

# Planning Committee

**Council Chamber, Town Hall  
6 November 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!

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### 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.

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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.

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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  
6 November 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 16 October 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.

- |   |                |
|---|----------------|
| <b>1. 081520 Church Road, Tiptree</b><br>(Tiptree)  | <b>10 - 14</b> |
| Installation of a combined heat and power (CHP) unit to provide a sustainable method of powering the store.   |                |
| <b>2. 081676 33A Church Road, Tiptree</b><br>(Tiptree)  | <b>15 - 18</b> |
| Variation of condition nos. 1 and 2 of planning permission 071202 to allow permanent consent and to change opening times to 9.00am - 11.30pm Mondays to Saturdays and 9.30am - 6.00pm Sundays and Bank/Public Holidays. |                |
| <b>3. 081732 33A Church Road, Tiptree</b><br>(Tiptree)  | <b>19 - 22</b> |
| Provision of new shopfront.   |                |
| <b>4. 081702 Land west of Fairfields, 74 Chitts Hill, Colchester</b><br>(Lexden)  | <b>23 - 28</b> |
| Construction of new domestic access drive (Resubmission of 081107).   |                |
| <b>5. 081727 Westview Cottage, Long Road West, Dedham</b><br>(Dedham and Langham)   | <b>29 - 35</b> |
| Demolition of existing house and outbuildings. Replace with 5 bedroom detached house and double garage.   |                |
| <b>6. 081729 Mersea Road, Colchester</b><br>(Berechurch)  | <b>36 - 38</b> |
| Removal and replacement of existing paving and construction of open timber structure.   |                |
| <b>7. 072956 East Street, Wivenhoe</b><br>(Wivenhoe Quay)   | <b>39 - 52</b> |

Two flats added to upper floor of single fish shop with remodelled shop front to Papas Fish Shop (Resubmission of 071034).

- 8. 081313 21 Church Street, Rowhedge 53 - 59**  
(East Donyland)

Proposed dwelling.

- 9. 081421 Adhere Industrial Tapes, Whitehall Road, 60 - 64**  
**Colchester**  
(Harbour)

Proposed new storage building.

- 10. 081643 118 Straight Road, Colchester 65 - 70**  
(Prettygate)

Change of use of existing bungalow to dental practice (2 no. consulting rooms).

- 11. 081691 105 Nayland Road, Colchester 71 - 74**  
(Mile End)

Retrospective change of use of the front part of building from retail (Class A1) use to office (Class B1) use and for its use in connection with the established use of the rear part of the building for workshop and storage purposes.

- 12. 081704 Joyclare, Boxted Road, Colchester 75 - 80**  
(Mile End)

Continued permanent use as occupational therapy annexe to St Pauls Hospital following temporary planning permission C/COL/07/0128.

- 13. 081483 61-63 Albion Street, Rowhedge 81 - 84**  
(East Donyland)

Proposed front entrance porch.

- 14. 081484 47 St Botolphs Street, Colchester 85 - 90**  
(Castle)

Change of use from vacant shop unit (formerly T/A Pete's Treats) A1 use to a restaurant A3 use.

- 8. Enforcement Action // Berryfields, Coggeshall Road, Dedham 91 - 94**

See report by the Head of Environmental and Protective Services

**9. Enforcement Action // 99D Winnock Road, Colchester**

**95 - 99**

See report by the Head of Environmental and Protective Services

**10. Exclusion of the Public**

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



**PLANNING COMMITTEE  
16 OCTOBER 2008**

*Present:-* Councillor Gamble\* (Chairman)  
Councillors Chapman\*, Chillingworth\*, Chuah\*, Cory\*,  
Elliott\*, Ford, Hall and Lewis.

*Substitute Members:-* Councillor P. Higgins for Councillor Offen  
Councillor Martin for Councillor Foster  
Councillor Sykes\* for Councillor Blandon.

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

**124. Minutes**

The minutes of the meeting held on 2 October 2008 were confirmed as a correct record.

**125. 081203 33-37 London Road, Marks Tey,**

The Committee considered an application for the demolition of an existing garage and light industrial buildings for the development of thirty-two residential properties, including three blocks of flats, bungalows and houses. The application is a resubmission of 080068. The Committee had before it a report in which all information was set out. The site comprised an overall area of 0.59 hectares.

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

Bradly Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

Councillor Blundell attended and, with the consent of the Chairman, addressed the Committee. Whilst the architects had worked to the development brief she was dissatisfied with the flatted blocks which she believed compared unfavourably with the medium density housing at The Rookeries and the low density of the houses opposite. The flatted element was completely angular in white bricks and its height was totally unsuitable. She requested that the height be reduced and gables added. This is a semi-rural village and she believed this scheme did not respond to the context of Marks Tey. Nearby development has acknowledged the Essex Design Guide with a mix of red and yellow stock bricks, more in keeping with established dwellings in the area. The density of the scheme clearly exceeded the guidelines; the number of frontage flats should be reduced by three. The report states that "frontage blocks do appear different from anything else in the vicinity, but it is inevitable that the character of this part of Marks Tey will change with further development". Change must be for the better and not for the worse, these are not attractive and the design material should be resubmitted to better fit into the area in which they are sited. She urged the Committee to refuse the application.

Some members of the Committee expressed concern at the height and design of the flatted element and its unsuitability for a semi-rural location; unfavourable comparisons were drawn with the nearby flats known as The Rookeries which were considered to be more in keeping with the area. There was some speculation about whether future development in the area would fit in with this development. However, the scheme had been designed in consultation with planning officers who considered that the design was good. Some members considered it to be an exciting project which included some 'green' elements such as a grey water system and solar heating and ventilation which was to be encouraged. Also the flats were split up into three smaller blocks. Members were also mindful that there was an appeal pending for an earlier scheme with a slightly higher density.

It was explained that the earlier scheme included a more extensive built form on the street frontage which enabled more units to be provided. This scheme differs from the earlier scheme in respect of the gaps between the blocks of flats on the frontage, the treatment of the units and the range of traditional materials which had been used in an innovative way to break up the design. This scheme is the result of negotiation with the applicants from the previous scheme which currently being appealed.

*RESOLVED* (MAJORITY voted FOR) that –

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

- affordable housing,
- a contribution towards Open Space, Sport and Recreational Facilities in accordance with the Council's Supplementary Planning Document,
- contributions towards education, highways and community facilities.

(b) Upon receipt of a satisfactory Section 106 legal agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report.

(c) Should the applicant not be prepared to enter into the Section 106 legal agreement, the Head of Environmental and Protective Services be authorised to refuse planning permission on the grounds of failure to enter into planning obligations that are appropriate to the scheme.

**126. 081527 Homagen, Chappel Road, Great Tey, CO6 1JW**

The Committee considered an application for the relocation of an existing timber framed bungalow and its conversion into a barn. 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.

**127. 081563 18 Sir Isaacs Walk, Colchester, CO1 1JL  
081564**

The Committee considered planning application 081563 for a change of use from A2, Shop, to A3, Restaurant and Cafe, together with a listed building application 081564 for the erection of a painted metal railing above an existing rear garden wall, the removal of an interior wall opposite the front entrance, the laying of a new patio in the rear garden, and the installation of new mechanical extract vent in the preparation area to replace existing air brick/vent. The

Committee had before it a report in which all information was set out, see also Amendment Sheet.

*RESOLVED* (UNANIMOUSLY) that –

In respect of planning application 081563,

(a) The application be approved with conditions and informatives as set out in the report and on the Amendment Sheet.

In respect of listed building application 081564,

(b) The application be approved with conditions and informatives as set out in the report.

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

**128. 081572 Westwood Home Farm, London Road, Great Horkesley, CO6 3SE**

The Committee considered an application for a change of use of redundant agricultural buildings to Class B1, Offices. The Committee had before it a report in which all information was set out.

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

**129. 081576 Highwoods Square, Colchester, CO4 9ED**

The Committee considered an application for the installation of a combined heat and power (CHP) unit to provide a sustainable method of powering the store. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

**130. 081591 Land adjacent to The Stream, Layer Road, Colchester, CO2 0HT**

The Committee considered a retrospective application to retain three temporary storage containers for a period of twelve months. The Committee had before it a report in which all information was set out. Also on this agenda was a report requesting authorisation from the Committee for enforcement action in the event that the Committee were minded to refuse this application.

David Whybrow, Development Manager, attended to assist the Committee in its deliberations.

Michael Wheeler addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He asked that the Committee treat this application on its own merits; it was not related to previous issues. His sale of the house was rapid so they have found rented accommodation and the three 20 foot containers were for his belongings whilst he looks for a permanent home; this was a transitional arrangement. He did not know that planning consent would be required for the containers. They were mostly concealed behind a 6' 6" panel fence with the exception of 18" which can be viewed from the

public footpath. He was willing to extend the height of the fence or to change the colour of the containers from dark blue to green. The Section 106 of a recent permission required three commercial units to be demolished and once the replacement offices were constructed the containers would be removed. Only one complaint has been lodged and this did not appear to be a serious objection. He considered the reaction was out of proportion to the situation. The containers attracted no traffic or nuisance and could not be seen.

Councillor Hazell attended and, with the consent of the Chairman, addressed the Committee. There did not appear to be any objection; the letter from a neighbour simply stating the fact that the containers had been placed. Mr Wheeler did not know the containers breached the law but as soon as he was aware he applied for permission. The containers were outside the area for the Section 106 agreement; they cause no danger, cannot be seen by anyone apart from the occasional walker and cause no environmental damage. The applicant was willing to paint the containers green or raise the fence and he only needed this facility for a few more months. She queried whether any complaints had been received by the Committee from dog walkers or ramblers.

Members of the Committee were aware that there was a sound policy that the Committee must abide by; if this application was allowed others could quote it as a precedent. However, there were personal circumstances to be taken into account. Members were clear that the applicant needed permission in order to store furniture in the containers but were also aware that this used to be a farm and if the applicant was using the containers to keep pigs or chickens he would not need planning permission.

It was confirmed that if the containers were for an agricultural use they would not need planning permission but the intended use did require planning permission. There was an environmental impact because the containers affected users of the footpath which was in an area of countryside. It was recognised that there were pertinent personal circumstances but there were many other ways to store personal belongings. In respect of enforcement action, should members wish it would be possible to extend the compliance period, but not for any longer that was necessary.

*RESOLVED* (MAJORITY voted FOR) that the application be refused for reasons set out in the report.

### **131. 081624      Coast Road, West Mersea, CO5 8PA**

The Committee considered a retrospective application for the retention of a galvanised bow top fence, under one metre high around three quarters of the perimeter of a car park belonging to West Mersea Oyster Bar. 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 More, Principal Planning Officer, attended to assist the Committee in its deliberations.

Michael Dawson, owner of the Oyster Bar, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The original fence was 30 cm wooden fence posts with rope between which was constantly being vandalised and was a danger to customers who were driving over the top of the fence and on to the road. Neighbouring children were stepping over the small fence and playing on boards. He was worried about health and safety implications. Dog walkers cut across the low fence

and misunderstood about keeping the area as it is. He understood the Conservation Area rules but put his customers' safety first. He erected the fence four to five months ago and all the problems have now stopped. The neighbour who lives opposite has no objection to it and walkers think it attractive and in keeping with the area. He would be willing to paint the fence any colour required.

Members of the Committee considered that the reasons for the fence being erected seemed logical and it had proved very effective. It would be possible to plant a hedge alongside to disguise it. Members had noticed other fences in the area which looked less stable, one such on the other side of the restaurant was about 2 metres high and was held in place by concrete blocks.

It was explained that a more appropriate fence might be something more in keeping such as timber posts and rope; a hedge would not be in keeping with the area. There was no problem with the height nor was there any objection to defining boundaries, however, the manner of definition was important in order to preserve the character of the area. An Article 4 direction had been put on the area because fencing was being erected. Unfortunately there were no controls which could be applied to temporary fencing not fixed to the ground.

*RESOLVED* (MAJORITY voted FOR) that the application be approved with a condition that the fence should be painted a colour to be agreed in writing with planning officers.

**132. 081630 Turkey Cock Lane, Eight Ash Green, CO3 5ND  
081634**

Consideration of these applications by the Committee was deferred by the Head of Environmental and Protective Services in order to obtain further legal opinion and to allow all parties the opportunity to comment on this opinion.

**Councillor Martin (in respect of his membership of the Council's Licensing Committee) took no part in the discussion or determination of the following item.**

**133. 081420 131 High Street, Colchester, CO1 1SP  
080830**

The Committee considered planning application 081420 and listed building application 080830 to remove a section of roof and to install a terrace as a smoking area for use by the public using the nightclub; the terrace to be within the existing boundary line. The Committee had before it a report in which all information was set out, see also the Amendment Sheet.

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

Dimitri Murray addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. His concerns were in connection with the building's listed status which should be regarded seriously; the apparent lack of a fire escape from the terrace; the likelihood of smoke wafting in the air in the middle of the summer; and the fact that Liquid Envy were already a major cause of disturbance to residents. He considered the scheme to be ill advised and would not work. He suggested that the permission be given for a limited period of 12 months and that someone should be positioned permanently on the terrace to stop noise and limit numbers of people using the terrace. He preferred smoking activity to take place at the front of the building as any noise was absorbed into the High Street.

Stuart Trett, architect, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. In respect of visual impact on the listed building, the only part of the building affected is the non-original metal roof and the original building is maintained. Neither English Heritage nor the Theatres Trust had raised any issues. The location of the terrace would only be visible from a high level and not from a residential location. In respect of noise impact, a great deal of discussion has taken place between consultants and Environmental Control; noise is an issue of measurement, testing and calculation and they considered that the proposal would not result in any sound nuisance. In respect of safety, consultation with the fire authority takes place as part of the licensing process and no issues or concerns have been raised. The terrace would have a fire exit. In summary the terrace would not be visible, would not harm the building, there would be no disturbance and there were no issues regarding safety.

Members of the Committee were primarily concerned about noise and safety. Noise and disturbance need to have been taken into account, particularly mentioned was any noise escaping from the doors giving access onto the terrace and the imposition of conditions to stop such noise leakage with a lobby between the terrace and nightclub. There were also concerns regarding the safety of the proposal, particularly mentioned were concerns that people using the terrace should not be able to climb over the roof and throw objects such as glasses or bottles from the terrace. Also of concern was that an excessive number of people should not be permitted on the terrace. It was suggested that the terrace could be supervised to ensure that the number of people is reasonable. There was also a view expressed that the current situation was unacceptable where smokers were out on the pavement and that owners were right in trying to contain smoking in the building. More information was sought on the construction of the terrace, whether it was open or enclosed and also whether drinking would be permitted on the terrace. There was a suggestion that ventilated mesh over the top of the terrace could be used to prevent objects being thrown.

It was explained that Environmental Control officers had worked with a noise technician to formulate a scheme which was acceptable and a condition has been included. The intended height of the surround to the terrace is 2.5 metres. The terrace cannot be enclosed as it would not then comply with the smoking legislation. A standard lighting condition could be added. There are three sets of doors which are separated by corridors and staircases. The report assumes that even if only one is closed the noise breakout is within acceptable limits which obviates the need for a lobby. One of the tests is that conditions should be enforceable and it may not be possible to have the terrace supervised at all times. Anything being thrown becomes a criminal matter but it would be possible to include an informative note about the Committee's views on this matter. The matter could be deferred for negotiation on the mesh enclosure of the terrace and if it was not possible to obtain the applicant's agreement the applications to would come back to the Committee.

**RESOLVED** (MAJORITY voted FOR) that in respect of Planning Application 081420 and Listed Building Application 080830 –

(a) Consideration of both applications be deferred for agreement by the applicant to the enclosure of the smoking area with mesh or netting to prevent people throwing objects over the glazed screen.

(b) Having secured the agreement of the applicant to enclose the smoking area, the Head of Environmental and Protective Services be authorised to grant permission in respect of planning application 081420 and listed building application 080830 with conditions and informatives as set out in the report together with an additional standard condition regarding

light pollution and an informative on the level of supervision and the number of smokers permitted on the terrace at any time to be added to the permission for 081420.

(c) If the enclosure of the smoking area cannot be secured both the applications to be resubmitted to the Committee at which time a copy of the licensing decision relating to Liquid/Envy to be circulated to members together with a copy of the report on noise.

**134. 081264 67 Collingwood Road, Colchester, CO3 9AY**

The Committee considered an application for a change of use from C3 Residential to D1 Non-residential Institution. The Committee had before it a report in which all information was set out which included responses to the additional information requested by the Committee at its meeting on 4 September 2008 and amended conditions.

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

Mr Middleton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He had two main concerns, fencing and noise. In respect of the 6ft fences for privacy, the occupant of no. 69 is adamant that all the other gardens have three 6ft panels and thereafter 4ft panels to the end of the garden. At the end of the garden there is a 6ft panel and gardens follow this pattern of fences. In respect of the boundary with no. 65, the property is rented and the landlord has chosen the fence which currently exists. He noted that three of the neighbours with the 4ft fences also have trampolines and he had observed seven children on different trampolines. He was not sure where the notion of privacy had come from in terms of a 6ft fence. Noise had not been raised as an issue by any of the neighbours. People who live in terraced houses accept there is going to be some noise. He believed that good neighbours should be able to talk about their concerns to resolve them.

Councillor Hardy attended and, with the consent of the Chairman, addressed the Committee. He had three concerns. Difficulties had arisen at another application site and he wanted to avoid a repetition. His first concern was the use of the term disability which was wide ranging and conveyed nothing about the client with that condition and he thought that the community deserved better information about such an enterprise coming into the community. His second concern was in respect of noise. Paragraph 10.1 of the officer's report responded to concerns about noise control and the information provided by Environmental Control which stated that they did not have standards for soundproofing a property and if they received complaints from neighbours they would not be able to serve abatement notices because the residents would be behaving in the only way they knew how. He was aware that there was evidence of noise from another similar application site. His third point was about the respite care required. The application was originally for a day care centre, then the emergency cover was included. Condition 5 now permits emergency provision for up to two people based on how you interpret respite care. He asked for the application to be deferred to consider these points.

Members of the Committee commented on the increase from one to two people for respite care and wished the application to remain as originally submitted for one person for respite care. The suggestion that the temporary permission be for two years was on the basis of giving the applicant time to recoup the outlay on soundproofing. Now that it appears that it is not possible to require soundproofing there is no necessity to extend the temporary period from one year. To return to a one year temporary permission would ensure that the use and neighbour amenity could be considered further if an application is submitted in the future. Also supported was the fencing to be as stated by the applicant in consultation with the planning officers. There was a query in respect of whether the personal permission would

allow the applicant to employ others to work for him or undertake the work in his absence on holiday. The request for a 6ft fence was to protect the privacy of the clients which had been mentioned by local residents. The request to return to the terms of the original application for a day care centre for five clients with respite care during evenings and weekends for one client was reiterated by other members of the Committee who were also content with the fence to start at 6ft from the house and then 4ft thereafter in keeping with the other rear gardens.

It was explained that most of the fencing in the area was the same, but any resident in the area could erect fencing up to 2metres in height. It is correct that the term disability does cover a very wide range and it would be very difficult to be more specific. Environmental Control had confirmed that there were no specific standards for soundproofing a property so any soundproofing requirement would not be enforceable. The word emergency had been removed from Condition 5 because it was a vague term whereas respite care was a generally accepted term. In response to a query about the sleeping arrangement for respite care clients, officers confirmed they did not have details of the layout but had presumed that clients would sleep in the bedrooms. Respite care would be from 5pm to 9pm in the evenings and throughout the weekend period.

It was explained that the style of fencing that prevailed in the area was three panels at 6ft high from the house and the remainder in 4ft panels. A condition could be imposed so that no clients would be permitted on site until the fencing was in place.

*RESOLVED* (MAJORITY voted FOR) that the application be approved as recommended but with variations to conditions as follows:-

- Standard condition for time limit,
- one year temporary consent,
- personal permission to the applicant,
- a maximum of five persons with learning disabilities,
- a maximum of one person with one supervisor for respite care outside the approved hours,
- prior to commencement of the development, fencing to be erected on site details of which to be agreed in writing with the Local Planning Authority prior to erection.

**Councillor Chapman (in respect of having worked in the licensing trade) declared his personal interest in the following item, which was also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10), and left the meeting during its consideration and determination.**

### **135. 081522 111 High Street, Colchester, CO1 1TB**

The Committee considered an application for a variation of Condition 3 attached to planning permission F/COL/00/0871 to allow opening of the premises for customers between the hours of 0900 and 0130, incorporating a 30 minute drinking up time, on Thursdays to Saturdays. The Committee had before it a report in which all information was set out, see also the Amendment Sheet.

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

Andy Lonergan addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He had done all he could to protect the environment in Swan Passage and keep it as clear as possible, sweeping up once or twice a week. He has brought in extra bins which were kept inside after 9pm and informed all staff not



to empty bins after 9pm. The bins were placed in the passageway and to reduce overflowing extra bins were brought in. He confirmed that he had taken all measures necessary to reduce noise.

Members of the Committee mentioned that there were two flats in Swan Court and the disturbance can be considerable at night. It was very difficult to complain to Environmental Health because complainants had to be sure of what they were reporting. They were pleased to hear the manager confirm that he would care for the area and there would be no disturbance. In response to a request that the doors remain closed, it was suggested that an informative only be added as this may be something covered by other legislation.

It was explained that there was no knowledge of any current public nuisance in this area.

*RESOLVED* (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report, together with an additional informative regarding the rear doors to be kept closed so far as is practicable to avoid undue noise outbreak.

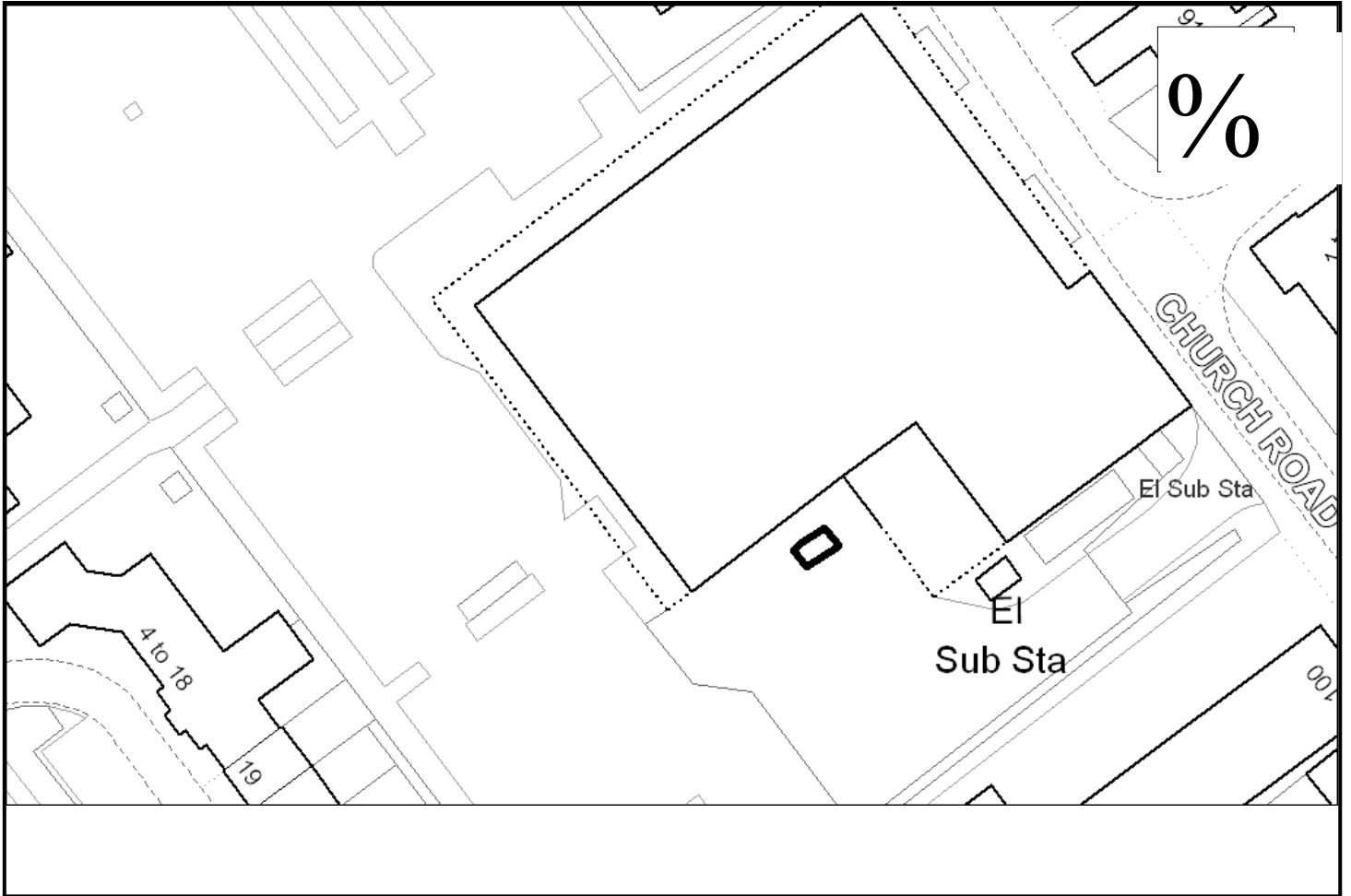
**136. Enforcement Action** // Land adjacent to The Stream, Layer Road, Colchester, CO2 0HT

The Head of Environmental and Protective Services submitted a report seeking authorisation to take enforcement action for the removal of three unauthorised storage containers on land adjacent to The Stream, Layer Road, Colchester with a period of compliance of 28 days. Also on this agenda was a retrospective application for 12 months temporary permission to retain the storage containers. Immediately prior to consideration of the request for enforcement action the Committee had refused the application for temporary permission to retain the three containers for a period of 12 months.

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

Members of the Committee were minded to authorise enforcement action with a compliance period of 6 months to assist the applicant until he had purchased a permanent home.

*RESOLVED* (SEVEN votes FOR and SIX votes AGAINST, the Chairman having exercised his casting vote FOR) that enforcement action to remove three storage containers on land adjacent to The Stream, Layer Road, Colchester be authorised with a compliance period of six months.



**Application No:** 081520

**Location:** Tesco Stores Ltd, Church Road, Tiptree, Colchester, CO5 1AA

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

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## Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **6 November 2008**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

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

**7.1 Case Officer: Bradly Heffer**

**EXPIRY DATE: 12/11/2008**

**MINOR**

**Site:** Church Road, Tiptree, Colchester, CO5 1AA

**Application No:** 081520

**Date Received:** 16th September 2008

**Agent:** Mr Andre Booyens

**Applicant:** Tesco Stores Limited

**Development:** Installation of a combined heat and power (CHP) unit to provide a sustainable method of powering the store.

**Ward:** Tiptree

**Summary of Recommendation:** Conditional Approval

### 1.0 Site Description

1.1 This planning application seeks permission for the provision of a Combined Heat and Power (CHP) unit in the service yard of the Tesco Supermarket, Church Road, Tiptree. The proposed unit would be 6.3 metres long, 3.5 metres wide and approximately 3.6 metres high.

- 1.2 As part of the application submission, the applicant company's agent has submitted the following comments:-

"The CHP unit is to be located in the service yard to the rear of the store. The CHP unit will be of a functional appearance and is considered to be in keeping with the purpose of such a usage. The noise emissions from the units are in line with the level required by Environmental Health, and, as such, considered acceptable.

Tesco have increased their commitment to environmental issues and greater emphasis has been placed on the prominence of renewable energy technologies. The proposed development is part of Tesco's national carbon reduction policy seeking to reduce carbon emissions through innovative design solutions. As such, the application proposes to incorporate an on site generated combined heat, power and cooling (tri-generation) system intended to reduce the store's carbon emissions.

The system is powered by a gas fired CHP from which the waste heat in the engine's cooling water system is transferred into a heating water system from where the high grade heat is fed into an Absorption Chiller and/or the LTHW heating system. The chiller produces low temperature chilled water which is used for water condensing a selection of refrigeration pack units.

As you will note from the attached mission statement as part of this application, installation of the proposed CHP unit is estimated to reduce carbon emissions at the store by some 6-15% (depending on site conditions). In addition the installation will be able to provide the store with 60-70% of locally generated electricity consequently reducing the network demand."

- 1.3 The supporting documents are available to view on the Council's website.

## **2.0 Land Use Allocation**

- 2.1 The site for this proposal is within a Rural District Centre/Tiptree Central Area as allocated in the adopted Review Colchester Borough Local Plan - March 2004.

## **3.0 Relevant Planning History**

- 3.1 None relevant

## **4.0 Principal Policies**

- 4.1 Adopted Review Borough Local Plan  
DC1 - Development Control criteria  
P1 - Pollution  
TIP1 - Tiptree Central Area Enhancement Scheme  
TIP2 - Tiptree Book Services (TBS) site.

## **5.0 Consultations**

- 5.1 Environmental Control would require the imposition of a noise condition on a grant of planning permission.

## **6.0 Parish Council's Views**

### **6.1 Tiptree Parish Council state:-**

"Tiptree Parish Council object to this proposal on Health and Safety grounds. The store is in a residential area and concern is expressed about the effect of the noise of the unit on local residents. Neighbouring properties are already disturbed by noise from the existing refrigeration units."

## **7.0 Representations**

### **7.1 None**

## **8.0 Report**

8.1 The proposed building would be of relatively modest proportions and, although of functional appearance, would be screened from wider public view as the service yard of the supermarket is enclosed by a high wall. Furthermore, its location against one side of the yard would mean that the manoeuvring space for delivery vehicles would not be affected.

8.2 It is noted that Tiptree Parish Council objects to the proposal on the grounds of noise nuisance. However, this objection is not shared by the Council's Environmental Control Section, on the basis that a noise attenuation condition can be attached to any planning permission granted. Members should also note that the Environmental Control Section has not received any complaints regarding noise from the refrigeration units on the site.

8.3 On this basis, it is recommended that planning permission be granted for the development, subject to the imposition of conditions.

## **9.0 Background Papers**

### **9.1 ARC; HH; PTC**

## **Recommendation - Conditional Approval**

### **Conditions**

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

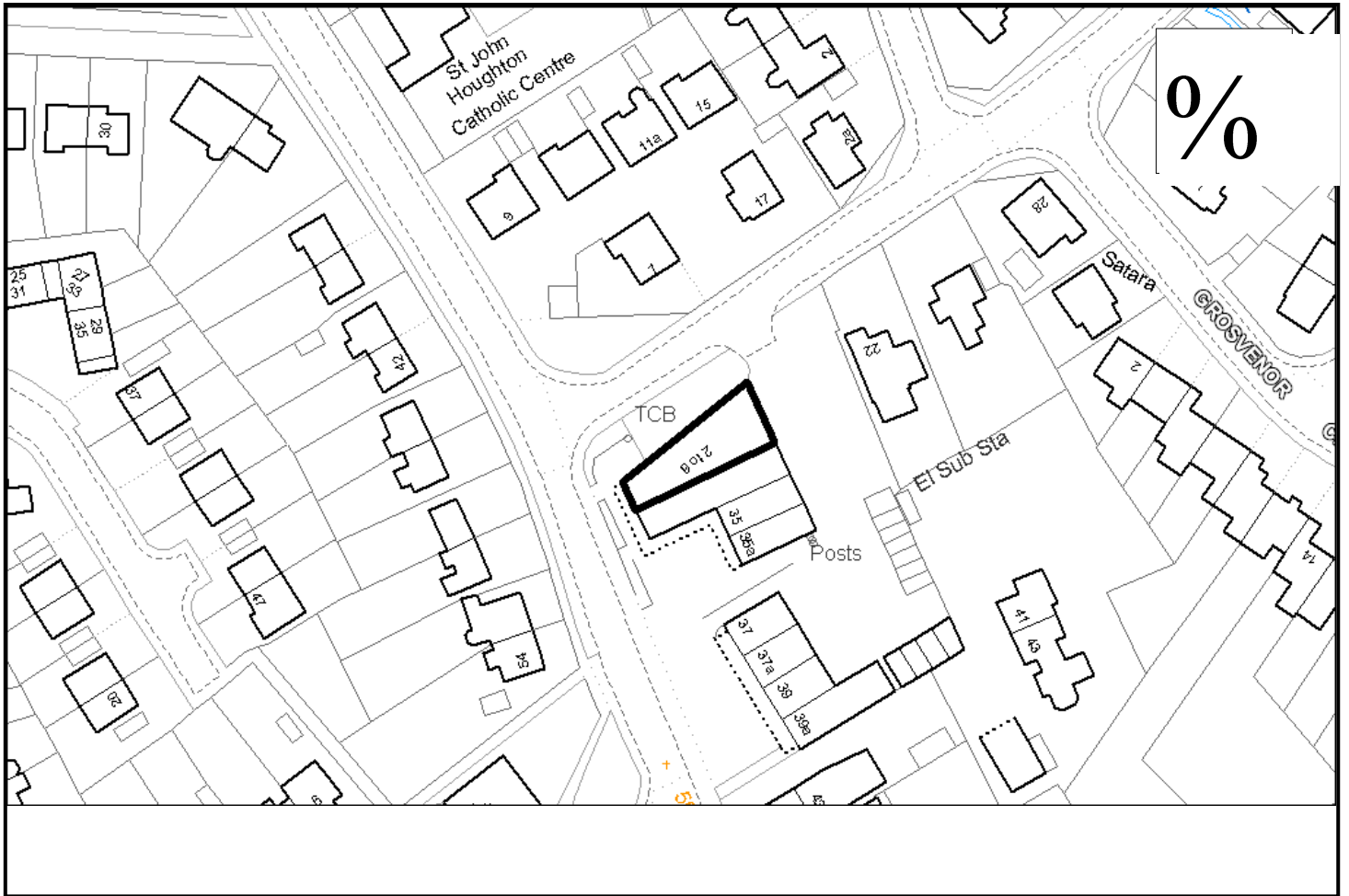
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

## 2 - Non-Standard Condition

A 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.

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



**Application No:** 081676

**Location:** Coffee Exchange, 33A Church Road, Tiptree, Colchester, CO5 0SU

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

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7.2 Case Officer: **Bradly Heffer**

EXPIRY DATE: **08/11/2008**

**MINOR**

**Site:** 33A Church Road, Tiptree, Colchester, CO5 0SU

**Application No:** 081676

**Date Received:** 12th September 2008

**Applicant:** Mr John Barton

**Development:** Variation of condition nos. 1 & 2 of planning permission 071202 to allow permanent consent and to change opening times to 9.00am - 11.30pm Mondays to Saturdays and 9.30am - 6.00pm Sundays and Bank/Public Holidays.

**Ward:** Tiptree

**Summary of Recommendation:** Conditional Approval

## 1.0 Site Description

1.1 This planning application seeks to vary the planning conditions relating to hours of opening of an A3 (restaurants and cafes) establishment known as 'The Coffee Exchange' at 33A Church Road, Tiptree. Currently the premises are allowed to open during the following times:-

9.00 a.m. - 11.30 p.m. Monday to Friday

9.30 a.m. - 6.00 p.m. Sundays and Public/Bank Holidays

1.2 Members should note that the permission was granted on a 12 month basis to enable the environmental impact to be judged. The applicant is seeking the removal of this temporary restriction.

1.3 Under this current proposal the premises would be open during the following times:-

9.00 a.m. - 11.30 p.m. Monday to **Saturday**

9.30 a.m. - 6.00 p.m. Sundays and Public/Bank Holidays.

1.4 As part of the application submission the applicant has included the following information:-

"This application is made to ensure that we are able to serve evening meals until a reasonable time for customers to enjoy their meal without rushing. Although the application is to allow opening until 11.30 p.m. the last meal orders will be taken at 9.30 p.m. so realistically the closing time will more likely be before 11.00 p.m."



1.5 The application premises is located within a block of 'modern' appearance, containing commercial uses on the ground floor and a club together with residential use on the first floor. The building is located at the junction of Church Road and Grove Road. To the north, east and west is established residential development while to the south is further commercial development and parking areas.

## **2.0 Land Use Allocation**

2.1 The building is located in a Rural District Centre as allocated in the adopted Review Colchester Borough Local Plan - March 2004.

## **3.0 Relevant Planning History**

3.1 C/COL/06/1537 - Change of use from mixed A2 (financial and professional services) and A3 (restaurant and cafes) to solely A3 use - Approved 20 October 2006

3.2 F/COL/06/0572 - Variation of condition 07 of planning permission no. COL/04/2214 to allow sale of hot food - Approved 7 June 2006

3.3 C/COL/04/2214 - Use of part premises for sale of food and drink. Ground floor - Approved 8 February 2005

3.4 071202 - To extend opening hours for permission granted on C/COL/06/1537 - Approved 11 June 2007

3.5 081732 - Permission of new shopfront - Application pending

## **4.0 Principal Policies**

4.1 Adopted Review Borough Local Plan  
DC1 - General Development Control criteria  
P1 - Pollution  
TCS12 - Rural District and Local Shopping Centres

## **5.0 Consultations**

5.1 The Council's Environmental Control Section has no comment to make on this application.

## **6.0 Parish Council's Views**

6.1 Tiptree Parish Council has no objection to this application.

## **7.0 Representations**

7.1 As a result of neighbour notification two letters have been received from local residents objecting to the proposal. The grounds of objection relate to noise nuisance currently generated by the drinking club on the first floor of the building. Concerns are expressed that the proposed opening hours of the A3 use would exacerbate this problem, promoting more noise nuisance and anti-social behaviour. Correspondence also highlights problems with youths gathering in the area and the resultant disturbances this can cause.

## **8.0 Report**

8.1 The application premises has been used for A3 purposes for a number of years; the use commencing in 2004. During this time the use has not given rise to complaints from local residents. Bearing in mind it is considered that the proposal to allow the use to trade for the stated hours on a permanent basis is a reasonable one.

8.2 The comments received from neighbours are noted but the nuisance currently experienced relates to the drinking establishment on the first floor of the building, as opposed to the applicant's A3 use. Members are advised that Environmental Control has received complaints about the drinking club in the past but there are no current complaints being investigated. With regard to concerns expressed over general antisocial behaviour it should be noted that the restaurant use does not offer a separate takeaway facility and is unlikely to act as an attractor on this basis. Furthermore, the hours of operation have been approved previously on a temporary basis and the restaurant use has not given rise to complaints.

## **9.0 Background Papers**

9.1 ARC; HH PTC; NLR

### **Recommendation - Approved Conditional**

#### **Conditions**

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

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

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

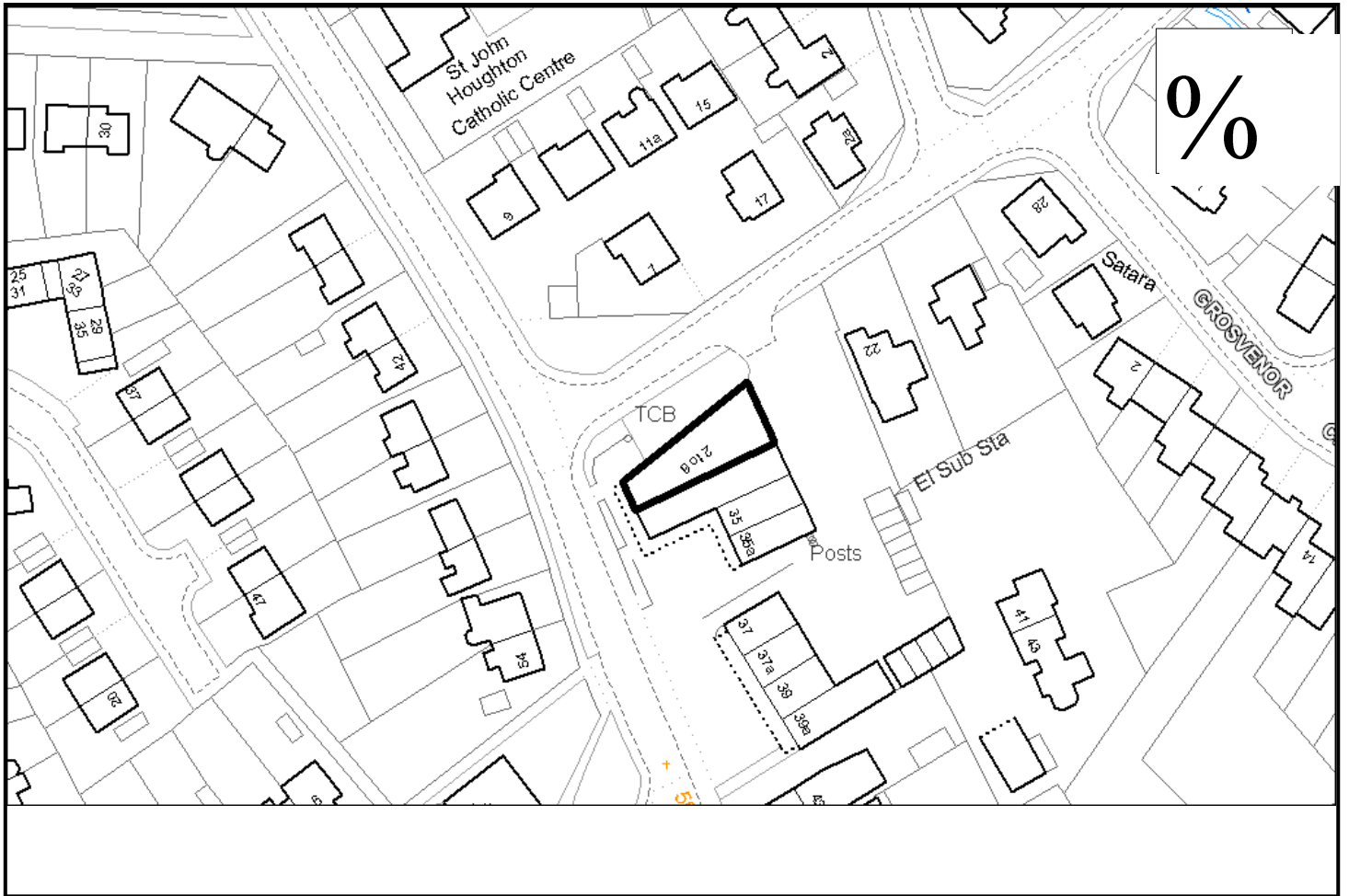
2 - A5.2 Restaurants, Clubs etc

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

9.00 a.m - 11.30 p.m. Monday to Saturday

and 9.30 a.m. - 6.00 p.m. Sundays and Public/Bank Holidays.

Reason: In order to avoid doubt as to the scope of the permission hereby granted and in order to protect residential amenity in the area.



**Application No:** 081732

**Location:** Coffee Exchange, 33A Church Road, Tiptree, Colchester, CO5 0SU

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

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**7.3 Case Officer: Bradly Heffer**

**EXPIRY DATE: 22/11/2008**

**MINOR**

**Site: 33A Church Road, Tiptree, Colchester, CO5 0SU**

**Application No: 081732**

**Date Received: 26th September 2008**

**Applicant: Mr John Barton**

**Development: Provision of new shopfront.**

**Ward: Tiptree**

**Summary of Application: Conditional Approval**

## **1.0 Site Description**

- 1.1 This proposal seeks permission to replace a shopfront on premises at 33A Church Road, Tiptree. The unit is used for A3 (restaurant) purposes. The existing building has a metal shopfront with large picture windows. The means of access to the unit is a single door which is immediately adjacent to the entrance to the next-door unit, McColls Newsagent.
- 1.2 The proposed development would replace the existing shopfront with a new metal shopfront incorporating a new entrance door. The elements of the shopfront would be narrower than those existing and folding doors would be incorporated to enable the front of the unit to be opened on to the adjacent pavement area.
- 1.3 As part of the planning application the applicant has submitted a Design and Access Statement that is available to view on the Council's website. However, the following comment, taken from the Design and Access Statement, is included below for Members' information:-

"The purpose of this application is to obtain consent to install a new shopfront with new glazed door, fixed glazed section and three folding glazed doors. The new door entrance is to replace the existing entrance, to the right hand return, which is only accessible via the shop front forecourt of the adjoining shop, McColls Newsagents, 33 Church Road, Tiptree.

We do not have a clear right of way over McColls forecourt which causes us a serious problem when the forecourt is in use to store newspapers and other items so obstructing our existing entrance. In any case the existing entrance is difficult to access especially for disabled and wheel-chair bound customers.

The proposed replacement shopfront will not only provide our premises with a better unobstructed entrance but also provide a more attractive and sympathetically designed frontage which will enhance the general appearance of the building. When the weather permits the 3 folding doors will be opened to provide an attractive and pleasant seating area for customers to relax and enjoy a snack or meal with a drink."

- 1.4 Members will note that another application relating to the premises is included on this agenda (ref: 081676).
- 2.0 Land Use Allocation**
- 2.1 The building is located in a Rural District Centre as allocated in the adopted Review Colchester Borough Local Plan - March 2004.
- 3.0 Relevant Planning History**
- 3.1 COL/04/2214 - Use of part premises for sale of food and drink. Ground floor - Approved 8 February 2005
- 3.2 COL/06/0572 - Variation of Condition 07 of planning permission No. COL/04/2214 to allow sale of hot food - Approved 7 June 2006.
- 3.3 C/COL/06/1537 - Change of use from mixed A2 (financial and professional services) and A3 (restaurant and cafes) to solely A3 use - Approved 20 October 2006
- 3.4 071202 - To extend opening hours for permission granted on C/COL/06/1537 - Approved 11 June 2007
- 3.5 081736 - Variation of condition nos 1 & 2 of planning permission 071202 - Application pending
- 4.0 Principal Policies**
- 4.1 Adopted Review Borough Local Plan  
DC1 - General Development Control criteria  
TIP1 - Tiptree Central Enhancement Scheme
- 5.0 Consultations**
- 5.1 None
- 6.0 Parish Council's Views**
- 6.1 Tiptree Parish Council comments will be reported to Committee.
- 7.0 Representations**
- 7.1 As a result of neighbour notification two letters of objection have been received. However, specific comments in the letters relate to issues arising from the application 081676 that is also on the agenda. No specific comments have been made on the shopfront.
- 8.0 Report**
- 8.1 The shopfront and entrance arrangement serving this particular unit is believed to be a legacy of its original use as a supermarket – hence the large windows. Furthermore, the character of the existing shopfront reflects the overall character of the building which is of late 1960's design.

8.2 On this basis, the proposed replacement shopfront is considered to be of an appropriate design, in this particular context. Indeed, the insertion of a 'traditional' timber shopfront into the facade would, in your officer's view, appear somewhat incongruous. It is recommended that planning permission be granted in this instance.

## **9.0 Background Papers**

9.1 ARC; NLR

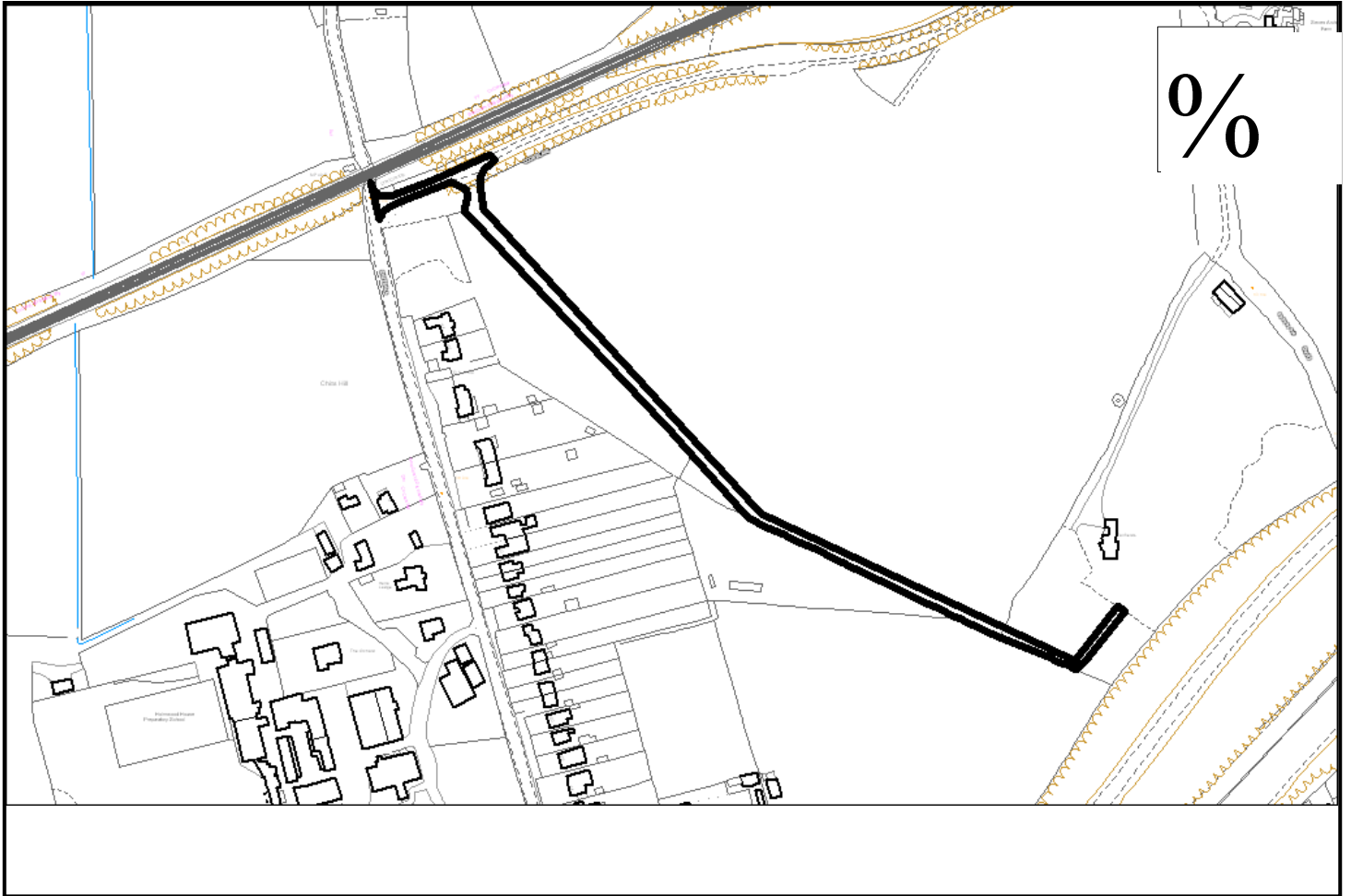
### **Recommendation - Conditional Approval**

#### **Conditions**

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

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

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



**Application No:** 081702

**Location:** Land West Of, Fairfields, 74 Chitts Hill, Colchester, CO3 5SX

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

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**7.4 Case Officer: Simon Osborn**

**EXPIRY DATE: 18/11/2008**

**MINOR**

**Site:** Fairfields, 74 Chitts Hill, Colchester, CO3 5SX

**Application No:** 081702

**Date Received:** 22nd September 2008

**Agent:** Edward Gittins & Associates

**Applicant:** Mr John Kerry

**Development:** Construction of new domestic access drive (Resubmission of 081107)

**Ward:** Lexden

**Summary of Recommendation:** Refusal

## **1.0 Planning Report Introduction**

1.1 This application was called-in by Councillor Mike Hardy on the grounds of the personal interest of Councillor Jill Tod, who has title over the land relating to the application.

## **2.0 Site Description**

2.1 Fairfields (74 Chitts Hill) is an isolated property that was approved in 1968. The dwelling is positioned 350m due east of Chitts Hill and 50m north-east of the slip road from the A12 which approaches the Spring Lane roundabout. The existing vehicular access to the property from Chitts Hill is by means of an 800m length drive, which passes through Seven Arches Farm. The application site (relating to the proposed new drive) is located on the edge of an open field behind the line of established housing which fronts onto the eastern side of Chitts Hill.

## **3.0 Description of Proposal**

3.1 The application proposes a new 3.5 metre wide domestic vehicular and pedestrian access to Fairfields (74 Chitts Hill). The proposed drive has a total length of approx 500m and will connect into the existing driveway to Seven Arches Farm, which takes access from Chitts Hill close to the level crossing facility. The proposed access also runs through a small wooded copse at its south-eastern end; an Arboricultural Impact assessment was submitted with regard to this. The proposed access will enable the occupants of Fairfields to access their property directly, thus by-passing the farm lane and Seven Arches Farm and a series of gated fields containing livestock. The DAS suggests this represents a workable solution and also will help to prevent loss of amenity to occupants of Seven Arches Farmhouse from the noise of vehicles passing by at night.



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

4.1 Countryside Conservation Area

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

5.1 14674/3 - Erection of house - approved 1968

5.2 081107 - Proposed 4.5m wide access drive - withdrawn 2008

#### **6.0 Principal Policies**

6.1 Adopted Review Colchester Borough Local Plan - 2004

DC1 - Development Control Considerations

CO1 - Countryside

CO3 - Countryside Conservation Area

CO4 - Natural Features

#### **7.0 Consultations**

7.1 The County Highway Authority stated no objection to the proposals, subject to an Informative.

7.2 The Highways Agency stated no objections, provided there are no direct access(es) onto the A12 or its slip road. The applicant should be made aware that if any excavation works are undertaken that may affect the A12 or its slip roads, they should contact the Route manager for the A12 (contact details given).

7.3 The Council's Landscape Officer considered that traffic using the access road would interrupt the openness of the landscape. Consequently, as a minor amendment to the application it should be proposed on plan that a native hedge/hedgerow trees be planted to the eastern side of the proposed access road for the total length of the road where it is exposed to the open field, in order to protect open rural views from Public Right of Way 17 by screening traffic movements. No objection subject to this amendment and a proposed planting condition.

7.4 The Council's Tree Officer considered that the trees recommended for removal are of limited amenity value and will not significantly impact the area, given the retention of the larger trees. Given the very close proximity to the trees being retained all works beneath the trees will require supervision by a competent and suitably qualified arboricultural consultant. Details of this supervision will be required. Planning conditions recommended.

## 8.0 Representations

8.1 Objections were received from 9 addresses in Chitts Hill. These raised the following matters:

1. The proposal is unnecessary - the present access could be provided with more lay bys and cattle grids installed instead of gates;
2. The original drive was constructed in the 1970s and has not apparently caused problems in the last 30 years; the new road is just to appease a petty neighbour dispute;
3. DAS implies vehicle intrusion from new access road will be minimal and yet also refers to the applicant making a number of journeys each day and to these causing a noise problem;
4. Access appears excessively wide at 3.5 metres;
5. The Tree Report for the previous application referred to a proposal to construct 5 dwellings within the curtilage of the present dwelling; concern that this is a back-door approach to future development;
6. Loss of habitat for wildlife including muntjac deer, partridges, pheasants, kestrels and badgers;
7. Loss of views and amenity to residential properties in Chitts Hill; planting a hedge on the eastern side of the access road will interrupt the openness of the landscape;
8. Security issues for rear gardens of properties in Chitts Hill which will be exposed to new access road;
9. Proposal is generally contrary to policies CO1 and CO3, which place strong emphasis on countryside protection; providing new access for a small number of vehicle movements is not sufficient justification.

## 9.0 Report

### Policy Principles

- 9.1 Policy CO1 of the Local Plan seeks to protect the countryside for its own sake and Policy CO3 gives special protection to Countryside Conservation Areas. Policy CO4 gives protection to natural features such as trees.
- 9.2 The proposal involves the loss of some trees, although the Tree Officer has accepted these are not significant in public visual amenity terms given the presence of larger trees in the near vicinity.
- 9.3 The Landscape Officer has recommended an amendment to the submission, with the planting of a hedge along the eastern side of the proposed access. The agent has agreed to this in principle.
- 9.4 The proposal subject of this application has been reduced from a width of 4.5m in the earlier application to 3.5m for this. The proposal is approximately 500m in length and amounts to development in the countryside. The reduction in width and the proposed new hedge are the only amendments to the original application which was recommended for refusal at Committee on grounds of non-essential development in the countryside. No decision was taken as the application was withdrawn by the agent prior to the meeting.

## Other Material Considerations

- 9.5 The proposal for a new access drive has clearly provoked alarm and confusion for many of the residents of Chitts Hill who have back gardens that face towards the proposed new driveway. In part this appears to have been caused by a statement in the Conclusion to the Arboricultural Report to the previous application that: "it is proposed to construct five new dwellings within the curtilage of the site". The Agent has since stated that this was an error and that the applicant has no aspirations to construct new dwellings on his land. This phrase has been removed from the new report. It is acknowledged that these fears have not been dispelled; however, allowing new residential development in the countryside is clearly contrary to policy. These fears are not considered to be material to the determination of this application because, even if planning permission was granted for the proposed access, this would not be a justification for subsequent residential development.
- 9.6 Residents of Chitts Hill have also raised a concern relating to security issues for their rear gardens (resulting from a new access road providing easy access), and a concern regarding loss of views. To some extent these concerns are understood, although the proposed drive will not be immediately adjacent to these gardens, and loss of view is not a planning consideration. It is considered that the impact of the proposal in terms of the volume of traffic that will be generated by a single dwelling will not unduly affect the residential amenity of these dwellings.
- 9.7 Residents have queried if the justification for improving accessibility for a single property is sufficient to override the general policy of protection in the countryside. They also query why improvements could not be made to the existing access; such as more laybys and the provision of cattle grids to keep livestock in rather than gates that need opening and shutting. It is noted that the access is proposed for reasons primarily of convenience.

## **Conclusion**

- 9.8 It is acknowledged that the existing access to Fairfields is very lengthy and somewhat inconvenient, particularly as it requires going through two sets of gates that need to be opened and shut.
- 9.9 On the one hand, the provision of a new 500m length of access does not sit comfortably with the general policy of countryside protection. On the other hand, it is reasonable to consider whether the proposal causes material harm. The responses of the Council's Landscape Officer and Tree Officer, indicated that the impacts could to an extent be mitigated through the provision of a new hedgerow.
- 9.10 There are in effect arguments that can be put forward in support of a refusal and in support of approval. In the opinion of the planning officer, the key consideration is that the access is not essential development within this countryside location. On balance the recommendation is for refusal.

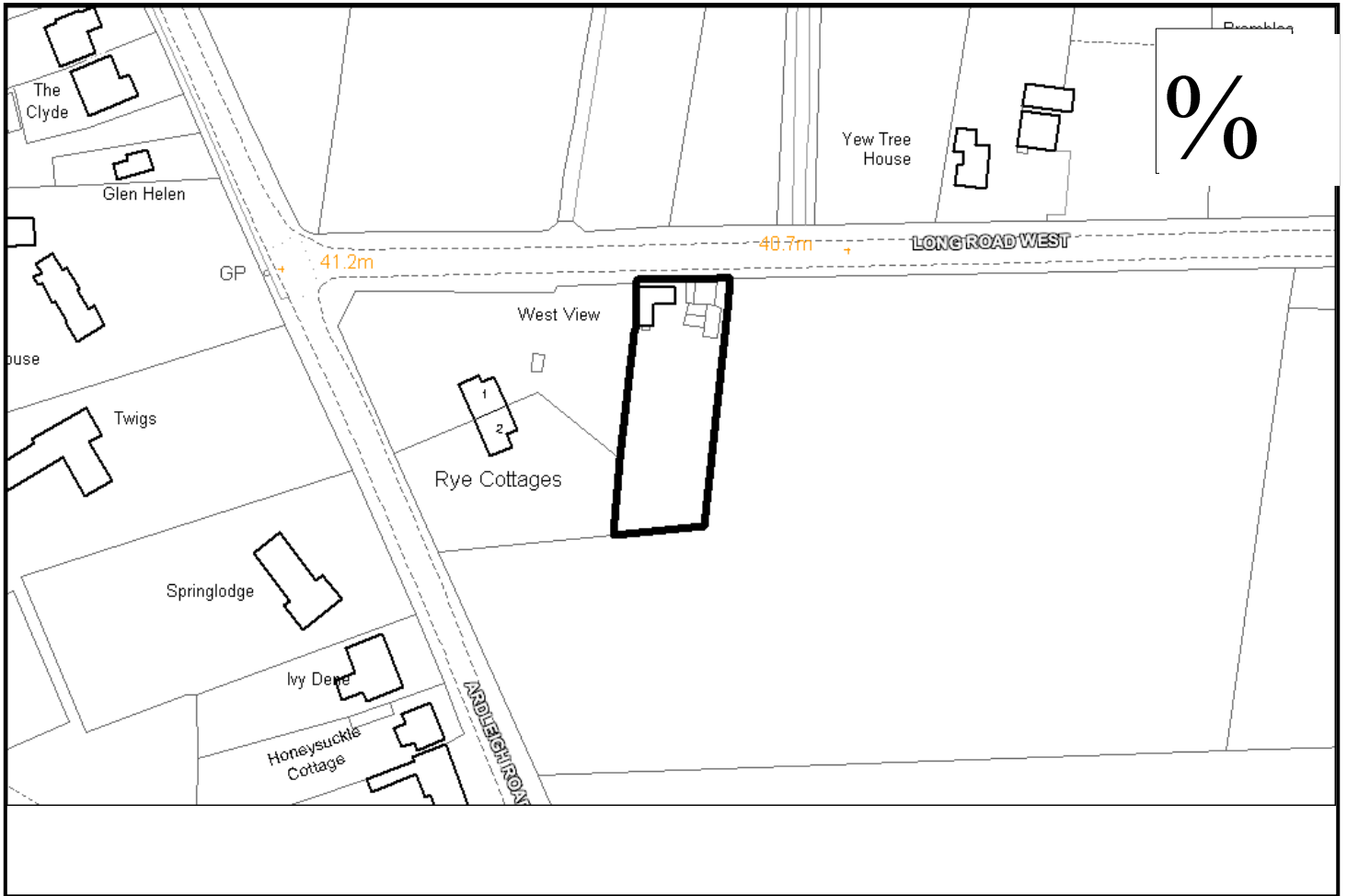
## **10.0 Background Papers**

- 10.1 ARC; HA; Highways Agency; TL; NLR

## **Recommendation - Refusal**

### Non-Standard Refusal Reason

Policies CO1 and CO3 of the Adopted Review Colchester Borough Local Plan of March 2004 state that the countryside will be protected for its own sake and that special protection will be given to Countryside Conservation Areas. The proposal, for a private drive with a width of 3.5 metres and a length of 500m to serve a single dwelling, would be an alternative to an existing means of access and as such is not essential development that is appropriate for this countryside location. As such it is contrary to the aforementioned policies in the adopted Local Plan.



**Application No:** 081727

**Location:** Westview Cottage, Long Road West, Dedham, Colchester, CO7 6EH

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

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**7.5 Case Officer: Andrew Tyrrell**

**EXPIRY DATE: 20/11/2008**

**MINOR**

**Site:** Westview Cottage, Long Road West, Dedham, Colchester, CO7 6EH

**Application No:** 081727

**Date Received:** 24th September 2008

**Agent:** Mr. M Perkins

**Applicant:** Mr K Sutton

**Development:** Demolition of existing house and outbuildings. Replace with 5 bedroom detached house and double garage.

**Ward:** Dedham & Langham

**Summary of Recommendation:** Conditional Approval

## **1.0 Site Description**

- 1.1 The site is located on Long Road West, a long straight road which has areas of mixed character along it. There are properties of various designs and scales of development, with no predominant building line. This particular part of the road, close to the junction with Ardleigh Road, is sporadically developed.
- 1.2 The existing buildings on site consist of a dwelling and a garage outbuilding sited on the road frontage. The dwelling is one-and-a-half storey, with the first floor space being accommodated in the roof with dormer windows. The roof has a shallow pitch and the design is not of any architectural merit. The walls are finished in pebble-dashed render. The outbuilding is a black timber structure.

## **2.0 Description of the Proposal**

- 2.1 The proposal is to demolish the existing dwelling and outbuilding and replace them with a new dwelling and garage set further back from the road. The front garden area would then be appropriately landscaped to soften the frontage. The new garage would be to the side and behind the new dwelling. The dwelling would be two-storeys with dormer windows giving usable loft-space.

## **3.0 Land Use Allocation**

- 3.1 The land is not allocated in the Local Plan and lies just outside the Lamb Corner Village Envelope. It is currently in residential use and this would not change.

## **4.0 Relevant Planning History**

- 4.1 There is no planning history for this site.

## **5.0 Principal Policies**

- 5.1 Adopted Review Borough Local Plan  
DC1 - Development Control Considerations  
CO4 - Landscape Features  
UEA11 - Design  
H9 - Replacement Dwellings in the Countryside

## **6.0 Consultations**

- 6.1 ECC Highways – no objection subject to conditions securing an appropriate pedestrian visibility splay and no unbound materials on driveway within 6m of highway.

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

- 7.1 Dedham Parish Council have objected to the proposal. They state that:

1. The Village Design Statement says that starter homes should be built in preference to large or extended developments and smaller homes should be retained to maintain a balanced housing stock;
2. Although the dwelling may be beyond modernizing something of a similar size is more acceptable;
3. The location has always been open and a larger dwelling would dominate.
4. The design does not fit the streetscene;
5. Parts b and c of Policy H7 are not met; and
6. Because of the proximity to the AONB policies CO2, UEA2 and UEA13 are relevant.

*Officer Comment: Some of these matters are covered in the main report below, however it should be clarified that the Village Design Statement does not carry as much weight as the Local Plan, and this document is not sufficient to outlaw larger homes which are satisfactory against Local Plan policy. The Council would be acting ultra vires if it attempted to control the housing stock in this manner. Policy H7 is not applicable to this application as it deals with development inside village envelopes (which this is not). Similarly, Policy UEA2 relates to Conservation Areas, which this is not, and policy UEA13 is primarily aimed at extensions to existing dwellings. The dwelling will not have a significant impact on the AONB and is a satisfactory design in any case, further mitigating any potential harm.*

## **8.0 Representations**

- 8.1 One objection has been received. The concerns raised are:

1. The new dwelling would dramatically alter the skyline and be out of keeping with the character of the area.
2. The developer intends to fill in a ditch on the west side of the plot and there is concern that this will increase flooding problems for adjacent residents.
3. The new hedge shown on the west boundary runs over the mains sewer.
4. The new hedge is drawn at a third of the width of the existing hawthorn and holly hedge, which means that there will not be sufficient space to plant hedging.

5. Where the garage is sited there will now be a brick wall visible instead of a hedge.

*Officer Comment: Point 2 is not a planning issue and is covered by other legislation outside of planning controls. Point 3 also raises little of concern other than questions as to whether or not suitable landscaping can be secured by condition. The other points are addressed in the main body of the report below.*

## **9.0 Report**

### Design and Appearance

- 9.1 Policy DC1 of the Local Plan states that all proposals for development will be permitted only if the development will be well designed, having regard to local building traditions. Policy UEA11 adds that there shall be a high standard of design in the layout of an area and of a building itself. In this instance it is considered that the proposal meets these requirements.
- 9.2 The design of the dwelling is a traditional vernacular style embodying the design features that flow through the Dedham village. It is a double-fronted property with a symmetrical appearance typical of the Essex Design Guide. Added interest is achieved through the ground floor bay windows and the chimney.
- 9.3 The roof is a suitably steep pitched roof with a side-pitched gable. The dormer windows that sit within this are minor elements that afford light without compromising the elegance of the design.

### Layout

- 9.4 The layout sets the buildings further back from the road. This opens the site up in a more familiar manner within the streetscene. The area is rural and the open frontage would enhance this rural character. There is no set pattern for building lines along this street so established lines are not a consideration.
- 9.5 The set back of the buildings allows the front amenity area to be landscaped. This will compensate for the reduction in the hedge on the western boundary. Overall, from public vantage points, the site will be visually softer as a consequence of new trees and hedging to be planted. This will need to be conditioned.
- 9.6 To the rear there is adequate space. The Council's open space standards for the development will be met and there are no concerns about the wider impact on the countryside. The site sits in isolation on the Long Road West and has a tighter relationship to the development along Ardleigh Road to which, as a stand alone site, it compliments.
- 9.7 In terms of the relationship to other existing properties, the layout ensure that there are satisfactory distances to other residents to ensure that there is no loss of light or privacy. There are no conditions required in this respect.



### Amount and Scale

- 9.8 Policy H9 of the Local Plan states that the replacement of a habitable permanent dwelling in the countryside will be permitted, provided that the proposed replacement is acceptable in its setting by virtue of its scale and it would, when compared to that of the existing dwelling, have no greater adverse impact on the rural character of the open countryside. In this instance the scale of development is not considered to be excessive. The site is more than sufficient to accommodate this dwelling and garage. The amount of development is comparable to the existing outbuilding and dwelling being removed.
- 9.9 The full two-storey elevation is an increase in height over the existing dwelling. However, this property is relatively isolated and is not read in a continual visual line with other properties. On this basis any debatable harm cause by the increase in height is not considered to be significant. Reference has been made to the skyline, but there is no consistence skyline in this road which is broken up by dwellings and trees in a mixture of hard and soft components.

### Landscaping

- 9.10 The landscaping to the front of the site would enhance this part of the streetscene. The exact details of this can be conditioned and negotiated in due course, however the planting of the trees and the installation of soft planting along the street frontage are considered to be beneficial to the site and character of the area in general.
- 9.11 The main issue of concern with regard to landscaping seems to be the western boundary hedge. The existing hedge is quite thick, but the proposed hedging is shown as being around 75cm. The existing holly and hawthorn mix needs between 1.2m and 2m thickness to establish and survive. Therefore, amended plans have been requested to move the garage building eastwards.
- 9.12 There was also concern at the garage wall being visible from the side as a consequence of its location near the boundary and the removal of the hedge. With the garage moved eastwards there will be more room to secure planting between the garage and the boundary to soften this impact. However, from a public vantage point the garage will not be visually prominent so this is not an issue that warrants the refusal of planning permission on its own. The main concern would stem from private residents views, which are not a planning consideration. The landscaping condition should still be used to secure suitable planting to mitigate harm to the public domain.

### Other Material Considerations

- 9.13 At the time of writing the Highway Authority had not responded. The amount of traffic generation is unlikely to be significantly altered. Therefore, their most likely response would be to ask for conditions if any are necessary.

## Conclusion

9.14 The replacement dwelling is of a satisfactory design, typical of the Essex county and Dedham village as a whole. The design and layout do not harm the character of the streetscene which is of a mixed nature with no dominant design or building line established. There are no concerns over impacts on neighbours and subject to conditions securing suitable landscaping schemes, the proposal would not have a detrimental impact on the countryside.

## 10.0 Background Papers

10.1 ARC; 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 - A2.5 Replacement Dwellings

Before the dwelling hereby permitted is first occupied the existing dwelling shall be entirely demolished and all materials resulting therefrom shall be completely removed from the site within 28 days of the first occupation of the replacement dwelling.

Reason: To ensure that the development is implemented in a satisfactory manner and to a satisfactory timescale so that there are not two dwellings on the site.

3 - C3.1 Materials (general)

Before the development hereby permitted commences, the external materials and finishes to be used, shall be agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with agreed details.

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

4 - A7.1 Specified Permitted Devel Rights Removed

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 additional screen walls or fences, or extensions, garages, sheds, conservatories, or other buildings shall be erected other than those expressly authorised by this permission.

Reason: The proposal has increased the amount of built development on the site and further consideration would need to be given to any development that could lead to a less rural environment.

5 - Non-Standard Condition

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:

1. Means of enclosure.
2. Hard surfacing materials.
3. Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting).

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

Soft landscape details shall include:

1. Planting plans.
2. Written specifications (including cultivation and other operations associated with plant and grass establishment).
3. Schedules of plants, noting species, plant size and proposed numbers/densities.
4. Planting area protection or decompaction proposals.
5. Implementation timetables.

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

#### 6 - 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.

#### 7 – Non Standard Condition

Prior to the occupation of the proposed dwelling 1.5m x 1.5m pedestrian visibility splays shall be provided on both sides of the access as measured from the highway boundary. 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. These splays must not form part of the finished surface of the access.

Reason: To provide adequate intervisibility between the pedestrians and users of the access and the existing highway for the safety and convenience of users of the highway and of the access.

#### 8 – Non Standard Condition

No unbound materials shall be used in the construction of the surface of the site access, within 6m of the highway boundary.

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

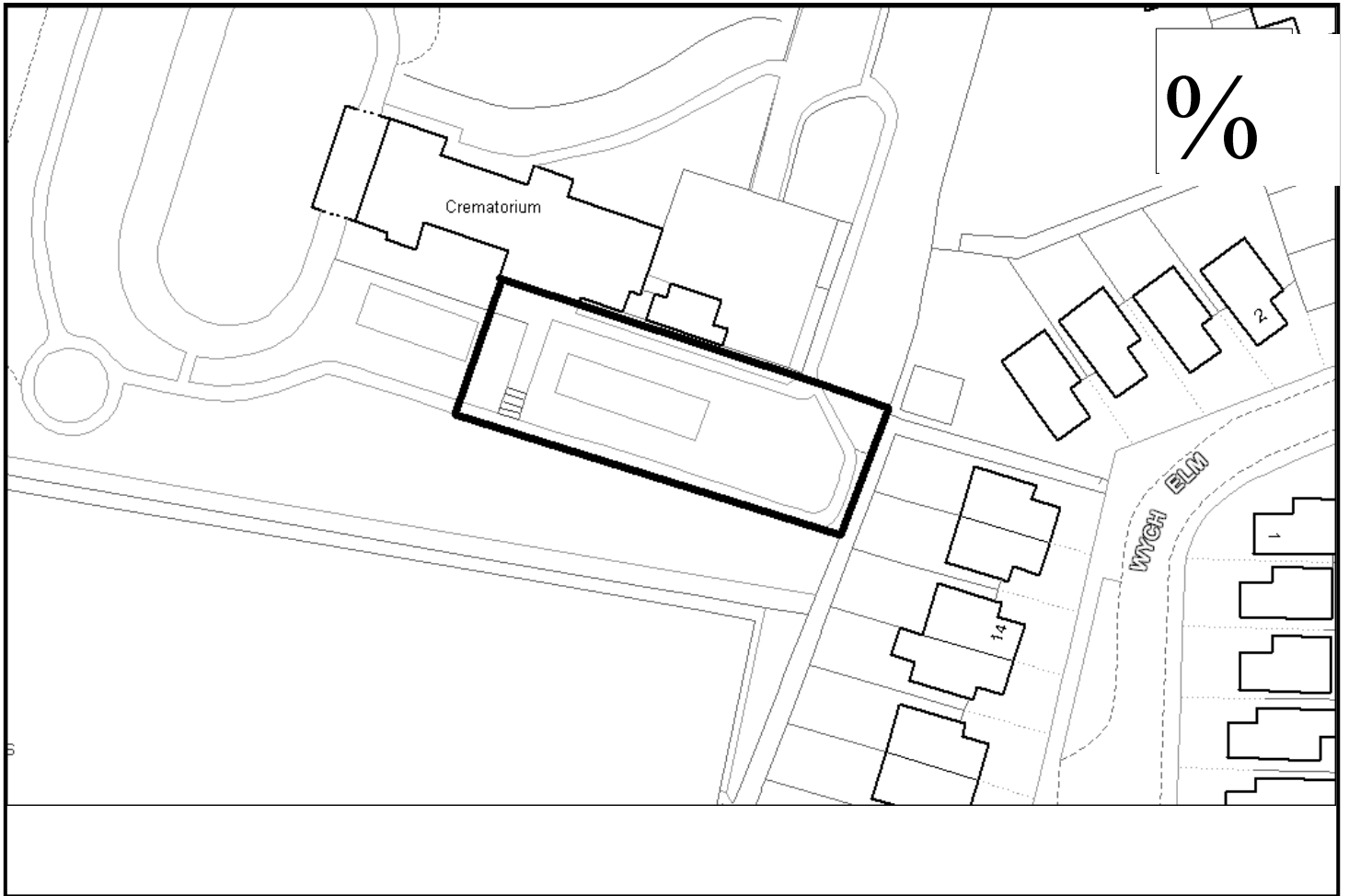
### **Informatives**

#### Non-Standard Informative

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

#### Non Standard Informative

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



**Application No:** 081729

**Location:** Colchester Crematorium, Mersea Road, Colchester, CO2 8RU

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

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**7.6 Case Officer: Nick McKeever**

**EXPIRY DATE: 21/11/2008**

**MINOR**

**Site: Mersea Road, Colchester, CO2 8RU**

**Application No: 081729**

**Date Received: 25th September 2008**

**Agent: Mr Andrew Hastings**

**Applicant: Colchester Borough Council Environmental Services**

**Development: Removal and replacement of existing paving and construction of open timber structure.**

**Ward: Berechurch**

**Summary of Recommendation: Conditional Approval**

## **1.0 Site Description**

- 1.1 Colchester Crematorium lies within the south western corner of the Colchester Cemetery, Mersea Road, Colchester. To the south is a public footpath, beyond which is an area of allotments, to the east are dwellings at Wych Elm.
- 1.2 The site is a predominantly paved area, interspersed with some areas of planting. It is enclosed by established tree and hedge planting and a brick wall running along the southern and the eastern boundaries of the crematorium building.
- 1.3 The application proposes the erection of an open sided timber structure with a plain tiled roof to be constructed over the centre of the existing Floral Tribute Area. The building is shown as being 9.5m in length, 4.8m wide and 4.5m in height

## **2.0 Land Use Allocation**

- 2.1 No Notation/Green Link/Potential Contaminated Land

## **3.0 Relevant Planning History**

- 3.1 Planning permission for the Crematorium was granted in March 1952 (Application No. 10022).

## **4.0 Principal Policies**

- 4.1 Aopted Review Borough Local Plan  
DC1 – Development Control considerations  
UEA11 - Design

## **5.0 Consultations**

5.1 Environmental Control refers to the standard notes for demolition and construction.

## **6.0 Representations**

6.1 None received

## **7.0 Report**

7.1 The proposed new building is part of a comprehensive package for the enhancement of this part of the crematorium site, which does not currently contain any significant soft landscape features. This package includes hard and soft landscape features (e.g. low walled circular planting area, circular water feature and paved surfaces banded). These proposed landscape works do not require planning permission. The proposed new building only requires permission in that the height exceeds the 4m height permitted under Part 12, The Town and Country Planning (General Permitted Development) Order 1995 - Development By Local Authorities.

7.2 The proposed building is to be constructed over the centre of the Floral Tribute Area to create a focal point and to provide shelter for both site users and the floral displays.

7.3 The site is well screened by established planting and as such the building will have no impact upon the amenity of nearby dwellings in Wych Elm. It is also screened from the main cemetery grounds by the existing crematorium buildings. Notwithstanding these considerations the building and the associated landscaping will be a positive enhancement of the crematorium site in general.

## **8.0 Background Papers**

8.1 ARC; HH

## **Recommendation – Conditional Approval**

### **Conditions**

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

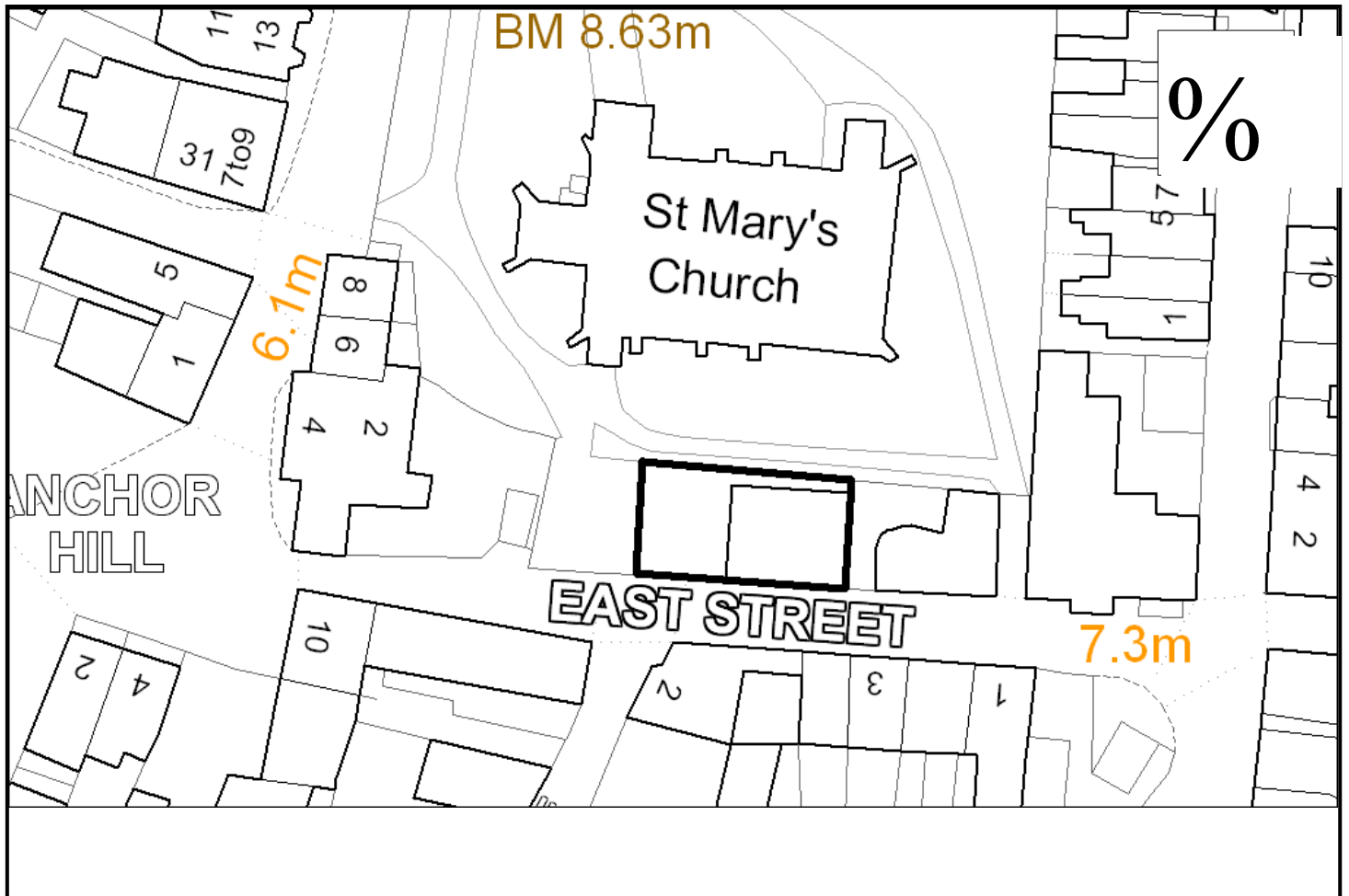
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

### **Informatives**

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

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



**Application No:** 072956

**Location:** Papa's Fish & Chips, East Street, Wivenhoe, Colchester, CO7 9BW

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

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**7.7 Case Officer: Mark Russell****MINOR****Site:** East Street, Wivenhoe, Colchester, CO7 9BW**Application No:** 072956**Date Received:** 30th November 2007**Agent:** J C Forrest**Applicant:** Mr & Mrs T Papadamou**Development:** Two flats added to upper floor of single storey fish shop with remodelled shop front to Papas Fish Shop. Resubmission of 071034.**Ward:** Wivenhoe Quay**Summary of Recommendation:** Conditional Approval subject to signing of Unilateral Undertaking**1.0 Site Description**

1.1 The site is in East Street in the heart of Wivenhoe's Conservation Area, and comprises the existing single-storey Papa's Fish Shop, and land to the left of this which is currently a hard-surfaced area used for sitting out in connection with the fish shop. East Street is predominantly residential, with the Listed St. Mary's Church to the Rear. Rose Lane is opposite the site which leads to the River Colne.

**2.0 Description of Proposal**

2.1 The proposal is to build above, and to the left of, the existing Papa's fish shop, to create residential accommodation. The new remodelled buildings will be two-storey, with one flat above the fish shop which is to continue in use during the construction and the other above a newly-created garage. The existing shopfront will be remodelled.

2.2 The previous application 071034 was withdrawn because of issues of design.

**3.0 Land Use Allocation**

3.1 Residential in a Conservation Area

**4.0 Relevant Planning History**

4.1 071034 - Two flats added to upper floor of single storey fish shop with remodelled shop front to 'Papas Fish Shop'. Withdrawn 14th May 2007



## 5.0 Principal Policies

- 5.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations;  
UEA1 - Conservation Areas;  
UEA2 - Alterations to Buildings in Conservation Areas;  
UEA5 - Development affecting the setting of Listed Buildings  
UEA11 - Design;  
UEA12 - Infilling and Backland Development;  
UEA13 - Development, including Extensions, Adjoining Existing or Proposed;  
P1 - Pollution

## 6.0 Consultations

- 6.1 The Highway Authority did not object to the original application. However, the proposal now includes garage doors (previously open). The Highway Authority has objected to the doors and corridor, they could lead to delays on the road as cars wait for doors to open.
- 6.2 Environmental Control recommended a standard demolition and construction guidance note and also asked for a written report as proof that the fish and chip business would not cause nuisance to the residents, either by noise or odour.  
*Officer Comment: This is an existing business and it is not reasonable to request this information.*
- 6.3 The Conservation and Design section has been in discussion with the Case Officer and with the applicants prior to submission and his comments are as follows:-

“There can be no doubt that the existing flat roofed, single storey structure, with its prominent and unsightly flue, is a negative feature in the conservation area and detracts from the setting of several nearby listed buildings. Photographic records show that a substantial one and a half storey building previously occupied the site.

Proposed is a building of three distinct elements which incorporates a retained fish and chip shop along with a garage and storage area on the ground floor, and two flats on the first. It is understood that one of the design criteria is to retain the ground floor in use during redevelopment.

Overall the building may be considered rather quirky in architectural terms. It does however draw on traditional forms and materials and, by its very quirkiness, ‘fits in’ to the old village, where there is wide range of style and detail.

In addition to replacement of an identifiably unsightly feature and ‘repairing’ the street scene, the proposal frames and encloses the view of the church, and in particular the porch on the south elevation, from East Street. Permission is recommended.”

6.4 English Heritage was consulted regarding the effect of the proposal on the setting of the Listed Building St. Mary's Church. Initial comments expressed disappointment, with particular regard to the proposed walkway to the rear aspect and refusal was recommended. This has resulted in amendment and English Heritage has now withdrawn its objection, whilst indicating its disappointment with the scheme as a whole. English Heritage was reconsulted in August to clarify whether it objected to the scheme. Again, it has not objected to the principle, but the full response is given below:

- "It remains English Heritage's view that it would be acceptable in principle to build a two storey structure on this site in East Street.
- Any such structure should relate well to the setting of the church and to the character of the conservation area. I note that the church is partly encircled by houses and that there probably were houses on this site in the past, and note also that the centre of Wivenhoe is characterised by a sense of enclosure formed by the houses that line its streets.
- There are views up Rose Lane towards the church, which are closed by the church's roof. There is no reason in principle why these should not be closed by a building of appropriate scale and sympathetic design. The important views of the church from the quay and adjacent streets are those to the tower.
- The present scheme was greatly improved by the amendments. The proposed frontage to the street would now be attractive, if a little contrived. The flank elevation remains unsatisfactory, and that to the rear, although also improved, remains awkward. The bulk of the proposed building and the height of its central section appear inappropriate to its context.
- Having re-examined the drawings I would suggest that the failings in the scheme flow from its conception, and cannot be successfully disguised even by the sympathetic "re-dressing" of the frontage that has been effected. The retention of the existing fish shop has led to the design of a building that is deeper in plan and taller than can be accommodated within the grain of the townscape. This is a fundamental criticism, which leads to the following possible conclusions.
- The best course of action would be to design a new building for the site. This could be shallow in plan and therefore neither too bulky nor too high. Given the right mass and disposition a new building could be much simpler in its articulation than the proposed scheme.
- Another approach that could be attempted – perhaps with less certainty of success – would be to reconsider the way in which the present building could be integrated in a larger structure. Were that larger structure to be conceived in the manner suggested in the previous point, the depth of the fish shop would then protrude from it as a lean-to extension. This approach would be possible only if there were to be a single flat above the shop. Much of the awkwardness of the present design stems from the attempt to accommodate too much."

## 7.0 Representations

7.1 84 representations were received, of which 79 opposed the scheme. Of these, up to 40 appear to be a standard, copied letter which bears the name, address, and signature of each objector.

7.2 This standard letter has as its main concerns that the development would:

1. Obscure views of the church;
2. Result in loss of light to the church;
3. Lead to overlooking of the church;
4. Increase the potential for litter in the churchyard;

Later versions of the letter also raise the following:

5. The design, including balconies, would not be in keeping with the area;
6. Inadequate parking for the residents and the users of Papa's.

7.3 The remaining 40 objections repeat many of these points, and raise additional objections, as follows:

7. The roof is too high in relation to Eastcote House;
8. Balconies are alien;
9. Claims of lack of notification;
10. Lack of parking for deliveries;
11. Height is to allow for mezzanine study area;
12. Overlooking into the garden on Swatchways;
13. Item 4.1 of DAS mentions sash, but drawings show full doors and balconies (see letter from Swatchways);
14. Overdevelopment of the site;
15. St. Mary's Church itself was not notified;
16. Out of character for this part of the Conservation Area;
17. How can construction work be undertaken in the space available?;
18. Conflicting plans (i.e. living room windows on flat 2);
- 18a. A late letter objected to the proposed flue extending "above the new ridge line and casting frying smells over a greater area"

7.4 In the five letters of support, the following were raised:

- a) The proposal would be an improvement on the current, single-storey building;
- b) It is acknowledged that there would be a loss of parking and seating, but these are used by very few people;
- c) Residential over the shop would forestall the loss of yet another small business in Wivenhoe;
- d) The proposal would improve the views of the church.

7.5 The applicant has, since August, had a visitors book in place in the restaurant, and this contains an additional 46 names in support of the proposal. Comments included support for the design and the principle of re-instating the streetscape, and also complimented the restaurant on its food. Two additional, identical, letters of support were also received.

## 8.0 Town Council's Views

8.1 Wivenhoe Town Council gave a lengthy reply in objection to the proposal, largely echoing its previous comments for application 071034. The following bullet points list these concerns (continuing the numbering from residents' objections):

19. Overbearing, creating a mass of building in a small area resulting in a canyon effect;
20. Dramatic effect on St. Mary's Church;
21. No notification sent to neighbours in the area;
22. No mention of where the extraction fan is to be placed;
23. Traffic implications due to queuing and parking outside of the shop;
24. Detracts from the Conservation Area;
25. Loss of views of the church up Rose Lane;
26. Loss of light in the church;
27. Loss of privacy to the church;
28. Extra litter in the church as diners will eat there in compensation for the loss of external seating;
29. Existing structure of Papas may not be strong enough to take the extra weight, and this may lead to a demolition and loss of this popular fish and chip shop;
30. French doors look into houses across East Street;
31. Building is on the edge of the road, causing queuing customers to stand in the road.

Wivenhoe Town Council has also responded as follows to the amended scheme:

“Cllr. Purdey read out letters from residents objecting to this resubmission which members **wholeheartedly supported**. The proposal, which was in the heart of the Conservation Area, **rather** than framing the Church, **actually obliterated** the view of the Church from Rose Lane, contrary to UEA12. The character of the Conservation Area should be preserved and the proposed development makes no positive contribution to the appearance of the area representing an artificially cramped form of residential infill development, out of character with the predominant prevailing streetscene.”

The Town Council also reiterated their previous comments, on 071034, which are as follows:

The members of the Town Council's Planning Committee heard a number of representations by concern residents, but were particularly impressed by an address given by the Revd David Thomas, Rector of St. Mary the Virgin Wivenhoe. Revd. Thomas highlighted three material planning considerations that arose from the application, loss of light, privacy and view. Here is a summation of his observations.

The Church of St. Mary the Virgin has stood on that site since Saxon times. The current edifice is a Victorian reconstruction following an earthquake. It stands at the heart of the community and at centre of the conservation area. In common with other medieval churches the high altar east, towards the Holy Land.

The sun travels from east to west and illuminates the interior of the church through its stained glass windows. The effect is that of *lux in tenebris* (light in shadow) and is essential to the spiritual experience of those entering the church building. Most church services, including Holy Eucharist, baptisms, weddings and funerals are held between the hours of half past ten a.m. and three p.m. when the sunlight entering the church windows is at its strongest.

The proposed development will greatly curtail the sunlight and will cast a permanent shadow in the nave of the church. It will have a detrimental effect on an ancient building at the heart of the conservation area.

A related concern is that of the loss of privacy that will be result of this development. Religious services, particularly funerals are intimate occasions. Any intrusion into grief is particularly unwelcome. The Revd. Thomas reminded members of a celebrity funeral some nine years ago when the mourners where subject to the intrusive antics of the paparazzi. Concerns are heightened by the addition of a balcony at the rear of the development that will overlook the churchyard and churchgoers going about their lawful business may be subject to hostile scrutiny by residents of the development.

The third concern expressed by the Revd. Thomas is that another result of the development will be the loss of a centuries old aspect of the church from the river Colne up Rose Lane. This will contradict the planning policy UEA1 that requires “... *views that make up the character of conservation area will be protected.*”

The Revd. Thomas also expressed concern that the loss of the parking spaces adjacent to the present fish and chip shop will mean that more customers will be tempted eat their take away meals in the churchyard. The resulting litter will impose an additional financial and human burden on the volunteers who maintain the churchyard.

These views were supported by the committee members, in addition members expressed concerns on a number of aspects of the proposal, in particular, the practicality of undertaking the construction work with entering the churchyard or closing East Street to accommodate scaffolding. This is at a time when Queens Road has been closed and there is increased road traffic in Wivenhoe. A further concern, arising from past experience of the Town council, was also expressed that the existing single storey structure may not have sufficient strength to support additional floors and that the existing chip shop may have to be demolished and completely rebuilt. The ramifications of this step are considerable that could lead to the loss of a popular viable and viable business.

Recommendations: These are set out above. The proposed development Detracts from the Conservation Area and therefore contrary to Policies DC1, UEA1 and UEA2 of the Adopted Review of the Colchester Borough Local Plan March 2004.

*OFFICER’S COMMENT: Your Officer disagrees that the view of the church would be obliterated from Rose Lane, the tower would be clearly visible from the top end of this lane. This issue has been explored at length, and is illustrated by photographs in the committee presentation, and Members may have also explored this issue during their previous site visit.*

## 9.0 Report

- 9.1 The key issues are those concerning the effect on the setting of the church and of the wider Conservation Area, also its design and traffic implications, as well as possible amenity issues.
- 9.2 In terms of the effect on the church and Conservation Area, the development would reduce views of the main section of the church as seen from parts of East Street and Rose Lane. Whilst this is an attractive view it is not one identified in the recently commissioned Conservation Area Appraisal.
- 9.3 The benefits of the proposal, however, would be to remove the current unsightly flue and concrete sitting out area, as well as the uninspiring single storey flat roofed building itself. Also, views of the key feature of the church - its tower - would be framed by the new development.

### Design Issues

- 9.4 The design of the proposed development comprises three main elements from east to west as seen from East Street, as follows:
- 9.5 The eastern-most element comprises an improved timber shop-front with a first floor rendered section lit by a full-drop casement window. The roof is slate.
- 9.6 The central section completes the timber shop-front at ground floor level. The first floor section matches that of the eastern element with render and full-drop window. The slate roof is higher in this section.
- 9.7 The larger, western-most, section is soft red brick with a plinth and timber door to the right hand side. To the left is an automatic roller sliding door (in timber) to avoid any oversailing of the highway during operation. This door is an amendment from the original proposal of a doorless void which would have been a visually disappointing feature as viewed up Rose Lane. At first floor level is weatherboarding with an eight-pane window to the left and four-pane sliding sash to the right, in both cases the windows are aligned to give symmetry. The slate roof is hipped at the western end to maximise views of the church.
- 9.8 The rear element is now in three sections with supporting timber columns up to roof eaves. The ramp is to be enclosed with horizontal weatherboarding up to 1.2m above the highest part of the ramp, with open (unglazed) mullions to allow light and ventilation to the deck and rooms behind.

### Land Use

- 9.9 The use would be a continuation of the long-established fish and chip shop, together with an introduction of residential, which is compliant with Local Plan designation and reflects the dominant usage of the area.

9.10 The proposed amount of development is two flats, at two storeys, in an area measuring approximately 150m<sup>2</sup>.

### Visual Appearance

9.11 The main appearance from the public realm would be from the front (south) on East Street. The western-most section would also be partially visible from Rose Lane.

9.12 Another important view would be from the rear (north) in the churchyard. The ground floor would be largely obscured by the existing church wall, views would then give way to two gabled sections and linking walkway.

9.13 The east elevation, which is largely obscured by Eastcote House would appear as a glimpse of plain rendered wall. Visible to the west would be the weatherboarded elevation with the slate roof sloping away, and glimpses of other gables and elements of roof which make up the development.

9.14 The amenity of neighbouring residential properties is not unduly affected in terms of overshadowing or overlooking. Overshadowing caused by the development should be negligible given the existing, much higher, structure which sits behind the site - namely the church. It would be properties diagonally opposite which would lose some morning and evening light respectively as the gap is filled by the new build.

9.15 The windows would not have direct views into the gardens of the houses opposite. However, there would be living room windows across from the bedroom windows of the existing houses. This is not an unusual scenario, however, for a densely populated urban location especially where streets are this narrow. As the supporting text to policy UEA13 of the Adopted Review Colchester Borough Local Plan states: "Exceptions may be allowed to the standards within Policy UEA13 where the historic character of the area already exhibits different characteristics, such as an area of Victorian terraced houses where compliance may result in artificially restricted or manufactured development."

9.16 Turning to the representations:

1. This issue has already been analysed above;
2. Whilst some light may be lost to part of the church, this is limited as there are already two-storey properties on the opposite side of East Street. Photographs taken this January show the light that the church enjoys even in the darkest weeks of the year, this would undoubtedly be reduced in winter, by the new structures. There have also previously been buildings on the site of Papa's which were taller than the existing structure, and there appear to have been two-storey houses here in the 1920s.

3. Regarding potential overlooking of the church, including private ceremonies and so on, whilst the concern behind this is understood, it is a difficult argument to sustain. This is the rear aspect of the church, the main entrance being to the High Street elevation. The churchyard to the rear is already overlooked by many windows belonging to several existing properties. Finally, regarding comments about invasiveness at funerals (the funeral of a celebrity a few years ago has been quoted by several people) the churchyard is already a publicly accessible area;
4. It is possible that litter could arise if the sitting out area is removed. It is also possible that the lack of such an area will encourage people to move on and eat their chips elsewhere, as is the case with many any other chip shops. Tables and chairs are also offered within the restaurant;
5. The design and materials have both vernacular and modern references. The height is slightly above that of Eastcote House. This is dictated by the width of the existing building and the requirement for the existing shop to continue during construction and adherence to traditional roof pitches. The timber shop-front across two-thirds of the building is also very traditional. In contrast, the Juliet, some of the windows, and indeed the garage, are non-traditional. The flats would, on balance, appear as traditional in their inception, with some modern additions;
6. One usable parking space (within the garage) is proposed, which is what exists now. Demand on the site would, of course, be intensified, with two residences added to it. It is, however, unrealistic and unreasonable to ask for parking for flats in such a central location. Anyone moving in will be well aware that the parking of a vehicle will be unlikely in this location. Very few dwellings in the area have on site parking; As it is, the provision of parking within the site goes against the grain of the area, and arguably even a nil provision would have been more appropriate;
7. Most of the roof would be about half a metre higher than Eastcote House, which is itself the highest building in East Street. The central element of the proposal would, therefore, be the highest building on East Street. The height of the building is in part dictated by the depth of the existing building and to bring the ridgeline down would result in a very slack, unsympathetic, roof-pitch. The height matches the overall design ethos of the proposal, thus making most of it higher than most of the properties in East Street. This is not, of itself, a reason for refusal.
8. The balconies represented new elements in the street-scene, and the applicant has removed these elements from the scheme.



9. The claim of not having been notified is generally incorrect. One near neighbour's address was out of date, and he did not thus receive the initial notification. This has since been rectified. Almost 50 neighbouring properties and individuals who had commented on the previous application, were notified, some later than others. To this it must be added that the Friends of St. Mary's and Wivenhoe Parish Council were notified, a public notice was posted on site and the application was advertised in the local press. Consultation was thus extensive;
10. The agent has clarified this point as follows: "deliveries take place next to 'PAPAS" in East Street as has been the case for many years unchanged, and occur 3 times per week. The delivery vehicles vary in size from transit vans to 2 ton long wheel base Luton vans 4.1m long & 1.98m wide, to occasional larger lorries of about the same size ( 6.5m x 2.3m) as brewers drays which serve the Black Buoy Inn. The normal stopping delivery time is 10-15 minutes. Fish is delivered usually by FAS Ipswich, Potatoes by Lloyd Russell and oil in small vans by Fryers Pride. These suppliers have always been prepared to move their vehicles, when the occasional lorry is also trying to get past . Cars can pass during deliveries without hindrance."
11. This is covered under the answer to objection number 7;
12. Scaled diagrams suggest that the Swatchways building will prevent buildings from any overlooking;
13. This discrepancy is noted, but does not detract from the merits of the proposal as a whole;
14. The scale of the development is not considered to be an overdevelopment of the site.
15. The Friends of St. Mary's was notified;
16. This has already been covered under item 5;
17. It is accepted the site is limited. However, this is not a reason to refuse permission;
18. This discrepancy is noted, and the agent has since amended the drawings;
- 18a The flue is held to be vastly more satisfactory than the current one, and the wider dispersal is held to be preferable to the odours being limited to a smaller area. Details of the flue are to be controlled by way of condition 09.
19. The development would not be overbearing and satisfies UEA13. The canyon effect which the Town Council claims would occur is a continuation of the general pattern of development (i.e. generally two-storey on a narrow street);
20. This has already been answered in point 1;
21. This has already been answered in point 9;

22 The flue is clearly marked, and the agent has confirmed: "No additional coolers or noise attenuators are anticipated to be required."

23-28 These points have already been responded to above.

29. Planning permission is recommended on the basis of the retention of the existing building. Conservation Area Consent would be required to demolish the building.

30. This has already been covered in the above commentary;

31. The proposed situation is not different to the existing scenario.

In relation to the Highway Authority's comments about the automatic garage door, these are noted, but the expected level of use of this garage would be extremely low, and in the balance of a more satisfactory streetscape this minor inconvenience is deemed to be acceptable.

## **10.0 Conclusion**

10.1 In conclusion, the principle of this development is not opposed, the scheme is considered to be acceptable in scale and design, and does not unacceptably affect the amenity of any nearby residents or other users.

10.2. It is recognised that there will be altered views of the Listed St. Mary's Church, and that views up Rose Lane which currently comprise the main roof of the church, will be affected. At the same time, however, the current view of flue, chairs and tables and concrete wall detracts from the Conservation Area and setting of this Listed Building. The positioning of the development will also frame the principle feature of the church as seen from East Street, that is to say the porch and tower. The quality of re-design of the chip shop is also an improvement on the current squat, single-storey edifice.

10.3 Whilst the many objections are noted, and whilst it is acknowledged that this site is important to the residents of Wivenhoe, the application is recommended for approval upon the dating of a Unilateral Undertaking for contributions towards Open Space, Sports and Recreation facilities.

## **11.0 Background Papers**

11.1 ARC; HA, HH, CD, PTC, NLR

## **Recommendation**

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

## **Conditions**

### **1 – A1.5 (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 - C12.2 (Details of Walls and 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 approved features shall be provided as approved prior to the 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.

### **4 – A2.2 (amended plans)**

The development hereby permitted shall be implemented in all respects strictly in accordance with the revised drawing no[s] [Papas Sheet 03, rev G, Sheet 04 rev E], received 24th June 2008.

Reason: The original and first amended plans were unsatisfactory because the open garage design, and later the rear walkway design, were not visually acceptable in this Conservation Area.

### **5 – Non Standard Condition**

Prior to the commencement of development, full details of the proposed garage door shall be submitted to, and agreed in writing by, the Local Planning Authority. These details shall be of an automatic, roller style of door which does not oversail the highway, and is of Conservation standard. The agreed details shall be installed prior to the occupation of the residential units and shall thereafter be retained.

Reason: To ensure that the development preserves and enhances the character of the Conservation Area and minimises impact on the Highway.

### **6 – Non Standard Condition**

Prior to the commencement of development, an external colour scheme shall be agreed, in writing, by the Local Planning Authority. The development shall be completed in accordance with the agreed scheme as such and shall remain so at all times.

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

### **7 – Non Standard Condition**

Prior to the commencement of development, full details of the proposed flue shall be submitted to, and agreed in writing by, the Local Planning Authority. These details shall be implemented as agreed and kept in place at all times.

Reason: To ensure that the development preserves and enhances the character and [or appearance/visual amenity] of the Conservation Area.

#### 8 – Non Standard Condition

Notwithstanding the stipulations of the General Permitted Development Order, no external ducting or other plant shall be placed on the external walls or roofs of the building hereby approved without the prior written permission of the Local Planning Authority.

Reason: To ensure that the development preserves and enhances the character and [or appearance/visual amenity] of the Conservation Area.

#### 9 – Non Standard Condition

Prior to the commencement of development, a scheme to cope with noise and odour elimination shall be submitted to, and agreed in writing by, the Local Planning Authority. The agreed scheme shall be implemented prior to the occupation of any residential unit and kept in place at all times thereafter.

Reason: In the interests of residential amenity.

#### 10 – Non Standard Condition

Prior to the commencement of development, full details of the proposed screen to the rear walkway, shall be submitted to, and agreed in writing by, the Local Planning Authority. The agreed details shall be implemented prior to the occupation of any residential unit and kept in place at all times.

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

11 - Notwithstanding the details of the drawings hereby approved, any balcony shown on the plan drawing is hereby excluded from this permission.

Reason: In the interests of residential and visual amenity.

12 – The materials shown to be timber on the approved plans shall be of timber only, and not of any substitute material.

Reason: Artificial materials in this location would not be visually acceptable.

### **Informatives:**

#### Non Standard Informative

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



**Application No:** 081313

**Location:** 21 Church Street, Rowhedge, Colchester, CO5 7EY

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

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**7.8 Case Officer: Andrew Huntley**

**MINOR**

**Site:** 21 Church Street, Rowhedge, Colchester, CO5 7EY

**Application No:** 081313

**Date Received:** 24th July 2008

**Agent:** Mr M L Bowler

**Applicant:** Mr Robert Coote

**Development:** Proposed dwelling

**Ward:** East Donyland

**Summary of Recommendation:** Conditional approval subject to signing of an Unilateral Undertaking

**1.0 Site Description**

1.1 The site is located on the northern side of Church Street and is located within the Rowhedge Conservation Area. The area is predominantly residential in character although there is a redundant public house immediately to the east. The application site was part of the garden to number 21 Church Street and has now been fenced off with timber fencing. There is a pair of semi-detached period properties to the west.

**2.0 Description of Proposal**

2.1 Proposed dwelling with off street car parking space.

**3.0 Land Use Allocation**

3.1 Conservation Area  
Residential

**4.0 Relevant Planning History**

4.1 89/0788 - Proposed dwelling which was refused on the grounds that it was a cramped form of development resulting in the loss of an attractive view and the loss of trees and hedges.

4.2 98/1271 - Proposed apartment with associated parking was refused on the grounds that it represented overdevelopment of the site, which would create a form of development detrimental to both the general amenity of the area and to adjacent neighbours. The proposal was also of a poor design.

## **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations  
UEA1 - Character of Conservation Areas  
UEA2 - Building within Conservation Areas  
UEA11 - Design  
UEA12 - Backland Development  
UEA13 - Development including extensions, adjoining existing or proposed residential property  
H7 - Development within Village Envelopes  
H13 - Housing Density  
T9 - Car Parking  
Planning Policy Statement 1  
Planning Policy Statement 3  
Planning Policy Guidance 15

## **6.0 Consultations**

- 6.1 ECC Highways: Recommend refusal as the proposal aims to introduce a substandard vehicle access by reason of insufficient sight splays and would therefore be detrimental to highway safety and efficiency.

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

- 7.1 No response has been received from East Donyland Parish Council.

## **8.0 Representations**

- 8.1 Three letters of objection have been received relating to highway considerations and car parking, loss of a large garden with trees and shrubs, vulnerability of neighbouring property to vehicles using the new driveway and that the proposed wooden construction would be out of keeping with the character of the street and the conservation area. The proposal would also result in a loss of privacy.

## **9.0 Report**

- 9.1 The main considerations with this application are:
- Design and Character
  - Residential Amenity
  - Highways
  - Other Considerations

## Design and Character

- 9.2 Policies DC1, UEA1, UEA2, UEA11, UEA12, UEA13 and H7 of the adopted Review Colchester Borough Local Plan (2004) and PPG15 (1994) seek to ensure that development within conservation areas preserves or enhances the character of the conservation area. Planning Policy Statement 1 (2005) states that "planning authorities should strive to achieve high quality and inclusive designs for all development, including individual buildings, and that design that is inappropriate in its context, or that fails to improve the character and quality of an area should not be accepted."
- 9.3 The design of the proposal follows that of a traditional sail loft. There are examples of sail lofts in the local area and such a design is not considered to be out of keeping with the character or appearance of the conservation area, providing high quality materials are used. The design of the proposed dwelling is of a good quality and accurately reflects a traditional sail loft, however, materials conditions are necessary as the building would be publicly visible and is located within the Conservation Area. Due to the acceptability of the design of the proposed dwelling, the impact on the character and appearance of the conservation area would not be adversely effected.
- 9.4 Therefore no objections are raised on design grounds nor the proposal's impact on the character and appearance of the area.

## Residential Amenity

- 9.5 The proposal dwelling would not result in the loss of sunlight or daylight to a detrimental degree. In terms of overlooking, the two first floor windows on the western elevation serve a bathroom and an en-suite. The application does not state that the windows would be obscurely glazed but this can be dealt with by condition. These two windows would not cause an unacceptable level of overlooking and would not warrant the refusal of planning permission. The first floor window and the two roof lights on the eastern elevation overlook the adjacent public house, which is redundant. The first floor window serves a landing and it is considered that any overlooking from this window would be minimal. The two rooflights are at a high level and would not result in any loss of privacy. The first floor windows to the front of the property overlook Church Street. All the other openings are at ground floor level and would not have an adverse impact on residential amenity. Any consent however, would require the removal of permitted development rights to insert new openings in order to prevent any future detrimental loss of privacy to adjacent properties.
- 9.6 Therefore, no objections are raised in terms of residential amenity.



## Highways

- 9.7 The highway authority has objected to the proposal on the grounds that the proposal does not provide suitable visibility splays and would therefore be detrimental to highway safety and efficiency. However, it was clear from the officer's site visit and objection letters that a number of cars park along this stretch of Church Street, which would limit visibility in any case. Added to that, Church Street is narrow and the application site is close to a junction where vehicle speeds would be slow in any event and even slower when vehicles are parked on one side. Overall, it is considered that the objection from the highway authority is weak and could not be upheld at appeal due to the nature of the road at this point. In addition, the requirement to have larger sight splays could have a detrimental impact on the character and appearance of the conservation area.
- 9.8 In terms of pedestrian safety, the application does show suitable pedestrian visibility splays. A condition would be necessary to ensure that the pedestrian visibility splays are retained in perpetuity. This can be done by condition.
- 9.9 The proposal shows two off street car parking spaces. This level exceeds the adopted car parking standards, which states that dwellings should have a maximum of 1.5 spaces per dwelling. However, due to the narrow road and the lack of on street parking within the area, this level of provision is considered to be acceptable.
- 9.10 Therefore, no objections are raised in terms of highway considerations and car parking.

## Other Considerations

- 9.11 Three letters of objection have been received. The issues raised within the objections have already been considered earlier in the report. These objections do not outweigh adopted policy and government guidance and do not warrant the refusal of planning permission. A unilateral undertaking to provide an open space contribution has been provided with the application.

## **Conclusion**

- 9.12 In conclusion, the proposed dwelling is well designed and would not result in a cramped form of development. As such the proposal would preserve the character and appearance of the area. The objection from the highway authority is considered weak and would be unlikely to be upheld at appeal. Members are requested to approve this application.

## **10.0 Background Papers**

- 10.1 ARC; HA; NLR

## **Recommendation**

The application be deferred in order that a Unilateral Undertaking is completed whereby a contribution to Open Space, Sport and Leisure is made in accordance with the Council's Supplementary Planning Document. Once completed, the Head of Environmental and Protective Services be authorised to grant planning permission for the proposed development, 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 - A7.7 Exclusion of Garages Conversions**

Any garage hereby permitted shall be retained as such at all times and shall at no time be physically altered in a manner which would prevent its use as a car parking space except where the Local Planning Authority have given their written approval for a replacement car parking space and that replacement space has been constructed as approved.

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

### **3 - B4.2 Windows to be Obscure Glazed (1)**

The windows marked OBS on the western elevation of the dwelling hereby approved scheme shall be glazed in obscure glass with an obscuration level equivalent to scale 4 or 5 of the Pilkington Texture Glass scale of obscuration and shall be retained as such at all times thereafter.

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

### **4 - B4.5 No Additional Windows in Walls/Roof Slope**

No new window or other openings shall be inserted above ground floor level in the western, northern and eastern facing elevation/s / roof slopes of the proposed building without the prior approval in writing of the Local Planning Authority.

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

### **5 - 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 preserves and enhances the character and appearance of the Conservation Area.

### **6 - C3.11 Rainwater Goods to be Cast Iron/Aluminium**

All new rainwater goods shall be of cast iron, or cast aluminium and painted black unless otherwise agreed in writing by the Local Planning Authority.

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

#### 7 - C3.22 Velux Windows in Conservation Area

The rooflights shall be selected from the "Conservation" range and the precise details/make to be agreed in writing with the Local Planning Authority prior to the commencement of development. The development shall be completed in accordance with the approved details and retained thereafter.

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

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

#### 9 - C4.4 All Windows to be Painted White

All external window joinery shall have a white painted finish and be retained as such.

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

#### 10 - D1.2 Access Built Before Use

The building shall not be occupied until the means of vehicular access has been constructed in accordance with the approved plans.

Reason: To provide adequate visibility for drivers and to ensure the safety of pedestrians and vehicles.

#### 11 - D1.13 Visibility Splays as Per Approved Plans

There shall be no obstruction exceeding 600mm in height within the area of any visibility splay indicated on the plans hereby approved without the prior approval of the Local Planning Authority.

Reason: To provide adequate visibility for drivers and to ensure the safety of pedestrians and vehicles.

### **Informatives**

#### Non-Standard Informative

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



**Application No:** 081421

**Location:** Adhere Industrial Tapes, Unit 3, Whitehall Road, Colchester, CO2 8JH

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

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## 7.9 Case Officer: Andrew Huntley

**MINOR**

**Site:** Unit 3, Whitehall Road, Colchester, CO2 8JH

**Application No:** 081421

**Date Received:** 12th August 2008

**Agent:** Tambride Limited

**Applicant:** Adhere Industrial Tapes

**Development:** Proposed new storage building

**Ward:** Harbour

**Summary of Recommendation:** Conditional Approval

### 1.0 Site Description

1.1 The site is located on the north western side of Whitehall Road, adjacent to the junction with Whitehall Close. The area is mixed use in nature with both residential and industrial uses within close proximity of the application site. The existing use on the application site is industrial and there is a large warehouse style industrial building at the south western side. Other industrial uses are adjacent to the site to the south west and east with residential properties to the north and west. The site is bounded by a high brick wall with some tree planting.

### 2.0 Description of Proposal

2.1 The application proposal is for a new storage building.

### 3.0 Land Use Allocation

3.1 Employment

### 4.0 Relevant Planning History

4.1 C/COL/01/0134 - Refusal for a change of use from B1 (Light Industrial) to B2 (General Industrial)

4.2 C/COL/01/1170 - Approval with conditions for a change of use from manufacture of incontinence pads to forklift sale and hire, with associated workshop and storage facility together with driver training.

## **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations  
EMP 1 - Employment Allocations and Zones  
P1 - Pollution (General)  
Planning Policy Statement 1

## **6.0 Consultations**

- 6.1 Highways: No objection subject to a condition to ensure that a turning space of for an articulated vehicle is provided.
- 6.2 Environmental Control: No recommendation but have highlighted complaints from a neighbour in regard to noise from the operation, from employee's cars and from playing football within the site, noise from employee's having lunch outside and from lorry drivers looking over the fence. No other comments to make but a hedge planting scheme would be a good idea if the height could be controlled.

## **7.0 Representations**

- 7.1 Two letters of objection have been received. These objections relate to the fact the drawings are out of date and that on the site of 67 Whitehall Close there are now 6 dwellings and that the new building will be closer to the boundary and as such will create more disturbance. Other issues raised include loss of privacy from drivers looking over the fence, concerns over root growth from the proposed tree planting and fears that this application may lead to more vehicle movements if the business continues to expand. In addition, there would be an increase in pollution from the vehicles.

## **8.0 Report**

### Introduction

- 8.1 The main considerations within this application are:

- Design and Character of Building
- Residential Amenity
- Other Considerations

### Design and Character

- 8.2 The design of the building is that of a standard industrial building similar to the existing unit and others within the industrial estate and, as such, is acceptable in this location. The proposed storage building would be closer to the boundary of the site, but would not adversely impact on the character of the surrounding area and would appear visually in keeping with the industrial estate.
- 8.3 Therefore, no objection are raised in terms of the design of the proposal and its impact on the character of the area.

### Residential Amenity

- 8.4 The proposal is for an additional storage building relating to an existing industrial enterprise. The objections that have been received have been in relation to what presently occurs on the industrial unit. There is no evidence to show that this proposal would have a further detrimental impact on neighbouring amenity and would not result in the loss of sunlight or daylight to neighbouring properties. Nor would the proposal impact on levels of privacy. In addition, the Council's Environmental Control team have raised no objections.
- 8.5 Therefore, no objections are raised on residential amenity grounds.

### Other Considerations

- 8.6 Two letters of objection have been received relating to noise and disturbance, proposed planting and pollution. Most of these have already been covered within the report. In regard to pollution, the application has stated that the proposal would result in only one additional lorry and one or two cars per day. There is no evidence that this would result in an unacceptable level of pollution and as such would not warrant the refusal of planning permission. A landscaping condition as recommended by the Environmental Control team can overcome the concerns regarding the additional tree planting. A tree report has been included within the application and comments are awaited from the Council's tree officer. These should be available for inclusion on the amendment sheet.

### Conclusion

- 8.7 The application is acceptable on its merits and should be approved subject to highways and landscaping conditions.

## **9.0 Background Papers**

- 9.1 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

Before the development hereby permitted commences, the external materials and finishes to be used, shall be agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with agreed details

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

### 3 - Non-Standard Condition

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:

- Vehicle circulation areas.

Soft landscape details shall include:

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

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

### 4 - Non-Standard Condition

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 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Amendment) Order 2005 the storage building as permitted shall not be converted to any separate storage or warehouse use unconnected to the existing industrial activity already undertaken on the application site.

Reason: In order to control the presence of additional items of plant/machinery etc and/or the intensification of this site in the interests of visual and residential amenity and highway safety.

## **Informatives**

### Non-Standard Informative

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





**Application No:** 081643

**Location:** 118 Straight Road, Colchester, CO3 9DJ

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

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**7.10 Case Officer: Nick McKeever      EXPIRY DATE: 08/11/2008**

**OTHER**

**Site:**                    **118 Straight Road, Colchester, CO3 9DJ**

**Application No:**   **081643**

**Date Received:**    12th September 2008

**Applicant:**            Mr A Morgan

**Development:**      Change of use of existing bungalow to dental practice (2 no. consulting rooms)

**Ward:**                    Prettygate

**Summary of Recommendation:** Conditional Approval

## **1.0    Site Description**

- 1.1    The property is a detached bungalow with a frontage onto Straight Road, Colchester, set back approximately 12 metres from this road. It lies within a predominantly residential part of the Borough containing a wide range of dwellings in terms of their ages styles and architectural forms. It has an existing vehicular access off Straight Road terminating at a single storey, detached garage located immediately adjacent to the rear elevation of the dwelling.
- 1.2    The adjoining dwelling at No.116 Straight Road is a detached two storey building separated from the site by the access serving it.
- 1.3    No. 120 Straight Road is a chalet style dwelling.
- 1.4    The application proposes the use as a dental surgery, containing 2 Consulting Rooms, a Staffroom/storage area, reception desk and a Waiting Room. It is not proposed to do any works to the external appearance of the building.
- 1.5    The application states that there will be two full time and two part time staff employed within the practice, which will open to patients between 08:30 am to 5:30 pm Mondays to Saturdays and between 9:00 am to 1:00 pm on Saturdays.
- 1.6    The submitted drawings show the provision of 4 car parking spaces on the front garden area, and two parking spaces in front of the existing garage. This garage is to remain for the parking of cars and not for storage or other uses. The existing vehicular turning area is to be maintained as such.

## **2.0    Land Use Allocation**

- 2.1    Residential

### **3.0 Relevant Planning History**

3.1 None

### **4.0 Principal Policies**

4.1 Adopted Review Borough Local Plan  
Development Control Considerations - DC1  
Design - UEA11& UEA13  
Pollution - P1  
Car Parking - T9

### **5.0 Consultations**

5.1 The Highway Authority has no objection subject to conditions relating to the provision and maintenance of 2m x 90m sight splays and 1.5 metre x 1.5 metre pedestrian visibility sight splays, the parking and turning area, and the provision of adequate bicycle parking facilities.

### **6.0 Representations**

6.1 The occupiers of Nos. 114, 116 and 120 Straight Road have submitted the following representations:-

- Residential area
- Existing Dental Surgery within the Commons, Prettygate
- Limited bus service
- Located on a very busy Road
- Inadequate on-site car parking. Possibility of the use of the rear garden for car parking. Lack of parking restrictions on the main road could encourage indiscriminate parking within the highway.
- Noise & disturbance caused by the vehicular activity
- Possible provision of externally mounted air conditioning units

6.2 The occupier of 13 Oaklands Avenue expresses similar concerns, particularly the parking of vehicles outside of the site and the possible obstruction arising from this.

### **7.0 Report**

7.1 It is acknowledged that the site lies within an established residential area. This is not in itself a justification for refusing the application, given that dental and medical uses are a feature of residential areas as they serve the local population.

7.2 It can be argued that in terms of sustainable development, it is preferable to locate this type of use in, or in close proximity to, residential areas. The site is also sustainable in terms of its location on a main bus route.

7.3 The main Local Plan policy which has to be applied to this type of use is DC1. This policy recognises that some uses can be detrimental in terms of the adverse impact upon amenity.

- 7.4 In this context it is acknowledged that this is a small property and is not capable of accommodating a large scale practice. In this respect the application only proposes a maximum of 2 full-time and 2 part-time staff. Of these it is explained that the practice nurse will also act as a receptionist.
- 7.5 The proposed dental surgery will not be operating during unsocial hours. Therefore, whilst there is likely to be more activity generated by the use over and above that likely for a property of this size, it is not considered that it would prejudice the amenity of the adjoining dwellings. It is also appreciated that, during the proposed opening hours, Straight Road does tend to be relatively busy and subject to a lot of background noise. Nonetheless the use should be regulated so that it only operates within the specified times in order to minimise any impact upon residential amenity.
- 7.6 The Applicant has advised that the present small practice has no air conditioning and that this is not a requirement for the proposed site.
- 7.7 The parking provision complies with the Council's adopted standards for this Class D2 use. It is also noted that the Highway Authority are satisfied that the use can be carried out without any conflict with matters of highway safety. Members may, however, consider that any consent should restrict the on-site provision solely to the area shown on the submitted drawings, thereby excluding the use of the rear garden area.
- 7.8 In conclusion it is considered that the proposed use, in terms of its scale and operating hours, is compatible with its predominantly residential location and as such is not likely to be detrimental to residential amenity. Whilst Straight Road is a busy local distributor road, the site can accommodate the required on-site parking and vehicular turning area and is considered to be acceptable with regard to other highway considerations.

## **8.0 Background Papers**

- 8.1 ARC; 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 Dental Practice hereby approved shall not operate outside of the hours specified within the application.

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

### 3 - Non-Standard Condition

Prior to occupation of the development visibility splays with dimensions of 2 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 500mm 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.

### 4 - Non-Standard Condition

Prior to the occupation of the access a 1.5 metre x 1.5 metre pedestrian visibility 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 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 Policies 1.1 and 3.4 in Appendix G to the Local Transport Plan.

### 5 - Non-Standard Condition

Prior to occupation of the development hereby permitted the parking and turning area enabling vehicles 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 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.

### 6 - Non-Standard Condition

Prior to the occupation of the development the details of the number, location and design of bicycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be provided before occupation and retained at all times.

Reason: To ensure appropriate bicycle parking is provided in accordance with Policy 3.3 in Appendix G to the Local Transport Plan.

### 7 - Non-Standard Condition

No part of the site other than that shown on the approved drawings shall be used for the provision of car parking spaces.

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

## **Informatives**

### Non-Standard Informative

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

### Non-Standard Informative

2. The above conditions are required to ensure the proposal complies with the County Council's Highways and Transportation Development Control Policies as originally contained in Appendix G to the Local Transport Plan 2006/2011 and refreshed by Cabinet Member decision dated 19 October 2007.

Non-Standard Informative

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



**Application No:** 081691

**Location:** 105 Nayland Road, Mile End, Colchester, CO4 5EW

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

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**7.11 Case Officer: Andrew Tyrrell      EXPIRY DATE: 14/11/2008      OTHER**

**Site:**                    **105 Nayland Road, Mile End, Colchester, CO4 5EW**

**Application No:**   **081691**

**Date Received:**   18th September 2008

**Applicant:**           Mr A Baker

**Development:**    Retrospective change of use of the front part of building from retail (Class A1) use to office (B1 use) and for its use in connection with the established use of the rear part of the building for workshop and storage purposes.

**Ward:**                 Mile End

**Summary of Recommendation:** Approval with no conditions

## **1.0    Site Description**

1.1    The site is located at the northern end of Nayland Road. It has contained a workshop, office and yard for a long time. Records show that the shop was added in 1963, but the use of the site goes further back. It has changed ownership several times, often with the shop unit being run under separate leasehold. Shop uses include a plumbers and a hardware store, which have both used storage in the yard, as well as other uses that did not. The site is now run as one single use, which generates more traffic than previously.

## **2.0    Description of Proposal**

2.1    The application is solely for a retrospective change of use of the shop unit at the front of the site to an office. All other matters are separate to this application.

## **3.0    Land Use Allocation**

3.1    Residential

## **4.0    Relevant Planning History**

4.1    050009- Two flats- Refused 1 March 2005

4.2    05/1278- Demolition of existing DIY/Hardware Store and construction of two storey building to provide 2 two bedroom flats. (Re-submission of F/COL/05/0009)- Refused 23 February 2006



## **5.0 Principal Policies**

- 5.1 DC1- Development Control considerations  
EMP2- Development outside Employment Zones

## **6.0 Consultations**

- 6.1 The Highway Authority comment as follows:

“As the traffic associated with an office is potentially comparatively lower than that associated with a shop, this Authority does not propose to issue a formal recommendation in this case.

The land use associated with the whole site is creating major issues with indiscriminate parking within and servicing from the highway. This is detrimental to the safety of the highway user, and the efficiency and integrity of the highway.

The introduction of waiting restrictions and for loading restrictions has been considered. However, these are likely to be subject to abuse and displacement of this parking further along the road causing another set of problems. “

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

- 7.1 Myland Parish Council state that parking has caused many problems since the establishment of this business. The application states there is space for 2 cars and 3 LGVs on site but these are rarely full to capacity. Instead vehicles are left in Nayland Road causing congestion and access problems not only for nearby residents but also to buses.

## **8.0 Representations**

Letters have been received from neighbours making the following comments:

- Insufficient consultation of neighbours was undertaken
- Unnecessary parking on road and in front of driveways by vans of Milton group causes reduction in available on street parking spaces to detriment of amenity of residents many of whom have no off street parking
- Vans should be parked on the site where there are available spaces
- On street parking causes congestion and obstruction to bus movements

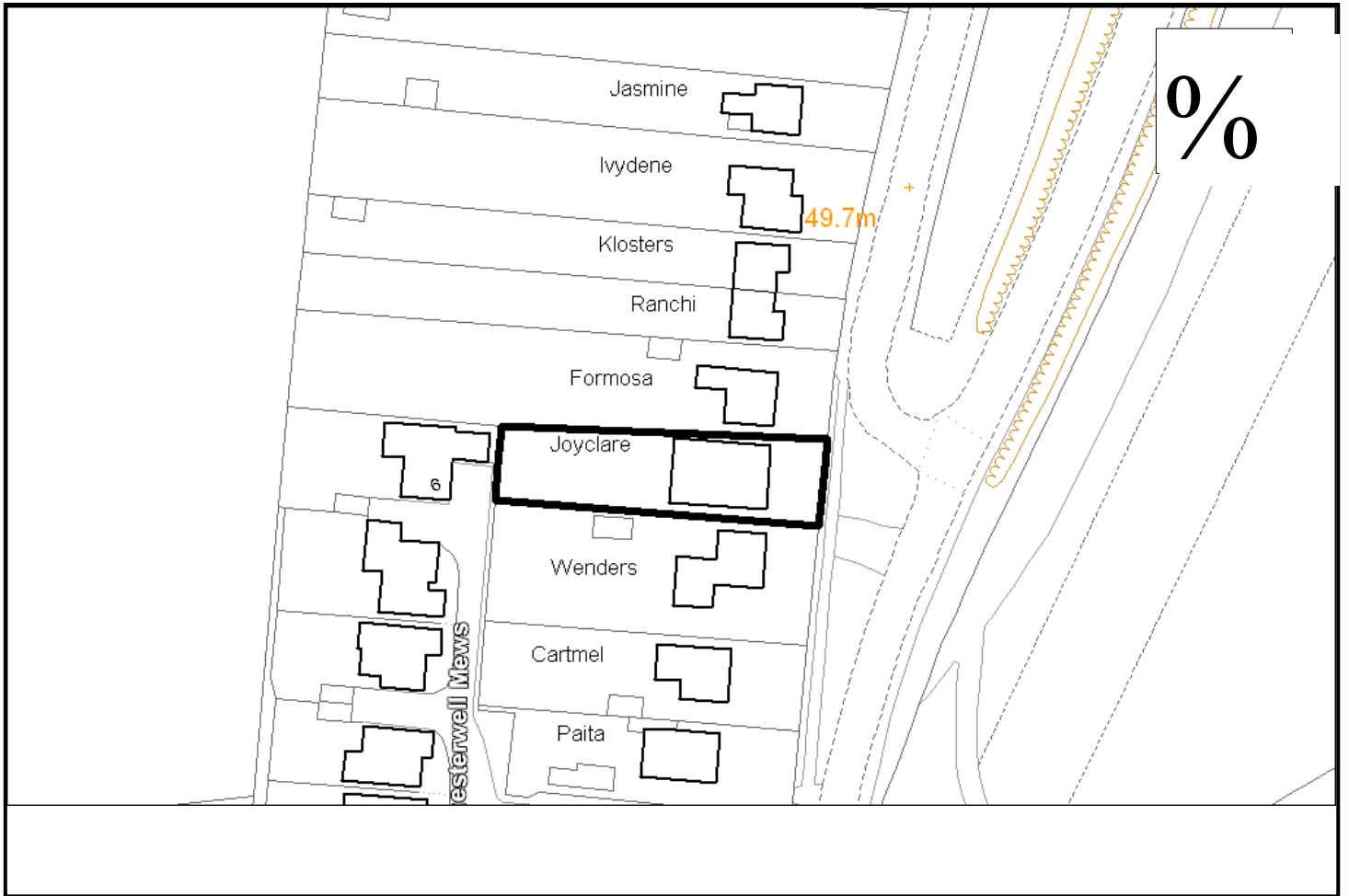
## **9.0 Report**

- 9.1 There is no objection in Policy terms to the loss of a retail unit in this area.
- 9.2 The main crux of the matter raised in objections is the amount of traffic generated by this site as a whole. However, this is not a matter that can rightly be considered in the manner that the objectors seem to desire. It is evident from submissions by the applicant that the current use of the workshop and yard are established with no limits on the number of vehicles at the site. Therefore, there is no scope for planning powers to intervene in this matter.

- 9.3 The change of use, which is the only matter for consideration, would be more likely to reduce traffic than increase it. The existing use of the front part of the site is as a retail unit, which could generate traffic from customers throughout the day. A change of use to office space would remove the likelihood of customers, albeit there might be occasional visitors to the office.
- 9.4 The rest of the site is established and the growth of the business is a historical consideration that can not be limited herein. Any conditions should be directly related to the development proposed, which would not limit the traffic associated with the other uses on site. The fact of the matter is that the use has expanded and the likelihood is that it has outgrown this site, but planning powers do not allow the use to be forced elsewhere.
- 9.5 If the traffic from the site causes a highway infringement then this should be pursued by the Police.
- 9.6 Usually we would seek on-site parking. However, given the material consideration that the existing use of the site generates traffic in any case the fall back position is not as strong as it needs to be. This would weaken any refusal in the likely event of appeal.
- 9.7 For the reasons set out in Paragraphs 9.1 and 9.3 above permission is recommended. There are no conditions to impose particularly given the retrospective nature of the application.

## **10.0 Background Papers**

### **Recommendation – Approval**



**Application No:** 081704

**Location:** Joyclare, Boxted Road, Mile End, Colchester, CO4 5HF

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

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**7.12 Case Officer: Jane Seeley**

**EXPIRY DATE: 18/11/2008**

**Site: Joyclare, Boxted Road, Mile End, Colchester, CO4 5HF**

**Application No: 081704**

**Date Received: 22nd September 2008**

**Agent: Mr Kevin K Hall**

**Applicant: Care Aspirations**

**Development: Continued permanent use as occupational therapy annexe to St Pauls Hospital following temporary planning permission C/COL/07/0128**

**Ward: Mile End**

**Summary of Recommendation: Conditional Approval**

## **1.0 Site Description**

1.1 Joyclare is located on the western side of Boxted Road approximately 300m from the bridge over the A12. The access to the property is close to the entrance to a cul-de-sac which services a number of residential properties and St Paul's Hospital, a care home for people with learning disabilities.

1.2 In March 2007 planning permission was granted for the use of the bungalow as an occupational therapy annexe to St Paul's Hospital. This permission was for a year. The use commenced in September 2007. This application seeks to obtain permanent permission for the use. Information regarding the use of the annexe has been provided in a supporting statement. A summary of the salient points from these documents is produced below.

1. The Occupation Therapy Centre provides day care facilities to be used in conjunction with St Pauls Hospital.
2. Therapies provide include:
  - a. Arts and crafts
  - b. Literacy.
  - c. Numeracy.
  - d. PC skills
  - e. Basic cooking skills
  - f. Relaxation therapy (aromatherapy, watching DVDs).
  - g. Pool/Snooker.
3. Joyclare provides better facilities and wider opportunities to people with learning disability.
4. Skills such as numeracy and literacy skills are taught along with certain life skills such as sewing and food preparation.
5. A therapist stays at the site all day and the centre is only used under their supervision. During peak times it is possible that 8-9 people are on site.

6. The annexe is used solely by the staff and residents of St Pauls; the majority walk the short distance between the two sites escorted by staff.
7. The annexe is used two sessions per day; a morning session and an afternoon session of approximately 2 hours each. Residents have the option to join classes appropriate to their skills and development.
8. Vehicular movements to and from the site are limited; parking is provided for 3 vehicles.
9. Coffee mornings have been held for neighbours and local residents to keep them informed of operations at the annexe and to obtain feedback
10. Concerns raised by residents regarding taxi's dropping people off at the Annexe on their return from other activities have resulted in drop off and pick ups only taking place from St Pauls Hospital.
11. Concerns about use of a trampoline in the garden have resulted in its removal.
12. Annexe operated from 9.00 a.m. - 5.30 pm and 9.00am to 1.30 pm Saturdays. No use on Sundays or Public Holidays.

1.3 Following receipt of the letters of objection detailed below the applicant's agent has provided a revised Supporting Statement and an email. These advise that:

- a) the clients using the Annexe will be carefully selected clients with modest learning difficulties. These clients are patients of St Pauls Hospital who have been referred there by the NHS Primary Health Care Trust
- b) it is not the intention to return the trampoline to the garden or provide any other climbable play equipment in the rear garden
- c) vehicular access will only be via the driveway from Boxted Road and no access will be taken across the verge or along the footpath
- d) Taxis will only drop off and collect clients from the main hospital site

1.4 A letter has also been forwarded from the Head of the Psychology Department at St Pauls Hospital. This states that all patients using Joyclare are risk assessed and cleared using a state of art risk assessment tool and that they are always escorted by staff that are familiar with their history, medication and behaviour guidelines of management.

1.5 The full text of all the above mentioned documents can be viewed via the Council's website.

## **2.0 Land Use Allocation**

2.1 Predominantly residential

## **3.0 Relevant Planning History**

3.1 01/1037 - Rear extension - Approved 24 August 2001

3.2 07/0128 - Change of Use to occupational therapy annexe - A (1 Year) – Approved March 2007

3.3 080354 - Removal of Conditional 02 of C/COL/07/0128 - Withdrawn

## **4.0 Principal Policies**

- 4.1 Adopted Review Colchester Borough Local Plan  
DC1 - Development Control considerations  
P1 - Pollution (General)  
P2 - Light Pollution

## **5.0 Consultations**

5.1 Environmental Control - No Comments

5.2 Highways Authority - No objections

5.3 Environmental Policy comment:

- 1) The close link between the annex and St Paul's Hospital should be retained.
- 2) Supporting statement outlines a number of issues that have the potential to impact on residential amenity. The fact that they appear to have been resolved satisfactorily eases concerns.
- 3) Generally supportive of application
- 4) Should annex no longer be required by the applicant for use in association with St Paul's Hospital it should be returned to use as a residential dwelling.
- 5) The property is allocated as Predominately Residential on the Local Plan Proposals Map,

## **6.0 Parish Council's Views**

6.1 Myland Parish Council has no objections and supports the application.

## **7.0 Representations**

7.1 Two letters have been received:

- 1) Joyclare was occupied into the late evenings during September 2007 in conjunction with its initial set and appears to have ceased once a neighbour verbally reminded staff of the authorized hours.
- 2) MPVs regularly transport residents; often driving along the public footpath and private taxis dropped off users until a neighbour raised concerns. This appears to have ceased.
- 3) A trampoline was installed in the garden (users could see into adjacent yards and shouted loudly) until a neighbour complained.
- 4) The essence of neighbourly living that was previously enjoyed has ceased, despite daily contact with staff and residents
- 5) Oppose any future application for expansion of building, clientele, activities or operating hours at Joyclare.
- 6) There have been instances of loud distressed shouting and wailing sounds from the rear garden which is disconcerting and alarming for nearby residents.
- 7) Concerned that property could be used by individuals convicted of serious crimes. The Council has a duty of care and should enquire into the category of patients using the facility. Have patients using the garden been detained under mental health legislation for their own safety of the safety of the general public.

- 8) Concerned that patients are being transported to Joyclare from off site locations and elsewhere in the country.
- 9) Constant vehicle movements cause congestion, obstruction and is disturbing.
- 10) Continued use is entirely inconsistent with the location, particularly with regard to the number of elderly residents living nearby.

## **8.0 Report**

- 8.1 Joyclare has been used as an occupational therapy annexe for St Paul's Hospital for 13 months. Prior to the use commencing the site was fenced, with 1.8m close boarded fencing, and the gravel driveway and side path surfaced with tarmac. These were conditions of the original planning permission.
- 8.2 An application earlier this year to remove the condition restricting the use to a temporary period of 1 year was withdrawn. This was because Officers shared neighbour concerns that the use had not been operating for long enough to satisfactorily judge the impact on neighbours. Particularly because the use had not taken place over a summer period when windows would be open and the garden more fully utilised.
- 8.3 The objectors have detailed instances where neighbours have had to approach the operators regarding activities that they consider to be inappropriate. At the time of the withdrawn application early this year these concerns were expressed by a number of local residents. However it appears that the activities causing complaint have been ceased. In order to ensure they do not re-occur the applicants have amended their supporting statement and provided an email confirming that they will not allow play equipment such as trampolines in the garden and that taxi's will not pick up or drop off residents at the annex. A condition requiring the annex to operate in compliance with revised supporting statement and email can be imposed if planning permission is granted.
- 8.4 Information has been provided which states that patients have moderate learning difficulties and are risk assessed and cleared to use the facilities at the Annexe. As Joyclare does not provide any treatment or residential care it does not have to be registered, however, St Pauls Hospital is regulated by the Health Care Commission for Hospital Services and the Commission for Social Care Inspection.
- 8.5 None of the occupiers of dwellings accessed via Boxted Road or the cul-de-sac have advised of any on going congestion/obstruction problems. Highways have not raised any objections to the continued use of the Annexe.
- 8.6 The temporary permission includes conditions to restrict the hours of use and ensure that the use is only undertaken in association with the use of St Paul's Hospital. There are no proposals to change these restrictions or to extend the building. Proposals for alternative use, should the existing use cease, will be judged on their own merits
- 8.7 Any problems that have been notified to the operators appear to have been dealt with in a responsible manner. There is nothing to suggest that the use is currently causing any undue adverse impact on residential amenity. Accordingly there is no sustainable reason for refusal of a permanent planning permission.

## **9.0 Background Papers**

9.1 ARC; HH; HA; PP; PTC; NLR

### **Recommendation - Conditional Approval**

#### **Conditions**

1 - Non-Standard Condition

The hereby approved use shall only take place during the following hours:-

Monday - Friday 9.00 a.m. - 5.30 p.m.

Saturday - 9.00 a.m. - 1.30 p.m.

and at any time on Sundays, Bank and Public Holidays.

Reason: To safeguard the amenities of nearby residential properties.

2 - Non-Standard Condition

The hereby permitted use shall only be undertaken in association with the use of St Paul's Hospital.

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

3 - Non-Standard Condition

Any plant, equipment or machinery on the premises shall be constructed, installed and maintained so as to ensure that the noise generated by them when in use, shall not exceed the background level (as determined by BS4142:1997 or subsequent amendments) as measured at 1.0m from the facade of any residential premises within the immediate vicinity of the development by more than 5dB. The noise generated by such equipment shall not have any noise frequency component that exceeds the background frequency levels as measured at a distance of 1.0m from the facade of the nearest residential premises.

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

4 - Non-Standard Condition

No part of the building hereby approved shall be used for public entertainment purposes at any time.

Reason: To protect the amenities of adjoining residents.

5 - Non-Standard Condition

The use hereby permitted shall be undertaken strictly in accordance with the revised Supporting Statement and as clarified by the applicant's agent's email of 22 October 2008.

Reason: To protect the amenities of adjoining residents.

6 - Non-Standard Condition

Any lighting of the development of ancillary parking/delivery areas shall be located, designed and directed (or screened) so that it does not cause avoidable intrusion to adjacent residential properties. In this context 'avoidable intrusion' means contrary to the Code of Good Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

Reason: To protect the amenities of adjoining residents.





**Application No:** 081483

**Location:** 61-63 Albion Street, Rowhedge, Colchester, CO5 7ER

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

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**7.13 Case Officer: Andrew Huntley**

**OTHER**

**Site:** 61-63 Albion Street, Rowhedge, Colchester, CO5 7ER

**Application No:** 081483

**Date Received:** 8th August 2008

**Agent:** Mike Bowler

**Development:** Proposed front entrance porch

**Ward:** East Donyland

**Summary of Recommendation:** Listed Building Consent

**1.0 Site Description**

1.1 The site is located on the western end of Albion Street on its north western side, at the junction with Paget Road. The area is residential in character with two-storey period properties. The property on the application site was originally two dwellings and now forms a terrace of 3 properties. The property is a typical two-storey period dwelling which has an existing front porch.

**2.0 Description of Proposal**

2.1 The application proposal seeks listed building consent for a new front entrance porch.

**3.0 Land Use Allocation**

3.1 Residential  
Conservation Area

**4.0 Relevant Planning History**

4.1 None

**5.0 Principal Policies**

5.1 Adopted Review Colchester Local Plan:  
DC1- Development Control considerations  
UEA2 - Building within Conservation Areas  
UEA11 - Design  
UEA13 - Development, including extension, adjoining existing or proposed residential property.  
Planning Policy Statement 1  
Planning Policy Guidance 15

## **6.0 Consultations**

6.1 None

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

7.1 None received

## **8.0 Representations**

8.1 None received

## **9.0 Report**

### Introduction

9.1 The main considerations raised by this application are:

- Design and Character
- Other Considerations

### Design and Character

9.2 Porches, like other extensions, should be of a high quality design and be in keeping with the existing dwelling. As the site lies within the Rowhedge Conservation Area development proposals should also preserve or enhance the character and appearance of the area. In this instance although the proposed new porch is considerably larger than the existing porch it would appear acceptable in design terms. As such the proposed porch would not harm the character or appearance of the conservation area, nor detract from the appearance of the existing property.

### Other Considerations

9.3 No objections have been received.

## **Conclusion**

9.4 The proposed porch is acceptable in design terms and would not adversely affect the character and appearance of the Conservation Area. Members are requested to approve this application.

## **10.0 Background Papers**

10.1 ARC

## **Recommendation - Listed Building Consent**

### **Conditions**

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

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

Reason: In order to comply with 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

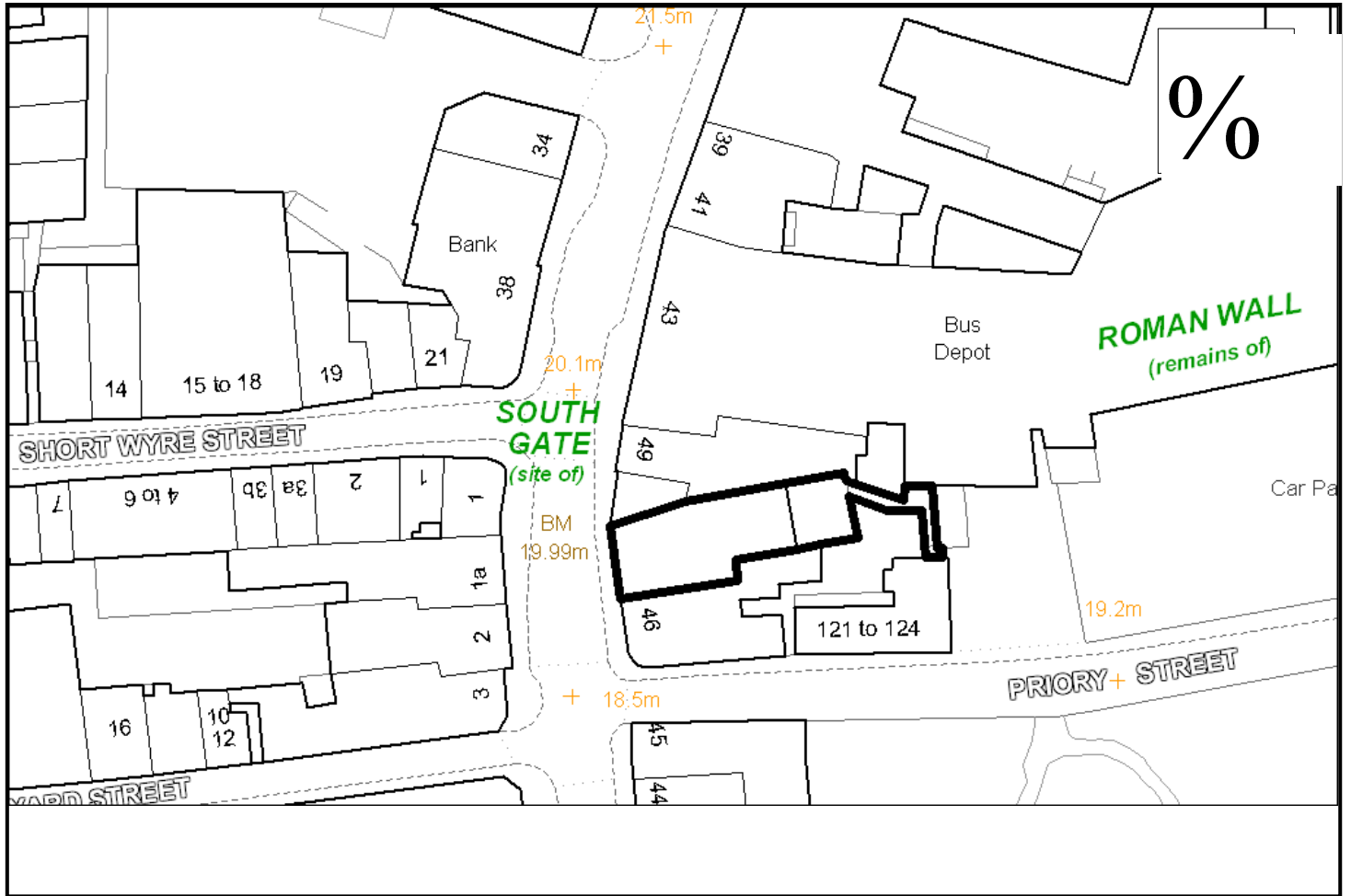
The external materials and finishes to be used shall be as stated on the application form and as indicated on the approved plans and schedule returned herewith, unless otherwise agreed in writing by the Local Planning Authority.

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

### **Informatives**

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

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



**Application No:** 081484

**Location:** 47 St. Botolphs Street, Colchester, CO2 7EB

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

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**7.14 Case Officer: Andrew Huntley****Site:** 47 St. Botolphs Street, Colchester, CO2 7EB**Application No:** 081484**Date Received:** 8th August 2008**Agent:** Mr Michael Bowler**Applicant:** Mr Allan James**Development:** Change of use from vacant shop unit (formerly T/A Pete's Treats) A1 use to a restaurant A3 use**Ward:** Castle**Summary of Recommendation:** Conditional Approval**1.0 Site Description**

1.1 The site is located on the eastern side of St Botolphs Street, between Priory Street and the Bus Station entrance. The area is mixed use in character with commercial uses at ground floor level. The property on the application site is a two-storey terraced building which had a shop at ground floor level but is now vacant. To the south is a bridal shop and to the north is another vacant premises.

**2.0 Description of Proposal**

2.1 Change of use from vacant shop unit (formerly T/A 'Pete's Treats') to a restaurant (A1 use to A3 use).

**3.0 Land Use Allocation**

3.1 Conservation Area  
Regen Area 5.

**4.0 Relevant Planning History**

4.1 79/0004 - approved with conditions for a change of use from shop to Class A2 use (Building Society or Estate Agents)

4.2 F/COL/05/1657 - Approved with conditions for a proposed conversion to form 4 flats.

## **5.0 Principal Policies**

- 5.1 Adopted Review Colchester Local Plan:
  - DC1- Development Control considerations
  - UEA1 - Character of Conservation Areas
  - TCS24 - Proposed Regeneration Areas
  - Planning Policy Statement 1
  - Planning Policy Statement 6
  - Planning Policy Guidance 15

## **6.0 Consultations**

- 6.1 Policy comments as follows:

The site falls within the Vineyard Regeneration Area on the Borough Plan Proposals Map and is covered solely by Policy TCS24. Policy TCS24 outlines that redevelopment will be promoted to significantly improve the environment and overall vitality and viability of the Town Centre. The proposed change of use from A1 to A3 could improve the overall vitality and viability of the Town Centre but when the wider area is looked at, the Planning Policy team consider this not to be the case as Queen Street and St Botolph's Street serve very important local shopping functions. Retaining the A1 use would be more appropriate. The Council's Master Plan for the area does not include the buildings 46-49 St Botolph's Street but should be taken into consideration regarding regeneration and improvements to public realm and attractiveness of this part of the Town Centre.

- 6.2 In order to further clarify the views of Planning Policy the policies which relate to adjacent areas can provide some context and these details are outlined below. The property (47 St Botolph's Street) is not designated on the Town Centre Land Use Database maps but is adjacent to the Mixed Use Area and the Local Shopping Centre at the south of St Botolph's Street. Policy TCS5 and TCS9 relate to these areas respectively and therefore some consideration of these policies is necessary. TCS5(b) seeks to restore retail attractiveness of the area and TCS9(d) seeks to prohibit no more than two non A1 uses in a row. When looking at 46-49 St Botolph's Street the change of use proposed would result in only one A1 unit (46) which is likely to have an impact on the adjacent areas and is unlikely to restore the retail attractiveness.

- 6.3 After taking into consideration the surrounding areas and the policies specifically focusing on areas adjacent to 47 St Botolph's Street it is unlikely that Planning Policy would be willing to support this change of use as the further loss of A1 in this part of the Town Centre would be considered contrary to Policy TCS24 and the Regeneration that is taking place under the St Botolph's Master Plan.

## **7.0 Representations**

- 7.1 No representations have been received.

## 8.0 Report

### Introduction

8.1 The main considerations with this application are:

- Town Centre Policy
- Highways
- Other Considerations

### Policy

8.2 The site falls within the Vineyard Regeneration Area on the Proposals Map and is covered solely by Policy TCS24. Policy TCS24 outlines that redevelopment will be promoted to significantly improve the environment and overall vitality and viability of the Town Centre.

8.3 The Council's Master Plan for the area does not include the buildings 46-49 St Botolph's Street but should be taken into consideration regarding regeneration and improvements to public realm and attractiveness of this part of the Town Centre.

8.4 The Council's policy department has recommended that the application be refused as set out in paragraphs 6.1 – 6.3

8.5 However, this opinion is significantly based on policies that do not relate to this site and the view taken by the Council's policy department could be seen as unreasonable, even if there are good intentions behind it. This application can only be determined on the relevant policies that relate specifically to this site and Government Guidance and not on local plan policies that relate to other areas. The master plan is silent on the application property.

8.6 Therefore, the only site specific local plan policy to apply to this site is Policy TCS24. This policy is vague at best (although this is probably intended so as to allow a proper assessment through the master plan) and certainly does not preclude a change of use from A1 to A3. Therefore, it is clear that there can be no clear-cut policy objection to this application for a change of use.



## Highways

- 8.7 The Highway Authority has stated that there is insufficient information on the proposal for the new shop frontage to fully assess the impact on the highway. However, the highway authority does not wish to object to the proposal subject to conditions ensuring that any new shop front shall be located clear of the highway and that no doors or windows open out onto the highway.
- 8.8 The application is for a change of use only and no physical works are proposed. Such conditions would be unnecessary and would have to be dealt with in connection with any submitted proposals for alterations to the shopfront. Therefore, there is no objection on highway grounds.

## Other Considerations

- 8.9 No objections have been received. Environmental has no objections to the proposal subject to a noise level condition.

## **Conclusion**

- 8.10 In conclusion, the proposed change of use is considered acceptable and a refusal on policy ground is not justified and could be unreasonable.

## **9.0 Background Papers**

- 9.1 ARC; HA; HH; PP

## **Recommendation - Conditional Approval**

### **Conditions**

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

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

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

2 - Non-Standard Condition

A competent person shall ensure that the rating 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 the 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 use permitted does not have a detrimental impact on neighbouring amenities.

### 3 - Non-Standard Condition

The premises shall be used for A3 purposes only as defined in the Use Class Order and for no other purpose (including any other purpose in Class A 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 the surrounding area.

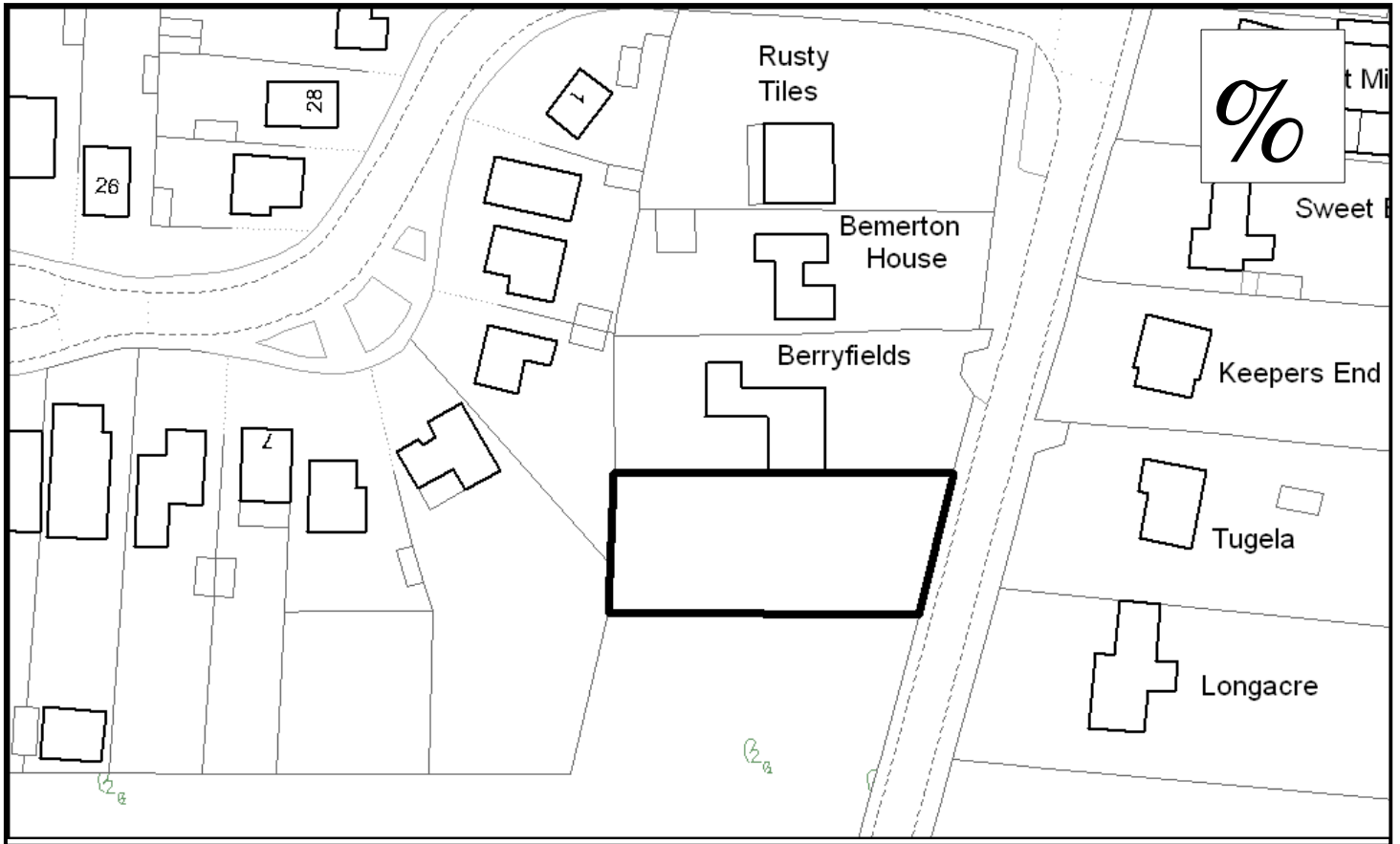
### **Informatives**

#### Non-Standard Informative

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

#### Non-Standard Informative

2. **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 one 1/3 octave band which exceeds the two adjacent bands by more than 5dB as measured at all boundaries near to noise-sensitive premises.



**Application No:** 080196

**Location:** Land adj to, Berryfields, Coggeshall Road, Dedham, Colchester, CO7 6ET

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

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## Planning Committee

Item

8

6 November 2008

Report of	Head of Environmental and Protective Services	Author	John Davies ☎ 507838
Title	Land in garden of Berryfields, Coggeshall Road, Dedham		
Wards affected	Dedham and Langham		

**This report concerns the status of building works to erect a new house currently being undertaken on land to the south of a property known as Berryfields in Coggeshall Road, Dedham which are considered to be not in accordance with the approved plans.**

### 1. Decision Required

- 1.1 To authorise the Planning Services Manager powers to take enforcement action or other legal action as appropriate against unauthorised building works taking place at the above site subject to any negotiations with the developer to secure compliance with the original approved scheme or the submission of an alternative acceptable scheme.

### 2. Reasons for Decision(s)

- 2.1 It is considered on the basis of evidence before Officers that the house is being constructed not in accordance with the approved plans and the variations are considered to be material changes. Appropriate action is recommended in order to remedy a breach of planning control.

### 3. Alternative Options

- 3.1 The only alternative option is to take no action and await a possible retrospective application from the applicants for an amended scheme. This may or may not be submitted and the works would be likely to be completed on site. At the end of 4 years the development would have immunity from any enforcement action by reason of the 4 year rule and would be lawful.

### 4. Supporting Information

- 4.1 Planning permission was granted on 28 March 2008 under application reference 080196 for the erection of a detached two storey house on land within the side garden of Berryfields in Coggeshall Road.
- 4.2 Works commenced to erect the building earlier this year and in June concerns were raised by local residents that a hedge on the southern boundary of the site had been removed and that the setting out of the building was not in accordance with the approved plans. These complaints were investigated on site and the foundations were found to be in the right place. The removal of the hedge was judged to have been in advance of works formally commencing on site and therefore was not protected by the relevant conditions.

- 4.3 In early October a neighbour reported to the Enforcement Team that the height of the building appeared to be greater than as shown on the approved plans and that it appeared overly dominant in relation to its neighbouring buildings (a building under construction on land to the south of the site and the house at Berryfields to the north). Officers visited the site to measure the building and contacted the developers about the complaint and they provided a response indicating their view of the difference in height.
- 4.4 The approved elevation plans showed a ground to ridge height of 9.5 metres. The context elevation also showed the proposed building as having a roof height the same as the main building known as Berryfields. (Plan number 2738/17). The developers e-mail of 8 October stated that the height of the roof is 9.9 metres, which is 400mm higher than that shown on the approved plans. Their e-mail also stated that the height of Berryfields is 8.5m high which means that it was incorrectly represented on the above mentioned plan as the two buildings are shown as having a similar ridge height. It was also apparent from the site visit that the roof was being constructed in order to provide roof level accommodation with roof lights and the front and rear gables were larger than had been approved.
- 4.5 Officers wrote to the developers on the 13 October 2008 expressing concerns about these discrepancies and advising that the development under construction was materially different from the approved plans and that works should cease until these matters were resolved. The developers were also advised of the possibility of future enforcement action.
- 4.6 The taking of enforcement action against unauthorised development must only be taken if it is expedient to do so and justified on the basis that the works are causing harm to interests of acknowledged importance. Such action therefore needs to be justified in these terms and, in particular, by reference to compliance with adopted Local Plan policies. The relevant policies are:

DC1 (b)- requires new development to be well designed and be based on a proper assessment of the surrounding built and natural environment.

UEA11- requires a high standard of design in the layout of an area and buildings shall have adequate regard for their setting.

UEA12- requires a good standard of design for infill development

UEA13- requires new housing not to be poorly designed, leads to cramped appearance or terracing effect.

In the context of the above policies, the full texts of which can be viewed on the Council's web site, the development under construction is considered to be overly high and excessively bulky relative to the neighbouring buildings and in the context of its narrow plot width. It stands conspicuously taller than these adjoining buildings in street scene views from the north and south. By comparison the approved drawings and especially the contextual elevation show the building as being no taller than Berryfields.

4.7 Although building work did not cease as requested initially, it is now thought on the basis of recent communications that the developer appreciates the seriousness of the situation and it is hoped that the matter can be resolved without formal enforcement action being necessary. The developers have been advised that this report is to be considered at Committee and any submissions they make will be reported together with any other relevant information prior to and/or at the meeting.

## **5. Proposals**

5.1 Powers to take enforcement action are delegated to the Planning Services Manager so that an enforcement notice can be served if discussions with the developer to satisfactorily remedy the breach of planning control are unsuccessful.

## **6. Publicity Considerations**

6.1 The Dedham Parish Council has been advised that this report is going to Planning Committee.

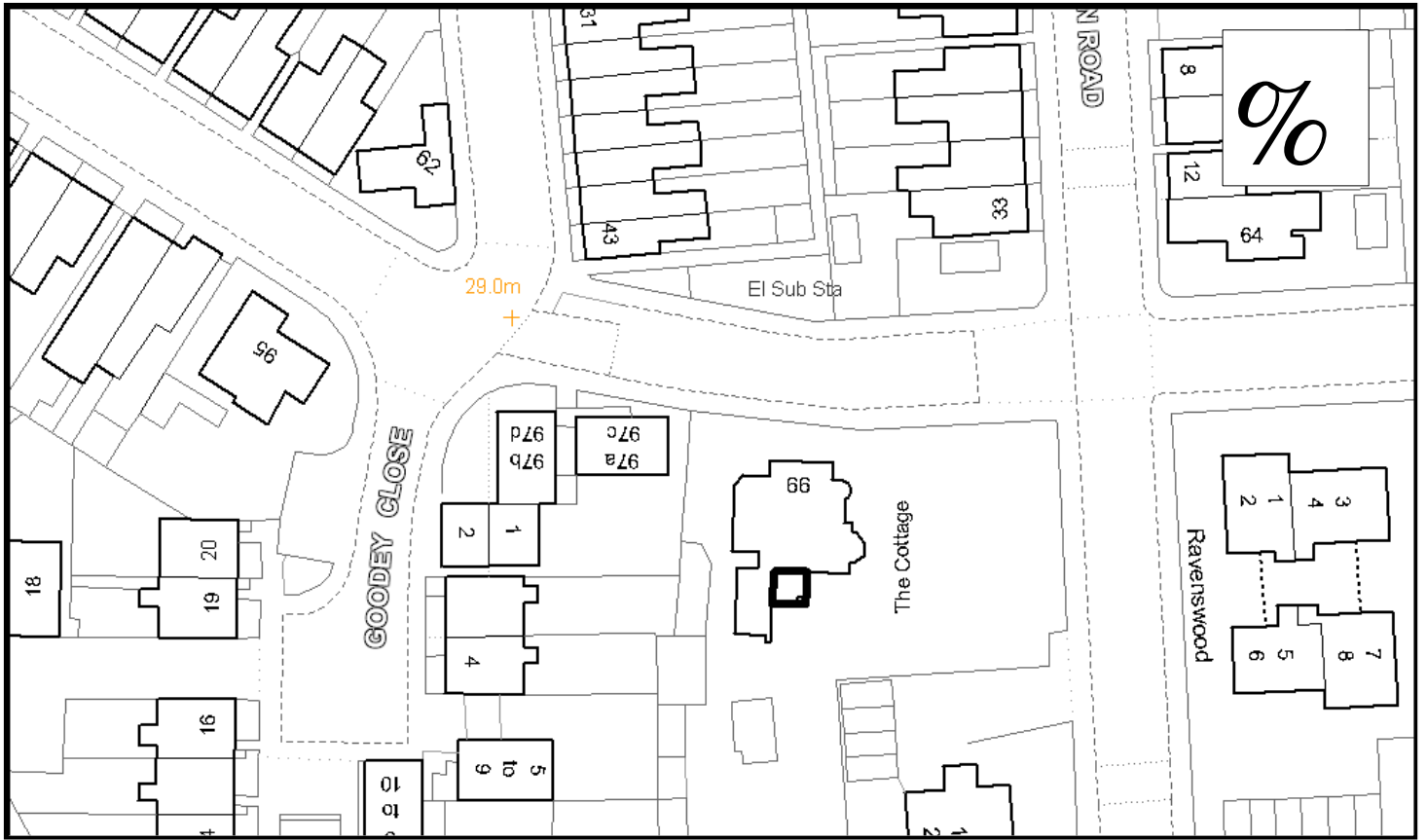
## **7. Standard References**

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

## **Background Papers**

Adopted Review Colchester Borough Local Plan- March 2004 (available to inspect on web site)

Case file- Ref- 080196 (available on web site)



**Application No:** 070496

**Location:** 99D Winnock Road, Colchester, CO1 2BQ

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

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## Planning Committee

Item

9

6 November 2008

Report of	Head of Environmental and Protective Services	Author	Sarah Hayes ☎ 01206 282445
Title	99D Winnock Road, Colchester		
Wards affected	New Town		

**This report concerns the installation of a timber deck and balcony on an existing flat roof at a large property which has been divided into flats.**

### 1.0 Decision(s) Required

- 1.1 Members are requested to authorise the issue of an enforcement notice requiring the removal of the timber deck and balcony.
- 1.2 A period of two months for compliance is considered appropriate.

### 2.0 Reasons for Decision

- 2.1 Following the refusal of planning permission for the retention of the timber deck and balcony, an appeal was submitted. The refusal was upheld and a copy of the Inspector's decision letter is included as an appendix to this report.
- 2.2 The deck and balcony remain in position.

### 3.0 Alternative Options

- 3.1 If no action is taken, the deck and balcony would become lawful after four years. This period would elapse in July 2010.

### 4.0 Supporting Information

- 4.1 In July 2006 a complaint was received that a balcony had been erected on a flat roof in the New Town Conservation Area. It served a first floor flat and was positioned on the flat roof of the flat below. The deck area was reached by climbing through a window and the owner hoped to create a larger opening to make access easier. The owner was told that planning permission was required and advised to include the enlargement of the window in an application.
- 4.2 An application was submitted which was refused for the following reasons:
  - 1 - The proposed increase in the size of the window, combined with the existing (unauthorised) decking and balustrade, and consequent increased use of the flat roof area have led to an unacceptable increase in overlooking, and loss of privacy to neighbouring properties. This is contrary to policies DC1(a) and UEA13(e) of the Approved Review Colchester Borough Local Plan (March 2004).



2 - The balustrade due to its appropriate style, construction and colour together with the style and colour of the enlarged window would detract from both the appearance of the building and the character and appearance of the Conservation Area. This is contrary to policies DC1(b), UEA1 and UEA2(a) and (e) of the Adopted Review Colchester Borough Local Plan-March 2004.

- 4.3 An appeal against the refusal of planning permission was dismissed in July 2008. The owner was then advised that the decking and balcony should be removed. Two months was allowed for this work to be carried out but at the end of this period the decking and balcony remained in position.

## **5.0 Proposals**

- 5.1 Members are requested to authorise the issue of an enforcement notice requiring that the decking and balcony are removed and the flat roof made good. A period of two months is considered a sufficient period for this work to be carried out.

## **6.0 Strategic Plan References**

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

## **7.0 Human Rights Implications**

- 7.1 In the consideration of the action's impact on Human Rights, particularly, but not exclusively, to:

Article 8 - The right to respect for private and family life,  
Article 1 of The First Protocol (Protection of Property) - The right to peaceful enjoyment of possessions, it is considered that:

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



# Appeal Decision

Site visit made on 12 June 2008

by **Terence N Povey** BA BArch MA  
FRTPi Architect

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: enquiries@pins.gsi.gov.uk

Decision date:  
15 July 2008

**Appeal Ref: APP/A1530/A/08/2065757**

**99 Winnock Road, Colchester CO1 2BQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Ian Granville Bell against the decision of Colchester Borough Council.
- The application Ref: F/COL/07/0036, dated 8 January 2007, was refused by notice dated 5 July 2007.
- The development proposed is a timber deck and balcony on existing flat roof.

## Decision

1. I dismiss the appeal.

## The Main Issues

2. The timber deck and balcony have already been erected. The main issues are the effect of the use of the balcony on the living conditions of neighbouring residents, and its effect on the character or appearance of the conservation area in which the appeal site is situated.

## Reasons

3. The balcony comprises a robust timber structure which has been constructed over the flat roof of an existing first floor bay. I have concluded from my site inspection that although nearby gardens are not overlooked to any significant degree, the use of the balcony results in a first floor window of an adjoining dwelling being overlooked from only a very short distance away. In my opinion this overlooking presents a serious threat to the privacy of occupiers of the neighbouring dwelling, contrary to the aim of development plan policy UEA13 to prevent neighbouring properties from being overlooked as a consequence of new development. I acknowledge that the location of the flat roof outside an existing window previously allowed persons to stand on the roof. However, the proposed enlargement of the window and the construction of the timber deck and balcony clearly implies the creation of an outdoor amenity space for regular use, with the neighbouring window being frequently overlooked as a consequence.

4. I now turn to the effect of the balcony on the conservation area. No.99 Winnock Road is a substantial Victorian villa, which is prominently sited on a corner plot. To my mind the conservation area is characterized by Victorian villas of very pleasing appearance, having good proportions and refined architectural details. The design of No.99 Winnock Road incorporates traditional architectural features such as steeply pitched roofs, parapet gables, sash windows and pargetting. Despite requiring some renovation work I consider that this imposing old house comprises a notable building in the conservation area's street scene.
5. In this context I take the view that because of the balcony's robust, utilitarian construction and its consequently ungainly appearance the structure amounts to an insensitive and incongruous addition to the refined architectural design of the villa. The balcony is set at a high level and is clearly seen from the street, where it appears as a discordant modern feature markedly at variance with the handsome architecture of No 99 and neighbouring Victorian buildings. I therefore find that the balcony serves to harm rather than to preserve or enhance the character and appearance of the conservation area, contrary to the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and development plan policy UEA2.

*Terence N. Povey*

INSPECTOR

Our vision is for Colchester to develop as a prestigious regional centre

Our goal is to be a high performing Council

Our corporate objectives for 2006-2009 are:



e-mail: [democratic.services@colchester.gov.uk](mailto:democratic.services@colchester.gov.uk)  
website: [www.colchester.gov.uk](http://www.colchester.gov.uk)