authority have made the following comments:-

“The applicant’s agent has been made aware of Highway Authority concerns regarding the scale of development and the potential harm to highway interests. However, the submitted amended layout remains unacceptable.

The Highway Authority recommends that the application be refused for the following reasons:

- 1. The access way does not comply with the Essex Design Guide and is therefore considered not to include a satisfactory means of highway access to serve the number of houses proposed. The layout is likely to lead to congestion and danger on the highway contrary to good highway practice.**
- 2. The layout fails to include an adequate, convenient, turning facility. It would therefore be likely to lead to vehicles reversing on Winston Avenue to the detriment of highway safety.**

3. **The proposal incorporates an unnecessary means of direct pedestrian access onto Newbridge Road. In this location, the route is considered likely to lead to parking on Newbridge Road to the further detriment of highway safety.**
4. **The proposals lack a direct pedestrian link between the body of the site and the village centre with the result that the development is likely to unnecessarily rely on the private motor car for such trips, to the detriment of sustainable travel patterns.**

6.2 ECC Schools, Childrens & Families Directorate, comment that this application appears to increase the units from 13 to 16. On this basis the education contribution required increases to £42,891.

7.0 Parish Council's Views

7.1 Tiptree Parish Council objects on the grounds of overdevelopment, out of keeping with the existing street scene. An ecological survey should be carried out. No vehicular access via Winston Avenue during construction. Occupier of 3 Chapel Lane claims part of his land appears to have been included within the development.

8.0 Representations

8.1 Councillors Peter Crowe and Kevin Bentley comment that the Planning Committee has previously stated that no construction traffic would use Churchill Road/Winston Avenue to access or egress the site and request that this should be confirmed. Other matters raised by the occupiers of 47 Winston Avenue are valid and should be given due consideration.

8.2 More than 15 letters have been received from local residents. Their objections are summarised as follows:-

- Access - Obligatory use of Winston Avenue will add to congestion and associated problems already experienced by residents. Construction traffic should use Newbridge Road.
- Development out of character with the existing in terms of density and design ("toy town").
- Layout - plan is a hotchpotch of erratically positioned dwellings with little regard to pedestrian access, recreational space & parking. Plots 4 & 5 have no pedestrian access other than via Newbridge Road. Some plots do not follow the Winston Avenue building line.
- Proximity to existing houses, loss of amenity, privacy and views
- No new facilities are to be provided
- Lack of adequate car parking i.e. only 20 spaces. Garages not big enough
- Retention of public footpath with no obstruction during construction
- Restriction on hours of construction
- Plan fails to show existing hedgerow along boundary with the public footpath. This will require lopping contrary to application form.
- Development fails to meet the requirements of PPS3 paragraph 16 (i.e. assessing design quality)
- Plans omit to show existing telegraph pole at the north - western corner of the site. This carries overhead electricity cables.

- Type of fence proposed for the south - west boundary with Chapel Lane.

8.3 The occupier of 3 Chapel Lane contends that the north-west boundary line of his property as shown on the plan is incorrect as it extends outside of the fence in a curved line parallel with Chapel Lane.

8.4 **The occupiers of No.47 Winston Road have expressed concern as to the siting of the house on Plot 1, where this projects significantly (i.e. 6.5m) beyond their property. This represents a road safety hazard in terms of the loss of visibility as well as an adverse impact upon levels of daylight and sunlight that they currently enjoy. The new dwelling should be set back in line with their property.**

9.0 Report

9.1 The previous outline planning permission established the principle of the residential development of this parcel of land within the built up area of the village. Members will appreciate, therefore, that the only issues for consideration are those which relate to the reserved matters (i.e. siting, design, external appearance, means of access and landscaping for outline applications prior to 10 August 2006.)

9.2 The access to the site was established with the outline permission, condition No.10 of which requires all access to be via Winston Avenue. The reserved matters comply with this condition. Despite opposition from the Highway Authority, Members have previously agreed that all construction traffic should use Newbridge Road.

9.3 The outline application did not specify the total number of dwellings to be built on the site and was only supported by a plan outlining the site in red. The subsequent permission did not impose any restriction upon the capacity of the site. The current reserved matters is for 16 dwellings, which is set at the lower end of the advisory density thresholds. On this basis an objection on the grounds of overdevelopment can not be sustained.

9.4 The siting of the dwellings takes into account the relationship to the existing adjoining dwellings and thus accords with the Council's adopted standards relating to privacy, daylight and sunlight other standards embodied within The Essex Design Guide for Residential and Mixed Use Areas. The siting also takes into account the relationship to Newbridge Road (Plots 3 & 4 have frontages onto this road but no vehicular access - this being via Winston Avenue) as well as Chapel Lane. Plots 8 to 14 face out onto this Lane and respect its particular character. The remaining plots are set out along the new road, a continuation of Winston Avenue, and form a closure to this Avenue.

9.5 Some concern has been expressed that the new dwellings do not respect the existing building line. However, the existing dwellings within this Avenue, in the immediate vicinity, do not have a well defined or rigid building line. In addition this new development will establish its own sense of place.

- 9.6 Members have previously raised concerns relating to the impact of the house on Plot 1 upon the amenity of 47 Winston Avenue and resolved to seek a compromise between its position as shown on the amended drawings and the front building line of 47 Winston Avenue. The Agent has since complied with this request and has submitted an amended drawing number GOO/1729/C. This drawing shows Plot 1 as being set back approximately 2.5 metres behind the front of the garage at 47 Winston Avenue and now projects some 3.0 metres behind this garage. In this revised position the new dwelling remains compliant with the appropriate Local Plan policy UEA13 but would have less impact upon the outlook from the main habitable rooms in the front of the adjacent dwelling.
- 9.7 The aforementioned Guide advises that there is a need to determine whether a new scheme should perpetuate the format of the existing area or establish a new one. Where the surrounding development has a strong pattern and character it may be necessary to pick up the theme of the existing and seek to enhance it. Whilst the existing development within Winston Avenue and Churchill Road has its own particular merits it cannot reasonably be considered as exceptional. On this basis there is no reason to require the confirmation of this form of development.
- 9.8 The new development follows the EDG concepts, and in particular the use of Essex vernacular design and materials and achieves a satisfactory appearance. Samples of the proposed external materials were presented to the Planning Committee on 18 October 2007. These materials were red and buff bricks (Ibstock Leicester Multi Cream and Ibstock Leicester Orange. Terca Winelester (red). The roof tiles are red/brown clay plain tiles and blue/grey natural Spanish slate. Buff render and cream weatherboarding are also proposed.
- 9.9 Car parking is provided in accordance with the current use of maximum standards and, in terms of its siting, achieves a subservient role with the new houses dominating the street scene. This application does not propose any obstruction to, or diversion of, the public footpath along Chapel Lane.
- 9.10 **Discussions have taken place between your Officers and the Highway Authority in an attempt to resolve the divergent points of view regarding:-**
- (1) The orientation of the houses on Plots 3 & 4. The submitted drawings show these two units as having their principal elevations facing onto Newbridge Road and served by two footpaths. The Highway Authority however would wish for these to face into the site (with the rear gardens facing onto Newbridge Road) and with no form of access onto this Road.**

Unfortunately this point of view is in direct conflict with many established planning principles and secure by design considerations. The two houses would be far more vulnerable if they were to back onto the street. A high brick wall could be provided for more secure enclosure but this, like a fence, would be completely incongruous with the street scene. This conflicts with central government advice and local policy, which asks for development to be in context with its surroundings. Turning two houses away from the street would read as contrived townscape and appear as, at best, an eccentric oddity of planning.

- (2) The Highway Authority has also requested a footpath link into the site from the cemetery extension lands to the north. This proposed connection would provide public access into the private car parking areas for residents and would create far easier opportunities for crime to cars and houses. The residents would have a greater perceived fear of crime given that the backs of their houses would be publicly accessible.

Having regard to the incorporation of these changes it is considered that the scheme is acceptable in the context of the Essex Design Guide and the particular circumstances relating to the site relative to the established pattern of development in the immediate vicinity.

- 9.11 The Applicant has been advised of the increased education contribution. This will require a Deed of Variation to the existing Section 106 Agreement. Subject to the satisfactory completion of this amendment, permission is recommended.

10.0 Conclusion

- 10.1 The amended scheme now before the Planning Committee is acceptable in terms of the density, the layout and design of the dwellings, which reflects the vernacular as far as the external forms and materials are concerned, and is compliant with the Local Plan policy UEA13 where this relates to the impact upon the amenity of the existing dwellings. The Applicant has taken heed of the matters previously raised by the Committee such that the amended scheme has now addressed the relationship of Plot 1 to the existing dwelling at 48 Winston Avenue.

- 10.2 The matters relating to the use of materials and the aforementioned relationship to 48 Winston Avenue were the only two matters that required further consideration when the application was presented to the Planning Committee on the two occasions in October 2007.

11.0 Background Papers

- 11.1 ARC; PTC; NLR; ECC; HA

Recommendation

Subject to the satisfactory completion of an amendment to the existing Section 106 Agreement for an increased education contribution of £42,891, delegated authority be given to the Head of Planning, Protection and Licensing to approve the application, subject to the following conditions:-

Conditions

- 1 - Non-Standard Condition

This permission is granted in accordance with the outline planning permission O/COL/03/2058, and the conditions together with the informatives contained therein, and is subject to those conditions and informatives.

Reason: To ensure that the development is in accordance with the outline permission.

2 - Non-Standard Condition

The details to be submitted pursuant to condition 07 of O/COL/03/2058 shall include details of screen walls/fences/railings/planting of hedges etc to include their position, height, design and materials to be used. The fences/walls etc shall be provided prior to the occupation of any of the dwellings hereby approved and shall be retained thereafter.

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

3 – B8.1 (Draining scheme prior to commencement)

Prior to the commencement of any work on site, a scheme of surface water and foul drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out prior to the occupation of the building/s hereby permitted.

Reason: To ensure satisfactory arrangements are made for the disposal of foul and surface water drainage.

4 – Non Standard Condition

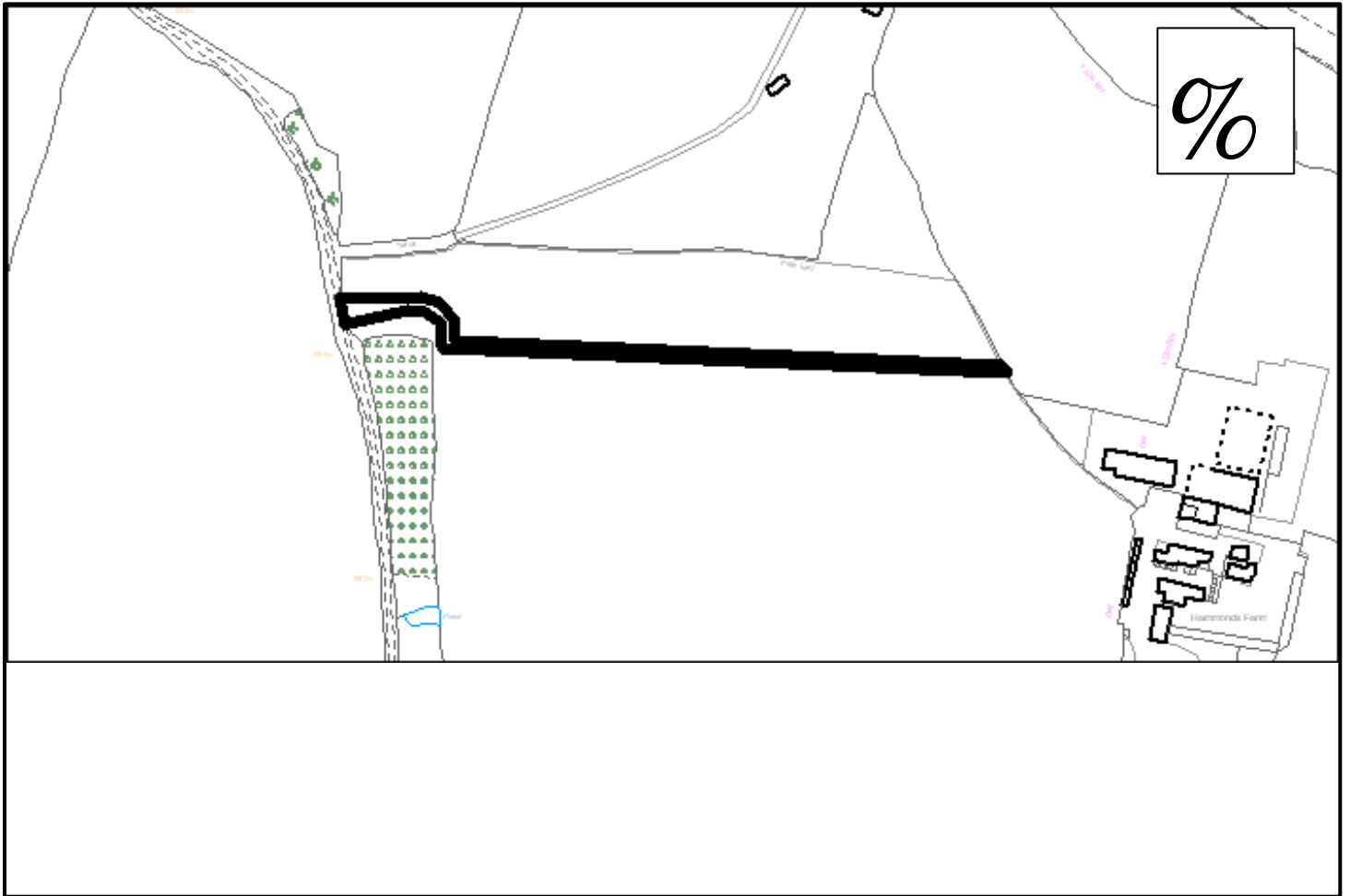
All construction traffic shall use Newbridge Road only to enter and leave the site in accordance with a scheme, including signage, to be agreed in writing with the Local Planning Authority prior to the commencement of any works on the site.

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

5 – A2.2 (A2.2 Development to Accord With Revised Plans)

The development hereby permitted shall be implemented in all respects strictly in accordance with the revised drawing no[s] GOO/1729/PA2/007/C; 008/C; 009/C and 010C dated 27 March 2003, received 2 April 2008.

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



Application No: 080562

Location: Hammonds Farm, Hems Green, Fordham, Colchester, CO6 3LS

Scale (approx): 1:1250

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7.12 Case Officer: Bradly Heffer

EXPIRY DATE: 21/05/2008

Site: Hemps Green, Fordham, Colchester, CO6 3LS

Application No: 080562

Date Received: 25th March 2008

Agent: Acorus Rural Property Services

Applicant: Mrs V Woodward

Development: Retrospective application for provision of access road.

Ward: Great Tey

Summary of Recommendation: Conditional Approval

1.0 Introduction

1.1 This planning application seeks retrospective permission for the provision of an access serving land adjacent to Hammonds Farm, Hemps Green, Fordham. Members will be aware that this development has previously been considered by the Planning Committee.

2.0 Description of Proposal

2.1 The existing access track, that is the subject of this application, extends eastwards from Mount Bures Road for approximately 330 metres. It has an approximate width of 2.6 metres. The surfacing finish is a mix of road planings and gravel. It is intended that the access track would serve pasture land owned by the applicant, as well as land owned by another party. It is understood that the owner of Hammonds Farm also has a right of way across the track, to existing buildings at Hammonds Farm. Members should also note that an extant permission for a new agricultural building would rely on this access.

2.2 As part of the planning application submission, a Design and Access Statement has been submitted that is available for inspection on the Council's website.

3.0 Site Description

3.1 The site for this proposal is a level area of rural land immediately adjacent to Hammonds Farm. It is understood that the land formerly comprised part of the farm but has since been separated from the main holding. Whilst the surrounding field boundaries are defined by hedging and trees, the access track itself is located within pasture land. Existing buildings and associated hardstandings at Hammonds Farm are located at the eastern end of the track, while immediately to the north and south lies open land. The point where the track meets Mount Bures Road is defined by a splayed access point.

3.2 Some hedge planting has taken place along the access track, at the western end, and along the boundary of the field to the north, where it meets the road.

4.0 Land Use Allocation

4.1 The site for this application is located in an area of no notation - i.e. white land as allocated in the Adopted Review Borough Local Plan.

5.0 Relevant Planning History

5.1 Prior to the submission of this application, previous retrospective applications for the access track have been considered by the Council. The application F/COL/06/0622 was refused, contrary to officer recommendation, at the Committee meeting held on 29 June 2006.

5.2 Furthermore, a resubmitted application (F/COL/06/1878) was referred to Committee with an officer recommendation of approval. However, Members resolved to refuse the proposal for reasons similar to those attached to the previously refused scheme.

5.3 Leading on from these refusals the first proposal, F/COL/05/0622, was appealed and a public inquiry was scheduled to take place on 26 March 2008. An enforcement appeal was also due to be heard at the same Inquiry. Members are advised that during the preparation period for the appeal, and following the advice of the Council's retained advocate, officers were advised that the grounds for refusal proposed by Members could not be successfully defended. On this basis, the Planning Inspectorate were advised that the appeal would not be defended by the Council and furthermore the proposed enforcement action would be withdrawn. The appellant has since withdrawn the appeal and submitted this application in order to regularise the situation.

6.0 Principal Policies

6.1 Adopted Review Borough Local Plan
DC1 - General Development Control criteria
CO1 - Rural resources
CO7 - Protected lanes

7.0 Consultations

7.1 The views of the Highway Authority and the Ramblers Association will be reported at the Committee meeting.

8.0 Parish Council's Views

8.1 The comments of Wakes Colne Parish Council will be reported at the Committee meeting.

9.0 Representations

9.1 At the time this report was written, one letter had been received from a local resident, commenting on the proposal as follows:-

1. The need for the access track was followed on from the fragmentation of the farm contrary to the aims of Policy CO1 of the Local Plan.
2. Traffic along the road is a problem and the applicant could be encouraged to sell her land in order to reduce traffic generation.
3. It is acknowledged that the visual impact of the development has improved.

10.0 Report

10.1 It is fair to say that when the proposal was previously put to Committee for determination its overall impact was greater than is the case now. Excavation works had created earth mounds that appeared incongruous within this essentially flat landscape. Furthermore, the surfacing treatment looked somewhat harsh in the rural environment. Although the report to Committee at that time did identify that the impact would be lessened over time with weathering, and the earth bunds would be regraded, Members felt that the proposal was harmful to visual amenity, and this was cited as one reason for refusal.

10.2 Since the time of refusal clearly the expected weathering has continued and the surface of the track appears less harsh in this setting. Additionally all earth mounds resulting from the works have gone - the soil having been redistributed on the surrounding fields. Indeed, the margins of the fields have begun to encroach on the track which helps to further reduce its overall impact. The main 'public' experience of the track is where it meets the road. Again, examination of this point reveals that vehicular movements have consolidated the surface material with mud and on this basis the works appear in the landscape as an established access for agricultural vehicles. The overall impact would be further reduced by the hedging and trees proposed for the access (some planting of which has already taken place). In overall terms it is your officer's view that visual amenity in this location is not adversely affected by this development.

10.3 In terms of traffic generation, it is noted that the access track would serve two fields - one of which is used for horses whilst the other is used for the production of hay for sale. Both these uses are confirmed by the agent's Design and Access Statement. It should be noted that the owner of Hammonds Farm also has a right of way over the track, although the farm is also served by an existing access away to the east. On this basis, it is considered that the use of the track is unlikely to give rise to levels of traffic that are incompatible with the rural surroundings. This opinion is given in the knowledge that part of the Mount Bures Road does have protected lane status.

10.4 Clearly fragmentation of the existing farm has taken place. However, the submitted information does reveal that the use of the track would be connected to the accessing of fields, used for agricultural purposes. Additionally, as stated previously, an agricultural building has been approved (but not yet erected) which would require utilisation of the access track. Therefore it is considered that there is quantifiable need for the access track to be in place.

10.5 Members will no doubt recall that the retrospective nature of the development and its use for an unauthorised activity in farm buildings at Hammonds Farm (prior to occupation of the farm by the current owners), gave rise to substantial local objection. Since this time the unauthorised use has ceased and the track is utilised for agricultural purposes (together with a private right of way to Hammonds Farm itself). Furthermore, its overall impact in the landscape has 'softened' considerably over time. It was due to this 'softening' process that advice to this Council was not to defend the Council's reasons for refusal on appeal. An officer recommendation of approval subject to conditions is therefore made.

11.0 Background Papers

11.1 ARC; HA; PTC; NLR; OTH; F/COL/06/0622; F/COL/06/1878

Recommendation – Conditional Approval

Conditions

1 - Non-Standard Condition

The existing surface finish of the track hereby approved shall be retained as such and shall not be treated or sprayed with herbicide.

Reason: In order to ensure that the appearance of the track continues to weather and soften and blend with the surrounding rural land in the interests of visual amenity.

2 - C11.14 Tree / Shrub Planting

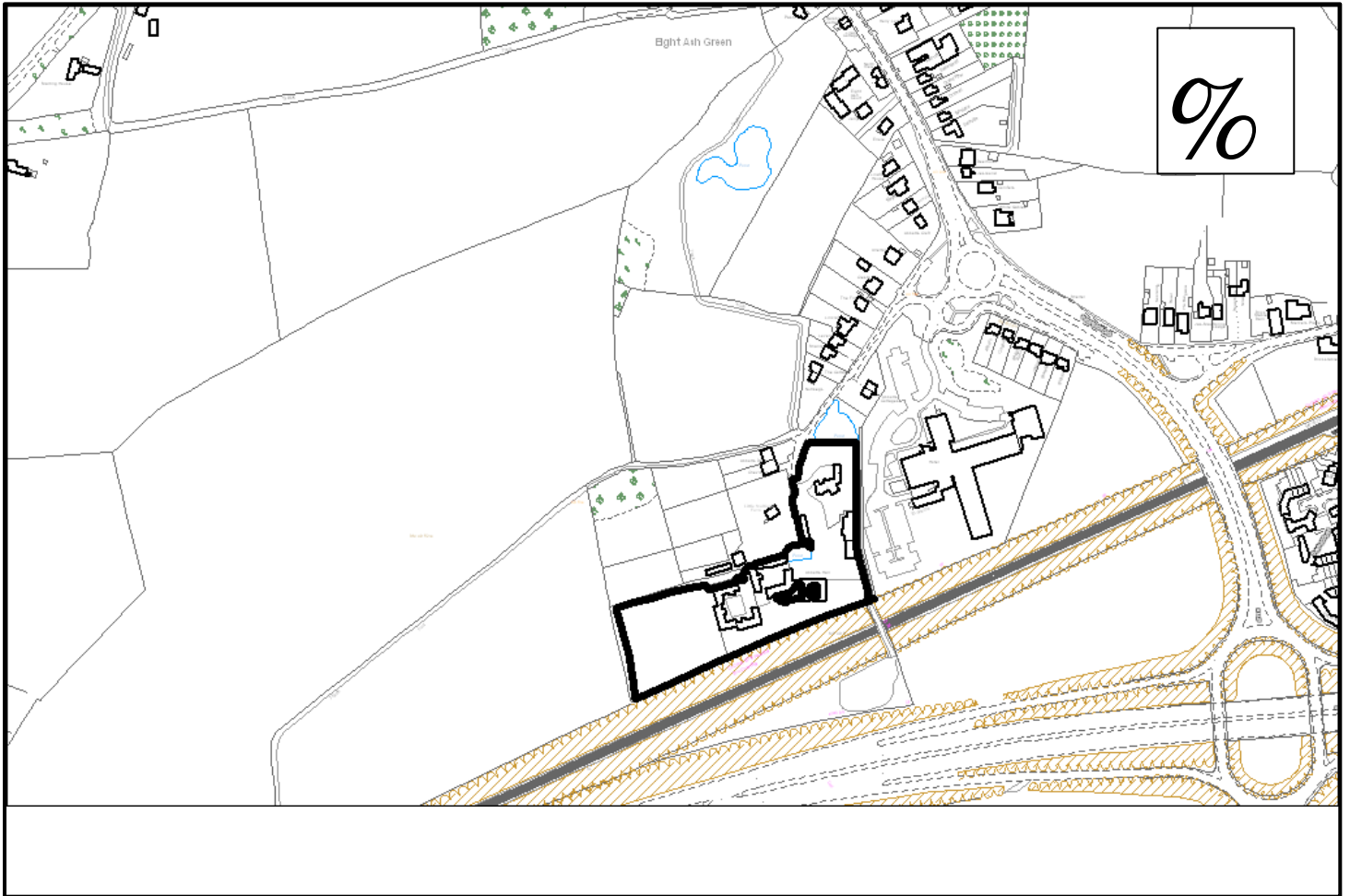
Within 28 days of the date of the permission hereby granted, details of tree and/or shrub planting and an implementation timetable shall be submitted to and approved in writing by the local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.

Informatives

Non-Standard Informative

1. The applicant is advised that the track hereby approved is as part of an agricultural use of land or buildings. The Council has considered its acceptability on this basis.



Application No: 080573

Location: Doucecroft School, Abbots Hall, Abbots Lane, Eight Ash Green, Colchester, CO6 3QL

Scale (approx): 1:1250

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7.13 Case Officer: Simon Osborn EXPIRY DATE: 21/05/2008 OTHER

Site: **Abbotts Hall, Abbotts Lane, Eight Ash Green, Colchester, CO6 3QL**

Application No: **080573**

Date Received: 25th March 2008

Agent: Plater Claiborne Architecture & Design

Applicant: The Essex Autistic Society

Development: Resubmission of 072518 to vary condition no.5 (of application F/COL/04/0445) to allow the school to be open to pupils and boarders for no more than 48 weeks in each year, and allow 10 No. Boarders during the weekends unless otherwise agreed in writing by the Local Planning Authority.

Ward: W. Bergholt & Eight Ash Green

Summary of Recommendation: Conditional Approval

1.0 Site Description

1.1 The application site comprises an L-shaped parcel of land and buildings, at the end of Abbotts Lane. Abbotts Lane is a relatively narrow road, which runs from the roundabout on the main Halstead Road to the application site, and also serves around about a dozen residential properties and the cattery at Little Maltings. The site is outside the village envelope, but is sandwiched between the embankment of the main line railway to the south, the Post House Hotel to the east and residential premises to the north.

2.0 Description of Proposal

2.1 The application premises are now known as the Doucecroft School, which is operated for autistic children, and provides day-school services and residential boarding accommodation. Planning permission was granted for this use in 2004 (ref. F/COL/04/0445). Condition no. 5 of that permission stated: "The school shall only be open to pupils and boarders on Mondays to Fridays only of each week and for no more than 39 weeks in each calendar year, unless otherwise agreed in writing by the Local Planning Authority."

2.2 The school opened in September 2005 and has increased its intake of children to a current total of 35. However, the school states: "we are unable to accept all of the children referred to us because the school can only currently provide a five-day boarding option (Monday through to Friday) during term times. We are finding that many of the referred children require occasional weekend respite care or seven day boarding facilities during term and non-term periods. Due to the facilities provided at Doucecroft many children from other parts of the country commute weekly, which is a consideration. Many families (for various reasons do need their children being supported for seven days a week and during some holiday periods".

3.0 Land Use Allocation

3.1 Countryside Conservation Area

4.0 Relevant Planning History

4.1 F/COL/04/0445 - alterations to existing buildings and construction of new buildings to form a new school for the Essex Autistic Society. The school will provide accommodation for weekly boarders and day pupils together with a new caretakers residence. Approved May 2004.

4.2 072518 - change of condition no. 5 of F/COL/04/0445 to allow school to be open to pupils and boarders 7 days a week for 50 weeks in a year - withdrawn November 2007.

5.0 Principal Policies

5.1 Adopted Review Colchester Borough Local Plan - 2004
DC1 - Development Control Considerations
P1 - Pollution

6.0 Consultations

6.1 Environmental Control stated no complaints had been received relating to this School and no objection raised to this change of use.

6.2 The Highway Authority stated no objection to the proposal as submitted.

7.0 Parish Council's Views

7.1 Eight Ash Green Parish Council expressed its concerns relating to this application and the increase in traffic and the problems the traffic causes to residents of Abbots Lane. It is recommended that the Highways Department suggest some solutions to these problems.

7.2 Stanway Parish Council stated no objection to the proposal.

8.0 Representations

8.1 Two letters of objection were received (from Little Maltings and Nutmegs) which stated that

1. The Lane cannot withstand further traffic.
2. The upgrading of the Lane should be considered to allow traffic to pass.
3. Customers to the Feline Lodge often get delayed by the School traffic
4. The children have a habit of calling out due to their disabilities.

9.0 Report

9.1 Planning permission for the school was granted in 2004 and the School opened in September 2005. The application was subject to a good deal of consideration regarding the suitability of the use and the adequacy of the lane for school traffic. At the time, the Highways Authority expressed the view that it did not wish to see the Lane dramatically improved as this would result in increased vehicle speeds, with a likely increase in the number of accidents. Planning permission was granted subject to a number of conditions: these included:

- A scheme for traffic calming along Abbotts Lane in accordance with details to be first agreed with the Local Planning Authority/Highway Authority, an upgrade of two bus stops and tactile paving (condition no. 1)
- The school to be open to pupils and boarders on Mondays to Fridays only of each week and no more than 39 weeks in each calendar year (condition no. 5)
- No more than 64 pupils to attend the school and the maximum number of day pupils not to exceed 30 (condition no. 34).

9.2 The School has indicated that the present restriction on the 39 week opening period of the school and the Monday to Friday restriction for boarders is adversely affecting the intake into the school. It is understood that the number of children currently at the school is 12 day pupils and 23 weekly pupils (boarders), making a total of 35 pupils in all.

9.3 The application proposes that condition 5 be changed in two ways: firstly, increasing the number of weeks the school can operate from 39 weeks to 48 weeks; secondly, accommodating a limited number (10) of weekend boarders. The predicted impact of these changes on traffic movements over a typical weekend period, assuming pupil demand reaching the proposed maximum of 10 weekend boarders would be:

- Friday
 - 10 traffic movements (students remain on site)
 - + 4 night staff arriving
 - = -6 traffic movements
- Saturday
 - + 4 night staff departing
 - + 20 day staff arriving and departing
 - + 4 night staff arriving
 - + 4 day trips (2 mini buses in and out)
 - = +32 traffic movements

- Sunday
 - + 4 night staff departing
 - + 20 day staff arriving and departing
 - + 4 night staff arriving
 - + 2 day trips (1 mini bus in and out)
 - = +30 traffic movements
- Monday
 - 10 traffic movements (students remain on site)
 - + 4 night staff departing
 - = -6 traffic movements

9.4 The proposal to allow 10 weekend boarders would therefore potentially result in 32 extra traffic movements along the lane on Saturdays and Sundays and a marginal decrease on Fridays and Mondays. The proposal would not affect the capacity of the lane on the busiest days of the week (Mondays to Fridays).

9.5 With regard to satisfying condition no.1 of the original 2004 approval, the School's Traffic Consultants (Intermodal Transportation Limited) commenced negotiation with Essex County Highways before the school opened. It is understood that the School put aside money for these works, but the necessary agreements were never finalised, in part because of the subsequent planning application for the Park and Ride scheme (which would have required a reassessment of the bus shelters and their location). With the Park and Ride scheme being aborted last year, Intermodal recommenced discussions with the County Council, and a draft agreement has been prepared: it is hoped that the proposed details will be available before this Meeting.

10.0 Conclusion

10.1 As with the original 2004 application, the main issue with this application is the suitability of Abbots Lane for the additional traffic that the proposal is likely to entail. Your Officer has some reservations in putting this application forward for approval given that condition 1 of the original approval has not been implemented. Nonetheless, whilst this proposal will increase the number of days on which traffic will use the lane for journeys to school (i.e. for a further 9 weeks in each calendar year and, at weekends associated with 10 boarders) the proposal should not result in additional traffic movements on existing days for which the school is permitted to open.

10.2 The application is recommended for approval.

11.0 Background Papers

11.1 ARC; HH; HA; PTC; NLR

Recommendation - Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

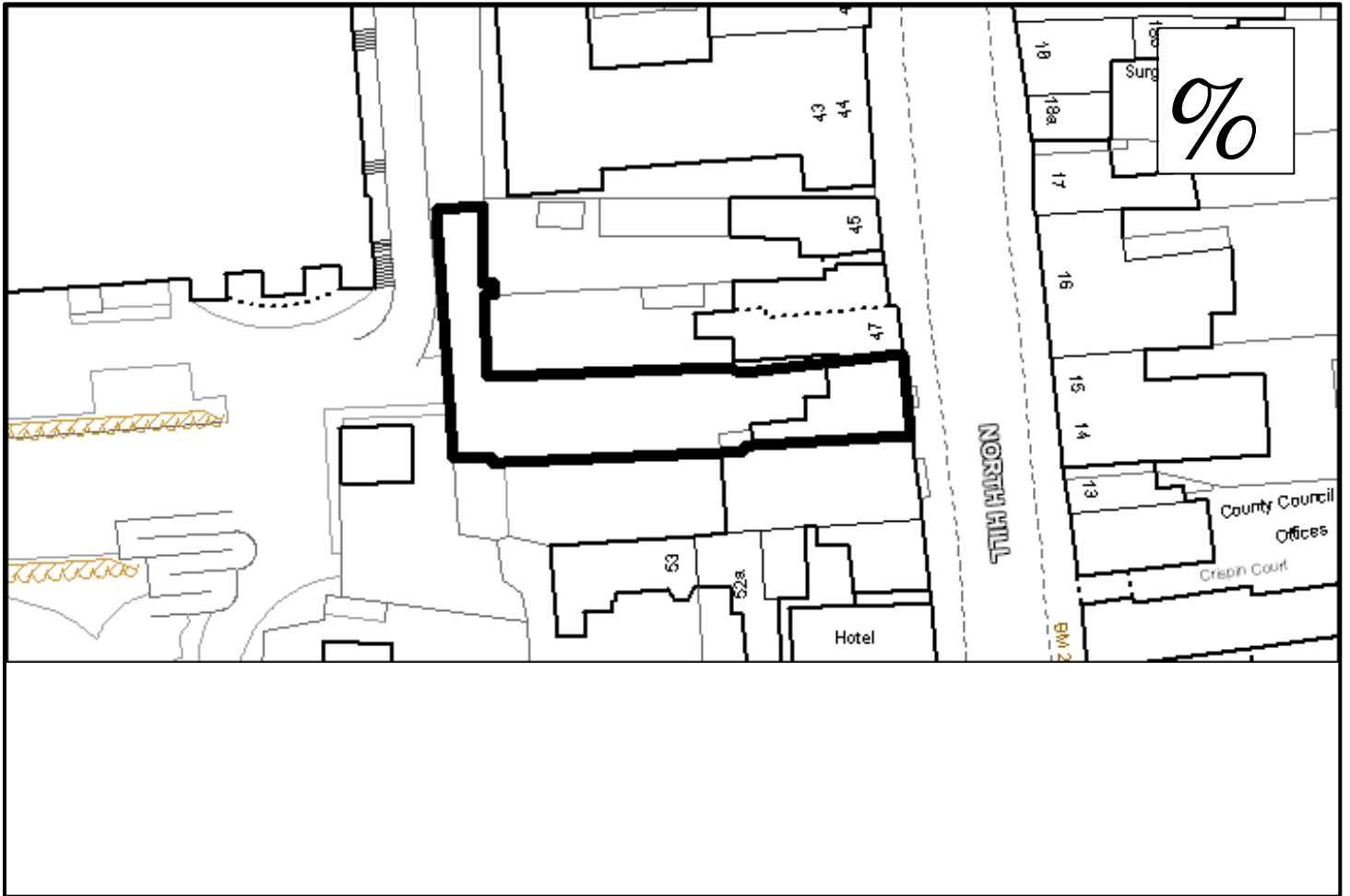
This permission shall vary the terms of condition no. 5 of planning permission F/COL/04/0455 so that it reads: "The school shall be open to pupils and boarders for no more than 48 weeks in each calendar year, on Mondays to Fridays only, with the exception for a maximum of 10 nos. boarders permitted to stay over the weekends, unless otherwise agreed in writing by the Local Planning Authority."

Reason: For the avoidance of doubt.

3 - Non-Standard Condition

With the exception to the variation permitted by condition no. 2 above, all other terms and conditions of planning permission F/COL/04/0455 shall otherwise remain in force, valid and extant.

Reason: For the avoidance of doubt.



Application No: 080646

Location: 48 North Hill, Colchester, CO1 1PY

Scale (approx): 1:1250

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7.14 .Case Officer: Andrew Tyrrell

EXPIRY DATE: 28/05/2008

OTHER

Site: 48 North Hill, Colchester, CO1 1PY

Application No: 080646

Date Received: 1st April 2008

Agent: Soormally Partners

Development: Change of use from office to A3 (Restaurant) with opening hours of 12pm until 11pm.

Ward: Castle

1.0 Site Description

1.1 The site is on the west side of North Hill, approximately half way down the hill. It is one of two vacant properties at numbers 47 and 48 that are currently subject to applications being put before the Planning Committee on 15 May 2008. These two properties are adjoined by professional services on both sides with a dental surgery at number 46 and a solicitors and planning consultancy operating from number 49. There are also accountants, estate agents, restaurants, drinking establishments, residential dwellings and take away food properties on North Hill.

1.2 The site lies within the Conservation Area and there are several Listed Buildings. Number 48 is a Grade II mid-19th Century red brick building of 3-storeys. It has sash windows and a 2-storey canted bay on either side of the central panelled door. There is also a modillioned eaves cornice and a slate roof. Numbers 45 to 49 form a group. On the opposite side of North Hill, numbers 13 through to 29 are all listed. Thus, most of the streetscene in this area is made up of Listed Buildings.

2.0 Description of Proposal

2.1 The proposal is for a change of use to an A3 restaurant use. This is one of two applications that covers both number 47 and number 48, which have been submitted by the same applicant, although the applications are not intended to be linked. Essentially, the applications combine to seek the approval of two separate restaurants next door to one another. There is no supporting application for any physical works to link the two buildings and they are listed, therefore the applications should be treated as two adjacent but separate restaurants, albeit under the same ownership.

3.0 Land Use Allocation

3.1 North Hill is designated within the adopted Local Plan as being a Mixed Use Area "B". Policy TCS6 states that in such areas there will be a presumption in favour of residential, shopping, office and appropriate leisure uses. Restaurants are referenced in the supporting text as being an example of appropriate leisure use (paragraph 15.46).

4.0 Relevant Planning History

- 4.1 48 North Hill was a residential dwelling until 1969, when permission was granted for a change of use to offices. There is no other history for this property.

5.0 Principal Policies

- 5.1 Adopted Review Borough Local Plan
DC1 - Development Control Considerations
UEA1 - Character of Conservation Areas
P1 - Pollution (General)
TCS6 - Mixed Use Areas 'B'
TCS10 - Proposals for Leisure, Entertainment and Food and Drink Uses

6.0 Consultations

- 6.1 The Environmental Health team has suggested the following conditions:

1. Sound Insulation of external Plant, Equipment and Machinery
Any plant, equipment or machinery on the premises shall be constructed, installed and maintained. The noise generated by such equipment shall not have any one 1/3 octave band which exceeds the two adjacent bands by more than 5dB as measured at all boundaries near to noise-sensitive premises
2. Food Premises (Control of Fumes and Odours)
The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.
3. Grease Traps Required
Foul water drains serving the kitchen shall be fitted with grease traps maintained in accordance with the manufacturer's instructions prior to [the use hereby permitted commencing/ the building hereby permitted coming into beneficial use]. Such equipment as shall have been installed shall be retained and maintained to the agreed specification and in good working order.
4. Self-closing doors
The planning permission hereby granted requires that from [commencement of the use/first occupation of the building] all doors allowing access and egress to the premises shall be self-closing and that these be maintained as such thereafter.

5. Storage of Oils etc.

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bund compound shall be at least equivalent to the capacity of the tank plus 10%. If there is a multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses shall be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

6.2 Conservation and Design views are being sought regarding other potential works that a change of use would necessitate but that are not covered by this application. The above conditions suggested by Environmental Health will also have potential implications on the listed building fabric. An update will be provided via the amendments sheet prior to the committee meeting. However, this application does not relate to any physical development.

7.0 Representations

7.1 Consultation notices and letters have raised comments from members of the public. At the time of writing, there were 2 sets of comments received from different people, although the consultation period had not expired. An update on any further comments that might be received will be included on the amendments sheet.

7.2 Comments raised at the time of writing resulted in several questions being asked. Based on the responses given via email, one of the consultees has confirmed that they did not wish to object at the current time. This leaves one outstanding objection, from Councillor Spyvee. Concerns raised are that: "I have looked at these applications but find them perfunctory in the extreme. There is no Design and Access Statement and no proper plans. A restaurant may well be acceptable in this location. What I would need to know is whether this is something which could turn into a drinking establishment or nightclub and whether it would have any unacceptable impact on residents in the vicinity. The few details given do not help and I question whether such as has been submitted can be called 'consultation'. I ask that the applicant submit further details and the consultation period start from when these come into the public domain".

8.0 Report

Design

8.1 The design, appearance, amount, layout, scale and density is unaffected by this application, which relates solely to a change of use. The appearance of the building is unchanged and the application proposes no physical works. It is feasible that future applications would be submitted to address any changes needed to accommodate the use, including advertisement/name/brand sign boards on the front elevation. However, the extent of any future applications can only be speculated and is not an issue that can accurately be considered herein.

Use

- 8.2 Instead, attention turns to the principle of the change of use. The site lies within the Mixed Use Area "B" where such uses are supported in principle. There has been careful consideration to the fact that this application is one of two submitted side by side for restaurants at adjacent properties, which could give rise to a proliferation of one use in simultaneous properties. However, the policy wording does not provide any constraint on similar adjoining uses on North Hill. Instead, the wording implies a general mix of appropriate uses, which this application accords with. It is also noted that matching uses can be found elsewhere within the North Hill frontage in adjacent buildings (such as the neighbouring restaurants of "Ask" and "La Tasca").
- 8.3 As the principle is acceptable, consideration must be given to the impact on neighbours. The hours of use proposed are from 12pm (midday) to 11pm. These hours are the same as one of the restaurants on the opposite side of the road, although the other restaurant opposite opens for an extra hour (until midnight) on Fridays and Saturdays. Therefore, in terms of likely impact from customers using the restaurant, the disturbance is unlikely to have any significant impact on residents over and above the existing uses on North Hill.
- 8.4 In terms of fumes and odours, the exact nature of the restaurant is not known. Further clarification has been sought from the applicant; however it seems that their plans are at an early stage and details such as the need for flues, the amount of equipment, the type of dishes being cooked, the numbers of covers etc are not known yet. Whilst this means that there is limited information, the fact that the building is listed means that an application for any extraction and ventilation system would be required prior to its installation in any case. Therefore, the granting of the change of use would not prejudice the amenities of neighbours in terms of smells. This matter would be more appropriately dealt with at the time that any application for equipment was forthcoming. For assurance, an informative clarifying that further applications area needed should be used instead of any refusal on the assumptions that flues would be needed and would be unacceptable. For example, one idea suggested was that of a tearoom which might not require any flues. Thus, a refusal on lack of information would be susceptible to challenge via appeal, especially when all other matters are considered to be acceptable on their own merits.

Landscaping

- 8.5 There is no provision of any landscaping. There is no realistic scope for landscaping at the front of the site due to its close relationship to the public footway.

Social Function

- 8.6 The use as a restaurant would help support the town centre in the way that other uses on North Hill compliment the primary use of the main centre. There is no general public social function, only associations related to restaurant uses that can be seen from surrounding restaurants. The use would form an additional small-scale provision for tourism and leisure in the town centre; however, there are no major social functions associated with development on this scale.

Other Material Considerations

- 8.7 Discussions with the applicant have demonstrated that they are unsure exactly what they wish to do other than them having a general idea of opening a restaurant. The hours of opening have been taken from the nearest restaurants on the other side of North Hill, but there is no information regarding the type of restaurant, numbers of cover, siting of equipment and flues, physical alterations to the building etc (some of which would be liable to change without planning control in any case). Although the applicant is aware that further applications will be needed, and that the approval of a change of use would not prejudice future decisions (there is no guarantee that their other ideas will be acceptable), an informative is proposed to clarify the scope of this decision for the avoidance of doubt.
- 8.8 As stated above, there are several suggested conditions that are proposed by Environmental Health. These conditions would require further applications for physical alterations and work to the listed building. Whilst this application should be considered on its own merits, some regard has been given to potential problems in implementing any change of use if the physical works needed were to be found to be unacceptable. The Conservation and Design team have been asked for an opinion on this, which will be reported on the amendments sheet. Essentially, if there were to be problems finding an acceptable solution to any conditions this would be a matter that the applicant would need to deal with at such a time as a problem is found. This application should not be refused on the basis that such a problem might occur as this would be too much of an assumption. Likely equipment includes ventilation and extraction systems, grease traps, self-closing doors etc.
- 8.9 With regard to the sole objection received at the time of writing, the application has been altered during the course of consideration, with consultees being re-notified. The description was originally wrong, with the applicant having declared the application for A4 use instead of A3 use. There were also no openings hours listed, which was a concern addressed following a request at the site visit. The application is solely for a change of use, which means that a Design and Access Statement and plans serve less purpose than might be expected. There are no physical alterations, so the plan submitted merely identifies the extent of the site.
- 8.10 The property could change to an A2 "Financial and Professional Service" or to A1 "Shop". It is not considered necessary to restrict these permitted changes and require a planning application. These changes would accord with policy for mixed use areas in the town centre. Significantly, the use could not turn into an A4 "Drinking Establishment" unless a further application was received, at which point this would need to be judged on its merits and consulted upon with the local residents. The concerns over drinking establishments are understood, but these should not prejudice the current application for a restaurant use where that change can still be controlled. Similarly, use as an A5 "Hot Food Takeaway" would also require a new planning application.

9.0 Background Papers

- 9.1 ARC; CD; HH; NRL

Recommendation - Conditional Approval

Conditions

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

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

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

2 - Non-Standard Condition

The use hereby permitted shall not be open to customers outside the following times:

- Mondays to Saturdays from 1200 hours to 2300 hours.
- Sundays from 1200 hours to 2200 hours.
- Public Holidays from 1200 hours to 2200 hours.

Reason: To safeguard the amenities of nearby residential properties.

3 - Non-Standard Condition

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

Reason: To ensure that the use is not detrimental to the amenities of neighbouring properties, in accordance with policy.

4 - Non-Standard Condition

Non-Standard Condition "Food Premises (Control of Fumes and Odours)" The use hereby permitted shall not commence until there has been a scheme for the control of fumes and odours submitted to and approved, in writing, by the Local Planning Authority. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems and such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing, be retained thereafter and be maintained to the agreed specification and working order.

Reason: To ensure that the use is not detrimental to the amenities of neighbouring properties, in accordance with policy.

5 - Non-Standard Condition

Any foul water drains serving the kitchen shall be fitted with grease traps maintained in accordance with the manufacturer's instructions prior to the use hereby permitted commencing, and shall be retained thereafter maintained to the agreed specification and in good working order.

Reason: To prevent blockages and ensure that the use does not cause problems with the water environment or drainage systems, in accordance with policy.

6 - Non-Standard Condition

From first commencement of the use, all doors allowing access and egress to the premises shall be self-closing and that these be maintained, free from obstruction, as such thereafter.

Reason: To ensure that the use is not detrimental to the amenities of neighbouring properties, in accordance with policy.

7 - Non-Standard Condition

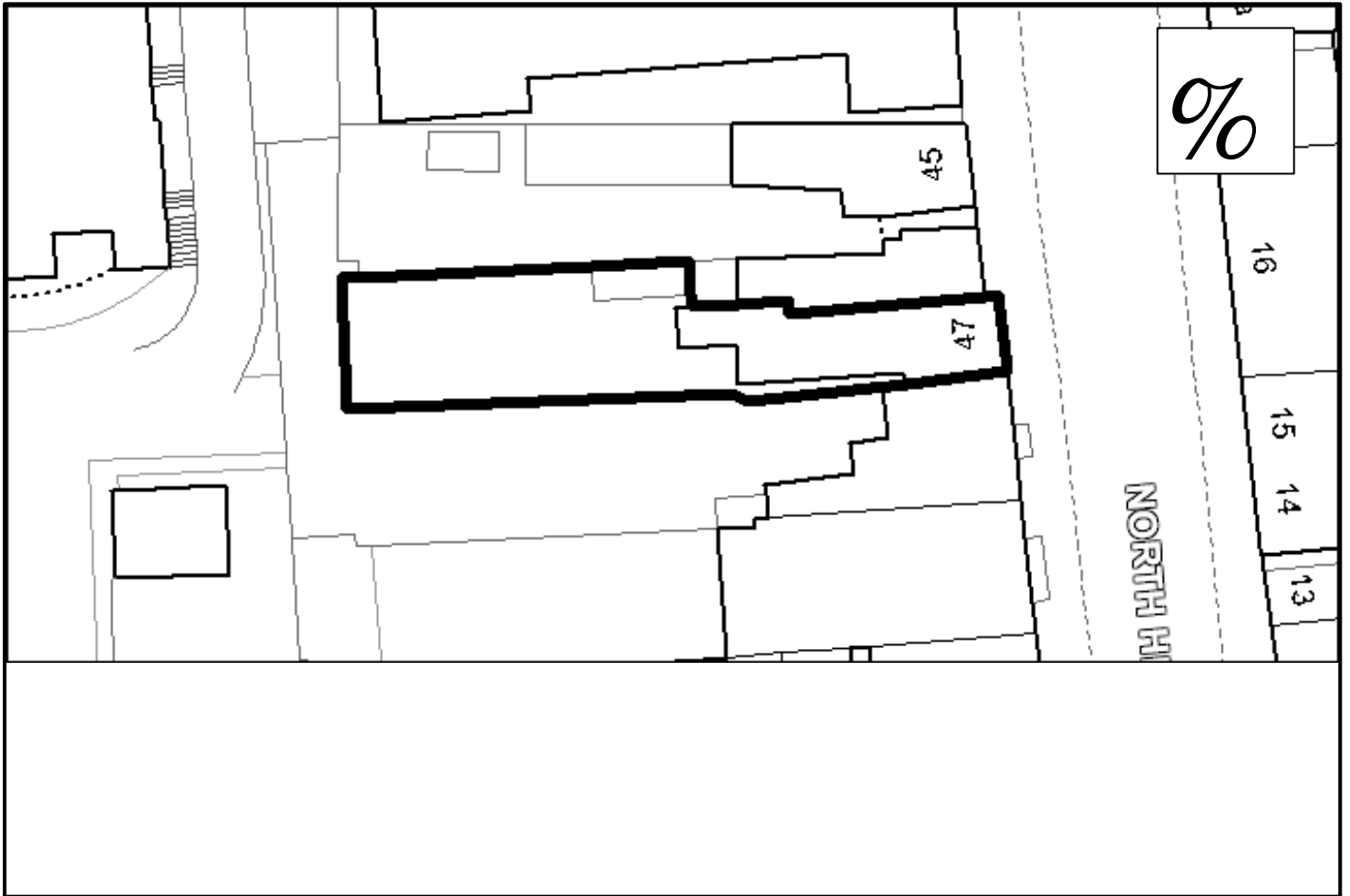
Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bund compound shall be at least equivalent to the capacity of the tank plus 10%. If there is a multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses shall be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment, protect the groundwater quality in the area and to prevent blocking of the drainage system.

Informatives

Non-Standard Informative

1. For the avoidance of doubt as to the scope of this permission, this decision relates solely to the change of use to A3 as described in the application description and does not provide any other approval. THIS APPROVAL DOES NOT PROVIDE PERMISSION FOR ANY PHYSICAL ALTERATIONS OR ANY OTHER FORM OF DEVELOPMENT OR WORKS WHATSOEVER. The property is a Listed Building and any other works may require Listed Building Consent (as well as further planning permissions). Please contact the Local Planning Authority for advice prior to



Application No: 080648

Location: 47 North Hill, Colchester, CO1 1PY

Scale (approx): 1:1250

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Site: 47 North Hill, Colchester, CO1 1PY**Application No:** 080648

Date Received: 1st April 2008

Applicant: S Sormally

Development: Change of use from Office/Residential to A3 (Restaurant) with opening hours of 12pm until 11pm.

Ward: Castle

1.0 Site Description

- 1.1 The site is on the west side of North Hill, approximately half way down the hill. It is one of two vacant properties at numbers 47 and 48 that are currently subject to applications being put before the Planning Committee on 15 May 2008. These two properties are adjoined by professional services on both sides, with a dental surgery at number 46 and a solicitors and planning consultancy operating from number 49. There are also accountants, estate agents, restaurants, drinking establishments, residential dwellings and take away food properties on North Hill.
- 1.2 The site lies within the Conservation Area and there are several Listed Buildings. Number 47 is a Grade II 18th Century 2 storey building with plastered front and coping. It has double hung sashes with glazing bars and a large bay window to ground floor. The doorcase has a flat cornice head on plain pilasters. There is a 17th Century rear wing that has some original mullioned windows. There are also some interesting wall paintings in the entrance lobby. Numbers 45 to 49 form a group. On the opposite side of North Hill, numbers 13 through to 29 are all listed. Thus, most of the streetscene in this area is made up of Listed Buildings.

2.0 Description of Proposal

- 2.1 The proposal is for a change of use at number 47 North Hill to an A3 restaurant use. This is one of two applications that covers both number 47 and number 48, which have been submitted by the same applicant, although the applications are not intended to be linked. Essentially, the applications seek the approval of two separate restaurants next door to one another. There is no supporting application for any physical works to link the two buildings and they are listed, therefore the applications should be treated as two adjacent but separate restaurants, albeit under the same ownership.

3.0 Land Use Allocation

- 3.1 North Hill is designated within the adopted Local Plan as being a Mixed Use Area "B". Policy TCS6 states that in such areas there will be a presumption in favour of residential, shopping, office and appropriate leisure uses. Restaurants are referenced in the supporting text as being an example of an appropriate leisure use (paragraph 15.46).

4.0 Relevant Planning History

- 4.1 47 North Hill has most recently been used for office purposes. At the end of 2007 an application for a change of use to an accountancy office and/or any A1 use (retail) was submitted and approved. This use has not been implemented to date, but is a material consideration. This previous approval included a statement in the report that : "It would be inappropriate for the existing front, which is a feature given some weight in the listing description, to be replaced by a shop front". It was recommended that the applicant were to be advised that such alteration would not be acceptable and an informative to this effect was included on the decision notice. For consistency, this should be added to any approval given herein.

5.0 Principal Policies

- 5.1 Adopted Review Borough Local Plan
DC1 - Development Control Considerations
UEA1 - Character of Conservation Areas
P1 - Pollution (General)
TCS6 - Mixed Use Areas 'B'
TCS10 - Proposals for Leisure, Entertainment and Food and Drink Uses

6.0 Consultations

- 6.1 The Environmental Health team has suggested the following conditions:
1. Sound Insulation of external Plant, Equipment and Machinery Any plant, equipment or machinery on the premises shall be constructed, installed and maintained. The noise generated by such equipment shall not have any one 1/3 octave band which exceeds the two adjacent bands by more than 5dB as measured at all boundaries near to noise-sensitive premises
 2. Food Premises (Control of Fumes and Odours)
The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

3. Grease Traps Required
Foul water drains serving the kitchen shall be fitted with grease traps maintained in accordance with the manufacturer's instructions prior to [the use hereby permitted commencing/ the building hereby permitted coming into beneficial use]. Such equipment as shall have been installed shall be retained and maintained to the agreed specification and in good working order.
4. Self-closing doors
The planning permission hereby granted requires that from [commencement of the use/first occupation of the building] all doors allowing access and egress to the premises shall be self-closing and that these be maintained as such thereafter.
5. Storage of Oils etc.
Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bund compound shall be at least equivalent to the capacity of the tank plus 10%. If there is a multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses shall be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

6.2 Conservation and Design views are being sought regarding other potential works that a change of use would necessitate but that are not covered by this application. The above conditions suggested by Environmental Health will also have potential implications on the listed building fabric. An update will be provided via the amendments sheet prior to the committee meeting. However, this application does not relate to any physical development.

7.0 Representations

- 7.1 Consultation notices and letters have raised comments from members of the public. At the time of writing, there were 3 sets of comments received from different people, although the consultation period had not expired. An update on any further comments that might be received will be included on the amendments sheet.
- 7.2 Comments raised at the time of writing resulted in several questions being asked. Based on the responses given via email, one of the consultees has confirmed that they did not wish to object at the current time. This leaves two outstanding objections, from a local resident and Councillor Spyvee.
- 7.3 A resident from a nearby property on North Hill has voice concerns over late opening hours, traffic movements and parking, the type of restaurant proposed and the likely clientele, vandalism, seating capacity, and noise from private functions.

7.4 Councillor Spyvee's concern states that: "I have looked at these applications but find them perfunctory in the extreme. There is no Design and Access Statement and no proper plans. A restaurant may well be acceptable in this location. What I would need to know is whether this is something which could turn into a drinking establishment or nightclub and whether it would have any unacceptable impact on residents in the vicinity. The few details given do not help and I question whether such as has been submitted can be called 'consultation'. I ask that the applicant submit further details and the consultation period start from when these come into the public domain".

8.0 Report

Design

8.1 The design, appearance, amount, layout, scale and density is unaffected by this application, which relates solely to a change of use. The appearance of the building is unchanged and the application proposes no physical works. It is feasible that future applications would be submitted to address any changes needed to accommodate the use, including advertisement/name/brand sign boards on the front elevation. However, the extent of any future applications can only be speculated and is not an issue that can accurately be considered herein.

Use

8.2 With regard to the principle of the change of use, the site lies within the Mixed Use Area "B" where such uses are supported in principle. There has been careful consideration to the fact that this application is one of two submitted side by side for restaurants at adjacent properties, which could give rise to a proliferation of one use in adjoining properties. However, the policy wording does not provide any constraint on similar adjoining uses on North Hill. Instead, the wording implies a general mix of appropriate uses, which this application accords with. It is also noted that matching uses can be found elsewhere within the North Hill frontage in adjacent buildings (such as the neighbouring restaurants of "Ask" and "La Tasca").

8.3 As the principle is acceptable, consideration must be given to the impact on neighbours. The hours of use proposed are from 12pm (midday) to 11pm. These hours are the same as one of the restaurants on the opposite side of the road, although the other restaurant opposite opens for an extra hour (until midnight) on Fridays and Saturdays. Therefore, in terms of likely impact from customers using the restaurant, the disturbance is unlikely to have any significant impact on residents over and above the existing uses on North Hill.

- 8.4 In terms of fumes and odours, the exact nature of the restaurant is not known. Further clarification has been sought from the applicant; however it seems that their plans are at an early stage and details such as the need for flues, the amount of equipment, the type of dishes being cooked, the numbers of covers etc are not known yet. Whilst this means that there is limited information, the fact that the building is listed means that an application for any extraction and ventilation system would be required prior to its installation in any case. Therefore, the granting of the change of use would not prejudice the amenities of neighbours in terms of smells. This matter would be more appropriately dealt with at the time that any application for equipment was forthcoming. For assurance, an informative clarifying that further applications are needed should be used instead of any refusal on the assumptions that flues would be needed and would be unacceptable. For example, one idea suggested was that of a tearoom which might not require any flues. Thus, a refusal on lack of information would be susceptible to challenge via appeal, especially when all other matters are considered to be acceptable on their own merits.

Landscaping

- 8.5 There is no provision of any landscaping. There is no realistic scope for landscaping at the front of the site due to its close relationship to the public footway.

Social Function

- 8.6 The use as a restaurant would help support the town centre in the way that other uses on North Hill compliment the primary use of the main centre. There is no general public social function, only associations related to restaurant uses that can be seen from surrounding restaurants. The use would form an additional small-scale provision for tourism and leisure in the town centre; however, there are no major social functions associated with development on this scale.

Other Material Considerations

- 8.7 Discussions with the applicant have demonstrated that they are unsure exactly what they wish to do other than having a general idea of opening a restaurant. The proposed hours of opening have been taken from the nearest restaurants on the other side of North Hill, but there is no information regarding the type of restaurant, numbers of covers, siting of equipment and flues, physical alterations to the building etc (some of which would be liable to change without planning control in any case). Although the applicant is aware that further applications will be needed, and that the approval of a change of use would not prejudice future decisions (there is no guarantee that their other ideas will be acceptable). An informative is proposed to clarify the scope of this decision for the avoidance of doubt.

- 8.8 As stated above, there are several suggested conditions that are proposed by Environmental Health. These conditions would require further applications for physical alterations and work to the listed building. Whilst this application should be considered on its own merits, some regard has been given to potential problems in implementing on listed building grounds any change of use if the physical works needed were to be found to be unacceptable. The Conservation and Design team have been asked for an opinion on this, which will be reported on the amendment sheet. Essentially, if there were to be problems finding an acceptable solution to any conditions this would be a matter that the applicant would need to deal with at such a time as a problem is found. This application should not be refused on the basis that such a problem might occur as this would be too much of an assumption. Likely equipment includes ventilation and extraction systems, grease traps, self-closing doors etc.
- 8.9 With regard to the two objections received at the time of writing, the application has been altered during the course of consideration, with consultees being re-notified. The description was originally wrong, with the applicant having declared the application for A4 use instead of A3 use. There were also no opening hours listed, which was a concern addressed following a request at the site visit. The application is solely for a change of use, which means that a Design and Access Statement and plans serve less purpose than might be expected. There are no physical alterations, so the plan submitted merely identifies the extent of the site.
- 8.10 Opening hours would be subject to condition, to ensure that they tie in with adjacent restaurant uses. The impact on traffic movements and parking is unlikely to be significant and accords with its town centre location where such uses are already established and are expected. The type of restaurant proposed and the likely clientele is a matter that can only be speculated upon and is not relevant to the application decision. Vandalism already occurs, a fact which can not be attributed to the restaurant applied for herein. It is not considered that this restaurant use would increase the amount of crime in the area. The seating capacity is not a matter that planning can control and noise from private functions is a matter for Environmental Health to consider whereby they have raised no objection.
- 8.11 The property could change to an A2 "Financial and Professional Service" or to A1 "Shop". It is not considered necessary to restrict these permitted changes and require a planning application. These changes would accord with policy for mixed use areas in the town centre. Significantly, the use could not turn into an A4 "Drinking Establishment" unless a further application was received, at which point this would need to be judged on its merits and consulted upon with the local residents. The concerns over drinking establishments are understood, but these should not prejudice the current application for a restaurant use where that change can still be controlled. Similarly, use as an A5 "Hot Food Takeaway" would also require a new planning application.

9.0 Background Papers

- 9.1 ARC; HH; CD; NLR

Recommendation - Conditional Approval

Conditions

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

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

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

2 - A5.2 Restaurants, Clubs etc

The use hereby permitted shall not be open to customers outside the following times:-

- Mondays to Saturdays from 1200 hours to 2300 hours.
- Sundays from 1200 hours to 2200 hours.
- Public Holidays from 1200 hours to 2200 hours.

Reason: To safeguard the amenities of nearby residential properties.

3 - Non-Standard Condition

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

Reason: To ensure that the use is not detrimental to the amenities of neighbouring properties, in accordance with policy.

4 - Non-Standard Condition

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

Reason: To ensure that the use is not detrimental to the amenities of neighbouring properties, in accordance with policy.

5 - Non-Standard Condition

Any foul water drains serving the kitchen shall be fitted with grease traps maintained in accordance with the manufacturer's instructions prior to the use hereby permitted commencing, and shall be retained thereafter maintained to the agreed specification and in good working order.

Reason: To prevent blockages and ensure that the use does not cause problems with the water environment or drainage systems, in accordance with policy.

6 - Non-Standard Condition

From first commencement of the use, all doors allowing access and egress to the premises shall be self-closing and that these be maintained, free from obstruction, as such thereafter.

Reason: To ensure that the use is not detrimental to the amenities of neighbouring properties, in accordance with policy.

7 - Non-Standard Condition

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bund compound shall be at least equivalent to the capacity of the tank plus 10%. If there is a multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses shall be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment, protect the groundwater quality in the area and to prevent blocking of the drainage system.

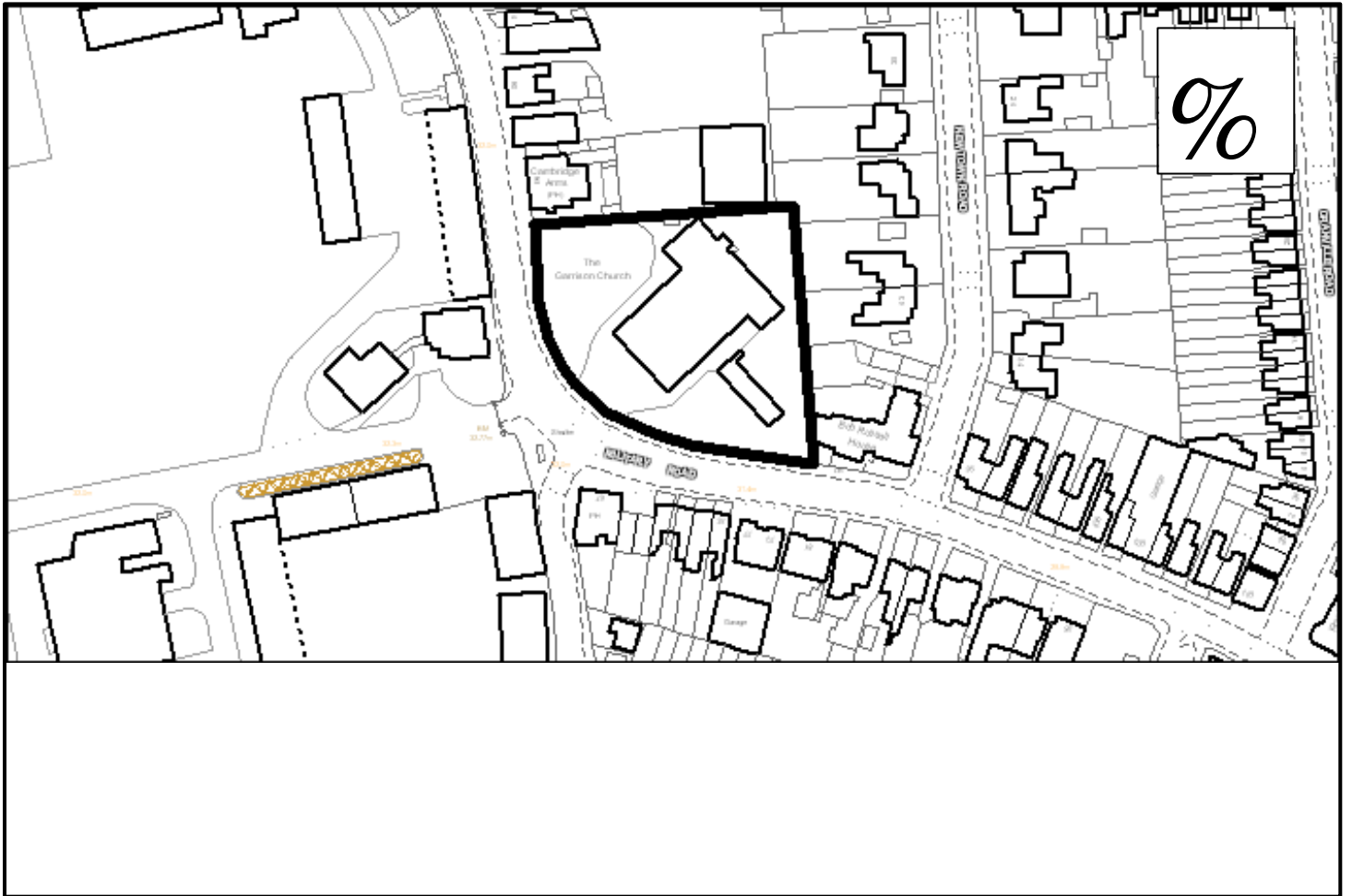
Informatives

Non-Standard Informative

1. For the avoidance of doubt as to the scope of this permission, this decision relates solely to the change of use to A3 as described in the application description and does not provide any other approval. THIS APPROVAL DOES NOT PROVIDE PERMISSION FOR ANY PHYSICAL ALTERATIONS OR ANY OTHER FORM OF DEVELOPMENT OR WORKS WHATSOEVER. The property is a Listed Building and any other works may require Listed Building Consent (as well as further planning permissions). Please contact the Local Planning Authority for advice prior to commencing any development or submitting any other applications.

Non-Standard Informative

2. In the interests of the appearance and character of the listed building and conservation area, you are advised that the Council would be unlikely to grant planning permission



Application No: 080294

Location: Garrison Area A2, Garrison Church, Military Road, Colchester

Scale (approx): 1:1250

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7.16 Case Officer: Alistair Day

OTHER

Site: Garrison Church, Military Road, Colchester

Application No: 080294

Date Received: 18th February 2008

Applicant: Revd Andrew Phillips

Development: Change in form of Dais at eastern end. Erection of iconstasis and side walls around chancel. Fitting of low icon shelf and candle tray and upper shelf along northern and southern walls at heights of 1.20 metres and 1.62 metres.

Ward: New Town

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 This application was withdrawn from Committee on 24 April by the Planning Services Manager in order to allow Father Philip Andrews to attend and address the Committee.

1.2 My previous report is set out below.

2.0 Site Description

2.1 The Garrison Church is located opposite the junction of Military Road and Lisle Road. The site extends to some 0.82 acres and the church occupies a central position, facing the present south avenue of Hyderabad Barracks.

2.2 The church dates from c1856 and has a rectangular aisled plan with vestries either side. It is of a timber framed construction with a white weatherboard exterior and a slate roof. The building is divided into eight bays which are identifiable by triple circular headed windows set in the centre of each bay. The front gable has a central two light round-arched window flanked by three light arched windows with a taller central light. Directly below the windows are round arched doorway with double doors. Beneath the apex of the front gable is a clock; a louvered bellcote caps the pediment of the west end. Internally, the construction of the church is open to view with heavy square timber posts and cast iron support iron trusses.

2.3 The building is listed grade II* (star) for its architectural and historic importance and is located within the Newtown Conservation Area.

3.0 Description of Proposal

3.1 The current application proposes the following internal works:

- The extension of the dais at the east end of the building;
- The erection of iconostasis and side walls around the chancel; and
- The erection of lower icon shelves with a candle tray and upper shelves along the north and south walls.

4.0 Land Use Allocation

4.1 Predominantly residential

5.0 Relevant Planning History

5.1 O/COL/01/0009 - A new 'Urban Village' comprising residential development (up to approx 2600 dwellings) mixed uses including retail, leisure and employment, public open space, community facilities, landscaping, new highways, transport improvements and associated and ancillary development in accordance with and subject to the provisions of the master plan drawing reference 98.018/42d - Approved 30 June 2003

6.0 Principal Policies

6.1 Adopted Review Borough Local Plan
UEA5 - Altering listed buildings

7.0 Consultations

7.1 English Heritage's comments can be summarised as follows:

“The garrison chapel is a building of national importance as well as one of considerable local significance. The cessation of the army's use of the chapel leaves its future use undecided. This application is made by a Russian Orthodox congregation which has bid to acquire the chapel. Continued religious use would seem likely to form the most appropriate use for the building, both because it maintains what was the historic use and because it is likely to be broadly compatible with the nature of the building. The proposed works confirm this. The fabric of the building would not greatly altered. Adjustments would be made to the present altar dais but these would be of little significance. The principal change would be the introduction of a iconostasis to divide the internal space into two and that of icon shelves around the walls. These works would change the character of the internal space significantly but it would not affect the chapel's fabric; the change to the character might be compared with the effects of other changes made by schemes of liturgical re-order elsewhere.

- 7.2 Whilst the proposed works are in broad terms acceptable, it is nevertheless the case that they have been presented in a less than clear manner when dealing with a building of the Garrison Chapel's importance. If the Council is minded to approve the scheme, the Council will need to decide whether it is necessary to seek additional details prior to determining the application or whether the works can be controlled by means of conditions."
- 7.3 English Heritage's letter concludes by stating that the proposed continuation of the ecclesiastical use of the Garrison Chapel would be sympathetic to the character and special interest of the building and recommends the approval of this listed building application.
- 7.4 The Ancient Monuments Society made the following comments:
- "Whilst noting that this is likely to be one of several proposals for the use of this listed chapel, reuse as an Orthodox Church has obvious emotional and architectural appeal. The iconostasis, the traditional screen of painted saints essential to Orthodox worship would introduce a sense of religious mystery which the building never had. However, it would be part of the story of the evolution of this place of worship and add to rather than diminish its interest.
- 7.5 The Churches and Cathedrals Officer (Society for the Protection of Ancient Buildings) raised no objection to this application. The Society suggested that the Council considers with the Felixstowe Orthodox Church the health and safety implications and, in particular the fire risk proposed by the number of candles needed for the Orthodox liturgy. The Society also suggested that the Council and the Church give consideration at this early stage to the regular maintenance of this distinguished building.

8.0 Representations

- 8.1 Two objections have been received outside the consultation period to this application. These objections can be summarised as follows:
- The proposed partitioning will change the character of the internal space of the church.
 - The Save the Garrison Church campaign wishes to create a centre for excellence for community use. The proposed works would render the building unsuitable for mixed and varied community use, in particular its continued use as a concert venue would be precluded.
 - The use of the building by a single organisation will deny access to the church by local people.

8.2 In addition to the above objections, a late objection has been received from Cllr Jeremy Lucas, Essex County Council Cabinet Member for Heritage, Culture and The Arts and Essex County Council's Heritage Champion. Cllr Lucas has objected to the current applications on the grounds that dividing the interior of the building in the manner proposed virtually eliminates its flexible use as a community facility [which he believes was] the principal reason for its retention at the time of granting consent to the Garrison redevelopment. The building was designed and has always been used in an open plan setting. Furthermore, evidence is emerging which suggests that the church may have been designed by Brunel and whilst this investigation is on going no consent to make significant structural alteration to its interior should be granted.

9.0 Report

9.1 Taylor Wimpey acquired the Church Garrison from the Ministry of Defence in the autumn of 2007 and the church has not been used since the chapel was vacated by the army.

9.2 Following acquisition of the Church, Taylor Wimpey embarked upon an extensive marketing campaign seeking expressions of interest from organisations or community groups who wished to put the church to a sympathetic use and were able to demonstrate an ability to protect and maintain its fabric in the long term. As a part of the bidding process, interested parties have been asked to give detailed information on their proposed use, any proposed alterations to the building and the proposed method of funding.

9.3 The Russian Orthodox Church has made a bid for the Garrison Church and wish to continue to use the building primarily for religious purposes. It is understood that a number of other organisations have also made a bid for the church.

9.4 The Garrison Church has operated as a church for many years and, as such, there is no requirement for planning permission to change the use of this building. National government guidance states that the "best use for a building will very often be the use for which the building was originally designed and the continuation or reinstatement of that use should certainly be the first option when the future of a building is considered" (paragraph 3.10 of Planning policy Guidance Note 15 : Planning and the Historic Environment).

9.5 The current application seeks consent to undertake the following internal alteration works:

- Extending the existing alter dais;
- Installing a freestanding iconostasis screen (13.5 metres wide by 3.5 metres high) approximately 7.8 metre from the east end of the church;
and
- Erecting two shelves and a candle tray along part of the south and north walls of the church.

9.6 The sole consideration in determining this application is the affect that the proposed works would have on the character of the Church as a building of special architectural or historic interest.

- 9.7 The proposed works are considered to be broadly compatible with the nature of the building and will not alter greatly the fabric of the building. The principle changes would be the introduction of the iconostasis to divide the interior of the church into two unequal parts and that of the icon shelves along the north and south walls which are required to comply with the needs of Orthodox worship. The installation of freestanding iconostasis screens will affect the character of the internal space but, as English Heritage points out, these works can readily be compared with the effect of other changes made by schemes of liturgical re-ordering that have been accepted elsewhere. The proposed works would not result in the structural alteration of building, are fully reversible and retain the buildings internal single volume space at high level. Given the above, the proposal to erect iconostasis is considered acceptable in terms of the impact that the proposed works would have on the building's special interest. The proposed extension of the existing alter dais would have little impact on character of the internal space of the church. The concerns raised by English Heritage and SPAB regarding the need for clear detailed drawings and the potential fire risk posed by the number of candles needed for the Orthodox liturgy can be adequately controlled by appropriately worded conditions.
- 9.8 The comments of objection regarding the use of the building by a single user preventing public access and the erection of the iconostasis screens eliminating the flexible use of the building as a community facility are noted. However, these are not listed building considerations. Members should also note that the erection of the iconostasis will only proceed if the Russian Orthodox Church is successful in their bid for the Garrison Church and will therefore not prevent the ultimate successful bidder from retaining the interior of the Church in its present form.
- 9.9 Notwithstanding the above, Members may wish to note that Russian Orthodox Church has stated in their tender for the Garrison Church that they would liaise further with Colchester Tourist Office to open the church to the public and would like to explore the possibility of providing guided tours. In this respect the Russian Orthodox Church has already gathered information about the history of the Garrison Church from John Burton (historic buildings consultant) and Andrew Philips, the town historian. In the longer term, the Russian Orthodox Church hopes to put on concerts of Russian Orthodox music.

10.0 Background Papers

- 10.1 ARC; HE; Ancient Monuments Society; Churches and Cathedrals Officer; NRL

Recommendation

That Members agree to the proposed internal works subject to the conditions set out below and that this application is referred to GO-East for ratification in accordance with the procedural requirements.

Conditions

1 - A1.6 LBs & Con Area Consents-time lim for comm of development

The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: In order to comply with the requirements of Section 18(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990, as amended by the Planning & Compulsory Purchase Act 2004.

2 - Non-Standard Condition

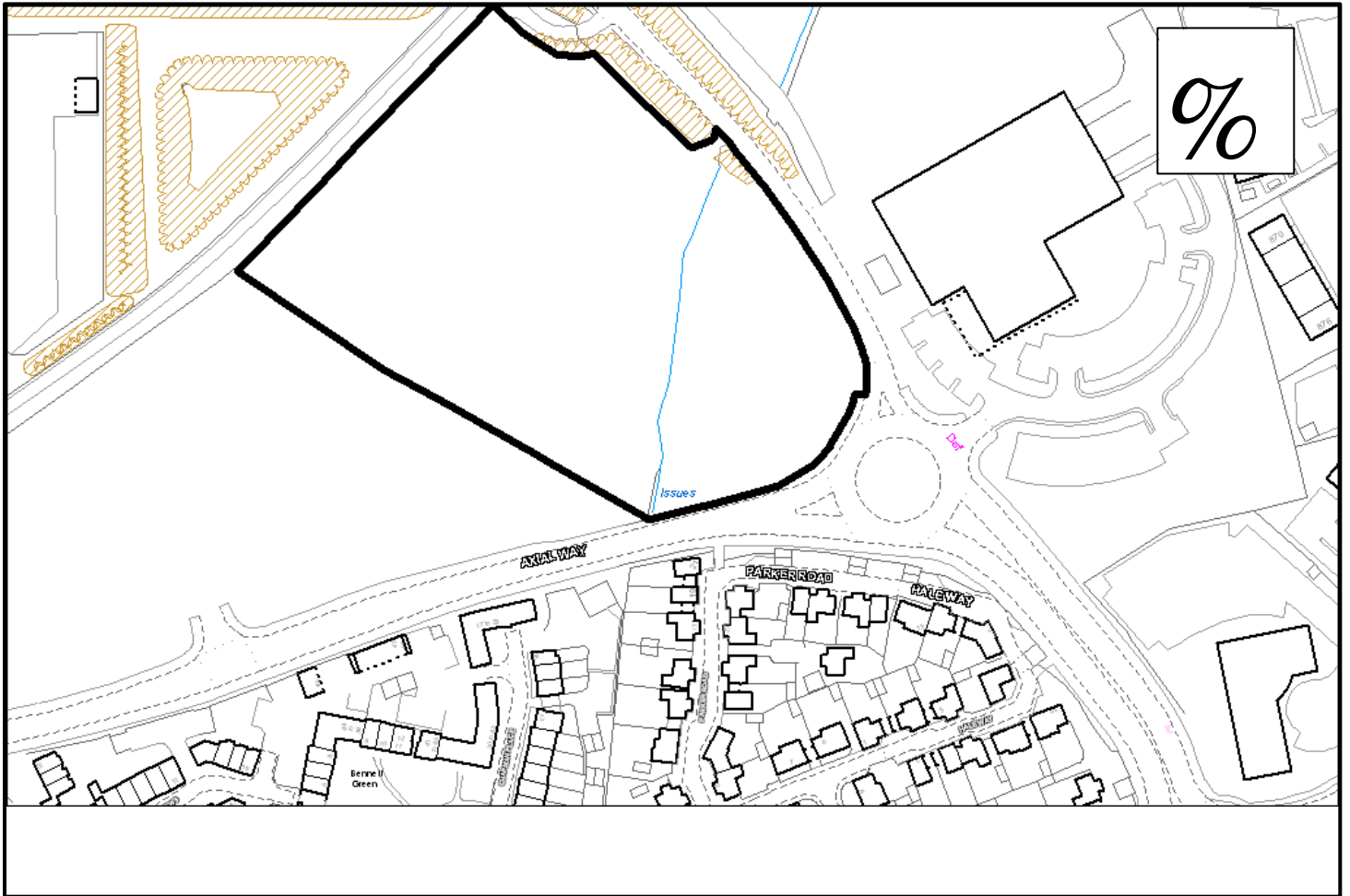
Notwithstanding the details submitted, additional drawings of the dais, the iconostasis and side wall to the chancel and the lower icon shelves to be used by section and elevation at a scale of between 1:20 and 1:1 or appropriate, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented strictly in accordance with the agreed details.

Reason: To ensure that the approved works are carried out without detriment to the architectural character of the Grade II* Listed Building.

3 - Non-Standard Condition

Prior to the commencement of works a Fire Risk Management Strategy shall be submitted to and approved in writing by the Local Planning Authority. The recommendations of the Fire Risk Management strategy shall be fully implemented prior to the commencement of the building being used for Orthodox worship and thereafter maintained.

Reason: To ensure that appropriate fire protection measures are incorporated within the building and to safeguard the special interest of this building.



Application No: 080548

Location: Bridge House, Severalls Lane, Colchester, CO4 5JB

Scale (approx): 1:1250

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7.17 Case Officer: David Whybrow

EXPIRY DATE: 15/05/2008

MINOR

Site: Bridge House, Severalls Lane, Colchester, CO4 5JB

Application No: 080548

Date Received: 19th March 2008

Agent: The Tpa

Applicant: JDS Residential Limited

Development: Erection of electric transformer substation with vehicular access

Ward: Mile End

Summary of Recommendation: Conditional approval upon receiving confirmation that a submitted Arboricultural Impact Assessment is satisfactory

1.0 Site Description

1.1 The application site forms part of the Cuckoo Point development comprising residential apartments, commercial and shop units at the junction of Severalls Lane and Axial Way in North Colchester. The land is allocated as an Employment Zone. It contains an area of preserved woodland to be retained as an amenity area within the development.

2.0 Description of Proposal

2.1 Pitched roof electricity transformer substation, 6.75m x 3.6m, in brick and tile finishes, serving the development which is currently under construction. The building is located at the edge of the protected woodland and requires the construction of a new vehicular roadway within the root protection area of a number of trees. This will be constructed in Eco-block material. For Members' information the size and siting of the building, with direct access off the highway, is to EDF's specifications.

2.2 An arboricultural report has been requested and will be available before the Meeting.

3.0 Land Use Allocation

3.1 Residential

4.0 Relevant Planning History

4.1 O/COL/03/1481 - Development of site for 20 livework units, including estate road access, driveways, garages and public amenity areas - Appeal against non-determination - dismissed November 2004.

- 4.2 F/COL/05/0889 - Erection of 173 flats, including 43 affordable units 3430 sq.m. of floorspace for B1 (business) purpose and 3 shops of total floor area 150 sq.m. - Approved 15 September 2006.
- 4.3 071245 - Erection of 17 no. B1 (business units) together with modified turning head - Approved July 2007
- 4.4 072570 - Proposed amendments to Blocks 1 and 2 approved under F/COL/05/0889 comprising 5 no. additional affordable and 12 additional private residential units - Resolution to approve (3 January 2008) upon completion of variation to legal agreement - pending.

5.0 Principal Policies

- 5.1 Adopted Review Borough Local Plan
DC1 - Development Control considerations
EMP1 - Employment allocations and zones
UEA11 - Design
CO4 - Landscape features

6.0 Consultations

- 6.1 The Trees and Landscape Officer requires further arboricultural information in order to comment on the proposal.
- 6.2 Environmental Control have no comment.

7.0 Parish Council's Views

- 7.1 Myland Parish Council object on the grounds that the impact on protected trees has not been satisfactorily addressed in the submitted documents and the scheme will impact on other amenities at the site, i.e.:-
1. Loss of parking space.
 2. Relocation and reduction of refuse storage facilities
 3. Loss of cycle storage.

8.0 Representations

- 8.1 None received

9.0 Report

- 9.1 The proposed transformer station is a relatively modest addition to the site layout originally approved under COL/05/08890 and further amended by 072570. Its siting and the position of the associated accessway impact on a former bin store and parking spaces alongside the site's main access road, serving the proposed commercial units.

9.2 The original drawings showed a standard GRP substation within a 4 x 5m fenced enclosure. The proposed building is designed and finished in materials to better reflect the larger development, however the Parish Council correctly pick up on the changes. The results of an arboricultural impact study will be a decisive factor in the decision here. Replacement car and cycle parking and refuse storage facilities can be absorbed elsewhere in the site and be covered by conditions attached to any consent granted.

10.0 Background Papers

10.1 ARC; HH; TL; PTC

Recommendation

(a) Upon receiving confirmation that a submitted Arboricultural Impact Assessment is satisfactory, permission be granted subject to the following conditions:-

Conditions

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

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

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

2 - C3.5 Materials to Match Existing

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

Reason: To ensure that the development harmonises with the appearance of the existing building and the character of the area.

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

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

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

4 - C10.18 Tree and Hedgerow Protection: General

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

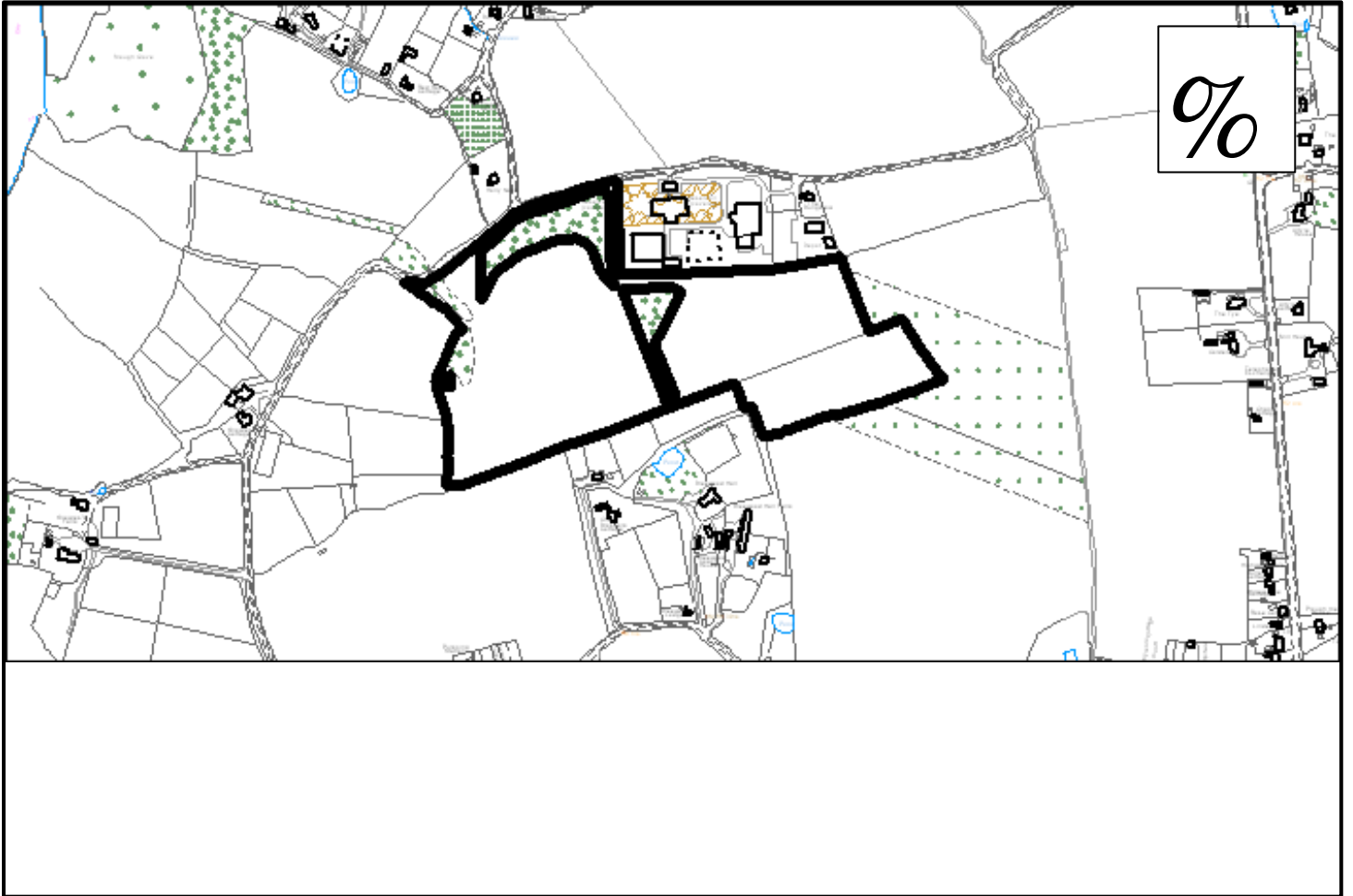
Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.

5 - B3.3 Light Pollution

No external lighting fixtures for any purpose shall be constructed or installed until details of all external lighting proposals have been submitted to and approved by the Local Planning Authority; and no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the undesirable effects of light pollution on the locality and protect the amenity of future neighbouring residents.

- (b) In the event that the submitted aboricultural details are unsatisfactory, permission be refused accordingly.



Application No: 072285

Location: Cherry Tree Farm, London Road, Great Horkesley, Colchester

Scale (approx): 1:1250

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7.18 Case Officer: Jane Seeley

MINOR

Site: Cherry Tree Farm, London Road, Great Horkesley, Colchester

Application No: 072285

Date Received: 5th September 2007

Agent: Ian Pick Associates Ltd

Applicant: Mr J Kluss

Development: Change of use to permit the siting of a temporary agricultural workers dwelling(Resubmission of F/COL/06/1980).

Ward: Fordham & Stour

Summary of Recommendation: Conditional Approval

1.0 Planning Report Introduction

1.1 Members will be aware that this application was deferred at the Committee meeting on 13 March 2008 to await the resolution of application 072287 which is on this schedule as an Agenda Item.

2.0 Site Description

2.1 The site which is located to the north of Great Horkesley accessed off London Road is currently agricultural land used by the applicants for grazing horses.

3.0 Description of Proposal

3.1 Planning permission is sought for the siting of a temporary agricultural workers dwelling to be used in conjunction with Application 072287 for the erection of a 9.000 chicken free range egg laying unit.

3.2 It is proposed that the temporary dwelling would be clad in tongue and groove weatherboarding with a profiled sheet roof. The applicant's agent has accepted that the building is not large enough to accommodate the applicant's family and has requested that, if approved, the details/size of the building be agreed by condition.

3.3 In support of the application the agent has submitted a statement. The salient points are detailed below:-

1. The applicants propose to develop a free range egg laying enterprise over the next year.
2. Nest boxes in building are adjacent to a conveyor, the boxes are angled towards the conveyor and the eggs roll onto the conveyor where it is taken to the service for packing and storage.
3. Ventilation and lighting are automated and alarmed.

4. Feeding is automated.
5. Labour - overall manager - applicant plus 1 part-time egg collector/packing (1.8 full time workers)
6. There is no dwelling on site.
7. There will be a substantial requirement for labour outside normal working hours to open pop holes, monitor lighting, ventilation, temperatures, feeding and water supply.
8. Functional need is primarily determined by nature of scale of enterprise and agricultural systems employed.
9. On account of this size a skilled worker is required within very close proximity.
10. Business is planned on a sound financial basis - projection of £30,300 p.a.
11. There are no dwellings in the vicinity which would meet functional requirements.
12. On site residence is necessary for stock welfare, to ensure any failure in automated systems is resolved, or disturbance by wildlife or theft or injury by intruders is prevailed.

3.4 The Council has appointed a consultant to consider whether the applicant complies with the functional and financial tests set out in PPS7 Annex A. His report, plus additional letters following requests for additional clarification are summarised below:

3.5 Consultant's Report

1. It is understood that John Bowler (Agricultural) Ltd franchise agreement provides training, technical advice and field support. This together with substantial commitment of £220,000 set up is a good indication of intentions.
2. The size of the unit will require a full time labour input with part-time assistance.
3. There is a need to be in hand in order to monitor birds both inside the building and during the daytime when they are out on the ranges and to monitor equipment and automated systems.
4. The financial analysis indicates that the proposed profit level covers remuneration and financial costs.
5. It is questionable whether the applicant's current accommodation is close enough to fulfil functional requirements.
6. Application accords with criteria for agricultural dwellings set out in PPS7 Annex A.
7. A unit of the size proposed will provide full time employment and should be commercially viable.
8. The function needs of the unit are such that it is considered essential to have a suitably skilled agricultural worker resident within close proximity of the poultry enterprise to provide adequate supervision.

3.6 UPDATE - SUBSEQUENT LETTERS

2ND LETTER - 4 DECEMBER 2007

1. Affirms opinion that given scale and nature of the proposed livestock unit it is necessary for a suitably qualified worker to be available at most times.
2. Notes DEFRA and RSPCA comments that with security/alarm systems unit could be managed by someone living approximately 2 miles away. Whilst this may be possible alarm systems are unlikely to be fail safe and there is no substitute for on site presence for both proactive and reactive management. Given proposed level of investment there could be significant issues if it is not fully supervised.

3. Application has been assessed in line with Annexe A, PPG7 and is based on experience of intensive livestock units.

3RD LETTER - 18 JANUARY 2008

Functional Need

1. This test is crucial to justify need. Necessary to establish where it is essential for proper functioning of enterprise for worker(s) to be available at most times.
2. On site supervision is necessary to ensure business complies with Welfare of Livestock Regulations 1994.
3. Routine work is likely to start at 4.30 a.m. - finish 10.30 p.m.
4. Emergencies may arise day or night due to power failure, breakdown in automated equipment or welfare problems.
5. Predator control is particularly important during the day.
6. Severe weather or noise can cause panic in the flock day or night.
7. Power of mechanical failure can result in unsaleable or damaged/broken eggs. Light failure can impact on laying cycle. Failure of ventilation can cause stress, dehydration and respiratory problems. Flooding could result in wet filters and respiratory problems from ammonia.
8. Functional need is linked to the size of unit. 9,000 birds require 1 full-time worker with part-time assistance.
9. Single or cumulative breakdowns can lead to significant losses.
10. Alarm systems and CCTV however are not fail safe. Huddling by birds result in smothering and cannot be claimed against.
11. No substitute to a suitably qualified stockperson on hand to deal with emergencies.
12. It is questionable whether function need could be met unless the accommodation is on or immediately adjacent to the site.

Financial Aspects

1. Satisfied that predicted profit satisfies the test in PPS7. From experience consider a unit of this size should prove commercially viable if managed efficiently.
2. Each case needs to be treated on its merits. This case has been analysed in light of policy criteria.

4TH LETTER – 7 MARCH 2008

- Acknowledges that Welfare of Farmed Animals (England Regulations 2007) is the relevant legislation.
- This legislation sets certain minimum standards – in reality the operator has to react and provide attention at any time.
- The welfare standards do not make on site accommodation mandatory.
- Welfare standards are only one consideration – other issues relating to production and efficiency must be considered –they can have serious effects on a business
- Reiterate that the proposed unit is of a size which warrants accommodation on or immediately adjacent to the site.
- A financial assessment has been carried out.
- A unit of this size is capable of being profitable and sustainable as a free standing entity.

4.0 Land Use Allocation

4.1 No notation

5.0 Relevant Planning History

06/1966 - Erection of a 12000 bird free range egg laying unit

06/1980 - Change of use to permit the siting of a temporary agricultural workers dwelling

These applications were appealed for non determination - the Appeals were withdrawn by the applicants.

6.0 Principal Policies

6.1 Adopted Review Borough Local Plan
DC1 - Development control considerations
C01 - Rural resources
H10 - Agricultural and forestry worker dwellings

7.0 Human Rights Implications

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

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

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

it is considered that:

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

8.0 Community Safety Implications

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

Positive	Negative	Nil Effect
		3
		3

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

Yes	No	Not Applicable
		3

9.0 Consultations

9.1 Environmental Control have no comments to make.

10.0 Parish Council's Views

10.1 Any views expressed by Great Horkeley Parish Council will be reported at the Meeting.

11.0 Representations

11.1 Letters/emails have been received from 6 interested residents, some have written several letters:-

1. Applicants purchased land knowing there was no residential accommodation on the site.
2. Constant physical supervision is not required by regulatory bodies (e.g. DEFRA and RSPCA).
3. A functional need cannot be established and the applicants are already living in suitable rented accommodation within a reasonable distance of the site.
4. Government guidance states that temporary and permanent dwellings should only be allowed if the need relates to a full time worker. Franchisor states that a 12,000 bird free range laying unit is limited to 4-5 hours. A 9,000 bird unit must be substantially loss and can only be classified as part-time employment.
5. The project is not financially viable.
6. The Agricultural consultants report does not take into account information provided by other interested parties (as set out in PPS7 Annexe A); this is not a comprehensive analysis of the need for a dwelling.
7. The applicant has moved out of accommodation which was within distance stated by DEFRA and the RSPCA to be acceptable.
8. Ample accommodation is available within reasonable distance of the site.

11.2 Comments on Acorus Report

1. No objective company has been employed by John Bowler on other matters.
2. There is no comprehensive analysis of need.
3. Fail safe systems are available and can enhance security.
4. Financial analysis is not thorough.
5. No assessments has been made on available properties in immediate vicinity of site.

11.3 Additional Comments on Acorus letter of 18 January:

- Welfare legislation referred to in letter has been revoked.
- Current and revoked legislation does not stipulate that a stockperson is immediately adjacent to the chicken unit 24/7
- Reiterate that RSPCA and DEFRA do not require 24 hour supervision.
- The suggestion that routine work will be from 4.30 – 10.30 is an overstatement and conflicts with information on franchisor's website.
- Remote alarm systems are acceptable and used in many farming enterprises.
- There is no evidence that availability of accommodation in the area has been explored; there is suitable accommodation currently available.
- No financial analysis is provided to support the conclusion that financial need is met.

- Consultants responses are unsound and factually inaccurate

11.4 Letter from an objector's solicitor:

- Reiterates the above comments.
- States that there are serious omissions in the financial analysis provided by the applicant
- Applicants projected returns are modest the real returns are negligible - viability is therefore questionable.
- Council have not acted reasonably in accepting Acorus's recommendation
- Environment Agency responses identifies that soakaway test are required before determination and that a report is required proving that a septic tank is the only achievable method of foul drainage – these have not be required. Council has acted unreasonably and contrary to Environment Agency advice and DETF Circular 3/99
- Conditioning details of accommodation results in full impact not being assessed.
- Council would be acting unreasonably on determining application prior to obtaining sound advice regarding need for the dwelling; prior to consideration of drainage matters and assessing the impact of the proposed accommodation.

11.5 Additional e mail from objector:

“To provide first hand evidence of how, in reality, such an operation is managed, a group of residents recently visited a working farm where they have 12,000 chickens. We were given a conducted tour of the facility by the farmer who was very helpful in answering our questions and the following points were noted:-

1. The chicken house is well out of sight and hearing distance of the stockman's home and is at least half a mile away.
2. The unit stands alone in an area of the farm within easy access of a main road.
3. The stockman works 4/5 hours a day during the week and carries out routine inspection visits during the weekend.
4. The chicken enterprise is franchised from John Bowler Ltd.
5. The enterprise is farm diversification and the stockman is employed elsewhere on the farm when not dealing with the chickens.
6. Remote alarm systems are in use in order to monitor power and feed/water.
7. If the mains alarm does go off, the stockman waits an hour before attending as often the power reinstates itself – highlighting the lack of urgency on any welfare grounds should this occur.
8. The enterprise has been operating for several years and the farmer has never experienced an incidence of smothering or any similar event.

It was also noted that there was a substantial smell downwind of the chicken housing and noise from the extractor fans and noise from the feeder hoppers when they dispersed food.

It is obvious the farmer's first hand experience is at odds with the information provided in the application documentation and Mr Thomas's opinions, in particular with reference to the amount of work involved and the necessity for a continuous on-site presence.”

12.0 Report

- 12.1 PPS7 and Local Plan Policy H8 acknowledges that despite a general presumption against sporadic development in rural areas there can be a need for new housing to support agricultural enterprises. When these enterprises are yet to be established only temporary accommodation will be considered.
- 12.2 The application relates to a new farming enterprise consisting of the keeping of 9,000 chickens for free-range eggs. Fundamental to this business is the application for a large chicken shed. If that application is refused there would be no justification for the temporary dwelling.
- 12.3 The Council's consultant has advised that he considers that the proposed business would satisfy the functional and financial tests and that the proposed enterprise requires a full time worker.
- 12.4 Concern has been expressed by local residents about the consultant report. It is considered that it does not give an adequately rigorous assessment of the proposed business. Whilst the report is typical of the type of assessment received by this council, your officers have sought clarification from the consultant of the need for the accommodation as summarised in the "Description Section" of this report.
- 12.5 PPS7 identifies that consideration should be given to availability of suitable accommodation in the area.
- 12.6 An objector has obtained advice from the RSPCA and DEFRA that the proposed enterprise could be managed off site. These opinions have been considered by the Consultant who remains of the opinion that there is no substitute for an on site presence.
- 12.7 A dwelling approximately 5 minutes drive from the site is currently on the market and has been drawn to the applicant's agents attention. He considers that in order to satisfy the functional need the dwelling must be within sight and sound of the unit and that the dwelling in question does not satisfy that criteria. The consultant has advised that it is questionable that the function need can be met unless the accommodation is on or immediately adjacent to the site.
- 12.8 With regard to the financial aspects the advice received is that the predicted profit satisfied the PPS7 test. The applicant's business will be operated under a franchise from a national egg supplier which provides a guaranteed market for the eggs. This company will provide training and field support. The applicants have agreed a 5 year rolling contract. The company have advised, via the agent, that they have never terminated a contract with a franchise in over 20 years. Accordingly the business would appear to have a sound financial basis.
- 12.9 Given the advice from the Council's consultant remains, despite challenge, that the Functional and Financial tests are met and refusal of planning permission is not justified.

12.10 It is acknowledged that the Environment Agency requirements have not been met. The importance of ensuring adequate drainage methods is appreciated. A suggested condition will require surface and foul drainage to be agreed. The Environment Agency will be consulted before any drainage is agreed.

13.0 Background Papers

13.1 ARC; HH; NLR

Recommendation

Subject to the granting of planning permission for Application 072287 planning permission be granted:

Conditions

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

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

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

2 - Non-Standard Condition

No development shall take place until full details of the temporary accommodation hereby approved have been submitted to and approved in writing by the Local Planning Authority and development shall be carried out as approved.

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

3 - A3.9 Agricultural Worker

The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry or a widow or widower of such a person, and to any resident dependents.

Reason: The site lies in a rural area where development other than for agricultural purposes is not normally permitted.

4 - Non-Standard Condition

The occupation of the hereby permitted temporary agricultural workers dwelling shall not take place until the agricultural building (ref: 072287) has been erected and brought into its intended use. The temporary dwelling is only required to facilitate the needs of the enterprise subject to Planning Application 072287 and its unconnected occupation would be contrary to countryside protection policies.

Reason: For the avoidance of doubt as to the scope of the permission and accord with established rural policies.

5 - B8.1 Drainage Scheme Prior to Commencement of Work

Prior to the commencement of any work on site, a scheme of surface water and foul drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out prior to the occupation of the building/s hereby permitted.

Reason: To ensure satisfactory arrangements are made for the disposal of foul and surface water drainage.

6 - A6.1 Temporary Use or Building

The building hereby permitted shall be removed and the land restored to its former condition on or before 31 March 2011 in accordance with a scheme of work submitted to and approved by the Local Planning Authority in writing.

Reason: The applicant has only proposed a temporary use and has only sought a temporary permission.



Planning Committee

Item

8

15 May 2008

Report of	Head of Planning and Protection & Licensing	Authors	John Young and Jane Seeley 282455
Title	In the matter of Planning Application ref 072287 Cherry Tree Farm, London Road, Great Horkesley		
Wards affected	Fordham and Stour		

This report (a) advises Members of the Regulation 5 Screening Opinion and invites them to review whether in the light of the Screening Opinion they wish to alter in any way their decision on the above application and (b) dependent upon the outcome of the above seeks Members decision as to whether additional information obtained from Anglian Water is sufficient to allow officers to grant permission for planning application 072287 as resolved at the 13 March 2008 meeting

1. Decision(s) Required

- 1.1 Members are required to take two decisions – (1) After noting the Screening Opinion under Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (attached at Annex A) to determine whether to review their decision taken on 13 March 2008 in respect of application ref 072287 (attached at Annex B) and (2) in light of their decision on (1) above to determine whether the further advice received from Anglian Water provides the categoric assurance Planning Committee sought when considering planning application 072287.

2. Reasons for Decision(s)

- 2.1 In order that Members can be apprised of the Screening Opinion, determine whether the Screening Opinion gives grounds to review their decision of 13 March and to accept or reject Anglian Water's assurances

3. Alternative Options

- 3.1 To (1) determine that the Screening Opinion gives grounds to review the decision of 13 April, to review that decision accordingly, and (2) not accept the assurance of Anglian Water and to direct Officers to refuse planning permission on grounds to be determined by Committee.

4. Supporting Information

- 4.1 This application was considered at Planning Committee on 13 March 2008 when it was resolved to defer it for officers to seek categoric assurance from Anglian Water that the proposal will not involve any loss of water quality of the water leaving the treatment works. The Head of Planning, Protection and Licensing was authorised to issue planning permission under delegated powers subject to receipt of the required assurance and subject to other minor matters. Since then there has been continued communication from an objector and the Council has taken Counsel's advice on the matter of Environmental Impact Assessment.

- 4.2 In respect of the first matter to be considered, a Screening Opinion, (this is attached at Annex A) has concluded that an Environmental Impact Assessment is not required. Furthermore, the development proposed is not Schedule 1 development under para 17(a) of that schedule to the 1999 Regulations and neither is it Schedule 2 development under para 1(c) as defined in Annex A4 of Circular 02/99: Environmental Impact Assessment. Whilst there is no definition of an 'intensive livestock installation' the threshold levels set out in the Circular are of assistance in coming to a conclusion, given that unless and until it is occupied or used for that purpose an agricultural building by itself cannot be regarded as an intensive livestock installation. Notwithstanding the preparation of the Screening Opinion, the advice of your Officers is that the proposal for a 9000 bird free-range egg production unit is not EIA development; this view is supported by Counsel as well as decisions on similar units by the Government Office for the East of England (GO-East) and the Government Office for the East Midlands (GOEM).
- 4.3 Members will need to consider the Screening Opinion, and given the nature of the development proposed, its size and its location to find if the site is likely to have significant effects on the environment. If Members accept their Officers' advice, as set out in para 4.2 above, they are then invited to conclude that their decision taken on 13 March on the application ref 072287 (a copy of which is attached, updated in bold as per the amendment sheet, at Annex B) is sound. If Members do not accept their Officers' advice they are invited to consider how to determine application 072287.
- 4.4 If Members determine to not review the decision to approve the application they can proceed to the matter of the Anglian Water response. On the other hand if, notwithstanding the advice set out above, Members determine that the application be refused there is no need to address the second question about Anglian Water's reply.
- 4.5 In respect of the second matter to be considered, Members instructed that unless a categorical assurance on water quality matters was received from Anglian Water the matter (ie the application) was to be referred back to Committee.
- 4.6 Anglian Water have given their assurance as set out at 13.1 below but officers cannot determine whether it is sufficiently categorical to meet the requirements of the resolution. Accordingly the form of the assurance is referred back to Committee. In arriving at their decision on the application, Members are advised that the council has been copied in on correspondence between an objector and the Drinking Water Inspectorate (DWI) – see Annex C for a copy of their letter of 28 April 2008. In summary the DWI do not consider that the development proposed will cause insuperable environmental harm and are satisfied that the procedures in place will safeguard drinking water quality. If Members consider AW's response acceptable the Head of Planning, Protection and Licensing will issue the permission as instructed.

5.0 Proposal

- 5.1 9000 bird free range egg production unit.

6. Financial implications

- 6.1 None

7. Strategic Plan References

- 7.1 Not applicable

8. Publicity Considerations

8.1 None

9. Equality, Diversity and Human Rights Implications

9.1 None that are relevant to planning law and procedure, albeit certain rights may accrue under other legislation.

10. Community Safety Implications

10.1 None that are relevant to planning law and procedure. Drinking water quality is dealt with under legislation that is entirely separate to planning law. For the purposes of determining this application the previous advice given on 13 March still stands – ie that drinking water quality is not a material planning consideration and hence cannot be prayed in aid of, nor used as, a reason for refusal.

11. Health and Safety Implications

11.1 None that are relevant to planning law and procedure, albeit there may be certain health and safety implications under other legislation.

12. Risk Management Implications

12.1 Having undertaken a Screening Opinion and taken Counsel's advice the likelihood of judicial proceedings against the LPA have been minimised, and in respect of the issue of water quality none that are relevant to planning law and procedure.

13. Consultation

13.1 Anglian Water has commented:

'Further to our letter of the 25th October 2007 we have been asked to clarify the AWS position on the impact of this development on treated water quality from Great Horkesley WTW.

'The development we believe will increase the risk of pathogens being present in the local environment as it must, when compared to no development taking place. However the treatment processes employed on site are sufficiently robust that there will be no adverse impact on treated water quality as a result of this development as detailed in the current planning application. '

Background Papers

Planning Application file ref 072887
e-mail of 17 March 2008 from Anglian Water
Counsel's advice (exempt)

**TOWN AND COUNTRY PLANNING
(ENVIRONMENTAL IMPACT
ASSESSMENT) (ENGLAND & WALES)
REGULATIONS 1999 REGULATION
5-SCREENING OPINION**

Pre- Application	
Application No.	072287
Opinion due by (3w)	n/a
Case Officer	Jane Seeley

ANNEX A

1 SCHEDULE 1 DEVELOPMENT
Schedule 1, para 17(a) sets limit at 85,000 broilers or 60,000 hens

If yes go to Q9. If No go to Q2

NO

2 IS THE PROPOSAL OF A TYPE IN SCHEDULE 2
Schedule 2.1(c) relates to intensive livestock installations only: Annex 4 to Circular 02/99 suggests threshold levels of 60,000 broilers or 50,000 layers

If yes go to Q3. If No go to Q9

NO

3 IS THE SITE IN A SENSITIVE AREA (AS DEFINED IN REGULATION 2)

If yes go to Q6. If No go to Q4

NO

4 ENTER SCHEDULE 2 CLASS AND APPLICABLE THRESHOLD/CRITERIA EG. CLASS 1(C) INTENSIVE LIVESTOCK/FLOORSPACE

CLASS
1(c) – intensive units of more than 500 sq.m floorspace

THRESHOLD
50,000 layers

5 ENTER DATA FROM PROPOSAL RELEVANT TO THRESHOLD/CRITERIA

DATA
9,000 layers

IF THE THRESHOLD/CRITERIA IN Q4 EXCEEDS Q5 GO TO Q9. IF THE DATA IN Q5 EXCEEDS THRESHOLD/CRITERIA IN Q4 GO TO Q6

6 CHARACTERISTICS OF THE DEVELOPMENT — IS THE DEVELOPMENT LIKELY TO GIVE RISE TO SIGNIFICANT ENVIRONMENTAL EFFECTS HAVING REGARD TO:

THE SIZE OF THE DEVELOPMENT - <i>building floor area 1221 sq.m. Site area 0.16ha</i>	NO
THE CUMULATION WITH OTHER DEVELOPMENT - <i>nothing similar in locality</i>	NO
THE USE OF NATURAL RESOURCES - <i>a borehole at nearby WTW is presently not in use. Operational boreholes are 2 – 3 miles from Works</i>	NO
THE PRODUCTION OF WASTE - <i>annual removal of waste from site. The waste is contained in building as part of a dry litter system in a concrete lined pit. Externally, chicken droppings not an insurmountable problem in light of advice from AWA, Env Control & DWI</i>	NO
POLLUTION AND NUISANCES - <i>see above. This type of unit is widespread in UK and is not known to cause problems</i>	NO
THE RISK OF ACCIDENTS HAVING REGARD TO SUBSTANCES/TECHNOLOGIES - <i>accidental event / risk extremely unlikely</i>	NO

7

LOCATION OF THE DEVELOPMENT — IS THE DEVELOPMENT LIKELY TO GIVE RISE TO SIGNIFICANT ENVIRONMENTAL EFFECT HAVING REGARD TO THE ENVIRONMENTAL SENSITIVITY OF THE GEOGRAPHICAL AREA AND TO:

THE EXISTING LAND USE <i>agricultural - grazing land</i>	NO
THE RELATIVE ABUNDANCE AND REGENERATIVE CAPACITY OF NATURAL RESOURCES OF THE AREA . <i>Grass pasture will be restored on a rotation basis</i>	NO
THE ABSORPTION CAPACITY OF THE NATURAL ENVIRONMENT HAVING PARTICULAR REGARD TO:	
A) WETLANDS - <i>none abutting site or within close proximity</i>	NO
B) FOREST AREAS <i>DITTO</i>	NO
C) NATURE RESERVES <i>DITTO</i>	NO
D) SPA/SCA'S <i>DITTO</i>	NO
E) AREAS WHERE EU ENVIRONMENTAL STANDARDS ARE EXCEEDED <i>DITTO</i>	NO
F) DENSELY POPULATED AREAS - <i>rural area of scattered residential property. Closest dwelling 75m away</i>	NO
(G) LANDSCAPES OF HISTORICAL, CULTURAL OR ARCHAEOLOGICAL SIGNIFICANCE - <i>as a) - e)</i>	NO

8

CHARACTERISTICS OF THE POTENTIAL IMPACT — WILL THE FOLLOWING AFFECT THE POTENTIAL SIGNIFICANT EFFECTS IDENTIFIED IN Q6 AND Q7 ABOVE.

THE EXTENT OF THE IMPACT (GEOGRAPHICAL AREA AND SIZE OF THE AFFECTED POPULATION)	NO
THE TRANSFRONTIER NATURE OF THE IMPACT	NO
THE MAGNITUDE AND COMPLEXITY OF THE IMPACT	NO
THE PROBABILITY OF THE IMPACT	NO
THE DURATION, FREQUENCY AND REVERSIBILITY OF THE IMPACT	NO

9

IS THE DEVELOPMENT EIA DEVELOPMENT	NO
------------------------------------	----

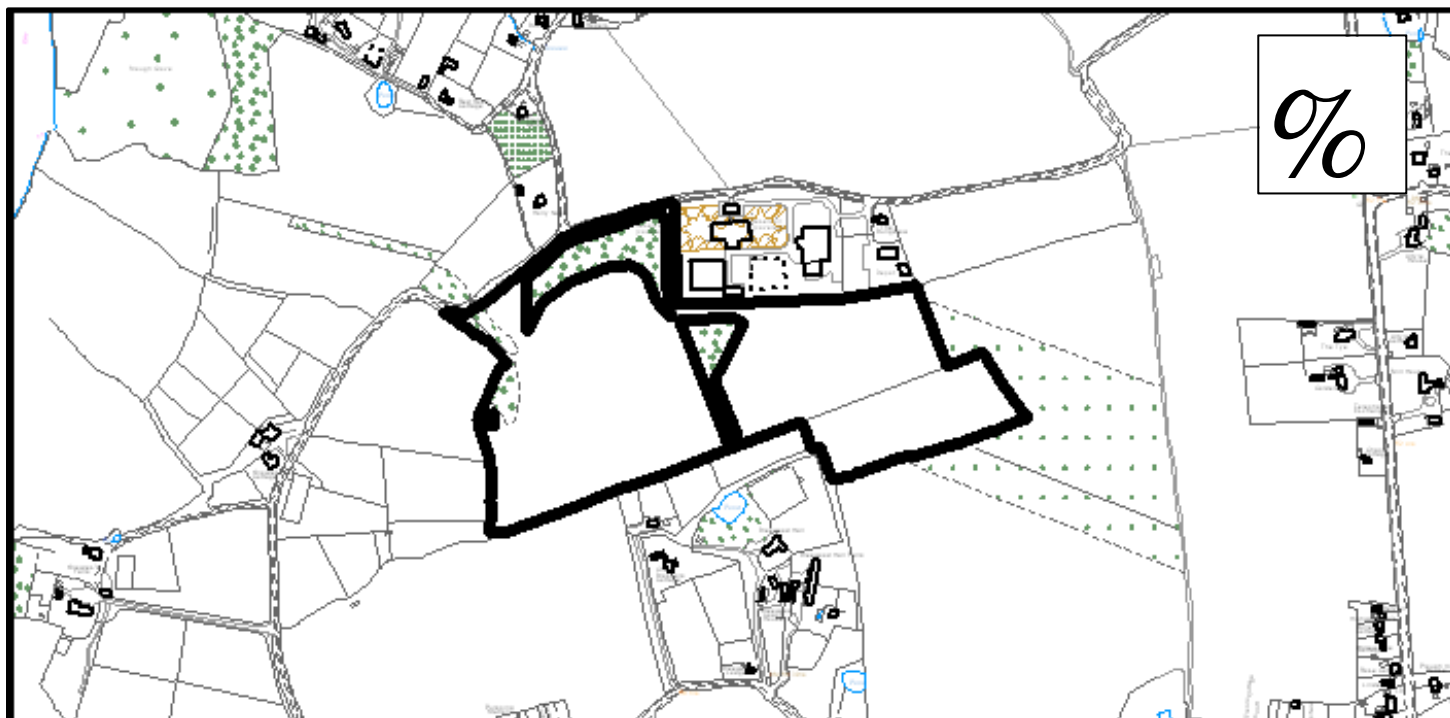
10

IS AN ENVIRONMENTAL STATEMENT REQUIRED	NO
--	----

Signed... D.J.Whybrow
.....

Development Control Team Manager (Fast track).....

Date.....30/4/08.....



Application No: 072287

Location: Cherry Tree Farm, London Road, Great Horkesley, Colchester

Scale (approx): 1:1250

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7.5 Case Officer: Jane Seeley

MAJOR

Site: Cherry Tree Farm, London Road, Great Horkesley, Colchester

Application No: 072287

Date Received: 5th September 2007

Agent: Ian Pick Associates Ltd

Applicant: Mr & Mrs J Kluss

Development: Erection of a 9000 bird free range egg unit(resubmission of F/COL/06/1977).

Ward: Fordham & Stour

Planning Report Introduction

This application was considered on 13 March 2008 and is reproduced here for Members' information with the items published on the Amendment Sheet prior to that Committee included in this report and shown in bold type.

Site Description

The application site is situated in open countryside to the north of Great Horkesley. Access is from London Road close to the junction with Tog Lane. The site, which has an area of approximately 0.16 hectares is currently used by the applicants for grazing horses. There are stables and a container on site.

There are a number of houses within 400m of the site. Immediately to the north is Great Horkesley Water Treatment Works which is an Anglian Water Services Ltd installation. Situated within the Treatment Works is an unused borehole and reservoir containing untreated and potable water. Drinking water is provided from the site for approximately 70,000 people in the Colchester area.

The site is screened from public viewpoints in London Road and Tog Lane to the north and west. Any long views from The Causeway to the east are minimal. The site is visible in long views from School Lane to the south and a public footpath.

Description of Proposal

Planning permission is sought for the erection of a 9,000 Chicken Free Range Egg Laying Unit. This comprises a building with a floor area of approximately 18.2m x 67.1m, (height to eaves approximately 2.7m and to ridge approximately 5.4m), 2 feed silos and an access track.

The unit is approximately 146m from the boundary of the Anglian Water installation.

The closest 2 dwellings are Holly Nook approximately 75m to the north and Cherry Blossom Cottage approximately 180m to the south.

In support of the application for the chicken shed the agent has submitted a Design and Access statement and additional supporting information. Some key points are précised below. The full text of these documents are available online.

1. Proposed building is for housing of hens and egg collection and packing facilities and feed bins.
2. Pop holes in the side of building provide access to range area. They are open from 6.00 a.m. - 9.00 p.m.
3. The range equates to 1 hectare per 1,000; no part of range area is more than 350m from the building.
4. Site has been chosen to negate any impact on Anglian Water Treatment, particularly with regard to dust emissions calculations indicate that concentrations of poultry dust are not expected at distances exceeding 100m from the building which is 150m from the boundary of the Anglian Water property.
5. Large buildings are required for free range production units due to substantial set up costs.
6. Site is well landscaped, additional planting proposed.
7. 2.4 HGV movements are anticipated per week.
8. The unit will be operated in accordance with RSPCA Freedom Food welfare standards for laying hens and pullets. Maximum stocking density is 9 birds per sq.m. There are regular checks by RSPCA Inspectors.
9. The applicant has a contract with John Bowler (Agricultural) Ltd which guarantees a market for all eggs produced. The company offers a national collection network and support.
10. The unit is designed to RSPCA standards. On leaving the unit the birds enter a ground level mesh verandah which prevents packing of the ground and cleans claws on returning to the unit. The birds are directed to the open range by paddock. The paddock is rotated regularly. This ensures birds are rotated to free pasture to prevent degradation of grass and build up of debris.
11. The unit incorporates a plastic slatted floor droppings pit. As droppings build up through the flock cycle they remain dry and friable. There is natural dry composting and ammonia in quantity is not produced.
12. RSPCA specify maximum ammonia levels. Care is taken to maintain a dry environment.
13. In practice any smell is not apparent beyond its immediate surrounding.
14. The cycle is 58-60 weeks, the unit is only cleaned out at the end of each cycle. There is some smell at this stage but of no more than 1-2 days.
15. The nature of free range units precludes emission of any significant amounts of dust.
16. Flies are controlled using fly paper. Any build up of fly larvae in the house is dealt with by using a specialist beetle or proprietary control agent.
17. The unit is professionally baited for rodents.
18. Birds are secured at night to prevent feral problems.

A Hedgerow Survey is also available via the website.

Land Use Allocation

No notation

(ote - Land immediately to north is Conservation Area.)

Relevant Planning History

06/1966 - Erection of a 12000 bird free range egg laying unit

06/1980 - Change of use to permit the siting of a temporary agricultural workers dwelling

These applications were appealed for non determination - the Appeals were withdrawn by the applicants.

Principal Policies

Adopted Review Borough Local Plan

DC1 - Development Control considerations

C03 - Countryside Conservation Areas

C04 - Landscape Features

C05 - Habitats

PO1 - Pollution

Human Rights Implications

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

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

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

it is considered that:

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

Community Safety Implications

Help to reduce the fear of crime

Help to reduce the occurrence of crime

Positive	Negative	Nil Effect
		3
		3

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

Yes	No	Not Applicable
		3

Consultations

Development Team - Application noted and approved.

Environmental Control

Smell -

1. Strict control of ammonia levels in shed and moisture content of litter should ensure there is no nuisance from smell, with the exception of the clean out period. Given rural location this is considered acceptable.
2. Paddock rotation system ensures that there is no build up of detritus on the field.

Dust - Nature of free range units precludes any significant amounts of dust.

Flies - Control methods and control over moisture, content of litter should prevent any nuisance.

Rodent control - The unit will be regularly inspected.

Predation by foxes and cats - The chickens are secure at night.

Avian Flu - Free range units are not restricted by DEFRA.

Vehicle emissions - Site is in an area of generally good background air quality. Likelihood of air quality impacts from vehicle emissions into and out of site is negligible.

Noise -

1. No cockerels
2. Separation distance between unit and residential properties is sufficient to mitigate any noise made by the chickens.
3. Ventilation fans will not be heard from any residential properties. As a precautionary measure a site boundary noise condition is suggested.
4. Restriction of conditions are suggested.

A number of conditions are suggested.

Environment Agency - Recommend a condition requiring a scheme for pollution control.

Highway Authority

No objection.

Additional traffic is 2.1 vehicles per weeks - network already has service vehicles for Anglian Water Treatment Plant and large farm machinery.

Conditions required - 4.5m x 70m site splays
- access widened to allow 2 lorries to pass.

Food and Safety

Effective management should ensure that pests are controlled at a level which does not cause a nuisance to nearby cattery (Holly Nook). Environmental Control have necessary statutory powers to address nuisance issues if they were to occur.

Trees and Landscape Officer is satisfied with landscape content - conditions suggested.

Anglian Water:

1. Currently there is a very low risk associated with Great Horkesley Water Treatment Works operations.
2. Proposed development will increase potential risk to water supplies. Under normal circumstances it will remain low. Should a disease outbreak occur or pathogens become present in the flock the risk could increase.
3. It is difficult to quantify any increase but we do not believe it would pose a significant risk to water supplies given the revised distance from our site and our treatment processes employed.
4. The risk could be further mitigated if the following conditions are imposed:
 - a) No boreholes on the site.
 - b) No soakaway of waste water and all drainage to main sewer.
 - c) alarm mechanisms fitted to any storage of washwater/waste water and regular monitoring of levels in the slump.
 - d) Strict dust control mechanism around the poultry house and within paddocks used for access to the free range area.
 - e) No underground storage of fuel; any fuel to be within a specially designed and bunded area.
 - f) Efficient rodent and fly measures.
 - g) Incinerator to be operated and maintained to manufacturer's recommendations.
5. Assuming the above points are included as planning conditions we have no further objections to the application.

Parish Council's Views

The Parish Council's views will be reported at the meeting, if available.

Representations

36 letters have been received from local residents (several have submitted more than 1 letter)

Comments on Chicken Shed

Risk to Public Water Supply

1. Conflict between proposed chicken unit and Anglian Water's Treatment works
2. Anglian Water have suggested that a previous application be declined; the conditions suggested should planning permission have been granted do not eliminate potential risk.
3. Any contamination of drinking water and impact on thousands of people.
4. The precautionary approach included in the 1992 Rio Declaration on Environment and Development should be adopted.
5. Who will be monitoring any conditions recommended by Anglian Water - will resources be available.
6. Application has county wide implications.
7. Safeguarding public health must be paramount.

Highway

1. Roads around site are not able to take any more traffic particularly HGVs.
2. Site splays are not achievable between the 2 sharp bends on the lane.
3. The proposal would create new and unpremeditated industrial scale vehicular activity in the lane.
4. Traffic on the road is fast - additional traffic will be dangerous to walkers, cyclists and horse riders.
5. Any on site sale will add to traffic generation.
6. There have been a number of accidents in the surrounding lanes.

Additional letter on Highway matters

- **This application will create new and unprecedented vehicular movements. The access will be increased to 10m. Will adequate provision be made for turning in and out of the access and for a bay for parking whilst entry is gained? Will gates be set back to avoid on road parking.**
- **This will have a urbanising impact on the lane.**
- **How is it acceptable to have HGV movements on a narrow road between 2 blind bends. The speed limit is 60m and therefore stopping distance is 73m with clear sight lines. This is not possible. There have been numerous accidents in immediate area and signs are regularly knocked down.**
- **There are no safe passing points in the lane. There are signs to alert drivers to hazards. The presence of these signs indicate previous knowledge that this road is dangerous.**
- **Highway Authority's views on an earlier application for access on to this road where that the road is unsuitable for additional traffic**

Comments from ECC Highways:

No further comments.

Letter from Consulting Engineers instructed by an objector:

- Historically there have been planning applications refused on highway grounds due to the narrow lanes and the poor visibility at the Tog Lane/ A134 junction.
- Highway net work has accommodate agriculture traffic and lorry movements to associated with land use.
- There is evidence of over run on verges requiring maintenance of public verges to delineate edge of carriageway.
- Intensification is negligible – but over time will impact on the verges
- Visibility splays are substandard for a 60mph road
- Suggest a speed survey is undertaken to establish 85th percentile speed in order to determine appropriate visibility splays.
- Removal of hedgerow is necessary – until the appropriate site splays are determined it is not possible for Trees and Landscape to assess the impact of the works.
- A condition to restrict the size of vehicles – to prohibit articulated lorries - is requested.

Comments from ECC Highways

“All cases are looked at on their own merit and these other applications were different from this one from the point of view of sight splays or intensification.

“Other than this I have nothing else to add to previous comments.”

Landscape Issues

1. Site abuts Countryside Conservation Area - the removal of 40m of hedgerow will adversely impact on landscape and will not be safeguarded by any mitigating measures.
2. Building will be visible from public footpath and road.
3. Widening of vehicular access will have an urbanising impact.

Amenity

1. Smells will inhibit children playing outside.
2. Poultry units are known to create smell problems.
3. Machinery/plant on site will create noise pollution.
4. Noise and fumes from vehicles will have a significant impact on locals.
5. Noise from chickens.
6. Air pollution concerns (dust/noise).
7. Unit will create light pollution.
8. It will attract vermin and flies, measures to exterminate vermin will cause pollution and endanger wildlife.
9. Incinerator is unacceptable.
10. Policies in Local Plan indicate that development will be refused if it causes pollution.

Miscellaneous

1. Site is in close proximity to boarding cattery. Amenity concerns regarding smells, flies, vermin and dust will impact on the business. CBC require the establishment is free of vermin and flies.
2. Given on going threat of avian flu the location of the enterprise should be reconsidered.
3. Reduction in house prices (not a planning issue).
4. Concern about chemicals used for cleaning the building.
5. EIA should be commissioned.
6. All 70,000 who are provided water from Anglian Water Treatment Plant should be notified.
7. Use of the word "organic" in description of application was misleading and many people may have ignored application as they were confused by this description.
8. Town and Country Planning Order 1995 does not permit accommodation of livestock within 400m of the curtilage of a dwelling.

Letter from the Drinking Water Inspectorate (DWI) to an objector has been copied to this Council. The key points raised are:

1. Anglian Water has acted appropriately to safeguard the public water supply in accordance with its duties and within the scope of its powers.
2. DWI is satisfied that water companies do not need to consider precautions specific to avian flu over and above those in place to ensure microbiological safety of drinking water supplies.

Subsequently the Drinking Water Inspectorate have forwarded a copy of an email they have sent to an objector in response to concern he has raised about the AW response to the above application.

The Drinking Water Inspectorate advise that :

- **Anglian Water do appear to have used the precautionary approach in their risk assessment of the proposed development on their Treatment Works.**
- **The Consultant's report (prepared for Anglian Water at the time of the previous applications) suggested objection unless certain conditions were attached to a planning permission.**
- **The current application moves the development away from the Treatment Works and accepts the imposing of specific conditions. The Report of October 2007 acknowledges that moving the development further way reduces risk but could not quantify the reduction without detailed wind analysis**
- **Anglian Water appear not to have carried out such analysis but have relied on their professional judgement, experience and confidence in the treatment works operation in reaching their decision not to object.**

Some local residents have commissioned a report from a consultant environmental microbiologist. This report criticises the Council's Environmental Control's Team's responses and concludes:-

"It is my opinion that the applicant:

1. Has failed to present adequate details of the mitigation of several distinct nuisances.
2. May encroach upon the safety clearance zone proposed by Anglian Water.
3. May undertake their planned business operations in a manner that can be damaging to the environment and injurious to health by the uncontrolled liberation to air and land and water a range of pollutants.
3. Has failed to provide satisfactory and sufficient modelling of dust dispersal of other airborne contaminants.
4. Has failed to provide unsatisfactory and sufficient assessment of pollutant dispersal via soil and water.
5. Has omitted discussion of the practicalities of the proposed operation that may impact adversely on biological safety, nuisance and public health.

It is additionally my opinion that Anglian Water:

1. Has failed to exercise scientific rigour in the determination of a satisfactory distance for physical separation of the proposed development from their nearby reservoirs.
2. Has failed to consider several key issues that are identified herein, but which had not previously been addressed by the applicant, that may adversely impact in the integrity of their site and the safety of that water supply.
3. Has inadvertently misled the Planning Authority by these omissions.

On this basis it is my opinion that the application should not be permitted."

Further comments have been received from John Bowler on report prepared by consultant environmental microbiologist (commissioned by residents):

- **Mr Blenkham is an expert witness instructed by the objector's therefore his report will substantiate their position.**
- **The Council has taken advice from statutory consultees – they are independent of applicant and objectors.**
- **The statutory consultees are not objecting.**
- **If the committee attribute weight to Mr Blenkham's report they will have to justify at Appeal why it preferred that opinion rather than its statutory consultees.**

Comments from Anglian Water on above-mentioned report:

"Views remain unchanged"

Letter from an objector's solicitor:

- **An EIA screening opinion has not been adopted; report misquotes regulations.**
- **A screening report is required for a unit of the floorspace proposed.**
- **Courts have consistently stated that there is an absolute requirement for Schedule 2 development to be screened – failure can render a consent open to successful judicial review.**

- We consider that given the proximity of residential property and the possible impact on drinking water an EIA is required.
- This is a complex application which requires proper consideration in accordance with all relevant legislation – failure to do so leaves no option but to consider Judicial Review proceeding.
- It is queried whether the Council is acting reasonably in accepting Anglian Water’s response given they previous stance for a 12,000 bird unit
- Anglian Water commissioned a consultant to respond to the previous application. Drinking Water Inspectorate were under the impression that a second risk assessment and report had been carried out to support the current Anglian Water stance- this is not the case.
- Change of stance by Anglian Water is based on the opinion of one of their officers
- Council should be aware of consequences of merely accepting AW response. Previously commissioned report stated that ‘While the probability of such an occurrence is extremely low, the optional impact – infection of 70,000 people and the resulting loss of safe water supply to Colchester and surrounding area is very significant’
- Anglian Water have set aside original report from the consultant, including mitigation measures. They have ignored the fact that the chicken house sits in prevailing wind direction of their works, and contrary to the report is facing the water works.
- Council must be satisfied that the precautionary approach invoked in the previous applicant is not necessary for the current application. They must be asked to provide evidence to support their stance.
- As neither Anglian Water or Environmental Control have commented on the report prepared on behalf of the residents insufficient time is available for officers to consider the responses of interested parties to make comments.
- Specifically the council:
 - 1) Be assured that the Anglian Water response is justified given their response to the first application;
 - 2) That the DWI do not have concerns about this application.
 - 3) Environmental Control have fully considered the Blenkarn report and are satisfied there are no environmental concerns.
- Detail of the feed bins should be available for a assessment pre application
- The noise condition is imprecise and unworkable.
- Council is precluded as a matter of law from determining the application at the present time.
- The Council cannot be satisfied with Anglian Water’s – to determine would be acting in an irrational or perverse manner such that a court could intervene.
- We are advising on the possibility of seeking judicial review.

Comments from AW on above letter

“Contents are noted”

Report

The application site is agricultural land. Its use for free range chickens for egg production does not require any permission. It is the building which requires planning permission and there is not, in your Officer's opinion, any objection, in principle, to the erection of agricultural buildings to facilitate farming activities.

This application and the accompanying application for a temporary agricultural dwelling has generated considerable interest and concern from residents. Concern for this application are in 4 main areas which will be considered individually.

AMENITY

Officers from Planning and Environmental Control have visited a free range egg production unit which is contracted to John Bowler (Agricultural) Ltd to gain an appreciation to how the unit is run and managed.

It is acknowledged that large poultry units have caused smell nuisance. However, the operation of this type of free range unit is materially different from intensive poultry and egg production units. The deep litter system and its retention in a dry condition within the building helps ensure that odours do not occur. The applicants have acknowledged that during the clean out process (approximately once every 60 weeks) there will be smell for approximately 1/2 days. This level of occurrence in an agricultural area is not considered to have an unacceptable impact on amenity.

Environmental Control do not consider that the unit will create a smell nuisance. Conditioning clean out to weekdays and requiring vehicles removing muck to be covered should minimise smell nuisance during the process.

Environmental Control advice is that dust from the unit should not be of any significant level. Likewise fly and rodent control measures will preclude any nuisance.

Suggested conditions to control noise levels on site boundaries are designed to prevent any undue noise nuisance.

Whilst an incinerator is mentioned in the application the agent has confirmed that it is not intended to have an incinerator. Dead birds will be stored in a freezer and be collected by a local feedmonger.

Given Environmental Control have not raised any objections to the proposal it is not considered that a refusal on amenity grounds is sustainable.

The consultant's report commissioned by some objectors has criticized Environmental Control's comments. The further views of Environmental Control on these criticisms will be available prior to the Committee meeting.

RISK TO PUBLIC WATER SUPPLY

Given the Great Horkeley Water Treatment works provides drinking water to 70,000 people the Council recognises the need to take a precautionary approach to any development that may impact on water quality. Such an approach is set out in PPS23 which identifies that the Government is committed to the precautionary principle included in the 1992 Rio Declaration on Environment and Development when considering issues of health and safety.

The views of Anglian Water are therefore very significant to the determination of this application. The previous application located closer to the Anglian Water works and reservoir would, if the Appeal had proceeded, have been contested on the grounds that the unit would have increased the risk of contamination of the water supply.

With regard to the current application Anglian Water have advised that they do not believe the proposed development would pose a significant risk to water supplies.

A number of conditions are suggested. These include a condition that all drainage should be to a main sewer. There is no sewer in the vicinity of the site and this matter has been discussed with Anglian Water. They advised that a cesspit would provide a similar level of protection where all waste water is collected in a tank and dispersed off site. The applicant's agent has confirmed that all waste water from the clean out process is collected in a sealed tank and emptied by Licensed Contractors.

Anglian Water also propose a condition that ensures dust control measures are implemented around the poultry house and paddocks. Whilst commenting that dust in these areas is unlikely to be problematic the applicants are happy to agree such dust control measures. This could take the form of matting.

Councillor Arnold has queried whether chicken faeces on the external free range area will "wash" into the ground and pollute the water supply. Following advice from the Environment Agency that they believe the water supply borehole is into deep chalk stratum overlain by deep clay and it is not considered that surface water will affect the aquifer. Anglian Water have advised that any contamination on the surface should not pose a risk to water supplies.

The Drinking Water Inspectorate has indicated that Anglian Water has acted appropriately to safeguard the public water supply.

The consultant's report prepared for some local residents suggest that Anglian Water has failed to exercise scientific rigour and to consider key issues. Anglian Water's response is awaited and will be reported at the meeting.

HIGHWAYS

Local concern about the impact of the development on rural road network is not supported by the Highway Authority. The level of additional traffic is not seen as significant given the network already accommodates service vehicles for Anglian Waters installation and large farm machinery.

Conditions that require site splays and a widened access will impact on the existing hedgerow. It is proposed to remove and replace the existing hedgerow. This has been considered by the Landscape Officer who raises no concerns. Conditions to achieve the replacement hedge and protection of retained trees/hedges are recommended.

LANDSCAPE

Large agricultural buildings are a feature of farmed areas. They are part of modern day rural landscapes.

The proposed chicken shed will be particularly visible from parts of School Lane and some housing to the south of the site. It will be prominent from the drive to Cherry Blossom Cottage and from the paddocks immediately adjacent to the site which are in the occupier's ownership. However, the residential curtilage will be offered some screening by existing outbuildings. Nevertheless, it is acknowledged that additional planting along the southern boundary of the site to significantly improve screening to this and other properties in the vicinity.

On balance it is not considered that impact on visual amenity to the south of the site is so great to warrant refusal. The building itself is low profile and can be dark-coloured to reduce its visual impact.

From other direction existing and proposed replacement hedging will provide adequate screening.

OTHER MATTERS

It has been suggested that an Environmental Impact Assessment (EIA) should have been required for this development. Schedule 2 of the 1999 Regulations identifies that livestock units of 50,000 birds require EIAs. In addition screening directions made by the Secretary of State for similar proposals concluded that an EIA was not required.

Avian flu concerns have been raised. Environment Agency advise there is currently no controls affecting free range flocks. Any restrictions are of a temporary nature and would only affect movement and housing at the time of an outbreak. The Drinking Water Inspectorate have commented that water companies do not need to take any additional precautions.

At the time of writing there are no sustainable reasons for refusing planning permission for the chicken shed. It is recognised that the report commissioned by some local residents expresses concerns that need to be considered by the applicants, Anglian Water and Environmental Control who will be reporting back before the Meeting.

Background Papers

Development Team; HH NR; HA; TL; AW; CBC; NLR

Recommendation

Subject to satisfactory responses to outstanding matters planning permission should be granted subject to the following conditions:-

Conditions

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

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

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

2 - C3.1 Materials (general)

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

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

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

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

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

4 - C10.18 Tree and Hedgerow Protection: General

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

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

5 - Non-Standard Condition

Prior to the commencement of the hereby approved development, the existing vehicular access shall be widened to allow two lorries to pass and sight splays of 4.5m x 70m shall be provided.

Reason: To reduce the chance of conflict with existing other users in the interests of highway safety.

6 - Non-Standard Condition

Prior to the commencement of the hereby approved development, full details of the feed bins/silos shall be provided for the approval of the Local Planning Authority and shall be implemented as approved.

Reason: In the interests of visual amenity.

7 - Non-Standard Condition

There shall be no retailing of eggs directly from the site.

Reason: For avoidance of doubt and to prevent active stopping of vehicles and vehicular activity.

8 - Non-Standard Condition

The Free Range Egg Production Unit is operated in accordance with RSPCA Freedom Food Welfare Standards for Laying Hens and Pullets.

Reason: In the interests of residential amenity.

9 - Non-Standard Condition

No cockerels shall be housed in the unit.

Reason: In the interests of residential amenity and to avoid unnecessary sources of noise.

10 - Non-Standard Condition

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

Reason: In the interests of residential amenity.

11 - Non-Standard Condition

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

Reason: In the interests of residential amenity.

12 - Non-Standard Condition

The number of birds shall be limited to a maximum of 9,000 in the hereby approved egg laying unit.

Reason: In the interests of residential amenity.

13 - Non-Standard Condition

The unit shall operate a deep litter system with manure to be removed no more frequently than once per production cycle.

Reason: In the interests of residential amenity.

14 - Non-Standard Condition

The end of cycle clean out of the shed shall not take place on any Saturday, Sunday or Public/Bank Holiday and all manure shall be removed from the site using covered vehicles (such as sheeted trailers) at the end of the flock cycle.

Reason: In the interests of residential amenity.

15 - Non-Standard Condition

All dead birds shall be bagged daily and stored at a temperature below -10C prior to collection by a licensed waste carrier for disposal off site.

Reason: In the interests of residential amenity.

16 - Non-Standard Condition

No deliveries shall be made to, and no goods despatched from, the site outside the hours of 07.00 - 18.00 nor at any times on Sundays, Bank or Public Holidays.

Reason: In the interests of residential amenity.

17 - Non-Standard Condition

No boreholes shall be allowed to be developed on the proposed site.

Reason: For the protection of ground water supply from contamination.

18 - Non-Standard Condition

Waste water including roof water and all waste waters, including chemicals, used in the washdown and clean out process shall be to a cesspit or tank, the details of which be submitted for the written approval of the Local Planning Authority and shall be implemented and retained as approved.

Reason: For the protection of ground water supply from contamination.

19 - Non-Standard Condition

Prior to the commencement of development, details or measures to ensure strict dust control at all times around the poultry house and within the paddocks used for access to the free range area shall be submitted for the written approval of the Local Planning Authority and shall be implemented and retained as approved.

Reason: To reduce risk of contamination via windblown???, dust and pathogens.

20 - Non-Standard Condition

There shall be no underground storage of fuel or any kind. Any fuel storage on site should be within an area specifically designed for the storage of hazardous substances and shall be bunded and covered to prevent migration of any spilt fuel to ground or surface water.

Reason: For the protection of ground water supply from contamination.

21 - Non-Standard Condition

Prior to commencement of the hereby approved development measures for control of rodents and flies shall be submitted for written approval of the Local Planning Authority and shall be implemented as approved.

Reason: In the interest of residential amenity and protecting water supply.

22 - Non-Standard Condition

Prior to the commencement of any development a scheme for the provision and implementation of pollution control shall be submitted and agreed in writing with the Local Planning Authority. The works/scheme shall be constructed and completed in accordance with the approved plans/specification as such time as may be specified in the approved scheme.

Reason: To ensure a satisfactory method of pollution control.

23 - Non-Standard Condition

Prior to commencement of the hereby approved development details of the surface of the driveway shall be submitted for the written approval of the Local Planning Authority and shall be implemented as approved.

Reason: In the interest of visual amenity given the rural location of the site.

24 - C11.14 Tree / Shrub Planting

Prior to the commencement of the hereby approved development a landscaping scheme for the southern boundary of the site shall be submitted for the written approval of the Local Planning Authority. Before any works commence on site, details of tree and/or

Shrub planting and an implementation timetable shall be submitted to and approved in writing by the local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.



guardians of drinking water quality

DRINKING WATER INSPECTORATE

Room M06, 55 Whitehall
London SW1A 2EY

Direct Line: 020 7270 3370
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DWI Website: <http://www.dwi.gov.uk>

28 April 2008

Mr G Burt
Residents/Consumer Group Representative
Adams Burt (H&S) Ltd
Holly House
London Road
Great Horkesley
Colchester
CO6 4BZ

Our ref: 33/13/9 - 2008-005

Dear Mr Burt

Great Horkesley Egg Farm Planning Application 072285/87

Thank you for advising the Inspectorate that you intend to apply to the Secretary of State for a screening opinion under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 in respect of your concerns about the process of handling the above planning application. These matters are of course between yourself, Colchester Borough Council and the Secretary of State for Communities and Local Government. Neither the Secretary of State for the Environment, Food and Rural Affairs nor the Drinking Water Inspectorate has any remit in respect of the EIA regulations. However I can confirm that the Drinking Water Inspectorate's file on this matter does not hold any information regarding Anglian Water's risk assessments beyond that already supplied to you (namely the Mott MacDonald report, copies of letters sent to you by Anglian Water, letters and emails between yourself and the Inspectorate). If you require any further copies of these documents then we will provide these to you on request.

You may find it helpful to know that the general duties of water companies are set out in Section 2 of the Water Industry Act 1991. To the best of our knowledge this Act places no specific duties on water companies regarding how they should behave in respect of planning applications. The authority for investigating alleged breaches of duty by water undertakers is Ofwat. I am

advised that to approach Ofwat you would need to produce a reasonably specific allegation and some prima facie evidence of a breach of a duty by Anglian Water.

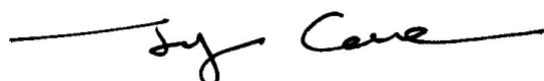
The Water Supply (Water Quality) Regulations 2000 were amended last year to require each water undertaker to carry out risk assessments “of each of its treatment works and connected supply system in order to establish whether there is a significant risk of supplying water from those works or supply system that would constitute a potential danger to human health” (Water Supply (Water Quality) Regulations 2000, regulation 27(2)). The potential air borne pathogen hazard referred to in the report commissioned by Anglian Water from their consultants is one of many actual or potential hazards that the water company will need to address in the risk assessment it is required to undertake. The company is required by these regulations to submit a report of its risk assessment to the Drinking Water Inspectorate by 1 October 2008.

Based on the information contained in the Mott MacDonald’s report, together with our extensive knowledge of water supply operations, my inspectors are satisfied that in terms of assessing risks to the quality of the drinking water supply, it is not essential for Anglian Water to carry out the wind studies proposed by their consultants to determine whether the control measures in place are adequate to address this potential hazard. Accordingly the Inspectorate is not minded to require Anglian Water to submit a Regulation 28 risk assessment report for this particular treatment works and associated supply system earlier than the due date of 1 October 2008.

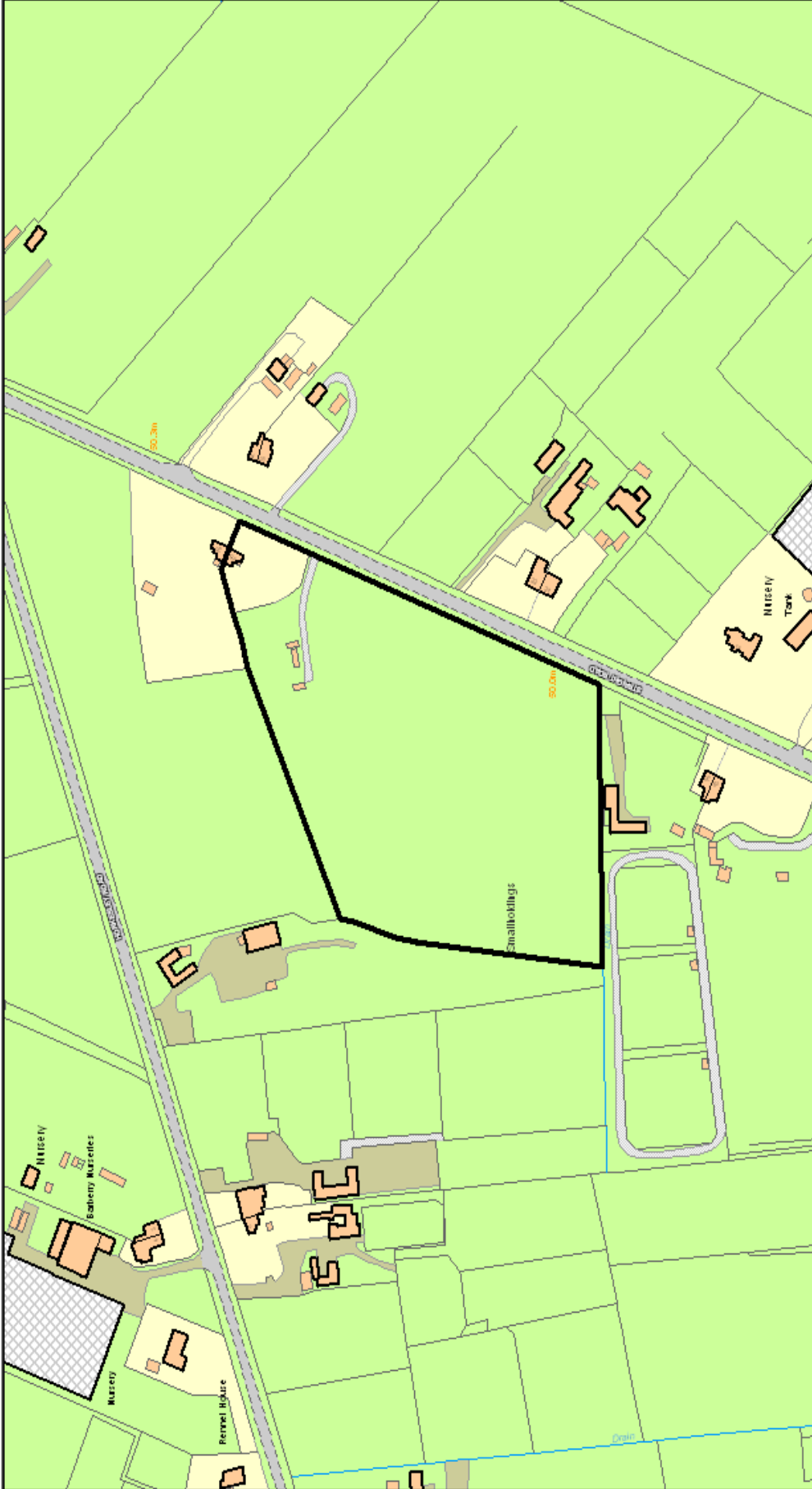
I can confirm that Drinking Water Inspectors appointed under the Water Industry Act are the competent persons in terms of assessing water company Regulation 28 risk assessments on behalf of the Secretary of State. I further confirm that in the event of an inspector finding a deficiency in a water company risk assessment the Inspectorate has the power (acting on behalf of the Secretary of State) to require that the water company takes specified steps to safeguard drinking water quality and to remedy risk assessment deficiencies (Water Supply (Water Quality) Regulations 2000, regulation 28(4)).

I trust that the above information answers the questions you asked of my inspector, Peter Halton, in your recent email of 25 April 2008. A copy of this letter has been sent to Anglian Water and Colchester Borough Council.

Yours sincerely



Professor Jeni Colbourne MBE
Chief Inspector of Drinking Water



Site Location Plan

MAP NOT TO SCALE

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Complaint Reference: 150182

Site Location Address: 25 Straight Road, Boxted, Colchester, CO4 5HJ

Date Produced: 28 October 2008

15 May 2008

Report of	Head of Planning, Protection and Licensing	Author	Sarah Hayes ☎ 01206 282445
Title	Land at 25 Straight Road, Boxted		
Wards affected	Fordham & Stour		

This report requests authorisation to take enforcement action in respect of the unauthorised use of land for the storage of plant, machinery and building materials, including a mobile home, shipping, and other container

1.0 Decision Required

- 1.1 Members are requested to confirm their decision, previously made in October 2007, that an enforcement notice should be issued. The notice would require that the storage use should cease and that all building materials, plant, shipping containers and van bodies, reclaimed materials and soil bunds are removed from the site.

2.0 Reasons for Decision

- 2.1 The land being used for storage is outside the residential curtilage of 25 Straight Road, Boxted and benefits from no permitted development rights. It lies within Boxted Straight Road Special Policy Area and the storage use is having a harmful visual impact on the open countryside.

3.0 Alternative Options

- 3.1 Members could choose to take no action. After a period of ten years, which could be as soon as Summer 2010, this would result in the use becoming lawful and no action could then be taken.

4.0 Supporting Information

- 4.1 Members previously authorised enforcement action in October 2007. However, when the notice was being drafted, it became apparent that further information should be gathered. During this period, the owner was advised to clear the site as enforcement action had been authorised. At the time this report was drafted, the land had not been cleared.
- 4.2 A complaint was received on February 2006 that earth moving was taking place and large diggers and containers were on site at the rear of 25 Straight Road, Boxted. Observations of the site showed an earth bund had been created, and earth moving equipment, a caravan and shipping container were on the land.
- 4.3 During 2006 more building materials were brought to the site, the bund increased in size and a number of commercial vehicles and plant were being parked.

- 4.4 On 22 November 2006 a letter was sent to the owner explaining that this use of the land was unauthorised. The owner was advised that the the use was not acceptable but an application to continue this use could be submitted if they wished. No application for this use was received within the timescale given and the use of the land continued.
- 4.5 In March 2007 a site visit was carried out to assess the level of the storage use and establish the position of the residential curtilage. By this time, substantial bunds had been formed screening parts of the site. A mobile home, a shipping container and other container were stationed on the land and various piles of building materials were being stored. Vehicles were also present on site. It was clear that the part of the site being used for this storage use lay outside the residential curtilage of either 25 or 26 Straight Road.
- 4.6 A Planning Contravention Notice was served in May 2007. Information given in the response to the PCN indicated that the owner was a builder, who had the use of a builders yard in Alresford and that the storage use in Straight Road had commenced in Summer 2000. The owner also provided details a person who had knowledge of how the site had been used prior to 2000. However despite two letters being sent to this person asking for information, there had been no response.
- 4.7 Aerial photographs from 1992 and 2000 show a mainly clear site with some shrub cover although there is a building on the land which is the subject of this report. This building remains on the land and is immune from enforcement action due to the length of time it has been on site. In contrast to these photographs, the aerial photograph from 2006 shows that a storage use is in operation, which there is no evidence of in the earlier photographs.
- 4.8 It is clear from the evidence of the aerial photographs that there has been a material change of use of land. Planning permission has not been sought and no permitted development rights exist for this use, which is contrary to policies contained in the Borough Plan. It is therefore considered expedient to take enforcement action to require the removal of all unauthorised items from the land.

5.0 Proposals

- 5.1 That an enforcement notice is authorised requiring the storage use to cease. All plant, machinery and materials to be removed from the land and the bunds to be levelled.
- 5.2 The owner has stated, in his response to the PCN, that he has access to a builders yard in Tendring, suitable for the storage of the unauthorised items. Two months is therefore considered a reasonable period for compliance.

6.0 Standard References

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

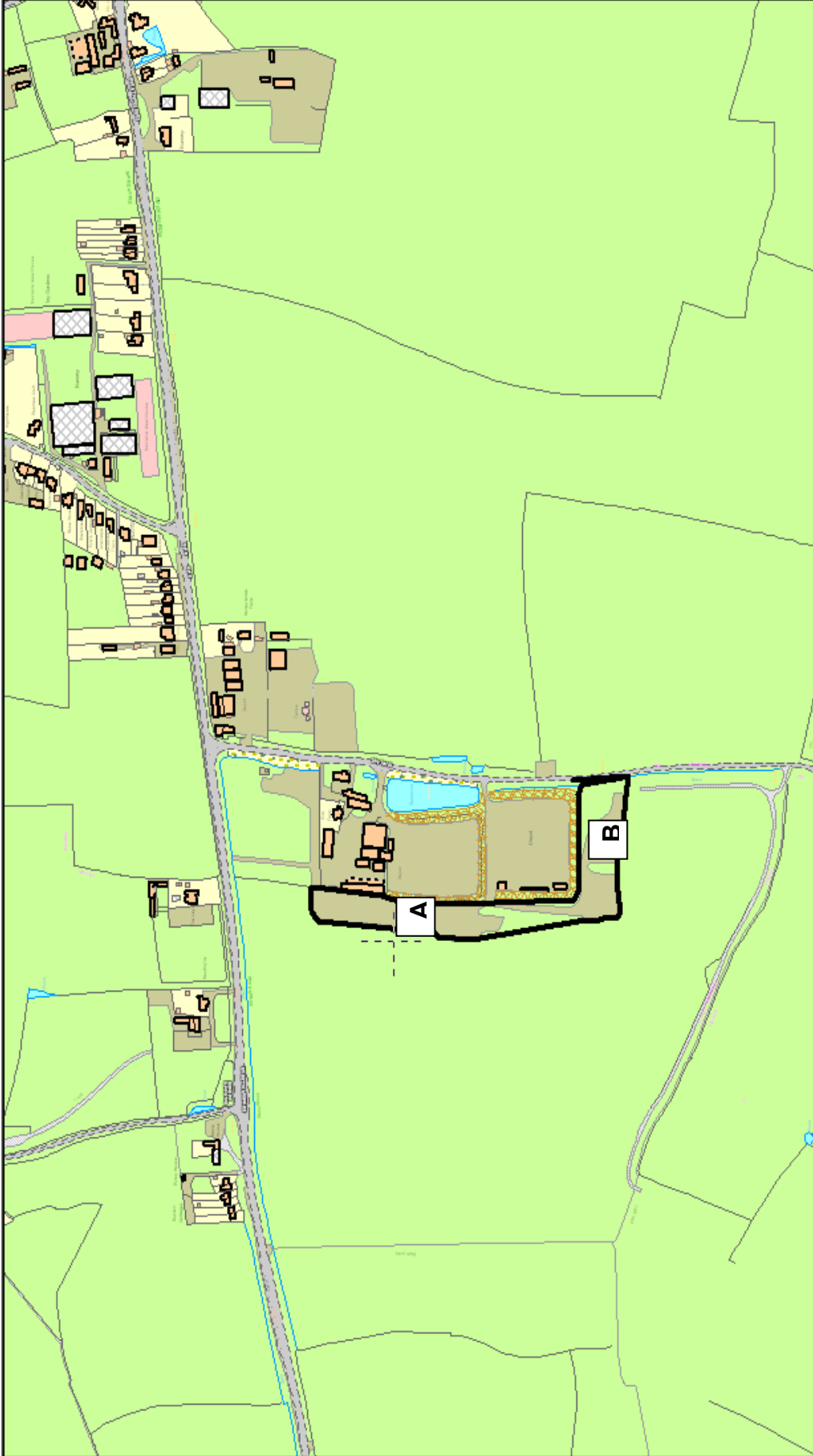
7.0 Human Rights

7.1 In the consideration of the action's impact on Human Rights, particularly, but not exclusively, to:

Article 8 - The right to respect for private and family life,
Article 1 of The First Protocol (Protection of Property) - The right to peaceful enjoyment of possessions, it is considered that:

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

Background Papers - none



Site Location Plan

MAP NOT TO SCALE

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Complaint Reference: 153878

Site Location Address: Elm Farm, Elm Lane, Marks Tey, Colchester, CO6 1HU

Date Produced: 29 October 2008

15 May 2008

Report of	Head of Planning, Protection and Licensing	Author	Cheryl Headford
Title	Land at Elm Farm, Elm Lane, Marks Tey		01206 282422
Wards affected	Great Tey		

This report concerns the unauthorised change of use of agricultural land to that of a haulage yard, temporary storage of building materials and unauthorised engineering works to form earth bunds around the land

1. Decision(s) Required

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

- The cessation of the use as a haulage yard
- The cessation of the use for temporary storage of building materials
- The removal of earth bunds.

2. Reasons for Decision(s)

2.1 The site lies in a defined rural area, outside of the village envelope.

2.2 The authorised use of the land is for agriculture, however, there is no evidence of any agricultural activity on land immediately adjoining the site.

2.3 Policy CO1 of the Adopted Review Colchester Borough Local Plan seeks to protect the countryside for its own sake and development which does not need a countryside location and which could reasonably be located elsewhere will be refused.

2.4 EMP4(b) of the Local Plan states that such development will be limited to appropriate changes of use, or small scale extensions with the site of existing complexes of buildings. The unauthorised activities do not form part of the original authorised business site area and represent a significant and unacceptable visual intrusion of an industrial nature into the countryside and therefore conflict with the above policies.

2.5 Policy DC(1) of the Adopted Review Colchester Borough Local Plan states that the highway network should be able to accommodate safely the extra traffic the site will create. In this instance this extra activity would result in the intensification in the use of Elm Lane which has a sub-standard visibility splay onto the A120 and results in vehicles performing right-hand turning movements across the flow of traffic, compromising the safety of road users.

3. Alternative Options

3.1 Members could choose not to pursue enforcement action however this would result in consent by default and would be contrary to rural protection policies.

4. Supporting Information

- 4.1 The site was first brought to our attention in 2004 when it was reported that the earth bunds surrounding the authorised site had been extended.
- 4.2 In March 2004 the site was visited and shown to contain a number of containers to Area A, while Area B contained various building materials, hardcore and general waste. Members can view photos taken during this visit.
- 4.3 Following negotiations the hardcore and waste materials contained within Area B were removed.
- 4.4 In July 2004 aerial photos of the site were commissioned, these too can be viewed by Members. It can be seen that both Areas A and B then had containers and haulage vehicles.
- 4.5 In December 2004 application C/COL/04/2257 was lodged for the continued use of land for haulage yard (Area A) and production and distribution of asphalt products (Area B). Earth bunds were shown around both areas. This application was refused in February 2005.
- 4.6 In August 2005 a further application F/COL/05/1336 was received for the retention of the haulage yard to Area A. This application was refused in March 2006. It was understood that this decision would be appealed against.
- 4.7 In April 2006 a Planning Contravention Notice was served on the executors of the estate of the landowners and on the haulage company using the site, however, in view of the impending planning appeal, no enforcement action followed.
- 4.8 The estate is now being dealt with by the Trustees and a further Planning Contravention Notice was served in April 2008.
- 4.9 It is claimed that the current haulage company have been operating on site since before the death of the late owner in April 2000, however no written contract or tenancy was entered into and therefore the Trustees are not able to advise when the actual change of use first occurred.
- 4.10 Aerial photos taken in 2000 show that the site had already been extended and that there appeared to be a small amount of storage use in Area B

5. Proposals

- 5.1 It is considered expedient to take enforcement action to cease the use of the haulage yard, storage of building materials and the associated earth bunds, sited on the land contrary to planning policies.

6. Financial Implications

- 6.1 None

7.0 Strategic Plan References

- 7.1 Planning (Development Control) is identified as a service where we wish to improve performance. Planning enforcement is an integral part of that service.

8. Publicity Considerations

8.1 None

9. Human Rights Implications

The main human rights implication relate to:

Article 1 of the First Protocol (protection of Property) – the right to peaceful enjoyment of possessions and:

Article 8 – the right to respect for private and family life.

In respect of Article 1 it is accepted that planning laws control property in the general public interest.

In respect of Article 8 it is legitimate for the Council to pursue planning aims provided that this is not disproportionate to the human rights of any individual.

10. Community Safety Implications

10.1 None.

11. Health and Safety Implications

11.1 None.

12. Risk Management Implications

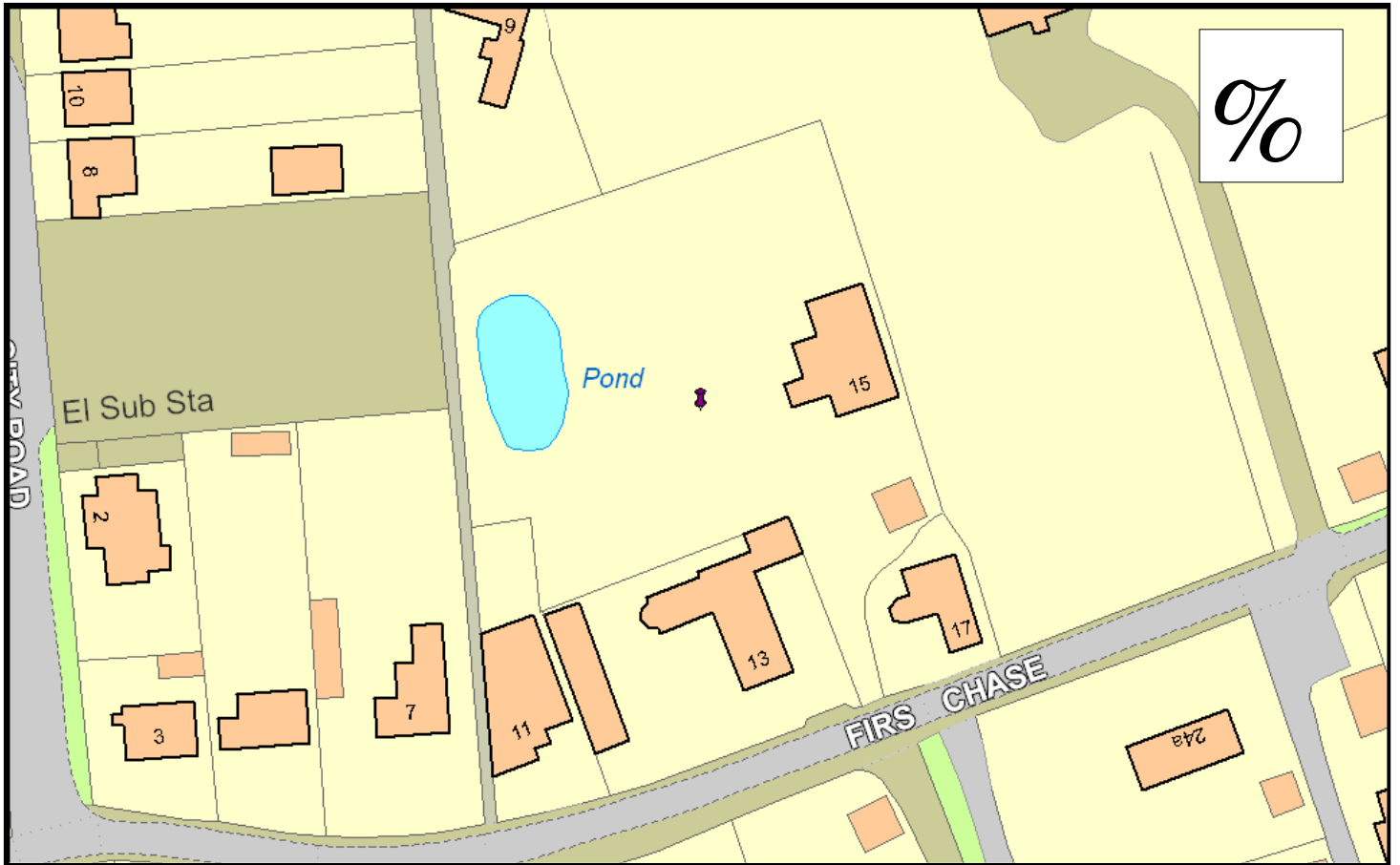
12.1 None

13. Consultation

13.1 None

Background Papers

Policies – CO1, EMP4(b), DC1 Adopted Review Colchester Borough Local Plan – March 2004



Application No: 052117

Location: 15 Firs Chase, West Mersea, Colchester, Essex, CO5 8NG

Scale (approx): 1:1250

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15 May 2008

Report of	Head of Planning, Protection & Licensing	Author	Sue Jackson ☎ 282450
Title	HH/COL/06/0339 15 Firs Chase, West Mersea		
Wards affected	West Mersea		

This report concerns the failure to comply with a remedial notice issued on behalf of the Secretary of State for Communities and Local Government in respect of a high hedge

1. Decision(s) Required

- 1.1 Members are requested to consider this report and to resolve to give the owner of the hedge 56 days from the date of the meeting to comply with the remedial notice in respect of hedge 3. Failure to comply will result in the Council issuing a prosecution in the Magistrates' Court for failure to comply with a remedial notice in respect of a high hedge complaint.

2. Reasons for Decision(s)

- 2.1 The remedial notice has not been complied with and it is considered hedge 3 affects the reasonable enjoyment of the neighbour's property.

3. Alternative Options

- 3.1 Members could decide to take no action. Whilst this would not preclude prosecution at a later date; new evidence would be required and the remedial notice would not form part of the evidence, although it would form a base line for the hedge height. This is because this is a summary only offence and the local authority only has 6 months from the date we became aware of the offence to lay the information before the court.

4. Supporting Information

- 4.1 The Anti-Social Behaviour Act 2003 includes a provision in respect of high hedges.
- 4.2 In 2006 a complaint was received from the owner of 13 Firs Chase, West Mersea regarding hedges in the garden of No. 15. No. 15 is located behind the road frontage with a large garden which extends behind No. 13.
- 4.3 The complaint was in respect of three hedges, two parallel to each other and close to the rear boundary with No. 13 (hedge 1 and hedge 2) and one on the east side boundary (hedge 3). The complaint was investigated. Hedge 1 was measured at between 2-3 metres, hedge 2 between 3.5-11 metres and hedge 3 was 3.5 metres high for most of its length but with a section 6.5 metres high.

- 4.4 The method for calculating an acceptable hedge height, called the action hedge height, is set out in the document Hedge height and light loss published by the Office of the Deputy Prime Minister/Building Research Establishment. Following the advice in this document it was calculated the action hedge height for both hedge 1 and 2 was 2 metres and for hedge 3 it was 3.5 metres.
- 4.5 The legislation does not allow remedial action, which would result in the death or destruction of a hedge. As the Council's arboriculturalist advised that the reduction required to hedge 2 would very likely result in its death no action was required. Due to the position of hedge 2 in relation to hedge 1 any action to hedge 1 would have no effect if no action was required to hedge 2, therefore the Council required no action to hedge 1. The Council considered no action was required to hedge 3 as it did not impact on any living room windows and the area of garden affected was used as a driveway.
- 4.6 An appeal was lodged against the Council's decision and in February 2007 a Planning Inspector allowed the appeal and issued a remedial notice. The notice required:-
- Hedge 1 to be cut to 2m and thereafter to be retained at 2.5m.
 - Hedge 2 to be cut to 4.5m and thereafter retained at 5m.
 - Hedge 3 to be cut to 3m and thereafter retained at 3.5m.
- 4.7 The 10 month period for compliance expired in December 2007.
- 4.8 A copy of the Inspector's decision letter and the remedial notice are included in Appendix 1.
- 4.9 In January 2008 the Council was informed that the remedial notice had not been complied with. The complaint indicated the required action had been taken in respect of hedges 1 and 2 but not hedge 3.
- 4.10 No. 15 Firs Chase was visited in March. Hedge 2 has been completely removed. Part of hedge 1 exceeds 2.5m and hedge 3 exceeds 3.5m.
- 4.11 The Act indicates that if a remedial notice is not complied with a Local Planning Authority has to consider what action to take, it does not have to take action but it is more likely to take action if the initial one-off cut has not been carried out.
- 4.12 As hedge 2 has been removed the impact of hedge 1, although slightly higher than the remedial notice required, is less than had hedge 2 been retained at the agreed height of 5m. Very little of this hedge can be seen from the complainants' property. It is therefore considered there would be no purpose served by issuing a prosecution regarding hedge 1.

4.13 Hedge 3 exceeds 3.5 metres. The Inspector's comments in respect of hedge 3 are relevant and are produced below:-

"Hedge 3

4. *The Council seem to have only considered that part of hedge 3 that lies on the eastern boundary for a few metres, almost joining with hedge 2. It is clear this hedge provides an important screening function for No 15, and that part that is next to the garage is only visible from No. 13 where it protrudes above the roof, for about 1m. The rest of hedge 3 runs down the side of the drive to no. 13, where a large boat is stored. The last few trees at the southern end have been allowed to grow apparently unchecked and are over 6.5m tall. The rest has been neatly trimmed to 3.5m*
5. *I agreed with the council that the impact of this hedge on the driveway is negligible in terms of loss of light. The ground floor windows facing the hedge serve a cloakroom, hall and scullery, these are considered as non-habitable rooms. The BRE guidelines for calculating the action hedge height are based on light to the main rooms of a house. This does not make the non-habitable rooms irrelevant, but less weight should be given to the impact of a hedge on them. The upstairs dormer windows serve a landing, toilet and bedroom (the latter being in the corner, above the garage). The upstairs windows are little effected by the hedge at its current height and the BRE guidelines suggest considerable further growth could be accommodated. The impact on the driveway in terms of loss of light is not particularly great, but the side of the house is considerably darkened. Although the ground floor windows do not serve main rooms, the rooms they do serve are overshadowed, and the outlook is dominated by the hedge. Any further growth of 3.5m section would have a serious impact on the amenity of these admittedly secondary rooms. In terms of visual amenity the trimmed portion of the hedge looks quite acceptable, but the taller unkempt part contrasts unfavourably. Taken as a whole the hedge dominates the entrance to No. 13 in a quite harmful manner and so is affecting the reasonable enjoyment of the complainant's property.*
6. *Taking all these matters into account, it is my view that some reduction and control of the hedge is warranted. If the whole hedge were maintained at 3.5m its visual amenity would be improved, its impact on No. 13 controlled and its screening function for No. 15 retained. The taller part of the hedge seems healthy and vigorous and should be able to withstand a cut to this level. I do not think a staged reduction will help as this simply extends the period the trees are under stress. I shall therefore issue a Remedial Notice to achieve a reduction to 3m in one cut and future retention at 3.5m.*

4.14 Members should be aware the bedroom referred to in paragraph 5 above is actually the furthest window from the garage but this does not affect the Inspector's decision.

5. Proposals

5.1 Members allow the hedge owner 56 days to comply with the Remedial Notice. If the Notice is not complied with Members authorise the Council to proceed with a prosecution for hedge 3 to be reduced in height to 3.0m.

6. Comments from the Complainant

6.1 The complainant comments as follows:-

“We would like to advise the planning office that Colchester Council accepted our payment for their fee, and that it is clear the Council’s responsibility was both under their guidance and their legislation.

We consider there are no ‘good’ reasons for not taking the hedge owner to Court (such as not in the public interest) because it is clear that Mr Burr is deliberately flouting the law and is persistently carrying on offending.

Mr Burr is well aware of his actions, as this case has been referred to the appeal’s Committee and he lost. He has had more than enough time to action the remedial notice but has declined to do so. We would further point out the Planning Inspectorate’s decision which was clear and concise as to what remedial work was required and on which parts of the hedge.

We therefore consider that Colchester Council have a duty of care to complete the circle under the legislation i.e. accepting the fee, finding a case to answer, requiring Mr Burr to take remedial action and now taking him to Court for failing to do so.

We would further like to advise Colchester Council that there have been in excess of 14 cases so far taken to Court in England. Fines have ranged from £50 to £3200. The average fine has been £325 plus £300 costs to Councils. There have been no CASE DISMISSED – all have been found guilty despite their pleas. The offence is absolute! All that needs to be proven is that the Remedial Notice was served on the person responsible for carrying out the works therein. The only question then is “Did he comply with those works”. There are two offences (1) failing to carry out initial action (2) failing to carry out preventative action. A third offence is failing to take notice of a Court Order to cut the hedge attracts a £50 penalty fee daily thereafter till the hedge comes down.

Finally, if Colchester Council consider there is a good reason for not taking Mr Burr to court then again the legislation provides a way to give us duty of care. Colchester Council does not need a warrant to enter the premises. The council only has to have to give 7 days notice and then carry out the work themselves. As you are no doubt aware if the work is obstructed then the person obstructing commits another offence.

Summary

Mr Simon Hand of the Planning Inspectorate on 31 January 2007 set the conditions of the Remedial Action for 15 Firs Chase, and issued an Anti Social behaviours notice on Mr Burr. The conditions stated works would be completed by 21 December 2007. The report stipulates that failure to comply may result in prosecution. A letter was sent to the Council on 21 December 2007 confirming works had not been carried out.

Colchester Council should consider under their own guidelines ‘Rules of acceptance’ that CONTINUED/PERSISTANT offenders WILL be prosecuted. Failure to provide us with a duty of care (i.e. prosecute or completion of the works by Colchester Council) will result in our communications with the Ombudsman.”

7. Financial Implications

7.1 Legal costs will be incurred.

8. Equality, diversity and human rights implications

- 8.1 In the consideration of this action, regard must be had to the impact on Human Rights, particularly, but not exclusively, to:

Article 8 – The right to respect for private and family life,
Article 1 of the First Protocol (Protection of Property) – The right to peaceful enjoyment of possessions, it is considered that:

In respect of Article 8, it is legitimate for the Council to pursue planning aims provided that this is not disproportionate to the human rights of any individual. As an appropriate compliance time has been proposed, it is considered that the action proposed, is not disproportionate.

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

9. Financial Implications

10. Community Safety Implications

11. Health and Safety Implications

12. Risk Management Implications

13.0 Standard References

- 13.1 The owner of the hedge and the complainant have both been notified of the Committee meeting and invited to put in writing any comments they wish Members to take into account.

REMEDIAL NOTICE

**IMPORTANT – this Notice affects the property at 15 Firs Chase, West Mersea,
Essex, C05 8NG.**

ANTI-SOCIAL BEHAVIOUR ACT 2003

REMEDIAL NOTICE

ISSUED BY Simon Hand MA

**Appointed by the Secretary of State for Communities and Local Government
under section 72(3) of the above Act.**

1. THE NOTICE

This Notice is issued under section 73 of the Anti-Social Behaviour Act 2003 pursuant to a complaint about a high hedge situated at 15 Firs Chase, West Mersea. In accordance with the authority conferred on me, I have decided that the hedges in question are adversely affecting the reasonable enjoyment of the property at 13 Firs Chase and that action should be taken in relation to the hedges with a view to remedying the adverse effect and preventing its recurrence.

2. THE HEDGES TO WHICH THE NOTICE RELATES

Hedge 1 which runs along the northern boundary of No 13; hedge 2 which also runs along the northern boundary of No 13, behind hedge 1 and hedge 3 which runs along the eastern boundary of no 13 and that part of the northern boundary next to the garage to no 13. All are marked in red on the attached plan,

3. WHAT ACTION MUST BE TAKEN IN RELATION TO THE HEDGES

3.1 Initial Action

I require the following steps to be taken in relation to the hedges before the end of the period specified in paragraph 4 below:

Reduce hedge 1 to a height not exceeding 2m;

Reduce hedge 2 to a height not exceeding 4.5m;

Reduce hedge 3 to a height not exceeding 3m;

3.2 Preventative Action

Following the date specified in paragraph 4 below I require the following steps to be taken in relation to the hedges:

maintain hedge 1 so that it at no time exceeds a height of 2.5m

maintain hedge 2 so that it at no time exceeds a height of 5m

maintain hedge 3 so that it at no time exceeds a height of 3.5m

3.3 Informative

It is recommended that .

- (i) All works should be carried out in accordance with good arboricultural practice, advice on which can be found in BS 3998: "Recommendations for Tree Work"
- (ii) It is recommended that skilled contractors are employed to carry out this specialist work For a list of approved contractors to carry out works on trees and hedges, see the Arboricultural Association's website at www.trees.org.uk or contact 01794 368717.
- (iii) In taking action specified in this Notice, special care should be taken not to disturb wild animals that are protected by the Wildlife and Countryside Act. This includes birds and bats that nest or roost in trees.

4. TIME FOR COMPLIANCE

The initial action specified in paragraph 3.1 to be complied with within 10 months of the date specified in paragraph 5 of this Notice.

5. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on the date my decision is issued.

6. FAILURE TO COMPLY WITH THE NOTICE

Failure by any person who, at the relevant time is an owner or occupier of the land where the hedge specified in paragraph 2 above is situated:

- a. to take action in accordance with the Initial Action specified in paragraph 3.1 within the period specified in paragraph 4; or
- b. to take action in accordance with the Preventative Action specified in paragraph 3.2 following the date specified in paragraph 4;

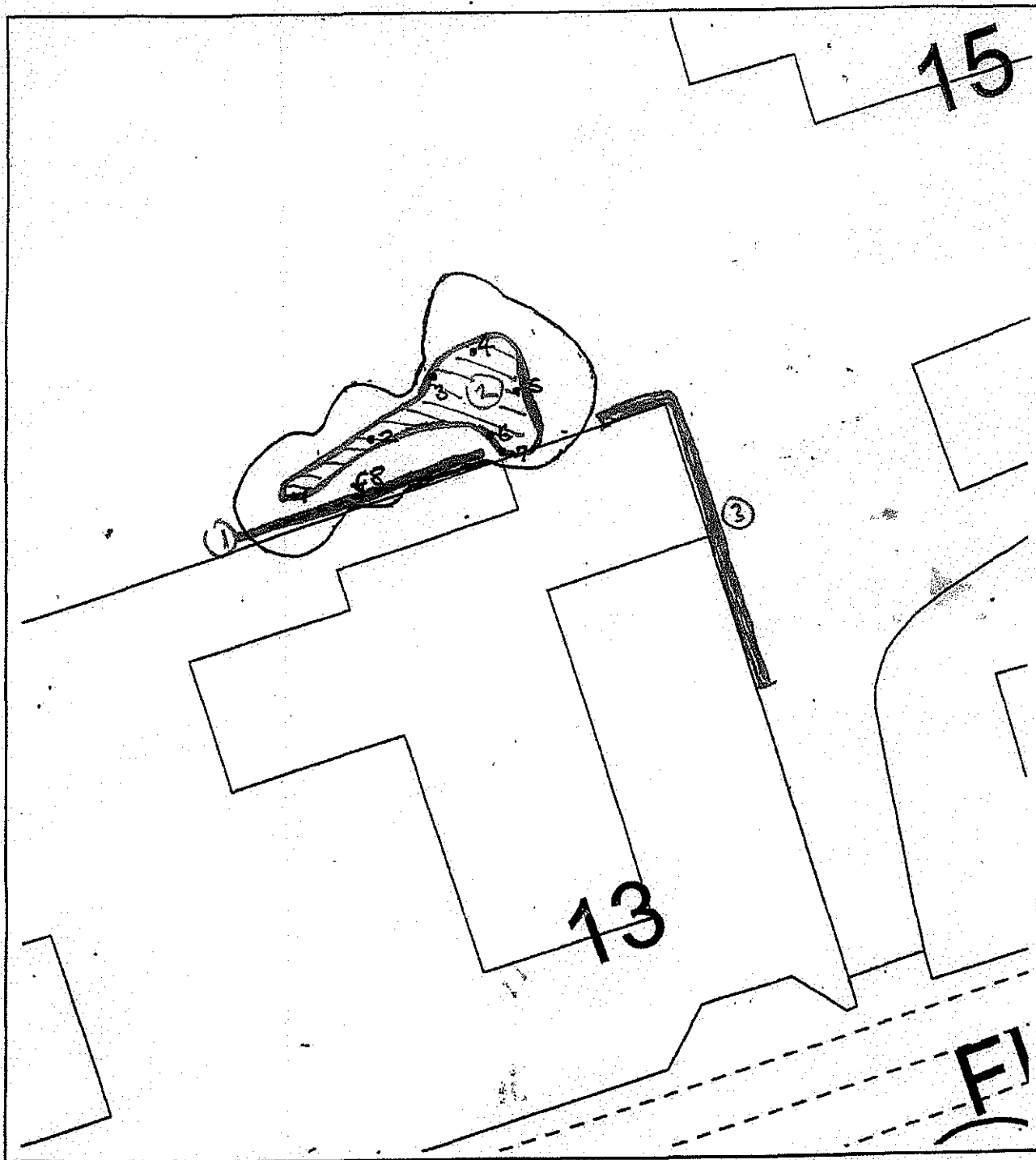
may result in prosecution in the Magistrates Court with a fine of up to £1,000. The Council also has power, in these circumstances, to enter the land where the hedge is situated and carry out the specified works. The Council may use these powers whether or not a prosecution is brought. The costs of such works will be recovered from the owner or occupier of the land.

Dated: **21 FEB 2007**

Signed:

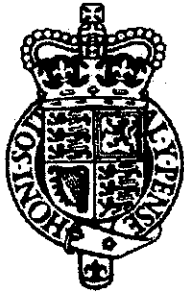
Simon Hand
Inspector

MVM SE GIS Print Template



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High Hedges Appeal Decision

Site visit made on 31 January 2007

by **Simon Hand MA**

an Inspector appointed by the Secretary of State for
Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date **21 FEB 2007**

Appeal Ref: APP/HH/06/308

Hedge at 15 Firs Chase, West Mersea, Essex, CO5 8NG

- The appeal is made under section 71 of the Anti-social Behaviour Act 2003 (the Act).
- The appeal, dated 26 July 2006, is made by Jackie Morley and Peter Bessey against the decision of Colchester Borough Council not to issue a remedial notice.
- The complaint (Ref HH/COL/06/0339) is dated 18 August 2005.

Summary of Decision: The appeal is allowed

The Hedge

1. There are three hedges subject to the appeal. Hedge 1 is a row of narrow conifers, about 3m tall along part of the northern boundary of No 13. Hedge 2 is a less regular group of conifers of different types, of various heights from 3m to 11m. It is close behind hedge 1 so that any reduction to hedge 1 would have no effect without a reduction to hedge 2 as well. Hedge 3 runs along the eastern boundary of No 13 and round the garage wall so that the garage is screened from No 15. This is 3.5m tall for most of its length with a 6.5m section at the southern end.

Background to the Appeal

2. Ms Morley and Mr Bessey complained to the Council that the trees blocked light to a number of windows, so that they had to have the lights on all day in part of the house and their view of the Strood channel was blocked. The Council calculated the action hedge height by the method recommended in *Hedge height and light loss* (Office of the Deputy Prime Minister /Building Research Establishment 2004, revised 2005). For hedges 1 & 2 the action hedge height was 2m and for hedge 3 the action hedge height was 3.5m. However the Council's arboriculturalist advised that a reduction of hedge 2 to 2m would be very likely to lead to its death. Because there was no point in reducing hedge 1 without reducing hedge 2 no action was taken in respect of either hedge. The Council also noted that most of hedge 3 was already at the action hedge height, and further considered that because the 6.5m section of hedge 3 had no impact on any windows but only on an area of driveway, there was no need to require it to be reduced to 3.5m and so no action was required for any part of hedge 3. The Complainants appealed, in particular because they had received their own arboriculturalist's report which was more supportive of action to the hedges.
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Reasons

3. No 13, which is a large chalet-bungalow style dwelling, appears to have been built into the corner of No 15's garden, so the latter wraps around its northern and eastern boundaries. Hedge 2 screens most of the house from No 15, as well as preventing overlooking from an upstairs bedroom window. Hedge 3 screens the garage from No 15. It grows just above the roof level of the garage and so reduces views from three dormer windows that otherwise would look directly into the garden of No 15. Hedge 1 appears to serve no purpose as it is hidden from No 15 by hedge 2 and dwarfed by it in terms of its impact on No 13. All three hedges were growing vigorously and had plenty of growth down to ground level in most places.

Hedge 3

4. The Council seem to have only considered that part of hedge 3 that lies on the eastern boundary of No 13, but it is clear that it wraps round the garage wall and runs along the northern boundary for a few metres, almost joining with hedge 2. It is clear this hedge provides an important screening function for No 15, and that part that is next to the garage is only visible from No 13 where it protrudes above the roof, for about 1m. The rest of hedge 3 runs down the side of the drive to No 13, where a large boat is stored. The last few trees at the southern end have been allowed to grow apparently unchecked and are over 6.5m tall. The rest has been neatly trimmed to 3.5m.
5. I agree with the Council the impact of this hedge on the driveway is negligible in terms of loss of light. The ground floor windows facing the hedge serve a cloakroom, hall and scullery, these are considered as non-habitable rooms. The BRE guidelines for calculating the action hedge height are based on light to the main rooms of a house. This does not make the non-habitable rooms irrelevant, but less weight should be given to the impact of a hedge on them. The upstairs dormer windows serve a landing, toilet and bedroom (the latter being in the corner, above the garage). The upstairs windows are little effected by the hedge at its current height and the BRE guidelines suggest considerable further growth could be accommodated. The impact on the driveway in terms of loss of light is not particularly great, but the side of the house is considerably darkened. Although the ground floor windows do not serve main rooms, the rooms they do serve are overshadowed, and the outlook is dominated by the hedge. Any further growth of the 3.5m section would have a serious impact on the amenity of these admittedly secondary rooms. In terms of visual amenity the trimmed portion of the hedge looks quite acceptable, but the taller unkempt part contrasts unfavourably. Taken as a whole the hedge dominates the entrance to No 13 in a quite harmful manner and so is affecting the reasonable enjoyment of the complainant's property.
6. Taking all these matters into account, it is my view that some reduction and control of the hedge is warranted. If the whole hedge were maintained at 3.5m its visual amenity would be improved, its impact on No 13 controlled and its screening function for No 15 retained. The taller part of the hedge seems healthy and vigorous and should be able to withstand a cut to this level. I do not think a staged reduction will help as this simply extends the period the trees are under stress. I shall therefore issue a Remedial Notice to achieve a reduction to 3m in one cut and future retention at 3.5m

Hedges 1 & 2

7. Hedges 1 and 2 dominate the northern boundary, to which No 13 is particularly close. The 'garden' area is effectively a gravel path down the side of the house and can be discounted for the purposes of this appeal. The main ground floor windows light the kitchen which also serves as a dining room. Upstairs there is a bedroom window in a gable end facing towards No 15. The trees of hedge 2 dominate this side of the house. The only view from the kitchen is a wall of conifers, and only a small portion of sky is visible from the bedroom window. Although the windows are north facing, and so receive no direct sunlight, the effect of the hedge is to overshadow this side of the house creating an oppressive backdrop that dramatically reduces what daylight there is. Hedge 1 is grown in front of hedge 2, in a neat line along the boundary. Because No 15 is lower than No 13 only about 1m protrudes above the fence. This hedge has little direct impact at the moment because of the overwhelming effect of hedge 2. But if allowed to grow it will increase the density of the overshadowing and over dominance of the hedges combined.
8. The action hedge height for the ground floor windows for both hedges is 2.5m, and because I am not counting the side path as a garden, this is the starting point for my consideration of any action that is required. Mr Burr, of No 15, has cast doubt on the validity of the arboriculturalist's report submitted by the complainants. However, his doubts notwithstanding, the advice relating to hedges 1 & 2 seems very sensible. It is clear that hedge 1 could withstand a reduction to 2.0m and retention at 2.5m, but such a severe reduction for hedge 2 could well be fatal. The report recommends each tree in hedge 2 being treated on its merits, and selective pruning, removal and thinning could create an attractive hedge that allows light through to No 13, reduces their dominance but retains a partial screen for No 15. Unfortunately I cannot require this level of detail through the issue of a Remedial Notice.
9. I consider that action is required to provide relief to No 13 from the oppressive effects of the two hedges and this outweighs any harm to the visual amenity of hedge 2 that may be caused by a uniform cut. An initial cut to 4.5m would require more than half of the taller specimens to be removed but only a third off some and nothing off others. This seems to be a reasonable compromise that should ensure the survival of the hedge, provide some relief to No 13 and still provide privacy for No 15. I also note the legislation provides for an application to be made to the Council to relax the requirements of a Remedial Notice if an agreement is subsequently reached between the parties.

Formal Decision

10. For the reasons given above I have decided the height of the hedges in question adversely affects the complainants reasonable enjoyment of their property and consequently that a Remedial Notice should be issued. I hereby issue the enclosed remedial notice specifying the action that must be taken in relation to the hedges to remedy their adverse effect.

Summary of Requirements of Remedial Notice

11. The Notice requires hedge 1 to be cut to 2m and thereafter to be retained at 2.5m, hedge 2 to be cut to 4.5m and thereafter retained at 5m and hedge 3 to cut to 3m and thereafter to be retained at 3.5m.

Person Responsible for Taking Remedial Action

12. Under the Act, the owner or occupier of 15 Firs Chase is obliged to carry out the works specified in the remedial notice, within any timescale set there. Failure to do so may result in prosecution and a fine.
13. The remedial notice does not give the complainant any right to intervene and take the necessary action themselves.

Simon Hand
Inspector

Our vision is for Colchester to develop as a prestigious regional centre

Our goal is to be a high performing Council

Our corporate objectives for 2006-2009 are:



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website: www.colchester.gov.uk