

# Planning Committee

Town Hall, Colchester  
2 December 2010 at 6.00pm

## **This committee deals with**

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

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

# Information for Members of the Public

## Access to information and meetings

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

## Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices and at [www.colchester.gov.uk](http://www.colchester.gov.uk)

## Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

## Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off before the meeting begins and note that photography or audio recording is not permitted.

## Access

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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.

## **Equality and Diversity Implications**

All applications are considered against a background of the Council's Equality Impact Assessment (EIA) Framework in order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination in relation to gender disability, sexual orientation, religion or belief, age, race or ethnicity. The legal context for this framework is for the most part set out in the Race Relations (RRA) and Disability Discrimination (DDA) legislation.

**COLCHESTER BOROUGH COUNCIL  
PLANNING COMMITTEE  
2 December 2010 at 6:00pm**

**Members**

Chairman : Councillor Ray Gamble.  
Deputy Chairman : Councillor Theresa Higgins.  
Councillors Andrew Ellis, Stephen Ford, Philip Oxford,  
Peter Chillingworth, Helen Chuah, John Elliott,  
Jackie Maclean, Jon Manning, Ann Quarrie and Laura Sykes.

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

**Agenda - Part A**

(open to the public including the media)

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

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

**Pages**

**1. Welcome and Announcements**

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

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

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

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

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

## **3. Substitutions**

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

## **4. Urgent Items**

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

## **5. Declarations of Interest**

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

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

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

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

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

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

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

Councillors should consult paragraph 7 of the Meetings General

Procedure Rules for further guidance.

**6. Minutes** **1 - 21**

To confirm as a correct record the minutes of the meeting held on 4 November and 18 November 2010.

**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. 100646 Tubswick, Mill Road, Colchester, CO4 5LD **22 - 35**  
(Mile End)

Demolition of the remainder of severely fire damaged dwelling and associated garage.

2. 101416 Thatched Cottage, Vine Farm Lane, Tiptree, CO5 0LR **36 - 41**  
(Tiptree)

Proposed conversion of existing ground and first floor flats into one three-bedroom detached house.

3. 101463 Skills Kindergarten, Warrens Farm, Coggeshall Road, **42 - 47**  
Great Tey, CO6 1AG  
(Great Tey)

Application to vary Condition 2 of planning permission C/COL/04/1710 restricting the number of children attending at any one time.

4. 101551 Turners, Swan Street, Chappel, CO6 2EA **48 - 56**  
(Great Tey)

Erection of a detached single cartlodge.

5. 101556 Turners, Bacons Lane, Chappel, CO6 2EB **57 - 67**  
(Great Tey)

Erection of a dwelling, a double cartlodge (two bay) and a new access.

6. 101954 Rawlings House, 45 Rawlings Crescent, CO4 9FB **68 - 73**  
(Highwoods)

Alteration to rear extension to form a new roof, a new extension to

the side elevation, alterations to the roof space including velux windows, a new car and cycle parking. Resubmission of 100871.

## **8. Exclusion of the Public**

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





## PLANNING COMMITTEE 4 NOVEMBER 2010

*Present :-* Councillor Ray Gamble\* (Chairman)  
Councillor Helen Chuah\* (Deputy Mayor)  
Councillors John Elliott\*, Andrew Ellis\*, Stephen Ford,  
Theresa Higgins\*, Jackie Maclean\*, Jon Manning\*,  
Philip Oxford\* and Laura Sykes\*

*Substitute Members :-* Councillor Terry Sutton  
for Councillor Peter Chillingworth\*  
Councillor Nigel Offen for Councillor Helen Chuah\*  
Councillor Pauline Hazell for Councillor Ann Quarrie

*Also in Attendance :-* Councillor Lyn Barton  
Councillor Nigel Chapman  
Councillor Christopher Garnett  
Councillor Martin Goss  
Councillor Beverley Oxford  
Councillor Gerard Oxford  
Councillor Colin Sykes  
Councillor Anne Turrell  
Councillor Mary Blandon  
Councillor Colin Sykes

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

**Councillor Philip Oxford (in respect of having spoken on the matter at planning before) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**111. 101761 Land to the north of Electricity Sub Station, Severalls Lane, Colchester**

The Committee considered an application for a new travellers site comprising a site office, twelve amenity blocks each comprising a lounge, kitchen and bathroom, a new access road from Severalls Lane East, internal roads and footpaths, site fencing, services, foul and surface water drainage, hard and soft landscaping and a play area. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He described the location, site layout, individual units, landscaping and access, and explained that the use of highway rights would enable the footpath to be built. He referred to planning policies relevant to this application including the Core Strategy and the East of England Plan, explaining that whilst the Plan had been revoked the evidence supporting the Plan remained as relevant guidance. He referred to policy SAH2 and to this site having been allocated for twelve pitches

thereby making adequate provision for gypsies and travellers in the borough. He referred to the responses to consultations. The Environmental Control team had recommended additional conditions. The Highways Authority had raised no objections but also recommended additional conditions. The Ramblers Association had welcomed the footpath. Following a revised flood risk assessment the Environment Agency had advised that they were withdrawing their earlier objections and recommended additional conditions. A further ecology study had been undertaken and Natural England and Essex Wildlife Trust had submitted further comments referred to on the Amendment Sheet. Mitigation measures were recommended for bats and birds, but no measures were proposed for otters and water voles. In excess of 1100 letters of objection had been received, many in a standard format but sixty-three individual letters had also been received and he made reference to the issues they raised.

The following public speakers addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application:-

Roger Smith, representing Fläkt Woods: The company had experienced occurrences of scrap metal being removed from their site, and of travellers parking their caravans within the Fläkt Woods site. They believed that travellers had used the bridle path to the south as a residential site causing damage. All these events occurred when travellers were in the immediate vicinity. They were of the view that these problems would re-occur and police presence would be required.

Richard Beauchamp, representing the Essex Branch of the Council for the Protection of Rural England (CPRE): The CPRE were concerned that following this application there would be pressure for further development which would encroach on land to the north of the A12 and further damage the visual amenity and wellbeing of the population in Essex.

Stewart St Clair Pearce asked if all of the Committee members had been present at the site visit. He referred to the flood risk assessment and was concerned that Salary Brook was blocked in three locations by large quantities of black bags, some containing human excrement. He did not believe it possible to undertake a flood risk assessment if part of the water course was blocked. He confirmed that he was in possession of a draft document Ex665952 which showed that he owned the land up to the road and this was the document that Essex County Council claimed did not exist. He was of the opinion that this was not a safe route for cyclists or walkers because traffic moved at high speeds along the road. In these circumstances he considered a cycleway a necessity.

Alan Edmond: He lived opposite the Rare Breeds Farm. He was concerned that no steps had been made to bring the two communities together prior to this development. He did not believe there had been any consultation with the local community nor had travellers had an opportunity to meet the community, which he believed would be best practice. He referred to the significant increase in the local population and was concerned that Fläkt Woods and other businesses and residents would all be affected. He was concerned that there were no shops or school places available nearby and that fear of crime remained an issue.

Ian Thompson lived locally and was concerned about this becoming an accident black spot by virtue of the road being narrow and travellers accessing the site in large vehicles. He did not believe that the situation regarding educational facilities had been addressed as the local school was already full. Neither did he believe that this was the most economic solution in the current economic climate. His view was that this proposal should not proceed and another site should be considered. He was of the opinion that the last consultation was done eight or nine years ago and a new consultation should now be carried out.

Roger Brown: He objected to the proposal on the grounds of the cost of providing brick and tile bungalows for a travellers' site. He did not believe this proposal would do anything to solve the migrant traveller problem in the area unless the Council proposed to extend the site in the future.

Jon Betts: His main objection was on the grounds of the number of residents living in the immediate area. At the time that the site had been selected there were very few residents nearby but since then the number had increased by 1000+ people. For this reason he considered it likely that the site would not be considered suitable today. Relevant circumstances had changed and the selection of this site should be reviewed. He also questioned the dates of the consultants' findings and suggested that if a consultant was appointed today there may be facts taken into account which would result in a different recommendation. Additionally he referred to Severalls Lane being a busy road which would become busier so there was a need for an adequate footway and cycle path for families and children.

The following public speakers addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application:-

Ronessa Knock, Co-Chair of the Trustees of Tendring and Colchester Minority Ethnic Partnership (TACMEP): The partnership was a voluntary organisation for the wellbeing of black and minority ethnic people; and support for human rights was fundamental to their work. She believed there were not enough pitches for gypsies and travellers in Colchester because there had been no permanent site since the closure of the site at the Hythe. The local authority had a legal duty to provide places. Occupiers of authorised traveller sites pay the same costs as house dwellers. There were costs relating to unauthorised encampments, such as evictions, police costs and the planning process. The lack of somewhere to live was detrimental to the health of travellers.

Daisy Lees: She had not been aware there would be a children's play area and considered the site would be a nice place to live. The gypsy and traveller culture has been in Essex for hundreds of years and was our largest minority group. Asking them to live in houses was an unsatisfactory situation because it did not recognise their culture and was contrary to the Human Rights Act 2010. Gypsies and travellers who live in their own community have their extended families and community around them which is of utmost importance and reinforces the gypsy and travellers' culture and should be protected.

Jan Plummer, Executive Board member of TACMEP: Gypsies and travellers had a right to a home, education, health and to express their cultural identity. Not having a permanent place to live was a denial of their rights. They could not access healthcare and other facilities and this was a contributory factor towards mental stress and deprivation, of which the highest rates across all communities occur in the traveller community. Fear of crime was an issue but there was no evidence to demonstrate a higher rate of criminality amongst the traveller communities. There is evidence that gypsies and travellers want to live alongside neighbours and that they were good neighbours to the house dwelling community. She believed a permanent site was a factor in increasing life choices and would save tax payers money.

Tim Oxton: He believed it was the local authority's moral duty to provide suitable sites of a quality such as this proposal. Failure to provide the site would condemn gypsies and travellers to unauthorised sites for many years. Many houses have been built in the vicinity of this site with between 700 to 1,000 residents living within 600 metres of the site. However, they all knew that a travellers' site was coming on this site and he considered it out of order for people to claim they did not know. Those letters of objection which were copies of leaflets or newsletters issued by local councillors did not merit consideration in proportion to their volume.

The following Ward Councillors attended and, with the consent of the Chairman, addressed the Committee:-

Councillor B.Oxford believed planning grounds for refusal were breaches of Policy TA2, no cycle route proposed; the site would remove this as an agricultural field; and lack of access to goods and services. The minimum width of a footpath and cycleway must be 3.4 metres. Mr St Clair Pearce owns the land to the kerbside and Essex County Council had not provided proof or evidence that they own the land, despite requests to see documentation. Essex County Council had treated residents with contempt. They know they do not own the land and have allowed total devastation along Severalls Lane by removing trees without notice. Severalls Lane was too dangerous a road to cycle along. Businesses have relocated here on the understanding that this land would not be developed at all. The council gave an assurance that they would be consulted. We ignore our premier business park at our peril. The council is supposed to listen to consultation even when it is not what it wants to hear. She queried why travellers were given priority over residents' families in respect of school places.

Councillor G.Oxford opposed the application for a number of reasons. He believed that human rights worked both ways, and referred to 5,000 people in the settled community being on the housing needs register and nothing was being done to help them. He also referred to the withdrawal of objections from three statutory consultees within the last forty-eight hours. Salary Brook was blocked but the Environmental Flood Risk Assessment on 15 October 2010 had failed to identify two blockages in various tributaries of Salary Brook. He questioned how a flow of water could be assessed when there were blockages and had assumed that it must have been a desktop survey. The proposal was contrary to policy TA2, Walking and Cycling, and DP17, Accessibility and Access. There had been an increase in the numbers of residents. Colchester was designated as a cycle town yet the Highway Authority did

not require a segregated cycleway and footway which he considered should be provided. Such a path would require a minimum 3.3 metre width. The no. 247 bus serves the area but there are no bus stops in proximity to the site. The business park, including two high profile tenants, was a short distance away. Crime and fear of crime was an issue, and he stated that the crime figures showed a 47% drop in crime in the Hythe area at the time the Hythe travellers' site closed.

Councillor Turrell referred to the changing nature of the area since the previous approval. Cuckoo Point had since been built and there was an increase in traffic movements. This was a dangerous road with speeding cars. This new exit onto the road would reduce safety yet further and pedestrians would be in danger. The new primary school had not solved the problem of a shortage of school places; it would need to be enlarged but still would not have sufficient places. The four primary schools in the area were over subscribed and parents living within the catchment areas were unable to get their children into their local school. There was a need to address shortages before the site was built. Various agencies had objected on the grounds of flooding; the land was clay and the flood risk would increase with a layer of concrete on top. She urged the committee to refuse the application on highways grounds. In the event that permission was approved, she requested two additional conditions, one to provide a 3.3 metre segregated path to satisfy planning policy and Sustrans, and another to prevent the keeping of horses and ponies on the site, only permitting two dogs and cats per pitch.

Councillor Chapman accepted the statement from planning policy and accepted Government advice in Circular 01/2006 to reduce the number of unauthorised encampments. However, there was a fundamental difference with this application related to its position in the green wedge between Colchester and villages to the north which he fights to maintain. The scale of this site is also of great concern to him. He believed the phrase "building and structures will not be unduly prominent in the countryside" suggested they would be prominent to some extent. The description sounded like a considerable development to him, akin to a full blown residential development not a caravan site.

Councillor Goss objected to the application on the grounds of noise, disturbance and nuisance, highway safety, traffic, health and safety, crime and fear of crime and job impacts. He referred to 10 years of data he had collected from various reports regarding travellers' sites and complaints in Harbour, Castle and Stanway Wards. Prior to 2006 in Harbour there were complaints of burning cars, camping on the official site, and rubbish outside the site. After 2006 there were no complaints in Harbour or Castle Wards. He believed that history showed that where there was a travellers' site an illegal encampment occurs on adjacent sites. He was also concerned that there was a great deal of open land which would eventually become housing.

The Planning Officer addressed each issue raised. He explained that there had been occurrences of unauthorised sites in the past but it was considered that the provision of a permanent site would strengthen the local authority's position and assist in reducing such unauthorised encampments.

In response to concerns regarding further development north of the A12 he explained that this specific site was included in the Site Allocations Development Plan Document in response to a need for such a site. He also referred to the chronology of the site which was set out in detail on the Amendment Sheet starting with the site selection process and the Cabinet's agreement to the site in 2004. It was therefore regarded as a special case. The site benefits from hedgerows and the proposal includes a planting scheme to provide further screening. This site was not a precedent for further development in the surrounding countryside which is protected by established policies.

In response to concerns regarding flooding he explained that the Environment Agency had originally objected to the development, but that response had been based on a flood risk assessment which had been based on out of date information. They had therefore been requested to re-assess their analysis of the potential for flooding on the site and following this further work they had confirmed that in their view this was a low risk flood zone. They had commented on the blockages in the ditches but they did not consider that they would alter the outcome of their flood risk assessment. The amended assessment satisfied their requirements with the addition of conditions as set out on the amendment sheet.

In response to concerns regarding highways issues he referred to the traffic speeds along this road but commented that the proposed sight splays were a mitigating safety feature which would be adequate to accommodate vehicles using the site. The provision of a footway would be a benefit and, whilst there would be no dedicated cycleway, it was considered appropriate for the footway to also be used by cycles bearing in mind that it was likely that users would only be going to and from this site.

In response to the issue regarding school places, it was considered that this site would generate a relatively small addition to the demand compared with the significant developments in the area. Any requirement for school places would have been considered through the LDF process. This proposal has been considered by a corporate development team at which time the education department had raised no objections. The proposal was below the threshold level for providing contributions towards educational facilities.

In response to concerns regarding crime and fear of crime, the planning officer confirmed that security for a local business could be a material planning consideration but the local authority would require tangible evidence that the proposal would be detrimental to that security. The local authority could not substantiate a suggestion that crime would increase as a result of this proposal. Various speakers had drawn parallels with the site at the Hythe and it was acknowledged that that site had been a source of serious problems. However, unlike the Hythe this site would be a managed site and on the basis that other managed sites had demonstrated that they could be run on a reasonable basis, such occurrences on this site were not anticipated. In respect of complaints regarding crime/anti-social behaviour from travellers, it was assumed that these related to unauthorised encampments.

In response to the land ownership issues raised, it was explained that highway rights over-ride whatever land ownership situation exists. The planning officer referred to

the revised recommendation on the Amendment Sheet in which an informative note would be included to draw the applicant's attention to the land ownership/control dispute. The dispute was a separate issue which was the responsibility of the developer to resolve to their satisfaction; it was not a matter for the planning authority to resolve.

In respect of earlier objections to the proposal by Natural England, reference was made to their response to a new ecology survey undertaken recently by Essex Ecology Services. The main findings of the report were set out on the Amendment Sheet. Natural England and Essex Wildlife Trust had both submitted clear assessments stating that they now had no objection to the proposed development. An additional condition was proposed.

A member of the Committee referred to planning policies which objectors considered were breached by the proposal, to the school admissions situation at the four local schools and to the requirement for a cycleway/footway to be provided to a minimum width of 3.3 metres, adding that there appeared to be a number of faults with the application and it should therefore be refused.

Other members commented that whilst this application was an emotive issue, there did not appear to be any new material planning matters which warranted a refusal. It was recognised that there were now more residential properties close to the site. However, proximity to residential developments had not been one of the criteria in the site selection process, nor was it a material planning consideration. The previous planning permission for the site was a public document freely available to anyone who was purchasing a nearby property and thus it is not a valid argument for refusal. Reference was made to the Regional Spatial Strategy having been revoked and to the subsequent current advice that individual authorities should examine their own evidence base to determine how many pitches they need to provide. The evidence base was in the Essex County Council gypsy assessment which indicated that Colchester needed to provide double the number of pitches legislated for and it was that assessment which had informed the Local Development Framework.

Members referred to the intention for this to be a managed site where residents would pay council tax, rent and have a tenancy agreement. Any breaches would lead to an occupant being evicted. Essex County Council had twelve managed sites in the county and none of them were the source of crime problems. The site at the Hythe had not been managed for many years. The Committee were aware of the Site Allocations Development Plan Document which included this site as a gypsy/traveller site. Whatever feelings people may have, there was a requirement for thirty pitches in Colchester. They considered that failure to accept this site could lead to further occurrences of unauthorised sites. The Committee were also aware that the council could issue a planning permission even if it could never be implemented by virtue of the outstanding highway issue over ownership/control, and this point had been confirmed.

The Committee had visited the site and some members considered the proximity of the site to the new developments to be exaggerated. There was also support for the view that the number of children requiring a school place would not be very high, and

there was also a possibility that school age children from this site may use denominational schools in the town. The Committee were very concerned at the speeds achieved along this stretch of road and were minded to submit a strong recommendation to the Highway Authority for a 30 mph speed restriction to be extended on both sides of the road to beyond the bend to the north of the site. There was also disappointment that there was no provision for a cycle path but a shared cycle/pedestrian path was requested in lieu.

In response to the Committee's comments, the planning officer referred to the site selection process and the previous approval being granted in 2007. It was recognised that there had been changes to policy which have been looked at in depth. The Environment Agency were now satisfied and Natural England and Essex Wildlife Trust had both been re-consulted on an up to date ecology report which had been done fairly and openly. All the formal consultees to the proposal have either not raised objections or withdrawn earlier objections which had been based on out of date material. In an effort to encourage cycling, it would be possible to request the provision of cycle parking within the site and it would also be possible for a shared use path to work satisfactorily, particularly in this specific case because it would only serve this site and would not be a heavily used route. Regarding the speed of traffic, it would be possible to request the Highway Authority to consider extending the 30 mph speed restriction, although it was considered that the proposed site splays have been designed to take account of speeds on this stretch of road.

The Monitoring Officer explained that the breaking of the Heads of Terms were outside the remit of this Committee. However, if the lessee did break the Heads of Terms, for example by failing to manage the site, that would amount to a breach of the lease and this council would be able to take suitable action against the lessee. The keeping of animals on the site would be a condition of the tenancy and was not a matter for planning conditions.

*RESOLVED* (ONE voted AGAINST) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet together with an additional condition to require the provision of cycle parking facilities within the site and an informative note to Essex County Council Highway Authority to request that serious consideration be given to extending the existing 30 mph speed restriction along Severalls Lane northwards beyond the site entrance and to include the bend north of the application site.



## PLANNING COMMITTEE 18 NOVEMBER 2010

*Present :-* Councillor Ray Gamble\* (Chairman)  
Councillor Helen Chuah\* (Deputy Mayor)  
Councillors Peter Chillingworth\*, John Elliott\*,  
Andrew Ellis\*, Stephen Ford, Theresa Higgins\*,  
Jackie Maclean, Jon Manning, Philip Oxford\*,  
Ann Quarrie\* and Laura Sykes\*

*Also in Attendance :-* Councillor Kevin Bentley  
Councillor Christopher Garnett  
Councillor Terry Sutton

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

### 112. Minutes

The minutes of the meeting held on 21 October 2010 were confirmed as a correct record.

**Councillor Ann Quarrie (in respect of her residence being in an earlier phase of the development) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Stephen Ford (in respect of his residence being in Valley Road) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and he left the meeting during its consideration and determination.**

### 113. 091559 Former Cook's Shipyard, Phase 3, Walter Radcliffe Way, Wivenhoe

The Committee considered an application for the erection of thirty-two dwellings, commercial units within Class A1 - Retail and Class B1 - Business, garages, off street parking, roads and footpaths, public open space, foul and surface water drainage and hard and soft landscaping. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

Sheldon Leader addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application in respect of the access roads to the site. There was a view that the use of vehicles and access roads remained a poor relation in the whole of the plan. The increase would continue to rise and on each phase there was no clear indication of attention to the problems of

access, either through Angelsea Road or through the village, and this was a symptom of the problems. Approval of the application would not resolve the impact upon the village. There has been no consideration of the closure of Queens Road or other roads. Intensification of traffic flows and the detrimental impact on residents is equally a problem to other roads. There is a much larger number of cars.

Mike Bowen, Melville Dunbar Associates, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. This application was a result of the market for homes and replaced the earlier scheme. Both applications were for 32 dwellings. At the last meeting the application was deferred for several issues raised by the Committee which included a request to the Highway Authority to reconsider the closure of Queens Road and to confirm their view that no significant increase in traffic would result from the development. The Highway Authority continue to endorse the proposals. It is suggested that the view of Queens Road residents and the traffic management of the area should be dealt with separately as it is not within the control of the applicant. The applicant had addressed the remaining issues:- one or two small shops would be provided and car parking for commercial units had been increased from thirteen to twenty-five spaces including four for shops. Visitor parking spaces remained at twenty-six including two disabled spaces. He hoped these amendments would meet the aspirations of the Committee.

Members of the Committee were pleased that the matters raised had been dealt with and Essex County Council had been consulted regarding the reopening of Queens Road and had indicated it should remain closed. One member had recently approached Essex County Council regarding the outstanding issue of traffic access routes to see if some alleviation of the traffic problem in the lower village could be achieved such as a one way system but had received no response to date. It was recognised that the traffic situation came from an earlier parking strategy which considered if there was good access to facilities residents would not need a car. It was noted that there were no education contributions in the Section 106 but it would be difficult to defend a refusal on that one issue. It was also recognised that there was an approved scheme and if this application was refused the benefits in this revised scheme would be lost. Members supported the planning officer's view that the Town Council were best advised to approach the Highway Authority regarding the traffic access issue.

It was explained that there were areas in the scheme which were allocated as permissive rights of way and the Town Council wanted them to be public rights of way, but they were shown as permissive rights of way on the Section 106 Agreement plan for the original outline application. Vehicles would be permitted to travel along to the dinghy park, but the permissive rights of way would be for pedestrians only.

*RESOLVED* (TWO ABSTAINED from VOTING) that –

(a) Consideration of the application be deferred for completion of a Section 106 legal agreement to secure the following:-

- two affordable units on plots 97 and 98;
- dinghy parking;

- visitor car park for cars, powered two wheelers and cycles;
- public access; and
- commercial floor space.

and to the prior variation of the existing Section 106 legal agreement to take account of the development proposed in application 091559,

(b) Upon receipt of a satisfactory Section 106 legal agreement, and prior variation of the existing Section 106 legal agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, together with additional conditions relating to the retail and commercial units and the deletion of Condition 22.

**Councillor Laura Sykes (in respect of her membership of Stanway Parish Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**114. 101729 Land at Floral Acres/Tollgate West, London Road, Stanway**

The Committee considered an application for the removal of Condition 16 attached to application 081333 to allow ancillary retail, wholesale sales/trade/business use. The Committee had before it a report in which all information was set out.

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

**115. 102021 Development Site, 1-3 Kingsland Beach, West Mersea**

The Committee considered an application for a proposed development of a terrace of three three-bedroom houses and associated car parking together with minor changes to the fenestration as well as the entrance porch on the north facing elevation. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

*RESOLVED* (UNANIMOUSLY) that –

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

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

**116. 102032 Paulfreemans, Bromans Lane, East Mersea, CO5 8UE**

The Committee considered an application for the demolition of the existing bungalow and the large concrete block garage and the erection of a replacement single storey dwelling. It was also proposed that an existing cart lodge be repaired and reused for vehicular storage. The existing vehicular access into the site was also to be realigned. 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.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

Councillor Sutton attended and, with the consent of the Chairman, addressed the Committee. He referred to the narrowness of the lane and that it was also the only entrance into Cudmore Grove Country Park. He suggested that consideration of the application be deferred in order that the applicants could be invited to consider providing a passing bay by way of a planning gain. The Highway Authority had asked for a wide sight splay which recognised the problems along this road.

Members of the Committee considered that the sight splay itself may offer some additional width of hard surface which would be a real benefit in enabling oncoming cars to pass. However, the applicant may get frustrated with their sight splay being used in this way and may put large stones out to prevent its use by passing cars. It was suggested that a dialogue be held with the applicant to establish if they would be willing to accede to the suggestion.

It was explained that this was a one for one development and the land to provide the visibility splay would be in the applicant's control consequently there would be nothing to prevent them putting out large stones to stop people using the splay as a passing bay. Furthermore, it would be unreasonable to require the applicants to provide such a bay by condition or defer the application for a discussion. The reason for the suggestion was understood and it could be pursued separately but not in terms of this application.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report with an informative requesting the applicant to consider the possibility of providing a passing bay or to leave the site splay unfettered.

**117. 102060 International Farm Camp, Hall Road, Tiptree, CO5 0QS**

The Committee considered an application for a new communal building with access as approved under application 100684 for the exclusive use of temporary work staff who would be accommodated in modern mobile homes located nearby. The Committee had before it a report in which all information was set out, see also

Amendment Sheet.

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

**118. 100275 81 Kingsland Road, West Mersea, CO5 8AH**

The Committee considered an application for the reintroduction of no. 83 Kingsland Road with the erection of a two-storey three-bedroom dwelling. The Committee had before it a report in which all information was set out.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

David Jones addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The only objection he had to the proposal was that there was a build up of soil from the site against his garage wall which he believed was making his property damp.

The planning officer explained that the drainage for the site would be dealt with under a building regulations application but it would be possible to impose a drainage condition and this would enable the borough council to consult with drainage authorities.

Members of the Committee were aware that the drainage issue was not a reason to refuse this application.

*RESOLVED* (UNANIMOUSLY) that –

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

(b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, together with an additional condition requiring submission and agreement to surface water drainage details.

**119. 101254 Land adjacent to 1 Firs Road, West Mersea, CO5 8JS**

The Committee considered an application for the erection of a new detached three bedroom dwelling and a new vehicle access. 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.

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

Graham Provan addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He made reference to the change in the policy regarding infill development. The report drew a comparison between this proposal and the neighbouring property. However, what would have been acceptable 10 years ago was not necessarily acceptable now. This proposal was at the margins regarding its proximity to neighbouring properties and the amount of amenity land. He believed he would lose light from his kitchen which was the only source of light for that side of the property. He was of the opinion that it might have met the standards but it was not necessarily appropriate for the site.

Members of the Committee were of the opinion that this proposal would fit in as there was a mix of types of dwellings in the area. However, there were concerns regarding the roof tiles. Plain clay roof tiles were preferred because they were a superior material and for their improved appearance both new and through the ageing process. The objector's point about garden grabbing was understood but this proposal was in accordance with the new guidelines including the size of the garden. Although the site was not typical because these were rear gardens, the Committee had seen the site and were satisfied that the proposal would fit in with the area.

The planning officer explained that Condition 3 would need to be reworded to provide for clay roof tiles. He also referred to Condition 6 which removed permitted development rights. In response to a query regarding the parking provision he confirmed that the two spaces were provided by the single integral garage of acceptable internal dimensions and a hardstanding for one space in front of the garage.

*RESOLVED* (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for completion of a Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.
- (b) Upon receipt of a satisfactory Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report, subject to Condition 3 to be reworded to ensure the use of a clay roofing tile rather than concrete as indicated in the application.

**Councillor Andrew Ellis (in respect of having made representations on the application as detailed in the report) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and he left the meeting during its consideration and**

**determination.**

**120. 101770 The Oak Stores, Hardy's Green, Birch, CO2 0NY**

The Committee considered an application for a replacement dwelling and garage. The Committee had before it a report in which all information was set out, see also 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.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

Brian Regan addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He had worked on this project with planning officers for over a year. They were quite happy with the property which was a compromise, but he had accepted it. These last three houses are the only ones where the village envelope does not include the whole of their garden. Only 20% of the floor area was outside the village envelope and it was not in open countryside. The immediate neighbour has garages which extend back and next door there is a large barn both of which are further back than this house. He hoped the committee could agree the application.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. He was of the view that this was not excessive development but a replacement dwelling. He felt the design fitted in with the two houses next to it and that it improved the area. He was surprised by the recommendation given the amount of work over the last year that had gone into development of the scheme. During this time the design had changed as a result of work with officers. There were ample parking spaces and turning areas. No objections had been received from either the parish council or from any of the neighbours. He hoped the Committee would approve the application.

Some members were concerned that the building would be set back by a considerable distance and as a consequence it would be out of keeping with the street scene. They also considered that precedence would render it difficult to resist further such applications. Other members supported the application. They considered the proposed increased frontage to be appropriate for a building of this quality and that the reasons for wanting it set back were reasonable. There was no objection to its size and it was considered that it was a good design which would enhance the area. Reference was made to the positive comments from the Urban Design officer. The existing dwelling was built across the village envelope but the new dwelling would extend further beyond the village envelope. However, it was considered that no harm would be caused to the countryside. The Committee considered the planning officer's recommendation of a refusal to be the correct recommendation based on policy guidance, but they were of the opinion that this particular application was an exception.

The planning officer confirmed that if the whole of the property was within the village envelope the recommendation would be for a permission. The officer considered that approval of this application would set a precedent by extending outside the village envelope. It was recommended for refusal because it was considered that the building would look incongruous and because the new building would extend further outside the village envelope than the existing building. Village envelopes were in place to protect the countryside. If members were minded to approve the application, she referred to conditions to secure landscaping to the front of the site, parking and turning provision, materials to be submitted and agreed from the traditional range of vernacular materials and other conditions pertinent to any dwelling. In response to a request she confirmed that permitted development rights could be withdrawn to prevent extensions being erected.

*RESOLVED* (TWO voted AGAINST) that the application be approved subject to conditions referred to above and on the Amendment Sheet, together with any further conditions considered appropriate by the Head of Environmental and Protective Services.

**121. 101899 26 Prince Albert Road, West Mersea, CO5 8AZ**

The Committee considered a reserved matters application for a three bedroom detached house, as approved under planning permission 080299. The Committee had before it a report in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that –

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

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

**122. 101539 The Acacias, Bacons Lane, Chappel, CO6 2EB**

The Committee considered an application for a variation of Condition 4 of planning permission 091391, visibility splays. 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.

**123. 102062 Ashgrove Cottage, Grove Hill, Langham, CO4 5PJ**



The Committee considered a retrospective application for a proposed amendment of a roof pitch from 50 degrees to 40 degrees and alterations to the chimney of a house approved under planning permission F/COL/07/0094. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. The Parish Council had originally objected to this application but subsequently they had withdrawn their objection. The neighbour maintained his objection to the height of the property and the change in design of the chimney.

Councillor Garnett attended and, with the consent of the Chairman, addressed the Committee. He had only one outstanding issue which was non standard Condition 7. He asked the Committee to tighten this condition up by imposing a time condition for cutting the verge, for example three or four times a year.

It was explained that this would require a further informative to the applicant, rather than a condition, and a discussion with the Highway Authority regarding any work to be done on a regular basis.

*RESOLVED* (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for completion of a revised Unilateral Undertaking to provide for a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document.
- (b) Upon receipt of a satisfactory revised Unilateral Undertaking, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and an additional informative indicating the Committee's desire to see the highway verge opposite the site trimmed in accordance with Condition 7 on a regular (three monthly) basis.

**124. 101893 16 Enville Way, Highwoods, Colchester, CO4 9UF**

The Committee considered an application for a ground floor conservatory extension. 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.

**125. 101282 Bishop William Ward CE Primary School, 22 Coach Road, Great Horkesley, CO6 4AT**

The Committee considered an application for a new single storey preschool building with a new canopy to the rear and a playground with play equipment. 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.

#### **126. 101520 36 Barrack Street, Colchester, CO1 2LJ**

The Committee considered an application for a change of use from A1 shop to two A5 takeaway food uses, a new extension at first floor level over the existing rear extension to provide new staircase to existing first floor flat. The application is a resubmission of application 100934. The Committee had before it a report in which all information was set out.

Sue Jackson, Principal Planning Officer, attended to assist the Committee in its deliberations.

Shwan Alsulayman addressed the Committee, on behalf of a friend who had complained on line, pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. There was a concern that this proposal would cause problems for the residents in respect of parking, road safety for children at the college, and over provision of takeaways in the same road. It would be too difficult to manage car parking there, and there would be traffic day and night. The proposal may result in the road being blocked for five to ten minutes whilst people were served. The other concern was for the residential area on the other side of the road where children play as most of the houses do not have a front garden and it would not be safe for them.

Motin Miah addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He was of the opinion that the main benefit of the takeaway to the public would be the creation of between sixteen and twenty full time and part time jobs. The public would have more choice of multicultural foods, the best value for money and the best quality foods. The building was in a very bad condition which was detrimental to Barrack Street. After receiving permission his aim was to modernise and redecorate the building completely. There was secure off street parking at the rear of the building for two cars and a place for a motorcycle. The council and central government would benefit from the receipt of council tax from the property which would be fully occupied.

Although members of the Committee were keen to see the building brought back into use, they had a number of concerns. These were mainly around parking issues; whether the application meets the parking standards and whether there was somewhere for a delivery van to park; whether there was, or needed to be, a travel plan; whether the office was part of the takeaway business or a separate entity; clarification on the number of employees which were variously reported as eight and up to twenty; whether the flat was tied into the takeaway or a separate entity, and whether one of the parking spaces was allocated for the flat; whether there was over-provision of takeaways in the area; the Highways Authority had based their response

on the business being mainly a telephone delivery service, but once permission was granted there would be no way to condition it as a delivery services and it could become a counter takeaway use. Some members expressed a wish for a site visit to aid their understanding of the application and it was suggested that a deferral might be appropriate to obtain some clarification on the above matters and for a site visit.

It was explained that Condition 11 tied the flat to occupation by the owners of the takeaway business. Condition 6 requires the submission of a scheme for the control of fumes and odours. The development was not of a scale to warrant a travel plan. There was no policy in Barrack Street restricting the number of A5 use outlets. Should this proposal be granted permission there would still be a minimum of 50% A1 retail outlets. It was suggested that Legal Services be consulted on whether there could be any control requiring the premises to remain a telephone delivery service. It was not clear from the application documents whether the office space in the basement was linked to the A5 uses or whether it was a separate entity. The site appears to lack parking provision.

*RESOLVED* (UNANIMOUSLY) that the application be deferred for a site visit and clarification on the matters set out above.

**Councillor Andrew Ellis (in respect of having previously employed the services of the agent, Edward Gittins & Associates) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**127. 101743 Park Stables, Berechurch Hall Road, Colchester, CO2 9NW**

The Committee considered an application for a change of use of land to site temporary mobile home for use and occupation by the manager of the riding school and stables. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to the application having included a technical appraisal as well as a business plan. It was not considered that the proposal would have an undue harm on neighbouring properties.

Joseph Greenhow addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The application is for occupation by the applicant who has entered into a partnership with the landowner for Park Stables. The principal shortcoming is the lack of a permanent person on site in the event of emergency and at night. The proposal is for temporary siting of a mobile home until justification for a permanent dwelling can be proved by business records. This complies with planning policy. The mobile home would be sited in the heart of the complex so there would be no harm to the character of the area or local amenity. The applicant has an established right of way along the track for many years. The site is not served by public transport.

Members of the Committee considered that normally the council asks for an independent assessment on the business plan and they queried whether this had been done because the application would result in a permanent dwelling. It was important to ascertain from the business plan whether the income generated after three years was likely to be enough to support the applicant and provide for the annual cost of providing the dwelling.

It was explained that the technical appraisal had been produced by a well known agricultural consultant and examined by the council's Economic Development Team who were satisfied. The document is available on the website.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report with the deletion of Condition 4 and an amendment to Condition 5 as set out on the Amendment Sheet.

**128. 101920 1 Spring Chase, Wivenhoe, CO7 9QP**

The Committee considered an application for a proposed single storey rear extension and alterations. 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.

**129. Reporting of Planning Application 091034 // 314 Cowdray Avenue, Colchester, CO1 1YA**

The Head of Environmental and Protective Services submitted a report on a planning application which had been determined under delegated authority although the applicant was an employee of the council, contrary to the Planning Procedures Code of Practice. The Committee had before it a report in which all information was set out, see also Amendment Sheet. They were asked to indicate that had the application come before them for determination they would have been minded to grant consent.

Andrew Tyrrell, Development Manager, attended to assist the Committee in its deliberations.

*RESOLVED* (UNANIMOUSLY) that the Committee concur with the determination under delegated authority that application 091034 be approved with appropriate conditions.

**130. Enforcement Action // Stonefield, Kelvedon Road, Inworth, CO5 9SH**

The Head of Environmental and Protective Services submitted a report on two unauthorised marquees being used in connection with the greengrocery/village shop

at Stonefield, Kelvedon Road, Inworth. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

Andrew Tyrrell, Development Manager, attended to assist the Committee in its deliberations.

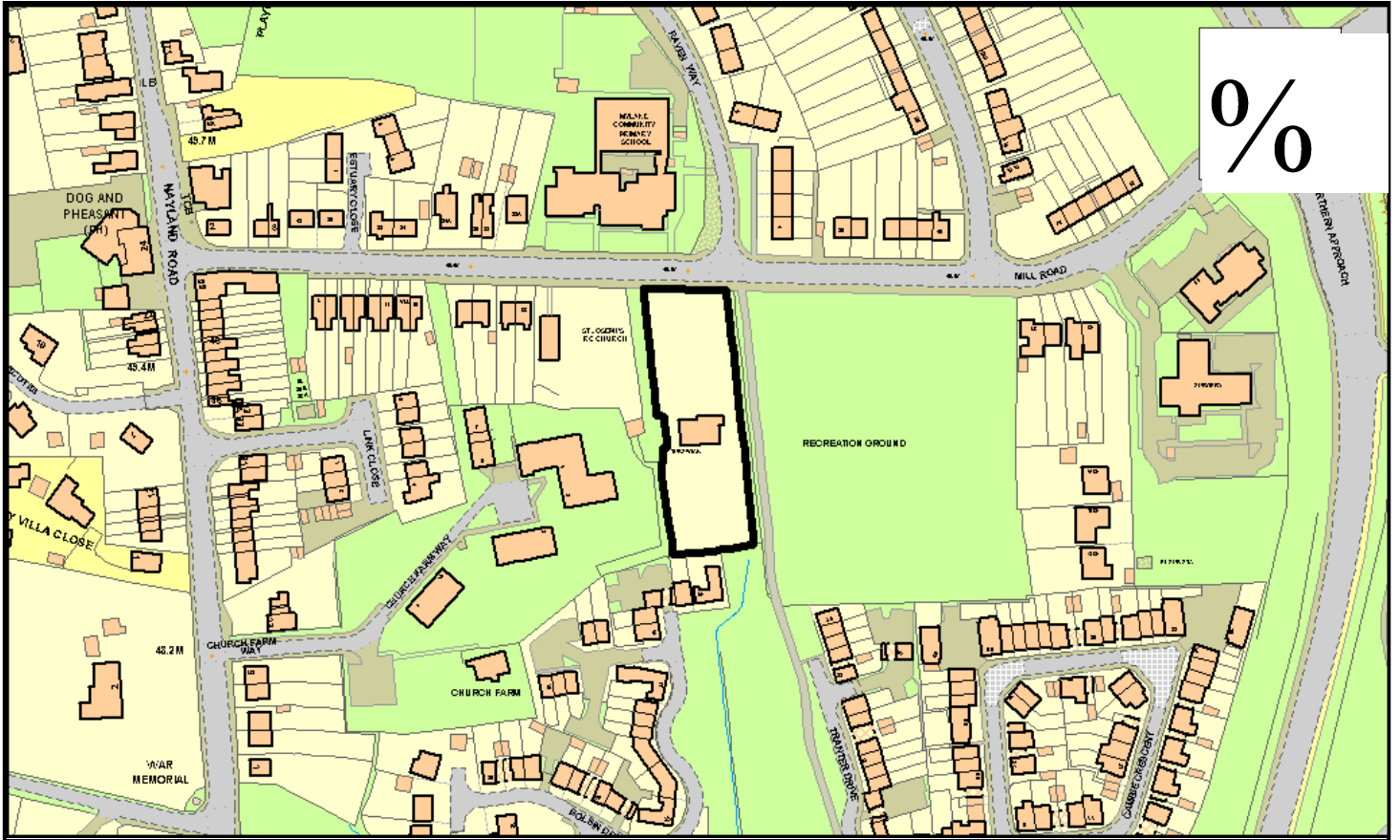
*RESOLVED* (UNANIMOUSLY) that an enforcement notice be served at the address requiring the removal of the marquees with a compliance period of twenty-eight days.

**131. Enforcement Action // Tudor Cottage, Church Road, Fingringhoe, CO5 7BJ**

The Head of Environmental and Protective Services submitted a report on an unauthorised fence because it was within the curtilage of a Listed Building and it exceeded one metre in height in a position which is adjacent to the highway. The Committee had before it a report in which all information was set out.

Andrew Tyrrell, Development Manager, attended to assist the Committee in its deliberations.

*RESOLVED* (UNANIMOUSLY) that an enforcement notice be served at the address requiring the fence to be removed with a compliance period of two months.



**Application No:** 100646

**Location:** Tubswick, Mill Road, Mile End, Colchester, CO4 5LD

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

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# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **2 December 2010**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

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

## 7.1 Case Officer: Alistair Day

**MINOR**

**Site:** Tubswick, Mill Road, Mile End, Colchester, CO4 5LD  
**Application No:** 100646  
**Date Received:** 6 April 2010  
**Agent:** Linda S Russell Limited  
**Applicant:** Mr & Mrs Richardson  
**Development:** Demolition of the remainder of severely fire damaged dwelling and associated garage.  
**Ward:** Mile End

**Summary of Recommendation:** Members endorse the recommendation to allow the demolition of Tubswick – Application referred to Secretary of State for ratification

## 1.0 Planning Report Introduction

1.1 This application has been brought to the attention of the Committee as objections have been received to the proposed demolition of a listed building known as Tubswick. Cllr Martin Goss has also requested that the Planning Committee consider this application.

- 1.2 This application was withdrawn from the 29 July 2010 Planning Committee by the Planning Service Manager due to concerns that the objections raised by Myland Parish Council (MPC) were not fully referred to in the officer's report and that MPC had not had the opportunity to comment on the architectural report prepared by Nicolas Jacob Architects.
- 1.3 It is recommended that Members visit the site in order to gain a true appreciation of the extensive fire damage that was caused to this building in December 2009.

## **2.0 Site Description**

- 2.1 Tubswick is situated towards the rear of a relatively large plot of land on the south side of Mill Road. To the north of the site is Myland Primary School and residential development of mixed age and character. To the west of the site is St Joseph's RC Church. Housing is located to the south and south west of the site. To the east of the site are playing fields.
- 2.2 Tubswick was listed grade II for its special architectural and historic interest on 14 December 2001. The List describes the building as follows:

*House. c. 1750. Red brick laid in Flemish Bond: plain tiled and slate roofs. PLAN: Lobby-entrance. EXTERIOR: south front of 2 storeys; 5-window range. Symmetrical. 6-pannelled central door, the upper 2 panels glazed, set within timber doorcase with flat hood. One blind window either side under segmental arches and one 8/8 unhorned sash to each of outer window bays. First floor alternates between 3 6/6 unhorned sashes and 2 blind windows. Coved and plastered eaves cornice. Central ridge stack. One brick (left of first-floor west window) inscribed HDF/1752 (Hannah De Foe). North elevations presents 2 projections, that to east gabled with a slate roof, that to west hipped with machine tiled roof. East projection with single-storey outshut to east side. North front with one plank door, one 2/2 unhorned sash and one 2/2 horizontally sliding sash. One segmental-headed casement to attic with glazing bars. West projection recessed: plank door to east of an 8/8 unhorned sash under a segmental gauged skewback arch. First floor rebuilt c. 1920 in stretcher bond brick reusing a 6/6 unhorned sash. Stack on main wall plane, rebuilt C20. West return with one 6/6 unhorned sash to each floor. INTERIOR: 4-pannelled doors throughout. East ground-floor room with 2 chamfered bridging beams with tongue stops. Late C19 marble chimneypiece in north wall. Passage west of stack leads to service rooms. Winder staircase north of stack. Similar bridging beams in passage and ground floor west room, the latter with a second late C19 marble chimneypiece. Kitchen (north-west extension) with tall fire opening for a range. Opposite is a pantry. North-east extension with an early C20 boiler. First floor rooms plain, with spine beams as before. Roof timbers plastered. HISTORICAL NOTE: The house was leased by Daniel Defoe on 6 August 1772 at £120 per annum for 99 years, and subsequently rebuilt for his daughter Molly Defoe. SOURCE: Philip Morant, The History and Antiquities of Colchester, 1768, Book 11, p 734 Intact Mid-C18, lobby entrance house with all features intact and historical association with Daniel Defoe."*



### **3.0 Proposal**

- 3.1 Listed building consent is sought for the complete demolition of Tubswick, formerly a good mid 18th century house with associations with Daniel Defoe and now largely destroyed by fire.

### **4.0 Land Use Allocation**

- 4.1 Predominantly residential

### **5.0 Relevant Planning History**

- 5.1 None

### **6.0 Principal Policies**

- 6.1 The following national policies are relevant to this application:  
Planning Policy Statement 5: Planning for the Historic Environment
- 6.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
UR2 - Built Design and Character  
ENV1 - Environment
- 6.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP14 Historic Environment Assets

### **7.0 Consultations**

#### Spatial Policy

- 7.1 In response to the comments from MPC the Spatial Policy Manager provided the advice below dated 28 July 2010 for the consideration by the Planning Committee at its meeting on 29 July 2010. (Members should note that this advice was provided prior to the adoption of Development Plan Policies and the advice provided in respect of these policies and the saved Local Plan Policies is now out of date).
1. The proposal should have regard to the Development Plan which consists of the adopted Core Strategy and relevant saved Local Plan policies. The committee should also have regard to national planning guidance in this case PPS5.
  2. The Development Policies DPD (including Policy DP14) has not been adopted as we have not received the Planning Inspector's report. Until we receive the report the draft policies should not be used as part of the decision making process.
  3. Tubswick is a listed building therefore does not fall within the remit of the local list (which is concerned with buildings and assets that are not protected as statutory listed buildings or buildings within a conservation area.)

4. I am not aware of any adopted guidance documents which state that 'all pre 1920's buildings within this area are to be retained and restored, and any other new buildings are to be undertaken strictly in the architectural styles and densities of the period 1880-1920.'

7.2 The Spatial Policy Team have also been requested to provide clarification as to the status of the adopted planning guidance referred to in the MPC's objection letter and their comments regarding local listed / locally protected areas. The following comments (dated 28 July 2010) have been provided in respect of this matter:

The MPC letter makes reference to adopted Supplementary Planning Guidance covering Nayland and Mill Road West. I am not aware of such adopted guidance. I have checked the list of adopted SPG'S but none relate to the area mentioned. A new Myland Design Statement (MDS) is currently being prepared by the Myland Design Statement Group which will hopefully be adopted as Guidance. I have checked the text in this draft MDS document however the text in it is not consistent with the text in the extract provided to you from MPC Planning Committee. I have also checked the emerging Supplementary Planning Document being prepared for North Growth Area Urban Extension (NGAUE) and again can find no text similar to that provided to you.

The Myland Design Statement Group did show interest in being able to identify areas with their parish that should be included on the Local List due to their architectural /historic interest. MPC were advised that a group of local historians were carrying out a survey of Colchester's unlisted buildings and that the Mile End Parish was included in this initiative. No areas within Mile End are proposed for designation.

*Officer Comment: The Myland Design Statement was adopted in September 2010 by the Council as a guidance note and is a material planning consideration when determining applications. The MDS states that Mile End Village and the crescent of villas in Turner Village should be considered for designation as an Area of Special Interest. The designation of an Area of Special Interest is currently an aspiration of the MPC; no area of local interest has been formally adopted/designated by the Borough Council.*

7.3 Estates comments as follows:-

The market value of the property if re-built seems reasonable when looking at the plot, location and size of the property, however I was unable to find any suitable comparables. The property is fairly unique in that it is set back from the road, listed and has large grounds. The surrounding properties front onto the main road and are considerably smaller.

It would be safe to assume that the building costs were not unreasonable. The plot value is difficult to assess due to the lack of planning permission, if they were to get permission for 2 properties then it is likely to be in the region of £100,000 but I would assume it is a cautious estimate as plot values have suffered in the current market.

Overall the costs are broadly reasonable.

## English Heritage

- 7.4 The comments made by English Heritage in their letter of 30 April 2010 can be summarised as follows:

Consent for demolition of the house is being sought following a fire in late 2009 that left the building severely damaged. Notwithstanding such damage as the fire may have done, it is clear that the demolition of the house would result in the total loss of the building's special interest and the application should therefore be determined with regard to policy HE9.1 and HE9.2 of PPS 5.

Two considerations will be fundamental. Is the building capable of repair and were it to be repaired would it remain of sufficient significance to justify its repair? PPS 5 require a proportional approach to be taken to the conservation of historic buildings; in this case, it is clear that the special interest of the 18th century building has been severely damaged by the fire, above all because the interior that was described as being largely intact when the building was listed has now been substantially destroyed. On the other hand the walls of the building survive and much of its architectural quality lies in the front elevation.

This assessment leads to a complex conclusion. Sufficient interest of the building may have already have been lost to throw doubt on the appropriateness of the building's listed status and the damage already done would be compounded by the works necessary to repair and reconstruct the house. On the other hand, the preservation of the brick carcass – and above all its frontage – would appear to leave a building that retained some distinct architectural and historic interest. In accordance with the spirit of policy HE8.1, it should be considered whether the resulting building might properly be considered to be a heritage asset of local interest, the preservation of which would be material consideration.

The letter of 30 April 2010 concludes by recommending that, in accordance with the policies of PPS 5, the Council should assess the likely residual interest of Tubswick and consider how its repair and reconstruction might be achieved in order to determine whether the significance of the building once repaired and reconstructed would merit the efforts necessary to secure this end.

- 7.5 Following the submission of additional information, English Heritage provided further comments (via email) in respect of the application for the demolition of Tubswick. These comments are set out below:

“Thank you for re-sending the additional information you have received in respect of the proposed demolition of Tubswick.

In my initial comments on this application, I noted, first, that the house had suffered sufficient damage to have been robbed of the greater part of the special architectural and historic interest that merited its listed status, and second, that the brick carcass survived in large part and might be of sufficient quality to be considered of local interest; and I recommended that your Council consider both whether this was the case and, if so, whether there was any means to secure the survival and reinstatement of the building proportionate to this interest.

The further assessment of the building made by Nicholas Jacob Architects throws additional light on the case. It would seem that less of the carcass of the building

would survive than might have been thought on the basis of the earlier report, in part because parts of the carcass had already been rebuilt. Although the question of whether additional development might fund the repair and reinstatement of the house has not been answered, the report provides reasonable grounds upon which to conclude that so little of the interest of the building would survive any attempt to repair and reinstate it that the result would be neither of national nor of local interest. It follows from this conclusion that your Council should grant listed building consent for the demolition of what remains of the house”.

7.6 The Georgian Group comment as follows:-

“Further to our recent site visit to the above address and following presentation of the proposals to The Group’s Casework Panel on Tuesday 25th June The Group’s position is as follows.

Whilst we would naturally support any proposal that seeks to retain the remaining historic fabric as part of a rebuilding scheme we do not have, given the condition of the structure, any objection to the proposed demolition of the former house at Tubswick.

Should you wish to discuss The Group’s position further please feel free to give me a call on the number below.

Thank you for consulting The Georgian Group”

**8.0 Parish Council's Views**

8.1 MPC is strongly opposed to the demolition of Tubswick due to “its archaeological and historic importance to the Parish” and that its demolition would be contrary to Planning Policy Statement 5, the East of England Plan, Colchester Borough Council’s Adopted Core Strategy, Colchester Borough Council’s Development Policies document and the saved policies in the Local Plan.

8.2 A summary of the Parish Council’s first letter of objection is provided below together with officer comment.

1. Planning Policy Statement 5 sets out the national planning policies on the conservation of the historic environment and due regard has to be paid to these policies.

*Officer comment: The policies and guidance set out in PPS 5 have informed the officer recommendation.*

2. Regional Planning Policy supports the protection of the historic environment and MPC highlight relevant policies from the Regional Plan

*Officer Comment: The regional plan was revoked prior to the drafting of the original report and therefore the policies were not discussed in this report. The decision of the Secretary of State to revoke RSS has recently been challenged in the High Court and the effect of this case is to re-establish Regional Strategies as a part of the development plan. However the Secretary of State wrote to LPA on 27 May 2010 informing them of the Government’s intention to abolish Regional Strategies in the Localism Bill and that he expects them to have regard to this as a material consideration when determining planning applications; this advice has been reiterated to LPA. The Regional Plan policies do not add further to those set out in the Core Strategy and Development Plan (in respect of the conservation of the historic environment) and, as such, would not result in a different decision being*

*made in respect of this application. In view of this, and in the light of the advice provided by the Secretary of State, the Regional Policies have not been quoted as a part of this report.*

3. Policies UR2 and ENV 1 of Colchester Borough Council's Adopted Core Strategy relate to the protection of the historic environment.  
*Officer Comment: Due consideration has been given to the relevant Core Strategy Policies when determining this application.*
4. Development Plan Policies: DP14 seeks to secure the protection of the historic environment.  
*Officer Comment: At the time the original report was drafted, the Development Plan Policies had not been adopted and the advice from Spatial Policy (at that time) was that these policies were not to form part of the decision making process. The DPD were subsequently adopted in October 2010 and, as such, these policies are now relevant (where applicable).*
5. Adopted Review Colchester Borough Local Plan – there are various policies relating to listed buildings that have been retained. The most significant of which is UEA 4.  
*Officer Comment: The relevant saved Local Plan Policies were referred to in the original report. With the adoption of the DPD these policies are no longer applicable.*
6. The Structural Assessment carried out by The Morton Partnership states that re-building is of course entirely possible. We fully concur with this statement; whilst some demolition will clearly be needed to rebuild a replica to modern Building Control standards, we do not see any justification for total demolition.  
*Officer Comment: The Morton Report is referred to with the main body of the report.*
7. CBC has agreed to the designation of areas and/or buildings of local interest (DP 14). The Myland Design Statement and CBC are in discussions regarding the areas to receive such designation which includes Tubswick.  
*Officer Comment: See response from Spatial Policy*
8. It is noted that no report from the CBC Conservation Officer is included with the application or available on the web site.  
*Officer Comment: The author of the report holds a relevant conservation qualification.*

8.3 Two further letters of objection (dated 27 July 2010 and 10 August 2010) have been received from MPC. These letters reiterate or expand upon many of the concerns raised in their original letter of objection; additional comments raised by MPC are summarised below:

1. The objections raised in MPC original letter were not adequately represented in the report drafted for presentation to 29 July 2010 Planning Committee.  
*Officer Comment: This report describe MPC objection to this proposal more fully.*
2. The formal agreement between Spatial Policy Team and the Planning Inspector in respect of local areas of interest has been ignored.  
*Officer Comment: The response provided by Spatial Policy clarifies the position in respect of local listing of buildings and areas.*

3. No attempt has been made to find a viable new use and there have been no discussion about preservation of Tubswick in some form of charitable or community ownership nor have substantial benefits for the community been identified, as required by UEA 4.

*Officer Comment: For the reasons set out in the report, it is considered that the building has lost its special interest and, as such, it is not necessary for the applicant to explore community ownership. With the adoption of Development Plan policies, the former Saved Local Plan Policy is no longer relevant.*

4. MPC concurs fully with the first opinion of English Heritage on this matter. However following the submission of additional information English Heritage changed their view. This additional report was not submitted to MPC for consideration. The additional report gives the general conclusion that Tubswick has been irretrievably destroyed and locally understood historic connection to Daniel Defoe as the reason for the original listing is highly improbable and, as such, any reason to list/retain the existing building is obsolete. MPC disagree with this.

- a. MPC are against the view that it is acceptable to approve an application for total demolition of this building to enable the redevelopment of this site.
- b. MPC do not accept that the rebuilding of Tubswick is a 'non starter idea' due to loss of all 'listed references' or that it is unreasonable to build a facsimile.
- c. The consultant's detailed analysis of the site is a thorough debunking of the Daniel Defoe association as a reason for explaining why Tubswick should not have been listed originally. A parish council, with just 14 days notice, cannot prove or disprove their claims about the minimal Daniel Defoe relationship to this building. MPC challenges Ms Russell's historic research as incomplete and biased.
- d. MPC does NOT accept that no street scene preservation is involved.

*Officer Comment: There is not a statutory requirement to re-consult objectors on additional information received in respect of a planning application. If additional consultations are undertaken, 14 days is the standard timeframe given for further comments.*

5. CBC failed to undertake enforcement action for repair and security at this easily accessible site, next to a playground, where vandalism and arson were an inevitable event

*Officer Comment: The above comments are noted; this application must however be judged on relevant planning considerations.*

## **9.0 Representations**

- 9.1 The application has triggered a number of letters of objection from local residents. Their comments can be summarised as follows:

1. The building should be restored due to its history and significance.
2. The historic interest of this building is that much more important than the surviving original fabric.

3. The building has been left to deteriorate as the owner wishes to sell the site for development.
4. The Council should seek further independent advice regarding the condition of the building and its surviving special interest.

9.2 One resident initially submitted a detailed letter of objection, however, following the submission of the Nicholas Jacobs report this resident withdrew their objection to the proposed demolition of Tubswick.

9.3 Councillor Goss has objected to this application and requested that it is considered by the Planning Committee as:

- There are insufficient grounds to request the demolition of the building.
- An independent surveyor view should be sought.
- A scheme should be submitted for the redevelopment of the whole site that includes the repair of Tubswick; an economic solution can be found to restore this house.
- It is a serious concern that the owners had zero insurance to cover the site. Surely on a listed building this should be mandatory and therefore should action not be taken against the owners for gross negligence with regards to a listed building?

*Officer Comment: Both The Morton Partnership and Nicholas Jacob Architects have extensive experience of dealing with historic buildings and it is not considered necessary for the Council to seek further advice in respect of the condition of the building. The applicant has submitted a financial appraisal detailing the economic viability of restoring Tubswick; the agent has stated that they do not intend to pursue a scheme which involves the restoration of Tubswick as the building has lost its 'special interest' and it would not be economically viable to do so. There is not a statutory requirement for an owner to maintain their property (listed or otherwise) in a good condition or to insure their property.*

9.4 Bob Russell MP has objected to this application, making the following comments:

- The application illustrates to owners of other listed buildings that they can allow them to deteriorate, suffer fire damage and then present an application to the Council for demolition so that they have a cleared site for development. Listed buildings need to be protected.
- Tubswick is one of the oldest buildings in Myland and was occupied by Daniel Defoe, an author of national importance.
- Neglect is not a sufficient reason to allow its demolition.
- The application should be refused and the applicant should “engage an architect of merit who can provide a scheme whereby the surviving remains of the building are restored as a part of whatever development is eventually allowed”.

The full content of all letters and other correspondence received in respect of this application are available to view on the Council’s website.

## 10.0 Updated Report

- 10.1 Tubswick dates from about 1750 and is - or did – represent a good example of a house from this period. The front façade of the building was thoughtfully composed with a classical door case flanked by sash and blind windows with a plaster cove beneath the eaves. It is understood that the interior retained a lobby entrance plan and much original joinery at the time of listing. Tubswick was listed in 2001 as it was considered to represent a good example of a mid 18th century house; the association with Daniel Defoe provided added historical interest.
- 10.2 Tubswick had been vacant for some time prior to the fire and had been identified by the Council as a Building at Risk. The site was visited in the summer 2009 and while the house was clearly showing signs of deterioration it nevertheless appeared weathertight and secure. In view of the condition of the building, contact had been made with the owner's agent and discussions had commenced about securing the repair of the listed building, the cost of which would be offset by allowing some modest development within the grounds of house.
- 10.3 In December 2009 Tubswick was the subject of a fire which has caused substantial damage to the building. The damage to the principal Georgian range of the building can be summarised as follows:
- The roof of the house has been completely destroyed by the fire and is not salvageable.
  - The main chimney has suffered partial collapses.
  - Much of the interior (floor structure, ceilings, stairs, internal stud walls and doors) has been completely destroyed.
  - On the front elevation, the five sash windows and entrance door case and lining have been completely destroyed by the fire as have sash windows to the east and west gable ends of the property. The coving detail at eaves level on the front elevation has also been destroyed.
  - The external walls (and internal brick cross wall) are the only elements of the main house that remain substantially in their original form but even here there has been fire damage.
- 10.4 Front elevation: The wall plate to the front elevation of the house is severely damaged and will require 100% replacement. At the west end of the front elevation around the ground floor window, the brick wall has partially collapsed and there is substantial bowing of the brick wall both at the ground and first floors which will require substantial rebuilding. The brickwork surrounding the window and door openings will also require rebuilding.
- 10.5 East elevation: The triangle of the gable appears to have been rebuilt in the 19th Century; this gable has suffered settlement damage and has previously been underpinned with the south east corner and central section being previously rebuilt. Movement continues in the wall with further rebuilding required. Overall, about 50% of the 18th Century brickwork to this elevation has previously been replaced.



- 10.6 West Elevation: The triangle of the gable, which was rebuilt in 1987, has collapsed and needs rebuilding; the section of brickwork between the ground and first floor window has also been damaged by the fire and this will require rebuilding along with the resetting of the windows arches. Stitch repairs will be required across the vertical cracks in order to stabilise the wall along with general repointing.
- 10.7 North wall: this wall remains reasonably intact with some rebuilding required particularly around eaves level and around several large openings where timbers lintels have collapsed.
- 10.8 Policy HE6.1 of PPS 5 requires an applicant to undertake an assessment of significance of the building and that this assessment should be to a level of thoroughness proportionate to the relative importance of the building. The current application is supported by a structural engineers report detailing the condition of Tubswick and an architect's report providing an assessment of the building's surviving architectural and historic interest. Both of these reports have been undertaken by competent professionals with considerable experience of dealing with the repair and restoration of historic buildings; in view of this, it is not considered necessary for the Council to commission its own assessment report as suggested by a number of the objectors.
- 10.9 The application for the demolition of Tubswick needs to be determined with regard to the policies set in PPS 5 (notably HE9.1 and HE9.2), Core Strategy Policies (UR2 and ENV 1) and Development Plan Policies (notably DP 14). Regard also needs to be taken of the advice set out in the PPS 5 companion document "Historic Environment Planning Practice Guide" which was published concurrently with PPS 5 by the government and English Heritage.
- 10.10 The fundamental considerations in reaching a decision in respect of this application are: is Tubswick capable of repair and, if so, would it remain of sufficient interest to justify these works?
- 10.11 The Morton Partnership report and that prepared by Nicolas Jacob Architects both accept that it would technically be possible to reconstruct the house around the surviving walls and, therefore, re-create its overall form and external appearance. Having established this, the PPS practices guide states that, in determining whether restoration is appropriate following catastrophic damage (for example from fire), the practicality of restoration should be established by its remaining significance – i.e. would the building retain sufficient interest to justify these works.
- 10.12 In the case of Tubswick, the interior of the building has been totally destroyed by the fire and, as such, its reconstruction can at best only be an exercise in approximate or conjectural restoration. With regard to the exterior of the building, the substantial reconstruction, re-facing and repairs required would result in a facsimile of the original house. The scale of the fire damage at Tubswick is so great that the historic fabric and the character referred to in the List description has either been lost or significantly compromised. It is the considered view of the conservation professional that so little of the building's special interest would survive any attempt to repair and reinstate it that the result would be neither of national nor of local interest.

- 10.13 Policy HE9.3 of PPS 5 states that to be confident that no appropriate and viable use can be found for a redundant building, local authorities should require the applicant to provide evidence that other potential owners have been sought through appropriate marketing and reasonable endeavour have been made to seek grant funding. Tubswick has not been marketed for sale and this has been highlighted as a shortcoming of this application. Officers do not share this view; Tubswick has been extensively and substantially damaged by fire so that little of building's interest survives and any attempt to repair and reinstate the house would result in a building that is not of special architectural or historic interest. Policy HE6 of PPS 5 requires the level of detail to be submitted with an application to be proportionate to the importance of the heritage asset and no more than is sufficient to understand the effect of the proposal on the significance of the heritage asset. Given that it is considered that the special interest of the building has been lost as a result of the fire and can not be reinstated by its reconstruction, it is not considered necessary or appropriate for the applicant to embark on a marketing exercise; after all, even if an other owner wished to reconstructed Tubswick, it would not alter the fact that the building has lost its special architectural or historic interest.
- 10.14 Comment has been made that the cost of rebuilding Tubswicks should be met through the insurance of the property; this course of action is not possible as the owner did not have the property insured. A financial appraisal was submitted by the applicant on 22 September 2010 detailing the cost of repairing Tubswick and its end value following its reconstruction; MPC were sent a copy of the financial appraisal on 23 September 2010 and have not made any comments in respect of this document. The submitted financial appraisal shows that the cost of repairing the building would be in the region of £610,000; the market value of the reconstructed house would be £550,000, creating a loss of £60,000. The financial appraisal also gives consideration to how the evaluation of the property would be affected if a plot along the frontage was sold for the construction of either a terrace of 3 x 2 bedroom houses or a pair of three bedroom semi-detached houses. If a parcel of land along the frontage of the site is sold for redevelopment this would generate about £100,000. The market value of Tubswick would however depreciate (due to having a smaller garden) to £495,000. The proposal for the refurbishment of Tubswick plus an element of new build would create a loss of £15,000. The possibility of grant aid has been discussed with English Heritage (to fund the 'conservation deficit') and they have stated that because the building has lost its special interest, they would not consider grant aid in this particular case.
- 10.15 Many of the objection comments relate to Tubswick's association with Daniel Defoe (1660-731). While historical records show that Defoe lived in Essex, it is unclear from the available evidence whether he ever lived at Tubswick. The statutory List states Defoe took the lease for Tubswick in 1722 and the house was subsequently rebuilt for his daughter Molly. According to the List description the main range of the house (the principal reason for the building being listed) was constructed in about 1750; Defoe died in 1731 and he could therefore never have stayed in this house. It is possible that part of the rear range predates the main Georgian building, however these elements have been extensively altered (for example a first floor was added in the 1920s) and have also suffered substantial damage as a result of the recent fire. It is suggested by some that Defoe wrote Moll Flanders whilst living at Tubswick. The agent states that this is not possible as historical records show the Moll Flanders was published in January 1722, while the lease for Tubswick was signed in August of that year. Notwithstanding the uncertainty about whether Daniel Defoe lived at Tubswick or not, there does not seem to be a dispute that he is associated with site and that this adds

historic interest to the building. That said, it needs to be remembered that the principal reason for listing the building was because it represented a good example of a mid 18th century lobby entrance house whose internal features remained substantially intact. The fire at Tubswick has destroyed the elements that compromised the special interest of the building and hence its reason for being listed.

## **11.0 Conclusions**

11.1 In view of the extensive damage that has been caused to Tubswick, it is recommended that this application is approved.

## **12.0 Background Papers**

12.1 Core Strategy; Development Plan; PPS 5, EH; GG; PP; Estates, PTC, NLR

### **Recommendation**

Members endorse the recommendation to allow the demolition of Tubswick and that this application is referred to the Secretary of State for ratification.

### **Conditions**

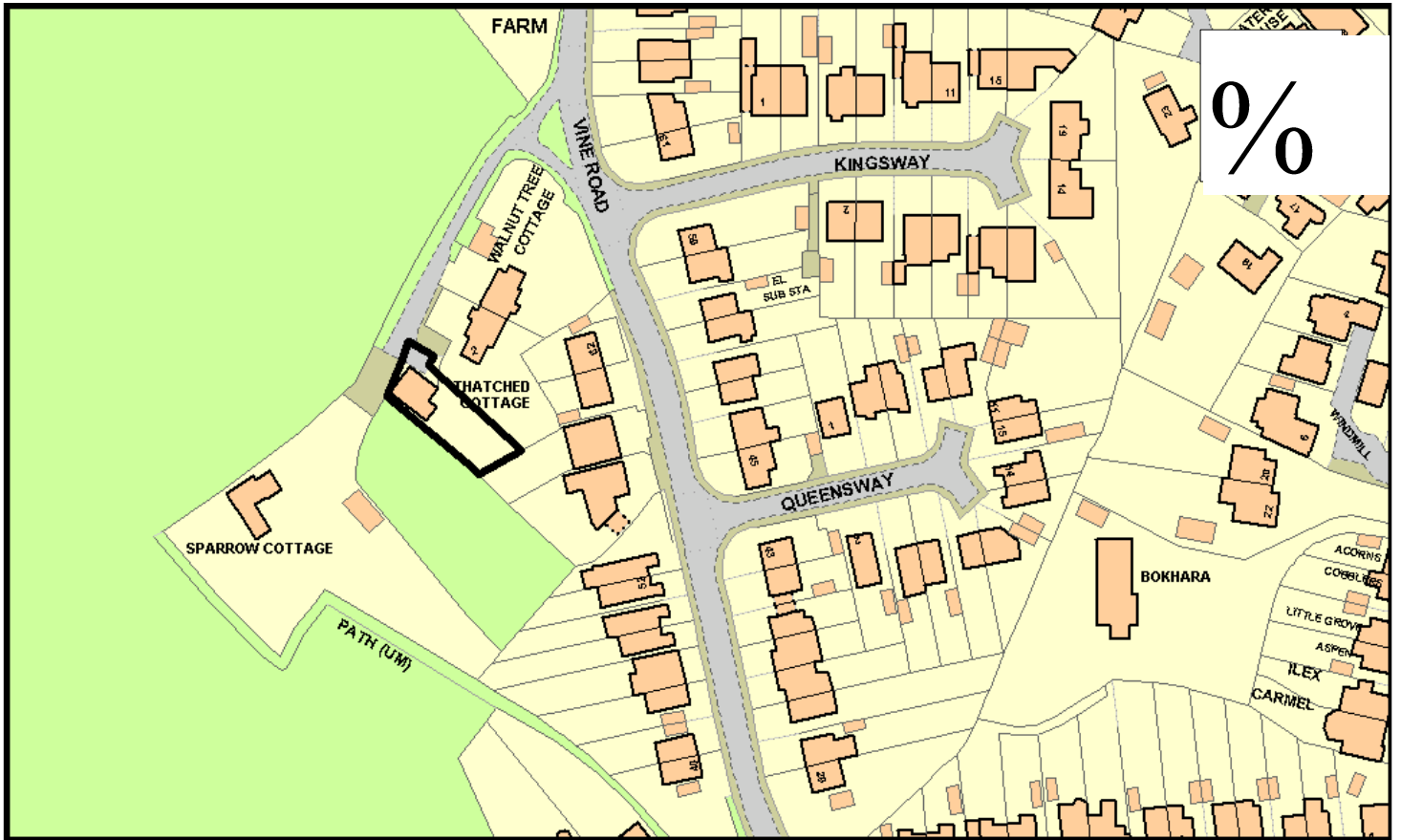
1 – Non-Standard Condition

Prior to any works of demolition, a programme of building recording works shall be carried out by an appropriately qualified specialist and submitted to the Local Planning Authority. The scope of the building recording works shall be agreed by the Local Planning Authority and the works implemented fully in accordance with the agreed details.

Reason: To ensure that the historic and architectural character of the building is properly recorded.

### **Informatives**

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



**Application No:** 101416

**Location:** Thatched Cottage, Vine Farm Lane, Tiptree, CO5 0LR

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

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## 7.2 Case Officer: Mark Secker

**MINOR**

**Site:** Thatched Cottage, Vine Farm Lane, Tiptree, CO5 0LR

**Application No:** 101416

**Date Received:** 9 July 2010

**Agent:** Clive Richardson

**Applicant:** Mr. Geoffrey Harrington

**Development:** Proposed conversion of existing ground and first floor flats into one three bed detached house.

**Ward:** Tiptree

**Summary of Recommendation:** Conditional Approval

### 1.0 Planning Report Introduction

1.1 This application is referred to the Planning Committee because three objections have been received.

### 2.0 Synopsis

2.1 This is an application to convert a two-storey building in the curtilage of "Thatched Cottage" into a three bedroomed detached house. It has Certificates of Lawful Use for occupation as two flats, both independent of "Thatched Cottage". Since the application was submitted, the policy relating to the site has changed, such that previous policy objections no longer apply. The objections received are summarised below and are addressed within the body of the report. Permission is recommended with appropriate conditions.

### 3.0 Site Description and Context

3.1 The application site is located along a narrow roadway that serves the application site together with three other dwellings. To the north-west side of the roadway there is open countryside. The site adjoins a semi-detached property called "Thatched Cottage". To the front of the site is a two-storey building that is the subject of this application and that was originally built as a triple garage for "Thatched Cottage". The remainder of the site comprises part of the garden area of "Thatched Cottage". Beyond the site to the rear are the rear gardens of properties fronting onto Vine Road. To the south of the site there is a small parcel of land that is undeveloped.

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

4.1 This is an application to convert an existing building comprising two flats into a three bedroomed detached house. It was originally built as a triple garage for “Thatched Cottage” (permitted in February 1988), but now has Certificates of Lawful Use for occupation as two flats. The proposal does not increase the size of the building, but there are alterations to the fenestration including replacing two garage doors with windows and a new bedroom window facing the rear garden. Additional plans have been submitted that indicate the provision of three parking spaces within the site. The garden area would be created by subdividing the garden of “Thatched Cottage”. Work has already started on the conversion applied for.

#### **5.0 Land Use Allocation**

5.1 Since the application was submitted, the policy relating to the site has changed. It is now allocated within a predominantly residential area, within the Tiptree Settlement Boundary, in the now Adopted Development Policies DPD. This means that the previous policy objections no longer apply.

#### **6.0 Relevant Planning History**

- 6.1 81/0187 –Outline application for erection of one dwelling and double garage – Refused 10/03/81, Appeal dismissed 20/08/81.
- 6.2 93/1470 – Erection of detached triple garage and storage shed – Approved with Conditions 06/01/94
- 6.3 94/0464 - Proposed erection of triple garage and granny flat above - Refused 23/6/94
- 6.4 94/1377 – Conversion of garage roofspace to form granny annex – Refused 05/1/1995, Appeal allowed with conditions, 19/9/1995
- 6.6 071220 – Certificate of Lawful Use for existing use to allow the first floor flat to be occupied without complying with Condition 2 of Planning permission F/COL/94/1377. Approved without conditions 23/10/2007.
- 6.7 071240 – Certificate of Lawful Use for existing use to allow the ground floor flat to be occupied without complying with Condition 2 of Planning permission F/COL/94/1377. Approved without conditions 23/10/2007.

#### **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
SD1 - Sustainable Development Locations  
UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP12 Dwelling Standards  
DP19 Parking Standards

7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:  
Vehicle Parking Standards  
Extending your House  
The Essex Design Guide

## **8.0 Consultations**

8.1 ECC Highway Authority raises no objection to proposal as originally submitted. The Highway Authority has however been re-consulted on an additional plan supplied by the applicant's agent, as discussed below.

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

## **9.0 Parish Council's Views**

9.1 The Parish Council objects to the application to create a habitable dwelling outside the village envelope.

## **10.0 Representations**

10.1 Two letters of objections to the proposal, re: the property is outside the village envelope; the proposal would not accord with restricted use as a granny annex; a new dwelling should contribute to recreation and open space via a Unilateral Undertaking; there is inadequate parking; more housing is not acceptable due to the narrow lane allowing only one vehicle at a time to pass, obstructing emergency vehicles.

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

## **11.0 Parking Provision**

11.1 The applicant has submitted an additional plan indicating the provision of three parking spaces. The Highway Authority has been re-consulted on this additional plan; the provision of three spaces is, however, in accordance with the Council's parking standards.

## **12.0 Open Space Provisions**

12.1 The proposal is to convert two existing dwelling units to one and in this case a contribution to open space provision via a Unilateral Undertaking is not required.

## **13.0 Report**

### Design and Layout, Scale Height and Massing

- 13.1 The building is not being altered in size. The proposals to remove two garage doors, to add and alter windows and to use matching materials are considered satisfactory.

### Impact on the Surrounding Area

- 13.2 It is considered the proposed dwelling will not have a significant impact on the surrounding area. On the submitted additional plan, a 1.2 metre fence together with evergreen laurel hedgerow is indicated along the new boundary between the properties, including the parking areas at the front of the curtilages. The new fence and landscaping will result in some visual enclosure from the roadway. As the 1.2 metre fence would continue up to, or close to, the edge of the roadway, the Highway Authority has been re-consulted and any comments will be reported on the Amendment Sheet.

### Impacts on Neighbouring Properties

- 13.3 It is not considered that the proposal will have any undue impacts on neighbouring properties. The new rear bedroom window looks over the rear garden area and is in excess of 25 metres from private garden areas of properties fronting Vine Road.

### Amenity Provisions

- 13.4 The application indicates the provision of a rear garden area formed by subdividing the garden of "Thatched Cottage". This would create two garden areas that are both in excess of the Council's standards of provision and consistent with the general character of the area.

### Highway Issues

- 13.5 Parking for three spaces is proposed in accordance with the Council's standards. The roadway is narrow but it is not considered that this would be a reason to resist this proposal in view of the site history and the Council's LDF Development Policies. Further, the Highway Authority has not objected to the proposal as originally submitted.

### Other Matters

- 13.6 There are no objections in principle to the proposal, in view of the site's allocation within a predominantly residential area within the Tiptree Settlement Boundary in the Adopted Development Policies DPD.

## **14.0 Conclusion**

- 14.1 The proposal is considered satisfactory and, subject to any further comments from the Highway Authority, it is recommended that permission be granted.



## **15.0 Background Papers**

15.1 PPS, Core Strategy; DPDP; SPG; HA; PTC; NLR

### **Recommendation - Conditional Approval**

#### **Conditions**

##### **1 - Non-Standard Condition**

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

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

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

The dwelling shall not be occupied until space has been laid out within the site for three car parking spaces in accordance with the approved plan stamped "Additional Plan" and dated 8th October 2010. The car parking area shall be retained in this form at all times. The car parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the dwelling.

Reason: To ensure appropriate parking is provided and retained in accordance with the Council's adopted standards.

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

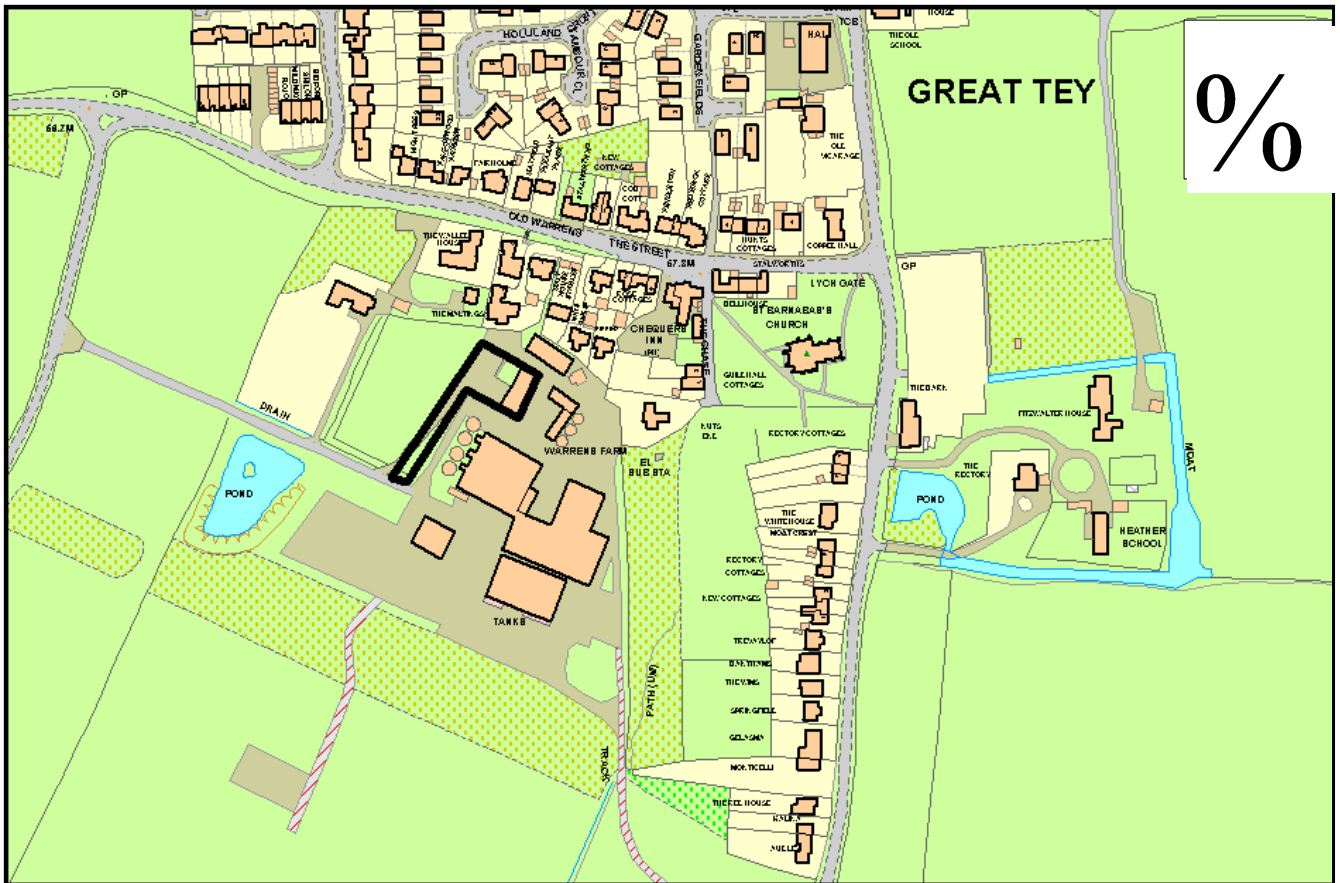
The property shall be occupied as a single dwelling and shall be retained as such thereafter.

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

4 – Plus any conditions required by the Highway Authority.

#### **Informatives**

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



**Application No:** 101463

**Location:** Skills Kindergarten, Warrens Farm, Coggeshall Road, Great Tey, Colchester, CO6 1AG

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

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**7.3 Case Officer:** David Whybrow

**EXPIRY DATE:** 03/12/2010

**OTHER**

**Site:** Warrens Farm, Coggeshall Road, Great Tey, Colchester, CO6 1AG

**Application No:** 101463

**Date Received:** 8 October 2010

**Agent:** Mr Laurance Hunnaball

**Applicant:** Mr Roger Fairs

**Development:** Application to vary condition 2 of planning permission C/COL/04/1710 restricting the number of children attending at any one time.

**Ward:** Great Tey

**Summary of Recommendation:** Conditional Approval

### **1.0 Planning Report Introduction**

1.1 This application seeks a variation to earlier planning approval C/COL/04/1710 to allow the maximum number of children attending the nursery at any one time from 30 to 60. The application is placed before Members as a result of representations received.

### **2.0 Synopsis**

2.1 Planning permission was granted in November 2004 for change of use of redundant agricultural building to child care/education provision.

2.2 Condition 2 stated:-

"The premises shall only be used as a kindergarten/nursery/pre-school for a maximum of 30 children."

2.3 The reason for this condition was "to give the Local Planning Authority the opportunity to assess the impact of any additional use/activity upon the amenity of the local area."

2.4 The present application is to increase the maximum number of children attending the premises to 60. The following report considers the implications of the proposed increase in numbers of children on local amenity.

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

3.1 The site lies just outside the built up area of Great Tey village in a rural area without notation. The Kindergarten is housed in a single storey farm building in black boarding with corrugated sheet roofing, formerly part of Warrens Farm whose buildings adjoin the site's eastern and south eastern boundaries. Residential development is situated a short distance to the north.

3.2 Access to the site is from Coggeshall Road and is shared with the farm group. It provides access to a car parking area of approximately 24 x 17m which can accommodate some 12 vehicles. There is an enclosed sensory garden area to the north of the car park and an existing meadow area to the west of the car park is shown as children's garden and small animal enclosure.

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

4.1 The agent indicates that the limit of 30 children was originally a response to an OFSTED requirement in relation to the half of the building being used as a kindergarten, the remaining 50% of the building being used as an internal play area. Now OFSTED requirements have changed - children must have access to an outdoor play facility in all weathers with protective clothing to suit and sun/rain shelters utilised.

4.2 Although the company originally operating the kindergarten have now ceased trading and the premises are vacant, there is a demand and social need for this type of facility within the area. To achieve this, an increase to 60 children is proposed to enhance economic viability and provide a financial buffer for dips in the economy. The proposal makes beneficial use of the entire building as a general activity and learning zone with library/work-base/breakfast and after school club and ancillary kitchen, toilet, office and store room accommodation.

4.3 The agent confirms that the proposals are OFSTED compliant and the new arrangements will provide a wider age programme accepting younger children than before and providing a more flexible childcare facility.

#### **5.0 Land Use Allocation**

5.1 Rural - no notation

#### **6.0 Relevant Planning History**

6.1 C/COL/04/1710 - Change of use from agricultural to children's nursery - Approved November 2004

6.2 C/COL/04/1389 - Change of use from agricultural to children's nursery - Refused September 2004

#### **7.0 Principal Policies**

7.1 Adopted Core Strategy  
SD2 - Delivering Facilities and Infrastructure  
SD3 - Community Facilities  
ENV1 - Environment  
ENV2 – Rural Communities

- 7.2 Colchester Borough Development Policies (October 2010)  
DP4 - Community Facilities  
DP9 – Employment Uses in the Countryside  
DP17 – Accessibility and Access  
DP19 - Parking Standards

## **8.0 Consultations**

- 8.1 The Highway Authority raise no objection to the proposal.
- 8.2 Environmental Control comment that while they have no record of complaints relating to the current use they are concerned that doubling the potential number of children in such a quiet, rural area may cause a noise nuisance to nearby residents. They suggest that a trial period of 12 months is agreed in order to assess if the increase in numbers causes noise complaints. If this is not possible, conditions are recommended in respect of sound insulation of building and noise management plan.

## **9.0 Parish Council's Views**

- 9.1 Great Tey Parish Council have no objection in principle to an increase in the number of children attending the pre-school subject to:-
1. Confirmation that the increase in traffic flow through the village has been taken into account.
  2. Subject to neighbours' views.

## **10.0 Representations**

- 10.1 E mails have been received from 2 local residents, raising objection to the proposal on the following grounds:-
1. Any increase in noise in this rural setting is totally unacceptable.
  2. Will ruin the view directly from the rear of our property.
  3. Increased traffic.

## **11.0 Parking Provision**

- 11.1 The kindergarten use falls within Use Class D1 and your adopted standards require 1 space per full time or equivalent staff, drop off/pick up facilities together with cycle provision. The previous application proposed 4 full time and 2 part-time staff for 30 children. By extrapolation, the 60 children now proposed would require 8 full time and 4 part-time staff. The 12 spaces indicated would appear to be in compliance with the adopted standard and provide for drop off/collection facilities.

## **12.0 Open Space Provision**

- 12.1 As described under "Site Description and Context" the application proposes both a sensory garden area and meadowland garden and small animal enclosure. The agent indicates that this provision is in accordance with OFSTED requirements and particularly responds to their emphasis on all-weather, outdoor play provision.

## **13.0 Report**

- 13.1 This site benefits from an approved use as a kindergarden and the determination of this application turns on the acceptability or otherwise of doubling the number of children attending the site. Within the countryside new development should be appropriate in terms of its scale and protect the interests of natural and historic assets.
- 13.2 Employment uses in such areas should not harm the rural character of the area either by the nature and level of activity or any other detrimental effects such as noise and pollution. More pertinent to the present case, established policy supports new community facilities where they positively contribute to the quality of local community life but these are generally to be located in centres or other accessible locations to maximise community access and sense of community identity.
- 13.3 Members will no doubt accept the agent's assertion that the approved use could provide a beneficial childcare service for the wider community although in sustainability terms, this use will rely heavily on access by the motor car rather than more sustainable transport modes. Ultimately the decision will revolve around the effects of the proposal on local amenity in terms of the level of noise and activity at the site and that arising from the traffic movements it generates. The Environmental Control Team's confirmation that the use to date has not given rise to complaint and consequent suggestion for a temporary consent would appear to offer a useful means of monitoring and appraising these effects, however a short-term temporary consent would inhibit the applicant's opportunity to raise funds to finance the proposed development. As such, it is recommended that the second option, approval with noise reduction conditions, in addition to those previously imposed on the previous permission (i.e. hours of use, limitations as to scope of use, control of fumes, screening of car park, external lighting), be utilised here.

## **14.0 Conclusion**

- 14.1 Your officers are not aware of any issues of noise or disturbance arising from the existing level of use. The application proposes a doubling of the number of children attending the nursery and in this context the fears of local people regarding noise and increased traffic movement are understood. The suggestion by Environmental Control that a temporary consent of 12 months duration to enable the expanded use to be monitored and reviewed does not appear to be practicable in this case. Accordingly, approval of the proposed variation is recommended on the basis of an additional "noise" condition as recommended.

## **15.0 Background Papers**

- 15.1 ACS; DDDPD; NLR; HH; HA; PTC

## **Recommendation - Conditional Approval**

### **Conditions**

#### **1 - Non-Standard Condition**

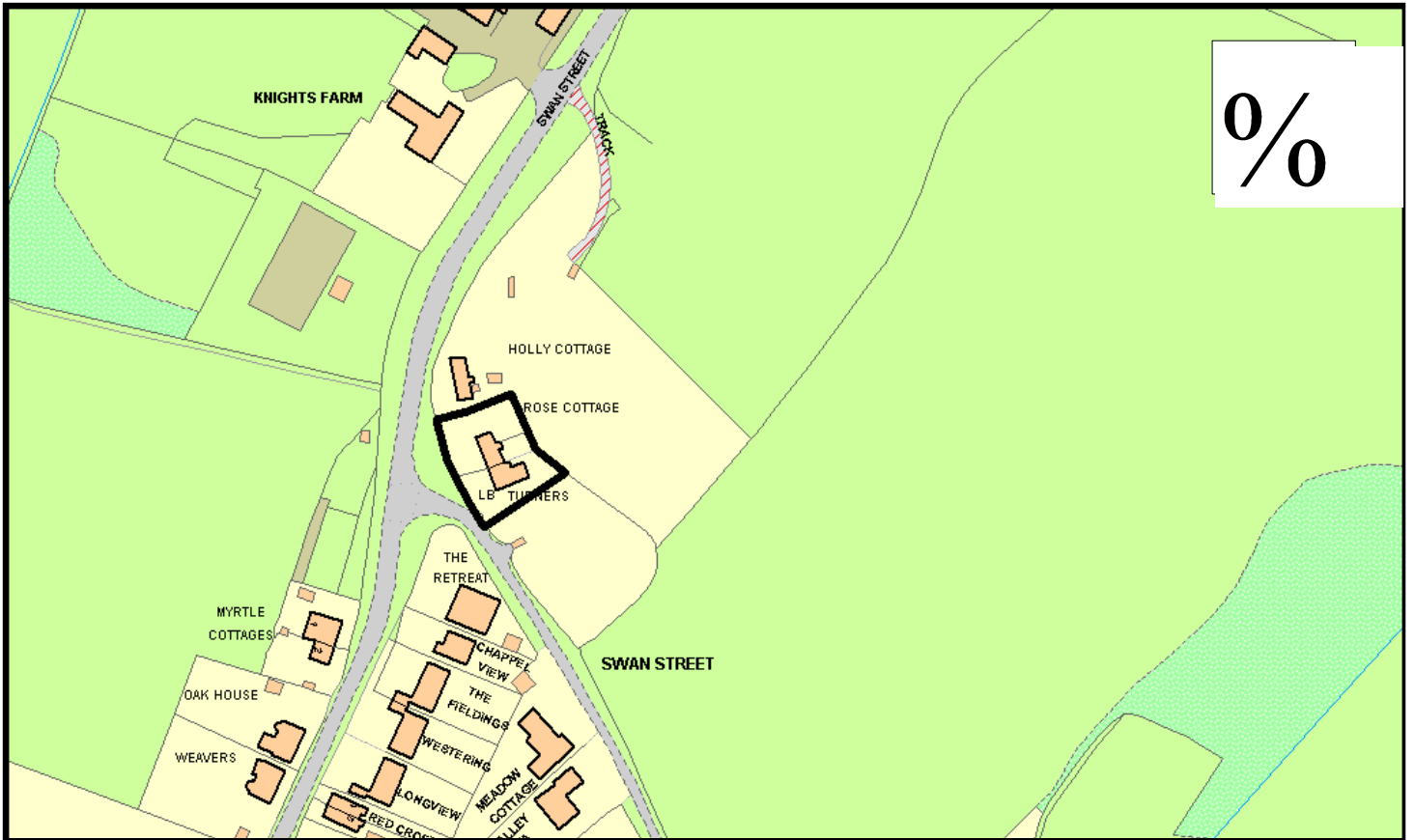
This planning permission relates specifically to the variation of Condition 2 attached to C/COL/04/1710 in order to permit not more than 60 children to attend the kindergarten at any one time. All remaining conditions attached to C/COL/04/1710 shall continue to apply.

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

#### **2 – Non Standard Condition**

Prior to the commencement of the development, a plan detailing control of noise from outside the kindergarten shall be submitted to and agreed in writing by the Local Planning Authority. This should include a system of restricting the number of children playing outside at any one time to a maximum of 15 and staggering their arrival and departure to and from the site. The use shall be carried out strictly in accordance with the agreed details.

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



**Application No:** 101551

**Location:** Turners, Swan Street, Chappel, Colchester, CO6 2EA

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

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#### **7.4 Case Officer: Jane Seeley**

**OTHER**

**Site:** Turners, Swan Street, Chappel, Colchester, CO6 2EA

**Application No:** 101551

**Date Received:** 26 July 2010

**Agent:** Bowersgrange

**Applicant:** Exors J Emery

**Development:** Erection of detached single cartlodge

**Ward:** Great Tey

**Summary of Recommendation:** Conditional Approval

#### **1.0 Planning Report Introduction**

1.1 This application is referred to the Planning Committee because of its association with a separate application (Ref: 101556) for a dwelling on the adjacent site which is also included on this Agenda. It is considered appropriate that these 2 applications be discussed and determined at the same time. The application for the dwelling is required to be determined by Committee due to the receipt of objections.

#### **2.0 Synopsis**

2.1 This report describes the site and its surroundings and gives details of the proposed development Consultation replies, including objections are then detailed and a response is given to these in the main report section. This report also sets out the background to the application and issues relating to some confusion regarding this and application 101556. Conditional approval is then recommended.

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

3.1 The application site contains a Grade II listed building "Turners" which is close to the junction of Bacons Lane and Swan Street. The bulk of the side garden is excluded from the application site. There is currently a pedestrian access to the front of the house close to the start of a small slip road which runs in front of the site (vehicular access to the property is in the side garden which is not within the site). The front boundary is hedging of approximately two metres in height. There are some shrubs and trees in the garden.

3.2 To the rear and east side of Turners are fields. There is housing to the north and south (along Swan Street) which dates from a range of eras. The junction of Swan Street and Bacons Lane has wide grass verges and hedging.

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

- 4.1 It is proposed to erect a cartlodge style garage to the side of the dwelling and create an associated vehicular access.
- 4.2 A separate application for a cartlodge for Turners has also been submitted as already stated (101556).

#### **5.0 Land Use Allocation**

- 5.1 Village Envelope

#### **6.0 Relevant Planning History**

- 6.1 091466 Application for detached house - invalidated

#### **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 5: Planning for the Historic Environment  
Planning Policy Guidance 24: Planning and Noise  
Planning Policy Statement 25: Development and Flood Risk  
Planning Policy Statement 25 Supplement: Development and Coastal Change
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
  
UR2 - Built Design and Character  
ENV1 - Environment  
ENV2 - Rural Communities
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP14 Historic Environment Assets
- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:  
Vehicle Parking Standards  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

8.1 The Design and Heritage Unit has commented as follows:-

- The proposal does not have a negative impact on the listed building - some sort of outbuilding would be expected in this location.
- To ensure that the building is constructed in timber it would be advisable for it to be located 1m from the boundary.

8.2 The Landscape Officer has commented as follows:-

- Highway requirements require removal of a section of boundary hedge. This hedge is visually important in the street scene and therefore a replacement hedge should be 'instant' mature hedging.
- The landscape content is satisfactory subject to conditions to satisfy the above mentioned requirement.

8.3 The Arboricultural Officer has commented as follows:-

- Trees within the site are generally in a poor condition and are of low value and therefore removal is acceptable.
- Conditions are required to protect the hedge during construction.

8.5 The Highway Authority has no objection subject to conditions relating to visibility, parking arrangements and surfacing of vehicular access.

8.6 English Heritage confirm that they do not require notification of the application.

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

## **9.0 Parish Council's Views**

9.1 The Parish Council have stated that:

- The fact that Turners is a listed building should be taken into consideration.
- There is confusion regarding the drawings and there is concern that Highways and English Heritage may have been confused.
- The garden has been divided, severing an historic bakehouse from the main dwelling
- No mention is made of the new access in the application description.
- The existing house already has a vehicular access and garage which are adequate.
- To accommodate the required site splays a hedge, telegraph pole and post box will need to be removed.
- The Parish Council suggest that the application be refused.

## **10.0 Representations**

10.1 Four representations (two from one writer) have been received, along the following lines:-

- Concern about confusion regarding the drawings and what is being proposed by the application.
- Concern regarding information supplied by the applicant in the submitted drawings and documents.
- Given the above concerns it is not possible to consider whether the proposal has any merits and therefore it must be objected to.
- The cartlodge is superfluous as Turners already has a garage, unless the application for a new dwelling is granted.
- A second access would be on to a narrow lane this could increase traffic which might lead to the lane needing widening.
- There is a problem with water drainage in Swan Street.
- The proposal is unsuitable for, and too close to, Turners a listed building.

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

## **11.0 Parking Provision**

11.1 The cartlodge at approximately 3m x 7m complies with adopted standards. In any event there is additional parking and turning space within the site.

## **12.0 Open Space Provisions**

12.1 Not relevant

## **13.0 Report**

### Background

13.1 In 2009 an outline application was submitted for a dwelling adjacent to the application site. The application was invalidated, after neighbour notification was commenced, due to lack of information regarding the proposed dwelling and because a unilateral undertaking had not been submitted. The applicants decided not to pursue this invalidated application.

13.2 The current application the separate application for a dwelling and cartlodge in the garden of Turners (101556) were submitted in July 2010. The application for the garage was able to be validated on receipt. The application for the dwelling however was not validated until September when the unilateral undertaking was received.

## Design

- 13.3 The design and location of the cartlodge has been the subject of discussion with your Officers. It is considered that the submitted scheme, due to its simple sympathetic design and separation from Turners, will not have an adverse impact on the setting of this listed building or the street scene.

## Impact on the Surrounding Area

- 13.4 The existing frontage hedge is a significant feature in the street scene on this edge of village location. The creation of the vehicular access and the sight splays required by ECC Highways will impact on the hedge. A drawing detailing the sight splays has been provided. In line with the Landscape Officer's recommendation, the applicant's have agreed to provide mature hedging to the back edge of the proposed splays. Conditions are required to ensure adequate protection for the retained hedge during construction works. This should ensure that the character of the area is retained.
- 13.5 Whilst there are a number of trees on the site they are not considered worthy of retention.

## Highway Issues

- 13.6 The Highway Authority are not raising any objections. A number of conditions are required to ensure appropriate visibility, surfacing of the drive and the retention of parking and manoeuvring spaces.

## Miscellaneous Matters

- 13.7 Whilst it is acknowledged that there is a garage within the garden of Turners, this is a 1950's structure which appears to be in a poor state of repair and not to current standards. Realistically it is unlikely that any occupant of Turners would utilise this structure for car parking.
- 13.8 Requirements for the relocation of the post box and telegraph poles are not planning considerations.
- 13.9 The drainage concerns are noted. A condition to control the surfacing of the driveway/turning area is suggested to ensure that a suitable permeable material is used for both visual and drainage purposes.

## **14.0 Conclusion**

- 14.1 It is considered that the proposed development is in accordance with Council Policies and guidance and can be supported.

## **15.0 Background Papers**

- 15.1 PPS; Core Strategy; SPG; DPDP; DHU; TL; AO; H; EH; PTC; NLR

## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

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

The development hereby permitted shall be implemented in all respects strictly in accordance with both drawings nos. 118/P/04 (one entitled 'Proposed Plans and Elevations' the other 'Location Plan') received 26 July 2010 and drawing no 118/P/03B received 21 September 2010.

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

#### **3 - 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.

#### **4 - C11.14 Tree / Shrub Planting**

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.

#### **5 - 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.

#### 6 - 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.

#### 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 hereby permitted details of all materials to be used for vehicle access, driveway and turning/manoeuvring areas 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 and retained as such at all times.

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

#### 9 - Non-Standard Condition

Prior to occupation of the development, the accesses at their centre lines shall be provided with a clear to ground visibility splay with dimensions of 2.0 metres by 43 metres to the east and 2.4 metres by 43 metres to the west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

#### 10 - Non-Standard Condition

Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access points. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

#### 11 - Non-Standard Condition

Prior to occupation of the development the vehicular parking and turning facilities, as shown on the submitted plans shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

#### 12 - Non-Standard Condition

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

#### **Informatives**

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

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





## 7.5 Case Officer: Jane Seeley

**OTHER**

**Site:** Turners, Bacons Lane, Chappel, Colchester, CO6 2EB

**Application No:** 101556

**Date Received:** 27 September 2010

**Agent:** Bowersgrange

**Applicant:** Exors J Emery

**Development:** Erection of dwelling double cartlodge(two bay) and new access

**Ward:** Great Tey

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

### 1.0 Planning Report Introduction

1.1 This application is referred to the Planning Committee because objections to the proposal have been received from local residents and the parish council.

### 2.0 Synopsis

2.1 This report describes the site and its surroundings and gives details of the proposed development, consultation replies, including objections, are then detailed and a response is given to these in the main report section. The report also sets out the background to the application and issues relating to some confusion regarding the proposals and another current application on an adjacent site. Conditional approval is then recommended.

### 3.0 Site Description and Context

3.1 The application site is currently the side garden of Turners, a Grade II listed building. The site boundaries (apart from the boundary line with Turners) is hedged. The hedge along the road frontage is part indigenous hedging, approximately 2 to 3m high, and partly conifers of approx 5m. The site is currently unkempt garden and supports a range of garden shrubs and trees. Within the site are 2 small structures, a brick and timber former bakehouse and a corrugated metal garage. The bakehouse predates 1948 and is therefore considered to be a curtilage building to Turners and deemed to be listed. The garage is understood to date from the 1950's and is therefore not afforded listed building protection. There is vehicular access to the garage.

3.2 To the rear and east side of Turners are fields. There is housing of varying ages to the north and south (along Swan Street). The junction of Swan Street and Bacons Lane has wide grass verges and hedging.

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

- 4.1 It is proposed to erect a detached house and double cart lodge style garage. The existing garage will be demolished and a new access created in approximately the same position as the access drive to the existing garage. The bake house will be retained.
- 4.2 A separate application for a cartlodge for Turners has also been submitted and is subject to a separate report on this Agenda.

#### **5.0 Land Use Allocation**

- 5.1 Part Village Envelope

#### **6.0 Relevant Planning History**

- 6.1 091466 Application for detached house - invalidated

#### **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing  
Planning Policy Statement 5: Planning for the Historic Environment
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
UR2 - Built Design and Character  
PR1 - Open Space  
ENV1 - Environment  
ENV2 - Rural Communities
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP3 Planning Obligations and the Community Infrastructure Levy  
DP4 Community Facilities  
DP9 Employment Uses in the Countryside  
DP12 Dwelling Standards  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP14 Historic Environment Assets  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP19 Parking Standards

- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:
- Backland and Infill
  - Community Facilities
  - Vehicle Parking Standards
  - Sustainable Construction Open Space, Sport and Recreation
  - Extending your House
  - The Essex Design Guide

## 8.0 Consultations

### 8.1 Urban Design Officer comments as follows:-

- Design and layout are satisfactory.
- Design is simple and expresses the required simplicity of the vernacular cottage style whilst containing sufficient individuality.
- Impact on Turners is not harmful due to the design and placement of the proposed dwelling and the hedging. This follows the typical rhythm and arrangement of the local context and the proposal provides a naturalised and realistic addition to the street scene.
- The proposed cartlodge for Turners also gives some separation from the listed building.
- Refurbishment of the oven house is a welcome addition and the visual link with Turners is maintained as the north wall is part of the boundary between Turners and the new house.
- Parking and driveway arrangement do not dominate the houses and are typical rural solutions.
- The cartlodge is well designed and is sympathetic to the rural character.

### 8.2 The view of the Conservation and Design Officer are awaited.

### 8.3 The Highways Authority have no objection subject to conditions relating to visibility, parking arrangements and surfacing of vehicular access

### 8.4 The Landscape Officer comments as follows:-

- Highway requirements require removal a section of boundary hedge. This hedge is visually important in the street scene and therefore a replacement hedge should be 'instant' mature hedging.
- Satisfied with landscape content subject to condition to require the above mentioned requirement.

### 8.4 The Arboricultural Officer comments as follows:-

- Trees within the site are generally in a poor condition and are of low value and therefore removal is acceptable.
- Conditions required to protect hedge during construction.

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

## **9.0 Parish Council's Views**

9.1 The Parish Council have stated:

- Concerns over confusion surrounding this and previous applications for Turners; worried that local residents will not object as they will have already objected to the previous application and will feel this is adequate.
- Concerned that parking for additional cars is not clearly indicated and that an existing garage is not mentioned.
- Concerned that trees and shrubs on the site are considered by the applicant as not having any value.
- Removal of front hedge is a key feature of the road and its removal would change the way the property looks.
- The Bake House is a listed structure and therefore should be retained. Turners is a listed building and this should have been taken into consideration when validating the application.
- Application should be refused.

## **10.0 Representations**

10.1 4 representations objecting:

- An application has not been submitted for listed building consent.
- Unclear when application was submitted.
- Application does not refer to garage on the site or how many parking spaces exist.
- Hedge along frontage is an integral part of the cottage garden feel of the site and locality.
- It is inappropriate to sever the bakehouse from the existing dwelling as this would destroy the historic relationship.
- There is insufficient capacity for connection to the main sewer.
- No justification for building an incongruous structure within 13 metres of Turners.
- Concerned about inaccuracies on the DAS relating to policies and PPSs.
- Part of the proposed cartlodge is outside the village envelope.
- Design is not compatible with distinctive character of the locality and contend that the proposals are overdevelopment.
- Construction of access is in close proximity to the proposed access for Turners this will require additional signage and there would be additional traffic along Bacons Lane and at the junction with Swan Street.

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

## **11.0 Parking Provision**

11.1 In accordance with adopted Parking Standards

## **12.0 Open Space Provisions**

12.1 Unilateral undertaking has been submitted.

## 13.0 Report

### Background

- 13.1 In 2009 an outline application was submitted for a dwelling on the application site. The application was invalidated, after neighbour notification was commenced, due to lack of information regarding the proposed dwelling and because a unilateral undertaking had not been submitted. The applicants decided not to pursue this invalidated application.
- 13.2 The current application for a dwelling and the separate application for a cartlodge for Turners (101551) were submitted in July 2010. The application for the garage was able to be validated on receipt however the application for the dwelling was not validated until September when the unilateral undertaking was available.
- 13.3 Unfortunately due to an administrative error the site plans for the house and garage application were placed on the records for the garage application. This was rectified when the error became apparent.
- 13.4 It is believed that the above series of events lead to the confusion highlighted by the Parish Council and local residents.

### Principle of Development

- 13.5 Approximately half of the application site is within the Village Envelope. The proposed house and part of the garage is within this settlement boundary. Council policies support the erection of dwellings within the Village Boundary and SPD Backland and Infill development set out criteria against which such proposals should be assessed. It is considered that this application accords with these Policies and SPD. It is acknowledged that the garage is partly outside the Village Envelope. The need to ensure a development that was compatible with the adjacent Listed Buildings and the street scene required a reasonable gap to be provided between the proposed and the existing dwellings. Requiring the house and garage within the Village Envelope would have lead to a cramped former of development that could not be supported. The garage is within the existing garden of Turners. In this instance it is considered that there is justification for allowing an outbuilding which is partly outside the village envelope.

### Design

- 13.6 The design and location of the proposed house and garage has been the subject of discussion with your officers. It is considered that the submitted scheme will not have an adverse impact on the setting of Turners and ensure the detention of the bake house whilst not having an adverse impact on the street scene. The simple design of the dwelling and garage reflect the simplicity of vernacular cottage style which is appropriate for the village character of the site.

- 13.7 The scheme involves the bake house being within the garden of the proposed house rather than Turners. The conservation team's advice is that this is acceptable subject to appropriate boundary treatment. A hedge on the common boundary has been agreed. It is intend to renovate the bake house but no details have been provided. The applicants are aware that listed building consent will be required prior to any works commencing.
- 13.8 The demolition of the garage does not require planning permission or listed building consent.

#### Impact on the Surrounding Area

- 13.9 The existing frontage hedge is a significant feature in the street scene on this edge of village location. The creation of the vehicular access and the site splays required by ECC Highways will impact on the hedge. A drawing detailing the sight splays has been provided. In line with the Landscape Officer's recommendation the applicant's have agreed to provide mature hedging to the back edge of the proposed splays. Conditions are required to ensure adequate protection for the retained hedge during construction works. This should ensure that the character of the area is retained.
- 13.10 Whilst there are a number of trees on the site they are not considered worthy of retention.

#### Impacts on Neighbouring Properties

- 13.11 The only house immediately adjacent to the site is Turners. The positioning of the new dwelling and the separation between the 2 proprieties will ensure that there are no residential amenity concerns

#### Highway Issues

- 13.12 The Highway Authority are not raising any concerns. A number of conditions are recommended to ensure appropriate visibility, the surfacing of the drive and the retention of the provision of parking and manoeuvring spaces.

### **14.0 Conclusion**

- 14.1 It is considered that the proposed development is in accordance with Council Policies and guidance and can be supported.

### **15.0 Background Papers**

- 15.1 PPS; Core Strategy; DBDP; PPS; DHU; C & D; HA; TL; AO; PTC; NLR

**Recommendation** - Conditional Approval subject to a Unilateral Undertaking for a contribution to Open Space and Community Facilities.

### **Conditions**

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

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

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

#### 2 - Non-Standard Condition

The development hereby permitted shall be implemented in all respects strictly in accordance with drawings nos. 118/P/02, 118/C/01, 118/P/01 received 26 July 2010 and drawing no 118/P/03/C received 18 November 2010.

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

#### 3 - 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.

#### 4 - C11.14 Tree / Shrub Planting

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.

#### 5 - 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.



#### 6 - 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.

#### 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

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 the dwelling without express planning permission from the local planning authority.

Reason: To safeguard the visual amenity of the area and to ensure that the boundary treatment along the boundary k/a Turners respects the listed status of that property and the bake house within the garden of the new dwelling.

#### 9 - A7.4 Removal of ALL Perm Devel Rights (residential)

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

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

#### 10 - Non-Standard Condition

Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres to the north-west and 2.4 metres by 43 metres to the south-east, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety to ensure accordance with policy 1.1 of the Highways and Transportation Development Control policies.

#### 11 - Non-Standard Condition

Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety to ensure accordance with Policy 1.1 of the Highways and Transportation Development Control policies.

#### 12 - Non-Standard Condition

Prior to occupation of the development the vehicular parking and turning facilities, as shown on the submitted plans shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety to ensure accordance with Policy 1.1 of the Highways and Transportation Development Control policies.

#### 13 - Non-Standard Condition

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety to ensure accordance with Policy 1.1 of the Highways and Transportation Development Control policies.

#### 14 - Non Standard Condition

The vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each car parking space.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy 7 of the Highways and Transportation Development Control policies.

### 15 – Non Standard Condition

Prior to the commencement of the development hereby permitted details of all materials to be used for vehicle access, driveway and turning/manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

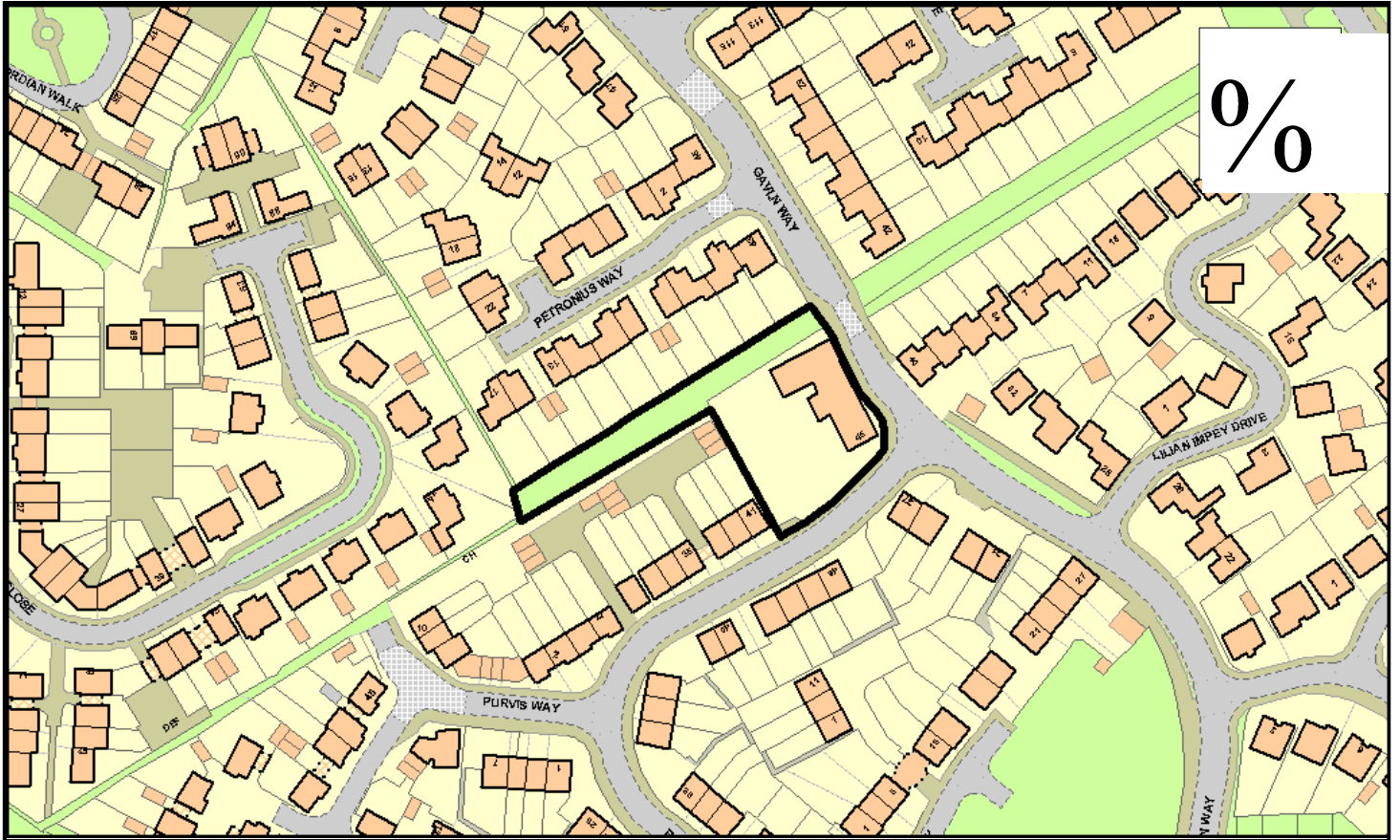
Reason: To ensure that the development does not prejudice the appearance of the locality.

### **Informatives**

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

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

You are advised that as the Bake House is deemed to be a listed building any works to this structure require listed building consent.



**Application No:** 101954

**Location:** Rawlings House, Rawlings House, 45 Rawlings Crescent, Colchester, CO4 9FB

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

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**7.6 Case Officer: Nick McKeever**

**OTHER**

**Site:** Rawlings House, 45 Rawlings Crescent, Colchester, CO4 9FB

**Application No:** 101954

**Date Received:** 17 September 2010

**Agent:** Mr Andy Cameron

**Applicant:** Mr. Edward Don

**Development:** Alteration to rear extension to form new roof, new extension to side elevation, alterations to roof space including velux windows, new car and cycle parking. Resubmission of 100871.

**Ward:** Highwoods

**Summary of Recommendation:** Conditional Approval

**1.0 Planning Report Introduction**

1.1 This application is referred to the Planning Committee because of an objection made by the occupiers of 43 Gavin Way, Colchester

**2.0 Synopsis**

2.1 The application will consider the individual planning merits of this proposal and the objection submitted by the occupiers of an adjoining dwelling.

**3.0 Site Description and Context**

3.1 The site consists of a detached building set within a very large plot on the corner of Rawlings Crescent and Gavin Way, located within a large estate development. The building is an L-shape with dormers in the elevation facing onto Gavin Way. It is currently used as a Care Home for 7 long term high dependency patients.

3.2 The site is surrounded by dwellings in Gavin Way, Petronius Way and Rawlings Crescent.

3.3 Immediately adjacent to the northern boundary, between the site and Petronius Way is an undeveloped strip of land which contains trees and other planting.

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

- 4.1 The proposed alterations are to add a further 4 en-suite bedrooms to the existing first floor, to convert the roof space to a lounge, dining area, kitchen and bathroom facilities. The extensions are mainly to house a lift required under the current Care Home regulations to take the fire escape staircase at the northern end of the building and to provide a staircase at the southern end of the building. A ground floor and a first floor room are being created adjacent to the fire escape for additional use to the Care Home.
- 4.2 The extensions will provide an additional 110 sq. metres on the plan.
- 4.3 The existing car park is to be increased by five additional spaces, together with a cycle parking facility for use by the staff and visitors.

#### **5.0 Land Use Allocation**

- 5.1 Residential

#### **6.0 Relevant Planning History**

- 6.1 100871 – Alterations to rear extension to form new roof, new extension to side elevation, alterations to roof space including dormers and velux windows, new car park and cycle parking. Refused 21/06/2010
- 6.2 00/1855 – Erection of building for use as accommodation for persons with learning difficulties. Approved 16/02/2001
- 6.3 02/0704 – Erection of building for use as accommodation for persons with learning difficulties. Approved 07/06/2002

#### **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
SD3 - Community Facilities  
UR2 - Built Design and Character  
TA5 - Parking
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP4 Community Facilities  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage

- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:  
Vehicle Parking Standards  
Extending your House  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

- 8.1 Environmental Control have no objections

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

## **9.0 Representations**

- 9.1 The occupiers of 43 Gavin Way have raised the following issues:-

There is concern that further extensions may take place and that this may impact upon the 'green corridor' between the building and their rear garden. This strip of land, whilst owned by the Applicant, acts as a buffer and a natural habitat. Can this be protected in perpetuity?

Overlooking and loss of light. The side elevation will bring the building closer to their property and includes a window facing them. Whilst the proposed velux roof windows are an improvement upon the previous proposal, these are shown as a minimum height of 1700mm. This is the height to the bottom of the windows. Their privacy and peace of mind will be undermined. Rather than extend the building closer to their property there is plenty of space with the site in which to provide the extension without their privacy and light to their property.

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

## **10.0 Parking Provision**

- 10.1 The parking requirement for the extended Care Home is 5 spaces for the full-time staff and 4 visitor spaces.

- 10.2 There are no issues with on-site parking given the large area of available space within the site. The previous scheme included additional parking within the 'green corridor'. This was considered to be unacceptable in terms of its impact upon the amenity of the dwellings whose rear gardens back onto this undeveloped strip of land. The parking now proposed has no such impact.

## **11.0 Open Space Provisions**

- 11.1 There is no policy requirement for any open space provision

## **12.0 Report**

### Design Issues

- 12.1 The current proposal has been submitted following discussions with the Applicant and the Design and Heritage Unit. It has addressed design issues and now provides extensions which better reflect the style and design characteristics of the host building.

### Amenity Issues

- 12.2 Whilst the undeveloped strip of land along the northern boundary is not protected in terms of land use as a designated 'green corridor', it does provide a natural buffer between the rear gardens of the adjoining dwellings in Petronius Way and this site. The previous application included a larger side extension and a new car parking area which encroached into this strip of land. This was considered to be unacceptable in terms of its impact upon the character of the area and upon the amenity of these neighbouring dwellings.
- 12.3 The original scheme included dormer windows within the north facing roof slope serving living accommodation. This was considered to be unacceptable in terms of the loss of privacy to the dwellings to the north of the site. The current proposal replaces these dormers with roof windows, with the bottom of these windows being a minimum of 1700mm above the floor level. This is considered to be acceptable in terms of protecting against any overlooking.
- 12.4 Whilst there is a window in the small side extension (north facing elevation) this window is to provide light into the new internal fire escape and does not serve a habitable room. Nonetheless this window should be obscure glazed and maintained as such in perpetuity in order to safeguard the amenity of the adjoining dwellings.
- 12.5 The extensions themselves do not have any significant impact upon the amenity of nearby dwellings.

## **13.0 Conclusion**

- 13.1 The revised application has addressed the reasons for refusing the earlier application, in terms of the design and impact upon residential amenity, and is now considered to be acceptable.

## **14.0 Background Papers**

- 14.1 PPS; Core Strategy; CBDP; PPG; HH; NLR



## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

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

The development shall be constructed in accordance with the approved drawing number 01.

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

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

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

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

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

Notwithstanding the roof windows and the window within the fire escape stair case, no additional windows or other openings shall be placed or formed with the north facing elevation of the building.

Reason: In order to safeguard the amenity of the adjoining residential properties.

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

The bottom of the roof windows referred to in condition 4 shall be placed at a minimum height of 1700mm above the floor level and thereafter retained at this height.

Reason: In order to safeguard the amenity of the adjoining residential properties.

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

The window within the north facing elevation of the extension housing the fire escape staircase shall be obscure 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 order to safeguard the amenity of the adjoining residential properties.

### **Informatives**

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

## INDEX TO PLANNING APPLICATIONS CODES

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

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

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

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

## INTERNAL CONSULTEES

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

## REPRESENTATIONS ETC

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

## EXTERNAL CONSULTEES (2 character codes)

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



## **Colchester Borough Council Environmental Control**

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

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

#### **Best Practice for Construction Sites**

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

#### **Noise Control**

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

## **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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