

# Planning Committee

Town Hall, Colchester  
25 August 2011 at 6.00pm

## **This committee deals with**

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

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

# Information for Members of the Public

## Access to information and meetings

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

## Have Your Say!

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## **Material Planning Considerations**

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

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

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

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

## **Human Rights Implications**

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

## **Community Safety Implications**

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

## **Equality and Diversity Implications**

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

# COLCHESTER BOROUGH COUNCIL PLANNING COMMITTEE 25 August 2011 at 6:00pm

## Members

Chairman : Councillor Ray Gamble.  
Deputy Chairman : Councillor Theresa Higgins.  
Councillors Christopher Arnold, Peter Chillingworth,  
John Elliott, Stephen Ford, Peter Higgins, Sonia Lewis,  
Jackie Maclean, Jon Manning, Philip Oxford and  
Laura Sykes.

**Substitute Members** : All members of the Council who are not members of this Committee or the Local Development Framework Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-  
Councillors Nick Barlow, Lyn Barton, Mary Blandon,  
John Bouckley, Nigel Chapman, Barrie Cook, Nick Cope,  
Annie Feltham, Bill Frame, Mike Hardy, Marcus Harrington,  
Pauline Hazell, Michael Lilley, Sue Lissimore, Nigel Offen,  
Ann Quarrie, Will Quince, Paul Smith, Terry Sutton,  
Dennis Willetts and Julie Young.

## Agenda - Part A

(open to the public including the media)

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

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

## Pages

### 1. Welcome and Announcements

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

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

- action in the event of an emergency;
- mobile phones switched off or to silent;

- location of toilets;
- introduction of members of the meeting.

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

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

## **3. Substitutions**

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

## **4. Urgent Items**

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

## **5. Declarations of Interest**

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

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

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

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

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

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

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

public interest.

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

## **6. Minutes**

**1 - 5**

To confirm as a correct record the minutes of the meeting held on 11 August 2011.

## **7. Planning Applications**

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

1. 110983 Hallfields Farm, Manningtree Road, Dedham, CO7 6AE  
(Dedham and Langham) **6 - 26**

Outline application for demolition of existing buildings and erection of thirteen dwellings.
2. 110023 Land to west of 21 Regent Street, Rowhedge, CO5 7EA  
(East Donyland) **27 - 37**

Proposed new dwelling on land adjacent to 21 Regent Street.
3. 100442 Land adjoining 12 Mill Road, West Mersea  
(West Mersea) **38 - 46**

Proposed two storey private dwelling.
4. 100383 Nos 9, 11, 13, 125, 135, 137 and 139 Albany Gardens,  
Colchester **47 - 56**  
(New Town)

Variation of condition 56 of planning approval F/COL/02/1036 -  
Change of use from B1 to residential.
5. 110751 Former Adult School and Canteen, Le Cateau Road,  
Colchester **57 - 75**  
(Christ Church)

Change of use from MOD to A1, A3, B1 and D1. Temporary car  
parking, access and refuse collection. Internal alterations and  
demolition. New extensions, replacement windows and  
soffit/fascia. 12 parking spaces.
6. 102390 Maritime and Leisure, Victory Dock, Coast Road, West **76 - 94**

Mersea, CO5 8LS  
(West Mersea)

Use of existing winter boat park for public car parking during summer months.

7. 111275 65 Endsleigh Court, Colchester, CO3 3QS  
(Lexden)

**95 - 99**

Two storey rear extension, first floor rear extension above existing single storey structure, new roof to garage and associated alterations.

- 8. Change to a proposed Section 106 Agreement // Former Cooks Shipyard Phase 3, Walter Radcliffe Way, Wivenhoe**

**100 - 127**

See report by the Head of Environmental and Protective Services.

**9. Exclusion of the Public**

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





## **PLANNING COMMITTEE 11 AUGUST 2011**

- Present :-* Councillor Theresa Higgins\* (Chairman)  
Councillors Christopher Arnold, Peter Chillingworth\*,  
John Elliott\*, Stephen Ford, Peter Higgins,  
Sonia Lewis\*, Jackie Maclean\*, Jon Manning\*,  
Philip Oxford and Laura Sykes\*
- Substitute Member :-* Councillor Barrie Cook for Councillor Ray Gamble\*
- Also in Attendance :-* Councillor Nick Cope  
Councillor Margaret Fairley-Crowe

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

### **39. Minutes**

The minutes of the meetings held on 14 July 2011 and 28 July 2011 were confirmed as a correct record.

### **40. 111139 S & K Premier Convenience Store, 87 Drury Road, Colchester**

The Committee considered an application for the provision of a single storey rear extension to increase the warehouse and retail shop floor area to the existing food store on the ground floor and at first floor level, the construction of one two-bedroom flat. The application was a resubmission of 102679. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He referred to the Amendment Sheet which confirmed that the Design and Heritage Unit were satisfied with the amended plans and set out proposed conditions.

Kevin Ranson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He agreed that the shop provided a useful service and the additional floor space was required to improve the flow in the shop. However, he believed the increase in warehouse space would increase the flow of goods and lead to more customers and more deliveries, and he was concerned about the traffic and parking. He noted that the adopted parking standards required twenty spaces which could not be provided within the site and for this reason he believed the proposal constituted over-development. He also noted that there were no disabled parking spaces. He believed this situation would lead to an increase in on street parking to the detriment of residents.

Mark Potter addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The food store provided a valuable local service but increased local competition and Sunday trading had led to larger food stores and the applicant's response was to improve the store. He referred to the proposed screening to prevent overlooking from the flats, and that the parking for the flats was in accordance with the adopted standards. The store was currently cramped and the applicant wanted to widen the aisles rather than to increase turnover and the larger warehouse would decrease the number of deliveries required. He hoped that signage in the parking area would prevent parking in the street and reduce congestion. The Travel Plan was supported by the Highways Engineer.

Councillor Cope attended and, with the consent of the Chairman, addressed the Committee on behalf of Mr Phillips in respect of overlooking. He questioned whether this application was sufficiently different to warrant proceeding. He had noticed contributions from various other people and was of the impression that the Highway Authority were positive about the issue. He sought confirmation that issues raised by Cllr Barton had been adequately addressed.

The planning officer explained that there were no windows in the flat which could cause overlooking towards the Rayleighs. There was a single window which looked back towards the flats across the service yard and officers were satisfied that privacy issues had been dealt with. There was overlooking across Drury Road which would be the situation in any street. In accepting that the scheme would improve the facilities, the Committee should consider whether this was sufficient justification to accept the status quo or whether more parking should be provided; residents' parking had been improved but customer parking had not.

Members of the Committee were aware that this was an essential facility and those who lived in the area found it very useful. However, when market circumstances change the applicant must do what they can to provide a shopping experience which the customer requires otherwise they will go out of business. The Committee were aware that amenity problems had been overcome and that there were no outstanding objections. They also understood the concerns of the objectors but found it difficult to do other than approve the proposal because a refusal on highways grounds was not supported by the Highway Authority.

The planning officer explained that a limit on the number of deliveries would be difficult to enforce and he commented that it should be left to the Travel Plan which would be monitored on a yearly basis. In regard to disabled parking, the status quo would be maintained, and it was therefore difficult to comment on the use of the external space. He confirmed that the turning space referred to in Condition 3 was adequate for staff cars to leave the site in a forward gear.

*RESOLVED* (ONE ABSTAINED from voting) that –

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

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

#### **41. 111126 Priory Farmhouse, Priory Farm, Braxted Park Road, Tiptree**

The Committee considered an application for a change of use and alterations to a storage building to form a live-work unit. 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.

Andrew Tyrrell, Development Manager, and David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. The planning officer made reference to the reasons for the application as stated by the applicant, and to the comments made by the Spatial Policy Team. It was not considered essential for the applicant to live in the area and whilst their personal circumstances were temporary, once the dwelling was built it would remain in perpetuity.

Ted Gittins, Edward Gittins and Associates, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to Priory Farm comprising a large residence and outbuildings and to its current use as an engineering business. Mr Upson was a full time carer for his wife whilst at the same time running the business. This situation was only possible if his residence and workplace were in the same location. He was of the opinion that all the buildings at Priory Farm formed a significant and concentrated cluster in the countryside but with no encroachment on the countryside. The proposed building would easily convert into a small cottage with substantial benefits to the business. He referred to one of the aims of the emerging National Planning Policy Framework being to assist business and enterprise where possible and to some limited weight being given to the personal circumstances. He suggested a personal condition could be added.

Councillor Fairley-Crowe attended and, with the consent of the Chairman, addressed the Committee. She also referred to the history of the farm and to Mr Upson still being active in the business. The bungalow was too big but with his home on site he could continue to care for his wife, who had lived on the farm since 1948. They only required a simple cottage and the business needed someone on site, particularly with the occurrence of thefts of tractors in the area.

The planning officer confirmed that although economic reasons had been put forward, they did not outweigh the strong policy objections to new housing in the countryside.

Some members of the Committee were of the opinion that whilst they would normally adhere to planning policies to avoid ad hoc development in the countryside, in this case there were particular circumstances. The applicants wanted to continue to work on site but also wanted to look after themselves without being a burden on the community. In the event that a personal condition was added, members sought an explanation on how

the cottage would revert back to its current use. If either the existing bungalow or this proposed cottage was sold it would result in a new dwelling which was not what was wanted. The policies quoted were designed to balance the need to protect the countryside and the needs of those who lived and worked in the countryside. It was considered that the Spatial Policy Team were putting forward an “on balance” situation. The building was already there in the form of a cartlodge which could revert back very easily, so this application was more a change of use. Nothing was being added to the countryside so it was not considered that the proposal would do any material damage to the countryside, but it would benefit this rural business. The applicant had proposed that the use would cease when he and/or his wife no longer required it and a condition could be added to tie a permission to the named individuals so that when the last one left the premises it would revert back to a cartlodge. It was believed that the applicant had made a strong case which should be considered in the light of all the facts and circumstances. The proposal was supported by the parish council.

Other members commented that the applicant already lived on the site and was able to look after the business, however his wife would benefit if they lived in a smaller property. This proposal would enable him to sell off the existing property. There was a view that a temporary permission for conversion of the farm building to a house would be unusual and examples where this had occurred were requested. The site was outside the village envelope and could not be supported.

The planning officer explained that this would be a new building with a new curtilage and would not be associated with the existing bungalow. He was of the opinion that this was a home with an office, and not really a live-work unit. Clearly the conversion worked, but the drawings illustrated a domestic building with chimneys, porches and windows. In theory it could revert back, but in reality that situation would be confused by someone wanting to retain it as a dwelling in its curtilage with a residential use value. The usual process would be to establish if there was a functional need for a dwelling in this location on economic grounds. Officers had considered the personal issues and economic issues and they believed that planning policy objections should prevail.

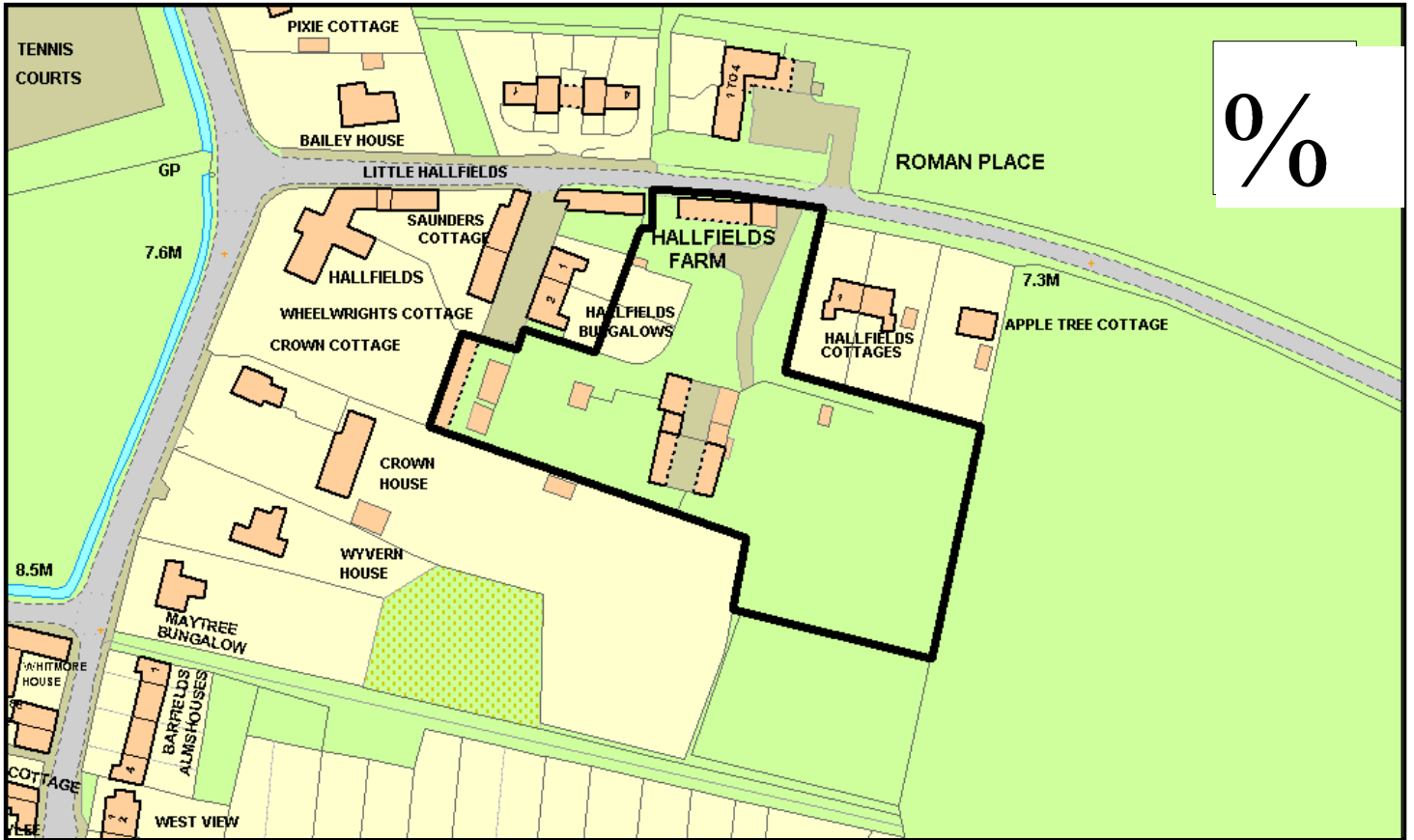
The Development Manager commented that the speaker had described the business as a small engineering operation and as such the council would not normally direct such uses to a farm as the operation appeared to be industrial. The live-work unit also seemed to be at odds with the described activities as it appeared that there were six staff who had to travel to work every day contrary to the principle to direct development to places where there was easy access to facilities and services which everybody needs, for example public transport. This was not considered to be a sustainable location but would be a new house in the countryside. The site was shown to be subdivided in the application and the new dwelling would have a new curtilage and different ownership. He did not believe that anyone would buy a house which was required to be demolished; at some point an approval would have to be given to remove the personal permission on the basis that it made no difference who lived in the dwelling. The temporary consent would be for a permanent building and he believed that once converted this building would not be removed from the site.

He also questioned whether this was any better than the previous refused scheme which the applicants had not appealed, and he also questioned why an annex had not

been explored. An annex would keep the residential element on the farm within the same dwelling curtilage and ownership whereas a new dwelling would have its own curtilage. Referring to earlier comments, he confirmed that fear of crime was not a consideration in this case as there was a dwelling on the site subject to the same risk; thus the point had already been addressed. In respect of the new National Planning Policy Framework, although it says economic development and growth should be given great weight in consideration with the rest of the policies at National level, sustainable development was still a key theme. The National Planning Policy Framework proposal was still a draft and could change and he considered it should not be given very much weight.

Having heard the Development Manager's considerations, some Members of the Committee were keen to pursue avenues which had not been explored previously, the annex for example. They hoped that an alternative proposal could be identified in order that the applicants could continue to live and work on the site whilst also being a better fit with current policies.

*RESOLVED* (SEVEN voted FOR, SIX voted AGAINST, the Acting Chairman having exercised her casting vote FOR) that the application be refused for reasons set out in the report with an added note to the Head of Environmental and Protective Services that she explore with the agent possible alternative means of providing residential accommodation without the creation of a separate dwelling unit and a separate curtilage.



**Application No:** 110983

**Location:** Hallfields Farm, Manningtree Road, Dedham, Colchester, Colchester, CO7 6AE

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

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# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **25 August 2011**  
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: Sue Jackson**

**Due Date: 26/08/2011**

**MAJOR**

**Site:** Hallfields Farm, Manningtree Road, Dedham, Colchester, Colchester, CO7 6AE

**Application No:** 110983

**Date Received:** 27 May 2011

**Agent:** Ms Laura Marshall

**Development:** Outline application for demolition of existing buildings and erection of thirteen dwellings.

**Ward:** Dedham & Langham

**Summary of Recommendation:** Refusal

## 1.0 Introduction

1.1 This application is referred to the Planning Committee because it has been called in by Councillor Garnett.

## **2.0 Synopsis**

- 2.1 The application is for outline planning permission to erect 13 dwellings on land, containing farm buildings, at Manningtree Road Dedham. The application seeks to establish the principle of residential development with all matters reserved. Five of the thirteen dwellings (38.5%) are to provide affordable housing in the village. These will be managed by an RSL/RP. The remaining eight dwellings will be controlled in perpetuity in terms of stipulated criteria for eligibility for purchase.
- 2.2 The report considers the development in the light of the Council's adopted policies and standards. It concludes that the principle of development is unacceptable and the recommendation is refusal.

## **3.0 Site Description and Context**

- 3.1 The site has an area of approx 0.7 hectares and is located some 120 metres from the junction with Brook Street and approx 480 metres from Dedham centre. It has a frontage of approx 40 metres onto Manningtree Road and widens to 125 metres further into the site where it extends behind dwellings. The frontage faces Dedham surgery. There is access onto the road at the east end of the frontage next to Hallfields Cottages.
- 3.2 The site contains several non traditional farm buildings which will be demolished. There are a number of trees on the site including on the frontage close to the access.
- 3.3 Whilst the site is mainly enclosed by buildings there is an open view from Manningtree Road towards the east and rear boundary where the site extends behind frontage dwellings.
- 3.4 Development in the immediate vicinity comprises smaller cottages in Manningtree Road and larger houses in Brook Street. Close to the corner of Manningtree Road and Brook Street is an attractive group of cottages sited behind the road frontage the application site shares a boundary with these properties.

## **4.0 Description of the Proposal**

- 4.1 The application seeks outline planning permission to erect 13 dwellings. Whilst a site layout plan has been submitted the details shown do not form part of the application as all matters (access, appearance, landscaping, layout and scale) are reserved. The layout plan indicates the development served by a reconfiguration of the existing access with a single unit facing the road and others grouped around private drives.
- 4.2 Whilst all matters are reserved, outline planning applications still have to demonstrate that proposals have been properly considered in the light of relevant policies and the site's constraints and opportunities. Detailed consideration is required on the use and amount of development of the site whilst some basic information on the remaining issues (design, layout, scale etc) is required in the application. The applicant is still expected to demonstrate that their proposed development can be suitably accommodated within the site and relates well to its setting even though the finer



details may well be reserved. Similarly, the indicative access point should also suggest the point where access to the site will be situated.

#### 4.3 **The following summary of proposals has been submitted (letter from the planning agent dated 9<sup>th</sup> August)**

“The proposals seek outline planning permission with all matters reserved for the demolition of existing buildings and the erection of thirteen dwellings at Hallfields Farm. Conservation Area consent is also sought for the demolition of the barn at the boundary with Hallfields at the most western point of the application site.

Five of the thirteen dwellings (38.5%) are to provide affordable housing in the village. These will be managed by an RSL/RP. The remaining eight dwellings will be controlled in perpetuity in terms of stipulated criteria for eligibility for purchase. These criteria are contained within the submitted Planning & Affordable Housing Statement but for completeness are as follows:-

1. Any proposed purchaser would have lived in the Parish of Dedham for a continuous period of a minimum of two years, will be a former resident who has lived in the Parish of Dedham for a continuous period of a minimum of two years within the preceding years.
2. Would be a relative, partner or dependant of a resident of the Parish of Dedham who has lived there for a continuous period of a minimum of two years.
3. Would be a person who is or has been working in the Parish of Dedham for a continuous period of a minimum of 2 years.

The properties will be solely marketed on the above eligibility for a period of six months and any properties remaining unsold after this period will be allowed to be sold on the Open Market. However, prior to these properties being generally released, a preference will then be given to those people from the surrounding villages for an additional period of two months. Each time a property is sold, this covenant will remain in place and the owners will each time have to market their property within the above criteria.

We previously advised and documented that the proposals are as a result of research that the Parish Council has been dedicated to undertaking in the last few years. This research and as contained within the Parish Plan (published June 2011) confirm the desire for older residents of the community to have the ability to downsize and remain within the village. Thereby, releasing the existing larger properties that they currently occupy for new residents to purchase and occupy, which will ensure the sustainability of this community. As we discussed at our meeting, which the Parish Council kindly attended, the restrictions in terms of the occupants of the dwellings can be secured by virtue of a s.106 Agreement. It is important to note that this project is one that has been driven by the needs identified by the Parish Council.

#### **Layout**

At our meeting, we also discussed that whilst this was an outline application with all matters reserved, we would be happy to provide further rationale behind the submitted layout. The layout adopts the approach of providing small groups of housing set in a rural context. This is an infill site and adopting the approach of providing frontage development is not considered appropriate in this instance. Therefore, a solution is shown that creates its own sense of place whilst reflecting the character of Dedham. This is achieved by providing an informal layout set within a landscaped village approach design. The buildings will be of varying scale, size, design and materials drawn from the locality for reference. During the design evolution, particular attention

was paid to the guidance within the Essex Design Guide and Colchester Borough Council's SPD regarding backland and infill development.

The issue of affecting the amenity/privacy of neighbours was of particular importance. The aforementioned Design Guide states that where new development backs onto the rear of existing housing, existing residents are entitled to a degree of privacy to their garden boundary, and therefore where the rear faces of new houses are approximately parallel to the existing, the **rear** of new houses may not encroach any closer than 15m to an existing rear boundary. It goes on to state that where the new houses are at right angles to the existing, there are no windows in the flank and no problems of overshadowing, the new houses may encroach up to 1m from the boundary. As the proposed properties are to the north of the Crown House boundary, there cannot be an issue of overshadowing.

We further draw attention to the photograph contained within the Design & Access Statement which does confirm DC Planning's statement that the north and east boundaries of Crown House are heavily wooded. The indicative layout proposed has considered this natural screening to the development and the proposed properties to the north of the boundary. These properties are set several metres from the boundary with their main aspects parallel to the screening which would suggest that (a) overlooking will be negligible and (b) the visual impact of the properties from the rear garden of Crown House will also be minimal due to the screening. Therefore, this indicative layout has in fact carefully considered the adopted guidance and the local site features to provide a layout that achieves the Council's and County Council's policies in terms of good design. Having stated all of the above, we once again reiterate the fact that this is an outline application with all matters reserved and are happy to discuss alterations to the layout at the Reserved Matters stage should this outline planning application be approved.

Subsequent to our meeting, a resident has submitted comments with regard to the effect of the proposed removal of the barn and the 'protection of amenities'. The intention is for a boundary treatment that will protect the amenity of both the existing residents and of course those in the proposed dwellings. We are happy to work closely with the Council to achieve a suitable solution – again, this will be properly dealt with at the Reserved Matters stage should permission be granted at this Outline stage.

#### **Evolving Government Guidance**

During the life of this application, the emerging National Planning Policy Guidance has been released and we note that a summary paper has been produced for Colchester Borough Council's Local Development Framework Committee on 15th August 2011. This paper summarises the key changes and we have replicated those of particular applicability to this application and what the proposals seek to achieve. These are: -

- Presumption in favour of development;**
- A requirement to provide an additional allowance of at least 20% on top of housing targets to ensure choice and competition in the market for land;**
- Consideration to be given to allow some market housing in villages where it helps deliver affordable housing; and**
- Greater emphasis on viability and deliverability.**

These changes can all be positively applied to these proposals and reflect the direction of national planning policy".

#### 4.4 The application documents include

- Planning and affordable housing statement
- Design and access statement
- Arboricultural report
- Phase 1 environmental desk study
- Ecological assessment
- Statement of community engagement

#### 4.5 The Statement of Community Engagement includes the following paragraphs:-

##### **“Consultation with the Community**

3.1 Hills Residential Ltd has worked very closely with the local community using the Parish Council as the conduit. This process has been ongoing for more than two years. The principle of this development has the support of the Parish Council and many local residents, which will be demonstrated during the live application process.

3.2 It is on the basis of this support that the planning application has been progressed.

##### **4. Summary**

4.1 The applicant has constantly engaged and worked closely with the Parish Council and local residents regarding this residential development that responds to the direct requirements of the local community. It is on this basis that the application has been progressed and the support of the Parish Council at this formal stage is anticipated.”

#### 4.6 Further explanation regarding the parish council’s involvement in the proposal is submitted as follows:-

“It is important to substantiate the principle for the requirement of local needs housing. Dedham Parish Council is a proudly active organisation and understands the critical requirements for ensuring the longevity of this village. The Parish Council undertook its own survey to understand if local housing needs were being met and if not, how these could be met in the future. 57% of respondents confirmed their greatest priority to be the ability to downsize properties within the parish. Indeed, only 9% of respondents confirmed their greatest priority was for large, executive type homes. A further question posed by the Parish Council was whether there should be greater control over smaller homes being enlarged and indeed 56% wished this activity to be ceased.

There is no other evidence base in addition to this recent one undertaken by the Parish Council and accordingly this is considered the most recent, appropriate and relevant data to refer to. The residents also understand and are sympathetic to the matter of affordable housing, with 66% of respondents agreeing that affordable homes for the young should be made available in Dedham”.

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

5.1 The site abuts but is outside the village envelope, a small part of the site is in the conservation area.

5.2 The site is in the Dedham Vale AONB

## **6.0 Relevant Planning History**

- 6.1 081889  
29/10/2008 - Full (8 Week Determination)  
Hallfields Farm, Manningtree Road, Dedham, Colchester  
Conversion of redundant farm office/workshop to single storey dwelling  
Approve Conditional - 22/12/2008
- 6.2 F/COL/05/0902  
19/05/2005 - Full  
Hallfields Farm, Manningtree Road, Dedham, Colchester Essex  
Conversion of redundant farm building to single storey dwelling.  
Approve Conditional - 04/04/2006
- 6.3 COL/92/0510  
23/04/1992 - Full  
Land at Manningtree Road Dedham  
Construction of 4. no semidetached dwellings (2 pairs) affordable village housing.

## **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing  
Planning Policy Statement 5: Planning for the Historic Environment  
Planning Policy Statement 7: Sustainable Development in Rural Areas  
Planning Policy Statement 12: Local Spatial Planning  
Planning Policy Guidance 13: Transport  
PPS9: Biodiversity and Geological Conservation  
Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
SD3 - Community Facilities  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
H4 - Affordable Housing  
UR2 - Built Design and Character  
PR1 - Open Space  
TA4 - Roads and Traffic  
TA5 - Parking  
ENV1 - Environment  
ENV2 - Rural Communities

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
- DP1 Design and Amenity
  - DP3 Planning Obligations and the Community Infrastructure Levy
  - DP4 Community Facilities
  - DP8 Agricultural Development and Diversification
  - DP12 Dwelling Standards
  - DP14 Historic Environment Assets
  - DP16 Private Amenity Space and Open Space Provision for New Residential Development
  - DP19 Parking Standards
  - DP22 Dedham Vale Area of Outstanding Natural Beauty

- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:
- Backland and Infill
  - Community Facilities
  - Vehicle Parking Standards
  - Sustainable Construction Open Space, Sport and Recreation
  - Affordable Housing

## **8.0 Consultations**

### **8.1 Spatial Policy**

“The application site lies outside the housing settlement limits for Dedham as defined in the adopted Proposals Map. The Site Allocations DPD’s approach to rural housing is justified by a consistent policy approach based on national and local evidence. Core Strategy housing policy, as set forth in Policy H1 is guided by a Settlement Hierarchy which focuses development on the urban area of Colchester in line with national policy and the sequential approach. Policy ENV2 provides that ‘development outside but contiguous to village settlement boundaries may be supported where it constitutes an exception to meet identified local affordable housing needs’ in recognition that some limited development will be required to meet rural village needs. PPS3 provides that rural exception sites should only be used for affordable housing in perpetuity and should provide for local needs. The former Annex B to PPG3 stated that rural exception sites ‘are not appropriate for ... market housing for local needs only. It is unacceptable to include clauses in planning obligations which would enable lenders of private finance to dispose of property on the open market as a last resort.’ The Council’s approach would ensure that sufficient evidence is provided on need and the necessary agreements are put in place to ensure that the housing is retained over time to meet local needs for affordable housing as required by national policy in PPS3. The Dedham Village Design Statement, adopted by the Council in 2008 as a material planning consideration, highlights the need for additional small housing units to be spread throughout the village, in particular to meet the needs of older existing residents for downsizing properties. It states that development should remain within the existing envelopes.

The supporting information submitted with the application mentions a housing needs survey, which it is believed was commissioned by the Parish Council in 2006, although this has not been submitted. However for consistency and impartiality the Council would expect a housing needs survey to follow the consistent approach which has been established for rural housing schemes which includes an independent study undertaken through the Rural Community Council of Essex's Rural Housing Enabler. The 2006 survey was conducted prior to the construction of affordable units built as part of the new surgery development and possibly an affordable housing scheme opposite the site and would therefore need to be updated.

Although the scheme is described as residential development 'to provide local needs and affordable housing' the proposal does not comply with normal requirements for rural exception housing;

1. It is not clear how the proposal will meet local needs ie people on the Councils register.
2. The houses are proposed for sale but even at a discount they are unlikely to be affordable to those in need.
3. Low cost home ownership is not an affordable option in Colchester.
4. No RSL is involved in the scheme.
5. The intention is to use covenants to control occupation not the normal legal obligation through S106 agreement.
6. The properties could be sold on the open market after a period of time if there is no suitable purchaser.

The supporting statement states at paragraph 5.19 that the most relevant local policy document is the Development Policies DPD. They fail to even mention the Core Strategy and in particular Policy H4 which relates specifically to Affordable Housing.

Recommendation - Refusal

Further comment following a letter from the applicants agent dated 9<sup>th</sup> August, this letter is quoted in the description of the proposal, which makes reference to the NPPF and in fact it replicates the key changes 'of particular applicability to this application and what the proposals seek to achieve.' The letter doesn't go into the detail behind the headlines and doesn't refer to other points which are also considered relevant to the application.

Taking each in turn;

- Presumption in favour of development; This policy would work with the existing plan-led approach, by emphasising the role of up-to-date development plans in identifying and accommodating development needs. Where those plans are not up-to-date, or do not provide a clear basis for decisions, the policy establishes the clear presumption that permission should be granted, provided there is no overriding conflict with the National Planning Policy Framework. Clearly in the case of Colchester we have up to date plans and the presumption in favour would not apply.
- A requirement to provide an additional allowance of at least 20% on top of housing targets to ensure choice and competition in the market for land; We will be reviewing the Housing Trajectory over the coming months which will enable us to establish what is expected to be delivered in the next five years. The current trajectory shows a 15 year supply which affords us some flexibility in the first five years. It should be pointed out that the 20% uplift applies only to the 5 year supply. It would be premature to allow the scheme on this basis and in advance of schemes specifically allocated in the LDF which already offer choice and competition.

- Consideration to be given to allow some market housing in villages where it helps deliver affordable housing; In rural areas, local planning authorities should be responsive to local circumstances and plan housing development to reflect local requirements, particularly for affordable housing. Local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs. To promote sustainable development, housing in rural areas should not be located in places distant from local services. The Government's objective is to maintain the focus on affordable housing but give local councils greater flexibility to set out their own approach to delivering housing, including allowing for an element of market housing where this would facilitate significant additional affordable housing to meet local requirements. If the draft policy proceeds to the final version of the NPPF the Council will have regard to this in setting out its approach to the delivery of affordable housing in rural areas.
- Greater emphasis on viability and deliverability.

Other points taken from the NPPF which relate to the site include;

- The planning system should aim to conserve and enhance the natural and local environment by protecting valued landscapes
- In preparing plans to meet development requirements, the aim should be to minimise adverse effects on the local and natural environment.
- Planning authorities should give great weight to protecting landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty. Planning permission should be refused for major developments in designated areas except in exceptional circumstances where it can be demonstrated they are in the public interest.

It must be remembered that the NPPF is in draft form only. The Planning Inspectorate however have issued a guidance note which states;

'The draft NPPF is likely to be referred to by the parties in current appeal and development plan casework. Whilst it is a consultation document and, therefore, subject to potential amendment, nevertheless it gives a clear indication of the Government's 'direction of travel' in planning policy. Therefore, the draft National Planning Policy Framework is capable of being a material consideration, although the weight to be given to it will be a matter for the decision maker's planning judgment in each particular case. The current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled.'

A decision will therefore need to be made as to the weight afforded to the draft NPPF, compared to established local and national policy which for the time being remains extant.

Comments made in an email about the affordable housing will no doubt be responded to by the Housing Officer. I do however wish to clarify or seek clarification on a couple of matters. Paragraph 4.3 of the original planning statement states 'the proposed user split will be that 5 of the 13 units will be for affordable housing (38.5%) with the remaining 8 to be allocated for local needs housing (61.5%).' Para's 4.4 – 4.6 then talk about the local need and in particular the need for downsizing. I have taken this to relate to the 13 local needs units. Paragraph 4.7 then turns to the borough wide need for affordable housing (so I have assumed this to relate to the 5 units) The eligibility criteria for this element however also refers to a local connection and that the properties could be sold on the open market free from restriction. It would appear that although an RSL may be involved there will be no nomination rights using the Councils housing needs register. I cannot agree with the assertion at para 4.9 that 'these are fair and achievable criteria to ensure the affordable housing units go to local residents

in the first instance' when there may be people in greater need on the borough wide register. My comment about low cost home ownership not being an affordable option stands; the cost of a 2 or 3 bedroomed house in Dedham is not considered to be an affordable option for those in most housing need. "

## 8.2 ECC Highways

"There have been a number of applications and developments along Manningtree Road in recent years which have increased traffic volumes in this quiet rural environment; these have included housing, business parks, and medical facilities. Manningtree Road is a narrow country lane and a development of thirteen houses in this location would increase private vehicle levels in an area where there are limited services and irregular public transport facilities.  
Recommend refusal."

However, discussions between the applicant and ECC Highways are ongoing and the latest situation will be reported on the Amendment Sheet.

8.3 The Landscape Officer comments that a Landscape and Visual Impact assessment has not been submitted therefore it is not possible to properly assess the impact of the proposed development on the Dedham Vale AONB.

## 8.4 Arboricultural Officer:

"Regarding the tree survey & arboricultural implication assessment: in agreement with the tree survey and a majority of the recommendations made within the report, the proposal will require the removal of a number of tree but these are all categorised as C within the guidance provided from BS5837:2005 and therefore cannot constrain development. However, some points need to be addressed  
*Officer Comment: These points relate to the layout and could be addressed in any reserved matters submission.*

## 8.5 Design Heritage Officer:

### **"Immediate Context**

The Heritage Statement states that the majority of the application site falls outside of the conservation area and within the residential context of Hallfields Cottages to the east, the health centre and Constable Row to the north, and Hallfields Bungalows to the west - this is incorrect, as the farm house, farm buildings, workers cottages and arable land beyond form part of an original farmstead, which provides the immediate context for the site. There is no reference to Hallfields farm complex, which is characterised by buildings loosely arranged around a courtyard with the farm house to one side and scatters of other farm buildings close by. This farmstead pattern was originally associated with arable farms in Eastern England.

The context for the site is the small farmstead and arable land / pastures on the edge of the village, a pattern characteristic of East Anglia. The farm house and converted farm buildings form the focus of the farmstead and are a part of the conservation area, while Constable Row, the health centre and Forge Street are more recent rural affordable housing and facility additions in the wider rural landscape.

The proposal does not recognise the original farmstead plan of a yard enclosed by agricultural buildings, removing an important element of this enclosure and replacing



with rear gardens of new built. The new residential development extends beyond the edge of the farmyard and into what is part of the farming land.

#### **Wider context**

In the wider context, traditional patterns of residential development in the rural landscape of Dedham is characterised by a linear development along the main routes, generally following a common building line. The proposal is for a suburban, cul-de-sac layout character in a backland, which is not typical of Dedham or any rural area. This is also a layout which appears car dominated, lacks in legibility and permeability and does not reflect current urban design standards.

#### **Relationship to heritage assets**

In this sensitive landscape setting and in the context of the heritage assets, the proposal does not demonstrate sensitivity to the historic pattern and the relationship between the farm buildings and the farmhouse, to the character of the farmstead as a whole, and to its landscape setting. The suburban scheme does not retain, or adhere to the key characteristics of a farmstead, and is to the detriment of the distinct character, richness and variety of the countryside in the Dedham Vale AONB.

#### 8.6 Environmental Control:

“The applicant has submitted a proposal for the drainage/sewerage scheme in the case of mains drainage not being adequate. Environmental control would approve such a scheme providing that the final drainage i.e. water course/soakaway is considered to be suitable to cope with this volume of properties.  
No objection subject to conditions.”

#### 8.7 Housing Development Officer - Strategic Policy and Regeneration:

“PPS3 Treatment of Rural Exception Sites

30. In providing for **affordable housing in rural communities**, where opportunities for delivering affordable housing tend to be more limited, the aim should be to deliver high quality housing that contributes to the creation and maintenance of sustainable rural communities in market towns and villages. This requires planning at local and regional level adopting a positive and pro-active approach which is informed by evidence, with clear targets for the delivery of rural affordable housing. Where viable and practical, Local Planning Authorities should consider allocating and releasing sites solely for affordable housing, including using a **Rural Exception Site Policy**. This enables small sites to be used, specifically for affordable housing in small rural communities that would not normally be used for housing because, for example, they are subject to policies of restraint.

20. *Small rural settlements have been designated for enfranchisement and right to acquire purposes (under Section 17 of the Housing Act 1996) by Si 1997/620-25 inclusive and 1999/1307.*

Rural exception sites should only be used for affordable housing in perpetuity. A Rural Exception Site policy should seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection, whilst also ensuring that rural areas continue to develop as sustainable, mixed, inclusive communities”.

The application is not purely for affordable housing and the intermediate tenure units loosely referred to as being affordable would not in fact be so as there is an intention to sell on at a later date.

### **“Affordable housing – PPS3 Definition**

Affordable housing includes social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Affordable housing should:

- Meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices.
- Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision”.

It is not thought that existing homeowners wishing to downsize from their large homes to smaller homes actually constitute a person in housing need and they would not be eligible for affordable housing as their needs are already catered for in the open market.

The housing survey mentioned was undertaken by the PC in 2006 which is far too distant to be considered relevant now. Local needs surveys should have been undertaken within the last two years.

Affordable housing on RES sites has to be built to match the specific needs of the local community and this is best evidenced by a local housing needs survey preferably to be undertaken by the Rural Housing Enabler for Essex (RHE) who is employed by the RCCE. CBC would then consider the recommendations of the RHE survey as these are regarded as being impartial and informed. Dedham Parish Council is already well aware of the existence of the RHE and the services that can be offered but has chosen not to avail themselves of this facility despite a recent meeting with them.

Accordingly, I am unable to support any proposal on the lines proposed for this scheme.”

### 8.8 Essex County Council Schools Organisation and Planning:

“The catchment school is Dedham CofE (VC) Primary School which has a permanent capacity of 179 children. According to the latest Essex School Organisation Plan, as at May 2010 there were 195 children on roll and it is forecast that at 2015 this deficit in places will remain. Although the applicant states that the development is aimed to meet local needs it is acknowledged at para 7.2 of the Planning and Affordable Housing Statement (PAHS) that the ‘release of the larger properties into the housing market will allow for new families to enter the village’. It is therefore clear that this development will add to the need for additional primary places.

It is likely that there will be sufficient early years and childcare places and secondary places to meet the needs of the proposed development.

It is our policy that s106 agreement clauses for education contributions be drawn up on a formula basis but, for your information, on the basis of 13 houses the primary contribution would amount to £38,817 at April 2011 costs and would be index linked from this date using the PUBSEC index.

With regard to classification as a rural exception site my understanding is that rural exception sites should only be used for affordable housing in perpetuity (PPS3). I note that only 5 houses are to be affordable houses and further if they cannot be sold as affordable houses they will revert to private housing sold on the open market free from restriction. (PAHS paras 4.7 and 4.8). Finally, even if classified as a rural exception site our request for a primary contribution would stand unless the development was a not for profit scheme. “

8.9 Natural England based on the information provided. Natural England has no objection to the proposed development.

“It is our view that, either alone or in combination with other plans or projects, it would not be likely to have a significant effect on the important interest features of the Stour and Orwell Estuaries SPA/Ramsar, or any of the features of special scientific interest of the Cattawade Marshes Site of Special Scientific Interest (SSSI). The development will incorporate Sustainable Urban Drainage Systems (SUDS) and rainwater harvesting, reducing the flow of water to fowl water disposal. The proposal site is in excess of 3km upstream of the designated site. The proposal is within the Dedham Vale Area of Outstanding Natural Beauty. However, the proposal would infill an area between existing development, and in our view is of a scale that would not have a significant adverse impact on this nationally important landscape. We note that the Ecological Assessment (2 April 2011) recommends and outlines that further protected species surveys are required. The results of these additional surveys do not appear to have been submitted with the application.

8.10 Environment Agency: Low environmental risk. No comments

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

## **9.0 Parish Council’s Observations**

9.1 Dedham Parish Council:

“The Parish Council supports this planning application to provide local needs housing at Hallfields Farm for residents of Dedham. As you are aware, the Parish Council have been very proactive over the past three years in identifying the future needs of the village in consultation with the local community. We therefore consider the above site identified is a positive response and demonstrates a clear understanding of the future needs of the Parishioners for which we have a mandate.

Our Village Design Statement has been adopted and incorporated into the Colchester Borough Councils Policies of the Local Development Framework providing a historic basis for the existing character and form of the village. In building on this document the Parish Council has subsequently undertaken further consultation with the Parishioners to consider their future needs and the appropriateness of new builds and/or extensions to the village to accommodate these needs – the new completed Parish Plan provides an evidence base of support.

The Parish Council acknowledge that these needs cannot be met solely through the provision of additional new accommodation within the current boundaries without impacting on the identified historic character of the village. Indeed, the Parish survey indicates that 73% of the community were opposed to further ‘garden grabbing’.

The proposed development at the above site (which is adjacent to the settlement boundary) reflects a clear understanding of local needs for residents to downsize, reflecting the specific requirement of the over 55 year age group of Dedham. The requirement to downsize and remain in the same village is not a unique situation, but it is certainly against the norm of the understanding of requirements of the wider Essex area, and this is what makes Dedham so unique. 57% of the respondents to the Parish Plan questionnaire confirmed that it is their wish to do just that, and find smaller accommodation in Dedham.

We do understand that the above application does not fall within the generic definition of the 'exception policy' for housing, however we consider that our recent consultation work and a clear understanding at local level of the community's needs, is a robust material planning consideration. We consider that within the evolving Government environment, and with specific reference to the forthcoming Localism Bill, the current Government is overseeing a fundamental shift of power away from Westminster to Councils, communities and homes across the Nation. Consequently, we do consider that the evolving nature of the Government and the promotion of the Localism Bill is another strong material planning consideration in the determination of this application. The Parish Council is adamant to preserve not just the build character of the village but also the community that is arguably as important as the buildings. However, this is not to the detriment of being unable to respond to change as local needs are identified. The Village Design Statement has been quoted previously in this letter, and we once again draw your attention to the final two lines on Page 60 (which the Parish Council considers directly applies to this application) which states:-

*Change if constant*

*The way we embrace it defines the future*

As stated earlier the Village Design Statement is incorporated in Colchester Planning Policies and part of the Local Development Framework, therefore we trust that the Planning Department at Colchester will be able to understand the importance of identifying the local housing needs of Dedham and will accordingly give careful and measured consideration to this application for a local housing provision at Hallfields Farm, Dedham and allow the outline proposal to proceed".

## **10.0 Representations**

(Numbers of 10 support/11 objection and issues raised)

### **10.1 Objections**

- Whatever the need for affordable housing, which has not been properly quantified in the application, the desire for local people to downsize from their existing properties does not equate to affordable housing. To allow for such housing as an exception to the normal policies of restraint on land outside any settlement would set a very dangerous precedent.
- There are open views back towards the site from the east in particular Manningtree Road and the footpath network. A statement in the Dedham Village Design Statement states "the preservation of the AONB should be paramount in all planning considerations.
- Adverse visual impact creating a hard edge to the built up area.
- Whilst the layout is illustrative neighbours are concerned about loss of privacy and the loss of trees.
- Little weight should be attached to the local needs argument.
- The published documents include no evidence of affordable housing need. There is a reference to a parish council survey, but no hard evidence of identified local need as published by the parish in terms of unit type and number. The applicant makes reference to the Borough council's affordable housing need, it is essential in such applications that this need is justified against the Borough's housing waiting list in order to cross reference the Borough's recorded need, against parish findings.
- The proposal is against the Borough's policies in respect of site selection and location and is not supported by the parish plan or the village design statement.

- The scale of the development is representative of the largest addition and change to Dedham for many years. Having regard to its sensitive location it warrants examination at a wider scale within the community.
- Backland development
- No hard evidence to demonstrate that the statement of community involvement has been complied with
- The application does not include a section 106 agreement. Furthermore the properties would only be available within the proposed marketing strategy for a period of 6 months then released onto the market and exposing them to the open market values and not up holding the “affordable” housing ethos. The proposal is more akin to low- cost market housing which is no longer included in the definition of affordable housing and does not comply with the rural exception site policy as laid out in PPS3 which also states that rural exception sites should only be used for affordable housing and should provide for local needs.
- The application DAS and heritage statement do not follow government guidance and therefore do not properly assess the impact of the development on the Conservation Area or listed buildings close to the site.
- Infrastructure not available no sewerage
- Traffic problems; Manningtree Road is a narrow country lane which has seen an increase in traffic. The Dedham Vale AONB and Stour Valley Management Plan states that any development should minimise the impact on historic villages.
- A letter sent on behalf of the owners of 14 properties in Manningtree Road and Brook Street states the parish council has not made any approach to discuss or explain their dealings with the application, nor have they enquired to the impact the development will have on the community. We cannot recognise the claims made in the parish councils letter using word such as “proactive” and “mandate” and terms such as “consultation with the community”
- I believe the parish council and some residents believe that retirement bungalows and down sized housing will become available if this plan goes ahead. This is very naïve the developer will build for maximum profit and the cost of these dwellings will be out of people’s price range and fuel a second home market for buyers from London. As for low cost housing Dedham has its quota and there is no requirement for more
  - There are bats in the barns to be demolished
  - The entrance to the site is poor

## 10.2 Dedham Vale Society:

“It is stated in the application that the proposed site falls outside the conservation area with the exception of the barn which he hopes to demolish. But, of course, the site is within the Area of Outstanding Natural Beauty with its status equal to that of a National Park and permission can only be granted in exceptional circumstances. To grant outline planning permission for a proposed development of thirteen houses for which no design details have been published would be sheer folly on the part of the Council. Traffic in the area would significantly increase on what is already a dangerous corner; the business park at Lower Barn Farm, the surgery and its associated housing have themselves created problems.

The Society opposes this application as an unnecessary development which if allowed will be detrimental not only to the AONB but also the village itself. “

### 10.3 Support

- This is exactly what Dedham needs
- It is good for those who wish to down size the village is dominated by large expensive houses
- The site is tucked away and will not obtrude
- This will assist the old and young alike
- People already have to live outside Dedham because houses are too expensive
- My only concern is that the houses may be built for local residents but when built will then become available for any one to purchase.

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

### 11.0 Parking Provision

- 11.1 If outline planning permission were granted then the reserved matters submission would have to meet the adopted parking standard.

### 12.0 Open Space Provisions

- 12.1 A scheme of this size generates a requirement for open space, sport and leisure contribution which would be secured by a section 106 agreement.

### 13.0 Report

#### Principle of development

- 13.1 The main issue to be considered in determining this application is whether or not the principle of residential development is acceptable. The application proposes 13 dwellings on land outside the development boundary. Five are to provide affordable housing in the village and will be managed by an RSL/RP. The remaining eight dwellings will be controlled in perpetuity in terms of stipulated criteria for eligibility for purchase.
- 13.2 The detailed responses from Spatial Policy and the Housing Development Officer explain why the proposal does not meet Council policy or government guidance in respect of a rural exception site and affordable housing. However it is useful to emphasise the following key points:
- Core Strategy housing policy, as set forth in Policy H1 is guided by a Settlement Hierarchy which focuses development on the urban area of Colchester in line with national policy and the sequential approach.
  - Policy ENV2 provides that 'development outside but contiguous to village settlement boundaries may be supported where it constitutes an exception to meet identified local affordable housing needs' in recognition that some limited development will be required to meet rural village needs

- PPS3 provides that rural exception sites should only be used for affordable housing in perpetuity and should provide for local needs. The former Annex B to PPG3 stated that rural exception sites 'are not appropriate for ... market housing for local needs only. It is unacceptable to include clauses in planning obligations which would enable lenders of private finance to dispose of property on the open market as a last resort.'
- Although the scheme is described as residential development 'to provide local needs and affordable housing' the proposal does not comply with normal requirements for rural exception housing;
  1. it is not clear how the proposal will meet local needs ie people on the Councils register.
  2. The houses are proposed for sale but even at a discount they are unlikely to be affordable to those in need.
  3. Low cost home ownership is not an affordable option in Colchester.
  4. No RSL is involved in the scheme.
  5. The intention is to use covenants to control occupation not the normal legal obligation through S106 agreement.
  6. The properties could be sold on the open market after a period of time if there is no suitable purchaser.
- The application is not purely for affordable housing and the intermediate tenure units loosely referred to as being affordable would not in fact be so as there is an intention to sell on at a later date.
- It is not thought that existing homeowners wishing to downsize from their large homes to smaller homes actually constitute a person in housing need and they would not be eligible for affordable housing as their needs are already catered for in the open market.
- The housing survey mentioned was undertaken by the PC in 2006 which is far too distant to be considered relevant now. Local needs surveys should have been undertaken within the last two years.
- Affordable housing on RES sites has to be built to match the specific needs of the local community and this is best evidenced by a local housing needs survey preferably to be undertaken by the Rural Housing Enabler for Essex (RHE) who is employed by the RCCE. CBC would then consider the recommendations of the RHE survey as these are regarded as being impartial and informed.

### Scale of development

- 13.3 Whilst the application is for outline planning permission the information still has to demonstrate the site can satisfactorily accommodate the development proposed. The DHU response indicates the DAS and Heritage Statement does not properly assess the character of the area as farm buildings on the former farm yard provide the immediate context for the site which is characterised by buildings loosely arranged around a courtyard. It is also considered the layout is unacceptable and the development extends beyond the farm yard area into countryside. It would not be possible to accommodate 13 dwellings within the "farm yard" area. The scale of development is therefore unacceptable.

### Impact on the AONB

- 13.4 LDF Policy DP22 (Dedham Vale Area of Outstanding Natural Beauty) states, 'Development will only be supported in or near to the Dedham Vale AONB that:
- (i) makes a positive contribution to the special landscape character and qualities of the AONB;
  - (ii) does not adversely affect the character, quality views and distinctiveness of the AONB or threaten public enjoyment of these areas, including by increased vehicle movement; and
  - (iii) supports the wider environmental, social and economic objectives as set out in the Dedham Vale AONB and Stour Valley Management Plan'.
- 13.5 The development will be visible in the AONB and from a PROW. In particular the site will be visible when looking from Manningtree Road towards the east boundary. The current view is of open farmland with a scatter of low buildings filtered by trees. The development will "urbanise" this view by increasing the amount and height of the built form and extending it away from the area of existing buildings into open countryside, this urbanisation will be exacerbated by the removal of trees.

### Residential amenity

- 13.6 Comment has been received that the submitted layout will affect resident's amenity due to overlooking and removal of trees. The submitted layout does not form part of the application considerations and these issues could be addressed by negotiation if the principle of development were acceptable.

### Highway Issues

- 13.7 Residents have raised objection due to additional traffic along Manningtree Road. Whilst the Highway Authority has recommended refusal the reason does give the applicant the opportunity for further negotiation and it is understood discussions are ongoing.

## **14.0 Conclusion**

- 14.1 The application does not satisfy Council policy and government advice concerning affordable housing and rural exception sites. If permitted it would be contrary to a fundamental principle of planning which is to protect the countryside for its own sake and to only allow development if there are overriding reasons to do so. This principle is reiterated in the emerging NPPF which emphasises the role of up-to-date development plan. Furthermore the development is proposed in the Dedham Vale AONB which is given further protection and the application documents do not properly assess its impact on the adjacent Conservation Area.

## **15.0 Background Papers**

- 15.1 PPS; Core Strategy; CBDP; SPG; PP; HA; TL; AO; DHU; HO; HH; ECC; NE; NR; PTC, NLR; DVS



## **16.0 Recommendation - Refusal**

### **Reasons for Refusal**

#### **1 - Non-Standard Refusal Reason**

The application proposes the erection of 13 dwellings on land outside the village envelope within the Dedham Vale AONB. Whilst the scheme is described as residential development 'to provide local needs and affordable housing' the proposal does not comply with normal policy requirements for a rural exception housing site or affordable housing. It is therefore contrary to policy H1 and ENV2 in the adopted Core Strategy and government advice in PPG3.

#### **2 – Non Standard Reason**

The development would be visible in the Dedham Vale AONB. The development would adversely affect the AONB by urbanising the edge of the settlement by increasing the amount and height of the built form and extending it away from the area of existing buildings into open countryside, This urbanisation will be exacerbated by the removal of trees with in the site. This is contrary to policy DP22 in the adopted Colchester Borough Development Policies (October 2010).

#### **3 - Non-Standard Refusal Reason**

The application documents including the DAS and Heritage Statement do not properly assess the context of the site which consists of a group of buildings associated with a former farm yard and the development therefore fails to address this content. To accommodate 13 dwellings the built form will have to extend beyond the farm yard area to the detriment of the character of the conservation area and the open countryside this is contrary to Planning Policy Statement 5: Planning for the Historic Environment, Planning Policy Statement 7 Sustainable Development in Rural Areas and policy UR2 - Built Design and Character in the adopted Core Strategy and DP14 Historic Environment Assets in the adopted Colchester Borough Development Policies.

#### **4 – Non Standard Reason**

The application fails to include a mechanism to secure the required financial contributions towards open space, sport and leisure facilities, community facilities and education in accordance with adopted supplementary guidance. The proposal is therefore contrary to policy DP3 and DP4 in the adopted Colchester Borough Development Policies (October 2010).

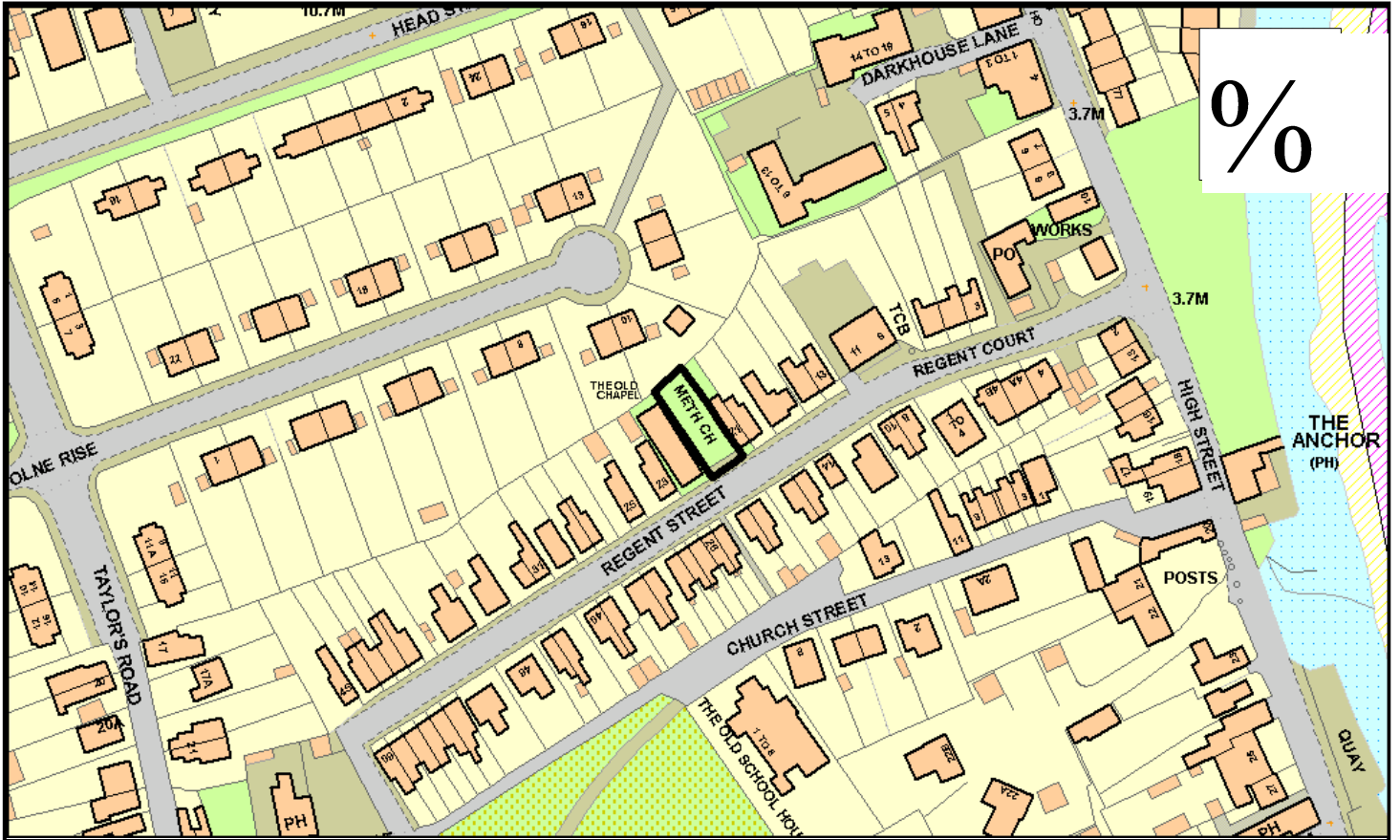
## 5 - Non-Standard Refusal Reason

The developer has not demonstrated to the satisfaction of the Highway Authority that the highway access arrangements, traffic generated by the proposed development, impact on the highway network and proposed mitigation and accessibility to local services, facilities and public transport are acceptable in terms of highway safety, capacity and accessibility. In this regard the proposal would be contrary to the following policies:

A) Safety - Policy DM1 of the Highway Authority's Development Management Policies February 2011

B) Accessibility - Policy DM9 and 12 of the Highway Authority's Development Management Policies February 2011

C) Efficiency/Capacity - Policy DM15 of the Highway Authority's Development Management Policies February 2011



**Application No:** 110023

**Location:** Land to West of, 21 Regent Street, Rowhedge, Colchester, CO5 7EA

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

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**7.2 Case Officer: Nick McKeever**

**MINOR**

**Site:** 21 Regent Street, Rowhedge, Colchester, CO5 7EA

**Application No:** 110023

**Date Received:** 11 January 2011

**Agent:** Chris Robards

**Applicant:** Mr D Wright

**Development:** Proposed new dwelling on land adjacent to 21 Regent Street

**Ward:** East Donyland

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

**1.0 Introduction**

**1.1 Members will recall that this application was deferred at the Committee Meeting on 16 June 2011 for an amendment to the layout and design in order to provide two parking spaces along the west facing elevation. In addition Members wished to obtain the recommendations of the Highway Authority. The application is now brought back before the Planning Committee for further consideration in the light of these changes.**

**The changes to the layout and the design have now been submitted and a consultation response received from the Highway Authority.**

1.2 The previous report is reproduced for Members information as follows.

This application is referred to the Planning Committee because of an objection by the Rowhedge Society and from three local residents. The objections include concerns about parking provision and the impact upon the amenity of the former Methodist Chapel (The Old Chapel) that adjoins the site. In view of the concern about inadequate parking provision, and the fact that that the proposed parking is not in accordance with the recommended levels in the Council's adopted parking standards, the application is submitted to the Planning Committee for determination.

1.3 The application was originally included within the agenda for a previous Committee but was withdrawn by the Head of Environmental and Protective Services from this agenda for consideration of the impact upon windows serving habitable rooms within the flank wall of the Old Chapel, Regent Street, Rowhedge.

## **2.0 Synopsis**

- 2.1 Whilst outline planning permission was granted in 2004 – application O/COL/04/0810 - this permission has now expired and new parking standards have been adopted. This outline application was supported by an indicative layout and front elevation drawing showing the new building as being attached to 21 Regent Street. The elevation drawing was excluded by condition. This committee report will consider the proposed scheme having regard to this previous approval and the current planning policy context. It will also consider the amended plans that have now been submitted in order to clarify an objection from the occupiers of The Old Chapel due to an overshadowing impact upon habitable rooms which have windows within the flank wall of this converted Chapel. It will also report and comment on the Highway Authority's response. The report will conclude that the development is acceptable in terms of its layout, detailed design and impact upon residential amenity.

## **3.0 Site Description and Context**

- 3.1 The site forms part of the garden of 21 Regent Street, Rowhedge, which is within an established residential area. The existing dwelling is a two storey, semi-detached dwelling of the late Victorian/early Edwardian period. It is constructed in red brick with a slate roof.
- 3.2 The property is surrounded by other residential properties, including a former Methodist Chapel to the immediate west, which has been converted into a single dwelling known as the Old Chapel.
- 3.3 There are trees along the northern site boundary.

## **4.0 Description of the Proposal**

- 4.1 It is proposed to erect a detached, two storey dwelling on this plot having a stated area of 210 square metres. The dwelling is to be finished in red facing brick, stone cills and lintels and a slate roof. The ground floor accommodation includes a kitchen/diner, lounge and conservatory; the first floor provides three bedrooms and a bathroom.
- 4.2 One parking space is to be provided on the site.

## **5.0 Land Use Allocation**

- 5.1 Residential/Conservation Area

## **6.0 Relevant Planning History**

- 6.1 O/COL/04/0810 – Severance of garden to form a building plot for one two bedroomed dwelling. Approved 22/06/2004

## 7.0 Principal Policies

- 7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing  
Planning Policy Statement 5: Planning for the Historic Environment  
Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
SD3 - Community Facilities  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
UR2 - Built Design and Character  
PR1 - Open Space  
PR2 - People-friendly Streets  
TA1 - Accessibility and Changing Travel Behaviour  
TA2 - Walking and Cycling  
TA3 - Public Transport  
TA4 - Roads and Traffic  
TA5 - Parking
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP3 Planning Obligations and the Community Infrastructure Levy  
DP4 Community Facilities  
DP12 Dwelling Standards  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP14 Historic Environment Assets  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP18 Transport Infrastructure Proposals  
DP19 Parking Standards
- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:  
Backland and Infill  
Community Facilities  
Vehicle Parking Standards  
Sustainable Construction Open Space, Sport and Recreation  
Extending your House  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

### **8.1 The Design and Heritage Unit comment:-**

“The principle of infilling this plot on the rising hill of Regent Street is acceptable in principle. The small plot has been given an appropriately scaled and proportioned dwelling that appears appropriate in the rhythm of the other dwellings in the street. I would suggest that the front room window becomes a bay window, which will ground the building visually. I would also suggest that the form will need a chimney to disguise the junction of the two roofs. The application should be considered and justified against our current car parking standards.”

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

## **9.0 Parish Council Response**

9.1 There is no record of the receipt of comments by Rowhedge Parish Council.

## **10.0 Representations**

### **10.1 The Rowhedge Society comment that:-**

“The design of the dwelling proposed is out of keeping with the surrounding area which is mainly of traditional Victorian design and layout.

Impact on a conservation area - Any development on this site should be sympathetic to and contribute positively to the conservation area in which the site sits. The design of the proposed dwelling would have a detrimental impact upon this conservation area. It is important that open space is retained in the area; this very small site should not be built upon.

The lack of parking space in Rowhedge, particularly in the vicinity of this site, is a significant issue for all residents. The parking planned in this application is totally inadequate for the dwelling proposed. The streets in the immediate area are of mainly Victorian layout and design and any planning application which suggests that this area will have to accommodate an increase in the parking of vehicles must be rejected on the basis of the impact this will have on this conservation area and existing residents.

Health and safety - For the reasons stated above it is our belief that development of this site as submitted will generate increased traffic and parking and as such an increased risk to health and safety especially as it is so close to the village shop which obviously attracts a great many pedestrians.”

10.2 The occupier of 36 Regent Street considers that a new building will create the need for extra parking space. The majority of parking here is on-street and this is limited, making existing parking a problem. It follows that any additional vehicles will only increase the problem. As Regent Street is part of the old village, any new development will not be in keeping with the existing houses.

10.3 The occupiers of the Old Chapel raise concerns relating to the overshadowing impact of the development upon habitable rooms within the east facing elevation of this converted Chapel. A request is made for a sun path analysis. This request is on the basis that the light rises precisely where the house will be built and the only time we get direct sunlight to our kitchen window is from the east and this is greatly reduced in the winter already. The main area of concern is the Kitchen window which will be half covered by a two storey wall and have the roof of a conservatory covering a large section of the rest of the window. The 45 degree angle given for the light to come into this window will be very weak light as it is in the shadow of the rear of the two storey building. A light tunnel to this window would overcome this concern.

## **11.0 Parking Provision**

11.1 The application proposes the provision of one parking space to be located adjacent to the front projecting wing of the new building. This space is shown as being 2.8m wide and 5.4m long.

11.2 The existing dwelling at No.21 Regent Street had on-site parking in the form of a single, detached garage located adjacent to the Old Chapel, accessed via an existing drop-kerb. This garage is no longer on the site.

11.3 The current adopted standard for a new three bedroom dwelling is normally two spaces plus one visitor space. The visitor space can be provided within the adjacent highway where there are no parking restrictions. The recommended size of a parking space should normally be 5.5 metres x 2.9 metres.

11.4 In considering the proposed one parking space due account has been taken of the following circumstances:

- (1) The previously approved scheme made provision for one parking space within a car port attached to the side of the dwelling.
- (2) A large number of the existing older properties along Regent Street do not have any on-site parking. Other properties mostly have only one but where space permits some have two spaces although these are in the minority.
- (3) The parking standard does allow for spaces that are below the recommended size ( i.e. the old standard of 2.5 metres x 5.0 metres) as an exception. In this case the size is only marginally below the recommended 5.5 metres x 2.9 metres.

## **12.0 Open Space Provisions**

12.1 The application includes the required Unilateral Undertaking for a contribution towards the provision of Open Space and Community Facilities in accordance with the Council's adopted SPD.



## 13.0 Report

- 13.1 The layout plan shows that the new building is to occupy much the same position as that shown on the layout plan submitted with the approved application O/COL/04/0810. In terms of site area the Design and Access Statement states that the ground floor plan will occupy 55 sq. metres of the total site area of 210 sq. metres. The submitted ground floor plan 1497- 02C shows that the building is to be located one metre from the boundary with No.19 Regent Street and one metre from the boundary with the Methodist Chapel. In terms of space between the buildings the development complies with the Council's normal standard.
- 13.2 Given the particular characteristics of the existing development within this older, established residential street, it is considered that the development would not appear cramped in its setting.
- 13.3 The design of the new dwellings has evolved through discussions between the applicant and the urban design officer. The design has been modified to incorporate the minor modifications recommended by the Design and Heritage Unit. It has now reached a standard of design that is compatible with the majority of the Late Victorian/early Edwardian properties that give this street its particular character. The external materials are also in keeping.
- 13.4 It is noted that the Decision Notice for the permission O/COL/04/0810 advised that the submitted design was not acceptable given the detail of the garage and the linking of the new building to the existing dwelling at No.21 Regent Street. This Notice further advised that a new dwelling with a gable facing the road may provide an acceptable form of development. The current application has addressed these matters.
- 13.5 In general terms the scale, height and massing of the proposed building are sympathetic to its setting.
- 13.6 There are no privacy issues as there is only a bathroom window in the east facing flank wall, and this should be obscure glazed.
- 13.7 Given the layout of the existing dwelling at No.21, it is considered that the proposed dwelling does not raise any issues in terms of overbearing impact, loss of outlook or overshadowing upon this neighbouring dwelling. In this respect the development complies with the Council's adopted policies and SPD.
- 13.8 The converted Chapel to the immediate west of the site has a range of windows within the east facing elevation which look out onto the site. These windows serve a bedroom, a utility room and a kitchen. The bedroom is located towards the front of the dwelling, whilst the kitchen is located towards the rear. These two rooms, but not the utility room, are classed as habitable accommodation and as such are afforded protection under the adopted DPD policies and the associated SPD 'Extending your house'.

- 13.9 The SPD states that proposals for extensions or a new building should not result in the centre of the main window of a habitable room being within a combined plan and section 45 degree overshadowing zone. Where these windows are within the side elevation, as in this situation, each case will be considered on its merits bearing in mind the 45 degree rule and the existing relationship between buildings.
- 13.10 The applicant was required to submit additional drawings that clarified the potential overshadowing impact. This has been done and the drawings submitted.
- 13.11 In considering the potential overshadowing impact it is noted that the Old Chapel is set at a significantly elevated position relative to the proposed new dwelling. The other factor to be taken into consideration is that the windows on the inside are a different size to those on the outside. The occupiers of the Old Chapel have explained this anomaly on the basis that, when the property was converted, the builders blocked the top section of window from the inside as this was necessary for the floor level. As such any measurements could not be taken from the apparent centre of the windows as viewed from the exterior. The additional drawings that have been submitted have taken this into account.
- 13.12 The additional drawings demonstrate that neither the front bedroom window, or the rear kitchen window, is affected by the combined plan and section 45 degree overshadowing zone. In this respect the development satisfies the requirements of the SPD 'Extending your house' and the Essex Design Guide (EDG) for Residential and Mixed Use Areas. The EDG cites the Building Research Establishment's report " Site Layout Planning for Daylight and Sunlight", which suggests that obstruction of light and outlook from an existing window is avoided if the extension, (or in this case the building), does not result in the centre of the existing window being within a combined plan and section 45 degree overshadowing zone.

#### **14.0 Conclusion**

- 14.1 The principle of this infill development has been agreed by the 2004 permission. The layout, scale, design and external appearance are considered to be acceptable in this particular setting. Whilst the provision of on-site car parking does not comply with the recommended standard, it is considered that the proposed provision is acceptable having regard to the site's history and particular context.
- 14.2 The applicant has incorporated the provision of a front bay window and the chimney as required by the Design and Heritage Unit. On this basis the design is considered to be acceptable.
- 14.3 The development is acceptable in terms of visual and residential amenity.

## **15.0 Additional Report**

### **15.1 The application has been amended as follows:**

- (i) The size and form of the building has been reduced from a three bedroom to a two bedroom dwelling. The two storey wing to the west elevation has been removed. The building is now basically rectangular in shape but retains the front bay. The external materials remain as previously proposed. The rear conservatory has also been deleted.**
- (ii) By deleting the side wing, additional space has been created adjacent to the western boundary. It is in this space that two car parking spaces are to be provided. The width of these two parking spaces varies from a maximum of 2.95m at the front reducing to 2.85m.**

### **15.2 The Urban Design Officer has confirmed that the changes to the design and the layout are acceptable.**

### **15.3 The Highway Authority has been consulted on the amended plans but has submitted a recommendation that the application should be refused. The consultation response is reproduced as follows:-**

**“This plot was the subject of a planning application in 2004 which aimed to sever the garden from the above noted property in order to create a building plot. The Highway Authority recommendation dated 13 May 2004 raised an objection to the proposal on the grounds that the loss of off-street parking would lead to further congestion in this narrow and very busy little road.**

**The existing property currently benefits from off-street parking; there is an existing dropped kerb footway crossing, and the garden is also large enough to accommodate two vehicles in accordance with the current standards. The proposal will remove this parking for the existing property and create a substandard parking area for the new property which does not comply with the current standards.**

**The objections raised in 2004 therefore remain valid as the proposal will lead to extra conflict and vehicles being left in the highway. In addition, due to the increase in vehicle ownership in the intervening years the impact on the narrow residential streets in the area will be correspondingly worse”.**

### **15.4 At the time of the previous permission, the Council was basing its decisions on the provision of maximum parking and the view was taken that the development would enhance the appearance and character of the Conservation Area. Maximum parking standards were applied on the presumption that a reduction of parking at the trip origins and destinations would reduce the use of private cars. Current standards now recognise that a reduction in on-site parking does not necessarily discourage people from owning a car.**

- 15.5** It is clear from the detail drawings submitted as part of this previous application that site is not large enough to be able to provide parking to serve both the existing and the proposed dwelling. Indeed the aforementioned drawings only provide for one parking space.
- 15.6** The current standards do recognise that a lower parking provision can be accepted where the site is within an urban area and where there are alternative public transport links In this case the site lies within the main built-up area of Rowhedge and close to the main bus route.
- 15.7** The proposal will deprive the existing property of any on site parking but the current scheme, which now provides for two spaces in accordance with the recommendations of the Committee, is an improvement upon this previously approved development.
- 15.8** It is in this particular context that the current scheme is put to members with a recommendation for permission.

## **16.0 Background Papers**

16.1 PPS; ACS; DPDPD; PPG; HA; DHU; PTC: NLR

## **17.0 Recommendation:**

APPROVE subject to the prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990. The Head of Environmental and Protective Services to be authorised to complete the agreement to provide the following:

- A contribution towards the provision of Open Space and Community Facilities in accordance with the Council's adopted SPD

On completion of the legal agreement, the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

### **Conditions**

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

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

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

2 – 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 or appearance/visual amenity of the Conservation Area.

### 3 – C12.2 Details of Walls or Fences

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

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

### 4 – D1.9 Visibility Splays

A 1.5 metre x 1.5 metre pedestrian visibility sight splay, free of obstruction above a height of 600mm, and relative to the back of the footway / overhang margin, shall be provided on both sides of all vehicular accesses prior to their operational use and thereafter retained.

Reason: To avoid overdevelopment of this site.

### 5 - Non-Standard Condition

The car parking space and car port hereby approved shall be provided prior to the occupation of the new dwelling and thereafter shall be retained for parking of vehicles ancillary to the development.

Reason: In the interest of highway safety and the amenity of the existing residential properties

### 6 – Non Standard Condition

The development shall be carried out in accordance with the approved drawings Nos. 1497-01G; 02G, 3G and 4G.

Reason: For the avoidance of doubt and in the interests of proper planning.

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

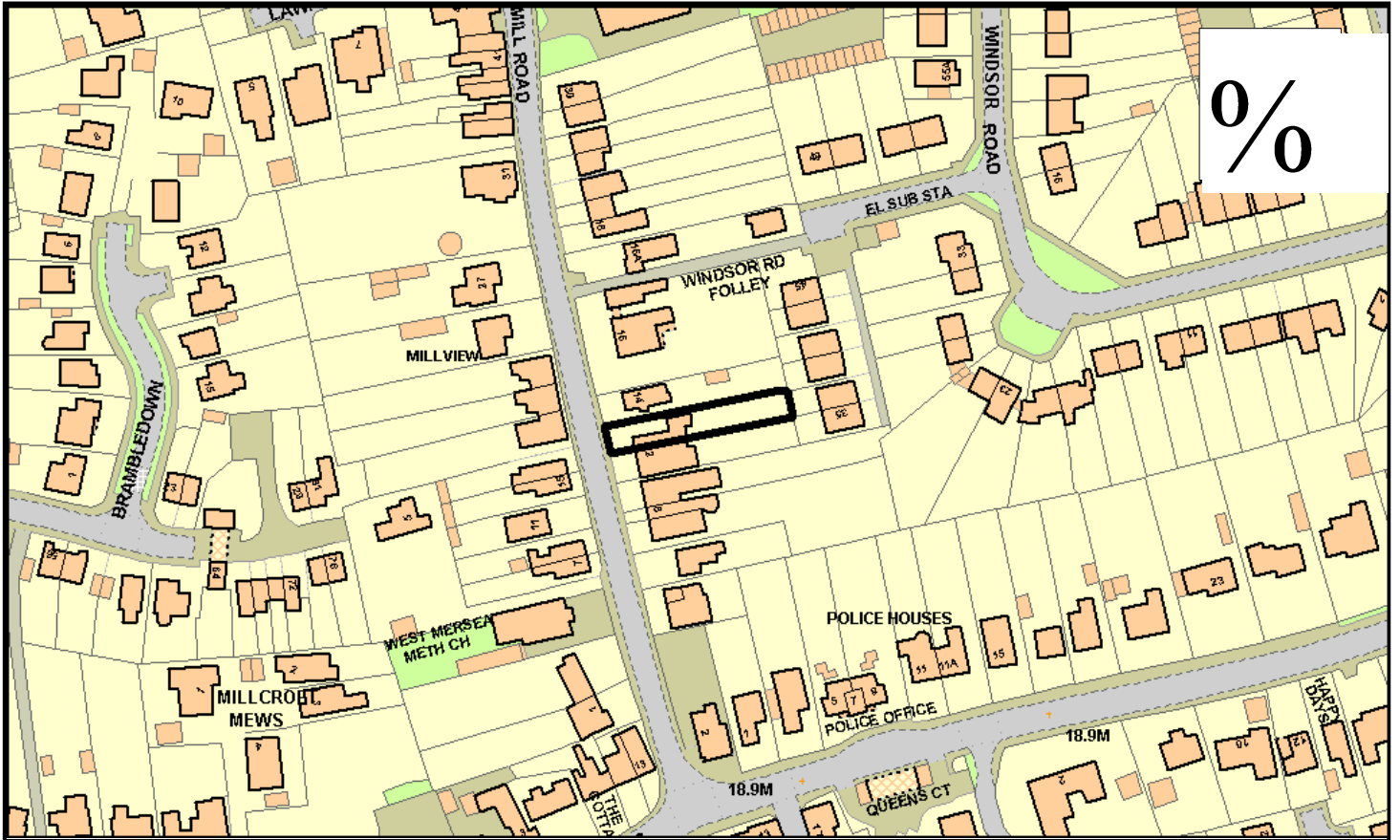
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification),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

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

### **Informatives**

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

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



**Application No:** 100442

**Location:** Land Adjoining No.12, Mill Road, West Mersea, Colchester, Colchester

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

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### 7.3 Case Officer: Nick McKeever

## MINOR

**Site:** Land adjoining 12 Mill Road, West Mersea, Colchester, Colchester

**Application No:** 100442

**Date Received:** 10 March 2010

**Agent:** Whymark & Moulton Ltd

**Applicant:** Mark Skinner

**Development:** Proposed two storey private dwelling.

**Ward:** West Mersea

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

### 1.0 Introduction

1.1 This application is referred to the Planning Committee because of an objection by a local resident and as the application was received prior to the introduction of the new scheme of delegation.

### 2.0 Synopsis

2.1 This application seeks to address the reasons for the refusal of the planning permission 072445 and the grounds for the subsequent dismissed appeal. There were two reasons for the refusal of this permission:-

- (i) Poor design; and
- (2) Effect on highway safety

2.2 Ongoing discussions have taken place with your Officers and with the Highway Authority. This has resulted in the scheme that is now before the Planning Committee. It is considered that this scheme has successfully addressed these previous issues and permission is recommended accordingly.

### 3.0 Site Description and Context

3.1 The site lies within an established residential area containing dwellings of different heights, designs and architectural detailing. The site front dimension is relatively small but comparable to that of No.14 Mill Road. This adjoining dwelling is a two storey detached property.

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

- 4.1 The application proposes the erection of a three bedroom, detached, two storey dwelling on a plot of land of approximately 0.028 ha. The building is set back behind the front elevations of Nos. 12 and 14 Mill Road.
- 4.2 It is to be constructed in facing brick with a slate roof.
- 4.3 The amended plans show the provision of two parking spaces on the site frontage, each space being a minimum of 2.9m x 5.5m, together with a vehicular turning facility to serve both the site and no. 12 Mill Road. Two parking spaces are shown for no.12

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

- 5.1 Residential

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

- 6.1 071379 Side two storey and rear first floor extensions, existing side single storey extension to be demolished. Approved 30/08/2007
- 6.2 072393 – Extensions and alterations. Approved 15/11/2007
- 6.3 072445 – 1 no. 3 bed dwelling. Refused 19/11/2007. Appeal dismissed 20/10/2008.

#### **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
SD3 - Community Facilities  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
UR2 - Built Design and Character  
TA4 - Roads and Traffic  
TA5 - Parking



- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP3 Planning Obligations and the Community Infrastructure Levy  
DP4 Community Facilities  
DP12 Dwelling Standards  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP19 Parking Standards
- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:  
Backland and Infill  
Community Facilities  
Vehicle Parking Standards  
Sustainable Construction Open Space, Sport and Recreation  
Extending your House  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

- 8.1 Environmental Control recommends the standard advisory notes on Demolition & Construction
- 8.2 The Highway Authority has confirmed that no objections are raised to the amended parking and access arrangements, subject to appropriate conditions.

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

## **9.0 Town Council Response**

- 9.1 West Mersea Town Council has no objections.

## **10.0 Representations**

- 10.1 An objection has been received from a local resident. The objections are summarised as follows:-
1. Loss of light to a kitchen, conservatory and patio area.
  2. Problems arising from the building works – rubble, possible damage to boundary fence & foundations; loss of privacy; noise and dust.

## **11.0 Parking Provision**

- 11.1 The application provides for two parking spaces within the site. Each of these spaces is to the required size i.e. 2.9m x 5.5m. The required visitor space can be accommodated within Mill Road as there are no parking restrictions on this road. On this basis the development complies with current standards.

## **12.0 Open Space Provisions**

- 12.1 Not Applicable

## **13.0 Report**

### Design, Layout, Scale & Massing

- 13.1 The proposal is for a detached, two storey dwelling. This type of dwelling is considered to be acceptable in a road which contains dwellings of varied ages and designs, single storey and two storey. The appeal decision referred to this character and considered that the appeal site could accommodate an additional dwelling of an appropriate design.
- 13.2 The refused design was for a similar form of building but the front elevation was dominated by an integral garage, which occupied more than half the width of the ground floor. The Inspector considered that garage gave undue prominence to a utilitarian aspect of the scheme. In addition the main entrance was positioned to the side of the building. The combination of these two aspects was considered to compromise the relationship of the dwelling to the street. This integral garage has been deleted from the current scheme and the main entrance is now on the public facade. It is on this basis that the current scheme has addressed the two main design issues upon which the previous scheme failed.

### Impact upon residential amenity

- 13.3 The objections submitted by the local resident reflect the objections submitted in respect of the previous application. The loss of amenity was not cited as a reason for the previous refusal. In arriving at her decision, the Planning Inspector considered that the impact upon the adjoining dwelling at No.14 Mill Road was acceptable. The distance between the two properties, and the relationship in terms of overlooking or overshadowing of the flank wall, was considered not to be unusual in this urban context. Some level of noise and disturbance during the construction of any new building was considered to be inevitable, but transient and unacceptable pollution could be controlled through Environmental Health legislation. The construction of foundations and development along a common boundary was deemed to be governed by the Building Regulations and Party Wall legislation.

- 13.4 However the building now proposed is set back further within the site than that considered by the Planning Inspector. However, it complies with the adopted policy DP12 and associated SPD “Extending your house?” in terms of the 45 degree overbearing criteria. In terms of overlooking the two windows in the flank wall above ground floor level are for a bathroom and en-suite, both of which are deemed to be non-habitable rooms. Subject to these being obscure glazed, it is considered that there is no significant loss of amenity through overlooking.
- 13.5 The Applicant has submitted an amended drawing that shows the 45 degree plan and elevation line drawn from the centre of the kitchen window located in the flank wall of No.14 Mill Road towards the rear elevation. This drawing confirms that the new building does not cut across a combination of the plan and elevation lines and as such satisfies the requirements of policy DP12 and the associated SPD ‘Extending your house?’ The other window within the flank wall of this adjoining dwelling located towards the front elevation serves a lobby area, which is not considered to be a habitable room, and as such is not safeguarded under the aforementioned policy/SPD.

#### Highway Matters

- 13.5 The appeal decision considered that, subject to achieving a layout which would enable vehicles to enter and leave the site in a forward gear, the limited increase in vehicular movements arising from the development would not prejudice highway safety on Mill Road.
- 13.6 The current scheme makes appropriate provision for vehicular turning to serve both No.12 Mill Road and the development site, as well as car parking to the current standard for these two dwellings. In this respect the scheme has addressed this aspect of the previously refused scheme.

#### **14.0 Conclusion**

- 14.1 It is considered that the amended scheme now before the Planning Committee has successfully addressed the two reasons for the previous refusal of planning permission.
- 14.2 Whilst the concerns expressed by the occupier of No.14 Mill Road are acknowledged, the development satisfies the requirements of the Council’s adopted policies and SPD in terms of the impact upon the amenity of this neighbouring property.
- 14.2 On this basis it is recommended that permission should be granted, subject to appropriate conditions.

#### **15.0 Background Papers**

- 15.1 PPS; ACS; CBDP; SPG; HH; PTC; NLR

## **16.0 Recommendation**

- (1) APPROVE subject to the prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990. The Head of Environmental and Protective Services to be authorised to complete the agreement to provide the following:
  - The provision of a contribution towards Open Space and Community Facilities in accordance with the Council's adopted SPD
- (2) On completion of the legal agreement, the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

### **Conditions**

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

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

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

#### **2 – Non-Standard Condition**

The development shall be carried out in accordance with the approved drawings nos. 09/083-01C unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

#### **3 - C3.4 Samples of Traditional Materials**

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

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity.

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

Notwithstanding the windows shown on the approved drawing, no additional windows or other openings shall be inserted or formed above ground floor level in the flank walls of the dwelling without the prior approval in writing by the Local Planning Authority.

Reason: In order to safeguard the amenity of the adjoining dwellings.

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

Prior to the commencement of the development details of [screen walls/fences/railings /means of enclosure etc] shall be submitted to and approved in writing by the Local Planning Authority. The details shall include [the position/height/design and materials] to be used. The [fences/walls] shall be provided as approved prior to the [occupation of any building/commencement of the use hereby approved] and shall be retained thereafter.

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

#### 6 - Non-Standard Condition

Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres to the north and 2.4 metres by 90 metres to the south, as measured from and along the nearside edge of the carriageway and as far as is achievable within the site. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

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

#### 7 – Non Standard Condition

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

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

#### 8. – Non Standard Condition

Prior to occupation of the development the vehicular parking and turning facilities, as shown on the submitted plans numbered 09/083-01A shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

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

#### 9 - Non Standard Condition

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

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

#### 10 – Non Standard condition

Prior to commencement of the development the vehicular access shall be amended so as to be at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than that detailed on plan number 09/083-01A and shall be provided with an appropriate dropped kerb vehicular crossing.

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

#### 11 - Non Standard Condition

At no time shall gates be provided at the vehicular access.

Reason: To enable vehicles using the access to enter and exit the highway safely and efficiently.

#### 12 – Non Standard Condition

Prior to commencement of the development the length of the frontage not forming part of the vehicle access or visibility splays shall be separated from the highway by a suitable boundary feature to be agreed in writing with the local Planning Authority. This boundary feature shall then be constructed to the satisfaction of the Local Planning Authority prior to occupation of the new dwelling.

Reason: To enable vehicles using the access to enter and exit the highway safely and efficiently and to stop indiscriminate vehicle movements across the highway boundary contrary to pedestrian safety.

#### 13 – Non Standard Condition

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

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

#### 14 – Non Standard Condition

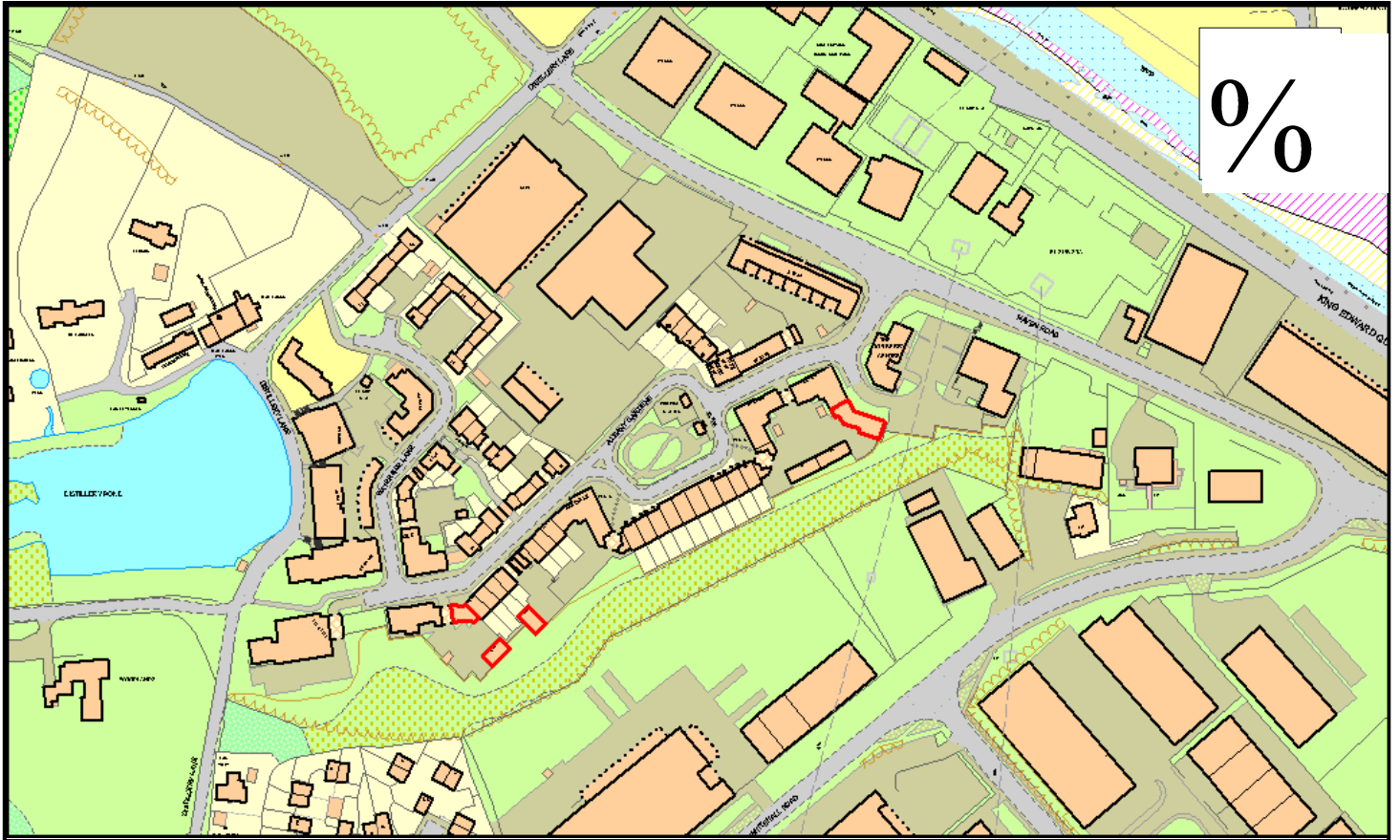
Prior to the commencement of development, details of the proposed front elevation to 12 Mill Road, following the demolition of the existing single storey extension, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within 28 days from the date of the demolition in accordance with the approved details. The extension shall be demolished prior to the occupation of the new dwelling.

Reason: To ensure a satisfactory visual appearance to the existing dwelling and to ensure satisfactory parking and turning provision for both properties.

### **Informatives**

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

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



**Application No:** 100383

**Location:** No's 9,11,13,125,135,137 & 139, Albany Gardens, Colchester

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

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#### 7.4 Case Officer: Sue Jackson

**OTHER**

**Site:** No's 9,11,13,125,135,137 & 139, Albany Gardens, Colchester

**Application No:** 100383

**Date Received:** 27 May 2010

**Agent:** David Webber Partnership

**Applicant:** Millenium Investments 2000 Ltd

**Development:** Variation of condition 56 of planning approval F/COL/02/1306 -change of use from B1 to Residential.

**Ward:** Harbour

**Summary of Recommendation:** Approval without conditions

#### 1.0 Introduction

- 1.1 This application is referred to the Planning Committee because whilst the application is recommended for approval it does not satisfy the Councils adopted parking or amenity standards and furthermore there is no financial contribution towards affordable housing provision. In addition an objection has been received and the application was received prior to changes to the scheme of delegation.
- 1.2 The application was due to be considered at the committee meeting on 19 May the but was withdrawn for further clarification on the justification for the affordable housing contribution.
- 1.3 When the original report was drafted Spatial Policy had received informal advice from Counsel that the supporting information to policy H4 in the Adopted Review Colchester Borough Local Plan could be applied. However this advice was questioned by the solicitor acting on behalf of the applicant. These issues are discussed in the report below.

#### 2.0 Synopsis

- 2.1 This application is retrospective following a complaint to the Investigation Team. It relates to 7 small units within 3 and 4 storey buildings comprising residential flats on the Albany Gardens development. The authorised use of the 7 units is as commercial floor-space forming part of the mixed use element of this large development formerly part of the regeneration area.



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

3.1 The units are on the Albany Gardens development formerly comprising Albany Laundry. The site was one of the first areas to be developed within the Hythe regeneration area. In addition to the commercial floor space the subject of this application the development also included retail units on the Haven Road frontage plus a restaurant; the original permission included live work units above the retail units. The locations are throughout the site on the first, second and third floors including some units above garages in parking courts. The particular buildings are 3 and 4 storey residential flats. Other than these small commercial elements the buildings are otherwise in wholly residential use.

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

4.1 This application is retrospective following a complaint to the Investigation Team. It relates to 7 small units within blocks of flats on the Albany Gardens development. The authorised use of the 7 units is as commercial floor-space forming part of the mixed use element of this large development in the former regeneration area. The information submitted states the bedsits are currently let to university students and have a floor area ranging from 18, 31 and 51 square metres.

### **5.0 Land Use Allocation**

5.1 Residential

### **6.0 Relevant Planning History**

6.1 F/COL/02/1306 Mixed use development comprising 200 dwellings (including 9 live/work units, 9 work space units, enterprise centre (class B1), neighbourhood store, commercial units (classes A1, A2, A3 and B1), vehicular access, road and ancillary works. Planning Permission granted 18 February 2004

6.2 F/COL/05/0730 Use of third floor work units as 9 no. student bed-sits. Planning permission granted 9-11-2006 subject to a Deed of Variation to the original section 106 agreement to secure a financial contribution in respect of affordable housing. Information regarding parking provision for these units is difficult to establish but the lack of parking facilities for owner or visitors is cited as one reason the live work units were not successful. In addition there is no amenity area for these units

### **7.0 Principal Policies**

7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing

- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:
- SD1 - Sustainable Development Locations
  - SD2 - Delivering Facilities and Infrastructure
  - SD3 - Community Facilities
  - H3 - Housing Diversity
  - H4 - Affordable Housing
  - UR1 - Regeneration Areas
  - UR2 - Built Design and Character
  - PR1 - Open Space
  - TA1 - Accessibility and Changing Travel Behaviour
  - TA2 - Walking and Cycling
  - TA3 - Public Transport
  - TA5 - Parking
  - ENV1 - Environment
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
- DP1 Design and Amenity
  - DP3 Planning Obligations and the Community Infrastructure Levy
  - DP4 Community Facilities
  - DP11 Flat Conversions
  - DP12 Dwelling Standards
  - DP13 Dwelling Alterations, Extensions and Replacement Dwelling
  - DP15 Retention of Open Space and Indoor Sports Facilities
  - DP16 Private Amenity Space and Open Space Provision for New Residential Development
  - DP19 Parking Standards
- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:
- Community Facilities
  - Vehicle Parking Standards
  - Sustainable Construction Open Space, Sport and Recreation
  - Affordable Housing

## **8.0 Consultations**

- 8.1 The Senior Enterprise Officer has concluded that the proposal “to change the use from B1 to residential across all the units appears justified it does appear that the lack of visitor parking, pepper-potting of the units within the development and lack of ground floor access in the original design appear to have prevented these workshop offices from taking off. Perhaps this is a point for consideration by the Development Team in the future.”

8.2 The Highway Authority has no objection to this proposal as it is not contrary to the following policies:-

A) Safety – Policy 1.1 of Appendix G of the Local Transport Plan 2006/2011.

B) Accessibility – Policy P3 of Appendix G of the Local Transport Plan 2006/2011.

C) Efficiency/Capacity – Policy 1.1 of Appendix G of the Local Transport Plan 2006/2011.

D) Road Hierarchy – Policy 1.2 of Appendix G of the Local Transport Plan 2006/2011.

E) Parking Standards – Essex Planning Officers Association Vehicle Parking Standards – September 2009

8.3 Environmental Control has no objection

8.4 The Design and Heritage Unit comments as follows:-

“This application relates to change the use of the specified modern B1 units to residential accommodation. In simple terms, the proposed change of use of these units will not have a substantial impact on the Distillery Pond Conservation Area. “

8.5 The Housing Development officer comments as follows:-

“I have been made aware that there is a proposal to change use of 7 x B1 commercial units to residential use. May I take this opportunity to advise that I would be keen to secure an affordable housing contribution derived from this should the variation proposals be agreed by Planning. I would be quite happy to accept a financial contribution in lieu of housing units (which I understand to be rather on the small size) and this could be calculated on a m2 cost basis.”

8.6 Spatial Policy has been consulted regarding the policy basis for requesting affordable housing. Having taken legal advice they confirm affordable housing is required. They comment as follows:-

“Planning policies have evolved since the original application, but the original application involved a commitment to affordable housing for 200 units. Core Strategy policy H4 allows us to request a below threshold contribution, although we have not yet been asking for this. The “old” policy in the Adopted Review Colchester Borough Local Plan includes a provision requiring affordable housing for developments below 10 units where it increases the number of units on a larger site where affordable housing was secured. This application represents a unique case due to the links with the application to a pre-LDF decision. In either case Local Plan or LDF, the Council’s commitment to affordable housing is clear given that the application can be considered as forming part of an above- threshold application, albeit it considerably postdates the original decision

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

## **9.0 Representations**

### **9.1 One objection has been received:-**

“Four of the units within this application are adjacent to properties managed by Colne Housing Society.

As these units are already let on a residential basis, we feel able to object to their formal change of use based on problems already identified.

When we originally let our properties it was on the understanding that the units in question were to be offered for commercial use and that no parking was provided with them. Since these have been let, our tenants have experienced problems with their parking which has been used by the occupants of these units and their visitors. We also have concerns around the use of the communal stairways which at times have household items left in them, potentially causing issues around health and safety, not least of all in respect of fire hazards. Noise nuisance has also been a complaint with the additional 'traffic' through the communal areas from the occupants and their visitors. Despite our best efforts we have been unable to contact any of the occupants or find out who has been instrumental in letting these units, to air our concerns.

In order to maintain the communal areas within this development, our tenants pay a weekly service charge which covers cleaning and clearance, communal lighting and grounds maintenance. The residents of these units obviously do not contribute to these costs in any way. Although we do not have knowledge of any problems with the other units not immediately adjacent to our property on this development, (indeed they may not currently be occupied) it would be reasonable to assume that similar issues would be experienced given the size and positioning of all the units.”

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

## **10.0 Parking Provision**

10.1 There is no allocated parking provision for these units other than the designated visitor parking. When this development was approved in 2004 maximum parking standards were applied of 150%. These commercial units have no designated parking spaces.

10.2 The current maximum parking requirement for commercial units is as follows:-

“Offices, Research and development, Light Industry appropriate in a residential area.  
Standard: B1 vehicles 1 space per 30 sq m

Informative notes:

A lower provision of vehicle parking may be appropriate in urban areas (including town centre locations) where there is good access to alternative forms of transport and existing car parking facilities. In all cases adequate provision shall be made for the parking and turning of service vehicles serving the site, off the highway. Consideration should also be given to the requirement for any overnight parking and facilities”.

The parking requirement for the authorized commercial units would be a maximum of

- unit 1 31 sq m 2 spaces
- unit 2 31 sq m 2 spaces
- unit 3 31 sq m 2 spaces
- unit 4 51 sq m 2 spaces
- unit 5 18 sq m 1 space
- unit 6 18 sq m 1 space
- unit 7 51 sq m 2 spaces

plus provision for the parking and turning of service vehicles

Parking Standards for Use Class C3:

Dwelling houses

Standard:

Flats and Houses are to be treated the same.

1 bedroom 1 space per dwelling

Visitor unallocated 0.25 spaces per dwelling (unallocated) (rounded up to nearest whole number).

- bedsit 1 31 sq m 1 space
- bedsit 2 31 sq m 1 space
- bedsit 3 31 sq m 1 space
- bedsit 4 51 sq m 1 space
- bedsit 5 18 sq m 1 space
- bedsit 6 18 sq m 1 space
- bedsit 7 51 sq m 1 space

plus 2 visitor spaces

Comment on the parking provision is set out in the report.

## **11.0 Open Space Provisions**

11.1 A unilateral undertaking is submitted which includes a financial contribution towards open space, sport and recreation provision.

## **12.0 Report**

12.1 It is considered the main considerations are the loss of commercial floor space, the lack of parking or amenity space, impact on residential amenity together with the requirement for financial contributions.

### Loss of commercial floor space.

12.2 The Council's Senior Enterprise Officer has concluded that the proposal appears justified and has raised no objection. He comments that "it does appear that the lack of visitor parking, pepper-potting of the units within the development and lack of ground floor access in the original design appear to have prevented these workshop offices from taking off. Perhaps this is a point for consideration by the Development Team in the future."

### Lack of parking

- 12.3 Whilst these bedsits do not have parking spaces the authorised commercial use also has no allocated parking and this use would also generate vehicular trips which could include larger delivery vehicles.
- 12.4 The parking requirement for commercial and residential uses is set out above.
- 12.5 No objection is raised to the proposal on parking grounds as the parking standard cannot be met irrespective of the use of this floorspace.
- 12.6 It is appreciated a residential use could lead to parking issues because of lack of parking spaces but these issues are likely to occur whatever use this floor space is put to.
- 12.7 It is noted the Highway Authority has raised no objection to the application and states the application is not contrary to parking standard policy

### Lack of private amenity area

- 12.8 None of the bedsits has a private amenity area. This is similar to many of the flats on this site which includes a central pocket park and an area of woodland adjacent to Distillery Pond.

### Impact on the Surrounding Area

- 12.9 The bedsit use is in keeping with the residential use of the surrounding area and will have no impact.

### Impacts on Neighbouring Properties

- 12.10 An objection has been received from the Colne Housing Society who manage units in one of the buildings. They raise objection due to parking issues, health and safety concerns with particular regard to the stairways, maintenance of communal areas and noise. The parking issue is discussed earlier in this report. The use of the communal stair ways, storage issues and the maintenance of the communal areas are not planning matters but for the owner of the bedsits. In respect of noise it is noted Environmental Control has not indicated they have received any complaints and have raised no objection.

### Financial Contributions

- 12.11 A Unilateral Undertaking is submitted with the application to secure a financial contribution for community facilities and open space sport and recreation facilities contribution.
- 12.12 However the UU does not include an affordable housing contribution. There has been a delay in reporting the application to the Planning Committee as your officer sought legal advice on whether it is appropriate to request an affordable housing contribution in this case.

12.13 Policy H4 in the Adopted Review Colchester Borough Local Plan relates to affordable housing provision accompanying the policy was Supplementary Planning Guidance (SPG) Affordable Housing Adopted 24 March 2004. **The relevant section is in bold:**

The SPG states the Council will apply Policy H4 proportionally where sites have been sub-divided, form part of a larger development in an area or are specifically designed to fall under the threshold. Where this is the case the Council will consider such sites in their totality when applying the policy. **Developers should be aware that where there is an increase in the number of residential units on a site, and a further planning application is required, the affordable housing policy would apply to the new development in its entirety.**

Core Strategy Policy H4 relates to affordable housing **the relevant part is in bold:**

The Borough Council is committed to improving housing affordability in Colchester. The Council will be seeking to secure 35% of new dwellings (including conversions) to be provided as affordable housing (normally on site), as follows:

- In Colchester Town and Stanway, Tiptree, Wivenhoe and West Mersea, affordable housing will be required on housing developments for 10 or more dwellings.
- In the other villages, affordable housing will be required on housing developments for 3 or more dwellings
- **An equivalent financial contribution will also be sought for developments below these thresholds**

12.14 Members will be aware that whilst Core Strategy Policy H4 has been adopted the LDF committee has resolved that the “below threshold financial contribution”, bullet point 3, should not be applied at present.

12.15 As the development approved under application F/COL/02/1306 was a major development including affordable housing the issue is whether the uplift in the number of residential units generated by this application should include an affordable housing contribution.

12.16 Spatial Policy has informal advice from counsel that it is appropriate to apply the SPG Affordable Housing Adopted 24 March 2004 which indicates an affordable housing contribution is required where there is an increase in the number of residential units on a site.

12.17 The applicant solicitor does not agree with this advice arguing that:-

“Although I do not believe that the PSG for the old Policy H4 in the old Local Plan applies to my client’s development it is really only an academic argument, as the old Policy H4 in the old Local plan and the SPG relating to that old Policy H4 are all redundant.

My client’s application was registered on 27 May 2010, by which time the Council had already adopted its Core Strategy. The core Strategy was adopted in December 2008, and the new Policy H4 in that Core Strategy took effect. The SPG adopted pursuant to the old Policy H4 was specific to that policy and has not been carried forward. It cannot relate to the new Policy H4 in the Core Strategy, because the new policy is very different from the old one. The Council has been working on a new Supplementary Planning Document (SPD) to support the new Policy H4, and the main stumbling block to the Council adopted the SPD relates to issues concerning the third

part of Policy H4, i.e. the requirement for the payment of an affordable housing contribution on below threshold developments.

A report was put to the Local Development Framework Committee on 13 December 2010 in which it was stated that it was not intended to adopt the SPD at that time, but rather wait until there is more guidance from national policy. The report also states (at paragraph 3.1) that the Council could decide not to adopt the policy and instead rely solely on the existing Core Strategy Policy. No claim is made in the report that if the SPD is not adopted, the SPG is still in place and may be used to interpret the new Policy H4. That is because of course the SPG (that related wholly to the old Policy H4 in the old Local Plan) is redundant and no longer of any effect.”

12.18 The Council’s Solicitor has been asked for advice and the following comments have been received:-

“No doubt the Applicant will seek to argue this point and as I mentioned in my advice, the newly adopted policy would undoubtedly supersede the old Policy”.

12.19 As formal advice from counsel could incur significant costs, the financial contribution appropriate in this case would be modest and the uncertainty regarding the appropriateness of applying the SPG it has been decided not to pursue the affordable housing contribution in this instance.

### **13.0 Conclusion**

13.1 This is a retrospective application to retain 7 small bedsits in floor space originally approved as commercial workspace and forming part of the mixed use element of the larger development. The units, like many others on this site do not have individual amenity space and parking space is limited relying on visitor spaces however this is not considered sufficient to justify a refusal of permission. Whilst the application includes a UU to secure a financial contribution for community facilities and open space sport and recreation facilities contribution it does not include affordable housing. This issue has been discussed in the report and is considered acceptable.

13.2 The bedsit use is appropriate in this location and permission is recommended. As the application is retrospective there are no conditions

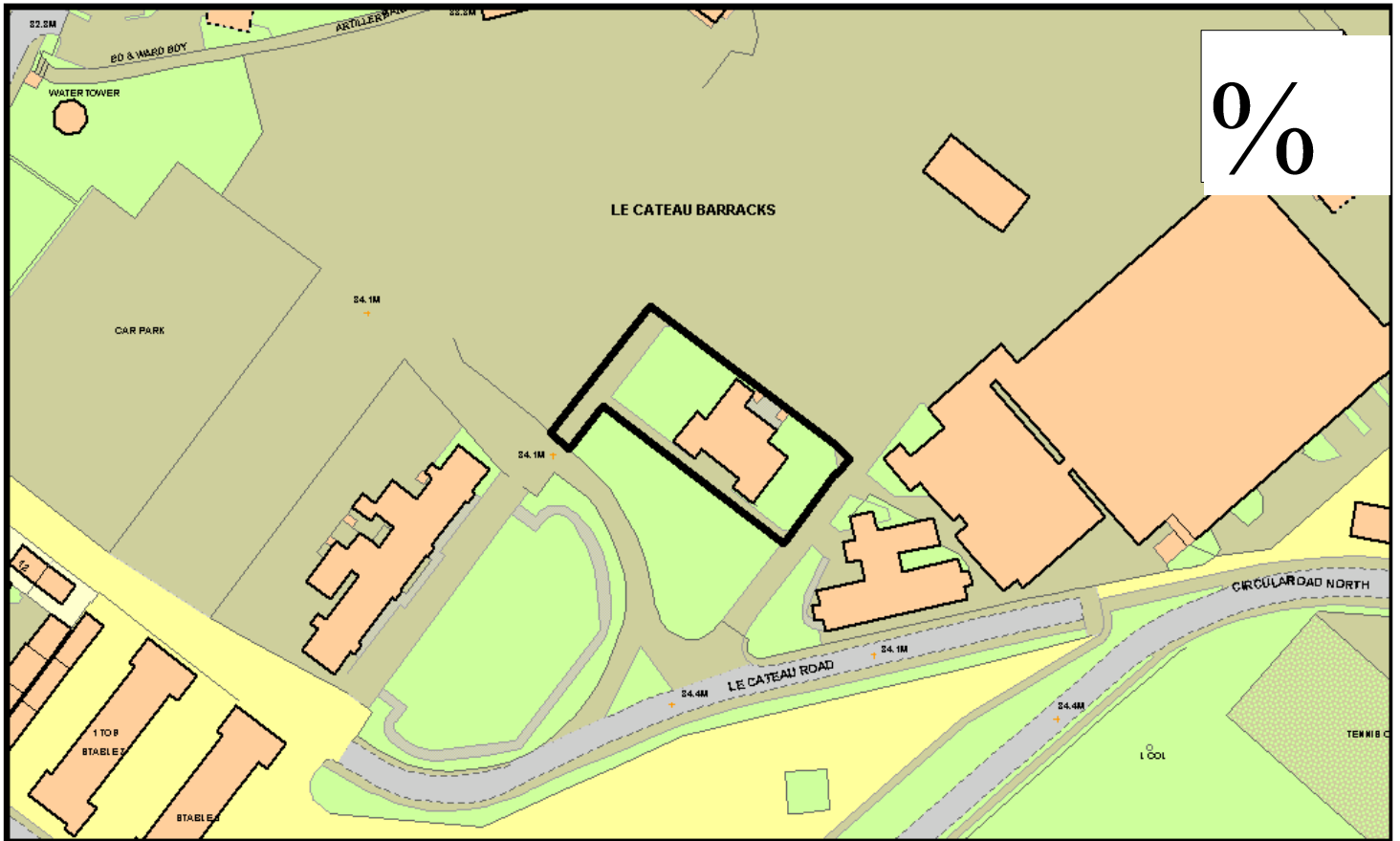
### **14.0 Background Papers**

14.1 PPS; Core Strategy; CBDP; SPG; Enterprise Officer; HA; HH; DHU; HO; PP; NLR  
Legal Services

### **15.0 Recommendation**

15.1 Approval subject to the signing of a Unilateral Undertaking for a contribution to Open Space and Community Facilities.





**Application No:** 110751

**Location:** Former Adult School & Canteen, Le Cateau Road, Colchester

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

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## 7.5 Case Officer: Alistair Day

**OTHER**

**Site:** Le Cateau Road, Colchester

**Application No:** 110751

**Date Received:** 19 April 2011

**Agent:** Stanley Bragg Architects Ltd

**Applicant:** Mr Philip Crummy

**Development:** Change of use from MOD to A1, A3, B1 and D1. Temporary car parking, access and refuse collection. Internal alterations and demolition. New extensions, replacement windows and soffit/fascia. 12 parking spaces.

**Ward:** Christ Church

**Summary of Recommendation:** Conditional Approval

### 1.0 Introduction

1.1 This application is referred to the Planning Committee because the proposed scheme does not comply with the September 2009 adopted parking standards.

### 2.0 Synopsis

2.1 This report gives consideration to a proposal for the change of use and extension of the former Army Education Building, situated off Le Cateau Road. An assessment is made of the proposed use, together with the design of the proposed extension, transport and accessibility implications and proposed parking provision. The report concludes that subject to appropriate conditions the proposal is considered acceptable and that planning permission should be granted.

### 3.0 Site Description and Context

3.1 The application site forms part of Area H of the Colchester Garrison Urban Village development.

3.2 The former Education Building dates from c1937 and is a red brick building with a hipped slate roof and consists of a central block with two side wings. The Education Building is not a listed building and is located outside (but immediately adjacent to) the Garrison Conservation Area.

- 3.3 The Sergeants' Mess (formerly known as the Officer Quarters) is located to the west of the Army Education Building and is an impressive two storey building constructed of red brick with detailing in yellow stocks. The landscaping to the front of the Sergeants' Mess in the form of a semi-circular garden enclosed by iron palisade railings remains intact and makes a significant contribution to the setting of this building. The Sergeants' Mess is listed grade II for its special architectural and historic interest and is situated in the Garrison Conservation Area.
- 3.4 DSG (formerly ABRO) is located to the north and east of the site.
- 3.5 In 2006, archaeological investigations discovered the remains of the Roman Circus. The circus starting gates are located underneath the semi-circular garden of the Sergeants' Mess and part of the outer wall and stands are located under the frontage of the Education Building. The circus was designated a Scheduled Ancient Monument on 16 November 2007.

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

- 4.1 The current application seeks planning permission for the conversion and extension of the Education Building into a mixed-use building comprising the Archaeological Trust's Interpretation Centre (D1 Use Class), the Archaeological Trust's Offices (B1 Use Class), Tea Rooms and Kitchen for the Interpretation Centre (A3 Use Class) and a small shop (Use Class A1) with associated landscaping and parking facilities (including temporary arrangement until such time that the main area of residential development is constructed).

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

- 5.1 Garrison Regeneration Area - Zone C

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

- 6.1 102362 - Application for a new planning permission to replace an extant planning permission 072842 for removal of existing gates and adaptation of existing brick wall to form new pedestrian and cycle path entrances – Area H, Abbey Field Urban Village, Le Cateau Road, Colchester – Condition Approval 6.1.11
- 6.2 080914 Reserved Matters application for the erection of 35 dwellings, comprising 26 no flats 7no. 2 storey houses and 2no. 2 storey houses with associated office space, together with a modified site entrance, new access road and provision of public open space (resubmission of 072833) - approved
- 6.3 080036 Listed building application for the demolition of single storey rear additions and residential conversion into 8 townhouses (resubmission of 072834) - Approved
- 6.4 072831 - Conversion of existing buildings in residential accommodation to create 11 no. town houses and 4 no. flats with associated demolitions and including access, parking and provision of open space Area H, Abbey Field Urban Village, Le Cateau Road, Colchester – Approved by Committee subject to a Section 106 Agreement being signed.

- 6.5 072830 Change of Use from MoD water tower to commercial use B1 - Approved
- 6.6 072835 Construction of a 150 space car park - Approved
- 6.7 072842 Removal of existing gates and adaption of existing brick wall to form new pedestrian and cycle path entrance – Approved
- 6.8 O/COL/01/0009 A new urban village comprising residential development (up to approx 2,600 dwellings) mixed uses including retail, leisure and employment , public open space, community facilities, landscaping, new highways, transport improvements and associated and ancillary development. - Approved June 2003

## **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:
  - Planning Policy Statement 1: Delivering Sustainable Development
  - Planning Policy Statement 4: Planning for Sustainable Economic Growth
  - Planning Policy Statement 5: Planning for the Historic Environment
  - Planning Policy Statement 9: Biodiversity and Geological Conservation
  - Planning Policy Guidance 13: Transport
  - Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation
  - Planning Policy Statement 22: Renewable Energy
  - Planning Policy Statement 23: Planning and Pollution Control
  - Planning Policy Guidance 24: Planning and Noise
  - Planning Policy Statement 25: Development and Flood Risk
  
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:
  - SD1 - Sustainable Development Locations
  - SD2 - Delivering Facilities and Infrastructure
  - SD3 - Community Facilities
  - CE1 - Centres and Employment Classification and Hierarchy
  - CE2 - Mixed Use Centres
  - UR1 - Regeneration Areas
  - UR2 - Built Design and Character
  - PR1 - Open Space
  - PR2 - People-friendly Streets
  - TA1 - Accessibility and Changing Travel Behaviour
  - TA2 - Walking and Cycling
  - TA3 - Public Transport
  - TA4 - Roads and Traffic
  - TA5 - Parking
  - ENV1 - Environment
  - ER1 - Energy, Resources, Waste, Water and Recycling
  
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
  - DP1 Design and Amenity
  - DP3 Planning Obligations and the Community Infrastructure Levy
  - DP4 Community Facilities
  - DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses

DP7 Local Centres and Individual Shops  
DP10 Tourism, Leisure and Culture  
DP14 Historic Environment Assets  
DP15 Retention of Open Space and Indoor Sports Facilities  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP18 Transport Infrastructure Proposals  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes  
DP25 Renewable Energy

- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:  
The Garrison Master Plan and associated Development Briefs  
Community Facilities  
Vehicle Parking Standards  
Sustainable Construction Open Space, Sport and Recreation  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

- 8.1 English Heritage has advised that this application should be determined in accordance with national and local policy guidance and on the basis of the Council's own specialist conservation advice.
- 8.2 Natural England have stated that based on the information provided, Natural England does not object to the proposed works, Natural England agree with the repeat survey. If the works do not commence, Natural England advise that bat friendly features should be enhanced (e.g. provision of loft space for bats / installation of bat boxes).

Further discussions have taken place with Natural England regarding the overall planning context of this site. Following these discussions, Natural England have verbally advised that the recommendations proposed in the original RPS report (submitted as a part of the residential conversion scheme) should also ideally be implemented as a part of the this scheme.

- 8.3 Highway Authority do not wish to raise an objection to this application subject to the attachment of appropriate conditions, including that there shall be a maximum of 12 parking spaces within the proposal site with the remainder of the area within the dashed red line on drawing no 5961-1001 dated January 2011 kept permanently clear of parked vehicles.
- 8.4 Environmental Control initially only recommended that Standard Advisory Notes for the Control of Pollution during Construction & Demolition Works. This proposal has been discussed further with Environmental Control and they have verbally advised that, in view of the proposal to prepare food on this site, it would be prudent to include a condition to cover odours etc.

The Contamination Land Officer has advised that a previous report submitted for the whole of Area H has identified some pollutant linkages. It is therefore recommended that a risk assessment for this part of the site is submitted and that this is conditioned accordingly.

- 8.5 The Landscape Officer has no objection subject to the attachment of appropriate conditions.
- 8.6 Arboricultural Officer is generally in agreement with the conclusions and recommendations made within the report. It has however been advised that the developer needs to confirm that the foundation type specified within the report will be implemented and an arboricultural method statement for this will be required. Until this information is submitted, the Arboricultural Officer has recommended that this application is refused.
- 8.7 Museum Services have recommended that an archaeological watching brief condition is attached to the grant of any planning permission as the site lies within an area of high archaeological potential.
- 8.8 Leisure Services, Parking Services and Estates have not commented on this proposal.

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

## **9.0 Representations**

- 9.1 At the time of writing this report no letters of objection / support have been received in respect of this application.

## **10.0 Report**

### Background

- 10.1 In 2007 Taylor Wimpey submitted a suite of planning applications for the comprehensive redevelopment of a parcel of land known as Area H of the Colchester Urban Village Development. These proposals included: the change of use of the water tower to business use (Use Class B1); the creation of a 150 space car park; the erection of 35 new dwellings and the conversion of the Sergeants' Mess and Education Building to residential accommodation. The landscape proposals included a new 'parade ground' public square; a scheme for public access to and the interpretation of the remains of the Roman Circus and a new area of public open space to the south west of the Education Building.
- 10.2 As Members will be aware, the discovery of the Roman Circus in 2004 prompted a public appeal to purchase the Sergeants' Mess to secure full public access to the front garden of this building which contains the buried remains of the starting gates. The purchase of the Sergeants' Mess fell through due to other parties withdrawing support for the purchase of this building.

- 10.3 The Colchester Archaeological Trust (CAT) now has an option to purchase the former Education Building. The current application, which has been submitted by CAT, seeks the change of use and extension of this Education Building to provide an interpretation centre, café and working premises for CAT.

#### The Use

- 10.4 The Education Building and the surrounding area (known as Area H) are identified in the Garrison Master Layout Plan for predominantly residential use with low key mixed uses.
- 10.5 Core Strategy Policy UR1 states that new development in Regeneration Areas - of which the Garrison is one - will be encouraged provided the design and scale is sympathetic to the character of the area and enhances historic buildings and features. Policy SA GAR1 of the Site Allocations Plan states that areas identified as predominantly residential (such as Area H) will also include leisure, community and health uses.
- 10.6 The proposal to use former Education Building as an interpretation centre with a café, a small shop and B1 offices is considered compatible with adopted Council planning policies and guidance documents. In order to avoid the potential for the retail and café elements from expanding to become the dominant uses within the building it is recommended a condition is attached to control the size of the café / retail floor area.
- 10.7 The stated hours of operation are 8:00 to 17:00 Monday to Friday for the CAT office. For the café and interpretation facilities the opening hours are 8:00 to 17:00 Monday to Friday, 10:00-17:00 on Saturdays and 10:00- 16:00 on Sundays.

#### Design and Layout

- 10.8 Education building is a red brick building with a hipped slate roof and projecting wings; the building displays typical characteristic of 1930s architecture in terms of its design and proportions. To the rear of the building is a non-descript flat roofed extension.
- 10.9 Core Strategy Policy UR2 seeks to promote and secure high quality design. Encouragement is given to creative design and innovative sustainable construction methods. The Policy states that developments that are discordant with their context and fail to enhance the character and quality of the area will not be supported. Core Strategy Policy ENV1 also requires development proposals to be appropriate in terms of their scale, siting and design. Development Plan Policy DP1 sets out design criteria that new development must meet; these require new developments to respect the character of the site and its context in terms of their detailed design and respecting and enhancing their surroundings.
- 10.10 The Education Building represents a later phase of development within the Le Cateau Barracks site and, as such, is considered to be of secondary importance in terms of the historic and architectural development of the garrison. Notwithstanding this, the former Army Education building does contribute to the historic development of the Le Cateau Barracks and its retention as a part of the overall development of the garrison is welcomed.

10.11 The current application proposes the conversion of the existing building with a new glazed vestibule inserted between the two front wings and a new single storey flat roofed extension that wraps around the (east) side of the building (replacing in part the existing flat roofed extension). The submitted Design and Access Statement explains that the design approach of the facades is to provide a vernacular that represents today's architecture whilst being subservient to the main character and mass of the building. The front vestibule has been designed to create a significant entrance feature to the building. It is proposed that the glass entrance vestibule is acid etched with an interpretation of the entrance to the Roman Circus, thus giving visitors an understanding of the scale of the Roman building. The single storey extensions are described as reflecting the modern form and materials of the front extension. Exposed lintels will sit above the powder coated aluminium screens with a rendered frame around the opening. Stock brick are to be used for the solid elements of the new extensions to the rear and side.

#### Impact on Neighbouring Properties

10.12 Development Plan Policy DP1 requires all new development to be designed to a high standard and to avoid unacceptable impacts on the residential amenity, particularly with regard to privacy and overlooking. Development Plan Policy DP12 states in considering new development proposals the Council will have regard to the avoidance of adverse overshadowing between buildings, acceptable levels of daylight and acceptable levels of privacy for rear facing habitable rooms and sitting out areas.

10.13 At present there are no residential dwellings immediately adjacent to the application site. Preparation work is however currently under way to convert the former Sergeants' Mess to residential dwellings. The Education Building is situated some 45m to east of the Sergeants' Mess and is screened from this building by mature landscaping. The proposed extension is sited to the rear of the Education Building and wraps around the south east side of the building - i.e. to the far side of the Sergeants' Mess. It is not considered that the current proposal will have an adverse impact on the proposed dwellings. The DSG complex is located to the north / east of the Education Building and, although the new extension is sited closer to the boundary, this will not create any significant amenity issues.

#### Heritage Issues

10.14 Core Strategy policy ENV 1 requires new development to conserve or enhance the historic environment of Colchester. Development Plan Policy DP14 states that development will not be permitted that will adversely affect a listed building, conservation area or important archaeological feature and/or their setting.

10.15 The application site is located immediately to the north of the Garrison Conservation Area. The Sergeant's Mess, which located adjacent application site boundary, is a grade II listed building and the buried remains of the Roman Circus which are located to the west of the Education Building are a Scheduled Monument.

10.16 The current development proposal is not considered to have a detrimental impact on the setting of either the Sergeant's Mess nor the remains of the Scheduled Ancient Monument. The proposed interpretation centre will have a positive impact in terms of increasing the public's knowledge of Roman Colchester and the Roman Circus in particular.



10.17 A scheme for the interpretation of the Roman Circus is currently being prepared by CAT in consultation with English Heritage, the Council and the relevant landowners. While these proposals are separate to the current application they will further aid the interpretation of the Roman Circus and, as such, positively benefit the Borough.

#### Highway and Accessibility Issues

10.18 Core Strategy Policies TA1, TA2, TA3 and TA4 address transport strategy and promote accessibility and changing travel behaviour. These policies seek to strike a balance between improving accessibility through land-use planning, managing traffic flows and growth and seek to encourage a change in travel behaviour and where appropriate give priority to walking, cycling and public transport. These policies are closely linked to Core Strategy policies PR2 (People Friendly Streets) and UR1 (Urban Regeneration). Policy PR1 aims to provide a network of public open spaces that meet local community needs within walking distances of people's homes and work.

10.19 Policy DP17 provides guidance on ensuring accessibility for sustainable modes of transport as well as requirements for Travel Plans and Transport Assessment and the requirements for incorporation of satisfactory and appropriate provision for pedestrians and cyclists as well as protection for the public rights of way network.

10.20 Under the agreed Master Plan for the redevelopment of Area H, vehicular access to the former Education Building will be via Butt Road, through the remodelled historic gate piers that currently form the entrance to the public car park and along a new estate road. Pedestrian access from Butt Road will pass through the wall in the position of a previous pedestrian gate which has been blocked-up. A cycle link to Butt Road will be created by remodelling the section of wall to the north of the existing gate pier. A new footpath and cycle link will connect Butt Road to Circular Road North. The provision of the new access, the estate road and footpaths and cycleways are to be undertaken by Taylor Wimpey.

10.21 Until the Taylor Wimpey scheme is completed, temporary parking, servicing and refuse facilities will need to be provided to serve the proposed development. Initially it is proposed to provide 5 parking spaces and a timber framed refuse collection point on land owned by Taylor Wimpey that sits between the Sergeant's Mess and the Butt Road car park. It is however highly likely that this provision will have to cease when Taylor Wimpey start the redevelopment of the main part of the site due to the access constraints caused by the existing gateway onto Butt Road. In the event of this situation arising, the agent for this application has advised that:

- Alternative parking arrangements will be made either with Bovis Homes who own the land to the east of Le Cateau Road or with TaylorWimpey who have temporary offices and parking at the junction of Flagstaff Road and Circular Road North. In addition, the new public car parks on Napier Road will be open by then and these are only a short walk from the former Education Building.

- CAT will dispose of their rubbish when access can not be gained to their site by bin lorries. The tearoom will be constructed as a later phase of the development proposal and it is anticipated the commencement of this aspect of the works will be undertaken after Taylor Wimpey have constructed the road infrastructure.

10.22 The current application integrates with existing the cycle and pedestrian routes that are proposed as a part of the Garrison development. The current proposal is considered to conform to Core Strategy Policies TA1, TA2 and PR2.

### Parking Provision

10.23 Development Plan Policy DP19 refers to the adoption and application of parking standards in a Supplementary Planning Document adopted in November 2009. This policy notes that the level of parking provision required will depend on location, type and intensity of use.

10.24 Twelve car parking spaces (including one disabled space) are proposed as a part of the current application. It is stated within the application that no public car parking has been allowed for the Interpretation facilities; all such visitors will be expected to park in the Butt Road Public Car Park. The current application provides 20 cycle parking spaces, which the Design and Access Statement notes accords with the adopted Parking Standards.

10.25 Under the Council's adopted parking standards the current application should provide the following number of parking spaces:

Use	Required Ratio	No. of spaces
17sqm of A1 (retail) Use	1 space per 20sqm	1
137sqm of A3 (café) Use	1 space per 5sqm	27
479sqm of B1 (Office) Use	1 space per 30sqm	16
222sqm of D1(Leisure) Use	1 space per 25sqm	9
	<b>Total</b>	<b>53</b>

10.26 It is accepted that the current proposal does not comply with the adopted parking standards however this is due to the constraints of the site imposed by previous planning approvals.

10.27 The adopted parking standards for non-residential development specify maximum standards and the parking guide states that a reduction to vehicle parking standards may be considered acceptable in urban areas. In this instance, given the site's edge of town location and the very close proximity to the Butt Road public car park the proposed level of car parking is considered acceptable.

## Landscape and Open Space

- 10.28 The landscaping surrounding the site will remain essentially unaltered with a grassed lawn to the west containing two mature trees and a refurbished path to the front. The area to the west of the tree is to be hard surface and used for as a vehicular turning area and car parking. A new raised deck area is proposed to the east of the building for external seating associated with the café.
- 10.29 The comments of the Arboricultural Officer are noted. This has been raised with the applicant and they have advised that the requested information will be submitted in advance of the Committee meeting. The report has been drafted on the assumption that it will be possible to construct the proposed extension and safeguard the long term health of the trees; an update in respect of this issue will be reported at Committee meeting.

## Ecology

- 10.30 A small summer non-breeding roost of Brown Long eared bats has previously been identified in the eastern wing of the Education Building. As a part of the residential scheme a mitigation strategy and compensation strategy was agreed which included the insertion of three crawl-in access points to the eaves in the south-east and south west elevations, crevice rooting provision for the Brown Long-eared bat and three lead bat access slates for Pipistrelle bats near the ridge of the roof on the south east elevation. A mitigation statement has been submitted as a part of the current application.

## **14.0 Conclusion**

- 14.1 The development proposed as a part of this application is considered to have an overall positive benefit, not only to the Garrison Urban Village development, but also to the environment and the residents of Colchester and beyond. It is therefore recommended that this application is approved subject to the conditions set out below.

## **15.0 Background Papers**

- 15.1 PPS; Core Strategy; CBDP; SPG; EH; NE; HA; HH; TL: AO; MS; Leisure Services, Parking Services, Estates

## **16.0 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 - Development in Accord with Approved Plans (Non-Std. Wording)

The development hereby permitted shall be implemented in all respects strictly in accordance with the approved drawing nos. 5961-1001, 1002, 1003, 1005, 1006,1008, and 1009 prepared by Stanley Braggs Architects.

Reason: To ensure the development will be carried out as approved and because any changes must be agreed in advance in writing by the local planning authority.

## 3 - Non-Standard Condition

No development shall take place within the application site until the applicant has secured the maintenance of an on-site watching brief by a suitably qualified and experienced archaeologist during construction work in accordance with written details which have been submitted to and approved in writing by the Local Planning Authority. In the event of important archaeological features or remains being discovered which are beyond the scope of the watching brief to excavate and record and which require a fuller rescue excavation, then construction work shall cease until the applicant has secured the implementation of a further programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that appropriate safeguards are in place to record features of archaeological interest that may be discovered during the implementation of the works hereby permitted.

## 4 - Non-Standard Condition

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.
- viii. Measures to avoid mud and/or debris from being deposited on the public highway by any vehicle associated with the construction proposed.

Reason: In the interest of public amenity.

## 5 - Non-Standard Condition

No development shall take place until samples of the materials (including colour of render and paintwork) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the use of an appropriate choice of materials having regard to the scheme's close proximity to the Garrison Conservation Area and the setting of the Sergeants' Mess, a grade II listed building, and to ensure that the choice of materials will harmonise with the character and appearance of other development in the area.

#### 6 - Non-Standard Condition

All external rainwater goods and other pipes shall be of a similar design to the existing and shall be finished in black finish.

Reason: To ensure the colour of the materials harmonise with the character and appearance of other buildings and development in the area.

#### 7 -Non-Standard Condition

Additional drawings that show details (including materials) of the proposed new entrance vestibule, windows, doors, eaves, verges, cills, arches, architraves and parapets 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 scheme's close proximity to the Garrison Conservation Area and the setting of the Sergeants' Mess, a grade II listed building, and to ensure that the choice of materials will harmonise with the character and appearance of other development in the area.

#### 8 - Non-Standard Condition

All existing windows shall be retained and repaired where necessary unless otherwise agreed in writing by the Local Planning Authority. Any replacement windows shall match exactly the details and moulding profile of these windows.

Reason: To ensure that the works that are undertaken are sympathetic to the architectural character of the building.

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

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals. Implementation timetables.

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

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

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

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

#### 11 - Non-Standard Condition

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

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

#### 12 - Non-Standard Condition

The car parking spaces indicated on the plans hereby approved shall be constructed within 6 months from the substantial completion of the new access road intended to serve this property (unless otherwise agreed in writing by the Local Planning Authority) and shall thereafter be retained and used only for car parking in relation to the permitted uses of the building.

Reason: To ensure appropriate provision is made for the parking of cars associated with the proposed development.

#### 13 - Non-Standard Condition

There shall be a maximum of 12 parking spaces within the proposal site with the remainder of the area within the dashed red line on drawing no 5961-1001 dated January 2011 kept permanently clear of parked vehicles.

Reason: To ensure that vehicles are able to park and enter and leave the site in a safe and convenient manner without detriment to other users of the site.

#### 14 - Non-Standard Condition

The building and land that are subject to this permission shall not be brought into use for the purposes hereby approved until satisfactory arrangements for the provision of bicycle parking have been agreed in writing and implemented to the satisfaction of the local planning authority.

Reason: To ensure the proper provision of parking facilities for cyclists in accordance with the local planning authority's standards.

#### 15 - Non-Standard Condition

Prior to the development hereby approved being brought into use, refuse storage facilities shall be provided in a visually satisfactory manner and in accordance with a scheme which shall have previously been submitted to and approved in writing by the Local Planning Authority. This scheme shall include the provision of both the temporary and permanent facilities, details of their management, the timeframe for their implementation and, in the case of the temporary facilities the timeframe for their removal. Such facilities shall thereafter be retained to serve the development.

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

#### 16 - Non-Standard Condition

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

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

#### 17 - Non-Standard Condition

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

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

#### 18 - Non-Standard Condition

The café facilities shall not be brought into operation until there has been submitted to and approved in writing by the local planning authority (in consultation with the Director of Environmental Services) full details of equipment to be installed for the extraction and control of fumes and odours together with a code of practice for the future operation of that equipment. The use hereby permitted shall not take place other than in accordance with these approved details.

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

#### 19 - Non-Standard Condition

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

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

#### 20 - Non-Standard Condition

The opening hours of the operation of the development hereby approved shall be in accordance with that set out as a part of this application unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residential properties.

#### 21 - Non-Standard Condition

The uses hereby approved and the extent of their operation shall be as set out on the application form and detailed on drawing no. 5961-1005 dated February 2011 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure that the future expansion of any one particular use hereby permitted does not have a detrimental impact on the amenity of the area and has proper regard to land use planning policies.

#### 22 - Non-Standard Condition

The development hereby permitted shall be undertaken strictly in accordance with the RPS Investigation and Mitigation proposals that form part of the Design and Access Statement submitted with this application and shall, in addition include the insertion of three crawl-in access to the eaves in the south-east and south west elevations, crevice rooting provision for the Brown Long-eared bat and three lead bat access slates for Pipistrelle bats near the ridge of the roof on the south east elevation.

Reason: To ensure that adequate mitigation and compensation measures are taken in respect of bats which are a statutory protected species.

#### 23 - Non-Standard Condition

The following additional details shall be submitted to the Local Planning Authority in respect of scheme of supervision for the arboricultural protection measures:

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Timing and methods of site visiting and record keeping, including updates
- d. Procedures for dealing with variations and incidents. The scheme of supervision shall be carried out in accordance with the agreed details.

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

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

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

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

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

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

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



## 26 - Non-Standard Condition

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

(ii) an assessment of the potential risks to:

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

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

## 27 - Non-Standard Condition

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### 28 - Non-Standard Condition

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### 29 - Non-Standard Condition

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 26 "Site Characterisation", and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 27 "Submission of Remediation Scheme", which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 28 "Implementation of Approved Remediation Scheme".

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### 30 - Non-Standard Condition

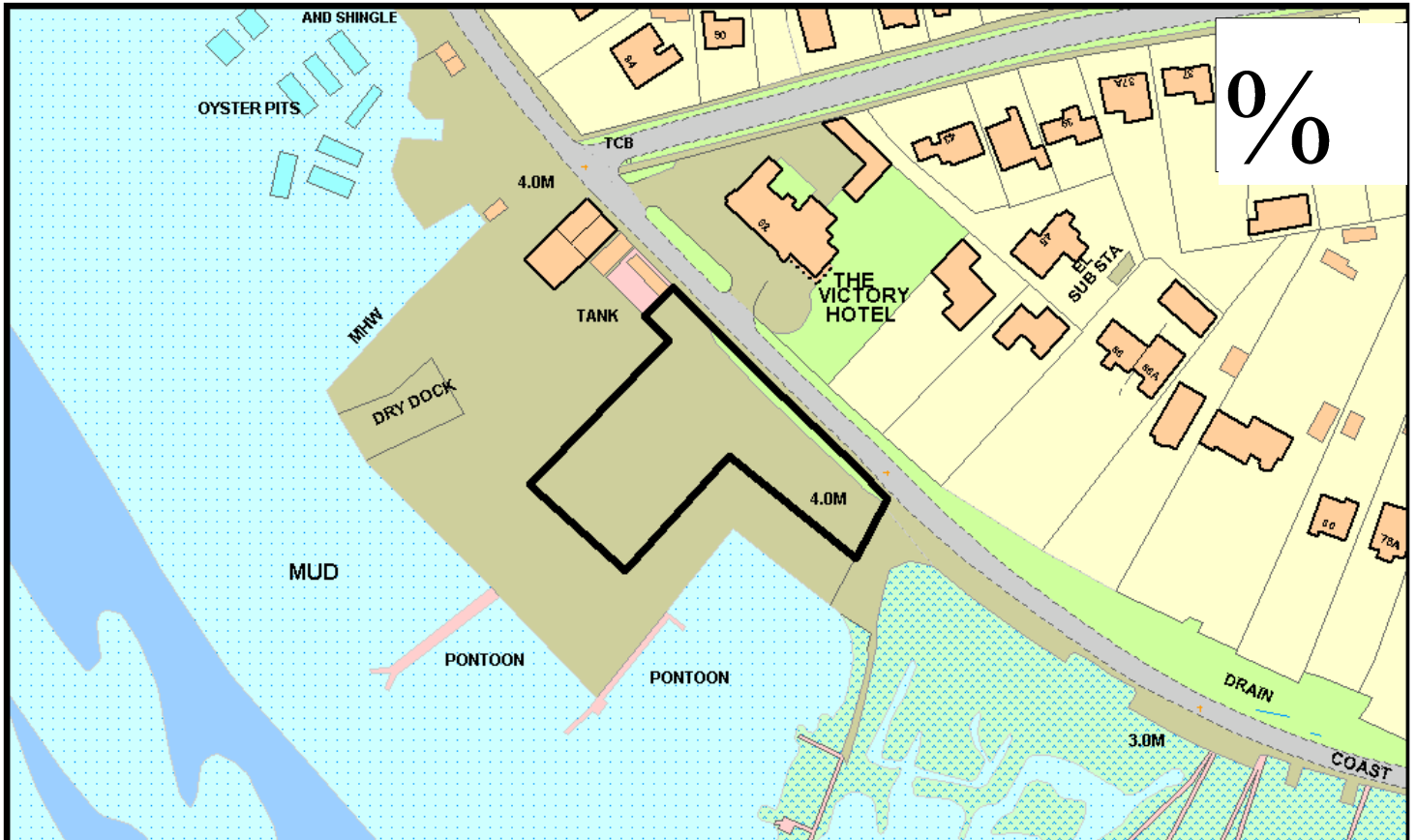
Prior to occupation of the building the provision of any services/uses the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 27 "Submission of Remediation Scheme" above.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

## **Informatives**

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

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



**Application No:** 102390

**Location:** Maritime & Leisure, Victory Dock, Coast Road, West Mersea, Colchester, Colchester, CO5 8LS

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

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**7.6 Case Officer: Sue Jackson****OTHER**

**Site:** Victory Dock, Coast Road, West Mersea, Colchester, Colchester, CO5 8LS

**Application No:** 102390

**Date Received:** 26 November 2010

**Agent:** Mr Richard Hayden

**Applicant:** Mr Rob Moffatt

**Development:** Use of existing winter boat park for public car parking during summer months

**Ward:** West Mersea

**Summary of Recommendation:** Conditional Approval

**1.0 Introduction**

- 1.1 There has been a delay in reporting the application to Members as additional information and then consultation was required.
- 1.2 It is referred to the Planning Committee because the application was submitted prior to the change in the scheme of delegation, letters of objection have been received and the recommendation is for approval.

**2.0 Synopsis**

- 2.1 The application is described as use of existing winter boat park for public car parking during summer months actually April-October. It proposes to use part, approx one third, of the total boat yard area, as a public car park, the remaining two thirds will remain as a boat yard through out the year. A heritage statement and flood risk assessment have been submitted.

**3.0 Site Description and Context**

- 3.1 The application site is located on the seaward side of Coast Road. It is set slightly below the highway and comprises an uneven "T" shaped area that is part concrete and part loose material. The frontage and part side boundary is enclosed by metal rails set in concrete posts with metal mesh behind. There is planting behind the frontage fence. The other boundaries join the remainder of the boat storage land with one boundary abutting black sheds used for the processing of oysters.

3.2 The seaward side of Coast Road contains a variety of uses including open boat storage and boat repair, a public car park, public toilet, private car parks, the RNLI boat station, the Company Shed and other seafood restaurants, houseboats, oyster processing sheds, oyster beds, open salt marsh and at the end of Coast Road the Dabchicks Sailing Club.

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

4.1 The application involves the use of approx 2200 square metres of boat storage area as a public car park during summer months. The area comprises approx one third of the boat storage area. It is roughly "T" shaped with a long frontage onto Coast Road.

4.2 The site includes 21 parking spaces for a use granted planning permission in June 2010. Vehicular access to the proposed public car park is also proposed via an access approved in June 2010.

4.3 A pay and display machine is indicated behind the frontage. A notice board is shown at the proposed site entrance.

4.4 An automatic entrance and exit barrier is proposed at the existing boatyard access.

4.5 Temporary heras fencing is shown to define the boundary of the public car park and separate it from the remaining boat yard.

4.6 The submitted information indicates the public car park will include the following:-

- Public car parking bays 78, of which 4 are for disabled drivers
- Oyster shed parking bays 21
- Disabled car parking bays 4
- Motorcycle parking bays 10

4.7 The following explanation is submitted

"The boat park is vacated by the boats from April onwards and then filled with boats again from October. It is therefore proposed to utilize this space as it becomes available to park up to 78 vehicles. The area will be designated by temporary fencing.

All vehicles will be screened by the landscaping from the road. From the water the cars will be less obtrusive than the boats and will be largely screened by houseboats and commercial fishing boats.

The provision of this additional parking will reduce the congestion on Coast Road at the busiest times in the summer months. It is supported by West Mersea Town Council".

4.8 The following further clarification has been received:-

“You are correct in that the boats are launched through the spring period over approximately 3 months, and in the autumn some boats come ashore early.

It is for this reason that firstly the parking area will be restricted in the early and late periods with maximum capacity in the peak summer months when there is most traffic. The use of Heras type fencing allows this flexibility. Also if you examine the proposal a large area of the yard remains free from car parking even at peak capacity allowing for late launches and early retrievals being facilitated.

The boat park through the winter months will store the same number of yachts and have the same amount of space as it does currently, so there will be no reduction in the facility.

Yacht racing starts at the beginning of April so boats are launched from the end of March. The management of the yard will store the boats due to be launched early in the area of the new entrance into the yard area to the East. The yard also has the facility to move yachts around very quickly and simply.

The strategy is therefore to ensure some car parking in early April and the area available for parking will expand as more yachts are launched and as the pressure builds as more tourists arrive as spring and summer progress.

This procedure is agreed with Mersea Marine.

You are again correct in that whilst the fair is in the yard the car parking would be suspended but the Police make special parking arrangements at that time and the restaurant would probably close as the Oyster Bar has in recent years.

I see also speculation that the entrance would create traffic jams in Coast Road. As it is intended to use pay and display there will be no closed barrier when the car park is open and therefore no restriction on entry and exit.

It is not proposed to resurface the area. Stone has been rolled into the area over many years and is suitable for car parking as well as being self draining. We have discussed the management of the parking bays as the surface is not suitable for painting. Our current thinking is to use old large ropes which has been done successfully in other car parks and is in keeping with the environment. The heras fencing has been used in the area for various reasons for many years without objection. It is accepted that this use will generate more fencing but as previously stated it will be largely screened from the road and water”.

**5.0 Land Use Allocation**

- 5.1 Conservation Area article 4 area
- Flood zone 2 and 3
- Conservation Area
- West Mersea Area of Special Character
- Special Protection Area

**6.0 Relevant Planning History**

- 6.1 071786 - Change of use of previously approved private dining/corporate venue to restaurant A3 Class Use, together with additional car parking. This application relates to a building further along Coast Road. Members may recall this application was submitted on behalf of Lay and Wheeler and was approved in June last year

6.2 COL/92/1139 - Planning permission granted to West Mersea Town Council to continue to use part of boat yard for a car park from 1<sup>st</sup> June to 30<sup>th</sup> September. Planning permission granted for a temporary period until 30 October 1997. Records show this car park use took place from 1978 but may have commenced before then. The application relates to the same boat yard as the current application but to a smaller site.

## **7.0 Principal Policies**

7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 5: Planning for the Historic Environment  
Planning Policy Guidance 20: Coastal Planning  
Planning Policy Statement 23: Planning and Pollution Control  
Planning Policy Guidance 24: Planning and Noise  
Planning Policy Statement 25: Development and Flood Risk  
Planning Policy Statement 25 Supplement: Development and Coastal Change

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
SD3 - Community Facilities  
UR2 - Built Design and Character  
TA4 - Roads and Traffic  
TA5 - Parking  
ENV1 - Environment

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP4 Community Facilities  
DP14 Historic Environment Assets  
DP17 Accessibility and Access  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP23 Coastal Areas

## **8.0 Consultations**

8.1 Design and Heritage Unit:

“The current application seeks planning permission for the use of the existing boat yard for a public car park in the summer months.

The main conservation issue raised by this application is the effect that the proposed development would have on the character and appearance of this part of the West Mersea Conservation Area.

Policy HE6 of PPS5 requires an applicant to assess the significance of the heritage asset and the impact that the proposed works would have on the heritage asset. No such assessment has been submitted in support of this application and, as such the application is in conflict with national policy guidance.



Policy HE9 states that there is a presumption in favour of the conservation of a designated heritage asset. When considering a proposal, local planning authorities should take into account the relative significance of the element affected and its contribution to the conservation area as a whole.

The character of the West Mersea Conservation Area is defined by its development as a boat building and fishing centre.

The conservation area has two distinct areas of identifiable character. The area around The Lane, in the north of the conservation area, is characterised by small cottages, of various styles and dates, grouped tightly together creating a closed-in atmosphere that is both quiet and discreet. To the south of The Lane, the character of the conservation area gradually changes. On the land-side of Coast Road, the buildings are set back from the road and have large open front gardens. On the seaward side of Coast Road there are a number of densely stocked boatyards with associated sheds, oyster stores and houseboats. To the south of the 'active' part of the shoreline are open mudflats and marshes.

The West Mersea water front provides a unique and fragile environment and insensitive development, however minor, will have a detrimental effect on the special character and appearance of this area.

The application site is currently used for the storage of boats and, as such, is entirely compatible this water-side location. The proposal to use this land in the 'summer months' for car parking will significantly change the character of this site.

The former Conservation Manager raised an objection to use of the front part of the boatyard for car parking to serve the 'proposed' nearby restaurant on the grounds that it would erode the character of the West Mersea water front (This application was subsequently approved by members at committee, although there was little debate about the impact this proposal would have on the character of the conservation area). The current proposal to extend the car parking to the entire boatyard for the summer months will merely serve to exasperate the conservation concerns previously expressed i.e. the parking of car on this land will introduce an alien feature on the water side frontage of Coast Road and erode the unique and special character of this part of the West Mersea Conservation Area. Moreover, the gentrification of this part of the conservation area caused by the resurfacing / demarcation of the parking bays will further serve to erode the existing character the conservation area.

The application proposes the enclosure of the site (presumably during the summer months only) with high level Herras fencing.

Notwithstanding the different activities taking place along the water front, there has been remarkably little subdivision to demarcate individual ownerships. The consequence of this is that, visually, the shoreline forms a cohesive landscape and this adds to the overall quality of the conservation area. Where fencing has been introduced, it is generally of a low-level post and/or rail construction which retains the open and extensive views out to sea.

At the request of the Town Council, an article 4(1) direction has been introduced on the water side frontage of Coast Road to control the erection of fencing, railings and other means of enclosure in order to safeguard the character of the openness of the conservation area. The proposal to erect high level fencing around the perimeter of the site will have a significantly detrimental impact on character of the water front and totally undermine the purpose of the article 4 direction.

Recommendations:

For the reasons given above it is considered that the current application will cause material harm to the character and appearance of this part of the West Mersea Conservation Area and, as such, should be refused".

*Officer Comment: Since receipt of this consultation a heritage statement has been submitted. It should be noted the application does not relate to the whole boat yard but approx one third. Resurfacing is not proposed and the demarcation of spaces will use rope. Heras fencing is proposed to separate the car park from the boat storage area, this is “temporary” moveable fencing which can be easily removed or repositioned.*

8.2 The Highway Authority would not wish to raise an objection to the above subject to conditions these include the provision of visibility splays, pedestrian visibility splays, any gates to open inwards, size of spaces, provision of cycle parking, provision of footway and first 6 metres of access to be hard surfaced.

8.3 Natural England has no comment to make in relation to this application. From the information provided with this application we do not feel that the proposals are likely to significantly affect the natural environment. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

8.4 Environment Agency:-

“Thank you for submitting details in relation to the above application which included a Flood Risk Assessment for the neighbouring restaurant development, prepared by AMEC Earth and Environmental (UK) Ltd, reference number 788800159/R3052 draft, dated May 2008. We have considered the information submitted and confirm that we have no objection to the proposals on flood risk grounds. We wish to make the following comments:-

The car park is considered as less vulnerable development with ground levels of around 4m AOD. When considering the 1 in 200 year flood level in the future, flood depths of up to 0.84 metres could be experienced on the parking area. We would recommend that signs are posted at the site to warn members of the public that the parking area is at risk of flooding and they should not attempt to gain access to or move their car if the site has flooded. If the car park has an entrance gate then it could be useful if the car park is closed by the restaurant, or whoever manages the car park, to prevent members of the public using it. The Council may wish to give effect to our recommendation by way of a planning condition.”

8.5 Spatial Policy:-

“The site is located on the seaward side of Coast Road within the West Mersea Conservation Area and West Mersea Waterside Area of Special Character. The site is located approximately 60m from the Blackwater Estuary SSSI and the Essex Estuaries Special Area of Conservation (SAC). The policies relevant to this application are UR2 (Built Design and Character), ENV1 (Environment) in the Core Strategy and policies DP1 (Design and Amenity) and DP23 (Coastal Areas) in the Development Policies DPD. UR2 seeks to protect Conservation Areas from inappropriate development. Policy ENV1 seeks to protect designated nature conservation sites from development that would adversely affect their conservation value. It also seeks to prevent development that could affect the open and rural character of the undeveloped areas of the coastline as well as important historic and wildlife areas.

Criteria (i) and (v) of policy DP1 states that development proposals must respect and enhance the character of the site, its context and surroundings and also respect and enhance the landscape and assets that contribute to the site and its surrounding areas.

Criteria (i) – (iii) of Policy DP23 area is also relevant to this application; criteria

- (i) states that new development will only be supported where it is located within the developed area of the coast, part
- (ii) supports development that will not be significantly detrimental to the historic environment, maritime uses and the landscape character and landscape character of the coast while criteria.
- (iii) supports development that helps sustain the socio-economic benefits of coastal communities. Policy DP23 also states that proposals for change of use will be expected to enhance the existing traditional maritime character of Conservation Area and West Mersea Waterside Area of Special Character.

Paragraph 9.29 of DP23 states that proposals for change of use of existing sites used for boating will only be permitted where they remain compatible with the special traditional maritime character of the area and there is a related need for it to be located in the Waterside Area of Special Character.

DP23 however also states that in exceptional circumstances development may be permitted where it is proven that the proposal provides an overwhelming public and community benefit. The land is currently used as a boat park all year however in summer demand for storage lessens. The application proposes the provision of 78 parking bays during the months of April to September for use as a temporary public car park along Coast Road, West Mersea.

This proposal is not considered to accord with policy on a number of issues.

The first relates to whether allowing use of part of this land as a temporary car park is an appropriate use in terms of its visual impact on the amenity and character of the Conservation Area/ West Mersea Waterside Area of Special Character. The application proposes the use of Heras fencing to demarcate the area to be used for car parking. The use of such fencing in what is an open boat storage area would detract from the character and visual amenity of the Conservation Area/ West Mersea Waterside Area of Special Character and would not respect the landscape character of this part of Coast Road.

For these reasons it is considered that the proposal fails to satisfy policy UR2 or criteria (i) of policy DP1. Furthermore the proposal does not enhance the maritime character of the area and as such does not accord with objectives of paragraph 9.27 of policy DP23.

Mersea however is an important and emerging tourism destination locally. It also attracts visitors from much further afield to enjoy the islands internationally famous oysters and maritime heritage. Mersea's popularity as a tourism destination means that the town experiences significant parking problems all year round but particularly during the summer months. Parking in West Mersea was recognised as an issue in the 2004 Local Plan and during more recent Local Development Framework consultations. Paragraph 6.2.3.2 of the draft West Mersea Town Plan also recognises the need for more parking and a reassessment of parking restrictions generally. The proposal to provide summer parking satisfies criteria (i) – (iii) of DP23 as the site is located within the developed area of the Coast. The proposal would be unlikely to be significantly detrimental to conserving historic assets, maritime uses or landscape character. The area is already used as a boat park however the car park will only come into use once the boats go back into the water for the sailing season. The impact on maritime uses will therefore be negligible and there will be no permanent impact on the character of the area.

As the site is currently used for boat parking i.e. already developed the proposal does not raise any conflicts with policy ENV 1 in relation to the protection of the Coastal Protection Belt. The proposal is however located close to an international nature conservation site which could lead to an increase in the level of disturbance at this location.

Before the application is determined advice should be sought from Natural England about whether the seasonal car park proposal would be deemed likely to have a significant impact on the integrity of the SAC (as a result of increased disturbance) and whether an Appropriate Assessment is needed.

***(Officer comment: Natural England has raised no objection)***

As already discussed tourism makes a significant contribution to Mersea Island's and Colchester's tourism industries. Managing parking generated by visitors is an important part of managing tourism locally. Colchester Borough Council's Street Services team has been developing a Parking Strategy in conjunction with West Mersea Town Council to help resolve parking issues locally. This proposal would go some way towards resolving parking problems along Coast Road where parking related problems are greatest and enable people to stop in West Mersea and support the local economy. The proposal therefore satisfies criteria (iii) of policy DP23 as it would help reduce congestion deliver economic benefits for traders in West Mersea and on Coast Road by providing much needed parking thereby delivering social benefits for West Mersea residents and visitors alike. Policy DP23 states that in exceptional circumstances development that delivers overwhelming public or community benefits that outweigh all other material considerations may be permitted. This scheme if approved would deliver such benefits for the local community in West Mersea. Clearly this proposal does not comply with a number of policy areas however subject to Natural England concluding no significant impact on the Essex Estuaries SAC on balance the application should be supported because of the wider community/economic gains for West Mersea.

If approved consideration should be given to conditioning the use of an alternative type of fencing to Heras fencing to demark the parking area and mark out the car park including individual parking bays. This is necessary to reduce the visual impact on the Conservation Area and to ensure compliance in terms of the number of parking spaces approved.

Colchester Borough Council has been working with West Mersea Town Council to develop an integrated parking strategy for West Mersea. An inquiry has been made by the parking team about the possibility of securing a commuted sum towards the cost of employing beach wardens at West Mersea for this development".

8.6 Environmental Control has no comment.

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

## **9.0 Town Council Response**

9.1 West Mersea Town Council recommend consent be granted. The lack of parking facilities in Coast Road and the surrounding areas is well known, and creates a great number of problems for residents and visitors alike. We whole heartedly support this application, which will provide a badly needed new facility, and relieve the pressures on surrounding streets, where drivers have no alternative but to park on the road. We also believe there to be no alternative sites for a car park either in the immediate vicinity or the surrounding area.

## 10.0 Representations

### 10.1 6 letters/emails of objection have been received:-

- Mersea residents worked hard to get article 4 protection in this conservation area to prevent unsightly fencing. The proposed fencing will make the formerly most popular open landscape in the country to one of a look of a permanent construction site.
- The fencing could make it difficult for people to escape a rising tide and rescuers and emergency services reaching people.  
*Officer Comment: The fencing proposed, or an alternative, would be easily moved by rescuers and the emergency services.*
- It took many years to secure the continuous pedestrian footway the proposals mean there will be 2 vehicular openings opposite the Victory Hotel as well as the Victory Road junction.
- The long splay at the entrance means pedestrians will have to use the road.  
*Officer Comment: Pedestrians will still be able to walk along the footway they will not have to use the road.*
- The parking barrier will cause traffic to back up.  
*Officer Comment: No barrier is proposed for the car park.*
- Will the car park be closed during the week of the west Mersea regatta so that the funfair can take its traditional place?  
*Officer Comment: The applicant has indicated the car park would be closed at this time so the site is available for use by the fair.*
- You have failed to understand there is no way due to the number of boats that parking can commence in April 11<sup>th</sup> nor do owners necessary wait until October to come out of the water In addition people come with new boats or boats in need of repair after the season has started.  
*Officer Comment: The boat storage will be on approx one third of the total boat yard area the remaining two thirds will be available for boat storage/maintenance throughout the year.*
- Appears to be no contract in place once the new entrance is constructed to stop the public places being withdrawn by the owner.  
*Officer Comment: If planning permission is granted it will restrict the area to be used as a public car park.*
- Proposal will generate heavy traffic in the conservation area.
- The proposal is contrary to the Councils own policy guidance DP17 “access to all development maintains the right and safe passage of all highway users.
- Consideration needs to be given to the chaos and obstruction caused by cars waiting to get onto the car park from both directions and the danger to pedestrians with the loss of a continuous footpath. Through traffic will be blocked. Whilst Mersea is in need of a car park it needs to be outside the village envelope.  
*Officer Comment: The footpath will not be lost. Cars entering or existing the car park will not be held up by a barrier.*

- 10.2 Mersea Island Society there will be no yacht storage as the owners realise the car park is far more profitable than parking boats. The parking problem is all the year round and 78 spaces will not cure it. Should these plans be passed they will destroy an old floral hedge. Once a year the fair visits Coast Road at the time of the annual regatta. All Gone.

*Officer Comment: Any permission granted will be for a temporary period, the extent and use of the car park will also be restricted. The planning permission granted in June 2010 for the 21 parking spaces for the "oyster sheds" also approved works to the hedge to provide the visibility splay.*

- 10.3 Coast Road Association:

"Coast Road Association, West Mersea These comments refer to the response of 11/03/11 by Planning Policy to Development Control.

The Planning Application document refers only to "summer months", not to "April to October", both months which lie outside any of the accepted definitions of summer. "April to October" appears in the heading of the Design & Access Statement, from which the Applicant (Mr Rob Moffat) has apparently semi-detached himself in the following terms - quotation from his statement to the (Mersea) Courier of 29 April 2011:

"West Mersea Council came to me and said they wanted these parking spaces. They offered to fund the planning application up front and I've agreed to pay them back over a period of time out of the profits from the parking, if it is successful. Until then I don't want anything to do with it. It's all between the council and the agent and I don't even know how much they've paid him. I would just like to reassure people that as far as I'm concerned the priority here will always be the boats and events like the regatta fair. Even if we get planning permission, the parking will be a secondary business." Is this man under pressure?

Planners and members of the Planning Committee might form the impression that 100 parking spaces (Vinocity-071786, plus the present application) would be available from sometime in April; it is unlikely ever to be before sometime in May or even June. There simply are not enough spring tide launch windows for the number of boats ashore, especially if adverse weather causes postponements. Many boat owners insure their boats afloat only from April or May and, apart from anything else, there is a number who are not ready or just don't want to launch until June. Boats start to come ashore during September, again for tide and weather reasons.

Mr Moffat's assurance about the priority of the boats is much to be welcomed, but it is only good for as long as he is there running the business. However it would be a travesty of Colchester's policy of safeguarding the "maritime" boat storage and maintenance businesses, if the effect of approval of this application were to be to provide car parking at the expense of boat parking. Boat hard standing space in West Mersea is finite and fully subscribed. It is suggested that allocation of car spaces both in number and timing should be at the discretion of Mr Moffat or his successor(s), with the provisos that cars should not displace boats and that the yard's normal boat capacity should not be *conveniently* reduced in order to meet the car parking requirements.

None of the above necessarily conflicts with the case for summer parking; it merely puts it into a realistic context in terms of Colchester's stated policies. However there are other serious objections. The existing boat park is essentially static and has very little traffic impact upon the adjoining roads, other than the sporadic comings and

goings of boat owners and the yard staff. The car park would potentially involve frequent vehicle movements in significant numbers, via the proposed new access, from and to Coast Road from 8.30 a.m. to 10 p.m., weekdays, weekends and bank holidays.

It is disappointing that the response by Planning Control, which sets out to evaluate the proposed development in terms of respect for and enhancement of the character of the site, its context and surroundings, fails to give adequate weight to the fact that Coast Road, along its landward side, is still substantially private residential. In particular the proposed new access, including its mandatory splays, is approximately opposite or close to the drives of three houses. It is also close to the Victory's remaining and often busy entrance on to Coast Road (*the other next to Victory Road having already been blocked off for safety reasons!*), not forgetting the existing entrance to the boat yard and the Oyster Bar with its car park, opposite Victory Road. Highways, with certain stipulations, appear to have nodded this latest application through on the basis of the approval already given in connection with the controversial parking provision for Vinocity 071786. There is a magnitude of difference between 21 spaces and the combined total of 100 in terms of the potential for traffic disruption, inconvenience and danger on this busiest pedestrian and vehicle thoroughfare on the island.

Incidentally, though few people realised it, the new access will result in the removal of a significant amount of the hedge to meet the splay requirements, even though the original application suggested otherwise.

There have just been two very busy bank holiday weekends with the boat park still heavily populated, so that it could not have contributed to car parking. Although Highways "planning officers believe that the additional parking spaces will have a positive contribution to reducing congestion and inappropriate parking in the area," it is hard to see that a car park with barrier entrance, which has the obvious potential to give rise to vehicle queues in both directions, will do anything other than aggravate the pressures and dangers.

It is also a well-observed phenomenon that providing an extra lane on a motorway attracts more traffic and generates more congestion. Why would extra parking facilities not have the same effect? It would indeed be surprising if Highway's belief were correct and that provision of paid parking spaces would reduce the temptation to park for nothing on adjacent roads.

For many Coast Road residents the balance between peaceful enjoyment of their property (European Convention on Human Rights) and unrestricted access to their driveways, a legal right, over against the rising volume of vehicle and pedestrian traffic has already tipped too far.

The all-too-readily invoked IROPI justification (Imperative Reasons of Overriding Public Interest) should be used very sparingly by planners, not as a convenient way of pushing through something for which there might well be some commercial or development case, but which conflicts with a substantial body of that local opinion which feels, legitimately, that it will be disadvantaged. It is understood that, although Mersea Town Council may have voted to support Application 102390, this was by no means unanimous. Mersea Courier has also reported surprise and concern locally that the Council had thought it appropriate to vote public money to sponsor a private application.

Important though the waterside businesses are, as is the prized special character to which they make their own valuable contribution, Colchester Borough's main economic interest in Mersea is as a prosperous, lucrative, source of revenue, much of it collected from private residents, who seem too often to be those whose interests are least and last regarded.

After the extensive coverage Mersea has enjoyed in the national and local press, it is no longer possible to characterise the island as a “well-kept secret” and we must all, the Borough and Town Councils, elected councillors and citizens alike, take much greater care to safeguard that which is precious about it. West Mersea in general and Coast Road in particular cannot be expected to absorb unlimited growth in tourism, which Colchester sees as our future, without serious deterioration in the quality of life”.

- 10.4 The Councils Monitoring Officer has received a copy of a letter sent to the ombudsman regarding the application:-

The following paragraph is relevant to the consideration of the application. “The islands town council and Colchester Borough Council have made it clear they are determined to turn one of our established boatyards into a pay and display car park the site in question is not only a boat yard but also a conservation area and a site of special scientific interest and a flood plain with residential house boats. Nobody seems to know if a feasibility study has made to investigate this project but if it has nobody is aware of its outcome

*Officer Comment: It is assumed the claim “Colchester Borough Council have made it clear they are determined to turn one of our established boatyards into a pay and display car park” relates to the fact the Council has been working with West Mersea Town Council to develop an integrated parking strategy for West Mersea. This is referred to in the response from Spatial Policy above. However as Members are aware the application must be determined on its planning merits and any discussions by other Council Services are not relevant to the consideration or determination of this application.*

*Your officer has also asked the writer to clarify what they mean by a feasibility study and the following response was received.*

“As I said in my original letter to the ombudsman the site in question is part of a conservation area and is designated a site of special scientific interest. Investigations should therefore be made into how the building of a slip road and creation of 80 parking spaces will affect the status. There are house boats close by that might be affected by the new slip road and the whole site is subject to flooding. Coast Road is a very narrow thoroughfare with its narrowest point near the boat yard/car park. It is often impossible for two cars to pass and the extra traffic will only make the situation worse. The extra traffic will present a risk to pedestrians.

*Comment: The site is close to but not within the Site of special Scientific Interest. The application does not include a slip road. The proposal does not impinge upon or affect the houseboats. A flood risk assessment has been submitted and the Environment Agency has no objection to the proposal. Natural England and the Highway Authority have also been consulted.*

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



## **11.0 Parking Provision**

11.1 The application is for a public car park providing 78 public car parking bays (including 4 bays for disabled drivers), 21 “oyster shed” parking bays (these spaces already have planning permission) and 10 motorcycle parking bays.

## **12.0 Open Space Provisions**

12.1 N/A

## **13.0 Report**

13.1 The main issues to be considered in determining this application are the scale of the use, impact on the conservation area, impact on residential amenity, highway matters and the implications for the continued use of the land as a boat yard.

### Scale

13.2 The application proposes the use of part of a boat yard as a car park during the months of April to October. The car park will use approx one third of the total boat yard area to provide 78 car parking spaces, 4 of which will be for disabled drivers. The proposed opening times are 8.30am – 10.00pm throughout the week. It is proposed to separate the car park from the boat yard by 1.8 metre high heras fencing.

### Impact on the Conservation Area

13.3 Representations have been received regarding the

- Adverse impact resulting from the introduction of an unacceptable level of additional traffic
- visual impact of parked cars, resurfacing of the boat yard, demarcation of the parking spaces and the heras fencing
- cutting back of the hedge to provide visibility.

### *Additional traffic.*

13.4 Coast Road provides access to a public car park, private car parks serving the Victory Hotel, the Coast Inn restaurant and the oyster bar, the Yacht Club Dabchicks Sailing Club; it also serves boat yards, other commercial and retail premises and residential properties. Taking into account all these existing uses it is considered the additional traffic generated by the car park will not have an adverse impact on the conservation area.

13.5 The local planning authority is aware that residential streets close to the waterfront are used by visitors to park cars when the existing public car park is full.

*Visual impact.*

- 13.6 Whilst the use will increase the number of cars parked in the conservation area it is considered they will not be so prominent or such an unusual feature to be detrimental to its character or appearance. The cars will be screened from the road frontage by the existing hedge. The hedge will not be removed to provide the visibility splay as the splay can be mainly provided within the existing footway. The formation of this access and the trimming of the hedge to provide the visibility splay have already been granted planning permission in June 2010 application reference 071786, this permission also includes 21 parking spaces on the boat yard. The cars will be visible from the east side boundary but only 2 rows of cars and manoeuvring area are proposed on this boundary. The parked cars on the rear and west side boundary are well within the boat yard area and will be screened by buildings and boats remaining in the yard. There are a number of public and private car parks already along Coast Road and the visual impact of the proposal is considered to be acceptable and the use will not result in a new or obtrusive feature in the conservation area or street scene. Cars already park in this and other boat yards to a limited extent.
- 13.7 There is no proposal to resurface the car park and any demarcation of spaces will be rope or other temporary material they will not be painted or involve a fixture to the ground.
- 13.8 Objection has been received to the heras fencing, including objection from the DHU. Following concern from West Mersea Town Council regarding the impact of the sub division of the foreshore area an article 4 direction has been served to prevent the erection of walls, fences, railings and other means of enclosure which would normally be permitted development. The heras fencing is 1.8 metres high comprising metal mesh panels set in blocks which are placed on the ground. Your officer considers this form of temporary fencing is acceptable as there are other examples within boat yards along Coast Road, some boats sit in metal cradles and the existing boundary treatment is metal bars with concrete posts. However if members considered the type or height of fencing unacceptable another type and lower temporary fencing could be provided and secured by condition.
- 13.9 The pay and display machine will be partially screened by the frontage hedge but details of this and the notice board will be secured by condition to agree their height and size.

Impacts on Neighbouring Properties

- 13.10 The car park is opposite the Victory Hotel and nos. 90 and 88 Coast Road the access to serve the car park is opposite no 88. These properties are set back some 30 metres from the road frontage. The most significant impact on these residents will be the additional traffic and the manoeuvring of cars in, out and within the car park. However taking into account the traffic already using Coast Road this is not likely to be so significant to justify a refusal of permission. However any permission should be for a temporary period only.

## Highway Issues

- 13.11 The Highway Authority has raised no objection to the application subject to the conditions. The access already has planning permission and the conditions imposed regarding visibility splays and pedestrian visibility are the same as the conditions attached to that permission.

## Impact on the boat yard use

- 13.12 The representations have raised the possibility that permission for a car park could lead to the loss of boat yard. The Local Planning Authority agrees this would be unacceptable; the boat yard is a traditional water related use which is protected by policy DP23. However it is considered the use of part of the boat yard for part of the year and for a temporary period only would not undermine its continued use as a boat yard. A temporary permission would allow the LPA and the applicant to assess the requirements for boat storage etc during the summer period. Concern has also been expressed that the car park would prevent the traditional fair during regatta week. The applicant has confirmed the fair would still take place. The applicant has indicated the area applied for would be used as a car park in stages dependent upon the number of boats remaining in the yard the implication being a smaller area would be used at the beginning and end of the period applied for. However it is not possible to control this by planning condition. A temporary consent is therefore recommended to make sure the car park is managed in this way and its use as a boat yard is not undermined.

## **14.0 Conclusion**

- 14.1 The car park use will preserve the character of the conservation area and will not have an unacceptable impact on residential amenity. Its visual impact will be limited and broken by buildings and the retained boat yard and boat yard activities. The new access and highway requirements already have planning permission under a 2010 consent. A temporary 3 year permission is recommended subject to conditions to restrict the extent of the car park, the period and times of its use, to prevent resurfacing or any painting/permanent marking out of spaces, agreement to the means of marking out the spaces, the erection of temporary heras fencing and highway conditions.

## **15.0 Background Papers**

- 15.1 PPS; Core Strategy; CBDP; DHU; HA; NE; NR; PP; HH; NLR; PTC

## **16.0 Recommendation – Conditional Approval**

### **Conditions**

#### 1 - Non-Standard Condition

The public car park use hereby permitted shall be discontinued and all the structures/signage shall be removed from the land, which shall be restored to its former condition, on or before 1st November 2014.

Reason: To enable the local planning authority to judge the effect of the use on the amenities of the locality, including residential amenity and the conservation area, and for the local planning authority to assess the impact of the use on the operation and management of the boat yard.

## 2 - Non-Standard Condition

The public car park use is restricted to the area indicated in red on drawing no 1011/01 and shall only be open to the public during April-October each year. Outside the permitted months of use all temporary demarcation and any other temporary structures shall be removed from the site and the whole area shall be available for use as a boat yard.

Reason: To ensure the use of the site as a boat yard is not undermined by the temporary public car park use.

## 3 - Non-Standard Condition

No resurfacing or demarcation of spaces shall take place without the prior written consent of the local planning authority. Any demarcation that may be allowed will not involve permanent marking out of spaces.

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

## 4 - Non-Standard Condition

Prior to the commencement of development drawings of the notice board, automatic barrier and pay and display machine shall be submitted to and approved in writing by the local planning authority the development shall be completed in accordance with the approved details

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

## 5 - Non-Standard Condition

No lighting fixtures or fittings shall be erected/installed at the site.

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

## 6 - Non-Standard Condition

Prior to the car park being open for use the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 70 metres to the east and 2.4 metres by 70 metres to the west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

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

#### 7 -Non-Standard Condition

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

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

#### 8 - Non-Standard Condition

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

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

#### 9 - Non-Standard Condition

Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the nearside edge of the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety to ensure accordance with Policy 1.1 of the Highways and Transportation Development Control policies.

#### 10 - Non-Standard Condition

Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

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

#### 11 - Non-Standard Condition

Prior to the commencement of any development the details of the number, location and design of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure, convenient and covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy 7 of the Highways and Transportation Development Control policies.

#### 12 - Non-Standard Condition

Prior to the commencement of development the footway section previously agreed under application 071786 shall be provided entirely at the Developer's expense.

Reason: To make adequate provision within the highway for the additional pedestrian traffic generated within the highway as a result of the proposed development.

### 13 - Non-Standard Condition

Prior to the commencement of development details, (including size, material, height), of sign/s to warn members of the public that the parking area is at risk of flooding shall be submitted to and approved in writing by the local planning authority. The sign/s shall be erected in accordance with the approved details.

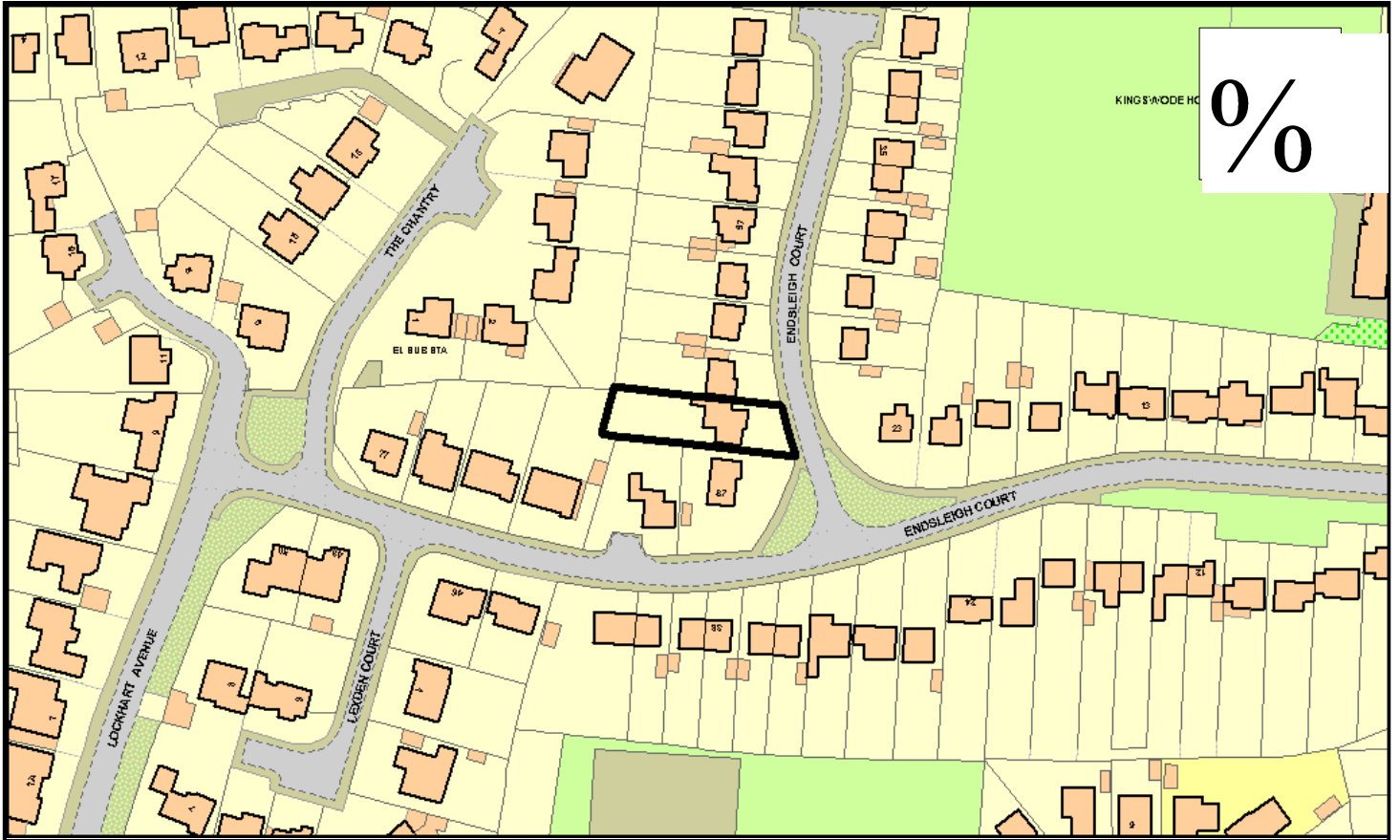
Reason: To ensure members of the public are made aware of the possibility of flooding but to also ensure that this signage does not adversely impact on the character or appearance of the conservation area.

### 17.0 Informatives

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

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

(3) Condition no 12 requires a Legal Agreement between the Applicant/Developer and the Highway Authority using the powers in Section 278 of the Highways Act, 1980.



**Application No:** 111275

**Location:** 65 Endsleigh Court, Colchester, CO3 3QS

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

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**7.7 Case Officer: Mark Russell**

**Due Date: 02/09/2011**

**HOUSEHOLDER**

**Site: 65 Endsleigh Court, Colchester, CO3 3QS**

**Application No: 111275**

**Date Received: 8 July 2011**

**Agent: Mr Steve Norman**

**Applicant: Mr & Mrs French**

**Development: Two storey rear extension, first floor rear extension above existing single storey structure, new roof to garage and associated alterations.**

**Ward: Lexden**

**Summary of Recommendation: Conditional Approval**

## **1.0 Introduction**

1.1 This application is referred to the Planning Committee because the applicant is an employee of Colchester Borough Council.

## **2.0 Synopsis**

2.1 The following report details the proposal for extensions to this residential dwellinghouse. An objection is detailed, and the solution to the issues raised is given. Conditional approval is then recommended.

## **3.0 Site Description and Context**

3.1 65 Endsleigh Court is a detached dwellinghouse in a steep-roofed chalet-style from the 1960s, set amongst other similar dwellings in this purely residential area. This particular group of houses is on a cul-de-sac section of the road.

## **4.0 Description of the Proposal**

4.1 The proposal is for a double-pile, two-storey extension to the rear, with a roof over the existing garage – all with matching materials. The rear element also includes a full height door with a Juliet balcony.

## **5.0 Land Use Allocation**

5.1 Residential, Scheduled Ancient Monument. TPO 4/55 (revoked).

## **6.0 Relevant Planning History**

6.1 74/1088 – Extension to form dining room and first floor alterations. Approved 14<sup>th</sup> October 1974



## **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:  
Planning Policy Statement 1: Delivering Sustainable Development
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:  
SD1 - Sustainable Development Locations  
UR2 - Built Design and Character
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):  
DP1 Design and Amenity  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- 7.4 Regard should also be given to the following Supplementary Planning Guidance/Documents:  
Extending your House  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

- 8.1 Museum Resources responded that despite the fact that the site is on a Scheduled Ancient Monument (Essex Number 46) the area of excavation is so minimal on a previously disturbed area, that on the advice of English Heritage, no watching brief was required.

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

## **9.0 Representations**

- 9.1 One letter of objection was received from the neighbouring property number 63, with specific reference to the proposed roof over the existing garage. This raised the following points:
- Loss of light to the living room;
  - Overshadowing to the patio;
  - The side of the house receiving little light;
  - Satellite reception affected

## **10.0 Parking Provision**

- 10.1 Not applicable

## **11.0 Open Space Provisions**

- 11.1 Not applicable

## **12.0 Report**

- 12.1 The main issues relate to design and amenity.
- 12.2 Design is not, and has not been raised as an issue. Aesthetically, and whilst the proposal would lead to an asymmetry as seen from the side and a contrived double pile with windows placed uncomfortably in the middle at the rear, the design is considered to be largely in keeping with the area and is judged to be acceptable.
- 12.3 The issue of amenity breaks down into privacy and overshadowing.
- 12.4 Whilst the proposed full height windows with Juliet balcony initially give cause for concern, on inspecting the site it is clear that there is a certain amount of intervisibility between houses and gardens already, especially where Endsleigh Court turns a corner on to the main length of the road, with numbers 67 and 69 particularly close to number 65.
- 12.5 A ribbon of conifers (within the garden of number 65) currently obstructs this intervisibility. Whilst it is noted that these could be removed at any time after the erection of the rear extension, the same is true now. The intervisibility is an existing issue, which is only slightly altered by the full length windows.
- 12.6 Any overlooking issues to number 63 appear to be very limited.
- 12.7 In terms of overshadowing, the affected house (63) is to the north of the proposal, and thus susceptible to any increased bulk.
- 12.8 In terms of the combined plan and elevation overshadowing zone, the garage is acceptable when taking the mid point of the neighbour's window.
- 12.9 In terms of the Building Research Establishment's (BRE) guidance, the issue of sunlight to windows is not applicable here as the windows in question are not within 90 degrees of south (being tilted west north west). The effect on windows is not considered as a reason for objection.
- 12.10 The effect on the rear garden of 63, however, is of more concern. The sitting out area of that house would be cast in more shadow. The BRE guidance states that no more than two-fifths and preferably no more than one quarter of any garden or other amenity area should be prevented from receiving any sunlight at all on 21st March. It is readily apparent that, due to the arrangement and orientation of buildings that the garden suffers. It would not, therefore, be acceptable to add to this. In the absence of a daylight and sunlight assessment it has been presumed that the roof would exacerbate the situation.
- 12.11 The applicants have, therefore, agreed to omit that part of the scheme.

## **13.0 Conclusion**

- 13.1 In conclusion, the amended scheme is held to be acceptable both visually and in terms of amenity, and approval is hereby recommended.

## **14.0 Background Papers**

14.1 PPS; Core Strategy; CDPD; PPG; Museums; NLR

## **15.0 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

With the exception of the following condition 03, the development hereby approved shall comply in all respects with the submitted, undated drawings 'Plan as proposed' (elevations, ground floor and first floor) unless otherwise agreed in writing by the Local Planning Authority.

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

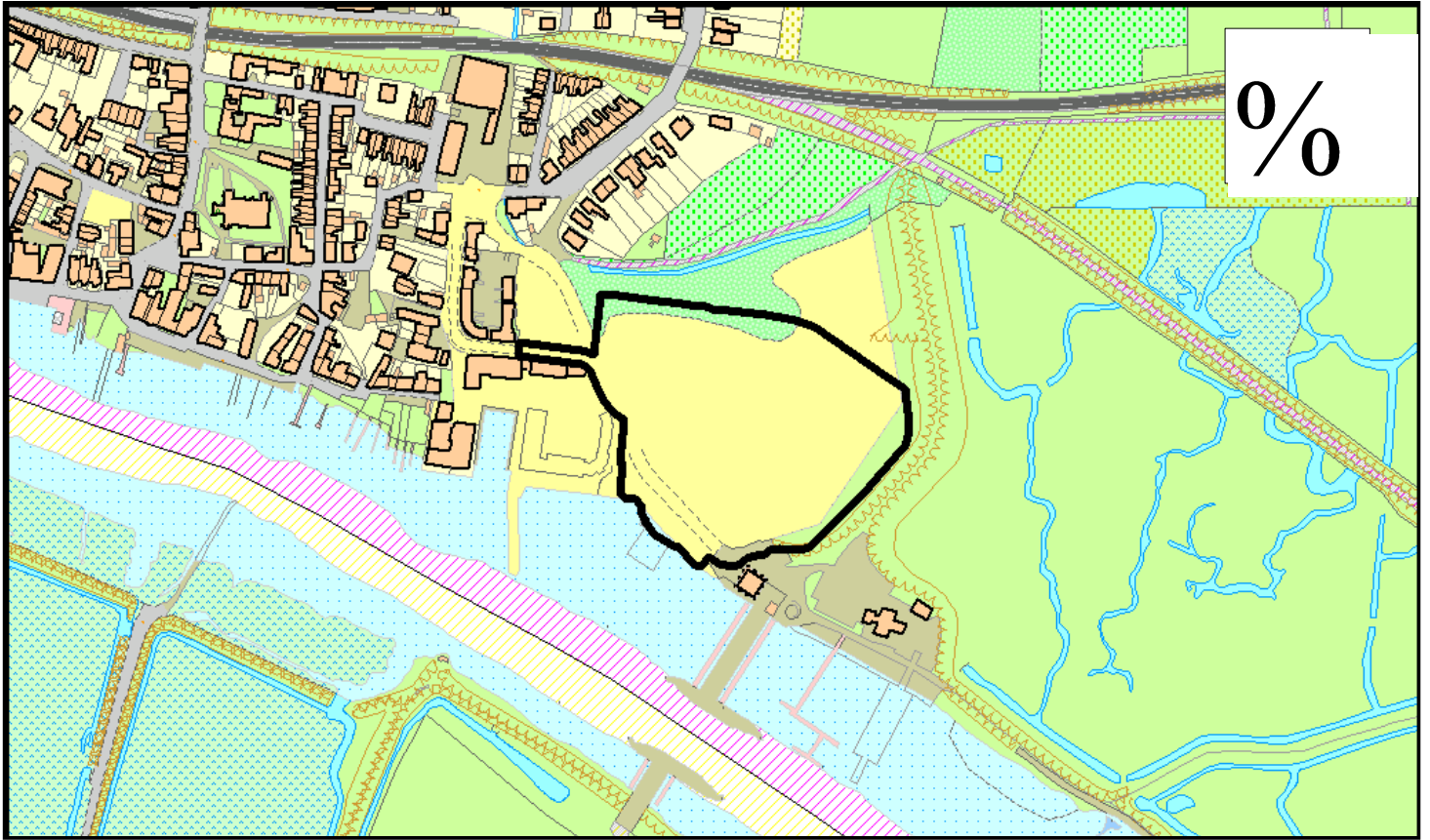
3 - Non-Standard Condition

Notwithstanding the details of the drawings hereby approved, the proposed alterations to the garage roof are hereby excluded.

Reason: In the interests of residential amenity as the proposed roof form would lead to overshadowing of the rear sitting out area of the neighbouring property.

### **Informatives**

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



**Application No:** 091559

**Location:** Former Cook's Shipyard - Phase 3, Walter Radcliffe Way, Wivenhoe

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

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## Planning Committee

Item

8

25 August 2011

<b>Report of</b>	<b>Head of Environmental &amp; Protective Services</b>	<b>Author</b>	<b>Sue Jackson</b> ☎ 01206 282450
<b>Title</b>	<b>Application No. 091559 - Erection of 32no. dwellings, commercial units (within Class A1 - Retail and Class B1 - Business), garages, off street parking, roads and footpaths, public open space, foul and surface water drainage and hard and soft landscaping – Former Cooks Shipyard Phase 3, Walter Radcliffe Way, Wivenhoe</b>		
<b>Wards affected</b>	<b>Wivenhoe Quay</b>		

**This report relates to changes to a proposed Section 106 Agreement**

### 1.0 Decision(s) Required

1.1 Members are asked to approve changes to a proposed section 106 agreement relating to affordable housing and the provision of commercial floor space.

1.2 Affordable Housing  
To approve

- A clause to allow the affordable housing to be provided on site (units 97 and 98) or if no suitable RSL agrees to proceed with the units a commuted sum for affordable housing to be paid to The Council. Subject to The Council being satisfied there is no interest from a RSL and agreement on the amount of the commuted sum.

1.3 Commercial Floor Space  
To approve the following clauses

- That within 28 days from the date the dingy park/car park is available for public use an area of land, a minimum depth of 3 metres, forming the riverside frontage of the site for the commercial building, indicated in draft form on a drawing (the drawing to be available before the meeting) shall be grassed. A hedge shall be planted and a mural painted on the public side of the hoarding. All to be agreed in writing with the Local Planning Authority prior to construction/ planting/painting.
- That, subject to funding availability, the commercial building to be constructed to shell and core within 12 months of the occupation of the last residential unit. Subject to Colchester Borough Council being satisfied funding is not available to allow the delivery of this building to be extended for a further 12 month period.
- Within 3 months following final residential occupation the land comprising the commercial building (to be defined on a drawing) to be landscaped in

accordance with a scheme to be submitted to and agreed in writing with the Local Planning Authority for the benefit of/use by the community.

- The vehicular access and pedestrian access to the dingy park and linking to the Phase 2 development to be constructed (in accordance with a drawing) to the satisfaction of the Local Planning Authority prior to the dingy park being available for public use.

## **2.0 Background Information**

- 2.1 Application reference number O/COL/01/1799 granted outline planning permission to develop Cooks Shipyard Wivenhoe. A section 106 agreement secures the provision of certain facilities including dingy parking, car park, open space and public access.
- 2.2 Reserved matters have been approved on the whole site in 3 phases and phases 1 and 2 are nearing completion.
- 2.3 Application 091559, considered by Members at the meeting on 18 November 2010, is a full application in respect of phase 3 and proposes the same number of dwellings but a revised layout to the approved reserved matters for this phase. The development proposes the erection of 32 no. dwellings, (including 2 units of affordable housing), commercial units (within Class A1 - Retail and Class B1 - Business) and public open space.
- 2.4 Members resolved to approve the application subject to the prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990. The Head of Environmental and Protective Services to be authorised to complete the agreement to provide the following:
- 2 affordable housing units Plots 97 & 98.
  - Dinghy parking
  - Visitor car park cars powered two wheelers and cycles
  - Public access
  - Commercial floor space

and subject to the prior variation of the existing Section 106 Agreement to take account of the development proposed in Application 091559.

- 2.5 The committee report is produced in Appendix 1.

## **3.0 Reason for the Decision**

- 3.1 Following the resolution to approve the application your officer and the applicant have been discussing the precise wording of the agreement.
- 3.2 This has included agreement by the applicant to increase the contribution for the play area playground facilities and landscaping on the Play Area Land by £10,000 from £35,000 to £45,000. This agreement was reached prior to the proposed amendments regarding the delivery of the commercial floor space and affordable housing.

- 3.3 More recent discussions have related to an acceptable time frame for the construction of the commercial floor space. For the reasons set out in the supporting information it is not possible to secure the construction of this floor space during an early phase of construction.
- 3.4 The applicant is also discussing the affordable housing units with Registered Social Landlords's and whilst these discussions are still ongoing it is possible agreement may not be reached to provide these units on site. Member's agreement is therefore required to allow for a financial contribution towards the provision of affordable housing if agreement to provide these units on site cannot be reached.

#### **4.0 Alternative Options**

##### **4.1 Commercial units**

Alternative Options are that Members

- require the units to be constructed at an earlier stage of the development or
- agree the removal of the provision requiring these units to be constructed within an agreed time frame

##### **4.2 Affordable Housing**

Alternative Options

- Members do not approve the amendment and require the affordable housing to be provided on site

#### **5.0 Supporting Information**

- 5.1 Application 090559 indicates 2 units of affordable housing on site comprising 3-bedroomed houses plots 97 and 98.
- 5.2 The section 106 agreement will require the dingy park and car park to be provided prior to the occupation of units 67 – 78 (inclusive) and plots 93 – 96 (inclusive) or prior to the occupation of units 67 – 78 (inclusive) and plots 93 – 96 (inclusive) and the construction of plots 97 and 98 if the affordable housing is provided on site.
- 5.3 The section 106 agreement for O/COL/01/1799 does not include a provision securing the erection of the commercial floor space. If phase 3 had been erected under this permission the commercial floor space may not have been erected as the planning system cannot require a development to be completed.
- 5.4 One of the changes to the layout proposed under application 090559 is a different location for the dingy park, car park and the commercial building. The dingy park is proposed adjacent to the water front with the commercial building and car park opposite separated by a road and public access.
- 5.5 Your officer considers it appropriate to secure the construction of the commercial floor space as the intention has always been to provide a mixed use development but also so the use of the public accessible areas are not prevented due to health and safety issues. Whilst early delivery is desirable the applicant's arrangements with a third party in respect of the construction of the commercial building and the current economic situation mean is not possible to achieve this.

## 5.6 Information submitted by the applicant:-

“Following the 18<sup>th</sup> November 2010 Planning Committee’s resolution to grant Planning Approval subject to a variation to the existing 106 Agreement, issues regarding the delivery of the visitors parking, dingy park and the Public Open Space have now been agreed. However, as discussed a couple of items still need to be resolved to allow the consent to be issued.

The outstanding issues relate to the provision of the agreed 2 no. affordable units and the timing of the commercial building.

### **Affordable Housing Provision**

As requested by Mike Taylor of Colchester Borough Council we approached a number of RSL’s detailed on a list that he kindly sent to us.

To date after some weeks we have only received one offer, as most RSLs do not have stock in the area or the funding available to proceed with these units. The offer does not even come anywhere close to covering the build cost and because of this and the lack of interest Mike Taylor did suggest a commuted sum could be an alternative method.

Therefore at our discussion we tabled whether the clause in the S106 could be altered to include the possibility of a commuted sum in lieu with CBC’s agreement (amount TBA) or provision on site.

### **Commercial**

As you are aware Lexden Restorations will fund and take ownership of the commercial building once constructed, the current economic situation has resulted in the existing commercial space already constructed being unsold and funding available for further speculative construction not been extended by the main stream banks.

As a result of the economic climate we request that the Council consider including a clause within the S.106 to allow the Commercial Building (subject to funding availability) to be constructed to shell and core within 12 months of the final occupation of the residential dwellings, should the funding not be forthcoming then subject to Colchester Borough Council agreement we request a further clause to allow the delivery to be extended for a further 12 month period thereafter.

Following final residential occupation, to ensure the site of the commercial building remains tidy and of benefit to the community, until the commencement of the commercial building we propose that the area is landscaped to the satisfaction of Colchester Borough Council within 3 months of the final occupation.”

5.7 Since receipt of this letter it has been agreed that once the dingy park is available for public use part of the land for the commercial building, comprising a 3 metre wide area fronting the public access and dingy park, will be grassed and the remainder of the site screened from public view by the erection of painted hoarding. A hedge will be planted up against the hoarding which itself will be painted with a mural.

5.8 The following letter has been received from Lexden Restorations:-

“As you are aware my company purchased Cooks Shipyard from the receivers and negotiated the outline planning consent to redevelop this derelict former shipyard into a mixed use scheme. As part of our negotiations with Council and local bodies it was highlighted and recognised that there was a need at the time for uses other than just residential in the lower Wivenhoe area. We therefore included within our proposals a range of accommodation other than residential. This included a restaurant



(subsequently withdrawn), office space, potential retail space and poly-functional houses which were designed to allow flexibility of use in future years.

After many years of negotiations we decided not to develop the site ourselves and we negotiated a sale to Taylor Woodrow (now Taylor Wimpey). During those negotiations Taylor Woodrow expressed concern about the viability of the dedicated commercial space that we had proposed adjacent to the Environment Agency Barrier Building. I believed that there would be a demand for this space and that it should form part of the scheme and so we agreed an option whereby if they were unable to sell the commercial space then I would agree to take that building back from them once it had been built to a shell and core finish.

That option still applies, however, as you are very much aware, the economic situation is dire and the uptake of commercial space across the Borough is at an all time low. Taylor Wimpey have already built some 3500 square feet of dedicated commercial space around the wet dock and to date despite sales figures that barely reflect build cost, I understand that they have failed to sell all but one of those units.

Constructing a further 8,500 square feet of commercial space at this time would serve no real purpose, logic says that if 3000 square feet of reasonably priced accommodation has not sold, despite extensive local and national marketing over a 2-3 year period, then there is little or no change of us being able to sell a further 8,500 square feet of space.

Furthermore the current funding climate means that as far as we are aware there is no main stream banks that are prepared to lend to a speculative office scheme

In short it is my opinion there is little prospect of being able to fund, build, sell or let this space if it were to be developed in the short term. I believe that the fact that Taylor Wimpey are offering a range of units at extremely competitive prices shows quite clearly that there is a lack of demand and that if it were to be built this building would remain empty and blighted in what is a well conceived and popular development.

I therefore hope that the Council will recognise the logic in delaying the construction of this part of the development until there is an improvement in the economic outlook.”

## **6.0 Financial Implications**

6.1 None

## **7.0 Strategic Plan References**

7.1 The provision of affordable housing is a key requirement in the strategic plan.

## **8.0 Publicity Considerations**

8.1 No publicity is required in respect of a section 106 agreement.

## **9.0 Human Right Implications**

9.1 None

## **10.0 Community Safety Implications**

10.1 None

## **11.0 Health and Safety Implications**

11.1 There could be health and safety issues if the publicly accessible areas were adjacent to a construction/compound.

## **12.0 Background Papers**

12.1 Core Strategy, 091559, Report to Planning Committee 18 November 2010

**7.1 Case Officer: Sue Jackson**

**MAJOR**

**Site:** Walter Radcliffe Way, Wivenhoe

**Application No:** 091559

**Date Received:** 4 December 2009

**Agent:** Melville Dunbar Associates

**Applicant:** Taylor Wimpey East London

**Development:** Erection of 32 no. dwellings, commercial units (within Class A1 - Retail and Class B1 - Business), garages, off street parking, roads and footpaths, public open space, foul and surface water drainage and hard and soft landscaping.

**Ward:** Wivenhoe Quay

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

## 1.0 Planning Report Introduction

- 1.1 **Members will recall this application was considered at the meeting on the 9<sup>th</sup> September 2010 and deferred for the Case Officer to negotiate additional parking for the commercial units and the inclusion of small retail units, the Highway Authority to be asked to reconsider the closure of Queens Road and to provide further clarification on their consideration of this application**
- 1.2 **Case Officer to seek clarification on the use of sustainable drainage and sustainable building techniques**
- 1.3 **The earlier report to Members is produced below, the additional information and amendments are shown in bold. There are also corrections to the earlier report, including clarification on the number of bedrooms. The conditions required by the highway authority have been added and bullet point 3 of the section 106 agreement has been amended to secure public cycle and powered 2-wheeler parking within the public car park.**
- 1.4 **New representations are also reported.**
- 1.5 This full application is reported to the Planning Committee as objections have been received. A Section 106 Agreement is also required plus the variation of an existing agreement which requires Members' approval.

## 2.0 Synopsis

- 2.1 The following report describes the development proposed for Phase 3 of the Cooks Shipyard Site in Wivenhoe. It also explains the planning history and the issues regarding the total number of residential units on the whole site. Consultations, Town Council comments, Residents Associations and neighbour representations are set out and where necessary commented upon. The details of the new Section 106 Agreement are also explained.

## 3.0 Site Description

- 3.1 The former Cooks Shipyard site is located on the east side of the town accessed via Anglesea Road or through the historic centre. The site as the name suggests was formerly used as a shipyard and has a substantial river frontage. The east boundary of the site is close to a water meadow (passed to the Council under the original Section 106 Agreement) and open land. Beyond this there is farm land and the coastal footpath. The north boundary is separated from Anglesea Road by unused land and the west boundary is adjacent to the historic town and Conservation Area. The site is crossed by a footpath which is proposed to be relocated onto the new public highway. A public notice in respect of this diversion has recently been published **Legal Services have now indicated the diversion Order has been confirmed.**
- 3.2 The specific location of Phase 3 is adjacent to the water meadow and unused land. It has a river frontage and is close to the Environment Agency building and Colne Barrier. The site area is just over 2 hectares and it is irregular in shape.

## 4.0 Description of Proposal

- 4.1 The development involves the erection of 32 houses. It also includes an area of open space of 0.1306 hectares containing an equipped play area. Other facilities include a visitor car park, 14 space dinghy park and 941 square metres of B1 Business floorspace.
- 4.2 **Additional parking spaces have been achieved by a reduction in the footprint of the commercial building and a reduction in the private garden for plots 93,94 and 95.**
- 4.3 **The commercial floor space has been amended as follows; there is a slight reduction in floorspace as two parking spaces have been provided in the ground floor level in addition 175 square metres is now shown as A1 retail floorspace. Whilst shown as a single retail unit this space could easily be used as two smaller units.**
- 4.4 The scheme also includes new roads, drainage and landscaping and public access, in particular to the river frontage.

## 5.0 Land Use Allocation

### 5.1 Regeneration Area

#### Conservation Area

A public footpath crosses the site.

The adjacent land is part of the Coastal Protection Belt and Site of Special Scientific Interest.

## 6.0 Relevant Planning History

- 6.1 O/COL/01/1799 - Outline planning permission approved on 5 November 2004 for erection of houses, flats, offices, fisherman's store and W.C. Refurbishment of wet dock, jetty, slipway and waterfront. Reconstruction of St John's Road and Walter Radcliffe Way.
- 6.2 RM/COL/04/2159 - Phase 1 - Reserved Matters approval for new access road, 1 3-bed house, a 1-bed maisonette, 4 2-bed maisonette, 5 2-bed flats, 19 garages and 28 space parking court
- 6.3 RM/COL/05/1808 - Phase 2 - Reserved Matters approval - Removal of public footpaths, restoration of White House, fisherman's store, 6 commercial units, 12 houses and 42 flats, 7 polyfunctional spaces and associated parking for all the above.
- 6.4 072630 - Reserved Matters approval for access road, play area, dinghy park and public car park
- 6.5 072248 - Demolition of White House and erection of new dwelling - Refused
- 6.6 072249 - Conservation Area application for the above - refused.
- 6.7 072701 - Reserved matters approval for Phase 3 comprising 32 residential units, affordable housing, commercial units – Planning permission granted

## 7.0 Principal Policies

**In addition to national and regional policies, the following policies are relevant to the consideration of this application**

- 7.1 Adopted Review Borough Local (**Plan these policies are now replaced by the Adopted Development Policies**)
- DC1 - Development Control considerations
  - UEA1 - Character of Conservation Areas
  - UEA2 - Building within Conservation Areas
  - UEA11 - Design
  - P1 - Pollution
  - P4 - Contaminated Land
  - CF1 - Infrastructure and Community Facilities Provision
  - L3 - Protection of existing public open space
  - L15 - Footpaths, cycleways and bridleways
  - T9 - Car parking (outside Central Colchester)
  - L14 - Public rights of way

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

**Adopted Core Strategy**

- SD1 - Sustainable development locations
- SD2 - Delivery facilities and infrastructure
- SD3 - Community facilities
- H1 - Housing Delivery
- H2 - Housing Density
- H4 - Affordable housing
- UR2 - Built design and character
- PR1 - Open space
- PR2 - People friendly streets
- ENV1 – Environment

**7.3 Adopted Development Policies**

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP10 Tourism, Leisure and Culture 32
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP23 Coastal Areas

**8.0 Consultations**

- 8.1 Natural England has no objection.
- 8.2 Environmental Control has no objection subject to conditions.
- 8.3 The Environment Agency:

The requirement of the Agency in respect of Flood Risk Assessment and flood warning and excavation are more stringent than they were when the original outline application was submitted. The delay in reporting this application to Members is due in part to the additional clarification required by the Agency and CBC Emergency Planner. They are now satisfied with the proposals and the Flood Risk Assessment and Flood Warning and Excavation Plan.

- 8.4 The Landscape Officer has no objection subject to conditions.

## **8.5 The Highway Authority has no objection subject to conditions.**

**The Highway Authority has provided the following clarification regarding the closure of Queens Road:-**

**“I have assessed the issues surrounding the proposed re-opening of Queens Road and would offer you the following comments.**

**The current records held by this Authority concerning the original closure show numerous representations both in support and opposition. I have also been contacted by different parties wishing to restate their representations.**

**All comments regarding; traffic flow, types of vehicle, parking, road width, building type, access routes, intensification in traffic and so forth have been assessed in light of this current proposal. This Authority feels that reintroduction of traffic through this route would be detrimental to both the efficiency of the highway and the amenity of the local residents and therefore will not support the proposed reopening”.**

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

## **9.0 Town Council's Views**

### **9.1 Wivenhoe Town Council comment as follows:-**

- 1. Wivenhoe Town Council require confirmation of Right of Way and delineation of the boundary with the greensward.**
- 2. An explanation of the Public Rights of Way transecting the Cook's site.**
- 3. Concern regarding street parking on main access road.**

**9.2 The Town Council has been sent a plan showing the proposed rights of way and public access. An existing public footpath will be diverted onto the new adopted footway. In addition there will be public access adjacent to the river linking to public areas secured under Phase 2. Whilst the original Section 106 plan indicated a further new path along the north boundary this is no longer proposed. The approved Phase 3 does not include this path. It is considered the scheme still provides substantial improvements to the public access, in particular the areas of public access to the water frontage.**

## **10.0 Representations**

**10.1 Colchester Cycling Campaign requests contribution to local cycling facilities as well as protection of possible future routes along the waterfront to Brightlingsea.**

## 10.2 The Wivenhoe Society comment as follows:-

"This application for 32 houses appears to increase by one the number approved in the last two applications relating to this site. This may seem an insignificant increase, but 31 are already far too many and considerably more than what was agreed at the outset was the maximum the infrastructure could sustain, notably the local road network.

In the current application, it appears from the drawing that the road through the proposed development leading eventually to the sailing club has a pavement only on one side for part of the route and that there is no pavement on the play area side of the loop road. Is it intended that this area should be fenced off from the road? The layout for plots 67 to 73 shows parking and garages in a courtyard with access to individual houses through the gardens of the houses. This will inevitably lead to on-road parking, judging by the experience on the former Wivenhoe Port estate. Some of this parking will be on the road leading to the sailing club. Given that sometimes boats will be towed along this route, on road parking would cause problems.

We also question whether adequate parking has been provided for the business units. There is an area marked as customer parking with 11/12 spaces, but staff working in the units will also need to park. It is not clear from the drawing whether there is access from the boat parking area to the slipway. Presumably people will want to trundle trolleys to the slipway."

## 10.3 The Queens Road Residents Association (Wivenhoe) comment as follows:-

1. It is quite unacceptable that Taylor Wimpey state in their original application dated 9 December that they have not consulted either their neighbours or the local community about the proposal because the 'scheme is essentially similar to that which was previously approved'.  
This is clearly not the case.
2. The proposed drawings accompanying the development indicate a very different development to that indicated in the previously approved amendments to the Phase 3 application 072701. The former application indicated that there would be 32 units, including 6 polyfunctional units and 6 commercial units, although in other parts of the same application this is confusingly referred to as 32 units (including 6 polyfunctional units) and 6 commercial units presumably standing in addition to the 32 units. However, the current application indicates that there will be 32 dwellings and 11 office spaces, which together appear to be more units than before.
3. There is no justification whatsoever for any increase in the number of additional units, or change of types of units, which will put more pressure on the existing fragile infrastructure of the town. The development now seems to contain provisions for 103 parking spaces, including residential parking (2 per household), office parking (2 per office) plus visitor parking. Any increase in traffic is going to heavily impact on the surrounding narrow and twisting access roads and this has already been clearly outlined in previous objections.
4. The planning department know only too well the difficulties and bad feelings that have been created in lower Wivenhoe by Phase One and Two of this ugly and inappropriate development. It should also not be forgotten that Taylor Wimpey was originally committed to build social housing on the site but were permitted to build them elsewhere on a completely unsuitable site at the top of the village under some electricity pylons.



5. The application proposes to site many of its three storey office buildings on the river front with lower buildings on the perimeter, claiming that this is in keeping with Wivenhoe's existing frontage. It cites that the height of buildings declines as it reaches the perimeter of the development in accordance with the natural slope of the site whereas to most of us it looks perfectly flat. This is completely bizarre when it is self-evident that the only purpose these high buildings serve is to block the view of the river that has always been enjoyed by the existing low level village.
6. The application itself is full of obfuscation and glowing comments about how the development will complement the existing historic environment in Wivenhoe when it is patently clear from what has already been built that the new buildings have no affinity whatsoever with adjacent older housing. Indeed Taylor Wimpey has virtually ruined the existing conservation area by merely treating it as part of the immediate access route to the new development. Rather like the Taylor Wimpey web-site advertisement the application gives the false impression of some kind of ivory tower development situated in an idyllic environment.
7. We object to the timing of this application which coincides with the Christmas Holiday period. This is not the first time that Taylor Wimpey has submitted unpopular amendments to planning applications at a time when most of the community are fully occupied with the festivities.
8. Our Residents Association (whose catchment area comprises five roads in lower Wivenhoe) has always specifically asked to be involved in any such planning application by Taylor Wimpey. On the last two occasions we have not been informed and have only found out about these applications by accident or through our contacts with other local organisations. Once again we have been left off the neighbour notification list for this particular application and this is not acceptable. We still have received no formal notification in spite of emails to your office.
9. No notices about the planning application have been properly displayed on the site. One of our residents particularly walked round the site last week and could not find any, although we were told shortly after contacting CBC that posters had now been displayed.
10. It is really time for the CBC Planning Committee to begin to truly represent the needs and requirements of local communities and insist that Taylor Wimpey stop trying to slip amendments through without proper consultation. Once again they have shown a complete disregard for the strength of feeling of members of the local community who care very much about this once cherished historic site. How this ugly development, which was never intended to meet the needs of local people, ever came to be built on what was previously designated as part of Wivenhoe's Conservation Area, is difficult to understand.

#### 10.4 The East Street and Brook Street Residents Association comment as follows:-

1. As an Association we objected to this application (No. 072701) for increase in units in December 2007, and I understand from you that this was approved then. I am surprised that notification of this planning decision was not made to the various objectors in view of the deleterious impact that extra traffic will have.
2. Considerable time and effort was spent in looking at the impact of vehicular traffic when development of the Cook's Shipyard site was originally considered. As I understand it, planning permission was based on three access/egress routes, namely Valley Road, via Anglesea Road; Queens Road via Anglesea Road and East Street via Brook Street.

3. The route via Queens Road has now been blocked off, leaving only two access/egress routes, and yet planning permission has apparently been granted for an increase in dwellings and units without any regard for the consequent increase in traffic flow along narrow and unsuitable roads.

As planning approval for an increase of 29% in the number of units for Phase 3 has already been granted; and the number of access/egress routes has been reduced from three to two; both these steps being taken with scant regard for the very real concerns of residents and for the carefully considered predications on acceptable traffic flow and access/egress routes, I consider that the Local Government Ombudsman should be consulted as to due process, in respect of failure to properly take account of relevant considerations in this matter.

10.5 Over 20 letters of objection have been received. The objections are summarised as follows:-

1. Extra traffic on the lower part of the village especially West Street, Brook Street, Anglesea Road and Valley Road. These are all narrow streets not suitable for large volumes of traffic.  
Health and Safety concerns - school children walking to Millfields School.  
Anglesea Road has no pavements and is unmade.  
Queens Road is now closed increasing pressure on other roads – to agree to this was a serious mistake.
2. Strain on local services, schools and doctors.
3. This is massive overdevelopment. The original permission was for 80 dwellings.
4. The office buildings will increase the traffic - there has been no consultation with local people and no demand for these units.
5. The buildings are too tall and will block views.
6. The Environment Agency should be consulted.
7. There should be improved facilities for young people.
8. Insufficient parking
9. Noise disturbance
10. East Street has no pavements and is hazardous.
11. The allocation in the local plan generated over 200 objections and the application has also given rise to objections which have been ignored.
12. A resident on the Phase 2 development has objected to the proposed street lighting plan. The applicant has considered this and commented that it is not possible to relocate it. It is also suggested that this plan was made available to residents before they purchased their property.  
Other objections raised relate to the proposed window facing his property.  
The increase in the number of bedrooms in real terms is the equivalent of an additional 7 2-bed homes.

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

#### 10.6 *Officer Comment*

*Clarification on Planning History and the number of dwellings approved.*

*Outline planning permission was granted in 2004 reference O/COL/01/1799. The application was accompanied by various documents and illustrative elevations and plans. The planning permission did not restrict the number of dwellings although there was an assumption by residents and others that the total number would be 80.*

*When Members considered the reserved matters application for Phase 3 this issue was dealt with as the total number on the site exceeded 80 and a considerable number of objections had been received. It was explained that legal advice had confirmed that neither the planning permission nor the Section 106 Agreement restricted the number of dwellings. The only restriction related to footprint of buildings as Condition No. 5 required the reserved matters to be in substantial accordance with the submitted layout plan. The Phase 3 plans were in accordance with the outline plan in terms of layout, height of buildings, external appearance and detailed design.*

*Members granted permission for the Phase 3 reserved matters for 32 dwellings - a total of 98 dwellings.*

*The outline application and Section 106 Agreement had a requirement for a minimum amount of commercial floorspace and for a package of highway improvements to be carried out. The closure of Queens Road referred to in the representations formed part of the agreed highway works.*

*The agreement requires business floorspace consisting of 838 square metres of B1 Business floor space and 334 square metres of gallery/studio/offices.*

*The application proposes 941 square metres of business floor space.*

### **New representations**

**Representations have been received from the Queens Road Residents Association and a resident regarding the possible closure of Queens Road**

**“In our view nothing has changed since the road was closed. The arguments that have been produced to suggest that a re-think is required on the closure of the road are the same arguments that were used four years ago to try and prevent it. Recently some comments have been made about the emergency services being unable to access the lower part of the village but this is not correct; all the local services were informed of the correct route following the road closure. Where there are access problems these are caused by parked cars in the lower part of the town which make it difficult for fire engines, especially those which are unfamiliar with the area, to get through. Re-opening Queens Road would make no difference to this because it is also a very steep and narrow road where large vehicles have difficulty in getting through for exactly the same reasons. It also runs from east to west across the east side of the town not north and south in a direct line to the lower end of the village.**

**The minutes of the meeting of 9 September imply that since the closure of Queens Road more pressure has been placed on the narrow and twisting roads in the historic core of Wivenhoe. This is incorrect because Queens Road itself is an important part of the historic core and cited in the Wivenhoe Conservation Area. Appraisal as part of the Victorian townscape character of Wivenhoe; the terraced houses were built in the mid-nineteenth century to provide homes for local mariners when maritime activity was at its height. The closure of the road, as well as acting as a traffic calming measure, for the traffic which used to speed down the road from the Dene Park estate via the Valley Road, has created a little oasis of a relatively free zone in Wivenhoe, something which should be applauded, not criticised. It has really improved the look of the street and**

residents are noticeably taking more pride in the appearance of their houses. The road is still completely open for pedestrians and cyclists and we have noticed that there seem to be more children and families walking to Millfields School than there used to be rather than parents racing by in their four by fours. The road closure also limits the amount of traffic coming down the High Street, which might otherwise try to access Cook's Shipyard site via Queens Road; this is important because the High Street is already overburdened with traffic coming to and from the Persimmons and Bovis Homes developments to the west of the lower town."

The full text is submitted in appendix 1.

Since the application was deferred by Members there has been a fire at the Wivenhoe Business Centre in Philip Road close to the entrance to the shipyard. Comment has been raised by a resident and the town council that the closure of Queens Road and parked vehicles on the narrow streets delayed fire appliances reaching the fire and have raised concern that the traffic generated by phase 3 will result in increased danger.

The Chelmsford Fire office has been consulted on the application which has been forwarded to the Wivenhoe Fire Station. Your officer has subsequently discussed this with the relevant officer and can confirm the Fire Brigade has no comment to make on the application.

Queens Road has a collapsible bollard specifically installed for emergency vehicles. Furthermore whilst the development will be accessed through the historic centre the access into the development is to an adopted standard with on site parking provision. The Highway Authority has confirmed that Essex Fire Service were consulted on the Traffic Order relating to Queens Road.

## **11.0 Parking**

- 11.1 The dwellings all have a minimum of 2 parking spaces with 17 having 3 or 4 spaces. Three visitor parking spaces are shown. Cycle/motor bikes will be stored in the rear garden of each of the dwellings. This meets the adopted parking standard.

Since the last meeting your officer has counted the number of parking spaces for the dwellings on both the approved and proposed schemes. It is not possible to get figures which are 100% accurate because not all the parking spaces in front of garages are defined on the drawing for example on some of the 5-bed units on the approved scheme it might be possible to park up to 4-6 cars in front of the double garage so a sensible and fair approach has been taken.

**Approved 70 (garages plus parking spaces) plus 2 visitor spaces and possibly another 2 spaces**

**Proposed 85 spaces (garages plus parking spaces) plus 3 visitor spaces and possibly another 5 spaces.**

- 11.2 14 spaces are shown for dinghy parking and 26 additional visitor parking spaces (a public car park) **plus provision for powered two wheelers and cycles the latest amended plan shows additional provision for powered two wheelers and cycles.**

11.3 The application includes 941 square metres of commercial floorspace B1. This parking standard is still a maximum, 1 space per 30 square metres of B1 space; 13 spaces were originally indicated. **The amended proposal indicates 21 spaces** Provision is also made for 13 cycle spaces and 2 motorcycle spaces which meets the adopted standard.

**In summary the amended drawing increases the parking for the commercial units from 13 to 25 spaces plus additional public provision for both powered two wheelers and cycles in the public car park.**

11.4 It is considered all the parking provision meets adopted standards.

## **15.0 Report**

15.1 The main issues raised in the representations are increase in the number of dwellings and increased traffic. These issues are discussed below.

In addition there are the following main issues:

- Design/Layout
- Scale Massing
- Impact on the Area
- Impact on Neighbours
- Development Team/Section 106 proposals and
- **Sustainability Statement and a Waste Management Matrix have been submitted**

### Increase in the Number of Dwellings

15.2 Clarification on the number of dwellings and the perceived increase has already been discussed.

15.3 To clarify the application proposes 32 dwellings and the approved Phase 3 was for 32 dwellings. What has changed is the dwelling mix Approved **1 6-bed, 9 5-bed**, 7 4-bed, 12 3-bed and 3 2-bed; proposed 8 3-bed houses, 15 4-bed houses and 9 5-bed houses – **an increase of 8 bedrooms.**

15.4 The reserved matters application had to be determined in accordance with the outline permission. The current application is a full application to be determined on its own merits, the outline permission and the approved reserved matters are material considerations.

### Increased Traffic

15.5 The representations generally object to the increase in traffic generated by the 'additional' dwellings above the 80. As previously explained permission has been granted for 98 dwellings. However, the mix of dwellings has changed. It should be noted the Highway Authority has not objected to this application.

- 15.6 The approved Phase 3 also included commercial floor space plus a dinghy park and visitor parking spaces.
- 15.7 The Transportation Assessment submitted with the outline application considered the potential housing capacity based on the traffic capacity limits of the surrounding road network. The analysers demonstrated that up to 120 housing units could safely be accommodated. The impact of the development on the existing road network and residents' amenity was one of the important considerations when the outline application was debated. It was agreed that Anglesea Road should not be made up. However, a package of site highway works were negotiated. The closure of Queens Road where it meets Valley Road was subsequently agreed and this work has been carried out.

### Design and Layout

- 15.8 The design and layout have been the subject of meetings and negotiation with the Urban Designer who is satisfied a high standard of design is achieved in keeping with the outline permission. 14 different house types are proposed ranging from a design in keeping with medieval buildings to Victorian terraces. Features include cantilevered projections on the upper floors, bay windows, dormer windows and classical doors, door cases, windows and decorative metal work. Materials will comprise render, weatherboarding red brick, slate and plain tiles.
- 15.9 The commercial building is designed to reflect a simple industrial building typically found in a riverside location. It will comprise a 5 bay gable roofed building weatherboarded with a slate roof.
- 15.10 The layout, whilst not identified to the approved Phase 3, reflects the principles of the outline consent and Phases 1 and 2 with dwellings presenting a continuous built frontage sited close to the highway boundary.
- 15.11 The open space forms an important feature in the street scene overlooked by dwellings on all sides.
- 15.12 The commercial element is repositioned adjacent to the river frontage near the dinghy parking area. It is considered this is an improvement to the approved scheme as it will encourage an active frontage to the river frontage where public access is proposed.
- 15.13 The most significant change to the layout is along the east boundary of the site where larger detached houses are shown, whilst these houses are in large plots the approved layout had 5 dwellings on this boundary. However, it is considered the current layout has acceptable spacing between buildings and a low density appropriate to the edge of the site adjacent to the SSSI location.
- 15.14 Another change relates to the north boundary where originally dwellings fronted this boundary facing towards the rear garden of houses in Anglesea Road. Rear gardens are now proposed along this boundary.

### Scale Massing

- 15.15 The majority of dwellings are 2 storey with limited use of roof spaces. Three storey dwellings are proposed at strategic points to terminate a view or provide a landmark feature. This scale of building reflects the existing development and the traditional character of historic Wivenhoe.
- 15.16 The commercial building is 3 storeys high characteristic of commercial waterfront buildings.

### Impact on the Area

- 15.17 It is considered the built form will have a positive impact on the area. It will provide an attractive active waterfront and buildings which reflect the built form in Wivenhoe. Your officer does not accept the comments made in some of the representations regarding the building erected on earlier phases.
- 15.18 It is accepted residents have genuine objection about the impact of traffic through the historic street of Wivenhoe. Access to the site has always been a major issue.

### Impact on Residents

- 15.19 The majority of the site is distant from existing residents and the development itself will not impact on residents' amenity. The closest boundary, the north, now has rear gardens instead of dwellings fronting Anglesea Road.
- 15.20 The facilities forming part of this application, the dingy park and improved public access to the river frontage will have a positive impact.
- 15.21 Many residents will however consider that any benefits are far outweighed by the traffic generated by the development.

### Development Team/Section 106 requirements

- 15.22 The application has been considered by the Development Team on several occasions. Following the submission of a Financial Appraisal the Development Team has agreed the Section 106 Agreement should secure the open space and commuted sum for equipment and maintenance, the visitor parking and dinghy store, the commercial units and 2 affordable housing units on site (Plots 92 & 98) in addition to 3 units already provided off-site.
- 15.23 These 3 units are provided at the site of the former Flag Public House where the affordable housing for Phases 1 & 2 is located.
- 15.24 The Section 106 Agreement will also secure public access to the river frontage. A drawing will be available at the Committee Meeting showing the publicly accessible areas.
- 15.25 These matters, with the exception of the 2 affordable housing units, are all secured under the existing agreement which will need reviewing to take account of the new planning permission which is not a reserved matters consent.

## **Sustainability Statement and Waste Management Plan**

The main points are summarised below - the full text is available in appendix 2.

The drainage system meets the requirements of SUDS and has been installed and agreed with the environment agency.

The development has not been designed to a code 3 construction and the three dragons financial appraisal confirms the development cannot sustain this additional cost (this appraisal has been verified by the Councils Estates Officer).

### **16.0 Conclusions**

- 16.1 The proposed development is of a high quality and reflects the principle established under the earlier permission. It will provide an attractive extension to the town. The proposal includes the same community benefits originally negotiated including public access to an active waterfront.
- 16.2 It is accepted many residents have raised strong objections to the application and the original concerns about traffic have not been overcome by the package of highway improvements. However, the Highway Authority has recommended approval of the application.

### **17.0 Background Papers**

- 17.1 ARC; Core Strategy; Natural England; HH; NR; HA; TL; NLR; PTC; OTH

#### **Recommendation**

APPROVE subject to the prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990. The Head of Environmental and Protective Services to be authorised to complete the agreement to provide the following:

- 2 affordable housing units Plots 97 & 98.
- Dinghy parking
- **Visitor car park cars powered two wheelers and cycles**
- Public access
- Commercial floor space

and subject to the prior variation of the existing Section 106 Agreement to take account of the development proposed in Application 091559.



On completion of the legal agreement, the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

### **Conditions**

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

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

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

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

The external finishes shall be as shown on drawing No. 1369-P004 and the samples of bricks, slate, plain tile and pantile agreed with the Local Planning Authority, unless otherwise agreed in writing with the Local Planning Authority.

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

#### **3 - C11.11 Landscape Design Proposals**

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

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

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

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

#### 5 - C11.17 Landscape Management Plan

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

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

#### 6 -Non-Standard Condition

The **garages** shown on the approved drawing shall be provided and thereafter retained for the garaging of motor vehicles. They shall not be converted to any other residential use without the prior consent in writing of the Local Planning Authority.

Reason: To ensure satisfactory provision for on site parking is retained.

#### 7 - Non-Standard Condition

The business units hereby permitted shall be used solely for B1 business purposes.

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

#### 8 - B6.8 Submission of Remediation Scheme

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

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction.

#### 9 - B6.9 Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination.

#### 10- B6.13 Validation Certificate

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 9 above.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction.

#### 11 - B6.10 Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 9, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10 which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction.

#### 12 - Non-Standard Condition

The development shall be carried out in accordance with the Flood Warning Response Plan prepared by Richard Jackson dated November 2009, Flood Warning and Excavation Plan submitted by Richard Jackson dated May 2010 Revision A and Site Specific Flood Risk Assessment prepared by Richard Jackson dated November 2009 together with the additional information submitted by Richard Jackson in correspondence dated 6 April 2010 and 18 June 2010.

Reason: To ensure appropriate measures are put in place to protect residents and property against flood risk in accordance with Planning Policy Statement 25.

### 13 - A5.1 Industrial Uses

In relation to the B1 business units no machinery shall be operated, no process shall be carried out and no deliveries taken at, or despatched from the site outside the following times 8.00 a.m. to 7.00 p.m. Monday to Saturday nor at any time on Sundays or Public Holidays.

Reason: To safeguard the amenities of nearby residential properties.

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

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

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

### 15 - Non-Standard Condition

No development shall take place until a Method Statement for work on the southern site boundary including proposes changes in levels and construction of retaining river walls have been submitted to and approved in writing with the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To protect visual and residential amenity.

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

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) no gate, fence, wall or other means of enclosure shall be erected, constructed or placed within the curtilage of any dwelling forward of any wall of that dwelling which fronts onto a highway without express planning permission from the Local Planning Authority.

Reason: In the interests of the visual amenity of the area and to prevent the piecemeal erection of walls and/or fences to front gardens.

### 17 - Non-Standard Condition

All external joinery shall be of painted timber, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory visual appearance.

#### 18 - B4.6 Slab Levels (1)

No development of the site shall take place until cross sections of the site and adjoining land and buildings, including details of existing ground levels around the buildings hereby approved and any changes in levels proposed, together with the proposed floor slab levels within that part of the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with those approved cross sections.

Reason: To ensure that construction is carried out at suitable levels having regard to drainage, access, the appearance of the development and the amenities of neighbouring properties.

#### 19 – Non Standard Condition

**Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.**

**Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.**

#### 20 – Non Standard Condition

**The carriageway(s) of the proposed estate road(s) shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The carriageways and footways shall be constructed up to and including base course surfacing to ensure each dwelling, prior to occupation has a properly consolidated and surfaced carriageway and footway between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any up-stands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and paths in front each dwelling shall be completed with the final surfacing within twelve months from the first occupation of such dwelling.**

**Reason: To ensure the roads and footways are constructed to an acceptable standard, in the interests of highway safety.**

#### 21 – Non Standard Condition

**Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of x (measured along the centre line of the side road) by y (measured along the nearside carriageway edge) on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained free from obstruction at all times.**

**Reason: To ensure a reasonable degree of intervisibility between drivers of vehicles at and approaching the road junction, in the interests of highway safety.**

#### 22 – Non Standard Condition

**The development shall not be occupied until such time as the car and boat parking area, indicated on the approved plans, including any spaces for the mobility impaired has been hardsurfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.**

**Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.**

### **23 – Non Standard Condition**

The Developer shall be responsible for the provision and implementation of a Transport Information and Marketing Scheme for sustainable transport, approved by the Local Planning Authority, to include vouchers for 12 months free bus travel for each eligible member of every household, valid for exchange during the first 6 months following occupation of the individual dwellings. Details of the uptake of the vouchers shall be provided to the Essex County Council's Travel Plan Team on a 6 monthly basis.

**Reason:** In the interests of promoting sustainable development and transport in accordance with Policy No. 4 in Appendix G to the Local Transport Plan 2006-2011 as refreshed by Cabinet Member decision dated 19 October 2007.

### **24 – Non Standard Condition**

No development shall be permitted to commence on site until such time as an Order securing the diversion of the existing definitive right of way to a route to be agreed with the Local Planning Authority has been confirmed and the new route has been constructed to the satisfaction of the Local Planning Authority.

**Reason:** To ensure the continued safe passage of pedestrians on the definitive right of way in accordance with Policy 3.5 in Appendix G to the Local Transport Plan 2006/2011 as refreshed by Cabinet Member Decision dated 19 October 2007.

### **25 – Non Standard Condition**

Prior to installation details and materials of the shopfronts for the retail units shall be submitted to and agreed in writing with the Local Planning Authority. The development shall be implemented in accordance with the approved details and shall thereafter be retained.

**Reason:** To ensure a satisfactory form of development.

### **Informatives**

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

Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws the prior written consent of the Environment Agency is required for any proposed works or structures either affecting or within 9 meters of the tidal or fluvial flood defence.

**All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 01206 838600 or by email on [www.highways.eastarea@essex.gov.uk](mailto:www.highways.eastarea@essex.gov.uk).**

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

**The applicant is reminded of their duties and responsibilities with regard to the line of public Footpath 13 which runs across the site. Should any works affect the line of the right of way these must be carried out in agreement with this authority and application for the necessary works should be made initially by telephoning 01206 838600.**



## **Colchester Borough Council Development Control**

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

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

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

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

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

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





## Colchester Borough Council Environmental Control

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

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

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

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

#### **Noise Control**

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

#### **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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