

# Planning Committee

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

## **This committee deals with**

If you wish to come to the meeting please arrive in good time. Attendance between 5:30pm and 5:45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

# 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.

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

**Members**

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

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

**Agenda - Part A**

(open to the public including the media)

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

**Pages**

**1. Welcome and Announcements**

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

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

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

**2. Have Your Say!**

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

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

### **3. Substitutions**

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

### **4. Urgent Items**

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

### **5. Declarations of Interest**

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

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

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

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

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

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

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

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

### **6. Minutes**

To confirm as a correct record the minutes of the meeting held on 14 and 15 May 2008

## 7. Planning Applications

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

- 1. 080547 Birchwood Road, Dedham** **15 - 20**  
(Dedham and Langham)

99 bedroom Express Hotel by Holiday Inn
- 2. 080795 Gablehays, Beech Hill, Colchester** **21 - 26**  
(Prettygate)

Outline application for erection of 2 no. detached houses.
- 3. 080806 36 Chinook, Highwoods, Colchester** **27 - 30**  
(Highwoods)

First floor side and 2 storey rear extension (resubmission of 071730)
- 4. 072716 Land at Cannon Road/Cannon Street, Colchester** **31 - 43**  
(New Town)

Demolition of existing house and buildings/construction of 11 two bed houses, new access road, parking and widening part of Cannon Street (Resubmission of 071707) (Revised design and layout for construction of 11 houses, access road and parking)
- 5. 072744 6 High Street, West Mersea** **44 - 51**  
(West Mersea)

Erection of dwelling and garage. Resubmission of 071382.
- 6. 072831 Area H, The Sergeants Mess, Abbey Field Urban Village, Le Cateau Road, Colchester** **52 - 60**  
(Christ Church)

Conversion of existing buildings in residential accommodation to create 11 no. town houses and 4 no. flats with associated demolitions and including access, parking and provision of open space.

<b>7.</b>	<b>080339 34 Fingringhoe Road, Langenhoe</b> (Pyefleet)	<b>61 - 74</b>
	Proposed 3 no. 2 bedroom bungalows and 7 no. 3 bedroom bungalows and associated garaging.	
<b>8.</b>	<b>080770 Highwoods Square, Colchester</b> (Highwoods)	<b>75 - 79</b>
	Extension to existing foodstore to form opticians and pharmacy.	
<b>9.</b>	<b>080740 36-40 Crouch Street, Colchester</b> (Castle)	<b>80 - 83</b>
	Change of use of 3 retail units from A1 to A1-A2 inclusive (Resubmission of 072948).	
<b>10.</b>	<b>080760 Sea View Avenue, West Mersea</b> (West Mersea)	<b>84 - 87</b>
	Variation to condition 08 of planning permission COL/93/0582 to allow for extended opening hours of shop and snack bar to 08.00am to 09.00pm (May to September only).	
<b>11.</b>	<b>080793 Woolwich House, 8 Culver Street West, Colchester</b> (Castle)	<b>88 - 92</b>
	Change of use from building society to adult gaming centre	
<b>12.</b>	<b>072543 East Donyland Shooting Club, High Street, Rowhedge</b> (East Donyland)	<b>93 - 98</b>
	Continued use of shooting range for full bore pistol, small bore rifle, pistol calibre rifle, air weapons, on Sundays only	
<b>13.</b>	<b>072723 6 Grange Farm Road, Colchester</b> (Harbour)	<b>99 - 106</b>
	Change of use from industrial unit to garage and minicab booking and dispatch office	
<b>8.</b>	<b>Legal Agreement // Conversion of existing building (B1 office) with additional new build to provide 85 no. C3 residential units, St Albrights, 1 London Road, Stanway</b>	<b>107 - 110</b>
	See report by the Head of Planning, Protection and Licensing	
<b>9.</b>	<b>Enforcement Action // Land at 25 Straight Road, Boxted</b>	<b>111 - 114</b>

See report by the Head of Planning, Protection and Licensing

**10. Enforcement Action // 42 Peppers Lane, off Straight Road, Boxted** **115 - 118**

See report by the Head of Planning, Protection and Licensing

**11. 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).

**12. Amendment Sheet** **119 - 122**

See final amendment sheet

# **PLANNING COMMITTEE**

## **14 MAY 2008**

*Present:-* Councillors Blandon, Chapman, Chillingworth, Chuah, Elliott, Ford, Foster, Gamble, Hall, Lewis and Offen.

Additional Councillor from the Liberal Democrat Group to be confirmed.

### **1. Chairman**

*RESOLVED* that Councillor Gamble be appointed Chairman for the ensuing Municipal Year.

### **2. Deputy Chairman**

*RESOLVED* that Councillor Ford be appointed Deputy Chairman for the ensuing Municipal Year.

# PLANNING COMMITTEE

## 15 MAY 2008

*Present:-* Councillor Gamble\* (Chairman)  
Councillors Blandon\*, Chapman\*, Chillingworth\*, Elliott\*,  
Foster\*, Hall, Lewis\* and Offen\*.

*Substitute Members:-* Councillor Barlow\* for Councillor Chuah  
Councillor P. Higgins  
Councillor Lilley for Councillor Ford

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

### 3. Minutes

The minutes of the meeting held on 24 April 2008 were confirmed as a correct record.

### 4. 080005 Land at Tile House Farm, Nayland Road, Great Horkesley

The Committee considered an application for amendments to application F/COL/05/1807 involving layout and house type alterations. The Committee had before it a report in which all information was set out with further information on the Amendment Sheet.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations.

Parish Councillor Knight addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He requested that the Committee impose a condition on the offer for a formal open space which would be a benefit to the village. The Parish Council wanted a condition to be imposed so that access to the landscape area to the south west was via a public footpath.

Councillor Arnold attended and, with the consent of the Chairman, addressed the Committee. The addition of the four acres of land accessible to the public was an adequate recompense for the increase in the number of houses. He was concerned about the form of the access and considered it should be a Public Right Of Way in perpetuity and linked to the village network. He also referred to a comment in the report regarding an existing hedgerow round the church; there had never been a hedgerow at that point and he asked for confirmation that it was on the northern part of the site. Apart from that he agreed with the recommendation and wanted to see the work started.

Members of the Committee supported the request for a Public Right of Way link to the public open space and there was a request for trees to be provided within the residential layout as much as possible. There was some unease about the social housing not being pepper potted.

It was explained that the applicants were willing to provide access into the west of the site. The area would be landscaped to provide a screen and to stop views of the development from

the open countryside to the west. The Planning Authority wanted a formalised path rather than a permissive path. The area landscape scheme included a hedge to be planted alongside the Church. Trees would be planted to screen the blocks and at focal points along the lane and within open space. The affordable housing was provided in one cluster of twelve units which face in different directions and two blocks each of four units, some facing on to the main road some facing on to the school. There was a proposed Informative on the amendment sheet in respect of footpath alignment and form, but there was no mention of function and this would need to be incorporated to formalise the function.

*RESOLVED* that –

(a) Consideration of the application be deferred for a Deed of Variation to the existing legal agreement to provide for the following:

additional affordable housing units

an additional educational contribution based on additional 11 residential units (subject to the implementation of 073042).

(b) Upon receipt of a satisfactory Deed of Variation to the existing Section 106 agreement, the Head of Planning Protection and Licensing be authorised grant consent with conditions and informatives as set out in the report with Condition 6 amended as set out on the Amendment Sheet and an additional informative to include reference to making the footpath a Public Right of Way.

## **5. 080561 Central Park House, 5 Military Road, Colchester**

The Committee considered an application for minor alterations to internal layouts and the insertion of non-openable high level windows with the rear elevations of units 4 to 10 inclusive and a rear door within unit 7 to be used solely for the purposes of occasional maintenance and repair, approximately two to three times a year. The Committee had before it a report in which all information was set out with further information on the Amendment Sheet.

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

Catherine Hayward addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She was concerned that the windows would be 20 feet away from her property and she wanted the units to have non-openable windows and air conditioning.

It was explained that the application clearly describes non-openable windows and there was a Condition to ensure that they were to remain as such in the future.

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

## **6. 080586 Shipwrights, 128 Coast Road, West Mersea 080581**

The Committee considered a planning application and an application for Conservation Area consent for the demolition of a boat paint shed to the rear of Wyatt's engineering workshop and the rebuilding of a new paint shed within the site. The Committee had before it a report in

which all information was set out with further information on the Amendment Sheet.

*RESOLVED* (UNANIMOUSLY) that –

(a) In respect of planning application 080586, the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet.

(b) In respect of the application for Conservation Area consent, the application be approved with conditions and informatives as set out in the report.

**7. 080596 Land adjacent to Cedarwood Cottage, London Road, Copford**

The Committee considered an application for the erection of a four bedroom detached dwelling with an attached garage and vehicular access. The application was a resubmission of 073116. The Committee had before it a report in which all information was set out with further information on the Amendment Sheet.

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

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

**8. 080602 Langenhoe Village Hall, Edward Marke Drive, Langenhoe**

The Committee considered an application for a single storey side extension to the village hall and 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.

**9. 080611 34 Beaconsfield Avenue, Colchester**

The Committee considered an application for a single storey rear extension. The extension would project 6 metres beyond the rear elevation and as such was contrary to Local Plan policy UEA13 which was 3 metres beyond that permitted within the policy. 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.

Helen Steel addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She hoped the Committee had read her letter of objection to the proposal. The reasons for her objection were outlined in the report. The extension was large and would block the light to her property. It was not in keeping with the 1890's property and not only would it set a precedent for and encourage the building of similar sized extensions, but the plans overlapped her boundary. On a general note, she moved into her house because she loved the garden and the peace and if everyone has extensions the green areas would gradually disappear. She wanted the application to be refused.

Susan Soormally addressed the Committee on behalf of her brother in law pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Mr

Soormally had a medical condition and his health was not likely to improve; he has had to retire from work. He has difficulty with stairs and the only bathroom and toilet are on the first floor. They wanted a further 3 metres to provide a bedroom and bathroom facilities downstairs to allow him to stay in the house. The garden was 26 metres long so even with a 6 metre extension it would leave a garden 20 metres by 5 metres. She believed the Committee had the ability to use its discretion in this case because of her brother in law could not live upstairs and there was nowhere else on the ground floor.

Members of the Committee recognised that this was a difficult case. However there were clear planning guidelines and where there was an alternative solution, as in this case, it was not appropriate to overrule those guidelines. In this case the applicant could erect a 5 to 5 ½ metre extension with a flat roof under permitted development rights with no requirement for planning permission. The proposal as submitted would affect the neighbour's light.

*RESOLVED* (UNANIMOUSLY) that the application be refused on the grounds that it is contrary to Local Plan policy UEA 13.

**10. 080618 4 Hillcrest Cottages, Greyhound Hill, Langham**

The Committee considered an application for the erection of a porch and rear first floor extension to form an en-suite and single storey side extension, retrospectively in respect of the porch. 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.

**11. 080475 101 Harwich Road, Colchester**

The Committee considered an application for the conversion of an existing shop into domestic accommodation and the erection of a new dwelling on land adjacent to the shop. 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.

John Davies, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mrs Bouteldja addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that there used to be a wall along the property between the pavement and the forecourt but it was demolished in 1960 and not replaced because the forecourt was used for customers and deliveries. Now that the business had gone she did not consider that part of the forecourt should continue to be used in that way because it would be trespass. She had given permission for a neighbour to use the forecourt for security reasons. Her view was that a high fence could be erected; there were other bus stops in the area with narrow paths; as the path is not wide enough the bus stop should be moved; and putting a bus shelter there would be a magnet for local youths leading to vandalism. The Council could issue a CPO for some of her land but she considered that would be unfair. She would appreciate a positive outcome to her request.

Councillor Cook attended and, with the consent of the Chairman, addressed the Committee. He was not against the planning application but the pavement was only 1.3 metres. The

owner of the shop recognised that people had difficulty and allowed them to use the forecourt. When Essex County Council raised the kerb they identified a problem with the pole and moved it back from the kerb to ensure it did not foul bus mirrors. However, if the wall was built as shown, people with prams or wheelchair users would be forced into the road. He suggested that the wall could be built 300mm further back into the forecourt area. The wall itself did not need planning permission and could be built long after the extension was finished. He would withdraw his objection if there were no boundary fixtures or fittings. Approval of the application as it stood would put people in danger.

It was explained that the wall was a requirement of the Highway Authority to ensure that there was only one single point of access to the property and to enclose the parking area. The applicant was not willing to provide an area for pedestrians on the forecourt and the Committee was required to consider the application as submitted. The wall could be constructed without planning permission. Officers did not consider it was appropriate to refuse the application.

Some Members of the Committee were very concerned that the public speaker felt she was being held to ransom. Various solutions were suggested: the bus company could move the bus stop; the bus stop pole could be moved nearer to the wall; bus drivers could stop two or three feet eastwards away from the bus stop where there was no wall. The distance between the bus stop and wall would not be wide enough to get a wheelchair through. There seemed to be no reason why approval could not be given. This was a highways and road safety issue and officers were requested to write to the Highway Authority to explain the Committee's concerns and request that they move the bus stop.

*RESOLVED* (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for a Unilateral Undertaking to provide 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 Planning Protection and Licensing be authorised grant consent with conditions and informatives as set out in the report.
- (c) The case officer to write to the Highway Authority to explain the Committee's concerns and request that the bus stop pole be relocated to the back edge of the footway in order to reduce obstruction of the footpath.

## **12. 071479 Colchester Camping Caravan Park, Cymbeline Way, Colchester**

The Committee considered a retrospective application for retention of lighting incidental to the existing caravan park. The application had been deferred for receipt of a lighting survey/report to be carried out in accordance with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light. The report had been received and the Council's Environmental Control Team had assessed the report and agreed with its conclusion that the light readings complied with the guidance. The application was therefore recommended for approval with conditions. 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.

**13. 071980 Land to rear of 11 Newbridge Road, Tiptree**

The Committee considered a reserved matters application for the erection of sixteen residential dwellings. The application had been deferred at previous meetings of the Committee to clarify the external materials and colour finishes, and to consider the repositioning of the dwelling on plot 1 in order to minimise the impact upon the existing dwelling at 47 Winston Avenue. An amended scheme had been submitted to address the relationship of plot 1 to 47 Winston Avenue. Additional comments submitted by the Highway Authority were addressed within the report. The Committee had before it a report in which all information was set out with further information on the Amendment Sheet.

*RESOLVED* (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for the completion of an amendment to the existing Section 106 Agreement to provide for the contribution towards education to be increased to £42, 891.

(b) Upon completion of a satisfactory amendment to the existing Section 106 Agreement, the Head of Planning, Protection and Licensing be authorised to grant planning permission with conditions and informatives as set out in the report.

**14. 080562 Hemps Green, Fordham**

The Committee considered a retrospective application for the provision of an access to serve land adjacent to Hammonds Farm, Hemps Green, Fordham. The Committee had before it a report in which all information was set out with further information on the Amendment Sheet.

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

**15. 080573 Doucecroft School, Abbots Hall, Abbots Lane, Eight Ash Green**

The Committee considered an application, a resubmission of 072518, to vary Condition 5 of permission COL/04/0445 to allow the school to be open to pupils and boarders for no more than 48 weeks in each year, and allow ten boarders during the weekends, unless otherwise agreed in writing by the Local Planning Authority. The Committee had before it a report in which all information was set out with further information on the Amendment Sheet.

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

**16. 080646 48 North Hill, Colchester**

The Committee considered an application for a change of use from office to A3 (Restaurant) with opening hours of 12 pm until 11pm. The building is listed and the site is within a Conservation Area. This application is one of two submitted by the same applicant for two separate restaurants at nos. 47 and 48 North Hill. There was no supporting application for any physical works to link the two buildings. The Committee had before it a report in which all information was set out with further information on the Amendment Sheet.

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

**17. 080648 47 North Hill, Colchester**

The Committee considered an application for a change of use from office/residential to A3 (Restaurant) with opening hours of 12 pm until 11pm. The building is listed and the site is within a Conservation Area. This application is one of two submitted by the same applicant for two separate restaurants at nos. 47 and 48 North Hill. There was no supporting application for any physical works to link the two buildings. 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.

**18. 080294 Garrison Church, Military Road, Colchester**

The Committee considered an application for a change in form of the dais at the eastern end together with the erection of iconostasis and side walls around the chancel; fitting of a low icon shelf and candle tray and upper shelf along the northern and southern walls at heights of 1.20 metres and 1.62 metres. 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.

Reverend Andrew Phillips addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He had no objections to the proposal. Sand trays for candles would be positioned 7.8 metres from the eastern end of the church subject to appropriate fire extinguishers being provided. Talks had been held with the Tourist Office regarding opening for conducted tours. The church was a part of Colchester's heritage and it was intended to have orthodox music in the church. The objections were for the change of use but the Garrison Church will be used as a church and it will be opened up for the local community.

Members of the Committee looked forward to seeing the church when it was completed. It was suggested that an informative be added to the effect that the Council would like an interpretation board to be provided inside the building setting out the history of the church so people could see it. It was noted that the fabric of the building would not be altered and its use as a place of worship would continue, but there was some disappointment that its use as an auditorium would be lost.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report and an informative be added requesting the applicant to provide an interpretation board inside the building providing details of the history of the church, details of which are to be agreed in writing with the Local Planning Authority.

**19. 080548 Bridge House, Severalls Lane, Colchester**

The Committee considered an application for the erection of an electric transformer substation with vehicular access. The Committee had before it a report in which all information was set out with further information on the Amendment Sheet. The land contained an area of preserved woodland to be retained as an amenity area within the development. An Arboricultural Report had been received prior to the Committee's meeting but no comments had been received from the Trees and Landscape Officer and the recommendation had been revised to allow time for the comments to be received.

*RESOLVED* (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for receipt of comments from the Trees and Landscape Officer.
- (b) Upon receipt of satisfactory comments from the Trees and Landscape Officer, the Head of Planning, Protection and Licensing be authorised to grant planning permission with conditions and informatives as set out in the report and on the Amendment Sheet.

**20. 072285 Cherry Tree Farm, London Road, Great Horkesley**

The Committee considered an application for a change of use of the land to permit the siting of a temporary agricultural workers dwelling, a resubmission of F/COL/06/1980. The Committee had before it a report in which all information was set out. Consideration of this application at the meeting followed on from the item at minute 21.

David Whybrow, Planning Team Manager (Fast Track), attended to assist the Committee in its deliberations. The consultants conclusions were clear that 24 hour on site supervision was essential for animal welfare and the need to be on hand to respond to mechanical breakdowns of the automatic systems; feeding, lighting, etc. Problems could arise quickly and someone needed to be on site to respond. This view was supported by current practice at similar units. There were some drainage issues outstanding which the Environment Agency would have preferred to be resolved, but they could be dealt with by condition.

Phyllis Burt addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She considered the consultants' report to be flawed. He has made incorrect statements in respect of current animal welfare arrangements. Animal welfare regulations state a minimum of one visit per day. DEFRA advises that a stockman can live up to two miles away. The consultant also failed to make a site visit. There were other units in the area where the supervisor lived several minutes drive away. The need for housing related to a full time worker only. This application represented a manipulation of the planning system in order to get a house on the site. Officers had failed to take account of comments from objectors. She did not believe the Council should be making a decision based on precedence; it should be on a case by case basis.

Ian Pick addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The application was for PPS7, a dwelling where it met the test for the functioning of the enterprise. An appraisal had been submitted and the Council had sought its own expert advice. Acorus confirmed that the dwelling was essential for the functioning of the unit.

Councillor Arnold attended and, with the consent of the Chairman, addressed the Committee. The applicants seemed to be asking for agreement in principle and the detail to be agreed by officers. Waste was to go into the main sewers and as there were none it would go into tanks; this needed to be resolved before permission was granted. It was stated that it was better that the supervisor was on site, not that it was essential. The applicant was reputedly referring to RSPCA and DEFRA. The RSPCA advised that an on site person was not essential in this case. There was no shortage of accommodation to let. He did not think the case had been made for there to be someone so close to the site to require an extra building and certainly not any sort of residence beyond the control of this Committee.

In respect of the consultants report being flawed with elements incorrect, it was explained that the Council's consultants accepted that the legislation had been updated. In respect of the RSPCA's recommendations, it was not only stock which were of concern, but also mechanical systems which could fail and this was considered to be the reason for requiring immediate supervision. The consultant advised that the supervisor should be on or immediately adjacent to the site. A condition had been drafted to seek further details of the dwelling which was to be a mobile home and as such was defined in law. It would not be a permanent residential unit and it would be on site for 3 years at the end of which the Council would have the ability to assess whether the business was going to flourish. In respect of the drainage question, the options were cesspits or septic tanks. The underlying geology was a very thick clay layer over a chalk aquifer; septic tanks would work here.

In general, Members of the Committee were concerned whether it was essential or desirable to have someone permanently on site and the nature of the accommodation. Condition 3 limited the occupation to certain people and it was considered desirable that this should not include a widow or dependents. A mobile home measuring 40' by 14' could sleep 8 people, but with two mobile homes together would constitute a large dwelling which would accommodate a family. If the Committee were minded to approve the application, clarification and a strongly worded condition would be required to tie the permission to the owner of the unit for agricultural use only and connected to this unit.

Policy PPS7 required an on site worker to be essential, not just desirable. If after three years from consent for a mobile home, provided the conditions were met on profitability, this would become an application for a permanent dwelling. In 2012 all egg production in battery houses would be banned and henceforth would have to be carried out from units similar to and larger than this one, or in perching houses. From an animal welfare point of view, this was the future for the egg production industry. The report from the consultants was thorough and he mentioned the Code of Practice which required a responsible person to live close to the site for emergencies. This point can be argued to make it essential. It has been accepted in the industry that it does need someone to live very close and it could be a house a few hundred yards but not two miles or 1½ miles. DEFRA make recommendations in the Code of Practice where for emergency purposes they want someone living close by because although the poultry range in the day, at night they were provided with their own environment and if anything went wrong with the environmental controls they would die. Comparisons between semi-intensive livestock and grazing livestock were invalid.

It was explained that an agricultural condition was reasonable in the circumstances tied in to be occupied in connection with the holding at Cherry Tree Farm and including an end date; Condition 3 could be amended by referring specifically to working of Cherry Tree Farm.

*RESOLVED* (EIGHT voted FOR, TWO voted AGAINST and TWO ABSTAINED from voting) that the application be approved with conditions and informatives as set out in the report with the following amendments:-

Condition 1 – Temporary approval for 3 years.

Condition 2 – Temporary accommodation to be in the form of a mobile home.

Condition 3 – Occupancy to be tied to this specific poultry rearing operation.

Condition 5 – To be amended to include the Environment Agency's requirements as specified on the Amendment Sheet.

## **21. 072287 Cherry Tree Farm, London Road, Great Horkesley**

The Committee considered a report by the Head of Planning, Protection and Licensing advising the Committee of the Regulation 5 Screening Opinion. The Committee were requested to review whether in the light of that Screening Opinion they wished to alter in any way their decision on application 072287 made at the meeting held on 13 March 2008, and further, subject to the outcome of their review whether the additional information obtained from Anglian Water was sufficient to allow the Head of Planning, Protection and Licensing to grant permission for planning application 072287 in accordance with the Committee's decision on 13 March 2008.

David Whybrow, Planning Team Manager (Fast Track), attended to assist the Committee in its deliberations. Having taken legal advice on whether an Environmental Impact Assessment (EIA) was required, it was decided to deal with the matter by undertaking a written Screening Opinion. Item 4 of the Screening Opinion indicates that for this size of operation an EIA was not required. Officers were also concerned that the response from Anglian Water was not in the categorical terms required.

Mr Geoff Burt addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He stated that he had a report which stated that the only way to quantify the risk is to carry out a detailed analysis to establish which pathogens could find their way into the water supply. It clearly recommended specialised research be carried out which had not been done. He urged the Committee to refuse the application on the grounds of public interest.

Mr Ian Pick addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Anglian Water had provided the Council with the information requested and the Drinking Water Inspectorate had supported Anglian Water. GOEast had determined that an EIA was not required. His company had submitted 67 applications and not one required an EIA. There were no technical objections, the scheme satisfied the consultants and he requested that the officer recommendation be accepted and permission be granted.

Councillor Arnold attended and, with the consent of the Chairman, addressed the Committee. He was concerned about the times of delivery and departure of vehicles from this site. They were intending to make a regular delivery at 8am every morning from a narrow country lane. This was referred to as a minor matter. He wanted an opinion on whether a condition could be added. If the Committee was minded to approve the application he asked that Poplars be used in the planting scheme around the development for maximum amount of screening.

Members of the Committee considered it was clear that the Council had investigated the position on the Screening Opinion and with the recommendation of the Council and GOEast, must accept that it was on firm ground that nothing further was needed. As far as the declaration from Anglian Water was concerned, they could not go any further than they had, but this position was supported by their own statutory duty to supply water to the public bearing in mind the comments they had made. In general Members were of the opinion that they could not expect Anglian Water to be any more categorical than they had been.

It was explained that in respect of the possibility that a report was suppressed in some way, officers had tested assertions made by the water authority and there has been a constant dialogue with them and the final statement reflected what the Council had been told. They also had a statutory responsibility to provide good quality drinking water and the planning office trusted that they were giving the Council the information requested. There was no reason why a condition could not be added to the effect that a scheme be agreed for times of delivery and collection with the proviso that all efforts be made to avoid peak times; there could be a network of collections so some latitude was requested in this respect. Similarly there was no reason why Poplars could not be included in a landscaping scheme.

*RESOLVED* (NINE voted FOR and THREE ABSTAINED from voting) that the Screening Opinion be accepted.

*RESOLVED* (NINE voted FOR and THREE ABSTAINED from voting) that the additional information obtained from Anglian Water was sufficient to allow the decision made at the meeting held on 13 March 2008 to stand.

*RESOLVED* (NINE voted FOR and TWO ABSTAINED from voting) that subject to a condition being added requiring a scheme to be agreed specifying delivery and collection times to and from the site by service vehicles, and the landscaping condition being amended by the inclusion of appropriate Poplar species, characteristic of the locality, the decision made at the meeting held on 13 March 2008 be implemented.

## **22. Enforcement Action // Land at 25 Straight Road, Boxted**

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

## **23. Enforcement Action // Land at Elm Farm, Elm Lane, Marks Tey**

The Head of Planning, Protection and Licensing submitted a report seeking authorisation to take enforcement action for the cessation of the use as a haulage yard, the cessation of the use for temporary storage of building materials, and the removal of earth bunds.

David Whybrow, Planning Team Manager (Fast Track), attended to assist the Committee in its deliberations.

Jonathan Reubin addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the proposed enforcement action. He was representing the Trust of the owners and two occupiers of the land in question. The farm was uneconomic as the land was not top quality and had no landscape value. One of the parcels was being used as temporary storage for Global Stone and Kent Blaxill and when that is completed the use of that area of the land will stop. The other area of land is used by a small business to run 12

lorries from the site and the vehicles are only there at the weekend. The area has a soft surface and no goods are transferred. Both areas have been in use for many years with no problems and are providing employment in the area. Owners of the land records and trustees are endeavouring to contact the earlier occupiers of the site to show there had been storage and transport use for many years. They will appeal against any action. The Trust suggest that instead of taking the enforcement route negotiations take place to maintain employment opportunities for the future.

It was explained that the matter was first investigated four years ago and the view now was that the time for dialogue referred to by Mr Reubin had not achieved anything and the time had come to take action.

Members of the Committee considered that this site had been a planning problem for some years and had given local residents great concern because it had grown. There were particular concerns about the use of the site for heavy vehicles and storage. The bund obstructed views into the site but from a highways point of view the lane exits onto the A120 which could be blocked or had fast moving traffic. Consequently, this was not a good site for this use. Applicants had been asked to put in planning applications to regularise the use and had failed to do so. It was suggested that in respect of the use by Global Stone which was transferring to an alternative site in the near future, the enforcement action may not be necessary in a few months' time. However, the timescale for the move was unknown and enforcement action remained the recommended course of action.

*RESOLVED* (UNANIMOUSLY) that an enforcement notice be served requiring the cessation of the use as a haulage yard, the cessation of the use for temporary storage of building materials, and the removal of earth bunds.

#### **24. Remedial Notice // HH/COL/06/0339, 15 Firs Chase, West Mersea**

The Head of Planning, Protection and Licensing submitted a report seeking authorisation to prosecute the owner of hedge 3 in the Magistrates' Court if the owner had not complied with the remedial notice within 56 days from the date of this meeting. Hedge 2 had been removed entirely and some work had been carried out to hedge 1 but no work had been done to hedge 3. The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet. The owner of hedge 3 had questioned the Council's calculation in respect of hedge 3, but officers were fairly confident that their calculations of hedge 3 were correct, however there is no evidence that the inspector relied on the Council's calculation.

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

Jackie Morley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She was the occupier of the neighbouring property. She had first complained about the hedge in August 2007 and was disappointed that the situation would take longer to resolve. If this opportunity was not taken to deal with hedge 1 the owner would take the opportunity not to do anything and it was a fast growing leylandii. The hedge on which no action was recommended had already grown 1 metre.

Members of the Committee were in support of the officer's recommendation but were also very concerned about the fast growing nature of hedge 1. The officer response was that the

situation with hedge 1 was that it did not comply with the inspector's recommendation so if the Committee were concerned they should consider whether to prosecute in respect of hedge 1.

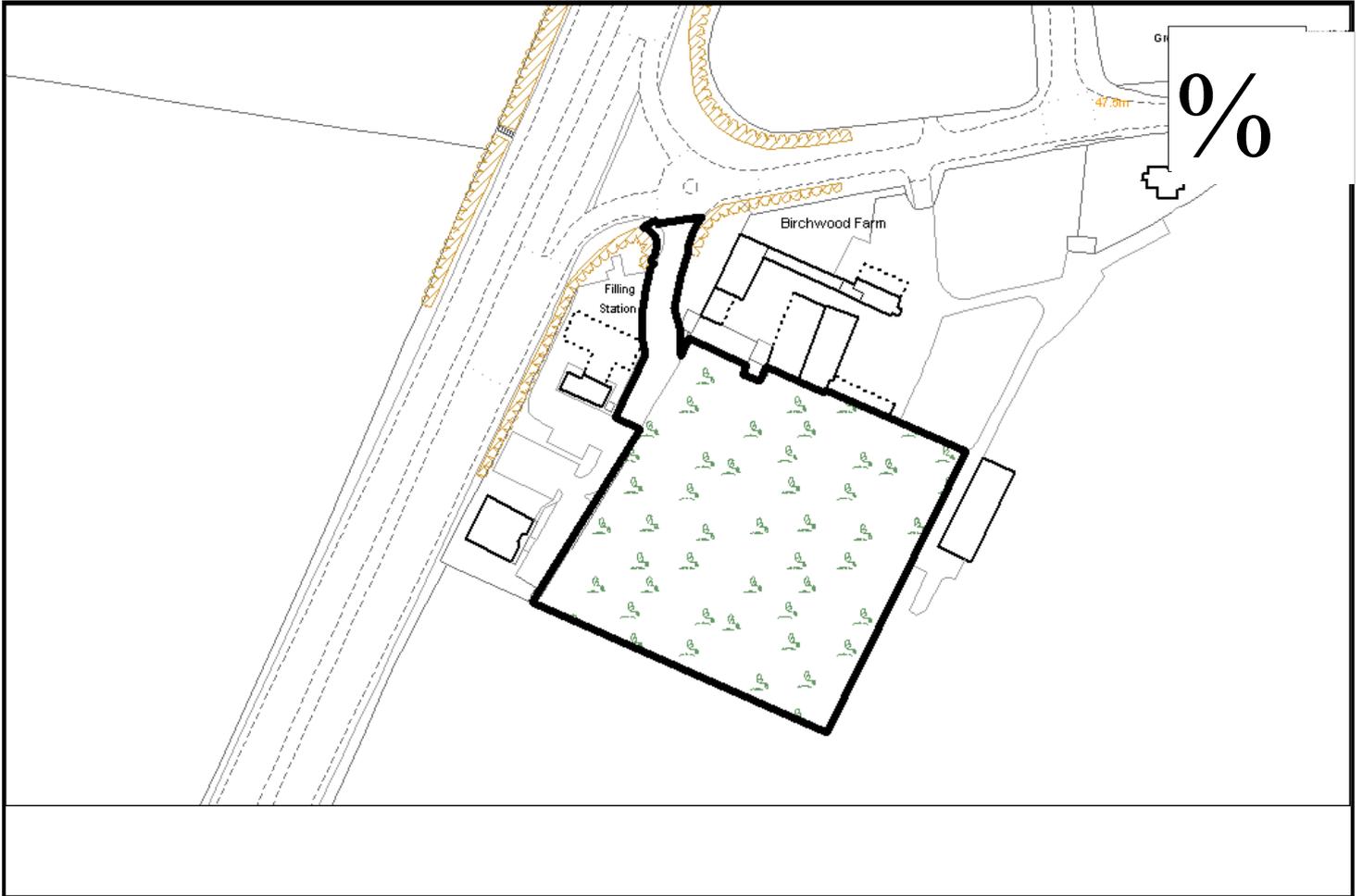
*RESOLVED* that –

(a) The Head of Planning, Protection and Licensing be authorised to commence legal proceedings against the owner of hedge 1 and hedge 3 in respect of failure to comply with a remedial notice issued on behalf of the Secretary of State for Communities and Local Government in respect of high hedges.

(b) If works are carried out in full within a period of 56 days from the date of this meeting no further action will be taken.

## **25. Planning Training for Members**

The Chairman announced that Councillors Gamble, Lilley and Offen had all undertaken planning training sessions which satisfied the Monitoring Officer and complied with the Council's requirements to enable them to serve on the Planning Committee.



**Application No:** 080547

**Location:** Proposed Express Inn Development, Birchwood Road, Dedham, Colchester

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

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## Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **29 May 2008**  
Report of: **Head of Planning, Protection and Licensing**  
Title: **Planning Applications**

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

**7.1 Case Officer: John Davies**

**EXPIRY DATE: 19/06/2008**

**MAJOR**

**Site:** Birchwood Road, Dedham, Colchester

**Application No:** 080547

**Date Received:** 19th March 2008

**Agent:** The Hitchman Stone Partnership

**Applicant:** Geminex Hotel & Leisure Management

**Development:** 99 Bedroom, Express Hotel by Holiday Inn

**Ward:** Dedham & Langham

**Summary of Recommendation:** Conditional Approval subject to no objection from the Trees and Landscape Officer

### 1.0 Site Description

1.1 This is a parcel of land of 1.04 hectares in area situated to the rear of the Petrol Filling Station (PFS) on the A12/Birchwood Road junction to the east of the southbound carriageway of the A12. The site is enclosed by trees and hedgerows on all sides and is overgrown by vegetation. It was formerly the site of the Birchwood Hotel which existed up until the mid 1980s when it was destroyed by fire. The building was cleared from the site at that time and in June 1988 planning permission was approved for a 98 bedroom hotel. This was renewed in June '993, April 1998 and most recently in 2003. However, ever since the site has remained vacant and un-used. Surrounding uses comprise the

PFS and an office furniture business to the west (fronting the A12), Birchwood Farm complex to the north/north-east and open countryside to the east and south.

## **2.0 Description of Proposal**

- 2.1 The application proposes a 99 bedroom Express Holiday Inn Hotel in a two storey 'L' shaped building located in the south-east corner of the site with car parking spaces in front of the building. Access would be taken from the north-west corner and would share an access off the A12 slip road with the PFS and office furniture business.
- 2.2 The application was accompanied by a Design and Access Statement and Tree survey and arboricultural impact assessment and landscape scheme.

## **3.0 Land Use Allocation**

- 3.1 No notation

## **4.0 Relevant Planning History**

- 4.1 88/0245 – 98 bedroom hotel – Approved June 1988
- 4.2 93/0629 – Renewal of previous consent – Approved June 1993
- 4.3 98/0293 – Renewal of previous consent – Approved April 1998
- 4.4 03/0286- Renewal of consent for 98 bedroom hotel - Approved 8.8.03
- 4.5 06/0278- Erection of 100 bedroom hotel- Refused May 2006 – Dismissed on Appeal
- 4.6 06/0276-Erection of free standing banquet hall and spa facilities- Refused May 2006- Dismissed on appeal.
- 4.7 06/1266- Erection of 100 bedroom hotel- Refused October 2006

## **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Local Plan:  
DC1 - Development Control considerations  
UEA11-Design  
CO4-Landscape Features  
EMP4-Employment in Countryside

## **6.0 Consultations**

- 6.1 Highway Authority - no objection subject to provision of a travel plan and associated monitoring fee payment of £3,000 and condition to ensure that no mud or debris is deposited on the public highway associated with construction at the site.
- 6.2 Highways Agency- no comments to make as application will not affect the A12 trunk road at this location.
- 6.3 Development Team- application noted.

6.4 Trees and Landscape Section- Tree Officer requested further information showing details of existing trees and impact of development . Further comments to be provided. Landscape Officer requested amendments to proposed landscape scheme and a revised scheme is expected prior to Committee. Any further comments to be reported.

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

7.1 Dedham Parish consider this latest application is an improvement on last applications 06/0276 and 0278 but the access from Birchwood Road via the mini roundabout and PFS access has not been addressed correctly. A second or twin access would be required for this new role. Concern about how northbound traffic is to get to the site and impact on proposed routes.

7.2 Langham Parish Council- object to application on basis of increased traffic on Park Lane and Wick Road by north bound traffic heading for the hotel.

## **8.0 Representations**

8.1 Two responses received from residents in Wick Road in Langham objecting to the application on grounds of lack of need for another hotel in area and increased traffic on Langham roads by cars and service vehicles going to the site.

## **9.0 Report**

9.1 The main issues in this application are the principle of development in the countryside, design and appearance issues, highways issues and impact on trees and landscaping.

### Principle of development

9.2 This site is outside the built up area of Colchester and not within a Village Envelope or any other designation in the Local Plan that would support the principle of development on what appears as a green field site. Therefore on policy grounds alone there the proposal would be contrary to policy as constituting unnecessary development in the open countryside. However, as can be seen from the planning history of the site set out earlier in the report there is an extant permission for a 99 bedroom hotel on the site that is a material consideration insofar as it constitutes a 'fall-back' position for the developer should this application be refused. The applicants do not wish to implement that permission as it is a larger building than is currently proposed with associated catering and leisure facilities that Holiday Inn do not propose to provide in this budget style operation. Given the fall-back position it is considered that the principle of a hotel development on the site should be accepted.

### Design issues

9.3 The proposed building is two storeys in an 'L' shape with a pitched roof. Whilst smaller in footprint and of different form to the extant approval, there are strong similarities in elevational form and detail. These comprise red/brown brick ground floor with timber clad 1st floors and plain tiled roof. The elevations are broken up by projecting render-faced bays. Officers expect use of high quality facing materials on the building including natural clay tiles.

### Highways issues

- 9.4 The application submission includes a proposed road layout and junction design for the access road in between the mini roundabout and the entrance to the site in order to establish a satisfactory circulation arrangement for traffic visiting the PFS, furniture business and hotel. This also includes a pedestrian footway.
- 9.5 Parking provision comprises 102 spaces, which is similar to the level in the approved scheme and accords with adopted Parking standards of 1 space per bedroom.
- 9.6 The comments of the Parishes regarding traffic generation are noted. However, in view of the extant permission which would have similar impacts, it is considered that these objections cannot be sustained as reasons to refuse the application.

### Trees and landscaping

- 9.7 At the time of writing this report the details of the impact of the scheme on existing trees and landscaping has not been agreed. However, it is not considered that there are likely to be any in principle objections to the proposals and it is a matter of agreeing best arboricultural practice.

## **10.0 Background Papers**

- 10.1 ARC; HA; Highways Agency; TL; Development Team; PTC; NLR

### **Recommendation**

Subject to no objection to the scheme from the Trees and Landscape Officer the Head of Planning, Pollution and Licensing be authorised to approve the scheme under delegated powers and subject to the following conditions:

### **Conditions**

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

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

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

2 - C3.4 Samples of Traditional Materials

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

Reason: To ensure the use of an appropriate choice of materials having regard to the prominence of this site in the countryside and to ensure that the choice of materials will harmonise with the character of the surrounding area.

### 3 - Non-Standard Condition

Prior to any works commencing on site a travel plan produced in accordance with Essex County Council's 'Development Related Travel Plans- An introductory Guide 'document, shall be submitted to and approved by the Local Planning Authority. The approved Travel Plan shall be implemented upon occupation of the development hereby approved.

Reason: In compliance with the County Council's Highways and Transportation development Control policies as originally contained in Appendix G of the Local Transport Plan 2006/2011.

### 4 - Non-Standard Condition

Details of measures to prevent mud and/or debris being deposited on the public highway by any vehicle associated with construction of the proposal shall be submitted to and approved by the Local Planning Authority and Highway Authority prior to any works commencing. The development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety and in compliance with the County Council's Highways and Transportation development Control policies as originally contained in Appendix G of the Local Transport Plan 2006/2011.

### 5 – D4.3 - Bicycle Parking (in accordance with a scheme)

Prior to the [building/s land] being brought into use for the purposes hereby approved, bicycle parking facilities shall be provided in a practical and visually satisfactory manner within the site, which comply with the Local Planning Authority's current cycle parking standards and are in accordance with a scheme, indicating the number, location and design of such facilities, which shall have previously been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall thereafter be retained to serve development.

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

### 6 - Non-Standard Condition

Prior to the occupation of the development hereby approved the highway access improvements as shown on approved drawing 1-03B.DWG shall be implemented in full and thereafter maintained.

Reason: To ensure satisfactory arrangements for vehicular and pedestrian access into the site are in place prior to the use of the hotel commencing.

### 7 - Non-Standard Condition

Any landscape conditions as recommended by the Trees and Landscapes Team.

## **Informatives**

### Non-Standard Informative

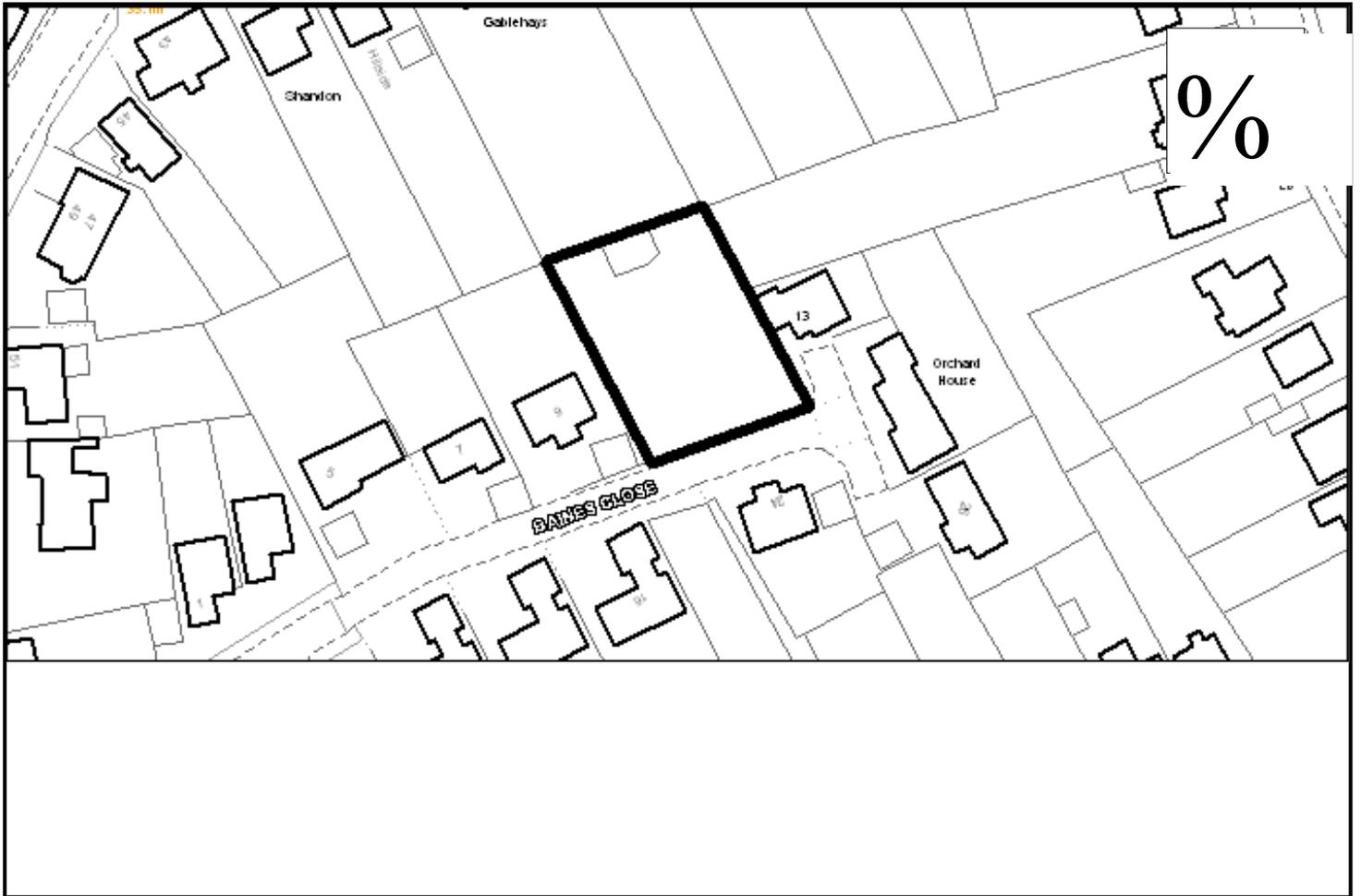
1. In respect to condition 3 the applicant is requested to pay a commuted fee of £3,000 to Essex County Council to cover the cost of reviewing and monitoring of the approved Travel Plan.

### Non-Standard Informative

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

### Non-Standard Informative

3. The Highway Authority has indicated that its comments are based on the assumption that the proposal site internal layout will not be laid out and constructed to adoptable standards and that the applicant does not intend to offer it to the Highway Authority for adoption.



**Application No:** 080795

**Location:** Land to the Rear of Gablehays, Beech Hill, Colchester, CO3 4DU

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

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**7.2 Case Officer: Nick McKeever**

**EXPIRY DATE: 17/06/2008**

**MINOR**

**Site:** Gablehays, Beech Hill, Colchester, CO3 4DU

**Application No:** 080795

**Date Received:** 21st April 2008

**Agent:** Fenn Wright

**Applicant:** Mr O Shippey & Mrs P Halfpenny

**Development:** Outline application for erection of 2no. detached houses.

**Ward:** Prettygate

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

## **1.0 Site Description**

- 1.1 The site forms part of the rear garden of "Gablehayes", a detached dwelling, within an established residential area, fronting onto Beech Hill, Prettygate. The application site measures approximately 24m x 35m and backs onto Baines Close, an group of detached dwellings, with access onto Church Lane, Prettygate.
- 1.2 The application seeks outline planning permission for the erection of two detached, two storey dwellings. The matters for approval are the access, scale and the layout. The appearance and landscaping are to be the subject of reserved matters.
- 1.3 The application includes a layout drawing. This drawing shows one 5 bedroom detached dwelling of 180 sq.m floor area (Plot 1) and a 4 bedroom detached dwelling of 120 sq.m (Plot 2) with access off Baines Close in the form of a shared private drive.
- 1.4 This drawing also shows the scale of the proposed dwellings relative to the existing dwellings at 9 & 13 Baines Close.

## **2.0 Land Use Allocation**

- 2.1 Residential

## **3.0 Relevant Planning History**

- 3.1 This site has a long planning history of outline planning permissions for one dwelling. The first consent was granted in 1979 and renewed successively thereafter. The last renewal was on 21 June 2001 (O/COL/01/0792).

#### **4.0 Principal Policies**

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

#### **5.0 Consultations**

- 5.1 The Highway Authority has no objection subject to conditions.

#### **6.0 Representations**

- 6.1 The occupiers of Two Beeches, Beech Hill, observe that:-
- The original consent was for the erection of one bungalow on this plot
  - The present application should also be for one dwelling to maintain the congruity of Beech Hill & Baines Close
  - A five bedroom house would suit the plot, but not on one half of the plot.
- 6.2 Their main objection is to the proposed shared driveway (accommodating 5 to 7 vehicles) which is planning for conflict.

#### **7.0 Report**

- 7.1 The principle of the residential development of this plot, presenting a frontage to an established residential street, is well established. The only issue is therefore whether the site is capable of accommodating two units as opposed to the one unit previously approved.
- 7.2 The existing development in Baines Close consists of detached, two storey dwellings fronting onto the Close. The existing plot frontages vary in size from just under 10m x over 18m. The exception is an infill bungalow at 13 Baines Close, which was allowed on appeal.
- 7.3 The proposed plot is given as being 24m x 35m. This is generally commensurate with the established development. Under these circumstances, and given the aforementioned infill bungalow immediately adjacent to the site, the proposed development will not look out of keeping.
- 7.4 In this context the arrangement of the buildings, particularly Plot 1 with the garage on the site frontage, reflects that of other properties within the Close.
- 7.5 It must also be recognised that there has been shift in central government policy since the previous permissions on this site, with the emphasis being very much on sustainability and the best use of urban land.
- 7.6 The development complies with the Council's adopted standards in terms of the space around the buildings and the provision of private amenity space for the new dwellings. In addition the development as shown on the layout drawing complies with the Local Plan policy UEA13 in terms of the relationship of the buildings to the existing neighbouring properties and impact upon their amenity.

7.7 The objector's comments regarding the shared access are acknowledged. This form of development is by no means unusual and is an accepted form of development, with examples evident throughout the Borough. There is no justification why this should not be acceptable in this particular location.

## **8.0 Conclusion**

8.1 The proposed development reflects the form and character of the existing development within Baines Close and, in terms of the plot sizes, would not appear incongruous or out of keeping. The scheme complies with the Council's adopted policies and standards and will not have an adverse impact upon the amenity of the adjoining occupiers. The proposed access arrangements have been accepted by the Highway Authority and represent a long established form of development.

8.2 Having regard to all of the aforementioned it is recommend that outline planning permission should be granted for the access, layout and scale of the development, as sought in this application.

## **9.0 Background Papers**

9.1 ARC; HA; PTC; NLR

### **Recommendation**

Delegated authority be given to the Head of Planning, Protection and Licensing to approve this application subject to the satisfactory completion an Unilateral Undertaking as required under the Supplementary Planning Document "Open Space, Sport and Recreation" and the following conditions:

### **Conditions**

1 - A1.1 Outl Perms (submission of reserved matters (1)

Approval of the details of the appearance and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.

Reason: The outline application as submitted does not give particulars sufficient for consideration of these reserved matters.

2 - A1.2 Outl Perms (submission of reserved matters (2)

Plans and particulars of the reserved matters referred to in condition 1 above, relating to the appearance of any buildings to be erected, and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason: The outline application as submitted does not give particulars sufficient for consideration of these reserved matters.

3 - A1.3 Outl Perms (time limit for subm of res matter)

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

Reason: In order to comply with Section 92 of the Town and Country Planning Act 1990.

4 - A1.4 Outl Perms (time limit for commencement of Development

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

Reason: In order to comply with Section 92 of the Town and Country Planning Act 1990.

#### 5 - C3.3 Samples to be Submitted

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

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

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

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

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

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

#### 7 - Non-Standard Condition

Prior to occupation of the development, a visibility splay with dimensions of 2.4 metres by 33 metres as measured from and along the nearside edge of the carriageway shall be provided to the west of the access. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.

Reason: To provide adequate inter-visibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access having regard to policy 1.1 in appendix G to the Local Transport Plan.

#### 8 - Non-Standard Condition

Prior to the occupation of the development a vehicle visibility splay measured from 2.4 metres from the carriageway edge to the boundary fence between properties 13 and Orchard House, Baines Close shall be provided. This shall require removal of the first 3.8 metres of the proposed boundary fence east of the site and 0.4 metres of the fence west of the site. An endorsed plan has been returned with the sight splays marked.

Reason: To provide adequate inter-visibility between users of the access and vehicles using Baines Close turning head having regard to the safety of highway users and policy 1.1 in appendix G to the Local Transport Plan.

#### 9 - Non-Standard Condition

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

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

#### 10 - Non-Standard Condition

Prior to occupation of the development hereby permitted the turning space enabling a motor car to enter and leave the highway in a forward gear shall be constructed, surfaced and made available for use and shall be retained for that sole purpose.

Reason: To ensure appropriate turning facilities are provided so that vehicles can enter and leave the highway in a safe and controlled manner in accordance with policy 1.1 in appendix G to the Local Transport Plan.

#### 11 - Non-Standard Condition

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

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

#### 12 - Non-Standard Condition

Prior to occupation of the development hereby permitted the existing crossover shall be removed and any footpath resurfaced and kerb reinstated for use as approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety in accordance with policy 1.1 in appendix G to the Local Transport Plan.

#### 13 - Non-Standard Condition

Prior to occupation of the development a new footway shall be constructed at no cost to the public purse measuring no less than 1.8 metres in width across the whole Baines Close frontage.

Reason: To provide a suitable pedestrian facility in accordance with policy 3.4 in appendix G to the Local Transport Plan.

### **Informatives**

#### Non-Standard Informative

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



**Application No:** 080806

**Location:** 36 Chinook, Highwoods, Colchester, CO4 9SZ

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

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**7.3 Case Officer: Dale Keeble**

**EXPIRY DATE: 18/06/2008**

**MINOR**

**Site: 36 Chinook, Highwoods, Colchester, CO4 9SZ**

**Application No: 080806**

**Date Received: 22nd April 2008**

**Applicant: Mr T Claydon**

**Development: First floor side and 2 storey rear extension (resubmission of 071730)**

**Ward: Highwoods**

**Summary of Recommendation: Conditional Approval**

### **1.0 Planning Report Introduction**

1.1 This application seeks approval for a side and rear extension to this detached dwelling house, providing playroom and enlarged kitchen, bedrooms and bathroom.

1.2 The applicant is a member of staff at Colchester Borough Council.

### **2.0 Site Description**

2.1 The application site comprises a detached dwelling within a residential area.

### **3.0 Description of Proposal**

3.1 Permission is sought for a 2 storey extension to the rear and first floor side extension at 36 Chinook, Highwoods. The proposed extensions will provide additional accommodation and would be constructed in matching materials to the host dwelling, i.e. brick and interlocking roof tiles.

### **4.0 Land Use Allocation**

4.1 Residential

### **5.0 Relevant Planning History**

5.1 071730 - First floor extension above garage – Refused 16 August 2007

5.2 F/COL/04/1829 - Single storey side extension and first floor extension - Refused

### **6.0 Principal Policies**

6.1 Adopted Review Borough Local Plan  
DC1 - Development Control considerations  
UEA12 & 13 - Design/Neighbour Amenity

## **7.0 Consultations**

7.1 None

## **8.0 Representations**

8.1 None

## **9.0 Report**

9.1 The application is presented to Committee purely because the applicant Mr T Claydon works for Colchester Borough Council at Leisure World. It is felt that this application now complies with Local Plan policies and addresses concerns raised in connection with recent refusal 071730, and should therefore be supported.

9.2 For Members' information the previous refusal was on grounds of unacceptable cramped development and potential terracing effect due to the first floor addition extending up to the site boundary. The scheme now proposed sets the side wall in 1m from the site boundary and also sets back the front wall with a 2 storey rear extension providing a 2m additional internal dimension to kitchen and bedrooms.

## **10.0 Background Papers**

10.1 ARC

### **Recommendation - Conditional Approval**

#### **Conditions**

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

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

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

2 - Non-Standard Condition

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

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

3 - Non-Standard Condition

The proposed first floor side elevation (bathroom) shall be set back at least 1m from the site boundary.

Reason: For the avoidance of doubt as to the scope of the permission and to comply with the Council's policy guidelines which seek to avoid cramped development or a terracing effect in rows of detached or semi-detached dwellings.

## **Informatives**

### Non-Standard Informative

1. With regard to Condition 3 you are advised that there is a discrepancy between the submitted plan and elevational details and the Local Planning Authority wish to ensure that a 1m gap is provided at the boundary.



**Application No:** 072716

**Location:** Land At Cannon Road/Cannon Street, Colchester, C01 2EW

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

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#### 7.4 Case Officer: John More

**MINOR**

**Site:** Land At Cannon Road/Cannon Street, Colchester, C01 2EW

**Application No:** 072716

**Date Received:** 2nd November 2007

**Agent:** Prime Folio Ltd

**Applicant:** Clearfield

**Development:** Demolition of existing house and buildings/construction of 11 two bed houses, new access road, parking and widening part of cannon street (resubmission of 071707)(Revised design and layout for construction of 11 houses, access road and parking)

**Ward:** New Town

**Summary of Recommendation:** Conditional Approval subject to the signing of a Section 106 Agreement

#### 1.0 Site Description

1.1 The site is a former scrap yard fronting onto Cannon Road and extending back some 77m behind the terraced properties fronting Rebow Street and Artillery Street. To the rear of the site is Lotts Coal Yard, an operational coal yard accessed from Artillery Street. The site also comprises Cannon House which is on the corner of Cannon Road and Cannon Street.

#### 2.0 Description of Proposal

2.1 The application proposes the demolition of Cannon House along with the existing buildings on the scrap yard and the erection of 11 two-bed houses. The proposal involves the creation of a new access to Cannon Street, with Cannon Street widened in this location, and the stopping up of the existing access to Cannon Road.

#### 3.0 Land Use Allocation

3.1 Predominantly residential

#### 4.0 Relevant Planning History

4.1 94/1157 – Certificate of Lawful Use for use of land for purchase, process and sale of ferrous and non-ferrous scrap metal – Certificate granted

## 5.0 Principal Policies

- 5.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations  
UEA11 - Design  
UEA 12 - Backland development  
UEA13 - Development, including Extensions, Adjoining Existing or Proposed Residential Property  
CF1 - Infrastructure and Community Facilities Provision  
H13 - Housing Density

## 6.0 Consultations

- 6.1 The Highway Authority "does not object to the proposal subject to suitable conditions being imposed to secure:-
- No work whatsoever being permitted to commence prior to arrangements with the highway authority to ensure the completion of the proposed changes to the footway.
  - The provision of a transportation information and marketing scheme to be available for first time occupiers that will include the provision of bus travel vouchers entitling eligible residents to free bus travel for the first twelve months of occupation.
  - The provision prior to occupation and subsequent maintenance of the cycle parking facilities shown on the submitted plan.

### Informatives

- All work to the highway shall be by prior arrangement with and to the satisfaction of the highway authority. Due to the nature of the proposed construction works and alterations to public rights the applicant is advised to make early contact with the highway authority so that contractual arrangements may be expedited.
  - The applicant is advised the Advanced Payments Code will apply to the layout and that deposits may be secured."
- 6.2 Environmental Control has made the following comments to the various reports submitted:-

### Land contamination

"There are concerns about the levels of contamination on the site but we are happy that the site can be suitably remediated for the end use.

There will need to a further Phase II investigation, followed by an agreed Remediation Method Statement and final Validation of the works.

If the application should obtain consent then the full set of land contamination conditions should be applied.

I have studied "Report on a Desk Study and Preliminary Contamination Survey" of the site for Stevens Construction Ltd, Ref 06/7869/NAM, dated November 2006, by Albury SI Ltd. This Report includes a Conceptual Model which assesses potential pollutant linkages for the contaminants found at the site. The Site Investigation and soil samples taken has identified some high levels of contamination from metals and hydrocarbons, and there may be problems from PCBs and coal dust associated with an electrical transformer station and a former coal yard. The Report suggests that the removal of a

minimum of 1m depth of materials from areas to be soft landscaped and its replacement with clean soil would be a suitable remediation.

This Report is generally satisfactory, and demonstrates that with the correct approach, the site is capable of being safely redeveloped.

However, a more detailed Phase 2 Site Investigation with further sampling should be required to be carried out by the applicant if permission is granted, together with the submission of a Remediation Method Statement to be agreed prior to any works commencing. Such further detailed investigation may identify the need for further or different remediation measures to be undertaken.

I would therefore recommend that the usual full set of Contamination Conditions requiring the above plus a Validation Report and signed Certificate of Remediation to be presented on completion be imposed if permission is granted."

#### Noise and dust

"Having read the report it appears that for the majority of the site the noise and dust levels from the coal yard are within acceptable limits. However the report has highlighted potential problems from dust and noise produced from the coal yard hopper and tractor along the southern boundary, which is likely to affect plots 1-4. We therefore recommend the following conditions (taken from the report's recommendations):-

A 3-4m high solid wall shall be constructed along the entire southern boundary.

A 4m high hedge with dense foliage shall be planted immediately to the north of the wall detailed above.

Plots 1-4 shall be designed with the first floor having a single aspect to the north as shown in the plan included in the report.

The southern aspect of plots 1-4 shall be double-glazed and fitted with a means of providing an adequate level of ventilation with windows closed that will not compromise the acoustic performance.

It should be noted that when the tractor and hopper are in use it may not be possible for the occupiers of plots 1-4 to open windows and achieve a reasonable internal noise level. It should also be noted that the coal yard may be exercising best practical means and therefore immune to any formal action regarding noise levels. We would therefore suggest the following informative is provided for the purchasers of these plots:-

#### Informative

Acoustic surveys have indicated that the occupiers of plots 1-4 are likely to be affected by noise nuisance from the daily operation of the adjacent coal yard if windows are left partially open. Such noise may not be able to be controlled by the local authority and any purchasers should be made aware of the proximity and nature of activity at the yard."

#### General comments

"Should permission be granted for development, Environmental Control recommend inclusion of the following suggested conditions: -

An appropriate asbestos survey shall be conducted by competent persons and submitted to the LPA prior to the commencement of works.

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

In the case of communal storage areas, a management company shall be made responsible for the maintenance of such areas. Such detail as shall have been installed shall be retained and maintained in good working order. The developer shall notify the local planning authority of the management company contact details as soon as these are known.

Should permission be granted for development, Environmental Control recommends inclusion of the following advisory note: -

NOTE: Demolition and Construction

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.

A scheme for the control of dust shall be submitted to the planning authority prior to works commencing.

There shall be a 1.8 metre high wall or close-boarded fence along the boundary with any residential properties."

- 6.3 The Landscape Officer recommended a minor amendment to the original proposal suggesting "the existing mature sycamore central to the site be replaced with a comparable specimen tree to the south of the proposed access where a shrub/small tree is currently proposed. The planting area/bed for this tree will need to be a minimum 2m x 2m in order to allow sufficient room to allow the tree to develop. In conclusion, I am satisfied with the landscape content of the proposal subject to the above minor amendment. I recommend agreement to the landscape aspect of the application subject to amendment and conditions."

*Officer comment: Amended plans have been received to accord with the above. The conditions suggested are attached below.*

- 6.4 Essex County Council Schools do not require a developer contribution under the terms of section 106 of the town and country planning act 1990.
- 6.5 Colchester Cycling Campaign request locker style cycle parking and would like some money from a 106 agreement to go towards improving the walking route to the town centre.

## **7.0 Representations**

- 7.1 2 letters have been received indicating support overall for the proposal. They indicate the plans for eleven 2 bed houses and parking will be a major improvement to the area. 1 letter does indicate disappointment at the demolition of Cannon House as it is a beautiful building but states if it's the only way of improving the area I am supportive of that decision. The letters do list some concerns which are set out below:

- Request the access to Rebow Street and Cannon Street be blocked to traffic in the interests of safety
- Request the local MP's guidance relating to a bicycle lane be acted upon
- Widening the road could use Cannon Street and Rebow Street as a cut through
- Parking not sufficient and could overflow into surrounding roads

- Wall is to remain subject to survey, what will happen if wall has to be demolished?

*Officer comments: The Highway Authority has not requested any changes to Cannon Street or Rebow Street. Car parking provision is in line with the adopted standards. The boundary wall should be conditioned to be retained or rebuilt to preserve the amenity of neighbouring residents.*

7.2 2 different letters of objection have been received, the main points of which have been summarised below:

- Site has been wilfully neglected for the last 20 years
- The boundary wall is unsafe and has already partially collapsed in places
- Any trees and vegetation were cleared before the application was submitted
- Already overdeveloped area does not need 11 houses under the guise of rejuvenation
- 1 parking space per dwelling is unrealistic causing parking to overspill into nearby roads which are already at saturation point
- Loss of privacy and sunlight
- Inconvenience during building works
- Something more constructive should be done with the land like parking for residents or a play area
- Increase in traffic locally
- The widened road will only benefit the large vehicles which use this road as a cut through
- Will lose parking spaces
- The existing boundary wall gives security and privacy
- There are large amounts of asbestos
- There are no plans to keep Cannon House, why?

*Officer comments: The boundary wall should be conditioned to be retained or rebuilt to preserve the amenity of neighbouring residents. Car parking provision is in line with the adopted standards. It is not considered that the proposal would result in undue loss of privacy or sunlight to the objector's property.*

## **8.0 Report**

8.1 The application proposes the erection of 11 two-bed houses at a density of 45 dwellings per hectare. Planning Policy Statement 3 (PPS3) sets a minimum density level of 30dph to be achieved with no upper limit. The proposal is clearly in accordance with the minimum level, it therefore falls to an assessment of the context, surroundings and built form proposed in order to consider whether the density is acceptable.

- 8.2 The site is located in a part of New Town which is characterised by two storey brick built Victorian terraces with no off road parking and small narrow back gardens. In this context the amount and density of development proposed is considered acceptable. The layout is the product of lengthy negotiations with your officers and is considered to form an acceptable townscape. The scale of the proposed dwellings is in keeping with the two-storey Victorian terraces which surround the site. The appearance of the buildings is traditional with brick construction and detailing along with stone effect cills and lintels.
- 8.3 The site is located in a predominantly residential area of new town where a residential use would be acceptable. The proposal would in fact remove a non-conforming industrial use in this predominantly residential area.
- 8.4 The proposed layout allows for some landscaping in the public areas and to the fronts of the properties. Private garden space is provided for all units however no public amenity space is provided.
- 8.5 The proposal is to widen Cannon Street to the same alignment as the main part of the street and create a new access to the site. This will improve the access to the site and ease movement along this part of Cannon Street. The existing access to Cannon Road would be stopped up.
- 8.6 Turning to the various representations received it is not considered for the reasons set out above in the officer's comments that any of these are sufficient in this case to justify a refusal of planning permission.

#### S106 Matters

- 8.7 The application has been considered by the Council's Development Team and the proposal generates the requirement for a S106 Agreement to secure the following:-
- Leisure Services contribution in line with SPD, £29,347.78
  - Contribution towards community facilities, Hythe Community centre, £8,500
  - Highway Travel packs
- 8.8 Members are advised that the requirements of the S106 Agreement described above are considered to satisfy the tests prescribed in Circular 1/97 in that they are:-
- necessary
  - relevant to planning
  - directly related to the proposed development
  - fairly and reasonably related in scale and kind to the proposed development
  - reasonable in all other respects

## **9.0 Conclusion**

9.1 In summary the proposed development should provide attractive residential accommodation regenerating this derelict brownfield site and removing a non-conforming use in this residential area. It is considered that this proposal complies with the relevant local plan policies in terms of layout, design and amenity and approval of the development is therefore recommended subject to controlling condition and the signing of a 106 agreement to secure planning gain.

## **10.0 Background Papers**

10.1 ARC; HA; HH; TL; ECC; CCC; NLR

### **Recommendation**

Members are requested to delegate the application to the Head of Planning, Protection and Licensing for approval, subject to completion of a S106 agreement in line with the contributions identified and application of planning conditions to cover the following matters:-

### **Conditions**

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

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

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

2 - C3.4 Samples of Traditional Materials

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

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

3 - C11.11 Landscape Design Proposals

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

These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

#### 4 - C11.12 Landscape Works Implementation

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

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

#### 5 - B7.5 Hours of Work

No construction work relating to this permission shall be carried out on any Sunday or Public Holidays nor before 0730 hours or after 1800 hours on any weekday or before 0800 hours or after 1300 on Saturdays.

Reason: To protect the amenity of neighbouring residential properties.

#### 6 - C4.1 Large Scale Drawings

Additional drawings that show details of proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at a scale between 1:20 and 1:1 as appropriate, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works. The development shall thereafter be carried out in accordance with such details.

Reason: To ensure that the windows have an appearance appropriate to the character of the building and the surrounding area.

#### 7 - Non-Standard Condition

No work whatsoever shall commence prior to arrangements with the highway authority to ensure the completion of the proposed changes to the footway.

Reason: In the interests of highway safety.

#### 8 - Non-Standard Condition

The provision of a transportation information and marketing scheme shall be available for first time occupiers that will include the provision of bus travel vouchers entitling eligible residents to free bus travel for the first twelve months of occupation.

Reason: To provide sustainable forms of transport.

#### 9 - Non-Standard Condition

Prior to the occupation of any dwelling, the cycle parking enclosures shall be provided, in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority, and shall thereafter be retained.

Reason: To encourage the use of the bicycle as a sustainable means of transport.

#### 10 - Non-Standard Condition

Prior to the commencement of any development on site the existing boundary wall shall be surveyed, a schedule of repairs and rebuilding prepared and submitted to the local planning authority for approval in writing. The details shall include the position/height/design and materials to be used. No other work shall commence on site until the approved schedule of repair and rebuilding has been completed in all respects, unless otherwise agreed in writing by the local planning authority.

Reason: To protect and preserve the amenity, safety and security of the neighbouring residential properties.

#### 11 – C12.6 Walls to Have Brick on Edge Coping and Boarding to be Painted

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

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

#### 12 - A2.2 Development to Accord With Revised Plans

The development hereby permitted shall be implemented in all respects strictly in accordance with the revised drawing no[s] [07-27-01 rev. D stamped amended plan dated 25 Jan 2008.

Reason: For the avoidance of doubt as to the scope of this permission and the original plans were unsatisfactory.

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

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

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

#### 14 - Non-Standard Condition

An appropriate asbestos survey shall be conducted by competent persons and submitted to the Local Planning Authority prior to the commencement of works.

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

#### 15 - Non-Standard Condition

A scheme for the control of dust shall be submitted to the planning authority prior to works commencing.

Reason: In the interests of amenity of neighbouring properties and health and safety.

#### 16 - Non-Standard Condition

In the case of refuse and recycling storage and collection areas, a management company shall be made responsible for the maintenance of such areas. Such detail as shall have been installed shall be retained and maintained in good clean working order. The developer shall notify the local planning authority of the management company contact details prior to the occupation of any dwelling.

Reason: To ensure the communal areas are and maintained in good clean working order in the interests of amenity.

#### 17 - Non-Standard Condition

Prior to occupation of any dwelling a 3-4m high solid brick wall shall be constructed along the entire southern boundary with a hedge with dense foliage to be planted immediately to the north of the wall detailed above. Details of said hedge shall have been agreed in the landscaping scheme required by condition 3 and details of the wall agreed under condition 10.

Reason: To ensure adequate levels of amenity for the end occupiers.

#### 18 - Non-Standard Condition

Plots 1 to 4 shall be designed with the first floor having a single aspect to the north as shown in the plan included in the report and retained as such thereafter.

Reason: To ensure adequate levels of amenity for the end occupiers.

#### 19 - Non-Standard Condition

The southern aspect of plots 1-4 shall be double-glazed and fitted with a means of providing an adequate level of ventilation with windows closed that will not compromise the acoustic performance and retained as such thereafter.

Reason: To ensure adequate levels of amenity for the end occupiers.

#### 20 - Non-Standard Condition

Development shall not commence until a further phase 2 investigation and risk assessment has been completed in accordance with a scheme to be agreed by the Local Planning Authority to assess the nature and extent of any contamination on the site. This submission to the planning authority is required to enable it to decide whether the details have taken account of an acceptable risk from contamination with regards to proposed end users, property, controlled waters and ecological systems. This investigation shall be undertaken in accordance with the Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers and DEFRA & Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11. It shall, where necessary, identify required remediation measures and programmes along with consequent

impacts on development phasing.

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

#### 21 - Non-Standard Condition

A scheme to bring the site to a suitable condition in that it represents an acceptable risk will be implemented prior to the commencement of any other part of this planning permission (unless the scheme or parts of it require commencement of other parts of the permission). The scheme shall be submitted to the planning authority for approval prior to commencement of works. This shall be undertaken by competent persons and in accordance with the Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers and DEFRA & Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11.

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

#### 22 - Non-Standard Condition

Should contamination be found that was not previously identified during any stage of the application hereby approved or previous to this and not considered in the any remediation scheme it shall be made safe and reported immediately to the local planning authority. The site shall be assessed in accordance with condition 20 and remediation scheme shall be submitted for approval by the planning authority.

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

### 23 - Non-Standard Condition

The developer shall notify the local planning authority in writing of impending completion of the remediation works immediately on completion of such works a validation report undertaken by competent persons in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA & Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11 related to the agreed remediation measures shall be submitted to the planning authority for approval.

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

### 24 - Non-Standard Condition

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 22 above.

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

## **Informatives**

### Non-Standard Informative

1. Acoustic surveys have indicated that the occupiers of plots 1-4 are likely to be affected by noise nuisance from the daily operation of the adjacent coal yard if windows are left partially open. Such noise may not be able to be controlled by the local authority and any purchasers should be made aware of the proximity and nature of activity at the yard.

### Non-Standard Informative

2. All work to the highway shall be by prior arrangement with and to the satisfaction of the highway authority. Due to the nature of the proposed construction works and alterations to public rights the applicant is advised to make early contact with the highway authority so that contractual arrangements may be expedited.

### Non-Standard Informative

3. The applicant is advised the Advanced Payments Code will apply to the layout and that deposits may be secured.

### Non-Standard Informative

4. 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.

Non-Standard Informative

5. It should be noted that any technical interpretation of these detailed requirements by the applicant or their agent should be sought externally from/through the relevant professional (i.e. Landscape consultant - details of local practices available without prejudice through Landscape Officers on 01206 282469 (am only).

Non-Standard Informative

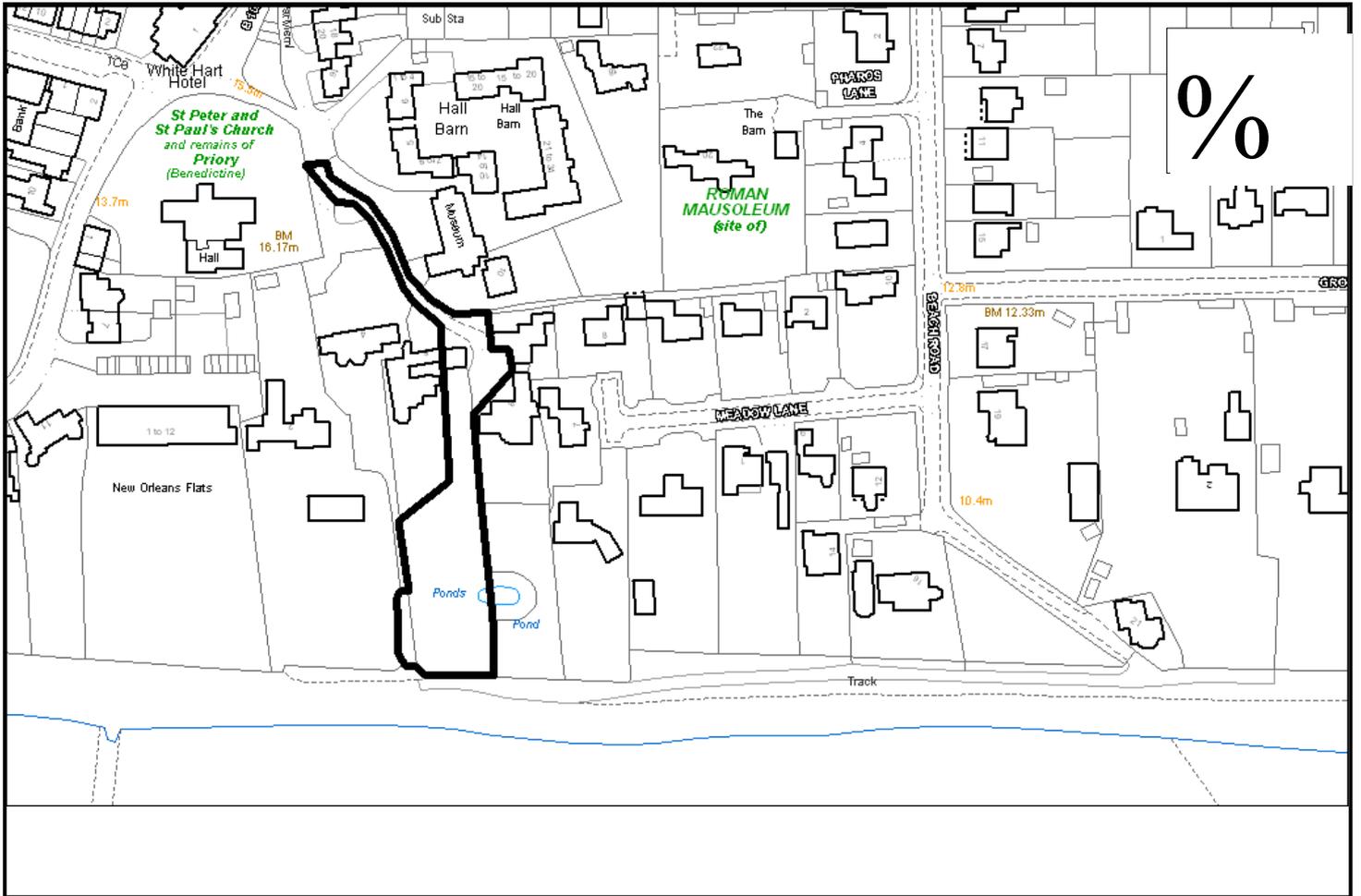
6. In the interest of efficiency any clarification of technical requirement should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the Applicant's Landscape Consultant and the Council's Landscape Officer.

Non-Standard Informative

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

Non-Standard Informative

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



**Application No:** 072744

**Location:** 6 High Street, West Mersea, Colchester, CO5 8QD

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

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**7.5 Case Officer: John More**

**EXPIRY DATE: 02/01/2008**

**MINOR**

**Site:** 6 High Street, West Mersea, Colchester, CO5 8QD

**Application No:** 072744

**Date Received:** 6th November 2007

**Agent:** Adp Limited

**Applicant:** Mr & Mrs Langley

**Development:** Erection of dwelling and garage. Resubmission of 071382.

**Ward:** West Mersea

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

## **1.0 Site Description**

1.1 The site is located to the south east of St Peter and St Paul's church towards the southern end of the High Street off a private access drive serving 4 other private dwellings. To the north of the site is the Mersea Museum, to the south the beach and to the east and west neighbouring residential properties. The site comprises the existing dwelling fronting onto the access drive with an attached garage to the left and a large garden to the rear falling away steeply to the beach. The garden is well landscaped and contains many mature trees in the lower half of the site.

## **2.0 Description of Proposal**

2.1 The application proposes the subdivision of the existing rear garden to No. 6 High Street and the erection of one three bed dwelling and double garage. The proposed accommodation would be split over two stories with the building partially dug into the site utilising the steep slope of the ground towards the beach to full advantage. The front entrance to the dwelling is at first floor level with the building effectively appearing single storey from the front elevation. The ground level steeply falls away resulting in a full two stories to the rear. The materials proposed, vertical cedar boarding and slate roof, will help to soften the appearance of the building and complement the design approach taken. The proposal is designed to meet code level 3 of the Code for sustainable homes.

## **3.0 Land Use Allocation**

3.1 Residential

## **4.0 Relevant Planning History**

4.1 071382 - Erection of dwelling and garage - withdrawn

## **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations  
UEA11 - Design  
UEA 12 - Backland development  
UEA13 - Development, including Extensions, Adjoining Existing or Proposed Residential Property  
CF1 - Infrastructure and Community Facilities Provision

## **6.0 Consultations**

- 6.1 The full text of all consultations and representations is available on the Councils website.
- 6.2 The Highway Authority "does not wish to object to the proposals as submitted."
- 6.3 Environmental Control recommend the inclusion of the demolition and constructed advisory note informative.
- 6.4 The Environment Agency originally objected to the application as the FRA was not satisfactory. A further FRA has been submitted and passed to the EA for comment. Informally they have indicated it would be acceptable. Any formal response will be presented on the Committee update sheet.
- 6.5 The Councils Museum Service comments: "This address is situated within the heart of the Roman settlement of West Mersea. I would recommend that if granted consent the applicant commissions a watching brief from a professional archaeological contractor."

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

- 7.1 West Mersea Town Council comment that "following discussion it was agreed to recommend consent be agreed in respect of this application."

## **8.0 Representations**

- 8.1 1 letter of no objection making the following comments:
- Entrance through garage for No 6 is inappropriate; there is room for a side entrance.
  - Assume new sewerage arrangements will be made; The old Victorian sewer is not large enough to take capacity.
  - If No.6 is to be redeveloped please ensure its no taller than the existing property. No. 4 West Mersea Hall is a listed building.

8.2 1 letter of objection has been received summarised below.

- Access through garage will be severely restricted at only 2.2m in height. Service and construction vehicles will be unable to gain access this way.
- A bedroom will remain above the access causing disturbance to the remaining occupier.
- Land ownership issues.
- The site plan showing turning facilities in front of No8 is incorrect showing land not in the applicants ownership and an inadequate sized turning head below design guide standards.
- Fire tender access to whole floor area is not to standard.
- Disabled access to the site appears impractical with gradients in excess of standards.
- Proposed parking area immediately to the side of No8 and its patio area and is bound to lead to loss of amenity.
- Drawings have been deliberately prepared to make it impossible to assess the impact on the neighbouring properties. Request additional drawings.
- Concerned at siting of house so close to boundary. No details are given on the amount of excavation required or support structures to be provided.
- Flood risk not properly considered, site is close to pond and at a similar level to the beach.
- Vehicular access is unsatisfactory passing close to No's 6 and 8 and will result in loss of amenity.
- The introduction of further sporadic backland development would be most damaging to the environmental character of this locality.
- Some trees and hedges are not shown on the site plan. Proposal would require the removal of some small trees and a hedge on the boundary with NO8. Request TPO's be placed on key trees within the site.

*Officer comment: Land ownership issues including private property rights, boundary or access dispute, restrictive covenants and rights of way are not material planning considerations and cannot be taken into account when reaching a planning decision. The fire service has been consulted and do not object to the proposal. A domestic sprinkler system would overcome any shortcomings in access distances. Flood risk has now been addresses and we await a response from the EA. Any future development of No6 does not form part of this application.*

## 9.0 Report

9.1 The use of the site for the erection of one residential dwelling is acceptable in principle subject to the normal planning considerations. Local Plan policy UEA12 is particularly relevant as this is backland development. It indicates that "*where the character of existing residential development makes a positive contribution to the appearance of the area, infilling - including backland development - and minor extensions shall reflect that character. Elsewhere a good standard of design will be required.*"

- 9.2 The existing back garden to No6 High Street is well landscaped and makes a positive contribution to the character of the area when viewed from the beach. The southern end of the garden adjacent the beach contains a number of large trees and shrubs which will form an effective screen to break up the view of any new building and preserve the character of the area. A condition should be placed on any permission requiring the retention of existing landscaping except where shown to be removed. In view of the residential development along Meadow Lane, in particular No.5 Meadow Lane, it is not considered an objection, based on a dwelling in this location being out of character with the existing pattern of development, could be sustained.
- 9.3 The design of the proposed dwelling has been well considered and deals effectively with the constraints and opportunities of the site. The scale of the building is considered acceptable and makes effective use of the change of levels across the site. The materials proposed would complement the design approach taken and would help to soften the appearance of a new building. It is considered the proposed design would positively contribute to the eclectic mix of dwelling styles in the area.
- 9.4 The amount of parking and amenity space accords with Council standards and would not be harmful to the character of the area.
- 9.5 Vehicle access to the site is proposed to be taken from the existing access, through the existing double garage with bedroom over, leading to a courtyard area with a new double garage to the rear. It is considered that this form of access would form an acceptable townscape and would not cause undue harm to the amenity of the neighbour through noise and disturbance. The roof of the garage can be insulated to protect future occupiers from noise and disturbance. For construction purposes access will have to be from the side due to the restricted height passing through the garage. There are some existing access existing gates in this location which can be used for access at present. This will pass close to the front of the neighbouring property No8 High Street and will cause some disturbance during the construction phase.
- 9.6 The main property affected by the proposed development would be the neighbour to the east, No8 High Street. While the erection of any new building would have an impact on the neighbouring properties, it is not considered the proposal as submitted would be so harmful to amenity warrant refusal of permission. It would not result in undue overlooking, overshadowing or overbearing impact. While there would inevitably be some disturbance during construction phase it is not considered the day to day comings and going of any future occupier would cause undue noise and disturbance.
- 9.7 The proposal is designed to meet code level 3 of the code for sustainable homes and would therefore positively contribute the governments overarching policy of sustainability.

#### S106 Matters

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

## **10.0 Conclusion**

10.1 In conclusion, the site is capable of accommodation the proposed development in accordance with Local Plan policy and without causing undue harm to the amenities of the neighbouring properties or the character of the area.

## **11.0 Background Papers**

11.1 ARC; HA; HH; NR; PTC; NLR

### **Recommendation**

The application be approved subject to the dating of the submitted Unilateral Undertaking for contributions towards Open Space, Sports and Recreation facilities and the following conditions.

### **Conditions**

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

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

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

2 - C3.2 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 does not prejudice the appearance of the locality.

3 - Non-Standard Condition

The window pane marked in orange on the drawings stamped approved, a first-floor window on the side/east elevation, shall be glazed in obscure glass with an obscuration level equivalent to scale 4 or 5 of the Pilkington Texture Glass scale of obscuration and shall be of a non-openable design and shall be retained as such at all times thereafter.

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

4 - Non-Standard Condition

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 new window or other openings shall be inserted above ground floor level in the side facing elevations of the proposed building without the prior approval in writing of the Local Planning Authority.

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

5 - B7.5 Hours of Work

No construction work relating to this permission shall be carried out on any Sunday or Public Holidays nor before 0730 hours or after 1800 hours on any weekday or before 0800 hours or after 1300 on Saturdays.

Reason: To protect the amenities of neighbouring residents.

6 - C2.1 Watching Brief

The Local Planning Authority shall be notified not less than [48 hours] before the commencement of any work on site and the developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority, and shall allow him to observe the excavations and record items of interest and finds.

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

#### 7 - 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.

#### 8 - C10.18 Tree and Hedgerow Protection: General

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

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

#### 9 - C11.11 Landscape Design Proposals

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

These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

#### 10 - C11.12 Landscape Works Implementation

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

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

#### 11 - C11.16 Earthworks

No development shall take place until details of earthworks have been submitted to and approved in writing by the local Planning Authority. These details shall include the proposed grading and mounding of land areas including levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with approved details.

Reason: To ensure proper consideration and approval of any effects of change in topography on landscape features.

#### 12 - Non-Standard Condition

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) the garage hereby permitted shall be retained as such at all times thereafter and shall at no time be physically altered in a manner which would prevent its use as a car parking space.

Reason: To ensure adequate parking and garage space is provided within the site in accordance with the adopted standards of the Local Planning Authority.

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

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

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

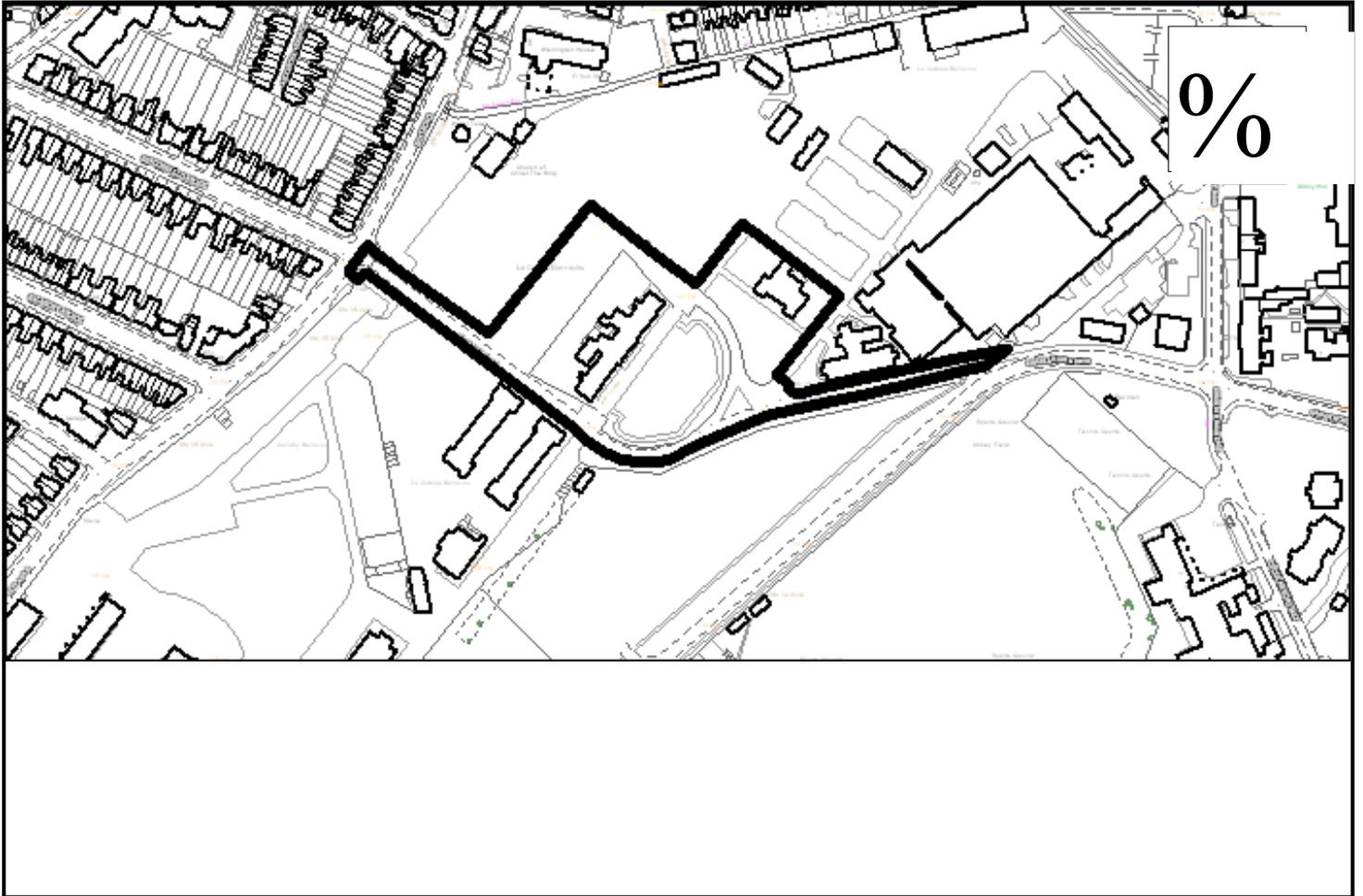
### **Informatives**

#### Non-Standard Informative

1. You are advised that the commencement of development prior to the discharge of all the pre-commencement conditions could result in enforcement action.

#### Non-Standard Informative

2. 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:** 072831

**Location:** Area H, The Sergeants Mess, Abbey Field Urban Village, Le Cateau Road, Colchester

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

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## 7.6 Case Officer: Alistair Day

**MINOR**

**Site:** Area H, The Sergeants Mess, Abbey Field Urban Village, Le Cateau Road, Colchester

**Application No:** 072831

**Date Received:** 14th November 2007

**Agent:** Klh Architects

**Applicant:** Taylor Wimpey Developments Limited

**Development:** Conversion of existing buildings in residential accommodation to create 11 no. town houses and 4 no. flats with associated demolitions and including access, parking and provision of open space.

**Ward:** Christ Church

**Summary of Recommendation:** Conditional Approval subject to signing of Section 106 Agreement

### 1.0 Site Description

- 1.1 The application site forms part of Area H of the Colchester Garrison Urban Village development and comprises two buildings (the Sergeants Mess and the Army Education Centre), their respective grounds and the area of land between these buildings.
- 1.2 The Sergeants Mess (formerly known as the Officer Quarters) is an impressive two storey building constructed of red brick with detailing in yellow stocks. The front façade has a large central gable with four sash windows on each floor flanked by two eleven window ranges and four porches. The rear elevation is cluttered with an assortment of single storey extensions which do not contribute to the architectural interest of this building. The general character of the interior survives with officers' quarters and mess room on the ground floor and officers' quarter with some space for servants on the first floor. The landscaping to the front of the Sergeants Mess in the form of a semi-circular garden enclosed by iron palisade railings remains intact and make a significant contribution to the setting of this building. The Sergeants Mess is listed grade II for its special architectural and historic interest and is situated in the Garrison Conservation Area.
- 1.3 To the east of the Sergeants Mess is the Army Education Centre. This building is built of red brick with a hipped slate roof and consists of a central block with two side wings. The date 1937 is inscribed on the main elevation facing south. The Army Education Building is not listed and located outside (but immediately adjacent to) the Garrison Conservation Area.

- 1.4 In 2006 archaeological investigations discovered the remains of the Roman Circus on the southern end of the application site. The circus starting gates are located underneath the semi-circular garden of the Sergeant's Mess and part of the outer wall and stands are located under the frontage of the Education Building. The circus was designated a Scheduled Ancient Monument on 16 November 2007.

## **2.0 Description of Proposal**

- 2.1 The current application seeks planning permission for the conversion of the Sergeants Mess into 8 townhouses (6 three bedroom and 2 four bedroom units) and the conversion of Education Building into 4 two bedroom flats, 2 three bedroom town houses and 1 four bedroom town house. Associated parking, access and amenity space (both public and private) is also proposed.

## **3.0 Land Use Allocation**

- 3.1 Garrison Regeneration Area - Zone C

## **4.0 Relevant Planning History**

- 4.1 080914 Reserved Matters application for the erection of 35 dwellings, comprising 26 no flats 7no. 2 storey houses and 2no. 2 storey houses with associated office space, together with a modified site entrance, new access road and provision of public open space (resubmission of 072833) - Undecided
- 4.2 080036 Listed building application for the demolition of single storey rear additions and residential conversion into 8 townhouses (resubmission of 072834) - Approved
- 4.3 072830 Change of Use from MoD water tower to commercial use B1 - Approved
- 4.4 072833 Reserved Matters application for the erection of 35 dwellings, comprising 26 no. flats 7no. 2 storey houses and 2no. 2 storey houses with associated office space, together with a modified site entrance, new access road and provision of public open space. - Withdrawn
- 4.5 072834 Listed building application for the demolition of single storey rear additions and residential conversion into 8 townhouses - Withdrawn
- 4.6 072835 Construction of a 150 space car park - Approved
- 4.7 072842 Removal of existing gates and adaption of existing brick wall to form new pedestrian and cycle path entrance – Approved
- 4.8 O/COL/01/0009 A new urban village comprising residential development (up to approx 2,600 dwellings) mixed uses including retail, leisure and employment , public open space, community facilities, landscaping, new highways, transport improvements and associated and ancillary development. - Approved June 2003

## **5.0 Principal Policies**

- 5.1 Adopted Review Borough Local Plan
  - DC1 - General Development Control considerations
  - UEA1, 2 & 3 - Conservation Areas
  - UEA 5 - Listed Buildings
  - UEA 7 - Archaeology
  - G1 - Colchester Garrison
  - UEA 11 - Design
  - UEA12/13 - Design considerations
  - P1 - Pollution General
  - P2 - Light Pollution
  - CF3 - Access
  - T1 - Transport general
  - T2 - Provision for Cycling
  - UT5 - Satellite Dishes
  - H4 - Affordable Housing
  - H13 - Housing Density

## **6.0 Consultations**

- 6.1 Museum Services commented as follows:

“The Scheduled Ancient Monument of the Roman Circus is present at the southern end of this site. The Borough Council Management Plan for this monument stipulates that the remains shall be undisturbed. The applicant will need to apply for scheduled ancient monument consent and any ground disturbance will require mitigation. Regarding the proposed access arrangements to the Roman Circus, Museum Services have stated that this "is a workable compromise which permits regular public access to the site of the Roman Circus starting gates while respecting the wishes of the developer to maintain the private character of the space. This agreement will assist the Council in moving forward with it proposals for the public presentation of the Circus".

- 6.2 Trees and Landscape raise no objection to this application subject to appropriate conditions.
- 6.3 Environmental Control have no objection to this application, subject to the attachment of appropriate conditions
- 6.4 Development Team noted and agreed the applications to Area H.
- 6.5 Highway Authority raise no objection to the application, subject to various conditions being attached to any planning approval

## 6.6 English Heritage comments can be summarised as follows:

“Discussions are continuing with the applicants and their archaeological advisors, in relation to the scheduled monument consent (SMC) which is now a statutory requirement. The planning application does not include full details of the landscaping proposals which will be required for SMC; however, it is anticipated that it will be possible to agree a scheme which protects the nationally important archaeological deposits.

As a result of discussions in respect of public access to that part of the monument situated in the gardens which front the Sergeants Mess, the applicant has offered public access to the garden on two days per year which is to be secured via a section 106 agreement.

The designation of a scheduled ancient monument carries no expectation of public access. In this instance, although no above ground remains are visible, proposals for the long term, overall interpretation of the monument are yet to be decided and it is therefore highly desirable that access to, as well as views into, the garden form a component of the interpretation scheme for the monument. English Heritage considers that in this context the offer of limited public access which would embrace the current annual Heritage Open Days and National Archaeology Days represents an acceptable level of public access which allows both the retention of the garden as a setting for the Grade II listed Sergeant's Mess and the long term aspirations for the public interpretation of the Colchester Roman Circus”

## 7.0 Representations

7.1 Various letters of objection have been received to this application. The main objection to the current development proposals is that the garden to the front of the Sergeants' Mess garden is to form a private communal space to which the general public will not have access. Other comments received include that the town's Roman heritage should be protected and the scheme should allow for the appropriate interpretation of the Circus.

7.2 In addition to the above, Cllr Higgins raised an objection to this application on the grounds that:

- The site plan does not indicate the Roman Circus
- There is still no Roman Circus Management Plan and planning permission should not be granted until such a plan exists
- There should be public access to the starting gates

7.3 The Essex Society for Archaeology and History have written to the Council raising concern about the problems of access and landscaping and the damaging effect that these can have on archaeological features.

## 8.0 Report

- 8.1 The planning application that is the subject of this report forms part of a comprehensive scheme for the redevelopment of Area H. These proposals comprise: the change of use of the water tower to business use; the creation of a 150 space car park (in the general vicinity of the existing one) and the erection of 35 new dwellings. This adds up to (29 two bedroom flats, 9 three bedroom housing and two associated offices). The landscape proposals include a new 'parade ground public square' a communal garden for the residential development on the site of the existing Sergeants Mess garden and a new area of public open space to the south west of the Education Building.
- 8.2 The main issues raised by the current planning application are: the effect that the proposed development would have on the special interest of this listed building and its setting; the effect of the development of the character and appearance of the Garrison Conservation Area; the impact of the development on the Roman Circus and its setting and the suitability of residential development in part of the Garrison Regeneration Area.

### Use

- 8.3 The Sergeants Mess and the surrounding area (known as Area H) are identified in the Garrison Master Plan that was approved as a part of the outline planning approval for predominantly residential use with low key mixed uses. With particular regard to the Sergeants Mess, the Historic Buildings Assessment undertaken by the Ingram Consultancy and submitted in support of the outline planning application, stated that this building would be suitable for residential conversion to either flats or town houses with relatively minimal alteration to the existing fabric.
- 8.4 The Council's adopted Supplementary Planning Guidance for Le Cateau and Cavalry Barracks identifies this part of Area H for residential development and the Sergeants Mess as being suitable for conversion to residential use; either as houses or flats.
- 8.5 The current application to convert the Sergeants Mess and Education Building to residential use therefore conforms with the principles established by the outline planning application and the Councils' Supplementary Planning Guidance.

### Amount

- 8.6 It is proposed to convert the Sergeants Mess into eight, three or four bedroom dwellings and the Education Building is to be converted into four two bedroom flats and three town houses.
- 8.7 The Council Supplementary Planning Guidance indicates a preferred density of 45-50 units per hectare. The area of new build between the Sergeants Mess and the car park is to be developed at 50 dwelling per hectare, in line with this guidance. The conversion proposals do not achieve the recommended densities but the nature of site constraints are such that they take precedence.

## Heritage Considerations

- 8.8 The Sergeant's Mess is built to a generous scale and takes on the architectural form somewhere between a country house and a grand urban terrace. The conversion of the Sergeant's Mess as proposed requires no alteration to the front façade, although substantial repairs to make good the rear elevation is proposed following the demolition of the flat roof additions. The basement wall remaining after the demolition works will be used to allow egress from the converted basements and a central glazed addition added which will allow the rear elevation to remain visible. Internally the original floor plan arrangement and bedroom partitions are retained together with all the existing staircases. The conversion proposals have been sensitively handled and respect the special interest of this building. Listed Building Consent has been granted for these works.
- 8.9 The semi-circular railed enclosed private garden to the front of the Sergeants Mess, together with the tree planting, forms a significant part of the setting of this building and makes an important contribution to the character and appearance of this part of the conservation area. The current application seeks to continue to use this space as an enclosed private garden for the new residential development. It is this part of the development proposal that has resulted in 15 letters of objection on the ground that the Roman Circus starting gates are located under the garden and access to and interpretation of this monument should take precedence over other considerations.
- 8.10 There is clearly various competing demands on this part of the application site: there is the requirement to protect the setting of the listed building, the need to preserve or enhance the conservation area, the protection and interpretation the Roman Circus and the desire to provide the new dwellings with adequate private amenity.
- 8.11 In terms of interpreting the layers of history, the Sergeants Mess is the most tangible element as the building dominates the space and the existing garden has a direct relation to this building. The proposed retention of the existing garden as a private enclosed space will retain the status quo and with careful treatment will enhance the quality of this space. The current proposal will also not cause damage to the scheduled ancient monument and provides the residents with a quality amenity space, akin to the private 'Georgian Square' that is found in many British towns and cities. The current development proposal also fully conform with the Roman Circus Management Plan which was approved by Cllr Bentley in his (former) capacity as Portfolio Holder for Culture, Tourism and Diversity and is adopted by Leisure Services as a guidance and policy statement.
- 8.12 The objections relating to the lack of public access are acknowledged, however, this desire has to be balanced against the need to preserve the setting of the listed building and the character and appearance of the conservation area and the need to provide the proposed development with an appropriate level of private amenity. It also needs to be remembered, as English Heritage points out, the designation of a Scheduled Ancient Monument does not carry an expectation of public access. That said, it is accepted that it is highly desirable to provide for the long term interpretation of the monument. It is therefore proposed to demarcate the foot print of the circus and provide information boards so that the 'casual visitor' can view the location of the starting gates from the perimeter of the garden and gain a general understanding of its context. (The details of the demarcation will be the subject of a condition to ensure

that the interpretation of this part of circus integrates fully with the wider interpretation proposals for the circus being developed by the consultants recently appointed by the Council). In addition to this, it was also agreed at a meeting between Council officers, the developer and their agents, English Heritage and the Colchester Archaeological Trust that limited public access would be provided which would embrace National Archaeological Days and Heritage Open Days. Further negotiations by officers have secured four additional days for accompanied educational visits. These access arrangements are to be secured via a new section 106 legal agreement. Both English Heritage and the Council's Museum Services consider that the above arrangements constitute an acceptable level of public access which allows the retention of the garden as a setting for the listed Sergeant's Mess and the long term aspirations for the public interpretation of the Roman Circus.

- 8.13 The Education Building, although of limited architectural interest, is structurally sound and its conversion to residential use will result in no damage to the archaeological deposits. The area of land to the front of this building (which includes the buried remains of the outer stands of the circus) is to remain open and form public open space.

#### Access and Parking Arrangements

- 8.14 Vehicular access to the development site is proposed from Butt Road, through the historic gate piers that currently form the entrance to the public car park. The carriageway width between the gate piers is less than the standard requirement. However, the Highway Authority has accepted a reduced width at this point to allow the retention of the gate piers
- 8.15 Pedestrian access to Butt Road will pass through the wall in the position of a previous pedestrian gate which has been blocked up. A cycle link to Butt Road will be created by remodelling the section of wall that curves in and out to the north of the existing gate pier. The section of wall exposed by the demolition works will be terminated with a new gate pier to match the existing. A new footpath and cycle link will connect Butt Road to Circular Road North.
- 8.16 The town houses will be provided with two parking spaces each and the apartments will be provided with 1.2 parking spaces each. These parking arrangements are considered acceptable given the site's edge of town location and the close proximity of the public car park.

#### Affordable Housing

- 8.17 It is not proposed to provide affordable housing as a part of the conversion of the Sergeants Mess or the Educational Building. Affordable housing is however, to be provided as a part of the redevelopment of Area H (13 units), which will equate to 25% of the total number of proposed units. The number of affordable units proposed is less than that required under to terms of the existing legal agreement but this is due a reduction in the overall number of units being proposed as result of the recent discovery of the Roman Circus. A deed of variation has previously been endorsed by Members for the redistribution of the affordable housing across the garrison site (the total number of units is to remain the same) and this application will need to be linked to this deed of variation.

## **9.0 Conclusions**

9.1 The application for the conversion of the Sergeants Mess and Educational Building to residential accommodation has been sensitively handled and strikes an appropriate balance between the requirement to protect and enhance the various heritage assets that form part of this site and the need to provide an adequate level of private amenity for the residential development.

## **10.0 Background Papers**

10.1 ARC; AT; TL; HH; Development Team; HA; EH; NLR

### **Recommendation**

That this planning application is deferred and the applicant advised that the Council is minded to grant a conditional approval provided:

- A section 106 agreement is first entered into to secure the appropriate public access and interpretation of the Roman Circus.
- A deed of variation is signed to secure the redistribution of affordable housing across the garrison site

On the signing of the above agreements the Head of Planning Protection and Licensing be authorised under delegated powers to grant planning permission subject to appropriately worded conditions to cover the following:

- Development to accord with approved plans
- Recording of the buildings
- Drawings showing architectural details
- Windows to be in painted timber
- External building and surface finishes and materials
- Details of rainwater goods
- Tree Protection
- Landscape (hard and soft), implementation and monitoring of works
- Demarcation and interpretation of the circus
- Ecology / protected species
- Access and highway design
- Allocation of car parking spaces
- Sound insulation
- Control of light pollution
- Contaminated land and remediation
- Good practice relating to construction work etc
- Drainage details
- Refuse storage
- Cycle storage facilities
- Street furniture
- Provision of cycle / footway



**Application No:** 080339

**Location:** 34 Fingringhoe Road, Langenhoe, Colchester, CO5 7LB

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

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**7.7 Case Officer: John More**

**EXPIRY DATE: 23/05/2008**

**MINOR**

**Site: 34 Fingringhoe Road, Langenhoe, Colchester, CO5 7LB**

**Application No: 080339**

**Date Received: 21st February 2008**

**Agent: Vaughan & Blyth (Construction) Ltd**

**Applicant: Vaughan & Blyth (Builders) Ltd**

**Development: Proposed 3no. 2 bedroom bungalows and 7no. 3 bedroom bungalows and associated garaging.**

**Ward: Pyefleet**

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

## **1.0 Planning Report Introduction**

1.1 Planning permission was granted by the Planning Committee last year for the demolition of the original bungalow and the erection of 8 dwellings comprising two dwelling houses fronting onto Fingringhoe Road and 6 bungalows to the rear, all with parking, garaging and amenity space, ref F/COL/06/1627. The development was to be served by a private drive off Fingringhoe Road.

1.2 The bungalow has now been demolished. The applicant has now acquired further land from neighbouring properties and has submitted this application to alter the layout and increase the number of units to the rear of the approved houses fronting Fingringhoe Road.

## **2.0 Site Description**

2.1 The site comprises the property known as 34 Fingringhoe Road along with parts of the rear gardens of 30, 32, 36 and 38 Fingringhoe Road. The site borders gardens of 30 and 38 Fingringhoe Road along with the rear boundaries of properties in Edward Mark Drive and Brand Drive. The properties fronting Fingringhoe Road are characterised by their long rear gardens while the properties to the rear in Edward Mark Drive are a more modern higher density development.

## **3.0 Description of Proposal**

3.1 The application proposes the erection of 3No 2 bed bungalows and 7No 3 bed bungalows, associated garaging and amenity space. The site would be served by a new adoptable access road off Fingringhoe Road which narrows to a private drive to serve the final 5 properties.

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

- 4.1 Within Village Envelope  
Potentially contaminated land

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

- 5.1 82/0275 - Demolition of bungalow and erection of semi-detached dwellings and garages - Refused
- 5.2 91/0677 - Outline application for erection of 2 no. hip-roof bungalows - Refused
- 5.3 F/COL/06/1627 - Demolition of existing property and erection of two houses and six bungalows with garaging/parking to be served by a private drive - Approved with conditions

#### **6.0 Principal Policies**

- 6.1 Adopted Review Colchester Borough Local Plan:  
DC1 - Development Control Considerations  
P4 - Contaminated Land  
UEA11 - Design  
UEA13 - Development, including Extensions, Adjoining Existing or Proposed Residential Property  
H7 - Development within village envelopes

#### **7.0 Consultations**

- 7.1 The full text of all consultations and representation is available on the Councils website.
- 7.2 The Highway Authority raises no objection subject to suitable conditions to achieve the following:-
  1. Prior to occupation of the development visibility splays with dimensions of 2.4 metres by 90 metres as measured from and along the nearside edge of the carriageway shall be provided on both sides of the access. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.  
Reason: To provide adequate intervisibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access having regard to policy 1.1 in appendix G to the Local Transport Plan.

2. Prior to occupation of the access a 1.5 metre x 1.5 metre pedestrian visibility sight splay as measured from the highway boundary, shall be provided on both sides of the vehicular access. There shall be no obstruction above a height of 600mm as measured from the finished surface of the access within the area of visibility sight splays thereafter.  
Reason: To provide adequate intervisibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access having regard to policy 1.1 in appendix G to the Local Transport Plan.
3. Prior to occupation of the development hereby permitted the access road and turning head enabling a motor car to enter and leave the highway in a forward gear shall be constructed, surfaced and made available for use and shall be retained for that sole purpose.  
Reason: To provide adequate appropriate turning facilities are provided so that vehicles can enter and leave the highway in a safe and controlled manner in accordance with policy 1.1 in appendix G to the Local Transport Plan.
4. Prior to occupation of the development hereby permitted the footway across the site frontage shall be constructed measuring no less than 2m in width.  
Reason: In the interests of highway safety and efficiency and having regard to Policy 3.4 in Appendix G to the Local Transport Plan.
5. Prior to occupation of the development each unit shall be provided with a transportation information and marketing plan which shall be submitted to and approved in writing by the Local Planning Authority.  
Reason: In the interests of sustainable development in accordance with Policies 3,3 and 4 in Appendix G to the Local Transport Plan.

INFO1 - All works affecting the highway shall be carried out by prior arrangement with and to the requirements and satisfaction of and in accordance with an appropriate agreement with the Highway Authority and application for the necessary works should be made initially by telephoning 01206 838600.

- 7.3 Anglian Water indicates there is capacity in the current water and sewer systems for the proposed development and suggest informatives to be attached to any permission granted.
- 7.4 Environmental Control required a contamination investigation be undertaken prior to the determination of the application as the site is suspected of being contaminated. EC also recommended conditions and informatives be attached to any permission relating to light pollution, and communal storage areas. Following the submission of a contamination report Environmental Control make the following additional comments:

"I have now reviewed the above report and have the following comments to make:  
The Conceptual Model has not evaluated all of the potential pollutant linkages associated with this development.

1. The desk study has shown that a former engineering works was located to the south-east of the site and in operation from the 1960's for approximately 30 years. The report concludes that this activity was "sufficiently distant not to influence the site". However this has not been borne out by the desk study, which shows this engineering works to be immediately adjacent to, within a few metres of, or possibly even extending into the south-east portion of the proposed development boundary.

2. In view of 1), an initial intrusive investigation and relevant sampling of the site, particularly in the south-east part of the site, would be required. The Report refers to a previous Ground Investigation Report that was carried out in July 2006. This report relates to ground conditions only and does not consider contaminated land.
3. The Report has identified "three mounds of broken concrete and spoil in the garden of 34 Fingringhoe Rd". This material must be removed from the site to a suitably licensed facility ("Duty of Care" waste documentation should be provided to the local authority) and validation sampling of this area provided, once the material has been removed.
4. The site Conceptual Model has not included reference to the suitability of any soils in garden areas. These must be verified as suitable for use, in accordance with the Essex Contaminated Land Consortium document, Technical Guidance for Applicants and Developers.
5. The hydrogeology at the site has not been investigated. In particular, there is no information regarding the level of the water table at the site. Local information would appear to suggest that the area is vulnerable to waterlogging. Consequently, there has been no discussion regarding the potential for mobilisation of contaminants either within or beyond the site boundary.

In conclusion, the submitted report is not sufficient to be able to show that the site can be safely developed and should be considered invalid from a contaminated land point of view. If planning permission is approved, I would suggest inclusion of the following conditions:

1b. Site Characterisation (Further Investigation)

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

4a. Remediation Scheme (condition for a scheme)

A scheme to bring the site to a suitable condition in that it represents an acceptable risk will be implemented prior to the commencement of any other part of this planning permission (unless the scheme or parts of it require commencement of other parts of the permission). The scheme shall be submitted to the planning authority for approval prior to commencement of works. This shall be undertaken by competent persons and in accordance with the Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers and DEFRA & Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11.

5. Unexpected Contamination

Should contamination be found that was not previously identified during any stage of the application hereby approved or previous to this and not considered in the any remediation scheme it shall be made safe and reported immediately to the local planning authority. The site shall be assessed in accordance with condition 1 and remediation scheme shall be submitted for approval by the planning authority.

## 6. Validation of Remediation Scheme

The developer shall notify the local planning authority in writing of impending completion of the remediation works immediately on completion of such works a validation report undertaken by competent persons in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA & Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11 related to the agreed remediation measures shall be submitted to the planning authority for approval.

## 7. Validation Certificate

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

This certificate is attached to the planning notification.

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

ADVISORY NOTES (FOR INCLUSION WITH THE DECISION NOTICE) The phased risk assessment should be carried out also in accordance with the procedural guidance and UK policy formed under the Environmental Protection Act 1990.

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

The local planning authority has determined the application on the basis of the information made available to it."

## 8.0 Parish Council's Views

- 8.1 Abberton and Langenhoe Parish Council comments that in order to proceed with a development of this size, a section 106 agreement to fund an upgrade to the sewer system to 9" main drain is required. The sewer in Fingringhoe Road struggles to cope with the existing capacity and an upgrade is urgently required.

*Officer comment: Neither Anglian Water nor the Development Team require a sewer upgrade. Anglian Water indicate there is capacity for the development proposed.*

## 9.0 Representations

- 9.1 Cllr Davidson requests that the new enlarged scheme will have a full sized adoptable road serving it.
- 9.2 1 letter of no objection subject to a 6ft close boarded fence being erected on the site boundary.

9.3 3 letters of objection have been received. The objections are summarized thus:

- Removal of hedge may affect stability of my fence and patio
- There used to be a pond at the bottom of my garden for water to collect. This has been filled in. What are the plans for water drainage
- Rodent problem since outbuildings demolished and the bats have disappeared
- Overdevelopment of site with lack of parking
- No amenities in Langenhoe for residents
- Noise and disturbance through construction, safety risk to children playing in garden
- Overlooking/loss of privacy
- Removal of tree in plot 6 is an ignorant act.
- Do not object to housing being built but strongly feel this application does not equally contribute to or enhance the area
- The proposal involves covering 70 to 80% of what is now grass to hard surface in an area which is heavy clay and drains very slowly
- Loss of vegetation and natural habitat
- Light pollution
- Loss of property value
- Conflict of interest - a neighbour selling land is involved in Parish Council

*Officer comment: Loss of property value is not a material planning consideration.*

## 10.0 Report

### Density

10.1 This application proposes 10 number units in a site area measuring 0.44ha resulting a density of 23 dwellings per hectare (dph). While Planning Policy Statement 3 (PPS3) sets a minimum density level of 30dph to be achieved by a development with no upper limit, an assessment of the context, surroundings and built form would suggest that the proposed density is acceptable in this case. While a higher density could be achieved by developing two storey houses, this would be unacceptable due to overlooking of neighbouring properties.

### Use and Amount

10.2 The site is within a residential area where appropriate residential infill proposals are acceptable in principle although it is important to avoid over development or town cramming. Members will be aware that current government guidance is to make the best use of available brownfield sites to meet housing need. The development accords with this advice.

10.3 The amount of parking and amenity space is in accordance with council standards.

### Layout and Landscaping

- 10.4 The proposed layout consists of bungalows being placed either side of an adoptable road accessed from Fingringhoe Road leading between the two approved houses fronting Fingringhoe Road approved under planning permission F/COL/06/1627. While the layout appears rather cramped all of the bungalows proposed have sufficient private amenity space and parking in accordance with adopted standards. It is considered that a reduction in the number of units would not result in efficient use of land.

### Design and Appearance

- 10.5 The design and appearance of the proposed bungalows is considered acceptable and an improvement on the previous scheme. Suitable conditions should be placed on any permission to ensure good quality materials are used.

### Scale

- 10.6 The scale of the buildings is acceptable in this backland context and avoids overlooking issues.

### Access

- 10.7 Vehicle access to the site is taken from Fingringhoe Road as previously approved. This scheme upgrades the access road to an adoptable standard for approximately half the length before coming a private drive to serve the final 5 dwellings. Appropriate turning heads are shown.

### Social Function

- 10.8 In view of the number of units the scheme does not generate a requirement for affordable housing. The unit mix is considered acceptable.

### Amenity

- 10.9 With the erection of boundary screen fencing around the site where applicable, it is not considered the proposal would result in undue harm to the amenity of neighbouring residents.
- 10.10 A landscaping condition should be placed on any permission requiring additional planning in the rear garden areas to mitigate against the loss in some places of existing vegetation.
- 10.11 Turning to the various representations received it is not considered for the reasons set out above and in the officer's comments that any of these are sufficient in this case to justify a refusal of planning permission.

## S106 Matters

10.12 The application has been considered by the Council's Development Team and the proposal generates the requirement for a S106 Agreement to secure the following:-

- Leisure Services contribution in line with SPD
- 2m footway across the frontage
- Travel packs

10.13 The provision of a 2m footway and the requirement for travel packs can be dealt with by conditions so the applicant has provided a signed Unilateral Undertaking in connection with payment of a Public Open Space contribution in line with Open Space, Sports and Recreation facilities SPD.

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

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

## **11.0 Conclusion**

11.1 In conclusion the site is of adequate size to accommodate the dwelling proposed and it is considered that this proposal complies with the relevant local plan policies in terms of layout and design. Approval of the development is recommended.

## **12.0 Background Papers**

12.1 ARC; HA; HH; AW; PTC; NLR

## **Recommendation**

The application be approved subject to the dating of the submitted Unilateral Undertaking for contributions towards Open Space, Sports and Recreation facilities and the following conditions.

## **Conditions**

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

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

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

2 - Non-Standard Condition

2. Notwithstanding the provisions of the Town and Country

Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no windows, dormer windows or other openings, shall be constructed at or above first floor level in the walls or roof slopes of the buildings hereby approved.

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

### 3 - B8.1 Drainage Scheme Prior to Commencement of Work

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

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

### 4 - Non-Standard Condition

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable access ways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed 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 has a satisfactory appearance in the interests of visual amenity.

### 5 - Non-Standard Condition

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

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

### 6 - Non-Standard Condition

Prior to the development hereby approved being brought into use, facilities for the collection of recyclable materials shall be provided on the site and thereafter retained in accordance with a scheme submitted to and agreed by the Local Planning Authority.

Reason: To ensure that adequate facilities are provided for the collection of recyclable materials.

### 7 - Non-Standard Condition

Before the development hereby permitted is begun, a schedule of all types and colours of external materials to be used on each individual dwelling shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved schedule.

Reason: To ensure that the proposed development is visually and enhances the appearance of the locality.

### 8 - Non-Standard Condition

A scheme of environmental works including construction of walls/fences/railings/ planting of hedges and other structures on the site shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The approved scheme shall be completed prior to the development being brought into use and shall be retained and maintained thereafter.

Reason: To ensure that the proposed development is visually and enhances the appearance of the locality.

### 9 - Non-Standard Condition

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

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

#### 10 - C11.11 Landscape Design Proposals

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

These details shall include, as appropriate:

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

#### 11 - C11.12 Landscape Works Implementation

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

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

#### 12 - Non-Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light.' This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to [the building hereby permitted coming into beneficial use/the use hereby permitted commencing] a validation report undertaken by competent persons that demonstrates compliance with the above shall be submitted to the planning authority for approval. Having been approved any installation shall thereafter be retained and maintained to the standard agreed

Reason: In order to reduce sky glow and safeguard the amenity of neighbouring [residential] properties by controlling the undesirable, disruptive and disturbing effects of light pollution.

#### 13 - Non-Standard Condition

In the case of refuse and recycling storage and collection areas, a management company shall be made responsible for the maintenance of such areas. Such detail as shall have been installed shall be retained and maintained in good clean working order. The developer shall notify the local planning authority of the management company contact details prior to the occupation of any dwelling.

Reason: To ensure the communal areas are and maintained in good clean working order in the interests of amenity.

#### 14 - Non-Standard Condition

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

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

#### 15 - Non-Standard Condition

A scheme to bring the site to a suitable condition in that it represents an acceptable risk will be implemented prior to the commencement of any other part of this planning permission (unless the scheme or parts of it require commencement of other parts of the permission). The scheme shall be submitted to the planning authority for approval prior to commencement of works. This shall be undertaken by competent persons and in accordance with the Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers and DEFRA & Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11.

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

#### 16 - Non-Standard Condition

Should contamination be found that was not previously identified during any stage of the application hereby approved or previous to this and not considered in the any remediation scheme it shall be made safe and reported immediately to the local planning authority. The site shall be assessed in accordance with condition 15 and remediation scheme shall be submitted for approval by the planning authority.

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

#### 17 - Non-Standard Condition

The developer shall notify the local planning authority in writing of impending completion of the remediation works immediately on completion of such works a validation report undertaken by competent persons in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA & Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11 related to the agreed remediation measures shall be submitted to the planning authority for approval.

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

#### 18 - Non-Standard Condition

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition [15 above).

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

#### 19 - Non-Standard Condition

Prior to the commencement of development the developer shall ensure that a 1.8m high fence encloses the site on all boundaries and is retained thereafter unless otherwise agreed in writing by the local planning authority.

Reason: To protect the amenity of neighbouring residential properties.

#### 20 – Non Standard Condition

Prior to occupation of the development visibility splays with dimensions of 2.4 metres by 90 metres as measured from and along the nearside edge of the carriageway shall be provided on both sides of the access. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.

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

#### 21 – Non Standard Condition

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

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

#### 22 – Non Standard condition

Prior to occupation of the development hereby permitted the access road and turning head enabling a motor car to enter and leave the highway in a forward gear shall be constructed, surfaced and made available for use and shall be retained for that sole purpose.

Reason: To provide adequate appropriate turning facilities are provided so that vehicles can enter and leave the highway in a safe and controlled manner in accordance with policy 1.1 in appendix G to the Local Transport Plan.

#### 23 – Non Standard Condition

Prior to occupation of the development hereby permitted the footway across the site frontage shall be constructed measuring no less than 2m in width.

Reason: In the interests of highway safety and efficiency and having regard to Policy 3.4 in Appendix G to the Local Transport Plan.

#### 24 – Non Standard Condition

Prior to occupation of the development each unit shall be provided with a transportation information and marketing plan which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development in accordance with Policies 3,3 and 4 in Appendix G to the Local Transport Plan.

## **Informatives**

### Non Standard Informative

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



**Application No:** 080770

**Location:** Tesco Stores Ltd, Highwoods Square, Colchester, CO4 9ED

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

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**7.8 Case Officer: Andrew Tyrrell**

**EXPIRY DATE: 11/06/2008**

**MINOR**

**Site: Highwoods Square, Colchester, CO4 9ED**

**Application No: 080770**

**Date Received: 15th April 2008**

**Agent: Dpp**

**Applicant: Tesco Stores C/O Agent**

**Development: Extension to existing foodstore to form opticians and pharmacy**

**Ward: Highwoods**

**Summary of Recommendation: Conditional Approval**

## **1..0 Site Description**

- 1.1 The site is that of the existing Tesco store at Highwoods. This is a store that has 24 hour opening and, as a major store, has a large car park area. The access point to the car park is off a roundabout to the north-east corner of the site. The building itself is sited to the western half of the site, stretching almost entirely from north to south boundaries. The southern buildings accommodate staff facilities that dog leg down southwards behind the bulk of the main store as seen from the entrance and car park, with the car park wrapping around the building. The store itself is a relatively typical supermarket building fashionable of its era of construction in the 1980s. The building is now clad in white composite panels that are a corporate feature of Tesco stores today.
- 1.2 Beyond these buildings, further south, are residential properties. Residential properties also run along the western boundary. The site is well screened, with reasonable tree cover retained in places, especially along the northern and eastern boundaries.

## **2.0 Description of Proposal**

- 2.1 The proposal is an extension to the store sited to what is effectively the rear elevation (south). The extension would serve as a new facility ancillary to the main food retail use of the site. The ancillary use being introduced is an opticians and pharmacy. Although the description on the application forms mentions a change of use, there is no division from the main food retail store and there are no external entrances. On this basis, the planning unit has not been subdivided and the use is considered to be ancillary (i.e. there is no change of use). Therefore, the application is purely for physical extensions and alterations to the existing store.

### **3.0 Land Use Allocation**

- 3.1 The site is recognised in the Local Plan as a Local Shopping Centre. The land is currently used for A1 retail use. There are ancillary uses to the main use at present, including a coffee shop and photo development service. These uses are ancillary and not separate uses in their own right.

### **4.0 Relevant Planning History**

- 4.1 The site has a long list of planning applications attached to it. Significantly, the use of the site as a supermarket originated from the 1972 permission (72/0805/H) for the larger development of the Highwoods area. The food retails use was one of several services approved under phase 1 of this scheme, although the finer details were not approved until 1982 when application 82/0361 gave permission for retail development approximately 88,000 square feet in size. There were various additions since then, including illuminated lettering (1986), a loading bay extension (1991), an ATM enclosure (1994), removal of revolving doors at the entrance and an extension to the coffee shop (1997), extensions to the store (2000) and a new lay-by for home shopping vehicles (2004) amongst others.

### **5.0 Principal Policies**

- 5.1 Adopted Review Borough Local Plan  
DC1 - Development Control Considerations  
UEA11 - Design  
T9 - Car Parking Outside Central Colchester  
TCS1 - Protecting the Vitality and Viability of Colchester Town Centre  
TCS3 - Major Foodstores  
TCS12 - Rural, District and Local Shopping centres

### **6.0 Consultations**

- 6.1 None

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

- 7.1 Parish Council - No comments received.

### **8.0 Representations**

- 8.1 One objection received:

"We have three major concerns as local residents whose property backs on to the service delivery road/car park.

- 1) Traffic build-up around the store is already negatively impacting ability to leave Highwoods, especially at the weekends.
- 2) Evening security seems very lax as there are frequently "joy riders" on both bikes and cars screaming around the car park late at night, which disturbs our young children and indeed our sleep.

- 3) Will this add to an already busy service delivery schedule where lorries still turn up at all times of the evening again, having a negative impact on ability to settle the children for the evening.

We were full aware of the close proximity of the store when we purchased our house but we feel that we should still be entitled to a certain amount of common decency".

## **9.0 Report**

### Design

- 9.1 The design of the extension is in keeping with the existing building. The extension is concrete based, with white cladding to match the existing retail store and a slight mono-pitch to the roof. The extension is attached to the existing store and does not have an external entrance point. The existing access ramp for disabled persons will be extended past the extension to the car park area. The design is considered to be acceptable on its merits.

### Use

- 9.2 The use is as a pharmacy unit and opticians. These uses are ancillary to the main retail unit and are not considered to represent a change of use. This is considered to raise no significant concerns.
- 9.3 The hours of use requested are midday to midnight from Monday to Friday, from midday to 8pm on Saturdays and from 10am to 4pm on Sundays. The existing store is a 24 hours opening store, thus these hours seem to be reasonable given the existing usage.

### Amount and Layout

- 9.4 The amount of development is minimal. The development is also located to the rear of the main store where it is less prominent. The design and materials will help to blend the extension into the existing building and it is not considered to represent a significant development. It will be visible from the far end of the car park, but views from the main part of this car park will be obscured by the existing store building. The site is well screened and impact outside of the site is limited by the fencing and trees around the boundary.
- 9.5 The existing car park has 609 car parking spaces, 35 disability spaces, 22 cycle spaces and 30 bus spaces. The extension will result in 6 car parking spaces being lost. This is not considered to cause concern.

### Scale

- 9.6 The scale of development is subservient to the main building in terms of height, and most certainly by size. The extension is approximately 110 square metres in size, compared to an existing retail floor space of approximately 7,500 square metres. The scale is unlikely to have any significant impacts, particularly outside of the site or the immediately visible area.

## Landscaping

- 9.7 There is no landscaping proposed. Given the nature of development and the location within the car park it is not considered reasonable to require a landscaping scheme.

## Other Material Considerations

- 9.8 The matters raised in the objection received need to be addressed. Traffic congestion is an existing problem, but it is not considered that this development will make a significant difference to this problem. The problems with evening security are unrelated to this application. This is a matter that the resident should discuss directly with the applicant and is not an issue for consideration herein. Similarly, it is also considered unreasonable to limit delivery times for the optician/pharmacy where these will have no impact on the deliveries to the existing store. Apart from deliveries directly linked with the new development, other vehicles would still be able to arrive at the same times as they can now. It is not possible to limit deliveries unassociated with this application through condition.

## **10.0 Conclusion**

- 10.1 Overall, the application is a minimal extension that provides ancillary uses expected at a store of this size. The extension does not present any significant concerns due to its small-scale nature. The concerns raised against this proposal seem to hold little planning merit in their content; therefore these have been given limited weight in the above report.

## **11.0 Background Papers**

- 11.1 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 - C3.5 Materials to Match Existing

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

Reason: To harmonise with the character of existing development in the area.

3 - Non-Standard Condition

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

Mondays to Fridays: 12:00 - 23:59 Hours.

Saturdays: 12:00 - 20:00 Hours.

Sundays and Public Holidays: 10:00 - 16:00 Hours.

Reason: These are the hours that have been applied for and on the basis of which the application was considered and consulted upon. To allow further consideration at such a time as any proposed change of hours might be proposed.



**Application No:** 080740

**Location:** 36-40 Crouch Street, Colchester

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

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**7.9 Case Officer: Mark Russell**

**EXPIRY DATE: 06/06/2008**

**OTHER**

**Site:** 36-40 Crouch Street, Colchester

**Application No:** 080740

**Date Received:** 10th April 2008

**Agent:** Strutt & Parker

**Applicant:** Sb2 Property Ventures Ltd

**Development:** Change of use of 3 retail units from A1 to A1-A3 inclusive (resubmission of 072948)

**Ward:** Castle

**Summary of Recommendation:** Conditional Approval

### **1.0 Site Description**

1.1 This is the site of the former Cash Converters shop and is the ground floor of the newly-rebuilt 36-40 Crouch Street. It is on the south side of Crouch Street and comprises a development of three shop units with flats above.

### **2.0 Description of Proposal**

2.1 The application proposes the change of use from as yet unused A1 retail units to A2 (financial and professional services). The original proposal sought change of use to A3 (restaurant). Objections were largely on the basis of the use being A3, and it is possible that no objections would have been received if the original application had been for A2. However, this item is brought to Committee as there is insufficient time to reconsult and determine within eight weeks. It should be noted, of course, that A2 use is significantly less of a nuisance than A3.

### **3.0 Land Use Allocation**

3.1 A1 (retail), mixed use area within Colchester Conservation Area 1.

### **4.0 Relevant Planning History**

4.1 F/COL/04/1046 - Demolition of existing retail store. Construction of new retail kiosk units, 24 x 2 bed flats with ancillary car parking, refuse storage and cycle parking. Approved 27th August 2004;

4.2 072948 - Change of use of 3 retail units from A1 to A1-A5 inclusive. Refused 24th January 2008.

## **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations;  
UEA1 - Conservation Area, setting;  
UEA2 - Development affecting a Conservation Area;  
TCS5 - Mixed Use;  
TCS10 – Sessional usage  
P1 - Pollution

## **6.0 Consultations**

- 6.1 Environmental Policy replied as follows:

'On 27th November 2007, Colchester Borough Council refused this application on the grounds that it is contrary to policies DC1, P1 and TCS10. I see nothing in this application that looks to mitigate against identified policy barriers and social issues.'

- 6.2 Environmental Control noted the proximity of residential properties, and therefore suggested limiting the permission to A2 use rather than a food use.
- 6.3 The Highway Authority did not object to the application.

## **7.0 Representations**

- 7.1 Representations, in common with consultation replies, were received at a time when the application sought an A3 use. These were as follows:

The Chair of the St. Mary's Resident's Association stated that 'The existing A1 categorisation includes shops/retail which fit the character of Crouch Street, and keep normal 'daylight' business hours. Permission to include A3, i.e. cafés and restaurants, will serve to expand the night-time economy in the eastern end of Crouch Street. Furthermore, the noise, smells and out-of-hours activity will impact adversely on the new residents above and behind 36-40 Crouch Street and other local residents.'

- 7.2 Two email objections were received in opposition to the application as there are already many food/café premises in the vicinity, and due to a fear of night disturbance.

## **8.0 Report**

- 8.1 There are no design issues with this change of use.
- 8.2 The use would be A2 financial/professional services.
- 8.3 There is no proposed increase in amount of floorspace and issues of scale are not relevant.
- 8.4 The appearance from the public realm would not be altered by the change of use.
- 8.5 The amenity of any nearby residential properties would not be affected.

8.6 Clause (a) of Policy TCS5 states that, in Mixed Use Area A, Proposals that would result in less than 50% of retail frontage in any one defined street frontage will be refused. This frontage is below 50%, however in the supporting text is the following statement: "The Policy....seeks to keep a balance between shopping and other uses in these important areas. Although included within the group of streets, the maintenance of this balance is not considered critical on the south side of Crouch Street, west of Balkerne Hill, or on the north side of St Botolph's Circus, and therefore criterion (a) above will not apply.

8.7 The site falls within this area, and thus the policy does not insist upon a retention of a given amount of A1 (retail) use.

8.8 Now that the A3 element has been dropped, amenity issues no longer appear to be of concern, and the thrust of most of the opposition appears to have been removed.

## **9.0 Conclusion**

9.1 In conclusion the use is considered acceptable, neither detracting from Colchester Conservation Area 1 nor from the vitality of this shopping street, not from residential amenity. Approval of the development is therefore recommended.

## **10.0 Background Papers**

10.1 ARC; PP; HH; HA; NLR

## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

2 - Non-Standard Condition

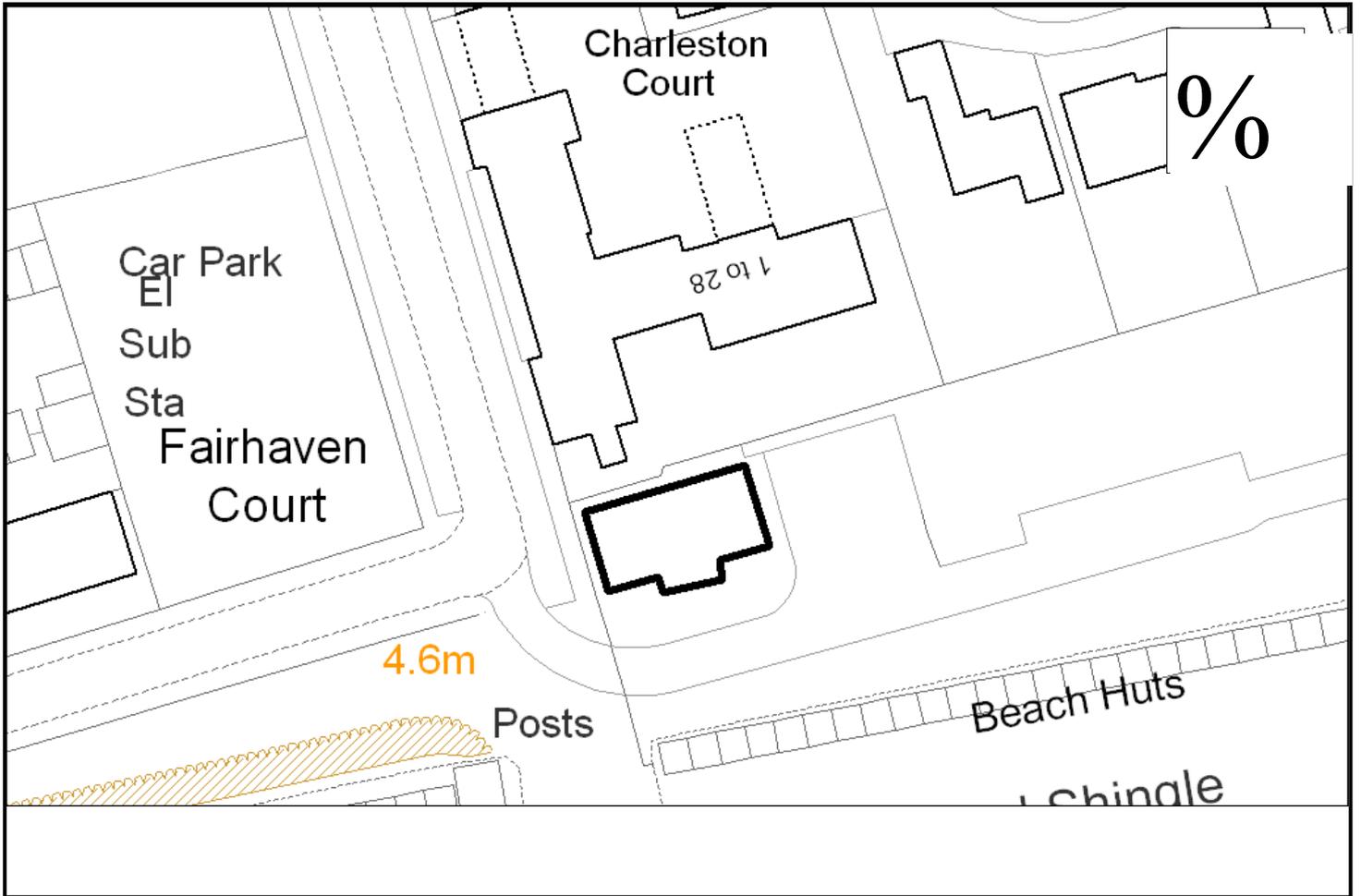
The use hereby permitted is for A2 (financial and professional services) and not for A3 use.

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

### **Informative**

Non Standard Informative

1. All other relevant conditions from permission F/COL/04/1046 still apply.



**Application No:** 080760

**Location:** Seaview Holiday Park, Sea View Avenue, West Mersea, Colchester, CO5 8DA

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

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**7.10 Case Officer: Sue Jackson**

**EXPIRY DATE: 10/06/2008**

**OTHER**

**Site:** Sea View Avenue, West Mersea, Colchester, CO5 8DA

**Application No:** 080760

**Date Received:** 14th April 2008

**Agent:** Charles F Jones & Son Llp

**Applicant:** Seaview Holiday Park

**Development:** Variation of condition 08 of planning permission COL/93/0582 to allow for extended opening hours of shop and snack bar to 08.00am to 09.00pm (May to September only).

**Ward:** West Mersea

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

1.1 The Seaview Holiday Park is located at the seaward end of Seaview Avenue. The site includes a shop and snack bar on the Seaview Avenue frontage. The application relates to this building.

## **2.0 Description of Proposal**

2.1 The application proposes a variation of the opening times for the shop and snack bar. The current opening times are 8.00 a.m. to 6.00 p.m. throughout the year.

2.2 An extension of the hours during May to September from 8.00 a.m. until 9.00 p.m. are proposed.

## **3.0 Land Use Allocation**

3.1 Residential

## **4.0 Relevant Planning History**

4.1 93/0582 - Shops and road access at south west corner of site - Approved in March 1994

4.2 95/1124 - Variation of shop/snack bar to allow opening throughout the year - Approved in November 1995

## **5.0 Principal Policies**

- 5.1 Adopted Borough Local Plan  
DC1 - Development Control considerations  
P1 - Pollution

## **6.0 Consultations**

- 6.1 Natural England has no objection to the proposed development.
- 6.2 Environmental Control has no comments.

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

- 7.1 No comments from West Mersea Town Council have been received at the time of drafting this report

## **8.0 Representations**

- 8.1 A resident of adjacent flats in Charleston Court has objected on the following grounds:-

1. The longer opening hours will be an open invitation to the inconsiderate and destructive to loiter around the area and the shop and snack bar.
2. The parking in Seaview Avenue area is restricted in the summer by yellow lines. The public car park is now to be closed at nights.

Can you give any assurance that the police presence will be increased if approval is given to extend the opening hours."

*Officer Comment: It is not possible to give any assurances in respect of policing.*

## **9.0 Report**

- 9.1 The shop/snack bar is located at the bottom of Seaview Avenue adjacent to the Holiday Park access. It is adjacent to and opposite flats on the corner of Seaview Avenue and The Esplanade. It also faces beach huts and the beach.
- 9.2 The extension of the opening times during the summer months is considered acceptable and permission is recommended.

## **10.0 Background Papers**

- 10.1 ARC; NLR

## **Recommendation - Conditional Approval**

### **Conditions**

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

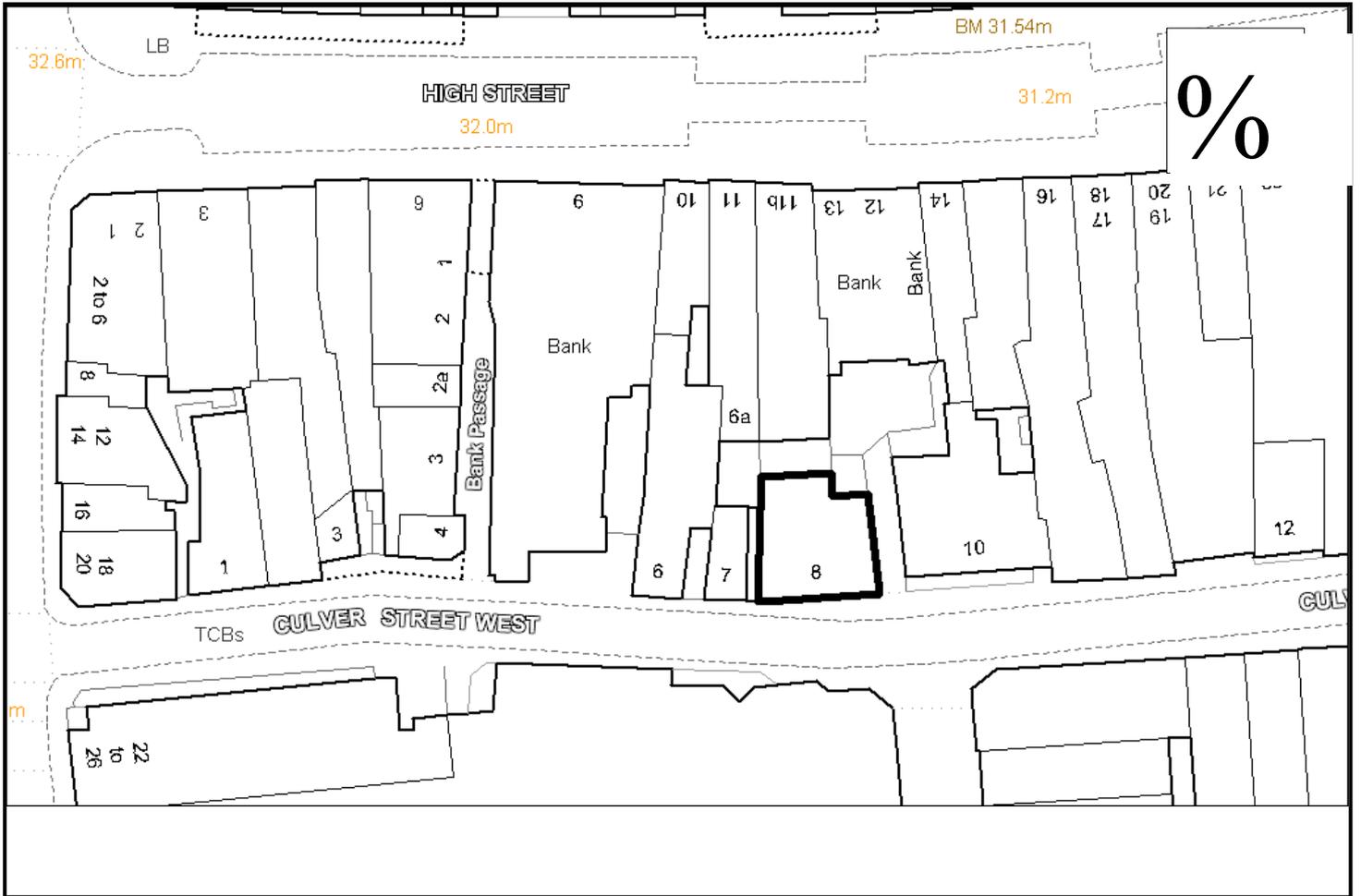
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2 - Non-Standard Condition

This consent varies Condition 8 on planning permission 93/0582 to allow opening during May-September inclusive between 08.00 a.m and 9.00 p.m. All other conditions on this permission and application 95/1124 remain valid.

Reason: To avoid doubt as to the scope of the consent hereby granted.



**Application No:** 080793

**Location:** Woolwich House, 8 Culver Street West, Colchester, CO1 1JD

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

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**7.11 Case Officer: Mark Russell**

**EXPIRY DATE: 17/06/2008**

**OTHER**

**Site: Woolwich House, 8 Culver Street West, Colchester, CO1 1JD**

**Application No: 080793**

**Date Received: 21st April 2008**

**Agent: Robert Gillard**

**Applicant: Mr A Mann**

**Development: Change of use from building society to adult gaming centre.**

**Ward: Castle**

**Summary of Recommendation: Conditional Approval**

## **1.0 Site Description**

1.1 The site comprises the former home of the Woolwich building society. This is an unremarkable, geometrically arranged three-storey building with large areas of glazing. The building is on the north side of Culver Street West, between Cafe Nero and the passageway through to Waterstones.

## **2.0 Description of Proposal**

2.1 The application proposes the change of use from building society (A2) to an "adult gaming centre". This is actually an amusement arcade.

## **3.0 Land Use Allocation**

3.1 A2 (financial and professional Services), inner core within Colchester Conservation Area 1.

## **4.0 Relevant Planning History**

4.1 17448/2 - Three storey office block. Approved 2nd October 1963; F/COL/03/0819 - Internal refit incorporating new shop front. Approved 19th September 2003

## **5.0 Principal Policies**

5.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations;  
TCS4 - Inner and Outer Core;  
TCS10 - Sessional Usage;  
UEA1 - Conservation Area, setting;  
UEA2 - Development affecting a Conservation Area;  
P1 - Pollution

## **6.0 Consultations**

6.1 Environmental Policy replied as follows:

“The proposed change of use from a bank to an Adult Gaming Centre is acceptable in that it complies with policy TCS10. The area surrounding is not one that has a large residential population, in fact other night time economy businesses operate successfully in said area.

As long as a nuisance is not being created and in my opinion it is not, then Policy is supportive of this application.”

6.2 Environmental Control has requested conditions concerning noise levels, sound insulation and self-closing doors

6.3 Licensing has yet to comment

## **7.0 Representations**

7.1 At the time of writing (14th May), no representations had been directly received by Colchester Borough Council. This item, however, has been brought to Committee because of the press coverage and reaction to the proposal on the Gazette website.

## **8.0 Report**

8.1 There are no design issues with the change of use, but Colchester Borough Council wishes to tie the proposed change of use to an attractive shop-front design, this will be proposed by condition.

8.2 The use would be sui generis amusement arcade.

8.3 There is no proposed increase in amount.

8.4 Issue of scale are not relevant.

8.5 The appearance from the public realm would not be altered by the change of use, but an attractive shop-front can be requested by condition.

8.6 The amenity of any nearby residential properties would not be affected.

8.7 The reaction in the local press was one of concern at the sort of people that may be attracted to the location, and the overall effect this would have on the attractiveness of the Conservation Area and larger town centre.

8.8 There is no ministerial advice on amusement arcades in PPS6 (Planning for Town Centres), but paragraph 2.23 in relation to the evening economy is worthy of note:

"Local planning authorities should prepare planning policies to help manage the evening and night-time economy in appropriate centres. These policies should encourage a range of complementary evening and night-time economy uses which appeal to a wide range of age and social groups, ensuring that provision is made where appropriate for a range of leisure, cultural and tourism activities such as cinemas, theatres, restaurants, public houses, bars, nightclubs and cafes."

8.9 It should be recalled that there is no loss of A1 retail, as the extant use is A2. Therefore only the issues of general amenity and setting are to be considered.

8.10 The Development Control Practice (DCP) online service which your Officers use to assess case law shows that 'disturbance allegations are rarely sustainable with regard to internally generated noise.' Certainly this is avoidable by use of self-closing doors which many such arcades boast.

8.11 In terms of alleged external noise and disturbance, it states 'Evidence from similar operations is often conclusive in showing that external problems of the sort feared do not, in fact, occur.' It goes on: '..most amusement centres will voluntarily close at 22:00 - 23:00 hrs, or will be required to do so by condition.' In the case of this application, the applicant is seeking hours of use of 09:00 - 23:00 seven days per week.

8.12 Regarding the effect on Colchester Conservation Area 1, case law again proves to be favourable to proposals such as this. DCP states: 'An examination of appeal cases, where amusement centres have been rejected by the local authority on character grounds, shows that in general the fact that premises to be used for an amusement centre are in a Conservation Area is not unduly prohibiting.' Some examples of appeals being dismissed are cited, but these (Peterborough, Lichfield) were in the vicinity of cathedrals. Whilst Culver Street West is within a Conservation Area, it could not easily be argued that this was of such a special character that this use would detract from it, especially if a sympathetically-designed shop front were achieved. The applicants have indicated that they are happy to design a sympathetic shop front.

## **9.0 Conclusion**

9.1 In conclusion the use is considered acceptable, neither detracting from Colchester Conservation Area 1 nor from the vitality of this shopping street. An attractive shopfront, and conditions relating to times of use would in fact enhance the area. Approval of the development is therefore recommended.

## **10.0 Background Papers**

10.1 ARC; PP; HH; Licensing; 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 hours of opening of this proposed use as an "adult gaming centre" (sui generis amusement arcade) shall be restricted to 09:00 - 23:00 Monday to Saturday, and 11:00 - 18:00 Sunday.

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

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

Prior to the commencement of development, the applicant shall submit details of a new shop front including a splayed doorway and stall-riser, these details shall be agreed in writing by Colchester Borough Council and the approved shopfront shall be implemented as such prior to the permission being brought into use.

Reason: In the interests of the visual amenity of this site in Colchester Conservation Area 1.

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

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

Reason: To avoid noise nuisance.

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

The use hereby approved shall not commence until the building has been modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and approved in writing by the local planning authority. This shall comply with the initial noise condition (No. 4 above).

Reason: To avoid noise nuisance.

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

The planning permission hereby granted requires that from commencement of the use, all doors allowing access and egress to the premises shall be self-closing and that these be maintained as such thereafter. The external door/s to be kept closed when not in use.

Reason: In the interests of noise prevention.

### **Informatives**

#### **Non-Standard Informative**

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



**7.12 Case Officer: John More**

**OTHER**

**Site:** East Donyland Shooting Club, High Street, Rowhedge, Colchester, CO5 7E

**Application No:** 072543

**Date Received:** 19th October 2007

**Agent:** Mr I J Pryke

**Applicant:** The Owner And/Or Occupier

**Development:** Continued used of shooting range for full bore pistol, small bore rifle, pistol calibre rifle, air weapons, on Sundays only.

**Ward:** East Donyland

**Summary of Recommendation:** Temporary permission for further 3 years following the expire of the 21 day call-in period once officers have written to the HSE

**1.0 Site Description**

- 1.1 The site is located to the south of Rowhedge and is separated from Rowhedge Wharf by a public footpath and adjacent land previously used for timber storage.
- 1.2 The public footpath joins a track which leads to a small group of dwellings including East Donyland Hall. The site is close to the attractive countryside of the Roman River Valley and land to the north comprises former gravel pits.

**2.0 Description of Proposal**

- 2.1 This application seeks to renew consent for a further 3 years for full bore pistol, small bore rifle and pistol calibre rifle range, for practice and shooting. These activities are permitted Monday-Sunday with air weapons shooting on a Sunday.

**3.0 Land Use Allocation**

- 3.1 Countryside Conservation Area  
Rowhedge Port Regeneration Area

**4.0 Relevant Planning History**

- 4.1 F/COL/00/1421 - Planning permission granted for shooting of air weapons on a Sunday - Temporary Approval - 20 October 2000

- 4.2 T/COL/01/1667 - Application to vary condition 01 of planning permission COL/93/0771 to allow continued use as full bore pistol and small bore competition and to vary condition 01 of planning permission F/COL/00/1421 to allow shooting on a Sunday between the hours of 10.00am to 13.00pm for the shooting of air rifles only, both to continue for a further 3 years - Temporary Approval 8 February 2002
- 4.3 T/COL/04/1935 - Application to vary condition 01 of planning permission T/COL/01/1667 to continue use as full bore pistol and small bore rifle and pistol calibre rifle shooting range for practice and competition and continued use of air weapons on Sundays between the hours of 10.00am and 13.00hrs for a further period of 3 years. - Temporary approval 13 December 2004

Note: The Shooting Club has operated with a temporary planning permission since the 1970s renewed every few years.

## 5.0 Principal Policies

- 5.1 Adopted Review Colchester Local Plan:  
 DC1- Development Control considerations  
 CE1 - The Open and Undeveloped Countryside  
 CE8 - Rowhedge Port Regeneration Area  
 CO1- Rural resources  
 CO3 - Countryside Conservation Area  
 P1 - Pollution

## 6.0 Consultations

- 6.1 Environmental Control comments:

"We have not received any complaints since the last permission was granted and therefore have no further comments on the understanding that Sunday operation continues to be restricted to air guns only between the hours of 10:00 and 13:00."

- 6.2 Health and Safety Executive (HSE) comment:

"This file note is produced by PADHI+ for Colchester Borough Council Land Use Planning Consultation with Health and Safety Executive [Town and Country Planning (General Development Procedure) Order 1995 (as amended), or Town and Country Planning (General Development Procedure) (Scotland) Order 1992 (as amended)]

This file note refers to the proposed development Continued use of land for shooting club at East Donyland Shooting Club, South of High Street, Rowhedge, CO5 7ET, input into PADHI+ on 25 Jan 2008 consultation input by Colchester Borough Council. The Health and Safety Executive (HSE) is a statutory consultee for certain developments within the Consultation Distance of Major Hazard Sites/ pipelines. This consultation, which is for such a development and also within at least one Consultation Distance, has been considered using PADHI+, HSE's planning advice software tool, based on the details input by Colchester Borough Council. The assessment indicates that the risk of harm to people at the proposed development is such that **HSE's advice is that there are sufficient reasons, on safety grounds, for advising against the granting of planning permission in this case.**

Major hazard sites/pipelines are subject to the requirements of the Health and Safety at Work etc. Act 1974, which specifically includes provisions for the protection of the public. However, the possibility remains that a major accident could occur at an installation and that this could have serious consequences for people in the vicinity.

Although the likelihood of a major accident occurring is small, it is felt prudent for planning purposes to consider the risks to people in the vicinity of the hazardous installation. Where hazardous substances consent has been granted (by the Hazardous Substances Authority), then the maximum quantity of hazardous substance that is permitted to be on site is used as the basis of HSE's assessment.

If you decide to refuse planning permission on grounds of safety, HSE will provide the necessary support in the event of an appeal.

If, nevertheless, you are minded to grant permission, your attention is drawn to paragraph A5 of the National Assembly for Wales Circular 20/01, or paragraph A5 of the DETR Circular 04/2000. These state that:

"... Where a local planning or hazardous substances authority is minded to grant planning permission or hazardous substances consent against HSE's advice, it should give HSE advance notice of that intention, and allow 21 days from that notice for HSE to give further consideration to the matter. During that period, HSE will consider whether or not to request the [Assembly / \*Secretary of State for the Environment, Transport and the Regions] to call-in the application for [its / his] own determination" (\* Now 'Office of the Deputy Prime Minister' in England). For HSE to give further consideration, the Planning Authority needs to provide HSE with the full consultation details.

As the proposed development is also within the Safeguarding Zone of a licensed explosive site, the details of the consultation must be sent to H.M. Explosives Inspectorate, HSE, for their consideration. **They will send a separate response (possibly with different advice) direct to you.**

This advice is produced on behalf of the Head of the Hazardous Installations Directorate, HSE."

*Officer comment: On the previous application, T/COL/04/1935, the HSE had "no comments to make". The HSE has now changed the way it comments on application and now produces an automated response to information the council inputs into their web site with no independent thought in the response.*

### 6.3 H.M Explosives Inspectorate, HSE comment:

"The Explosives Inspectorate, having considered carefully the type and location of the proposed development, has no objection to it proceeding."

## 7.0 Parish Council's Views

### 7.1 East Donyland Parish Council comment:

"At the Parish Council meeting held on the 8th November 2007 it was recorded that there were no objections to this application."

## 7.2 Fingringhoe Parish Council comment:

"at the last parish council meeting a complaint was received regarding this application. The sound of shots being fired from the range in Rowhedge can be heard quite clearly by residents in Ferry Road, Fingringhoe on the other side of the valley. Residents have asked that the Club take measures to install sound proofing banks to reduce the noise disturbance caused to residents in the area. The sound of shots is a nuisance to residents enjoying their gardens on Sundays during the summer months."

*Officer comment: The club is restricted to firing only air rifles on Sundays so noise from shots should not be audible from the club.*

Essex Police note the contents of our consultation letter.

## 8.0 Representations

8.1 1 letter of support has been received in support of the application, written by a resident of Rowhedge who is not associated with the gun club, who offers continued support for the club stating that they have experienced no problems or noise nuisance. The gun club is described as a responsible organisation which makes good use of a derelict area.

8.2 1 letter of objection has been received indicating at times the noise from the gun club is hugely disruptive to our enjoyment, and general peace and quiet. Further that they do not believe that guns should be used on the Sabbath day.

*Officer comment: Shooting on the Sabbath day is limited to air weapons.*

## 9.0 Report

9.1 East Donyland Shooting Club has operated from the site since the mid-seventies and has sought regular renewals of the planning consents. Environmental Control have not received any complaints since the last permission was granted and therefore have no further comments on the understanding that Sunday operation continues to be restricted to air guns only between the hours of 10:00 and 13:00.

9.2 The concerns of Fingringhoe Parish Council, expressed following a complaint, and the 1 letter of objection are noted, as are the lack of complaints to the Councils Environmental Control Section. In view of the length of time the club has been in operation combined with the lack of complaints, while the concerns expressed are note, they are not considered sufficient to justify withholding a further temporary planning permission subject to controlling conditions.

9.3 The HSE currently advise against the renewal of the temporary consent while on previous renewal application they had no comments to make. The situation on the ground has not changed since the last renewal of permission and officers can see no reason to withhold a further temporary permission.

### S106 Matters

9.4 The proposal does not generate any requirement for a S106 Agreement.

## **10.0 Conclusion**

10.1 In conclusion, it is considered that the renewal of a further temporary consent would be appropriate at present, given that the site is located within Rowhedge Port Redevelopment Area.

## **11.0 Background Papers**

11.1 ARC; HH; HSE; PTC; NLR

### **Recommendation**

Members are requested to delegate the application to the Head of Planning, Protection and Licensing, to grant temporary permission for a further period of three years, following the expiry of the 21 day call-in period once officers have written to the HSE to give notice that the Council is minded to grant a further temporary permission.

### **Conditions**

1 - Non-Standard Condition

The permission granted is limited to a period terminating on the date 3 years from the date of this permission and the use hereby permitted shall be discontinued and the land reinstated to a tidy condition on or before the expiration of the period specified in the permission.

Reason: The Council consider the development is unsuitable to be permanently established in this locality.

2 - Non-Standard Condition

This consent is subject to all the conditions on Planning Permission F/COL/00/1421 dated 20 October 2000 and COL/93/0771 dated 18 November 1993.

Reason: To avoid doubt as to the scope of the consent hereby granted.

3 - Non-Standard Condition

Public footpath No. 24 (East Donyland) shall be maintained safe, free and unobstructed at all times

Reason: To ensure that the public have access over the public footpath at all times.



**Application No:** 072723

**Location:** Motor Hoods (Colchester) Ltd, 6 Grange Farm Road, Colchester, CO2 8JW

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

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**7.13 Case Officer: John More****OTHER****Site:** 6 Grange Farm Road, Colchester, CO2 8JW**Application No:** 072723**Date Received:** 9th November 2007**Applicant:** C R Wettasingne**Development:** Change of use from industrial unit to garage and minicab booking and dispatch office.**Ward:** Harbour**Summary of Recommendation:** Conditional Approval**1.0 Site Description**

1.1 The site is located midway along the row of units on Grange Farm Road and is adjoined to both sides by other business units, to the rear is the Grange Farm residential park. Parking is provided to the front of the units on the concrete hardstanding.

**2.0 Proposal**

2.1 The application proposes the change of use of Unit 6 from Motorhoods offices and garage (B2) to Taxi booking and dispatch office and garage (sui generis). The proposed hours of working would be 24hrs a day, 7 days a week. The applicant states that currently there are 2 parking spaces at the site and they propose to raise this to 6 - 9. Cycle parking up to 5 spaces as existing.

2.2 The applicant states:

"Staff would normally arrive by staff taxi, public transport or car, and there are adequate parking facilities. Drivers are self employed and take their cars home on conclusion of their shifts. All cars are equipped with P.D.A (mini computers) and jobs are dispatched to drivers via these P.D.A's.

The P.D.A provides route finders, fares, specialized taxi programme allows drivers to wait around town for jobs (driver is automatically allocated to nearest job). This programme discourages drivers from returning to the office base."

2.3 Following requests for additional information the applicant has submitted the following:

- "1) Regarding "proposed 7 new parking spaces", it should be 6 existing parking with proposed 3 new space, The waste land will be cleared to create the 3 new parking spaces. It will be the same as next door, Unit 7, the tyre garage that is identical size. Not forgetting that the inside of the building will house 5 more cars. At present I have 2 parking spaces at the office and drivers stay out to get the job nearest to them. We are on PDA's, which informs my staff, via satellite, the precise point that they are at. This encourages the driver to stay out.
- 2) No of drivers on the books are around 35+ full & part time drivers.
- 3) Total of 4 staff on site.
- 4) Drivers visit office to pay in on Monday & Tuesday to settle accounts. This is daytime & from 19.30 to 21.30hrs normally. Most of my drivers have flasks and their favourite stops, even home. At present the day drivers only visit the office once or twice per week. The night drivers visit the office far more as the road is clear and they have a chat.
- 5) The garage will open normal times but the mini cab office is 24 hours."

### **3.0 Land Use Allocation**

3.1 Employment Zone

### **4.0 Relevant Planning History**

4.1 Original permission was for light industrial units.

### **5.0 Principal Policies**

5.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations  
EMP1 - Employment Zones  
P1 - Pollution

### **6.0 Consultations**

6.1 The Highway Authority does not wish to object to the proposal as submitted.

6.2 Environmental Control makes the following comments:

"Due to the close proximity of residential properties and the likely complaints generated by a 24 hour operation I would recommend the same conditions as SR114076. Far from being located away from residential properties the building is actually only 4.5meters from the nearest noise sensitive property.

#### **NOISE AND SOUND INSULATION**

##### **Site Boundary Noise Levels**

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

assessment shall be provided in writing to the local planning authority prior to the use hereby permitted commencing. All subsequent conditions shall comply with this standard.

**INFORMATIVE:**

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

**Sound Insulation: Any Building**

The use hereby approved shall not commence until the building has been modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and approved in writing by the local planning authority. This shall comply with the initial noise condition.

**Sound Insulation of external Plant, Equipment and Machinery**

Any plant, equipment or machinery on the premises shall be constructed, installed, and maintained so as to comply with the initial noise condition. The noise generated by such equipment shall not have any noise frequency component that exceeds more than 5dB above the background frequency levels as measured at all boundaries near to noise-sensitive premises.

**Restriction of hours of use (garage operations)**

The use hereby permitted shall not operate/ be open to customers outside of the following times 08.00 18.00.

**AIR QUALITY**

**Industrial Processes**

The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme devised by a competent person for the control of fumes, odours, dust, smell. Such control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

**INFORMATIVE:**

A competent person is defined as someone who holds an appropriate qualification and/or can demonstrate relevant experience.

**LIGHT POLLUTION**

No development shall take place until a scheme for the control of light pollution has been submitted to and approved in writing by the local planning authority. The scheme shall be devised by a competent person and fully comply with the Code of Practice for the Reduction of Light Pollution issued by the Institution of Lighting Engineers, the DETR document "Lighting in the Countryside: Towards Good Practice" and all current official guidance. Such light pollution control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

**REASONS:** In order to safeguard the amenity of neighbouring residential properties by controlling the undesirable, disruptive and disturbing effects of light pollution.

**NOTE** The following condition exists in Section C of the Standard Manual Limit to Duration of Time Signs may be Illuminated

The sign hereby approved shall only be illuminated when the premises are open for business.

**REASON:** To ensure a satisfactory visual appearance within the street and that the sign is not unnecessarily obtrusive.

## DRAINAGE

### Oil Interceptor Required

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

## 7.0 Representations

7.1 5 letters of objection has been received summarised thus:

- There is a restrictive covenant which prevents use of the unit for the business of motor repairs, exact wording " not to carry on at the property the trade or business of motor repairs or motor trade repairs;
- Shortage of parking;
- Application states that the unit is visited by 20 – 35 vehicles per day; I would suggest the number is closer to 3 – 4 vehicles;
- Would increase traffic;
- Unit 6 only has two parking spaces;
- How will they create the extra parking spaces;
- Motorhoods was an upholstery business with most of the work carried out off site;
- Use would create noise, smell, dust, fumes and vibration;
- 1 letter makes reference to a previous planning permission, quoting conditions, however the permission quoted is not for this unit and was determined in 1980.
- Land where new spaces are to be created is Council land;

*Officer note: Land ownership issues including private property rights, boundary or access dispute, restrictive covenants and rights of way are not material planning considerations and cannot be taken into account when reaching a planning decision.*

## 8.0 Report

- 8.1 The site is located in an employment area where Local Plan policy EMP1 (a and b) indicates that "Business (B1), general industrial (B2), storage and distribution (B8); Display, repair and sale of vehicles and vehicle parts, including cars, boats and caravans" will be considered appropriate. While the Taxi booking and dispatch office, and garage is a sui generis use due to the taxi involvement, the repair of motor vehicles and office uses are both uses which accord with the policy.
- 8.2 In the past, the use of these units has been limited to light industry due to the close proximity of the dwellings in the Grange Farm Residential Park. Environmental Control notes the proximity of these residential units, however, rather than objecting to the application considers that controlling conditions can be worded to prevent harm to the amenities of these residents. Subject to the wording of appropriate controlling conditions it is not considered the proposal would harm the amenity of residents of the neighbouring Grange Farm residential park.

8.3 The applicant was asked to confirm the parking provision following the letters of objection. He confirms the forms should read 6 existing spaces with 3 proposed new spaces. The parking standards set a maximum of 1 space per 30m<sup>2</sup> for B1 uses and 1 space per 50m<sup>2</sup> for B2 uses. The unit has a ground floor area of 143m<sup>2</sup> comprising a reception and work area with stairs leading to the first floor offices measuring 33m<sup>2</sup>. This would equate to a maximum requirement of 4 spaces in this case. However, in view of the taxi booking office and garage use proposed it is considered that additional spaces would be essential. In the supporting information the applicant states that the "taxi drivers are self employed and take their cars home on conclusion of their shifts. All cars are equipped with P.D.A (mini computers) and jobs are dispatched to drivers via these P.D.A's. The P.D.A provides route finders, fares, specialized taxi programme allows drivers to wait around town for jobs (driver is automatically allocated to nearest job). This programme discourages drivers from returning to the office base." While the concerns of the objectors are acknowledged, subject to the provision of 9 spaces as suggested it is not considered the Council could object to the proposal on parking grounds.

## **9.0 Conclusion**

9.1 In conclusion, while the concerns of the objectors are acknowledged, for the above reasons, the application is considered acceptable and is thus recommended for approval subject to the conditions listed below.

## **10.0 Background Papers**

10.1 ARC; HA; 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 premises shall be used for a taxi booking office and motor vehicle repair garage only and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

Reason: For the avoidance of doubt as to the scope of the permission and to protect the amenities of nearby residents.

3 - Non-Standard Condition

The use hereby permitted shall not commence until not less than 9 car parking spaces have been clearly marked out and made available for use for use by the taxi booking office and motor vehicle repair garage. That area shall not thereafter be used for any purpose other than the parking of vehicles in connection with the unit.

Reason: To ensure adequate parking provision so the development does not prejudice the free flow of traffic or the general safety along the adjacent highway or obstruct access to neighbouring business units.

#### 4 - Non-Standard Condition

The site shall not be used as a taxi rank or waiting room for the pickup of taxi customers.

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

#### 5 - Non-Standard Condition

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

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

#### 6 - Non-Standard Condition

The use hereby approved shall not commence until the building has been modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and approved in writing by the local planning authority. This shall comply with the initial noise condition, No. 5 above.

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

#### 7 - Non-Standard Condition

Any plant, equipment or machinery on the premises shall be constructed, installed, and maintained so as to comply with the initial noise condition. The noise generated by such equipment shall not have any noise frequency component that exceeds more than 5dB above the background frequency levels as measured at all boundaries near to noise-sensitive premises.

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

#### 8 - Non-Standard Condition

The motor vehicle repair garage use hereby permitted shall not operate or be open to customers outside of the following times, nor shall any machinery be operated, no process shall be carried out and no deliveries taken at, or despatched from the site outside the following times 08.00hrs to 18.00hrs

Reason: The use of the site outside these hours would be likely to cause loss of amenity and disturbance to nearby residents.

#### 9 - Non-Standard Condition

The use hereby permitted shall not commence until there has been submitted to and approved in writing by the local planning authority a scheme devised by a competent person for the control of fumes, odours, dust, smell. Such control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

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

#### 10 - Non-Standard Condition

No development shall take place until a scheme for the control of light pollution has been submitted to and approved in writing by the local planning authority. The scheme shall be devised by a competent person and fully comply with the Code of Practice for the Reduction of Light Pollution issued by the Institution of Lighting Engineers, the DETR document "Lighting in the Countryside: Towards Good Practice" and all current official guidance. Such light pollution control measures as shall have been approved shall be installed prior to use hereby permitted commencing and thereafter be retained and maintained to the agreed specification and working order.

Reason: In order to safeguard the amenity of neighbouring residential properties by controlling the undesirable, disruptive and disturbing effects of light pollution.

#### 11 - Non-Standard Condition

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

Reason: To prevent pollution of the water environment.

### **Informatives**

#### Non-Standard Informative

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



**Application No:** 072125

**Location:** St Albrights, 1 London Road, Stanway, Colchester, CO3 0NS

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

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# Planning Committee

Item  
**8**

29 May 2008

<b>Report of</b>	<b>Head of Planning, Protection and Licensing</b>	<b>Author</b>	<b>Mark Russell</b>
			<b>01206 506941</b>
<b>Title</b>	<b>Conversion of existing building (B1 office)with additional new build to provide 85 no.C3 residential units – 1 London Road, Stanway</b>		
<b>Wards affected</b>	<b>Stanway</b>		

**Planning application 072125.  
Proposed residential development – clarification of legal  
Agreement**

## 1. Decision(s) Required

- 1.1 Members are asked to note and endorse a clarification to the original proposed wording of the legal agreement relating to this development.

## 2. Supporting Information.

- 2.1 The need for this clarification has arisen because of the wording of the recommendation to Committee in February 2008, which read as follows:

“The application be delegated to the Head of Planning, Protection and Licensing for approval subject to a Section 106 Agreement for the provision of affordable housing to the equivalent of £560,000, and works to the Highway which will be subject to a separate Section 38 Agreement, and the following conditions:....”

- 2.2 This recommendation failed to relay the full wish of Development Team, of 8<sup>th</sup> February 2008, which was as follows:

“Decision made to provide Affordable Housing and 11 new build units required. This will result in £25,000 from each new build which totals £275,000 which can also be used to provide additional affordable units. 20% of the total amount of affordable housing provided can be in refurbished units as shared ownership. Overall Affordable Housing provision to be agreed.”

- 2.3 The applicant’s agent was made aware of this at the time via email.

- 2.4 The applicant has now stated: “Further to our recent preliminary discussions with RSLs in respect of the above, I have been contacted by John Iles (one of the applicants’ representatives), who raises a particular issue which we didn’t see. If we allocate 10 or more units for affordable housing as a way of contributing the specified £560,000 affordable housing contribution, the developer also loses the profit element on 10 new build units which further damages the scheme’s overall viability. In other words, whilst the financial appraisal indicated that the scheme could afford a lump sum of £560,000 in terms of a contribution, it did not indicate it could accept £560,000 **plus** the lost profit element on say 10 units (the affordable housing units). This dilemma didn’t show up on the previous appraisal because it was predicated on **no** affordable housing and full education, leisure and highways contributions, i.e. these were **discrete** contributions.

The picture is somewhat muddled by the outstanding overage payment issue with ECC and the client does support your view that any contribution should benefit CBC, the site and the immediate area, not ECC's general coffers. Consequently, whilst there is a further impact on financial viability, John has suggested we stick with providing CBC with 10 new units, although these would have to be in the form of 2 No three bed units and the new block of 8 flats to balance the consequent loss of revenue generation."

- 2.5 The applicant is thus claiming that reallocating the monies recovered from not having to pay the overage to Essex County Council, would render the scheme unviable, and that the initial recommendation of £560,000 worth of affordable housing is more realistic.
- 2.6 In discussion this proposal with the Housing Development Officer at Housing and Environmental Policy, he responded as follows:

"I am dismayed at this recent development as I assumed the developer had previously demonstrated through open book scrutiny that there was only £560k in total left in the pot for s106 contributions after taking out a reasonable level of profit and which was illustrated by their own figures. For them to assume that the £560k would not be spent on affordable housing was extremely naive, especially as you (the Planning Officer) had informed them of the Development Team and Planning Committee decisions some time ago and CBC have advised them from day one that we would require a s106 contribution of this nature.

AG (the agent) refers to a lump sum contribution of £560k implying this is different to the provision of affordable homes but a lump sum contribution was never agreed and I believe the developer is mistaking their own preferred outcome for the reality. The £560k was always to be a s106 contribution pot and at no time was any mention made by the developer or anyone else of excluding affordable housing provision from benefiting from this contribution.

The developers sudden proposal to provide 8 flats and 2x3 bed houses as an affordable contribution is totally unacceptable (and the developer will have known this when they made it) and would take up only a portion of the £560k pot. In my opinion the council should 'stick to its guns' and insist the full amount is to be spent on affordable rented housing and that the tranches of £25k released by the provision of each new affordable home is also recycled to provide additional affordable rented units and so on. I am pleased to note that the developer at least seems to support this recycling in principle.

I have little sympathy for the developer who has paid too much for the site, allowed themselves to be squeezed for a large 'overage' payment, produced a set of figures to minimise any s106 contribution for CBC only then to retrospectively point out apparent errors in their assumptions and expect CBC to continue to financially accommodate their naivety. Additionally, in over eighteen months of progressing this development the developer has constantly been advised by CBC to discuss the affordable housing provision with me, that I could assist them to produce a satisfactory scheme proposal that CBC would find acceptable and liaise with one of our RSL partners to assist them. At no time has the developer attempted to take advantage of these offers and now discloses that it was predicated there would be no affordable housing provided at all.

The current complex mess that this scheme is in is entirely of their own making. They have ignored our offers to assist, our adopted SPG and policy H4, they appear to have done everything possible to avoid an appropriate affordable housing contribution and still continue to do so. For these reasons I can see no reason to let them 'off the hook' and would be disappointed if the council decided to further indulge the developer in their efforts."

2.7 It is, therefore, apparent that a relaxation of the wishes of Development Team would not be acceptable to the Housing Development Officer, and that the wish of Development Team, as described above in paragraph 2.2, should prevail.

### **3. Financial implications**

3.1 There are no additional financial implications for this Council directly arising from this report.

### **4. Strategic Plan References.**

4.1 The provision of affordable homes in the Borough is an important corporate objective of the Strategic Plan.

### **5.0 Publicity Considerations**

5.1 None

### **6. Human Rights Implications**

6.1 None

### **7. Community Safety Implications**

7.1 None

### **8.0 Health and Safety Implications**

8.0 None

### **9. Risk Management Implications**

9.1 None

### **10. Consultation**

10.1 None.

### **Background Papers**

072125



29 May 2008

<b>Report of</b>	<b>Head of Planning, Protection and Licensing</b>	<b>Author</b>	<b>Sarah Hayes</b> ☎ 01206 282445
<b>Title</b>	<b>Land at 25 Straight Road, Boxted</b>		
<b>Wards affected</b>	<b>Fordham &amp; Stour</b>		

**This report requests authorisation to take enforcement action in respect of the unauthorised use of land for the storage of plant, machinery and building materials, including a mobile home, shipping, and other container**

## **1.0 Introduction**

- 1.1 This report was withdrawn from the Planning Committee of 15 May 2008 by the Head of Planning, Protection and Licensing to allow further notifications to be carried out

## **2.0 Decision Required**

- 2.1 Members are requested to confirm their decision, previously made in October 2007, that an enforcement notice should be issued. The notice would require that the storage use should cease and that all building materials, plant, shipping containers and van bodies, reclaimed materials and soil bunds are removed from the site.

## **3.0 Reasons for Decision**

- 3.1 The land being used for storage is outside the residential curtilage of 25 Straight Road, Boxted and benefits from no permitted development rights. It lies within Boxted Straight Road Special Policy Area and the storage use is having a harmful visual impact on the open countryside.

## **4.0 Alternative Options**

- 4.1 Members could choose to take no action. After a period of ten years, which could be as soon as Summer 2010, this would result in the use becoming lawful and no action could then be taken.

## **5.0 Supporting Information**

- 5.1 Members previously authorised enforcement action in October 2007. However, when the notice was being drafted, it became apparent that further information should be gathered. During this period, the owner was advised to clear the site as enforcement action had been authorised. At the time this report was drafted, the land had not been cleared.
- 5.2 A complaint was received on February 2006 that earth moving was taking place and large diggers and containers were on site at the rear of 25 Straight Road, Boxted. Observations of the site showed an earth bund had been created, and earth moving equipment, a caravan and shipping container were on the land.

- 5.3 During 2006 more building materials were brought to the site, the bund increased in size and a number of commercial vehicles and plant were being parked.
- 5.4 On 22 November 2006 a letter was sent to the owner explaining that this use of the land was unauthorised. The owner was advised that the the use was not acceptable but an application to continue this use could be submitted if they wished. No application for this use was received within the timescale given and the use of the land continued.
- 5.5 In March 2007 a site visit was carried out to assess the level of the storage use and establish the position of the residential curtilage. By this time, substantial bunds had been formed screening parts of the site. A mobile home, a shipping container and other container were stationed on the land and various piles of building materials were being stored. Vehicles were also present on site. It was clear that the part of the site being used for this storage use lay outside the residential curtilage of either 25 or 26 Straight Road.
- 5.6 A Planning Contravention Notice was served in May 2007. Information given in the response to the PCN indicated that the owner was a builder, who had the use of a builders yard in Alresford and that the storage use in Straight Road had commenced in Summer 2000. The owner also provided details a person who had knowledge of how the site had been used prior to 2000. However despite two letters being sent to this person asking for information, there had been no response.
- 5.7 Aerial photographs from 1992 and 2000 show a mainly clear site with some shrub cover although there is a building on the land which is the subject of this report. This building remains on the land and is immune from enforcement action due to the length of time it has been on site. In contrast to these photographs, the aerial photograph from 2006 shows that a storage use is in operation, which there is no evidence of in the earlier photographs.
- 5.8 It is clear from the evidence of the aerial photographs that there has been a material change of use of land. Planning permission has not been sought and no permitted development rights exist for this use, which is contrary to policies contained in the Borough Plan. It is therefore considered expedient to take enforcement action to require the removal of all unauthorised items from the land.

## **6.0 Proposals**

- 6.1 That an enforcement notice is authorised requiring the storage use to cease. All plant, machinery and materials to be removed from the land and the bunds to be levelled.
- 6.2 The owner has stated, in his response to the PCN, that he has access to a builders yard in Tendring, suitable for the storage of the unauthorised items. Two months is therefore considered a reasonable period for compliance.

## **7.0 Standard References**

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

## **8.0 Human Rights**

8.1 In the consideration of the action's impact on Human Rights, particularly, but not exclusively, to:

Article 8 - The right to respect for private and family life,  
Article 1 of The First Protocol (Protection of Property) - The right to peaceful enjoyment of possessions, it is considered that:

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

**Background Papers** - none



## Site Location Plan

MAP NOT TO SCALE

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Complaint Reference: 155721

Site Location Address: 42 Peppers Lane, Boxted, Colchester, CO4 5HL

Date Produced: 30 October 2008

29 May 2008

<b>Report of</b>	<b>Head of Planning, Protection and Licensing</b>	<b>Author</b>	<b>Jo Lloyd</b> ☎ 01206 282448
<b>Title</b>	<b>42 Peppers Lane, Off Straight Road, Boxted</b>		
<b>Wards affected</b>	<b>Fordham &amp; Stour</b>		

**This report concerns the unauthorised change of use of agricultural land to builders and reclamation yard and the unauthorised change of use of agricultural land to domestic curtilage and seeks authorisation to serve an Enforcement Notice.**

## 1. Decision(s) Required

- 1.1 Members are requested to consider the information contained in this report and to authorise that an Enforcement Notice be issued to ensure the removal of all building and reclaimed materials from the agricultural land, the removal of all domestic paraphernalia from the agricultural land and the removal of all associated development including hardstanding, bund, the garden building and mobile home.

## 2. Reasons for Decision(s)

- 2.1 The land surrounding 42 Peppers Lane is open countryside and part of the Boxted Straight Road Special Policy Area and it is the Officers opinion that the current unauthorised use for storage reclaimed building materials and the extension of domestic curtilage is harmful to the open countryside and are contrary to Borough Plan Policies CO2, CO1, H12 and Emp6

## 3. Alternative Options

- 3.1 Members could choose not to pursue enforcement action, however, this would result in the establishment of an unacceptable use of agricultural land in the open countryside.

## 4. Supporting Information

- 4.1 A complaint was received in January 2006 regarding the appearance of reclaimed building materials on a field in front of 42 Peppers Lane, Straight Road, Boxted. The owner of the land was known to own a reclamation business based in the Hythe.
- 4.2 A prearranged visit to the site took place in April 2006 and the situation was discussed with the owner. He was of the opinion that the area in front of his property had been used for many years for the storage of materials. It was suggested that he should submit a Certificate of Lawfulness with the evidence he had of this use. Late in 2006 a Certificate of Lawfulness was submitted but it was returned as it was not complete and did not contain a fee.

- 4.3 Following a number of letters regarding the resubmission of the Certificate of Lawfulness and considerable prevarication on the part of the land owner a further site visit was carried out by two Officers in March 2007. During this visit it was noted that a large stables building had been erected within 20 metres of the highway which required but did not benefit from planning permission. Application forms were sent to the owner for a retrospective application for the stable building, at this point the owner appointed a Planning Consultant to act on his behalf.
- 4.4 Following further investigations involving aerial photographs it became apparent that further breaches of planning law had occurred since the first visit to the site. The curtilage to the north and west of the site had been extended and resulted in a change of use of agricultural land which did not benefit from planning permission. A small garden building has also been erected on this land.
- 4.5 Aerial photographs from 1992 and 2000 show a much reduced curtilage area and show the land to the south of the property in agricultural use. An aerial photograph from 2006 shows the extent to which the curtilage has been extended, the new stable block which exceeds the original curtilage boundary and the extent of the change of use of a significant portion of the agricultural field to the south.
- 4.6 An application for the stable block was submitted in 24<sup>th</sup> August 2007 and was approved conditionally on 16<sup>th</sup> October 2007.
- 4.7 In October 2007 a Certificate of Lawfulness was submitted for the land to the south of the property where the reclaimed materials are stored. The claimed established use was B8 (open storage). After consideration it was decided that insufficient evidence had been submitted with the Certificate to prove B8 use for an excess of 10 years and it was refused.
- 4.8 Discussions with the agent have continued with regard to the extent of the extension of curtilage and following another site visit the agent suggested that he submit an application for amenity land which would include the 'summerhouse' to the north. He also suggested that a Section 106 agreement be drawn up to ensure the removal of the reclaimed materials and the return of this land to agriculture, this was taken as an acceptance that there was no evidence which could be used to substantiated a claim of a previous storage use in a further Certificate of Lawfulness application.
- 4.9 Once consultation with the Legal Department had been carried out regarding the Section 106 Agreement the agent was approached in respect of the final details and at this point he stated that a planning application was ready to be submitted for a house on the land to the south of the property which currently has the unauthorised storage use. To date, no application for the extension of the curtilage has been submitted.
- 4.10 A residential development beyond the curtilage of a property in the open countryside is against planning policy and so is unlikely to gain permission, therefore, it is considered expedient to pursue enforcement action for the return of this land and the extended curtilage to agricultural use.

## **5.0 Proposals**

- 5.1 Members authorise the service of an Enforcement Notice requiring the cessation of the use for storage of building and reclaimed materials on the agricultural land, the removal of all domestic paraphernalia from the agricultural land and the removal of all associated development including hardstanding, bund, the garden building and mobile home and the restoration of the land to grass. A compliance period of 3 months is recommended.

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

### **Background Papers**

Plan of the land showing land in single ownership.

Aerial photograph 1992

Aerial photograph 2000

Aerial photograph 2006

Comparison of curtilage in 2000 and curtilage in 2006

# AMENDMENT SHEET

Planning Committee  
29 May 2008

## AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.5 072744 – 6 High Street, West Mersea

The Environment Agency has not yet responded formally to the FRA and may not be able to do so before the 29<sup>th</sup> May Committee. The recommendation should therefore be amended to read: Members are requested to delegate the application to the Head of Planning, Protection and Licensing, to approve the application subject to the resolution of flood risk issues to the satisfaction of the Environment Agency.

7.6 072831 – Area H, The Sergeants Mess, Abbey Field Urban Village, Le Cateau Road, Colchester

Additional paragraph to be inserted into Section 8 of the Committee report.

Landscape, Ecology and Amenity Space

8.18 There are a number of mature trees within the application site. Mature Beech, Lime and Horse Chestnut trees line the perimeter of the Sergeants Mess semi-circular garden. There is also a group of mature trees to the front of the Education Building and a line of mature trees along the south edge of Le Cateau Road. All existing mature trees that are in a sound condition are to be retained.

8.19 Area H has been subject to a Phase I Habitat and Ecological Survey and a specialist Bat and Reptile survey.

- 8.20 Three species of bat were found using this site; Noctule, Common Pipistrelle, and Brown Long eared Bat. No bats were found in the 'living' area or the loft space of the Sergeants Mess. There was evidence that bats were using a series of storage rooms below ground level to the rear of the Sergeants Mess. The Education Building was found to contain bats in the north east section of the roof space; no evidence was found of bats using the main living areas of this building. A high level of bat activity (foraging) was also recorded between the Sergeants Mess and the Education Building.
- 8.21 Natural England have considered these report and originally advised that this applications are deferred to enable further survey work to be undertaken. However, following further discussions with Natural England, they have verbally confirmed that additional survey work and the development of a mitigation strategy (which may include the modification of the internal layout) could be the subject of a planning condition. The applicant has confirmed in writing that they are willing to amend the scheme as currently proposed, if the mitigation strategy requires this.
- 8.22 No reptile activity was found on Area H and therefore do not constitute a potential constraint on the current development proposals.
- 8.23 The proposed townhouses are provided with a private courtyard style garden which range in size from approximately 40 m<sup>2</sup> to 160m<sup>2</sup>. In addition to the private garden areas, the residents will have access to the semi-circular garden to the front of the Sergeants Mess which is to form a private communal garden for the proposed development. The proposed apartments units in the Education Building are also provided with shared communal gardens which are located immediately adjacent to this building.
- 8.24 The application site also includes the public open space provision for Area H, which it located to the front to the Education Building. The Design Code states that proposed area of public is 3,615m<sup>2</sup> which equates to 16% of the total site area, which is in excess of the required 10% open space provision.

7.10 080760 – Sea View Avenue, West Mersea

West Mersea Town Council agreed to recommend consent

7.11 080793 – Woolwich house, 8 Culver Street West, Colchester

Condition **03** is hereby deleted, and the following informative is added:

“The proposed new shop-front shall be subject to a separate planning application, and the applicant is advised to liaise with Colchester Borough Council prior to submission of this application.”

7.13 072723 – 8 Grange Farm Road, Colchester

This application has been withdrawn by the applicant who no longer has an interest in the site.

**Agenda Item 8 – St Albrights, 1 London Road, Stanway**

Item withdrawn by the Head of Planning, Protection and Licensing for further clarification. To be brought back to Committee at a future date.

**Agenda Item 10 – 42 Peppers Lane, Off Straight Road, Boxted**

The agent for the owner of the site has requested that an offer he submitted for consideration in February is drawn to Members attention:

1. To submit and implement a landscaping scheme for the northern part of the area currently forming an extended garden with native deciduous trees and shrubs with an outer boundary defined by a thorn hedgerow to form a non-curtilage woodland feature surrounding the summerhouse. Access to this area to be confined to a pedestrian gate only within a new thorn hedgerow along the residual garden boundary.
2. A thorn hedgerow and landscaping scheme relating to the edge of the site up to the existing site entrance.

This offer was accompanied by the offer to submit a S106 to ensure the clearance of that the site which is currently used for storage – this is set out in Paragraphs’s 4.8 and 4.9 of the report. It was assumed, maybe incorrectly, that having decided not to pursue the S106 the agent was also not intending to pursue the matters relating to the curtilage land. It is now understood that these offers for the land which has been incorporated into the garden still stand

In addition the report states in Paragraph 4.10 that it is contrary to Policy H9 to permit a replacement dwelling on non curtilage land. Whilst this is not a Policy requirement in practise this is normally required in order to comply with the Policy requirements. It is likely that a replacement dwelling will have a greater visual impact and be more intrusive in the Countryside if it is not grouped with established buildings or in an existing curtilage. Siting outside of a defined curtilage has been used as a reason for refusal in other cases. In addition it is almost inevitable that there will be conflict with H12 if the replacement is on non garden land.

**The agent wishes to clarify that his clients propose:**

- **Enclosing of extended curtilage by hedges**
- **Creation of separate woodland feature (not a garden) in northern part of site.**

**Plants to be produced by qualified landscape architect. He therefore believes the "curtilage" matter should be excluded from tonight's agenda.**

***Officer Comment: If Notice is complied with and any breaches not included, i.e. the woodland area referred to above, this would become authorised by default.***

Our vision is for Colchester to develop as a prestigious regional centre

Our goal is to be a high performing Council

Our corporate objectives for 2006-2009 are:



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